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Day Fines in Four U.S. Jurisdictions

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PREFACE

In 1991, the Bureau of Justice Assistance funded a multi-site demonstration project on day fines. Day fines, a structured approach to imposing fines that consider both the offender's ability to pay and the severity of the offense, have long been used in Europe. Four jurisdictions participated in the effort: Maricopa County, Arizona; Des Moines, Iowa; Bridgeport, Connecticut; and Marion, Malheur, Coos and Josephine Counties in Oregon.

This report presents the findings of the National Institute of Justice-funded evaluation conducted by RAND of the day fine demonstration project. This report should be of interest to researchers and policymakers interested in fines as a criminal justice sanction and their role in discussions of intermediate sanctions.

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EXECUTIVE SUMMARY

BACKGROUND

Given the serious overcrowding of jails and prisons and the continuing growth of probation caseloads, criminal fines have captured interest as policymakers attempt to develop a greater variety of community-based sentencing options. Ultimately, it is hoped that a full spectrum of "intermediate sanctions" -- including fines, intensive probation, electronic monitoring, and community service -- can be implemented, allowing judges to better match the seriousness of offenders with the severity of sanctions.¹

Proponents argue that if intermediate sanctions were more fully developed, judges would have a broader array of sentencing options, and that ultimately, more of those now sentenced to jail and prison might be sentenced to the community. Such a "graduated sanctions" system would save money, allow some to avoid the criminalizing effects of incarceration, and reserve scarce prison and jail space for the more serious offenders. Equally important, many of those now supervised by probation officers with excessive caseloads could be handled administratively, leaving probation officers more time to supervise high-risk offenders.

It is within this context that fines and other monetary sanctions are being closely examined. It is hoped that fines -- if appropriately imposed, monitored, and enforced -- can develop into a credible intermediate sanction.

Criminal fines are not new to U.S. sentencing -- and in fact, are widely used -- but they are primarily used in conjunction with other sanctions (e.g., probation), or as stand-alone sentences for less serious crimes (e.g., traffic offenses) (Hillsman 1990). Western European countries, on the other hand, have successfully used fines as sole sanction for many non-trivial cases, and in several countries, fines serve as a major alternative to imprisonment (Hillsman and Green 1988; Lewis 1988; Gillespie 1980). Hesitancy to use

¹Discussions of the theoretical reasoning for intermediate sanctions can be found in Morris and Tonry (1990) and von Hirsh et al. (1989). Program and practical information is contained in Byrne, Lurigio, and Petersilia (1993) and McCarthy (1987).

fines more broadly in the United States appears to result from judicial concerns about public risk (if fine sentences were used to divert persons from incarceration), poor fine enforcement, and unduly penalizing the poor (Hillsman and Mahoney 1988; Cole et al. 1988). The European "day fine" concept addresses these concerns. With the day fine approach, the imposition and amount of a fine can be made commensurate with the offender's ability to pay and the seriousness of the offense.

Researchers at the Vera Institute of Justice developed a pilot project to utilize day fines for low-level offenses handled in Staten Island, N.Y. courts (Greene 1990). The project proved feasible and successful along a number of dimension, including generating substantial revenues for the court. As the Vera researchers disseminated the results, a number of other jurisdictions became interested in the day fines concept. Vera staff subsequently assisted Maricopa County (Phoenix) Arizona to develop a day fines project to serve as an alternative to routine probation. In 1990, the Minnesota state legislature directed the Sentencing Commission to integrate fines into their sentencing guidelines system.

Despite the recent attention paid to fines, there is relatively little research to guide policymakers. Reliable data do not exist on the frequency or amount of financial sanctions imposed on different offenders, how imposed sanctions are monitored and enforced, or their effectiveness relative to other sentences. As with other intermediate sanctions, debates center around whether fines are appropriately applied as *enhancements* or *alternatives* to either probation, jail, or prison. Without this information, it is difficult to assess how court systems might best implement a more expanded and structured day fines system, what the appropriate target group might be, or the potential costs and benefits that greater reliance on fines might offer.

The Bureau of Justice Assistance (BJA) "Structured Fines Demonstration Project" was developed to fill some of the gaps. The demonstration project, begun in late 1991, was designed to enhance the application and enforcement of structured fines ("day fines") as sanctions for drug offenders and other misdemeanants and felons. Four jurisdictions participated in the demonstration effort: Maricopa County, Arizona; Bridgeport, Connecticut; Polk County (Des Moines) Iowa; and Marion, Malheur, Coos, and Josephine Counties in Oregon.

PARTICIPATING JURISDICTIONS

Maricopa County, Arizona

The day-fines program (or "FARE Supervision" as it is called) in Maricopa County, Arizona is administered through the probation department and targets low-risk and -need felony offenders convicted in Superior Court who have traditionally received standard probation supervision. FARE is intended to serve as an intermediate sanction between routine probation and summary (unsupervised) probation.

Offenders are eligible for FARE if they have been convicted of a probation-eligible offense, are not in need of formal supervision (e.g., not a chronic offender, prone to violation), do not require treatment, training, or education, and do not owe large amounts of restitution. Eligible offenses are assigned specific penalty units. Offenders are nominated for FARE by probation officers during the presentence investigation process. For eligible offenders, the officer calculates daily income based on information provided by the offender and fills out a day-fines worksheet that specifies the unit value, the number of penalty units, and the resulting fine amount. Final determination to impose the structured fine is made by the judge at sentencing.

FARE supervision is provided by a special FARE probation officer whose primary goal is to collect the financial assessment in as short a period as possible. Modifications can be made to the original assessment amount and payment schedule if, despite good-faith effort, the offender is unable to pay. Willful nonpayment can result in a term of incarceration in the county jail.

Polk County, Iowa

The day fines program in Polk county (Des Moines) became operational in January 1992 and is administered from the County Attorney's Office. Offenders charged with serious and aggravated misdemeanors (lowest-level misdemeanors are not eligible) were targeted by the program, although felony cases were expected to be included later. Eligibility is based mainly on offense type, but offenders with serious prior records or high needs for

probation services may be excluded. Eligible offenses are assigned specific penalty units.

Initial screening was performed by assistant county attorneys who determine whether a case is fine-eligible. Financial calculations are made by day-fines staff. The resulting fine amount is determined and provided to the assistant county attorneys. The calculated fine amount is discussed in plea negotiations. Prosecutors recommend the computed fine to the judges, who make the final determination on its imposition.

A day-fines officer oversaw the project with the assistance of two project aids. They were responsible for monitoring and enforcing the payments.

Bridgeport, Connecticut

The Bridgeport program began operation in May 1992. Its goals are to make fines more equitable and to increase the use of fines both for offenses currently punished by fines and for offenses not previously fined. The participating court in the demonstration project handles both felonies and misdemeanors; offenses ranging from Class B felonies to Class C misdemeanors are eligible. Cases can be referred from any stage in court processing.

Unlike Maricopa and Polk Counties, which specify a specific number of day-fine units for particular conviction offenses, the Bridgeport program sets out broad ranges of penalty units for each offense. The exact number of fine units for an individual case is generally negotiated during plea bargaining. Financial information is then reviewed by the project day-fines officer who verifies the offender's income. The day-fines officer calculates the fine and recommends it to the court. The final decision to impose a day fine is made by the judge.

Offenders either pay in full at the time of conviction, or work with the day-fines officer to prepare an installment plan acceptable to the court. Because of complexities in Connecticut law, offenders who are to make installment payments have their fine imposed and vacated, and their cases continued. Once payments are made in full, the fine is reimposed on the record.

As in the other sites, the day-fines officer is responsible for monitoring and enforcing payments. Offenders who default are rearrested and brought back before the court.

Coos, Josephine, Malheur, and Marion Counties, Oregon

Four counties are participating in the Oregon day-fines project. The programs in Coos, Josephine, and Malheur counties target presumptive probation felonies and all misdemeanors. Marion County, the largest county, targets only misdemeanors. Penalty units are assigned in 15-30 unit ranges for classes of offense; a presumptive penalty unit is in the center of each range.

The Marion program began in May 1992. Cases are eligible for a day fine after a plea of guilty or no contest in lower court. Before the plea, a unit value worksheet is completed based on information generally provided from the defendant's affidavit of indigency. This worksheet is provided to the judge along with a verbal recommendation by the district attorney concerning the number of penalty units. The judge retains final responsibility for determining the number of penalty units for the offense and the final day-fine amount.

After sentencing, the offender meets with the day-fines officer to complete a contract specifying payment amounts and date. The officer is responsible for monitoring and enforcing the contract, as well as making revisions to the contract. Delinquent offenders are warned through phone calls and warning letters, culminating in a warrant for arrest for nonpayment.

BJA DEMONSTRATION AND NIJ EVALUATION

The Bureau of Justice Assistance Day Fines Demonstration program funded the day-fines projects in Bridgeport, Oregon, and Iowa. Each jurisdiction initially submitted a proposal to the BJA for the design and operation of their day fines program. The BJA selected these sites from a field of competing proposals. Although technically not a BJA-day fine program site, the Arizona FARE program was included in the current evaluation, having been established in 1991 by a grant from the State Justice Institute.

The BJA Demonstration project was designed to include key components of education, technical assistance, and evaluation for the sites. The Institute for Court Management was responsible for the educational component of the demonstration; technical assistance on the development and implementation of the day fines program was provided by Vera, whose staff helped develop and conducted the evaluation of the Staten Island day fines project. The evaluation component for the BJA day fines demonstration program was funded by the National Institute of Justice and conducted by RAND.

Shortly after the projects were funded, a two-day training, and education conference was held for all grantees in which the background and development of fines and day fines were discussed, each site presented their plans for income valuation and scaling of offense severity, and evaluation plans. In addition to the RAND evaluation component, each site was responsible for the collection of key program data through the use of a personal computer-based system to record key characteristics of the day fine participants, their resulting fines, payments and enforcement activities. This system was based on the one used in the Staten Island day fines project.

Throughout the course of the demonstration, staff from both Vera and the Institute of Court Management made frequent site visits to the programs in order to assist in implementation issues, provide critiques of the new programs and attend ongoing planning sessions.

RAND EVALUATION

Research questions for the RAND evaluation component fall into three broad categories: program design, program implementation, and program impact. Specific research questions included the following:

Program Design

- What are the goals and objectives of the day fine program?
- What were the characteristics of the designed day-fine programs in each site (what fine schedules were imposed, on which offenders, and for which offenses?)

- What mechanisms, by which agencies, were designed to insure fine collection?
- What penalties were to be enforced for non-payment?
- How does the day fines program differ from the routine procedures used for implementing, monitoring, and enforcing fines in each jurisdiction?

Program Implementation

- What administrative and statutory changes were required to implement the structured fines program?
- What aspects of the program were difficult to implement and why?
- Was the day fine program implemented as planned in the original program plan? If not, why did it differ?
- How does the implemented day fine program (imposition, collection, enforcement) differ from routine fining practices in each site?

Program Impact

- How did the range of sentences imposed before and after the implementation of a day fines system change? Specifically, is there evidence that the sentences of less serious offenders were enhanced (e.g., net widening) or that more serious offenders were incarcerated less often (i.e., diversion)?
- How many eligible offenders actually received the day fine specified in the program's design?
- What enforcement techniques seem to be the most successful (e.g., in terms of delinquency rates, total amount paid)?
- What were judge and other key actor perceptions of the day fine program? What aspects did they like, dislike; what changes would they like to see made?
- How replicable do those involved in the day fine program feel it is? What do they believe are the key ingredients for successful program implementation?
- What revenues were collected from the day fines programs? How do these compare to those generated from routine fining practices?

- Is there evidence that the imposition of day fines is associated with an increase (decrease) in recidivism?

Evaluation Strategy

The data available to answer the research questions differed across the participating sites. In Maricopa County, Arizona, the RAND evaluation was able to take advantage of the program's paced implementation (only certain judges were designated for day fines; others continued routine practices) to conduct a quasi-experimental evaluation. In this site, we were able to collect individual official record information on day fine offenders and a matched sample of non-day fine offenders. Detailed information on offender background characteristics, means information, charge and sentence was coded from probation files. One-year follow-up information on fines paid, enforcement activities, as well as technical violations and new arrests were recorded for day fine and non-day fine participants. This site provided us with the most comprehensive design and data to answer our research questions.

Information gathered from the other sites was not as rich, generally due to a combination of factors. In Oregon, fine payment and enforcement information was not available for fines imposed either prior, or during the course of the demonstration project due to the inability of the existing state-wide accounting system to generate usable information on payments as well as difficulties the site experienced in enforcement activities. Construction of comparable non-day fine offenders was not feasible in Bridgeport or Des Moines, given the constraints of automated systems to help identify similar defendants. However, in all sites we were able to obtain key data to answer the majority of the program and implementation questions; with some sites having more data on impacts than others.

Specifically, for Des Moines, Oregon, and Bridgeport, we obtained the following:

- Day fine program descriptions, progress reports, and internal evaluations of site's day fines program
- Automated data on sentencing patterns in each jurisdiction before and after the imposition of day fines

- Copies of PARADOX personal computer files maintained by the sites to record day fine imposition and collection information
- Site reports from RAND staff visits, as well as memoranda from training and technical assistance efforts by Vera and the Institute for Court Management

LESSONS LEARNED AND POLICY IMPLICATIONS

The four jurisdictions participating in the demonstration project experienced different levels of success with their day fines program. Maricopa and Des Moines were able to successfully implement the front end work requiring scaling of offense severity and determination of the day fine valuation, as well as increase collections over previous practices. Implementation was more problematic in Oregon, particularly with respect to the collection and enforcement activities and the role that day fines should play combined with other sanctions. Although Bridgeport was able to establish penalty unit ranges for offenses, the broad penalty bands utilized were not consistent with the philosophy of scaling offenses by their severity.

In this final chapter we discuss some of the key issues in day fine implementation for the participating sites which illuminate the successes and challenges to establishing day fines. Specifically we address the types of offenses for which day fines were targeted; valuation of offender's income for unit value (including the indigent offender); packaging the total amount of financial obligations; statutory impediments to day fines; linking fines with probation; ongoing training and education required; effective collection and enforcement procedures; and computerized information systems.

Offenses Targeted for Day Fines

American courts seemed to have warmed to the concept of means-based fining and to considering the offender's ability to pay. However, they have not yet arrived at a point in which fines are replacing the use of incarceration, as they have done in Europe. In most sites, day fines were used to replace former tariff fines -- no apparent major changes were seen in the sentencing patterns in the jurisdictions. In Maricopa, day fines were an alternative to routine probation supervision, thus they served to shift

offenders down the continuum of sanction severity, but primarily for offenders who would ordinarily serve no time incarcerated.

Day fines appear to be used often for a narrow range of offense types -- often for motor vehicle crimes. In Iowa and Oregon, the great bulk of day fine cases were for traffic offenses. In Bridgeport and Maricopa, the use of day fines was more varied and included more serious offenses, such as felonies in the imposition of day fines. However, there was an explicit concern in several sites about using day fines for felonies. Planners in Oregon and Iowa scaled felonies and misdemeanors in their ranking of offenses; however experience with misdemeanors was the test ground before they wanted to move into felony cases.

Valuation of Offender Income

Valuation of the offender's income for day fine purposes was established in each of the four sites. Existing avenues exist for collecting information needed for calculation of the unit value. In Maricopa, presentence investigation personnel used routinely collected means information; in Oregon, information from the indigent verification officer, responsible for court appointed counsel was utilized. In Des Moines and Bridgeport, day fines staff collected the required information. Gathering the information was not generally perceived as a major problem. In some instances, however, verification of information was an issue. If verification was not obtained in Bridgeport, the case was dropped from day fine consideration.

Packaging Total Financial Obligations

In most of the courts, a fine is not the only financial sanction applied. Court costs, attorney fees, specialized treatment fees, restitution, etc. can be additional components of the total financial obligation the defendant receives. To structure only the "fine" part of the sentence undermines the concept of scaling monetary penalties to offense and the defendant's ability to pay. For example, in Maricopa County, restitution, victim compensation fund, time payment fee, and probation fee were often part of a sentence. The decision to include all components in the Maricopa FARE sentence helped assure sentencing consistent with the day fine concept. In Des Moines, day fines

included the fine and the 30 percent fine surcharge. Although this did not account for all financial obligations (e.g., court costs, interest amount), the fine and surcharge accounted for almost 80 percent of the total financial obligation -- thus the jurisdiction was able to structure the majority of the penalty for the offenders. This practice is in contrast to implementation in Oregon, where additional monetary assessments were not consistently taken into account in the determination of the total financial package subject to the day fine concept.

Jurisdictions need to consider how the fine fits in with the total package of financial penalties. In some instances statutory restrictions may not allow combining other penalties with the fine. However, the extent to which the total financial obligation can be structured, the more inherently equitable the resulting financial obligation will be.

Linking Fines to Probation

Conceptually day fines is a stand alone sanction that can be imposed in lieu of other sanctions, probation, jail, or prison. By using it in this manner, one may save potential resources associated with supervision or custody. However, in the actual administration and collection of day fines, the ability of the court to have some leverage and quick response over the offender is needed. If the offender is placed on bench probation with his fine, the mechanism to bring him back to court can be cumbersome. Placing the offender on a minimal form of probation allows quicker response to non-payment. Several observers felt that it is easier to handle non-payment of fines as a probation violation than handle it in a contempt proceeding. This issue was explicitly discussed in Oregon and Bridgeport. In Bridgeport, day fines planners felt the statutory restriction disallowing fines with a probation sentence should be changed to accommodate their combination in sentencing.

Statutory Restrictions to Day Fines

All sites had to deal with statutory constraints on their day fines project. In Maricopa, high mandatory restitution cases were excluded from consideration. In Des Moines, legislation for the pilot specifically exempted the pilot project from abiding by mandatory caps. It may be beyond the ability of day fine planners to change many of these statutory constraints,

however, they may be lifted (as they were in Polk County) during pilot test period. At a minimum, planning efforts need to take into consideration what the statutory constraints will mean for their program -- how they restrict potential eligible offenders, as well as constrain the actual day fine amounts imposed.

Ongoing Training and Education Required

Planners in the participating jurisdictions were sufficiently interested in the day fines concept to become part of the demonstration project. However, in all sites, extensive training and education was required not only to provide the key players with the required information about how to implement day fines, but also to continue the level of interest in imposing them. In Bridgeport, for example, the judge initially involved in the project was reassigned to another jurisdiction during the course of the project, resulting in a reduction of referrals.

Ongoing training and education may also help address a concern expressed in several of the sites -- that fines are not an appropriate sanction for offenders. The public is punitive in nature and wants to see more punishment than simply a fine imposed on individuals. Although this issue is certainly a philosophical one, education can help inform practitioners and the public that fines can be utilized as an effective sanction.

Effective Collection and Enforcement Procedures

Just because a more fair fine is imposed, it does not mean that it is going to be paid automatically. Training and technical assistance by Vera and the Institute of Court Management focused a great deal of effort to help sites deal with (often) inadequate existing monitoring, collection procedures.

The Staten Island project results were most favorable for the condition in which more rigorous enforcement techniques were utilized. In Milwaukee, the lack of enforcement hampered collections. This was born out again in the demonstration project. Although it is difficult to gauge how each site's collection practices changed as a result of day fines (due to unavailability of data), it is noteworthy that in Maricopa and Des Moines, sites with good monitoring and enforcement, the rates of collection for day fines were better

than those either before the day fines project (Des Moines) or for non-day fine participants (Maricopa).

Providing fixed terms for payments with installment plans set in relation to the offender's means appear to be possible and also appear to help accomplish the higher collection rates in the demonstration sites. However, as Oregon and Des Moines day fines staff indicated, the monitoring and enforcement activities are time consuming -- these sites felt that more staff were needed to conduct the extent of collection and enforcement activities that were required to attain optimal collections.

Computerized Information Systems

The BJA demonstration sites all used personal computer based software, based on the Staten Island project, to input day fine imposition and monitoring data. In Oregon, Des Moines, and Bridgeport, day fines staff expressed frustrations with the system. In Bridgeport the system was not able to be linked with other information systems. In addition, information on several hundred cases was inadvertently deleted from their system, requiring reentry. In Des Moines, the system did not appear to be able to handle the vast amounts of data in a timely manner. In Oregon, day fines staff did not enter data consistently into the computer and much information was not entered at all.

These experiences are unfortunate for several reasons. For one, key information was not available for the evaluation for all sites. For another, the jurisdictions themselves were not able to take full advantage of the information they were collecting. Difficulties with the personal computer system only serve to underscore the vast amount of work that currently remains in these jurisdictions to understand how their current fining systems work, the amount of money imposed and owed by defendants and enforcement activities aimed at collecting the fines. Jurisdictions have automated systems in place that should help provide the necessary information for pilot, as well as routine court operations. Unfortunately, in several jurisdictions, the routine systems were not in place, nor reliable enough to assist in the day fines data collection, or even provide information on routine case processing in the jurisdiction.

FUTURE OF DAY FINES

As seen by the findings from the current evaluation, day fines can be imposed as an alternative sanction and, increase fine collection, with no increase in officially recorded technical violations and arrests. However, this outcome is not guaranteed. Substantial difficulties are faced in trying to get such programs implemented, and the odds are that the final product may not look like what the program planners had initially intended. Effectively dealing with statutory constraints, increased staff required, particularly for collections, and continuing education efforts to keep the day fines concept viable in the minds of judges, defense, prosecutors and other members of the court requires a great deal of effort.

Currently the day fines programs continue to operate in Maricopa, Bridgeport, Marion and Malheur. Unfortunately, the successful Iowa program was not renewed in the 1995 legislative session, however there appears to be renewed interest in this year's session. Provided new programs can learn from the experiences of others and work carefully to overcome the obstacles to successful implementation we may see more programs in the future.

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Finally, we would like to thank our National Institute of Justice grant monitors over the course of the project, Winifred Reed and Laurie Bright.

1. INTRODUCTION

Given the serious overcrowding of jails and prisons and the continuing growth of probation caseloads, criminal fines have captured interest as policymakers attempt to develop a greater variety of community-based sentencing options. Ultimately, it is hoped that a full spectrum of "intermediate sanctions" -- including fines, intensive probation, electronic monitoring, and community service -- can be implemented, allowing judges to better match the seriousness of offenders with the severity of sanctions.²

Proponents argue that if intermediate sanctions were more fully developed, judges would have a broader array of sentencing options, and that ultimately, more of those now sentenced to jail and prison might be sentenced to the community. Such a "graduated sanctions" system would save money, allow some to avoid the criminalizing effects of incarceration, and reserve scarce prison and jail space for the more serious offenders. Equally important, many of those now supervised by probation officers with excessive caseloads could be handled administratively, leaving probation officers more time to supervise high-risk offenders.

It is within this context that fines and other monetary sanctions are being closely examined. It is hoped that fines -- if appropriately imposed, monitored, and enforced -- can develop into a credible intermediate sanction.

Criminal fines are not new to U.S. sentencing -- and in fact, are widely used -- but they are primarily used in conjunction with other sanctions (e.g., probation), or as stand-alone sentences for less serious crimes (e.g., traffic offenses) (Hillsman 1990). Western European countries, on the other hand, have successfully used fines as sole sanction for many non-trivial cases, and in several countries, fines serve as a major alternative to imprisonment (Hillsman and Green 1988; Lewis 1988; Gillespie 1980). Hesitancy to use fines more broadly in the United States appears to result from judicial concerns about public risk (if fine sentences were used to divert persons from

²Discussions of the theoretical reasoning for intermediate sanctions can be found in Morris and Tonry (1990) and von Hirsh et al. (1989). Program and practical information is contained in Byrne, Lurigio, and Petersilia (1993) and McCarthy (1987).

incarceration), poor fine enforcement, and unduly penalizing the poor (Hillsman and Mahoney 1988; Cole et al. 1988). The European "day fine" concept addresses these concerns. With the day fine approach, the imposition and amount of a fine can be made commensurate with the offender's ability to pay and the seriousness of the offense.

Researchers at the Vera Institute of Justice developed a pilot project to utilize day fines for low-level offenses handled in Staten Island, N.Y. courts (Greene 1990). The project proved feasible and successful along a number of dimension, including generating substantial revenues for the court. As the Vera researchers disseminated the results, a number of other jurisdictions became interested in the day fines concept. Vera staff subsequently assisted Maricopa County (Phoenix) Arizona to develop a day fines project to serve as an alternative to routine probation. In 1990, the Minnesota state legislature directed the Sentencing Commission to integrate fines into their sentencing guidelines system.

Despite the recent attention paid to fines, there is relatively little research to guide policymakers. Reliable data do not exist on the frequency or amount of financial sanctions imposed on different offenders, how imposed sanctions are monitored and enforced, or their effectiveness relative to other sentences. As with other intermediate sanctions, debates center around whether fines are appropriately applied as *enhancements* or *alternatives* to either probation, jail, or prison. Without this information, it is difficult to assess how court systems might best implement a more expanded and structured day fines system, what the appropriate target group might be, or the potential costs and benefits that greater reliance on fines might offer.

The Bureau of Justice Assistance (BJA) "Structured Fines Demonstration Project" was developed to fill some of the gaps. The demonstration project, begun in late 1991, was designed to enhance the application and enforcement of structured fines ("day fines") as sanctions for drug offenders and other misdemeanants and felons. Four jurisdictions participated in the demonstration effort: Maricopa, Arizona; Bridgeport, Connecticut; Polk County (Des Moines) Iowa; and Marion, Malheur, Coos, and Josephine Counties in Oregon. The Vera Institute of Justice and the Institute for Court Management provided technical assistance and training to

the sites. RAND was chosen by the National Institute of Justice (NIJ) to evaluate the demonstration project.

This report presents the results of the RAND evaluation for the participating sites. Our findings suggest widely different experiences in the success of implementing the day fine projects across the four jurisdictions. With the exception of Maricopa County FARE program, day fines were not implemented as a distinct option in an array of intermediate sanctions, but rather as an alternative "fairer" mechanism to fine individuals according to their ability to pay and seriousness of the offense.

The development of day fine imposition (e.g., determining offenders' net daily income, scaling offenses in terms of units) appears to have been worked out with better success than the collection and enforcement activities in several sites. Undeveloped existing collection practices and automated systems that were unable to accommodate changes needed for day fine accounting hampered efforts in some sites. However, in Maricopa, with the most extensive experience with day fines, the FARE sentence served as intended, as an alternative sanction to routine and probation; day fine offenders paid more financial assessments than a comparable group of offenders without increases in technical violations and new criminal arrests. In Maricopa, however, the target group for day fines appears limited -- several hundred a year of the more than 10,000 offenders sentenced annually in Superior Court. In contrast to the European day fine experience, the demonstration sites targeted day fines to misdemeanants, and those who were unlikely to serve terms of incarceration.

Chapter 2 presents an overview of the day fines concept and experiences in Europe and in the United States. Chapter 3 outlines the BJA demonstration effort and the NIJ evaluation design. Chapter 4 presents the results for the FARE program in Maricopa County, Arizona. In Chapter 5, we discuss the Des Moines program. The Bridgeport day fines effort is discussed in Chapter 6; Oregon in Chapter 7. In Chapter 8 we present lessons learned and policy implications of the day fines demonstration project.

2. BACKGROUND OF DAY FINES

FINES AS A SANCTION

Over the past ten years, much of the policy discussion regarding sentencing has focused on the use of intermediate sanctions -- sanctions that lie between traditionally imposed prison and probation. The debate about alternatives has focused on the efficacy of drug courts, boot camps, and intensive probation. Fines, however, have a role in the debate. Fines are extensively used. They are available sanctions currently authorized in all American jurisdictions; large and small, urban and rural (Greene 1988). In addition, fines generate lots of money -- they are big business for American courts. Hillsman and Mahoney note that although that total fine revenues for all American courts at the local, state, and federal level is difficult to determine, estimates are that over \$1 billion for fines alone and over \$2 for all monetary sanctions are collected annually (Hillsman and Mahoney 1988).

Judges generally impose fines well below the statutory limits -- despite increased legislative action to raise these limits as a means of expanding the fine's punitive range. The tendency for American judges is to develop informal "tariff" or "going rate" fines for certain offenses, often at the lower end of the scale to enable payment by modest income offenders. Thus low dollar fine amounts restricted to the least serious crimes have become the norm in most courts (Greene 1988).

In comparison with several Western European countries, however, the fine in American Courts is somewhat restricted in usage. Much of fining is done for only minor or petty offenses, but legislative initiatives at both the State and Federal levels have raised fine maximum to some types of crimes -- thus giving the opportunity that offenders who used to draw jail time may now be given fines (Greene 1992).

These fixed amounts give an advantage to offenders with higher income. When fines are set in equal sums for similar crimes, the disparate punitive impact of the fine across differing income classes distorts both the principles of proportionality and equity. The tariff fine depresses fine amounts, diminishes the punitive weight of fines for better-off offenders and constricts

the range of offenses for which judges view a fine as an appropriate sanction (Winterfield and Hillsman 1993).

The fine has not come into prominence until recently as an intermediate action because of deep skepticism among American criminal justice practitioners about the ability of judges to set fine amounts that were large enough to punish and deter, yet collectible and fairly imposed across offenders with vastly different economic circumstances (Winterfield and Hillsman 1993).

In many courts, fines are also thought to be poorly enforced (McDonald 1992). This mistrust is starting to fall away as more American courts explore more flexible fining systems that relate the fine amount to the offender's ability to pay and the severity of the offense.

DAY FINES CONCEPT

Structured fines initially developed in Europe and are based on the concept that punishment should be proportionate to the seriousness of the offense. Fines should also have roughly similar impact -- in terms of economic "sting" -- upon persons with differing financial resources who are convicted of the same offense (Winterfield and Hillsman 1993).

The structured fines concept was first introduced in Sweden in the 1920s and was adopted in West Germany in the 1970s as part of a set of sentencing reforms aimed at reducing the use of short term incarceration. It was successful in reducing the number of prison sentences (for terms of less than six months) from over 110,000 to just over 10,000 during the eight year period from 1968 to 1976. Structured-fines are not just used for trivial offenses. In Germany these types of fines are used as sole sanction for 75 percent of offenders convicted of property crimes and two-thirds of those convicted of assaults.

The general concept of a day fine is a simple one and involves two major steps. First, a determination of the number of fine units, based on the severity of the offense is determined. This step is done without regard to the offender's means. Second, the valuation of the units is made, based on the offenders net daily income hence, the name "day fine." The day fine amount is arrived at by multiplying the number of day fine units by the unit valuation. The share of the income used to value the day-fine units varies

across the different countries that use this system, as do methods for accounting for the offender's assets or family responsibilities, but the basic idea assures routine imposition of variable, but equitable, fine sentences, the punitive impact of which in proportion to the crime (Greene 1988, p. 41). Paired with the day fine imposition, courts have also showed they can administer these monetary penalties without overburdening collection and enforcement efforts, and without resorting to high levels of imprisonment for default (Greene 1988).

The potential benefits of day fines include the following:

- *Offender accountability.* Offenders have to pay based on gravity of offense.
- *Deterrence.* With respect to some categories of offenders and offense, fines are no less effective than probation and jail in deterring future criminal behavior.
- *Fairness.* Day fines are essentially fair and equitable in contrast to tariff fines which are inherently unfair. For affluent offenders tariff fines are meaningless, while for poor people they are often beyond their ability to pay.
- *Effective use of system resources.* Day fines are cheaper to administer than other intermediate sanctions. If used with lower risk offenders, resources may be diverted to more risky offenders.
- *Parsimony.* Day fines are relatively non-intrusive, and do not sever ties to the community for offender in the way that incarceration does.
- *Revenue.* Preliminary data are inconclusive, but there is evidence that day fines can be more effective in generating revenue than flat tariff fines. They are by their nature, a more effective source of revenue than incarceration.
- *Credibility of the court.* If court has a well-designed and good collections capability with the ability to back up sanctions, then day fines are a meaningful sanction that will have credibility with the offender and the community (Mahoney 1994).

SCALING OFFENSE SEVERITY

In setting up a day fines system, offenses must be scaled in terms of their severity. This is generally done by ranking the seriousness of eligible offenses from low to high. For each offense, a number of day fine units is

assigned. No single standard metric is used to value offense severity. However, the procedure is somewhat similar to that for developing sentencing guidelines. A group (perhaps a commission made of judges, court personnel, representatives from the district attorney, public defenders office) must meet and jointly decide upon the relative ranking of offenses. In scaling the offense severity, the decision also needs to be made as to unit ranges for offenses in which a maximum, minimum, or presumptive number of units is established for each offense. Under what circumstances lower and upper limits should be imposed needs to be determined. This process is one of the major implementation tasks jurisdictions undertake in setting up a day fine system.

INCOME DETERMINATION

The second component of the day fines calculation is the offender's net daily income. Day fines got their name because one "fine" unit in Germany is valued as an offender's average daily income after taxes. This amount can be further adjusted for the number of dependents (similar to practices courts use to establish child support payments by non-custodial parent) or by large expenses the defendant may have.

Generally day fines-rely on self-report information on income and a concern is of its accuracy. Verification cannot be obtained through IRS or private agencies. Under current American law, the IRS is not permitted to disclose income tax information to the court for the purpose of sentencing. In addition, State and Federal privacy laws generally prohibit financial institutions from disclosing information without consent. However, the court often has the ability to find out a wide range of information, including social history and employment during the presentence investigation. In some instances financial information can be subpoenaed. Financial information is already being collected in many jurisdictions from pretrial services, agencies who make release decisions; or during the application process for court-appointed counsel for indigent defendants. Thus, the current system provides existing data to help inform the valuation of the defendants "daily income."

Valuation issues arise when a defendant reports no income or is unable to work. In these instances, day fine developers must determine an

appropriate value. Finally, indigency is not an easy issue to approach in discussion of policy development (Greene 1992). One can argue that all but the truly destitute offender can be fined. All offenders are capable of paying, if the fine is scaled appropriately to their resources and provided that careful attention is given to devising strict but reasonable installment payment schedules. Indigent offenders can be assigned values for those on general relief and welfare. However, minimum ranges on unit values may also be used.

Offenders with illegitimate income provide a obstacle for assessment of the daily income. In these cases, judges can estimate an income that may override what the defendant claims as his income. Thus, adequate information about offenders means, which is often cited as a primary stumbling block to the introduction of day fines, can be addressed adequately by resourceful planning.

COLLECTION AND ENFORCEMENT

Day fines may allow for the *imposition* of more fair fines, however, unless they are actually paid, their utility is lost. Unfortunately historically administrative responsibility for fine collection and enforcement has been fragmented, resulting in relatively little being known about court performance in collecting and enforcing fines. Most courts keep adequate records of individual fine payments, however, few have developed systems for aggregating and analyzing these data in order to monitor collection and enforcement performance (Hillsman and Mahoney 1988).

Against this backdrop, then, day fines must often include collection and enforcement activities as a key component of a successful day fine effort. Although day fines could be collected in the same manner as other fines, existing overburdened systems may not be able to effect payment (McDonald 1992). Thus, day fine programs utilize a number of new activities. Specialized day fine offices can be assigned to programs. Officers can assist in the determination of the offender's net daily income (to assist the judge) as well as establish payment schedules for defendants who cannot pay at the time of sentencing.

Day fine collection activities focus on a system of notification and graduated sanctions for non-compliance. Reminder and warning letters;

modification of payments terms are utilized before a defendant is sent back to the judge for re-evaluation of the sanction. Jail is seen as the last resort for the willful defaulter.

Given that many jurisdictions do not operate adequately automated systems to handle tasks central to day fines monitoring and enforcement, specialized systems can be utilized for both tracking, monitoring, and enforcement activities.

U.S. EXPERIENCE

The Vera Institute of Justice³ Staten Island Project

Experimentation with day fines began in United States with the Staten Island experiment. The purpose of the experiment was to adapt the day fines concept to this country to see how judges would use fines when freed from the constraints of the tariff system. Specifically, the goals of the Vera evaluation were to determine whether day fine procedures decreased the use of fines; whether the use of fines shifted from one type of offense to another; whether day-fine amounts were higher than previously fixed fines and what impact this might have on the existing high collection rate in the court, and whether the day fine alone, or in concert with new collection techniques had any impact on collection amounts.

The effort involved collaboration between Vera staff and researchers and a planning group composed of members of the bench, the bar, court administrators, and policy experts from across the United States and Western Europe. Central components of the plan included 1) a system of sentencing benchmarks to guide the day fine units set for specific offenses; 2) a method for collecting the necessary means of information and for valuing the day fine units imposed on a particular offender; 3) strategic improvements in the court's collection and enforcement system so that it could respond to the potentially higher fine amounts and broader range of fines offenders would recover under a day fine system; and 4) a microcomputer-based information system to record collection and

³The Vera Institute of Justice is a private nonprofit organization located in New York City that is dedicated to developing practical solutions to pressing urban problems.

enforcement activities and to provide statistical reports to the court. (Greene 1988).

In addition to the day fines, a new collection and supervision component was developed that included individualized collection schedules and stressed prompt notification of payments due and missed. This collection method was in contrast to the conventional method of collection in the jurisdiction in which cases not fully paid at sentencing were continued on the court calendar, with subsequent hearings infrequently set and arrest warrant issued if offenders failed to pay (Winterfield and Hillsman 1993).

The research design provided the opportunity to estimate the impact of day fines with and without the new collection procedures. In order to accomplish this, day fines were randomly assigned to either the new collection (outlined above) or traditional collection procedures.

The results of the Staten Island day fine project were promising:

- Judges used the day fines for a wide range of offenses for which they had formerly used tariff fines, including some property crimes, drug possession, and assault charges.
- The mechanics of using a two-step process to establish fine amounts (i.e., first establishing the number of day-fine units based on offense, then calculating monetary value of the units based on information about the offender's net daily income and number of dependents) worked smoothly. All of the judges trained to use day fines did so consistently throughout the year-long experiment, without tying up their calendars.
- Average fine amounts imposed for penal law offenses rose by 25 percent, from \$206 before the experiment to \$258 during the year structured fines were used. The increase would have been much greater -- to an average of \$441, or more than twice the average pre-project fines -- except for the fact that New York law established relatively low maximum fine amounts for many of the offenses.
- Collection rates in the court, which were already relatively high before the experiment, remained high after structured fines were introduced. In 85 percent of the cases where a day fine was imposed and an individualized collection strategy was used, the offender paid in full, compared to 76 percent full payment by fined offenders in the year before the experiment (Winterfield and Hillsman 1993).

The major implementation problem the planners encountered was one that they had anticipated. The statutory fine maximums in New York State were very low and had not increased since 1965. In a significant number of cases, the day-fine amounts calculated by judges for the more affluent offenders convicted of more serious crimes exceeded the statutory limit.

The introduction of day fines did not appreciably affect judge's sentencing decisions during the pilot year. The total amount of fines imposed by the court in penal law cases increased by 14% during the pilot year from \$82,060 to \$93,856. The evaluation estimated that this would have been almost 50% higher had the statutory max caps not been in place. As expected, day fines resulted in more variation among individual fine amounts when they were calculated using the day fine system.

The new collection procedures appeared critical to the success of the day fines program. Without the new collection strategy, the percent of cases eventually paid in full was 5 percent lower than the year before the pilot. With day fines and new collection procedures 85 percent compared to the prior year 71 percent paid in full.

Despite the higher collection rates, the fines took longer to pay, due to the larger amounts imposed. The average time to payment was 55 days before the experiment, contrasted with 114 for day fines within the new collection procedures, and 119 for those day fine cases with the former collection procedure. Longer times were not associated with an increase in court appearances, if the new collection procedures were followed. However, with the former collection procedures, higher fine amounts did require more court appearances (2.66 compared to 1.96 before the experiment, contrasted with 1.76 for day fine experimental cases during the enforcement period. Arrest warrants for failure to appear at post-sentence hearings were lowest for the day fine experimentals (.26), contrasted with prior practice (.55 warrants) and those for day fines with the former procedures (.83 warrants). The main findings related to individualized collection strategy was that it provided extended terms for payment of the larger day fines, fewer costly court appearances, fewer warrants for nonappearance at post-sentence hearings (Winterfield and Hillsman 1993). Clearly the Staten Island experience study points out how critical a good collections strategy is --

without focus on the follow-up, the promise of equitable sentence is less attainable.

Milwaukee Experience

In 1989, the Municipal Court in Milwaukee conducted a 12-week experiment to use day fines where offenders were charged with violating city ordinances. Over 100,000 such offenses were processed by the court each year. The city ordinances included noncriminal violations that regulate housing, traffic, parking, noise levels, sale of liquor, public order and various other community standards of behavior. Other more serious offenses, such as carrying a concealed weapon, theft of retail store, even assault and battery may be cited rather than arrested and charged were also targeted.

Historically the participating court had few sentencing options available. Judges were limited to imposing monetary penalties, although they could have ordered violators, if they volunteered, to provide unpaid community service in lieu of monetary fines or to undergo treatment.

Prior to the day fines experiment, the court had experienced high rates of nonpayment of fines; nonappearance rate for initial court appearance was about 60 percent in non-traffic cases. Failure to pay fines had a negative impact on the jails -- on average 140 persons each month were committed to the Milwaukee County House of Correction for nonpayment of fines.

The planning group for the experiment included municipal court judges, the Municipal Chief Court Administrator, a Legal Aid Society attorney, and administrators for Wisconsin Correctional Service, Inc. (WCS), a private, not-for-profit agency that had developed a number of programs for the city's criminal justice system. This group met over a three-month period to develop methods of valuing income, establish benchmarks for day fine units and procedures for handling information, and to develop and refine other operational procedures. Much of the planning work was based on the work by Vera on Staten Island (Worzella 1992, p. 62).

Benchmarks were established for the range of offenses, along with circumstances of the offense, any mitigating or aggravating circumstances (which were enumerated) and consideration of the offender's prior record. However, existing fining practices were constrained by the going rate cap usually assessed the defendant presenting no aggregating or mitigating

factors. The local planning group decided that fines would not exceed the caps unless aggravating factors were present.

Income determination was based on the Staten Island method. WCS staff conducted a 20-minute means interview upon a finding of guilt, but before sentence. Net daily income was discounted for the number of dependents a defendant had; living expenses (discounted 1/3 for those with incomes above the poverty line, 1/2 for those below); those with no income were imputed a day fine value equal to that of a general assistance recipient, and the case was adjourned for 30 days to allow the person to apply for general assistance.

After calculation of a day fine unit, the WCS worker accompanied the defendant back to court and presented the day fine to the judge. Payment plans were set up for persons who could not pay immediately; payment plans were generally limited to two months (Worzella 1992).

The jurisdiction instituted a research design in which the judges used day fines for two weeks and then used traditional fines for two weeks, over a period of 12 weeks. This resulted in 192 violators assigned day fines; 138 sentenced with traditional fines.

Results showed the use of day fines resulted in substantially lower fines being imposed, on average. For those given day fines, the average fine imposed was \$72, compared to an average of \$112 per case for conventional fining practices. The use of day fines did not appear to reduce the rate of non-payment. Non-payment rates were high in both groups -- 59% of the day fine group failed to pay, contrasted with 61 percent in the conventional group, during a four-month follow-up. Thirty-seven percent of those given day fines paid in full, contrasted to 25 percent of those given conventional fines, partly due to the lower average amount assessed. Low income offenders with day fines were better able to pay their fines than comparable violators assigned fines conventionally (Worzella 1992). The total amount of monies paid to the court were estimated to be 31 percent lower than they would have been if conventional fines were imposed. On the positive side, day fines did not result in any serious delays in court processing.

In addition, the day fine did not result in an increase in recidivism for day fine participants. A follow-up period of nine-months revealed virtually identical rates for day fines and conventional offenders (34 and 33 percent).

Arrest warrants for violators who failed to pay fines and had warrants issued for their arrest was similar (41 and 46 percent for day fines and conventional fines, respectively).

3. BJA DEMONSTRATION EFFORT AND NIJ EVALUATION

BJA DEMONSTRATION

The Bureau of Justice Assistance Day Fines Demonstration program funded the day-fines projects in Bridgeport, Oregon, and Iowa. Each jurisdiction initially submitted a proposal to the BJA for the design and operation of their day fines program. The BJA selected these sites from a field of competing proposals. Although technically not a BJA-day fine program site, the Arizona FARE program was included in the current evaluation, having been established in 1991 by a grant from the State Justice Institute.

The BJA Demonstration project was designed to include key components of education, technical assistance, and evaluation for the sites. The Institute for Court Management was responsible for the educational component of the demonstration; technical assistance on the development and implementation of the day fines program was provided by Vera, whose staff helped develop and conducted the evaluation of the Staten Island day fines project. The evaluation component for the BJA day fines demonstration program was funded by the National Institute of Justice and conducted by RAND.

Shortly after the projects were funded, a two-day training, and education conference was held for all grantees in which the background and development of fines and day fines were discussed, each site presented their plans for income valuation and scaling of offense severity, and evaluation plans. In addition to the RAND evaluation component, each site was responsible for the collection of key program data through the use of a personal computer-based system to record key characteristics of the day fine participants, their resulting fines, payments and enforcement activities.⁴ This system was based on the one used in the Staten Island day fines project.

⁴These systems were not always well-implemented, nor did they provide all information they were intended to provide.

Throughout the course of the demonstration, staff from both Vera and the Institute of Court Management made frequent site visits to the programs in order to assist in implementation issues, provide critiques of the new programs and attend ongoing planning sessions.

NIJ EVALUATION

Research questions for the RAND evaluation component fall into three broad categories: program design, program implementation, and program impact. Specific research questions included the following:

PROGRAM DESIGN

- What are the goals and objectives of the day fine program?
- What were the characteristics of the designed day-fine programs in each site (what fine schedules were imposed, on which offenders, and for which offenses?)
- What mechanisms, by which agencies, were designed to insure fine collection?
- What penalties were to be enforced for non-payment?
- How does the day fines program differ from the routine procedures used for implementing, monitoring, and enforcing fines in each jurisdiction?

PROGRAM IMPLEMENTATION

- What administrative and statutory changes were required to implement the structured fines program?
- What aspects of the program were difficult to implement and why?
- Was the day fine program implemented as planned in the original program plan? If not, why did it differ?
- How does the implemented day fine program (imposition, collection, enforcement) differ from routine fining practices in each site?

PROGRAM IMPACT

- How did the range of sentences imposed before and after the implementation of a day fines system change? Specifically, is there evidence that the sentences of less serious offenders were enhanced (e.g., net widening) or that more serious offenders were incarcerated less often (i.e., diversion)?
- How many eligible offenders actually received the day fine specified in the program's design?
- What enforcement techniques seem to be the most successful (e.g., in terms of delinquency rates, total amount paid)?
- What were judge and other key actor perceptions of the day fine program? What aspects did they like, dislike; what changes would they like to see made?
- How replicable do those involved in the day fine program feel it is? What do they believe are the key ingredients for successful program implementation?
- What revenues were collected from the day fines programs? How do these compare to those generated from routine fining practices?
- Is there evidence that the imposition of day fines is associated with an increase (decrease) in recidivism?

EVALUATION STRATEGY

The data available to answer the research questions differed across the participating sites. In Maricopa County, Arizona, as we describe in the next chapter, the RAND evaluation was able to take advantage of the program's paced implementation (only certain judges were designated for day fines; others continued routine practices) to conduct a quasi-experimental evaluation. In this site, we were able to collect individual official record information on day fine offenders and a matched sample of non-day fine offenders. Detailed information on offender background characteristics, means information, charge and sentence was coded from probation files. One-year follow-up information on fines paid, enforcement activities, as well as technical violations and new arrests were recorded for day fine and non-day fine participants. This site provided us with the most comprehensive design and data to answer our research questions list above.

Information gathered from the other sites was not as rich, generally due to a combination of factors. In Oregon, fine payment and enforcement information was not available for fines imposed either prior, or during the course of the demonstration project due to the inability of the existing state-wide accounting system to generate usable information on payments as well as difficulties the site experienced in enforcement activities. Construction of comparable non-day fine offenders was not feasible in Bridgeport or Des Moines, given the constraints of automated systems to help identify similar defendants. However, in all sites we were able to obtain key data to answer the majority of the program and implementation questions; with some sites having more data on impacts than others.

Specifically, for Des Moines, Oregon, and Bridgeport, we obtained the following:

- Day fine program descriptions, progress reports, and internal evaluations of site's day fines program
- Automated data on sentencing patterns in each jurisdiction before and after the imposition of day fines
- Copies of PARADOX personal computer files maintained by the sites to record day fine imposition and collection information
- Site reports from RAND staff visits, as well as memoranda from training and technical assistance efforts by Vera and the Institute for Court Management

We present the results for each site separately in the following chapters.

4. MARICOPA "FARE" PROGRAM

The Maricopa County FARE (Financial Assessment Related to Employability), initially funded by grants from the State Justice Institute and the National Institute of Corrections, was started in 1991. The FARE program targets for day fines indicated felony offenders with little need for supervision and treatment. The intent of the program is to draw clients from those who traditionally receiving routine probation, thus serving as an intermediate sanction between routine and summary probation.

HISTORY OF FINES IN THE JURISDICTION

Maricopa County is the largest county in Arizona with approximately 65 percent of the state's population. Phoenix is the major city in the county. The FARE project was initiated in the Superior Court of Maricopa County, a general jurisdiction trial court that handles all felonies and has jurisdiction over misdemeanors not otherwise provided for by law.

Planners in Maricopa County had worked for several years prior to FARE implementation gaining information on their collection of monetary orders and how monetary sanctions might fit into their overall sentencing framework. Before implementation of the FARE project, the Superior Court of Maricopa and the Adult Probation Department engaged in a planning effort to improve the imposition and enforcement of fines. In 1986, data were collected to help the county understand better the extent to which monetary penalties were being imposed by the court and the extent to which the monies were being collected (Hillsman 1991). Additional planning specific to the FARE program was conducted prior to implementation on approximately 750 randomly selected cases disposed of in Superior Court. Overall sentencing patterns revealed the great majority of offenders were sentenced to probation supervision (78 percent); jail or prison was imposed in 55 percent of the cases (23 percent received prison and 32 percent received jail) (Greene 1995b). Very few defendants received a fine as a sole sanction; the majority of fines were imposed under mandatory fine provision in Arizona code. Drug and drunk driving offenses accounted for 81 percent of fines imposed in the sample.

Analysis of the fine amounts themselves showed that the fines clustered around certain going rate amounts, with 70 percent above \$1000. Fines were not the only monetary sanction used by the court. In fact, monetary penalties represent a complex package of components in Maricopa. Restitution is frequently ordered by the court. By law restitution must be imposed by the judge when the victim has suffered a monetary loss. In addition to fines and restitution, each felony conviction has a \$100 penalty assessment earmarked for the victim's compensation fund, a probation service fee of \$30 per month; a time payment fee of \$8 if the offender cannot pay immediately. Additional specialized assessments might also be imposed. On top of all felony fines is a fixed-percentage surcharge, which prior to FARE implementation was 37 percent of the amount of fine imposed.

Contemporaneous with the FARE program development was a larger effort by the county to develop an array of intermediate sanctions, ranging from unsupervised summary probation to prison. Day fines fit into this continuum between routine and summary probation, in an effort to serve those offenders with little or no risk to the community or need for services.

LEGISLATIVE AND STATUTORY CONSIDERATIONS

Fine structures in Arizona are listed in Table 4.1.

Table 4.1
Maximum Fines for Offense Class

Offense Class	Fine Maximum
Felony	\$150,000
Class 1 misdemeanor	\$1,000
Class 2 misdemeanor	\$750
Class 3 misdemeanor	\$500

Existing Arizona state law appeared to restrict the judge's ability to take the defendant's ability to pay into account in determining the fine amount. Flexibility was accorded only to judges in terms of modification of payment terms. To accommodate the existing legal structure, the planning committee decided to include all but the most difficult cases in the pilot effort -- those whose full-damage restitution would exceed the maximum to be given using the day fine formula.

RESULTING DAY FINE STRUCTURE

In Maricopa, a FARE sentence is intended to be imposed as an intermediate penalty in place of routine probation where the offender is not in need of supervision or services -- in other words, the low risk-low need defendant. The day fine concept is used to structure the total amount of a monetary sanction which might include a fine, probation service fee, victim compensation fund, and restitution. Then the whole could be apportioned to the various components of the financial sanction. The priority of payment was established by the planners to be 1) the mandated time payment fee; 2) \$100 state victim's fund; 3) victim restitution; 4) any fine that may be imposed.⁵ Any remaining money would be imposed as a probation service fee.

The low-risk low needs targeting was particularly attractive to the planners, as the FARE program would reduce expensive probation services normally used for probationers -- thus the prospect of saving supervision dollars. Offenders sentenced to FARE would not be under routine supervision. They would also not have the standard list of probation conditions assigned. The ones that remained were that the defendant remain crime free and pay financial obligations imposed by the judge. Payments could be made by mail, and probation would terminate upon payment.

GOALS OF FARE PROGRAM

The two major objectives of the FARE program can be summarized as:

- create a system which allowed equitable consideration of the offender's offense and means in determining the total financial penalty
- provide an intermediate sanction in lieu of probation for offenders who required no special services or structured supervision

⁵ Any fine amount that was above the FARE calculation total would be excluded from the FARE imposition, but would be imposed in a judgement order lodged against the defendant at sentencing to remain as an outstanding obligation after the FARE amount had been satisfied and probation terminated. It was expected this would rarely happen (Greene 1995).

SCALING SEVERITY OF UNITS

Planners ranked over 250 penal codes, ranging from first degree felonies to third degree misdemeanors, using their sample of planning data. Offenses were classified into fourteen severity levels, from the most to the least serious. In ranking the offenses, planners considered offenses which victimized persons as the most serious. Non-victimizing offenses were classified as less serious. Lowest levels in the ranking were reserved for petty property offenses, harmless nonvictimizing offenses and public order. Serious drug offenses and substantial property offenses were ranked in the middle.

Once the relative ranking of the offenses had been placed into the fourteen categories, the planners determined the value of each of the offenses. The highest three felony levels were determined inappropriate to be used for a presumptive fine unit because the majority of offenders convicted were sentenced to prison. Using a range of 350 penalty units, from a floor of 10 to a maximum of 360, categories were assigned ranges of units; and each individual offense was assigned a penalty unit within that range for the eleven remaining categories.

DETERMINING FINE UNIT VALUE

Net daily income is determined from the information supplied by the defendant during the presentence investigation process. This amount is discounted for the number of dependents, up to 8. In addition, net daily income is furthermore given a general discount for offenders with incomes falling below the National Poverty level. For offenders who are employable, but who do not currently have jobs, a separate table provided net daily income figures based on skill level is used to estimate potential income.

OFFENDER ELIGIBILITY

The point of case screening for a FARE fine was the presentence investigation -- the point at which all information necessary for screening and calculation of the FARE fine took place. The specifics of eligibility included:

- the defendant must be convicted of a probation-eligible offense
- defendant is not in need of formal supervision (does not pose a threat of danger to the community and is not a chronic offender)

- defendant does not have personal or social problems requiring treatment, education training

To determine the FARE fine, the presentence investigator multiplies the FARE unit value by the adjusted net daily income. This amount then becomes the full financial obligation for the defendant. The presentence investigator then computes the disbursements for time payment fee, victim compensation fund, fine and surcharge, restitution, reimbursement and probation service fee. The investigator completes a short presentence report, attaching the FARE fine paperwork and forwards the package to the judge for sentencing. The judge then makes the decision whether to impose the FARE fine.

Once a defendant has been sentenced to FARE, they report to the FARE probation officer immediately who sets up the conditions of their payment schedule and explains the two terms of probation by which the offender must abide (notification of any address changes and not be charged with any new felony arrest).

COLLECTIONS AND ENFORCEMENT

The FARE probation officer is responsible for the monitoring and enforcement of the payment terms and conditions. As a start, offenders are allowed to make their payments by mail. If a payment is missed, a letter is mailed to the offenders. This is usually followed by a call by the FARE officer to the defendant's place of employment or residence. Second and third delinquency letters are followed up by a personal visit by the FARE officer. If payment is still not forthcoming, then the conditions of the original order can be modified by the court with a modification order. If non-payment appears willful and FARE probation does not appear viable, then offender can be resentenced to routine probation, perhaps with incarceration, or more serious sanction, including the possibility of state-level incarceration.

RAND RESEARCH DESIGN

In order to compare the impact of FARE on offender payments and subsequent recidivism, the RAND research design took advantage of the early partial county implementation agreed upon by the Maricopa County Adult Probation Department and the Court.

The County is divided into four major judicial quadrants. Within each quadrant, two judges were selected to participate in the FARE program. They sentenced offenders to FARE; other judges in the same quadrant did not participate in the FARE program. Cases are randomly assigned to judges, assuring that judges received the same "mix" of cases in the long run. In this manner, the jurisdiction laid the framework for an evaluation in which comparable offenders in each of the four quadrants could be studied as comparison group offenders.

The major research strategy was to consider the FARE sentenced offenders as the experimental group and to construct a similar comparison group out of the offenders sentenced by non-day fine judges in the four quadrants. Although the strongest design would have involved random assignment in which eligible offenders were randomly assigned to either receive a day fine or traditional sentencing, this option was not possible. The current design however, had several advantages over typical quasi-experimental designs. Comparison group offenders were from the same time period as FARE offenders, reducing the possible confounds of any historical changes in sentencing or supervision practices. In addition, the comparison defendants were drawn from the same geographical areas, controlling for the types of offenses and offenders represented in the county's four quadrants.

The research design involved three major steps:

- Identification of 1991 and 1992 defendants who received a FARE sentence
- Screening of sentenced defendants in non-FARE courts using FARE eligibility criteria to match the FARE participants
- Coding background and 12-month follow-up information for both FARE and comparison group offenders from probation and clerk files to record background information, monetary payments, and any technical violations and arrests occurring during the 12-month follow-up period.

Identification and data collection of the FARE and comparison groups was done in two major waves: one for 1991 defendants and one for 1992 defendants. This allowed for field work to progress at a steady pace for the earlier cases, while the latter year cases were being processed and accruing their 12-month follow-up histories.

SCREENING COMPARISON GROUP OFFENDERS

The screening process for both years followed a similar strategy. Our goal was to select a match for each FARE client -- a defendant that would have met the FARE eligibility criteria had he or she been sentenced in a FARE court and someone who was similar to the FARE client in terms of seven characteristics including: conviction offense (theft, drug, white collar, other), felony or misdemeanor conviction, age (under 21, 21-25, 26-30 and over 30), race, sex, conviction date (in calendar year quarters), and judicial quadrant.

Unfortunately, no straightforward mechanism existed for us to accomplish the creation of our pool of comparison subjects. The actual matching process encompassed a broad-based computer-assisted screen, followed by manual record screening of potentially-eligible FARE cases. First, for 1991 (and again for 1992), the FARE clients were classified according to the seven background and offense variables outlined above. Second, Superior Court sentencing data were obtained from the Maricopa County Adult Probation Department. The most serious violent offenses were dropped from consideration since these would not be eligible for FARE. The remaining cases were classified according to the seven criteria above.⁶ For each FARE client, up to five potential comparison group defendants were identified for further screening.

The second step was to screen the potential matches, using FARE criteria.⁷ The potential comparison offenders (almost 2,000 combined for 1991 and 1992) were identified for further manual screening for FARE eligibility. RAND staff created a FARE-eligibility screening form to mirror the eligibility process used by the presentence investigation officers in their determination of offender eligibility for FARE. The form was devised in collaboration with the FARE probation officer to make sure that our process paralleled, as closely as possible, the actual FARE screening criteria utilized by presentence investigators. Specifically, the manual screening form

⁶ Approximately five percent of the cases were sentenced by temporary or pro-tem judges for whom it was impossible to identify quadrant. These were dropped from the eligibility pool.

⁷The automated data did not contain variables we could use to assess "low-risk," "low-need" requirements for a FARE offender.

requested information about: the defendant's substance abuse problem; chronic prior history (defined in terms of prior convictions, felony convictions and contacts with the criminal justice system); posing a threat to the community; personal and/or social problems requiring treatment, training or education; whether the defendant is unemployable; any other reason why the defendant would be in need of formal supervision; the total amount of restitution. The FARE monetary calculation was also performed on the coding sheet to ensure cases with large restitution were not included in the comparison group.

Probation files were located for each of the potential comparison group defendants. RAND on-site coders abstracted information from the presentence investigation to address the screening items and completed the FARE calculation for each eligible defendant. If any of the items related to defendant need or risk was answered in the affirmative, or the restitution amount exceeded the FARE amount, the case was dropped from consideration as a match for the FARE offenders.

This process resulted in the identification of approximately 75 percent of the FARE cases being matched each year. Table 4.2 presents the distribution of the key matching variables for FARE and comparison group offenders. This table shows that on the six of the seven variables, the FARE and comparison offenders are similar. For offense class, a significantly larger percentage of the comparison offenders have felony convictions (78.8 versus 69.6 percent).

The RAND data collection instruments coded information on background characteristics of the defendant (prior drug use, prior criminal record); basic demographics; as current offense information; (arrest and conviction charges; disposition of offense, sentence) employment and income information; and risk/needs assessment items. A 12-month follow-up form recorded information on each defendant's criminal justice status at follow-up; supervision and confinement during the 12 months; technical violations and arrests for new criminal behavior; contacts and services from probation, drug tests, payments of monetary conditions; and payment enforcement activities.

Table 4.2
Comparison of Screening Characteristics for
FARE and Comparison Offenders
1991 and 1992 Combined
(In percent)

	FARE (N=188)	Comparison (N=188)
Sex		
Male	77.0	77.2
Female	23.0	22.8
Race		
Black	8.9	9.0
Hispanic	11.5	11.6
White	79.6	79.4
Offense		
Theft	56.0	56.1
Drug	31.9	32.3
White collar	1.0	1.1
Other	11.0	10.6
Class		
Felony*	69.6	78.8
Misdemeanor	30.4	21.2
Judicial Quadrant		
1	26.2	24.9
2	11.0	12.2
3	26.7	26.5
4	36.1	36.5
Age		
Under 21	25.6	24.9
21-25	27.8	28.6
26 to 30	17.8	13.8
Over 30	28.8	32.8
Calendar Quarter		
First	16.2	17.5
Second	33.5	39.7
Third	33.5	26.5
Fourth	16.8	16.4

Note: *indicates FARE and comparison group offenders significantly different, $p < .05$ using chi-square tests.

RESULTS

Background Characteristics

Tables 4.3 through 4.4 present the background characteristics of the study sample. As we saw earlier, the FARE and comparison group are similar on sex, race, age at conviction, and offense type. Differences exist on offense, prior record, and risk score, suggesting that FARE offenders are slightly less serious than comparison group offenders. Table 4.4 reveals very similar profiles in terms of employment. Over half are employed full or part time; the average monthly income is approximately \$1000 per month. Although the average income per month, average assets, and average monthly expenses are slightly different, none of the comparison reached statistical significance.

Sentence Imposed

One of the goals of FARE was to place offenders on FARE in lieu of routine probation. Table 4.5 presents the type of sentences imposed for the FARE and comparison group offenders. This table shows that, indeed, FARE is drawing its offenders from the group of that would normally be receiving standard probation. Over 77 percent of the comparison group offenders were placed on routine probation; only a very few were sentenced to summary probation. Thus it appears that FARE is acting as a true alternative and not just a sanction that widens the net of social control.

Table 4.6 presents information on the monetary components of offender sentences. For each of the components of the total monetary package, we present the percent of each group with the monetary penalty, plus the average amount of the penalty for those with the monetary penalty. Slightly more FARE than comparison group offenders were sentenced to monetary sanctions (93 versus 100 percent for comparison and FARE offenders, respectively); however the total assessment for those who received it was the not different (as planners had intended).

Table 4.3
Background Characteristics

	FARE (N=188)	Comparison (N=188)
Sex		
% Male	77.0	77.3
Race		
%White	79.6	79.4
%Black	8.9	9.0
%Hispanic	11.5	11.6
Age at Current Conviction	27.2	27.1
Current Conviction*		
%Felony	71.8	81.9
%Misdemeanor	28.2	18.1
Offense Type		
%Homicide	0.0	0.0
%Robbery	0.0	0.5
%Assault	1.1	1.6
%Burglary	5.3	8.5
%Theft	50.0	45.2
%Drug	32.1	33.0
%Other	11.6	11.2
Prior Record Summary*		
%No Prior Arrests	58.6	39.8
%Arrests Only	26.7	32.5
%Prior Probation	6.8	11.0
%Prior Jail	5.2	15.2
%Prior Prison	2.6	1.6
Risk Score*		
%Low	22.0	10.3
%Mod	49.1	48.9
%High	23.7	26.1
%Intensive	5.2	14.7

Note: *indicates FARE and comparison group significantly different. Chi-square tests were used for categorized variables; t-tests for continuous variables.

Table 4.4
Employment and Income Information

Employment	FARE (N=188)	Comparison (N=188)
%Full-time	51	43
%Half-time	13	17
%Full or half-time	62	59
Support Sources		
%Self	66	70
%Others*	16	28
%Aid	5	12
Average Income/Mo.	\$1,116	\$950
Average Assets	\$7,391	\$11,851
Average Monthly Expenses	\$799	\$976

Note: *indicates FARE and comparison group significantly different. Chi-square tests were used for categorical variables; t-tests for continuous variables.

Table 4.5
Sentence Imposed

Sentence*	FARE (N=188)	Comparison (N=188)
%Prison	0.0	0.0
%Jail	0.0	15.9
%Intensive Probation	0.0	1.1
%Standard Probation	0.0	77.1
%Summary Probation	0.0	3.8
%Work Furlough	0.0	0.0
%Standard Fine	0.0	2.2
%Fare Fine	100.0	2.2

Note: *indicates FARE and comparison group significantly different, $p < .05$ using chi-square tests.

Table 4.6
Financial Assessment Imposed

	FARE (N=188)	Comparison (N=188)
%Restitution	33	26
Average Amt.	\$670	\$550
%Probation Fee*	74	63
Average Amt.	\$593	\$642
%Fine	35	36
Average Amt.*	\$765	\$1,319
%Victim Compensation	74	80
Average Amt.	\$96	\$93
%Time Fee*	95	79
Average Amt.	\$8	\$8
%Total Assessment*	100	93
Average Amt.	\$1,015	\$1,186

Note: *indicates FARE and comparison group significantly different. Chi-square tests were used for categorical variables, t-tests for continuous variables.

Table 4.7
Value of Total Assessment, in Percentiles

Percentile	FARE (N=188) (\$)	Comparison (N=188) (\$)
0	33	84
10	270	208
20	390	348
30	424	468
40	540	758
50	710	1,046
60	810	1,188
70	1,018	1,433
80	1,164	1,728
90	1,815	2,840
100	12,325	5,833

However, when we examine the distribution of fines imposed in Table 4.7 we see an interesting pattern emerge. The total range of financial penalties is broader for FARE, than for comparison group offenders, ranging from a low of \$33 to a high of over \$12,000. However, the median for the FARE offenders is lower -- \$710, contrasted with over \$1000 for comparison group offenders.

Status of Offenders at 12 Months

One of the incentives of a FARE sentence is that offenders are discharged from probation at the completion of their payments. However, if they do not pay, they may be sentenced to routine probation, or even imprisonment for willful nonpayment. Table 4.8 presents the status of FARE and comparison offenders 12-months after they were sentenced. This table reveals that over half of FARE offenders have completed their terms of probation after one-year, compared with approximately 10 percent of comparison offenders. Slightly more than one-third remain on FARE at the one-year follow-up; however, this is contrasted with almost 70 percent of comparison group offenders still on probation. No FARE offenders were revoked during the time period, and fewer than 5 percent had a warrant issued for abscond. FARE was successful in moving offenders off the supervision roles of the probation department.

Table 4.8
Status of Offenders at 12-month Follow-up
(In percent)

Status	FARE (N=188)	Comparison (N=188)
%Released from supervision	55.3	10.6
%Routine probation	3.2	69.4
%FARE probation	35.8	0.0
%Probation revoked - jail	0.0	1.7
%Probation revoked - prison	0.0	3.9
%Warrant/abscond	4.7	8.9

Payment Outcomes

Payment outcomes are central to the success of the FARE program. Did the offenders pay their fines? Did the FARE program result in revenue gains using a more equitable form of fining, with the collections being done by specialized staff? Table 4.9 presents the percent of offenders who paid during the 12-month follow-up, as well as the average amount of payments. Because of the automatic distribution of payments into the different components financial pieces, the most meaningful payment type is the first line in the table. Virtually all FARE fine participants paid something during their 12-month follow-up, compared to 77 percent of the control offenders. The average amount paid for those offenders making payments was \$694 for FARE and \$447 for comparison group offenders -- a significant difference.

Not only was the total amount of payments better for FARE participants, the timeliness of the payments were noteworthy. Table 4.10 presents the percentages of FARE and comparison group offenders who paid in full by 3, 6, 9, and 12 months after sentencing. This table shows that at each time period, a significantly greater percentage of FARE offenders with a financial obligation paid in full. The table also shows that even at 12-months, about half of the FARE offenders had still not paid their full amount. This finding is consistent with our finding that about half of the FARE offenders had been terminated from their FARE sentence (Table 4.7 above).

Recidivism Outcomes

An intermediate sanction that removes offenders from some level of criminal justice supervision is open to the question of what impact it has on recidivism. After all, the majority of the FARE offenders had been sentenced for felonies in Superior Court. Public safety is an issue that must be addressed. Table 4.11 displays the percent of FARE and comparison offenders who experienced technical violations and arrests for new crimes during the 12-month follow-up period. Comparison group offenders were significantly more likely to incur a technical violation than FARE offenders, primarily for failure to report and failure to pay fines. Over twenty percent of comparison group offenders received at least one technical violation, compared with 9.4 percent of FARE offenders. However, even for FARE

offenders, technical violations were filed for failure to pay fines for about nine percent of the group.

Table 4.9
Payments Made During 12-month Follow-up

	FARE (N=188)	Comparison (N=188)
%Any Payment*	96	77
Average Amt.*	\$694	\$447
%Restitution	31	23
Average Amt.	\$477	\$291
%Probation Fee	62	66
Ave Amt.*	\$360	\$187
%Fine	37	30
Average Amt.*	\$602	\$398
%Victim Compensation*	65	50
Average Amt.*	\$97	\$51

Note: *indicates FARE and comparison group significantly different. Chi-square tests were used for categorical variables, t-tests for continuous variable.

Table 4.10
Cumulative Percent Paid in Full, by 3, 6, 9 and 12-months After Sentencing

Time Interval	FARE (N=188)	Comparison (N=188)
Paid in full at 3 months*	21.4	0.7
Paid in full at 6 months*	31.9	3.6
Paid in full at 9 months*	40.1	8.0
Paid in full at 12 months*	52.7	20.3

Note: *indicates significant differences between FARE and comparison group, $p < .05$ using chi-square tests.

Table 4.11
Technical Violations and Arrests

	FARE (N=188)	Comparison (N=188)
Technical Violations		
%Any Violation*	9.4	21.5
%Fail to Report*	1.1	16.2
%Drug Violation*	0.0	9.4
%Failure to Maintain Emp*	0.5	7.3
%Comm. Service not Performed*	0.5	5.2
%Failure to Pay Fines	9.4	13.1
%TX Violation*	0.0	6.3
%Abscond	0.0	0.5
%Other Violation*	1.6	10.0
Arrests		
%Any Arrests	11.0	17.3
%Person	2.6	2.6
%Property	4.7	6.8
%Drugs*	2.6	6.8
%Other Crimes	6.3	11.0

Note: *indicates FARE and comparison group significantly different. Chi-square tests were used for categorical variables, t-tests for continuous variables.

In terms of new arrests, FARE and comparison group offenders were not significantly different in their likelihood of being arrested. Eleven percent of FARE offenders were arrested during the 12-month follow-up, contrasted with 17.3 percent of the comparison offenders. Thus, the lower level of supervision afforded the FARE offenders did not lead to an increase in their recidivism, as measured by technical violations or new arrests.⁸

⁸Multiple regression analyses were conducted to control the few differences between FARE and comparison offenders. Four outcomes were considered: any payment during follow-up; amount paid during follow-up; any arrest during follow-up; and any technical violation during follow-up. Outcomes were predicted as a function of offender age, race, sex, offense, felony or misdemeanor, prior record, risk and group (FARE or comparison group). Logistic regression was used for categorical outcomes (any payment, any technical violation, any new arrest). OLS was used for payment amount. Results mirrored these reported in Tables 4.9 and 4.10.

IMPACT ON SENTENCING

The FARE program targets a relatively narrow range of offenders; resulting in a small proportion of Superior Court convictions assigned to the program each year. As a result, we would not expect to see much difference in the types of sentences imposed before and after the FARE program became operational. Table 4.12 presents the sentencing patterns for 1990 and 1991 cases. Fewer than one percent of felonies were disposed of in 1990 and 1991 as fine only cases. Misdemeanor percentages appeared to remain about the same for the two years - at five percent of misdemeanors.

Table 4.12
Maricopa County Superior Court Sentencing Patterns

Felonies	1990	1991
% Prison	29	27
%Jail	<1	<1
%Probation+prison	24	31
%Probation	35	32
%Summary probation	<1	<1
%Fine only	<1	<1
Misdemeanors		
%Prison	0	0
%Jail	12	9
%Probation+prison	29	35
%Probation	43	41
%Summary probation	10	10
%Fine only	5	5

ESTIMATING THE POTENTIAL NUMBER OF FARE PARTICIPANTS

Over the course of the initial FARE implementation, it was expected that a fairly small number of offenders would be sentenced to FARE. During our evaluation, several hundred were selected for such sentences. The question that often arises with a new program is whether all eligible offenders are being referred to the program. Or, are there substantial numbers of offenders who might be eligible, but for some reason, are not being referred? This may point out areas for additional which training and education may be focused.

Although not one of our central research questions, our data allowed us to estimate the potential percentage of FARE eligible offenders. Recall that the FARE program was implemented with two judges in each of the four quadrants. The other judges' cases in the quadrants may have been eligible, but were not participating in the pilot project. In our screening of potential matches for comparison group offenders in these latter courts, we recorded whether the offenders met the day fine criteria. In 1991 (the year for which we conducted the current analysis), we screened over 1000 offenders. Using the information from the 1000 offenders, we calculated the probability of being placed in FARE for selected background characteristics. We then applied these probabilities to the complete 1991 sentencing data tape provided by the county to estimate the total percent of the entire non-FARE judge caseload that would have been eligible for FARE.

Our estimates indicated that the number of potential FARE offenders was higher than currently being sentenced to FARE. Overall, 5.5 percent of defendants in the FARE judge courts were sentenced to FARE; compared to estimates of 14.0 percent of the non-FARE judge cases would have been eligible for FARE sentences. Thus, the potential for increasing the numbers of day fine participants appears to be present.

5. DES MOINES, IOWA

HISTORY OF FINES IN THE JURISDICTION

In recent years, Iowa, like many other jurisdictions has been faced with overcrowded conditions in its jails and state prisons. As part of the response, the Correctional Policy Project released a 1991 report that outlined a number of initiatives and priority areas to be addressed. Two of these areas were: to study the desirability and feasibility of changing Iowa's sentencing practices, and to develop short-term and long-term strategies for addressing prison crowding. Support for sentencing changes was widespread. A 1991 survey conducted by the Division of Criminal and Juvenile Justice Planning indicated that a majority of over 400 Iowa officials and others surveyed felt that it was necessary for Iowa to make changes in its sentencing laws and practices. Structured sentencing options that provided more discretion and options to judges were suggested by respondents. Specifically mentioned recommendations on sentencing were studying Iowa's fine structures and increasing fines collection. It is within this context that Iowa proposed to be involved in the day fines pilot demonstration program.

Fines have been utilized as a criminal sanction in Iowa since the first Code of Iowa was adopted in 1851. It provided that fines could be imposed as sanctions for certain criminal offenses and provided for certain mandatory minimums for certain conviction offenses. Criminal offenses are categorized into felonies and misdemeanors from Class A felonies (most serious offenses) to Simple Misdemeanors. As Table 5.1 below shows, fines can be used for all but the most serious offenses.

Table 5.1
Offense Class and Fines Permitted

Class of Crime	Range of Fines Allowed
Class A felony	No fine allowed
Class B felony	No fine allowed
Class C felony	\$1 to \$10,000 fine
Class D felony	\$1 to \$7,500 fine
Aggravated misdemeanor	\$1 to \$5,000 fine
Serious misdemeanor	\$1 to \$1,000 fine
Simple misdemeanor	\$1 to \$100 fine

Despite the provision of fines for a wide variety of offenses, the Code lacks a comprehensive statute dealing with the collection of court-imposed fines. Fine collection is assigned to the County Attorney. However, no systematic mechanism exists for tracking and reporting failures to the County Attorney. This appears to have contributed to low collection results in the State. Data collected collected prior to the day fines project indicated that, statewide as of December 31, 1991, more than \$18 million in assessed criminal fines, court costs, criminal penalty surcharges, etc. were uncollected. This amount had increased to more than approximately \$24 million by the end of 1993 (Hudik 1994). At the time the Iowa proposal was funded, the state-wide budget deficit had been estimated to exceed \$250,000,000. Thus unpaid criminal fines represented a significant source of potential revenue for the state. Structured fines were seen as a mechanism to increase revenues for the jurisdiction.

LEGISLATIVE AND STATUTORY CONSIDERATIONS FOR DAY FINES

The Code allows for the imposition of a fine as a stand-alone penalty in cases in which the judge determines the fine itself will deter the defendant and deter others. In addition, it also allows for payment in installments, over a period of time. If an offender is able but willingly fails to pay a fine (or installment), he or she can be held in contempt of court. With these provisions, the Iowa proponents felt that their code would allow for the imposition of a day fine in all but the most serious cases.

Legislation was passed to assist the pilot project in its operations. Provisions included the suspending of mandatory minimum fines within the pilot site, allowing structured financial sanctions in cases where they had previously been prohibited by law, and allowing the distribution of a percentage of the pilot monies collected under the project to the county for continued project operations on a self-funding basis (Hudik 1994).

The chosen site for the day fines program was Polk County, Iowa's largest metropolitan area and location of their busiest courts. Population figures for 1990 were over 320,000. Des Moines is the largest city in the jurisdiction.

The local planning committee included the Chief Judge, Director of Correctional Services, District Court Administrator, Clerk of the District Court, County Attorney and a representative from the Public Defender's Office. The County Attorney served as the project's operational base. The decision to place the project in the County Attorney's office was primarily the result of the Chief Judge's feeling that the county including the Clerk's Office, should not engage in an adversarial role using the power of the court to collect fines.

GOALS OF IOWA DAY FINES

The goals of the Iowa day fines project were to:

- Demonstrate and study the use of criminal fines as an intermediate sanction
- Develop an objective process to determine fine amounts (and monitoring activities) that facilitate the application of criminal fines that are realistic and enforceable
- Standardize the process of criminal fines application and administration within the pilot site and to reduce inequalities perpetuated within the system
- Increase the amount of fines collected, and decrease the amount of delinquent fines
- Decrease use of incarceration and formal probation as criminal sanctions
- Develop information to guide Iowa policy makers in determining the benefits of a statewide structured fines system.

SCALING OFFENSE SEVERELY

The Iowa pilot project scaled individual offenses according to standard day fine protocol -- more serious the crime, the greater the number of units. All offenses from simple misdemeanors, through Class C felonies were assigned penalty units. Class A and B felonies were not assigned units, because fines are rarely authorized in these serious offenses. Simple misdemeanors ranged from 5 to 50 units; serious misdemeanors from 51 to 100 units; aggravated misdemeanors from 101 to 150 units. Within each range, individual offenses were assigned specific penalty units. Ranges for felonies were larger. Class D felony units ranged from 151 to 250 units; C felonies from 251 to 360 units. Within these unit values, crimes against a person were assigned penalty units in the upper half of the range, those not against the person were assigned values in the lower half. Units could be further adjusted +/- 15 percent to take into account aggravating and mitigating factors. Aggravating factors included prior convictions and circumstances of the offense.

The Iowa planners calculated the net daily income in a manner similar to net monthly income calculated in child support cases. Planners took into consideration public assistance payments as income and assumed if a person was able to work, he or she should be able to work at the Iowa minimum wage of \$4.65/hr for 30 hours a week.

Net daily income was adjusted by the following:

- 40 percent downward adjustment was made for a housing allowance
- 20 percent downward adjustment made for essentials such as food, clothing, heat
- downward adjustments for additional services needed (e.g., phone, transportation)
 - 40 percent for single person
 - 10 percent additional for next four dependents
 - 5 percent additional for dependents 5 and 6 (with a maximum additional services adjustment of 90 percent)

The resulting dollar amount was considered to be the fine unit value.

The interview for means information was conducted during the initial appearance process. Day fine staff collected the information necessary to calculate the day fine; had the defendant sign the paperwork, attesting to its accuracy.

OFFENDER ELIGIBILITY

The eventual goal of the Polk County project was to use day fines in cases in which fines were imposed as a sole sanction as well as a replacement for or enhancement for other penalties such as probation and jail. Eventually the pilot was to target felony cases. However, during the course of the pilot project, focus was on aggravated and serious misdemeanors. Cases were screened for appropriateness at the point of intake by the prosecutor's staff assigned to handling misdemeanors. Eligibility was based mainly on offense type, but criminal history and need for probation services was taken into account as well. During the course of the project, targets for day fines were:

- 1) OMVLUS (operating a motorized vehicle while license under suspension)
- 2) OWI (operating a vehicle while intoxicated) and
- 3) Other indictable misdemeanors (e.g., low-level thefts, soliciting, marijuana possession, etc.)

Any case in which the prosecutor recommended fines, suspended sentence or no sentence (mostly OMVLUS), the file was considered a potential day fines case for further processing by the day fines staff. Cases were screened out of consideration if the County Attorney recommended jail or prison or the case was a domestic violence. In addition, cases in which defendants had more than four priors in an OMVLUS, were also excluded. Day fines staff received the eligible case folders and prepared the day fine calculations which was placed in the case file. At the time of plea, the County Attorney discussed the day fine option with defendant and/or the defendant's attorney. If agreed upon, then the prosecutor would make the day fine recommendation to the court. The judge made the final decision whether to accept or reject the day fine sentencing. For those offenders who could not pay in full at the time of sentencing, an individualized payment schedule was developed.

COLLECTION AND ENFORCEMENT ACTIVITIES

Like all BJA demonstration sites, Iowa used a PC-based PARADOX system to assist in monitoring and enforcing payments. Reminder letters were routinely sent, followed by a warning letter if the defendant failed to make a scheduled payment. If the defendant didn't pay within two weeks, a second warning letter was mailed. A third final warning letter was mailed out if payment wasn't received in a week. The sanction for continued non-payment was issued on an arrest warrant to bring the defendant back before the judge. The judge's option could be to reimpose the old payment schedule, modify the original, or sentence the offender including the possibility of incarceration.

DAY FINE CALCULATIONS

The day fine value was derived by multiplying the number of units by the unit value. This total amount comprised of fine portion as well as a 30 percent surcharge traditionally added to each criminal fine imposed. Thus, for every dollar day fine imposed, .70 was considered the fine portion, .30 the surcharge portion.

CHARACTERISTICS OF DAY FINES PARTICIPANTS

Our analysis of the imposition of structured fines in Iowa was based on an analysis of 3,971 cases that were either terminated or active cases at the time of data collection. The data were PARADOX system files maintained by the Iowa Structured Fines staff for their own record keeping system. The PARADOX files recorded several background and sentence variables (age, race, sex, employment, job, how supported, number of dependents, conviction offense) as well as the value, distribution and type of all monetary penalties (fine amount, surcharge amount, court cost amount, attorney's fees, time payment fee, and interest-total assessment). These files were also used to record the date and amount of payments offenders made, as well enforcement activities, and final case status.

Tables 5.2 and 5.3 presents the background and offense characteristics of the 3,971 cases. The majority of day fine participants were male, between 21 and 30 years of age. By far the most frequent offenses given day fines were traffic for operating a motor vehicle while license was suspended, and

Table 5.2
Demographic Characteristics of Day Fines Participants

	(Percent)
Sex	
Male	16.2
Female	83.8
Ethnicity	
African American	10.9
White	81.2
Hispanic	4.1
Other	3.8
Age	
Under 21	10.7
21-30	45.4
30-40	30.7
40+	13.2
Conviction offense	
Assault	1.9
Burglary	0.1
Drugs	12.3
Fail to Appear	0.7
Fraud	0.3
Interfere	0.1
Other	3.4
Theft	3.3
Traffic	76.1
OMVLUS	36.0
OWI 1st	30.3
OWI 2nd	7.2
Other	2.7
Weapons	1.8
Offense Class	
Class D Felony/No Person	1.0
Class E Felony/No Person	0.1
Aggravated Misdemeanor/ Person	0.3
Aggravated Misdemeanor/No Person	14.2
Serious Misdemeanor/Person	1.6
Serious Misdemeanor/No Person	82.8

Table 5.3
Employment and Financial Characteristics of Day Fines Participants

Occupation	(Percent)
Laborer	68.0
Food service	7.1
Clerical	19.3
Sales	1.5
Manager	1.2
Professional/technical	0.9
Other	1.9
Employment	
Full time	51.8
Part time	10.6
Unemployed	2.7
Disabled	4.0
Student	3.3
Homemaker	4.3
Other	23.4
Supported By	
Self	89.3
Spouse	0.6
Parent	0.3
Welfare	0.5
SSI	2.3
ADC	3.1
Unemployment	1.6
Other	1.4
Monthly Income (\$)	
Under 250	3.8
250-499	13.5
500-749	18.2
750-999	22.9
1,000-1,249	11.0
1,250-1,499	5.6
1,500-1,999	5.2
2,000-2,999	2.2
3,000+	0.6
Number of Dependents	
None	0.3
One	58.7
Two	15.8
Three	11.8
Four+	13.6

Table 5.4
Day Fine Units and Values

Average Day Fine Value	\$6.10
Day Fine Values (in %)	
Under \$4	13.4
\$4-4.99	37.3
\$5-5.99	13.9
\$6-6.99	14.3
\$7-7.99	5.7
\$8-8.99	6.2
\$9-9.99	3.1
\$10 and over	7.8
Average Day Fine Units Imposed	79.2
Day Fine Units Imposed (in %)	
Under 60	4
60-69	26
70-79	27
80-89	23
90-99	4
100-119	8
120+	8
Day Fine Amounts (in %)	
Under \$100	0.1
\$100-199	3.9
\$200-299	18.1
\$300-399	27.4
\$400-499	15.9
\$500-599	12.0
\$600-699	7.5
\$700-799	4.9
\$800+	9.9

operating a vehicle while intoxicated. Approximately 12 percent were for drugs -- primarily possession of marijuana. Reflecting the nature of the offenses, the vast majority were offenses classified as serious misdemeanors, non-person. Only 14 percent were for more serious aggravated misdemeanors -- individuals operating a motor vehicle while intoxicated, second offense, carrying a concealed weapon, and driving while barred.

The majority of day fine defendants were self-supporting, with more than half employed full time, making a monthly income of less than \$1,000. Day fine units clustered between \$4.00 and \$7.00, reflects the income level. Day fine units generally ranged between 60 and 90 units - reflecting the relatively less serious traffic offenses targeted for the project.

Table 5.5 shows the total financial sanction imposed on day fine participants. Resulting day fine amounts ranged from under \$100 to over \$800, but the bulk were between \$200 and \$500 dollars. The average total financial sanction imposed was \$570, reflecting \$338 in fines; \$111 in surcharge, and \$122 combined for court costs, interest amount, attorney fees and other assessments.

Table 5.5
Total Financial Sanction Imposed

Average Total Financial Sanction Imposed	\$570
Amount Fined	\$338
Surcharge Amount	\$111
Court Costs	\$46
Interest Amount	\$32
Attorney Fees	\$11
Other Assessments	\$33

Table 5.6 presents the payment information for the sample. A very high percentage -- 81.3 percent of day fine cases paid in full. Slightly less than 20 percent of the cases evidence poor performance and were resentenced to another sanction. Of these cases who paid in full, about half paid within six months, the others required up to a year or more to pay the total amount.

IOWA'S INTERNAL ANALYSIS OF FINES

An analysis of the fines by the day fines staff indicated that the imposition of structured fines on the existing "usual and customary" fine

levels was mixed, depending on the offense. Where a mandatory minimum was required by law, the level of assessed average day fine was lower. In other offenses, the average level of fine imposed was found to have increased, decreased, or remained approximately the same with no apparent pattern in the changes.

Table 5.6
Payment of Structured Fines

Cases Paid in Full	81.3%
Cases Resentenced	18.7%
Of those cases Paid in Full	
Paid in full within 1 week	17.7%
Paid in full within 3 months	30.6%
Paid in full within 6 months	52.5%
Paid in full within 9 months	78.8%
Paid in full within 12 months	89.7%
Average Total Fine Paid (cumulative)	\$466
Average Amount Paid within 1 week	\$69
Average Amount Paid within 3 mo	\$217
Average Amount Paid within 6 mo	\$319
Average Amount Paid within 9 mo	\$400
Average Amount Paid within 12 mo	\$436

Comparison of Fine Amounts Collected, Pre- and Post Day Fines

In order to gauge the impact of day fines on collections, Iowa staff made three separate comparisons. The first comparison was to the criminal fines imposed in Polk County during the year immediately preceding the implementation of the project, 1991, and the collection of those fines which remained the sanction of record as of December 1992. The percentage of cases paid in full under the day fines program increased from 31.5 percent to 72.2 percent. Total fine dollars collected as a percentage of total fines imposed increased from 33.8 percent to 76.7 percent. The percent of offenders paying at least some portion of their fine went from 45.0 percent to 84.6 percent.

Table 5.7 displays the collection rate information for all fines imposed in 1991, and day fines imposed in 1992 and 1993 overall for Polk County. As noted, collection rates for fines more than doubled with the introduction of day fines. However, this table also shows the tradeoff for more successful fine payment and enforcement. Prior to day fines, fewer than one percent of fine cases were returned to court for resentencing. With the increased monitoring and enforcement conducted by day fines staff, more than 15 percent of cases were returned to court for resentencing to another sanction.

Table 5.7
Day Fines Pilot Project Comparative Results

	Polk Co 1991	Polk Co Structured Fines 1992	Polk Co Structured Fines 1993
Number of fines imposed by court	2,866	1,382	1,805
Collection rate for all fines imposed	33.6%	66.0%	71.3%
% of all cases paying fines in full	31.3%	60.5%	65.3%
% of all cases paying \$0.00 of fine	55.3%	21.7%	19.7%
% of all fine cases resentenced by court to another sanction	0.9%	16.3%	17.1%
Collection rate for fine cases not resentenced by court	33.8%	76.7%	81.5%
% of cases not resentenced by court paying fine in full	31.5%	72.2%	78.9%

Note: Includes fines and structured civil penalties assessed by the court. Does not include, surcharges, court costs, etc. All court resentencing and fine collection data are as of December 31st of the year following the fine assessment date. Table adapted from Hudik (1996).

A more exact comparison of revenues collected examines five offenses that were most often used in the day fines cases -- operating a motor vehicle while license suspended (OMVLUS), operating a motor vehicle while intoxicated (1st, 2nd, and 3rd offenses), and possession of a controlled

substance. For these five offenses, Table 5.8 indicates larger net increases in dollars collected for each of the offense types.

Table 5.8
Differences in net revenue collected on a per case basis as a result of pilot site operations for the five most common offenses for which fines were imposed in Polk County in 1991

Offense	Average Net Dollars Collected Per Case, 1991	Average Net Dollars Collected Per Case, 1992
OMVLUS	73	237
OWI 1st	267	310
POS C/S	114	223
OWI 2nd	353	491
OWI 3rd	181	543

Note: Table taken from Hudik (1994).

IMPACT OF DAY FINES ON SENTENCING PATTERNS

Between 1991 and 1992, the system for recording key dispositional patterns changed significantly in Polk County, as well as statewide. In 1991, individual county courts compiled information on dispositions. In 1992, a new automated statewide system became fully operational. Differences between the two systems do not allow straightforward comparisons between sentencing patterns before and after the day fines project. However, certain conclusions can be drawn. Because day fines were imposed so infrequently for felonies; the project did not impact sentencing patterns for more serious cases. It is not clear how the relative percent of offenders receiving a fine changed as a result of the day fines project. However, day fines targeted the offenses for which fines had traditionally been assigned as stand alone sanctions -- motor vehicle offenses (OMVLUS, OW1-2, OW1-2, OW1-3) and possession of controlled substances, suggesting that day fines did not widen the offenses for which fines were imposed as stand-alone sanctions. It is clear, however, that day fines comprised a large percent of fines imposed. According to state automated system, day fines accounted for over one-third of all fines imposed in Polk County in 1992.

6. BRIDGEPORT, CONNECTICUT

The Connecticut day fines demonstration project was implemented in Geographical Area Court 2, which encompasses Bridgeport, Fairfield, Monroe, Trumbull, and Stratford, with a total population of approximately 300,000. It is a trial court of general jurisdiction, handling both felony and misdemeanor cases. The court handles approximately 12,000 criminal filings a year, the majority (over 10,000) are misdemeanors. An additional 16,000 motor vehicle cases were disposed of in the year prior to the day fines project. Bridgeport was selected because of its experience with integrating alternatives into their sentencing practices.

The day fines project was initiated in the context of an interest in intermediate sanctions in the state. The Office of Intermediate Sanctions had released its three-year strategic plan for judicial sanctions prior to the day fines start in December 1991. The goal of the plan was to put in place a complete set of judicial sanctions, from pretrial release through sentencing that improved the sentencing process, while at the same time reducing the state's reliance on incarceration. Key to the effort was that sentencing options represented meaningful judicial sanctions, and not less effective "alternatives" to prison (Judicial Branch 1991). Day fines were listed as one of the sanctions to be considered in the broad-scale response for alternatives to incarceration.

The day fines project was initiated by the Office of Alternative Sanctions, in collaboration with the Center for Effective Public Policy -- a private, non-profit organization based in Washington, D.C. (Vera 1995). The planning committee consisted of the Director of Alternative Sanctions, Director of Court Operations, Presiding Judge, Supervising Prosecutor, Supervising Public Defender, Chief Clerk, Chief Bail Commissioners and Chief Probation Officer covering the court.

HISTORY OF FINES IN THE JURISDICTION

Legislation in the jurisdiction allows for the following fine amounts:

Table 6.1
Offense Class and Fine Amounts

Offense Type	Fine Amount
Felonies	
A and B felonies	up to \$10,000
C and D felonies	up to \$5,000
Misdemeanors	
A and B misdemeanors	up to \$1,000
C misdemeanor	up to \$500
Violations	up to \$500
Infractions	\$35-\$90

Note: Unclassified felony and misdemeanor fines vary with each offense, but generally will not exceed \$250,000 (for 3rd conviction for sale of narcotics)

Monetary penalties commonly used in the court include court costs that range from \$15 (for misdemeanors) to \$20 for felonies. Probation fees are also often imposed ranging from \$100 for misdemeanors to \$200 for felonies.

In the year before the day fines project was implemented, approximately \$250,000 was collected in criminal cases, compared to almost \$900,000 for non-criminal cases. The court clerk has primary responsibility for collecting fines levied by the court. No enforcement activity was followed, however, for non-payment.

Fining practices in Bridgeport are unlike those in many jurisdictions. All fines are expected to be paid in full on the day of sentencing with two exceptions. If the defendant had used a cash bond for pretrial release, he or she may have used the bond as down payment, with final payment occurring within a few weeks. Otherwise a case would be continued for several weeks, until payment was made. Fines are generally imposed as a sole sanction in Connecticut, because of legal constraints.

GOALS OF BRIDGEPORT DAY FINES PROGRAM

The stated goals of the day fine program were:

- to establish a more equitable and comprehensive fine system by basing them on the offender
- to demonstrate the feasibility and effectiveness of the day fine concept as a replacement for the current system
- to allow for the greater use of fines as a penalty, thereby addressing the problem of probation, jail and prison over crowding (Office of Alternative Sanctions 1995)

One of the major goals of the day fine project was to replace tariff fines used in the court.

Scaling Offense Severity

A key concepts behind day fines is to scale offenses according to their severity. Offenses can be assigned ranges, however, the ultimate scale should preserve a ranking. Early on, the Bridgeport planners did not use narrow ranges or the benchmarks for their structured fines program. They chose instead to allow a wide range of penalty units for the broad offense classes. As Table 6.2 shows, the maximum number of units permitted for an offense category increases with each statutory class of offense, however the smallest for the most serious offense is the same as the smallest for the least seriousness offense. The initial day fine maximum were arrived at, not by a process in which offenses were ranked in order of their perceived severity. Instead, the planners developed a going rate of \$55.56 per unit. Statutory maximum fines were divided by the \$55.56 to arrive at a maximum number of day fine units for the offense class (i.e., the \$10,000 maximum fine was divided by 55.56 to yield approximately 180 units). In essence, the categories are too few, defeating the concept of ranking offenses by their severity. Early on (March 1992), the technical assistance Vera staff pointed out this problem and advocated that the site create a more specific scale of suggested units for each common conviction offense, along with a presumptive number of units as the center of a narrow range. However, planner's maintained their structure

to reflect Connecticut's sentencing philosophy that judges should have full discretion in sentencing decisions. Table 6.2 presets initial and revised ranges for their offenses. Initial limits were increased in October 1992 to ensure higher fines for the lower offense and to increase the level of fines for poorer defendants, whose day fines appeared too low by planners to be meaningful.

Table 6.2
Day Fine Unit Ranges

Offense	Number of Units Permitted	
	Initial	Revised
Class B Felony	1 to 180	1 to 450
Class C Felony	1 to 90	1 to 300
Class D Felony	1 to 90	1 to 150
Class A Misdemeanor	1 to 18	1 to 60
Class B Misdemeanor	1 to 18	1 to 30
Class C Misdemeanor	1 to 9	1 to 15

Note: Unclassified felonies can have up to 4,500 penalty units assessed.

JURISDICTION PLACEMENT

Day fines can come from any stage in court processing to the day fines officer in Bridgeport. However, the majority come out of plea negotiations in which the attorneys decide whether a day fine should be imposed and bargain the number of day fine units -- this is essentially the same as bargaining for the severity of the charge. Offenders are then referred to the day fines officer to begin the process of obtaining information for income verification. The defendant receives a copy of the Day Fines Verification Checklist indicating the date and time of the interview with the day fines officer and is instructed to bring in proof of current address, income, dependent, etc. At the time of the interview the defendant fills out the Personal/Financial/Employment data form. A court date is set two weeks from this point during which the day fines officer writes up a recommendation for the judge that includes the unit value for the offense. If the information has not been verified prior to the court date, the case is continued until it is, or the case is declined for day

finer and is sentenced differently.⁹ Thus verification of information is central to the operation of the case. The day fines value can be adjusted up or down by 15%, depending upon whether the day fines officer feels the defendant has more or less money than he/she says they do.

The offender then appears before the judge for sentencing. The judge is ultimately the arbitrator of whether the defendant receives the day fine or not. If the offender is able to pay on the same day, he or she does so. Payment on the day of sentencing is encouraged by a 10% discount of the full amount.¹⁰ If the offender cannot pay in full at sentencing, the day fines officer presents an installment schedule to the court. The court either accepts or revises the schedule, at which point the fine is imposed and vacated; the defendant is placed on pretrial status while making payments, with the case "continued" for payment.¹¹

INCOME DETERMINATION

Calculations of the "net" or daily income involve several components. Defendants with taxes withheld have 33 percent of their gross daily income deducted (those whose income is not taxable do not receive the deduction). Credits for dependents are then applied to the net daily amounts:

- 15% for self support
- an additional discount of 15% for the first dependent
- additional 10% for the next dependent
- additional 5% for all remaining dependents, up to 6

The day fines officer has the discretion to decrease the net daily income by up to 15% for exceptional expenses (such as day care or medical expenses); net daily income can be increased by up to 15% if there exist additional assets or if the family support is aided by the income of a spouse or other party.

⁹Verification of welfare income is done through an agreement with the county welfare office from which the day fines office can receive quick confirmation by fax of information provided by the defendant.

¹⁰Restitution is not part of the fine package and is dealt with separately; few defendants had restitution orders imposed. When imposed, they were dealt with prior to disposition.

¹¹Connecticut law does not allow payments after disposition, since a fine is not a revocable sentence. In order to accommodate time payments, the day fines project had the fine vacated and technically continued until payment was made. Once payments were made the fine was reimposed on the record.

Defendants with no visible means of support are assigned the minimum welfare pay rate as their net daily income; however if the day fines officer believes the defendant has not told the truth about no income, the case is dropped from consideration for a day fine.

OFFENDER ELIGIBILITY

The original offenses targeted were all misdemeanor and low level felonies, including unclassified drug felonies. The most serious offenses eligible were class B felonies. Class A felonies were not included. Due to legislative restrictions, day fines could not be combined with a probation sentence.

DAY FINES IMPOSED

Table 6.3 displays the class and percent of 799 day fines cases during the study period. This table shows, as planners had indicated, that the vast majority of cases in which day fines are imposed are misdemeanors. When felony cases are considered, they are for drug possession.

Table 6.4 presents demographic characteristics of the day fine participants. The majority of the day fine participants were male, white, and unemployed. Only 27 percent were employed full-time. Distribution of unit values and numbers of units are displayed in Table 6.5 and 6.6. These tables underscore again, the focus on lower-range values -- over 90 percent of day fine cases have unit values 30 or lower -- the despite the fact that over one-fifth were unclassified felonies, with potentially very high units permitted for offenses.

Table 6.3
Offense Class for Day Fines Imposed

Offense Class	Percent of Total
Felony	
Class B Felony (violation of probation)	<.02
Class C Felony (violation of probation)	<.02
Class D Felony (FTA, burglary 3rd, larceny 3rd)	5
Unclassified Felony (possession narcotics)	22
Misdemeanor	
Class A Misdemeanor (FTA, 2nd, assault 3rd, interfering)	28
Class B Misdemeanor (breach of peace, larceny 5th, criminal impersonation)	9
Class C Misdemeanor (larceny 6th, disorderly conduct)	31
Unclassified Misdemeanor (possession marijuana)	5

Table 6.4
Demographics Characteristics of Day Fine Participants

Sex	(In percent)
Male	73.6
Female	26.4
# of Dependents	
0	17.5
1	58.4
2	9.7
3+	14.4
Ethnicity	
African-American	29.2
White	47.2
Hispanic	18.2
Other	5.5
Job	
Full-time	27.6
Part-time	14.8
Unemployed	53.7
Other	3.4

Table 6.5
Distribution of Unit Values for Day Fines

Unit Value (\$)	(In percent)
9-10	13.1
11-20	52.1
21-30	24.3
31-91	10.3

Table 6.6
Distribution of Day Fine Units

# of Units	(In percent)
3-9	16.6
10	23.0
11-14	6.9
15	21.9
16-19	1.5
20	10.6
21-30	12.7
31-100	6.6

FINE COLLECTION AND ENFORCEMENT

Payments for day fines were set up initially to be paid in full by three months after sentencing. Defendants were scheduled to appear every two weeks for payment to the clerk; if payment is made on a timely basis, they did not have to appear before the judge. If the defendant failed to pay on time and did not appear before the judge with an excuse, a warning letter was sent out ordering the defendant to appear before the judge. If that appearance was missed, a warrant was issued for his/her arrest. Approximately half of the day fine participants were assigned one installment to pay off their fine. Fifteen percent were allowed two to three installments; approximately 17 percent were allowed six or more installments to pay their fine.

Record of payments made by the defendant was collected by the clerk of the court, who received the money and kept track of the defendant's status on the docket. The day fines officer checked with the clerk daily to obtain the information to enter on her own system.

The day fines program accepted its first client in May 1992. At the end of December 1993, 1,302 day fines cases had been referred to the day fines officer. Of these, 799 (or 61%) had day fines imposed. A study of the dropouts by the Office of Court Operations indicated that a large majority of the cases were eligible day fine candidates had been rearrested prior to sentence imposition, or before completion of their payments.

Records maintained by the day fines project officer indicated that the total default rate for fines was approximately 13%, calculated as the total amount paid over the total amount imposed (not including pending amounts). Of the total \$294,697 imposed, \$242,437 had been collected as of January 1994.

RAND analyses of the PARADOX system files maintained by the day fines staff in Bridgeport were conducted to examine more closely the case outcomes and payment histories of day fine participants. Cases are displayed by their termination status, including full payment; rearrest; sentence modification; other and withdrawn. Termination numbers for all statuses, except rearrest and full payment are small. Table 6.7 reveals that the majority of day fines imposed pay in full -- 76.3 percent of felonies, 79.7

percent of misdemeanors. However, between 15 and 20 percent of the cases are terminated unsuccessfully, due to in arrest.

Table 6.7 further shows that the average fine payment for those cases paid in full is just over \$500 for felonies and \$234 for misdemeanors. When we look at all felony cases, the amount is just over \$400; just under \$200 for misdemeanors. Compared to 1991 data on the average fine amount paid for felonies (see Table 6.10), these numbers suggest the felony day fines are about half those in 1991; misdemeanor fines are about the same as 1991.

Table 6.8 presents a slightly different analysis of payments made by day fine participants. In this table, we present the percent of cases paying at the time of sentencing, those paying in full between sentence and 3 months, those paying in full between 3 and 6 months, etc. Unlike Table 6.7, the entries are not cumulative. Results show that forty percent of felonies and 50 percent of misdemeanors are paid in full at the time of sentencing. The vast majority of payments are made within the first three months after sentencing, as anticipated by the day fine planners.

Table 6.7
Percent of Cases Paying in Full, by Time Intervals

Case type	Closetype	# of cases	Mean asst amt	% Paid at sentence	% Paid by 3 mo	% Paid 3-6 mo	% Paid 6-12 mo
Felony	Full payment	171	513	50	30	20	0
	Rearrest	41	523	0	0	0	0
	Sentence modification	6	382	0	30	0	0
	Other	2	710	50	0	0	0
	Withdrawn	4	240	0	0	0	0
	Overall	224	532	40	20	10	0
Misdemeanor	Full payment	498	235	60	30	10	0
	Rearrest	97	242	0	0	0	0
	Sentence modification	27	67	20	0	0	0
	Other	1	45	0	0	0	0
	Withdrawn	0	0	0	0	0	0
	Overall	625	230	50	20	10	0

**Table 6.8
Assessment Amount and Cumulative Payments, by
Case Termination Status**

Offense level	Termination status	# of cases	Mean asst amt	Ave \$ paid at sentence date	Ave \$ 3 mo	Ave \$ 6 mo	Ave \$ 12 mo
Felony	Full payment	171	513	270	461	504	513
	Rearrest	41	523	57	140	140	140
	Sentence modification	6	382	107	327	327	327
	Other	2	710	280	280	280	280
	Withdrawn	4	240	0	0	0	0
	Overall	224	532	221	389	422	424
Misdemeanor	Full payment	498	235	146	225	233	234
	Rearrest	97	242	18	47	47	47
	Sentence modification	27	67	12	40	40	40
	Other	1	45	0	45	45	45
	Withdrawn	0	0	0	0	0	0
	Overall	625	230	119	188	188	188

IMPACT ON SENTENCING

Statewide data were obtained on felony and misdemeanor convictions from the state Judicial Information Systems for 1991 and 1992. Table 6.9 presents the percent of major disposition types for the two years, by felony and misdemeanor charges. Day fines do not appear to have changed the sentence distribution of offenders receiving felony conviction. For misdemeanors, the percent receiving fines is virtually the same before and after the imposition of day fines. Because fines are used as sand-alone sanctions, the slightly lower percentages of incarcerations and probation most likely reflect less use of probation with a period of incarcerations.

The average fine amounts for those who were fined are presented in Table 6.10. This table shows that felony fines did not change much, as would be expected due to the small number of day fines used for felonies in Bridgeport. Overall misdemeanors values appear to have remained about the same.

Table 6.9
1991 and 1992 Sentencing Patterns, Bridgeport

Type of Sentence	1991	1992
Felony	(N=2234)	(N=2157)
% incarcerated	94.0	93.9
% probation	57.5	58.6
% fined	4.9	5.3
Misdemeanor	(N=3587)	(N=3620)
% incarcerated	66.9	62.3
% probation	34.7	30.3
% fined	14.0	13.8

Note: Automated data did not differentiate between a jail and prison term of incarceration. Information on fines is for those who actually paid fines. No system records information for cases in which fines were imposed but not collected. Sentences are not mutually exclusive.

Table 6.10
Average Fines Imposed and Paid

Fines Imposed	1991	1992
Felony	\$1115	\$968
Misdemeanor	\$188	\$193

7. MARION, MALHEUR, COOS, AND JOSEPHINE COUNTIES, OREGON

HISTORY OF FINES IN THE JURISDICTION

Over the past 15 years, Oregon has been developing a criminal justice system that has focused on the role of community sanctions. In 1977, the Oregon Community Corrections Act provided funds to help augment community sanctions for offenders. In 1989, the Oregon Legislative Assembly enacted sentencing guidelines for use by judges statewide in sentencing felony cases. These guidelines, unlike those used in most other states, provide structure for probationary as well as prison sentences. The system allocates sanction units to various offenders. Different sanctions (e.g., residential drug and alcohol treatment, work release, community service and jail terms) are set up as sentencing equivalencies and structured through the use of the assigned units. Structured fines were seen as a desired next step in Oregon's structured sentencing process.

At the time the day fines project was initiated in Oregon, the state had already developed a crime severity scale for 100 felony sentences, as part of their felony sentencing guidelines process. Proposed rules for misdemeanors, unlike the felony guidelines had been proposed that classified misdemeanor offenses by the primary type of sanction considered appropriate. These rules created a class of fine-appropriate offenses. Thus, much of the background work for day fines had already been done in Oregon before their participation in the demonstration effort.

LEGISLATIVE AND STATUTORY CONSIDERATIONS

Laws governing fines in Oregon already contained clauses that the court consider financial resources of the defendant and the burden that payment of a fine will impose, with due regard to the other obligations of the defendant; and the ability of the defendant to pay a fine on an installment basis or other conditions to be fixed by the court. This statute enabled the initiation of day fines without additional legislation.

Existing law specified the following limits for fines in Oregon.

Table 7.1
Statutory Maximums for Fines

Class A felony	not to exceed \$300,000
Class B felony	not to exceed \$200,000
Class C felony	not to exceed \$100,000
Class A misdemeanor	not to exceed \$5,000
Class B misdemeanor	not to exceed \$2,000
Class C misdemeanor	not to exceed \$500
Violations	not to exceed \$250

GOALS OF OREGON DAY FINES

The goals for the Oregon structured fines were:

- incorporate structured fines into sentencing guidelines structure
- encourage the use of fines as alternative punishment
- develop proportional, fair fine system.

To accomplish these goals, the following objectives were specified:

- develop set of benchmarks, taking account crime seriousness, criminal history, and income
- establish baseline data on fine imposition and collection
- standardize process of fine imposition and income assessment
- increase collections by improved collection procedures and imposition of fines which are realistic
- encourage counties to develop innovative plans for use of structured fines and demonstrate effectiveness of these procedures
- provide incentives for enhanced fine collection
- expand capabilities of central state court accounting system

State and local agency involvement were central to the implementation of the Oregon day fines project. Key players in the demonstration included the Oregon Criminal Justice Council which was to provide overall project coordination; the Oregon Judicial Department, which was to provide baseline data, form development administrative support, including modifications to the Judicial Information Network. Selected trial courts were to define local

procedures, collect data, implement the day fines programs and monitor payment. Representatives of the prosecutor and defense attorneys were to participate in work group development of the prototype and conduct peer training. The Oregon Judicial Conference provided selected judges who participated in the work group and who would serve as peer trainers and project advocates. Joining these key members on the work group were representatives from the Association of Oregon Counties and other receiving fine revenues (Attorney General, Board of Police Standards and Training, etc.), probation and parole officers, legislators, and victim groups.

PARTICIPATING JURISDICTIONS

Four counties were selected to participate in the day fines project: Marion, Malheur, Coos, and Josephine. Coos County is located on the southern Oregon coast with a population of 60,000. The court is a general jurisdiction court handling both misdemeanors and felonies. In the year before the day fines project, approximately 11,000 fine sentences (including traffic) were levied. In 80 percent of the cases, fines were the only sanction and were not imposed in conjunction with any other non-monetary penalty.

Josephine County is in the southwest part of the state, approximately 50 miles from the California border. The court is also a general jurisdiction trial court handling both felonies and misdemeanor trial. The population served is approximately 66,000 people. Fines are imposed in conjunction with other sanctions at all levels of offenses in Josephine County. For motor vehicle violations and non-motor vehicle/non-parking violations, fines are typically the only sanction.

Malheur was the smallest jurisdiction in which the day fine project was initiated with a population of approximately 27,000 in the easternmost portion of Central Oregon, near the Idaho border. It is a trial court of general jurisdiction that handles both felonies and misdemeanors. In 1991, approximately 1292 cases filed in the county court.

Marion County was the largest county to participate in the demonstration. The county population is approximately 228,000 and contains the State Capitol City of Salem, located approximately 50 miles from Portland, the largest city in the state. In 1990, 16,847 cases were filed in Marion County. The county has a comprehensive continuum of intermediate

sanctions, however, it lacked an integrated policy of monetary sanctions. Fines were not received as a sole sanction for misdemeanor sentences. Fines were typically used in combination with other sanctions, with the exception of motor vehicle violations, which received fines as the sole sanction 100% percent of the time.

All four jurisdictions were to use a similar system for imposing day fines; however, each were to experiment with the collections aspect of the process.

ELIGIBLE OFFENSES

In Oregon, felony sentencing was governed by a sentencing grid which arrayed crime seriousness along one axis and a criminal history scale along the other. Within each cell of the matrix, guidelines were listed for appropriate punishment. For the most serious offenses and for the most serious criminal histories, prison is the presumptive sentence, with the grid providing upper and lower terms of incarceration. For less serious offenses and lower criminal history scores, a presumptive probation term is given, with indications for the number of custody units and maximum jail days which may be imposed. Day fines were deemed appropriate for presumptive probation felonies. In the metric of the sentencing guidelines, one fine unit was the equivalent of one custody unit in sentencing. Thus the judge could consider a day fine as an optional sanction, among others, in the normal sentencing procedure.

While only presumptive probation felonies were considered appropriate for day fines, all misdemeanors were eligible. To use day fines as a sole sanction for misdemeanors, a number of conditions had to apply: the defendant had to present no threat to the community and not be prone to violence, the person's criminal history was not extensive; the person was not in need of formal probation; he/she had the capability of satisfying the fine sanction; and any restitution owed the court would not preclude the defendant's ability to pay the fine (Forman and Factor 1995).

SCALING OFFENSE SERIOUSNESS

Scaling felony offenses paralleled the felony sentencing grid penalty units in Oregon. Eight categories for day fines were assigned: 30-45; 45-60;

60-75; 75-90; 90-105; 105 to 120; 120-150; and 150-180.¹² The centerpoint of the penalty unit range was considered the appropriate sanction if the fine were a stand alone option. If fines were combined with probation (which was the most expected day fine imposition in felony cases), the number of penalty units used for a fine could be reduced to reflect the severity of the total sanction package (Forman and Factor 1995).

Four penalty units ranges were constructed for misdemeanors, based on severity of offense and prior record of convictions. The four penalty unit ranges were 10-30, 30-60, 60-90, and 90-120, overlapping somewhat with the felony penalty unit benchmarks. Misdemeanors were targeted offenses for stand alone day fines under guidelines discussed earlier.

VALUING THE DAY FINE UNIT

Information for income determination was generally obtained from the offender's application for indigency form which was routinely used in all four counties.¹³ For offenders who did not request court-appointed counsel, the indigent verification officer conducted a separate interview to obtain the necessary information. Thus it was not necessary to hire additional staff in order to collect the means information. Offenders who were unwilling to provide income information, but for whom an occupation was known, wage figures for over 300 occupations in Oregon were used to estimate income. Minimum wage amounts were calculated for offenders with no known income, based on the assumption that some type of income (whether it be illegal or undeclared) exists for most offenders. As a baseline, \$300 a month, or \$10 per day was assumed to represent a reasonable figure.

Net income was defined as take home pay. Further discounts were provided to lower net income for the following:

- five percent for each dependent, up to four
- additional 15 percent for self-support

¹²Malheur utilized the full eight; the other jurisdictions collapsed these, in practice, to five.

¹³ Defendants were asked their consent to use confidential means information for calculating day fines.

- 50% of net income for routine expenses for those living at or below the poverty line (\$8,400/year)
- 35% of net income for routine expenses for those whose income was above \$20,000 per year

For those offenders with substantial assets, the fine could be enhanced by a surcharge representing several percentages of net assets (e.g., real property, cash, automobiles), although it was expected that such enhancements would occur rarely.

FINE IMPOSITION

The means information was collected before the defendant appeared in court by the indigent verification officer; however, it is the judge who decides whether to impose a day for the offense. The calculation of the fine value itself is done after sentencing by the indigent verification officer. However, in Marion County, the defendant is sent to the day fines officer after sentencing to complete a contract and set up a payment schedule that structures not only the day fine amount, but also any other financial obligations, including restitution.

The day fine was designed to include additional assessments and fees as part of the "day fine," unless the monetary sanctions were statutorily distinct, as in the case of DUII fees, restitution, and attorney fees. These amounts were in addition to the day fine amount. If the day fine resulted in an amount lower than an applicable minimum mandatory fine, the minimum could be imposed and the portion above the day fine suspended to arrive at the prescribed day fine amount.

In the implementation phases of the project, much discussion in the planning group centered on whether the day fine would be imposed as a stand alone fine or as a component of a sentence that typically included probation. Both types of fines were imposed during the course of the demonstration project.

FINE COLLECTION AND ENFORCEMENT

Collection and enforcement activities were the most problematic components of the Oregon demonstration effort. Although the mechanics of the fine imposition had been worked out for all sites in a concerted effort,

each site was to determine its own collections system. Thus, little coordinated effort was spent on this aspect of the demonstration.

In addition, the Oregon Justice Information Network, although it contained information potentially helpful for monitoring and enforcement activities, proved of little value in the day fines demonstration effort due to data entry and retrieval problems. Thus, information on the actual collections process, monitoring, and enforcement activities were not available for the RAND evaluation.

CHARACTERISTICS OF DAY FINE PARTICIPANTS IN MARION AND MALHEUR

During the course of the evaluation, PARADOX system data were available from two of the four participating counties: Marion and Malheur. Few variables had been entered on the system relevant to defendant background characteristics. Most variables contained on the file were directly related to the imposition of the fine amounts. An analysis of available data is shown in Tables 7.2 through 7.4.

The majority of offenders were single, over half were employed; most had only themselves as a dependent, although a substantial proportion supported additional dependents. Traffic offenses accounted for almost half of the day fine cases imposed in Marion; almost 40 percent in Malheur. The majority of the traffic offenses were driving under the influence cases. In Marion, day fines were limited to misdemeanor cases. In Malheur, a small percent of day fines were imposed in felony cases -- the vast majority were for misdemeanors.

Penalty units clustered around several penalty unit values. In Marion, 40 percent of the cases were assigned 90 penalty units, almost 20 percent were assigned sixty penalty units. Ninety units were the going rate for DUI, 1st offense. In Malheur, more than 15 percent were assigned 60 units; 17 percent were assigned 90 units; 15 percent were assigned 105 units.

Table 7.2
Background Characteristics of Day Fine Participants

Characteristic	Marion (N=2922) (in percent)	Malheur (N=662) (in percent)
Number of dependents		
1	51.3	47.7
2-3	27.3	26.3
4-5	15.3	18.8
6+	6.1	6.1
Family status		
Divorced	8.8	7.8
Married	28.0	34.5
Separated	5.1	6.7
Single	58.1	51.0
Employed	56.8	64.9
Offense Type		
Assault	15.3	9.7
Theft/burglary	14.7	7.9
Fraud	0.4	1.5
Drug/alcohol	0.5	6.2
Weapons	1.3	1.7
Interfere with officer	5.3	11.0
Fail to appear	1.3	3.5
Fish and Game	0.0	2.3
Traffic	48.3	39.4
Other	12.8	0.0

Table 7.3 presents key components for net daily income and fine units used to derive the day fine amount.

Table 7.3
Net Daily Income and Penalty Units Assessed

Characteristics	Marion (N=2922) (in percent)	Malheur (N=662) (in percent)
Net Daily Income		
less than \$10	1.4	0.5
\$10-19	20.8	46.4
\$20-29	53.6	29.5
\$30-39	11.9	12.3
\$40-99	11.6	10.7
\$100+	0.7	0.6
Penalty Units		
10-19	0.4	2.4
20-29	3.7	2.6
30-39	4.8	11.8
40-49	2.0	7.0
50-59	0.3	3.2
60-69	19.2	16.3
70-79	10.5	9.6
80-89	0.1	2.1
90-99	40.2	20.6
100-119	13.0	15.9
120-129	6.0	3.8
130+	0.1	4.7

DAY FINES IMPOSED

Table 7.4
Day Fines Imposed

	Marion (N=2922)	Malheur (N=662)
Total Amount Imposed		
less than \$50	3.3	1.1
\$50-99	1.5	3.4
\$100-199	12.6	9.9
\$200-299	11.5	9.4
\$300-399	11.9	14.8
\$400-499	10.5	12.2
\$500-599	11.7	9.6
\$600-699	9.1	8.6
\$700-799	5.5	6.6
\$800-899	5.3	2.1
\$900-999	4.2	4.1
\$1000-1500	9.6	10.1
\$1500+	3.3	6.5

Table 7.4 presents the total fine imposed for day fine cases. The average value for Marion was \$598 for all offenders; however, an average of \$237 had been suspended for each day fine and generally converted to community service hours. This type of suspension did not occur in Malheur county, where the average total fine imposed was \$793.

In Marion and Malheur, the majority of day fines imposed were not "stand alone" fines. In Malheur, 31 percent were stand alone; in Marion, 19 percent were stand alone. The total fine imposed for stand alone were lower -- average \$539 versus \$611 in Marion. However, in Malheur total fine imposed was about the same: \$508 for stand alone versus \$495 for fines in combination with other sentence components. In Malheur, fine alone cases were most frequent for traffic offense and for fish and game violations.

IMPACT ON SENTENCING IMPACT ON FOUR COUNTIES

Analyses were conducted on sentencing data for 1991 and 1992. Table 7.5 presents the results of the analyses. Sentencing patterns for felonies changed from 1991 to 1992, however, it is unlikely the changes can be

attributed to the day fine project given the focus of the fines on misdemeanor cases. In looking at misdemeanors, in all counties, the percentage of cases receiving fines did not increase. In fact, across all sites, the use of fines appeared to decrease from 1991 to 1992. Table 7.6 presents the average amounts levied for fines, assessments and fees. These numbers also evidence a great number of changes. However, in all counties except Coos (whose involvement in day fines was very minimal), average fine levels for misdemeanor offenses increased from 1991; consistent with the observations by local staff that day fines led to generally higher fines than former tariff fines.

Table 7.5
Distribution of Dispositions, 1991 and 1992

	Marion		Malheur		Coos		Josephine	
	1991 (n)	1992 (n)	1991 (n)	1992 (n)	1991 (n)	1992 (n)	1991 (n)	1992 (n)
Felonies								
% prison	30.9	23.9	32.7	27.6	23.3	21.2	39.3	15.3
% jail	29.2	36.1	13.2	11.6	35.8	43.0	49.3	36.7
% probation	34.4	40.6	55.5	50.4	73.5	73.8	48.5	70.8
% fines	11.8	12.2	43.9	33.6	24.2	20.6	49.3	54.1
% assess.	23.8	25.9	34.3	26.8	20.7	24.5	48.3	31.7
% fees	3.5	2.4	13.2	9.4	0.3	0.5	21.1	10.1
Misdemeanors								
% prison	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
% jail	39.2	41.3	16.7	11.1	35.8	29.3	33.7	30.8
% probation	35.6	47.8	67.8	58.4	58.5	43.0	57.4	48.0
% fines	33.5	29.7	61.2	49.8	52.2	41.4	74.5	61.4
% assess.	7.2	7.9	18.2	9.9	7.8	6.1	17.2	14.7
% fees	15.2	10.4	25.0	13.6	21.9	11.5	26.9	17.4

Note: Assessments include restitution, BPST, and victim assessment.

Table 7.6
Average Monetary Values for Fines, Assessments, and Fees
Levied During the Two Years

	Marion		Malheur		Coos		Josephine	
	1991 (n)	1992 (n)	1991 (n)	1992 (n)	1991 (n)	1992 (n)	1991 (n)	1992 (n)
Felonies								
ave \$ fines	507	641	728	970	657	674	792	683
ave \$ assess.	1442	1450	802	853	732	1064	1281	118
ave \$ fees	207	215	192	273	168	236	193	195
Misdemeanors								
ave \$ fines	345	596	389	530	297	286	390	453
ave \$ assess.	102	147	243	173	91	95	170	181
ave \$ fees	109	126	139	126	90	93	113	124

8. LESSONS LEARNED AND POLICY IMPLICATIONS

The four jurisdictions participating in the demonstration project experienced different levels of success with their day fines program. Maricopa and Des Moines were able to successfully implement the front end work requiring scaling of offense severity and determination of the day fine valuation, as well as increase collections over previous practices.

Implementation was more problematic in Oregon, particularly with respect to the collection and enforcement activities and the role that day fines should play combined with other sanctions. Although Bridgeport was able to establish penalty unit ranges for offenses, the broad penalty bands utilized were not consistent with the philosophy of scaling offenses by their severity.

In this final chapter we discuss some of the key issues in day fine implementation for the participating sites which illuminate the successes and challenges to establishing day fines. Specifically we address the types of offenses for which day fines were targeted; valuation of offender's income for unit value (including the indigent offender); packaging the total amount of financial obligations; statutory impediments to day fines; linking fines with probation; ongoing training and education required; effective collection and enforcement procedures; and computerized information systems.

Offenses Targeted for Day Fines

American courts seemed to have warmed to the concept of means-based fining and to considering the offender's ability to pay. However, they have not yet arrived at a point in which fines are replacing the use of incarceration, as they have done in Europe. In most sites, day fines were used to replace former tariff fines -- no apparent major changes were seen in the sentencing patterns in the jurisdictions. In Maricopa, day fines were an alternative to routine probation supervision, thus they served to shift offenders down the continuum of sanction severity, but primarily for offenders who would ordinarily serve no time incarcerated.

Day fines appear to be used often for a narrow range of offense types -- often for motor vehicle crimes. In Iowa and Oregon, the great bulk of day fine

Day fines appear to be used often for a narrow range of offense types -- often for motor vehicle crimes. In Iowa and Oregon, the great bulk of day fine cases were for traffic offenses. In Bridgeport and Maricopa, the use of day fines was more varied and included more serious offenses, such as felonies in the imposition of day fines. However, there was an explicit concern in several sites about using day fines for felonies. Planners in Oregon and Iowa scaled felonies and misdemeanors in their ranking of offenses; however experience with misdemeanors was the test ground before they wanted to move into felony cases.

Valuation of Offender Income

Valuation of the offender's income for day fine purposes was established in each of the four sites. Existing avenues exist for collecting information needed for calculation of the unit value. In Maricopa, presentence investigation personnel used routinely collected means information; in Oregon, information from the indigent verification officer, responsible for court appointed counsel was utilized. In Des Moines and Bridgeport, day fines staff collected the required information. Gathering the information was not generally perceived as a major problem. In some instances, however, verification of information was an issue. If verification was not obtained in Bridgeport, the case was dropped from day fine consideration.

Packaging Total Financial Obligations

In most of the courts, a fine is not the only financial sanction applied. Court costs, attorney fees, specialized treatment fees, restitution, etc. can be additional components of the total financial obligation the defendant receives. To structure only the "fine" part of the sentence undermines the concept of scaling monetary penalties to offense and the defendant's ability to pay. For example, in Maricopa County, restitution, victim compensation fund, time payment fee, and probation fee were often part of a sentence. The decision to include all components in the Maricopa FARE sentence helped assure sentencing consistent with the day fine concept. In Des Moines, day fines included the fine and the 30 percent fine surcharge. Although this did not account for all financial obligations (e.g., court costs, interest amount), the fine and surcharge accounted for almost 80 percent of the total financial

obligation -- thus the jurisdiction was able to structure the majority of the penalty for the offenders. This practice is in contrast to implementation in Oregon, where additional monetary assessments were not consistently taken into account in the determination of the total financial package subject to the day fine concept.

Jurisdictions need to consider how the fine fits in with the total package of financial penalties. In some instances statutory restrictions may not allow combining other penalties with the fine. However, the extent to which the total financial obligation can be structured, the more inherently equitable the resulting financial obligation will be.

Linking Fines to Probation

Conceptually day fines is a stand alone sanction that can be imposed in lieu of other sanctions, probation, jail, or prison. By using it in this manner, one may save potential resources associated with supervision or custody. However, in the actual administration and collection of day fines, the ability of the court to have some leverage and quick response over the offender is needed. If the offender is placed on bench probation with his fine, the mechanism to bring him back to court can be cumbersome. Placing the offender on a minimal form of probation allows quicker response to non-payment. Several observers felt that it is easier to handle non-payment of fines as a probation violation than handle it in a contempt proceeding. This issue was explicitly discussed in Oregon and Bridgeport. In Bridgeport, day fines planners felt the statutory restriction disallowing fines with a probation sentence should be changed to accommodate their combination in sentencing.

Statutory Restrictions to Day Fines

All sites had to deal with statutory constraints on their day fines project. In Maricopa, high mandatory restitution cases were excluded from consideration. In Des Moines, legislation for the pilot specifically exempted the pilot project from abiding by mandatory caps. It may be beyond the ability of day fine planners to change many of these statutory constraints, however, they may be lifted (as they were in Polk County) during pilot test period. At a minimum, planning efforts need to take into consideration what the statutory constraints will mean for their program -- how they restrict

potential eligible offenders, as well as constrain the actual day fine amounts imposed.

Ongoing Training and Education Required

Planners in the participating jurisdictions were sufficiently interested in the day fines concept to become part of the demonstration project. However, in all sites, extensive training and education was required not only to provide the key players with the required information about how to implement day fines, but also to continue the level of interest in imposing them. In Bridgeport, for example, the judge initially involved in the project was reassigned to another jurisdiction during the course of the project, resulting in a reduction of referrals.

Ongoing training and education may also help address a concern expressed in several of the sites -- that fines are not an appropriate sanction for offenders. The public is punitive in nature and wants to see more punishment than simply a fine imposed on individuals. Although this issue is certainly a philosophical one, education can help inform practitioners and the public that fines can be utilized as an effective sanction.

Effective Collection and Enforcement Procedures

Just because a more fair fine is imposed, it does not mean that it is going to be paid automatically. Training and technical assistance by Vera and the Institute of Court Management focused a great deal of effort to help sites deal with (often) inadequate existing monitoring, collection procedures.

The Staten Island project results were most favorable for the condition in which more rigorous enforcement techniques were utilized. In Milwaukee, the lack of enforcement hampered collections. This was born out again in the demonstration project. Although it is difficult to gauge how each site's collection practices changed as a result of day fines (due to unavailability of data), it is noteworthy that in Maricopa and Des Moines, sites with good monitoring and enforcement, the rates of collection for day fines were better than those either before the day fines project (Des Moines) or for non-day fine participants (Maricopa).

Providing fixed terms for payments with installment plans set in relation to the offender's means appear to be possible and also appear to help accomplish the higher collection rates in the demonstration sites. However, as Oregon and Des Moines day fines staff indicated, the monitoring and enforcement activities are time consuming -- these sites felt that more staff were needed to conduct the extent of collection and enforcement activities that were required to attain optimal collections.

Computerized Information Systems

The BJA demonstration sites all used personal computer based software, based on the Staten Island project, to input day fine imposition and monitoring data. In Oregon, Des Moines, and Bridgeport, day fines staff expressed frustrations with the system. In Bridgeport the system was not able to be linked with other information systems. In addition, information on several hundred cases was inadvertently deleted from their system, requiring reentry. In Des Moines, the system did not appear to be able to handle the vast amounts of data in a timely manner. In Oregon, day fines staff did not enter data consistently into the computer and much information was not entered at all.

These experiences are unfortunate for several reasons. For one, key information was not available for the evaluation for all sites. For another, the jurisdictions themselves were not able to take full advantage of the information they were collecting. Difficulties with the personal computer system only serve to underscore the vast amount of work that currently remains in these jurisdictions to understand how their current fining systems work, the amount of money imposed and owed by defendants and enforcement activities aimed at collecting the fines. Jurisdictions have automated systems in place that should help provide the necessary information for pilot, as well as routine court operations. Unfortunately, in several jurisdictions, the routine systems were not in place, nor reliable enough to assist in the day fines data collection, or even provide information on routine case processing in the jurisdiction.

FUTURE OF DAY FINES

As seen by the findings from the current evaluation, day fines can be imposed as an alternative sanction and, increase fine collection, with no increase in officially recorded technical violations and arrests. However, this outcome is not guaranteed. Substantial difficulties are faced in trying to get such programs implemented, and the odds are that the final product may not look like what the program planners had initially intended. Effectively dealing with statutory constraints, increased staff required, particularly for collections, and continuing education efforts to keep the day fines concept viable in the minds of judges, defense, prosecutors and other members of the court requires a great deal of effort.

Currently the day fines programs continue to operate in Maricopa, Bridgeport, Marion and Malheur. Unfortunately, the successful Iowa program was not renewed in the 1995 legislative session, however there appears to be renewed interest in this year's session. Provided new programs can learn from the experiences of others and work carefully to overcome the obstacles to successful implementation we may see more programs in the future.

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