

GOVERNING

THE STATES AND LOCALITIES

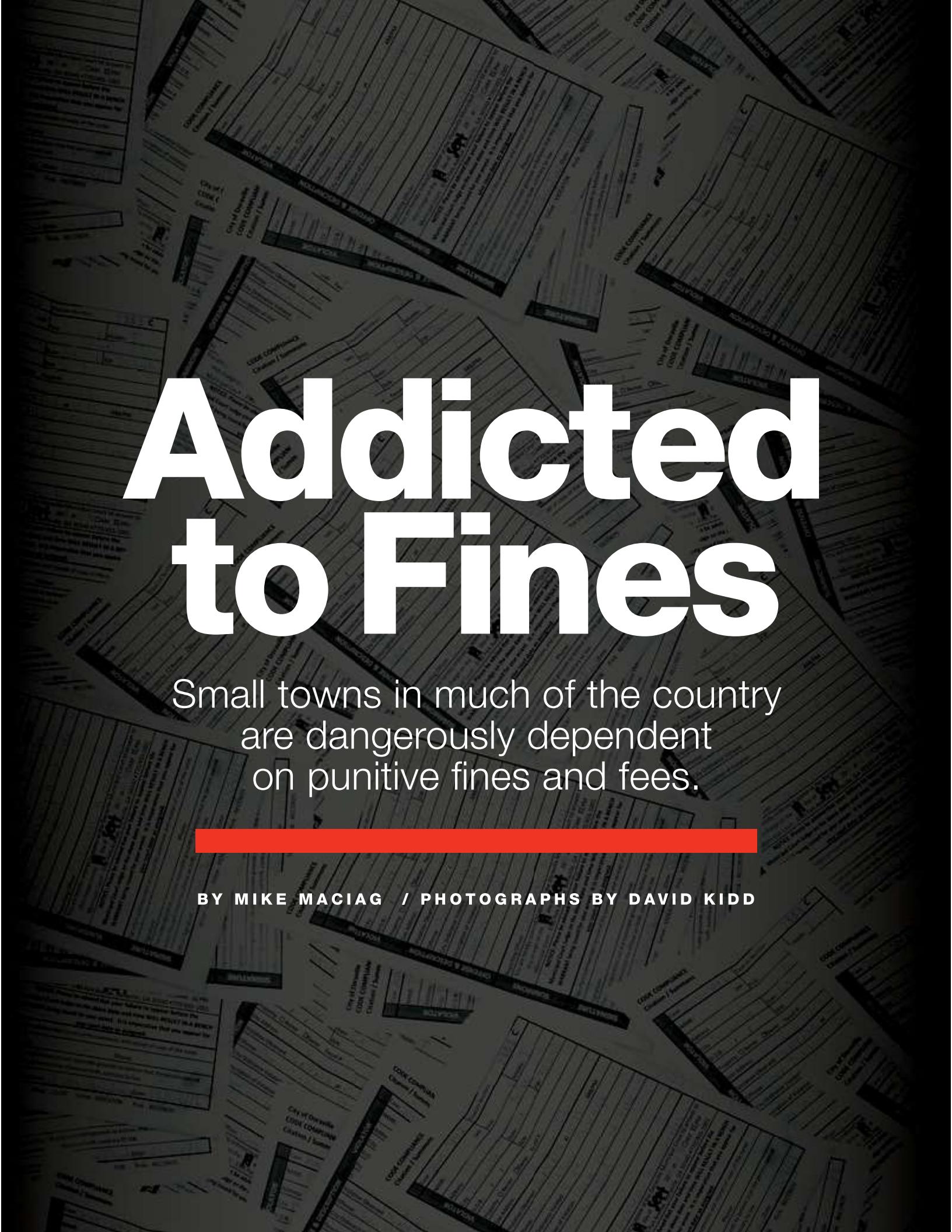
September 2019

SMALL TOWNS, HUGE FINES

Warwick, Ga., pop. 397, depends on fines and forfeitures for 75 percent of its general budget. It's just one of hundreds of towns across the country that are dangerously reliant on fines.



Addicted to Fines



Small towns in much of the country
are dangerously dependent
on punitive fines and fees.

BY MIKE MACIAG / PHOTOGRAPHS BY DAVID KIDD



Police frequently make traffic stops along Interstate 75 in Georgia.

80

The number of towns in which fines and forfeitures fund more than half of general revenues.

in nearly 600 U.S. jurisdictions. In at least 284 of those governments, it's more than 20 percent. Some other governments allocate the revenues outside the general fund. When fine and forfeiture revenues in all funds are considered, more than 720 localities reported annual revenues exceeding \$100 for every adult resident. And those numbers would be even higher if they included communities reporting less than \$100,000 in fines; those jurisdictions were excluded from our analysis. In some places, traffic fine revenue actually exceeds limits outlined in state laws.

High fine communities can be found in just about every state, but they tend to be concentrated in certain parts of the country. Rural areas with high poverty have especially high rates. So do places with very limited tax bases or those with independent local municipal courts. And these jurisdictions are far more common in

lashing police lights are a common sight all along Interstate 75 in rural south Georgia. On one recent afternoon in Turner County, sheriff's deputies pulled over a vehicle heading northbound and another just a few miles up on the opposite side of the interstate. In the small community of Norman Park, an officer was clocking cars near the edge of town. In Warwick to the north, a police cruiser waited in the middle of a five-lane throughway.

These places have one thing in common: They issue a lot of tickets, and they finance their governments by doing it. Like many other rural jurisdictions, towns in south Georgia have suffered decades of a slow economic decline that's left them without much of a tax base. But they see a large amount of through-traffic from semi-trucks and Florida-bound tourists. And they've grown reliant on ticketing them to meet their expenses. "Georgia is a classic example of a place where you have these inextricable ties between the police, the town and the court," says Lisa Foster, co-director of the Fines and Fees Justice Center. "Any city that's short on revenue is going to be tempted to use the judicial system."

This is by no means just a Georgia phenomenon. Throughout the country, smaller cities and towns generate major dollars from different types of fines, sometimes accounting for more than half of their revenues. Some places are known for being speed traps. Others prop up their budgets using traffic cameras, parking citations or code enforcement violations.

To get a picture of just how much cities, towns and counties rely on fines and fees, *Governing* conducted the largest national analysis to date of fine revenues and the extent to which they fund budgets, compiling data from thousands of annual financial audits and reports filed to state agencies.

What we found is that in hundreds of jurisdictions throughout the country, fines are used to fund a significant portion of the budget. They account for more than 10 percent of general fund revenues



Jurisdictions most reliant on fines tend to be rural cities and towns with only a few hundred residents.

the South than elsewhere. The states that stood out in our analysis were Arkansas, Georgia, Louisiana, Oklahoma and Texas, plus New York. Fines and forfeitures accounted for more than one-fifth of general revenues in the most recent financial audits for 52 localities in Georgia, and 49 in Louisiana. By contrast, several Northeastern states with high property taxes had no localities exceeding the 10 percent threshold.

Five years ago, the issue of excessive fines gained national notoriety following the revelation that Ferguson, Mo., and other St. Louis-area municipalities generated outsized revenues from fines and court fees. Since then, advocacy groups and state lawmakers have stepped up political pressure to address what they say are excessive fees. Multiple lawsuits in several states are challenging municipal court practices and fines, and some cities are beginning to revisit their fines with an eye toward social justice and equity for low-income residents and communities of color. On top of those legal and political pressures are other looming changes, including new advancements in driving technology, that could one day drastically limit the money that cities can take in through speeding tickets and other violations. The fact is that fines and fees are a volatile revenue source, and the towns that rely the most on them face an increasingly uncertain fiscal future.

Fines—and the revenues they yield—have mounted in recent decades as the prospect of raising taxes has proved politically difficult in many places. "There's a culture that's built up over time of tolerance and normalization of this idea that courts are there for revenue generation," Foster says. There are no



A group of residents in Doraville, Ga., filed a lawsuit claiming the city was using excessive fines and traffic tickets to generate revenue. Jeff Thornton, one of the plaintiffs, was fined \$1,000 for logs and rubbish in his backyard before charges were dropped.



hard numbers on how much fine revenues have climbed nationally, although Census Bureau survey data suggests a significant national increase.

Fines and fees are not the same thing. Fines serve as punishment for committing offenses; fees are levied to support operational expenses. Different states charge fees for mandatory services such as drug tests, monthly parole meetings or even for a jury trial. Failure to pay those fees can result in interest charges and other surcharges. While both fines and fees have been on the rise in recent years, it's the fees that have swelled the most, and these days they're often used to fund parts of government that have little to do with the justice system itself. Georgia, for example, levies about a dozen fees, and they're used to pay for a state police motorcycle unit, a brain and spinal injury trust fund, and a police supplemental retirement fund.

For the vast majority of local governments, fines aren't a significant funding source, amounting to less than 5 percent of general revenues. Some states don't allow their cities and counties to retain much money from traffic tickets. The North Carolina Constitution, for instance, requires that fine revenues be appropriated for public schools.

But in other places, a dependence on fine and fee money is simply built into the budget. Louisiana is one of those. In many of its small towns, state highways cut right through central business districts. "It would be malfeasance if they didn't aggressively patrol some of these stretches of highways through towns," says John Gallagher, head of the Louisiana Municipal Association. He points out that local governments don't collect nearly as much in property taxes as similar communities in other states, and many

Fine-Heavy Budgets

Fines and forfeitures accounted for the largest shares of general fund revenues for these localities.



Rankings reflect governments reporting at least \$100,000 in fines in their latest statements for either 2017 or 2018. Several Ohio villages grouping fine revenues with licenses and permits were excluded.

homesteads are fully exempt. Local governments collect sales taxes, but not much commerce exists in rural parts of the state, and the legislature has enacted numerous exemptions for those as well.

Robert Scott, president of the Public Affairs Research Council of Louisiana, agrees that weakened tax bases are contributing to the problem, but says it ultimately stems from localities' ingrained habits. "If I had to point to one reason why this happens, it's because culturally you have [local] agencies who've grown dependent on these types of revenue sources," he says. "They don't want to let it go."

In some extreme cases, local budgets are funded almost exclusively by fines. Georgetown, La., a village of fewer than 500 residents, was the most reliant on fines of all reviewed nationally. Its 2018 financial statement reported nearly \$500,000 in fines, accounting for 92 percent of general revenues. Not far behind is Fenton, La., which reported more than \$1.2 million in fines, or 91 percent of 2017 general fund revenues. Such situations can be ripe for scandal: A Louisiana state audit last year found that some cash payments for citations in Fenton were never deposited in the village's bank account and alleged improper compensation to city officials.

Actions taken by the legislature in Louisiana and in other states have likely compounded the issue. According to Census data, in nearly all states with the most fine-reliant jurisdictions, localities incurred far steeper state funding cuts than elsewhere across the country over the past decade. Many of those same states have also enacted numerous revenue restrictions for cities over the years. In fact, according to research from the Center on Budget and Policy Priorities, in states that implemented caps or limits on local property taxes starting in the late 1970s, fees and charges substantially increased as a share of all revenues that local governments raised.

The mostly rural towns that collect high fine revenues have typically weathered decades of economic decline. Jurisdictions that *Governing* reviewed where fines and forfeitures accounted for more than 20 percent of general revenues recorded a median household income of just \$39,594.

In Warwick, the median income is only \$22,000, and an estimated 37 percent of residents live in poverty. Its town center lacks any significant commercial activity. Over the years, Warwick

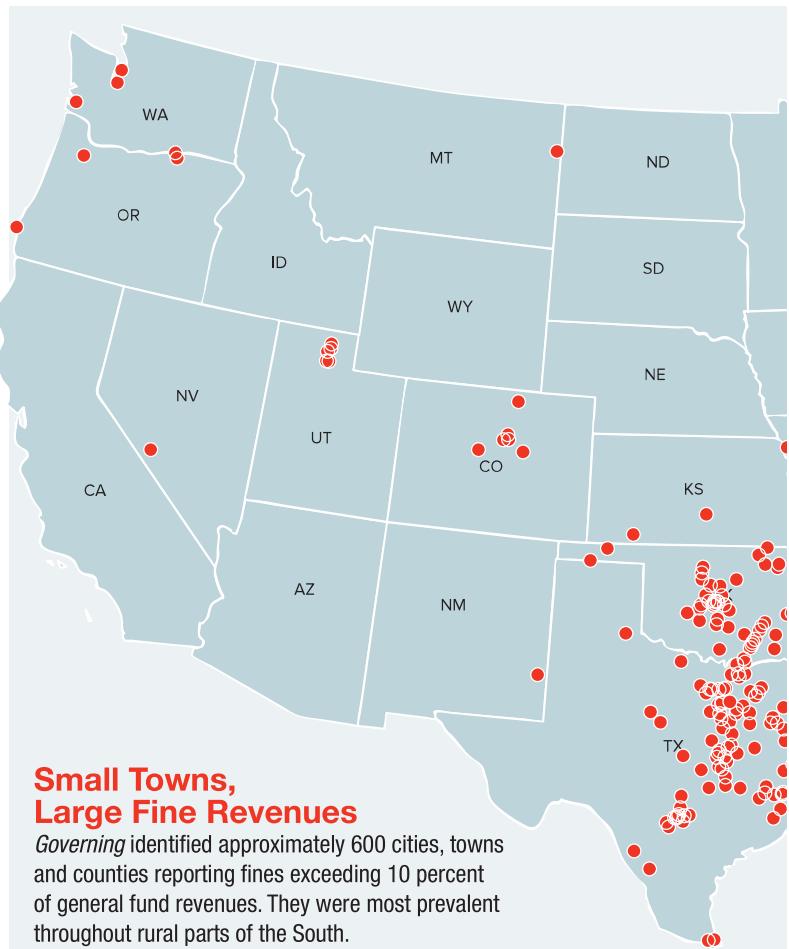
has earned a reputation as a speed trap. Its latest financial audit shows fines and forfeitures accounted for three-quarters of general revenues. Mayor Juanita Kinchen says the city recently reduced speeding fines and would adapt to any future declines in citation revenues. "The city has experienced economic growth, recession and even depression," she emailed in response to questions from *Governing*. "We are working to not rely on fines and we will continue to work on this."

Tourist destinations, too, register substantial fine revenues. Only a few hundred people reside in Morrison, Colo., but tens of thousands visit a speedway and the nearby Red Rocks Amphitheatre on busy days. Fines and forfeitures for fiscal 2017 totaled nearly \$1.2 million, while the town spent roughly the same amount on public safety. Town Manager Kara Winters says the town board has emphasized traffic enforcement as some concertgoers speed or drive drunk. *Governing* identified at least 124 other jurisdictions across the country that collect more than \$500 a year for every adult resident, suggesting it's mostly out-of-towners who bear the brunt of the fines.

In some communities, traffic cameras further generate substantial revenues. Suburban Maryland has a significantly high number of such places. In Seat Pleasant, Md., a Washington, D.C., suburb of 4,800 residents, fines account for about 48 percent of city revenues—and much of that comes from speed and red-light cameras. Police

363

The number of jurisdictions that reported fine revenues exceeding \$200 per capita.



Chief Devan Martin says the cameras were installed in response to traffic deaths, and they've helped reduce accidents along two congested state highways running through the community. "The purpose of the program is not for the potential financial revenue that's generated from it," he insists. "Our only purpose is to curb behavior to improve traffic safety and public safety." Part of Seat Pleasant's \$3.7 million in total fine collections was paid to the camera vendor, as is the case in other cities. Still, the city's latest budget proposal states the deployment of an additional mobile photo radar camera "will increase photo enforcement revenue." The revenues help fund public safety resources that other similarly sized towns don't enjoy: 24 full-time sworn officers, including a three-person dedicated automated speed enforcement unit and a drone aviation unit.

While the issue of excessive court fines and fees isn't new, it was only in 2014, with the civil unrest in Ferguson, Mo., following the police shooting of Michael Brown, that the practice started drawing considerable interest around the country. A Department of Justice investigation found that Ferguson police prioritized generating revenue from writing tickets.

Missouri lawmakers responded by lowering, to 20 percent, a cap on the proportion of general operating revenues that could come from minor traffic violations. Missouri Attorney General Eric Schmitt, who sponsored the bill as a state senator, views it as

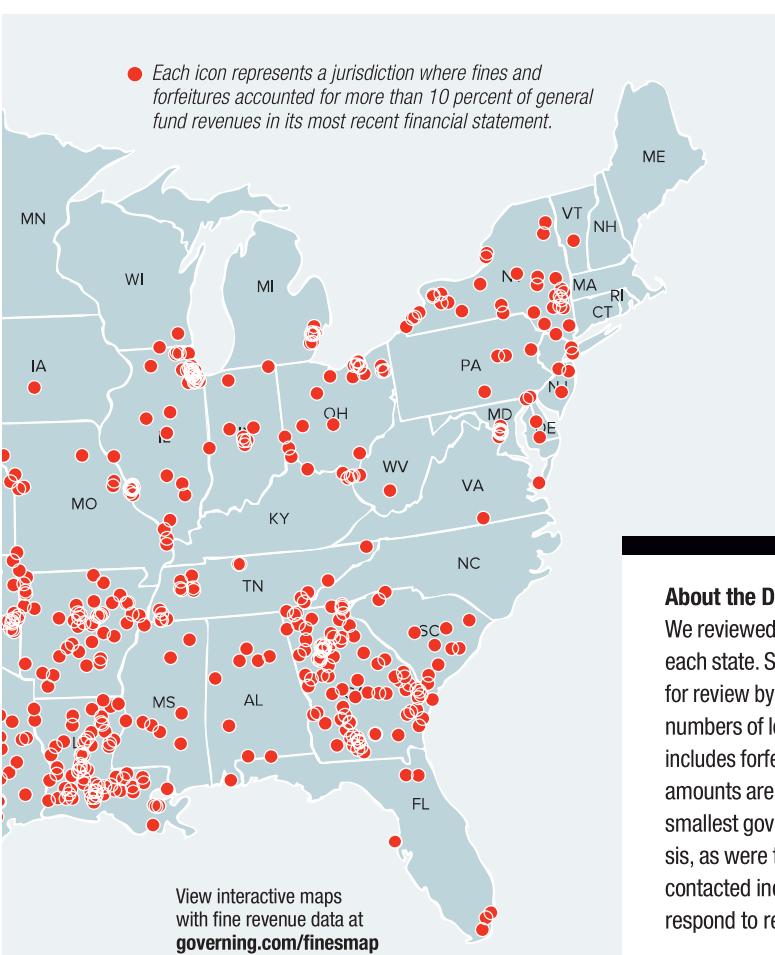


a national model. "There is an important oversight role in making sure that you don't have practices that are abusive, discriminatory, treat people as ATMs, or have a practice of taxation by citation," he says. Any cities exceeding the cap must either turn their excess revenue over to the state or else face what Schmitt calls a "death penalty," in that citizens may vote to dissolve their governments. The new lower cap has contributed to drastic reductions in money localities are taking in through fines and fees. Municipal court disbursements fell 39 percent statewide between fiscal 2015 and last year, according to data from the Missouri Office of State Courts Administrator. In Ferguson, fine and forfeiture revenues plummeted from more than \$2 million to about \$300,000.

A few other states, including Georgia, Maryland and Texas, also maintain revenue caps. But some cities still exceed them. In their most recent financial addendums, at least five jurisdictions in Missouri reported fines and court revenue surpassing the 20 percent threshold, remitting the excess to the state. Policy advocates express concerns that jurisdictions may respond to caps with budgetary workarounds.

92%

The portion of Georgetown, La.'s general revenues in 2018 that came from fines.

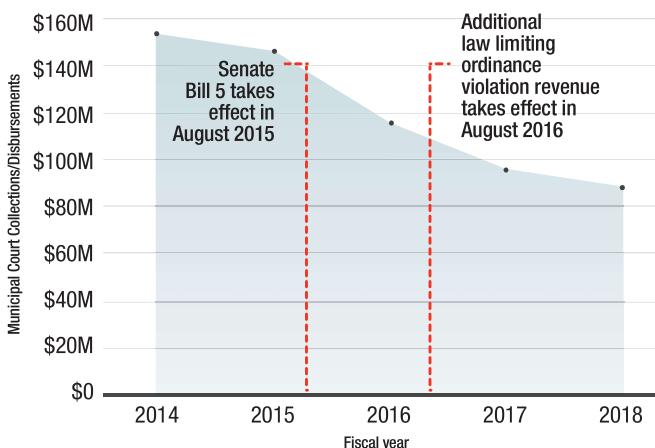


About the Data

We reviewed the most recent financial statement or audit filed by municipalities and counties in each state. Some states publish revenue data for localities. For others, we flagged governments for review by analyzing 20 years of Census Bureau financial surveys of governments, FBI data on numbers of local officers per capita, news reports and other sources. Our fine revenue measure includes forfeitures as they're often grouped together on financial statements, although forfeiture amounts are generally small. Court revenues and court fees were also included if reported. The smallest governments with less than \$100,000 in fine revenues were excluded from our analysis, as were those that aggregated fines with nonpunitive revenues in financial statements. We contacted individual governments without publicly available financial reports, but some did not respond to requests. View additional data and notes for states at governing.com/finesandfees.

Moving the Needle

Following the public outcry over high fines in Ferguson and other localities, Missouri lawmakers passed measures to limit such revenues. The state's total court disbursements, consisting primarily of fines and fees, have sharply declined as a result.



Some municipal courts began transferring cases to state circuit courts when minimum operating standards went into effect in September 2016. In FY 2018, 384 municipal courts reported disbursements of more than \$0, while 432 did in FY 2014.

SOURCE: MISSOURI OFFICE OF STATE COURTS ADMINISTRATOR STATISTICS

One Missouri community, Pagedale, drastically increased citations for code enforcement and other municipal ordinances after the state imposed the new lower cap on traffic fines, so lawmakers approved another bill limiting revenue from non-moving violations.

At the heart of the debate over fines and fees is the concern that law enforcement officers may feel pressured to write more tickets just to raise revenues. A special prosecutor investigating Ridgetop, Tenn., earlier this year found an “improper and illegal ticket quota.” In April, a municipal clerk in the small town of Mount Enterprise, Texas, was similarly convicted of pushing a ticket quota. Revenue-generating efforts may hinder policing in other ways. A 2018 study published in *Urban Affairs Review* found police in cities relying more on fines and forfeitures solved violent crimes at significantly lower rates than others. “The police end up losing the connectivity to get information to solve problems in the community,” says Ronald Serpas, a criminology professor at Loyola University in New Orleans and a former police chief in that city.

One rural town in Georgia may even have established a new police department last year largely to raise revenue. According to documents obtained by *Governing* via a public records request, the state Department of Public Safety received a letter from a local probate judge alleging the small city of Cecil had created a police department and a local court in part to help pay off a debt owed for sewer services. “Since the inception of their police department and municipal court, my office has been flooded with calls and visits by individuals who, in my opinion, have legitimate complaints,” the judge wrote. Georgia law limits speeding tickets to 35 percent of a local law enforcement agency’s budget (excluding school zone

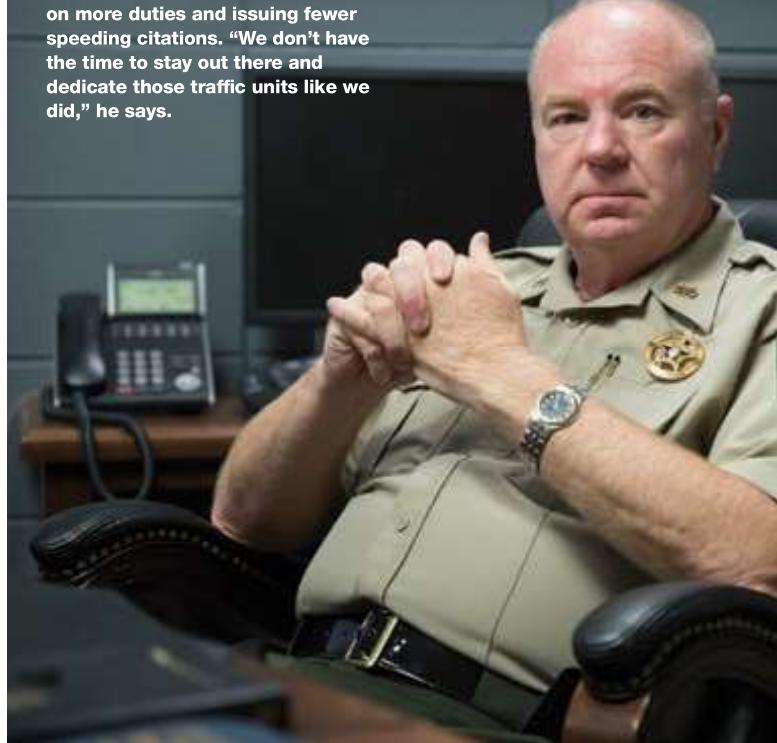
violations and citations exceeding 20 mph over the posted limit). A subsequent investigation by the state found such speeding citations issued over just four months amounted to 150 percent of the total police budget, so Georgia temporarily suspended Cecil’s permit to operate speed radar guns. Officials in Cecil and most other localities did not respond to requests for comment.

Fines and fees are a significant issue in some big cities as well, although for different reasons. With much larger budgets, fines generally aren’t a major source of revenues for larger cities. Among the 50 biggest cities in the U.S., fines and forfeitures account for a median of just 2 percent of general revenues.

Instead, the main concern in larger cities is that the people facing fines—and the resulting hefty court costs—are often those who can least afford it. Research consistently shows that poorer households and residents of color are disproportionately impacted by fines and fees. That’s led to a small but growing number of cities that are reevaluating the way they structure and impose fines. One such city is Chicago, under an initiative led by City Clerk Anna Valencia that includes officials representing city departments and community groups. Mayor Lori Lightfoot has backed a few of the group’s initial recommendations, such as no longer doubling vehicle sticker tickets for failing to pay promptly. “We need to find other revenue sources that aren’t burdening our most vulnerable population,” Valencia says.

As they have elsewhere, fines and fees in Chicago have gradually ticked up over the years. “There was an unintended consequence

Crisp County, Ga., Sheriff Billy Hancock
says deputies are taking on more duties and issuing fewer speeding citations. “We don’t have the time to stay out there and dedicate those traffic units like we did,” he says.



of raising a fine or fee a little here or there,” Valencia says. In 2018, fines and forfeitures accounted for nearly 11 percent of the city’s general fund—the highest of any of the nation’s 50 biggest cities—and about 5 percent of total governmental revenues.

San Francisco enacted major changes last year, abolishing fees for jail booking, monitoring and probation. In Kitsap County, Wash., just outside Seattle, hundreds lined up at a courthouse earlier this year for “reconsideration day,” when individuals were allowed to request that court debts be forgiven or reduced.

Traffic violations are civil infractions in most places, but not everywhere. In Georgia, they are criminal misdemeanors, carrying fines of up to \$1,000. This comes as a shock to many tourists passing through. Motorists who can’t pay often end up on probation, incurring monthly supervision fees in addition to their fine.

Some of the most problematic practices are found in small municipal courts with little state oversight. New York is home to approximately 1,300 town and village courts that, unlike the larger state-run city courts, keep most of their revenues from fines and fees. That means those judges have an incentive to show that their courts earn back the money spent on them, given that they’re funded almost entirely by the locality, says Amelia Starr, chair of the Fund for Modern Courts, which promotes access to justice in New York state courts. “Almost any state that has courts that generate money for their locality in small towns is vulnerable to exactly these kinds of pressures,” Starr says.

This arrangement carries serious ramifications for those facing charges. A Fund for Modern Courts survey of defense attorneys and public defenders reported that courts in 43 New York counties,

or most of the state, “rarely” or “never” took a defendant’s ability to pay into account before issuing a bench warrant.

Similarly, the legal advocacy group ArchCity Defenders has called for the consolidation of nearly 80 municipal courts operating throughout St. Louis County, Mo. Blake Strode, the group’s executive director, says that consolidating them under the purview of the state court would yield more consistency and professionalization. “People are in court time and time again for what are really crimes of poverty,” Strode says. “We have to rethink whether the court is the right institution to serve those people.”

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Half of all localities where fines and forfeitures account for more than 10 percent of general fund revenues are found in just four states: Georgia, Louisiana, Oklahoma and Texas.

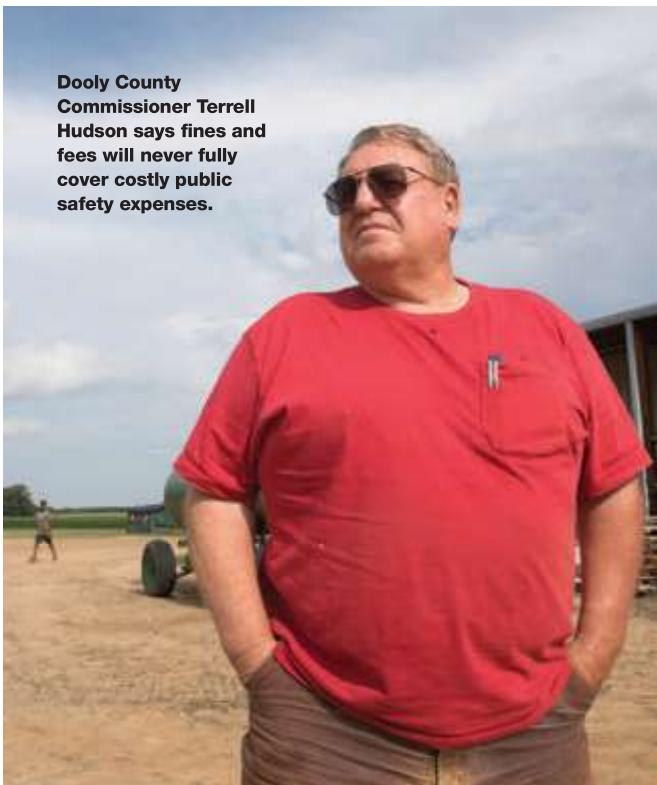
In the small towns that are most dependent on fine revenue, though, the real question isn’t about social equity or the burden borne by low-income residents. It’s about the risky fiscal future of relying on fines.

The U.S. Supreme Court ruled in February that the Constitution’s ban on excessive fines applies to states and localities. It didn’t attempt to define “excessive,” but provided clues, citing the Magna Carta’s requirement that sanctions “be proportioned to the wrong” and “not so large as to deprive [an offender] of his livelihood.” While the decision itself doesn’t mandate any changes, it’s expected to provoke future legal challenges and provide ammunition for defense attorneys. Another case in Doraville, Ga., makes a constitutional challenge to what it claims is the city’s



The Turner County, Ga., Sheriff's Office watches for speeding cars on Interstate 75. Fines and forfeitures accounted for a third of revenues in the rural county's most recent audit report for fiscal 2017.





practice of using police and the courts to generate revenue. A judge has denied the city's motion to dismiss the case.

Several states considered outlawing traffic enforcement cameras this year. Texas banned red-light cameras, while Ohio lawmakers cut state funding for localities based on the amount of camera fines they collect. After years of steady expansion, the number of communities with speed cameras plateaued about four years ago, while the number of red-light cameras is sharply declining, according to statistics from the Insurance Institute for Highway Safety.

Rethinking fines and fees could further emerge as the next broad step in the criminal justice reform movement, with supporters ranging from the libertarian Koch brothers to the ACLU. "There's absolutely a political risk for long-term reliance on these sorts of revenues," says David Eichenthal, who works with cities on the issue for the consulting firm PFM. "There's a movement both in terms of advocacy going on at the local level, litigation in the federal courts, and a series of post-Ferguson statewide task forces that started to look at these issues."

New technologies also are threatening the fiscal future of jurisdictions that rely on fines. Speed-trap alerts that warn drivers about possible enforcement ahead have long been a feature on the Waze navigation app, and they were added to the popular Google Maps app earlier this year. One proposed bill in the U.S. Senate would limit maximum tractor-trailer speeds to 65 mph using software that most trucks are already equipped with. Further into the future, traffic fines could take a major hit with the proliferation of autonomous vehicles that don't park illegally and never exceed the speed limit. Indeed, starting in 2022, vehicles sold in the European Union will be required to use technology that automatically restricts speed using GPS or cameras that recognize posted limits.

Is there a "right" way for cities to budget for fines? There's no national standard for how much local governments should be collecting, and no consistent way those revenues are reported. Audited financials may or may not include related fees, and some may include revenues remitted to states. Rules for reporting these revenues aren't always enforced. West Virginia, for instance, directs localities to conduct annual audits, but several we reviewed hadn't actually completed one in the past five years. For those reasons, our findings undoubtedly represent low estimates, as we excluded many governments without available audits and those that don't report separate line items for fines.

The way governments allocate fine revenue also matters. The majority deposit it into their general fund, but many in Oklahoma, for example, route the money to separate police or public safety funds. That's a mistake, says Michael Makowsky, an economics professor at Clemson University in South Carolina. "You want to separate officer incentives from the revenues they generate," he says. One solution he proposes is to route fines and fees to state governments. States would then redistribute all the funds back as block grants based on population or other metrics, effectively removing incentives to issue tickets.

Many of the small rural and suburban towns facing financial woes find themselves in a much different situation than when they originally incorporated. In Warwick and similar cities, fines now account for more revenue than taxes. Some small towns may decide they need to disband their police departments, as Oak Park, Ga., did earlier this year. Others may have to consider unincorporating or merging with neighboring municipalities, says Jay Shambaugh, director of The Hamilton Project, a Brookings Institution policy initiative. Unlike larger cities, they have few services left to cut. "They either need to find a way to avoid the other revenue constraints," Shambaugh says, "or they eventually are faced with the decision whether it makes sense to fund themselves at all."

Terrell Hudson has served on the county commission in rural Dooly County, Ga., for more than three decades. The county, he says, has never had a budget that wasn't tight. Only around 14,000 people reside there, and the millage rate already ranks among the highest in the state. Dooly County reported \$4 million in fines and forfeitures in fiscal 2018, accounting for just over a quarter of its general fund revenues. County law enforcement officers patrol Interstate 75, and when there's a backup, generally on weekends or in bad weather, police direct traffic along the state road that runs parallel. The fines and fees also help fund two full-time ambulance crews, another costly line-item for a limited budget. "The system will never pay its own weight," Hudson says. "That is part of what our government is supposed to provide to keep people safe."

Hudson views the revenue cap on fines and property tax exemptions enacted by the legislature as "handcuffing" Georgia's rural localities. "With the requirements that state has put on cities and counties," he says, "at some point in time, we're not going to be able to afford these smaller cities or towns." **G**

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Fines and forfeitures accounted for between 20 and 48 percent of revenues in five Maryland suburbs outside Washington, D.C., that use traffic cameras.

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