



New York State Testimony: The Regressive Tax Burden

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Good Morning. My name is Joanna Weiss and I am the Co-Director of the Fines and Fees Justice Center. Our organization seeks to restore integrity to our justice system by eliminating the harmful and unjust impacts of fines and fees. Our goal is to eliminate fees in the justice system and ensure that fines are equitably imposed and enforced. I'm grateful for the opportunity to testify against making Governor Cuomo's property tax cap permanent, and I urge the Committee to end the cap entirely.

No one likes taxes, but taxes are a fair way to fund government. When local governments cannot use property taxes to fund the services their residents need, they fill revenue gaps by increasing both the number of tickets issued for traffic and low-level municipal code violations and the amounts of fines and fees imposed for those violations. This kind of regressive taxation unfairly burdens low-income people and communities of color and undermines public safety.

Local governments admit that they increase the imposition and enforcement of fines and fees and implement new fees in response to fiscal stress, including that caused by the tax cap.¹ In fact, since the property tax cap was enacted in 2011, some local governments have seen major revenue increases from fines and fees. Guilderland saw an increase from \$503,000 in 2011 to \$799,000 in 2017. Amherst's revenue went from 1.6 million to 2.1 million. East Hampton's justice court revenue went from 1.1 million dollars to 2 million.²

This taxation scheme is troubling: Property owners in, for example, East Hampton are well positioned to afford taxes, but instead ordinary drivers—some of whom likely do not reside in East Hampton—bear the cost. These drivers may be crushed by the unanticipated and exorbitant fines and fees imposed. Forty-seven percent of Americans don't have \$400 saved in case of an emergency.³ The East Hampton Justice Court charges \$243 to \$325 for speeding.⁴ When cities

¹ Cornell local government survey publication, 2017, available at <http://s3.amazonaws.com/mildredwarner.org/attachments/000/000/579/original/710ace9ce1ce9b30c56647139c2f7b45>.

² NYS Comptroller Report.

³ Economic well-Being of U.S. Households, Federal Reserve Board 2018.

⁴ Call with East Hampton Justice Court Clerk's Office, February 6, 2019.

rely on fines and fees to fund local government, simple traffic stops can destroy the lives of ordinary New Yorkers.

While traffic stops may not seem catastrophic, drivers who cannot afford the resulting fines and fees enter a cycle of poverty and criminal justice involvement. Courts suspend drivers' licenses for failure to pay on-time and in-full, and driving on a suspended license is a crime punishable by incarceration for long enough to lose a job, miss a rent payment, and get Child Protective Services involved, if the driver has children without alternative caregivers. But to save up and pay off the court debt, individuals need transportation to get to work. Simply because they are poor and cannot afford their ticket, hundreds of thousands of low-income New Yorkers are forced to choose between forgoing their basic needs and committing a crime.

Take, for example, Jane Doe, a 27-year-old medical assistant with three children from a predominantly black neighborhood in Buffalo. In July 2015, she was driving and arrived at a traffic checkpoint operated by the Buffalo Police Department. A police officer approached the car and saw her three children secured in their booster seats. The officer, without asking about the children's height and weight, told her she needed a five-point harness and issued her three seatbelt violations and a violation for driving on a learner's permit. Ms. Doe bought new booster seats and a five-point harness for her younger child. But the Buffalo Traffic Violations Agency (BTVA) found her guilty of all four violations, assessed eight points on her driver's license, and imposed \$446 in fines and \$450 for a Driver Responsibility Assessment. During this time, Ms. Doe was a full-time student with no income. BTVA refused to accept partial payments or provide a payment plan. Solely because of her poverty and inability to pay the high fines and fees, her learner's permit was suspended.

Ms. Doe would have had to work more than 92 hours at the 2017 minimum wage to clear her debt, and that's before the additional fees she would be charged to have her permit reinstated.⁵ And Buffalo, like many local governments, keeps adding new fees. To defer payment, pay \$15. For late payment, add \$30 to \$90. Default convictions cost \$75, and motions to vacate them cost another \$75. All traffic violations in Buffalo now come with a \$55 Public Safety Fee and a \$45 Driver Responsibility Fee. Then, if you can't afford to pay all this debt, Buffalo will file a monetary judgment with the Erie County Clerk's Office, for an additional fee of \$100.⁶ This is taxation pure and simple—but a far more regressive form than property taxes.

Buffalo is just one example, but this is a problem for local governments nationwide and particularly in New York. Ferguson, Missouri became the touchstone example of how regressive and dangerous fines and fees can be when relied upon for revenue. In 2014, the Civil Rights Division of the US Department of Justice investigated Ferguson in the wake of police shooting Michael Brown. They found that Ferguson's focus on fines and fees revenue, rather than public safety needs, resulted in practices that prioritized, "aggressive enforcement of Ferguson's municipal code, with insufficient thought given to whether enforcement strategies promote public safety or unnecessarily undermine community trust and cooperation."⁷

⁵ See, <https://www.labor.ny.gov/workerprotection/laborstandards/workprot/minwage.shtm>.

⁶ See, <https://www.buffalony.gov/Faq.aspx?QID=117>.

⁷ US DOJ Ferguson Report at 2.

Cities across New York are operating much like Ferguson. In fact, of the hundred small cities in the United States that are most reliant on fines and fees for revenue, six are in New York.⁸ Of the seventeen cities nationwide that top Ferguson for their reliance on fines and fees, three are in New York.⁹

Not only is this hidden taxation unfair, it's dangerous, creating perverse incentives and outcomes. First, New York towns and villages now need people to break the law for local government to break even. Second, increasing fines and fees diverts police resources from dangerous crime to what is essentially tax collection. A 2018 study found that the average city derives 1-2% of its budget through fines and fees. Every 1% increase in revenues from fines and fees is associated with a 3.7% decrease in the violent crime clearance rate.¹⁰ The study results "suggest that institutional changes—such as decreasing municipal government reliance on fines and fees for revenue—are important for changing police behavior and improving the provision of public safety."¹¹ The tax cap does the opposite.

Moreover, these fines and fees schemes come with draconian punishments that further jeopardize road safety. New York State law currently allows driver's license suspension for failure to pay without requiring that fines and fees be affordable or payment plans made available. Each year, hundreds of thousands of New Yorkers have their drivers' licenses suspended because they can't afford the increasingly expensive fines and fees cities use to fund government. The result: Drivers are forced to choose between driving on a suspended license—risking more fines and fees, a criminal record, and even jail—or forgoing access to their jobs, health care, and basic necessities. In most parts of our state, driving is a necessity to take care of ourselves and our families. So, even with a suspended license, many people have no choice but to continue driving. And without a valid license, they may not be able to get insurance. Relying on fines and fees as revenue sources pushes more uninsured drivers onto the road, making us all less safe.

Public safety and basic fairness require an end to the property tax cap. Lifting the cap will help prevent the harms that come from alternative regressive tax schemes imposed by local governments in the form of fines and fees. To serve the named goal of the proposed tax cap, to relieve New Yorkers of unfair tax burdens, we must eliminate the tax cap and the unsafe, unfair, regressive taxation schemes it incentivizes. Thank you.

⁸ US Commission on Civil Rights report, 2017, at 21-22. Available at https://www.usccr.gov/pubs/docs/Statutory_Enforcement_Report2017.pdf.

⁹ Id.

¹⁰ See, Exploitative Revenues, Law Enforcement, and the Quality of Government Service, 2018. Available at <https://journals.sagepub.com/doi/abs/10.1177/1078087418791775?journalCode=uarb&>.

¹¹ Id.

