

UNDER PRESSURE

How fines and fees hurt people, undermine public safety, and
drive Alabama's racial wealth divide



Each year, Alabama's municipal, district, and circuit courts assess millions of dollars in court costs, fines, fees, and restitution, in cases ranging from simple traffic tickets to serious felonies. Most of this money is sent to the state General Fund, government agencies that have nothing to do with the courts, county and municipal funds, and used to finance pet projects. This debt weighs most heavily on the poor. And people without ready access to cash find themselves in an escalating cycle of late fees, collections fees, loss of drivers' licenses, and jail time, often sinking deeper into poverty.

**WE SHOULD NOT
TOLERATE A SYSTEM
THAT FORCES PEOPLE TO
CHOOSE BETWEEN
PAYING FOR BASIC
NECESSITIES LIKE FOOD
AND MEDICINE, AND
PAYING THEIR COURT
DEBT.**

In 2018, Alabama Appleseed, UAB-TASC, Legal Services of Alabama, and Greater Birmingham Ministries surveyed 980 Alabamians from 41 counties about their experience with court debt, including 879 people who owed money themselves and 101 people who were paying debt for others.

The consequences of court debt affect everyone.

Court debt makes Alabamians less safe. Court debt forces people to make desperate choices. Some choose crime: About 40% of people who took our survey admitted they committed crimes to pay what they owed the state. That included about 20% of people whose court debt stemmed only from violations like traffic tickets. The top three crimes reported were selling drugs, stealing, and sex work, all of which can be felonies. In other words, one in five people who had never committed a crime but owed court debt anyway found themselves committing serious offenses to cover their court debt.

Alabama's justice system treats poor people — disproportionately people of color — more harshly than people with money. In Alabama, people with the resources to make timely payments experience fine-only violations as costly nuisances at worst. They can minimize the fallout from even criminal charges by paying to participate in diversion programs. People without ready access to cash, meanwhile, find themselves in an escalating cycle of late fees, collections fees, loss of drivers' licenses, jail time, loss of employment, and life-altering criminal records. Thus, people who commit the same act face very different punishments because of nothing more than how much money they have or if they have a flexible work schedule.

Harsh penalties for nonpayment cost the state, make it harder for people to pay off their court debt, and act as counterproductive hurdles for poor people trying to support their families. Many jobs require applicants to have valid drivers' licenses, whether or not the jobs involve driving. But Alabama suspends drivers' licenses for nonpayment of court debt, making it substantially harder for them to find employment and increasing the likelihood they will turn to desperate measures to pay what they owe. Alabama's punitive approach to court debt acts as a hidden driver of poverty by effectively removing thousands of prospective workers from the state's workforce through unnecessary incarceration and loss of drivers' licenses.

By the Numbers:

- **83%** gave up necessities like rent, food, medical bills, car payments, and child support, in order to pay down their court debt
- **50%** were jailed for failure to pay court debt
- **38%** admitted to committing at least one crime to pay off their court debt
- **44%** used payday or title loans cover court debt
- **66%** received money or food assistance from a faith-based charity or church they would not have had to request if they weren't paying court debt
- **68%** were at some point declared indigent by a court, and by almost every measure, indigent survey-takers were treated more harshly than their non-indigent peers
- **48%** surveyed did not think they would be able to pay what they owe

Color lines:

We found that African-American and white people had roughly the same experiences with court debt once they were convicted. But **African Americans are seriously overrepresented in Alabama jails and prisons**, comprising about 55% of the population of each even though the state is only about 27% African-American.

Over-policing and disparate treatment of African Americans leads to this disparity. In 2016, for instance, **African Americans were more than twice as likely as white people to be arrested** for six of the 20 most common charges that year. Several of those offenses, such as disorderly conduct, hinge on the perception and inclinations of the arresting officer.

The top-20 offense with the greatest disparity was marijuana possession, with **African Americans more than four times as likely as white people to be arrested for possession** in 2016 even though evidence shows the two races use marijuana at about the same rate.

The 101 people who took our survey who were paying debt for other people (usually family members) were most likely to be middle-aged African-American women. While others their age are saving for retirement, paying off mortgages, helping their children with college, or taking vacations, **African-American women are disproportionately burdened with paying court debt for their families.**

These disparities, coupled with the devastating legacy of slavery, Jim Crow, and modern-day structural racism in the form of segregated schools, redlining, lending discrimination, and other factors, make Alabama's racial wealth gap worse.

Terrance's Story: Fishing for food, fined for poverty.

Terrance Truitt, 39, of Montgomery, fishes to support himself. He knows from experience that he can't catch much at local pay-to-fish ponds. So he has had to fish on private property in the past to get what he needs.

Encounters with game wardens have resulted in tickets and fines. Between debt from fishing violations, traffic tickets, and a conviction for possession of marijuana, he owes more than \$5,000. His probation for the marijuana conviction was extended to two years because he couldn't pay off all he owed before then.

Mr. Truitt has borrowed from family and friends, accepted charity, and taken out payday loans in order to pay off court fines and fees. He's been jailed for failure to show up in court at hearings on his inability to pay – hearings he skips because every court appearance comes with the threat of jail. He pays what he can, when he can – but always by mail. In October 2018, Mr. Truitt spent several days in Montgomery County jail for failing to appear at a hearing related to a fishing ticket. Two years earlier, he spent eight months in jail because he couldn't pay a ticket for driving without a seatbelt. And both times, he lost his job.



Mr. Truitt just wants shelter, food, and a job to support himself. But he regularly loses access to these necessities because he can't afford to keep current on payments for minor offenses. "It's kind of hard from time to time," he told Appleseed.

"So I just do the fishing."

Policing for Profit:

Court debt serves as a hidden tax disproportionately borne by poor people, particularly poor people of color. Most of this money is sent to the General Fund, government agencies, county and municipal funds, and used to finance pet projects. Forcing courts to serve as collections agents degrades the system and creates the impression that judges and prosecutors are more interested in generating income than pursuing justice. To ensure the integrity of Alabama's justice system, legislators must remove the conflict that exists when courts and prosecutors are forced to generate their own revenue.

District Attorney Restitution Recovery Teams, or DART teams, act as collections agencies backed by each county's top law enforcement officer. DARTs add 30% to what is owed, and that additional fee is typically the first slice of money distributed following collection: victims don't get a penny until the DART gets its cut. Put another way, these so-called "restitution recovery" teams do not prioritize making victims whole.

Recommendations:

The inequities and inefficiencies uncovered in our report will not go away until Alabama eliminates court costs and extra fees, and commits to scaling fines to each individual's ability to pay. There are many steps the state could take to make the system fairer and the public safer. This legislative session, Alabama Appleseed is working to implement the following systemic changes to this counterproductive system:

No Longer Suspending Drivers' Licenses Due to Unpaid Debt: Drivers' licenses should only be suspended in response to unsafe driving, not as a penalty for poverty. Individuals whose licenses have been suspended or revoked due to unpaid debt struggle to find and keep jobs, open bank accounts, and otherwise participate fully in society, let alone earn the money necessary to support themselves or pay off their court debt.

Putting Victims First: If an individual who owes restitution goes into delinquency and the 30% DART fee is added, any further payment should go first to the victim, not the district attorneys and clerks' funds.

Setting Reasonable Limits: Under Alabama law, an individual can stay on probation no longer than five years – but court debt can last forever. All court debt excluding true restitution should extinguish after five years. After that time, unpaid court debt should not be used to prevent individuals from getting their drivers' licenses, obtaining pardons, obtaining professional licenses, or having their voting rights restored. No further writs, warrants, or jail time should be permissible as pertains to debt over five years old.

Rationalizing Enforcement of Failure to Appear Warrants: Many people we surveyed were jailed for long periods of time after missing compliance hearings related to their payment plans. Others were jailed after missing court hearings they could not possibly have attended because they were in government custody. These practices are irrational, wasteful, and unjust, and we can do better.

- In instances where there is no underlying jail time associated with the offense or charge, jails should be required to release individuals being held on failure to appear warrants within 24 hours.
- If the underlying offense or charge does carry jail time, the individual being held on a failure to appear warrant related to that offense should be held no longer than the maximum jail sentence allowed for that offense.
- On offenses or charges with underlying jail time, the state should be required to find out within 48 hours whether the individual being held on a failure to appear warrant was in custody at the time they missed the hearing that led to the issuance of the writ. If so, the individual should be released, and a new court date set.
- Upon release from custody of any type, if the agency issuing a failure to appear warrant against an individual fails to take that individual into custody, the writ should be extinguished and a new court date set with notice to the defendant.