UNDER PRESSURE

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

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About Alabama Appleseed Center for Law and Justice

Alabama Appleseed Center for Law and Justice is a non-profit, non-partisan 501(c)(3) organization founded in 1999 whose mission is to work to achieve justice and equity for all Alabamians. Alabama Appleseed is a member of the national Appleseed Network, which includes 18 Appleseed Centers across the U.S. and in Mexico City. Alabama Appleseed is also a member of the Sargent Shriver National Center on Poverty Law's Legal Impact Network, a collaborative of 36 advocacy organizations from across the country working with communities to end poverty and achieve racial justice at the federal, state, and local levels.

For more information, visit www.alabamaappleseed.org.

About University of Alabama at Birmingham Treatment Alternatives for Safer Communities (UAB-TASC)

Established in 1973, the University of Alabama at Birmingham Treatment Alternatives for Safer Communities (TASC) is the designated Community Corrections Program for Jefferson County. It is part of the broader substance abuse and criminal justice programs in the Department of Psychiatry at UAB. The mission of TASC is to improve the criminal justice system through innovation, research and service.

For more information, visit http://www.uab.edu/medicine/substanceabuse/

About Greater Birmingham Ministries

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For more information, visit www.gbm.org.

About Legal Services Alabama

Legal Services Alabama (LSA) has eight offices and a centralized intake call center working together to fulfill its mission statement: To serve low-income people by providing civil legal aid and by promoting collaboration to find solutions to problems of poverty. These offices are located in Anniston/Gadsden, Birmingham, Dothan, Huntsville, Mobile, Montgomery, Selma and Tuscaloosa.

For more information, visit www.legalservicesalabama.org.

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Report Highlights

We 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.

Of the people who owed money themselves, we found:

More than eight in ten gave up necessities like rent, food, medical bills, car payments, and child support, in order to pay down their court debt.

Almost four in ten admitted to having committed at least one crime to pay off their court debt. One in five people whose only previous offenses were traffic violations admitted to committing more serious offenses, including felonies, to pay off their traffic tickets. The most common offense committed to pay off court debt was selling drugs, followed by stealing and sex work. Survey respondents also admitted to passing bad checks, gambling, robbery, selling food stamps, and selling stolen items.

44% used payday or title loans to cover court debt.

Almost two-thirds received money or food assistance from a faith-based charity or church that they would not have had to request if they weren't paying court debt.

Almost seven in ten 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. They were more likely to have been turned down for or kicked out of diversion programs for financial reasons, more likely to have their debt increased, be threatened with jail, or actually be jailed for non-payment of court debt.

Almost half of the people who took our survey did not think they would ever be able to pay what they owe.

The 101 people who took our survey who were paying debt for other people (usually family members) were more likely to be middle-aged African-American women than to belong to any other demographic group. While others their age were saving money for retirement, helping their children with college or other expenses, paying down mortgages, or taking vacations, these African-American women were disproportionately burdened with paying court debt for their families.

Executive Summary

Each year, Alabama's municipal, district, and circuit courts assess millions of dollars in court costs, fines, fees, and restitution. Most of this money is sent to the state General Fund, government agencies, county and municipal funds, and used to finance pet projects.

This hidden tax is disproportionately borne by poor people – particularly by poor people of color. In Alabama, African Americans are arrested, prosecuted, and convicted at higher rates than white people. For example, while African Americans and white people use marijuana at roughly the same rate, African Americans are over four times as likely to be arrested for marijuana possession in Alabama.

This system is a perfect setup for conflicts of interest, as courts and law enforcement agencies weigh the fair administration of justice against their own financial viability, which hinges on collecting fines, fees, court costs, and other debt connected to the criminal justice system. Courts and prosecutors are recast as revenue collectors who impose and collect the debt that finances their daily activities and supplements the state's perennially underfilled coffers.

The fallout is not hypothetical: A recent national study found that police departments in cities that relied heavily on court debt as a revenue source solved violent crimes at a lower rate than those that rely on more equitable sources of revenue.[1] Possible reasons for this correlation, according to the study, included pressure on police to focus their resources on debt collection instead of police work, and distrust of police by people who had come to perceive them as debt collectors with badges.

Under this system, people who commit the same act face very different punishments because of nothing more than their relative wealth. 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 that result in either reduced penalties or clean records if successfully completed. People without ready access to cash, meanwhile, find themselves in an escalating cycle of late fees, collections fees, loss of drivers' licenses, jail time, and life-altering criminal records. The result is a two-tiered justice system that has disastrous human, economic, and public safety consequences for individuals, families, and communities.

Making matters worse, the financial consequences can vary by location, as counties and municipalities often assess different court costs for the same offenses.

In Alabama, the problem is worsened by state lawmakers' longstanding aversion to traditional means of raising revenue. The state constitution severely limits property taxes, and property values in some of the poorest parts of the state are so low that they would not generate adequate revenue even if they were taxed at a much higher rate. But even where more equitable mechanisms for generating income exist – including things like constitutional reform – lawmakers have not adopted them.

This report is an effort to examine, in detail, the collateral consequences of Alabama's court debt system and explore the ways in which it undermines public safety and drives the state's racial wealth divide. It is a product of our work with the Annie E. Casey Foundation's Southern Partnership to Reduce Debt, which is developing strategies to lessen the impact of criminal and civil judicial fines and fees, as well as medical fees and high-cost consumer products, on communities of color.

We surveyed 980 Alabamians about their experience with court debt, asking how court costs, fines, and fees had affected their daily lives. Study participants included 879 "justice-involved" individuals who were paying their own court debt for offenses ranging from traffic violations to felonies, and 101 people who did not themselves owe court debt but were paying debt for other people. We analyzed results for the two groups separately and conducted a further analysis of the 810 justice-involved individuals who had also helped others pay off their debt.

The purpose of any criminal justice system is to deter unlawful activity, protect the public, and rehabilitate people with criminal convictions. We found that Alabama's criminal justice system, which imposes court debt on people who cannot possibly afford to repay it, does the opposite. Almost 40% of all justice-involved people, including an astounding 19.6% of people whose court debt stemmed solely from traffic violations like driving with an expired tag or without insurance, admitted that they had stolen, sold drugs, engaged in sex work, or committed other unlawful acts to stay current on their debt.

In addition, we found:

More than eight in ten (**82.9%**) gave up necessities like rent, food, medical bills, car payments, and child support to pay their court debt.

Nearly half (**49.6%**) said they had been jailed for failure to pay court debt. People who had been declared indigent in a court of law were far more likely than their non-indigent peers to have spent time behind bars for failure to come up with the money demanded of them, with eight in ten (**80.4%**) of them reporting that this had happened to them.

44% had used payday loans to cover court debt.

Eight in ten borrowed money from a friend or family member to cover their court debt.

Almost two-thirds (**65.9%**) received money or food assistance from a faith-based charity or church that they would not have had to request if it were not for their court debt.

Almost four in ten (**38.3%**) admitted to having committed at least one crime to pay off their court debt, including almost one in five (**19.6%**) whose only previous offenses were traffic violations. The most common offense committed to pay off court debt was selling drugs, followed by stealing and sex work. Survey respondents also admitted to passing bad checks, gambling, robbery, selling food stamps, and selling stolen items.

About one in five (**19.9%**) were turned down for a diversion program like drug court because they could not afford it. The likelihood of being turned down for diversion for that reason rose to almost one in four (**23.7%**) if they had been declared indigent.

About one in six (**14.6%**) were kicked out of a diversion program such as drug court or court referral because they could not afford it. This rose to 17.4% for individuals who had been declared indigent.

Almost half (**48%**) did not think they would ever be able to pay what they owe. Nearly the same number (**48.7%**) said they would have no money to get out of jail if they needed it that day. The median amount owed was $2,700, and the mean was $6,536.

In general, we found that black and white Alabamians had broadly similar experiences with court debt once they were caught up in the criminal justice system. People of both races faced the same desperate choices and suffered the same consequences when it came to impositions on their economic stability, employment status, mobility, civic engagement, and liberty.

However, the 101 non-justice-involved individuals who took our survey – that is, people who were paying debt for someone else (usually a family member) – were demographically distinct. Our findings indicate unambiguously that middle-aged African-American women were more likely than any other group to be paying someone else's debt.

This is not the only reason to be concerned about the disparate harms visited upon people of color. While Alabama's court debt system is damaging to all lower-income Alabamians once they are caught up in it, other factors mean that its harms are disproportionately inflicted on people of color, and especially the state's African-American community.

First, the legacy of slavery and Jim Crow, coupled with modern-day structural racism, has left African-American Alabamians disproportionately

impoverished as compared to their white peers.

Second, the over-policing of African-American communities means African Americans are far more likely than white people to face court debt. In 2016, for instance, black people were more than twice as likely as white people to be arrested for six of the 20 charges (among them marijuana possession) for which the most Alabamians were arrested in 2016. That includes several offenses that hinge on the perception and inclinations of the police officer making the arrest, such as disorderly conduct.[2]

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.

African Americans are also overrepresented in Alabama's jails and prisons. While black people comprise about **27%** of the state's overall population, the jail and prison populations are **54%** black. Thus, because they are caught up in the criminal justice system at a much higher rate than their white peers, African Americans are more likely to owe court debt, and the fallout of Alabama's court debt system lands more heavily on African Americans as a group.

The status quo is both unsustainable and unconscionable. As a practical matter, Alabama should not fund its state government on the backs of poor people whose ability to obtain gainful employment is severely hampered by the consequences of having criminal records. As a matter of conscience, 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.

It's time for Alabama to reform this damaging, futile system.

To be effective, reforms will have to be implemented by a range of bodies, including state lawmakers, judges, district attorneys, court clerks, and local governments.

STATE LAWMAKERS SHOULD...

- Eliminate court costs and fees, and scale fines to each person's ability to pay.
- Create a truly unified court system that includes municipal courts.
- Short of eliminating all forms of court debt, lawmakers should...
- Insist on transparency regarding money assessed via the criminal justice system and collected from justice-involved people.
- Fully fund courts from Alabama's state budget.
- Adequately fund district attorneys and repeal all laws creating alternative revenue streams outside of the General Fund.
- Send revenue from all court debt to the state General Fund.
- Create an indigency standard that is uniform and applied across the entire system and at all phases, from pretrial to post-conviction.
- Create a mechanism for appeal and settlement of unpaid debt, and ensure that justice-involved individuals have access to counsel throughout the post-conviction period during which they continue to owe court debt.
- Limit restitution to material losses.
- Eliminate poverty penalties.
- Prohibit the suspension of drivers' licenses unless the suspension is public safety focused and directly connected to a driving offense.
- Ensure equal access to diversion programs.
- Eliminate court costs, fines, and fees for children under 18, and prohibit the transfer of court costs, fines, and fees from children to parents and guardians.
- Eliminate Failure to Appear warrants when the individual failed to appear because they were in government custody.

- Create a database accessible to municipal, district, and circuit judges that includes records of outstanding court debt across all Alabama jurisdictions.
- Prohibit the denial of voting rights based only on the nonpayment of court costs and fines.
- Reclassify one ounce or less of marijuana and possession of drug paraphernalia as civil infractions with fines scaled to the defendant's ability to pay.

JUDGES SHOULD...

- Determine whether a person is in government custody prior to issuing a Failure to Appear warrant, and not issue the warrant if the person is found to be in government custody.
- When discretionary, reduce debt assessed against any person found to be indigent for criminal representation purposes.
- Docket hearings on ability to pay within 90 days of a missed payment, and appoint counsel at ability-to-pay hearings.
- Appoint counsel any time a justice-involved individual faces loss of liberty.

DISTRICT ATTORNEYS SHOULD...

- Voluntarily disclose revenue from all sources, by source, on an annual basis.
- Apply an objective standard to determine eligibility for diversion, and use an objective standard to determine indigency for purposes of participation in diversion programs.
- Avoid revenue streams that are funneled through the court system.
- When people miss court dates, determine whether they are in government custody and argue that the court not issue a warrant if they are.
- Decline to establish District Attorney Restitution and Recovery Teams (DART).
- Advocate in the legislature for the elimination of the current court debt system, as it makes communities less safe when people commit crimes to pay their court debt.
- Stop prosecuting people for possessing one ounce or less of marijuana and for possessing drug paraphernalia.

COURT CLERKS SHOULD...

- Prioritize making victims whole over repaying entities, such as DART teams, that assist with collections.
- Make a practice of alerting judges when people are behind on payments so that ability-to-pay reviews can be conducted within 90 days.

LOCAL GOVERNMENTS SHOULD...

- Instruct local law enforcement to de-emphasize the enforcement of Alabama's marijuana possession and drug paraphernalia possession laws.

Detailed recommendations are at the end of the report.

Introduction

Betty Lou Wilson sees no end in sight. The 62-year-old Montgomery woman, who completed her sentence almost a decade ago, owes the state several thousand dollars in court costs, fines, and fees.

Wilson works as a housekeeper at a Montgomery office supply manufacturer. She has no vehicle. Her driver's license is suspended, and she cannot afford to get it reinstated. She pays $100 a week to stay with a friend, who charges another $30 a week to drive her to and from work.

For five years after her release from prison 2009, Wilson paid $40 a month to a probation officer who told her he didn't care where her money came from just so long as she got it to him on time. When she was out of work, she covered probation and other costs with high-interest loans from payday lenders, who raided her checking account as soon as she deposited any money.

Wilson doesn't use banks anymore. Instead, she pays $5.00 a month for a Wal-Mart card. She swipes it once a week to get the cash she needs for living expenses, at a price of $2.75 a swipe, because she cannot afford to get to a Wal-Mart to swipe it for free. The day she was interviewed for this report, she had $22.00 on hand to get through the five days until a court date where a judge would ask her why she was behind on paying her court debt.

"I don't have anything. Nothing." Wilson said. "I did every day of my time. I walked all my probation down. ... If we set up a payment plan, what can I pay you? I can't pay you anything because I don't have anything."

"What can I do?" she said. "You can't get blood from a turnip."

Wilson's story is both crushing and common. This report chronicles the experiences of nearly 1,000 Alabamians who, like Wilson, are paying court debt either for themselves or for other people.

It tracks the ways in which Alabama has rejected equitable mechanisms for funding the state and transformed courts and prosecutors into revenue collectors. It documents how onerous penalties lead people to prioritize paying down court debt over paying for basic necessities like food and medicine. It shows that many people are committing crimes to pay down court debt.

It reveals a system that tramples the human rights of all poor people who come through it, no matter their race or background, but also that the over-policing of African-American communities means that African Americans are disproportionately harmed. And it charts the historical causes of Alabama's racial wealth divide – the vast difference in income, assets, and resources between African-American and white Alabamians – and explains how court debt acts as a modern-day driver of that divide.

Finally, this report maps out potential solutions to Alabama's problem with court debt, offering a menu of recommendations for lawmakers, judges, prosecutors, police, and communities ready to confront the injustices and conflicts of interests inherent in the current system.

As Betty Wilson and many others who participated in the survey that underpins this report observed, you can't get blood from a turnip. It is impossible to fund the state properly off the backs of poor people. It is inhumane, and an offense to the concept of equal justice under law, to even try. Onerous court debt drives Alabama's racial wealth divide and makes us all less safe. It is time for a new way forward.

Causes of Alabama's Racial Wealth Divide

Alabama's racial wealth divide has myriad causes. While the focus of this report is how court debt contributes to economic inequality between black and white Alabamians, our findings represent only one facet of a persistent problem with many interconnected historical and contemporary causes.

The historical reasons for Alabama's racial wealth gap are well known. More than a century of chattel slavery, followed by a century of segregation and racial violence, relegated African Americans to second-class citizenship. This brutal past birthed a present filled with lesser, though still pernicious, obstacles to economic advancement for African Americans, including income inequality, regressive taxation, unequal schools, lending discrimination, and other structural factors such as court debt. The lasting result is a racial wealth disparity that should shock the conscience.

Historical Factors

SLAVERY

Prior to the Civil War, Alabama's economy rested almost entirely on the backs of its enslaved African-American population. During that time, Alabama was one of the wealthiest states in the Union, due principally to cotton production based on slave labor.[3] Black people were themselves an asset to white owners: In 1860, the total value of enslaved people across the South was $2 billion.[4]

Enslaved people were also a source of wealth and revenue for the state. Through the mid-1850s, the "slave tax" – that is, revenue generated by taxing slaveholders for their "property" in the form of human beings – is thought to have been the largest single source of revenue for the state government.[5] In 1849, it accounted for 46% of all state revenue in Alabama.[6]

Taxes on real estate were low by comparison. Ironically, the slave tax system was somewhat progressive, in that it taxed wealthy slaveholders whose profits flowed from their ownership of other human beings more heavily than poor landowners who worked their own land.

The end of slavery meant the end of the slave tax and the start of a regressive tax system whose inadequacies persist to this day. Every version of the Alabama state constitution ratified since Reconstruction has severely curtailed property taxes, leaving state coffers consistently unfilled. Consequently, state entities have found alternative means to fund themselves – often, on the backs of the poorest and most vulnerable Alabamians, including those whose court debt payments help fund everything from the district attorneys who prosecute them to lawmakers' pet projects.

'SLAVERY BY ANOTHER NAME'

The end of slavery in Alabama did not mean the end of forced labor. Indeed, the Civil War did virtually nothing to dent the ideology of white supremacy embraced by most Alabamians. Former slaveholders worked with the leaders of Alabama's largest industries to enact a range of laws designed to protect white supremacy and maintain a source of de facto slave labor.

Some of these laws appeared race-neutral on their faces, but, as enforced, principally disad-

vantaged African Americans.[7] Chief among them were laws outlawing vagrancy and other vaguely defined crimes that allowed white people to call for the arrest and incarceration of any African American whose behavior displeased them or whose labor they hoped to profit from. Under one 1886 Alabama law, "a person was considered a tramp if he was visibly able to do manual labor and had requested food or clothing of anyone in a county in which the violator had not lived for six months."[8] In other words, being a stranger in need of assistance was illegal.

In his groundbreaking book *Slavery by Another Name*, Douglas A. Blackmon described the systematic incarceration of African Americans for so-called crimes like vagrancy and the subsequent leasing of those individuals to profit-making entities that forced them to work off their supposed debt to society. Under this system, white people essentially sought to re-enslave freed people and recapture the economic and political power they had wielded during slavery. The state profited hugely. In 1898, nearly three-quarters (73%) of Alabama's revenue came from convict leasing.[9]

"Instead of thousands of true thieves and thugs drawn into the system over the decades, the records demonstrate the capture and imprisonment of thousands of random indigent citizens, almost always under the thinnest chimera of probable cause or judicial process,"[10] Blackmon wrote. "In Alabama alone, hundreds of thousands of pages of public documents attest to the arrests, subsequent sale, and delivery of thousands of African Americans into mines, lumber camps, quarries, farms, and factories,"[11] where they were forced to work until their sentences ended. Many had their sentences extended "almost indefinitely" for "debts" supposedly incurred while they were incarcerated.[12] Many died.[13]

SHARECROPPING

Convict leasing was not the only means of keeping African Americans poor in the decades following the Civil War. After the war ended, former plantation owners, having lost the slave labor they relied on, began breaking up their plantations and leasing small tracts of land to "sharecroppers," most of them black. Sharecroppers

used loans from their landlords to finance the supplies they needed to get started, putting up earnings from their anticipated crops as collateral. Anticipated income also served as collateral for day-to-day purchases at exclusive stores that marked up prices for items bought on credit and charged interest on top of that.[14]

Though marginally superior to chattel slavery, sharecropping afforded farmers few, if any, opportunities to accumulate wealth, and in reality, also functioned as slavery by another name. "Due to his need to pay back the loan, the farmer focused on growing a cash crop such as cotton, to the neglect of food production, thus forcing the farmer to borrow even more money from the merchant as to feed himself. This created a cycle where the farmer was constantly behind in his paying his debt. ... Thus, the farmers stayed in perpetual debt and slavery perpetuated itself; but rather than a physical slavery, it was an economic bondage that held black people to the land."[15]

Both black and white Alabamians worked as sharecroppers, but African Americans for decades outnumbered white people within the sharecropping population.[16] Sharecropping, in combination with racist laws designed to disenfranchise and oppress black people, and a white supremacist culture, meant that African Americans in Alabama were shackled by law and custom to generations of poverty.

INCOME INEQUALITY AND BEYOND

The incomes of black and white Alabamians are still dramatically disparate. In 2013, the median household income for white Alabamians was $49,465. African-American households' median income the same year was $29,210 – only about 59% of the figure for white people.[17]

But as stark a picture of inequality as the racial income gap paints, it is only part of the story. Rather, household wealth – total assets minus total debts – is the factor that "can be the difference between a family maintaining and strengthening their economic status or flailing in economic insecurity."[18]

Income does not guarantee wealth, or even economic security. Simply put, people who own homes and have savings in the bank, the stock market, retirement accounts, or coming to them in the form of inheritances – and people whose families have access to those kinds of assets – have far more to fall back on than those who do not.

Income does not guarantee wealth, or even economic security.

In 2011, a typical white family in the bottom income quintile (earning less than $19,000 annually) owned $15,000 in wealth. A typical African-American family earning the same amount owned just $100 in wealth.[19] In fact, due to the difference in median household net worth between the races, "[t]he median Latino or black household would have to save nearly 100% of its income for at least three consecutive years to close the gap."[20]

Black families, after adjusting for household income, actually have a higher rate of savings than white families[21] – but no family can save 100% of its earnings. For these reasons and many others, the income gap is just a single factor among many present-day contributors to the racial wealth gap, both in Alabama and nationally.

Looking at overall household wealth, African-American families have a nationwide median of $11,000 in net worth compared to $134,000 held by white families.[22] Data on household wealth by race is not available for Alabama, but it is reasonable to assume the wealth gap here is significant.

REGRESSIVE TAXATION AND UNEQUAL SCHOOLS

Alabama's 1901 state constitution – which remains in effect today, in amended form – deliberately disenfranchised African Americans and poor white people.[23] It took decades of racial violence and the passage of the 1965 Voting Rights Act to outlaw discriminatory practices like literacy tests that were used as a pretext to deny black people the right to vote.

The 1901 state constitution also severely restricted lawmakers' ability to raise property taxes, and implemented a regressive income tax system that, together with sales taxes and other regressive forms of taxation, resulted in low-income Alabamians disproportionately bearing the burden of funding the state's government. Consequently, "[i]nsufficient tax revenues starved the state's education and public-health programs, which otherwise might have helped poor people rise out of poverty."[24]

Until 1954, Alabama was legally permitted to have a racially segregated public school system. That changed with the Supreme Court's 1954 ruling in *Brown v. Board of Education*. In practice, school desegregation took decades to take root. It remains an incomplete project.

When a 1969 court decision[25] required immediate desegregation of all remaining segregated schools, white families responded by opening so-called "segregation academies" – all-white private schools that became alternatives to integrated public ones. Sumter County's Sumter Academy is one such school. From its opening in 1970 to its closing in 2017, Sumter Academy catered to an almost exclusively white student body.[26] In 2015-16, not one of its 170 students was black.[27] Despite a county-wide racial breakdown that was 71.7% black and 24.6% white,[28]

Sumter County's public schools in 2015-16 were 98% black. The county's first truly integrated school opened in 2018.[29]

Similar stories continue to play out across Alabama. In Jefferson County, four mostly white cities responded to impending desegregation fifty years ago by forming their own municipal school systems. Their secession from the county schools prompted litigation and a 1971 court ruling barring the formation of additional "splinter school districts" if their establishment would thwart the goal of countywide desegregation.[30]

Secession continued nonetheless. As a result, the Jefferson County school system went from being 75% white and 23% black in 2000, to being 43% white and 47% black in 2015.[31] In 2014, the predominantly white city of Gardendale attempted to secede and form a school district that would have excluded many African-American students. That effort was stopped when a federal court ruled that the secession plan was racially motivated, would thwart the efforts of Jefferson County to maintain desegregation, and was, therefore, unconstitutional.[32]

Nationwide, "Black and Latino students are more likely to attend under-resourced schools with less experienced teachers and fewer advanced courses, leaving them less well-prepared for college than their white counterparts."[33] In Alabama, where opposition to desegregation has been steady, and support for the regressive tax system constant, educational inequities remain a persistent factor in driving the racial wealth gap.

REDLINING AND BEYOND

Across America during the 20th century, homeownership became a major source of intergenerational wealth. For the most part, home prices rose over the years, transforming family dwellings into a mechanism for accumulating wealth and a reliable form of collateral when emergency funds were needed.

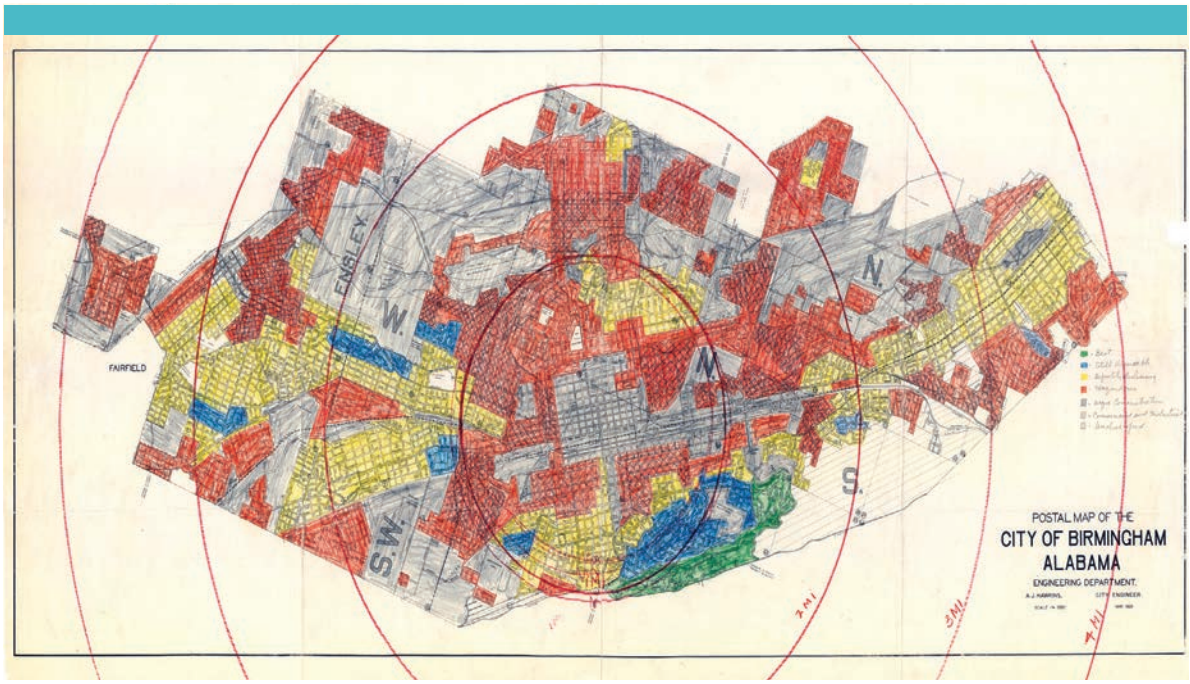
But homeownership is not evenly distributed across the races. For over a century, racist policies and practices have impeded African Americans from acquiring homes, while simultaneously devaluing the homes they do own.

Racial segregation by neighborhood was a preferred strategy of the "Big Mules," as Alabama's early industrialists were called.[34] Their offers of employment lured black sharecroppers to the city to work in coal, iron, and steel factories.[35] "By maintaining racial segregation in Birmingham, the Big Mules discouraged interracial solidarity in local labor unions, thereby enabling the city's industrialists to maintain a dual wage system."[36] Companies like Sloss-Sheffield Steel and Iron and the Louisville and Nashville (L and N) Railroad built "quarters" for their black workers near the locations where they were employed. Conditions varied, but a 1912 description of the Sloss Quarters cites "a slag dump for a rear view, black furnaces and bee-hive coke ovens for a front view, railroad tracks in the street, and indecently built toilets in the back yards, in an abomination of desolation. The houses are unpainted, fences are tumbling down, a board is missing from the side of a house. Colonel Maben, president of the company, [said] that he didn't believe in 'coddling workmen.'"[37]

> [Birmingham's] racial zoning law … was the longest-standing such law in the South.

Neighborhood segregation in Birmingham was formalized in 1926 with the passage of a zoning ordinance restricting black residents to undesirable portions of the city, "along creekbeds, railroad lines or alleys, and they suffered from a lack of street lights, paved streets, sewers, and other city services."[38] This racial zoning law lasted from 1926-1951 and was the longest-standing such law in the South.[39] It remained in force despite the fact that it was unconstitutional from its inception[40] and despite repeated legal challenges from NAACP organizers in the 1940s.[41]

While segregationist lawyers fought the challenges in court, their allies resorted to violence



to make their point – in fact, "Birmingham's history of terroristic bombing began with the challenge to racial zoning."[42] Cynically, pro-segregation lawmakers would cite bombings as a public safety justification for continuing the racial segregation of neighborhoods, claiming, in the wake of six zoning-related bombings by violent white supremacists between 1947 and 1949, that "racial violence therefore constituted a 'clear and present danger' in Birmingham."[43]

Segregationists further justified zoning laws by pointing to the economic hardship integration would entail for white people who found African Americans moving into their neighborhoods. In making this argument, they relied on the FHA's Underwriting Manual, "which until 1948 … urged the use of zoning regulations and deed restrictions to guard against 'adverse influences' such as 'infiltration of inharmonious nationality groups.'"[44] A May 1933 redlining map[45] generated by the Home Owners Loan Corporation (HOLC), a New Deal Program that appraised houses and made mortgage recommendations, shows large portions of Birmingham shaded in black to denote "Negro Concentration," a category listed below "Hazardous" on the map's key."[46]

The 1951 finding that Birmingham's zoning law was unconstitutional did little to end segregation in the city. By 1960, the city's "index of segregation" (a measure that describes the degree to which a particular group is distributed differently across census tracts than the white population[47]) was 92.8 – "as high, if not higher, than the very high indices found in northern cities such as Chicago."[48]

Racist redlining practices hollowed out African American wealth by denoting predominantly black neighborhoods as bad lending opportunities, denying homeowners in those areas access to credit. The 1968 Fair Housing Act prohibited this practice, but its effects persist today. In 2018, researchers at the National Community Reinvestment Coalition (NCRC) digitized over 150 old redlining maps and compared population distributions across areas zoned as "Best," "Still Desirable," "Definitely Declining," and "Hazardous." Their analysis found "a persistence of neighborhood conditions documented 80 years ago and increased segregation and economic inequality in cities," showing "a pervasive, enduring structure of economic disadvantage in urban areas of the U.S."[49]

Lending discrimination based on redlining maps is no longer legal, but race-based lending discrimination has not gone away.

The NCRC report found that cities in the South "showed the least change in the HOLC-evaluated 'Hazardous' neighborhoods that today have lower incomes and higher populations of majority-minority residents." [50] Areas of Birmingham, [51] Montgomery, [52] and Mobile[53] that HOLC designated "Hazardous" 80 years ago because of their African-American residents all remain more likely to be lower-income than the national average for formerly "Hazardous" zones, and are more likely to have high concentrations of residents of color than the national average for these zones.

LENDING DISCRIMINATION

Government-sanctioned lending discrimination based on redlining maps is no longer legal, but race-based lending discrimination has not gone away. In the run-up to the subprime mortgage crisis of 2007, people of color were more likely to be sold high-cost loans than white people – and not just because they tended to have lower incomes. In fact, a 2007 study by the NCRC showed that racial disparities in the type of loan offered were greater between white people and people of color with middle- and upper-income levels than between white people and people of color with low- and moderate-income levels.[54]

In sum, the more nonwhite borrowers earned, the more likely they were to be sold wealth-draining high-cost loans. African Americans were more likely to experience this type of discrimination than other groups.[55]

The impact of lending discrimination on the racial wealth gap is dramatic. "For a family who is creditworthy for a prime loan but receives a subprime loan, the total loss in equity can be easily between $50,000 and $100,000," NCRC researchers observed. "This amount represents resources that could have been used to send children to college or start a small business. Instead of building family wealth, the equity was transferred from the family to the lender."[56]

Scaled up, this means that majority-nonwhite neighborhoods disparately targeted for high-cost loans could lose millions of dollars that could otherwise have been used to support local businesses, raise funds for local parks or other desired improvements, or in other ways been used to support public and private projects to improve residents' quality of life.[57]

African Americans in Alabama cities fared poorly in the NCRC study, which ranked racial disparities in high-cost loans across metropolitan statistical areas (MSAs). Montgomery, Tuscaloosa, Auburn-Opelika, Huntsville, and Birmingham-Hoover all ranked in the worst half of MSAs nationwide.[58] The same five MSAs plus Dothan ranked in the worst half of MSAs for disparities in high-cost loans sold to low- and middle-income African Americans as compared to white people,[59] and the same five plus Mobile and Gadsden ranked in the worst half of MSAs for disparities in high-cost loans sold to middle- and upper-income black borrowers as compared to their white counterparts.[60]

Lending discrimination persisted despite reform efforts in the wake of the subprime lending crisis. A report by Reveal from The Center for Investigative Reporting found "modern-day redlining" affected African Americans and Latinos across 61 metropolitan areas in 2016, with African Americans denied loans at significantly higher rates than white people in more metropolitan areas than any other group.[61] The study, which was based on a review of 31 million records and controlled for income, loan amount, and neighborhood, found that Southern cities were more

The more nonwhite borrowers earned, the more likely they were to be sold wealth-draining high-cost loans.

likely than cities in other parts of the country to pervasively discriminate against aspiring black borrowers.[62]

Four of those cities were in Alabama. In Huntsville, African Americans were denied conventional home mortgages at 3.1 times the rate of white people. In Montgomery, they were denied conventional home mortgages at 3.0 times the rate of white people. Black people in Tuscaloosa were 2.8 times more likely to be denied as white people. The disparity was most staggering in Mobile, where black applicants were 5.6 times as likely to be denied access to conventional home loans as their white counterparts.[63]

Systemically denying African Americans access to conventional loans creates a major hurdle between them and homeownership, which is a foundational building block to intergenerational wealth.

Aspiring homeowners are not the only borrowers affected by racial discrimination. The Equal Credit Opportunity Act of 1974 prohibits creditors from discriminating against potential borrowers in any credit transaction based on race or color, religion, national origin, sex, marital status, receipt of income from public assistance, or good-faith exercises of their rights under the Consumer Credit Protection Act.[64] But a 2018 study suggests that race-based discrimination remains a problem for African-American consumers.

In this study, "matched-paired" mystery shoppers consisting of African-American and white individuals sought similar small-business loans from banks in two eastern U.S. large metropolitan areas. The African-American mystery shoppers were provided with superior financial qualifications, which should have made them more appealing customers to race-blind lenders.[65] That is not what happened. Instead, compared to their white counterparts, African-American mystery shoppers were asked to provide more information about their businesses and personal financial status, including financial statements and tax forms, and were more likely to be asked if they were married and whether their spouses were employed. (It is illegal to use marriage status to determine creditworthiness.) What's more, African-American mystery shoppers were less likely than white counterparts to be offered a follow-up appointment, offered assistance with completing the loan application, asked how they could be helped, or thanked for coming in.[66] A side-by-side comparison of the two groups' experiences at the banks "revealed that African-American testers experienced unequal and substantively worse treatment than their Caucasian counterparts."[67]

A side-by-side comparison of the two groups' experiences at the banks "revealed that African-American testers experienced unequal and substantively worse treatment than their Caucasian counterparts."

How Court Debt Worsens The Divide

This report examines the intersection between court debt and the racial wealth gap in Alabama. African-American Alabamians bear a disproportionate debt burden because they are arrested, convicted, sentenced, and incarcerated at vastly elevated rates compared to white Alabamians.

In 2015, black people in Alabama were over four times as likely than white people to be arrested for marijuana possession,[68] despite robust evidence that the two groups use marijuana at roughly the same rate.[69] Between 2011 and 2015, 74% of the people convicted in state court of felony marijuana possession – a charge that,

Nationally, African Americans are also more likely than white people to be arrested for using drugs, jailed while awaiting trial, offered plea deals that include prison time, struck from jury pools, serve longer sentences for the same offense, disenfranchised because of felony convictions, and have their probation revoked.

for first offenses at least, rests heavily on the personal belief of the arresting officer about the intended use of the marijuana found – were black men.[70]

In 2016, African Americans were more than twice as likely as white people to be arrested for six of the 20 charges for which the most Alabamians were arrested that year, including several offenses, like marijuana possession, that hinge on the perception and inclinations of the individuals observing the alleged wrongdoing. African-Americans were 3.7 times as likely as white people to be arrested for disorderly conduct in 2016; 2.3 times as likely to be arrested for trespassing (which can include remaining in public accommodations like restaurants after being asked to leave), and twice as likely to be arrested for resisting an officer and contempt of court.[71]

In Alabama, African Americans make up 54% of the prison population[72] but only about 27% of the state's population.[73] They are over-represented in jails at roughly the same rate.[74]

African Americans in Alabama are also more likely than white people to be deprived of wealth by judicial means beyond court debt. Civil asset forfeiture is a process by which the state uses police and the civil justice system to take and keep property, including money, vehicles, real estate, and other items, that it believes are connected to criminal activity. The standard of proof is low – in fact, the state can take and keep a person's property even if the property owner was never charged with, let alone convicted of a criminal offense. And the state's success rate in keeping property it seizes is high: 79%, in 2015.[75] The state does not track the race of all individuals whose property is seized, but in 64% of cases where criminal charges were filed, the defendant was African-American.[76]

The state refuses to track the rate at which various races are subjected to traffic stops, but a 2017 study of traffic stops from 16 states for which data was available showed that African-American and Hispanic drivers were more than twice as likely as white drivers to be searched in conjunction with traffic stops.[77] Nationally, African Americans are also more likely than white people to be arrested for using drugs, jailed while awaiting trial, offered plea deals that include prison time, struck from jury pools, serve longer sentences for the same offense, disenfranchised because of felony convictions, and have their probation revoked.[78] Thus, all of the human costs and economic consequences discussed throughout this report fall disproportionately on African Americans.

Debt Defined

Court-imposed debt, incurred through traffic and criminal offenses and referred to throughout this paper as "court debt," comes from four categories: fines, court costs, restitution, and third-party fees.

Fines are financial punishments handed down as part of a sentence or penalty.

Court Costs are fees handed down in addition to any punishment. These fees are prescribed by law. Though the term "court costs" implies that they are meant to defray the costs of the defendant's criminal prosecution, in practice, money collected in the name of court costs does not necessarily even go to the court system. Rather, it is disseminated to a range of recipients, including state and county general funds, state agencies with no connection to court functions, and others.[79] For example, the American Village at Montevallo, a lavish campus that includes reproductions of famous American buildings, gets a small cut of this money.[80] In some official documents, court costs are referred to as fees. There are also separate fees charged in civil cases that are beyond the scope of this paper.

Restitution is money meant to make the victim whole and is not associated with traffic offenses.[81]

Third Party Fees are additional fees for supervision, treatment, classes, drug testing, electronic monitoring, and other court-mandated conditions of release, diversion, or sentencing. These fees are typically paid to third parties which may be for-profit or nonprofit entities. They may even include fees for days spent in jail.

In 1973, Alabama established a unified judicial system, with the goal of creating "a predictable, transparent[,] and uniform set of rules and procedures."[82] This principle has been undermined since then, both by funding constraints faced by the courts and the legislature's decision to rely on "ever-rising charges, fees[,] and fines" to fund basic state activities.[83] Its workings have been further muddied by a proliferation of municipal courts that operate mostly outside the unified system, collecting and disseminating revenue with little or no oversight or transparency.

Alabama's reliance on court costs, fines, and fees to generate revenue is not limited to adults. As the Alabama Juvenile Justice Task Force found in 2017, about half of the approximately 180 juvenile probation officers (JPOs) interviewed by the Task Force reported that supervision fees could be assessed in their jurisdiction.[84] The Task Force also found that the percentage of juvenile petitions with court costs "has more than doubled over the past decade,"[85] despite the obvious fact that children have few, if any, independent sources of income. The Task Force reported that just five percent of court costs are collected from children against whom they were assessed, and the vast majority of JPOs reported that children remain on probation until they have satisfied their financial conditions.[86]

What Is Court Debt?

FINES

Fines are financial punishments handed down as part of a sentence or penalty. According to the Criminal Justice Policy Program at Harvard Law School, Alabama has 85 separate fines associated with criminal or traffic offenses.[87] Fines are set within the following guidelines:

FELONIES:

Class A felony, not more than $60,000;

Class B felony, not more than $30,000;

Class C felony, not more than $15,000;

Class D felony, not more than $7,500; or

Any amount not exceeding double the pecuniary gain to the defendant or loss to the victim caused by the commission of the offense.[88]

MISDEMEANORS AND VIOLATIONS:

Class A misdemeanor, not more than $6,000;

Class B misdemeanor, not more than $3,000;

Class C misdemeanor, not more than $500; or

Any amount not exceeding double the pecuniary gain to the defendant or loss to the victim caused by the commission of the offense.

A sentence to pay a fine for a violation shall be for a definite amount, fixed by the court, not to exceed $200, or any amount not exceeding double the pecuniary gain to the defendant or loss to the victim caused by the commission of the offense.[89]

TRAFFIC OFFENSES:

Fines for traffic offenses vary by jurisdiction. For example, a speeding ticket for going less than 25 miles per hour over the posted speed limit is $189 in Mobile County,[90] $180 in Montgomery County,[91] $196 in Shelby County,[92] and $210 in Houston County.[93] In fact, the fine for exceeding the speed limit by one mile per hour in Houston County exceeds the fine for exceeding the speeding limit by 80 miles per hour in Mobile County.[94]

COURT COSTS AND OTHER FEES

Court costs are the fees assessed against those who are involved in the criminal justice system. For individuals facing traffic or criminal cases, court costs are assessed after an adjudication of guilt, and can also be a part of a plea agreement. According to the Criminal Justice Policy Program at Harvard Law School, Alabama has 63 separate costs associated with criminal or traffic offenses or supervision.[95] These are earmarked by statute to one or more of many funds or revenue streams established in Alabama. They include but are not limited to:

Fair Trial Tax fund, which is used to pay "counsel, court reporters, and such other necessary expenses of indigent defense," including costs related to administering the Office of Indigent Defense Services.[96]

State General Fund, which is one of Alabama's five major operating funds. Money from the General Fund is used for general state expenses incurred by the executive, legislative, and judicial branches of the state government. It can also be used for other government expenses and for servicing the debt on certain general obligation bond issues and for capital outlay.[97]

County General Fund, which is the general operating fund for a county.

District Attorney's Fund is a separate fund maintained by a county treasury that the local district attorney can use for "any and all expenses to be incurred by him for law enforcement and in the discharge of the duties of his office, as he sees fit."[98]

Peace Officers' Annuity and Benefit Fund provides additional benefits for full-time Alabama law enforcement, including retirement, disability, and death benefits.[99]

Peace Officers' Standards and Training Commission is the primary state agency overseeing the recruitment, selection, and training of law enforcement officers.[100]

State Drivers' Fund includes money to assist with care for people who survive certain types of head and spinal injuries and to support public education about head injuries.[101]

Crime Victims Compensation Fund includes all money "collected or received by the Alabama Crime Victims Compensation Commission."[102] The money in this fund is used to "provid[e] compensation or other benefits to crime victims" and for the administrative costs of running this program.[103] The Commission can spend up to 25% of its funds to cover administrative costs.[104]

Alabama DNA Database Fund may be spent at the discretion of the Director of the Alabama Department of Forensic Science.[105]

Advanced Technology and Data Fund is used to pay for "any activities involving the administration of justice," including how to "expand the methods and means of collection."[106]

Criminal History Fee is a $30 criminal history processing fee applied to every person convicted of a crime in a municipal, district, or circuit court, except traffic cases which do not involve driving under the influence of alcohol or con-

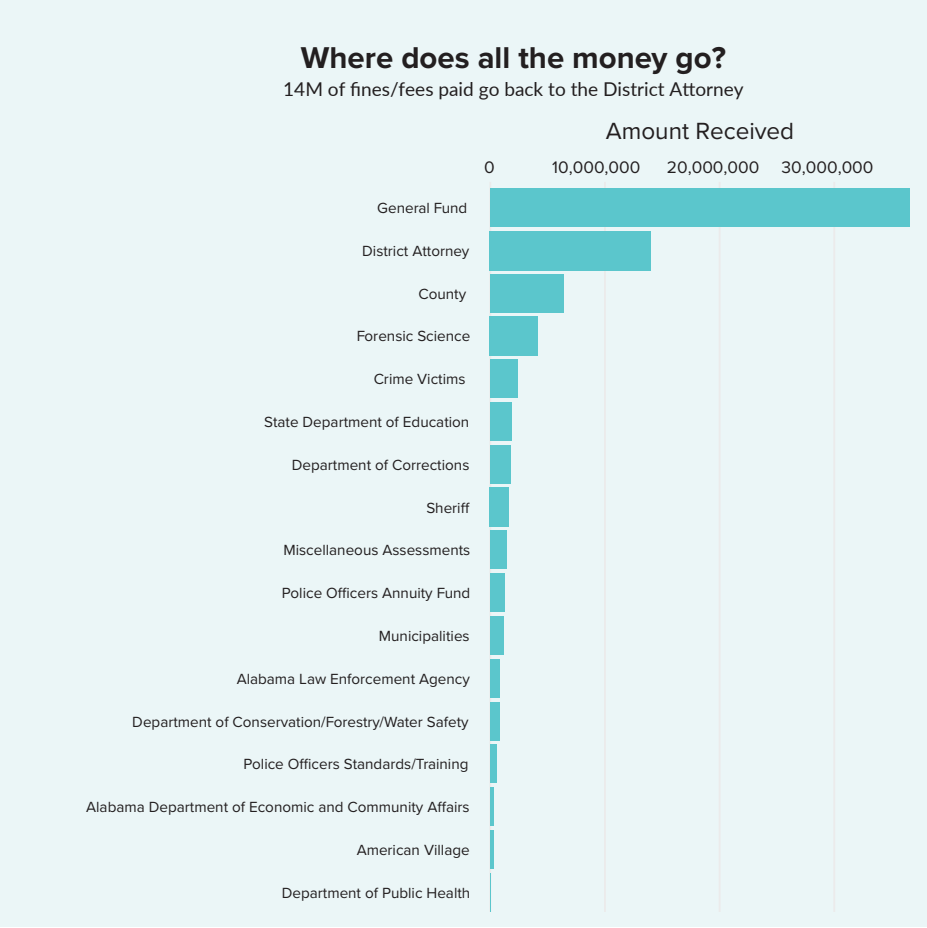
trolled substances, and conservation cases and juvenile cases. Money received for this fee is transferred to four other funds - the Public Safety Fund - PS ($10.00), Court Automation Fund ($5.00), Public Safety Fund - CJIS ($10.00), and the Department of Forensic Sciences Services Fund ($5.00).

Citizens Trust Fund is a funding stream dedicated to supporting the American Village, a private campus based in Montevallo.

Following the Money

DISTRICT AND CIRCUIT COURTS

The courts are not alone in their reliance on court debt as a major revenue stream; nor are they the primary beneficiaries of the revenue they generate. Though the state does not provide a public breakdown of the amounts of court debt assessed, collected, or distributed, the Administrative Office of Courts has compiled a chart[107] noting court disbursements by fiscal year. In fiscal year 2017, Alabama's Unified Judicial System received approximately $14.2 million from court debt, while non-court related entities received over $75.2 million in disbursements.[108] The non-court related beneficiaries of these disbursements included:[109]



General Fund	$36,545,655.56
Peace Officers Standards/Training	$606,125.74
Peace Officers Annuity Fund	$1,245,891.34
Department of Conservation/ Forestry/Water Safety	$827,992.25
Department of Corrections	$1,789,638.22
Alabama Department of Economic and Community Affairs	$340,284.13
American Village	$318,567.20
State Department of Education	$1,879,925.25
Department of Public Health	$30,036.67
Municipalities	$1,136,717.11
Miscellaneous Assessmentst	$1,481,015.57
Crime Victims	$2,397,058.64
Forensic Science	$4,047,792.07
Alabama Law Enforcement Agency	$864,518.90
Sheriff	$1,525,462.46
County	$6,417,061.48
District Attorney	$13,812,159.30

MUNICIPAL COURTS

Not every court in Alabama is part of the Unified Judicial System. The state is also home to about 265 municipal courts that operate entirely on their own, adjudicating traffic and misdemeanor offenses and collecting revenue that fills municipal coffers with virtually no oversight.

Municipal courts report their monthly revenue to the Department of Finance, but those numbers are not tallied or released. However, the fraction of total municipal court income that is remitted to the state for disbursement to various funds *is* tracked closely by the Department of Finance,

which is responsible for transferring money from the courts to the various funds.

According to data provided by the Alabama Department of Finance,[110] municipal courts remitted about $19.4 million to the state in fiscal year 2017, and collected an unknown additional amount that remained in the hands of municipal government or was disbursed elsewhere. The breakdown of the $19.4 million was as follows:

General Fund	$8,125,242.83
Driver Education and Training Fund	$4,040.48
Health Special Revenue Fund	$38,982.44
Fair Trial Tax Fund	$2,414,585.63
Peace Officer Standards & Training	$957,715.31
Alabama Head and Spinal Cord Injury Trust	$469,474.78
Alabama DNA Database Fund	$4,054,376.14
Forensic Services Trust Fund	$726,175.69
Chemical Testing Training and Equipment	$610,884.05
Traffic Safety Trust Fund	$958,181.77
Advanced Technology and Data Exchange	$1,050,852.07

Types of Fees

SUPERVISION AND DIVERSION FEES

Supervision and diversion fees are third party fees that may not be known to individuals when they apply to or agree to be assigned to supervision or diversion programs like community corrections, drug court, or DA diversion. Since many of these fees are unregulated, they may change at any time, including while the person is still under supervision. Compounding the problem, it is common for supervision and diversion programs to refer people to other programs, such as substance abuse treatment, that may charge additional fees.

COMMUNITY CORRECTIONS FEES

Alabama permits the Department of Corrections to authorize the establishment of county-based community corrections programs under the Community Corrections Act. These programs function as alternatives to incarceration for people convicted of eligible felonies or misdemeanors, or adjudicated as youthful offenders.[111] Punishments can include "confinement, work release, day reporting, home detention, restitution programs, community service, education and intervention programs, and substance abuse programs."[112]

Forty-eight Alabama counties have established a community corrections program and 19 counties have not.[113] These programs vary greatly in terms of the population they seek to serve and how fines and fees are imposed.

Alabama's community corrections programs are authorized by the Department of Corrections to assess and collect fees for supervision, drug testing, work release, and electronic monitoring, among other fees. The amount charged is not regulated by the state. Community Corrections programs are set up as county entities or as nonprofits designated by county commissions. The fees they charge are not standardized statewide or regulated by the Department of Corrections.

DRUG COURT FEES

Alabama law permits the Administrative Office of Courts to establish drug courts "to promote the evaluation, education and rehabilitation of persons whose use or dependency on alcohol or drugs directly or indirectly contributed to the commission of an offense for which they were convicted in state or municipal courts[.]"[114] There are currently 56 drug courts operating across 66 of Alabama's 67 counties.[115] Alabama law limits the types of offenses that are eligible for drug court participation and requires consent from the district attorney.[116]

The Administrative Office of Courts does not set or regulate drug court fees. The cost and length of the drug court programs vary, and Alabama

lacks a comprehensive guide outlining the costs and program lengths of the various drug court programs. The 22nd Judicial Circuit drug court program, in Covington County, lasts between 12 and 36 months for a felony charge and 8 to 12 months for a misdemeanor, and costs $1,500 for the program with additional costs for drug testing.[117] The 7th Judicial Circuit drug court program in Calhoun and Cleburne Counties is 18 months long, and includes a monthly fee, which is $150 for the first month.[118]

Fees may be waived or adjusted for indigent individuals at the discretion of a judge, [119] but according to public defenders, indigency determinations in at least some circuits are made after offenders have already pleaded guilty and are locked into either successfully completing drug court or serving a hefty sentence.

ALCOHOL AND DRUG ABUSE COURT REFERRAL FEES

The Alcohol and Drug Abuse Court Referral Program was established by the Administrative Office of Courts under the Mandatory Treatment Act. It requires people convicted of a drug- or alcohol-related offense to undergo a standardized evaluation conducted by a certified Court Referral Officer (CRO) and to participate in periodic monitoring and drug testing. The Administrative Office of Courts sets standard fees for the evaluation ($75.00), monitoring sessions ($30.00), and the maximum charged for drug tests ($60.00/month). In addition, depending on the outcome of their evaluations, people may be required to participate in classes that also charge fees. It costs $125.00 for a "Level One" class lasting 12 hours and $295.00 for a "Level Two" class lasting 24 hours. Individuals found to be at "Level Three" risk must also participate in a drug or alcohol treatment program at their own expense.[120] [121] State-funded treatment programs operate on a sliding fee scale based on ability to pay. Indigent individuals may request fee waivers, but they must be granted by a judge.[122] In addition, even when indigency waivers are granted, the judge may still require defendants to perform community service in lieu of payment.[123]

PROBATION SUPERVISION FEES

People placed on probation are charged a monthly $40 probation fee.[124] People's probation can be revoked, and they can be sent to jail or prison, if they are over two months late on their fees.[125]

PRETRIAL DIVERSION FEES

Dozens of district attorneys and some municipalities across the state run pretrial diversion programs which, like drug court, allow participants to have their records cleared on successful completion. District attorney (DA) pretrial diversion programs are typically open to nonviolent offenders and involve probation-like programming and fees that range from $350-$1,000, upfront. Many programs also charge for supervision, drug testing, and classes.[126]

Because of the fee requirements of pretrial diversion programs, wealthy people can more easily participate in them than those who struggle financially. This creates a constitutional problem where, for instance, two people who are otherwise indistinguishable from each other and are both eligible for diversion programs will have two different outcomes if one is wealthy and the other poor. The person who can afford the diversion program will have the opportunity to participate and walk away with a clean record; the person who cannot will get a criminal conviction and all its attendant consequences, including possible incarceration.

OTHER FEES

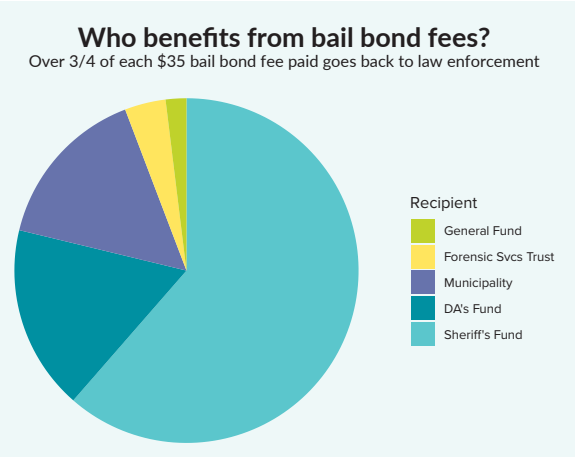
Indigent Defense Fees are charged to people who were appointed counsel because they could not afford to pay for their own lawyers. While *Gideon v. Wainwright*[127] guarantees the right to an attorney for individuals facing criminal charges who cannot afford an attorney, the U.S. Supreme Court found in *Fuller v. Oregon*[128] that courts can charge these same individuals a fee for their lawyer. Alabama is no exception to this fee requirement.[129] No statewide data exists in Alabama regarding the amount of money charged to people who were too poor to hire an attorney, but according to a 2015 article in The

Guardian, Alabamians paid four million dollars in indigent defense fees in 2012 alone.[130]

Attorney General Fee applies to each criminal case the state wins at the Supreme Court of Alabama or the Alabama Court of Criminal Appeals. The Attorney General receives $15 for each of those cases.[131]

Constables receive one dollar for executing a search warrant during the day, two dollars for executing a search warrant at night, one dollar and fifty cents for executing any other warrant or writ of arrest, and fifty cents for serving each subpoena or notice issued by a court of the Unified Judicial System, among other fees.[132]

Bail Bonds Fees are specific fees on individuals using bail bonds which are divided up according to arcane formulas. These fees are charged on top of other existing charges related to bail bonds, including the cost of the bail bond itself. All individuals seeking a bail bond must pay a $35 fee on each bail bond.[133] In addition, individuals facing a misdemeanor charge must pay 3.5% of the total face value of the bail bond or $100, whichever is more (not to exceed $450).[134] Individuals facing a felony bail bond must pay 3.5% of the total face value of the bail bond or $150, whichever is more (not to exceed $750).[135] For individuals released on judicial public bail, recognizance, or signature bond the fee is $25.[136] For the $35 fees, the sheriff receives 10%, and the District Attorney Fund and clerk or municipality each receive 45%.[137] For the bond fee, the Sheriff's Fund receives $21.50 and the District Attorney Fund receives 45% of the remaining funds, the clerk/municipality receives 40% of the remaining funds, the state General Fund receives 5%, and the Alabama Forensic Services Trust Fund receives 10%.



Court Costs: Uneven, But Always High

AVERAGE AMOUNTS

Alabama does not provide the public with information concerning the amounts of court costs, fines, fees, and restitution assessed or collected though its municipal, district, and circuit courts. The public and policymakers lack basic information about these burdens, including average amounts assessed, the percentage of assessed costs that are collected, and the cost of collections. Instead, we must rely on academic studies that have looked at subsets of people with court debt.

While the state of Alabama does not make this information freely available to members of the public, researchers Claire Greenberg, Marc Meredith, and Michael Morse reviewed court records from 2013 to determine the median amount of court debt assessed with regard to misdemeanor and felony convictions. According to their findings, the median amount assessed in Alabama was $1,808 for a felony conviction and $646 for a misdemeanor conviction, with the 25th and 75th percentiles at $893 to $3,150 and $400 to $927 respectively.[138]

While these amounts may seem small to some, a 2014 survey of Alabamians with a felony conviction found that survey participants had a median annual income of $8,000, suggesting that the average Alabamian with a felony conviction, which in Alabama includes individuals convicted of the mere possession of marijuana, faces court debt equal to more than a fifth of their annual income.[139]

Meredith and Morse also found that fees comprised the largest share of the individual's total assessment in felony cases. In fact, just three fees – docket, public defender, and district attorney collections – made up approximately 70% of the total fees assessed.[140]

UNEQUAL JUSTICE UNDER LAW

Alabama's move to a unified court system was intended to help ensure uniform punishments. But in the decades since 1973, Alabama legislators have added more than 430 local acts to create county specific fee and court cost structures.[141] As a result, the same offense can result in vastly differing punishments because of nothing more than the location of the offense. For example, the docket fee for a felony in Marengo County is $225, while the same fee is $459 in Madison County.[142] These variations also exist within offense types. In Calhoun County the median assessment for a possession of a controlled substance conviction is $1,345, while it is $460 in DeKalb County.[143]

Collections

While the Administrative Office of Courts has basic information about the disbursement of court debt to state entities, information regarding the percentage of assessed fees collected is unavailable, as is the cost of collection itself. According to the most recent publicly available data, the percentage of assessed court debt actually collected is small, ranging from 23% to 28% of the total assessed during fiscal year 2012.[144] And no data is publicly available regarding the cost of those collections.

Alabama does not report how much money it collects from municipal, district, and circuit court debt, nor how much it spends collecting the court debt. What we do know is troubling. Alabama relies of counterproductive collection tactics such as suspending people's drivers' licenses, charging them more because they are on payment plans, and threatening them with jail or jailing them. Payment plans are determined by judges and are only loosely connected to the individual's specific financial circumstances. Worse, there is no requirement that circuits coordinate to ensure that people are not on multiple payment plans simultaneously. In practice, this means that even if each judge sets a payment plan that, on its own, is manageable for a justice-involved person, it is possible for that person to be on multiple payment plans that, taken together, add up to far more than the person is able to pay each month.

Access To Federal Programs

Individuals required to undertake mandatory drug testing and who are unable to pay the associated fee face parole or probation violations. This has serious implications for their ability to access federal programs, including public housing,[145] low income housing assistance,[146] TANF,[147] and SNAP.[148]

Findings

Methodology

The data presented in this report was generated through survey methodology developed at the University of Alabama at Birmingham's Treatment Alternatives for Safer Communities (UAB TASC). The survey was based upon an earlier study conducted by UAB TASC in 2014.[149] Further questions were added with input from the Alabama Appleseed Center for Law and Justice, Greater Birmingham Ministries, and Legal Services of Alabama. In both the design of the survey instrument and the recruitment of respondents, we tried to capture the criminal justice experience as it relates to court debt across the criminal justice system and, where it might apply, the civil justice system.

We recruited over 1,000 survey participants in nine geographic locations[150] through a variety of social service and criminal justice agencies. We discarded surveys that were deemed to be spoiled because they were largely left blank, leaving 980 surveys for analysis. Geographic locations, the sites within them, were determined to be representative of the state, generating a mix of rural and urban participants.

Survey participants reported residency, by zip code, in 41 of Alabama's 67 counties. Unlike the earlier survey by TASC, the survey participants were not limited to felony offenders under criminal justice supervision but were recruited more broadly from a variety of local sites, including re-entry programs, drug courts, drug treatment facilities, homeless shelters, community corrections, and halfway houses, among others. Participants were prescreened to include only persons who owed or had owed court costs, fines and fees which were paid over time, or who had helped other people pay court debt. Most participants were given a $15 Wal-Mart gift card to thank them for their time, though a few of the facilities at which surveys were administered disallowed the use of compensation. Participants were granted anonymity, and those who shared their stories in greater detail did so with knowledge that the stories and names would be included in this report.

The surveys were collected and sent to UAB TASC, where a database was created. The data was transferred to SPSS for analysis by a UAB Department of Criminal Justice graduate student who was recruited for the project. Her analysis was guided and overseen by a committee. The resulting descriptive and relational statistics were forwarded to Alabama Appleseed to incorporate into the report.

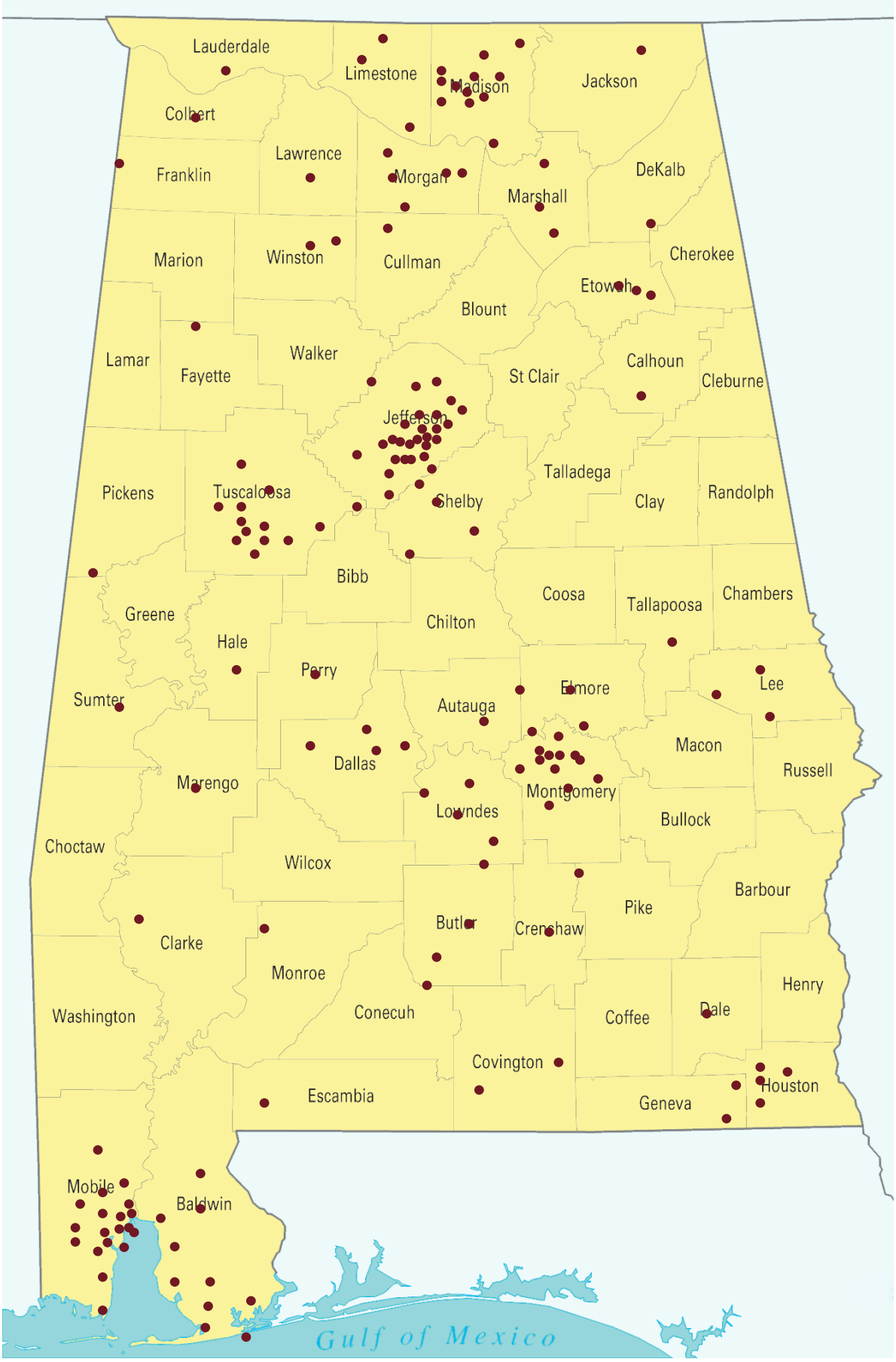
Participants in this study comprise two distinct groups: 879 "justice-involved individuals" who were paying or had paid debt they accumulated themselves, and 101 "non-justice-involved individuals" who were helping others pay their debt. We analyzed results for the two groups separately, and conducted a further analysis of the 810 justice-involved individuals who had also helped others pay off their debt.

A Note About Race And Ethnicity

Study participants were asked to identify as Caucasian, African-American, Latino/Hispanic, Asian/Pacific Islander, Native American, Black/West Indian, or biracial. The vast majority of participants (90.9%) identified as either Caucasian (34.8%) or African American (56.1%).

This is not representative of Alabama's overall population, which is 69.3% white, 26.8% black or African American, 4.3% Hispanic or Latino, with other races and ethnic groups comprising less than 2% of the population each.[151] However, the percentage of survey participants who were African-American closely tracks the percentage of Alabama's jail and prison population that is African-American (54%).[152] White people are slightly underrepresented in our sample as compared to their percentage of the prison and jail population (42%).[153]

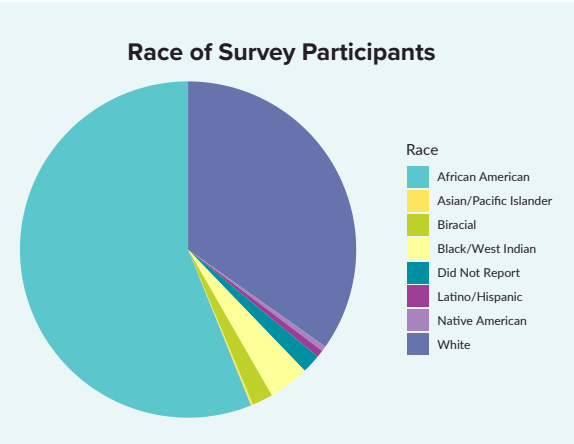
Latino and Hispanic participants are underrepresented in our survey as compared to their representation in both the state population and the jail and prison population (4%).[154] Partly because Alabama's Hispanic and Latino population is disproportionately concentrated in rural northern Alabama cities where we did not survey people,[155] and partly due to limited resources such



Each dot on this map indicates the zip code of at least one survey participant.

as the lack of a Spanish-speaking interpreter, we did not succeed in surveying this population in proportion to its presence in the state and in jails and prisons.

For these reasons, as well as the historical factors discussed in above and the over-representation of African Americans in present-day Alabama jail and prison populations, we have zeroed in on the contrast between African Americans and white people in discussions of race.



Definitions

Justice-Involved: People who were convicted of offenses including traffic violations, misdemeanors, and felonies.

Diversion: Broad term describing various alternative-to-incarceration programs such as drug court and court referral. Most of these programs entail various fees that participants must pay in order to remain in good standing. Failure to pay certain diversion programs can result extended sentences, higher payments, or incarceration.

Supervision: Broad term describing check-in programs like probation, parole, and community corrections. There is some overlap between diversion and supervision programs.

Findings and Discussion

DEMOGRAPHICS (JUSTICE-INVOLVED PARTICIPANTS)

Age: Justice-involved survey takers ranged in age from 18 to 82, with a median age of 41.

Gender: About two-thirds of justice-involved participants (62.3%) identified as male, and about one-third (36.5%) identified as female.

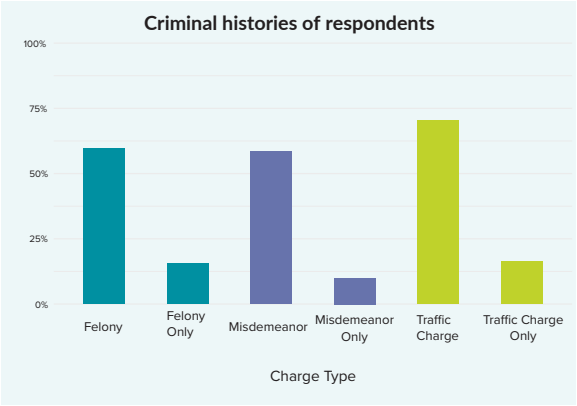
Race: Justice-involved survey participants identified as 34.8% white, 56.1% African American, 0.7%, Latino/Hispanic, 0.2% Asian/Pacific Islander, 0.5% Native American, 3.9% Black/West Indian, and 2% biracial. 1.8% of the population did not provide information about its race.

Education: About 1 in 4 (26.4%) justice-involved individuals in this sample dropped out of high school. Almost 4 in 10 (38.1%) had a high school diploma or GED only. About 1 in 5 (20.9%) completed some college; 7.8% held a two-year degree; and 5.2% held a bachelor's degree.

Living Conditions: Less than half (48.9%) of the justice-involved sample had lived in an apartment or house in the past 30 days. 5.0% had lived in an institution such as a prison or jail. 7.7% had lived in a residential treatment center. 8.5% had lived in a halfway house. 16.5% had either been living in a shelter or were homeless. Finally, 11.9% had been staying with a family member or friend.

Put another way, about half the sample population appears to meet the U.S. Department of Health and Human Services' definition of homeless, which notes that "[a] recognition of the instability of an individual's living arrangements is critical to the definition of homelessness." The HHS definition includes people who live in public spaces such as streets and parks, people who stay in missions or shelters, people who sleep in cars or abandoned buildings, people who are "unable to maintain their housing situation and are forced to stay with a series of friends and/or extended family members," people who were previously homeless and whose release from facilities such as prisons and hospitals will make them homeless again, and others with seriously unstable living situations.[156]

CRIMINAL HISTORIES



TRAFFIC

70.4% of justice-involved individuals had been charged with a non-misdemeanor traffic violation.

16.3% of justice-involved individuals had been charged with a non-misdemeanor traffic violation only.

MISDEMEANOR:

58.5% of justice-involved individuals had been charged with a misdemeanor.

10% of justice-involved individuals had been charged with a misdemeanor only.

FELONIES:

59.5% of the sample had been charged with a felony.

15.7% of the sample had only been charged with a felony only.

MULTIPLE OFFENSE TYPES

14.2% of the sample had been charged with both a non-misdemeanor traffic violation and non-traffic misdemeanor.

9.6% of the sample had been charged with a traffic violation and felony.

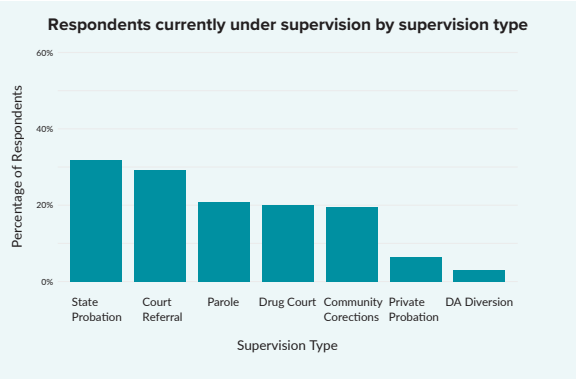
3.9% of the sample had been charged with a misdemeanor and felony.

30.4% of the sample had been charged with a traffic violation, misdemeanor, and felony.

SUPERVISION (CURRENT)

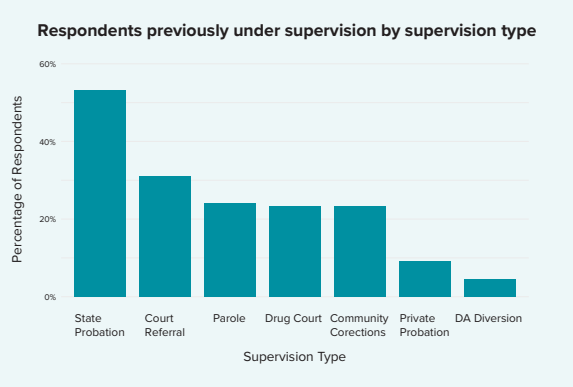
60% of justice-involved individuals in this sample were being supervised when they took the survey. Of those, 92% were on one or more of the following: Court Referral, Community Corrections, State Probation, Parole, Drug Court, DA Diversion and/or Private Probation, while remaining 38 were being supervised in a different program.

Court referral (CRO):	29.2%
Community Corrections:	19.6%
State probation:	31.7%
Parole:	20.9%
Drug Court:	20%
DA Diversion:	2.9%
Private Probation:	6.3%



SUPERVISION (PAST)

Court Referral:	31%
Community Corrections:	23.2%
State Probation:	53.2%
Parole:	24.1%
Drug Court:	23.3%
DA Diversion:	4.5%
Private Probation	9.2%



TYPE OF DEBT

The survey asked respondents to check boxes for the types of court debt they were paying or had paid. Not every category could be covered, but respondents reported paying the following types of debt:

TYPES OF FEES/PAYMENTS

State court costs and restitution:	31.6%
Municipal courts:	65.0%
Community corrections:	20.5%
Drug court fees:	19.8%
Probation supervision fees:	40.5%
CRO/Court referral fees:	16.4%
Court-ordered child support:	14.4%

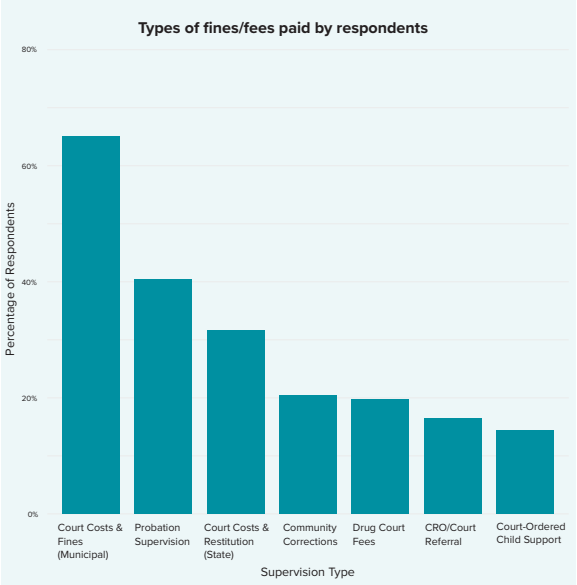
It is noteworthy that 65% of respondents were paying municipal court debt. In Alabama, municipal courts handle traffic offenses and misdemeanors, not dangerous felonies. Although fines imposed for felonies are higher than those connected with traffic and misdemeanor offenses, it is clear that the latter remained a major driver of court debt, and its consequences, for our sample population.

PAYMENTS

64.7% of the justice-involved individuals in this sample owed money when they took the survey.

The minimum amount owed by a justice-involved individual in this sample was **$32**. The maximum amount is **$250,000**. The median amount owed was **$2,700** and the mean was **$6,536**. The most common amount owed was **$2,000**.

For those who didn't know exactly how much they owed, the survey offered ranges. The most common response was between **$1,000** and **$4,999**: 40.8% of justice-involved individuals who currently owe money owed within that range. The second-largest chunk of respondents, 17.8%, owed between **$5,000-$9,999**. (72)



The minimum amount paid by justice-involved individuals in this sample is **$0** and the maximum amount is **$60,000**. 52.7% of the population had paid less than **$2,000** (the mode), and the mean was **$4,972**. (73)

Frequency of payments: **77.5%** of justice-involved individuals in this sample had made regular payments. (74)

LENGTH OF DEBT

The minimum amount of time that justice involved individuals in this sample had owed money was one month, with a maximum of 360 months (30 years). The average amount of time people had been in debt was 54.74 months, or about 4 ½ years. **48.2%** of the sample reported that they had been in debt for two years or less.

Those who didn't recall exactly how long they'd owed money were offered time ranges and asked to give their best guess. A majority of the sample (**50.3%**) reported that they had been in debt for **1 to 5 years**.

Under Alabama law, misdemeanor probationary terms are not to exceed two years, and felony probationary terms are capped at five years – yet the payment of fines and fees frequently exceeds even the maximum probationary period allowed by law. Collections periods, therefore, are disconnected from these statutory maximums, and collections agents may continue their efforts in perpetuity (or until the debt is paid in full), regardless of the behavior or personal circumstances of the individual against whom the debt was assessed.

CRIMINAL RECORDS AND THEIR CONSEQUENCES

In Alabama, criminal histories come with serious consequences, affecting individuals' ability to obtain housing and employment and, in some cases, preventing them from participating in civic life by voting.

HOUSING

In 1996, President Bill Clinton said, "The rule in public housing should be one strike and you're out." [157] Many landlords, both public and private, seem to have taken this to heart: Almost four in ten (37.2%) of justice-involved survey takers had been denied housing due to a previous criminal conviction.

Individuals with felony convictions are not considered a protected class under Alabama or federal anti-discrimination laws, and both private landlords and public housing authorities have broad discretion to discriminate against people due to their criminal histories. (Fair housing advocates have pushed back against these denials, noting a disparate impact on people of color.) In some cases, people who haven't committed offenses themselves but live in public housing risk eviction if they allow friends or family who have certain types of criminal records to live with them, sometimes forcing them to choose between affordable housing and the needs of spouses or adult children.

EMPLOYMENT

Many job applications, including applications for jobs with state and municipal entities, include a question about past or pending criminal charges. Alabama lawmakers have come close to passing "ban the box" legislation that would have barred most public sector employers from asking about criminal history before making a conditional job offer, but as things stand, the practice is still allowed.[158]

Despite record high employment,[159] extraordinarily low rates of unemployment,[160] and concerns about a worsening labor shortage in the construction industry,[161] more than half (53.7%) of justice-involved survey takers in our sample reported that they had been denied employment due to a previous criminal conviction, including 59.7% of individuals who were employed at the time they took the survey and 47.5% of those who were unemployed at the time they answered the question. Everyone pays the price of refusing employment to qualified people based on criminal records: Of the 345 justice-involved individuals in our sample who were on government assistance, 42.9% reported having been denied employment due to a previous criminal conviction.

CIVIC LIFE

Based on the most recent available data, more than 286,000 Alabamians have had their voting rights stripped away because of past felony convictions.[162] This number accounts for 7.6% of Alabama's entire voting-age population, and it includes 15.1% of the black voting-age population.[163]

More than half (55.7%) of justice-involved people who took our survey were not registered to vote due to a criminal conviction.

For years, there was no consistent statewide policy for determining who was eligible to have their voting rights reinstated after completing post-conviction sentences.[164] Alabama law stated that no person with a felony conviction for a crime of "moral turpitude" could be eligible to have their voting rights reinstated, but nowhere in the code of law was "moral turpitude" defined with a list of disqualifying convictions. Without that clarity, the state of Alabama allowed each of the state's 67 county boards of registrars to determine who would or would not have their voting rights reinstated. Outcomes varied wildly.[165]

It is clear that knowledge about the change in the law is not widespread among impacted voters.

In the summer of 2017, the state legislature finally passed a law identifying which convictions qualify as convictions of "moral turpitude," leaving people with any unlisted convictions eligible for immediate voter registration.[166] Even Alabamians with "disqualifying" convictions listed in the act can still get their voting rights back through an application for a Certificate of Eligibility to Vote (CERV) so long as they 1) do not have convictions for impeachment, murder, rape, sodomy, sexual crimes against children, or treason; 2) do not have any felony charges currently pending; 3) have completed their sentence, including probation and parole; and 4) do not have any outstanding fines, fees, or restitution specifically resulting from a listed "disqualifying" conviction.

Only court debts resulting specifically from "disqualifying convictions" can be a barrier to someone having their voting rights restored. Court debts tied to convictions not listed in the 2017 Moral Turpitude Act cannot prevent someone from registering. This law was a welcome clarification for voting rights advocates in Alabama, and it is estimated to have made thousands of Alabamians newly eligible to register to vote.[167]

The State of Alabama, however, has refused to notify many of these eligible voters about their updated status. When confronted with the fact that thousands of Alabamians have in the past been told to their face or in writing by state officials that they would never be eligible to vote again, even though they are now eligible to vote under the new law, Secretary of State John Merrill responded that: "If they're interested in participating in the process, then they're not going to try [to register to vote] just one time... [If] it's important to them to do it, they're going to do whatever it takes to make it happen."[168]

While it is unclear why the state thinks people would disbelieve what was told to them about their voting eligibility by a state official in the past, it is clear that knowledge about the change in the law is not widespread among impacted voters.Of the people surveyed who had been previously told that they would never be able to vote again because of a felony conviction, about seven in 10 (**71.7%**) had not heard of the change in law that allows many of them to have their voting rights restored. Of those who *did* know the law had changed, less than 5%, had learned of the change from a representative of the Alabama government. Another 16.6% learned from a community advocate.

INDEBTEDNESS AND POVERTY

FINANCIAL DISTRESS

Justice-involved individuals who took our survey were in difficult financial straits.

Almost seven in ten (**68.1%**) have at some point been declared indigent by a court.

Close to two-thirds (**63.5%**) did not have a bank account. The survey did not ask why, but in conversation, some justice-involved survey takers explained that they had been forced to close their accounts due to garnishment by payday and title lenders, who in Alabama are known to drain people's accounts with withdrawals that cause overdraft fees.[169] Others explained

that they were unable to open bank accounts because they lacked drivers' licenses. Without bank accounts, even people who are financially solvent struggle to prove creditworthiness, buy cars, rent homes, or otherwise engage in everyday activities.

Over half (**54.2%**) were unemployed. Of those who worked, 69.5% worked full-time and 30% worked part-time.

The majority (**58%**) received no government assistance.

Almost half (**48%**) did not think they would ever be able to pay what they owe. Nearly the same number (**48.7%**) said they'd have no money to get out of jail if they needed it that day.

Despite their poverty, almost three-quarters of respondents (**73.7%**) had never been offered community service as a means of paying down their debt. Not enough people answered the question about how much was deducted from their debt for each day or hour of service, but anecdotally, this amount ranged from $10 to $25 per hour.

Seven in ten (**70.5%**) did not know they could ask to have their payments reduced or deferred.

PENALIZED FOR BEING POOR

People who are unable to afford their court debt payments face additional financial penalties because of their poverty.

More than half (**52.2%**) of justice-involved individuals who took our survey had the amount they owed increase when they failed to make payments, citing interest payments, collections fees, and other financial penalties they struggled to even keep track of.

For example, individuals unable to pay their bail bond fee face an additional fine of at least $500.[170] Those who are unable to pay restitution can face garnishment of their wages or other property[171]: A quarter of justice-involved survey respondents had had money taken out of their paycheck to pay their court debt, and nearly a quarter (**23.5%**) had had money taken from their Alabama income tax to service their debt.

DART – A COLLECTIONS AGENCY BACKED BY THE COUNTY'S TOP LAW ENFORCEMENT OFFICER

One of the most troubling methods of collecting court debt are the state's District Attorney Restitution Recovery Teams, or DART teams. Despite its name, this collections process prioritizes raising revenue for district attorneys and clerks over making victims whole again.

Courts or clerks must notify a DART about court debt once the person who owes it is 90 days in arrears. DART teams then attempt to collect the outstanding debt, and assess an additional fee equal to 30% of the court debt due.[172] Of that, the District Attorney Fund receives 75% and the Circuit Clerk's Fund receives the other 25%.[173]

That additional 30% fee is typically the first slice of money distributed following the collection – victims waiting for restitution don't see a penny until the DART gets its cut, and are completely unaware that payments are being made but diverted elsewhere. Put another way, despite their name, so-called "restitution recovery" teams do not prioritize making victims whole.

Justice-involved debtors, who receive statements showing where their payments are going, find the process demoralizing.

"Every time I turn around, they got a warrant out because I can't pay. Even if I pay like $5 or $10, they still take 35% of that, so you pay $10, you're really only paying $6.50. They said it's a one-time fee, but if you have a couple different cases in a couple different things, they just stack up," said one Mobile County man whose $1,700 in debt had ballooned to over $4,000 after it increased due to nonpayment (see story, "Jonathan Roberts").

DESPERATE CHOICES

Short on income, long on debt, and determined not to be charged more or sent to jail for failure to pay, many justice-involved individuals in our sample made desperate choices as they sought to pay what they owed.

More than eight in ten (**82.9%**) gave up necessities like rent, food, medical bills, car payments, and child support, with people who had never committed felonies about as likely (82%) as people who had committed a felony to be foregoing basic needs in order to keep up with their payments.

53.8% gave up rent payments, risking eviction.

32.8% did not pay medical bills, exposing themselves to aggressive collections agencies.

13.4% skipped child support payments, exposing themselves to additional fines and possible jail time. (In fact, 11.6% of justice-involved survey takers reported they *had* been jailed for failing to pay child support.)

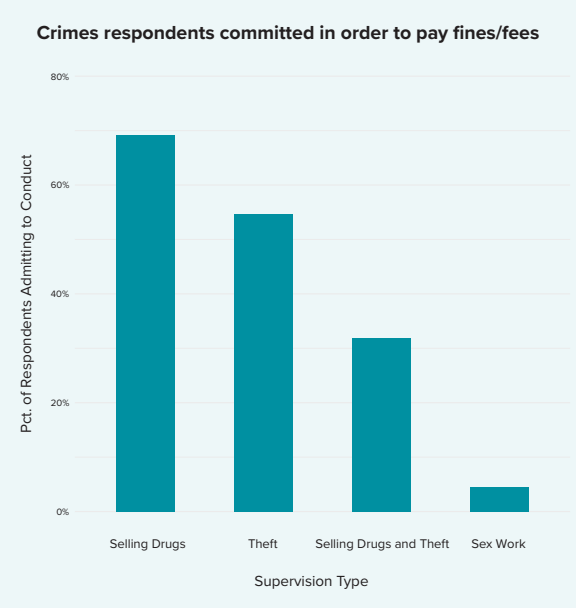
36.1% skipped car payments in order to pay for their court costs, fines, and/or fees, exposing themselves to repossession or collections agencies.

26.6% of the justice-involved individuals in this sample gave up one necessity. **21.1%** gave up two. **22.8%** gave up three. **14.3%** gave four. **8.5%** gave up five, and **4.5%** have given up all of the above. Half of the sample (**50.1%**) gave up three or more basic necessities.

44% of justice-involved participants used payday loans to cover court debt, including about half (**52.5%**) of those who had been denied employment due to a criminal record.

Eight in ten justice-involved survey takers borrowed money from a friend or family member to cover their court debt.

Almost two-thirds (**65.9%**) of them received money or food assistance from a faith-based charity or church that they would not have had to request if they weren't paying court debt.



PUBLIC SAFETY: HOW COURT DEBT MAKES US ALL LESS SAFE

Alabama's effort to fund basic state activities with court debt jeopardizes public safety. Almost four in ten (**38.3%**) justice-involved survey takers in our sample admitted having committed at least one crime to pay off their court debt.

The survey invited people who said they had committed a crime to service their debt to check boxes for "stole" and "sold drugs," and provided space for them to write in any other offenses they had committed to pay their court debt.

69.1% admitted selling drugs.

54.6% admitted theft.

31.8% admitted to both selling drugs and stealing.

4.5% wrote in that they had engaged in sex work.

Other write-ins included passing bad checks, gambling, robbery, selling food stamps, and selling stolen items.

People who had committed felonies were not the only ones who turned to crime to pay off what they owed.

Almost one in five (**19.6%**) of people whose only previous offenses were traffic violations admitted to committing more serious crime to service their debt.

That number rose to almost three in ten (**28%**) when it included only people who had previously committed only misdemeanors or traffic violations.

In other words, Alabama's court debt system pushes people who had previously committed only violations and misdemeanors to engage in more serious types of crime, including felonies.

INDIGENCY: A DISTINCTION WITHOUT A DIFFERENCE?

Almost seven in ten of justice-involved survey takers had at some point been declared indigent by a court. But aside from qualifying them to receive access to a court-appointed attorney on qualified charges, it was clear that an official declaration of indigence did nothing to protect them from being penalized for being poor.

The question about indigency did not ask survey takers to say whether there was a separate indigency determination each time they came into contact with the justice system, so it is impossible to tell whether survey takers' financial situations were available to the individuals setting the consequences decisions discussed below. The fact remains, however, that indigent survey takers were punished *more* harshly than their non-indigent peers by almost every measure:

DIVERSION

About one in five (**19.9%**) of justice-involved individuals had been turned down for a diversion program like drug court because they could not afford it. The likelihood of being turned down for diversion because they could not afford it rose to almost one in four (**23.7%**) if they had been declared indigent. Many of these programs offer substance abuse and mental health treatment, which as a result remain less accessible to individuals who cannot afford to participate in diversion.

14.6% of justice-involved survey takers had been kicked out of a diversion program such as drug court or court referral because they could not afford it. This rose to **17.4%** for individuals who had been declared indigent.

LOSS OF LIBERTY

The U.S Supreme Court has ruled that individuals cannot have their incarceration extended because of unpaid court debt.[174] It has also ruled that individuals cannot be incarcerated because of their inability to pay court debt.[175] Despite these prohibitions, Alabama permits the incarceration of people for "willful nonpayment."

Determination of what constitutes "willful nonpayment" is left to each judge's discretion, leading to different outcomes for individuals in similar financial situations. If a court determines that an individual with unpaid court debt has engaged in "willful nonpayment" then that person can be incarcerated as follows:

If they owe $250 or less, they can be incarcerated for up to 10 days.

If they owe between $251 and $500 they can be incarcerated for up to 20 days.

If they owe between $501 and $1,000 they can be incarcerated for up to 30 days.

For each additional $100 they can be incarcerated for up to 4 additional days.[176]

People on parole can also have their parole revoked if they fail to make restitution payments.[177] This process can be initiated by the district attorney, supervising parole officer, or the individual receiving restitution payments.[178] Individuals on probation or with a suspended sentence can also lose probation or the suspended sentence if they cannot make their restitution payments.[179] This process can be initiated by the district attorney or the individual receiving restitution payments.[180]

People who are unable to pay for mandatory drug treatment can face a probation or parole violation.[181] Incarcerated people can also face up to ten extra months behind bars "for the payment of costs of conviction."[182]

Indigent justice-involved individuals who had been declared indigent who took our survey were keenly aware of how unpaid court debt threatened their freedom.

Just over half (**52.2%**) of justice-involved survey takers had had the amount of court debt they owed increased due to failure to make payments. This rose to **57.6%** of individuals who had been declared indigent.

Just over seven in ten (**72.9%**) justice-involved survey takers had been threatened with jail time for failure to pay court debt, including eight in ten (80.4%) of justice-involved individuals who had been declared indigent.

Almost half of all justice-involved individuals (**49.6%**) actually *were* jailed for failure to pay, including **53.9%** of justice-involved individuals who had been declared indigent.

About one in six (**14.4%**) of justice-involved survey takers were paying or had paid child support. A third of those (**33.9%**) had taken out high-cost loans to cover their child support payments. More than one in ten (**11.6%)** had been jailed for failure to pay, and two-thirds of those (**67.6%**) of those had been declared indigent.

LOSS OF MOBILITY

Despite the vital importance of valid driver's licenses, Alabama laws allows for the suspension of drivers' licenses as a punishment for unpaid court debt, even where the people affected are indigent and have no ability to pay the money.[183] On top of paying off outstanding court debt, people whose licenses have been suspended are also charged a reinstatement fee of at least $100, of which $25 goes to the Department of Public Safety Highway Traffic Safety Fund and $75 to the state General Fund.[184]

44.9% of justice-involved survey takers had had their drivers' licenses suspended due to non-payment of court debt. This number rose slightly to **45.5%** of justice-involved individuals who had been declared indigent.

Indigent justice-involved individuals who had never committed a felony (i.e., they had only been charged with violations and misdemeanor offenses) were *more* likely to have their licenses suspended than the overall population. **51.5%** of those in the sample who had never committed a felony had had their drivers' licenses suspended due to failure to make payments.

PAYING FOR OTHERS' MISTAKES – NON-JUSTICE-INVOLVED HELPERS

All surveys, for both justice-involved and non-justice-involved people, were gathered in the same locations. No special events or locations were set to seek out non-justice-involved persons.

However, non-justice-involved individuals who took our survey because they were paying other people's debts look very different demographically from the justice-involved sample. Clearly and disturbingly, our numbers show that the burden of other people's court debt falls most heavily on middle-aged African-American women.

The median age of the non-justice-involved sample was 49 (as compared to 41 for the justice-involved sample).

Mobility and Transportation

Mobility was a major issue for survey participants. The plurality of justice-involved (45.4%) survey takers relied on friends and family members or public transportation or to get them where they needed to go. These numbers include 22.6% of justice-involved individuals whose primary way of getting around was public transportation – a difficult proposition given Alabama's notoriously under-resourced public transportation system.[209]

More than six decades after the boycott that ended segregation on Montgomery buses and electrified civil rights activists nationwide, the capital city's public transit system is in disrepair, with overcrowded, overheated buses, infrequent service, and routes that often fail to take people where they need to go.[210]

Yet Montgomery is a public transit paradise compared to some of the state's rural areas, where buses are scarce to nonexistent, and the population is scattered far from courthouses and administrative buildings.

More than half (55.4%) of justice-involved individuals who took our survey lacked a driver's license.

- Almost three in ten (28.5%) lacked a license because they could not afford a reinstatement fee.
- About one in four (25.1%) lacked a license because the court took it.
- 11.7% didn't have a license because police took it.

Taken together, these numbers show that almost two-thirds (65.3%) of people who lacked drivers' licenses were without them because of judicial or law enforcement intervention. In interviews, many admitted to driving anyway because they needed to get to work, court dates, medical appointments, or attend to other basic daily needs. Others had driver's licenses but were risking them each time they drove because they couldn't afford insurance. About one in four (27.5%) of justice-involved individuals who said their primary mode of transportation was a car also said they did not have auto insurance.

They were more likely to be female (**80.2%** as compared to **36.5%** for justice-involved survey takers).

They were more likely to be African-American (**71.3%** as compared to **56.1%** for justice-involved survey takers).

It is not a privileged group. Taken together, they were better educated and had significantly more stable living conditions than the justice-involved sample, but:

Only **53.5%** of them were currently employed (mostly full-time).

A quarter of them lacked a bank account.

Almost **15%** were on disability; almost one in five (**18.8%**) were on SSI, and a third (**33.7%**) were on food stamps.

A quarter of them lacked a driver's license, and four in ten lacked auto insurance.

About three in 10 (**28.8%**) rely on public transportation or a friend or family member to get them where they need to go.

Four in ten said that if they needed money immediately to get themselves or someone else out of jail, they would not be able to get any.

Even so, they were helping or had helped friends and family in even worse straits pay off court debt.

The majority (**79.2%**) of non-justice-involved survey takers reported helping a family member. Fewer than one in six (**15.8%**) had helped a friend make payments. Only one in 20 (**5%**) reported helping a spouse or partner, though because the survey did not distinguish between "spouse" and "partner" and also included an option for family, it is possible that some people included payments for spouses in the "family" category."

84.2% of non-justice-involved survey takers gave money on a regular basis to the person or people they were helping with court debt.

This group paid dearly for their devotion to family and friends.

Just over a third of them (**37.6%**) had had to take out a high-cost payday or title loan to help cover someone else's court debt.

Half of them (**49.5%**) had given up necessities like rent, food, medical bills, or car payments to help someone else pay their court debt.

The average amount they'd given was $1,533.34. The median was $930.00, and the most common amount given (the mode) was $1,000.

There can be no question about where this information falls in a discussion of how criminal justice debt affects Alabama's racial wealth gap. While other Alabamians are saving for retirement, paying off mortgages, and helping their children with payments for higher education and other expenses, African-American women with no criminal histories are paying other people's court debt.

PEOPLE WHO WERE PAYING BOTH THEIR OWN DEBT AND SOMEONE ELSE'S

About four in ten (**41.8%**) of justice-involved survey takers were also helping other people pay their court debt. Demographically, this group was broadly similar to the justice-involved-only group. Of these, **29%** had helped a family member, **18.3%** had helped a friend, **2.8%** had helped a spouse or partner. Half of this group left the question about who they had helped blank.

Around one in nine (**11.1%**) had taken out a payday loan to help service someone else's court debt. Almost one in five (**19.3%**) had given up necessities like rent, food, or medical bills to pay someone else's debt.

Failure To Appear

More Alabamians were arrested for failure to appear in 2016, the most recent year for which data was available, than any other single offense.[185] Failure To Appear warrants can be issued for many reasons. Often, judges issue them from the bench when individuals do not show up at scheduled court dates.

Many people who took our survey told survey administrators that they are afraid to go to court and have skipped court dates for hearings on why they have not been making payments on their court debt. Some lacked access to transportation to courts in counties many hours from where they currently reside. Others were aware of multiple Failure To Appear warrants against themselves, knew they might eventually be jailed because of them, and skipped court dates anyway because they were afraid their judge would determine they had been intentionally failing to pay and jail them on the spot.

Perversely, Failure To Appear warrants are also issued against incarcerated people for court dates they miss while they are incarcerated. According to numerous direct service providers who were interviewed for this report, it is not uncommon for people to be free for weeks or months before they learn of outstanding failure to appear warrants. Often, the only way for them to resolve these warrants is to go to court, where they risk being jailed overnight or longer while a judge verifies that they missed their prior court date because they were in custody of the Alabama Department of Corrections or being held in jail elsewhere in the state.

Customer Service

In Jefferson County, which has struggled with bankruptcy in recent years,[186] people are charged $10.00 by the Clerk to look up their case numbers to ensure that they are paying on the correct case. The Jefferson County Clerk's Office only accepts exact payment amounts and will not make change. Many are turned away without making a payment. On any given Friday or at the beginning or end of the month, one clerk is tasked with accepting payments from scores of people waiting in long lines for the privilege of paying these court-ordered amounts.

Reform Trends

AMERICAN BAR ASSOCIATION

In August 2018, the American Bar Association adopted ten guidelines on court fines and fees. They include:[187]

1. Limits to Fees ("[F]ees must be related to the justice system and the services provided to the individual" and "[t]he amount imposed, if any, should never be greater than an individual's ability to pay or more than the actual cost of the service provided.").

2. Limits to Fines ("Fines used as a form of punishment for criminal offenses or civil infractions should not result in substantial and undue hardship to individuals or their families" and judges should maintain the "ability to waive or reduce any fine.").

3. Prohibition against Incarceration and Other Disproportionate Sanctions, Including Driver's License Suspensions.

4. Mandatory Ability-To-Pay Hearings ("Before a court imposes a sanction on an individual for nonpayment of fines, fees, or restitution[.]").

5. Prohibition against Deprivation of Other Fundamental Rights ("[I]ncluding the right to vote.")

6. Alternatives to Incarceration, Substantial Sanctions, and Monetary Penalties ("For people who are unable to pay fines or fees, courts must consider alternatives to incarceration and to disproportionate sanctions, and any alternatives imposed must be reasonable and proportionate to the offense.")

7. Ability-to-Pay Standard.

8. Right to Counsel ("[I]ncluding ability-to-pay hearings, where actual or eventual incarceration could be a consequence of nonpayment of fines and/or fees.").

9. Transparency ("Information concerning fines and fees, including financial and demographic data, should be publicly available.").

10. Collection Practices ("Any entities authorized to collect fines, fees, or restitution ... must not directly or indirectly attempt to thwart these Guidelines in order to collect money.").

SUSPENSION OF DRIVERS' LICENSES

In July 2018 a U.S. federal district judge in Tennessee struck down a Tennessee law that permitted the state to revoke someone's driver's license if they had unpaid fines and fees.[188] California[189], Mississippi[190], and Maine[191] have also ended the practice of automatically suspending licenses for nonpayment of fines and fees, and litigation is pending in Virginia[192], Michigan and Montana.[193]

ACCESS TO COUNSEL

In a March 2016 settlement agreement with the city of Biloxi, Miss., Biloxi police chief, and a Biloxi municipal court judge, the government agreed to establish a public defender's office to represent indigent people at sentencing, when facing jail or probation for failure to pay fines and fees, and at hearings concerning poverty penalties.[194]

PAYMENT PLANS

Numerous state and local jurisdictions have implemented pilot programs that reinstate drivers' licenses and put people on reasonable payment plans. In 2016, the Iowa legislature amended its statute relating to the suspension of drivers' licenses for failure to pay fines and fees to include the ability of a driver to enter into a payment plan before their license is suspended or enter a new, lower payment plan if they are already in one and missed payments.[195] As part of a March 2016 settlement agreement, the city of Biloxi, Miss., established no-fee payment plans, community service, and job skills training, mental health counseling, and drug treatment programs as alternatives to jail for those unable to pay.[196] Also in 2016, the city of Phoenix, Ariz. launched a "Compliance Assistance Program" that will put qualified individuals on realistic payment plans and have their licenses reinstated as long as they remain in compliance.[197]

JUVENILE COURT DEBT

In 2015, the Washington state legislature prohibited municipalities from assessing fees on children. Fines and fees can only be assessed on a child if specifically authorized by statute.[198] In 2017, California banned the assessment of probation supervision, electronic monitoring, drug testing, public defender, and nightly detention fees against parents of children in the juvenile justice system.[199] The same year, the city of Philadelphia stopped billing parents for their children's stays in juvenile detention.[200]

ABILITY TO PAY

Colorado, Michigan, Ohio,[201] Massachusetts,[202] and Texas[203] all require an "ability to pay" hearing to determine whether a person has the ability to pay fines and/or fees assessed against them. In addition, Ohio[204] and Biloxi, Miss.[205] judges receive a bench card to educate them about the case law and statutes surrounding the ability of a judge to jail an individual for failure to pay. In an October 2014 settlement agreement, the city of Montgomery, Ala., agreed to a presumption of indigence when a defendant is at or below 125% of the federal poverty level.[206] For individuals declared indigent, the city will provide a lower payment plan or the option of community service.[207]

Recommendations

Recommendations For State Lawmakers

Eliminate court costs and fees, and scale fines to each person's ability to pay.

Court costs, fines, and fees act as a hidden tax system, and one that falls disproportionately on those who cannot afford to pay. Individuals who are found too poor to hire their own attorneys can nonetheless be charged for their court-appointed attorneys, which can disincentivize people from exercising the constitutional right to counsel. Third-party fees charged by diversion programs pose a similar constitutional problem, creating a de facto two-tiered justice system where rich and poor people with otherwise identical records have different outcomes based on their ability to pay, and leaving impoverished people with permanent criminal records and their attendant harms. Levying fines against people who have no realistic ability to pay them is detrimental to public safety and forces justice-involved people to make unconscionable decisions, forgoing necessities, taking out predatory loans, or committing crimes, all to stay current with their court debt.

Short of eliminating all court costs, fines, and fees, there are many steps lawmakers could take to make the system more equitable, improve public safety, encourage better outcomes for individuals caught up in the criminal justice system, and ensure the court system is adequately funded:

Create a truly unified court system that includes municipal courts.

Alabama created a unified court system in 1973. Since then, funding constraints faced by the courts and the legislature's decisions to turn the courts into tax assessors and collectors have upended that reform. In addition, Alabama's municipal courts act almost entirely outside of the unified court system. As a result, Alabama's courts are not truly unified, leaving taxpayers and lawmakers without clarity around the assessment, collections, and expenses surrounding costs, fines, and fees. Alabama legislators must reaffirm the importance of a unified judicial system by bringing all three court systems under a single umbrella.

Insist on transparency regarding money assessed through the criminal justice system and collected from justice-involved people.

The state also does not provide the public with complete information concerning the amount of money assessed or collected through municipal, district, and circuit courts. The public and policymakers lack basic information about these burdens, including average amounts assessed, the percentage of assessed fees that are collected, and the cost of collections. Instead, we must rely on academic studies that have looked at subsets of people with court debt. Lawmakers should insist on a complete accounting of charges levied in the form of court costs, fines, and fees by courts at all levels, including money collected and disbursed pursuant to state and local ordinances.

Fully fund courts from Alabama's state budget.

Alabama courts have been placed in the difficult position of acting as tax assessor and collector to fund their own operating budgets. This creates, at a minimum, an appearance that courts may make decisions based on revenue considerations, which is unfair to Alabama's municipal, district, and circuit court judges. Alabama's courts provide a vital service to the entire state and all its people, not just those who are justice-involved. They should be funded by everyone. In addition, courts cannot appear to have a focus beyond ensuring the fair administration of justice. State lawmakers must ensure that Alabama's courts have the revenue necessary to provide their vital services

Adequately fund district attorneys and repeal all laws creating alternative revenue streams outside of the General Fund.

Law enforcement is an essential function of government, and district attorneys, as counties' top law enforcement officials, require funding to do their jobs. That funding should come from the state General Fund. Lawmakers should repeal

all laws that create alternative revenue streams, such as the statutes underpinning restitution recovery (DART) programs, DA Diversion programs, and those that allow DAs to keep money or property taken through civil asset forfeiture. To the extent that restitution recovery is considered to be a necessary function of district attorneys' officers, lawmakers should eliminate the 30% fee DART teams charge, and send all recovered money to victims.

Send revenue from all court debt to the state General Fund.

Alabama's courts, prosecutors, and parole and probation professionals have a direct financial interest in the collection of court debt. This creates a perverse incentive and usurps the role of the legislature as the proper venue for appropriating funds to government entities. Sending all revenue collected from court debt to the state General Fund will remove the perverse incentive and better ensure that the legislature maintains its power-of-the-purse role.

Create an indigency standard that is uniform and applied across the entire system and at all phases, from pretrial to post-conviction.

Alabama is assessing debt against people who have no realistic ability to pay. As this report demonstrates, people will take drastic measures to pay what they owe, including forgoing basic necessities, taking out predatory loans, and even committing crimes. Worse, people who are declared indigent before being adjudicated guilty are more likely to be denied access to diversion programs and jailed for being unable to pay their court debt. This makes Alabamians less safe, traps poor people in cycles of debt, and harms individuals and families. State lawmakers must ensure that court debt is not assessed against those who cannot afford it, and create a sliding scale for any mandatory costs, fines, and fees that is proportional to each person's ability to pay.

Create a mechanism for appeal and settlement of unpaid debt, and ensure that justice-involved individuals have access to counsel throughout the post-conviction period during which they continue to owe court debt.

Almost half the people who took our survey did not think they would ever be able to pay what they owe. In civil settings, there are mechanisms for appeal and settlement of unpaid debts, including credit card and medical debt. Alabama lawmakers should create a system for appeal and settlement of all types of court debt, including court costs, fines, fees, and restitution. They should further ensure that justice-involved individuals have access to counsel throughout the entire period that they owe court debt. Unpaid debt can lead to loss of liberty, and no one should face that without counsel.

Limit restitution to material losses.

Restitution is supposed to be about making a victim whole. Instead, Alabama has turned restitution into a revenue-generating program for government, including a victims' fund that allows up to 25% of its funds to cover fund-related administrative costs. Many offenses that are entirely victimless (e.g. possession of marijuana) still entail restitution, a portion of which is sent to the state's victim fund. State lawmakers must ensure that restitution is about making victims whole, and not generating revenue for the state.

Eliminate poverty penalties.

Charging someone who cannot afford the original financial penalty additional penalties is nothing more than penalizing someone because they are poor. These poverty penalties exist throughout Alabama's court debt infrastructure, from the 30% district attorney collection fee, to extending probation, to denying the restoration of voting rights, to installment plan fees. These additional costs have no public safety benefit and make it harder for individuals and families to move forward. Alabama legislators must eliminate all poverty penalties and ensure that people who are poor experience the justice system and its consequences the same ways as people who are wealthy.

Prohibit the suspension of drivers' licenses unless the suspension is public safety focused and directly connected to a driving offense.

Despite the vital importance of a valid driver's license for accessing basics like employment and bank accounts, Alabama laws allow for the suspension of individuals' drivers' licenses if they have unpaid court debt, even if they are indigent and have no ability to pay the money. Suspending drivers' licenses because people cannot afford their court debts has no public safety justification and places unnecessary hurdles in front of people seeking to return to their communities and support their families. Alabama legislators must amend Alabama law to prevent the suspension of drivers' licenses unless the suspension is public safety-focused and directly connected to a driving related offense (i.e. driving while intoxicated).

Ensure equal access to diversion programs.

Participation in a diversion program can mean the difference between having a criminal and a clean record. Yet in Alabama, access to diversion programs are often based on nothing more than an individual's financial well-being or work or family schedule. Some diversion programs maintain high user fees and/or difficult schedules that de facto prohibit individuals with inflexible work or family schedules from participating. This two-tiered justice system has no place in Alabama. State lawmakers should ensure that diversion programs have proper indigency assessments and flexible schedules to ensure that all Alabamians can participate.

Eliminate court costs, fines, and fees for children under 18, and prohibit the transfer of court debt from children to parents and guardians.

Under current law, juvenile courts in Alabama can charge court costs, fines, and fees to children, who generally have little or no income. The percentage of juvenile petitions with court costs has risen dramatically during the last ten years. These court costs, fines, and fees are incompatible with the juvenile justice system's goal of rehabilitation and can actually increase the recidivism rate. State lawmakers must eliminate all court debt assessed against children.

In the same vein, parents and guardians should not face court debt for the actions of their children. Currently, the state can assess court debt against parents based on the action of their children even when the parent or guardian had no knowledge of and did not consent to the child's action. Placing the financial burden on the parent or guardian merely shifts the person in contact with the justice system from child to parent or guardian, which has no public safety benefit and potentially burdens families with unpayable debt. State lawmakers must prohibit the transfer of court costs, fines, and fees from children to parents or guardians.

Eliminate Failure to Appear warrants when the individual failed to appear because they were in government custody.

Individuals held in Alabama's prisons and jails have no ability to travel to a court appearance unless they are brought by the jail or prison officials. Yet people who missed a court appearance because they were in prison or jail at the time of the court date nonetheless often face Failure to Appear warrants when they are released. This is senseless, unjust, and counterproductive, as it creates a hurdle to people trying to re-enter their communities and secure stable work. State lawmakers must prohibit the issuance of a warrant if the person who failed to appear was in government custody in Alabama at the time of the court appearance. State lawmakers must also provide immunity from prosecution for failure to appear if the individual was the custody of another state at the time of the court appearance.

Create a database accessible to municipal, district, and circuit judges that includes records of outstanding court debt across all Alabama jurisdictions.

At present, Alabama judges have no tool with which to determine how much people before them owe in court debt across all Alabama jurisdictions, making it difficult to accurately determine their ability to pay. Creating a comprehensive database for judges would better ensure that they can accurately assess justice-involved people's ability to pay, taking into consideration the entirety of their court-related debt. State

lawmakers must mandate the creation of a database for judges to accurately determine people's ability to pay court costs, fines, and fees.

Prohibit the denial of voting rights based only on the nonpayment of court costs and fines.

Individuals who have completed their sentence can still be denied their right to vote if they have outstanding court debt. The right to vote should not be contingent on a person's wealth. All individuals should be eligible to have their voting rights restored regardless of the speed with which they pay off their court debt. State lawmakers should remove the requirement that individuals who lost their voting rights because of a disqualifying criminal conviction pay off their debt before applying to have their rights restored, and instead they should be automatically eligible to regain their voting rights once their sentence is complete, regardless of outstanding fines or fees.[208]

Reclassify one ounce or less of marijuana, and possession of drug paraphernalia, as civil infractions with fines connected to the defendant's ability to pay.

Thousands of Alabamians are arrested each year for the possession of marijuana, including a disproportionate number of African Americans. Arresting otherwise law-abiding people for the possession of marijuana not only ensures a counterproductive introduction to Alabama's criminal justice system, but also pushes many Alabamians into a cycle of debt as they try to pay any court debt that accompanies a marijuana possession conviction. Reclassifying the possession of a small amount of marijuana as a civil offense would reduce the strain placed on law enforcement and the revenue necessary for Alabama's courts. State lawmakers should reclassify possession of one ounce of less of marijuana as a civil infraction with a fine connected to the defendant's ability to pay.

Though lawmakers have more power than anyone to remedy the inequities and harms created by court debt in Alabama, judges, district attorneys, clerks, the bar, and local communities also have a role to play.

Recommendations For Judges

Determine whether a person is in government custody prior to issuing a Failure to Appear warrant, and do not issue the warrant if the person is found to be in government custody.

Individuals held in Alabama's prisons and jails have no ability to travel to a court appearance unless they are brought by the jail or prison officials. Yet, people who miss a court appearance because they were in prison or jail at the time of the court date nonetheless often face Failure to Appear warrant when they are released. This is unjust and counterproductive, as it adds an additional hurdle to people trying to re-enter their communities and secure stable work. Judges should confirm that people are not in government custody before issuing failure to appear warrants.

When discretionary, reduce debt assessed against any person found to be indigent for criminal representation purposes.

People who cannot afford attorneys likely cannot afford to pay court debt either. Assessing court debt on indigent individuals who cannot pay it has no public safety benefit, and, as this report found, often leads them to face unconscionable decisions like giving up basic necessities, going to a predatory lender, or committing a crime to pay off the debt. Judges retain the authority to significantly mitigate the collateral harms of Alabama's reliance on court debt, and we urge them utilize this discretion. As a matter of practice, judges should waive all discretionary costs, fees, and fines for defendants found to be indigent. For offenses where the only sanction is a fine, judge should reduce the fine in proportion to the individual's ability to pay.

Docket hearings on ability to pay within 90 days of a missed payment, and appoint counsel at ability-to-pay hearings.

After 90 days of non-payment, penalties such as interest and DART referrals begin to accrue. Judges should make a practice of docketing ability-to-pay hearings before the 90-day mark is reached, and appoint counsel to individuals facing such hearings.

Appoint counsel any time a justice-involved individual faces loss of liberty.

Almost half of the justice-involved individuals who took our survey reported that being jailed for failure to pay their debt, and many more reported being threatened with jail if they did not come up with the money they owed. In conversation, many expressed terror and dread of court dates pertaining to failure to pay, and some admitted to skipping failure to pay hearings for fear of being jailed, even though they were aware that this decision would almost certainly lead to the issuance of a Failure to Appear warrant. No one should face loss of liberty without access to counsel. Judges should make a practice of appointing counsel any time jail time is a possibility.

Recommendations For District Attorneys

Voluntarily disclose all revenue from all sources, by source, on an annual basis.

Law enforcement is a crucial function of government, but it cannot function without public trust. As the top law enforcement officials in their counties, district attorneys should be open about their financial situations and voluntarily disclose their balance sheets on an annual basis. These disclosures should include all revenue from all sources, including but not limited to DART programs, diversion, civil and criminal forfeiture.

Apply an objective standard to determine eligibility for diversion, and use an objective standard to determine indigency for purposes of participation in diversion programs.

Eligibility for participation in diversion programs that allow people to potentially have charges dismissed and walk away with clean records should be determined according to clear, objective standards, and those standards should be known to all. All individuals who are eligible to participate should be subject to ability-to-pay evaluations, and the indigency standard should be the same as the one that triggers access to appointed counsel. Indigent individuals should be allowed to participate in diversion programs free of charge, and fees for everyone should be scaled to their ability to pay, with a maximum cap.

Avoid revenue streams that are funneled through the court system.

District attorneys are part of the executive branch of government, but all too often, they depend on funds collected through the court system. Permitting or requiring the judiciary to collect money that is used by the executive branch upsets the separation of powers and creates an appearance of impropriety that undermines public trust in the justice system.

When people miss court dates, determine whether they are in government custody and argue that the court not issue a warrant if they are.

People should not face prosecution for missing court dates that occurred while they were in government custody. Before prosecuting individuals who miss court dates, district attorneys should determine whether they were in custody at the time of their dates, and argue against issuing warrants if they were.

Do not establish District Attorney Restitution and Recovery Teams (DART)

The purpose of restitution is to make victims whole, not serve as a revenue stream for government. DART teams are entitled to charge 30% of what they collect as a collections fee, disbursing 25% of the fee to the clerk and the remaining 75% to the district attorney's office. Often, this 30% is collected off the top, meaning victims see their money only after the district attorney and clerk get their cuts. District attorneys should use their discretion and decline to create DART teams. Barring that, they should ensure that money is received first by victims and only then by the beneficiaries of the collections fee.

Advocate in the legislature for the elimination of the current court debt system, as it makes communities less safe when people commit crimes to pay their court debt.

The current court debt system endangers public safety by encouraging impoverished people to commit crimes to pay what they owe. As the top law enforcement officers in each circuit, district attorneys should advocate to change this system to one that is more just and does not encourage people to engage in unlawful behavior.

Stop prosecuting individuals for possessing one ounce or less of marijuana and for possession drug paraphernalia.

Thousands of Alabamians are arrested each year for the possession of marijuana, including a disproportionate number of African Americans. Arresting otherwise law-abiding people for the mere possession of marijuana not only ensures a counterproductive introduction to Alabama's criminal justice system, but also pushes many Alabamians into a cycle of debt as they try to pay the court debt that accompanies a marijuana possession conviction. Discontinuing the practice of prosecuting people for possession of one ounce or less of marijuana would reduce the strain placed on district attorney budgets and free up additional time for serious criminal matters. District attorneys should follow this commonsense approach.

Recommendations For Clerks

Prioritize making victims whole over repaying entities, such as DART teams, that assist with collections

Restitution exists to make victims whole, but in many counties, district attorneys get the first cut of any restitution collected by their DART teams. If a person owes $100 in restitution and that sum is referred in its entirety to the DART team, the first $30 collected will, in many jurisdictions, be disbursed to that team. Whether or not a DART team is involved in recovering restitution, clerks should pay money collected in the name of restitution to victims first, and pay anyone else who has claim to it only after the victim has been made whole.

Make a practice of alerting judges when people are behind on payments so that ability to pay reviews can be conducted within 90 days

After 90 days of non-payment, penalties such as interest and DART referrals begin to accrue. Clerks should make a practice of alerting judges about nonpayment of fees well before the 90-day mark is reached, so that judges can set hearings on ability to pay before penalties take effect.

Recommendation For Local Governments

Instruct local law enforcement to de-emphasize the enforcement of Alabama's marijuana and drug paraphernalia possession laws

Thousands of Alabamians are arrested each year for the possession of marijuana, including a disproportionate number of African Americans. Arresting otherwise law-abiding people for the mere possession of marijuana not only ensures a counterproductive introduction to Alabama's criminal justice system, but also pushes many Alabamians into a cycle of debt as they try to pay the court debt that accompanies a marijuana possession conviction. Deemphasizing marijuana possession enforcement would reduce the strain placed on law enforcement and the revenue necessary for Alabama's courts. Local governments should request that their local law enforcement follow this commonsense approach.

Stories

Angela Dabney

Angela Dabney, 40, of Montgomery, is terrified of law enforcement. The single mother of three children, she has three outstanding Failure to Appear warrants for traffic tickets she cannot afford to pay. She says she has never been convicted of a felony or misdemeanor, but she does not have the money to pay her tickets or even afford to keep up with the payment plan she was assigned. Her driver's license is suspended, and she cannot afford to get it back. Instead, she lives in fear that a chance encounter with law enforcement could upset the impossibly delicate balance of her life.

Dabney desperately wants a job. For a moment, she found one, packing goods for a moving company. But she was fired after a background check revealed her unpaid tickets and suspended license.

> "I can't get a job because of these tickets."

The only way Dabney can clear her record is to appear in court and hope that the judge understands her circumstances and either forgives her debt or works with her to create a payment plan she can afford. But if she turned herself in, she risks being locked up until a court date is set.

"I can't afford to do that. I'm a single parent and I have to be at home with my kids," she said. Instead, she hides. "[I] can't get a job because of these tickets. I have to pay my bills or I'd be out on the street, so I take paying my bills over tickets. I'm sorry, it might not sound right, but it's the truth."

Jonathan Roberts Jonathan Roberts acknowledges he's made mistakes. The 25-year-old, who was living at Mobile's Waterfront Rescue Mission at the time he was interviewed, became addicted to drugs when he was in his late teens. Over the years, he racked up an estimated $1,700 in court fines and fees – debt that nearly doubled, he said, due to his inability to pay on the schedule set by the state. He's lost his driver's license and, with it, his ability to work. On numerous occasions, he's lost his liberty because of his inability to get to court for dates that keep being reset. He hasn't quite lost hope – not yet.

"[E]very time I've missed a payment, they either put a 35% fee on it because I missed a payment, or they put me in jail. There was one time I spent two months in jail and only got $750 off," Roberts said.

Sometimes, Roberts' court date would be reset, forcing him to travel long distances from his then-home near Mississippi at a time when he had no driver's license or money to help pay for gas, even when he could get a ride. Missed court dates led to Failure to Appear warrants that put him at risk of being dragged back to jail any time he came into contact with law enforcement.

"Say I was driving without a driver's license. ... So if I get pulled over, I get a [citation for] driving while suspended. It just racks ups, racks up, racks up and just gets higher and higher and higher. And before you know it you're just in an overload of debt, and every time you get pulled over, every time you're riding in a car with somebody, you're just going to jail," he said.

Jonathan Roberts

Mobile's District Attorney Restitution Recovery Team (DART), which receives referrals for uncollected court debt and is empowered to collect a percentage off the top of anything it takes in, even came after Roberts while he was in a drug rehabilitation center trying to get his life back together.

"They're threatening to put warrants on me because I can't afford to pay while I'm in a rehabilitation center," he said. "Every time I turn around, they got a warrant out because I can't pay. Even if I pay like $5 or $10, they still take 35 percent of that, so you pay $10, you're really only paying $6.50. They said it's a one-time fee, but if you have a couple different cases in a couple different things, they just stack up."

"Having to fear the police is not right, because of debt."

Sober for 14 months, Roberts is eager to get his life back on track. He tried community service when it was offered, but received only $50 off his debt for eight hours of labor - less than minimum wage. He wants to work, but despite training as a diesel engineer and a job offer from his father, who owns and operates tugboats, he can't get an occupational license because his driver's license is suspended.

"Without a driver's license, you can't get a boat license. I'm working on getting my captain's license, and I'm at the bottom stage because of my court proceedings. And that's where I'm stuck at right now," he said.

"I know I messed up when I was young, but let's try to move forward," he continued. "Because if not, being in debt, it makes the bad side so much easier than the good side. And if you want to stay to the good side, you need a little help. Just a little. A pat on the shoulder, or just 'We're not gonna put you in jail this time because you can't pay. But having to fear the police is not right, because of debt."

Rhonda Faye Mitchell

Rhonda Faye Mitchell did everything right after getting out of prison. She found a place to stay, she landed a salaried position as a housekeeper at a Montgomery church, and she set out to put her life back together.

Mitchell, 43, earns about $1,200 a month as housekeeper at a church near the halfway house she currently calls home – but she can't cash her paycheck. Without a driver's license or other valid ID, she can't open a bank account or even use a check-cashing service. It's a good thing she can walk to work, because it could be a long time before she's able to retrieve her license.

Mitchell was preparing to take her test and pay her reinstatement fee, when a state worker told her that there was a bench warrant out for her arrest for failure to appear on a ticket she received sometime between 1999 and 2002, which resulted in the suspension of the Tennessee license she held at the time. Mitchell tried to find out more, but without her Tennessee driver's license number, which she does not remember, she can't even learn what exactly she owes or what sentence she faces for this long-ago violation. Her only option is to go to court in Brookside, Ala., the tiny Jefferson County town from which she was told the warrant issued.

The problem is that if she went to court in Brookside, she would be arrested and jailed because of the outstanding warrant. The same fate would await her if she tried to get the felon ID which the state of Alabama issues to qualifying individuals after their release from incarceration. Until she resolves things, Mitchell, who owes about $600 in restitution plus $40 per month in "probation fees, will keep walking to work.

"I cannot afford to not be at work."

"I wanted to be able to go ahead and just – what is it that I need to pay, what is it that I need to do?" she said.

"[W]hat I'm facing now is not really being able to go handle it myself for fear of being locked back up in a county [jail]," she said. "I just got this new job. I cannot afford to not be at work."

Robert Stanley

Robert Stanley was six months out of prison and doing well. He had a job in construction. He had a life. Following the conventions of small-town life in rural Alabama, he waved to police officers when he saw them.

Then he got caught up in a roadblock. Police ran his name and found he had an outstanding warrant for failing to appear at a court date regarding his failure to pay court debt.

Stanley, 31, hadn't known about the court date, and in any case, he was locked up in prison at the time it took place. It would have been impossible for him to attend.

None of that mattered to the police who arrested him and took him to jail. "They said it wasn't their problem," he said.

"You can't win for losing."

On top of the debt, Stanley was assessed a $750 "DA fee" for his failure to pay. He doesn't know what a DA fee is, but he does know "I stayed in jail two weeks and had to pay that before I could get released. I had to borrow it from in jail, I had to get my family to work on it," he said.

Paying them back when he got out was a problem too. "I was working, but I didn't have no employment after that because I had missed two weeks," he said. "I just kind of lost hope. I said screw it, you can't win for losing. Even if you're trying to do right." He relapsed and was soon facing additional drug charges in another county.

He returned to prison and completed two eight-week drug rehab courses, hoping those would fulfill an element of his plea agreement that required him to enroll in residential rehabilitation upon release. Stanley's four months in Alabama Department of Corrections-certified rehabilitation did not count toward his plea agreement, though, so off to residential treatment he went. He owes close to $10,000 in court debt. Some of those payments are officially on hold while he completes treatment; he's accumulating interest and penalties on others. He expects to owe $300 a month in fines, court costs, and reporting fees once he starts paying again.

"It's hard to get back going," he said. "It's so much pressure on a person."

D.

D. wants people to understand that for people like her, financial punishments are more than a slap on the wrist.

A shy woman who was interviewed during a smoke break at the job she holds while in the custody of Alabama Department of Corrections' work-release program, D., 30, owes about $1,500 in court debt from a case out of Baldwin County, including a $1000 fee for the court-appointed attorney who represented her after a judge found her indigent. She also owes more than $30,000 in child support.

D. has lost track of how much she's spent to cover court debt. Over the years, she has forgone food and failed to pay utilities, rent, medical bills, child support, and car payments to cover court debt for herself or her children's father. She has borrowed money from friends and relatives and taken handouts from faith-based organizations because too many of her earnings were going toward court debt.

At times, she has been jailed for failure to pay. Other times, she's sold drugs, or stolen from family, friends, and stores to get the money she needs to pay off court debt. To pay what she needs to stay out of jail, D. has sold her own body.

"Not everyone has money."

Asked if she expects that she'll keep up with payments after her release from Department of Corrections custody, D. said, "I'll make sure of it because I don't want [to be] locked back up."

"Not everyone has money. For some people that is a big deal," she said. "We have to work hard, and a lot of places look at certain people and where we come from ... and they don't want to give you a job. So you have to go to alternative sources."

Teon Smith, 41, thought she was doing the best thing for her family when she took out $50,000 in loans to go back to school at a private, for-profit college in Montgomery. A single mother of five, she thought an associate degree in business would help her get the kind of job she needed to support her children, who range in age from 5 to 15.

Smith has signed up with temp services, registered at career centers, applied, interviewed – and been turned down because most professional jobs require a valid driver's license. Smith doesn't have one because of $1,400 in traffic tickets in two counties.

She tried. She gave up necessities, but her monthly grocery bills run $150 to $200. She took out a $300 payday loan to try to stay current on the payment plans, but she fell behind in Elmore County. After that, the judge told her she needed to pay in full or not at all. Since Smith doesn't have $1,400 dollars, her license is suspended.

"They don't care. You get a ticket, you go to court, if you don't, you go to jail. And then if you can't pay it ... they don't even try to work with you," she said.

To try to pay the bills, Smith works at retail job for $10.00 an hour, but some weeks she doesn't even get 12 hours there. She's terrified every time she gets in the car to drive to work, but the alternative is worse.

Teon Smith

"We run out of food, for real."

"We run out of food, for real. ... I have four boys and they can eat," Smith said. "If I had a cow, I'd be happy, because they drink milk like that in my house. Two gallons don't last a week."

Terrance Truitt's teenaged twins are always hungry. But the 38-year-old Montgomery man doesn't always have the cash he needs to feed them. To keep food on the table, he fishes.

Truitt knows from experience that he won't catch much at local pay-to-fish ponds. So when he needs food, he fishes where he knows he'll get what he needs, even if that means fishing on public land where it is forbidden. On several occasions, encounters with game wardens have resulted in significant fines: $200 if he pays right away; $600 when he's forced to go to court. Between court costs associated with his fishing violations, traffic tickets, and debt from a conviction for possession of marijuana, Truitt says he owes more than $5,000.

In the past, Truitt has been jailed for his inability to pay. His probation for the marijuana conviction was extended to two years because he couldn't pay off all he owed before then. He's borrowed from family and friends, accepted charity, and taken out predatory loans in order to pay off court fines and fees. He's been jailed for failure to pay. He pays what he can, when he can – but always by mail, because he's afraid that appearing in court will result in his incarceration on failure to appear or failure to pay warrants.

Truitt, who was homeless but had recently found a steady job when he was interviewed in June 2018, says his main concerns are finding enough food for his children and scraping together money to pay his court debt.

"It's kind of hard from time to time," he said. "I be trying to feed their mouths the best I can without getting into trouble. So I just do the fishing."

Terrance Truitt

"I be trying to feed their mouths the best I can without getting into trouble. So I just do the fishing."

"Rheni J."

"You have to work a thousand times harder … just to show people that you're worthy."

Rheni J. admits she's made mistakes. The 36-year-old Huntsville native says she joined a cult-like church in the late 1990s, and soon found herself stealing credit card numbers to finance the lifestyle her pastor insisted on. She knew it was wrong, but everyone she trusted was doing it, and she did too. Ultimately, she was convicted of felonies in both Alabama and Georgia.

Rheni has served her time, and she is desperate to fully re-engage in civic life. She dreams of becoming professional counselor and working with young people, helping them avoid the mistakes she made.

More than anything, she wants to vote.

"I don't have a choice to put the right people in office until I pay off my restitution," she said. "I don't talk about voting, because what am I going to say? I can't vote, I'm a felon. … It's not a conversation I can have. So I have to just sit here like a person who just doesn't care, and I care so much."

Eight years after her conviction, Rheni still owes $3,000 of the $8,000 total she is due to pay, an amount she estimates it will take at least two more years to pay off.

The burden is not hers alone. Because of her precarious financial position and difficulty finding adequate employment, she lives with her mother. Before her convictions, she used to help with rent and bills, but her current job situation means she can't contribute what she once did. At times, her mother has had to take out loans to help with Rheni's criminal justice debt – anything to keep her from going back to jail.

"I didn't mind going to jail, I didn't mind paying restitution.… If you do something wrong, you've got to suffer the consequences," she said. "But it shouldn't halt your life, stop your life, or make you go forward into doing more wrong. It's a threat of – here you go. You're going back to jail."

Once she's paid everything off, Rheni plans to seek formal redemption by receiving a pardon.

"I want them to make a decision and say, 'She can have her dreams even though she made a mistake eight years ago," she continued. "You have to work a thousand times harder, from one mistake, just to show people that you're worthy."

Terry

Terry pays $275 a week for the Huntsville motel room he shares with his three adult children and two school-aged grandchildren. They'd like to move out and find a place where the children and their mother, who was seven months pregnant at the time Terry was interviewed, would have stability and enough space, but there's nothing affordable within walking distance of Terry's job.

Terry, 57, doesn't have a car. Even if he did, it would be risky to get on the road because his driver's license is suspended, and he can't afford the fee to get it back. Between back child support payments and a 20-year-old criminal justice debt that he estimates has increased by about $400 since he incurred it two decades about, Terry, who makes $12 an hour, owes the state about $3,000.

The three adults living with him, ranging from ages 21 to 27, are in similar straits. At the time he was interviewed, Terry was helping one of his daughters pay the state $75 a month on a fine

> "All I want is a home to where they don't have to worry where they're going to go."

she received for driving without insurance. Her license was suspended after she missed a court date, so he was also putting money aside for the $150 she'd need to get it back.

A wounded veteran, Terry is eligible for housing assistance from the U.S. Department of Veterans' Affairs. He has refused it because his adult children would not be allowed to live with him. For a while, he and his family lived in a home in Ardmore, within walking distance of a job where he made $16 an hour. But his supervisor, who was friendly with the landlord, moved in uninvited and started making unwanted sexual advances on Terry's pregnant daughter.

Terry kicked him out, and two days later, the whole family was evicted. "They locked my daughter out and throwed all of her stuff away," Terry said. "My granddaughter and grandson lost everything that they had – clothes, toys."

The family moved into a motel room, where the four adults and two children have just two double beds between them. They get food assistance from a local food pantry, but "just don't have a lot to cook with out there – we've got one skillet," said Terry. They have no vehicle. Last school year, the children missed so much school that their mother feared they'd be taken from her.

"All I want to do – I want to live peacefully, and I'd like to have a place to live. But there again, I have to take care of my grandkids and my daughters. They've made their mistakes, but they shouldn't have to keep paying for them," Terry said. "I pray for them every day. All I want is for them to be all right. All I want is a home to where they don't have to worry where they're going to go."

Callie Johnson

Callie Johnson doesn't have any outstanding legal debt. But it's not herself she's worried about – it's her adult children. Johnson, 55, of Montgomery, estimates she's spent over $2,000 dollars helping two sons and two daughters pay off court debt over the years.

One of her sons died in 2016 at the age of 27. He was intellectually disabled and suffered from seizures and serious mental illness. More times than Johnson can remember, he was arrested and jailed for criminal mischief after restaurants or other business establishments called the police because they did not like having him on their premises.

"Every time, criminal mischief – but how? He was just sitting over there," she said. "And I know if they tell him to move – and a lot of them don't understand. When you have those mentally challenged people, if you holler at them, oh my goodness, that just sets them off, and they don't understand. Every police officer needs to have a degree in psychology."

Few police officers have a background in psychology. Nor do many jail officials, who would worry Johnson to death by housing her disabled son with the general population instead of in a medical cell. No judge in her memory dismissed charges against him, even after she brought attention to his multiple disabilities and difficulty following directions or understanding why his behavior might be considered objectionable. So over and over, she bailed him out and helped pay off debt.

Another son also struggled. His car was old and conspicuous, and the same police officers pulled him over again and again, ticketing him for driving without a license or insurance. He once spent about two months in Montgomery City Jail due to unpaid tickets. At 36, he just got his license reinstated after more than a decade without one.

Two of Johnson's daughters also have substantial debt to pay off from tickets for driving with suspended licenses or without insurance. One of them is on a payment plan. The other is afraid to go to court – she has three children, and cannot afford to go to jail, pay her tickets, or buy insurance.

> "Every police officer needs to have a degree in psychology."

Johnson struggles to keep herself insured. She has a job, but between rent and other necessities, and keeping her struggling children afloat, she can only afford insurance off and on. Describing her children's situation – and her own – she said, "You have to have insurance to get a tag. ... But they don't go back and finish paying because they don't have the money. They just need to get transportation. So it's all a Catch-22."

Appendix – 2018 Court Debt Survey

Alabama Appleseed and its partners are collecting information on the impact of court costs, fines, and fees in the criminal justice system.

This survey is totally ANONYMOUS. You will not be asked to give us your name to participate in this survey.

Please fill in each bubble and answer each question to the best of your ability.

If you have any questions at any time or are unsure of your answer, please ask the survey monitor for help.

- Do you currently owe, or have you ever owed any court costs, fines, and/or fees not including traffic tickets where you didn't go to court and didn't pay over time? (Y/N)
- Have you ever paid any court costs, fines, and/or fees for someone else? (Y/N)

If you answered YES to one or both of these questions, please continue.

I. The first section is about your experience.

If you have never personally owed any court costs, but have paid for someone else, skip to section four on PAGE 8

To the best of your ability, please answer the following questions.

1. Have you ever been charged with? (check all that apply) (Traffic violation (speeding, dui, driving without a license), Misdemeanor (non-traffic), Felony)

2. Are you currently under supervision for a felony or a misdemeanor? (Y/N/Unsure)

3. Have you *ever* been under supervision for a felony or misdemeanor? (Y/N/Unsure)

4. Are you currently on the following? Check all that apply. (Court Referral (CRO), Community Corrections, State Probation, Parole, Drug Court, DA Diversion, Private Probation, Other (specify))

5. Have you *ever* been on the following? (Court Referral (CRO), Community Corrections, State Probation, Parole, Drug Court, DA Diversion, Private Probation, Other (specify))

6. Have you ever been turned down for a diversion program (Drug Court, DA diversion, Community Corrections, CRO) because you could not afford it? (Y/N)

7. Have you ever been kicked out of a diversion program for failure to make payments? (Y/N)

8. Have you ever been declared indigent by the court, appointed a lawyer, or represented by a public defender? (Y/N)

9. Have you ever been denied housing due to a criminal record? (Y/N)

10. Have you ever been denied employment due to a criminal record? (Y/N)

II. This section is about court costs, fines/fees, and criminal justice debt that you owe. Please respond to the following questions to the best of your ability.

11. What types of fees or payments have you made? (Check all that apply). (Court costs and restitution (state), Court costs/fines (municipal court), Community corrections fees, Drug court fees, Probation supervision fees (state), CRO fees, Court ordered child support

12. How much have you paid for court costs, fines, and/or fees?

13. Have you made multiple payments over a period of time? (Y/N)

14. How long were you in a situation where you owed court costs, fines, and/or fees?

15. If you are unsure of how long, can you give us your best guess? (Less than a year, 1 to 5 years, 6 to 10 years, More than 10 years, More than 20 years, I still owe money)

16. Do you feel you will be able to pay what you owe? (Y/N)

17. Have you ever had to choose between paying for necessities such as food, utilities, rent, and court costs, fines, and/or fees? (Y/N)

18. IF YES, please tell us what you had to give up to pay for court costs, fines and/or fees. (Check all that apply) (Food/Groceries, Utilities, Rent, Medical Bills, Child Support, Car Payments, Other (specify))

19. Have you ever accepted food or money for things like utilities from a church or faith based organization because you did not have money after paying your court costs, fines, and/or fees? (Y/N)

20. Have you ever used a payday or title loan to pay for any court costs, fines and/or fees? (Y/N)

21. Have you ever borrowed money from a relative or friend to pay any court costs, fines, and/or fees? (Y/N)

22. Have you ever been offered community service instead of paying court costs, fines, and/or fees? (Y/N)

23. How much off your court costs, fines, and/or fees have you received for an hour of community service?

24. Have you ever had to commit a crime to get money to pay court costs, fines, and/or fees? (Y/N)

25. IF YES, what did you have to do? (Sell drugs, Steal, Other (specify))

26. How much do you currently owe for court costs, fines, and/or fees?

27. If you don't know or are unsure of how much you owe, what would be your best guess? (Less than $500, $500-$999. $1,000-$4,999, $5,000-$9,999, $10,000-$19,999, $20,000-$29,999, $30,000-$39,999,$40,000-$49,999, More than $50,000)

III. This section is about failure to make payments related to your personal court costs, fines/fees or criminal justice debt. Please answer each question to the best of your ability.

28. Have you ever been threatened with jail because you cannot pay court costs, fines, and/or fees? (Y/N)

29. Have you ever been jailed for failure to pay court costs, fines, and/or fees? (Y/N)

30. Have you ever had the amount you owe increased due to failure to pay court costs, fines, and/or fees? (Y/N)

31. Have you ever had the amount you owe decreased due to failure to pay court costs, fines, and/or fees? (Y/N)

32. Is it clear to you whether you can ask for your court debt payments to be reduced or deferred? (Y/N)

33. Have you ever had money taken out of your paycheck to cover any court costs, fines, and/or fees? (Y/N)

34. Has your driver's license ever been suspended for failure to pay court costs, fines, and/or fees? (Y/N/Never had a license)

35. Have you ever had money taken out of your Alabama income tax return to pay for any court costs, fines, and/or fees? (Y/N/Unsure)

36. Have you ever been jailed for failure to pay child support? (Y/N)

37. Have you ever taken out a payday or title loan to pay child support? (Y/N)

IV. This section applies to your experience in having to borrow money or make payments for SOMEONE ELSE'S court costs, fines, and/or fees. Please answer each question to the best of your ability.

38. Who have you made payments for? (Check all that apply) (Family member, Friend, Other (please specify))

39. Have you helped make payments for this person over a period of time? (Y/N)

40. What is the total amount of money you have given to someone else for court costs, fines, and/or fees?

41. Have you ever borrowed money from a family member or friend to pay for SOMEONE ELSE'S court costs, fines, and/or fees? (Y/N)

42. Have you ever taken out a payday or title loan to pay for someone else's court costs, fines, and/or fees? (Y/N)

43. Have you ever had to choose between paying court costs, fines, and/or fees for someone else and necessities such as food and utilities? (Y/N)

V. The final section is about you. Please answer each question to the best of your ability.

44. Age: _____

45. Gender (Male, Female)

46. Race (Caucasian, African American, Latino/Hispanic, Asian/Pacific Islander, Native American, Black/West Indian, Bi-Racial, Other)

47. What is the highest level of education you have completed? (Some high school, High school diploma/GED, Some college, 2-year college degree, 4-year college degree, Other (specify))

48. In the past 30 days, where have you lived most of the time? (Apartment/House (Own or Rent), Institution (Options: Hospital, Nursing Home, Jail/Prison), Residential Treatment Center, Halfway House, Shelter/Homeless, Staying with friend/family member)

49. What is your zip code?

50. Are you currently employed? (If not, skip to question 55). (Y/N)

51. Do you work full-time or part-time? (Full-time, Part-time)

52. Do you receive a paycheck? (Y/N)

53. IF YES, how often do you get paid? (Weekly, Bi-weekly, Monthly, By the job, Other (specify))

54. How many months have you been employed in your current job?

55. What other sources of income do you have? (Disability, SSI, Food Stamps, Other (specify), None)

56. Do you currently have a driver's license? (Y/N)

57. If not, why not? (Police took it, Court took it, Cannot afford reinstatement fee, Cannot afford insurance, Never had one)

58. What is your primary mode of transportation? (Car, Public Transportation, Friend/Family Member, Other)

59. Do you have auto insurance? (Y/N)

60. Do you have a bank account at this time? (Y/N)

61. If you had to get money to stay out of jail, how much cash would you have access to today?

62. Are you registered to vote? (Y/N)

63. If not, why not? (Options: Previous criminal conviction, Outstanding fines or fees, Never registered, Unsure, Choose not to vote, Other (specify))

64. Did you know that the law changed last year to allow some people with criminal convictions to vote? (Y/N)

65. If yes, how did you learn about the law change? (Legal aid or criminal defense attorney, A representative of the Alabama government, Community Advocate, Other (specify))

Finally, please leave any comments you have about your experience with criminal justice debt in the box below.

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Alabama Appleseed managed, directed, and made all final editorial decisions regarding this project. Any errors and omissions are the responsibility of Alabama Appleseed.

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"Many of the findings in this report match the challenges I have seen for people coming out of prison. While we may say they have 'paid their debt' to society, we rarely forgive their debts to the system. These debts compound the formidable challenges prisoners face when returning from prison. 'Do not exploit the poor because they are poor and do not crush the needy in court.' (Proverbs: 22:22)"

Drayton Nabers Jr.
Director, Mann Center for Ethics and Leadership
Samford University

"The financial burdens imposed by the justice system fall disproportionally on the poor. They ensnare them in a financial prison of desperation, downward spiral and despair. The existing anecdotal evidence of their plight has now been verified and quantified. This study gives voice to those that have none. It provides the empirical data to guide our policy makers in addressing much-needed reforms; if only they have the will to do so."

Hub Harrington
Circuit Judge (Ret.), 18th Judicial Circuit
(Shelby County)

"Courts should be about the delivery of justice and not singularly focused or driven by the collection of fines and costs."

Stephen Wallace
Circuit Judge, 10th Judicial Circuit
(Jefferson County)

"This important and alarming report documents that equal justice is a hollow promise in Alabama. Alabama's reliance on fines, fees and costs has created a two-tiered system of justice – one for people with money and one for low-income people and particularly of people of color who, as the report dramatically illustrates, are condemned to a perpetual cycle of punishment and poverty."

Lisa Foster and Joanna Weiss
Fines & Fees Justice Center

"People across Alabama are ending up in jail and with criminal records because they couldn't pay fines and fees and drove on a suspended license. Jail should be reserved for those who pose a public safety risk - not for those who simply can't afford to pay. When we jail people for being poor, we only make it more likely that they will be unable to find legitimate employment and that the state will have to pay the tab."

Law Enforcement Action Partnership