

**WRITTEN TESTIMONY OF AMANDA WOOG, EXECUTIVE DIRECTOR,
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JUDICIARY**

**Subcommittee on Crime, Terrorism, and Homeland Security
*A Fine Scheme: How Court-Imposed Fees and Fines Unjustly Burden Vulnerable
Communities***

July 27, 2021 10:00 AM

Good morning, Chairman Nadler, Ranking Member Jordan, Chairwoman Bass, and Ranking Member Biggs.

1. INTRODUCTION

My name is Amanda Woog. I am the Executive Director of the Texas Fair Defense Project, a legal organization where we fight to end the criminalization of poverty. Each year, our attorneys represent hundreds of people who are saddled with criminal debt they cannot afford. We help them get out of debt and on with their lives; we then work with our clients to use what we have learned from their experiences and push for greater systemic changes.

Thank you for the opportunity to speak about fines and fees, and to emphasize the importance of dramatically rethinking our current fee-based criminal legal system. Criminal fines and fees uniquely burden people who are low-income, and even a few hundred dollars of court debt will turn into a high-stakes, years-long struggle to keep those expenses from landing them in jail. Because our policing and criminal legal systems disproportionately target Black people and other people of color, fines and fees also operate as a form of racialized wealth extraction.

Today I will highlight some client stories to show how unaffordable court debt uniquely and unjustly burdens people and their families who live at the economic margins. This debt keeps them from getting back on their feet financially, living in neighborhoods with better schools, getting better jobs, and obtaining basic necessities for themselves and their families. I will highlight how fines and fees, and the punitive measures that are often used to collect or enforce them are not only unjust, but also unreliable and counterproductive. Finally, I will speak to how Texas has made bipartisan strides recently to change some fines and fees systems, recognizing this revenue structure simply does not work – for low-income communities as well as the systems they are intended to fund. As our experience in Texas shows, this should not be a partisan or polarizing issue: there can and should be broad consensus that punitive user-pay systems simply do not work when they uniquely target low-income people.

2. CLIENT STORIES

When I get a traffic ticket, and unfortunately, I've gotten a few in my life, I get frustrated with myself, take some teasing from my husband, and pay the ticket. Then life goes on. The same cannot be said for people who are living at the economic margins. With 40% of people in the United States unable to afford to pay \$400 in an emergency, a simple traffic ticket can quickly snowball into more debt, warrants, a driver's license suspension, and even arrest and jail. I cannot overstate how much devastation can be wrought by debt that might not seem like a lot to you or me, but is everything for the people who simply do not have the money to pay it.

Over the years, attorneys at TFDP have represented many clients who faced extreme hardship because of court debt that they could not afford to pay. After we get their debt waived or reduced, their lives improve dramatically. Several of these clients have gone on to join us in our fight against the criminalization of poverty by serving as advocacy fellows, telling their stories to state and local legislative bodies to help lawmakers understand how these policies can trap someone in a perpetual cycle of debt, fear, and the constant threat of jail.

Here are some stories of people we have helped get their lives back on track by clearing their fees, fines and court costs. I've also appended some testimony prepared by our client advocates on recent Texas bills, in which they explain what court debt has meant to them and their families.

We represented a woman in North Texas who couldn't get her driver's license because she owed over \$5,000 for a misdemeanor DWI case from over a decade earlier. She had not driven a car in ten years because her criminal legal debt prevented her from getting a license. So she sat at home, without friends, surviving off of disability payments. She lives in a rural part of Texas, miles away from anything, so relied on her local county mental health worker to take her to the grocery store. We worked with her to get the fines waived so that now she can get her driver's license back. Now that she can renew her license, she will be more self-sufficient and less reliant on county employees going above and beyond their normal job duties just so she has food in her house.

We represented a veteran in Central Texas who owed thousands of dollars in court costs for a crime that he went to prison for. His debt prevented him from being able to afford an apartment where he and his kids could

live together – instead, he rented a room from family while his kids stayed exclusively with their mother in public housing. He rode his bicycle to and from his job working the overnight shift at a fast food restaurant, with few prospects for job advancement. Now that his court costs have been waived, he's eligible to get his commercial driver's license, which would open up a whole new set of good job prospects for him.

We represented a man in North Texas with serious mental illness who was convicted of one property crime and owed thousands of dollars in fines and costs. He was on a fixed income of approximately the Federal Poverty Level. Because of those fines and costs, he relied on donations from his local church to have food at the end of the month. He told us that if not for the charity of his local church, he would have killed himself out of financial desperation. Now that we've gotten his costs waived, he is in a more stable financial position.

But judges do not have to waive court costs. Just this week one of our attorneys was contacted by the family member of a man who is currently incarcerated. He has been admitted to an in-prison work training program in which he can learn to drive commercial vehicles and get his commercial driver's license. The only catch is that his driver's license must be otherwise valid for him to start the program. The only thing standing in the way of his driver license is \$430 in unpaid court costs. He has petitioned the court to waive the costs but was told that the judge "does not do that," and his request was denied. Less than \$500 is all that stands in his way of learning a skill that might help propel him away from the criminal legal system. Instead, that chance has been denied because the laws are discretionary and judges can deny motions and requests for cost waiver, as a matter of policy or for no reason at all. This unjust system leaves poor Texans trapped under their criminal legal debt.

3. BREAKING OUT OF THE CYCLE

Criminal legal debt creates a cycle of poverty where if a person cannot pay their fines, fees, and costs, they become more fees and costs, then driver's license suspensions, warrants, arrests, and jail time. Perversely, the debt becomes more expensive when a person cannot pay because they are charged additional fees for nonpayment or even for entering payment plans. This cycle feels impossible to break for the people trapped in it. They typically are not told of their legal options for waiver, reductions or community service, and it often feels like whatever they do they only amass more debt and more

exposure to the criminal legal system. As our client stories show, this has profound effects on the financial, mental and physical health of individuals, and their families and communities. At Texas Fair Defense Project, we help people resolve their criminal legal debt through legal representation, but there is a huge gap in legal services that we simply cannot fill. Many people with criminal legal debt never had an attorney to help them, if the underlying cause was a traffic or low-level criminal offense. For people who had assistance of counsel in their underlying criminal cases, that assistance ended when the criminal case was adjudicated, even though the impacts from the debt continued.

Attorneys at Texas Fair Defense Project represent people with court debt they cannot afford to help them obtain waiver, reduction, community service or a manageable combination of the three. On average, it takes one of our highly-trained attorneys about 10 hours from start to finish to get someone's court debt handled. Many people facing these expenses have no idea how they could even get the debt waived or reduced. They go to court and explain that they don't have the money, but all that happens is they get put on a payment plan. Frequently they're not even permitted to speak with a judge, instead getting shunted off to a court clerk who has authority to modify payment plans but not to waive debt. Without a lawyer, most people with criminal legal debt have no realistic chance of getting unaffordable court fines, fees and costs waived or reduced. That's why we need structural changes that do not create these unmanageable debt burdens to begin with.

4. UNRELIABLE AND UNJUST REVENUE SOURCE

In addition to the ways fines and fees unjustly target low-income communities and operate as a form of racialized wealth extraction, fines and fees are also an unreliable revenue source for local and state governments. Jurisdictions can spend significant amounts of money attempting to collect criminal legal debt, including through punitive means such as driver's license suspensions and jailing, which only drive people further into poverty, trauma and desperation. A recent [study](#) by the Brennan Center for Justice found that "in addition to thwarting rehabilitation and failing to improve public safety, criminal-court fees and fines also fail at efficiently raising revenue."

As part of their report, the Brennan Center did a deep dive look at ten counties in Texas, Florida and New Mexico. In their examination of my own home county of Travis County Texas, where Austin is located, they found that "in 2017 misdemeanor and traffic courts in Travis County, Texas, spent nearly \$4.8 million on in-court proceedings and staff costs related to fee and fine compliance. In addition, the county spent more than \$4.6 million on jailing those who failed to pay fees and fines and those allowed to earn jail credit against amounts owed."

Punitive approaches to debt collection only drive people further into poverty and have not been shown to help with revenue collection. Because these approaches hamper people's ability to obtain employment and support their families, they likely have a broader negative financial impact than these studies even suggest. Fines and fees policies should make it easy for the people who are able to pay to pay, and easy for the people who cannot pay to otherwise take care of the debt through waiver, reduction or in some cases community service.

5. BIPARTISAN LEGISLATIVE VICTORY: THE “DRP”

Here in Texas, we have been hard at work chipping away at the massive court bureaucracy and user-pay systems that significantly harm low-income people for minimal financial return. While the Texas Legislature's membership has politics as diverse as the state itself, with plenty of well-documented disagreements, making the criminal legal system more fair and effective is a goal where we have been able to work together. Perhaps nowhere is that more clear than in the area of criminal legal debt, which harms low-income Texans without increasing public safety or even providing stable revenue. The recent repeal of the Driver Responsibility is a significant example of bipartisan success toward reducing the harm caused by fines and fees.

Driver Responsibility Program

The Driver Responsibility Program (DRP) assessed a special court cost on certain low-level criminal cases – tied largely to what we consider poverty offenses – and was used to fund rural trauma hospitals. When a person did not pay the “surcharge” associated with the program, which they often did not even know they owed, their driver's license would be suspended for nonpayment. This program trapped millions of low-income Texans in debt without driver's licenses – which are practically a necessity in Texas for obtaining stable employment and housing. The repeal was supported by a diverse coalition, including ourselves, the Sheriff's Association, ACLU, Hospital Association, and Goodwill. The bill was so broadly supported because the program was so harmful to low-income communities, it was not a reliable source of revenue for the hospitals, and it did nothing for public safety. When the DRP was repealed in 2019, more than \$2 billion in debt was relieved and nearly 1.5 million people were immediately eligible to legally drive again.

This was the definition of a bi-partisan victory. In the State House, the DRP repeal bill that was eventually signed in 2019 had a Republican lead author, with three more Republican and one Democratic authors, and eighteen co-authors spanning the ideological spectrum. That bill was passed unanimously in both chambers of the Texas legislature and signed by Governor Abbott.

6. CONCLUSION

Fines and fees create a debt trap for low-income people, particularly Black people and people of color, that can be impossible to get out of, and which has a profound effect on their families and communities. They provide an unreliable source of revenue and have cascading economic effects in a community by keeping low-income people on the economic margins and unable to provide for themselves and their families. For these combined reasons, fines and fees is an area ripe for bipartisan reform, as recent successes and Texas show.