

Louisiana's Debtors Prisons: An Appeal to Justice



A report by the American Civil Liberties Union of Louisiana
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Table of Contents

EXECUTIVE SUMMARY	4
KEY FINDINGS	5
RECOMMENDATIONS	9
CONCLUSION	9
MAP OF PARISH DATA	11
APPENDICES.....	12
Appendix A: Case studies	12
<i>R. Caldwell</i>	12
<i>John Cormier</i>	13
<i>Jane Doe</i>	14
<i>John Doe</i>	14
<i>Dianne Jones</i>	15
<i>Gregory Nogess</i>	16
<i>John Roe</i>	17
<i>Art Sampson</i>	18
APPENDIX B: Parish Data	19
Bossier Parish	19
Caddo Parish & Shreveport City Court	19
Evangeline Parish.....	20
Lafourche Parish	21
La Salle Parish	21
Orleans Parish.....	22
Ouachita Parish.....	23
St. Tammany Parish	23

Since poverty is punished among us as a crime, it ought at least to be treated with the same lenity as other crimes: the offender ought not to languish at the will of him whom he has offended, but to be allowed some appeal to the justice of his country. —Samuel Johnson

EXECUTIVE SUMMARY

We tend to think of “debtors prisons” as a Dickensian practice, one that may have thrived in less civilized centuries but has long been consigned to the dustbin of history. We are comfortable believing that locking people up because they can’t pay their debts doesn’t happen in the modern world, and certainly not in America. The truth is the opposite: debtors prison practices are very real and present, both across the country, and here in Louisiana.

In January 2014, Orleans Parish grandmother Dianne Jones was sentenced to time served (ten days), an almost \$800 fine, and six months probation for first-time possession of marijuana. Although unemployed and the primary caregiver for her three young grandchildren, Jones paid monthly installments of more than \$100 over several months, until she was unexpectedly forced to move. The expenses associated with the unplanned move caused her to fall behind in her court payments, leaving her owing a balance of \$148. Because she did not complete her installment payments in the six months allotted by the court, her probation period was extended and a warrant with a \$20,000 bond was issued for her arrest. At risk of being jailed, and leaving her grandchildren without care, Jones only found relief when a community group rallied to take up a collection on her behalf. With the money raised, Jones was able to pay her remaining fines and court costs, and the warrant was lifted.

Jones’ case is not unlike one from 1983, involving a man named Danny Bearden. It began when Bearden was sentenced to three years probation and ordered to pay \$750 in fines and restitution for burglary and receiving stolen property. Bearden’s family initially paid part of his fine, but illiterate and unemployed, he was unable to keep up his payments. In June 1981, he was sentenced to serve the remainder of his probation term in prison because he hadn’t paid the \$550 he still owed. He languished in prison for two years, and appealed his sentence all the way to the U.S. Supreme Court in 1983.

The Supreme Court held that, under the Due Process Clause of the Fourteenth Amendment, an individual may face incarceration for failure to pay fines only if that failure was willful or the individual failed to make bona fide efforts to pay. Sentencing courts must inquire into the reasons that a defendant fails to pay a fine or restitution before imposing a prison sentence; to imprison someone merely because of their poverty would be fundamentally unfair. In short,

Bearden v. Georgia established that it is illegal to imprison someone who cannot pay a fine simply because the person is poor.¹

More than a decade before the *Bearden* case, in 1972, the U.S. 5th Circuit Court of Appeals, which includes Louisiana, ruled in *Frazier v. Jordan* that courts may not impose “pay or stay” sentences—sentences which require a defendant to pay a fine at the time of sentencing or serve a jail term.² Between *Bearden* and *Frazier*, the illegality of both these practices—imposing a jail sentence for failing to pay a court-ordered fine, and imposing sentences that present a choice between a fine and jail time—is long established.

Yet despite clear and longstanding law, courts across Louisiana continue to disregard the protections and principles established by the Supreme Court and by the 5th Circuit in *Bearden* and *Frazier*. Louisiana courts routinely incarcerate people simply because they are too poor to pay fines and fees—costs often stemming from very minor, nonviolent offenses. Others are given the impossible choice between a fine they can’t afford and a stay in jail. In this report, the ACLU of Louisiana details the experiences of people who were incarcerated because they were unable to pay relatively small fines. That these practices have continued to flourish for decades after being outlawed demonstrates not only a disregard for the law, but also for the people of Louisiana. Debtors prisons are supposed to be a thing of the past. It’s time to make that true.

KEY FINDINGS

The ACLU of Louisiana (“ACLU”) investigated the imposition and collection of fines, fees and court costs or other legal financial obligations (LFOs) in twelve parishes and two cities from across Louisiana. We also examined instances of “pay or stay” sentences. These practices are examined together because their impact on individuals is the same.

We sought records of jail bookings during the 45-day period from January 1–February 15, 2014, as well as specific bookings for contempt or failure to pay fines, fees, or costs. In some cases, we also requested city court records when necessary to clarify parish jail booking records. We screened records for individuals booked on contempt or other charges for failure to pay fines and fees, as well as for individuals sentenced to “pay or stay sentences.” ACLU staff visited courtrooms to observe the practice of jailing people for inability to pay in parishes across Louisiana. The ACLU interviewed court officials and advocates as well as people who were subject to debtors prison practices in Bossier, Orleans, Caddo, St. Martin, and Evangeline parishes. Several themes emerged in our analysis:

¹ *Bearden v. Georgia*, 461 U.S. 660 (1983)

² *Frazier v. Jordan*, 457 F.2d 726 (5th Cir. 1972)

Families and Communities Pay a Tremendous Financial and Emotional Cost

Many poor defendants and their families prioritize paying a fine in order to avoid incarceration, and to do so must forgo paying for essentials such as rent or food. Getting out of jail or avoiding jail time because of unpaid fines and fees may require significant support from already stretched family and friends. Those who provide help may themselves struggle financially as a result and see their own fragile stability jeopardized.

Beyond the financial impact on families, the collateral damage is impossible to calculate. Children suffer from the uncertainty that their parents or caregivers may be imprisoned, from the fear that they may lose their homes, even that they may not have enough to eat. When the result is incarceration, families are torn apart. Poor defendants often emerge from even short jail terms less able to pay their remaining court debt and still meet other financial obligations such as rent and child support. People who know they are behind on payments and fear arrest may avoid driving, going to family events, to church, or otherwise participating in family and community life. The impact of debtors prison practices falls not just on the individual but also on their families and the wider community.

- A pregnant single mother of three children in Bossier Parish reported using rent money to get out of jail after being incarcerated for an unpaid fine, putting her family at risk of homelessness. Her alternative – to serve out her time in jail – would have left her young children without their mother.
- In St. Martin Parish, one man's elderly mother paid part of his fine in coins—with help from law enforcement personnel—so that he could avoid time in jail for a traffic ticket after being told he had to pay with exact change. (see John Cormier's story page X)
- A young mother from Caddo Parish spoke about her children's fear of seeing police or even riding in a car after they witnessed her being arrested and taken to jail for an unpaid traffic ticket.
- A woman in Orleans Parish told us that she skipped family events and avoided leaving the house for fear of being arrested when she was behind on fine payments.
- One man in Orleans Parish reported being afraid to wait for first responders after calling 911 because of his fear of arrest due to unpaid traffic tickets

Incarcerating people too poor to pay is also expensive for taxpayers. While individual court systems may reap some benefit from aggressive collection of court costs, the cost of incarceration stretches already thin state and municipal budgets. At a cost of at least \$24 per day³—and possibly as high as \$90 per day in Orleans Parish⁴—the price of incarceration can quickly exceed the amount likely to be collected via fines and court fees.

³ [Louisiana Department of Public Safety and Corrections Website](#)

⁴ Austin, James, and Allen Patrick. 'Orleans Prison Population Trends And Facility Options'. 2015. Presentation.

Municipal and Traffic Courts Frequently Jail People for Failure to Pay Fines

Although regular criminal courts do often impose sentences for LFO's, the practice is mostly concentrated in municipal (city) and traffic courts. In these courts, individuals face charges on minor offenses such as littering, driving without proof of insurance, playing loud music, and other similar charges. An advocate with the public defender in New Orleans Municipal Court reported that the practice of jailing people unable to pay fines or court costs was "so common you stop noticing it."

In these cases, judges typically issue warrants or "attachments," and often add contempt or failure to appear charges when individuals either fail to pay a fine on time or miss a court date to pay. Hefty court costs can drive up the amount a person has to pay to satisfy LFO's, rendering compliance virtually impossible. Unpaid traffic fines and fees often lead to suspension of a person's driver's license, which can lead to further arrests and often makes working and meeting other obligations more difficult.

- In Shreveport, a \$154 red light ticket ended up costing a woman almost two thousand dollars and resulted in multiple arrests.
- One man in Orleans Parish has been to jail at least six times and had his driver's license suspended repeatedly since 2008 because of his inability to pay traffic fines. As a landscaper, these frequent incarcerations and repeated suspensions of his driver's license have made it difficult for him to maintain stable employment. (*see story page X*)
- In Shreveport City Court nearly every sentence imposed during our observation period was a "pay or stay" sentence. The amount of money each day in jail is "worth" varied, with amounts between \$10 and \$25 per day being most common. Some sentences also included court costs amounting to more than the actual fine.

Fine and fee collection processes are often arbitrary, capricious, and unnecessarily punitive.

There is wide variety even within individual court systems as to how fine and fee collection is handled, and there may be significant variation from day to day. One judge may grant almost everyone facing incarceration for unpaid fines and fees an "ability to pay" hearing as the law requires, while another routinely doles out community service in lieu of fines, and another incarcerates almost everyone who cannot pay. Some judges will accept partial payment while others jail anyone who cannot pay in full. John Cormier was told at his court appearance that he must pay in full and with exact change on the spot, or be jailed. He had not been told in advance that being ordered to "pay or stay" was a possibility, and so was completely unprepared for it. (See page x)

To court watchers, some judges appeared to vary their practices from day to day, and their determinations appeared capricious. People navigating the court system may face erroneous or contradictory information and inconsistent fine collection practices by judges and court personnel, which can increase their chances of ending up in jail.

Facing unclear and inconsistent information, a poor person who wants to comply with the court but lacks the full fine amount may conclude that skipping court is the safest way to avoid jail. The consequence of missing a court date is the issuance of a bench warrant, and often additional criminal charges—and yet more fines and fees. Of course, courts have a legitimate interest in ensuring that people appear for assigned court dates. However, a poor person who is trying to pay the fines but is unable to pay in full faces a difficult choice because of the inconsistent information and harsh practices in many courts.

- In Orleans Parish Gregory Nogess, recently hired for a new job, appeared with \$60 towards the \$200 he was scheduled to pay on his \$400 dollar fine for marijuana possession. Because he hadn't yet received his first paycheck, he didn't have the full amount owed. Despite his promise to bring the additional \$140 on payday, he was jailed. At a previous court appearance, he had been permitted to make a partial payment. This inconsistency landed Nogess in jail and nearly cost him his job.
- One court watcher in Shreveport City Court noted that a particular judge seem to have "good mood" days when he gave payment extensions to everyone and "bad mood" days when no one got an extension.
- One judge from Orleans Municipal Court said they denied an indigency hearing to a defendant because the defendant had made bail.
- In several courts, court personnel routinely tell people not to come to court unless they have all the money for their fines. Until very recently, a sign in the "fine room" in Orleans Parish Criminal Court informed people that they must pay a minimum of \$100 on their fine.* Yet when an advocate called and asked personnel in the office about this policy, the collection agent said it was dependent on the case number and section of court. People who want to fulfill their obligations, but lack the total amount necessary, are unable to determine the correct course of action.

**As of July 29, 2015, the sign had been removed; however our staff observed it as recently as May 2015*

Defendants are Often Denied their Right to Counsel at LFO Hearings

Even before *Bearden*, the U.S. Supreme Court, held that anyone facing charges that might lead to incarceration for even the shortest length of time has a constitutional right to counsel, including a public defender if appropriate. This right applies to those facing probation if that sentence could be enforced by incarceration. In Louisiana, defendants facing debtors prison charges are often not provided the opportunity to have counsel, leaving them vulnerable and in violation of

their rights. In the cases illustrated below, not one of the defendants was informed of the right to counsel when facing charges that could lead to incarceration.

RECOMMENDATIONS

The ACLU offers the following recommendations to state and local officials, including judges, law enforcement agencies, and district attorneys, to address the serious abuses resulting from debtors prison practices:

- Require judges to conduct meaningful indigence hearings and consider alternatives to incarceration prior to jailing people for failure to pay fines. Any incarceration for financial obligations must be imposed only after such a hearing and standardized amounts for credit upon the fine (ex: \$50 credit per day or fraction of a day) must be set.
- Create sliding scales of fines so that they will be equally affordable to all. If a fine is supposed to be a deterrent against future misconduct, the fine should be proportional to the defendant's income.
- Ensure that all defendants are offered the opportunity to have counsel, including a public defender when appropriate, at an indigence hearing or a hearing on revocation of probation for inability or failure to pay.
- Establish clear and consistent guidelines for imposing community service as sentencing in lieu of fines. The community service must be reasonably achievable for the defendant given their particular circumstances, taking into account such factors as work schedules and travel constraints.
- Consider the relative costs of debtors prison in all such sentencing decisions. Courts should provide a fiscal impact statement estimating the cost of incarceration and comparing it with the value of the LFO. These costs should include ancillary costs borne by the family, including the loss of income and possibly a job, as well as costs borne by society including the family's increased need for public assistance.
- Adopt a "bench card" that instructs judges on methods of collecting fines and fees that meet constitutional requirements, and informs them that "pay or stay" sentences or sentences that offer fines in lieu of incarceration are illegal.

CONCLUSION

The United States banned debtors prisons on the federal level in 1833⁵, a century and a half before Danny Bearden's case came before the Supreme Court: the illegality of the practice could not be more firmly established. The courts of Louisiana, however, continue to incarcerate people who simply lack the financial means to avoid jail by paying fines. Legality aside, it is a

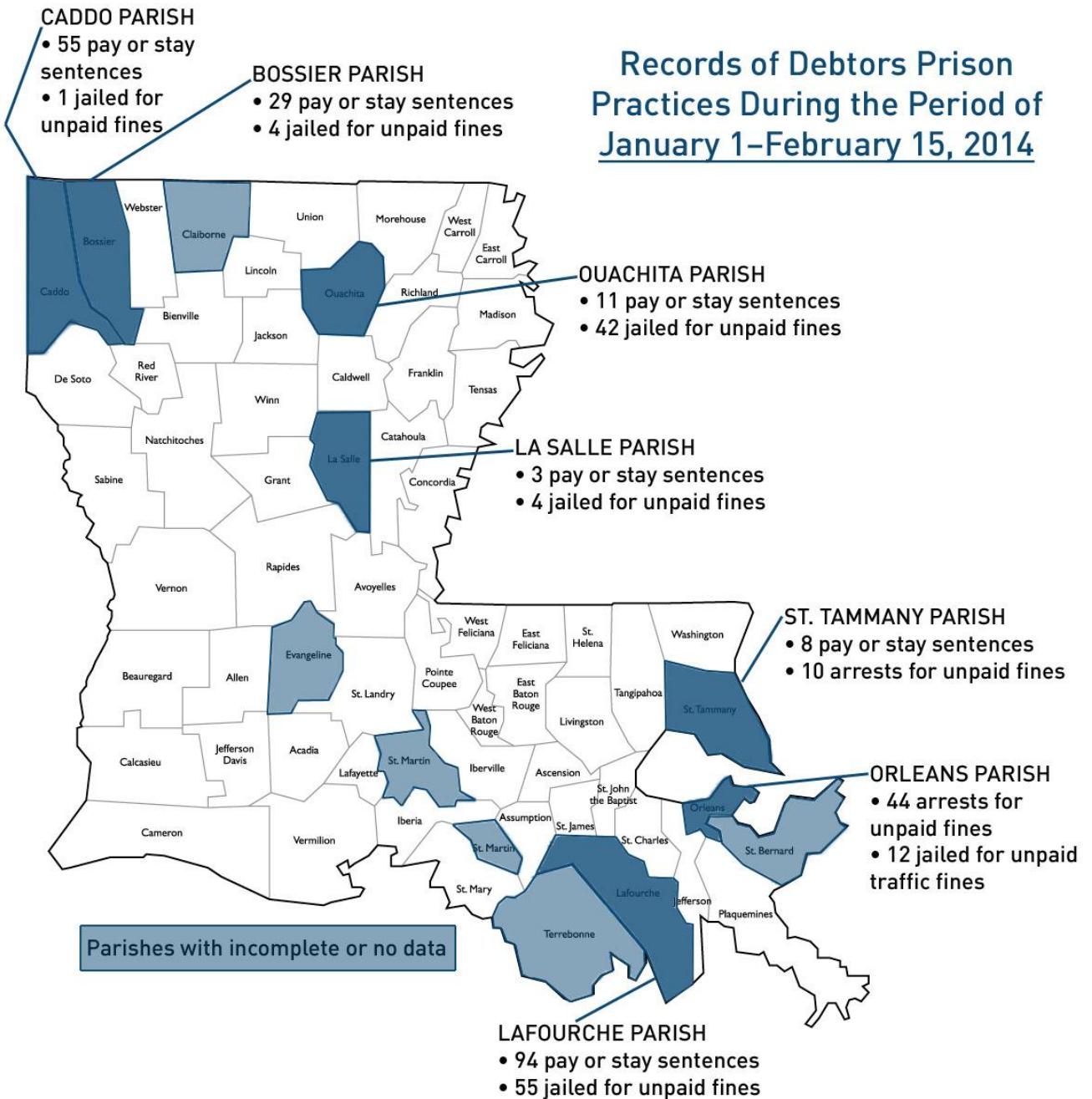
⁵ The Marshall Project,. 2015. 'Debtors' Prisons, Then And Now: FAQ'.

<https://www.themarshallproject.org/2015/02/24/debtors-prisons-then-and-now-faq>.

counterproductive practice, and deeply damaging to the communities in which these sentences are imposed. The cost of jail time often exceeds the value of the fine, adding a burden to the taxpayers at large in addition to the burden on the individual. The problem isn't hard to solve—many alternatives to incarceration are available, such as community service, and fines can be imposed on a sliding scale. In short, debtors prisons are not just illegal, they don't make sense.

Criminal justice in Louisiana is in crisis, and one reason is the systemic over-reliance on imprisonment for minor offenses. Eliminating debtors prison practices will have no effect on public safety, because the defendants are not charged with violent offenses. They are simply poor. Poverty is not illegal—what is illegal is imprisoning the poor for their inability to pay. It is past time for Louisiana's courts to abolish debtors prisons in more than just name, and move forward into a more just future.

MAP OF PARISH DATA



Records of Debtors Prison Practices During the Period of January 1–February 15, 2014

APPENDICES

Appendix A: Case studies

R. Caldwell

Charge: Expired Auto Registration

Caddo Parish

In August 2014, R. Caldwell was pulled over by a Caddo Parish Sheriff's deputy for an expired auto registration. The deputy found a warrant had been issued because she owed \$100 on a red light ticket from the previous year, and she was arrested and taken to jail. With the help of family, Caldwell was able to bond out of jail and was ordered to appear in court to resolve her traffic tickets.

When she appeared in court the day of her hearing, she was ordered to sign documents without reading them. Because Caldwell refused to sign the documents she hadn't read, she was arrested for disturbing the peace and resisting arrest. She was then charged with failure to appear because her arrest—while in court but before her case was heard—caused her to miss the hearing itself, which had been scheduled for that morning to resolve the matter of her red light and expired registration tickets.

Caldwell did not have a lawyer and says that when she was arrested at court she was not read her Miranda rights. Caldwell paid a bondsman \$700 to get out of jail.

Caldwell received a new court date for the new charges of disturbing the peace, resisting arrest and failure to appear. Her new court date was set for a time shortly after Caldwell was due to return from a trip out of town. Unfortunately, she ran out of money while away and called the authorities to let them know that she was stranded and would miss the scheduled court date. In response, the court issued a new warrant for her arrest for missing the scheduled appearance, despite her having notified them of her delay.

On January 5, 2015, when she was able to return home, Caldwell went to the Marshall's office to try to work things out. Caldwell says, "I had been trying to call and no one would answer me. My kids were with me and my kids' father was there. They pull up my name and arrest me in front of my children. They want you to stay in twelve days but it would be really hard for me to stay because I have to take care of my children and my husband works." A family member bonded Caldwell out the next day and she was issued another court date.

Caldwell's resisting arrest and disturbing the peace charges stemming from her desire to read court documents before signing them were eventually dropped. Although she has now spent more than \$2000 attempting to resolve the original ticket of \$154 and charges stemming from

her arrest for failure to pay in full, Caldwell is still going to court for the remaining traffic tickets and still owes the court money.

Caldwell says, “I can no longer afford to live because they have sucked so much money out of me and my family. If you don’t come up with more money you are going to jail.”

John Cormier

Charge: Speeding

St. Martin Parish

John Cormier was pulled over for speeding in St. Martinville in October 2014. The officer gave him an additional ticket for not wearing a seatbelt, despite Cormier explaining to the officer that he had only removed it to get his registration and insurance papers from his glove box.

Cormier pleaded not guilty at his initial appearance, and was not offered an attorney. When he asked why he wasn’t given the option of having a court appointed attorney, he was told that he didn’t need an attorney because his was not an offense for which he would go to jail.

Unfortunately, that turned out to not be true.

When he appeared for trial, Cormier says, “They called the police officer on the stand first, and asked him questions.”. Then it was his turn to testify. After calling the officer back to the stand, Cormier says the judge simply looked at him and said, “You’re guilty.” Cormier was ordered to pay \$315 on the spot or he would be sent jail. Cormier did not have the full amount in cash, but was prepared to call family and friends to try and acquire the rest of the money. When he did not immediately provide the full amount, Cormier was handcuffed and taken away. Cormier says the bailiff told him that he would have to either pay the fine, or do three days in jail. Cormier says, “I had started a new job maybe a week or two before I had to go to court, and you know I go to court not thinking I would go to jail, because the judge, the other judge or maybe the assistant told me I wouldn’t be going to jail and come to find out they handcuffed me, walked me across to the jail, and put me in the little cage, you know? And it kinda messed with me because I just started a new job, I couldn’t afford to go to jail for 3 days.”

Cormier told authorities he would pay to keep out of jail, but that he would need to pay partly in cash and partly using a debit card. “It has to be all cash or all debit,” he was told. “All right, I’ll use my debit card,” Cormier responded. “Well, that’s good and fine, but we don’t take debit cards after four o’clock.” Cormier says that he realized then “it was like they’re just trying to get us to jail. How do you expect people to pay this fine if you don’t take the debit cards after 4:00?”

Cormier eventually called his mother, who brought additional cash, but not the exact amount, and court officers refused to make change. Cormier said his mother began counting quarters, nickels and dimes, until finally, “I guess it was the 911 dispatcher, she was like, ‘I got a few cents,’ so she gave it to me.” It was only then that Cormier was released.

Jane Doe

Charge: Littering

Caddo Parish

In November 2014, Jane Doe was stopped and cited by a Shreveport City Police Officer for littering, for having thrown a cigarette butt out of her car window. Doe had never been arrested before and had no prior criminal record. She appeared for her court date on January 19, 2015 in Shreveport City Court. She was represented by a court appointed attorney.

Without being allowed to speak to the judge, Ms. Doe was found guilty and ordered to pay a \$500 fine plus court costs of \$154.50, as well as a \$40 fee to the public defender because the court didn't find her "indigent." Doe was told that if she didn't pay the fees immediately she would go to jail. She was not offered a payment plan by the judge, nor did her attorney ask for one. Working only part time, and with the added expense and difficulty of caring for a special needs child, Doe was unable to pay the fees.

Eventually, Doe's attorney negotiated a plea and she was given the choice of paying the fees or serving 80 hours of community service. She avoided jail only because the attorney was able to negotiate this for her.

John Doe

Charge: Traffic Fines and Fees

News Orleans Traffic Court

In 2008 John Doe was charged in Orleans Parish with driving without a license on his person.

Doe says he was never offered an attorney while in traffic court in New Orleans. He fell behind on his payments, and now, seven years later, owes several thousand dollars in traffic fines. His inability to pay the original fines and fees led to his driver's license being suspended, but in order to be able to work to try to make payments—as well as earn a living—Doe kept driving for some time. This led to more charges and more fines for driving with a suspended license. In addition to these Orleans Parish traffic charges, Doe also owes traffic fines in a neighboring parish.

Doe does his best to stay in contact with the courts, believing he can avoid arrest even if he comes to court empty-handed. Despite his best efforts to make his court appearances and pay something each time, Doe estimates that he has been incarcerated several (around six) times per year for unpaid fines and fees since that first ticket in 2008. He has been jailed for one to ten days at a time because of the unpaid traffic fines, usually following a traffic stop or other encounter with a police officer. He now avoids any situation that might bring him into contact with police. He told us, "Like if I have to call 911 for someone, I wouldn't stick around. If there's a warrant out, they have to take you."

Most of the times Doe has been arrested, he has been booked and released without being held for a significant period of time. However, the length of incarceration depends on circumstances each time. He says, "It depended on what time of day or week [I] went. If you're arrested on a Friday, you would spend the weekend. Otherwise like a night and half a day. You get out late at night, damn near the next day. If you go a certain time of night, and you don't get out of court. Rolling out takes a long time, sometimes eight hours." The longest period Doe has spent in jail because of his unpaid traffic fines was ten days. On that occasion, he says, he was told that he would not be let out unless he paid something substantial. Doe says, "I waited there for ten days and found out in hindsight I could have served another five and gotten it over with. But I went to court and the judge said I could get out on an ROR (release on own recognizance) if I would come back and pay something. If not, there [would] be a warrant out and I would just have to serve the length of the sentence."

Doe is a self-employed landscaper, and also does some construction work. Between his suspended license and the resulting frequent incarcerations, his ability to earn a living has been severely compromised. For example, if he's offered a painting job in Jefferson Parish, he says "I'd have to think about if it's worth it to pay someone to drive me, whereas if I had a driver's license this wouldn't be an issue, I could work a job no matter how far away it is."

Doe continues returning to court in an effort to resolve his debt, but still owes thousands of dollars of unpaid traffic fines.

Dianne Jones

Charge: Marijuana Possession, 1st Offense New Orleans Municipal Court

Dianne Jones was arrested in January 2014 in Orleans Parish and charged with possession of marijuana. Unable to pay bail, Jones spent a week in jail before being sentenced to six months probation, and ordered to pay \$834 in fines and costs. Although she told the judge that she could not afford to pay such a large fine, Jones was not offered an indigency determination. Instead the judge offered her the choice between a six-month payment plan with monthly payments of almost \$150, or 6 months of six months of weekends in jail.

As the primary caregiver for three grandchildren, including an infant, Jones knew she could not accept the jail time. She agreed to the fine and payment plan, and six months probation. For several months Jones was able to make her payments more or less on time, sometimes with support from family and friends—but because she took longer

Orleans Criminal District Court															
2700 Tulane Avenue, Room 100 New Orleans, LA 70119 (504) 658-9440															
Date: 12/12/2014 Receipt Number: 206587															
PAYMENT RECEIPT															
Defendant: Jones, Dianne A		Case #:	Section:												
Judge:															
Assessed	Fund	Amount Paid	Balance												
\$234.00	Court Cost	\$0.00	\$0.00												
\$400.00	Misdemeanor/Felony Judicial Expense Fund	\$65.00	\$0.00												
\$200.00	Indigent Transcript Fund	\$62.00	\$148.00												
\$834.00															
	TOTAL REMAINING BALANCE	\$148.00													
Total Amount of Today's Payment: \$100.00															
Next Payment Due On: Monday, January 12, 2015															
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Charge Due:	\$0.00														
By: Woods, Collection Agent															

than six months to finish the fine payments, her probation was extended.

When she was unexpectedly forced to move in early 2015, Jones was unable to make her final payment, and a warrant was issued for her arrest. Despite the fact that Jones had paid the court almost \$700, and owed only \$148, the bond amount on her arrest warrant was set at \$20,000. Eventually, a community organization with which Jones volunteers took up a collection to pay her remaining debt. The warrant was lifted, and her probation declared complete.

Gregory Nogess

Charge: Marijuana Possession, 1st offense

New Orleans Municipal Court

Gregory Nogess was arrested in 2013 for marijuana possession. It was a first offense, and he was fined \$400 in New Orleans municipal court. He says was not offered an indigency determination or any alternatives to the fine, despite being unemployed and unable to pay. In the fall of 2014, Nogess failed to appear in court because he was still unemployed and did not have the money for payment. He was arrested for failure to appear, and spent three days in jail. He was released after making a partial payment of about \$100. After that experience, Nogess was determined to appear in court for scheduled payments even if he lacked money for payment. “I had to spend a whole weekend in jail, they arrested me on a Friday and I spent the whole weekend in jail.” He returned to court once after that and made another partial payment.

In June 2015, he was scheduled to appear to make a \$200 payment. Days before his court appearance, Nogess found a job as a truck driver delivering produce and was scheduled to receive his first paycheck three days after his court date. Although he did not have all of the money, he went to court with the money that he did have—fifty dollars—and a promise to return as soon as he received his first paycheck.

“I told the judge, I said, Your Honor, I just found this job last Wednesday. They just hired me last Wednesday. I said, Your Honor, I’m gonna lose this job, I’m gonna lose this job. But he was saying, ‘Well you know we done gave you chances, we gave you chances,’ things of this nature. I said Your Honor, I’m only asking for one more chance. I get paid Saturday. I promise I will bring you \$200 on my fine.”

Despite his offer of a partial payment, Nogess was returned to jail for failing to pay in full.

Nogess was released from jail after his boss helped him with the payment. He was fortunate to be able to return to his job upon his release and is still working to finish his remaining payments.

John Roe

Charge: Simple Burglary

Orleans Parish

John Roe was convicted of simple burglary in 2012 at the age of 20. He received three years probation, and was ordered to pay \$700 in fines and court costs. During his time on probation, he also had an open case (for marijuana possession and unauthorized use of a moveable), which has resulted in additional fines and court costs, also of about \$700, including a \$300 indigent defender fee. In addition to fines and fees, Roe is also obligated to pay probation costs. His total payment obligations for fines, fees, and probation costs total about \$3000. Roe is now employed and earns minimum wage, but was unemployed for two years following his burglary conviction. Roe has a son who he helps care for and support financially.

During his time on probation, he says he has paid “50 dollars here and there” towards his fines, fees and probation costs, but has struggled to comply with payment obligations set by the court. He has continued to appear regularly in court for scheduled payment status hearings. Roe has not had a lawyer at any of his payment status hearings.

Roe was part of a job-training program, which on one occasion sent someone to court with him. They requested that Roe be ordered to community service in lieu of fines and costs, but the judge denied their request. Roe says, “I told them I had time to dedicate to community service if we could do half and half. They didn’t want to do no community service”.

During the period when Roe was behind on his fine and fee payments, he tried to be very careful about avoiding interactions with police, including limiting driving or going to places where police might be present. Despite his caution, Roe has been arrested three times for failure to meet payment obligations.

In spring 2014 during a random traffic stop, he was arrested after an officer ran his name and discovered a warrant for failure to pay fines and fees. He spent 14 days in jail before being released with a payment plan. He was arrested again in the summer of 2014 and spent three more days in jail before being released with a new payment plan. In spring 2015 he was walking down the street when an officer stopped him, asked for his name and requested to search him. When the officer discovered that he had a warrant, again for failure to make payments, Roe was arrested again. He was released after three days only because a friend paid \$1400 towards his fines and fees.

Roe was employed all three times that he was jailed for failure to pay fines and fees. Each arrest nearly cost him his job, caused him to miss days of work, and made him unable to meet his obligations to his son.

Roe is currently paying his friend back the \$1400 they paid to get him out of jail, which has caused him to fall behind on his probation fees. He still owes almost \$1500 in probation fees,

which must be paid in full before his probation ends in October 2015. Because of inconsistencies in the way incomplete fee payments are handled, Roe has no way of knowing what will happen to him if he doesn't finish paying by the deadline.

Art Sampson

**President, NAACP, Ville Platte, LA
Evangeline Parish**

Art Sampson is the president of the NAACP in Ville Platte and advocates for people navigating the criminal justice system.

According to Sampson, fines, fees and other LFO practices keep many poor people caught in a revolving door. To illustrate his point, Sampson told the story of a young man originally arrested for drugs. “They arrest a young man...and and they give them a deal, and they put them on probation. When they put them on probation, well it used to be \$25, \$50 a month; now what they do, you pay on your fine, but every time you pay, say you pay \$100 on your fine, then \$50 go towards your probation, so you’re really only paying \$50 toward your fine. If your fine is \$500, you pay the court costs, then you pay the probation, and you’re paying a fine, and it takes you a year and a half on a little \$500 fine, so add that up. You add that up and it comes out to maybe \$2000-\$3000 on a \$500 fine.”



Sampson said another common practice is to let a person go months without paying a fine and then put a bench warrant out on them for contempt of court—another charge and more fees. “Some individuals go six months without paying a fine. Then they put a bench warrant out on you. They tell you your fine went towards your probation fee. Well, you didn’t pay the fine and you got a probation fee of \$50 a month, or \$25 a month. So now you owe \$300 probation fee and they say, ‘I’ll tell you what, just put \$200 down and I’ll let you out of jail.’ Then they let you out of jail and let you go another six months, and it takes you three to four years to pay one \$500 fine.”

According to Sampson, a person’s life can be completely turned upside down over very minor charges. “The main charge is disturbing the peace, reflective gear, public intoxication, flight by police officer. That’s mostly it.”

Sampson said that most people who end up City Court in Ville Platte are poor. "Many of them are on SSI, no income. They get a little \$700 check and pay \$300 per month on a fine. How can a person live off of that?" He also said that community service or any other alternative sentencing is only rarely offered to poor people facing charges in Ville Platte City court.

APPENDIX B: Parish Data

The ACLU submitted records requests to twelve parishes and two city courts, seeking records of debtors prison practices between the dates of January 1 and February 15, 2014. All information comes from that time period unless otherwise indicated.

The parishes surveyed were: Bossier, Caddo, Claiborne, Evangeline, Lafourche, La Salle, Orleans, Ouachita, St. Bernard, St. Martin, St. Tammany, and Terrebonne. The city courts were Shreveport and Ville Platte. Every effort was made to acquire complete data from each court, however some courts either failed to respond to multiple requests, or their data was unusable for analysis: Claiborne, St. Martin, St. Bernard, Terrebonne, and the city of Ville Platte.

Bossier Parish

Bossier Parish is located in the northwest corner of Louisiana, and adjoins Caddo on the eastern side. Bossier Parish court records showed 33 instances of debtors prison practices during the survey period. Four people were jailed for unpaid fines, while 29 were given "pay or stay" sentences.

Caddo Parish

Shreveport City Court



Caddo Parish is located in the far northwest corner of the state. Shreveport is its major city. Shreveport City Court handles both traffic and municipal charges. The ACLU requested both Caddo Parish jail records and Shreveport City Court records.

Caddo Parish jail records indicated 56 instances of debtors prison practices during our

survey period. Fifty-five of those were “pay or stay” sentences, the other involved an unpaid fine. Jail records suggested that more people may have been incarcerated for unpaid fines and fees, but the records were not detailed enough to verify the reasons for their incarceration.

Shreveport City Court records indicated 15 instances where people clearly faced incarceration because of partially or fully unpaid fines or court costs. Other possible instances of incarceration for inability to pay may have occurred, but records did not include enough information to verify whether or not someone was incarcerated for failure to pay fines and fees.

Nearly every Shreveport City Court record reviewed included a pay or stay sentence. In fact, in the original response to our records request, the Shreveport City Court administrator said, “Normally, the judge will sentence a defendant to a fine and/or serve jail time. Defendant is free to either pay the fine or serve—all are part of the sentence combined with a portion of the fine. The defendant may even choose to serve all the time in lieu of paying the fine. The option chosen by the defendant is not recorded in the court minutes. In fact, many times the [defendant’s] choice is not known at that time.”

None of the records reviewed by the ACLU mentioned ability to pay determinations. Attorney Danielle Brown, who practices in Shreveport City Court, says, “I honestly have never seen a Bearden determination done or heard about it in any of the courts. Once a person pleads guilty and is sentenced, a public defender is no longer in court with them. I don't think people are aware that they can ask for an indigency determination.”

Evangeline Parish

Evangeline Parish is located near the center of the state. Poor and rural, its largest community is the town of Ville Platte. After reviewing Evangeline Parish jail records, the ACLU identified 13 possible instances of people jailed because of unpaid fines and fees, but the records were not detailed enough to verify in most cases.

Evangeline Parish is currently under investigation by the U.S. Department of Justice for holding people without charge under the booking notation “Hold for Investigation”. The ACLU noted at least 20 people held for one to five days without charge between January 1, 2014 and February 15 2015.

The Ville Platte City Court and Ville Platte City Jail were unable to provide records of people incarcerated for unpaid fines and fees despite multiple records requests to the City Jail and City Court (housed in the same building). See Appendix A for an interview with Art Sampson, an advocate from Ville Platte, about his experiences with fine imposition and collection in Ville Platte City Court.

Lafourche Parish

Lafourche Parish is located in Louisiana's southeast corner and includes the city of Thibodaux, which is the parish center. The Lafourche Parish jail holds people incarcerated on municipal and traffic charges, as well as housing state inmates. Records indicate that both Lafourche Parish court and municipal courts across the parish are engaging in debtors prison practices.



There were at least 55 instances of people incarcerated for unpaid fines and costs and at least 94 pay or stay sentences during the survey period. Many of these were tied to contempt charges for unpaid fines and fees, but many were for other charges as well. The amount of money a day in jail is “worth” varied widely. For example, one person was sentenced to pay \$2400 or spend 180 days in jail, while another was offered the same amount of time—180 days—for fines and costs totaling less than \$500. Another person was sentenced to \$250 or 10 days in jail, making their time worth more than ten times that of the person with the \$500 fine.

People incarcerated in Lafourche parish for unpaid fines and fees included:

- Someone who served 4 days for contempt because of an unpaid fine for fishing without a saltwater license.
- A person incarcerated for 2 days for unpaid fines and costs on a charge of “failure to comply with compulsory school attendance,” or truancy.
- A person who served one month for unpaid fines of \$903 on a marijuana possession charge.
- Numerous people incarcerated for varying lengths of time for unpaid traffic tickets of various types, including improper parking and failure to stop at a stop sign.
- A person facing contempt charges for failure to pay for his own Spanish language interpreter

Jail records for the survey period did not indicate any ability to pay determinations or alternatives to payment for people unable to pay a fine or court costs.

La Salle Parish

La Salle Parish is located in central Louisiana, and its largest town is Jena. The parish has a relatively low population, and there were only 45 bookings total during our survey period. Of

those, seven were the result of debtors prison practices—4 arrests for unpaid fines and fees, and 3 “pay or stay” sentences.

Orleans Parish

Orleans Parish has boundaries that are coterminous with those of the City of New Orleans.

People convicted from New Orleans Municipal Court, New Orleans Traffic Court and Orleans Parish Criminal Court are held together at Orleans Parish Prison (OPP). For this case study, the ACLU focused only on people incarcerated because of municipal or traffic attachments

from City of New Orleans municipal and traffic courts



During the time we reviewed, 295 people were booked into jail for municipal attachments alone. Reasons for the attachments were not specified. Our research concluded that at least 44 were for unpaid fines and fees. We counted instances where the person had a municipal attachment and fine payment was mentioned in the “reason for release,” or where they served time for municipal attachments plus contempt. We learned from advocates in municipal court that this is how debtors prison practices usually show up in that court.

An additional 13 people were jailed for traffic attachments alone—often the result of unpaid traffic tickets. Times served for traffic attachments alone (no other charges) ranged from one to 22 days.

In many cases, attachments came with charges usually associated with homelessness and intense poverty such as aggressive solicitation, obstructing a public passage, or failure to pay for food and drink. Time served because of municipal attachments and contempt charges together ranged from two days to nearly four months. Some people appeared twice in the data sample because they were arrested, released and then rearrested within survey period.

According to Sam Poe, an advocate with the Orleans Public Defenders office, if you’re indigent and in New Orleans Municipal Court, whether you go to jail or not may depend on which section of court you end up in and what kind of information you receive from court personnel. Some judges, he told us, are more likely than others to give a hearing on ability to pay.

According to Poe, the most common sentencing practice in municipal court is a suspended sentence and a fine. Defendants are usually given a date to return and pay the fine or update the court about their progress towards payment. Poe says that very often people won’t return for

their court dates because of bad information received from some court employees. Poe cites one case in which a probation officer told a defendant that if he didn't make a \$300 payment on the spot, his probation would be revoked and he would be sent to jail. The person remained in court most of the day and eventually pieced together money from relatives. Coming up with the money and leaving work to deliver the money caused substantial hardship to the man's family. Later, when he appeared before the judge, she indicated that she would not have sent him to jail.

Some defendants are told by court personnel that if they return without full payment, they will be sent directly to jail. This misinformation leads many people to skip court dates if they are unable to pay fully. When they skip court, a bench warrant is issued. As a result, according to Poe, "many homeless people remain stuck in a cycle of incarceration, payment schedule, default on payments, missed court dates, attachment and re-incarceration, because they cannot pay." Poe says that repeated incarceration because of a cycle of unpaid fines and contempt charges is so common, "you almost stop noticing it."

Ouachita Parish

Ouachita Parish is located in northeastern Louisiana, and its largest cities are Monroe and West Monroe. We found a total of 53 instances of debtors prison practices during our survey period, with 11 "pay or stay" sentences and 42 people jailed for failure to pay fines and fees.

St. Tammany Parish

St. Tammany Parish is the heart of the "North Shore," on the north side of Lake Ponchartrain opposite New Orleans. During our survey period, ten people were jailed for non-payment of fines, and eight people were sentenced to "pay or stay" sentences.