

# The True Cost of Criminal Justice Debt:

## Examining the Public Health Implications of Legal Financial Obligations

Across the United States, tens of millions of Americans are in debt to their local and state criminal justice systems due to costs associated with criminal convictions. While there is no mechanism for collecting national data on criminal justice debt, state level data indicates that billions of dollars are owed to courts and corrections agencies nationwide. A significant portion of this debt will ultimately go unpaid despite the staggering negative impacts nonpayment has on people's lives, implying that nonpayment is generally the result of inability to pay. But while there is a growing critical discussion about the legal and economic impacts of criminal justice debt, less attention has been paid to the devastating health impacts of these legal financial obligations. Criminal justice debt is a public health issue, and public health advocates and practitioners must align with justice reform advocates to vastly reform the cost assessment and debt collection systems in this country.

## WHAT IS CRIMINAL JUSTICE DEBT?

There are a wide variety of legal financial obligations that a justice-involved person in the United States might owe. For instance, it is common for people being supervised by probation to pay a monthly supervision fee. Court-related financial obligations have received the most attention because of the wide-ranging consequences for people who cannot afford to pay them. Court debt refers to debt accrued from court-imposed fines and fees. Fines are attached to criminal sentences and are used in addition to or in lieu of other forms of punishment. Fees are not considered to be part of a punishment, but rather are viewed as “user fees” associated with the costs of operating the criminal justice system. The price tags on fines and fees differ by state and vary widely depending on the severity of the offense. Consequences for non-payment are also inconsistent across states. Although the U.S. Supreme Court has ruled that it is unconstitutional to incarcerate indigent people for failure to pay debt, we still routinely incarcerate people who fail to appear in court for hearings related to their debt. Additionally, there is no clear definition of what makes someone indigent, and debtors can still be incarcerated if their nonpayment is found to be willful, leaving substantial discretion to judicial officers in determining someone’s ability to pay.

	FINES	FEES	RESTITUTION
<b>Definition</b>	Charges that are imposed as part of punishment at conviction	Charges associated with use of the criminal justice system, creates revenue	Compensation for victims
<b>Examples<sup>1</sup></b>	<ul style="list-style-type: none"> <li>• <b>Base fine for a misdemeanor:</b> \$93.50</li> <li>• <b>Base fine for a felony (&lt; 5 years):</b> \$193.50</li> <li>• <b>Base fine for a felony (&gt; 5 years):</b> \$453.50</li> </ul>	<ul style="list-style-type: none"> <li>• <b>DUI class:</b> tuition + \$175</li> <li>• <b>Drug possession or sale:</b> \$400 drug education fee + \$118 laboratory fee Warrant fee: \$125</li> </ul>	<ul style="list-style-type: none"> <li>• Replacing stolen goods</li> <li>• Paying for funeral expenses</li> <li>• Covering medical costs of someone injured</li> </ul>

Some states hire private collections agencies to go after unpaid legal financial obligations, while others will suspend the driver's license of an individual who has outstanding court debt. Furthermore, some states go as far to charge interest on unpaid debt. These consequences have created a culture of anxiety and fear among justice-involved individuals who owe money to the courts, a culture that leads to poor health outcomes.

## **COURT DEBT COMPOUNDS POOR HEALTH**

The intersection of health and court debt is multilayered. Justice-involved people are already more likely to have worse health outcomes before court debt is factored in, given that low-income and Black communities are overrepresented in courts and prisons. Low-income Americans have a life expectancy that is 10-15 years lower than their peers who earn in the top one percent.<sup>ii</sup> In 2004, prior to incarceration, incarcerated people had, on average, 41% less income than non-incarcerated people.<sup>iii</sup> Additionally, Black communities are at higher risk of chronic medical conditions given a variety of factors including barriers to obtaining healthcare insurance,<sup>iv</sup> food deserts,<sup>v</sup> intergenerational trauma caused by systemic racism,<sup>vi</sup> and lower quality care that can be attributed to provider racial bias.<sup>vii</sup> For example, Black communities have the highest mortality rate for every type of cancer<sup>viii</sup> and cardiovascular disease<sup>ix</sup> compared to any other racial or ethnic group. And, though Black women are less likely to develop breast cancer than white women, they are 40% more likely to die from the disease.<sup>x</sup>

While we don't have robust data on the health of justice-involved people generally, we know that incarcerated individuals suffer from chronic and infectious diseases, as well as behavioral health disorders, at higher rates than their non-incarcerated peers. Forty percent of incarcerated people reported having a current chronic medical condition in 2011-2012, such as high blood pressure, asthma, cancer, and diabetes.<sup>xi</sup> HIV is two to seven times more prevalent in incarcerated populations and suicide accounts for one third of deaths in jails.<sup>xii</sup> Moreover, the very conditions of confinement directly contribute to worsening health conditions. Incarcerated individuals combat poor nutrition, hygiene and

sleeping quarters, solitary confinement, overcrowding, constant surveillance, lack of privacy, sexual violence and ongoing trauma which all exacerbate existing and contribute to the development of new health conditions.

Justice-involved populations already experience worse health outcomes; when fines and fees are attached to convictions of crimes of poverty, we begin to see how court debt manifests into a public health crisis.

## **COURT DEBT HAS A DIRECT IMPACT ON MENTAL HEALTH**

People with legal financial obligations largely report that their debt causes them significant stress and anxiety. This stress is impacted by many dynamics. First, debt limits choices and autonomy; individuals impacted by court debt often must forgo basic necessities or enjoyable non-essentials, contributing to a sense of lack of control over their lifestyle. Research affirms that a loss of autonomy, and especially in lower-income communities as it relates to lack of financial control, leads to poorer mental health.<sup>xiii</sup> Additionally, this loss of autonomy may replicate the stressful conditions of prison for justice-involved individuals who were unable to make their own decisions while incarcerated.

Justice-involved individuals with unpaid court debt carry with them a fear of arrest which also contributes to poor mental health. This constant threat of incarceration also has the potential to lead to social isolation, as individuals worried about warrants or suspended licenses may avoid driving, or being in public places where police are present.

Social isolation remains a consistent determinant of developing new mental health conditions<sup>xiv</sup> and justice-involved individuals with substance use disorder may be at higher risk of relapsing due to exacerbated mental health symptoms. Likewise, this ongoing fear potentially prohibits individuals with persistent mental illness from seeking out mental health services.

Having court debt also creates a perpetual relationship between the justice-involved individual and the trauma of encounters with courts and prison. People on payment plans for their court debt are generally scheduled for frequent payment dates and cost review hearings which require them to return to court. The court is often the last place an individual who is about to be incarcerated will visit and returning to these courts after a period of incarceration can re-traumatize individuals who are reminded of how the court system has uprooted their lives. Importantly, justice-involved individuals are much more likely than the general population to be diagnosed with post-traumatic stress disorder.<sup>xv</sup> Trauma disrupts both mental health and physical health, with burgeoning research pointing to trauma as cause for declining biological health and cognitive functioning.<sup>xvi</sup>

## **COURT DEBT HAS A DIRECT IMPACT ON PHYSICAL HEALTH**

Stress is known to both indirectly inform an individual's health choices, such as diet, exercise, and substance use<sup>xvii</sup> as well as directly induce physiological changes that speeds up the development of health conditions and diseases.<sup>xviii</sup> However, aside from the relationship between deteriorating mental health and physical health, court debt has independent implications for physical health. The 2014 Add Health Study detailed that household debt is an independent predictor of poorer health outcomes amongst young adults, noting an elevated risk for high blood pressure and hypertension.<sup>xix</sup> Researchers from Ohio State University continued to investigate the impact of debt on physical health and developed the "Debt Stress Index." They found that amongst people who reported the highest rate of debt stress, 27% had ulcers or digestive issues compared to only 8% of people who reported low debt stress.<sup>xx</sup> Further, the Whitehall

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studies demonstrate how a lack of financial control within low-income communities led to accelerated dysfunctional cell growth, heart attacks, strokes, cancer, and premature death.<sup>xxi</sup>

Specific to court debt, Sociologist Alice Goffman found that young men with warrants avoid visiting courts and hospitals because these environments are transformed into areas of risk for re-incarceration and potential harm; for instance, the police in Philadelphia monitor hospital records when attempting to arrest an individual with a cost-related warrant.<sup>xxii</sup> Consequently, justice-involved individuals miss their medical visits, avoid going to the emergency departments for serious health issues, and end up not receiving the healthcare they may especially need. Incarceration due to court debt may also lead to a disruption in medication access and medical treatment. For individuals who struggle with substance use, being incarcerated for failure to appear can lead to severe withdrawal symptoms if someone is held without medication or access to substances, including seizures, convulsions, stomach cramps, vomiting, and even death.

## **COURT DEBT IS A SOCIAL DETERMINANT OF HEALTH**

The idea that our physical and mental health is largely determined by social and environmental factors has become a large part of the public health discourse, but criminal justice debt is rarely included in the “social determinants of health” framework despite its obvious impacts. When individuals are sentenced with monetary sanctions, they are often forced to choose between paying off court debt and paying for food, utilities, housing, healthcare, and more. For example, missed payments on court debt can appear during credit checks, limiting an individual’s ability to rent an apartment and secure housing. Moreover, a study in Seattle found that people with outstanding court debt experience longer periods of homelessness.<sup>xxiii</sup> And, in a study of 980 people in Alabama with court debt, 83% reported giving up necessities like food, medical bills, prescription co-payments, car payments, and child support in order to pay off their court debt.<sup>xxiv</sup> Not having these basic needs met contributes to a continuing cycle of poor health outcomes, unemployment, and lack of stability.

It is especially important to understand that court debt not only impacts the justice-involved individual but the entire family. The vast majority of people convicted of crimes in the United States - people who are also sentenced fines and fees - have minor children.<sup>xxv</sup> If a parent is forced to allocate what little money they have to pay off court debt, the entire family shoulders the repercussions of financial instability. Additionally, adult children may assume the financial responsibility of supporting parents who are saddled with court det. The overall negative effects of justice-involvement and court debt, especially as it relates to future health outcomes, thereby becomes intergenerational.

## **COURT DEBT TRAPS PEOPLE IN POVERTY, POOR HEALTH**

The decades-long expansion of the United States criminal justice system has become an expensive practice for states to keep up with. Fines and fees help subsidize the cost of operating our courts, prisons, and justice agencies, and in the process place an overwhelming financial burden on justice-involved individuals, many of whom already experience poverty. For justice-involved people, employment opportunities and upward economic mobility are already hindered by having a criminal record, making it unlikely for many individuals to readily pay their court debt. The looming threat of warrants and incarceration coupled with a lack of access to basic social and economic needs may potentially lead to recidivism. In the Alabama study of 980 people with court debt, 38% committed a new crime in order to get the money to pay off their debt.<sup>xxvi</sup> As Philip Alston, a United Nations special rapporteur on extreme poverty, appropriately stated in his recent report on extreme poverty, “the criminal justice system is effectively a system for keeping the poor in poverty while generating revenue.”<sup>xxvii</sup>

## **SPOTLIGHT ON DRIVER LICENSE SUSPENSIONS**

A particularly insidious punishment for people who have unpaid court debt is the suspension of their drivers license, which is a legal consequence to unpaid court debt in 43 states.<sup>xxviii</sup> Losing one’s source of transportation can impact a person’s ability to get to and from their job, which in turn impacts their

available income, further preventing someone from paying off the debt that caused them to lose their license in the first place. Additionally, those seeking to reinstate their license will generally incur additional fees from the local department of motor vehicles. Because many Americans rely on their cars for many aspects of daily life, it can be difficult to avoid driving on a suspended license.

License suspensions can also put individuals in life-threatening situations. For example, the Fines and Fees Justice Center interviewed a Black woman named Desiree who was incarcerated for driving with a suspended license due to unpaid court debt. While incarcerated, she did not receive insulin for her diabetes and she also ended up missing doctor's appointments, leading her to lose her endocrinologist. <sup>xxix</sup>

Despite the fact that a lack of transportation creates harmful barriers, should individuals continue to use their cars with a suspended license, they face additional fines and fees that may go unresolved.

## PANDEMIC DEBT

The ongoing global COVID-19 pandemic underscores both how destructive criminal justice debt can be and how hidden. While the nation reckons with an ongoing financial crisis and how to protect low- and middle-income Americans from utility shut-offs, evictions, and outstanding student loan debt—among other financial obligations—criminal justice debt has not been a significant part of the discussion despite its widespread impact on the population. To make matters worse, the processes associated with court debt actually put people at increased risk of being exposed to COVID-19, from being forced to appear in court or make payments in court, to being incarcerated for failure to appear or failure to pay. While many people have been asked

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to pay online while courts are closed, online payment systems often include surcharges, adding to the cost of payment and online payments do not allow for any adequate assessment of someone's ability to pay.

Some states have taken action to address this issue during the pandemic. California's state taxing authority has suspended collection of all criminal justice debt, Delaware state courts ceased issuing failure to pay warrants, and Minnesota has halted the automatic process of suspending licenses for failure to appear.<sup>xxx</sup> Given the devastating financial impacts of the pandemic, now is a particularly important moment to reconsider how we use the justice system to further tax our poorest citizens, and as a consequence make it difficult for justice-involved individuals to achieve stability and health.

Public health professionals—from advocates to academics to health care providers—have an obligation to understand how legal financial obligations impact justice-involved individuals, and take an active role in promoting system reforms that promote health by reducing people's debt burden. Further research could illuminate the associations between debt burden, ability to pay, and direct health and social outcomes for justice-involved individuals. Health care providers who screen their patients for court fines and fees can play an active role in advocating for debt relief.<sup>xxxi</sup> Advocates must be at the table for discussions of legislative and procedural changes that impact the assessment and relief of criminal justice fines and fees and be able to draw connections for their colleagues working in the justice system about the broad health implications of criminal justice debt. While the criminal justice system is primarily concerned with public safety, neither the safety or the health of our communities is improved by saddling our neighbors with financial obligations they cannot afford to pay.

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