

Following the death of Michael Brown in Ferguson, Missouri, the Department of Justice found that the City of Ferguson, like many state and local courts across the nation, not only disproportionately issues citations to low-income blacks in an attempt to maximize revenue, but adds excessive fees, fines and arrest warrants for those unable to pay.

In New York City, Kalief Browder's inability to pay \$3,000 bail for allegedly stealing a backpack resulted in three years at Rikers Island jail, including two years in solitary confinement. Prosecutors eventually dropped the charges due to lack of evidence, but the abuse he endured while incarcerated led to his suicide a year and a half after he was released.

Across the country, poverty itself has become a crime. A \$100 traffic ticket can result in thousands of dollars in fines, years in the criminal justice system, and even incarceration. In the wake of the Great Recession, many state and local courts throughout the country have created debtors' prisons by using excessive fines and fees, private collection companies, and the threat of jail to collect from defendants. Many are low-income and have committed offenses as minor as unpaid parking tickets.

This resurgence of debtors' prisons is prohibited by the 14th amendment; it's unconstitutional to imprison individuals for being poor. Here's how court systems across the country have found legal loopholes to effectively jail people for failure to pay:

1. **Contempt of Court:** A judge may not order jail for failure to pay, but they do have the authority to determine whether nonpayment is "willful." Judges can decide that a defendant is willfully not paying their debt and jail them on the basis of contempt of court.
2. **Driving with a Suspended License:** In 47 states a driver's license can be suspended for failure to pay criminal debt, even if the original infraction had nothing to do with driving. Driving without a license to get to work, care for family, or make court appearances, they are charged with a new criminal infraction, steep fines and even jail time.
3. **Failure to Appear:** Defendants fail to show up to court for various reasons, including fear of being arrested for not paying their fine. However, missing court altogether can lead to a failure to appear charge, punishable by jail time and even more fines on top of their existing debt.

Terms to Know

LFOs: Legal financial obligations are the total debts owed to a federal, state or local court as the result of an infraction or crime. LFOs include the original amount owed, as well as any surcharges, accumulated interest and penalties. They originate from three main sources:

Fines imposed as a condition of sentencing, such as a \$400 fine for public intoxication.

Fees added onto the initial fine, including jail booking fees, bail investigation fees, public defender application fees, indigent application fees, and payments to the jail for the cost of pretrial detention. This is how a minor traffic ticket balloons into a significant debt.

Restitution money paid to victims for personal or property damage.

Poverty Penalties: In addition to LFOs, the penalties, surcharges, and high interest rates charged by state and local court systems and the private collection companies they contract make it difficult or impossible for poor people to pay off legal debt.

Pay-to-stay: Jails sometimes charge a daily fee for room-and-board. (Note: some facilities charge additional fees for laundry services, feminine hygiene products, and medical/ dental care received while in custody.)

Pay-or-stay: If a defendant is unable to pay, a judge may impose a jail sentence to satisfy the debt. For example, for each day served in jail, \$25 is subtracted from the total amount owed, until the debt is satisfied. (Note: if the jail charges for room-and-board, a person incurs new debts to pay upon release.)

How a \$100 traffic ticket turns into a mountain of criminal debt

Sarah, a single mother with two children living in California, receives a \$100 traffic ticket. With automatic fees & assessments, she is unable to pay the \$490 total due.

**TRAFFIC CITATION: \$100 + AUTOMATIC FEES & ASSESSMENTS: \$390
TOTAL AMOUNT DUE: \$490**

Sarah misses the initial payment and is unable to miss work for the court hearing

**FAILURE TO APPEAR FEE: \$25 + 30 DAY LATE FEE: \$300 + DRIVER'S LICENSE SUSPENSION
TOTAL AMOUNT DUE: \$815**

Sarah must drive to work. She is pulled over for a broken taillight, charged with Driving with a Suspended License and sentenced to five days in county jail.

**BROKEN TAIL LIGHT CITATION & FEES: \$125 + DRIVING WITH A SUSPENDED LICENSE FEE: \$300 - \$1000 + PUBLIC DEFENDER APPLICATION FEE: \$50 + ROOM-AND-BOARD FOR FIVE DAYS IN JAIL: \$100
TOTAL AMOUNT DUE: \$2090**

Sarah starts a payment plan, but she lost her job and cannot make the first payment

**PAYMENT PLAN FEE: \$35 + LATE PAYMENT FEE: \$50 + 12% INTEREST RATE
TOTAL AMOUNT DUE: \$2501**

Sarah is given two choices: pay debt in full within 60 days or serve jail time to "pay off" debt, costing the county approximately \$110 for every day she is in custody.

**PAY-TO-STAY JAIL: EARN \$30 OFF OF DEBT BALANCE FOR EACH DAY SERVED IN JAIL
JAIL TIME: 84 DAYS**

Sources: Brennan Center for Justice of NYU Law School; Lawyers' Committee for Civil Rights; the National Conference for State Legislatures