The Outskirts of Hope

How Ohio's Debtors' Prisons Are Ruining Lives and Costing Communities

A Report by the American Civil Liberties Union of Ohio

April 2013

ACLU
AMERICAN CIVIL LIBERTIES UNION of OHIO
FOUNDATION

www.acluohio.org

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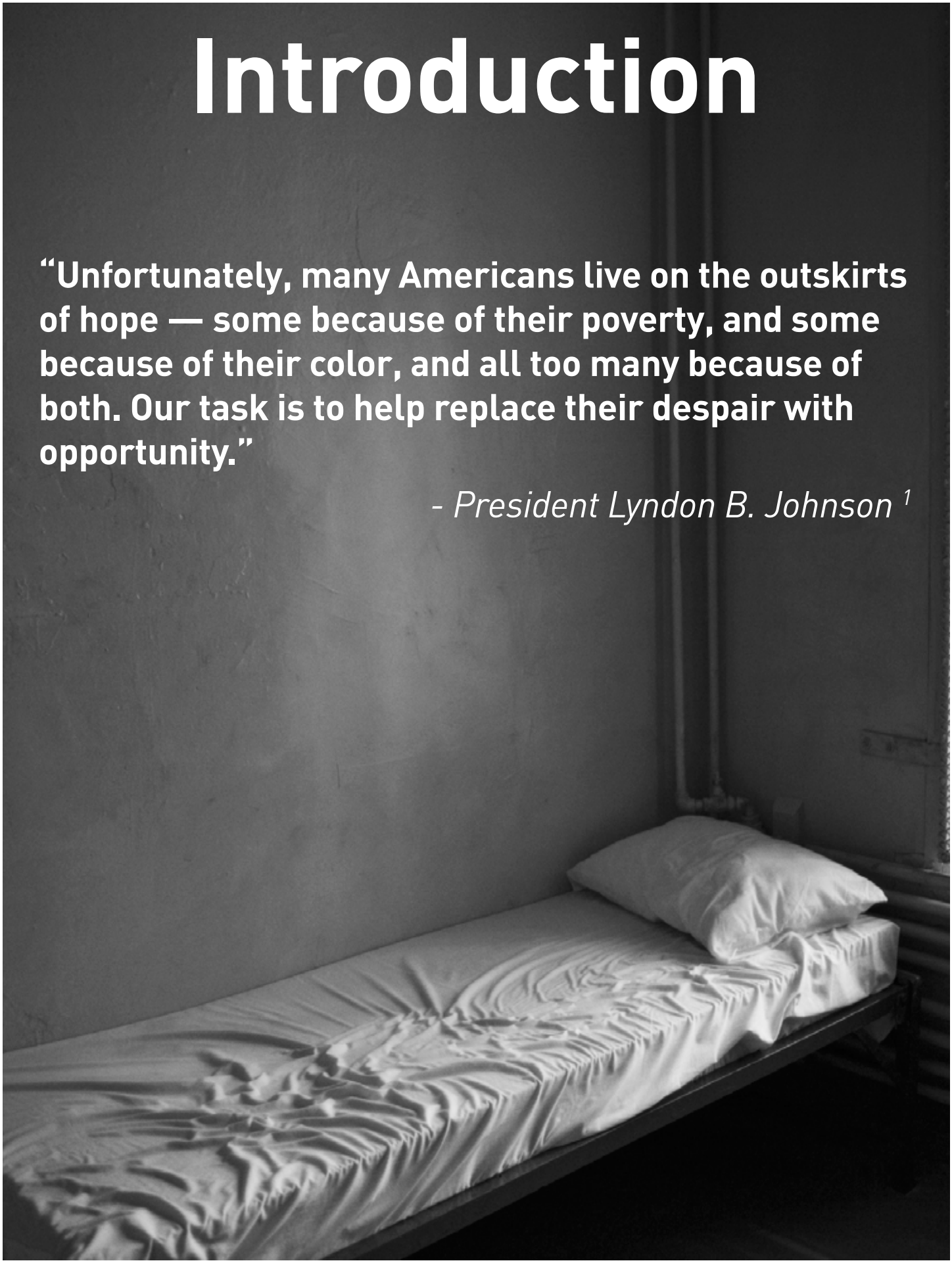
Introduction

"Unfortunately, many Americans live on the outskirts of hope — some because of their poverty, and some because of their color, and all too many because of both. Our task is to help replace their despair with opportunity."

- President Lyndon B. Johnson [1]



During his January 8, 1964 State of the Union address, President Lyndon B. Johnson announced the launch of a "War on Poverty." This announcement led to new programs that provided greater access to education, job training, and social assistance for financially disadvantaged people. New awareness campaigns were also launched to raise the profile of both urban and rural Americans caught in the vicious cycle of poverty, struggling to make ends meet with nearly no hope for escape.

Nearly 50 years after President Johnson's speech, poverty in America has not dissipated. In Ohio, the percentage of people living in poverty has actually grown. In 1969, 10% of the state's population lived in poverty. By 2012, that number had risen to 16.4%.[2] As in 1964, generational poverty is all too common in both rural and urban areas, but there is also a new class of suburban poor.

Fueled by severe economic hemorrhaging, the number of people living in poverty in Ohio grew by 57.7% from 1999 to 2011, with the largest increase coming from suburban counties.[3] This same phenomenon occurred throughout the Midwest, with concentrated poverty nearly doubling in Midwestern metropolitan areas between 2000 and 2009.[4]

The plight of the poor becomes both more difficult and more obvious when they have contact with the criminal justice system, where people with fewer resources often receive correspondingly worse treatment. Those in poverty cannot afford private counsel to negotiate favorable sentences. Instead, they face criminal charges with representation from overworked and under-resourced public defenders. When facing only misdemeanor charges, they may have no attorneys at all. Regardless of whether or not charges could result in jail time, defendants often come away with a mountain of harsh fines and fees. For people who live paycheck to paycheck, it may be nearly impossible to pay them.

The resurgence of contemporary debtors' prisons sits squarely at this intersection of poverty and criminal justice. While this term conjures up images of Victorian England, the research and personal stories in this report illustrate that debtors' prisons remain all too common in 21st century Ohio. In towns across the state, thousands of people face the looming specter of incarceration every day, simply because they are poor.

Taking care of a fine is straightforward for some Ohioans — having been convicted of a criminal or traffic offense and sentenced to pay a fine, an affluent defendant may simply pay it and go on with his or her life. For Ohio's poor and working poor, by contrast, an unaffordable fine is just the beginning of a protracted process that may involve contempt charges, mounting fees, arrest warrants, and even jail time. The stark reality is that, in 2013, Ohioans are being repeatedly jailed simply for being too poor to pay fines.

The U.S. Constitution, the Ohio Constitution, and Ohio Revised Code all prohibit debtors' prisons. The law requires that, before jailing anyone for unpaid fines, courts must determine whether an individual is too poor to pay. Jailing a person who is unable to pay violates the law, and yet municipal courts and mayors' courts across the state continue this draconian practice. Moreover, debtors' prisons actually waste taxpayer dollars by arresting and incarcerating people who will simply never be able to pay their fines, which are in any event usually smaller than the amount it costs to arrest and jail them.

The Outskirts of Hope documents how contemporary debtors' prisons work in Ohio and profiles some of the real people who have been impacted by this system. The constant threat of incarceration has left an imprint on each of these individuals' lives, interfering with their families, health, employment, and housing. By shining a light on this dark practice in Ohio, this report hopes to move our state towards the promise of greater justice and fairness for those with the fewest resources.

Facts at a Glance

Background on Debtors' Prisons

- **Debtors' prison practices violate the Constitution.** Over two decades ago, the U.S. Supreme Court banned the practice of jailing individuals who are unable to pay their fines and court costs.
- **Debtors' prison practices also violate Ohio law.** The Ohio Constitution, Ohio Revised Code, and the decisions of Ohio courts prohibit incarcerating indigent defendants for failure to pay their fines.
- The law requires a meaningful hearing into an individual's financial resources before the court may impose jail time for failure to pay fines.

Debtors' Prisons In Ohio

- **Despite clear constitutional and legislative prohibitions, debtors' prison practices are alive and well throughout Ohio.** An investigation by the ACLU of Ohio uncovered conclusive evidence of these practices in 7 of the 11 Ohio counties examined.
- Courts in Huron, Cuyahoga, and Erie counties are among the worst offenders. In the second half of 2012, over 20% of all bookings in the Huron County Jail were related to failure to pay fines. In Cuyahoga County, the Parma Municipal Court jailed at least 45 people for failure to pay fines and costs between July 15 and August 31, 2012. During the same period in Erie County, the Sandusky Municipal Court jailed at least 75 people for similar charges.
- Based on the ACLU of Ohio's investigation, **there is no evidence that any of these people were given hearings to determine whether or not they were financially able to pay their fines, as required by the law.**

Cost of Debtors' Prisons

- **Jailing poor Ohioans for debt makes no economic sense.** Counties regularly spend more to execute warrants and jail defendants than the defendants owe in fines and costs.
- **Ohioans are being jailed for debts as small as a few hundred dollars.** The cost of arresting, processing, and jailing low-income Ohioans, by contrast, multiplies rapidly. It costs between $58 and $65 per night to incarcerate an individual in county jail and approximately $400 dollars to fully execute a warrant.
- **The debtors' prison system has serious and lasting impact on the lives of poor Ohioans.** This report profiles people who have lost their jobs, their homes, their health and time with their young children because they cannot afford to pay court-imposed fines.

**Approximate numbers based on ACLU of Ohio research*

The Problem

Debtors' prison sounds like an archaic term — some long abandoned concept from the pages of a Charles Dickens novel. Unfortunately, modern day debtors' prison is alive and well throughout the state of Ohio.

Today across Ohio, municipalities routinely imprison those who are unable to pay fines and court costs despite a 1983 United States Supreme Court decision declaring this practice to be a violation of the Equal Protection Clause of the Constitution.[5]

The Ohio Constitution also explicitly prohibits debtors' prisons. [6] Likewise, the Ohio Revised Code [7] and numerous decisions of the Ohio Supreme Court and Courts of Appeal[8] forbid the incarceration of poor citizens for failure to pay court debt.[9]

In Ohio, an individual may be incarcerated for *willfully* neglecting to pay a court fine.[10] Accordingly, before jailing a defendant who has failed to pay fines, a judge must determine that the individual actually has the financial resources to pay but refuses to do so.[11] This determination must be made after a court hearing at which the defendant is represented by counsel and given the chance to present evidence on his or her behalf.[12] If, after this hearing, the judge determines that the defendant has willfully refused to pay and that jail time is therefore appropriate, the court must credit $50 against the debt for each day the defendant is in jail.[13]

While individuals who can afford to pay their fines may legally face jail time for refusal to do so, no defendant may ever be jailed for failure to pay court costs or restitution.[14] These debts are civil, not criminal in nature. They must therefore be recovered through civil debt-collection methods, not through criminal sanctions.[15]

Ohio law makes perfectly clear the rights of defendants and the obligations of Ohio courts. Nevertheless, according to Ohio Public Defender Tim Young, municipal courts in Ohio often ignore these laws in three ways:

- holding defendants in contempt for failure to pay fines and costs without due process, notice, or counsel;
- ordering defendants to "pay or appear," and issuing arrest warrants for those who fail to comply; or
- jailing defendants who are too poor to pay their court costs or restitution.[16]

Many Ohio mayors' courts use similar practices to incarcerate individuals for failure to pay fines,[17] and mayors' courts operate with even less accountability or oversight than do municipal courts.

Ohio is one of only two states to allow mayors' courts, and in 2011 there were 318 of these courts throughout the state.[18] Under Ohio law, mayors' courts may be established by municipalities with a population of more than 200 people who have no municipal court.[19]

These courts are largely unregulated[20] and may hear only misdemeanor violations of local ordinances and state traffic laws.[21] Over 84% of cases in these courts result from traffic tickets, and the defendant is found guilty 86% of the time.[22]

Mayors can appoint magistrates to oversee these courts or choose to hear cases themselves[23] regardless of whether they are a licensed attorney.[24]

Both municipal courts and mayors' courts are jailing Ohioans in debtors' prisons. All Ohio courts must end this illegal and counterproductive practice.

Did You Know?

Ohio is one of only two states that allow mayors' courts. Mayors can preside over these courts even if they are not licensed attorneys.

Investigation

Initial Investigation

In October 2010, the American Civil Liberties Union released *In for a Penny: The Rise of America's New Debtors' Prisons*. This report profiled five states, including Ohio, that imprison people who cannot afford to pay court-imposed fines. As a result of this report and the related media coverage, the ACLU of Ohio began to receive reports from people throughout Ohio who had been ensnared in debtors' prisons.

Many of these stories highlighted problems in Huron County, a small, rural county in north central Ohio. This prompted the ACLU of Ohio to launch a full-scale investigation.

The ACLU of Ohio sent several rounds of public records requests to the Huron County Sheriff's Office and conducted in-person interviews with individuals facing jail time based on unpaid fines. Staff members also observed court proceedings and examined records publicly available on the website of the Norwalk Municipal Court. Each of these investigatory approaches yielded clear evidence of widespread debtors' prison practices.

Staff at the Norwalk Municipal Court's Clerk of Court office openly admitted that whenever court records showed a person was incarcerated for ten days on a "contempt" charge, this meant he or she had most likely been jailed for failure to pay fines. Public records showed hundreds of such "contempt" charges; over a six-month period, approximately 22% of the total bookings in the Huron County Jail were related to failure to pay fines.

Huron County Jail Booking Report*
May 2012 - October 2012

	Bookings for Failure to Pay	Total Bookings	% of Total
May	47	180	26.11%
June	52	206	25.24%
July	35	188	18.62%
August	53	239	22.18%
Sept.	33	185	17.84%
Oct.	39	173	22.54%
Total	**259**	**1171**	***22.12%***

**Approximate numbers based on ACLU of Ohio research*

In-person court observation likewise demonstrated a court that openly disregarded the legal rights of defendants. ACLU of Ohio staff members attended several contempt hearings in the Norwalk Municipal Court, weekly occurrences in which as many as 30 people faced contempt hearings for failure to pay court fines, and observed a process that did not make even a pretense of compliance with Ohio law.

Instead, the court rushed debtors through a truncated process leading, invariably, to a sentence of "pay or sit in jail." With some variations, this basic approach is followed in many counties across Ohio.

First, an individual was found guilty of some underlying offense and sentenced to pay fines and court costs by a specified date. If the individual failed to pay these fines and costs, the court issued a summons requiring attendance at a further court hearing.

At these hearings, people facing jail time were informed of the total amount owed and, without any inquiry into their financial situations, assigned arbitrary monthly payment plans. At no time were they informed of their right to counsel. The court informed them that, if they did not stay current in these payment plans, they would be required to turn themselves in to jail on a specific date several months in the future.

On that date, if a person had not paid nor reported to jail, an

arrest warrant would be issued. The individual was eventually picked up by police, brought to jail, and incarcerated for ten days with no bond available. After ten days they were typically released, having been charged additional fees for warrants and transportation. For poor Ohioans with no way to pay the fines and costs, the tragic cycle soon repeated.

In interviews, impacted individuals discussed the personal experience of being incarcerated for failure to pay fines and its devastating effect on their lives and families. Some of these people had been incarcerated multiple times over the course of many years cycling through the Norwalk Municipal Court's system.

Changes in Norwalk

In November 2012, as the ACLU investigation intensified and became more visible to court officials, the Norwalk Municipal Court began to change its treatment of low-income debtor-defendants.

Firsthand accounts described the court changing some of its most insidious practices. While weekly contempt hearings for those who had not paid their fines continued, most people no longer faced incarceration if they failed to pay. Additionally, many individuals who had been jailed received letters stating that they had been credited $50 against their fines for each day they had been incarcerated. According to online dockets, some individuals have been credited thousands of dollars, and many had their fines completely (albeit belatedly) erased.

However, the recent changes at the Norwalk Municipal Court have not ended the debtors' prison system completely. **The law is clear — people unable to pay must not be jailed, and the Court should make this determination early on in court proceedings.** There is still no evidence that the Norwalk Municipal Court is complying with this obligation.

As a result, people may still face jail sentences and must continue to report to court hearings on a regular basis even though they have no ability to pay.

Statewide Investigation

Having found egregious evidence of debtors' prison practices in Huron County, the ACLU of Ohio expanded its investigation to ten other counties across the state: Hamilton, Cuyahoga, Erie, Greene, Montgomery, Muskingum, Richland, Warren, Williams, and Wood counties.

The results were deeply dismaying. Further analysis of public records, field interviews, court observation and court documents indicate that some form of debtors' prison practices occur in courts in at least six of these ten counties, including Bryan Municipal Court, Hamilton County Municipal Court, Mansfield Municipal Court, Parma Municipal Court, Sandusky Municipal Court and Springboro Mayor's Court.

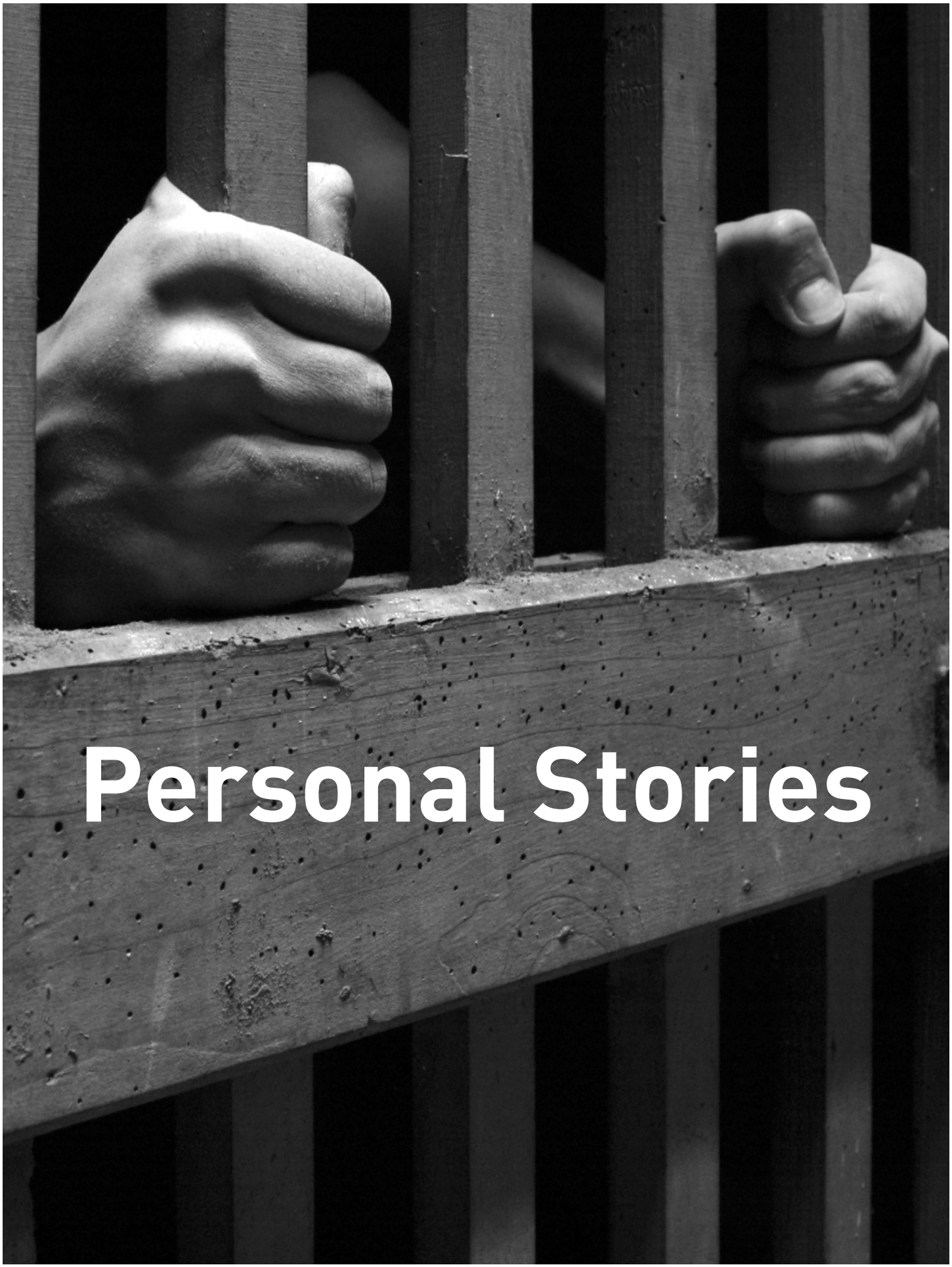
It is important to note that limitations in the availability of documents online, and the proliferation of small municipal courts and mayor's courts made documentation of debtors' prison necessarily incomplete. The fact that conclusive evidence of debtors' prison was available in only these six courts should not be read to absolve other counties and courts. Rather, the ACLU has reason to believe that this practice occurs in many other courtrooms across the state.

The ACLU of Ohio's investigation found that the courts engaged in debtors' prison did so to varying degrees, often with vastly different systems of justice.

Some courts credited debtors $50 for each day they served in jail while others did not, despite the fact that this is mandated for all courts. Some financially disadvantaged people were also offered the option to complete community service in lieu of paying fines, but this practice was not consistent even within a single court.

Debtors were repeatedly ordered to come to these court for "pay in full or appear" hearings, sometimes as frequently as once each week. Courts allowed some debtors to enter into payment agreements if they could not afford to pay their fine in one lump sum, but other courts would not allow this or charged additional fees for a payment plan.

Although they are implemented differently in different courts, **debtors' prison practices are undoubtedly a statewide phenomenon in Ohio, potentially affecting thousands of individuals.** As the ACLU of Ohio embarked on this investigation, the stories of those affected were heartbreaking and illustrative of the destructive nature of debtors' prison.



Personal Stories

Jack Dawley

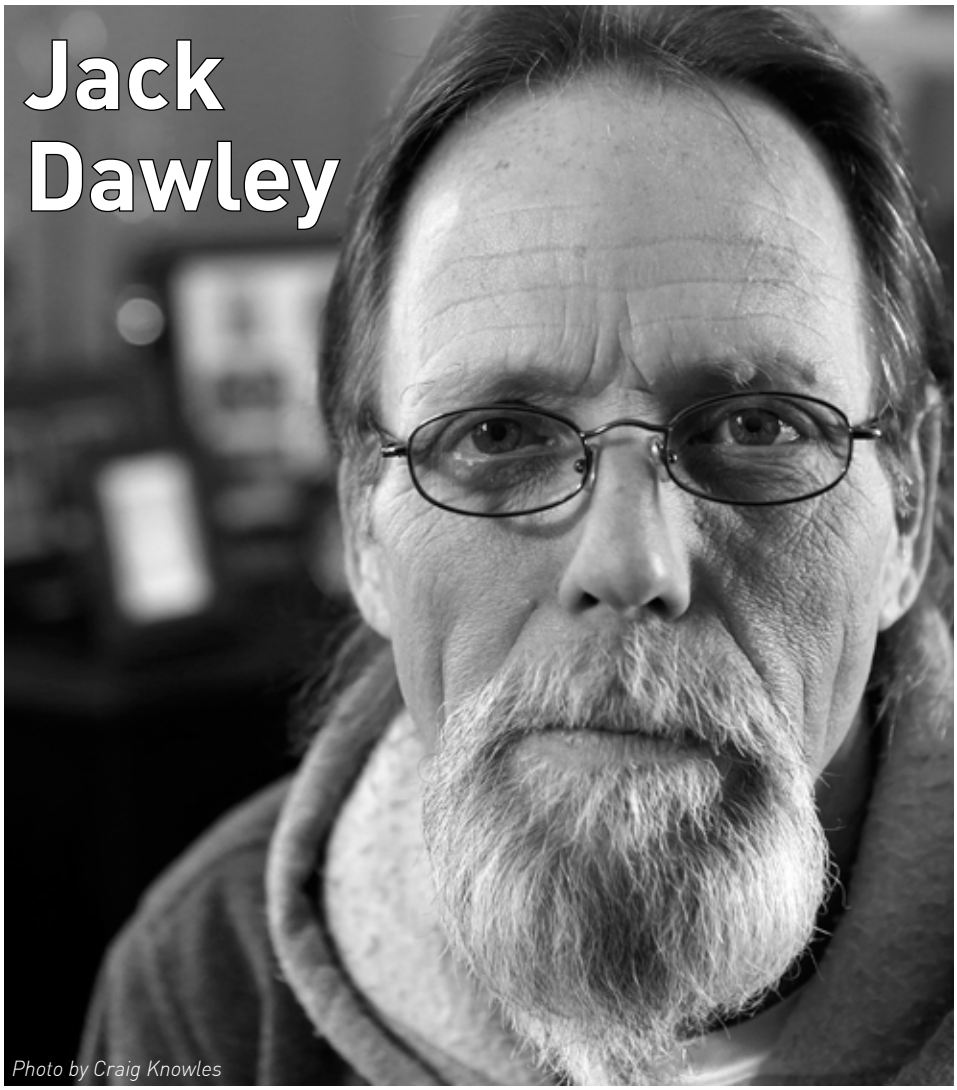


Photo by Craig Knowles

Jack Dawley admits he has made plenty of mistakes.

"I had a pretty good life... I didn't have any wants," said Jack. "My father was a dentist and my mother was a teacher... but at the age of 16, I started experimenting with drugs and alcohol and made some bad decisions."

In the 1990s, Jack's bad decisions led to convictions for domestic violence and driving under the influence, resulting in nearly $1,500 in fines and costs in the Norwalk Municipal Court. Jack was also behind on his child support, which led to an out-of-state jail sentence.

"I went to Wisconsin for three and a half years of incarceration," said Jack. "Upon my release, I finally made a right decision and chose to stay sober."

Since that day, Jack has made every attempt to turn his life around: he has been sober for 14 years and he has paid what he could on the fines he owed. Still, nearly two decades later, the fines continue to wreak havoc on his life.

He first fell behind on his repayment agreement with the court when his felony status and a serious back injury from years of construction work made it very difficult to find employment.

"There are a lot of factories around here that flat out won't take a felon," said Jack. "And those are the highest paying jobs in Norwalk."

Jack was eventually arrested and sentenced to jail for ten days for failure to pay his fines. He then faced a court hearing where he was again threatened with jail time if he failed to pay his fines.

"You expect some kind of leniency when you can't pay, but there was no leniency. You either pay or you go to jail."

This pattern repeated from 2007 to 2012.

"It was pretty much a vicious cycle," said Jack. "You'd go do your ten days, and they'd set you up a court date and give you another 90 days to pay or go back to jail... It was hard for me to obtain work, so I fell back into the cycle of going to jail every three months."

No longer able to afford his own home, Jack began living with friends, saving any money he earned by doing freelance construction jobs to make his monthly payments. For a while he was able to keep up, but then he re-injured his back. Unable to work, Jack once again fell behind on his monthly payments.

"When I lost my job, I pretty much lost everything," said Jack. "You expect some kind of leniency when you can't pay, but there was no leniency. You either pay or you go to jail."

Eventually Jack managed to find less labor-intensive work as a retail cashier. Three weeks

after beginning the job, his decade-old debt threw all this progress into ruin.

"Going to work one day, I was pulled over... The officer ran my license tag and saw I had a warrant out of Norwalk (for failure to pay fines). I was arrested and brought to jail immediately."

Jack was given another ten-day jail sentence. He missed eight days of work. When he got out, he no longer had his new job.

When Jack appeared at his contempt hearing at the Norwalk Municipal Court, he did not have an attorney. He was not asked any questions about his ability — or inability — to pay his fines. He was simply lined up with a group of other individuals while the judge explained the charge of non-payment of fines and each person pled "no contest." The Court again threatened to send him back to jail if he failed to pay on schedule.

"I've kind of lost track of how many times I went to jail for not paying my fines," said Jack. "I'd get out and go back to court and pretty much fall back into the cycle. Every three months it would be 'go back to jail if you don't pay your fines'."

The bench warrants issued against Jack for failure to pay also cost him his driver's license. However, he eventually pulled enough money together to get his license reinstated.

Two days later, the court re-suspended Jack's new license for failure to pay support to his children, now in their 30s.

"I didn't even know," he said. "I hadn't received anything in the mail. I explained to the officer that I had just gotten my brand new license. He checked his computer and notified me that it was suspended so I was cited for driving without a license."

Jack fully expected to be thrown back into the vicious cycle, but this time things were different in the Norwalk Municipal Court.

"I received a $75 fine and $75 court costs. No jail time," said Jack. "That's when I found some changes within the court system."

Jack was told he would need to return to court in 60 days if he was unable to pay his fine, but he was not threatened with jail time.

More amazingly, when he spoke with a clerk after the hearing, Jack was told that the court would be crediting him $50 for each of the past days he had served in jail.

The changes have been a welcome relief for Jack.

"Now you pay your fines within 60 days or you have a court date. Before, if you didn't pay your fine within 60 days, you had a jail date," he said. "That's when my ears perked up. I saw some change... which made me happy. I was tired of going to jail every three months."

Ohio law states that individuals cannot be jailed for their inability to pay their fines. The Norwalk Municipal Court's failure to follow these rules was not only illegal; it also prevented Jack from keeping a steady job that would have given him the ability to repay his fines.

While the Court has begun crediting the accounts of those who have served sentences for failure to pay, they have barely scratched the surface of the root problems built into the system.

Jack has taken responsibility for his past actions and remains hopeful about his future. He wants to pay back the fines he owes, but with a crippled job market, a past felony conviction, and the threat of serving another jail sentence to pay back money he did not have, it has been nearly impossible.

"I'm [still] unemployed ... "I'm seeking work pretty much religiously through temporary services, resumes and applications," he said. "As soon as I find gainful employment, the sky is the limit. I can put all this behind me and get on with my life."

Jack Dawley by the Numbers*

Fines Owed= $900.00 +
Costs Owed = $534.10

Total = ... $1,434.10

Collected by Huron County:

Total = ... **$645.25**

Spent by Huron County:

Execution of Four Warrants = $1,600.00 +
16 Days of Incarceration = $928.00

Total = ... **$2,528.00**

Total Net Loss to Huron County = **$1,883.00**

**Approximate numbers based on ACLU of Ohio research*

Tricia Metcalf

Tricia Metcalf didn't imagine her life this way.

A single mother of two, the pride Tricia takes in her children is evident.

"I have two kids, a 17-year-old son and a 13-year-old daugter," she said. "I have full custody of both of them. My son has a 4.0 in school. My daughter is very big into sports. I have really good kids."

"I was thinking just the other day of how lucky I am to have them," added Tricia. "They've never complained about having to go without because there was no money."

Things are far from easy for this family. In 2006, Tricia was convicted of passing multiple bad checks. The fines mounted into the thousands. Unable to pay the total amount owed, Tricia entered into a payment plan of $50 per month.

In the past, Tricia has worked at a fast food restaurant and done factory work through temp agencies, but long-term employment has been hard to come by. As the sole provider for her children, these stretches of unemployment have made it very difficult to make payments on a consistent schedule.

"Money is extremely tight," said Tricia. "It affects us by basically not being able to do things that other kids get to do. Like going to a movie; I can't often say to my kids 'you can go see a movie.' We have to save money for a long time to have that little bit of extra...We go without a lot of things."

Whenever Tricia missed a payment, a warrant was issued and she was taken to jail. On multiple occasions she wrote to the judge at the Bryan Municipal Court in Williams County, begging for extra time to make her payments. Initially, the judge allowed the extra time, but eventually sentenced her to jail in lieu of payment.

"I tried to pay my fines several times in multiple ways," said Tricia. "I had even gone to churches and asked if there was any way they could help. There was nothing I could do."

"I asked the judge about community service. I even sold things," she added. "I had to sell my one mode of transportation so I could pay. It was a constant threat hanging over my head. It's not like a normal bill."

Since 2006, Tricia has been incarcerated five times for failure to pay fines. From one week to the next, the uncertainty of whether she'll be taken to jail has weighed heavily on her son.

"He ended up moving in with my parents because he needed more stability," said Tricia. "Having the constant threat of 'mommy didn't have the money for her fines this week, we're going to have to go stay at grandma's house' kind of [exacerbated] his problems. It was just easier for him to go move in with them."

She went before the Bryan Municipal Court without any legal representation. When she tried to explain to the judge that she was unemployed and needed to support two children, she got a response she did not expect.

"I was standing there crying in a room full of people and the judge laughed at me," said Tricia. "If somebody is poor and actually sucking it up to go in front of the court to say, 'I cannot do this. I don't have the money,' don't just laugh at them."

The judge ordered her either

*(see **TRICIA** on page 14)*

Tricia Metcalf by the Numbers*

Fines Owed= $2095.00 +
Costs Owed = $1001.10

Total = ... **$3,096.00**

Collected by Williams County:

Total = ... **$1,209.00**

Spent by Williams County:

Execution of One Warrant = $2,000.00 +
40 Days of Incarceration = $2,548.00

Total = ... **$4,548.00**

Total Net Loss to Williams County = **$3,339.00**

**Approximate numbers based on ACLU of Ohio research*

John Doe

John (who asked that we do not use his real name) has had a rough five years.

The problems began in 2008, when he was convicted for the first of several driving-related offenses including driving under a suspended license.

By the end of the next year, he had accumulated approximately $2,000 in fines and court costs. Thus began a cycle of debt and imprisonment that John has been unable to stop.

Despite his driving convictions, John had held a steady job for over two decades, working as a dishwasher in a local restaurant. He knew it would be nearly impossible to pay off his fines on his restaurant wages, but he agreed to try, setting up a $30 per month payment plan with the local municipal court.

Shortly thereafter, John was diagnosed with diabetes. With medical bills piling up, he began to fall behind on his monthly payments. In 2010, things got worse: the restaurant where he had worked for over two decades closed its doors, leaving John unemployed.

John lost both his income and his health insurance. He had to purchase all of his medications at cost, and whatever was left after medical expenses was quickly used up on food, shelter and other necessities. Things unraveled quickly.

With no steady income and a serious medical condition, John was the very definition of indigent. But instead of holding a hearing to determine his ability to pay his fines, which is required by law, the municipal court issued a warrant for his arrest, and jailed him for ten days. When he was released and still could not pay his fines, which were now even higher, he was arrested and jailed again.

John's second jail sentence ended up costing him more than his freedom. He spent the majority of his sentence in a hospital due to a severe diabetes-related foot infection. After his release, he finally sought treatment for the worsening infection, but the damage was already done. Doctors were forced to amputate two of his toes.

John made mistakes, but the court's failure to follow the rules made it nearly impossible for him to recover from those mistakes, plunging him into a spiral of debt, incarceration, and, eventually, disability.

John Doe by the Numbers*

Fines Owed= $780.00 +
Costs Owed = $555.10
Total = ... $1,335.10

Collected by County:
Total = ... **$821.00**

Spent by County:
Execution of Two Warrants = $800.00 +
20 Days of Incarceration = $1,160.00
Total = ... **$1,960.00**

Total Net Loss to County = **$1,139.00**

**Approximate numbers based on ACLU of Ohio research*

(***TRICIA**, continued from page 13)*

to pay $2,000 or sit in jail for 37 days. She ended up in jail.

"It was one of the most humiliating things I've ever done in my life," said Tricia. "One girl explained to me the difference between a whore and a crack-whore. A girl in the bed beside me was going through withdrawal. It wasn't my group of people. I'd never dealt with [those] kind of people. I know that it's wrong, but it scared me."

Tricia understands that she has made mistakes, but wishes the court would realize that threatening to put her in jail unless she pays a fine when she does not have any money to pay the fine is an unrealistic solution.

"When it hits a point that it is impossible [to pay] there should be a form of leeway or some form of help," she said. "A person has a right to a fine that is reasonable."

Megan Sharp

Photo by Craig Knowles

Megan Sharp is just trying to keep her family together.

Both she and her husband are unemployed. They struggle to make ends meet, and any public assistance they receive is used to provide for Megan's three children. They're all staying with family right now. If that isn't hard enough, she worries every day whether she, her husband, or both of them will end up in jail.

"There's always the threat of both of us having to go to jail," said Megan. "It's either come up with this money by a certain date [or] go to jail, which is what happened to him now. He's actually incarcerated now, because he didn't come up with the money for his fine."

Megan's trouble began in 2010, when she was convicted of driving under a suspended license and taken to jail. The offense resulted in approximately $300 in fines and costs. She entered into a monthly payment plan with the Norwalk Municipal Court.

"Both I and my husband owe fines and together they are quite a bit of money," said Megan. "With neither one of us working it's been really hard coming up with money to pay on those fines so we don't have to go to sit ten days in jail or more for non-payment."

Megan lives in Willard, a small town of 6,000 in Huron County. Like many small Ohio towns, its job market is dismal. Though Megan and her husband are actively seeking work, finding a job is difficult. In the past, Megan has worked waiting tables, in a factory, and doing landscaping. But these jobs are primarily seasonal and have no stability.

"There's always the threat of both of us having to going to jail. It's either come up with this money by a certain date [or] go to jail."

"My work history has been kind of up and down," said Megan. "It's been kind of hard to find work, especially in Willard. There's nothing here... Both of us have been out filling out applications, applying with temp agencies. It's not a big town so there's not really many options."

Without work and still owing monthly payments toward their fines, Megan and her husband could no longer afford to stay in their own place. Out of necessity, they moved in with family.

"We weren't able to keep up with the rent and utilities," said Megan. "We ended up moving out, back in with family so we could try to get back on our feet

again."

They scrape together whatever money they can borrow in order to make the monthly payments on their fines to stay out of jail.

"My court fines, topped with my husband's court fines and the other things we need to pay on... Everything adds up after a while," said Megan. "It's just a big rut... It's been a struggle, a real struggle."

Megan fell behind on her payments and she was soon incarcerated for ten days for failing to remain current on her payment plan. When she was released she found that she now owed even more.

The Norwalk Municipal Court added the cost of issuing the warrant and the expense of transporting her to jail to her debt. The $300 she owed had now grown to over $500 with additional costs and fees.

Megan was offered no alternatives, even though it was obvious she couldn't afford to pay the fines. Her only option was to remain current on her payment plan or face incarceration.

Megan and her husband are not the only ones suffering as a result of the Norwalk Municipal Court's practices. She has noticed others in her community trapped in the same cycle.

"It seems like they're always arresting somebody for unpaid fines," said Megan. "That's all you hear, it's 'this person's got to go to jail.' And it could be somebody who doesn't get in trouble — that actually pays on their fine. And they miss one payment and have to go sit ten days in jail because of it."

Megan agrees with those who tell her that people who break the law need to be responsible for the consequences.

Unfortunately, she is caught in a catch-22. She can't find a job to make her payments, so she is forced to go to jail, where she incurs more fines that make it even harder for her to pay her debt.

"It seems like they're always arresting somebody ... it could be somebody who doesn't get in trouble—that actually pays on [their fine]. And they miss one payment and have to go sit ten days in jail."

"I don't have a problem with paying my fine," said Megan. "I have tried to make the payments even though I'm not working. I've been able to pay a couple times on my fines, but being unemployed... it's been hard."

The pressure has filtered down to her family — both her children and the extended relatives she lives with. At any time, they may be called upon to shift their schedules should Megan or her husband be taken back to jail.

"It's put a strain on them," she said. "They've had to help us out with our kids and making sure that we got to court appointments and jail visits. It was stressful."

"I want to get my fines taken care of," added Megan. "That way I'm able to get my license back, and start working again, and maybe even possibly go back to school."

Until then Megan's life is on hold.

Megan Sharp by the Numbers*

Fines Owed= $200.00 +
Costs Owed = $383.10

Total = ... **$538.10**

Collected by Huron County:

Total = ... **$50.00**

Spent by Huron County:

Execution of One Warrant = $400.00 +
10 Days of Incarceration = $580.00

Total = ... **$980.00**

Total Net Loss to Huron County = **$930.00**

**Approximate numbers based on ACLU of Ohio research*

Samantha Reed & John Bundren

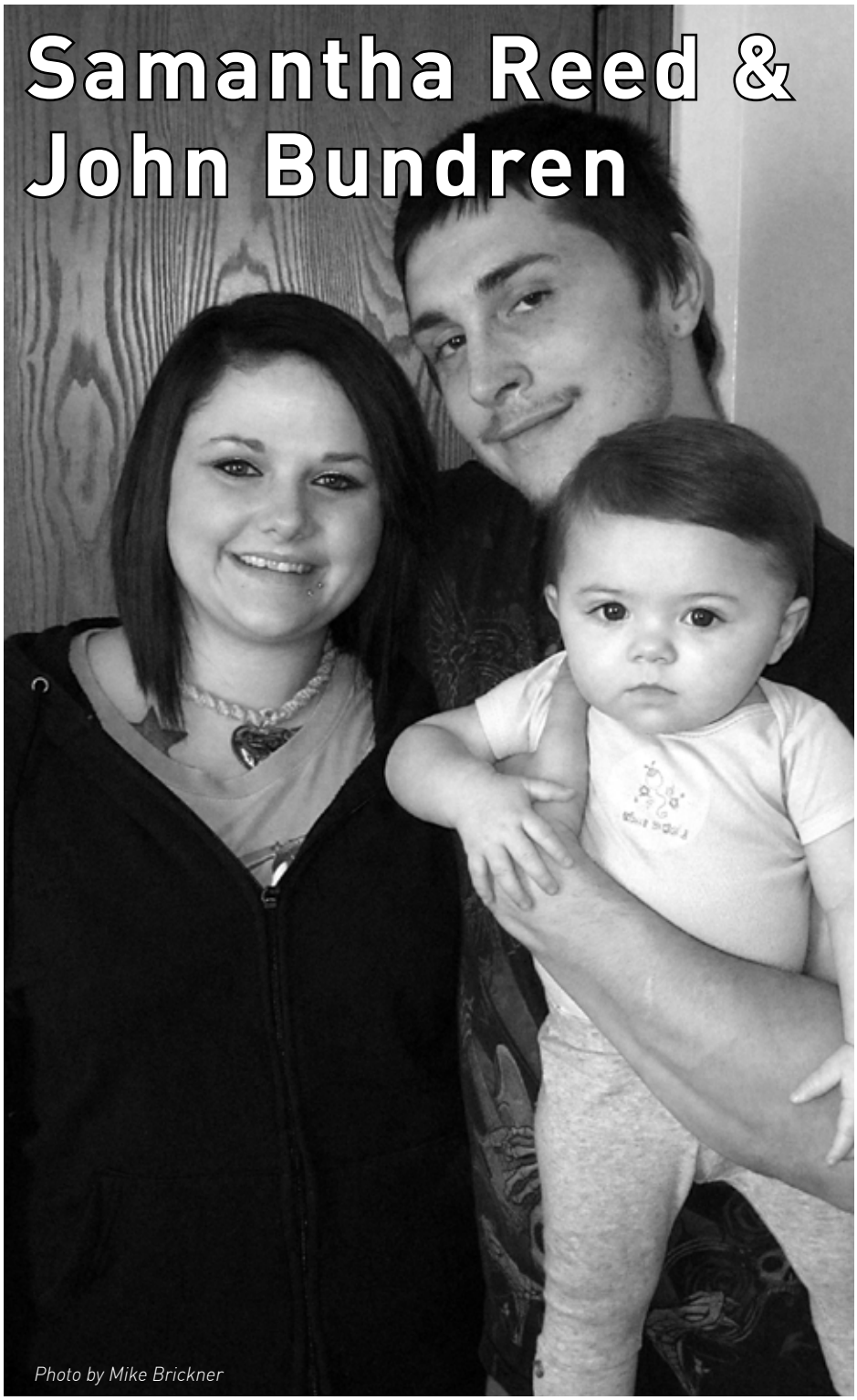


Photo by Mike Brickner

Samantha and John have been battling incarceration since 2008.

The young Norwalk couple is currently unemployed and living in the unfurnished room of a friend's apartment. With a nine-month-old infant to support, any money the pair receives is already stretched thin. Straining their family even further is the constant worry that one or both of them could be taken to jail for unpaid fines.

John has struggled with alcohol addiction, resulting in disorderly conduct, underage consumption, and other related convictions. He incurred hundreds of dollars in fines and costs and entered into a monthly payment plan to pay them off.

Like many others in the community, John has had difficulty finding long-term employment in the current job market. He has found some seasonal work picking vegetables at local farms, or working at a haunted house during Halloween, but nothing steady.

Stretches of unemployment make it challenging to remain current on a monthly payment plan. During busy months, John even made double payments, assuming the extra money would count as his payment for the next month.

Unfortunately, the Norwalk Municipal Court did not apply the extra money in this manner. He fell behind. The court issued a warrant for failure to pay, and John spent ten days in jail.

For Samantha, the pain comes not just from seeing

When money is especially scarce, John makes Samantha's payment instead of his own, so she can stay out of jail and care for their child.

John sitting in jail; but also from seeing court personnel belittle and attempt to humiliate him.

"People are rude in court," she said. "The judge is rude. They make a lot of unnecessary comments to John. It needs to stop."

With no high school diploma, Samantha's luck finding employment has not been much better than John's. Over the past three years, she has held a few minimum wage jobs, most recently doing housekeeping at a local hotel. But when business slowed down, employees had to fight to get even ten hours per week. Eventually, Samantha was laid off and has been unemployed since their daughter Allie was born.

In addition to the medical bills from Allie's birth, Samantha is also responsible for her own fines and costs stemming from misdemeanor convictions.

When money is especially scarce, John makes Samantha's payment instead of his own so she can stay out of jail and care for their child. It's heartbreaking, but he's done it more than once.

John has been incarcerated four times for failure to pay fines and costs, each time for ten days. Thus far, Samantha has been able to avoid jail, but the stress has not been easy for her.

"It has really affected my family a lot," she said. "Every time [John] goes to jail his father decides he wants to throw my daughter and I out in the streets and we have nowhere to live. It has really affected our well-being."

Facing homelessness, the family was finally able to find shelter in the home of a friend. They are currently seeking public housing in the Mansfield area.

John and Samantha are without question indigent. Yet **in the many times John has appeared before the Norwalk Municipal Court, he has never once been asked about his ability to pay his fines. Nor has he been assigned a lawyer to help him understand his rights, or offered any alternatives to facing another ten days of incarceration.**

To Samantha, being thrown into jail for failure to pay fines with money you don't have doesn't make much sense.

"I feel like if you do time for not paying on your fines, it should at least be counted toward those fines," said Samantha. "You miss out on a lot sitting in jail—like job opportunities."

Throughout the bleak cycle of debt and incarceration, the couple remains optimistic. Samantha is eager to complete her education and begin building a better life.

"I want to get my GED," she said. "I plan to take the test again when I have a stable place to live."

"My plan for our family is to start fresh," she added. "Get [John] a job, start working more with Allie, get a car and a license and some insurance. To be comfortable; not have to worry as much."

John Bundren by the Numbers*

Fines Owed= **$1,300.00 +**
Costs Owed = **$1,599.10**
Total = ... **$2,899.00**

Collected by Huron County:
Total = ... **$525.00**

Spent by Huron County:
Execution of Five Warrants = $2,000.00 +
41 Days of Incarceration = $2,378.00
Total = ... **$4,378.00**

Total Net Loss to Huron County = **$3,853.00**

**Approximate numbers based on ACLU of Ohio research*

Conclusion

Call to Action

The use of debtors' prison is an outdated and destructive practice that has wreaked havoc upon the lives of those profiled in this report and thousands of others throughout Ohio. The ACLU of Ohio has therefore called on the Ohio Supreme Court to institute administrative rules to ensure that all courts properly determine whether a person can afford to pay her criminal fines, in order to ensure that those who are unable to pay are not incarcerated for these debts.

While the ACLU has documented debtors' prison systems in at least seven counties throughout the state, there is little doubt that the practice is going on in many other places. Such a sprawling and insidious web of injustice cries out for statewide reform. The Ohio Supreme Court must promulgate clear rules that will end debtors' prisons in Ohio and hold accountable any courts that continue to flout the law. The Supreme Court must make clear that:

- The failure to pay fines and costs may result in jail time only after the court has held the legally required hearing and determined that the defendant has the financial resources to pay but is willfully refusing to do so. Even in these cases, the court must credit $50 against the debt per day of incarceration.

- Every Ohio court must, at the beginning of any matter, provide each debtor-defendant with a printed document explaining their rights in clear, comprehensible language. This information should also be made available online through the court's webpage.

- All individuals who have been wrongfully incarcerated for failure to pay fines or costs must immediately receive a retroactive credit against their debts for time served. Additional fees imposed as a result of illegal arrests and warrants must also be cancelled.

Until the state Supreme Court takes action, thousands of Ohioans will continue to be relegated to the outskirts of hope, where the crime of poverty sentences them to a vicious cycle of incarceration, burdensome fees, and diminishing optimism for a better life. Our constitution — and our conscience—demand that Ohio courts do better.

Acknowledgments

The ACLU of Ohio would like to thank all those who shared their stories. We also acknowledge the following ACLU staff members for their contributions to this report:

Mike Brickner, Director of Communications and Public Policy:

Mike has been with the ACLU of Ohio for nine years. During this time, he has worked on a variety of civil liberties campaigns, including the Cincinnati-based Police Reform Project and promoting state criminal sentencing reform. Mike frequently provides commentary to members of the media on core ACLU issues ranging from ending capital punishment to strengthening state privacy laws. Additionally, Mike previously co-authored *Reform Cannot Wait: A Comprehensive Examination of the Cost of Incarceration in Ohio from 1991 — 2010,* as well as *Prisons for Profit: A Look at Private Prisons*. Mike received his master's degree in psychology from Cleveland State University's Diversity Management Program and his bachelor's degree from Hiram College.

Jocelyn Rosnick, Policy Researcher/ Post-Graduate Legal Fellow:

Jocelyn joined the ACLU of Ohio in August 2012 as a Case Western Reserve University School of Law Post-Graduate Legal Fellow. Jocelyn's focus area is criminal justice, and her major projects include debtors' prison research, prison privatization, and solitary confinement. Through these projects, Jocelyn handles a variety of tasks, including drafting public records requests, analyzing documents and data, conducting field investigations and interviews, legal research, and summarizing recent and pending legislation. Jocelyn recently became a licensed attorney for the State of Ohio.

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7. Ohio Rev. Code §2947.14.

8. *See State v. Self*, 2005 Ohio 1120, 2005 WL 589887 (Ohio Ct. App. Mar. 14, 2005). *See also Strattman v. Studt*, 253 N.E. 2d 749, 753 (Ohio 1969).

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11. *Id.* §2947.14(A)-(C).

12. *Id.*

13. *Id. §2947.14(E).*

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Published April 2013