

Building a Campaign to Stop Debtors' Prison Practices from Occurring in Your State – Insight from the ACLU of Ohio Debtors' Prison Research Strategy

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Getting Started—Information Needed to Launch a Campaign

The first step toward launching a successful campaign is to assess the current landscape, and then move forward with a focused, flexible plan. It is important to set goals and understand the potential limitations of research and outreach from the onset.

Below is a step-by-step summary of the debtor’s prison research strategy the ACLU of Ohio utilized during its campaign to end debtors’ prison in the state. This summary will explain what worked, and more importantly, what didn’t, as well as overview ways to establish an effective campaign to stop debtors’ prison in your area.

Step 1: Identify the Problem and Where Debtors’ Prison Practices are Occurring

You first need to determine if debtors’ prison is a problem in your state. Examine your legal intake, and ask staff to tag any debtors’ prison complaints that arrive. Identifying areas in which debtors’ prison practices are occurring may be difficult unless you receive a complaint. One way to prompt individuals to notify a local affiliate regarding debtors’ prison practices is to use the media to bring attention to the issue.

- *Tip: Be selective about where you research. Get a lay of the land by inquiring to local defense attorneys or talking with lay leadership in the community. One note of caution when approaching public defenders—they may have relationships with the judge, or may be complicit in debtors’ prison practices.*

Step 2: Create a Tentative Campaign Timeline

First, create a timeline of events. Set goal dates for conducting research, drafting and sending records requests, analyzing data, and reaching out to potential victims.

- *Tip: Make your timeline flexible. Some deadlines, like government agencies fulfilling records requests, will not be within your control.*

For an example of a debtors’ prison timeline, see page 8.

Step 3: Research the Law

It is highly important to be aware of both state and federal law regarding debtors’ prison practices. Conduct thorough legal research on your state constitution’s, state statutes’, and case law stances on incarceration for failure to pay.

Notes: It is also important to research other similar cases that may have been tried in your state courts in the past, and analyzing their outcomes. This can inform whether litigation is a successful strategy or not.

Step 4: Gather Information!

Once you have an idea as to where debtors’ prison practices are occurring it is time to gather information to determine the scope of the problem. You will need to determine which court(s) send individuals to jail for failure to pay. Generally, individuals are sent to the county jail. However, in counties that include a major city, individuals incarcerated for failure to pay may be sent to a smaller city jail. If the county contains multiple jails and you are unsure where individuals are sent, you may want to send duplicate public records requests to each facility. Each records request should span a specific period of

time (e.g., 45 days,) and should be sent via certified U.S. mail. It is also a good idea to fax and send the request electronically to speed the process. Be prepared to follow up with the sheriff's office to confirm receipt and to check on the status of the request.

- *Tip: Remember, all of this information should be publicly available according to your state's open records laws. Research the law ahead of time, and be prepared to assert your right to this information if government officials deny your request. Also, recognize that government entities may compile records differently, so you may need to be flexible in your request or work with the court and/or jail to obtain the information you need.*

For a public records request template, see page 9.

Step 5: Analyzing the Data

Once you receive the booking report, analyze the "charges" related to each individual's incarceration and the length of incarceration for patterns. For example, are multiple people incarcerated for seven days for "Failure to Appear?"

Additionally, over the course of our investigation we learned that "contempt" is often a guise for incarceration for failure to pay fines. Look for booking report charges similar to the following:

- Contempt
- Warrant for Failure to Pay Fines
- Back Fines Warrant
- Anything that includes the words "fines" or "pay"
- Failure to Appear
- Failure to Comply

Next, crosscheck the booking report's information against online court records. Crosscheck the booking dates, release dates, and charges included in the booking report against the information contained in online court dockets. Verify that warrants were issued and recalled around the time of the booking dates. Also, note the reason listed for the warrant in the online docket versus in the booking report. Often the booking report charge may be as vague as "contempt" or "failure to appear" while the online docket may explicitly state "warrant for failure to pay fines."

Some courts may not have online records or they may contain incomplete information. Therefore, you may want to send additional public records requests to inspect a handful of physical court files in person, or have the court make copies for you. **Select a sampling of files if you have a large number, in order to make this process manageable.**

- *Tip: It is important to keep track of this information in an organized fashion. The ACLU of Ohio created Excel spreadsheets to document booking report and court docket information. We narrowed our analysis to include only individuals whose booking report charges indicated some form of debtors' prison practice. We then recorded the individual's name, booking report charge(s), date of booking, date*

of release, case numbers, underlying charges, and docket comments such as explicit entries regarding failure to pay.

Step 6: Gathering Contacts and Conducting Interviews

A successful campaign will include first-hand accounts of debtors' prison practices, so it is important to obtain a few reliable contacts. Two main ways to obtain debtors' prison victim contacts are to: (1) contact individuals by telephone/mail or (2) by court watching.

Once you obtain contacts, you should attempt to conduct interviews to obtain as much information about the court's debtors' prison practices as possible and document the information in questionnaires.

Telephone/ Mail Outreach:

- First, locate the contact information of individuals you've identified as likely to be debtors' prison victims.
 - *Tip: Many law school students have free access to Lexis Nexis People Search through their school, so this may be an excellent project for them.*
- Once you obtain contact information, attempt to contact individuals via telephone and by sending outreach letters via U.S. mail.
 - You may also consider conducting in person visits to deliver outreach letters and possibly conduct on the spot interviews of potential debtors' prison victims.
 - *Tip: Be aware that those caught in debtors' prison practices are transient. Many ACLU of Ohio outreach letters were "returned to sender" and many people did not answer or had moved during in person visits. You may have to send dozens of letters and attempt numerous phone calls to yield a few good contacts.*

Court Watching:

Look for patterns on the court's website to see if they generally conduct payment and/or contempt hearings on certain days of the week. If so, it may be a good idea to observe these proceedings. Bring a number of outreach letters to hand out after the hearings, and be prepared to conduct interviews as individuals leave the courthouse.

- *Tip: The ACLU of Ohio obtained the vast majority of our contacts by engaging in court watching practices. We found it was much easier to conduct interviews as individuals left the courthouse than to reach them by phone.*
- *Tip: If the docket allows you to see who will appear at the hearings, plan ahead. Prioritize which individuals may be the best contacts, taking into account things like their underlying criminal charge, how much they owe in fines, if they have been previously incarcerated for failure to pay, etc. If 20-30 people arrive for hearings, chances are you may only speak to 2 or 3 of them. Know who the best targets are for you to focus on when you walk in the room.*

For an example telephone contact script, see page 10.

For an example outreach letter, see page 11.

For an example short form questionnaire, see page 12.

For an example long form questionnaire, see pages 13-15.

Step 7: What Type of Campaign to Launch

Once you have analyzed the data, confirmed that debtors' prison practices are occurring in your area, and compiled a list of victims that are willing to participate in a campaign, you must decide which direction to steer the campaign: litigation/ legal, media/ advocacy, or some combination of both.

Deciding which direction to steer the campaign depends on a number of factors, including:

- the scale of debtors' prison practices in your state;
- the number and willingness of debtors' prison victims to participate in various strategies;
- the state's existing case law; and,
- whether the affiliate can generate enough public concern to create the opportunity for change.
 - *Tip: Highly effective campaigns will likely include a combination of strategies utilizing integrated advocacy.*

Step 8: You've Launched Your Campaign—Now What?

You've had a successful media splash, or filed litigation challenging debtors' prison practices, or perhaps both. Now, you should have a plan for next steps and how to contend with the aftermath. You should prepare for:

- New stories of debtors' prison flowing through your office's legal intake process;
- Reporters who wish to interview victims of debtors' prison and investigate their own community's use of these practices; and,
- Coalition partners such as defense attorneys, re-entry advocates, and social services agencies contacting your office with additional stories.
 - *Tip: It is important to anticipate these responses so you can prepare and seize this momentum once you've launched your campaign. Plan what a follow up to the campaign may look like six months from the launch.*

ACLU of Ohio's Campaign Strategy to Stop Debtors' Prison Practices Across the State

The ACLU of Ohio opted to launch a two-part campaign encompassing both legal and advocacy strategies. First, we sent [legal demand letters](#) to seven courts across the state where we found strong evidence to support our notion that debtors' prison practices were occurring, as well as, sent a cover letter and copies of each court's letter to the Ohio Supreme Court. The legal demand letters detailed the evidence we found in each court and illustrated ways to bring the court practices into compliance with the law.

Additionally, the ACLU of Ohio launched a [large-scale advocacy campaign](#). The campaign contained three subparts: [a published report](#), web/ social media, and press. First, the ACLU of Ohio created a report, *The Outskirts of Hope: How Ohio's Debtors' Prisons are Ruining Lives and Costing Communities*, which overviews Ohio law, the investigation, and highlighted five personal stories of those caught in the debtors' prison cycle. Copies of the report were sent to various agencies, as well as available on www.acluohio.org.

The ACLU of Ohio also created a dedicated section on debtors' prisons on the ACLU of Ohio website. This page includes information on Ohio debtors' prison practices, links to a copy of *The Outskirts of Hope*, the legal demand letters, and includes [embedded videos](#) of two debtors' prison victims' [on-camera interviews](#). The website also contained [a call to action link](#) so Ohioans can take action against debtors' prison practices and send letters to court administrators. The ACLU of Ohio also linked the debtors' prison campaign information on various social media outlets such as Facebook and Twitter.

Lastly, on the day of our campaign launch we also held a press conference at our Cleveland office. We invited media outlets to attend the conference where we discussed the investigation, the report, as well as had a debtors' prison victim present to talk about his personal experiences.

Outcomes:

- Within 24 hours of issuing letters to the courts and Supreme Court, the Chief Justice responded and asked the ACLU to meet with her regarding our concerns;
- Two of seven courts contacted our office within 24 hours to arrange a meeting.
- Widespread media attention in state and national news outlets;
- Hundreds of members and supporters took action by contacting the Ohio Supreme Court in the first 48 hours of the release;
- Dozens of new reports of debtors' prison practices received through intake; and
- New allies contacted our office asking to assist with this work.

For an example of our two-part campaign checklist, see pages 16–17.

For more information on launching a campaign to stop debtors' prison practices, contact the Mike Brickner, director of communications & public policy, ACLU of Ohio, via telephone at 216.472.2220 or e-mail at mbrickner@acluohio.org

Sample Debtors' Prison Research Timeline:

MEMORANDUM

To: Mike Brickner

From: Ana Perez

Date: 4/20/12

RE: Outline for Debtor's Prison Project

1. Compile Background information on Ohio/federal law regarding debtors' prisons-
Target Date: May 18, 2012
 - a. Mostly completed working off of the "In for Penny Report"
 - b. Compile research into memo written on why practice violates law
2. Research to target specific county jails-
Target Date: May 18, 2012
 - a. Besides Erie and Hamilton, have other groups already reported on counties debtor prison practices?
 - i. Yes- Montgomery, Greene, and Richland Co.
 - b. Choose 2-5 counties to target based on known or presumed practices
 - i. Consider the size of the counties
3. Prepare and send records requests to county jails based on research above-
Target Date: May 25, 2012
 - a. Find focus of records being requested- failure to pay finds
 - b. Find contacts to send county records requests
 - i. Consider sending directly to jails because may have more luck
 - c. Create draft of records request to send based on models
 - d. Get draft approved
 - e. Send records requests to counties
4. Put together document with criteria for optimal plaintiffs
Target Date: June 8, 2012
 - a. Focus on the type of plaintiff we are looking for based on documents
 - b. Strategize on what would make most sympathetic claims
 - c. Focus on types of offenses most optimal or most common reasons causing imprisonment for lack of payment
5. Peruse Records to find target plaintiffs
Target Date: Unknown- at mercy of county records received
 - a. Target based on offense
 - b. Based on amount for which imprisoned
 - c. Find approximately twenty potential targets
6. Create survey for potential prisoners to become clients
Target Date: June 22, 2012
 - a. Based on questions in Southern Center for Human Rights and Michigan ACLU surveys

Public Records Request Template:

DATE

NAME
OFFICE
ADDRESS 1
ADDRESS 2

RE: Public Records Request

Dear [Name]:

Pursuant to [state]'s open record laws, [statutory citation], the following is a formal request for public records in the possession of the [Name] County Sheriff's Office. We hereby request copies of the following:

- All records, including but not limited to booking reports, showing the names, gender, date of booking, date of discharge, dates indicating length of stay, and/or charges associated with each person held in your jail between [Date] and [Date].
- All electronic and paper form documents used to determine the indigency status of inmates, including but not limited to forms used to determine whether an individual is eligible for court appointment of counsel and forms used to determine whether an individual is entitled to free or reduced price toiletries while in jail.

For purposes of this request, "records" means any and all writings, documents, correspondence, papers, text files, computer files, emails, annals, archives, records, journals, logs, notes and/or minutes.

Please send the requested records to ADDRESS, within [] days of the receipt of this letter.

We look forward to receiving copies of these documents via United States mail, and we understand that we are responsible for the copying and mail costs. Nonetheless, please contact us prior to complying with this public records request to inform us of the anticipated costs.

If there are any questions related to this request, please contact me, [enter contact information].

Thank you in advance for your assistance.

Sincerely,

NAME

Sample Telephone Contact Script:

Hello, I work with the American Civil Liberties Union of [affiliate name]. The ACLU of [] is conducting research in your community on people who may have been imprisoned for failure to pay court fines. Through a search of local court records, we have learned that there is a strong possibility that you may have been imprisoned for failure to pay court fines.

While this is not an offer of representation or legal assistance, we are hoping to learn more information about your experiences and help end these practices. Would you be willing to participate in a brief questionnaire regarding your charges and term of imprisonment and also allow us to follow up with you at a later date?

Sample Outreach Letter:

DATE

NAME
ADDRESS 1
ADDRESS 2

Dear [Name]:

My name is [name] and I am [title] at the American Civil Liberties Union of [affiliate]. The ACLU is the nation's oldest civil liberties organization, and has defended the rights of individuals for over 90 years.

The ACLU is conducting research in your community on people who may have been imprisoned for failure to pay court fines. Through a search of local court records, we have learned that there is a strong possibility that you may have been imprisoned for failure to pay court fines.

While this is not an offer of representation or legal assistance, we are hoping to learn more information about your experiences and help end these practices. In the near future, my colleagues [staff member names] will contact you to participate in a brief survey regarding your charges and term of imprisonment.

If you would like additional information or have questions, please feel free to contact our office at [telephone number] or email [address]. You may also find more information about our organization on our website [URL] or on the enclosed card [business card]. Thank you in advance for your time and consideration.

Sincerely,

NAME
TITLE

Questionnaire #1 for Debtor's Prison Intake

A. Background:

- a. Name:
- b. Date of Birth:
- c. Contact Info:
 - i. Address:
 - ii. Phone Number (s):
 - iii. Email Address:
- d. If person is in jail, then contact info for next of kin or friend:
- e. Court:
- f. Judge/Magistrate:
- g. Case number:
- h. Jail:

B. Offense/Sentence:

- a. What was the offense for which you were given the payment obligation?
- b. Is the payment for fines, costs, fees, or some combination of these? How much was it for?
- c. Are you currently employed? Approximately what is your weekly/monthly/annual income from employment or other sources ie: disability, child support, public assistance, etc.?
- c. Were you sentenced to either pay the money you owed or go to jail?
- d. What was the exact payment requirement imposed? Ie: pay immediately or go to jail; pay by a certain date or go to jail; you were on probation or a payment plan and you couldn't pay on schedule so you were sentenced to jail, etc.?
- e. Did the judge/magistrate offer you a payment plan?
- f. When were you incarcerated/scheduled to be incarcerated?
- g. Did you have a lawyer for the underlying offense? Was he or she with you when the payment obligation was imposed? Are you currently represented by an attorney? Was the attorney appointed or retained?

Questionnaire #2 for Debtor's Prison Intake

A. Background:

- a. Name:
- b. Date of Birth:
- c. Contact Info:
 - i. Address:
 - ii. Phone Number:
 - iii. Email Address:
- d. If person is in jail, then contact info for next of kin or friend:
- e. Court:
- f. Judge/Magistrate:
- g. Case number:
- h. Jail:

B. Offense:

- a. What was the offense for which you were given the payment obligation?
- b. On what date was the payment obligation imposed?
- c. What is your criminal history other than this offense? Were you charged with prior crimes? Convicted? By plea or trial? What were your prior sentences?

C. Sentence:

- a. When were you sentenced to either pay the money you owed or go to jail? (This may be the same date as the date the payment obligation was imposed).
- b. By what date were you told you must pay in order to avoid going to jail?
- c. What was the exact payment requirement imposed? Ie: pay immediately or go to jail; pay by a certain date or go to jail; you were on probation or a payment plan and you couldn't pay on schedule so you were sentenced to jail, etc.?
- d. Did you have a lawyer at the time you were sentenced? Was he or she with you at the sentencing? Was the lawyer retained or appointed?
- e. Did the judge/magistrate offer you a payment plan?

f. Did you or your lawyer (if you had one) make a specific request to the judge/magistrate asking for additional time to make payments?

g. Is the payment for fines, costs, fees, or some combination of these?

h. Were you incarcerated in connection with a probation violation? Were there any other reasons for the revocation of your probation?

i. Did you make efforts to pay the fines? Ie: finding a job if you didn't have one, working extra hours if you did have a job, or borrowing from a family member, etc.?

j. Did the judge/magistrate ask you about your efforts to pay the fine? Did you tell him or her?

k. How much did you have to pay? For how long were you ordered to be incarcerated in lieu of payment?

l. Have you made any payments toward your fine? If so, how much?

m. When were you incarcerated/scheduled to be incarcerated?

n. Have you ever been cited for contempt of court? Why?

D. Indigency:

a. Where were you employed before you were incarcerated for inability to pay your fines? Where did you work?

b. What was your weekly, biweekly, or annual salary or pay per hour and average number of hours per week, if you were not salaried?

c. If you were not employed, were you actively looking for a job?

d. What is your employment history? Where have you worked in the last 5 years, and if you've had extended periods of unemployment in the last five years, how long did they last?

e. With whom do you live? Do you live with your children? If so, how many?

f. What are your financial obligations including rent and other living expenses, family members you support, child support payments, medical payments, student loans, etc.

g. Do other members of your household (spouse, boyfriend/girlfriend) have jobs? How much do they make on a weekly, biweekly, or annual basis?

h. Where did you live before you were incarcerated?

i. Do you own a vehicle, property, or any other big assets? What is the value of these assets?

j. Do you receive any other income from public assistance, pensions, disability, or child support?

k. Have you ever been declared indigent by a court?

E. Impact of Incarceration:

a. Did you lose a job as a result of your incarceration? Did your incarceration make you miss out on a potential job opportunity?

b. If you had a job and can't work now that you're incarcerated, approximately how much money will you lose if you remain in jail for the full period?

c. How does your incarceration impact your family?

Sample Debtors' Prison Campaign Launch Checklist:

✓	REPORT	WHO	DATE DUE
	First edits of <i>The Outskirts of Hope</i> report	Chris, Jason, Nancy, Drew, national staff	March 26
	Final edits of <i>The Outskirts of Hope</i> report	Chris, Nick, Mike	March 29
	Order short run copies of report	Nick	April 1
	VIDEO		
	Provide final edits to videographer	Mike	March 25
	Finalize video	Craig Knowles	March 29
	Upload video to YouTube	Wendy	April 1
	LEGAL LETTERS		
	Provide edits to national ACLU on letter drafts	James, Jennifer, Drew, Mike, Jocelyn, Chris	March 27
	Discuss letters with national ACLU on conference call	James, Jennifer, Drew, Mike, Jocelyn, Chris	March 28
	Finalize and print letters for fax and certified delivery	Mike and Jocelyn	April 2
	Collect contact information for all courts	Jocelyn	March 26
	Coordinate printing and distribution of letters	Mike and Melissa	March 27
	Alert Ohio Supreme Court of public comments	Mike	April 2
	Deliver letter in person to Ohio Supreme Court	Columbus staff	April 3
	DISTRIBUTION OF REPORTS		
	Send reports to major donors	Lindsay, Melissa, Jason, Jeff, Carol	April 4
	Draft cover letter for mailing to major donors	Lindsay and Jason	April 2
	Send reports to larger pool of donors	Lindsay, Jason, Jeff, Carol, Nick	April 12
	Create one page synopsis of <i>The Outskirts of Hope</i> report to send to these constituents	Lindsay, Nick, Jason	April 8
	Send reports to major daily newspaper editorial boards	Nick, Mike	April 4
	Send reports to affiliates, coalition partners, and other interested parties	Mike, Chris, Nick, Jeff, Carol	April 8
	WEBSITE PROMOTION		
	Create text for debtors' prison landing page	Nick, Jeff, Wendy	March 29
	Draft web and email action alerts for membership	Mike, Nick, Wendy	March 29
	Embed videos on website	Wendy, Jeff	April 4
	Upload password protected report to website for media pitches	Wendy, Jeff, Nick	April 1
	Create banner for home page	Wendy	April 2
	Social media (Facebook and Twitter posts)	Mike and Melissa	April 4
	MEDIA PROMOTION		
	Draft press release	Nick	April 2
	Confirm if victims can participate in media launch	Jocelyn, Mike	March 26
	Confirm logistics for victims' travel to Cleveland	Jocelyn, Mike	March 28
	Create press packets	Nick, Mike, Melissa	April 2
	Identify targeted media	Nick, Mike, national ACLU	March 29
	Begin media pitches	Nick, Mike, national ACLU	April 1

	Invite donors to press event	Jason, Lindsay	April 1
	Set up of room, technology	Nick, Jeff, Melissa	April 3
	Draft media advisory for press event	Nick	April 1
	ADDITIONAL PROMOTION		
	Draft blog posts for national ACLU's <i>Blog of Rights</i>	Mike	April 2
	Draft NASW newsletter article	Mike	April 1

Webcast Information:

Title of event

Location

Date

Speakers in order of appearance (with name, title, affiliation as they want it)

Editing instructions