



505 Fifth Ave. Suite 901, Des Moines, Iowa 50309
www.aclu-ia.org

FOR IMMEDIATE RELEASE: Monday, October 9

ACLU of Iowa Launches Research Project on Court Debt and the Criminalization of Poverty in Iowa

Des Moines, Iowa – In Iowa and across the nation, court debt is unfairly perpetuating downward spirals of poverty for people. For those people who go to jail, court debt also makes it far more difficult to successfully rehabilitate and re-enter society.

That's why the American Civil Liberties Union of Iowa has launched a special one-year research project to study and address these important issues.

Court debt consists of various legal fines, fees, and costs, including the cost of public defenders and court-appointed attorneys, as well as the cost of food and shelter for each day a person is held in jail.

In rare cases, people may even be jailed for failure to pay those costs – without a hearing into their reasonable ability to pay. These “modern-day debtor’s prison” practices, as they’re called, have long been held unconstitutional by the U.S. Supreme Court as a violation of equal protection.

“A person not need even to have gone to jail to incur significant court debt,” said Phil Brown, hired earlier this month by the ACLU of Iowa to investigate and document problems related to court debt in Iowa and to propose reforms. “Tremendous amounts of court debt can be incurred on even a minor charge, such as a non-violent drug offense or even a traffic violation, and can happen even when charges are ultimately dismissed in the case or you are acquitted.”

Fees Upon Fees

Here's what can too often happen:

First, whatever the charge, if you are taken into custody – guilty or not – you usually have an opportunity to post bail in a day or two. But if you can't afford bail, you will remain in jail.

Then, if you can't afford a private attorney, you are assigned a court-appointed attorney. But because of those attorney's heavy workloads and weekends off, you might not see your attorney for days.

Meanwhile, with each passing day (if you plead guilty or are convicted) in jail, you are amassing fees for room and board. In Polk County, that rate is \$95 per day.

Also, if you're employed, if you aren't able to show up for work, or your employer found out you were in jail, you may well be fired and lose that income.

In some cases, your attorney might suggest you plead guilty or sign a dismissal agreement just to get you out of jail – even if you are not guilty. But that offer is typically made by prosecutors only if defendants first agree to pay court costs, which can total thousands of dollars.

There are also legal fees, even for a court-appointed lawyer. Many people think that when a lawyer is provided because a defendant cannot afford one, the state then pays for that lawyer. In many states, this is indeed the case, or there's a limit to how much a defendant can be

assessed, such as \$500. But in Iowa, court-appointed attorneys and public defenders almost never come free of charge and almost never come with a cap on what their clients might owe. Also in Iowa, unlike most states, defendants are routinely charged the full cost of their public defender.

While some judges are properly conducting a “reasonable ability to pay” hearing and then limiting the amount that defendant is expected to repay, other judges may be failing to do so. Part of the ACLU of Iowa’s research will include identifying jurisdictions with high rates of contempt convictions, and investigating whether a reasonable-ability-to-pay hearing was provided and if so, whether it was adequate.

“Legal fees are one major area where people tend to amass thousands and even ten of thousands of dollars in court debt,” said Brown.

Iowans may also be assessed additional costs because of improperly high bail. Sometimes the charges themselves could be inherently problematic, with Iowa seeing an uptick in consideration of anti-panhandling ordinances and other measures that target homeless people and criminalizing poverty.

State Policies Worsen the Problem

Further compounding the problem: In 2015, the State of Iowa decided to partially privatize court fees collection.

Now, after 30 days of non-payment, debts are automatically assigned for collection and some are turned over to a private debt collection agency. These private collectors automatically add a 25 percent collection fee to existing debt. This means that those who are unable to pay upfront end up owing significantly more than those who can. “Effectively, it’s a poor tax,” says Brown.

The State of Iowa also engages in a host of aggressive debt collection activities. These include withholding state benefits and vendor payments, wage garnishment.

Sometimes, Iowans are even jailed for their inability to pay. By the end of 2017 alone, Iowa is likely to have convicted more than 1,000 people of contempt because they didn’t pay enough against their fines and court costs.

And once you are trapped with overwhelming court debt, there’s almost no way out. Similar to student loans, most court debt sticks with you even if you file for bankruptcy.

The repercussions for court debt can be far-reaching. A run-in with the legal system for too many Iowans can be so costly that it results in evictions, utility shut-offs, foreclosures, job loss, and loss of access to transportation. Even if you are able to dig yourself out of these financial holes, restarting utilities or working with damaged credit makes recovering that much more difficult.

The problem is only getting worse. Between 2000 and 2016, Iowans’ outstanding court debt ballooned from \$200 million to more than \$680 million, according to the Iowa Legislative Services Agency.

Racial Disparities in Court Debt

Court debt has disturbing and profound implications for racial inequality, too. In Iowa, after you have a felony conviction, if you want your right to vote restored, you must first pay off all legal fines, fees, and restitution. Because Black people in Iowa 11 times more likely than white people to be incarcerated (ranking Iowa among the worst in the country), court debt works with prison racial disparities to significantly deprive Black people, families, and communities of political power.

These costs are born not merely by the offenders, but also their children and social networks. Further, collection mechanisms do nothing to break cycles of poverty. They are barriers to reentry and rehabilitation that disproportionately affect Iowa’s Black communities, which are grossly overrepresented within the state’s criminal justice system.

To help investigate and address this problem, Brown has been hired as part of a one-year legal fellowship to collect data and personal narratives about Iowa court debt. He will be working under the supervision of the ACLU of Iowa's legal director.

Brown will be collecting personal stories from Iowans affected by court debt. He'll also be assessing data available from Iowa courts and law enforcement agencies to document the problem. He and the ACLU of Iowa will then formulate a report that includes recommended reforms. It is expected that these reforms will include proposed changes to Iowa's prosecutors, court procedures, and law enforcement officials, and could require a change in Iowa laws.

Mark Stringer, ACLU of Iowa executive director, said, "We are so pleased to have Phil on board to shine a spotlight on this area of extreme injustice in our state. Our system of justice is predicated on the idea of a fair trial for everyone, regardless of poverty. But our current system is failing many, because it leads to unequal justice, based on wealth. The criminalization of poverty broadly also has serious implications for racial justice in our state. It's an area that has too long been ignored, and the problems are only getting worse."

* * * * *

The ACLU of Iowa is a private, non-partisan organization that fights to advance civil liberties for all. It is the state affiliate of the national American Civil Liberties Union. The ACLU prides itself in upholding everyone's civil liberties, no matter who they are or what they believe. We work to assure the rights of all Iowans – from atheists to devout Christians, from labor unions to businesspeople and more – to make sure the constitutional rights of all are preserved. For more information, please go to www.aclu-ia.org

Want to be removed from this press release contact list? Prefer it go to a different email? Or do you want to be added to our press release contact list? Please email editor@aclu-ia.org.