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Ending Hunger in America: Family Budgets and Food Insecurity

As a Mississippian and a civil rights lawyer, I want to thank you for affording me this opportunity to discuss the connection between America’s criminal justice system and the sad reality that millions of people in our extremely wealthy country face serious food access challenges. Poverty is palpable in Mississippi, and I live much of my life at the treacherous intersection of poverty and our current criminal enforcement regime.

At the MacArthur Justice Center, we have for years used litigation as a vehicle for challenging systems that pummel the poor and create substantial barriers to economic stability for millions of people annually. We see firsthand the devastating impact of excessive misdemeanor fines and fees and the judicially-sanctioned shakedown of people threatened with incarceration, driver’s license suspension, wage garnishment, credit score damage, loss of voting rights, tax refund intercepts, and loss of professional licenses if they don’t pay up. These people are forced to make very difficult financial choices, and many ultimately choose to go without food. Add to this the ways in which our criminal justice system denies adequate representation to people who can’t afford an attorney, locks up those who don’t have money for bail, revokes probation when supervision fees and monitoring costs go unpaid, and provides no meaningful reentry programs for the hundreds of thousand of people released from prison each year, and the role our courts play in punishing poverty and contributing to large-scale human suffering becomes painfully clear.

Fines and Fees

More than \$50 billion dollars in criminal debt is owed by approximately 10 million people in the United States due to their involvement in the criminal justice system.¹ In Mississippi alone, people involved in the criminal justice system owe more than \$507 million.² It is estimated that approximately 13 million misdemeanor charges are brought annually in the Unites States, not including the more than 40 million speeding tickets issued every year.³ In nearly 600 municipalities, fines account for over 10% of general revenues. In 80 of those jurisdictions, fines generate over half of budget revenue.⁴

¹ <https://www.policylink.org/our-work/just-society/fines-fees>

² https://mississippitoday.org/2021/01/13/mississippians-saddled-with-507-million-in-criminal-justice-debts-preventing-future-opportunity/#disqus_thread

³ <https://www.prisonpolicy.org/reports/pie2020.html>

⁴ <https://www.forbes.com/sites/nicksibilla/2019/08/29/nearly-600-towns-get-10-of-their-budgets-or-more-from-court-fines/?sh=bcae7364c998>

For those appearing in misdemeanor and traffic courts across America, “justice” is swift and harsh. With very rare exceptions, defendants do not have lawyers. Dozens or hundreds of cases are handled each court session, and the amount of time spent on a case often can be measured in seconds rather than minutes. Fines are meted out without regard for income and ability to pay - one size fits all - and state assessments (referred to as “fees”) are automatic “add-ons” that often are larger than the fines imposed to punish the offense.⁵ (See, for example, the Starkville, Mississippi fees and assessments schedule attached hereto). In a matter of minutes, a misdemeanor defendant can easily owe more than \$1,000 in fines and fees. Payment terms vary from jurisdiction to jurisdiction, but it is regularly the case that defendants are given 90 days or less to pay. In some jurisdictions, the time allowed for payment is even shorter.⁶

Scraping together the money needed to avoid the serious consequences threatened by the court is difficult for many. The Federal Reserve’s Report on the Economic Well-Being of U.S. Households finds that 40% of Americans would not be able to pull together \$400 in cash without borrowing money or selling possessions, highlighting the impact fines and fees can have on financial security.⁷

In Alabama, thousands are trying to balance the costs of fines with other expenses and needs. A survey by the Alabama Appleseed Center for Law and Justice⁸ found that for those with outstanding court debts:

- More than 80% cut back on basic needs like rent, food, medical bills, car payments, and child support just to pay down their debt
- Almost 40% committed a crime to pay off their debt
- 44% used payday or title loans to pay off their debt
- Almost 50% shared that they thought they would never be able to pay off their debt

In addition to the possibility of being jailed illegally or enduring numerous other sanctions for failure to pay, defendants in 34 states can have their licenses suspended for nonpayment.⁹ Due to limited access to public transportation and the reality that the vast majority of Americans must drive in order to go to the grocery store, work, take their children to school, seek health care, and attend church, many of those with suspended

⁵ Mississippi’s State Auditor publishes a comprehensive summary of assessments added to misdemeanor tickets in the Hospitality State.

<https://www.osa.ms.gov/techasst/AssessmentGuide.pdf>

⁶ Settlement agreements in debtors’ prison cases handled by our office provide for \$25/month payment plans and community service options. Absent litigation, such payment terms are exceedingly rare.

⁷ <https://www.federalreserve.gov/publications/2019-economic-well-being-of-us-households-in-2018-dealing-with-unexpected-expenses.htm>

⁸ <https://www.alabamaappleseed.org/underpressure/>

⁹ <https://finesandfeesjusticecenter.org/campaigns/national-drivers-license-suspension-campaign-free-to-drive/>

licenses are subjected to numerous citations for driving without a license (and often also for lack of insurance). These additional fines and fees quickly run into the thousands of dollars. This harsh and unfair reality creates obstacles to full participation in the local economy and highlights the need for passage of the Driving for Opportunity Act.¹⁰

Reentry

At any one time, nearly 6.9 million people are on probation, in jail, in prison, or on parole in the United States. Those in prison endure years of eating small portions of food devoid of nutrition.¹¹ Each year, more than 600,000 individuals are released from state and federal prisons.¹² 91 percent of returning citizens report being food insecure.¹³

While our “social contract” may commit us to welcoming those who have paid their debt to society back into our communities and providing avenues for successful reentry, the truth is that very few states have implemented the kind of robust support systems necessary to give released persons the assistance they need in order to obtain employment, housing, transportation, health care, and economic security. More than 96% of incarcerated people will eventually return to our towns and neighborhoods, and many will find themselves homeless, sick, and back in prison unless we invest in effective reentry programs.

Indigent Legal Defense System

Any serious conversation about criminal justice and poverty must address the troubling disparity between the substantial resources available to prosecutors and police and our meager investment in indigent legal defense. If we are serious about living into the promise of *Gideon*, it is imperative that the federal government act now to provide grants to state and local governments for funding indigent defense. Early intervention by competent defense counsel in felony and misdemeanor cases makes a tremendous difference in outcomes. “Equality of Arms” is a cornerstone principle of our commitment to fair trials, but a close examination of our public defender system reveals inequalities that make it impossible for many indigent defendants to obtain justice – solely because of their poverty.

¹⁰ <https://www.freetodrive.org/2021/03/25/sens-coons-wicker-re-introduce-the-driving-for-opportunity-act/#page-content>

¹¹ <https://impactjustice.org/wp-content/uploads/IJ-Eating-Behind-Bars-ExecutiveSummary.pdf>

¹² <https://aspe.hhs.gov/topics/human-services/incarceration-reentry-0>

¹³ <https://www.bread.org/sites/default/files/downloads/briefing-paper-mass-incarceration-february-2018.pdf>

Policy Suggestions

I respectfully submit that the following actions would address some of the problems outlined in my testimony:

- Condition federal grants on confirmation that the state doesn't restrict voting, suspend driver's or other professional licenses, jail people, or extend probation terms due to unpaid debt;
- Condition municipal funding on the use of a sliding scale fines structure reducing current fines for indigent defendants rather than simply raising fines for affluent defendants¹⁴;
- Adopt more realistic measures of "indigence" or "inability to pay" than current Federal Poverty Guidelines;
- Provide grants to municipal governments and encourage alternative means of revenue generation in order to decrease their dependence on collections of fines and fees;
- Rebalance social policy-oriented funding programs and criminal-legal funding programs, including Byrne-JAG, and redesign all performance metrics so they prioritize noncarceral, social policy-oriented interventions;
- Incentivize state and local governments to seek funding for other areas currently authorized under Byrne-JAG, such as indigent defense, courts, drug treatment, and mental health programs;
- Instruct DOJ to collect data and conduct studies regarding these issues, including the extent to which current policies and practices disproportionately impact people of color;
- Pass the Driving for Opportunity Act;
- For those released from prison, provide a 90-day SNAP "grace period" that recognizes the challenges of reentry and does not count against other SNAP eligibility (much like we give students six months to "get their legs under them" after graduation from college before demanding payment of federal student loans); and
- Pass legislation similar to the Ensuring Quality Access to Legal Defense (EQUAL) Act proposed by Vice President Harris and Congressman Deutch in 2019

Again, thank you for this opportunity to discuss these matters that are of utmost importance to people in my home state and across the country. I welcome any questions you may have.

¹⁴ <https://lawreview.uchicago.edu/publication/constitutionality-income-based-fines>

Starkville Municipal Court Fine Schedule

		Fine	Assessments	Total
	Speeding			
	0 to 10 mph	60.00	118.00	\$ 178.00
63-3-501	11 to 20mph	65.00	128.00	\$ 193.00
	21 to 30mph	70.00	138.00	\$ 208.00
	31 and above	99.00	148.00	\$ 247.00
63-1-60	Altered D/L	95.00	118.00	\$ 213.00
63-3-1213	Careless Driving	50.00	128.00	\$ 178.00
63-7-301	Child Restraint	25.00	118.00	\$ 143.00
63-11-30	DUI 1st	750.00	361.00	\$ 1,111.00
63-11-30	DUI 2nd	900.00	361.00	\$ 1,261.00
63-3-809	Fail to yield blue lights & siren	60.00	118.00	\$ 178.00
63-3-1003	Fail to yield right of way	60.00	118.00	\$ 178.00
63-7-33	Failure to Dim	60.00	118.00	\$ 178.00
63-3-619	Following too close	60.00	118.00	\$ 178.00
63-7-1	Improper Equipment	60.00	118.00	\$ 178.00
63-3-703	Improper Turn	60.00	118.00	\$ 178.00
63-3-401	Leaving the scene/accident	185.00	118.00	\$ 303.00
63-7-11	No Headlights	60.00	118.00	\$ 178.00
63-7-64	No helmet	60.00	118.00	\$ 178.00
63-1-5	No or expired license	425.00	118.00	\$ 543.00
27-19-131	No or improper tag	90.00	139.25	\$ 229.25
63-15-4	No Insurance	100.00	338.00	\$ 438.00
63-2-1	No Seat Belt	25.00	27.00	\$ 52.00
27-153	No Truck Zone	70.00	118.00	\$ 188.00
97-35-25	Obstructing Traffic	70.00	118.00	\$ 188.00
63-3-615	Passing stopped school bus	310.00	118.00	\$ 428.00
63-3-309	Ran red light / stop sign	60.00	118.00	\$ 178.00
63-3-1201	Reckless Driving	99.00	128.00	\$ 227.00
63-1-57	Suspended D/L	425.00	118.00	\$ 543.00
63-1-57	Suspended D/L 2 or more	500.00	118.00	\$ 618.00
63-11-40	Suspended D/L, DUI	475.00	361.00	\$ 836.00
27-19-131	Switched tag	100.00	139.25	\$ 239.25
63-7-59	Tint law	100.00	118.00	\$ 218.00
63-3-605	Wrong way on one way	60.00	118.00	\$ 178.00
97-37-1	Concealed Weapon	375.00	169.25	\$ 544.25
97-35-7	Dis Conduct breach of peace	275.00	169.25	\$ 444.25
97-35-7	Dis Conduct fail to obey	425.00	169.25	\$ 594.25
97-35-5	Dis Conduct w/ business	425.00	169.25	\$ 594.25
97-35-15	Disturbing the peace	275.00	169.25	\$ 444.25
97-9-79	False Identifying Information	525.00	169.25	\$ 694.25
97-33-1	Gambling	175.00	169.25	\$ 344.25
97-17-61	Larceny less than trespass	500.00	169.25	\$ 669.25
97-15-29	Littering	150.00	139.25	\$ 289.25
97-35-13	Loud Music in Vehicle - DTP	275.00	169.25	\$ 444.25
97-17-43	Petit Larceny	500.00	169.25	\$ 669.25
67-1-81(2)	Poss Alcohol by Minor	250.00	169.25	\$ 419.25
41-29-139	Poss Marijuana	250.00	169.25	\$ 419.25
41-29-139	Poss Marijuana in vehicle	775.00	169.25	\$ 944.25
1997-02; sec	Poss Open Container	125.00	169.25	\$ 294.25
41-29-139	Poss Paraphernalia	275.00	169.25	\$ 444.25
97-29-47	Public Drunk	100.00	169.25	\$ 269.25
97-29-47	Public Profanity	100.00	169.25	\$ 269.25
97-9-73	Resisting Arrest	275.00	169.25	\$ 444.25
97-23-93	Shoplifting 1st	750.00	169.25	\$ 919.25
97-23-93	Shoplifting 2nd	950.00	169.25	\$ 1,119.25
97-3-7	Simple Assault	425.00	169.25	\$ 594.25
75-85-19	Soliciting without a permit	150.00	169.25	\$ 319.25
97-17-97	Trespassing	275.00	169.25	\$ 444.25


 Municipal Judge

Effective JANUARY 07, 2019

Domestic Violence Sec 99-3-7; No Bail shall be granted until the person arrested has appeared before a Judge at the first reasonable opportunity, not to exceed 24 hours from the time of arrest. The appearance may be conducted by telephone. If a bond is not set within 24 hours, the defendant should be released ROR and given a court date.