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**CITYLAB**

## Inside New Orleans' 'Debtors' Prison' System

City courts have been banking on fines levied against defendants who can't afford to pay them. A federal class-action lawsuit calls this illegal.

BRENTIN MOCK | [@brentinmock](#) | Sep 18, 2015 | [2 Comments](#)



REUTERS

People of meager resources in New Orleans have proven munificent donors for city judges. The copious amounts they pay in court fees and fines after arrested for the measliest of offenses have been enough to handsomely reward court coffers. Too many poor New Orleanians are literally shackled to this system of judicial financing, a system that civil rights advocates are arguing in [a federal class-action lawsuit](#) is illegal.

Long-time civil rights attorney [Bill Quigley](#) and the [Equal Justice Under Law](#) nonprofit are suing New Orleans Criminal District Court judges for perpetually issuing arrest warrants to those who can't afford to pay court fines and who've not been given the chance to plead poverty. The lawsuit also seeks an injunction against the city's sheriff's office to stop them from serving those warrants. The lawyers argue that judges have been benefitting both administratively and personally from court fines that are much higher than what most defendants in the city can pay. Those jailed for missing payments on these fines end up adding to the city's exceptional [incarceration problem](#), resulting in an "unconstitutional and unjust modern [debtors' prison](#)," reads the complaint.

Eight out of ten defendants appearing before New Orleans court judges are considered indigent, meaning they live below the poverty line. Six people who've been fined beyond their financial capacity, and jailed for it, are the plaintiffs in the suit. They represent a class of people in the city who've basically been subsidizing [free cars for judges](#), [among other expenses](#), through what's called the [judicial expense fund](#).

The fund is kept alive by fines that judges can levy at their discretion. An auditor's report from November 2012 reprimanded judges for using it to cover "[excessive lodging expenses](#)" and other perks, like [health insurance](#). Of course, many of the dollars in the fund come from people who are perhaps too poor to pay for their own health insurance—in a state that has [refused federal Affordable Care Act funds](#) and [rejected Medicaid expansion](#).

But it's not just judges who benefit from the fine-based economy. As the retired chief judge of the city's criminal courts Calvin Johnson [told](#) *The New York Times*, the system also helps fund prosecutors and public defenders. It's well documented how [overburdened and underfunded](#) the city's public defenders office is, a problem recently spotlighted on HBO's [Last Week Tonight with John Oliver](#).

Last Week Tonight with John Oliver: Public Defenders (HBO)





New Orleans' Office of Public Defenders' communications director Lindsey Hortenstine tells CityLab that court fines constituted 41 percent of the office's budget in 2014. But public defender services, which assist defendants who can't afford a private attorney, are otherwise starved of the capital needed to fulfill their obligations, as is much of the city's court system. So the costs are absorbed by poor defendants who are basically "paying to be prosecuted," says Adrienne Wheeler, executive director of the New Orleans-based [Justice and Accountability Center of Louisiana](#).

"Courts are not given the appropriations needed from the state to do their jobs, but the state still keeps imposing harsh sentencing laws for them to enforce," says Wheeler.

Alec Karakatsanis, one of the lawyers working on the New Orleans lawsuit, has made dismantling these schemes the core mission of his legal nonprofit [Equal Justice Under the Law](#). He's also involved in a [similar lawsuit](#) against Ferguson's court system, which was [reprimanded earlier this year by the U.S. Department of Justice](#) for financially exploiting poor defendants. A report from Missouri's task force on Ferguson [released this week](#) calls for the state legislature to fund city courts adequately to avoid banking on exorbitant legal fees that the poor can't afford.

Karakatsanis wrote in an [essay](#) for *Harvard Law Review Forum* earlier this year about walking into courts in Montgomery, Alabama, and finding a surplus of people of color—all there on warrants from unpaid court debts.

One by one—single mothers, disabled veterans, the homeless, and other impoverished people—they stood up before the court. The court demanded that they pay their debts and told them that they would be kept in jail unless they could get the money down to the payment window. They begged and pleaded and talked about their poverty. Within seconds, each of their cases was over, and they were returned to the overcrowded city jail to sit out their debts at \$50 per day.

He said in the essay that he's seen "similar assembly line nightmares in virtually every city and every state" he's visited in the past year.

Wheeler's Justice and Accountability Center sees many of these incarcerated, financially scarred faces when released from New Orleans jails. They show up at her office for help with getting the convictions expunged from their records, as stained criminal records can disqualify people from getting [public housing](#) and [jobs](#). An expungement costs \$550, though, which most of her intake can't afford, and the state waives these fees only for a limited few.

"This not only puts people in debt when entering the system," says Wheeler, "but they leave the system in even more debt."

## About the Author



Brentin Mock is a staff writer at *CityLab*. He was previously the justice editor at *Grist*.

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