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# Court Debt and Related Incarceration in Rhode Island from 2005 through 2007

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## Report Summary

In Rhode Island individuals who owe money to the state because of past criminal convictions are frequently incarcerated because they fail to appear at 'Ability to Pay Hearings'. Every year, thousands of individuals sit in the Rhode Island jail not for crimes, but because they owe money to the state. Incarceration for court debt is the most common reason to be put in prison in Rhode Island. This report concludes that overall, there is a haste to incarcerate individuals for court debt in the state which causes unnecessary, damaging jail time, is an inefficient use of state finances, and disrupts people's lives. Rhode Island's system of court debt is considerably more punitive, more costly to defendants, and less accommodating to indigent individuals than other New England states.

The debt to the court is either from a fine that is part of a previous sentence or is from court costs which are assessed in all criminal convictions to generate revenue for the state. Individuals with outstanding debt are put on payment plans and if they fail to appear for a hearing a warrant is put out for their arrest. Once apprehended, they are given another hearing date. They are often put in jail with a bail equal to the total debt until the hearing. This study was undertaken in order to determine the extent to which incarceration is used as a means to collect debt and to determine why people end up in prison for fines.

Department of Corrections and Judiciary data from 2005 through 2007 was analyzed and twenty five interviews with individuals in the Intake Service Center of the Adult Correctional Institute were completed.

This study found that incarcerations for court debt comprise 18% of all commitments in the state of Rhode Island. In both 2005 and 2006, on average there were 24 people each day incarcerated at the ACI for court debt. This number has continued to go down since a new law went into affect in late 2006, and averaged 18 in the last six months. In 2007, individuals were incarcerated for an average of three days and pay bail in only 17% of the incidents. The average amount owed is \$826 while a reasonable estimate for the cost of the incarceration is \$505. 13% of the incarcerations cost the state more than the amount owed by the individuals. The state spends an estimated \$489,919 per year on per diem inmate costs, prison staff, court, and police costs combined.

Although Sixth District Court deals with a much larger quantity of cases than any other court in Rhode Island, it generates a disproportionate amount of the incarcerations. 67% of the money spent to incarcerate people for court debt is spent by the Sixth District Court. People incarcerated by Sixth District Court for court debt spend an average of four days in jail.

Most of the individuals interviewed should not have been incarcerated for as much time as they spent in jail. They either legitimately could not pay their debt or could have been induced to pay through cheaper methods. In addition, the incarcerations create significant obstacles for individuals attempting to establish a stable, prosocial life.

This report recommends the passage of S2234/H8093, including five central reforms to decrease unnecessary incarcerations for court debt: 1. Reduce the maximum amount of time people are held in jail awaiting ability to pay hearings to 48 hours. 2. Take ability to pay into account when assessing court fines and costs initially and throughout the payment plans. 3. Employ a variety of collection methods before resorting to incarceration. 4. Accept smaller bails from individuals picked up on warrants. 5. Reduce the warrant fee for people brought in on warrants for failure to appear.

## Background Information

### ***Protocol for the Assessment and Collection of Fines and Costs***

Debt to the court can be accrued in multiple ways: child support payments which must be made to family court; fines levied as part of a sentence or ticket; restitution levied as part of a sentence, and court costs\* which are levied much like user fees to pay for a service.

Individuals that owe restitution have their restitution debt pooled with debt from fines and costs. People who owe restitution are given separate restitution review hearings. Because of the slightly different nature of restitution debt and because it could be identified separately in the analysis, incarceration for restitution will be discussed separately.

Many criminal charges allow fines to be used in addition to or instead of prison time. For example, sentences for possession of marijuana can include fines of between \$200 and \$500. Sentences for loitering for indecent purposes can include fines between \$250 and \$1,000. Sentences for driving without a license, first offense, can carry a \$250-\$500 fine. In addition, some crimes allow for restitution as part of a sentence. All of these fines are punitive.<sup>1</sup>

In contrast to the punitive nature of court fines, the court costs system is a way for the courts to use their authority for the purpose of collecting revenue to help fund their operation and other functions related to the criminal justice system. Based on Rhode Island state law, people who are found guilty or plead no contest to a crime in Rhode Island state court are assigned a fee that is owed to the court.

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\* These 'user fees' are generally referred to as 'court costs' in Rhode Island statute. They are alternately called fees or surcharges in other states but they will be referred to as 'costs' throughout this document.

<sup>1</sup> A full list of all of these fines has not been provided because of the large number of offense types. They are located in Chapters 12, 31 (driving related), and 21-28 (controlled substances) of the Rhode Island General Laws.

If the crime is only a misdemeanor, then under current law the defendant owes \$93.50 for each charge for which he or she is convicted. Of that money, \$60 goes to the general revenue (Section 12-18.1-3), \$30 goes to a fund that is used to compensate victims of violent crime (Section 12-25-28), and \$3.50 goes to the jurisdiction of the police department or state agency that filed the charge (Section 12-20-6). For a felony charge, which is any criminal offense that carries a maximum punishment of more than one year of imprisonment or a fine of more than \$1,000, the amount is over \$270, and for felonies which carry a maximum penalty of over 5 years, it totals over \$450. Those who face multiple charges end up owing several times this amount, though the court may reduce the amount somewhat for defendants with four or more charges (Section 12-18.1-3). See Appendix 1 for a breakdown of court fines.

Additionally, many specific types of charges carry additional fees, such as a \$25 cost for each domestic violence charge (Section 12-29-5), which is paid into the state's general revenue. Anyone who is apprehended on a warrant is assessed a \$125 fee (Section 12-6-7.1), \$25 of which is paid to the arresting agency. Most drug charges carry an additional fee of \$400(21-28-4.01-c.3.iii).

The state also imposes laboratory fines which are combined with court costs as part of a defendant's total debt to the state (Section 23-1-3(g),(h)). Most drug related convictions carry a lab fee of \$118 and most serious non-drug related felonies carry an extra lab fee of \$100. These fines go into the general fund. As a result of combined fees individuals with one felony drug possession charge end up with a total of at least \$788 in court fees.

Debt from punitive fines is combined with court costs when determining an individual's overall debt to the state and it is collected in the same fashion. In contrast, traffic tickets are civil offenses and are assessed and collected separately in a separate court and cannot independently result in incarceration.

The courts' practice is to allow people to gradually repay the amount owed through regular payments. The courts have claimed the power to enforce the collection of this debt by

temporarily incarcerating anyone who can afford the payment but fails to pay, though in practice they rarely exercise this authority. More commonly, judges use the power of the court to issue court orders that require people who owe fines or costs to appear before the court on assigned payment dates. Failure to appear on a court ordered date results in a bench warrant and is sufficient cause for being held in the state's prison system. The courts regularly exercise this authority.

The Sixth District court of Rhode Island processes by far the most cases in Rhode Island and thus deals with the majority of individuals that owe court debt to the state. It is protocol in the Sixth District to alert all those with fines and costs of the amount they owe and the date of their first hearing upon sentencing. Defendants sign a form agreeing to pay the set amount and appear at the set date. Individuals must then appear at that date and set up a payment plan and set the next hearing date. If the individual is sent to prison, they receive a video conference court hearing one month prior to release in which they will discuss the date of their first fine hearing and how much they owe. For all later hearing dates, individuals must either appear before a judge to discuss their ability to pay or pay the clerk the full amount owed. Individuals must appear in person, even if they can make their payment, to sign an agreement to come the following month. Payment in mail and payments made by others are not accepted by the Sixth District court.

Courtroom 3E, presided over by Magistrate Christine Jabour, is dedicated every morning between nine and around eleven solely to ability to pay hearings. These hearings are designed to assess the person's ability to pay, with the court claiming the authority to incarcerate those who fail to pay despite being able to pay. In practice, the hearing is cursory and it is extremely rare for people who appear at their scheduled hearing to be held for failure to pay.

The hearing often lasts no more than two minutes, and it is focused on getting the person who is appearing before the judge to agree to a future payment that he or she will be able to

make. It frequently also involves some discussion of the person's employment situation. The magistrate sometimes tells the person to find a job, or a job with longer hours, or a second job that will allow them to make payments to the court. Occasionally, the hearing will involve more extensive demands from the judge, especially if the person has arrived late in court or has not paid the court for a long period of time. The magistrate might demand that a person who is not employed search for a job and bring a list of a certain length of places that he or she has applied for a job to the next hearing if he or she is not able to make a payment by then. In most cases, the hearing serves as a way for the court to keep in touch with the person who owes them money and to remind that person of the importance of paying.

If a person fails to make a scheduled payment and then fails to appear at the scheduled review hearing, then the judge issues a bench warrant. Any police officer who has contact with a person with an outstanding warrant will apprehend him or her. The person will be brought into the court where he or she owes costs or fines for its next session, which may involve being held in the intake service center overnight or over the weekend. When the person is taken into court on the bench warrant, the person's treatment is at the judge's discretion. The judge may decide to issue a hold on the person and set the bail at a level they deem appropriate (Section 12-6-7.1). In practice, they set it at a number related to the total amount owed in court fines, including all previous costs plus the \$125 warrant fee<sup>2</sup>. Individuals who miss hearings can 'surrender' themselves to the court, and the judge will generally waive the warrant and warrant fee. This practice is

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<sup>2</sup> RI General Law 12-6-7.1 recommends setting bail at the total amount of fines, however it allows for any bail that will ensure the defendant's appearance at the ability to pay hearing. "Any person apprehended on a warrant for failure to appear for a cost review hearing in the superior court may be released upon posting with a justice of the peace the full amount due and owing in court costs as described in the warrant or bail in an other amount or form that will ensure the defendant's appearance in the superior court at an ability to pay hearing, in addition to the one hundred twenty-five dollars (\$125) warrant assessment fee described above."

relatively rare, possibly because it is not fully understood by defendants. Sometimes judges will offer a smaller bail at court, as low as one half of the total in fines, although afterwards if the person is incarcerated the bail is generally set at the full amount. The bail is always set as cash bail, as opposed to surety bail, which means that the individual must pay the full amount to be released.

In contrast to 6<sup>th</sup> District Court, in Providence Superior Court there are attorneys on hand to represent individuals brought in on warrants, and Ability to Pay Hearings are often conducted at someone's court appearance. While judges in Superior Court still may choose to hold someone in prison on bail, with those not paying forced to wait for a bail hearing, this not standard practice.

If an individual cannot pay the necessary bail and the judge chooses to incarcerate the individual, they are sent to the intake service center. If the bail is paid, then he or she is free to go, and the bail is treated as a payment of the costs and fines that were owed. Often judges will schedule hearings for dates several days after incarceration, at which point the court will release the individual on personal recognizance. If the individual owes fines to several courts, they will have to wait for hearings at all courts before being released. While many people are released after several days, many also spend close to a week in jail waiting for an ability to pay hearing. In much less common cases, they will spend several weeks in the Intake Center without any communication from the courts, waiting release or a court appearance. Individuals are almost always released after their ability to pay hearings, which consist mainly of the judge setting the next payment date for the individual and reviewing the amount they must pay. The hearings take place over video conference and there is no attorney present.

## **2006 Legislative Change**

The 2006 Legislative Session of the Rhode Island Congress passed a bill (House Bill 2006-7006, Senate Bill 2006-2326) that amends

Rhode Island General Law 11-25-15 and substantially changes how individuals are incarcerated for court fines and costs. According to the previously existing law, individuals were to be credited five dollars per day that they spend in prison as a result of failure to pay court fines and costs or make the proper appearances associated with court fines and costs.<sup>3</sup> The amendment altered this fee from \$5 to \$125. The intent of the amendment was that if people are incarcerated for failure to pay or failure to appear and do not have the ability to make bail they will receive some compensation for the time spent in prison, which will go to decreasing the number of indigent individuals spending time in prison for court fines. The new policy came into practice in the end of 2006. Perceivable effects of this new legislation will be discussed in the Results section.

## **Other Relevant Rhode Island Statutes**

Rhode Island General Law is generally interpreted as giving the court the power to remit costs in criminal cases. Section 12-20-10 states:

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<sup>3</sup> 11-25-15. **Imprisonment for failure to pay fines or costs or give recognizance.** – Every person who has been or shall be committed or detained in the adult correctional institutions for the nonpayment of his or her fine or costs, or both, or for failure to give the recognizance in the amount required of him or her to keep the peace, shall be detained in the adult correctional institutions after that person has served his or her sentence of imprisonment, if any shall have been imposed, one day for each ~~five one hundred fifty dollars (\$5.00)~~ (\$150) or any fraction of it, of the amount of his or her fine or costs, or both, or of the recognizance so required of and not furnished by that person. However, the director of corrections may order the release of nay person held in the adult correctional institutions solely for the nonpayment of his or her costs on any terms that he or she shall fix for the payment of the costs by that person and any person so released may be caused to be reimprisoned by the director of his or her failure to observe she terms of the release, and his or her warrant for imprisonment shall be sufficient authority to all sheriffs, police officer, jailers, and the agents for the director to retake and detain the person who shall upon his or her return to the correctional institutions serve one day for each dollar or any fraction of it of his or her costs then unpaid.

“The payment of costs in criminal cases may, upon application, be remitted by a justice of the superior court; provided, that any justice of a district court may, in his or her discretion, remit the costs in any criminal case pending in his or her court, or in the case of any prisoner sentenced by the court, and from which sentence no appeal has been taken.”

In addition, Section 12-20-10 states:

“If, upon complaint or prosecution before any court, the defendant shall be ordered to pay a fine, enter into a recognizance or suffer any penalty or forfeiture, he or she shall also be ordered to pay all costs of prosecution, unless directed otherwise by law.”

Both of these statutes give the court power to waive court costs. Section 12-18.1-3 qualifies the court’s ability by limiting the ability to waive specifically costs to cases where the court finds an inability to pay. The section lays out the specific costs for types of offenses (as discussed in the previous section) and then states:

(b) These costs shall be assessed whether or not the defendant is sentenced to prison and in no case shall they be remitted by the court.

(c) When there are multiple counts or multiple charges to be disposed of simultaneously, the judge shall have the authority to suspend the obligation of the defendant to pay on all counts or charges above three (3).

(d) If the court determines that the defendant does not have the ability to pay the costs as set forth in this section, the judge may by specific order mitigate the costs in accordance with the court's determination of the ability of the offender to pay the costs.

Rhode Island General Law also makes reference to inability to pay as a necessary condition for

waiving costs in Section 21-28-4.01(c)(3)(ii), in regard to drug treatment and education costs. In contrast, statute 12-25-28 currently forbids judges from waiving costs that contribute to the victims’ fund, which is roughly one third of all court costs. The interpretation of these statutes seems to vary across judges, but most statutes are in agreement that costs can be waived if the defendant is found to be unable to pay the costs.

Rhode Island General Law 12-6-7.1 also specifically states that if a warrant is issued for someone’s arrest for their “failure to appear or comply with a court order” \$125 in fines is assessed. It also states that their bail shall be set at their total court costs or an amount “that will ensure the defendant's appearance in the superior court at an ability to pay hearing.”<sup>4</sup> This statute uses the word ‘costs’ but is interpreted to refer to both costs and fines, since the debt is pooled.

This statute as well as the recently amended statute 11-25-15 are the two statutes which specify the ability of the court to incarcerate individuals for failure to appear at court fine hearings or failure to pay court fines or costs.

## ***Court Costs in New England States***

**Massachusetts:** In Massachusetts, the standard fees are the victim witness fee (\$50-\$90) and council fee (\$150) per case. Fees can be worked off through community service and they can be waived for indigent defendants. Individuals arrested on warrants are brought immediately to ability to pay hearings, and there

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<sup>4</sup> RIGL Section 12-6-7.1: “Any person apprehended on a warrant for failure to appear for a cost review hearing in the superior court may be released upon posting with a justice of the peace the full amount due and owing in court costs as described in the warrant or bail in an other amount or form that will ensure the defendant's appearance in the superior court at an ability to pay hearing, in addition to the one hundred twenty-five dollars (\$125) warrant assessment fee described above. Any person detained as a result of the actions of the justice of the peace in acting upon the superior court cost warrant shall be brought before the superior court at its next session. Such monies shall be delivered by the justice of the peace to the court issuing the warrant on the next court business day.”



is a warrant fee of \$50. Court debt is generally collected through probation officers, and payment is usually a condition of probation. No interest is charged for outstanding court debts.

**Connecticut:** \$20 fee for anyone who commits a felony, \$15 for anyone who commits a misdemeanor (per case not per charge). There are also a considerable number of other costs assessed for specific cases, the most significant being a \$200 fee for all people whose sentences include probation. Fees must be paid by the time of sentencing or before release from prison and no payment plans are allowed, however fees are often waived when the sentence includes prison time and can be waived for indigency. There are no warrant fees and no interest is charged for outstanding debts. An individual with one felony drug conviction will have a \$220 state debt at most.

**Maine:** Maine has a mandatory victims' compensation fund assessment of \$10 for each misdemeanor and \$25 for each felony. There is also a surcharge of around 15% on fines. There are no warrant fees and no interest is charged for outstanding court debts, although there is a bail fee of \$40 for being bailed out.

**New Hampshire:** New Hampshire charges a range of cost recovery fees for individuals representing by public defenders. Fees are \$275 for a misdemeanor and around \$750 for felony drug possession, but range even higher for more serious felonies. There is also a penalty assessment fee added on to any fines assessed. Fees are collected by the Office of Cost Containment and people are generally given fairly lenient payment plans. No interest is levied on outstanding debts. Payment is mailed in every month, and individuals are given "Show Cause Hearings" if they are very delinquent in their payments. At the hearings, the state must prove beyond a reasonable doubt that the individual is willfully in nonpayment in order to prove contempt of court. Most hearings end in agreements to keep paying, and jailing for court fees is extremely rare.<sup>5</sup>

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<sup>5</sup>**Massachusetts:** Chapter 280, sec. 6 of Massachusetts General Laws; phone conversation with Andy Silverman, Deputy Chief Counsel for the Public Defender Division of the Committee for Public Counsel Services. **Connecticut:**

## **Relevant Supreme Court Cases**

The Supreme Court has stated that individuals cannot be summarily incarcerated for owing money if they are unable to pay their debt. Alternative measures must be considered before incarceration is employed.

**Bearden v. Georgia** 461 U.S. 660 (1983) The Supreme Court found that a court cannot summarily jail an indigent probationer for failure to pay fine unless inquiry reveals willful failure to pay. The ruling stated that

"...in revocation proceeding for failure to pay a fine or restitution, a sentencing court must inquire into the reasons for the failure to pay. If the probationer willfully refused to pay or failed to make sufficient bona fide efforts legally to acquire the resources to pay, the court may revoke probation and sentence the defendant to the imprisonment within the authorized range of its sentencing authority. If the probationer could not pay despite sufficient bona fide efforts to acquire the resources to do so, the court must consider alternative measures of punishment other than imprisonment. Only if alternative measures are not adequate to meet the State's interest in punishment and deterrence may the court imprison a probationer who has made sufficient bona fide efforts to pay."

**Tate v. Short** 401 U.S. 395 (1971) The Supreme Court found that a court cannot convert a fine imposed under a fine-only statute into a jail term solely because the defendant cannot immediately pay the fine in full.

**Payne v. Mississippi** 462 So.2d 902, 905 (Miss. 1984) The Supreme Court found that a court may not first fine a defendant and then, because of his

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Sec. 54-143 of the General Laws; correspondence with Catherine Meyer of the Division of Public Defender Services. **Maine:** Article 1901 of the General Laws; correspondence with Walter McKee, the president of the Maine Association of Criminal Defense Lawyers. **New Hampshire:** Correspondence with Christopher Keating of the NH Office of the Public Defender.

indigency, convert the fine into a jail sentence for failure of the defendant to make immediate payment of the fine.

## **Court Debt Collection**

The Rhode Island District and Superior Courts Assessed a total of \$20,273,847 in court fines and costs in fiscal year 2007. Their four-year collection rate is 77% with another 13% of these fines still on payment plans or appealing the charges. 10% of their fines still went uncollected after four years.

District Court reported a significantly higher four-year rate of collection, 50% in Superior Court versus 90% in Sixth District. Superior Court maintains a significantly higher portion of people on payment plans, with 32% still on payment plans in Superior Court after four years, versus 3% in District Court. These differences in collection rates could be the result of generally higher fines and costs for people in Superior Court, since they more often face felonies.

The RI Judicial Technology Center calculated the total owed, collected, uncollected, and on payment plans/appealed from fiscal year 2001 to fiscal year 2005 for the Superior Courts, District Courts, and Traffic Courts. This information is provided in Appendix 1<sup>6</sup>. The table shows the collection data by court and also for District and Superior combined. This report does not specifically address the collection policies of traffic courts, since all holds that were included in the study were either District or Superior court holds.

Year by year collection data reflects the continual collection activity for fines and costs assessed in that year. The percentage collected for each year increases in both District and Superior Court because as years go by the debt is gradually collected. For example, in 2001 District and Superior Courts assessed

\$14,766,466.00 in fines. Since then, they have collected \$11,376,077.00, or 77%, of this debt and another 13% is still on payment plan. Only 10% is categorized as “uncollected.”

## **Methodology:**

The information in this report is from either analyzing a large number of electronic files or interviews conducted in the Intake Service Center in the fall of 2006. The goal of the electronic data analysis was to determine which commitments in Rhode Island were the result of ‘failure to pay’ or ‘failure to appear at an ability to pay hearing.’ This was not a trivial task, because no agency in the state expressly records whether a commitment is for failure to appear at an ability to pay hearing. The full methodology is included in the April 2007 version of this report, but is omitted in this version because of length. All commitments between January 2005 and January 2008 were reviewed for the purpose of this study using data provided by the Department of Corrections and publicly available court data. The methodology has been reviewed and approved by the Department of Corrections Department of Research and Planning.

## **Cost Estimates**

This study estimates the direct cost of incarceration to the state for court debt in two ways. The first uses the DOC’s estimate of \$95/day per person costs at the Intake Service Center. This represents the total daily operating costs of the building divided by the average inmate population. Court and police costs are estimated by using the \$125 warrant fee. The second estimate is more conservative, and attempts to take into account marginal costs to estimate costs for this specific sub-population. Both methods have advantages and disadvantages.<sup>7</sup> Cost estimates do not include

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<sup>6</sup> Information in appendix was released in 2007 and includes collection rates as well as rates of debt on payment plans from 2001 to 2005. More recent 2006,2007, and 2008 data was released in 2008, but this data does not include rates of debt on payment plans.

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<sup>7</sup> The second estimate uses the per diem costs at the DOC, which is roughly nine dollars a day, along with the cost of one full-time prison guard salary. This estimate takes into account the number of men and women incarcerated, and estimates that one full-time guard at the ISC is necessary because of this population. The per diem cost, guard cost,

the cost of lost wages on the part of the defendant or other non-monetary costs to the defendant.

## Interviews

25 people were interviewed while they were being held in the Intake Service Center during the months of September and October. They represent a random selection of the people that could be contacted to interview. As will be discussed in the results section, about half the people committed for court fines either bail out or are released after a few days. Those people were not in long enough to be contacted. The interviewee pool represents the set of people who were unable to make bail and ended up spending closer to a week in jail. This still represents a significant portion of people committed for court fines. No individuals were refused an interview after contact and no interviewees refused to be interviewed.

## Results

### Overall Results

18% ( $\pm .5\%$ ) of all commitments in the state of Rhode Island in 2007 were solely the result of the defendant missing an Ability to Pay hearing. This is greater than the frequency of any other single new charge.<sup>8</sup> There were 2446 ( $\pm 68$ ) incidents of incarceration for court debt in 2007 for an average of three days (two nights) and with bails of \$826 on average.

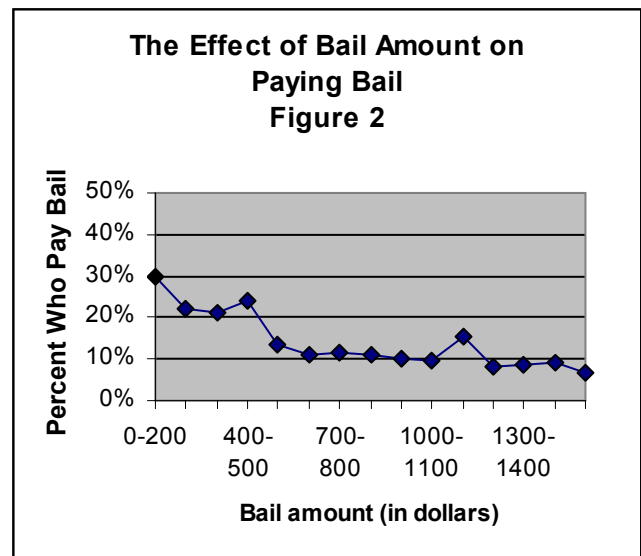
### Bail and Time Spent in Jail for Court Debt

A considerable number of people are held on bails that are equal to or lower than the amount of money spent to incarcerate them. 13% of the commitments for court debt were net losses for the state—the money spent

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and police and court cost estimate are combined. This estimate does not take into account the high costs of such a transient population, which will cost more to transport and house than a small number of people held for longer sentences.

<sup>8</sup> The second most frequent reason for a commitment is for driving with a suspended license (Family Life Center, unpublished results).



incarcerating the individual was worth more than their debt.<sup>9</sup>

17% of those incarcerated for court debt make bail. They still remain in prison for an average of one day, and they pay an average of \$437 in bail (the actual amount paid is probably half of that, since judges often offer lower amounts of bail while in court). The vast majority cannot pay and demonstrate this by spending an average of three nights in prison. 94% of individuals who are bailed pay bail within the first two days of incarceration. Among the population that is not bailed, although the average stay is three days, there is a wide variety of time spent in prison. A large portion of people spend three days or fewer in jail and another large portion average seven days inside--of the individuals who cannot make bail, 37% spend more than three days in prison and 12% spend a week or more in prison<sup>10</sup>.

Figure 2 demonstrates that in 2007, people with smaller bails were more likely to pay bail. People paid bails below \$500 twenty-five percent of the time, while people were able to pay higher bails only 11% of the time.

### Differences in Rhode Island courts

The court handling the case makes a difference in the level of court debt related incarceration. Partially because of its high

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<sup>9</sup> This uses the highly conservative estimate, discussed later, that each night costs the state \$23, plus \$125 in police and court costs per incident.

<sup>10</sup> This is 9% of all commitments for court debt, bailed and unbailed.

number of cases, Sixth District Court accounts for the majority of the incarcerations for court debt. One half of all pre-trial commitments in Rhode Island originated in Sixth District Court but 67% of all incidents originated in Sixth District Court. In contrast, Superior Court generates 16% of pre-trial commitments but only 8% of court debt commitments. The full data by court is show in Appendix 2.

**Background factors of incidents**

People incarcerated for court fines have generally shown up for several of their previous court fine appearances or missed their very first one. As will be discussed in the interview section, a considerable number of individuals interviewed had made significant efforts to pay or appear before missing a hearing. There is also a significant number of people who never show up the first time to start their payment plan. This is reflected in the data as well. People had on average appeared at three hearings before missing the hearing that generated the warrant. Around 8% of the commitments were for first-time offenders—people who had never missed a date before. Overall, 66% of the people jailed for court debt either were first time offenders or showed up at least three times consecutively. This contradicts the notion that judges only use incarceration on people that are serially delinquent.

In Rhode Island court costs and court fines are pooled together when determining an individual’s overall debt to the state. However, 53% of the individuals incarcerated for court debt did not receive a fine as part of their sentence for the case they were being held on. Their debt is comprised only of court costs and warrant fees.

**Costs**

One day in the Intake Service Center (ISC) costs the state \$95 according to the DOC’s estimated cost per offender.<sup>11</sup> There are an estimated 7,827 days spent in intake for court debt every year. Additionally, the state assesses

a \$125 warrant fee for every incident. Using the warrant fee to estimate the court and police costs, the total estimated cost to the state would be about one million dollars.

A more conservative estimate of the cost to the state, taking into account the marginal cost of each prisoner at the ACI, is \$486, 575. This estimate relies on the estimate that decreasing the ISC population by eighteen people could result in the reduction of one Correctional Officer. The breakdown of this estimate is shown in table 1. Using this estimate, the average cost per incident is \$210 and the average prison cost per night is \$23<sup>12</sup>.

	Cost
Eighteen prison-years (men)	\$58,291
Four prison years (women)	\$12,153
One guard position in ISC	\$110,405
Court and police costs	\$305,725
Total	\$486,575

**Conservative Estimate of Yearly Costs  
Table 1**

**Results of new \$150/ day credit**

According to statute 11-25-15 individuals must now be credited with \$150 for every day they spend in jail because of court debt. Conversations with judges and a review of court records demonstrated that judges are applying the credit in most cases. However, interviews demonstrated that some people were being held in jail for longer than their debt justified. For example, one individual owing less than \$300 was held for eight days, but their debt was erased upon release. A reading of 1-25-15 along with 12-6-7.1 indicates that an individual should not continue to be incarcerated if they have paid off their debt.

There are several trends which may have been caused by this new \$150/day credit policy: There are fewer incidents of incarceration for court debt. As shown in Figure 3, the number of people held at the ACI for court debt changed markedly after the new law went into effect in October 2006, and it has continued to come

<sup>11</sup> 2005, Rhode Island Department of Corrections Costs Per Offender –FY 2005

<sup>12</sup> \$210/incident includes the \$125 court/police cost Family Life Center 2008

down since then<sup>13</sup>. In 2005 and 2006 there were on average 24 people held at the ACI for court debt each day<sup>14</sup>. Over the last six months the average has been 18, and the number may still be going down as the effects of the new credit continue to build. In parallel, since the law went into affect, the overall awaiting trial population has also decreased. In October 2006 the awaiting trial population was 910 people per day. In June 2007, the population was down to 700.<sup>15</sup> This is the first year since 2003 in which the June population size did not increase each year. While it is unlikely that a change in the court debt population could have caused a decrease of 200 people, it has contributed to the decline.

Secondly, it appears that fewer individuals are posting bail. In 2005, 22% of those picked up on court fine warrants posted bail. In 2007, only 16% have posted bail. It is possible that the \$150 credit creates an incentive to not post bail.

## Restitution

Individuals that owe restitution have special restitution review hearings scheduled. If they miss these hearings they are incarcerated similarly to people owing court fines or court costs. However, only about 1% of all commitments are for missing a restitution review hearing. This is possibly because restitution is far less likely to be assessed than court costs. An analysis of the types of sentences in court records indicates that only 17% of commitments were for cases that include restitution as part of the sentence.

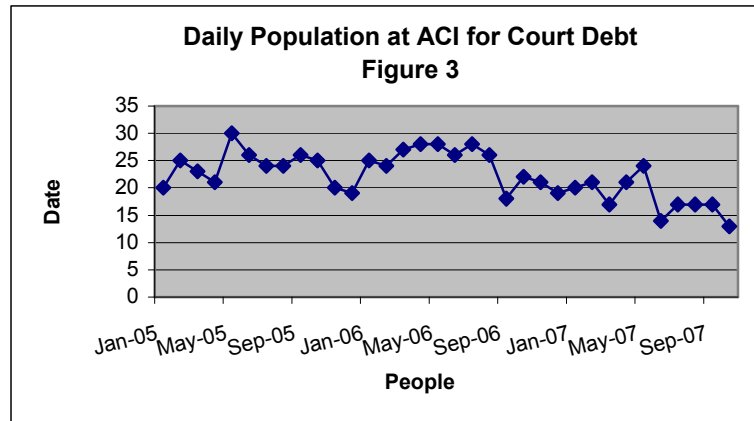
## Interviews

<sup>13</sup> The high number in May 2007 that seems to contradict the trend is a result of typical increases in the summer of most ACI populations. This increase occurred in the summer of 2005 and 2006 as well.

<sup>14</sup> These averages are monthly averages, calculated by averaging the number of inmates each day over the whole month.

<sup>15</sup> RI DOC Population Report-2007

John Lester (name changed) was sleeping on a bench in Providence, Rhode Island. John is originally from Newport but took the bus down to Providence to see friends. A couple days ago he had shipped back from a several week long fishing voyage. Since he landed the job a couple months ago he was only off ship five days a month or so.



Unfortunately for John, a Providence police officer decided to ID John, and within hours he was in a holding cell. John owed almost \$2,000 in court debt from prior convictions, his most recent being a disorderly conduct charge a year ago, and he was held on a \$220 bail (his debt to Sixth District Court) which he could not pay. He had missed a court fine hearing the previous month, his first since getting out of alcohol abuse treatment. He stated “I went through hell for the last year, I lost my mother, I spent eight of the last twelve months in prison, then home confinement, then the court made me go through rehab. I just got out [of rehab] in April. Things were getting going, now they just jammed me up. It’s my fault but that doesn’t make it right.” While John was being held his ship set sail without him, potentially causing him to lose his new job, and he was unable to call his federal parole officer about the parole date he had to miss. John was told he would be held for a week while waiting to appear before a judge to discuss his fines.

Unfortunately, due to bureaucratic confusion, he was held for 32 days and was only released when a public defender was alerted to the problem.

John’s story, aside from the very long time he spent in jail, was similar to the stories from the other 24 people interviewed. Ten

interview summaries are included in the appendix.

**Reasons for missing court date**

Almost every person being detained for court fines is being detained for a combination of inability to pay and inability to meet the court schedule. Many could pay some bail but cannot pay the high bail that is set. Only one of the people interviewed could potentially pay their fines and expressed a significant resistance to paying, and even that person was currently unemployed. Table 2 shows the reasons that people missed Ability to Pay hearings. Overall, the conditions which resulted in the incarceration of the people interviewed demonstrated a haste to incarcerate people who missed appointments.

The most common reason people miss hearings is they forget about the hearing. One man interviewed had been paying and showing up regularly. He forgot one hearing and had planned on going to visit the court on the same day he went in to family court. The sheriff who came to his door to issue him a summons to his family court date picked him up on his warrant and he spent 8 days in jail on a bail of \$1,182 which he could not pay. In the three months prior to his last incarceration he had gone to court and made his monthly payments each month.

Several people, such as John, were relatively recently released and had not yet gone to court to set up a payment plan. They had either never received the first court date or had received it prior to being released from prison or entering a rehabilitation program and then were never reminded of the date.

One woman had been released on

probation several months ago. She had been seeing her probation officer regularly. She had never been aware of her ability to pay hearing and her probation officer never informed her of the warrant put out for her arrest. At five in the morning police broke into her bedroom looking for her neighbor. They ran her name and brought her to prison where she spent eight days in prison on a bail of \$243.50.

Many people, especially those not living in Providence, stated that transportation necessary to meet court dates was both overly time consuming and expensive. One man from Woonsocket said that to make it to court in Providence by nine in the morning he has to get up at six in the morning, walk two miles, and take a bus to Providence. He is a veteran and is on SSDI for Post Traumatic Stress Syndrome. He has been incarcerated two other times for court debt. He stated, “If there was a court in Woonsocket I could go to and it was only thirty per month, I would pay it.”

While the courts rarely incarcerate people who show up to Ability to Pay Hearings, people who do not have the money to pay their fines sometimes do not go to their hearings because either they are not aware they should go anyway or they have been threatened by the court that if they continue to show up and not pay they will go to jail. The court does not explicitly inform defendants that they can continue to show up and not pay without being imprisoned, so confusion is not surprising.

One man who had been paying and showing up fairly regularly stated “I have a job, it’s a moving company, I only make \$8.75. Money only stretches so far, I got bills, I got rent. I might miss a month or two. They want

**Reasons for Missing Ability to Pay Hearings**

knew about date but forgot	6
was never informed of date or did not remember being informed of date	6
refused to go	1
could not pay for transportation	2
did not have money and did not know they should go anyway	5
did not have money and had been threatened to not come back without money	1
could not miss work	2
tried to go, prevented by court	2

**Table 2**

to lock you up. Right now I'm losing my job. What can I do? I missed my last hearing because I had rent. No one ever told me that if I went they wouldn't lock me up even if I couldn't pay."

David has been homeless on or off for the last several years. He has not been able to work since 2002, and has SSI pending because of a chronic nerve disease, hepatitis, and diabetes. He has been in prison for court fines many times previously and reports often going to court dates despite the fact that he almost never can pay.

"I can't work because I got a physical condition that keeps me from working. I got SSI and SSDI pending. I got peripheral neuropathy, chronic nerve disease. All the jobs I ever did were outdoors, I can't do that no more, or restaurant work, and I can't do that no more because I got hepatitis. A lot of times they go 'you got to come back to court on such-and-such a date or else' and when they say that 'or else' that means you are going to jail, no matter what, whether you come, whether you show up, or what. So I don't show up. Most of the money I owe is warrants, because I don't show up."

David is an example of a person stuck in a cycle of debt, missed hearings, incarceration, and increased debt. The continued assessments of warrant fines and the continued incarcerations do not result in increased payment.

Some people are incarcerated despite efforts to show up at court and pay their fines. One man reported going to court with shorts on to set up his payment plan and being turned away because of the shorts. He stated:

"The 16<sup>th</sup> of last month, I had got out. I got out on a Saturday, and I had a court date on a Monday, and I had just done six months. I had got out, and I went to court in shorts, not knowing that I wasn't supposed to be going to court in shorts. The sheriff wouldn't let me in, so I just went home and tried to reschedule that appointment. They told me to come back before two, and I live all the way in Pawtucket, so its not an easy thing for me to go and come back like that. I tried, but I didn't make it. I made it

back at like 2:30, but they told me court was over that day for court fines. So I ended up just leaving, trying to call my lawyer, telling him that I think I have a warrant. He told me the best thing for me to do was try to take care of it, knowing that I would probably do seven days. He said there's no chance of me even taking care of it. So I knew I had a warrant, you know, and I ended up just procrastinating on that warrant."

He was incarcerated for 7 days for owing 300 dollars to Sixth District court.

## **Characteristics of Individuals Interviewed**

- 50% (12/25) unemployed
- 18% (4/25) homeless
- 75% (18/25) had been incarcerated for court fines before
- 37 years old on average
- 50% (8/17) that had recently had an extended period in which they owed fines had been paying regularly
- 20% (5/25) had significant mental health problems, including schizophrenia, bipolar disorder, and depression
- 16% (4/25) were on SSI and almost half had significant health problems, including hepatitis, chronic nerve disease of the arms and legs, and seizures.
- Half (12/25) are responsible for children
- Half (12/25) of those with jobs will probably lose their job because of their incarceration

## **Collateral Effects of Incarceration**

Aside from the cost to the state of jailing individuals, there are other collateral costs to the individual, including time lost from work. This report did not collect enough data to estimate the number of individuals who lost time from work because of incarceration, however, twelve of the twenty-five of those interviewed were currently employed. Individuals reported many other problems caused by the incarceration, from

losing apartments to not being able to take medicine for mental health problems.

Mike was on the point of giving up when he was interviewed in the Intake Service Center. Mike had a job and was living with his girlfriend when he was picked up by a cop who recognized him while he was leaving the hospital. He has hepatitis and seizures. He is on food stamps and has applied for SSI. Mike has been incarcerated two other times in the past year for court debt, and each time he almost lost his job. While in jail, he stated:

“I lost my job, I lost my girl, my apartment. I will probably get violated because I didn’t show up for a probation appointment. They’ll put another warrant out on me. I lost my job twice, they gave it back to me before, I don’t think they will this time. I try so hard but I’m losing everything over and over again. After awhile you just feel like giving up and putting a bullet in your head.”

Mike was in a drug rehabilitation program when he was incarcerated, and will probably not be able to reenter it immediately when released. He owed \$300 to the state.

Mike’s situation is not unique. Several individuals testified to having lost jobs more than once because of court debt incarceration. One man said that his family would not be able to pay rent that month because of his incarceration and he was worried what would happen to his wife and kids while he was in jail. Another man on SSI stated that he would probably get his SSI check stolen while in jail.

Incarceration for court debt is a major obstacle for individuals attempting to reenter society after time in prison or any individual who has a prior history of criminal conviction and is trying to maintain a legal and prosocial life. Incarceration for court debt interrupts medical and rehabilitation treatment, causes individuals to be fired from employment, disrupts families, and disrupts housing situations.

## **Verification and Error**

Considerable efforts were made to verify all data provided in the results section, including: comparison to court warrants, in person corroboration of statistical results during interviews, and internal comparison within database results. For more discussion, see the April 2007 version of the report, available at [riflc.org/index.php?name=reports](http://riflc.org/index.php?name=reports). Verification efforts indicated that there while some unique commitments may have been mis-categorized, this represents a very small proportion of the total commitments, less than 1% of those identified. Because approximately 6% of all records could not be fully found in databases, a small amount of estimation was required. This is discussed more fully in the previous version of the report.

## **Recommendations**

### ***Introduction***

This report recommends passage of S2234 sponsored by Senator Harold Metts and H8093 sponsored by Representative O’Neil. The current policy should be altered to avoid assessing fines that the defendant cannot pay, decrease the amount of money spent by the courts, police, and prison system to incarcerate, and avoid unnecessary incarceration of defendants. It is necessary that the courts still maintain and use the power to incarcerate for delinquency around court fines. This is a necessary measure to ensure that people with court debt that have the ability to pay the debt make efforts to pay it. However, incarceration related to court debt should be a last measure used for people avoiding payment. Incarceration related to court debt contributes to 17% of all pre-trial commitments, a significant part of the ACI’s activity and a significant contribution to overcrowding.

This report makes the following general recommendations, which are elaborated below. Recommendations are based on research discussed in the results section, and many came at least in part from suggestions made by the individuals interviewed.



1. Reduce the amount of time people are held in jail awaiting ability to pay hearings to 48 hours.
2. Take ability to pay into account when assessing court fines and costs initially and throughout the payment plans.
3. Employ a variety of collection methods before resorting to incarceration.
4. Accept smaller bails from individuals brought in on warrants.
5. Reduce the warrant fee.

The recent policy change of providing a \$150/day credit seems to have decreased the number of incarcerations for court debt and contributed to the reduction of the awaiting trial population in the ACI. Court fine reform is an important step towards decreasing unnecessary prison costs. However, the \$150/day credit is not an ideal solution to the problem. It costs the state twice, since the state reduces fines and pays to imprison people, and it still leaves people in prison who should not be there. The above recommendations will decrease the number of unnecessary and costly incarcerations, reduce the burden of fines on the indigent, and lower the prison population.

### **Recommendations for Legislation**

In the 2007-2008 legislative session, the RI legislature is considering Senate Bill 2234 and House Bill H8093. This bill alters several portions of section 12 of the Rhode Island general statutes to accomplish the following things:

1. Define the conditions for a defendant to be deemed indigent and clearly provide judges discretion to waive court costs for indigent individuals. The conditions include being on TANF, food stamps, disability insurance, or a government sponsored state supplemental income program.
2. Ability to pay hearings would occur within 48 hours of incarceration.

3. Prioritize the payment of restitution over court costs and fines.
4. Decrease the warrant fee to \$25.

### **Reasons to Consider Ability to Pay when Assessing Court Fines and Court Costs**

Judges should take an individual's ability to pay into account when assessing court debt and as they collect court debt. By adjusting court cost and court fine amounts to the ability of the defendant to pay the court is more likely to collect and can maximize revenue. For example, some individuals interviewed have medical conditions which prevent them from working, have been consistently unable to pay court debt, and have qualified for disability insurance from the state. It would be more affective for the court to assess lower court costs and court fines in these cases instead of establishing a court debt that is unlikely to be paid.

Structured or means based fines that relate to ability to pay are a tested and recommended judicial practice. They were demonstrated to be effective methods of punishment and fine collection in pilot studies and are recommended by the US Department of Justice Office of Justice Programs.<sup>16</sup> These documents lay out specific structures for creating levels of fines based on the offender's ability to pay and the severity of the crime. The New York Bar association, for example, recommends two tiers of payment—one for those who qualify for public defense and another for those who do not.<sup>17</sup> This should be seen as a measure to make

<sup>16</sup> Hillsman, Sally T., 1990. "Fines and Day Fines," *Crimes and Justice*, vol 12; Turner, Susan and Greene, Judith, 1999. "The FARE Probation Experiment: Implementation and Outcomes of Day Fines for Felony Offenders in Maricopa County," *The Justice System Journal*, Volume 21/1; Greene, Judith, 1990. "The Staten Island Day-Fine Experiment," in D.C. McDonald (ed.), *Day Fines in American Courts: The Staten Island and Milwaukee Experiments*. Washington DC: National Institute of Justice; "How to Use Structured Fines (Day Fines) as an Intermediate Sanction/ Bureau of Justice Assistance". U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, 1996. <http://www.ncjrs.org/txtfiles/156242.txt>; <http://www.ncjrs.org/pdffiles/156242.pdf>

<sup>17</sup> *Reentry and Reintegration: The Road to Public Safety* Special Committee on Collateral Consequences of Family Life Center 2008

finer more likely to be collected while still maintaining revenue.

### **Require that individuals receive an ability to pay hearing forthwith, not to exceed 48 hours after arrest**

Quick hearings are possible, since Superior Court in Providence has an attorney on hand who handles ability to pay hearings of people brought in on warrants immediately. Setting a limit to the amount of time an individual can sit in jail for court debt will do away with unnecessary and costly prison time. A significant portion of the people incarcerated are released after several days without paying bail. However, one third spend more than three nights incarcerated. Additionally, 94% of the people who make bail pay in the first three days. The time spent incarcerated beyond two nights increases jail costs and increases the disruption to the individual's life, such as the likelihood they will lose their employment. Discharge after two nights should be a rule not a possibility. If all individuals committed to jail-time for court debt had been released after 48 hours in 2007 the state would have saved approximately \$200,000 and lowered the awaiting trial population by around 13 people a day<sup>18</sup>. Judges hold Ability to Pay Hearings within 48 hours of incarcerating someone. This could be done by seeing them immediately upon their arrest or holding the hearing soon after incarceration.

### **Allow judges to waive costs after the first charge**

The intent of much of the legislation is to increase a judge's discretion to waive costs in cases of inability to pay. One of the reasons Rhode Island costs are so high is because they

are assessed per charge. A second charge does not cost the court twice as much time and effort and it quickly increases costs beyond the point where many can pay them. Judges should have discretion to waive costs beyond a single charge.

### **Reduce the warrant fee from \$125 to \$25**

Many people incur large warrant fees over time and are stuck in a cycle of increasing debt and continuous incarceration. One homeless individual interviewed has been jailed ten times for court debt since 2005, meaning this alone resulted in \$1,250 of debt. Another has been to prison a total of seven times for the costs from his 1996 misdemeanor charge, meaning he has been assessed \$875 in warrant fees. He has appeared in court 36 times for these costs. He said "I didn't have the money and I got scared that I was going to get locked up, so I didn't go. I pay when I can, I've been out of work for a long time. I've been homeless for the last twelve years of my life, I get a job here and there. Whatever I do make, I got to use it to getting something to eat or find a place to stay. I've probably been paying the same fine over and over again for years because of warrants." (this is one of the summaries in the Summary of Interviews section at the end)

A \$25 fee paid to the arresting agency would continue to pay the police for the cost of the arrest and the court for their time. An individual who comes to their ability to pay hearing freely is not charged anything, yet they cost the court the same amount of time and effort as someone brought in on a warrant. Someone forcefully brought in is an opportunity for the court to motivate payment for those who can pay, but should not also be an opportunity for courts to assess additional fees. Rhode Island's disproportionately high costs and fines result in the state spending a large amount of money incarcerating people who have trouble paying these fines. The warrant fine in particular is born most heavily by indigent individuals, since they are the ones repeatedly being incarcerated. Reducing this fine will decrease the number of indigent repeat-offenders, and a \$25 fee is still high enough to provide additional incentive to come to hearings.

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Criminal Proceedings of the New York Bar Association. Available at [http://www.nysba.org/MSTemplate.cfm?Section=Table\\_of\\_Contents1&Site=Special\\_Committee\\_on\\_Collateral\\_Consequences\\_of\\_Criminal\\_Proceedings&Template=/ContentManagement/HTMLDisplay.cfm&ContentID=80374](http://www.nysba.org/MSTemplate.cfm?Section=Table_of_Contents1&Site=Special_Committee_on_Collateral_Consequences_of_Criminal_Proceedings&Template=/ContentManagement/HTMLDisplay.cfm&ContentID=80374)

<sup>18</sup> The total number of prison days spent beyond 48 hours was 4610, which was multiplied by the 9\$ per diem cost. In addition, the cost of one guard was included, since there was the potential to decrease the awaiting trial population by 13 people on average

## **Further Recommendations**

### **1. Employ a variety of collection practices before incarceration**

The State of Rhode Island currently issues warrants for arrest for a single missed appointment. Although judges exercise restraint when dealing with indigent individuals who appear at ability to pay hearings, they require incarceration for individuals that are brought in on warrants. Many other states employ a variety of intermediate measures for court debt that is delinquent.

Mesa Court in Maricopa County, Arizona published an extensive report “The Facts About Collection Practices at the Mesa Municipal Court” in 2001. This report details an extensive number of collection practices that are effective. They include: late notices mailed to the individual, suspension of license, warning notices that a warrant will be issued, mass mailing to all individuals with delinquent debts, notifying credit agencies, phone calls to the individual, the place of work, and references such as family and friends. Each of the practices or a combination of these practices is more effective than summary incarceration of individuals who do not appear to hearings.

Interviews demonstrated that some sort of intermediate warning would be useful in many cases. Many individuals stated that they had forgotten about their fines or had forgotten one appointment. As discussed in the results section, most individuals either never show up to a single ability to pay hearing after their sentence or they show up to an average of three before missing one. Mailed notices or phone calls would help induce many individuals to pay.

### **2. Accept smaller bails from individuals brought in on warrants**

People in many cases can pay something, but in most cases cannot pay the higher amounts being demanded by the court. Many individuals interviewed stated that they offered the court several payments worth of money as bail and were refused.

Instead, they spent a week in prison and then left without paying anything. As demonstrated in Figure 2, people are around three times more likely to pay smaller bails. By accepting smaller bails the courts would be more likely to receive some payment immediately and avoid spending money to incarcerate people.

### **3. Modify Court Cost Assessment**

Court costs in Rhode Island are a fee for services rendered by the state. They are not a form of restitution or punitive fine, which are legislatively and conceptually distinct from court fines. Some costs are set at levels that parallel costs associated with a specific service, for example laboratory fees are set at a level that attempts to estimate the necessary costs of investigative laboratory work. In contrast, Victims’ Fund fees, which are one third of general court fines, are meant to compensate victims of violent crimes but are assessed against non-violent offenders. Roughly one half of felonies are non-violent. Victim fund fees should only be assessed for violent felonies. They could be increased to compensate for lost revenue.

### **4. Involve Probation and Parole Officers in debt collection**

Currently Probation and Parole officers are not involved in the process of court debt collection. Paying debt to the court is rarely a condition of probation or parole in Rhode Island. This should not be changed, because if individuals could be violated for failure to pay debt or appear at hearings this would increase the number of technical violations and time spent incarcerated. However, probation and parole officers should be aware of an individual’s warrants and ability to pay hearings and keep their clients informed.

### **5. Make it clear to all individuals that they should show up to court even if they cannot pay their fines.**

Several individuals had no idea that they should come to court even if they could not

pay, and most that did know had heard it through rumor and not through the court.

6. **Allow individuals who arrive to court in clothing not acceptable to the court, such as shorts, to reschedule their ability to pay hearing immediately.**

7. **Provide incentives for people who miss appointments to voluntarily come in.**

Individuals expressed fear and uncertainty about going to court voluntarily after missing a hearing. After missing one appointment many grew frustrated because of the added \$125 fine and the chance that they would be incarcerated if they went back to court. Courts could clearly guarantee removing the \$125 fine for people who

voluntarily come to court after missing a hearing and guarantee that they will not be incarcerated if they have the money to make one payment.

8. **Cities in Northern Rhode Island should have a place for people to pay fines**

People from Northern Rhode Island have to travel considerable distances, often by bus, just to pay fines. A number of people interviewed miss hearings because of the difficulty of coming in and paying fines. Although there is no court in Northern Rhode Island to accept fines, a similar state agency, such as the police station, could accept fines. This would make it easier and more likely for people from Northern Rhode Island cities, particularly Woonsocket, to pay.

Warrant	125	100 general revenue 25 arresting agency
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Charge*	Amount	Recipient
Misdemeanor	93.50	60 general revenue 30 victim's fund 3.50 arresting agency
Felony punishable by more than one year or a fine more than \$1,000**	273.50	180 general revenue 90 victim's fund 3.50 arresting agency
Felony punishable by more than five years**	453.50	300 general revenue 150 victim's fund 3.50 arresting agency

\* each charge is assessed a distinct court fine, although judges can restrict assessments to three charges

\*\* this refers to the potential punishable time period made possible under the statute, not the actual prison time given

## Breakdown of Court Costs Appendix 1

## Characteristics of Court Debt Related Incarceration

	Rate of Incarceration for Court Debt	Length of Incarceration(days)	Average Bail/Fine Owed
Statewide	18%	3	\$826
6th	24%	4	\$725
Providence Superior	9%	3	\$1,910
Second	14%		
Fourth	11%		
Third	20%		
Washington	3%		
Kent	5%		

### Court Fine Commitment by Court Appendix 2

		assessed	receipts		uncollected		plans	
Superior Court	2005	\$5,072,145.00	\$2,342,387.00	46.18%	\$696,002.42	13.72%	\$2,033,755.58	40.10%
	2004	\$5,186,443.00	\$2,373,929.00	45.77%	\$864,814.19	16.67%	\$1,947,699.81	37.55%
	2003	\$5,464,772.00	\$2,583,205.00	47.27%	\$815,631.42	14.93%	\$2,065,935.58	37.80%
	2002	\$5,439,522.00	\$2,544,722.00	46.78%	\$797,899.34	14.67%	\$2,096,900.66	38.55%
	2001	\$4,929,996.00	\$2,488,968.00	50.49%	\$819,407.00	16.62%	\$1,621,621.00	32.89%
	total	\$26,092,878.00	\$12,333,211.00	47.27%	\$3,993,754.37	15.31%	\$9,765,912.63	37.43%
District	2005	\$10,073,300.00	\$8,233,667.00	81.74%	\$1,054,162.65	10.46%	\$785,470.35	7.80%
	2004	\$9,969,098.00	\$8,434,882.00	84.61%	\$762,299.56	7.65%	\$771,916.44	7.74%
	2003	\$9,819,597.00	\$8,455,574.00	86.11%	\$759,131.71	7.73%	\$604,891.29	6.16%
	2002	\$9,517,491.00	\$8,451,363.00	88.80%	\$655,478.72	6.89%	\$410,649.28	4.31%
	2001	\$9,836,470.00	\$8,887,109.00	90.35%	\$638,530.46	6.49%	\$310,830.54	3.16%
	Total	\$49,215,956.00	\$42,462,595.00	86.28%	\$3,869,603.10	7.86%	\$2,883,757.90	5.86%
District+Superior	2005	\$15,145,445.00	\$10,576,054.00	69.83%	\$1,750,165.07	11.56%	\$2,819,225.93	18.61%
	2004	\$15,155,541.00	\$10,808,811.00	71.32%	\$1,627,113.75	10.74%	\$2,719,616.25	17.94%
	2003	\$15,284,369.00	\$11,038,779.00	72.22%	\$1,574,763.13	10.30%	\$2,670,826.87	17.47%
	2002	\$14,957,013.00	\$10,996,085.00	73.52%	\$1,453,378.06	9.72%	\$2,507,549.94	16.77%
	2001	\$14,766,466.00	\$11,376,077.00	77.04%	\$1,457,937.46	9.87%	\$1,932,451.54	13.09%
	Total	\$75,308,834.00	\$54,795,806.00	72.76%	\$7,863,357.47	10.44%	\$12,649,670.53	16.80%
District+Superior+Traffic	2005	\$27,993,301.00	\$20,950,413.00	74.84%	\$4,000,115.07	14.29%	\$3,042,772.93	10.87%
	2004	\$28,995,115.00	\$22,270,493.00	76.81%	\$3,910,160.50	13.49%	\$2,814,461.50	9.71%
	2003	\$28,166,305.00	\$21,953,111.00	77.94%	\$3,486,915.56	12.38%	\$2,726,278.44	9.68%
	2002	\$26,394,982.00	\$20,560,730.00	77.90%	\$3,315,199.92	12.56%	\$2,519,052.08	9.54%
	2001	\$27,354,491.00	\$21,636,340.00	79.10%	\$3,723,663.93	13.61%	\$1,994,487.07	7.29%
	Total	\$138,904,194.00	\$107,371,087.00	77.30%	\$18,446,054.98	13.28%	\$13,087,052.02	9.42%

Court Collection Data  
provided by the Judicial Technology Center  
Appendix 4

\*\*\* NOT AN OFFICIAL DOCUMENT \*\*\*

**Case ID:**

**Court :** (DC) District Court    **Location :** (6D) 6th District Court

**Type:** M - MISDEMEANOR

Charge#	Charge	Disposition / Date	Sentence / Judge
1	SIMPLE ASSAULT	PLEA OF NOLO CONTENDERE	SUSPENDED 1 Year HIGGINS,JUDGE  PROBATION 1 Year HIGGINS,JUDGE  COURT COSTS HIGGINS,JUDGE

**Case Event Schedule**

Event	Date	Location	Judge
ABILITY TO PAY COSTS	05-JAN-2000	6th District Court	<i>unassigned</i>
ABILITY TO PAY COSTS	31-MAR-2000	6th District Court	<i>unassigned</i>

**Docket Entries**

Description	
10-NOV-1999	COMPLAINT FILED
10-NOV-1999	DFT APPEARS, ARRN, PLEADS NOLO
10-NOV-1999	DISPOSED/SENTENCED
06-JAN-2000	DEFT TO MAKE FURTHER PAYMENTS
06-JAN-2000	PET WRIT OF HABEAS CORPUS
31-MAR-2000	DEFT DOES NOT APPEAR
31-MAR-2000	BENCH WARRANT ISSUED
09-MAY-2000	BENCH WARRANT WITHDRAWN

Example of Court Case Record. Identifying information has been removed. The commitment that occurred on May 6,2000 is estimated to be caused by failure to appear for the March 31, 2000 Ability to Pay Hearing. This person showed up for one ability to pay hearing, on January 6, 2000, before missing an appointment. Their sentence did not include any court fines, only court costs.

Appendix 5



## Interview Summaries:

These are summaries of ten of the 25 interviews completed. The names have been changed to retain anonymity. They were chosen randomly from the completed interviews and reflect the overall types of situations encountered. All details relating to criminal history, bail, and payment schedule have been verified with court records.

### **Luke Brite**

“The 16<sup>th</sup> of last month, I had got out. I got out on a Saturday, and I had a court date on a Monday, and I had just done six months. I had got out, and I went to court in shorts, not knowing that I wasn’t supposed to be going to court in shorts. The sheriff wouldn’t let me in, so I just went home and tried to reschedule that appointment. They told me to come back before two, and I live all the way in Pawtucket, so its not an easy thing for me to go and come back like that . I tried, but I didn’t make it. I made it back at like 2:30, but they told me court was over that day for court fines. So I ended up just leaving, trying to call my lawyer, telling him that I think I have a warrant. He told me the best thing for me to do was try to take care of it, knowing that I would probably do seven days. He said there’s no chance of me even taking care of it. So I knew I had a warrant, you know, and I ended up just procrastinating on that warrant. One day I was with my friend, going to another friend of mines, and the police just came right into the apartment we were at.”

Luke was held for eight days on a \$300 bail. He said he might have been able to pay it, but he was hoping to get the \$150/day rebate. The fines were for a misdemeanor assault charge.

### **John Gomes**

Jose has been homeless on or off for the last several years. He has not been able to work since 2002, and has SSI pending because of a chronic nerve disease, hepatitis, and diabetes. When John was arrested he owed a total of \$717 to two courts and also had a warrant for failure to appear for a restitution hearing. The restitution stood at \$450 for a 2004 forgery and counterfeiting charge. Jose’s bail was \$500, and he was held for seven days before being released. Prior to failing to appear for his court fee hearings he had shown up three times.

“I can’t work because I got a physical condition that keeps me from working. I got SSI and SSDI pending. I got peripheral neuropathy, chronic nerve disease. All the jobs I ever did were outdoors, I can’t do that no more, or restaurant work, and I can’t do that no more because I got hepatitis. A lot of times they go ‘you got to come back to court on such-and-such a date or else’ and when they say that ‘or else’ that means you are going to jail, no matter what, whether you come, whether you show up, or what. So I don’t show up. Most of the money I owe is warrants, because I don’t show up.”

### **David Fernandes**

David has never been charged with a felony in adult court, despite a long criminal record as a juvenile. He has been without charge for four years, but has been unemployed up until recently. He regularly would not go to court fine hearings because he did not have money to pay the fines. He has been incarcerated for court fines four times in the last four years. He demonstrated significant paranoia about appearing in court. He had appeared at his hearings two consecutive times prior to the most recent missed hearing, which he missed because of a family emergency. His fines are for a simple assault misdemeanor charge from 2002. He was held on a bail of \$517.

“My son had fell from a chair, he’ll be two next month. He cracked his lip, got a few stitches. I had court, but I was like oh well, my son’s here, he’s happy I’m here with him. I held him while he got stitches. That’s priceless to me, I mean this court can wait, I’m a man, I don’t care a few days in.”

### **Jesse McCormick**

Jesse owes \$1231.50 in fines and court costs from a driving with a suspended license conviction from early 2005. He states he was never aware that he still owed fines and had never gone to set up a payment plan. He says he would have gone and made payments had he known. He offered the court \$150 when he was picked up. Jesse was held for nine days before being released.

“I have fines for driving on a suspended license, I recently moved, totally forgot about the fines, never received anything in the mail. I had a warrant out on me for 18 months I didn’t know about. They wanted half of what I owe, and I can’t come up with that kind of money. Me being in here isn’t doing them any good, they’re not getting any money that way. I keep up with my court dates and my fines, and I haven’t been in any trouble.”

### **Bob Davis**

Robert regularly appears at his court fine hearings and pays when he can, despite the fact that he is currently homeless and unemployed. He just finished drug rehab, and at his last Ability to Pay Hearing the judge had told him he had been doing a good job with appearing and making payments. He has SSI pending due to his Post Traumatic Stress Disorder, hepatitis, and depression, and receives treatment from the Veteran’s Hospital. Bob was held for four days. In 1996 Robert plead no contest to a misdemeanor charge of “Tampering with a Motor Vehicle” and was given one year probation. He was held for four days for \$418 in fees from that charge. Robert has appeared for Ability to Pay Hearings 36 times for this fine and been incarcerated seven times for failure to appear on this case alone.

“I didn’t have the money and I got scared that I was going to get locked up, so I didn’t go. I pay when I can, I’ve been out of work for a long time. I’ve been homeless for the last twelve years of my life, I get a job here and there. Whatever I do make, I got to use it to getting something to eat or find a place to stay. I’ve probably been paying the same fine over and over again for years because of warrants.”

### **Charles Rice**

Charles was picked up while driving when a police officer ran his plates. His car was towed and he will owe \$300 to the towing company. He offered the judge \$200 bail, but couldn’t pay the \$600 necessary. Charles is on SSI for back problems. Prior to missing his hearing he had appeared and paid at the three previous hearings. He stopped going because he couldn’t make the payments anymore. This was the first time he had been incarcerated for court fines.

“I didn’t know I would spend seven days, it really surprised me. I expected they’d hold me a little and then let me give them the money. There should be some kind of warning, a letter or something. Credit cards send you a letter.”

### **Steven Deasy**

Steven was incarcerated for eight days. He owes \$3500 to sixth district court for a combination of court fees from charges over the last several years—mostly driving with a suspended license charges. He had appeared and paid twice prior to the incarceration. He has been incarcerated several times for failure to appear at court fine hearings in the past several years. He would have paid several hundred dollars to stay out of prison.

**Terrence Peterson**

Terrence owed sixth district court \$1300 from a 2004 misdemeanor conviction of marijuana possession; he spent eight days in jail. He had appeared at his last five Ability to Pay Hearings and estimated that he had paid the courts over \$2,500 over the last four years. Terrence had just been placed in a new job by a temporary employment agency and he expected to lose the job because of his incarceration. He stated he had been paying regularly and then forgot about his payments after being briefly incarcerated—he recently served three weeks for felony assault from a Superior Court case, and his Ability to Pay hearing was several weeks after he was released.

**Lawrence Imbriglio**

Several weeks before being incarcerated for court fines Lawrence was picked up for having an open container in the parking lot of a county fair. He was released and given a summons. Lawrence appeared in court for the summons and was given a \$500 bail and sent to Providence because of outstanding failure to appear warrant. His fines are from a 2006 Driving with a Suspended License charge. He stated he had never gone to make a payment plan because he had no money, so he felt it was pointless. Lawrence had never been incarcerated before this incident. When I arrived, Lawrence had very little understanding of what was going on. He stated, “Why are they holding me here? I don’t have any money. If I had money, I wouldn’t be here.”

Lawrence is homeless, unemployed, and has been diagnosed as a schizophrenic by the Northern Rhode Island Mental Health Center. He was incarcerated for fifteen days.

**Rhonda Harris**

Rhonda was put on probation recently for a misdemeanor assault charge. She had been seeing her probation officer regularly. She had never been aware of her ability to pay hearing and her probation officer never informed her of the warrant put out for her arrest. At five in the morning police broke into her bedroom looking for her neighbor. They ran her name and brought her to prison where she spent eight days in prison on a bail of \$243.50. Rhonda had never been incarcerated for court fines before and had been without charges since 2003 when she was convicted of possession of marijuana. She works full time and expected she would lose her job. Rhonda has been diagnosed with bipolar disorder.

**Stanley Brown**

Stanley was pulled over for having old license plates on his car. He spent eight days in prison on a bail of \$1100. He owed fines from a DUI charge from 2003. His only other charge in the last nine years was a misdemeanor assault charge in 2001. Stanley is 59 years old and on SSI for depression and post-traumatic stress syndrome. He receives treatment from the Veteran’s Hospital. Prior to missing his hearing, Stanley has appeared to pay seven times for these fees and been incarcerated four times for failure to appear for these fines. He has only ever been incarcerated for court fines and almost half of his remaining fee is for warrants. Stanley lives in Woonsocket and has to wake up at six in the morning and walk two miles in order to catch the bus to arrive in Providence by nine for hearings. He stated, “If there was a court in Woonsocket I could go to and it was only 30/month, I would pay it.”