



SOLUTIONS & ACTIONS TO

Eliminate the Criminalization of Poverty

Over 46 million people face economic obstacles that keep them living in poverty.¹ Instead of increasing opportunities to succeed, our law too often criminalizes the condition of living in poverty. Lawmakers should eliminate practices that require excessive justice-related fines and tariffs from indigent individuals, eliminate municipal ordinances that essentially make it a crime to be homeless, and prohibit debt collection practices that harass people after they have served their prison terms.

1. Overhaul Local Justice Administration

Local and state governments should repeal legislation authorizing the imposition of user fees, including public defender fees; repeal legislation imposing mandatory “assessments” for both criminal and civil offenses; review municipal and state court procedures and rules to ensure that fine and fee collection comports with constitutional protections for due process and equal protection of the law, so that people are not jailed for nonpayment of civil fines, fees, and/or penalties they cannot afford to pay; ensure that counsel is appointed at the sentencing and post-sentencing enforcement stage whenever a person faces incarceration for nonpayment of a fine or fee; and eliminate incarceration and jailing for civil penalties and fines including for child support that the person cannot afford to pay.

2. Prosecute Debtors' Prisons

The Department of Justice (DOJ) should investigate and bring enforcement actions against debtors' prisons that touch on areas in which DOJ has authority, such as young people. Debtors' prisons—the jailing of people for nonpayment of court-imposed fines or fees without prior procedural protections—have emerged around the nation, despite clear Supreme Court precedent holding that such prisons violate constitutional rights to due process and equal protection of the law.²

3. Ban For-Profit Probation

The task of determining whether an individual can pay fines has frequently been outsourced to for-profit probation companies that often recommend that individuals be incarcerated for failure to pay fees or fines. Legislatures should eliminate the use of probation administered by for-profit probation companies to collect payments toward fines and fees.

4. Establish Debt Payment Plans

Courts should establish debt payment plans for the repayment of criminal justice debts.

5. Cap Criminal Justice Debt

Local and federal governments should set caps on criminal justice debt and provide a clear statutory right that allows the court to waive the fees and fines of low-income individuals related to their involvement in the justice system.

6. Prohibit Harmful Accrual of Fees

Courts across the country routinely incarcerate individuals for failure to pay criminal justice debt without regard to the financial circumstances that may make payment impossible. In general, fines and fees should be avoided. Judges should not impose interest and additional fees on people who cannot afford to pay in full on sentencing day.

7. Prohibit Profiling

Local and state governments should prohibit law enforcement from profiling individuals on the basis of perceived housing status and invest in more comprehensive long-term and short-term housing options, ensuring that housing placements respect individuals' self-identified gender specifications.

8. Train Police on Homelessness

Local and state governments should improve police training on interacting with homeless communities, including police training curricula to improve relationships with LGBTQ youth and decrease profiling, harassment, and abuse.

9. Enact Homeless Bill of Rights

Local and state governments should enact an enforceable Homeless Bill of Rights that ensures that homelessness is not treated as a crime by protecting against laws that target suspected homeless people because of their housing status, rather than their behavior.³

10. Create Alternatives

Local and state governments should make alternatives to incarceration, fines, and fees available at sentencing, and ensure that they accommodate the needs of people with limited access to public transportation, child care needs, disabilities, and other limitations.

¹ Carmen DeNavas-Walt & Bernadette D. Proctor, "Income and Poverty in the United States: 2014," U.S. Census Bureau, Sept. 2015, <https://www.census.gov/content/dam/Census/library/publications/2015/demo/p60-252.pdf>.

² See *Bearden v. Georgia*, 461 U.S. 660 (1983), holding that individuals cannot be incarcerated for the inability to pay fines; American Civil Liberties Union, "In for a Penny: The Rise of America's New Debtors' Prisons," 2010, <https://www.aclu.org/report/penny-rise-americas-new-debtors-prisons> (finding "indigent defendants are imprisoned for failing to pay legal debts they can never hope to manage. In many cases, poor men and women end up jailed or threatened with jail though they have no lawyer representing them. These sentences are illegal, create hardships for men and women who already struggle with re-entering society after being released from prison or jail, and waste resources in an often fruitless effort to extract payments from defendants who may be homeless, unemployed, or simply too poor to pay").

³ Homeless Bill of Rights, <http://nationalhomeless.org/campaigns/bill-of-right/>.