



WILSON
CENTER FOR SCIENCE AND JUSTICE
AT DUKE LAW



2021

DRIVING INJUSTICE

Consequences and Disparities
in North Carolina Criminal
Legal and Traffic Debt



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The National Impact of Criminal Legal Debt

Nationwide, criminal legal debt causes severe and lasting harm for tens of millions of people, many of whom are too poor to pay these mandatory fines and fees. The bulk of these fines and fees, perhaps surprisingly, arise from the lowest level criminal cases—particularly traffic cases and other minor infractions and misdemeanors. Police conduct tens of millions of traffic stops every year; they are, by far, the most common interaction between law enforcement and the public. What’s more, criminal legal debt disparately burdens Black people, communities of color, and the poor.¹

For many, criminal legal debt accumulates because their fines and fees were unaffordable from the start. Most states do not require courts to determine a person’s ability to pay before imposing fines and fees, nor do they have no-cost waivers for the indigent. For too long, the law has required judges to act as debt collectors in low-level criminal cases, imposing and collecting fines without first assessing ability to pay, ultimately resulting in the suspension of driving privileges for those who experience barriers to payment. Without a driver’s license, people cannot get to

“I was only going like 3 mph over the speed limit,” said a Durham, North Carolina resident. “The fine, though, was for a couple hundred dollars. I just couldn’t afford it. I have four kids.”

A Durham resident recounted losing his driver’s license, an automatic consequence for failure to pay traffic costs in North Carolina, and that, in turn, impacted his housing and his employment. Now, based on a collaborative effort in the county, he had the court debt forgiven and his license restored.

“It means the world,” he described. “I’m employed, I’m able to go spend quality time with my kids.”

One out of five residents in Durham have had a suspended or revoked driver’s license and there are tens of thousands more in the county alone who suffer the consequences of traffic fines and fees.



work, take care of their families, or get their basic needs met, like taking their children to school, visiting a doctor, or going to the grocery store.

Researchers estimate in the United States, court-imposed fines and fees total tens of billions and result in the loss of employment, housing, public assistance, and even voting rights. Unfortunately, few states maintain any criminal legal debt data at all, much less regarding how fines and fees affect their residents.²

Similarly, national data does not exist concerning driver's license suspensions for non-driving-related reasons, and few states maintain such data. But we know that millions, at a minimum, have experienced such suspensions, based on data from several states. Thirty-three U.S. states currently require suspension of driver's licenses for non-driving-related reasons in traffic cases.³ Because the imposition of suspensions largely uses automatic processes, the now-massive suspension programs run with little oversight. Researchers have also found these policies offer little to no public benefit—and in fact, are counterproductive.

We have focused on North Carolina for this Report because we were able to gather substantial state data on these interrelated problems. We describe three studies that examine these practices. We first delve into the

explosion of criminal debt in North Carolina generally, with detailed individual-level data, and we show how most of that debt arises from traffic cases. Second, we look at the scale of driver's license suspensions in North Carolina, afflicting 1 in 7 adult drivers. Third, we describe survey data of North Carolina residents, unpacking the burdens these practices cause.

Unfortunately, what we observed in North Carolina is likely not an aberration, but represents patterns seen across the country in states that still maintain such practices. Based on these North Carolina findings, we set out legislative and policy solutions to address these deep-seated problems.



Executive Summary

In this Report, we describe three studies examining fines, fees, and driver's license suspensions in North Carolina. We find:

01

The Explosion of Criminal Debt:

Over 650,000 people, or 1 in 12 adults in North Carolina currently have unpaid criminal court debt. This debt disproportionately burdens communities of color in North Carolina.

Measuring Direct Impact:

We contacted people with license suspensions to learn how suspensions impacted their lives. First, we sent mail surveys to 300 North Carolina residents with driver's license suspensions, and over one-third of the surveys were returned unopened because addresses on file were undeliverable. Next, we surveyed

850 North Carolina residents online, 18% of whom currently had or previously had a license suspension.

- ♥ **Racial Disparities:** People of color were more likely than white people to have a license suspension.
- ♥ **Harder Lives:** People with suspensions overwhelmingly said their day-to-day lives were harder because of the

The Scale of Driver's License Suspensions:

One consequence of unpaid debt (known as failure to comply or "FTC") is indefinite suspension of driving privileges. Over 1,225,000 people in the state have active suspensions for FTCs and FTAs (failure to appear). For reference, this translates to approximately 1 in 7 driving-age people in the state of North Carolina for non-driving-related reasons alone.

- ♥ **Racial Disparities:** Black and Latinx people are over-suspended relative to their representation in the population.
- ♥ **Income Disparities:** The more white people below poverty and Black people above poverty a county has, the more suspensions the county is likely to have.

02

03

suspension, including getting to the doctor, getting to work, caring for their children, and grocery shopping. Of those reporting, 28.5% said they were in the process of being evicted as a result of their suspensions.

- ♥ **Still Driving:** People with suspensions report continuing to drive out of necessity and reluctance to attempt to get their license restored.

A Summary of our Analysis of Criminal Debt in North Carolina⁶

01 The Explosion of Unaffordable, Unpaid Criminal Debt

Criminal debt has continued to mount in North Carolina, mostly through low-level criminal cases: traffic cases and infractions. About one million traffic stops are conducted each year in North Carolina.⁴ Millions of dollars in fines, imposed by police officers, result from those stops. When any criminal case is resolved, North Carolina courts may impose multiple fines and fees, ranging from tens to hundreds of dollars each. If a person cannot or does not pay, an FTC is entered for the case. Mandatory fees include a “General Court of Justice” fee of \$147.50 in district courts as of December, 2020; a \$5 fee for an arrest; fees to fund law enforcement training and judge retirement funds; a \$200 fee for an FTA in court; and a \$10 fee for each day spent in jail.

For cases with forensics, courts typically assess a \$600 crime lab fee, and an additional \$600 fee if an expert testifies.⁵ Costs that cannot be paid incur still more costs. For example, an additional \$50 fee is added to any unpaid failure to pay fee after 40 days. Courts can even issue an order for arrest for unpaid fines and fees. The underlying causes that bring people to court that then result in an FTC, such as unpaid parking tickets, often pale in comparison to the amounts people end up owing. Cases in Durham with outstanding fines and fees (in which there are thousands of very old and minor cases) included underlying reasons such as: a speeding in a highway work zone case from 2000; a driving with a

1.72 million+

cases involve unpaid criminal debt.

This amounts to **120,000** criminal cases each year.

Criminal debt disproportionately burdens *communities of color* in North Carolina, with similar racial disparities as with suspensions.


650,000+

people in North Carolina, currently have unpaid criminal court debt.

That's 1 in 12 adults.



Many of these debts have been outstanding for years, if not decades. The state's total criminal debt load may total well over **\$100 million**.

Much of this debt arises from *low-level traffic* cases and infractions. 

Imposition of FTCs is growing exponentially larger over time.

revoked license case from 2003; a speeding ticket from 2011; a failure to stop at a red-light case from 2001; a driving with a revoked license case from 2006.

To encourage more research and policy work, as well as transparency and understanding of criminal debt in North Carolina, we have made these data and a set of

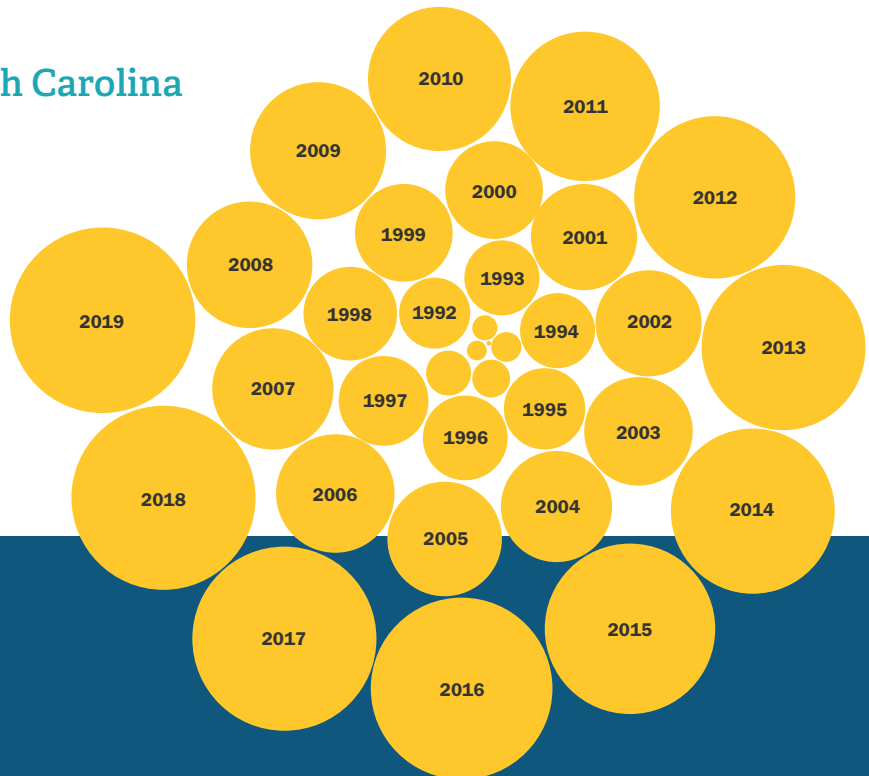
preliminary analyses available:

<https://datalab.law.duke.edu/shiny/ncrimfines/>.

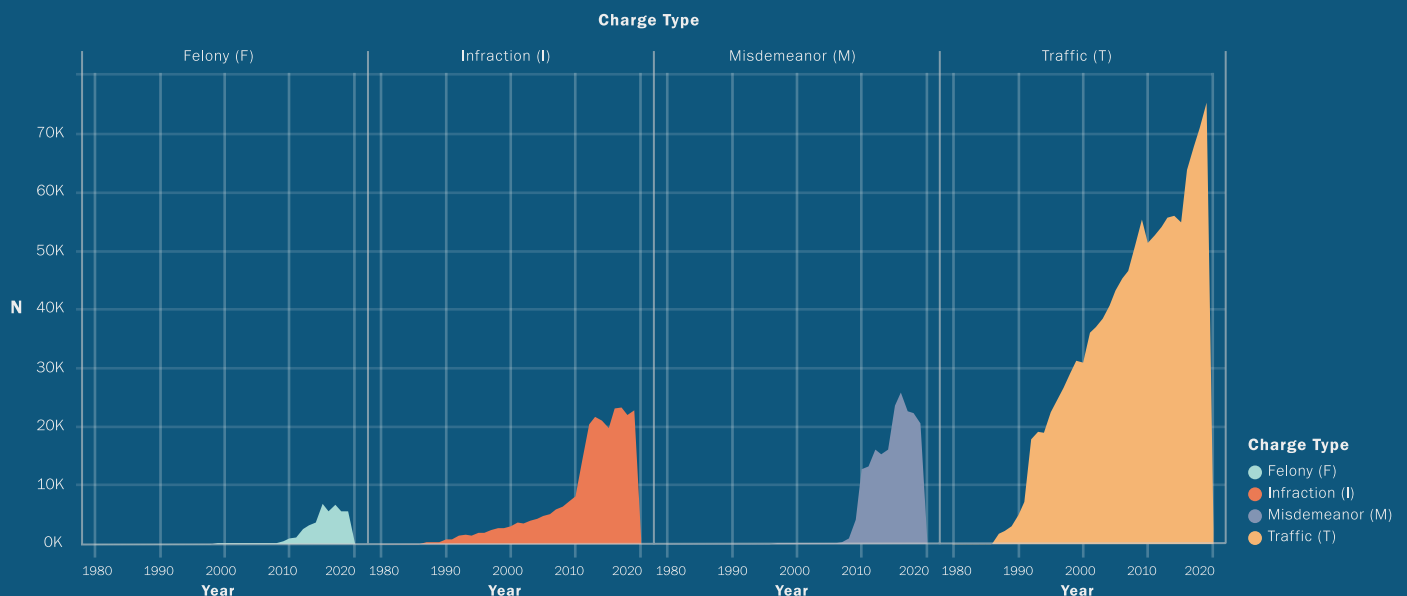
This website permits download of cleaned FTC data, and displays visualizations and descriptive statistics on the numbers of cured and uncured FTCs, length of FTCs, and race and ethnicity information of FTC cases state-wide and for each county.

FTCs Given Per Year in North Carolina

Size of the circle represents the number of still-active and cured FTCs imposed in that year.



FTCs Given by Charge in North Carolina



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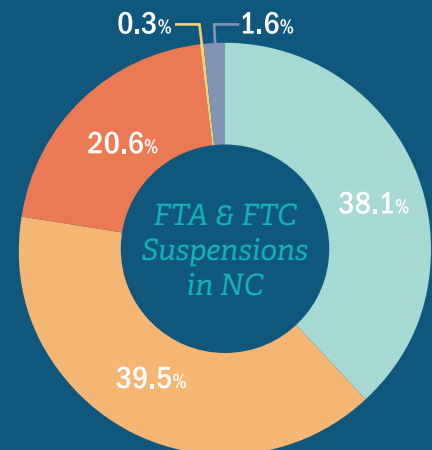
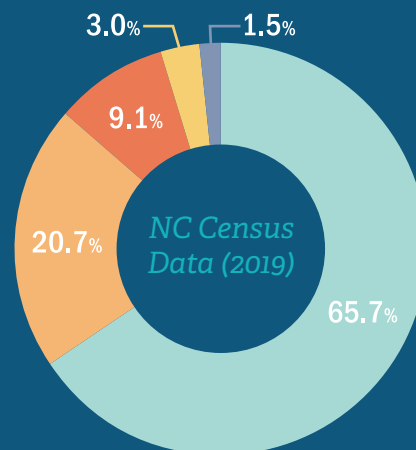
The Scale of Driver's License Suspensions

We reviewed all of the traffic cases in North Carolina with a driver's license suspension for a non-driving related reason, based on data shared by the North Carolina Administrative Office of the Courts. These cases date back to the 1980s, and many suspensions were in place for many years.

Racial Disparities:

Both Black people and all other people of color are nearly **2x** more likely than white people to have a license suspension.

- White
- Black/African American
- Hispanic/Latinx
- Asian American
- American Indian/Alaskan Native



- ▼ Of those suspensions, 827,000 were for failure to appear in court (FTA), 263,000 were for failure to comply (FTC) or failure to pay traffic fines or court fees, and 135,000 were for both reasons.
- ▼ Black and Latinx drivers disproportionately receive such suspensions.
- ▼ Statistical analyses implicate a role of income: counties with higher populations of white people below the poverty lines, and counties with higher populations of Black people above the poverty line, had more license suspensions when controlling for total population. These trends underline that even people above the poverty line can struggle with paying fines and fees.
- ▼ Many of these suspensions are at least five years old. Such suspensions can last for many years. People who cannot pay their debt within months are unlikely to ever do so.
- ▼ FTAs are not entirely different from FTCs. People who can afford to pay a traffic fine may just send in the money by mail - but those that cannot afford to pay are required to appear in court to address the ticket. If someone knows they cannot afford the ticket, they may be afraid to go into court and admit that to a judge. Indeed, we see similar relationships between race and poverty for FTAs as FTCs. Thus, FTAs are likely still linked to a person's ability to pay, albeit indirectly.³



03

Measuring Impact: Surveying People with Suspensions

In addition to court data, we sought to examine how people are affected in their day-to-day lives by driver's license suspensions. We used the on-record addresses from our state court dataset to survey people with suspended licenses. We randomly selected 300 people in Wake County, North Carolina who had their licenses suspended between 2017 and 2018 and mailed them a survey about their experiences. We found something unexpected and troubling: over one-third of the surveys were returned as undeliverable for reasons such as an insufficient address, an expired or unknown forwarding address, or a vacant residence.⁷

Next, we surveyed over 850 North Carolinians online. Among these randomly recruited individuals, we found many who have had a driver's license suspension. We asked them how, if at all, their lives changed due to having a suspension, and if they had tried to get their license restored. We compared them to respondents who did not have a suspension but were asked to imagine they did.



Suspensions:

18%

of respondents currently had or previously had a suspended license.

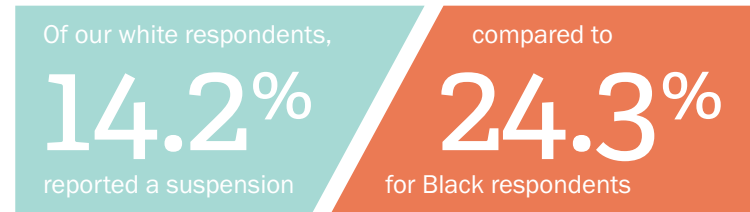
Driving:

People with suspensions report continuing to drive out of necessity and reluctance to attempt to get their license restored. Respondents imagining a suspension differed vastly: significantly fewer people said they would still drive, and almost all said they would attempt to get their license restored. These discrepancies highlight the disconnect between the lived experience of having a suspension and only imagining having a suspension.



Racial Disparities:

In our recruited sample, we saw racial disparities in frequency of license suspension.



When adjusting for income, statistical models found that Both Black people, and all people of color combined, were nearly 2x more likely than white people to have a suspension.

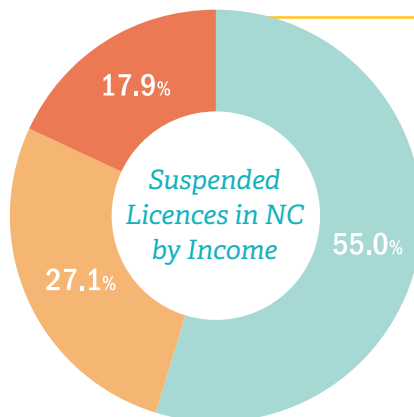
Harsher Consequences:

28.5%

of respondents reported eviction as a result of their suspensions.

Harder Lives:

Most people with suspensions said their day-to-day lives were more difficult because of the suspension, including such activities as getting to work, going to the doctor, caring for their children, and grocery shopping.



Suspended Survey Respondents by Income:

People who make more than \$50,000 per year are 46% less likely to have a suspension than those who make less.

● Highest Income ● Middle Income ● Lowest Income

The DEAR Program

The Durham Expunction and Restoration (DEAR) program provides free legal services to in-need Durham residents to restore suspended or revoked driver's licenses, as well as file expungement petitions to clear old, unresolved charges from non-traffic cases.

DEAR's mission centers on ensuring all people have equal access to legal relief. The program has identified that having a criminal record or a suspended driver's license is a root cause of inequity, and that those suffering from these issues are at a higher risk of struggling with job and home insecurity.

Thousands of Durham residents are negatively impacted by these issues, and many are unable to afford the legal representation necessary to help them expunge criminal records, restore drivers' licenses, and obtain certificates of relief. Pro bono assistance is only available to a few hundred residents each year, leaving many low-income residents to suffer disproportionate consequences when compared to wealthier counterparts. Indeed, many of these consequences disproportionately affect Durham's Black and Latinx residents as well.

A collaboration between the Legal Aid of North Carolina and the North Carolina Justice Center, DEAR recognizes both the historical legal disenfranchisement of communities of color and the pressing need for a more just and equitable court system. What sets DEAR apart from other legal aid organizations is its application of a racial equity framework and employment of data-driven approaches to better target legal services to those who are eligible. Using novel approaches to address the institutional practices that have perpetuated inequity, DEAR is actively reimagining the criminal justice framework with an emphasis on giving people a second chance.

As of this article's publication, DEAR has dismissed more than 51,000 traffic charges and remitted 6,500 unpaid traffic tickets that cause long-term driver's license suspensions. More than 35,600 people have been assisted so far, with those numbers rising every year, thanks to the dedicated effort of the DEAR team.⁹

Q How does the work DEAR conducts help people? Have you noticed tangible change?

In regards to driver's license restoration, we have been able to waive 2.5 million dollars in fines and fees for the citizens of Durham. And we have been able to assist multiple people with getting their driver's license back. And for expungements, we have been able to obtain expungements for, I would say ... 1,000 people at this point.⁹ And we've been able to help people obtain housing and job opportunities because ... their records have been expunged.

Q Are there any impacts people might not think about or associate with driver's license suspensions?

No one is able, no one is really trying to circumvent the responsibilities or the consequences for driving without a license. But a lot of people's driver's licenses have been suspended because they are just unable to pay the fines and the fees, and the fees have increased year after year after year. So even people who are unable to pay the fines when it was initially given to them, or assessed to them, then three, four, five years down the line, it's way more than it was in the beginning.

Public transportation is in Durham, obviously. But there are some places where public transportation does not go. I am from Morrisville. I used to live in Morrisville, and Morrisville does not have public transportation. So when I lived in Morrisville, if I was commuting into Durham, I would have to pay someone to take me. And that's what a lot of people are facing, where they can't afford the fines or the fees and they can't pay an Uber to take them. I think that people really don't understand the impact that it has on multiple levels, not being able to have your driver's license.

No one goes forever without paying their fines and fees if they can. Nobody wants to be without a driver's license. And a lot of our clients, a majority of our clients, come in and they say they don't have access to a ride. It's just, it's bigger than just not having your driver's license. It affects a lot more people than just the person who doesn't have the license.



Would you mind speaking to your initial experience having your license suspended?

This is a difficult question. There's a lot of little things that go into it. I don't know if you've ever gotten a ticket or had to go to Court for a ticket —

I've gone, and I remember this feeling — all Black people can tell you — of thinking: Where is everybody? Why does it look like everybody down here is Black or Brown? And our licenses were online, you know. I thought that was, like, crazy. And I know the circumstances surrounding why I haven't been there. I can tell you what the case was and what makes my story significant. My name is Freida... Sort of like free- love. I live in that space. ...

I'm in the park, you know. I've got two babies under two. It's Friday the 13th, 2015, a November. My son's going to be two soon and we were celebrating. I remember this day. I remember how great I felt. They [were] taking a nap, I was waiting on one of my mamas to come out and I was just like... [exhale], and, you know, it's fall so the leaves are blowing. And I'm like "Oh God don't wake these kids up." I remember going back and forth to the car, and I'd swing by the car and go around and there was a park ranger. This guy asks to speak to me by my name. So he's read my plates, looked me up, and

▶ (PAGE 14)

Charles Gibson, of Durham, is someone who benefited from the help of DEAR. His driver's license was suspended for the better part of a decade after he couldn't pay for a speeding ticket and his fines grew to over \$1,000.

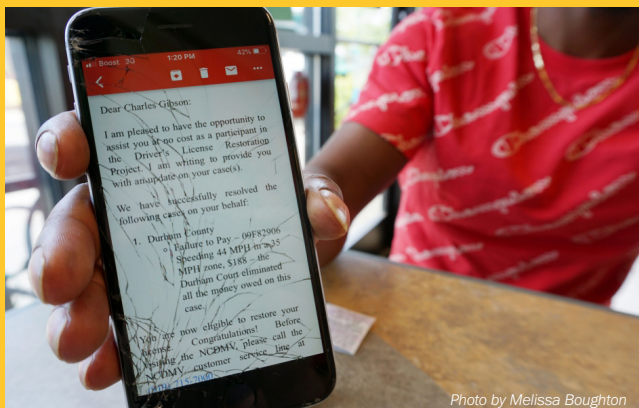


Photo by Melissa Boughton

Gibson still has the screenshot he sent his mom when he was notified that he could restore his driver's license after it was suspended.

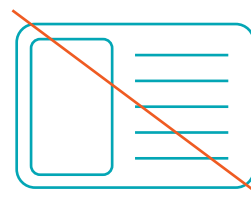
"It's hard not being able to go where you please and being on other people's time," he said, recalling a time he missed the bus and had to walk four hours to get to and from work in extreme cold weather. "It's way different being on your own time with your own car being able to come and go as you please. You're not paying anybody, and you're putting gas money in your own car."



decided, “well now today’s your day to go to jail.” Two kids under two in the car. He didn’t care about that. I wasn’t doing anything. I was just, like, chilling, waiting for my Mama friends. So I call my doula (childbirth nurse) to help me. Marvin and Fred are still in the backseat. I’m in the crux of this whole thing and I’m like, “Are you kidding me?” And, I put my hands out, he handcuffs me, and I’m thinking “Oh my god, I’m going to have my license suspended.”

My license is suspended. I’m getting ready to go to jail. It was so embarrassing. But it was also like: What possessed you to run my plate? Come up to me by my name? I couldn’t believe it — I was going to jail...

I was grateful it all worked out. I had to bail myself out, \$500. I remember speaking about this to a group at Second Chance and another group that helps bail mamas out of jail [the Black Mama’s Bail Out Action by Southerners on New Ground (SONG)]. You might have heard of them or seen them at the Courthouse. And so I supported that and shared that story of how often something like that changes things for folks who don’t necessarily have \$500 to get out of jail. And on the weekend, they might miss a shift at work or not have anyone to look after their kids, and that tumbles down. I felt so fortunate then, to have \$500 and just get out of [jail].



My license is suspended. I’m getting ready to go to jail. It was so embarrassing. But it was also like: What possessed you to run my plate? Come up to me by my name? I couldn’t believe it — I was going to jail...

Conclusions

Our research in North Carolina makes three things clear:

1

Criminal debt and driver's license suspensions affect massive numbers of people.

2

Both criminal debt and suspensions disproportionately affect communities of color and the poor and are racially and economically unfair.

3

Both criminal debt and driver's license suspensions impose a wide of range of counter-productive hardships on those affected.

These findings regarding scale, disparities, and impact work together to magnify the burdens of North Carolina criminal fines and driver's license suspensions. The steady increase in license suspensions and fines and fees, can create a vicious cycle of court debt and consequences that often last for years. Indeed, for many people, it never ends. People can accumulate thousands of dollars in debt that they cannot pay off, in part because maintaining a job is exponentially harder without a driver's license.

In addition, some court procedures are so byzantine that many cannot easily figure out, even with a lawyer, why their license is suspended, or how much court debt they have. Further, even addressing the initial issue may not resolve other failure to appear charges, nor other impediments to restoring one's driver's license. People may understandably give up on trying to pay these unaffordable debts because the problems appear insurmountable. These policies offer little to no public benefit—and in fact, are counterproductive; they create barriers to working and contributing to the economy, punish the poor, and disproportionately cause serious harm to families and communities of color.¹⁰



Solutions

We must end the cycle of mass driver's license suspensions and unaffordable criminal legal debt at the national, state, and local levels. Doing so requires action to provide systematic relief that is both proactive and retroactive and we suggest solutions that begin with policy changes and outreach at the local and state levels.



Driver's License Suspensions:

State law should be changed so driver's licenses are not routinely suspended indefinitely for non-driving-related offenses, including for failure to pay fines and failure to appear in court.



Fines and Fees & Ability to Pay :

Legislation should require that assessment of criminal fines and fees are based on an individual's ability to pay.

Judges should ensure robust hearings to determine ability to pay, as well as indigency. Additionally, laws should both explicitly presume that an indigent person's fees are waived, as well as enable judges to waive or reduce fines based on an individual's inability to pay.¹¹ In recent years, several states have ended the predatory practice of assessing unaffordable fines and fees.¹²



Indigency:

Indigency should be presumed for persons who are eligible for a public defender, receive or has dependents who are eligible for public assistance of any form, have a net household income that does not exceed 200% of the federal poverty guidelines, are homeless, or are currently serving a sentence in a correctional institution, subject to commitment or residence in a mental health or court-ordered treatment facility.



Debt Relief Process and Local Debt Relief Efforts:

Legislation should adopt a simple, fair, and readily accessible system for relief that does not require representation by a lawyer. States and localities should invest in criminal legal debt relief programs and restoration clinics to assist people with criminal debt and its consequences.

Additional Information

Our empirical data, results, and analyses are openly available at the following links:

[Driven to Failure](#)

[Understanding the Impact of License Suspension](#)

[Impact of Fines and Fees in North Carolina](#)

Durham's DEAR Program story and the Q&As were written by Ruthie Kesri, an undergraduate student at Duke University working with the Wilson Center for Science and Justice during the 2021 spring semester.

[Complete Q&As with Robbins and Watson](#)

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- 9 DEAR Durham, *Dashboard of Key Metrics of Success (2019)*, at <https://www.deardurham.org/impact-1> (last visited May 5, 2021).
- 10 The Brennan Center for Justice's report, *The Steep Costs of Criminal Justice Fees and Fines (2019)*, at <https://bit.ly/3f8G0sY>.
- 11 For detailed policy guidance, see the Fines and Fees Justice Center's report, *First Steps Toward More Equitable Fines and Fees Practices (2021)*, at <https://bit.ly/3zpl8V3>.
- 12 Legal Aid Justice Center's report, *Driven by Dollars A State-By-State Analysis of Driver's License Suspension Laws for Failure to Pay Court Debt (2017)*, at <https://bit.ly/3f7MXdR>.

About the Center

The Wilson Center for Science and Justice at Duke Law School brings together faculty and students at Duke University in law, medicine, public policy, and arts and sciences to pursue research, policy and law reform, and education to improve criminal justice outcomes.

The Wilson Center's work is non-partisan and evidence-informed. We seek to engage with state and local government and community stakeholders to translate research into effective and practical policy.

Our three main areas of focus are:

Accuracy of Evidence
in Criminal Cases



Equity in
Criminal Outcomes



Behavioral
Health Needs

