



HIGHWAY ROBBERY

How Metro Detroit Cops & Courts
Steer Segregation and Drive Incarceration

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ABOUT THE DETROIT JUSTICE CENTER

The Detroit Justice Center (DJC) is a non-profit law firm working alongside communities to create economic opportunities, transform the justice system, and promote equitable and just cities.

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HIGHWAY ROBBERY:

HOW METRO DETROIT COPS & COURTS STEER SEGREGATION AND DRIVE INCARCERATION

TABLE OF CONTENTS

EXECUTIVE SUMMARY	2
1. INTRODUCTION	4
2. LICENSE AS A LIFELINE: Why Detroiters Need To Drive	5
2(a). Insufficient public transit	6
2(b). Geography of opportunity	9
3. ROADBLOCKS: Barriers To Driving Legally	15
3(a). Barriers to learner’s permits	16
3(b). Cost of car insurance	17
3(c). Criminalization of driving while poor	18
4. GIVEN THE GREEN LIGHT: How The Police Target Poor, Black Drivers	21
4(a). Wide police discretion to discriminate	21
4(b). Targeting the poor and racial bias	22
4(c). A confusing, inaccessible legal process, with no option for relief	24
5. HIGHWAY ROBBERY: How The Government Profits Off Of Poor Drivers	25
5(a). Fines, fees, and costs	25
5(b). Bonds	30
5(c). The impound ransom	34
5(d). Clearance and license reinstatement fees	35
6. TICKET TO JAIL: How Courts Turn Minor Traffic Tickets Into A Cycle Of Arrests And Incarceration	36
6(a). Warrants	36
6(b). Contempt procedures	38
6(c). License suspensions	39
6(d). Jail time for traffic offenses and the legacy of “pay or stay” sentencing	40
7. SHIFTING GEARS: Recommendations For A Clear Road Ahead	44

EXECUTIVE SUMMARY

- **DRIVING IS A NECESSITY FOR THE MAJORITY OF DETROITERS.** Regional public transit is woefully insufficient—so much so that only 7% of Detroiters take the bus daily or almost daily.¹ At the same time, Detroiters face some of the longest commutes in the country. Decades of housing discrimination have spread jobs and resources unequally across the metropolitan area, making it necessary for low-income and Black residents to travel long distances to predominantly white suburbs in order to get by. The effect is so strong that 70% of working Detroiters commute outside of the city for their job.² Given the lack of reliable transit options, many have no choice but to drive.
- **MICHIGAN HAS PUT UP VIRTUALLY INSURMOUNTABLE BARRIERS TO DRIVING LEGALLY FOR POOR PEOPLE.** Driver's education costs around \$200-400 dollars.³ Car insurance is exorbitantly expensive: Detroit residents have annual premiums averaging \$5,414, the highest in the country.⁴ As a result, an estimated 60% of Detroit drivers are uninsured (compared to 13% nationally).⁵ Driving without car insurance is a misdemeanor in Michigan, and one for which a person can be sentenced to a year in jail.⁶ A number of additional state laws criminalize driving while poor in other ways, leaving low-income drivers vulnerable to being pulled over by the police every time they get behind the wheel.
- **AT THE SAME TIME, POLICE HAVE STRONG INCENTIVES AND WIDE DISCRETION TO TARGET POOR AND BLACK DRIVERS.** Because of how hard it is to drive legally while poor, police officers have a reason to pull over drivers they suspect are low-income. Racial profiling persists as well, particularly for Black Detroiters commuting through Detroit's historically white suburbs. In Oakland County, for example, data shows that non-white people are arrested at disproportionately high rates in every single judicial district.⁷ Across Michigan, half of all criminal prosecutions are for minor traffic offenses, like driving with a suspended license or having expired plates.⁸
- **DISTRICT COURTS EXTRACT HUGE SUMS OF MONEY FROM POOR, BLACK DRIVERS TO FUND LOCAL GOVERNMENTS.** After being ticketed by the police, drivers are ordered to pay high fines, fees, and costs to the district court, which can add up to hundreds of dollars for a single traffic ticket. Michigan law has created a system where district courts need to be self-funding—and even profit-generating—based on these monetary penalties, using residents who are often the poorest and most marginalized as their primary revenue stream. This creates a perverse incentive for judges, who are simultaneously tasked with determining a person's guilt or innocence while also ensuring they find enough people guilty to pay for their court's operations. There are a number of other ways the courts and the government extract wealth from low-income drivers, including monetary bonds, car impounding, and "clearance fees" required to restore a person's license.

- **THIS SYSTEM PUSHES POOR DRIVERS INTO A NEVER-ENDING CYCLE OF JAIL AND COURT-INVOLVEMENT.** Using warrants and contempt procedures, Metro Detroit courts regularly jail people over non-criminal traffic tickets if they are too poor to pay what they owe. Nonpayment also triggers driver's license suspension, setting people up to be charged with a criminal misdemeanor the next time they're pulled over. The first time, driving with a suspended license can result in a jail sentence of up to 93 days; the second time, that increases to an entire year.⁹ After spending days, weeks, or months in jail, people are at risk of losing their job and any possible means of paying off their debt.
- **METRO DETROIT POLICE AND COURTS ARE ENGAGING IN WHAT AMOUNTS TO HIGHWAY ROBBERY OF MARGINALIZED DRIVERS.** Historically white suburbs fund their courts and city governments off of low-income and Black Detroiters commuting there for work, reinforcing decades-long patterns of segregation. Michigan jails are filled with people who made the mistake of driving while poor. This report calls attention to these problems and offers recommendations to chart a new future—a clear road ahead.

RECOMMENDATIONS

Stop criminalizing poor drivers:

- Eliminate misdemeanors that criminalize driving while poor.
- Expunge all existing misdemeanor convictions for traffic offenses.
- Repeal civil infractions that are unnecessary or that penalize driving while poor.

Stop profit-seeking traffic enforcement:

- For remaining civil infractions, offer deferred penalties and payment alternatives. Where fines are assessed, cap them and index them to people's economic situation.
- Eliminate fees and costs entirely, including late fees, reinstatement fees, and clearance fees.
- Create a simple, standardized state-wide system that allows people to demonstrate indigency and resolve traffic tickets without going to court.
- Eliminate all current outstanding traffic enforcement debt.

Stop the traffic enforcement-to-jail pipeline:

- Recall all open warrants for failure to appear or failure to pay, and stop issuing warrants in traffic cases.
- End license suspensions.

Make transit safe and accessible for everyone:

- Create an insurance program that guarantees low rates for indigent drivers.
- Create a compliance fund to assist indigent drivers with the costs of vehicle repairs.
- Require police to give out vouchers and information on the spot.
- Fix regional public transit.

1. INTRODUCTION

This scenario depicts the life circumstances of an actual Detroit Justice Center client before we helped navigate and resolve their traffic matters.

A siren sounds behind you, accompanied by the familiar flashing lights. You have been pulled over by the police. You roll down your window in the frigid winter cold as the officer approaches your vehicle. When he requests to view your license and registration, you respond with a panicked look. Your license was suspended a year prior when money was tight and you couldn't pay a traffic ticket. Since then, things have only seemed to spiral downhill. First, you were diagnosed with cervical cancer while pregnant with your third child and you have not been able to work while undergoing treatment. Then, this lack of income caused you to become homeless along with your two children. Now, without a valid driver's license, you are in desperate need of reliable public transit in order to get to your doctor's appointments. But in Metro Detroit, subjecting your toddlers to subzero temperatures while waiting for a bus that may never come could have life-threatening consequences. To make matters worse, the buses nearest your home on Detroit's Eastside don't even reach the suburban hospital on their route, requiring you to transfer four separate times. So, here you are, behind the wheel.

The officer notes that your license is suspended and thus he could arrest you for driving as this is a criminal offense. With your pregnancy and fragile condition, the idea of jail fills you with absolute dread. You begin to weep, explaining that you are a single parent and would have no one to watch your children while incarcerated, even for just a few hours. Seeing your youngest in the backseat, the officer agrees not to arrest you, but instead gives you two more tickets—one for a faulty headlight and one for driving while your license is suspended. The latter is a misdemeanor traffic violation and requires you to appear in court. If you are convicted, it can never be expunged from your record and you will face fines, fees, costs, and possibly jail time.

When your summons comes in the mail, you skip your court date out of fear, knowing you cannot afford to pay anything. Your priority is finding housing before your due date, and most importantly, beating the cancer, as your medical bills continue to pile up. Your failure to appear results in a warrant for your arrest. The only way to clear it would be to walk in to court and pay a bond—yours is set at \$7,500 and you would be required to post at least 10%, money you don't have. Because you can't pass a background check with an open warrant, your hopes of picking up even a minor part time job are dashed. Still, with no other reliable way to get to your doctor and care for your children, you continue driving your vehicle. You are trapped in a vicious cycle, with the possibility of an arrest, more tickets, and more misdemeanors hanging over your head at all times.

Our hope for this report

For some people, receiving a speeding ticket or a ticket for a faulty taillight is a minor inconvenience or annoyance. For the speeding ticket, they'll just pay the balance. For the taillight, they'll just get it fixed, show proof at their local police precinct, and have the ticket dismissed. But what happens to those who can't just get it fixed? Those who can't pay the speeding ticket? For many low-income Metro Detroiters, this is an all-too-common reality: a single unaffordable ticket becomes an ever-growing web of unpayable fines, suspended licenses, warrants, and the constant threat of incarceration—a potentially life-altering ticket to jail.

As attorneys and advocates at the Detroit Justice Center, this problem is personal. In the nearly two years since we've opened our doors, we've represented indigent client after indigent client—mothers, fathers, young adults, seniors, formerly incarcerated individuals—people from all walks of life who are struggling to navigate these legal roadblocks, which they face solely due to their inability to pay.

We write this report because winning one case for one client is simply not enough. This system of modern-day segregation will continue to trap marginalized drivers in debt, fund suburban communities off of the region's poorest residents, and send people to jail for victimless traffic offenses. It is our hope that by examining the historical and legal context that created this vicious cycle, bringing light to experiences of people who have been directly impacted, and putting forward recommendations for change, we can empower our community members, lawmakers, and fellow advocates to construct a clear road ahead—a reality free from the detours and dead ends of driving while poor.

2. LICENSE AS A LIFELINE: Why Detroiters Need To Drive

True to its name, the Motor City still requires many residents to drive in order to get by. The historical influence of race and class tensions has had profound consequences for both public transit and the city-suburb divide in Metro Detroit. As a result, thousands of Detroiters need to commute to the suburbs in order to find work or access other resources, but they lack reliable public transit options to get there. Their license is their lifeline: their ticket to mobility and economic opportunity.

2(A). INSUFFICIENT PUBLIC TRANSIT

“...The Motor City’s transit-starved condition is not simply the outcome of its automakers’ political influence, but an extreme example of how transportation systems in U.S. cities have been shaped by race and class divisions, divisions that transportation systems reinforce in turn.”¹⁰

—Joel Batterman, Race, Class and Public Transit in the Motor City

Metro Detroit lacks adequate and reliable public transit, making travel in the region difficult unless you can drive. Decades of political struggle between Detroit and the suburbs over regional public transit has resulted in a fragmented system with two different bus agencies: Detroit Department of Transportation (DDOT) operating inside the city and the Suburban Mobility Authority for Regional Transportation (SMART) operating mainly outside of it.

For nearly a century, efforts to establish rapid public transit in Metro Detroit have been blocked, in large part, due to fears of racial integration.¹¹ One particularly relevant example is the failure of the Southeast Michigan Transportation Authority (SEMTA), the precursor to SMART. SEMTA was established in 1967 to develop plans for a full regional transportation system.¹² SEMTA’s original proposal centered on a subway and rail line network that would connect Detroit to the suburbs.¹³ The federal government pledged hundreds of millions of dollars towards funding SEMTA’s project as long as Michigan could approve the plan and provide a share of the funding.¹⁴ But SEMTA’s plans were repeatedly thwarted by the suburbs, even as its proposals grew less and less ambitious over time.¹⁵ Suburban whites came out to SEMTA meetings in large numbers to protest the “undesirables, transit crime and low-income housing” that they feared would come to their neighborhoods with expanded public transit.¹⁶ At a time when Coleman Young, Detroit’s first Black mayor, was in charge, a mayor in the suburbs denounced the transit plan as an effort by Detroit politicians to “legally rape the voters of southeastern Michigan.”¹⁷ The *Oakland Press* published a racist cartoon depicting Coleman Young tying a white woman—representing Oakland County taxpayers—to the subway tracks.¹⁸

“Why should the people of Oakland County finance a subway that will merely serve as a ‘pipeline’ for the vile contents of Detroit to pour out from that ‘scum-hole’ of a city onto our county?”¹⁹

—Oakland County resident writing to the Oakland Press (1980)

The 1980 election of Ronald Reagan as President dealt the fatal blow to SEMTA’s regional rail transit plans as the federal government retracted its offer of funding.²⁰ SEMTA also failed at the more modest goal of consolidating the Detroit and suburban bus lines into a unified system, and for many of the same reasons: white suburban opposition, funding woes, and city-suburb power struggles.²¹ SEMTA officially died in 1989, and hopes of uniting suburban and city transit died along with it.²² SMART was created in its wake, excluding the City of Detroit.²³ Regional transit would be limited to two disjointed bus systems, a far cry from the original vision of a rapid subway/rail network. To make matters worse, the Michigan legislature gave suburban communities the ability to opt out of SMART bus service if they do not want to pay taxes for it.²⁴ Out of 127 communities in Metro Detroit, 51 have opted out of SMART.²⁵

In 2014, then-Oakland County Executive L. Brooks Patterson was interviewed by The New Yorker for a piece titled Drop Dead, Detroit!:

“Anytime I talk about Detroit, it will not be positive. Therefore, I’m called a Detroit basher. The truth hurts, you know? Tough shit. ... I made a prediction a long time ago, and it’s come to pass. I said ‘What we’re going to do is turn Detroit into an Indian reservation, where we herd all the Indians into the city, build a fence around it, and then throw in the blankets and corn.’”²⁶

The problems with Metro Detroit’s public transit continue today. Because bus routes have been determined by politics rather than commuter patterns,²⁷ they rarely provide a straightforward path to get residents where they need to go. More commonly, people must transfer several times between both DDOT and SMART and walk miles to fill gaps in the bus service before they reach their destination. For many others, the absurdly long commute times and walking distances make getting around via bus an impractical or impossible option. In Detroit, the average bus commute takes twice as long as the average commute by car (52 vs. 26 minutes respectively).²⁸ The QLine streetcar and the People Mover light rail offer no better solution for the majority of Detroiters—each covers only about three miles in Detroit’s Downtown and Midtown

2. LICENSE AS A LIFELINE: WHY DETROITERS NEED TO DRIVE

neighborhoods,²⁹ which are centers of gentrification in the city.³⁰ A committee member for M-1 Rail, the organization that runs the QLine streetcars, even admitted who the QLine was built for by stating that streetcars are ineffective for Detroiters but that “rich, white people don’t ride buses.”³¹

Furthermore, the buses that run along Metro Detroit’s limited routes are not dependable and can jeopardize a rider’s attendance record or employment status. Even as bus service has improved in recent years, DDOT reported in 2019 that 24% of its buses do not arrive on time.³² At this rate of tardiness, a Detroit worker who takes the bus to work or a Detroit student who takes it to school will be late more than once every week. Detroit public schools deem students truant after just ten unexcused absences;³³ many workers can be fired for showing up late even once.³⁴ SMART buses are similarly late, sometimes not showing up at all.³⁵ The problem is particularly challenging for Detroit’s senior residents, residents with disabilities, and residents with small children, as braving freezing temperatures with unpredictable bus schedules is unsafe.

As a result of all these problems, a mere 7% of Detroiters take the bus daily or almost daily.³⁶ Driving—with or without a valid license—is many residents’ only realistic transit option.

Case study: James Robertson, Detroit’s “Walking Man”³⁷

In 2015, the story of Detroit’s James Robertson made national news. Mr. Robertson, then 56, was dubbed the “walking man” because of his commute, which included taking the bus and 21 miles of walking round-trip every working day for the last decade. Even though he used public transit, he needed to walk such an astonishing distance because his factory job was in Rochester Hills, a city in Oakland County that opted out of paying the SMART transit millage and thus an area that did not receive bus service. Additionally, because he worked a 2:00 p.m. to 10:00 p.m. shift, he faced gaps in DDOT bus service late at night as he returned home to Detroit’s North End. He needed to leave at 8:00 a.m. each morning to ensure he got to work on time. Most nights he wouldn’t get home until 4:00 a.m., leaving him only two or three hours to sleep. On an hourly wage of \$10.55, Mr. Robertson couldn’t afford a car or car insurance. However, after his story went viral, a GoFundMe page was set up on his behalf. Donations poured in that ultimately raised more than \$350,000. A car dealership in Sterling Heights gifted him a Ford Taurus.

The above case study illustrates the unfortunate reality of transit in Metro Detroit. The public transit system is insufficient, and the happy ending of

Mr. Robertson’s story was that he could finally drive to work. Though Mr. Robertson’s commitment to his commute was admirable, many people are not physically able to walk 21 miles every day—the equivalent of walking from Detroit to Lansing every week.³⁸ In order to get where they need to go, driving is their only choice.

2(B). GEOGRAPHY OF OPPORTUNITY

In addition to poor public transit options, Detroiters face some of the longest commutes in the country.³⁹ Jobs and other resources are spread unequally across the metropolitan area, making it all the more necessary for low-income residents and people of color to travel far distances to get what they need. To understand the “geography of opportunity” of Metro Detroit—how resources are spatially distributed along racial, ethnic, and/or socioeconomic lines⁴⁰—requires an understanding of the history of housing discrimination and segregation in the region.

The practice of redlining emerged in the 1930s, in which the Federal Housing Administration (FHA) and the Home Owners’ Loan Corporation (HOLC) systematically and openly discriminated against non-whites in the process of securing home loans and mortgages.⁴¹ The HOLC’s “residential security maps” gave neighborhoods ratings to guide appraisals; these ratings were based largely on the racial demographics of the area and whether there was an “infiltration” of “undesirable” races.⁴² Almost every neighborhood with even a small Black population was given a D grade, the HOLC’s worst rating (and colored red, hence the term redlining).⁴³ These redlined neighborhoods suffered from a lack of investment and segregation deepened as whites fled to less “hazardous” and more economically prosperous areas.⁴⁴ The FHA used the maps to methodologically refuse to insure mortgages in Black neighborhoods, and to make it nearly impossible for Black families to move to areas that would provide better opportunities. Simultaneously, the agency was subsidizing new housing developments in other areas on the condition that they not allow Black residents, based on an official policy that “incompatible racial groups should not be permitted to live in the same communities” and a false belief that Black neighbors moving in would decrease property values (in fact, Black families were often willing to pay more, so property values rose).⁴⁵ In Detroit in 1940, the FHA even rejected a developer’s plans to build a whites-only community near a Black neighborhood until the developer built a six-foot tall concrete wall to separate the races.⁴⁶ Called the Birwood Wall, it runs perpendicular to Eight Mile and still stands today.⁴⁷

2. LICENSE AS A LIFELINE: WHY DETROITERS NEED TO DRIVE

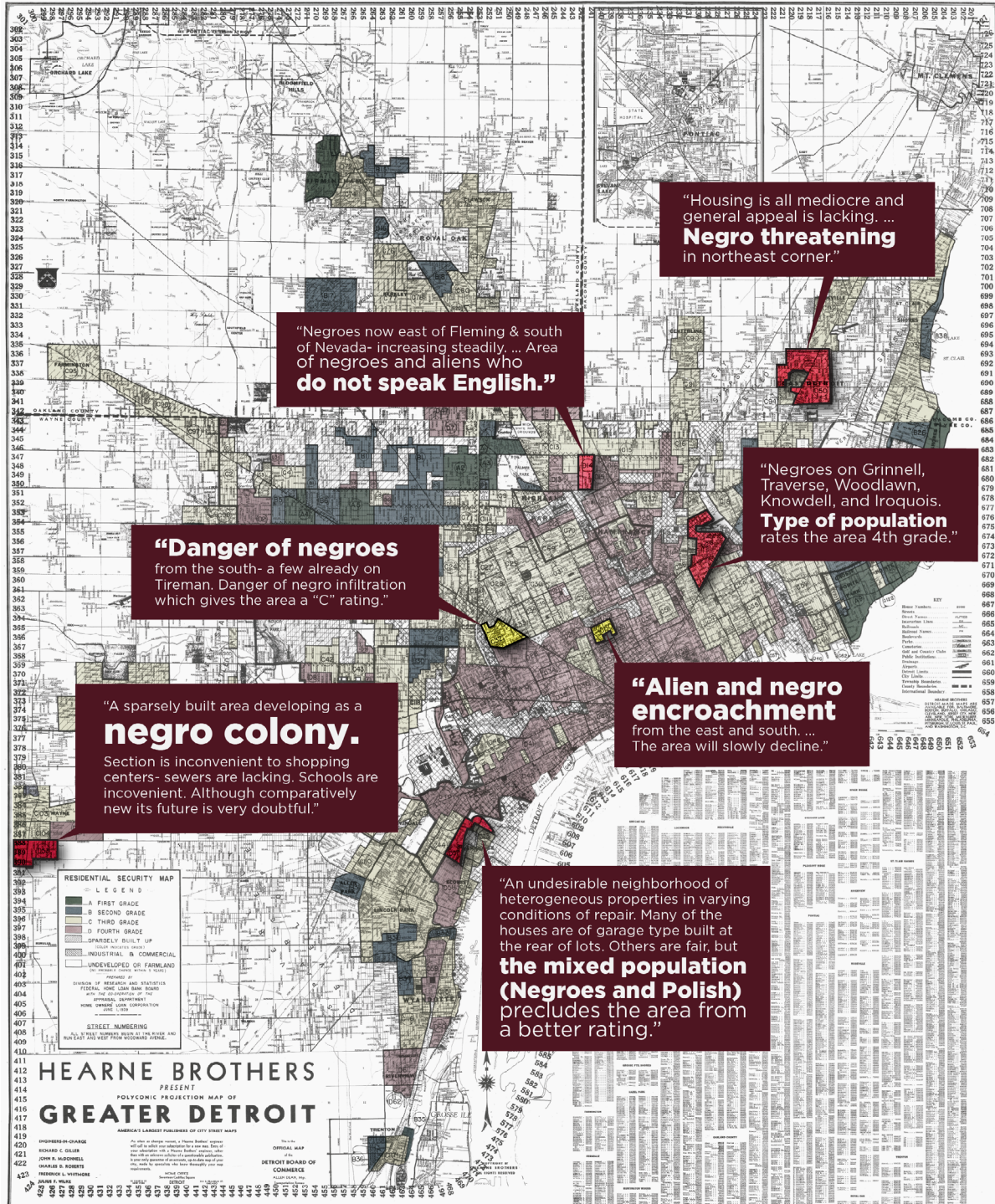
Figure 1: The Birwood Wall (1941).⁴⁸



Figure 2: At the Sojourner Truth homes, a federal housing project in Detroit, white neighbors rioted in protest of Black tenants moving in and mounted this billboard across from the project (1942).⁴⁹



Figure 3: The HOLC map for greater Detroit along with examples of neighborhood descriptions.⁵⁰



2. LICENSE AS A LIFELINE: WHY DETROITERS NEED TO DRIVE

Meanwhile, property owners and neighborhood associations were using racially restrictive covenants as another way to discriminate against Black Detroiters. Racial covenants, agreements written into deeds that prohibited certain races from owning or occupying the property, spread widely through Detroit starting in the 1920s until the late 1940s.⁵¹ At their peak, they applied to four out of every five Detroit properties outside of the inner city,⁵² severely limiting housing options for non-white families. It wasn't until 1947 that a case challenging Detroit's racial covenants made it all the way to the United States Supreme Court and these agreements were finally declared unconstitutional.⁵³

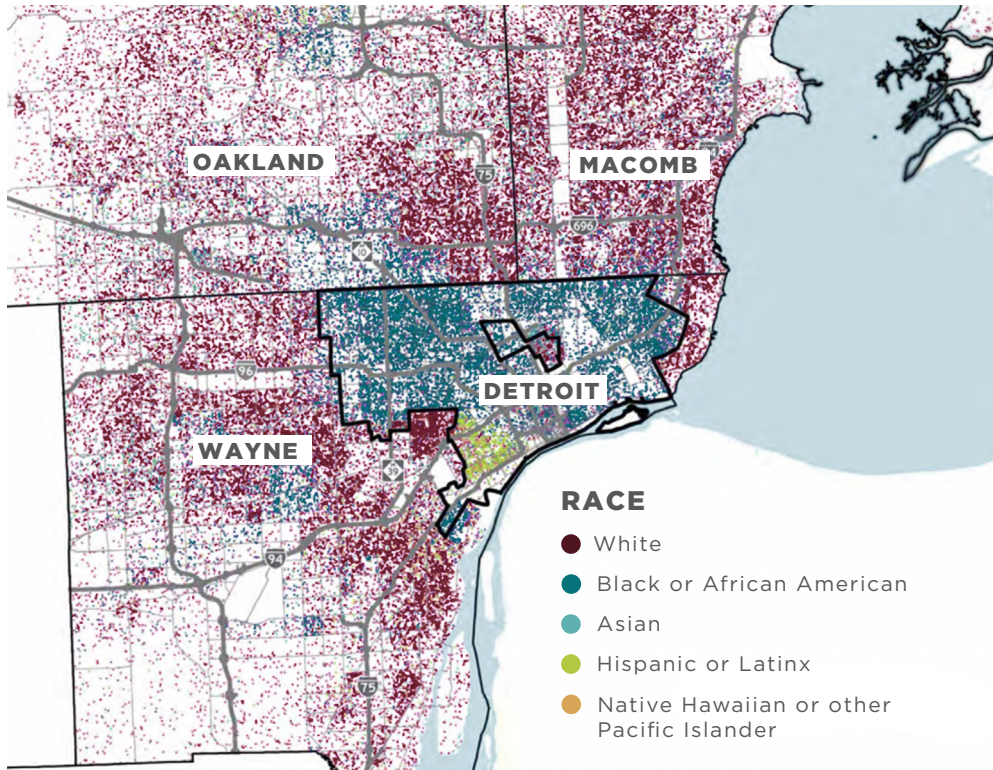
However, housing discrimination in Detroit was far from over. In 1951, only 1.15% of new homes built in the entire Metro Detroit area were available to Black people.⁵⁴ But when Black families tried to rent instead of buy, they faced discrimination from landlords who either barred Black tenants entirely or charged them significantly higher rent, exploiting their desperation in the struggle to find housing.⁵⁵ “White flight” to the suburbs started during deindustrialization near the end of World War II and accelerated after the 1967 Detroit Rebellion, caused by a decades-long build-up of tension due to systemic racism.⁵⁶ Within ten years, the racial demographics of Detroit flipped from mostly white to three-quarters Black.⁵⁷ Still, Black Detroiters struggled to obtain mortgages due to redlining and real estate agents continued to enforce boundaries between the predominantly white and predominantly Black neighborhoods.⁵⁸

These historical forces and others worked together to create today's Metro Detroit, which is, by some measures, the most racially segregated metropolitan area in the country.⁵⁹ The consequences are huge. The spatial separation is not solely racial—it also encompasses divides between socioeconomic classes, sites of historical investment or disinvestment, and areas of opportunity versus areas of systemic deprivation. As just one example, the poverty rate in Detroit (36.4%) is more than three times higher than the poverty rate in Macomb County (11.0%) and four times higher than in Oakland County (8.2%).⁶⁰

“To a great extent in postwar America, geography is destiny. Access to goods and resources—public services, education, and jobs—depends upon place of residence. In modern America, where you live determines to a great extent the quality of your schools, your roads, your access to employment, and how much you pay for these benefits in the form of taxes.”⁶¹

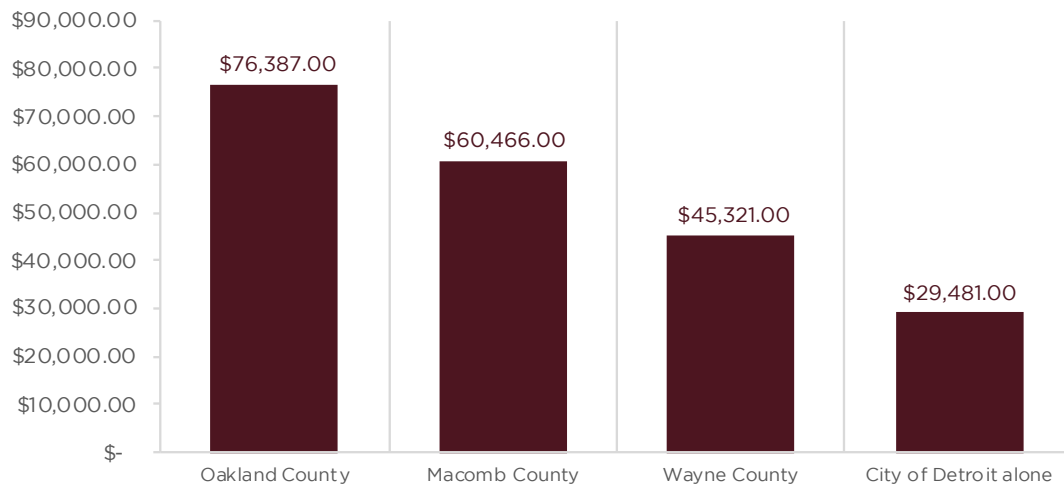
— Thomas Sugrue, *Origins of the Urban Crisis: Race and Inequality in Postwar Detroit*

Figure 4: The racial demographics of Detroit versus the suburbs.⁶²



Map and data reproduced from *Detroit Future City, 139 Square Miles* p. 22 (2017).

Figure 5: The median household income (2014-2018) in Oakland County, Macomb County, Wayne County, and the City of Detroit alone.⁶³



2. LICENSE AS A LIFELINE: WHY DETROITERS NEED TO DRIVE

As a result, for many low-income, predominantly Black Detroiters, access to resources and economic opportunities depends on their ability to travel long distances. All sorts of essential resources are spatialized throughout the area: for example, many city residents must travel miles, often outside of city limits, for a grocery store with affordable and healthy food. Compared to the City of Detroit, there are four times as many grocery stores per person in Wayne County overall, twice as many in Macomb County, and three times as many in Oakland County.⁶⁴ Detroit also has worse access to health care, including primary care providers, than the neighboring suburbs.⁶⁵ But the most significant reason Detroiters need to go to the suburbs is for work.

For decades, construction and manufacturing jobs have allowed for thousands of Detroiters to make a relatively fair living wage. But as these industries have declined, those jobs have become especially scarce in the City of Detroit compared to its suburbs;⁶⁶ for example, in 2017, the rate of construction employment in Metro Detroit was double the rate in Detroit alone.⁶⁷ In the City of Detroit, employment sectors that pay workers with less formal education fairly well are declining,⁶⁸ forcing workers seeking that fair pay to look to the suburbs. At the same time, even though Detroit has seen a moderate expansion of extremely low-wage jobs in sectors like retail, food, and accommodations,⁶⁹ there are still not enough of these jobs to meet demand, so many of Detroit's lowest-income residents must commute to the suburbs to find work as well.⁷⁰

Although some people point to Detroit's "renaissance" as a sign that the city's economic prospects are improving, these changes have been limited to the downtown region and have done little to impact conditions for the majority of Detroiters. In fact, since the "renaissance" is associated with an influx of young, white college graduates downtown, it is exacerbating the problem of spatialized and racialized inequity throughout the metropolitan region.⁷¹ Many of the higher-paying jobs in Detroit (including much of the new job growth in the downtown area) require higher levels of education, making them out of reach for the majority of Detroit residents who have not attended college.⁷² In the second quarter of 2019, 40% of the jobs posted in Detroit required a college degree or higher,⁷³ but only 13% of Detroiters over age 25 have that level of education.⁷⁴

Detroit’s commuting patterns reflect this reality. 158,000 non-Detroiters commute into the City of Detroit for work, 59% of them for jobs that pay more than \$40,000 a year.⁷⁵ Meanwhile, 112,000 Detroit residents commute outside of the city for work, 36% for jobs that pay less than \$15,000 per year.⁷⁶ One out of every ten of these lowest-income workers have commutes of more than 50 miles.⁷⁷ Only 49,000 Detroiters both live and work in the city.⁷⁸ Put differently, 70% of working Detroit residents commute outside of the city for their job. Overall, Metro Detroit is the most decentralized metro area in the country for employment: more than 77% of the region’s jobs are more than 10 miles outside of the city’s central business district, according to a report from the Brookings Institution.⁷⁹

70%

of working Detroiters commute outside of the city for their job.

In summary, thousands of low-income, predominantly Black Detroiters face poor job prospects in the City of Detroit itself. To support themselves and their families, in the pursuit of economic opportunity, they must commute to the suburbs. They do not have a choice. And for those whose commutes would take hours of walking, waiting, or transferring on public transit, many do not have a choice but to drive. Unfortunately, these same people often face insurmountable barriers to driving legally.

3. ROADBLOCKS: Barriers To Driving Legally

Despite how essential it is for people in Metro Detroit to drive, the ability to drive legally is a privilege reserved for those who can afford it. For those living in poverty—like one in every three Detroit residents⁸⁰—the system is stacked against them from the start.

3. ROADBLOCKS: BARRIERS TO DRIVING LEGALLY

3(A). BARRIERS TO LEARNER'S PERMITS

Many people do not have and have never had a valid driver's license, beginning with the problems they face as teens when trying to get their learner's permits (in Michigan, these are officially called learner's licenses and intermediate licenses). Michigan requires that young people learning to drive enroll in an in-person driver's education program.⁸¹ Only a few public schools in the state offer this course for free; virtually everywhere else, they will charge students \$200-\$400 or more.⁸² Paying for these courses is not a viable option for many families already living below the poverty line, and in 2004, Michigan eliminated statewide public financial assistance for driver's education.⁸³

Moreover, getting a valid driver's license requires teens with a learner's permit to record 50 practice hours of driving with a licensed adult driver.⁸⁴ However, with the high cost of auto insurance and vehicle registration fees—see sections **3(B)** and **3(C)**—many teens grow up in homes without an insured, registered vehicle, if their homes have a vehicle at all. Likewise, their parents or guardians may have suspended driver's licenses due to their inability to pay fines and fees—section **5(A)**—or they may never have gotten valid licenses in the first place due to these same barriers.

With no access to driver's education, no legal driver to certify their practice hours, and no vehicle with which to legally practice, getting a driver's license can be a true challenge. Additionally, taking the actual road test (for some teens, more than once) can be costly as well. Thus, many teens learn to drive in unlicensed vehicles on their own, or they are taught by another unauthorized driver. They then go on to drive without ever having taken a road test—a reality so normalized that many don't initially know it is an actual criminal offense until they are pulled over. By the time these teens reach age 18 and are eligible to apply for their license without the requirements of costly driver's education and mandatory hours of instruction, they may already have unpaid tickets that have preemptively suspended their ability to apply. In fact, even if they *have* paid their tickets, if they have already received two moving violations—which can easily result from a single traffic stop—they are barred from eligibility for a valid driver's license for three years under Michigan law.⁸⁵

3(B). COST OF CAR INSURANCE

Perhaps the largest and most universal barrier to driving legally for low-income Detroiters is the high cost of car insurance. In 1973, Michigan switched to a no-fault auto insurance system, meaning a driver’s auto insurance company is responsible for damages of an accident regardless of who was at fault.⁸⁶ The policy was intended to decrease the number of lawsuits filed in Michigan courts between drivers attempting to determine fault in a collision.⁸⁷ Yet while a number of other states also have no-fault auto insurance, Michigan was unique in mandating unlimited Personal Injury Protection (PIP) coverage—requiring insurance companies to be responsible for paying for *unlimited, lifetime* medical damages resulting from an accident.⁸⁸ At the same time, Michigan lacks regulations to outline medical fee schedules, so hospitals can charge car insurance companies significantly more than they would charge health insurance companies for the same treatment of a patient after a car accident.⁸⁹ Michigan car insurance companies also use factors that are unrelated to a person’s driving record, such as their credit score and neighborhood of residence, to set different rates for different people.⁹⁰

As a result of these policies, the average cost per car accident claim in Michigan is more than \$75,000, the highest in the country and five times the size of the next-highest state.⁹¹ These costs are pushed onto the consumer. Michigan has the most expensive car insurance rates in the country, with an average annual premium of \$2,610—over \$200 per month.⁹² Detroit residents pay more than twice that amount (and four times the national average), with average annual premiums of \$5,414.⁹³ At this rate, half of all households in Detroit would need to spend one out of every five pre-tax dollars they make *or more* on car insurance in order to drive legally.⁹⁴ Low-income and Black drivers are impacted the most, as they are more likely to have damaged credit due to the history of discriminatory and predatory lending from banks.⁹⁵ Since car insurance companies set rates based on credit score, Michigan drivers with poor credit pay an average of \$4,500 more than those with exceptional credit, even if their driving record is flawless.⁹⁶ Nationally, an estimated 13% of drivers are uninsured.⁹⁷ In Michigan, the estimate is 20%.⁹⁸ In Detroit, it’s 60%.⁹⁹

60%
of Detroit drivers are uninsured.

3. ROADBLOCKS: BARRIERS TO DRIVING LEGALLY

In the spring of 2019, Michigan Governor Gretchen Whitmer signed into law a plan to reform Michigan’s no-fault auto insurance by giving drivers the option to reduce their PIP coverage and putting limits on how much hospitals can charge car insurance companies relative to health insurance companies.¹⁰⁰ Unfortunately, it is improbable that these measures will be drastic enough to make car insurance affordable for Detroit’s low-income residents—especially because the legislation still permits car insurance companies to charge different rates for people living in different neighborhoods with little regulation.¹⁰¹ In order for the U.S. Treasury Department’s Federal Insurance Office to consider auto insurance to be affordable, premiums must not exceed 2% of the median household income of a given ZIP code; they currently represent 12-36% of income in virtually every Detroit neighborhood.¹⁰²

Driving without car insurance is a criminal misdemeanor in Michigan, and a misdemeanor for which a judge can sentence someone to an entire year in jail.¹⁰³ For the foreseeable future, a large swath of Detroiters will be priced out of car insurance and, as a result, any hope of driving legally in this state.

3(C). CRIMINALIZATION OF DRIVING WHILE POOR

In addition to the misdemeanor of driving without insurance, a number of other laws in Michigan make it a crime to drive while poor. An even larger number of laws establish traffic “civil infractions,” which, despite being non-criminal in nature, can result in many of the same consequences—including high fines/fees, license suspensions, and even jail time.

DEFINITIONS

Misdemeanor: *A minor offense that is criminal in nature; misdemeanor convictions can result in hefty fines, fees, costs, and/or jail sentences of up to one year. Traffic-related misdemeanors include things such as driving without a license or while your license is suspended, driving without insurance, and driving an unregistered vehicle. In Michigan, traffic misdemeanors are not expungeable,¹⁰⁴ meaning they will stay on a person’s criminal record forever. Because misdemeanors are handled in the criminal legal system, people charged with them will be found “guilty” or “not guilty.”*

Civil infraction: *A minor violation that is non-criminal. Because civil infractions are not criminal offenses, the punishment for them can only be a monetary fine. A person cannot be sentenced to jail for a civil infraction, but there are other ways people end up in jail due to civil infractions if they are unable to pay the money they owe.¹⁰⁵ Instead of being found guilty or not guilty, for a civil infraction a person is found “responsible” or “not responsible.” Traffic civil infractions include things such as speeding, failing to use a turn signal, or driving with a cracked windshield.*

As one example, there are a number of car maintenance requirements that create traps for individuals living in poverty.

Table 1: Civil infractions pertaining to vehicle equipment.

OFFENSE	STATUTE	ESTIMATED COST TO REPAIR	EXAMPLE FINE (36TH DISTRICT) ¹⁰⁶
Expired plate	MCL § 257.255(2)	\$120 ¹⁰⁷	\$145, \$185 after 14 days
Broken windshield	MCL § 257.709(c)	Up to \$300 ¹⁰⁸	\$120, \$160 after 14 days
Broken headlight	MCL § 257.685(1)	\$50 for bulb replacement, up to \$700 for entire headlight assembly ¹⁰⁹	\$120, \$160 after 14 days
Brakes that decelerate too slowly	MCL § 257.705(2)	Up to \$1,000 ¹¹⁰	\$200, \$240 after 14 days
Quiet or broken horn	MCL § 257.706(a)	\$100 ¹¹¹	\$120, \$160 after 14 days
Damaged muffler or exhaust system; car causing “excessive” noise/fumes/smoke	MCL § 257.707(1); MCL § 257.707c(1); MCL § 257.707c(3); MCL § 257.707c(5)	\$160-\$240 ¹¹²	\$120, \$160 after 14 days
Broken mirror	MCL § 257.708	\$290-\$420 ¹¹³	\$120, \$160 after 14 days
Broken windshield wiper	MCL § 257.709(4)	\$230-\$310 ¹¹⁴	\$120, \$160 after 14 days
Defective bumper	MCL § 257.710(c)	\$890-\$1390 ¹¹⁵	\$120, \$160 after 14 days

Fixing a cracked windshield, a dented bumper, or a broken car mirror can cost a person hundreds of dollars. For some drivers, this is a minor inconvenience. If they can afford to make the repairs, they are often able to show proof to their local police precinct and have their ticket dismissed.¹¹⁶ For drivers living in poverty, though, a few hundred dollars can be the difference between paying rent, putting food on the table, and affording necessary medications or not. If they can’t afford to make the repairs or pay the ticket, not only are they set on the path towards long-term debt and driver’s license suspension that accompanies an unpaid ticket, but they can be pulled over by the police and ticketed for the same equipment violation again and again.

Yet while civil infraction tickets can have large consequences, a ticket is generally what drivers expect when they are pulled over. Many drivers would not expect that they could be charged with a crime for a minor traffic violation unrelated to unsafe driving, arrested on the spot, and sentenced to weeks or months in jail if convicted. A number of these crimes are based on laws that are particularly hard—or even impossible—for people to follow if they are living in poverty.

3. ROADBLOCKS: BARRIERS TO DRIVING LEGALLY

Table 2: Misdemeanors that criminalize driving while poor.

OFFENSE	STATUTE	PENALTY
Driving without auto insurance	MCL § 500.3102(2)	Up to 1 year in jail and/or a \$200-\$500 fine
Driving an unregistered vehicle	MCL § 257.215	Up to 90 days in jail and/or up to a \$100 fine ¹¹⁷
Driving without a license ¹¹⁸	MCL § 257.904a	Up to 90 days in jail and/or a \$50-\$100 fine for a first offense; after a prior conviction, 2-90 days in jail and/or a \$100 fine
Driving with a suspended, revoked, or denied license ¹¹⁹	MCL § 257.904(3)(a-b)	Up to 93 days in jail and/or up to a \$500 fine for a first violation; after a prior conviction, up to 1 year in jail and/or up to a \$1,000 fine

As outlined in the previous section **3(B)**, auto insurance in Detroit is objectively unaffordable (by federal government standards) to almost all residents, but driving without it is a misdemeanor. Similarly, the cost of vehicle registration can be prohibitive: approximately \$120 per year on average,¹²⁰ and Michigan penalizes drivers of used/older cars (which are often cheaper) by charging registration fees based on the vehicle’s retail price at the time it was first sold.¹²¹ Anyone who cannot afford the payment loses their ability to drive legally. And as detailed in section **3(A)**, there are a host of systemic barriers to obtaining a license at all when you grow up in poverty, but driving without a license is a crime under Michigan law. Perhaps most importantly, if you *do* have a license, it can be suspended at any time if you can’t afford to pay even a minor traffic ticket (see section **6(C)**).¹²² Then, because driving with a suspended license is criminalized as well, people are sent down a traffic ticket-to-incarceration pipeline: you can’t pay one civil infraction ticket so your license is suspended, and the next time you’re pulled over for any reason you can be found guilty of a misdemeanor and sentenced to jail.¹²³

Taken together, these barriers to driving legally leave low-income drivers vulnerable to being pulled into contact with law enforcement and the courts every time they get behind the wheel. Within this context, local police, suburban municipalities, and traffic courts in Michigan work together to extract huge sums of money from poor—especially poor and Black—drivers, both funding municipal courts off their backs and helping to maintain racial and economic segregation.

4. GIVEN THE GREEN LIGHT:

How The Police Target Poor, Black Drivers

“I get so nervous when I see police cars. I’m like, oh God. I instantly started praying. I look in my purse to see if I have sleeping meds with me, Benadryl or something. Because I’m not going to be awake through this process [of going to jail]. I’m sorry, I did drive, but I was only driving to, you know, try and get my kids to school or get to work. I don’t know. I don’t know. It’s just, it’s difficult and I don’t know how I will get [my license].”

— DJC client (February 2020)

City police in Michigan spend an enormous amount of their time and resources issuing traffic tickets, with approximately 1.38 million traffic citations processed in 2016 alone.¹²⁴ In many cities across Metro Detroit, including Allen Park, Hazel Park, Romulus, Taylor, Lincoln Park, Madison Heights, and Ferndale, the police issued between 50 and 75 traffic tickets per every 100 residents that year.¹²⁵ And in Metro Detroit, these tickets are disproportionately targeted against poor and Black drivers. This profiling is particularly pronounced in historically white suburbs, helping to maintain decades-old patterns of regional segregation.

Because the police have wide discretion to stop whomever they want with little to no oversight, and because the law establishes barriers to driving legally for low-income and predominantly Black Detroiters, police profiling based on race and class follows. And when these drivers are ticketed, they are often denied the opportunity to contest or handle their tickets through the appropriate legal channels, pushing them deep into a web of debt and criminal legal involvement.

4(A). WIDE POLICE DISCRETION TO DISCRIMINATE

The law gives the police the green light to target poor, Black drivers. The Supreme Court has ruled that it’s perfectly fine for police officers to use minor traffic violations as pretext for traffic stops in order to investigate completely baseless suspicions of other crimes.¹²⁶ This can be true even if the police end up being wrong about the facts that led to the traffic stop,¹²⁷ and even if the police end up being wrong about the law itself.¹²⁸ The Court has also made it nearly impossible to hold police departments accountable for bias or

4. GIVEN THE GREEN LIGHT: HOW THE POLICE TARGET POOR, BLACK DRIVERS

discrimination by setting unreasonably high standards of proof¹²⁹ and gutting the ability of private citizens to sue police departments for discrimination based on the Civil Rights Act.¹³⁰ Taken together, these rulings essentially give officers a free pass to target drivers based on their race or socioeconomic status, so long as they do so under the guise of a minor traffic stop.

This is fairly easy for police officers, because state laws have created so many possible motor vehicle infractions that the police can find a reason to stop and ticket almost anyone they choose. Michigan drivers can be pulled over and cited for hanging an air freshener from their car's mirror.¹³¹ Alternatively, police officers can watch or follow drivers until they make the sort of minor violation that the average driver makes each day, such as driving through a yellow light,¹³² changing lanes without properly using a turn signal,¹³³ or making a rolling stop at a stop sign.¹³⁴

Two DJC clients who have been stopped for “impeding traffic” help illustrate how easy it is for the police to find a justification to pull over whomever they want. In one case, a client was stopped by the police for impeding traffic when he pulled to the side of the road to drop his son off at school. In another case, a client was pulled over for impeding traffic when he stopped suddenly in the street—to avoid hitting a pedestrian who had run out in front of his car.

If a police officer sees a driver they want to pull over but who isn't visibly breaking any traffic rules, they also have the power to run anyone's license plate and pull them over if they have outstanding warrants (including for unpaid traffic tickets; see section **6(A)**) or even if they do not have auto insurance registered on file with the Secretary of State.¹³⁵

4(B). TARGETING THE POOR AND RACIAL BIAS

The unfortunate reality is that at the same time as the police are given a free pass to discriminate against poor, Black drivers, the state is putting up virtually insurmountable barriers for them to drive legally (see section **3**). By criminalizing poverty, Michigan traffic laws give police a strong incentive to pull over drivers they believe are poor. At a community-led meeting in October 2019 to discuss residents' concerns with the traffic court system, one

participant described it as “the law of economic averages. If you look poor, if you’re Black, police assume they have a better chance of catching you with a suspended license or without insurance, so they pull you over.”

DJC’s clients know profiling when they experience it. They regularly describe being followed by the police when they leave Detroit for the white suburbs and getting pulled over for questionable reasons. In the suburbs, they notice police officers waiting near stop signs that are hidden by trees, and they watch the police exclusively pull over Black drivers who don’t see the stop. In Detroit itself, they report being targeted by the police for being young or poor. Sometimes, they report being stopped for alleged violations—like failing to signal or not wearing a seatbelt—that they did not commit. Other times, the officers don’t even give a reason; they just pull up behind cars and flash their lights. Videos from those officers’ dashboard and body cameras have confirmed what our clients say: that they are being pulled over without good cause. Their only visible transgressions were driving while young, driving while poor, and driving while Black.

While comprehensive data on race and traffic stops in Michigan is either not collected or not made public, the limited data that *is* available supports our clients’ impressions. Nationally, Black drivers are 20% more likely to get pulled over than white drivers.¹³⁶ Likewise, where data has been gathered in Michigan, there is evidence that Black drivers (and other drivers of color) are almost twice as likely to be stopped.¹³⁷ The available data also shows that drivers are treated differently by race after the traffic stop, with drivers of color more likely to be searched, ticketed, and arrested.¹³⁸ Data collected and analyzed by Michigan Liberation shows every single Oakland County district court arresting non-white individuals at a disproportionately high rate in 2017.¹³⁹ In Ferndale (D-43rd, Ferndale), 55% of people arrested were non-white compared to only 23% of the population.¹⁴⁰ In Royal Oak (D-44th), 37% of people arrested were non-white compared to only 8% of the population, meaning the proportion of non-white people arrested was 4.6 times higher than the proportion of non-white residents.¹⁴¹

In 2018, traffic offenses accounted for half of all criminal prosecutions in Michigan courts.¹⁴² Driving with a suspended license alone represents the third most common reason for admission into jail in the state.¹⁴³ And Black residents are disproportionately affected: 12% of all arrests of Black men and 15% of all arrests of Black women are for driving with a suspended license, compared to only 6% for both white men and women.¹⁴⁴

4. GIVEN THE GREEN LIGHT: HOW THE POLICE TARGET POOR, BLACK DRIVERS

4(C). A CONFUSING, INACCESSIBLE LEGAL PROCESS, WITH NO OPTION FOR RELIEF

To make matters worse, when a Michigan driver receives a traffic ticket they cannot afford to pay, they have no clear avenue for addressing it. This lack of access to the courts is the last step in a system that starts with racially biased policing and laws that criminalize poverty and ends with poor drivers entangled in the court system—and often jail—for years.

DEFINITION

***Default judgment:** A default judgment is a court decision entered against someone because they did not pay or come to court for a civil infraction ticket. For civil infractions, people are either found “responsible” or “not responsible” (which are the civil infraction equivalents of being found “guilty” or “not guilty”); a default judgment means that the judge finds a person responsible by default and orders them to pay the entirety of what they have been assessed.*

The state puts the burden of challenging a civil infraction traffic ticket entirely on the driver: if a driver does not go to court and request a hearing within 14 days of receiving a ticket, the court enters a judgment of “responsible,” and orders them to pay a fine.¹⁴⁵ This default judgment is effectively final; once it is entered, a driver cannot claim they did not do the thing they were ticketed for, and cannot ask the court to change or modify the fine they have been ordered to pay, or ask that they be given time to pay before their license is suspended.¹⁴⁶ Once a default judgment is entered, if a person does not pay their ticket in full, their license is suspended.¹⁴⁷

More importantly, however, there is no process that allows poor drivers to raise the fact that they cannot afford to pay a ticket. Nowhere on a traffic ticket does it explain that drivers who cannot afford to pay a ticket are entitled to request a reduction in fines, a payment plan, or payment alternatives,¹⁴⁸ nor does it let drivers know that in order to do so they need to contest the ticket. Likewise, once a default judgment is entered and their license is going to be suspended, even if they try to communicate their inability to pay to the court, it is too late; the court will not allow them to request a hearing on their ability to pay. Often their only option is to wait until the court is already considering jailing them for failing to pay, and then ask the court for a payment alternative. Finally, even though people are entitled to ask for payment alternatives, most courts will not entertain such requests, as we will discuss in section **5(A)**.

5. HIGHWAY ROBBERY:

How the Government Profits Off of Poor Drivers

Once the police have brought drivers—predominantly poor and Black—into the traffic court system, the government uses them as a significant source of revenue through legally questionable means. Through fines, fees, and costs, these drivers end up funding significant proportions of city budgets, court operations, and other public agencies.¹⁴⁹ Simultaneously, courts use monetary bonds to extract money from people in exchange for their release from jail—and automatically apply that money towards any unpaid traffic debt the person has. Lastly, even after drivers have resolved all of their tickets, including if all of their tickets are dismissed, they can't get their licenses restored until they pay “clearance fees” to the Secretary of State.

5(A). FINES, FEES, AND COSTS

By piling excessive fines, fees, and costs onto drivers, courts rake in millions of dollars a year to fund themselves and their city government.¹⁵⁰ The resulting tickets are expensive, and often far beyond what low-income drivers can afford. But as detailed in section 6, nonpayment is punished harshly with license suspensions, arrests, and even jail time.

DEFINITIONS

Fines: *A fine is the financial penalty that is assessed as punishment for a crime or civil infraction. Courts are encouraged to set their own fine schedules for civil infractions, while state law outlines the maximum fines for misdemeanors (which run up to \$1,000 for traffic offenses).*¹⁵¹

Fees & costs: *Fees and costs are any additional monetary charges that a person must pay for a crime or civil infraction that are not related to punishment. They are often designed to be a source of income for the state, county, city, or court. There is no clear distinction between a fee and a cost. However, as used in this report:*

- **A fee** is a monetary charge that a person must pay as an extra penalty on top of what they already owe. For example, if a person cannot afford to pay on time, they'll be charged a late fee; if the court issues a warrant, they'll be charged a warrant fee.
- **A cost** is a monetary charge that the court orders people to pay in order to cover the court's general operating expenses.¹⁵² Under Michigan law, courts are allowed to charge people for “any cost reasonably related to the actual costs incurred by the trial court without separately calculating those costs involved in the particular case,”¹⁵³ meaning the court doesn't need to provide evidence of how these costs were actually calculated.

Fines in Metro Detroit courts are high even before fees and costs are tacked on. Some examples are listed in section 3(C). While fines are intended to be punitive, they are a disproportionately large punishment for poor people because they do not consider a person's ability to pay. The addition of fees

5. HIGHWAY ROBBERY: HOW THE GOVERNMENT PROFITS OFF OF POOR DRIVERS

makes traffic tickets even more unaffordable for low-income drivers. As Table 3 shows, there are a large number of fees that courts impose on drivers, and many of them are not waivable (meaning the court must impose them no matter what, and may not forgive them, even if the person cannot afford to pay them). These fees add up quickly, especially when a person cannot afford to pay the ticket immediately. Their goal is to raise revenue for state and city projects.¹⁵⁴ Although they aren't intended to serve a punitive purpose and they have nothing to do with public safety, fees still financially punish all drivers and regressively penalize low-income people disproportionately.

Table 3: Fees that courts can charge drivers in Michigan.

NAME	AMOUNT	WAIVABLE	STATUTE
Late Fee	20%	Yes	MCL § 600.4803
Justice System Assessment Fee (for traffic civil infractions)	\$40	No	MCL § 257.907(13)
Warrant Fee	\$40	Yes	MCL § 600.2559(1)(n)
Crime Victim Rights Assessment (for misdemeanors, per case)	\$75	No	MCL § 780.905(1)(b)
“Minimum State Cost” Fee (for misdemeanors)	\$50	No	MCL § 600.8381(4); MCL § 769.1j(1)
Court Appointed Attorney Fee	-\$150	Yes	MCR 6.005(C); MCL § 769.1k(1)(b)(iv); MCL § 771.3(2)(c)
Costs to Compel Appearance Fee	\$50 per hearing, and additional \$50 per warrant	Yes	MCL § 257.729
Probation Fee	Up to -\$300 ¹⁵⁵	Yes	MCL § 771.3(2)(c)
Driver License Clearance Fee (per charge)	\$45	No	MCL § 257.321a(5)(b); MCL § 257.321a(8)(b); MCL § 257.321a(9)(b)
Secretary of State License Reinstatement Fee	\$125	No	MCL § 257.320e

Courts charge drivers a number of smaller fees for civil infractions: a \$40 “Justice System Assessment,”¹⁵⁶ plus a 20% late fee,¹⁵⁷ plus a \$40 or \$50 warrant fee if the court issues an arrest warrant, and an additional \$40 to \$50 for scheduling a hearing on the unpaid judgment.¹⁵⁸ Similarly, for criminal traffic matters like driving with a suspended license, courts are required to charge people a minimum of \$170 in “mandatory state cost” fees, including a \$75 fee to support crime victims¹⁵⁹—which is especially ironic in most traffic cases, where there is no victim—a \$50 fee for the state’s “Justice System Fund,”¹⁶⁰ a \$40 “minimum state cost,”¹⁶¹ and a \$45 reinstatement fee that must be paid to lift a license suspension.¹⁶² Courts are also allowed to charge indigent people for their court appointed attorney, a fee set by the attorney after the person has been found or plead guilty, usually \$150 per case.¹⁶³

A DJC client received a ticket for impeding traffic in January of 2016. The court imposed a \$125 fine for impeding traffic. When the client could not afford to pay immediately, the court added a \$40 minimum state cost, a \$15 “miscellaneous” court cost, a \$35 late fee, a \$45 reinstatement fee, and another 20% late fee of \$52. By April, only three months later, the cost of the ticket had more than doubled to \$312.

Finally, courts add on costs, using drivers to pay their employees' salaries and benefits, purchase goods and office supplies, and maintain and operate their facilities.¹⁶⁴ Costs are limited to \$100 for civil infraction cases,¹⁶⁵ but there is no limit on the costs that can be imposed for misdemeanor traffic offenses.¹⁶⁶ There is also no requirement that the courts provide explanations for how they calculated these charges.¹⁶⁷ Rather, courts are allowed to reverse engineer these costs to cover their budgets, calculating the costs imposed on people by dividing the cost of operating the court among the number of cases the court processes.¹⁶⁸ This means that courts can charge drivers hundreds of additional dollars for minor traffic tickets such as for driving with a suspended license solely to produce revenue.

Table 4: Costs imposed and collected by courts in Metro Detroit in 2018.¹⁶⁹

DISTRICT COURT JURISDICTION	DISTRICT COURT NUMBER	COSTS IMPOSED	COSTS COLLECTED
Allen Park and Melvindale	24	\$100,199.80	\$93,847.80
Birmingham, Bloomfield Hills, Sylvan Lake, Keego Harbor, Orchard Lake Village, and Townships of Bloomfield and West Bloomfield	48	\$237,235.91	\$232,253.42
Dearborn	19	\$597,269.00	\$435,870.98
Dearborn Heights	20	\$111,565.00	\$79,325.00
Detroit	36	\$1,379,953.00	\$1,093,117.00
Eastpointe	38	\$151,203.25	\$151,974.75
Ecorse, Lincoln Park, and River Rouge	25	\$250,443.00	\$241,525.00
Ferndale, Hazel Park, and Madison Heights	43	\$588,124.53	\$479,409.23
Inkster	22	\$125,027.44	\$108,913.91
Northville, Plymouth, and Townships of Northville, Plymouth, and Canton	35	\$996,288.08	\$849,212.96
Oakland County	52	\$2,417,753.12	\$2,403,988.80
Romulus, Belleville, and Townships of Sumpter, Van Buren, and Huron	34	\$859,127.57	\$823,227.94
Southfield, Lathrup Village, and Township of Southfield	46	\$293,874.88	\$272,056.75
St. Clair Shores	40	\$375,009.14	\$361,033.51
Taylor	23	\$175,365.43	\$140,373.78
Utica, Sterling Heights, and Townships of Shelby and Macomb	41A	\$626,245.04	\$644,182.34
Warren and Center Line	37	\$190,707.00	\$159,227.50

These figures represent only general, discretionary court operating expenses collected under MCL § 769.1k(1)(b)(iii), not any of the other fines or fees collected by the court.

5. HIGHWAY ROBBERY: HOW THE GOVERNMENT PROFITS OFF OF POOR DRIVERS

Because Michigan law gives courts the power to fund themselves using these costs, judges face intense pressure to impose them. For many judges, the pressure comes from the city government. One judge from Southfield described how the city threatened to evict the district court from its courthouse because it hadn't generated more revenue, and threatened to eliminate court staff if judges could not collect enough money to pay for them.¹⁷⁰ Similarly, a judge in Ingham County recounted that the city referred to the district court as “the cash cow of our local government.”¹⁷¹

THE 35TH DISTRICT COURT IN PLYMOUTH sentences people convicted of driving with a suspended license to pay approximately \$850, almost \$500 of which is kept by the court. For not having a license on their person, drivers are charged \$550. When a DJC attorney asked the judge if he could waive fines and costs, which is allowed when a person is indigent,¹⁷² the Plymouth judge first said, off the record, that

“If we start waiving fines and costs, this court would financially implode.”

On the record, he simply insisted he did not have the authority to waive fines and costs.

THE 43RD DISTRICT COURT IN HAZEL PARK is another example of just how dependent cities can be on their district courts for money. In the 2019 fiscal year, Hazel Park's district court brought in a total revenue of \$3,268,846, despite having only \$1,308,846 in operating expenses. As a result, **the court netted a profit of nearly 2 million dollars.** If Hazel Park's court budget is considered as a part of the city's general fund budget, the court accounts for 20% of all revenue—one out of every five dollars made—but only 8% of all expenditures.¹⁷³

City budget reports also reflect the cities' demands of the courts to raise revenue. The City of Southfield's budget report for 2019-2020 noted that because “District Court revenue and expenses continue to decline with reduced caseload[s],” the court's revenue is “being propped up with increased fees” charged to individuals.¹⁷⁴ Likewise, in Eastpointe's 2015-2016 budget, the court reported working with the city prosecutors to charge people with civil infractions under local ordinances instead of state law so that the court could capture revenue that would otherwise go to the state.¹⁷⁵

In a 2018 brief to the Michigan Supreme Court, the Michigan District Judges Association (MDJA) declared that the law allowing courts to charge costs (MCL § 769.1k(1)(b)(iii)) creates a conflict of interest by shifting the burden of court funding onto the courts themselves. As a result, the MDJA argued that the law violates the Fourteenth Amendment of the U.S. Constitution and should be struck down as unconstitutional.

“...The court funding system created by the Legislature unconstitutionally shifts the funding burden on to the courts, and creates an inherent conflict of interest in the judges who have to simultaneously determine guilt or innocence, while forcing those same judges to fund their courts by assessing costs against defendants who have pled guilty or been found guilty of a criminal offense.¹⁷⁶ ...The constant pressure to balance the court’s budgets could have a subconscious impact on even the most righteous judge.”¹⁷⁷

— Michigan District Judges Association Amicus Brief (2018)

In many poorer jurisdictions, including cities like Lincoln Park, Eastpointe, Warren, and Allen Park, DJC attorneys regularly see judges impose \$400 in costs on offenses that carry only a \$100 fine. In Taylor, a full 18% of the city’s general fund revenue comes from money raised by their district court.¹⁷⁸ But wealthy cities lean heavily on their traffic courts as well. For example, in the 2018-2019 fiscal year, 15% of the general fund revenue for the City of Ferndale came from its municipal court.¹⁷⁹

Under state law and Michigan’s court rules, judges have the ability to waive many fines and fees—including those that fund the court—if a person cannot afford to pay.¹⁸⁰ However, likely because of the above incentives, judges take great pains to avoid doing so. First, it is almost unheard of for judges to ask about a person’s ability to pay if they don’t have an attorney, even at hearings specifically designed for this purpose (known as “show cause” hearings). Second, even when judges do inquire into a person’s ability to pay, they frequently opt to extend the payment deadline or enter people in payment plans rather than waiving the charges, even if the person is unemployed and has no foreseeable way to make payments. Furthermore, Michigan court collections guidelines instruct judges not to offer payment plans longer than 30 days for civil infractions.¹⁸¹ Third, when DJC attorneys ask judges to waive outstanding traffic debt, judges regularly claim that they do not have the authority to waive discretionary fines and fees, even when presented with the statutes that explicitly outline their ability to do so.

5. HIGHWAY ROBBERY: HOW THE GOVERNMENT PROFITS OFF OF POOR DRIVERS

These fees and costs can quickly become crushing debt. Mr. B., a DJC client whose license was suspended for an unpaid ticket after he lost his job in 2013, owed the City of Detroit \$3,600 solely in civil infraction traffic tickets when we met him in 2019. He also had 18 pending traffic misdemeanor cases—which, if he were convicted of or if he pleaded guilty to, could have cost him between \$300 and \$500 in fines and costs each, or an additional \$5,400 to \$9,000.

Even smaller fees and costs can become insurmountable barriers. Mr. S., another DJC client, pleaded guilty to a number of outstanding traffic matters from prison, and was thus eligible to have court fines and costs waived. However, he was still unable to get his license restored because of the mandatory state fees he faced. For each of the four misdemeanor tickets he had received he owed \$170, and for each of the two civil infractions he owed \$45. In total, he owed \$770 in mandatory state fees. Even after multiple briefs and hearings filed by DJC attorneys demonstrating that the client's total income was only \$300 a month and thus these fees were unpayable, the fees are mandatory under state law and so the district courts could do nothing to relieve this debt. This is a trap for Mr. S.—until he has a valid driver's license, he cannot find gainful employment that pays enough to resolve this debt, but until he resolves this debt, his license will remain suspended.

5(B). BONDS

In addition to imposing steep fines, fees, and costs, courts also take money from drivers by imposing bonds for traffic offenses.

DEFINITIONS

Bonds: *In criminal cases, a bond is a promise or contract that a person will return to court when they are required to and follow the court's orders in the meantime. Bonds are set by judges at specific court hearings (most often, "arraignments") and they allow for people to be released from jail before trial or other proceedings. Sometimes the court will release people on bond without requiring a monetary payment; other times, people will be required to pay some amount of money to the court in order to be released.¹⁸² Generally, the court is required to return most or all of this money to the person at the end of the case. However, the court keeps all of the money if the person misses a court date, or it can retain bond money to apply towards a person's fines/fees/costs if they owe the court.¹⁸³*

Interim bonds: *Michigan also has "interim bond," which can be set either a) when the court issues a warrant for someone's arrest,¹⁸⁴ or b) when the police arrest someone without a warrant but a magistrate¹⁸⁵ or a judge isn't available to arraign them.¹⁸⁶ In both cases, the bond is set before the person has any sort of court hearing. If people can afford to pay their interim bond, it allows them to be released from jail before their arraignment.¹⁸⁷ This differs from regular bond,*

which is typically set at the arraignment with the person present and allows for people who can pay to be released from jail before their trial or other later proceedings. Michigan law requires that courts first assume that drivers charged with traffic offenses can be released without requiring them to pay a monetary bond,¹⁸⁸ but if monetary bond is set, the amount is supposed to be “not oppressive,”¹⁸⁹ “considerate of the past criminal acts and conduct of the defendant,”¹⁹⁰ and “considerate of the financial ability of the accused.”¹⁹¹ Interim bonds are set based on the charge without giving any consideration to these factors.¹⁹²

Monetary bonds keep low-income people in jail solely because they are too poor to purchase their freedom. People can spend weeks in Michigan jails waiting for their court hearings because they cannot afford to pay their bond or their interim bond.¹⁹³ In Eastpointe, for example, DJC attorneys regularly encounter cases where the court has kept individuals in jail for three entire weeks before giving them a hearing to address their tickets. People spend this time in jail before they have been convicted of anything, and often for charges that do not result in a penalty of jail time after conviction.

The damage that jail time causes to individuals and families should not be understated. For people who work, being incarcerated for just 24 hours often means missing work without notice and consequently losing your job.¹⁹⁴ For single parents, incarceration may mean abruptly leaving your child without a caretaker—and 54% of people held in jail on monetary bonds are parents of minor children.¹⁹⁵ These are just a few examples of the disruption that suddenly being disappeared from your own life can cause. Moreover, people face threats to their own health and safety in jail, particularly in the first few days: a person is most likely to experience physical assault or sexual violence within their first three nights in jail, and suicides in jail are most common within the first week.¹⁹⁶

“Every person whose case is pending is legally innocent. ... In many cases, however, the court requires these people to pay large sums of money just to be free before trial, and those who cannot pay are jailed as if they had already been convicted. Incarceration has a profound impact on the person in jail, their family and friends, and their larger community. Even brief periods of incarceration can lead to the loss of jobs, housing, and custody of one’s children. In addition, pretrial incarceration affects legal outcomes by causing increased conviction rates and longer sentences. All of these negative consequences have a disproportionate impact on Black and Latinx people, who generally receive higher bonds, have less access to pretrial diversion programs, and are less likely to be able to post a monetary bond than white people.”¹⁹⁷

— The Coalition to End Money Bond (2018)

5. HIGHWAY ROBBERY: HOW THE GOVERNMENT PROFITS OFF OF POOR DRIVERS

In certain jurisdictions, monetary bonds also block low-income people from being able to access the courts. Once a person has a warrant, they can either wait to be arrested at their next police interaction or go to the court to request an arraignment and have the warrant dismissed (also known as “walking in” on the warrant; for more information on warrants, see section **6(A)**). Many courts have set aside weekly blocks of time solely to arraign people who walk in on warrants. However, a number of judges and court officials require individuals to pay an interim bond on their warrant before allowing them to be arraigned and have the warrant cleared. For example, until recently, DJC attorneys regularly witnessed court staff in Detroit’s 36th District Court announcing during walk-in times that if people did not bring \$100 with them to post bond, they should just go home.

In the last few months, many Detroit judges have become open to arraigning individuals on warrants without requiring bond at walk-in days. But other judges still require bond at walk-in, and the only way to get a court date without going at the designated walk-in time is to post a bond. At the time of this report’s publication, the 36th District Court website still states that people with warrants “*must post a bond, appear in court and request an appointment to see a judge*” (emphasis added).¹⁹⁸ The purpose of interim bond is to allow for people to be released from jail and ensure their appearance at arraignment,¹⁹⁹ but this practice has the reverse effect: it prevents low-income people from having an arraignment after they’ve already arrived for it.²⁰⁰ All courts can also require money bonds from someone who wants to contest a default judgment²⁰¹ or appeal the judge’s decision after a civil infraction hearing,²⁰² effectively barring low-income people from the ability to dispute a judgment against them.

“When I called Sterling Heights, [the clerk] told me, ‘If you come here, you must bring with you \$550.’ ... I don’t have that type of money laying around. And she’s like, ‘Yeah, usually in these cases you would be able to walk in and see a judge, but they are going to detain you if you are unable to post bond.’ And I’m like, ‘I’m not going, because who’s going to take care of my children if I go to jail?’ And so no.”

—DJC client (February 2020)

In addition to creating an income-based barrier to accessing the courts, monetary bonds can prevent people from paying off their tickets, even when they have the money to do so. Magistrates/judges can set bonds to be higher than the original amount a person owes the court in fines/fees/costs.²⁰³ As a

result, a person can arrive to court with enough money to resolve their tickets but instead be denied a hearing, or even in some cases put in jail, because their bond has been set at a higher amount they cannot afford.

A DJC client had a ticket in St. John for driving with a license that was suspended due to unpaid tickets. The maximum financial penalty for driving with a suspended license is \$500.²⁰⁴ However, when he arrived in court with the \$500, he and his attorney were informed that the bond had been set at \$1,500, and that he would need to give the court the entire amount. His attorney was able to argue successfully for the bond to be reduced to \$500, but if he hadn't had an attorney or if the judge had not agreed to reduce the bond, he could have been held in jail until his hearing—nine days later—unless he could manage to pay the full \$1,500, three times the amount he was eventually sentenced to pay.

At their core, monetary bonds are a significant form of wealth extraction. First, some monetary bonds are issued with built-in non-refundable fees, usually 10% of the amount posted.²⁰⁵ Second, any type of monetary bond is seized and kept by the court if a person misses a court date.²⁰⁶ There are a number of reasons outside of a person's control that can lead to them missing a court date, including the requirements of their job, the high costs of childcare, and insufficient public transit (which is especially a problem if the person has had their license suspended, their license plate revoked, and/or their car impounded). Research has shown that the vast majority of people who miss their court date are not trying to flee the court and evade justice; 94% appear in court within a year of their missed court date.²⁰⁷ Still, one failure to appear forces a person to forfeit any and all bond money they have scraped together in order to get out of jail.

Third and finally, Michigan courts have the power to seize a person's bond to apply towards their fines/fees/costs.²⁰⁸ Getting out of jail quickly is of the utmost importance for people with jobs or children. The threat of jail time coerces low-income people to pay bonds that will be taken for traffic tickets (which the court should have waived or reduced anyway on the basis of the person's inability to pay²⁰⁹). In this system, a person living in poverty can be arrested on a warrant for not paying their traffic tickets, and then be forced to choose between sitting in jail or paying bond money that they won't get back—money they needed for rent, food, water, or vital medications. This is not money they would have willingly sacrificed for traffic debt, but it's the price they are forced to pay to walk free.

5. HIGHWAY ROBBERY: HOW THE GOVERNMENT PROFITS OFF OF POOR DRIVERS

5(C). THE IMPOUND RANSOM

Another way cities and suburbs pull money out of poor drivers is through impounding or otherwise seizing their vehicle and then charging them money to get it back. For many people, this happens after a traffic stop when the police discover their license is suspended for unpaid tickets. If the police choose to arrest the driver then and there, they have the authority to seize the vehicle under the justification that it is safer to impound the vehicle than leave it parked on the street.²¹⁰ But just as often and especially in the suburbs, police will impound the car of a driver with a suspended license without arresting the person, on the pretext that they cannot legally drive away on a suspended license.

Police can also impound a vehicle they deem abandoned or damaged.²¹¹ Police often use this power to remove a car from the road after an accident. However, it can also be used to tow cars parked legally on residential streets or people's personal property that the police believe—correctly or incorrectly—to be abandoned.²¹²

One DJC client was pulled over in Warren for allegedly failing to signal while changing lanes while driving home from a job interview. She was with her sister, who owned the car. Both she and her sister had suspended licenses. The Warren police issued them both tickets—our client for driving with a suspended license; her sister for failing to register the car—but did not arrest them, and informed them that their car was going to be towed because neither of them could legally drive. The police did not give them the chance to contact a licensed driver before towing their car. The two women were left on the side of the road in February. With no money and their car gone, their only option was to walk through the cold and the snow all the way back to Detroit.

Another DJC client came out of his house one morning to find his car being towed from where it was parked on his block. The car was in his mother's name and she had recently passed away, and he had not yet had it transferred to his name or registered. When he approached the tow company to inform them that he was the owner, he was told that it did not matter: the city had determined that it was abandoned and the car was towed.

Once a city or suburb has a driver's car impounded for whatever reason, the person must pay to get it back, and the cost can be incredibly high. In Detroit, where the city government took over tow services in 2019, the cost is \$200 plus \$15 for every day the car is held.²¹³ This means that if a driver cannot afford to pay the minimum \$215 to get their car released immediately, the cost of impound increases for every day it takes them to get the money. Even worse, in the suburbs where cities use private tow companies²¹⁴ (often with minimal oversight),²¹⁵ the price to get a car back can easily exceed \$700. For many of our clients whose cars are impounded during a traffic stop, these costs are impossible to pay. More than one has told us their only option was to “just let the car go.”

5(D). CLEARANCE AND LICENSE REINSTATEMENT FEES

Finally, after courts and municipalities have done their best to extract money from poor drivers, the Secretary of State gets in on the action. Anyone with a suspended license who wants to have it restored is required to pay additional “clearance fees” to the Secretary of State first: \$45 for every infraction or offense.²¹⁶ This is true even if the case that led to the license suspension was dismissed entirely.²¹⁷ For example, a person might have all their cases dismissed on the day of their trial because the police officer who issued the ticket does not show up to court. Yet despite the fact that the cases were dismissed, the person must still pay \$45 for each infraction or offense written on the ticket in order to be eligible to regain their license. After the driver clears all suspensions at each district court in which they have license suspensions, they can finally go to the Secretary of State to regain their license. However, at that time, they must pay an additional \$125 license reinstatement fee.²¹⁸

A DJC client was arrested and held in jail for seven days on a number of charges: driving with a suspended license, no insurance, and no registration. A DJC attorney was able to effectively argue that, rather than having to pay more fines and costs (which he could not afford because he was not working), he should be given credit for the time in jail he had already served. The judge agreed, and his cases were closed. Unfortunately, his license is still suspended as he still owes over \$900 in clearance fees to the Secretary of State.

6. TICKET TO JAIL: HOW COURTS TURN MINOR TRAFFIC TICKETS INTO A CYCLE OF ARRESTS AND INCARCERATION

Another DJC client was able to do community service instead of paying fines and costs—a sentence allowed by the court because he is homeless and unemployed. But even with his fines and costs waived by the court, in order to get his license reinstated, he still must pay the Secretary of State over \$1,100 in clearance fees, a sum he cannot afford.

6. TICKET TO JAIL:

How Courts Turn Minor Traffic Tickets into a Cycle of Arrests and Incarceration

After the police have targeted poor and Black drivers, and after the government has done its best to extract whatever money these drivers have, the traffic court pushes them deeper into the criminal legal system. Even people with only civil infraction tickets—people who have never been charged with any crime—can end up in jail if they are too poor to pay the entirety of what they owe. The court can issue warrants for their arrest so they'll be taken to jail at their next police interaction, or it can send them to jail for being in “contempt” of the court. Likewise, for those charged with traffic misdemeanors, the court can threaten them with jail if they don't pay extremely high fines, or simply impose incredibly harsh punishments—including months in jail—as their initial sentence.

Once drivers have entered the criminal legal system, they are trapped in a vicious cycle: they've been jailed because of their inability to pay, but the time in jail disrupts their efforts to find a steady job that would allow them to pay off their debt. In many cases, as this downward spiral continues, drivers will accumulate criminal records that will haunt them for the rest of their lives, all because they were too poor to pay.

6(A). WARRANTS

When a person receives a civil infraction traffic ticket, they have two options: admit responsibility (and pay the full fine), or deny responsibility and ask for an in-person hearing at the court.²¹⁹ Neither of these options are ideal for a

driver who can't afford to pay the ticket. While they can't admit responsibility and have the ticket cleared without paying, they also commonly lack the resources to request a hearing, navigate the legal system without an attorney, and find time in their schedules to spend a day in court. Many cannot afford to miss a day of work for a court hearing, nor can they afford the cost of childcare should they need it. They also fear that they'll be sent to jail if they arrive without the money. Their fears aren't unfounded: although jailing people for their inability to pay a fine is unconstitutional,²²⁰ the practice was widespread in Michigan until a few years ago,²²¹ and still persists in some Metro Detroit courts to this day.²²² When all of these factors are taken into account, the most practical option these drivers have is to ignore the ticket and avoid court. Tens of thousands of Michigan residents are cornered into making this decision each year.²²³ But once they've missed their deadline to pay and they haven't made contact with the court, the court finds them responsible for the ticket by default (see section **4(C)**).²²⁴ If they continue not to pay, the court can issue a warrant for their arrest.²²⁵

It's even easier for the court to issue warrants for drivers with a misdemeanor charge such as driving with a suspended license. If the police don't arrest the driver on the spot, they can let the driver return home with a citation ordering them to appear in court at a specific time and place.²²⁶ If the driver does not appear for this first hearing for any of the same reasons discussed above, the court can immediately issue a warrant for their arrest.²²⁷

Warrants for failing to appear in court are so frequently utilized by the courts and the police that they are now the number one reason for arrests in Michigan.²²⁸ Michigan arrested 29,295 people on this basis in 2018.²²⁹ And people who want to clear their warrants and return to life without the constant threat of incarceration are typically only given one option: pay their debts to the court in full. For the low-income drivers who find themselves in this situation due to inability to pay in the first place, that is not an option at all.

Warrants significantly disrupt a person's life. Warrants show up on background checks, which makes essential tasks like finding a job and renting an apartment extremely difficult. They also force people to fear law enforcement and exist outside of the law's protection because any police contact can and will lead to their immediate arrest. For example, one DJC client called the police to report that he was the victim of a physical assault, but when the police arrived, they arrested *him* because he had warrants related to traffic tickets. He was held in jail for a week until he was able to post bond.

6. TICKET TO JAIL: HOW COURTS TURN MINOR TRAFFIC TICKETS INTO A CYCLE OF ARRESTS AND INCARCERATION

Crucially, individuals with warrants have the risk of jail time hanging over their heads at all times. As mentioned in section **4(A)**, police officers can and do run the license plates of drivers who appear young, poor, and Black to search for warrants in order to find grounds to pull them over. These drivers are often arrested. If they can't afford to post the bond that has been set on the warrant—see section **5(B)** on bonds—they are held in jail until they can be brought in front of a judge. This can take days or even weeks. And as mentioned in section **5(B)**, spending even one day in jail can have severe consequences for a person's life.

One DJC client was stopped in Plymouth, arrested, and held in jail on outstanding warrants from Detroit and Flat Rock. He was arrested at 12:00 pm on a Thursday, but not brought in front of a judge in Plymouth until 1:00 pm the next day. He was then transferred to Flat Rock, where he was not released until 6:00 pm—and he would have been held until Monday if his bond had not been posted. Although he was able to contact his employer and inform them that he was not going to be able to come to work on Friday, he was fired nonetheless. He owed \$6 in Flat Rock.

6(B). CONTEMPT PROCEDURES

While warrants are used to put people in jail before their hearing with a judge, contempt procedures are a way for judges to send them to jail after their hearing—again, even if they still have not been charged with any crime.

DEFINITION

Contempt: *According to past Michigan court cases, contempt has been defined as “a willful act, omission, or statement that tends to ... impede the functioning of a court.”²³⁰ In particular, courts will find people in contempt if they have willfully disobeyed one of the court's orders. The court has different options for how to sanction people who've been found to be in contempt depending on the circumstances of the case, ranging from fines to jail time.²³¹*

Although the only penalties courts can impose for traffic civil infractions are fines, fees, and costs, civil contempt procedures allow judges to jail drivers anyway, by sending them to jail as punishment for not complying with the court's order to pay. Drivers are incarcerated until they pay or until they've spent one day in jail for each \$10 they owe the court.²³² On paper, this practice is only legal if the driver has the ability to pay but has intentionally decided not to, or if they haven't made a “good faith effort to obtain the funds required for

payment.”²³³ Jailing someone for nonpayment if they are genuinely unable to pay is a violation of Michigan court rules,²³⁴ state law,²³⁵ and the United States Constitution.²³⁶ Unfortunately, in practice, a number of Michigan judges fail to take appropriate measures to determine someone’s ability to pay,²³⁷ or outright assume that everyone could pay if they really wanted to. As a result, low-income drivers in Michigan regularly face the possibility of being sent to jail for being unable to pay tickets for noncriminal traffic violations.

Paradoxically, while courts use contempt procedures to try to collect money, the practice of jailing poor drivers for nonpayment ends up costing the government and, by extension, taxpayers. Keeping someone in jail is expensive: the average cost of keeping a person in jail is \$129 per day,²³⁸ despite the fact that Michigan deems one day in jail to be worth only \$10 of a driver’s debt.²³⁹

6(C). LICENSE SUSPENSIONS

Suspending a person’s license because of unpaid tickets makes it nearly inevitable that if and when they’re pulled over again, they’ll be charged with a criminal misdemeanor and entangled in the criminal legal system permanently. As detailed in section 2, driving is a necessity for many people, especially in Metro Detroit. The ability to drive is so important to their wellbeing that three in four Americans with a suspended license will continue to drive despite the risks.²⁴⁰ If stopped by the police in Michigan, they can be found guilty of driving with a suspended license, a non-expungeable misdemeanor.²⁴¹ The first time this happens, they can be sent to jail for 93 days and/or fined up to \$500; the second time, they can be sent to jail for an entire year and/or fined up to \$1,000.²⁴² Additionally, if they are convicted of any other traffic matter while their license is suspended, the court can order for the license plate to be removed from the car they were driving, making it illegal for anyone to drive the car (including family members who rely on it) for up to six months.²⁴³

License suspension is an illogical form of punishment that has nothing to do with unsafe driving. Contrary to common sense, while many people would consider driving while intoxicated to be the most unsafe driving practice, it is in fact the only offense for which individuals can receive a “restricted” license rather than having their license suspended completely. The restricted license permits these individuals to continue to drive to work, class, or other approved destinations.²⁴⁴ This option is denied to individuals whose licenses were suspended due to poverty.

6. TICKET TO JAIL: HOW COURTS TURN MINOR TRAFFIC TICKETS INTO A CYCLE OF ARRESTS AND INCARCERATION

Suspensions are particularly illogical in response to unpaid traffic tickets because they ruin people's economic prospects and drive them deeper into poverty, making it even less likely that they will be able to pay their tickets in the future. The most comprehensive study on the effects of license suspensions was conducted by a task force for the State of New Jersey in 2007, where 42% of respondents lost their jobs after their license was suspended.²⁴⁵ About half of the people who lost their jobs could not find another, and 88% of those who *did* find a new job reported a decrease in income.²⁴⁶ All of these effects were disproportionately large for low-income drivers,²⁴⁷ in part because a valid driver's license is a requirement for a significant number of low-paying job positions.²⁴⁸

Michigan is a national outlier in how harshly it handles driver's license suspensions based on unpaid fines/fees/costs.²⁴⁹ It is one of just five states in the country with mandatory, indefinite license suspensions for both criminal justice and traffic debt without regard for ability to pay.²⁵⁰ In 2018 alone, Michigan issued 357,795 license suspensions for failure to appear and failure to pay court fines/fees/costs.²⁵¹

6(D). JAIL TIME FOR TRAFFIC OFFENSES AND THE LEGACY OF "PAY OR STAY" SENTENCING

Lastly, in some Metro Detroit courts, judges regularly sentence people to jail for traffic offenses. Sometimes, they do so in the form of "pay or stay" sentencing that discriminates against poor drivers; other times, judges simply impose indiscriminately harsh jail sentences.

When people face sentencing for misdemeanor traffic offenses like driving with a suspended license, judges can fine them hundreds of dollars, send them to jail for up to a year, or both (see section **3(C)**). For many years, judges used this authority to impose "pay or stay" sentences: judges could offer fines for those who could afford them and jail for those who couldn't, though the U.S. Supreme Court has found such practices to be unconstitutional.²⁵²

“The recent case of People of the City of Eastpointe v Ryan Edward Rockett exemplifies the [38th] District Court’s sentencing practice. In that case, Mr. Rockett was found guilty of operating a vehicle without insurance and driving while his license was suspended. On January 30, 2015, Judge Gerds sentenced Mr. Rockett to pay fees and costs in the amount of \$1500 or, if he did not pay, serve 93 days in jail. Judge Gerds made no inquiry into Mr. Rockett’s financial ability to pay. At the sentencing hearing, Judge Gerds merely stated, ‘Hopefully you can pay that and be on your way.’ Mr. Rockett asked, ‘Is it pay or stay?’ and Judge Gerds confirmed, ‘Yes, sir.’ The register of actions for Mr. Rockett’s case confirms that Mr. Rockett’s sentence was ‘MONEY OR JAIL,’ and the judgments of sentence in Mr. Rockett’s case state that he was committed to jail with release authorized ‘upon payment of fine/costs.’ Because Mr. Rockett is indigent and could not afford to immediately pay \$1500, he was immediately sent to jail.”²⁵³

— Lawsuit filed by the ACLU of Michigan (2015)

Following the ACLU’s litigation excerpted above, the Macomb County Circuit Court ordered Judge Gerds to halt the practice of explicit “pay or stay” sentencing in 2016,²⁵⁴ and the Michigan Supreme Court issued new court rules to attempt to prevent similar practices across the state.²⁵⁵ However, even though judges are not supposed to incarcerate people for nonpayment if those people are unable to pay²⁵⁶ or convert a sentence from a fine to jail time solely because the person cannot pay,²⁵⁷ judges still do. For example, in the 33rd District Court in Woodhaven, both Judge McNally and Judge Kersten have issued explicit pay or stay sentences, sentencing people to either pay between \$150 and \$300 or spend between 30 and 67 days in jail.²⁵⁸ Likewise, while Judge Gerds makes an effort to appear to avoid explicit pay or stay sentences, one DJC client reports that Judge Gerds told her at her arraignment that if she did not come back with \$1,100, he would send her to jail.

Although “pay or stay” has been limited since 2016, the threat still looms large in the minds of poor drivers. We frequently have to reassure clients who cannot afford to pay their fines that they cannot legally be sent to jail just because they cannot afford to pay, and if they are, there are strong grounds

6. TICKET TO JAIL: HOW COURTS TURN MINOR TRAFFIC TICKETS INTO A CYCLE OF ARRESTS AND INCARCERATION

to get their sentence reversed on appeal. Even in Detroit’s traffic court, where few judges ever engaged in pay or stay practices, clients still express the same fear and we have even seen court-appointed attorneys warn clients that a judge may send them to jail if they do not promise to pay money they owe. Most troubling, however, is that the practice of pay or stay still persists in some courts, placing poor people (especially those without access to adequate representation) at risk of going to jail just for being poor.

In other courts, such as Judge Gerds’ 38th District Court in Eastpointe, pay or stay gave way to extended jail sentences for traffic misdemeanors. In Judge Gerds’ court, DJC attorneys have witnessed drivers being sentenced to 30, 45, and 60 days in jail for driving with a suspended license or not having their license with them when they were pulled over. Judge Gerds imposes these sentences with complete disregard for people’s personal circumstances. For example, on August 12, 2019, Judge Gerds sent a disabled single father of two minor children to jail for almost two months for driving without a license, and refused to delay the sentence even a few days so the man could find someone to take care of his children.²⁵⁹ Perhaps most telling: after Judge Gerds’ pay or stay practices were declared unconstitutional, Mr. Rockett, from the ACLU case challenging those practices, was sentenced to 93 days in jail regardless of his ability to pay.²⁶⁰

This is more than a set of discrete decisions for Judge Gerds—it is essentially a personal brand. We have heard the judge tell a person, “Didn’t you know? This is what I do!” as they begged not to be sent to jail on a traffic matter.

A DJC client was brought before Judge Gerds in 2020. The client is destitute and faces significant barriers to employment; he does not have a high school degree, he only has informal work experience, and in 2014, he was shot five times and almost killed. When he went before Judge Gerds, he had recently completed a program for homeless individuals to do community service in Detroit to restore their license. Through this program, and with the help of DJC, he had addressed all of his other outstanding traffic matters. His license was still suspended only because he could not afford to pay over \$1,000 in clearance fees to the Secretary of State. Because of this, the Eastpointe city attorney offered him a plea bargain to reduce the charge from driving with a suspended license to the lesser offense of not having his driver’s license with him in person. While the typical punishment for either charge in most other courts is just a fine, Judge Gerds sent him to jail for 30 days.

While this is not the norm, there are other judges that engage in similarly extreme punishment for traffic matters.

In the 33rd District Court in Woodhaven, a DJC client was placed on probation for nine months for driving with a suspended license, then sent to jail when he missed a probation appointment. He only missed the appointment because he had no way to get to Woodhaven from Detroit that day: his family couldn't drive him, his license was suspended, and public transit does not connect the two cities. He called to try and reschedule but was told he could not. When he tried to explain this to the judge, the judge said he "should have walked." Woodhaven is approximately a six hour walk from Detroit. The client was sent to jail for 12 days, and ordered to pay \$300 or spend an additional 67 days in jail.

In the 37th District Court, DJC represented a client regarding a 15-year-old ticket for driving with a suspended license, for which he had been sentenced to pay \$500. The maximum penalty for this offense is a \$500 fine and/or 93 days in jail; the client had just been released from serving 12 years in prison for an unrelated matter (during which time he was clearly unable to pay off this debt). Judge Chmura refused to dismiss the ticket despite its age, denied a request for a reduction in the amount owed, and rejected a request to grant credit for the time the client had already served in prison. Indeed, Judge Chmura declared that, but for the zealous advocacy of DJC legal counsel, he would have thrown this client in jail for failure to pay.

Also in the 37th District Court, a DJC attorney witnessed Judge Chmura sentence at least two indigent drivers to jail for traffic matters. In one incident, a man indicated he had driven without a license to pick his wife up from the hospital immediately after she gave birth because there was no other way for her to get a ride. Unmoved, the judge sentenced him to jail and told his wife, who was in the courtroom, that she needed to find another way home with her infant.

These practices are needlessly cruel and senseless; a person whose license is suspended because they cannot afford to pay a traffic ticket is not an unsafe driver, and they are made far less likely to be able to pay their tickets if sent to jail.

7. SHIFTING GEARS:

Recommendations for a Clear Road Ahead

All together, the police, the courts, and the state and local governments have created a system where one unpayable traffic ticket can change the course of a person's life. Courts can extract revenue out of people while trapping them in a never-ending cycle of debt and incarceration. The predominantly white suburbs can fund their municipalities by targeting Black drivers who pass through, with the added benefit of discouraging them from going back to those neighborhoods in the future. Our clients fully understand this dynamic, regularly describing the tension they feel between needing to go to the suburbs for work and knowing that they are a target for police and courts every time they cross Eight Mile. Whether by design or not, the traffic enforcement system is functioning as a tool of modern-day segregation, plundering poor communities of color. It is filling Michigan's jails with the state's poorest residents and filling government coffers with whatever money it can wring out of them. It is time for a change.

These recommendations are not exhaustive. There is much future work to be done to reshape the geography of opportunity, provide better job opportunities in the City of Detroit, end regional housing segregation, eliminate our reliance on the police and courts as mechanisms of public safety entirely, eradicate poverty, and more. But these recommendations represent a critical step towards building a new and just legal system.

STOP CRIMINALIZING POOR DRIVERS

- ***Eliminate misdemeanors that criminalize driving while poor.*** A range of misdemeanors make poor drivers constant targets for the police, vulnerable to being arrested, held on bond, sentenced to jail, and stamped with a non-expungeable criminal record every time they must get behind the wheel. All of these statutes, including license, insurance, and plate/registration misdemeanors, should be promptly repealed.²⁶¹ Until this repeal happens, municipalities should take the interim step of immediately ending the enforcement of these laws.
- ***Expunge all existing misdemeanor convictions for traffic offenses.*** To this day, Michigan nonsensically prohibits people from being able to expunge traffic offenses from their criminal record.²⁶² As Michigan repeals the laws that criminalize driving while poor, the state must also expunge the criminal records of the people who have been sentenced under these laws in the past.

- ***Repeal civil infractions that are unnecessary or that penalize driving while poor.*** Civil infractions are not harmless alternatives to misdemeanors; they still incentivize police profiling and can result in jail time for drivers who cannot afford to pay their tickets. Unnecessary civil infractions and those that penalize driving while poor should be repealed on both the state and local level. The state should set up a decriminalization commission to review Michigan’s municipal and traffic codes and identify other laws that are not absolutely necessary for public safety and can be repealed.²⁶³

STOP PROFIT-SEEKING TRAFFIC ENFORCEMENT

- ***For remaining civil infractions, offer deferred penalties and payment alternatives. Where fines are assessed, cap them and index them to people’s economic situation.*** With deferred penalties, civil infraction tickets should be automatically dismissed if the driver is not found responsible for another infraction within the next six months. As a court rule, indigent drivers should always be given the option to resolve their tickets through payment alternatives (such as community service) if they choose. Fines should be capped state-wide to a maximum of no more than \$100, and the actual fines assessed by courts should be scaled to each person’s economic reality, including their actual income, expenses, and other financial obligations.²⁶⁴
- ***Eliminate fees and costs entirely, including late fees, reinstatement fees, and clearance fees.*** Court costs shift the tax burden onto people who can least afford to pay and create a perverse incentive for police and judges to ticket, convict, and sentence. Fees place an undue burden on poor drivers and they add up quickly, causing traffic debt to grow and grow—especially for drivers who cannot immediately pay their tickets. Reinstatement fees and clearance fees create immense barriers for poor people hoping to resolve their tickets and get their license back. All statutes and court rules permitting fees and costs to be assessed should be repealed,²⁶⁵ and no court, city, county or town should be allowed to raise any revenue through their courts or police.
- ***Create a simple, standardized state-wide system that allows people to demonstrate indigency and resolve traffic tickets without going to court.*** Requiring people to physically go to court in order to resolve their minor traffic tickets ignores the reality of poor people’s work schedules, parenting responsibilities, and reliable transit options. A new system for resolving tickets and determining indigency by phone or online would both improve people’s ability to comply *and* clear up court dockets and schedules, making things easier for all people involved.

7. SHIFTING GEARS: RECOMMENDATIONS FOR A CLEAR ROAD AHEAD

- ***Eliminate all current outstanding traffic enforcement debt.*** This debt has been assessed by an unjust system. Until these recommendations have been implemented, all traffic enforcement debt is illegitimate and must be uniformly forgiven across the state of Michigan.

STOP THE TRAFFIC ENFORCEMENT-TO-JAIL PIPELINE

- ***Recall all open warrants for failure to appear or failure to pay, and stop issuing warrants in traffic cases.*** Similarly to outstanding traffic enforcement debt, outstanding traffic enforcement warrants in Michigan have been issued by an unjust system. Michigan should initiate a mass warrant clearance campaign, directing or incentivizing all district courts to recall these warrants. State lawmakers and the Michigan Supreme Court should also pass laws and/or issue administrative guidelines to prevent local courts from issuing these warrants in the future. Many cities and states have moved in this direction already;²⁶⁶ Michigan should follow suit.
- ***End license suspensions.*** License suspensions are not an effective tool for collecting traffic fines. Suspending someone's license actually makes it less likely they will be able to earn money to pay off their debt because it will be harder for them to work. Because of this contradiction, at least one federal court has held license suspensions unconstitutional as having no rational basis in public policy.²⁶⁷ License suspension or revocation should never be allowed for failure to appear in court or failure to comply with a judgment, including failure to pay.²⁶⁸ Michigan's Secretary of State should immediately end license suspensions, courts should use their discretion to end the practice of reporting unpaid tickets and missed court dates to the Secretary of State,²⁶⁹ and state lawmakers should act swiftly to repeal license suspension laws—joining at least 14 other states that have already introduced such legislation for the 2020 legislative session.²⁷⁰

MAKE TRANSIT SAFE AND ACCESSIBLE FOR EVERYONE

- ***Create an insurance program that guarantees low rates for indigent drivers.*** The state should pass a law that requires insurance providers that sell insurance in Michigan to offer an affordable insurance option to low-income drivers. California already has such a law.²⁷¹ Unlike Michigan's recent insurance reform, which simply attempts to encourage a reduction in rates,²⁷² the California law guarantees affordable coverage for low-income drivers—with rates as low as \$247 per year for people making below 250% of the federal poverty guidelines.²⁷³ Michigan should adopt a similar program.

- **Create a compliance fund to assist indigent drivers with the costs of vehicle repairs.** Courts, cities, counties, or the state should operate an indigent drivers fund that provides small grants to drivers who receive tickets to make vehicle repairs in order to get their cars into compliance. The state could model such a reform on a similar program already being used in Minneapolis.²⁷⁴ The state should also provide free driver's education and offer fee waivers to cover the cost of registering a vehicle in order to remove other barriers to driving legally for people living in poverty.
- **Require police to give out vouchers and information on the spot.** Any time the police make a traffic stop, they should be required to provide drivers with a copy of an accurate and comprehensible handout detailing the driver's rights throughout the traffic enforcement process, what is required of them in order to resolve their ticket, how to proceed if they cannot afford to pay, and other essential information. If making a stop for equipment violations, police officers should be required to give out vouchers for vehicle repairs to low-income drivers.
- **Fix regional public transit.** Southeast Michigan invests a mere \$67 per capita in public transit each year, compared to \$242 in Pittsburgh, \$293 in Chicago, and \$409 in Seattle.²⁷⁵ Expanding and improving regional public transit should be a top funding priority, and the state legislature should not permit municipalities to opt out of transit service. Every person in Metro Detroit deserves the freedom and opportunity that robust public transit options provide.

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- 89 *Id.* at 4.
- 90 Bre'Anna Tinsley, *Here's Why Auto Insurance Companies Use Credit History to Set Rates*, WDET (Jun. 11, 2019), <https://web.archive.org/web/20200227230509/https://wdet.org/posts/2019/06/11/88286-heres-why-auto-insurance-companies-use-credit-history-to-set-rates/>.
- 91 COONEY ET AL., *supra* note 4, at 4.
- 92 *Id.*
- 93 Malachi Barrett, *Michigan's high auto insurance rates are most expensive in America*, MLIVE.COM (May 2, 2019), <https://web.archive.org/web/20190606111823/https://www.mlive.com/public-interest/2019/04/michigans-high-auto-insurance-rates-are-most-expensive-in-america.html>. Note that this also makes Detroit the most expensive metropolitan area for car insurance in the United States. See Jim Gorzelany, *Where You'll Pay The Most And Least For Car Insurance*, FORBES (Feb. 18, 2019, 9:12 a.m.), <https://web.archive.org/web/20190718162400/https://www.forbes.com/sites/jimgorzelany/2019/02/19/where-youll-pay-the-most-and-least-for-car-insurance/>.
- 94 See median household income (in 2018 dollars), 2014-2018, *QuickFacts: Detroit city, Michigan*, U.S. CENSUS BUREAU, <https://web.archive.org/web/20200101185413/https://www.census.gov/quickfacts/detroitcitymichigan> (last visited Feb. 4, 2020).
- 95 Sarah Ludwig, *Credit scores in America perpetuate racial injustice. Here's how*, GUARDIAN (Oct. 13, 2015, 10:14 a.m.), <https://web.archive.org/web/20200119202202/https://www.theguardian.com/commentisfree/2015/oct/13/your-credit-score-is-racist-heres-why>.
- 96 Tinsley, *supra* note 90.
- 97 COONEY ET AL., *supra* note 4, at 3.
- 98 *Id.*
- 99 *Id.*
- 100 Gray, *supra* note 86.
- 101 Nancy Kaffer, *There's one big problem with Michigan's insurance reform*, DETROIT FREE PRESS (Jul. 19, 2019, 11:10 a.m.), <https://web.archive.org/web/20191221054844/https://www.freep.com/story/opinion/columnists/nancy-kaffer/2019/07/19/michigan-no-fault-auto-insurance-reform/1759554001/>.
- 102 COONEY ET AL., *supra* note 4, at 1-2.
- 103 And/or up to a \$500 fine. MCL § 500.3102(2).
- 104 MCL § 780.621(3)(d); MCL § 780.621a(b). Note that driving without insurance is a violation of the Michigan Insurance Code rather than the Michigan Vehicle Code, and thus it is not technically a traffic violation and may be expungeable from a person's criminal record. MCL § 500.3102(2).
- 105 These include spending time in jail after being arrested on a bench warrant if they default in the payment of their civil fines/costs, MCL § 257.908(1), and being committed to jail if the court finds them in civil contempt for nonpayment, MCL § 257.908(5).
- 106 *Fines*, 36TH DIST. CT., <https://web.archive.org/web/20200227231535/https://www.36thdistrictcourt.org/divisions->

departments/traffic/fines (last visited Feb. 27, 2020).

107 Emma Ockerman, *Cost of driving in Michigan about to rev up*, DETROIT FREE PRESS (Dec. 29, 2016, 4:01 p.m.), <https://web.archive.org/web/20190714025435/https://www.freep.com/story/news/politics/2016/12/20/license-registration-renewal-fees-michigan/95519264/>.

108 *What Is an Average Windshield Repair Quote?*, CARSDIRECT (Feb. 17, 2012), <https://web.archive.org/web/20190630005951/https://www.carsdirect.com/car-repair/windshield-repair-quote-average-prices-on-common-repairs>.

109 Tom Moor, *How Much Does It Cost to Replace Car Headlights?*, ANGIE'S LIST (Mar. 26, 2015), <https://web.archive.org/web/20181214223434/https://www.angieslist.com/articles/how-much-does-it-cost-replace-car-headlights.htm>.

110 *Brake Pads Replacement Cost*, AUTO SERVICE COSTS, <https://web.archive.org/web/20190824012630/https://autoservicecosts.com/brake-pad-replacement-cost/> (last visited Feb. 4, 2020).

111 *Horn Replacement Cost*, REPAIRPAL, <https://web.archive.org/web/20200227232131/https://repairpal.com/estimator/horn-replacement-cost> (last visited Feb. 4, 2020).

112 Dan Collins, *Complete Muffler Repair Cost Guide*, CARBIBLES (Nov. 14, 2018), <https://web.archive.org/web/20200228203752/https://www.carbibles.com/muffler-repair-cost/>.

113 *Broken side mirror: What are the repair options and cost?*, TESTINGAUTOS.COM, <https://perma.cc/UG5Y-Z24V> (last visited Feb. 28, 2020).

114 *Windshield Wiper Motor Replacement Cost*, AUTO SERVICE COSTS, <https://web.archive.org/web/20200227232619/https://autoservicecosts.com/windshield-wiper-motor-replacement-cost/> (last visited Feb. 27, 2020).

115 *Bumper Replacement Cost Guide*, AUTO SERVICE COSTS, <https://web.archive.org/web/20200227232943/https://autoservicecosts.com/bumper-replacement-cost/> (last visited Feb. 27, 2020).

116 See, e.g., MCL § 257.907(9).

117 MCL § 257.901(1-2).

118 Specifically, any person who is unable to show that they have had a license that was valid within the prior 3 years. MCL § 257.904a.

119 Also includes a person who has never applied for a license. MCL § 257.904(1).

120 Ockerman, *supra* note 107.

121 Tom Herbon, *Michigan continues to overcharge drivers of older vehicles*, BRIDGE (Sept. 7, 2018), <https://web.archive.org/web/20181209143137/https://www.bridgemi.com/guest-commentary/opinion-michigan-continues-overcharge-drivers-older-vehicles>.

122 If a default judgment is entered, which is the most common outcome when drivers do not know how or do not have the time/resources to contest a ticket they cannot afford. See section **4(C)**. MCL § 257.748.

123 License suspensions are discussed in more depth in section **6(C)**.

124 George Hunter, *Traffic fine decline saps local coffers in Michigan*, DETROIT NEWS (Feb. 15, 2018, 11:01 p.m.), <https://web.archive.org/web/20181229232256/https://www.detroitnews.com/story/news/local/michigan/2018/02/15/michigan-traffic-tickets-decline/110472126/?from=new-cookie>.

125 *Id.*

126 *Whren v. United States*, 517 U.S. 806 (1996). It is perhaps relevant that the two motorists who were pulled over for the pretextual traffic stop in *Whren* were both Black, and the police officers who pulled them over claimed to have a “hunch” they might be drug criminals despite having no evidence. MICHELLE ALEXANDER, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* 82 (2010).

127 *Brinegar v. United States*, 338 U.S. 160 (1949).

128 *Hein v. North Carolina*, 574 US 54 (2014).

129 The Court made it nearly impossible to hold police departments accountable for systematic wrongdoings like

ENDNOTES

- discrimination, unless there is proof that the police always discriminate or were following direct orders to do so. *City of Los Angeles v. Lyons*, 461 U.S. 95 (1983).
- 130 Alexander v. Sandoval, 532 U.S. 275 (2001).
- 131 MCL § 257.709(1)(c) (“A person shall not operate a motor vehicle with any of the following: ... An object that obstructs the vision of the driver of the vehicle, except as authorized by law.”).
- 132 MCL § 257.612(1)(b).
- 133 People v. Hrlic, 744 N.W.2d 221 (Mich. Ct. App. 2008).
- 134 MCL § 257.649(8).
- 135 Tracy Samilton, *Court of Appeals says police had the right to stop vehicle because it was uninsured*, MICH. RADIO NPR (Oct. 25, 2018), <https://web.archive.org/web/20181106220311/http://www.michiganradio.org/post/court-appeals-says-police-had-right-stop-vehicle-because-it-was-uninsured>; MCL § 764.1g (for reference concerning the input of arrest warrants into the law enforcement information network).
- 136 In one meta-study, researchers found that this difference in traffic stop rates for black and white drivers decreases after dark when the race of the motorist is more difficult to discern. Researchers believe this is evidence that the disparity is caused by bias and discrimination rather than other confounding factors. EMMA PIERSON ET AL., STANFORD COMPUTATIONAL POLICY LAB, *A LARGE-SCALE ANALYSIS OF RACIAL DISPARITIES IN POLICE STOPS ACROSS THE UNITED STATES* (2019), available at <https://web.archive.org/web/20200114194619/https://5harad.com/papers/100M-stops.pdf>.
- 137 Justin P. Hicks, *Black drivers twice as likely to be stopped by Grand Rapids police*, MLIVE (Jan. 19, 2019), https://web.archive.org/web/20190723171904/https://www.mlive.com/news/grand-rapids/2017/04/grand_rapids_police_present_re.html; *Racially Disproportionate Traffic Stops in Ferndale*, ACLU OF MICH., <https://web.archive.org/web/20191116013636/https://www.aclumich.org/en/cases/racially-disproportionate-traffic-stops-ferndale> (last visited Feb. 4, 2020).
- 138 Kaye Lafond, *Do data show improvement for Grand Rapids’ black motorists in 2017? It’s hard to say.*, Mich. Radio NPR (May 29, 2018), <https://web.archive.org/web/20190617080452/https://www.michiganradio.org/post/do-data-show-improvement-grand-rapids-black-motorists-2017-its-hard-say>; *Findings*, STANFORD OPEN POLICING PROJECT, <https://web.archive.org/web/20200118071925/https://openpolicing.stanford.edu/findings/> (last visited Feb. 4, 2020).
- 139 MICHIGAN LIBERATION, *supra* note 7.
- 140 *Id.*
- 141 *Id.*
- 142 TASK FORCE REPORT, *supra* note 8.
- 143 *Id.*
- 144 PEW CHARITABLE TRUSTS, *Michigan Joint Task Force on Jail and Pretrial Incarceration Meeting #3* (PowerPoint, Sept. 20, 2019), slide 41, available at https://web.archive.org/web/20191015174003/https://courts.michigan.gov/News-Events/Documents/September%20Presentation%20Final_2019-9-19.pdf.
- 145 MCR 4.101(B); MCL § 257.321a(2).
- 146 See MCR 4.101. Unless they file a motion to set aside the default judgment, which requires that they post a monetary bond equal to the amount of the ticket—see section **5(B)**; MCR 4.101(D)(1)(e).
- 147 MCL § 257.321a(2).
- 148 MCL § 257.908(4).
- 149 See, e.g., *District Court Fee and Assessments Table: January 2019*, MICH. COURTS, <https://web.archive.org/web/20191015182515/https://courts.michigan.gov/Administration/SCAO/Resources/Documents/other/dfee.pdf> (last visited Feb. 11, 2020).
- 150 See, e.g., BLOOMFIELD TOWNSHIP, BUDGET: FISCAL YEAR END MARCH 31, 2019 11, 44, 45 (2018), available at <https://web.archive.org/web/20200228204153/https://www.bloomfieldtp.org/Government/Annual-Reports/Accounting-Financial-Reports/Budgets/2018-19AdoptedBudget.aspx>; CITY OF FERNDALE, TRIENNIAL BUDGET ADOPTED: 2020-2022 GF-1, GF-2 (2019), available at <https://perma.cc/3A43-EMQ6>; CITY OF TAYLOR, PROPOSED BUDGET: FISCAL YEAR 2019/20 2-3 (2019), available at <https://web.archive.org/>

org/web/20200228204156/https://www.cityoftaylor.com/DocumentCenter/View/6475/Annual-Budget-White-Pages-19-20_Adopted-4-30-19; CITY OF LINCOLN PARK, FY 19/20 PROPOSED BUDGET A2-3, A11-12 (2019), *available at* https://web.archive.org/web/20200228204201/https://cms6.revize.com/revize/lincolnparkmi/document_center/Finance/Budget%20Documents/FY%2019_20/FY%2019.20%20Proposed.pdf.

151 See, e.g., MCL § 257.904(3)(b).

152 MCL § 769.1k(1)(b)(iii); MCL § 257.907(4).

153 MCL § 769.1k(1)(b)(iii).

154 Fees are used to fund libraries, organizations, and public entities that provide services for crime victims, state and local police, the Secretary of State, and the state's "Court Equity Fund." *Distribution of Fines and Costs in District and Municipal Courts*, MICH. STATE COURT ADMINISTRATIVE OFFICE (Feb. 2013), <https://web.archive.org/web/20200227235213/https://courts.michigan.gov/Administration/SCAO/Resources/Documents/other/disttbl.pdf>; MICH. TRIAL COURT FUNDING COMMISSION, FINAL REPORT 14 (2019), *available at* https://web.archive.org/web/20191017182350/https://www.michigan.gov/documents/treasury/TCFC_Final_Report_9-6-2019_667167_7.pdf; Steve Zucker, *Where do the court fines go? From libraries to law enforcement, court fines and costs go many places*, PETOSKEY NEWS-REVIEW (Oct. 8, 2015), https://web.archive.org/web/20200227235508/https://www.petoskeynews.com/featured-pnr/where-do-the-court-fines-go/article_a51d23cd-f2a6-5a82-8d7a-9cabd6644b1b.html.

155 While probation is not common for traffic matters, DJC attorneys have seen some courts, including the 35th District Court and the 33rd District Court, impose up to \$300 in probation fees as part of traffic cases.

156 MCL § 257.907(13).

157 MCL § 600.4803.

158 See MCL § 257.321a.

159 See MCL § 780.905.

160 See MCL § 600.8381(4); *see also* MCL § 769.1j(1).

161 Or \$45 if a "serious" misdemeanor. *See Misdemeanor Case Processing Outline*, MICH. STATE COURT ADMINISTRATIVE OFFICE, <https://web.archive.org/web/20200227235624/https://courts.michigan.gov/Administration/SCAO/Resources/Documents/other/MisdemeanorCaseProcessingOutline.pdf> (last visited Feb. 27, 2020).

162 See MCL § 257.321a.

163 See MCR 6.005(C); MCL § 769.1k(1)(b)(iv); MCL § 771.3(2)(c).

164 MCL § 769.1k(1)(b)(iii)(A-C).

165 MCL § 257.907(4).

166 MCL § 769.1k(1)(b)(iii).

167 MCL § 769.1k(1)(b)(iii).

168 See *People v. Cameron*, 319 Mich. App. 215, 219 (2017).

169 MICH. STATE COURT ADMINISTRATIVE OFFICE, COURTS COSTS IMPOSED AND COLLECTED 2018: MCL 769.1k (2019), *available at* <https://web.archive.org/web/20191016041719/https://courts.michigan.gov/education/stats/reporting-materials/Documents/CCIC-Report.pdf>.

170 Amicus Brief by Mich. Dist. Judges Ass'n at 14-15, *People v. Cameron*, 929 N.W.2d 785 (2019), *available at* https://web.archive.org/web/20191016184215/https://courts.michigan.gov/Courts/MichiganSupremeCourt/Clerks/Documents/2018-2019/155849/155849_74_01_AC_MDJA_Brf.pdf.

171 Amicus Brief by Mich. Dist. Judges Ass'n at 15, *People v. Cameron*, 929 N.W.2d 785 (2019), *available at* https://web.archive.org/web/20191016184215/https://courts.michigan.gov/Courts/MichiganSupremeCourt/Clerks/Documents/2018-2019/155849/155849_74_01_AC_MDJA_Brf.pdf. *See also* *People v. Cameron*, 929 N.W.2d 785 (2019) (McCormick, C.J., concurring) ("My concerns about the constitutionality of MCL 769.1k(1)(b)(iii) are underscored by the troubling letters submitted by amicus curiae Michigan District Judges Association (MDJA). They describe the pressures they face as district judges to ensure their courts are well-funded. For example, one city threatened to evict a district court from its courthouse because it was unable to generate enough revenue. Another judge noted that the same city suggested that judges

ENDNOTES

eliminate personnel if they could not generate enough revenue to cover the operational costs. A third judge recounted that his local funding unit referred to the district court as “the cash cow of our local government.”).

172 MCR 6.245(E)(3).

173 CITY OF HAZEL PARK, BUDGET: FISCAL YEAR 2018-2019 1-15 (2019), *available at* <https://web.archive.org/web/20200227235832/http://www.hazelpark.org/2018-2019%20budget%20package.pdf>.

174 CITY OF SOUTHFIELD, MUNICIPAL BUDGET EXECUTIVE SUMMARY: JULY 1, 2019 - JUNE 30, 2020 4 (2019), *available at* https://web.archive.org/web/20200227235927/https://www.cityofsouthfield.com/sites/default/files/2019-08/cosmunibudget_execsumm_1920.pdf.

175 Specifically, the court wanted the city prosecutor to charge people under local ordinances regulating pets (“No Dog License” and “Animal at Large”) so that the \$170 in mandatory fees that went to the state could be kept by the city. CITY OF EASTPOINTE, PROPOSED BUDGET: 2015/2016 64 (2015), *available at* https://web.archive.org/web/20200228000056/http://cityofeastpointe.net/vertical/Sites/%7B7C4055DF-73E1-4D03-A393-4A1D90A24F1D%7D/uploads/Proposed_Budget_FY2015-16.pdf.

176 Amicus Brief by Mich. Dist. Judges Ass’n at 2, *People v. Cameron*, 929 N.W.2d 785 (2019), *available at* https://web.archive.org/web/20191016184215/https://courts.michigan.gov/Courts/MichiganSupremeCourt/Clerks/Documents/2018-2019/155849/155849_74_01_AC_MDJA_Brf.pdf.

177 *Id.* at 16.

178 The money the City of Taylor was able to keep for itself, excluding the money sent to the state, totaled \$7.9 million. CITY OF TAYLOR, PROPOSED BUDGET OVERVIEW FISCAL YEAR 2019-20 22 (2019), *available at* <https://web.archive.org/web/20200228000237/http://www.cityoftaylor.com/DocumentCenter/View/6234/Budget-Detail-Overview---FY-2019-20>.

179 In Ferndale, this totaled \$3.5 million. CITY OF FERNDALE, *supra* note 150, at GF-1.

180 MCR 6.245(E)(3); MCL § 257.908(4).

181 MICH. STATE COURT ADMINISTRATIVE OFFICE, TRIAL COURT COLLECTIONS STANDARDS & GUIDELINES 6 (2016), *available at* https://web.archive.org/web/20180414234215/https://courts.mi.gov/Administration/SCAO/Resources/Documents/standards/cl_stds.pdf.

182 In total, there are four types of bonds in Michigan. “Personal recognizance bonds” consist of a promise to return to court; they do not require defendants to pay any money. “Cash bonds” require defendants to pay the court a monetary sum (which can be referred to as the “bail” amount) before they can be released from jail. If the person appears in court as required, the money should be returned to them at the end of their case, although the court may keep a portion or all of the money to apply towards any fines/fees/costs the defendant owes the court. However, if the person misses a court date, all of the money is forfeited to the court. “Ten-percent bonds” require defendants to pay the court only 10% of their bail upfront in order to be released from jail. The court keeps a portion of this payment (10% of the deposit, or 1% of the full bail amount) as a fee. If the defendant misses a court date, the court requires that the defendant pay the remaining 90% of the original bail. “Surety bonds” allow for a third-party bondsman to post bond on the defendant’s behalf. The defendant must pay the bondsman up to 10% of the full bail amount for this service, and this payment is non-refundable no matter what happens in the person’s case. Note that “Bail” and “bond” are frequently used interchangeably in criminal cases. Technically, “bail” often describes the full monetary amount set by the court and “bond” describes the amount that must actually be paid, whether that be the whole bail amount or some percentage of it. *See Misdemeanor Matters*, MICH. COURTS, <https://web.archive.org/web/20191015195140/https://courts.michigan.gov/Self-help/center/casetype/Pages/Misdemeanor.aspx> (last visited Feb. 4, 2010); MICH. JUDICIAL INSTITUTE, HANDBOOK OF LEGAL TERMS 9 (2015), *available at* <https://web.archive.org/web/20180416093541/https://mjieducation.mi.gov/documents/resources-for-trial-court-staff/178-holt-rev-2015/file>; MCL § 750.167b(3).

183 MCL § 780.66(8); MCL § 780.67(7); MCL § 769.1j(4).

184 MCL § 780.582; MCR 3.606(C).

185 MICH. JUDICIAL INSTITUTE, *supra* note 182, at 37 (“Used generally, this title means a judge. In Michigan, a district court magistrate is a quasi-judicial official of the district court who has the power to set bail, to accept bond, to accept guilty pleas and to impose sentence for traffic and other related violations, and to conduct informal hearings on civil infractions.”).

186 MCL § 780.581(2); MCR 6.102(D).

187 MCL § 780.586.

188 MCL § 780.62.

- 189 MCL § 780.64(1)(b).
- 190 MCL § 780.64(1)(d).
- 191 MCL § 780.64(1)(e).
- 192 MCL § 780.581(2); MCL § 780.582.
- 193 See PEW CHARITABLE TRUSTS, *supra* note 144, at 45 (Almost ninety percent of people who could afford to post bond spent only a week in jail, while nearly seventy-five percent of those who could not afford to post bond spent over a week in jail, with almost forty percent spending more than a month in jail).
- 194 See discussion *supra* note 34.
- 195 Wendy Sawyer, *How does unaffordable money bail affect families?*, PRISON POLICY INITIATIVE (Aug. 15, 2018), <https://web.archive.org/web/20200228001122/https://www.prisonpolicy.org/blog/2018/08/15/pretrial/>.
- 196 See, e.g., *Why Bail?*, THE BAIL PROJECT, <https://web.archive.org/web/20191002213204/https://bailproject.org/why-bail/> (last visited Feb. 5, 2020); see also ALLEN J. BECK ET AL., USDOJ BUREAU OF JUSTICE STATISTICS, SEXUAL VICTIMIZATION IN PRISONS AND JAILS REPORTED BY INMATES, 2008-09 22-3 (2010), *available at* <https://perma.cc/D7GT-JYHB>; see also MARGARET E. NOONAN, USDOJ BUREAU OF JUSTICE STATISTICS, MORTALITY IN LOCAL JAILS AND STATE PRISONS, 2000-2010 - STATISTICAL TABLES 12 (2012), *available at* <https://web.archive.org/web/20200228001436/https://www.bjs.gov/content/pub/pdf/mljisp0010st.pdf>.
- 197 THE COALITION TO END MONEY BOND, MONITORING COOK COUNTY'S CENTRAL BOND COURT: A COMMUNITY COURTWATCHING INITIATIVE 6 (2018), *available at* https://web.archive.org/web/20200228001524/https://chicagobond.org/wp-content/uploads/2018/10/courtwatching-report_coalition-to-end-money-bond_final_2-25-18.pdf.
- 198 FAQ: *Traffic Violations*, 36TH DIST. CT., <https://web.archive.org/web/20200217194208/https://www.36thdistrictcourt.org/faq-and-self-help/traffic-violations> (last visited Feb. 23, 2020).
- 199 MCL § 780.586.
- 200 This practice is also publicly endorsed by the 44th District Court in Royal Oak. See *Court Case Look-Up*, 44TH DIST. CT., <https://web.archive.org/web/20200228001808/https://www.romi.gov/1126/Court-Case-Look-Up> (last visited Feb. 27, 2020) (“Persons in warrant status may ‘walk-in’ Mon - Fri 8:00 a.m. to 8:30 a.m. The warrant will be recalled and you will go to the courtroom to speak with the judge. You may be required to post a cash bond so you should come prepared.”).
- 201 MCR 4.101(D).
- 202 MCR 4.101(H)(1-2).
- 203 MCL § 780.585; MCL § 780.64(2-3).
- 204 MCL § 257.904(3).
- 205 Two types of bonds allow for these fees: ten-percent bonds (which are common in Metro Detroit) and surety bonds. See note 182. For both types of bonds, even if the defendant follows all of the court’s instructions and appears for every hearing, they are charged a non-refundable fee—ten-percent of the amount deposited with the court. MCR 6.106(1)(1); MCL § 750.167b(3). Note, however, that there is a conflict between statute and court rules as MCL § 780.66(6) requires that the full deposit for a ten-percent bond be returned if the defendant is not convicted.
- 206 MCL § 780.67(8). Additionally, for a ten-percent bond, the person becomes financially indebted to the court for the remaining 90% of the full bond amount. MCR 6.106(1)(2)(b). For a surety bond, if the court only required the bondsman to post a portion of the full bond amount, the person becomes financially indebted to the court for the remainder of the bond amount. MCL § 765.28(1).
- 207 Ethan Corey & Puck Lo, *The ‘Failure to Appear’ Fallacy*, APPEAL (Jan. 9, 2019), <https://web.archive.org/web/20200118072323/https://theappeal.org/the-failure-to-appear-fallacy/>.
- 208 MCL § 780.66(8); MCL § 780.67(7); MCL § 769.1j(4).
- 209 *People v. Jackson*, 483 Mich 271 (2009).
- 210 See, e.g., *People v. Krezen*, 427 Mich. 681 (1986). Some police departments, including Detroit, have a policy of allowing another licensed driver, or even the passenger if they have a valid license, to come retrieve the car before it is impounded. *Id.*; DETROIT POLICE DEPARTMENT, TOWING/IMPOUNDING PROCEDURES § 204.4-6 (2019), *available at* <https://web.archive.org/>

ENDNOTES

web/20200228002020/https://detroitmi.gov/sites/detroitmi.localhost/files/2019-04/Towing-Impound%20Procedures%20Directive%2004.4.pdf. Many police departments do not, and even those that do often do not wait for that driver to arrive, or do not offer arrested drivers any way to contact someone who could come. Yet even where this option is available to drivers, license suspensions are so common for poor and working class people in Metro Detroit that many drivers simply do not have people in their network with a valid license that can come retrieve their vehicle at a moment's notice.

211 MCL § 257.252a (allowing police to tow a vehicle they deem abandoned, including vehicles with expired registration and that are older than seven years parked on the street); MCL § 257.252d(1)(k) (giving police authority to tow vehicles involved in accidents if the vehicle can no longer be safely driven).

212 Kim Russell, *Detroit towing controversy: Number of issues going up across metro Detroit*, WXYZ (Feb. 21, 2019), <https://web.archive.org/web/20190726231358/https://www.wxyz.com/getting-around-metro-detroit/detroit-towing-controversy-number-of-issues-going-up-across-metro-detroit>.

213 Neighborhoods Staff, *The Detroit Police Department has a new towing system. Here's how it works.*, NEIGHBORHOODS, <https://web.archive.org/web/20200228002147/https://theneighborhoods.org/story/detroit-police-department-has-new-towing-system-heres-how-it-works> (last visited Feb. 27, 2020).

214 See, e.g., *Towed Vehicles*, CITY OF PLYMOUTH, <https://web.archive.org/web/20190425073348/http://www.ci.plymouth.mi.us/Index.aspx?NID=799> (last visited Feb. 5, 2020); *Property, Evidence & Impounded Vehicles*, CITY OF TAYLOR, <https://web.archive.org/web/20190719232855/http://www.cityoftaylor.com/784/Property-Evidence-Impounded-Vehicles> (last visited Feb. 5, 2020).

215 Sarah Sell, *Customers say West Michigan tow companies are adding excessive fees to bills*, WZZM (Feb. 22, 2016), <https://perma.cc/DU8E-UF3A>; Ryan Felton, *A Detroit Towing Company Allegedly Stole Dozens Of Cars In A Wildly Elaborate Scheme*, JALOPNIK (Sept. 21, 2017), <https://web.archive.org/web/20191108221005/https://jalopnik.com/a-detroit-towing-company-allegedly-stole-dozens-of-cars-1818638269>; *Everything you need to know about towing laws in Detroit and Michigan*, WXYZ (Feb. 21, 2019), <https://web.archive.org/web/20190221131040/https://www.wxyz.com/getting-around-metro-detroit/everything-you-need-to-know-about-towing-laws-in-detroit-and-michigan>.

216 MCL § 257.321a(5)(b); MCL § 257.321a(8)(b); MCL § 257.321a(9)(b). See *District Court Fee and Assessments Table: January 2019*, *supra* note 149, at 5.

217 Clearance fees cannot be automatically waived unless a person is affirmatively found not responsible. MCL § 257.321a(9)(b). Although the case was dismissed in this scenario, because the persons' innocence or guilt was never litigated, they still owe a clearance fee by default.

218 MCL § 257.320e.

219 MCL § 257.743(2)(a-c); *Traffic and Nontraffic Civil Infraction Matters*, MICH. COURTS, <https://web.archive.org/web/20191015195120/https://courts.michigan.gov/Self-help/center/casetype/Pages/Infraction.aspx> (last visited Feb. 5, 2020).

220 *Bearden v. Georgia*, 461 U.S. 660 (1983).

221 See, e.g., Sarah Alvarez, *Detroit court gets tough on traffic tickets. County taxpayers get stuck with tab*, BRIDGE (Jun. 8, 2017), <https://web.archive.org/web/20181209131534/https://www.bridgemi.com/detroit-journalism-cooperative/detroit-court-gets-tough-traffic-tickets-county-taxpayers-get-stuck>; David M. Reutter, *Michigan Court Forced to End "Pay or Stay" Policy*, PRISON LEGAL NEWS (Nov. 7, 2017), <https://web.archive.org/web/20200228002701/https://www.prisonlegalnews.org/news/2017/nov/7/michigan-court-forced-end-pay-or-stay-policy/>.

222 See, e.g., *Flat Rock v. Phillips*, 12-F-205961 (33rd District Court, Sept. 24, 2019); *Flatrock v. Tallent*, 19-F-228817, (33rd District Court, Sept. 24, 2019).

223 TASK FORCE REPORT, *supra* note 8, at 9.

224 MCL § 257.743(4).

225 MCL § 257.908(1) ("If a defendant defaults in the payment of a civil fine, costs, or both, or of any installment ... the court ... may require the defendant to show cause why the default should not be treated as in civil contempt and may issue a summons or order to show cause or a bench warrant of arrest for the defendant's appearance.").

226 MCL § 257.728(1).

227 MCR 6.615(B)(1)(b); MCL § 764.9e.

228 TASK FORCE REPORT, *supra* note 8, at 9.

- 229 PEW CHARITABLE TRUSTS, *supra* note 144, at 19.
- 230 *In re Contempt of Robertson*, 209 Mich App 433, 436 (1995); *In re Contempt of Auto Club Ins Ass'n*, 243 Mich App 697, 708 (2000).
- 231 MCL § 257.908(3); MCL § 257.908(5); MCL § 600.1715.
- 232 MCL § 257.908(5).
- 233 MCL § 257.908(3).
- 234 MCR 6.425(E)(3).
- 235 MCL § 257.908(3).
- 236 *Bearden v. Georgia*, 461 U.S. 660 (1983).
- 237 As just one example, in 2019, a DJC client was arrested on a warrant for his failure to pay a fine for a traffic ticket. When a DJC attorney asked the judge to assess his ability to pay, the Lincoln Park judge simply said that if the client had paid 50 cents a day between when he received the fine and when he was arrested, he would have paid the fine off, and the judge decided that for that reason alone, the client had the ability to pay the fine. This not only failed to consider the clients work history or income at the time he was arrested as required by law,[#] it completely ignored the actual facts presented in his defense: specifically, that he had experienced extended periods of unemployment, homelessness, and jail since receiving the ticket, meaning that for much of that time, even 50 cents a day was substantially more than he could afford. See also Alvarez, *supra* note 221; Joseph Shapiro, *Supreme Court Ruling Not Enough To Prevent Debtors Prisons*, NPR (May 21, 2014), <https://web.archive.org/web/20200228205452/https://text.npr.org/s.php?sid=313118629>.
- 238 Christian Henrichson et al., *The Price of Jails: Measuring the Taxpayer Cost of Local Incarceration*, VERA INSTITUTE, <https://web.archive.org/web/20191219004743/https://www.vera.org/publications/the-price-of-jails-measuring-the-taxpayer-cost-of-local-incarceration> (last visited Feb. 27, 2020).
- 239 MCL § 257.908(5).
- 240 Henry Grabar, *Too Broke to Drive*, SLATE (Sept. 27, 2017, 2:47 p.m.), <https://web.archive.org/web/20190904130718/https://slate.com/business/2017/09/state-lawmakers-have-trapped-millions-of-americans-in-debt-by-taking-their-licenses.html>.
- 241 MCL § 257.904(3)(a-b); MCL § 780.621(3)(d); MCL § 780.621a(b).
- 242 MCL § 257.904(3)(a-b).
- 243 MCL § 257.904d(2).
- 244 MCL § 257.304(4).
- 245 MOTOR VEHICLES AFFORDABILITY AND FAIRNESS TASK FORCE, FINAL REPORT xii (2006), *available at* https://web.archive.org/web/20200126070906/https://www.state.nj.us/mvc/pdf/about/AFTF_final_02.pdf.
- 246 *Id.*
- 247 *Id.*
- 248 Grabar, *Too Broke to Drive*, *supra* note 240.
- 249 Niraj Warikoo, *Michigan is 1 of 5 harshest states for driver's license suspensions over court fees, fines*, DETROIT FREE PRESS (Sept. 29, 2017, 6:15 a.m.), <https://web.archive.org/web/20200228003145/https://www.freep.com/story/news/local/michigan/2017/09/29/michigan-drivers-license-suspensions-court-fees/704887001/>.
- 250 MARIO SALAS & ANGELA CIOLFI, LEGAL AID JUSTICE CENTER, DRIVE BY DOLLARS: A STATE-BY-STATE ANALYSIS OF DRIVER'S LICENSE SUSPENSION LAWS FOR FAILURE TO PAY COURT DEBT 9 (2017), *available at* <https://web.archive.org/web/20200213041905/https://www.justice4all.org/wp-content/uploads/2017/09/Driven-by-Dollars.pdf>.
- 251 *Maps*, FREE TO DRIVE, <https://www.freetodrive.org/maps/#page-content> (last visited Feb. 5, 2020) (interactive map illustrating changing laws around driver's license suspensions for failure to pay tickets) [hereinafter FREE TO DRIVE].
- 252 *Bearden v. Georgia*, 461 U.S. 660 (1983).

ENDNOTES

- 253 *In re Donna Elaine Anderson*, No. 15-2380-AS (Cir. Ct. County of Macomb Mar. 8, 2016) Br. Supp. Compl. at 5, *available at* https://web.archive.org/web/20190928031937/https://www.aclu.org/sites/default/files/field_document/aclu_of_michigan_brief_and_complaint_filed.pdf.
- 254 Daniel Bethencourt, *Court to judge: Stop jailing poor people over fees*, DETROIT FREE PRESS (Mar. 10, 2016, 5:36 p.m.), <https://web.archive.org/web/20190903065721/https://www.freep.com/story/news/local/michigan/wayne/2016/03/09/eastpointe-judge-pay-or-stay-sentencing-carl-gerds/81551972/>.
- 255 MCR 6.425(E)(3); JULIA NORTON, MICH. SUPREME COURT, MEMORANDUM: ABILITY TO PAY COURT RULE AMENDMENTS (2016), *available at* <https://web.archive.org/web/20200228205734/https://courts.michigan.gov/Administration/SCAO/OfficesPrograms/TCS/Documents/TCS%20Memoranda/TCS-2016-25.pdf>; MICHIGAN SUPREME COURT, ORDER: AMENDMENTS OF RULES 3.605, 3.606, 3.928, 3.944, 3.956, 6.001, 6.425, 6.445, 6.610, AND 6.922 OF THE MICHIGAN COURT RULES (2016), *available at* https://web.archive.org/web/20200228003734/https://courts.michigan.gov/Courts/MichiganSupremeCourt/rules/court-rules-admin-matters/Court%20Rules/2015-12_2016-05-25_formatted%20order_various%20MCRs-ability%20to%20pay.pdf.
- 256 *Id.*
- 257 *Bearden v. Georgia*, 461 US 660 (1983).
- 258 *Flat Rock v. Phillips*, 12-F-205961 (33rd District Court, Sept. 24, 2019) (McNally issues pay or stay sentence); *Flatrock v. Tallent*, 19-F-228817, (33rd District Court, Sept. 24, 2019) (Kersten issues pay or stay sentence).
- 259 A DJC attorney witnessed this event while in court representing a different client.
- 260 *In re Donna Elaine Anderson*, No. 15-2380-AS (Cir. Ct. County of Macomb Mar. 8, 2016) Br. Supp. Compl. at 7, *available at* https://web.archive.org/web/20190928031937/https://www.aclu.org/sites/default/files/field_document/aclu_of_michigan_brief_and_complaint_filed.pdf.
- 261 *E.g.*, MCL § 257.904a, MCL § 257.904(3)(a-b), MCL § 500.3102(2), & MCL § 257.215.
- 262 MCL § 780.621(3)(d).
- 263 States, including Michigan, and the federal government have already created such commissions for other areas of the code with much success. A similar commission could be created to focus on traffic civil infractions and other low-level offenses. JAMES R. COPLAND & RAFAEL A. MANGUAL, *OVERCRIMINALIZING AMERICA: AN OVERVIEW AND MODEL LEGISLATION FOR THE STATES 12* (2018), *available at* <https://web.archive.org/web/20200228003830/https://media4.manhattan-institute.org/sites/default/files/R-JC-0818.pdf> (“Some states have undertaken legislative efforts to clean up their statute books by repealing unnecessary, outmoded, and duplicative criminal offenses. In Kansas, for example, the state established an ‘Office of the Repealer’ in 2011. The primary aim of the office was to review the body of criminal law and continuously flag provisions ripe for repeal, which the legislature could then choose to act upon. In Michigan, Governor Rick Snyder signed, in 2015, a bill repealing a number of outmoded crimes—the legislature’s response to the governor’s call for such reforms earlier that year. While these efforts are laudable, they do not go far enough, considering the rate at which lawmakers are adding new criminal offenses to the books. One state studied by the Manhattan Institute, however, does offer a fine example of how to undertake a large- scale repeal effort. In 2014, Minnesota’s legislators repealed more than 1,175 crimes in what was dubbed the legislative ‘unsession.’ The unsession was the outgrowth of a push by Governor Mark Dayton to prune unnecessary and outmoded laws piling up on state books.”).
- 264 Fines that are scaled to income are not a novel idea; “day fines” of this sort have already been adopted in a number of European countries and piloted in multiple U.S. cities. USDOJ BUREAU OF JUSTICE ASSISTANCE, *HOW TO USE STRUCTURED FINES (DAY FINES) AS AN INTERMEDIATE SANCTION 1* (1996), *available at* <https://web.archive.org/web/20180621074127/https://www.ncjrs.gov/pdffiles/156242.pdf> (“Structured fines, also called ‘day fines,’ constitute a type of monetary sanction that can be used to sentence convicted criminal offenders. Initially developed in Europe, structured fines are based on a simple concept: punishment by a fine should be proportionate to the seriousness of the offense and should have roughly similar impact (in terms of economic sting) on persons with differing financial resources who are convicted of the same offense. Structured fines are set through a two-step process that determines the severity of the punishment separately from assessment of a specific dollar amount. First, on the basis of a scale that ranks offenses according to their gravity, the number of structured fine units for the crime is determined. Second, the dollar amount of the fine is figured by multiplying the number of fine units by a portion of a defendant’s net daily income (hence the term ‘day fine’), adjusted to account for dependents and special circumstances.”).
- 265 *E.g.*, for fines, including but not limited to MCL § 600.4803, MCL § 257.907(13), MCL § 600.2559(1)(n), MCL § 780.905(1)(b), MCL § 600.8381(4), MCL § 769.1j(1), MCL § 257.321a(5)(b), MCL § 257.321a(8)(b), MCL § 257.321a(9)(b), MCR 6.005(C), MCL § 769.1k(1)(b)(iv), MCL § 771.3(2)(c), MCL § 257.320e, MCL § 257.729, & MCL § 771.3(2)(c); for costs, including but not limited to MCL § 769.1k(1)(b)(iii) & MCL § 257.907(4).
- 266 ALEXANDRA BASTIEN, POLICYLINK, *ENDING THE DEBT TRAP: STRATEGIES TO STOP THE ABUSE OF COURT-IMPOSED FINES AND FEES 8-9*

(2017), n. 62, 70-73. (“The reforms to the fines and fees practices introduced by the Supreme Court of Ohio in 2015 included guidance that prohibits judges from issuing warrants for unpaid fine and fees. The reforms protect Ohio residents from the risk of incarceration for unpaid debt, and saved court resources and staff time by reducing costs and jail populations Leon County, Florida, closed its collections court in 2010 and terminated approximately 8,000 outstanding arrest warrants for nonpayment. A lawsuit filed by the American Civil Liberties Union (ACLU) spurred Benton County, Washington, to make a series of changes in its handling of outstanding fines and fees. Starting in 2016, the county no longer issues warrants for individuals with unpaid court debt. Similar to Benton County, a settlement between Colorado Springs, Colorado, and the ACLU ensured that the city would no longer jail individuals for nonpayment of court debt, and that it would provide payment to people who had previously been jailed under the practice. In response to the protests that followed the police shooting of Michael Brown, the St. Louis Municipal Court canceled more than 200,000 warrants for outstanding debt.”)

267 Hixson v. Haslam, 329 F. Supp. 3d 475, 478 (collecting debt from an indigent debtor was not a rational basis for revoking a driver’s license), vacated as moot on other grounds sub nom. Thomas v. Lee, 776 F App’x 910, 911 (6th Cir. 2019) (mem.).

268 TASK FORCE REPORT, *supra* note 8, at 19.

269 As the failure to comply with a judgment or failure to appear requires an affirmative finding that a person received notice and chose not to appear in court, MCL § 257.321a(2), or has the ability to pay but has chosen not to do so, MCL § 257.908, courts could simply choose not to make this finding without proof that the person actually received notice (and not just that notice was sent), or without proof that the person had the ability to pay, including proof of that person’s income. This would allow courts to immediately stop abstracting (i.e., reporting to the Secretary of State) failures to appear, defaulted civil infractions, or any other unpaid traffic tickets.

270 Fines and Fees Justice Center (@FinesandFeesJC), TWITTER (Feb. 20, 2020, 11:21 a.m.), <https://web.archive.org/web/20200220162316/https://twitter.com/FinesandFeesJC/status/1230527877550084097>. Moreover, six states have ended the practice entirely, with five more limiting its application. See Danielle Conley & Ariel Levinson-Waldman, *ACS Issue Brief: Discriminatory Driver’s License Suspension*, AMER. CONST. SOC. 3, 9-16 (March 2019), available at <https://web.archive.org/web/20200126070914/https://www.acslaw.org/wp-content/uploads/2019/03/License-Suspension-Issue-Brief-Final.pdf>; FREE TO DRIVE, *supra* note 251; Cameron Thompson, *New Virginia law reinstates licenses to certain drivers: ‘Ending this policy is long overdue’*, WTVR (Jul. 3, 2019, 10:19 a.m.), <https://web.archive.org/web/20190729212656/https://wtvr.com/2019/07/03/dmv-license-reinstated/>; *Mississippi HB 1352: The Criminal Justice Reform Act [Ends driver’s license suspension for unpaid fines and fees, failure to appear]*, FINES & FEES JUSTICE CENTER (Mar. 28, 2019), <https://web.archive.org/web/20200228004122/https://finesandfeesjusticecenter.org/articles/mississippi-hb-1352-the-criminal-justice-reform-act-ends-drivers-license-suspension-for-unpaid-fines-and-fees-failure-to-appear/>.

271 *California’s Low Cost Auto Insurance Program*, CAL. DEPT. OF INS., <https://web.archive.org/web/20190830192735/https://www.insurance.ca.gov/01-consumers/105-type/95-guides/01-auto/lca/> (last visited Feb. 5, 2020).

272 Kaffer, *supra* note 101.

273 To do this, the law offers low-income drivers—defined as anyone in a household earning less than 250% of the federal poverty guidelines, Cal. Ins. Code § 11629.73—insurance at a monthly rate of between \$20 and \$90, depending on their age, driving history, and the county they live in. See CAL. DEPT. OF INS., REPORT TO THE LEGISLATURE & CONSUMER EDUCATION AND OUTREACH PLAN 10 (2019), available at <https://web.archive.org/web/20190830215406/https://www.insurance.ca.gov/01-consumers/105-type/95-guides/01-auto/lca/upload/2019-CLCA-Legislative-Report-2.pdf>.

274 Christian Spencer, *Cops in Minneapolis Are Giving Out Vouchers For Vehicle Repairs Instead Of Tickets*, BLAVITY (Jan. 31, 2020, 4:20 p.m.), https://web.archive.org/web/20200228004423/https://blavity.com/cops-in-minneapolis-are-giving-out-vouchers-for-vehicle-repairs-instead-of-tickets?fbclid=IwAR0z.763jKXzX_C51j3eZzYL-GJe48B6sXILsa1vYNDedv9SNchQRCzde s7Y&category1=politics.

275 Herberg, *supra* note 25.



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