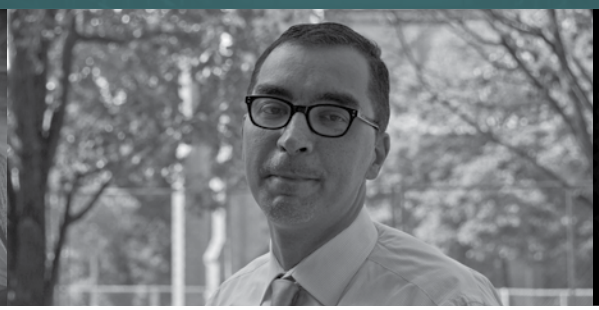
First Person Accounts of Criminal Justice Debt

When All Else Fails, Fining the Family



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with Estelle Davis

CENTER FOR COMMUNITY ALTERNATIVES
INNOVATIVE SOLUTIONS FOR JUSTICE

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The Center for Community Alternatives (CCA) promotes reintegrative justice and a reduced reliance on incarceration through advocacy, services and public policy development in pursuit of civil and human rights.

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“You can’t get water out of a rock. People like myself, I come home, I live my life right, and yet I have this burden. It hurts your credit. You can’t get an apartment. It can lead to people going back [to] doing negative behavior, giving up, or [they] start doing drugs and go back to the revolving door.… When all else fails, I can call them two [younger sister and mother of his child], but I don’t like to.”

-Q. New York City, 2011

Q's experience replicates the stories of thousands of men and women returning home from prison. Able to earn only the most paltry of wages in prison but owing considerable sums for child support, victim restitution, and fines and fees, people newly released from prison return to society under the heavy burden of debt that they have accumulated through their involvement in the criminal justice system.

What happens next? The returning individual is likely to get caught in a vortex of failure: insecure jobs, unstable social relationships, and financial obligations which—when unfulfilled—trigger a battery of punishments.

When all else fails, it is often the families of incarcerated individuals that serve as the social net of last resort.

For this project, we set out to understand, in the individual's own words, precisely how the punishment of prison and its collateral consequences—in particular criminal justice debt (court-mandated fines, fees, and child support)—affect individuals' financial situations and stability.

2 + 39

MONTHS INTERVIEWS

Over the course of two months in 2011, Estelle Davis, research assistant to the project, conducted 39 in-depth interviews with individuals with criminal justice histories in New York and New Jersey. Her work was supplemented by a number of interviews the authors conducted just prior to her research, and in the two years following it. We asked these men and women about their post-incarceration financial situations, with detailed questions about both sides of their ledgers: income and expenses. We inquired about their levels of court and child-support debt, current income, employment and employment prospects (including education level), and public assistance. We also learned about their experiences with debt enforcement, with meeting their living expenses, and the people to whom they turned for help in fulfilling their obligations. All our questions were aimed at understanding each person's "ability to pay," ability to manage their debt and finances following incarceration, and the impact of collections mechanisms. Finally, we asked our interviewees how they thought the system might better respond to the burden of debt.

Our research supports the following key findings:

1

The types of financial obligations owed to the state have proliferated, and the penalties for debt have been increasingly criminalized with harsh sanctions. In that sense, our interviews confirmed what other advocacy groups and individual scholars have recently found: There has been a surge in criminal justice debt and increasing state punitiveness meted out to those who fail to pay.[2] Many incarcerated and formerly incarcerated individuals have been swept into what we have come to call a debt-enforcement regime.[3] Punishment is everywhere and criminal justice debt can confine individuals to a liminal space where prison is never a thing of the past.

2

Debt is paid not only by those convicted of crimes, but also by their families (or friends) who are the last stop before re-incarceration.[1] Families and friends provide important assistance in staunching the debt that relatives or friends face when returning from prison, knowing that such debt can trigger punitive consequences, including re-incarceration. Our interviews demonstrate that post-prison debt fulfillment is often family subsidized, as returning individuals struggle with criminal justice debt and other challenges of reentry. Even assuming that it is the returning prisoner who has "done the crime," it is often up to his or her friends and family members to help pay the time. This is the main finding of this study.

3

Public policy aimed at collecting debt must ultimately be more closely tailored to the ability of an individual—not that of his or her family or network of friends—to pay what may be due. While families have an important role to play in the successful reintegration of their family member, they should not have to bear the burden of debt repayment as a means to avert the re-incarceration of their loved one. This is particularly important as the financial condition of families of formerly incarcerated people is often precarious even without their shouldering financial penalties.[4]

This report is organized into three sections corresponding to these lessons. These particular stories are detailed because they highlight and are representative of the findings. Before we turn to these sections, we provide background on criminal justice debt and our methodology.

Criminal Justice Debt

Criminal justice debt refers here to payment obligations generally owed to the state (but may be owed to individuals, e.g. restitution) and arising out of involvement in the criminal justice system.

These may be associated with a trial and/or conviction and/or incarceration. This debt may range from money owed to a "public" defender[5] (oxymoronic as this may seem) to fines, surcharges, and fees assessed at the time of sentencing or post-sentencing, such as victim restitution, court costs, and parole fees.[6] We include child support debt as a part of criminal justice debt because it often accrues while individuals are incarcerated and unable to pay. Of all the types of criminal justice debt, child support may be the most serious problem for parents in prison or returning home. About one-fifth to a quarter of incarcerated men are estimated to be under child support orders.[7] Child support continues to mount up even during the individuals' incarceration.

In the last few years, advocacy groups and individual scholars have documented the "stealth escalation" of fees, fines, and other financial obligations.[8] A 2010 Brennan Center study researched fees and fines in fifteen states. In all fifteen states, the number and amounts of fees and fines had increased in recent years, and financial penalties accrued at every point in the system. These fees and fines add up to a significant financial burden for mostly low-income defendants, and are administered without much regard for an individual's ability to pay.[9] As the report puts it,

> *"[d]espite the fact that most criminal defendants are indigent, none of the fifteen states examined pay adequate attention to whether [these] individuals have the resources to pay criminal justice debt, either when courts determine how much debt to impose or during the debt collection process."*[10]

Parents serving long sentences in prison for reasons unrelated to debt find themselves particularly susceptible to being swept up into a maelstrom of debt due to child support and other financial obligations.

For those who were under orders before incarceration, many were working, paying, and spending time with their families:

2/3

Research shows that more than two-thirds of men admitted to prison have been employed.

44%

Almost half—44 percent—of parents held in state prisons lived with their children prior to incarceration.

1/2+

More than half of imprisoned parents (52 percent of mothers and 54 percent of fathers) were the primary earners for their children.[11]

This changes upon incarceration. In about one third of states, incarceration is sometimes referred to in legislation, administrative orders, and court decisions as "voluntary unemployment," thereby making it nearly impossible for individuals to seek a modification of their child support orders to reflect their inability to work while incarcerated.[12]

Prison wages ranging from 29 cents to $1.15 an hour make significant inroads into debt repayment in prison impossible.[13] In the overwhelming majority of states, there are many additional barriers to successfully modifying child support orders. For example, by virtue of their incarceration, individuals do not have the option to undergo the necessary processes of seeking relief from the debt, which would include visits to government agencies, appearing in court, and conducting research. If a parent comes out of prison without successfully petitioning for modification, he (or she) is proscribed from seeking retroactive relief by federal law.[14] In the absence of modification or debt relief, a parent in prison will often emerge with tens of thousands of dollars in child support arrears and other debts.[15] As the Office of Child Support Enforcement of the U.S. Department of Health and Human Services acknowledges, this level of debt can encumber the efforts of returning parents to establish stable lives and "increases the likelihood that noncustodial parents released from incarceration will enter the underground economy."[16]

Further, most individuals with child support debt, and indeed most in the criminal justice system, are indigent—one study about child support and poverty more generally found that 70 percent of unpaid support in nine states was owed by individuals who made less than $10,000 per year—and few in prison have built up much human capital.[17] Forty percent of parents in state prisons lack either a high school diploma or a GED. Mental illness in prisons is estimated to affect between 16 and 25 percent of the population. Although close to three quarters of all prisoners were employed in the month before they were incarcerated, half of all prisoners report earning less than $1,000 a month.[18]

In recent years, the specter of debt has become increasingly real for individuals across the country as jurisdictions have institutionalized the types of debt collection regimes we have described elsewhere.[19] States are attempting to collect the debt through progressively punitive and varied mechanisms that can affect all aspects of an individual's life after incarceration, from housing to employment to food. Punishment permeates people's lives.

While there are many avenues of enforcement, those most commonly used and also repeatedly reported in our interviews include:

Driver's License Suspension

In at least eight of the states studied by the Brennan Center, driver's licenses were suspended as a penalty for failure to pay, making it difficult for individuals to commute to work, and often resulting in a cycle of additional fees for non-payment and driving on a suspended license.[20] Massachusetts reports that in the three-year period between 2002-2005, contacts or suspension notices were sent to over 50,000 noncustodial parents. Over 24,000 drivers' licenses, 770 registrations, and close to 800 professional licenses had been suspended.[21]

Warrants

Court appearances and warrants pertaining to debt collection and non-payment can make it difficult for an individual to consistently show up to a job, thereby jeopardizing his or her employment.

Extended supervision

At least 13 of the 15 states in the Brennan Center study extended the period of supervision until debts were paid, making individuals susceptible to further punishment.

Garnishment

All 15 states in the Brennan report permitted using "civil collections methods for criminal justice debt collection, such as liens or the garnishment of bank accounts or wages, and nine of the fifteen states utilize tax rebate intercepts for at least limited purposes." Garnishment, which can be as high as 65 percent of wages, is a disincentive to work in the formal labor market.[22]

Incarceration

Incarceration is often the tool of last resort. In the locations where we conducted our interviews, incarceration is less common, but warrants are used to collect child support, and many interviewees spoke of their constant fear of warrants. Other jurisdictions use arrest and incarceration more frequently. In all 15 states studied by the Brennan Center in the previously mentioned report, individuals were at risk of incarceration for non-payment. A recent report by the ACLU finds debtors' prisons in Louisiana, Michigan, Ohio, Georgia, and Washington.[23]

Additional fines

At least nine states charged extra fines or interest for late payments; these collections fees were deemed "exorbitant" by the Brennan Center report.

Over the last several decades, the collection of child support—including that pertaining to currently or previously incarcerated parents—has also been more formally institutionalized and more actively enforced. Federal and state legislation and judicial codes have been refined. Publications, educational events, and workshops instruct state agencies in how to identify obligors and undertake effective collections.[24]

Individual Stories

In the next sections, we turn to the specific stories narrated by our interviewees. Each interviewee in this study chose a pseudonym—sometimes just an initial—and is referred to by that name. Respondents were identified with the help of reentry social service agencies in New York and New Jersey; they provided access to their clients who were confronting criminal justice debt. While the exact percentage of individuals with criminal justice involvement who also have criminal justice debt is not known, it was not difficult to find interviewees. Our interviewees had already turned to organizations for help. It bears noting that many other recently released people do not seek out such support and thus are likely to face at least as much—if not more—of a struggle with many of the debt issues we discuss below. Reflective of the demographics of the criminal justice system at large, almost all of those interviewed came from low-income, minority backgrounds, and have minimal educational qualifications. The stories narrated below exemplify themes we heard repeatedly among our interviewees.

Two observations about these interviews should be noted:

1. They are drawn from narratives of people who have been subject to debt in two states—New York and New Jersey. These interviews capture one point in time; child support policies and regulations governing fines and fees differ from state to state and they were even in flux at the time of the interviews.

2. The narratives are also told from the perspective of the interviewee. We did not, therefore, seek to corroborate the factual accuracy of the accounts.

First Person Stories

1

Theme One:

"Punishment is Everywhere": The Criminalization of Financial Obligations

As the individual stories in this section highlight, these debts and related enforcement mechanisms leave no part of individuals' lives untouched. The individuals we interviewed faced court and parole fees, child support obligations, medical debt, and back payments to secure the restoration of their motor vehicle licenses. These obligations were often set without regard for an individual's ability to pay and attached to different enforcement mechanisms.

These individuals were subject to wage garnishment, driver's license debt and revocations, repeated court appearances, and warrants (or fear thereof).[25] Interviewees also faced challenges in maneuvering through the institutions that governed their payment: They had difficulty getting accurate information about their debts, as well as applying for modifications while incarcerated and unrepresented, and applying for credit/debt relief post-incarceration. Although none of the interviewees for this project had suffered from all of these financial obligations and only a few had faced arrest and re-incarceration, they are all barely keeping their heads above water, and most are relying on family and friends. One of our Newark interviewees, recently released from prison and struggling with criminal justice debt, astutely summarized the post-incarceration experiences of many. He said, simply:

> *"Punishment is everywhere."*

Each of these stories is a poignant example of the ways that punishment is an ***ever-present*** force in the lives of many people returning from prison with financial debt. But each story is somewhat different. In this section, we start with Carlos, whose story captures many of the themes we will explore in greater detail throughout the report. Carlos faces a range of fees and fines, and struggles most with high child support debt that accumulated while he earned almost nothing in prison. Upon his release, Carlos unsuccessfully sought modifications; and in the face of this debt, like so many others, he turns to family, reluctantly relying on an uncle as he tries to provide his daughter what he can. We then turn to Bob's story, which illustrates that even substantial educational and organizational capacities are not necessarily enough to withstand the avalanche of debt. Bob has been in jail numerous times over the years, a consequence of regrettable decision-making and substance use. Despite his efforts to change and taking responsible steps in that direction by working multiple jobs, chipping away at his debt and securing a master's degree, the amount he owes and the constant pressure of enforcement mechanisms make Bob's situation almost hopeless. Yaya, by contrast, has only a fourth-grade education. He struggles to navigate a child support situation he has difficulty understanding, and is often forced simply to trust others. David's substantial debt illustrates the particular pressures associated with the utilization of driver's licenses as an instrument of debt enforcement. His debt is mostly comprised of fees and surcharges owed to the Department of Motor Vehicles, and years into his career, he finds few solutions short of bankruptcy. Finally, Afi's story illustrates how even small amounts of debt make a significant difference in a reentering person's life.

These stories provide a picture of how a series of policies around imposing and collecting debt affect individuals and communities at every juncture of their work and family lives.

Of the 39 individuals interviewed, all had some form of criminal justice debt:

33 *Of* 39 had non-child support criminal justice debt such as court fees, parole fees, public defense fees or surcharges

27 *Of* 39 have struggled with child support debt

Carlos

Carlos is a 31-year-old male who was born in the U.S. and grew up in Puerto Rico. He moved back to the U.S. at age 16, but because he attended Spanish-speaking schools, his English is weak. Even so, Carlos was able to secure a job that paid about $62,000; he worked as a supervisor at a transfer station in New Jersey. While he was working in this job, the mother of his four children became unable to care for the children, and Carlos was given custody. He missed some work as he juggled his new responsibilities, and eventually lost his job. Carlos has another child; although unemployed at the time, he paid child support through his unemployment insurance and, as he puts it, "the streets." Eventually, his street life led to arrest and incarceration, and as is often the case, his child support order on the one child ran while he was incarcerated. Recently released, Carlos faces arrears totaling $8,000, a fact he says he did not have notice of in prison. His other four children had returned to living with their mother before Carlos was incarcerated, and she had not filed for child support. His ability to pay the support on one child while in prison was near non-existent. Carlos filed a motion for a modification upon his release through the assistance of someone at the court; however, the judge told him there was "nothing she could do" about his arrears and gave him two months to find a job. If he failed to find one during that period, subpoenas and warrants would be issued for his non-payment. "I don't see that kind of fair at all," Carlos says of his current situation. "I wasn't really trying to get off of everything, but at least, you know what I'm saying, trying to [get] a little adjustment."

Carlos is faced with a system in which the only legal response is that there is no solution. A local non-profit is assisting Carlos with his job search, but his current child support order of $60 a week continues to tick upward. In fact, he believes that his child support has gone up, and he notes, "they [the court] brung it up to $65, not even looking at my income at the moment or none of that." Even without paying on his child support debt, he is barely making ends meet. He lives, rent-free, with an uncle, and is on public assistance (which was recently reduced, although Carlos is not sure why). He contributes to his uncle's household by purchasing food for the family with his food stamps and does his best to support his children in any way he can. For example, he says when discussing his daughter, who has health issues, "I be like helping her, like, besides the child support. If she asks for any clothes or whatever for school or whatever, if I got it [money] I be able to provide it to her." He is able to do so through a little extra pocket cash from his mother (about $50/month). Carlos says, "my mom from Puerto Rico… she will help me out with whatever she can. That ain't no big thing neither though, she work[s] at a factory, it's kinda hard out there in Puerto Rico." As he looks for a job, Carlos is overwhelmed: his driver's license has been suspended; he has to pay $15 for court-mandated anger-management classes; and he has parole-fee debt. His parole officer is understanding, but pushes him to pay his child support and other debts. Carlos explains,

"I need to pay child support right about now but I just don't have it. If I have it that would be one of my priorities trying to get that out of the way. Right now, having this debt, if [there is a] court order for arrest, that will affect me. If I start a new job and something like that go down I end up losing that job because of that debt. I be thinking about all that."

Even with public assistance and food stamps (now reduced), Carlos' economic security is constantly threatened by fines, fees, child support debt, and a fear of warrants for his inability to meet his financial obligations. He even considers going back to the streets, where he did well financially, but does not want that life. In many ways, Carlos' story is a prototype of the ways that debt can overwhelm an individual's entire life, post-incarceration.

Bob

Bob is an African-American male who, since his release from incarceration in 2007, has earned a Master's degree in social work and has steadily progressed in his field of work. His story demonstrates how even an individual with a professional degree and two jobs, faced with the loss of professional and driver's licenses and with wage garnishment, is not immune from staggering criminal justice debt, despite relatively short periods of incarceration.

Bob admits to having lived irresponsibly, with a number of short stints in jail over the years. He describes his release to a substance-abuse treatment facility in 2007 as a turning point, and says he focused on his debts as he thought about moving forward. "I knew as I was sitting in jail all that time, and also when I got to the first phase of treatment, [that] I had a lot of financial debt, and I knew that a minimum wage job was not going to do it. So I came over to the transitional house knowing that I needed to go back to college." When asked to detail his debts, Bob responds: "I owed everybody in the world money, it seemed like." As described below, he took significant steps to begin paying his financial debts, but continues to struggle years later—a situation not conducive to successful reentry.

Bob had about $10,000 in court debt that had accumulated since the 1990s. This included a supervision fee, which his probation officer eventually reduced so that Bob could make progress in paying his other debts. Bob agreed to this supervision fee as a part of release procedures from jail: "If they told me it was $1000 a month [for supervision], I would have signed it just to get out of jail, not thinking about what I would do to offset these costs." When he was released in 2007, Bob began making regular payments to his probation officer, often using his student loans to pay the criminal justice debt. While he was in school, Bob worked two jobs, each paying about $9-$10 per hour. By 2009, he had paid off his court debt. In addition to the court debt, Bob owed roughly $70,000 in child support arrears upon his release from jail—the result of a divorce decree from the mother of his two children, now ages 27 and 22. His alimony payments were about $75 to $100 per week starting in 1991. Bob admits that he was not always diligent in paying, especially while he was in and out of jail and unable to see his children. From the beginning, the court garnished his paychecks, but because he was earning so little already, Bob would often quit jobs because of the high percentage being taken from his wages. He was arrested for non-payment.

By the time Bob succeeded in submitting a motion for relief, his payments were $185 per week—a significant sum for someone new to the workforce. The courts reduced his payments to $35 when he completed the initial phase of treatment and moved to a halfway house in 2005. Bob had tried to file pro se motions in the past, but had not followed the process all the way through; he calls the process "challenging but doable," and he finally completed the motion. He notes that the enforcing county was not empowered to reduce his arrears but could increase his payments, which they did. Bob was given some relief from the courts when his sons were emancipated; his debt went from $70,000 to $35,000. Over the last several years, he has paid roughly $7,000, bringing his arrears down to around $28,000. Currently, $150 per week is garnished from his paycheck to pay down his arrears.

Now that he earns a decent salary, Bob prefers making larger payments in order to pay down his debt more quickly, and he's gotten used to living on less take-home pay. He understands that he has to pay the debt and says,

"As long as it's a manageable thing, I think that anyone that is responsible… should be willing to pay something. But the key term is manageable, and everybody's situation is totally different."

His child support debt has impacted him not only financially, as he tries to secure his future, but also professionally. In New Jersey, child support debt affects an individual's ability to obtain state occupational licenses. This means Bob is unable to obtain the credential necessary for him to become a licensed social worker, which has hampered his efforts to earn more money and pay more of his debt.

In addition to the court fees and child support, Bob, like many in New Jersey with criminal justice involvement, owed significant fees to the Department of Motor Vehicles—$13,000. Bob's story followed a familiar pattern: he had a car, but his license was often suspended due to non-payment of child support and other debts—sometimes without his knowledge. He would continue to drive because he needed to get around, including to work, and would face additional fines for driving on a suspended license. The cycle continued.

Upon his release, Bob tried to negotiate with the DMV for a reasonable payment plan. Through advocacy, he is now on a five-year payment plan, making monthly payments of $150. Arranging the payment schedule was not easy. At first, he was told that because his case was old, it had been transferred to an outside collections agency and the DMV could not negotiate. He was eventually able to set up a payment plan and get his licenses back, both of which were essential to his continued professional growth and ability to earn a higher income that in turn made debt repayment easier. Discussing his experience with debt, Bob says he first paid off people who had the ability to incarcerate him. He credits his ability to make the child support payments to the multiple student loans he received while also working part time. He also continued to live in the halfway house for a year after he was eligible to move out so that he could save money. He currently holds down two jobs and has managed to obtain further educational qualifications, a feat that surely gives him additional confidence and skill to handle his debts.

Despite their different educational and job histories, and despite Bob's considerable educational accomplishments and resources, Bob's life, like Carlos's, is subsumed by the pressures of debt. His education has enabled him to undertake debt reduction efforts and these have given Bob a leg up, but he continues to struggle under constant pressures as he navigates the world of warrants, court appearances, and debt—with the Damocles sword of re-incarceration an ever-present threat.

Yaya

Yaya is a 53-year-old Irish-German-Norwegian man from Jersey City with a fourth-grade education. Given this level of education, it is not surprising that Yaya seems to have fared worse than many of our interviewees. His child support debt, for instance, has led to at least three arrests. As our interviewer noted, it's easy to understand Yaya's confusion and bewilderment at having to negotiate the court systems that manage his child support. He currently lives in a halfway house, and is working to address his substance use issues. With only a fourth-grade education, Yaya was working irregularly and for low wages when he was placed on a court-ordered child support payment plan in 1985. Since then, his child support debt has risen while his employment has remained inconsistent, although he has worked in a variety of jobs. Though Yaya says he has paid regularly over the past two decades, his child support balance has not decreased—in fact, he says his debt grew from $1,500 to $7,000 between 1995 and 2002. He is unsure exactly how much debt he currently has, or how much of it is in arrears now that his son is an adult.

Yaya claims his three arrests for child-support debt were unwarranted, but adds that—given his lack of legal knowledge and low reading capacity—he was unable to contest them in court. Once, police officers came to his place of work to enforce a child support warrant. Yaya was able to show them pay stubs demonstrating he had been paying child support, but he was taken to jail anyway. He had to borrow $500 from his sister to get out of jail. "I don't really understand it," he says, "with reading and writing and stuff. I try to trust people." Yaya believes there are mistakes in his child support debt amounts, since he has been paying regularly. A counselor at the halfway house recently informed him that he may have been overpaying, but he has not seen redress yet, and does not want to go to the child support office for fear of being arrested.

When Yaya did have a job, child support orders would take around half of his weekly earnings. When he was unemployed, the debts would accrue and he would find himself in legal trouble. The burdens of child support, combined with Yaya's low level of education, have led to multiple stints in jail and inconsistent employment. He says he has turned to self-employment just so that the child support isn't taken out of his paycheck. "I get frustrated and mad, [and I] quit, because they're taking too much out," he says. "It's just the frustration of [someone] taking all your money." He details how at one time, he was earning around $400 per week, and $200 would go to child support. At the same time, Yaya had to pay $250/month to live with his sister, not leaving very much for other expenses. When he explained his inability to make ends meet to the judge, he was told to get another job. Yaya notes that he never had counsel during these proceedings.

Through much of this time, Yaya was living with his sister. He was also in and out of incarceration—serving 6 months or so here and there. Yaya explains that he is currently in treatment for substance abuse while living in a halfway house. In addition to his child support debt, Yaya owes $385 to the Department of Motor Vehicles and $1,200 for drug court fees. He says he only found out about the driver's license fee a year before his interview, when a judge told him that his license had been revoked back in 1978.

Now that he's in treatment and working, Yaya says, "A lot of guys… do want to pay. It's just the frustration [someone] of taking all your money. I had to work two jobs, one full time to pay medical, dental, [and] rent. The part-time job was for [my expenses]." He continues,

"It was killing me. I know a lot of people don't really care. There's a lot of people that would really do, they'd like to pay, but they can't afford the money they're asking. And they wind up doing the opposite [because] you don't know you're hurting yourself. That's where the drugs, everything, that's where it all starts, I guess."

David

David was in and out of the criminal justice system for years, which he attributes to substance use issues. He decided to turn his life around after being released in 2006. David has developed a steady career, but is particularly hindered by surcharges on driving fines and fees that continued to accumulate—despite his inability to pay—while incarcerated. He relied on his family in the past, but is doing his best to succeed on his own because he wants to be independent. Still, he has occasionally had to ask for help to avoid incarceration.

After spending 28 months behind bars, David was released in June 2006. He estimates that he had spent 15 of the last 20 years in prison or jail before that, and he vows never to go back.

David reentered society with approximately $30,000 in criminal justice debt, the majority of which was owed to the Department of Motor Vehicles (DMV). He also had about $10,000 in medical debt from his time in the criminal justice system, including significant amounts owed, according to David, for his substance abuse treatment, and $10,000 in other debts for a total debt of about $50,000. Later, he accrued student loan debt, which includes interest on student loans that continued to accumulate while David was incarcerated. Soon after being released, David found a pro bono attorney to help him address his debt, including negotiating lower payments and setting up payment plans.

David estimates that about $22,000 of what he owed upon his release was related to driving. David had charges for driving without a license; the remaining amount was in the form of surcharges and interest that had built up over the 20 years he'd spent mostly in prison. There were also related court fees associated with the DMV debt. With the help of counsel, David was able to have some of these debts discharged, but the DMV had transferred much of the debt to a collections agency and would not negotiate. David argues that he was incarcerated and unable to pay, and had communicated that fact to the DMV over the years. Unfortunately, he's been told that there is no legal basis upon which he can challenge the accruing surcharges based on incarceration or inability to pay. David still owes about $10,000 on this debt and has set up a payment plan to work toward getting his license back.

Most surprising to him were public defender fees. "If you can't afford an attorney, one will be assigned," he explains. "Then they charge you."[26] Finally, David has been charged a variety of other fees. As discussed, each jurisdiction will have a number of different fees charged directed towards certain funds. In New Jersey, David explains he paid into a safe neighborhood fund, a police uniform and equipment fund, a victims' fund, and drug-related charges, which carry additional financial penalties. He paid these with funds from his commissary account, only to find that the amounts he owed had not decreased upon his release (most likely because of interest and surcharges).[27] David has also made restitution from other charges, which he notes is reflected on credit reports. He estimates he owes around $5,000 in fees and fines, plus $2,000 in probation fees.

David negotiated payment plans on these debts as best he could, but eventually decided to file for bankruptcy because of his insurmountable debts—despite the fact that he has been employed since his release, working for various social service agencies that serve individuals coming out of incarceration. David has excelled in his new career and has even been promoted.

As discussed, each jurisdiction will have a number of different fees charged directed towards certain funds. In New Jersey, David explains he paid into a safe neighborhood fund, a police uniform and equipment fund, a victims' fund, and drug-related charges, which carry additional financial penalties.

Bankruptcy provides little relief. David's debt resulted in seven open warrants for non-payment upon his release, a fact that eventually forced him to seek outside financial help. He strives to prioritize his debt, and is desperate to pay as much as possible to avoid re-incarceration or warrants. David explains that when he was released in 2006, he had decided he would not rely on his family because he thought if he worked to get back on his own feet independently, he would be more likely to succeed. But when faced with warrants, David had to accept financial assistance from a mentor, and had family members post bail when he was rearrested for debt-related issues.

David focuses most on the fact that the system did not recognize his inability to pay while he was incarcerated, and his frustration in trying to get information about his debt.

"Why allow it [interest] to accumulate while an individual is incarcerated [and] has no means of [making] money?"

he wonders, adding, "The little money that you do make, so you can have your canteen, they take out 50 percent... for VCCB [Victims of Crime Compensation Board], safe neighborhoods, police unit and equipment—whatever that is. I thought the state was supposed to pay for [police equipment]." Today, David says, "After 38 months my fine has not decreased a dime. When you ask, you have to go through so much stuff to get an answer, you just say 'forget it.' That's how the system works." He believes judges should be more realistic about their expectations, and that lack of representation is a major hindrance.

David continues that he had tried to serve time in exchange for his debts, knowing he would have a hard time paying. As he puts it, "[I was] being very irresponsible, I want[ed] to start over, [I'd ask] can you deduct it, change that to jail time, allow me to serve out the time." He adds, "I'm not trying to run away from my responsibility, I'm trying to negotiate it cause at the time I did do jail time. Every time I got pulled over, I was in jail for a couple of weeks, then they'd give me a fine. I'm not denying that I did this, but come on these things are going back 20 years. At what point are you going to be able to say, 'Alright, let's give this guy another chance'?"

"At what point are you going to be able to say, 'Alright, let's give this guy another chance'?"

Afi

Afi provides perspective on how even a small fee can affect an individual's reentry efforts. Even though Afi was working, her $30 per month parole supervision fee and her parole officer's role in enforcing the fee proved to be real challenges in her reentry process. Afi was 39 at the time of her interview in 2012; in 2010, she'd been released after serving 20 years in prison. Her parole supervision, which will last until 2020, costs her $30 per month. Afi talks about how this fee prevents her from helping her family as much as she would like.

Afi was incarcerated at 17, which, she says, may have helped her to avoid having additional debts such as student loans, hospital bills and other burdens. She explains that she was sentenced before many of the fees went into effect. Afi owed a $125 fee to the Crime Victim's Fund; her family paid the fee while she was incarcerated. The parole supervision fee did not exist when she was sentenced, she believes, but applies to her upon release regardless.

Afi describes the impact the fee has on her relationship with her parole supervision officer:

"One of the first things you hear when you first meet your parole officer is, 'You know you have to pay a supervision fee.' Instantly, I got nervous. I don't have money. I just got home. I don't have money."

Luckily, Afi was told she did not have to start paying until after she started working. She and her supervision officer have an understanding and a positive relationship, but Afi points out that often the first thing she is asked when meeting with her parole supervisor is for her $30 money order. "You're thinking to yourself, 'If I don't pay this fee, what will happen?' You're actually in violation of parole for not paying," she explains. As Afi understood it, non-payment was a violation of parole. At the time of the interview, Afi had about 6-8 years left on parole, and her release, or early release, depends on her regular payment of the fee. She does, however, believe that part of the rationale behind the fee is to show her parole supervisor that she is responsible, and she hopes this is something parole will take into account when they review her case.

When asked about the financial impact of $30, Afi explains, "It is a big deal when you're first coming home, especially if you've been away for a long time. You may not have $30 a month. [You have] been making $7.25, you have to eat." She says that although she does not have children, the fee is particularly onerous for those who do. They are also trying to support their families. As Afi puts it, "To someone who's making minimum wage, trying to take care of themselves, and sometimes a child, that's a lot." She adds, "I had good family support. And even now, I work and I get a paycheck—but sometimes it's a tossup between [going] to a doctor—my doctor's co-pay is $15—or do I save that $15 and hold on to another $15 because I have to pay this fee."

Afi has been working at the Fortune Society, a well-respected reentry organization, and is pursuing both advanced credentials in her field and a college degree. While the parole supervision fee was not her only financial issue, Afi believes that the fee has affected her ability to go to school; she waited a year to go back to make sure she could afford it. At the time she wanted to begin school, Afi was looking for housing. She had to wait until her finances became more stable to create a budget. Afi points out that while $30 per month may not seem like a lot, it will add up to a significant amount over the course of her years on parole.

Afi has thought a lot about the new fees and related policies. "I would say to [policymakers] that first of all, you're dealing with people that couldn't afford an attorney. So if I couldn't afford an attorney to fight my case, what makes you really believe that I can come home and pay more money?"

She continues, "I am all for a person being accountable for their actions, yes, but at what point does it stop? You're paying a fee in prison, and then when you come home and you're paying again. Sometimes I feel like I am paying for my freedom, and that's a horrible feeling." Afi adds, "My cousin

asked me—and she's right—'Are you a slave?' She didn't understand [the fee], but she knows I am paying someone who oversees me, and that does sound like slavery. When is enough, enough, when am I going to be able to get on my feet and put this behind me forever?"

> *"My cousin asked me—and she's right—'Are you a slave?'"*

For Carlos, Bob, Yaya, David, and Afi, there is no better way to encapsulate the commonality of their otherwise diverse experiences than the expression of exasperation emitted by our Newark interviewee when he exclaimed: "Punishment IS everywhere." Family relationships are frayed as debt creates tensions with a child's custodial parent and with the family members who often are called on for financial assistance when a newly released individual is faced with destitution and further jail time. Getting and holding a job is often undermined by the imposition of driver license suspension as punishment for unpaid debt, as well as by wage garnishing and by arrests at the place of work. Troubled interactions with the court and parole systems are legion; almost no aspect of life is untouched by the near-impossibility of debt repayment for those with severely limited resources.

Theme Two:

The formerly incarcerated get by only through reliance on family members and friends

In light of the range of fees and fines, the potential for re-incarceration, and other enforcement mechanisms, it is no surprise that while they are deemed able to pay and expected to pay, individuals with criminal justice debt survive—and pay—by depending on a network of supports from family. And while family members are not formally implicated within the criminal justice system, they inevitably and informally become its targets. While the institution of the family is widely understood to be a critical source of support for individuals regardless of circumstances, families of formerly incarcerated people are themselves most often poor and struggling, making it particularly burdensome for these families to take on the responsibilities of financial penalties.

The experience of the interviewees in this study is consistent with findings from a three-city study conducted by the Urban Institute in Houston, Chicago, and Cleveland. It finds that a full seven months out, 84 percent of released prisoners were living with family, 92 percent had received cash from their families, and 83 percent received food from their families.[28] Put another way, it is not just the individual who is being punished. It is also the incarcerated individual's friends and family who become, in effect, a parallel welfare state. This reality runs counter to the stated purpose behind

Of the 39 individuals interviewed, 28 individuals—71%— reported relying on family for financial support in some form.

12

Receive cash assistance from family

15

Rely on family members for housing, paying little to no rent

7

Report relying on family for food. Many more rely on food stamps, or contribute to their families by buying food with food stamps

many fees and fines: They are put in place to "make the criminal pay for his time in the system" and not to tax already poor urban communities by forcing them to band together to support loved ones.

Of 39 interviewees, 28 (71%) reported reliance on family (mostly mothers, sisters, uncles, and aunts, but also girlfriends, spouses, and the mothers of their children) for financial survival. While some individuals state explicitly that criminal justice debt has made them more dependent on such networks, with others, the financial impact of the debt is implicit in their stories as they describe the difficulties of the proportion of their income and expenses the debt represents. Against the social and economic backdrop of weak community ties and poverty, the high percentage of individuals who rely on social networks is significant.

Criminal justice debt puts strain on both the individuals returning from incarceration and their families, who, though generally willing to help, are also financially strapped.

In particular, two findings about family reliance stand out. Each finding, detailed below, is highlighted in this section by interviewees' stories.

1 There is extensive reliance on friends and family for basic necessities. For many, the extent of criminal justice debt compels the individual returning from prison to rely heavily on family and friends. Our interviewees depended on family for basic necessities, not just one-off gifts. The stories below are indicators of the depth of need.

For example, like 15 of the interviewees, L relies on family for housing and more, despite being savvy and working. Other interviewees rely on sisters, uncles, grandparents, or the mothers of their children (even if they no longer have a relationship) for housing. L's story also highlights a family willing to help, but struggling in their own right. Billy grapples with his reliance on his child's mother, who is also poor and receiving family support. We also tell the story of Q, quoted at the start of this paper, who resides in a residential treatment program, struggles with child support debt, and relies on his mother and sister.

2 This reliance can, not surprisingly, create interpersonal tensions that impede successful reentry. When interviewees relied on family, this dependence often resulted in intra-family strains. Interviewees did not indicate unwillingness on the parts of their family members to help, yet tensions arose with family and custodial parents. Such experiences run counter to policy goals of increasing family reunification and responsible parenting after incarceration, and to research that demonstrates the public safety benefits of strong family relationships after incarceration.[29] Dave's family is "tight-knit" and his brother "understood how tough it was." His family helped him pay his child support debt and provided other financial support, but after the judge raised his child support payments, there has been tension with his family. Monc avoided incarceration for non-payment with help from his sister and mother, and his sister provided support in negotiating his child support obligations. While many of our interviewees felt they put forth their best efforts to care for their children, often through gifts outside of the court system, many individuals returning from incarceration still fail to understand the financial and time requirements involved in parenting as they have been disconnected from their communities.

L

L appears smart and capable. At 26, he has had significant work experience with a series of temporary jobs, although he has struggled to maintain employment consistently. He earned a GED, and while he has been in and out of jail, he had not served any significant sentences. At times, L has been able to pay his child support and arrears, which, at their highest point, were $7,000 but are now $4,000. Even so, he is struggling. He is looking for employment and living rent-free with his grandmother. L's family assists him, but he feels guilty about this, and says, "They don't have it [money] themselves. Nobody got no money no more. My family scattered all over the place." When L's daughter was born in 2005, her mother signed up for public assistance, which triggered a child support order of $55/week.[30] The mother of his child, therefore, was also struggling financially. L reported, "I was 20 at this time, I don't mind paying." During this time, he and his daughter's mother started living together. L started working at McDonalds "to try and pay it, I [was] buying [a] crib, things to accommodate her, I get to the child support later." His arrears began to accumulate as he focused on other financial responsibilities. At McDonalds, he was netting around $114 a week for 40 hours of work, and tried to work overtime. L expressed frustration that "[When] I was showed what I made, it was like nothing."

He mentioned other jobs through the years, including at a food warehouse and moving company, making around $8 an hour: "I just trying to get it to one steady job, [I was] tired of it. A lot of them were temp jobs. [I] had unemployment once." L, unlike many of the other interviewees who expressed frustration with keeping track of their arrears and criminal justice debts, explained how he managed his child support debt through the online system. He also made sure to avoid warrants and to confirm that he did not have any as a result of non-payment, and mentioned the range of people he knew—"even a pastor!" —who had been incarcerated for failure to pay.

Over the years, L has also faced criminal justice debt enforcement mechanisms. His driver's license was suspended because of a failure to pay fines, and a child support agency placed a freeze on his bank account. He was subject to garnishment at various times, and explained that when he was in a GED program, he received $350 every two weeks as a stipend, and between $150 and $250 would be taken for arrears. "One of the guys," he recalls, "used to give me money out of his check 'cause he used to feel so bad for me."

Others have helped L, too. He lives rent-free with his grandmother, but feels bad about it. His grandmother takes him in when he is unable to find work, but L vows, "As soon as I get a job, I will be paying her. It hurt[s] me staying [with her] when I can't pay." He also gets bus tickets from friends, one of whom is "gonna let me borrow $50 [to take to court], so that should be something. I definitely want to go [to court] that day with something."

While he does not have a job right now, L is looking for employment, and hopes to start a record label. He and a partner opened a bank account, but could not get a loan because of L's debt. "I just want a job, to take care of my debt, and to take care of my kid," he says.

He tries to see his daughter every day, and got her a gift for her birthday. L says

"They [non-custodial parents] may not be paying, but they [are] taking care of their kids. Not everybody [is] a criminal, not everybody just trying to duck 'em."

He continues, "I ain't had a job in like a year. Every time I get one, I lose it [so] it's hard to get back on my feet. It's just not fair. Then they look at all fathers like they deadbeats. Child support still want this, they don't care if you take care of your child or not." L describes how even though he is a part of his daughter's life and provides for her when he can, he is still in debt for child support. "Not all fathers are deadbeats," he says. "Some people really be supporting their child, [but] child support still want theirs," he laments. "And they really could care less whether you're taking care of your child or no. At the end of the day, it's all about they want their money. This [money] is supposed to be to my kid, but my kid ain't getting it."

Billy

Billy is 30 and was recently released from prison with one year parole after serving 18 months. He came home to a range of criminal justice debt—including child support arrears, continuing child support payments, and parole fees—and two children with whom he lives. He works, and survives through his reliance on his children's mother, who also struggles financially and relies on her own family. He laments that he "don't like to ask people for much."

Billy did not know about his child support debt until three months after his release, although the order went into effect while he was still incarcerated. Other interviewees tell similar stories. At his first hearing upon release, Billy found out he was $675 in arrears and would owe $96 per month going forward. As he understood it, the child support order went into effect when his child's mother applied for welfare health benefits. Billy was not sure if she had been aware that a child support order would be triggered. He expresses frustration that his child's mother would not receive the full amount he was ordered to pay, saying, "if she got all of it, I feel better paying it."[31]

At the end of his parole, Billy also learned he owed $2,500 in parole and other fees. Billy maintains that he was not notified of parole fees or fines during his time on supervision, and he wishes he had been informed of these fees when he had a high-paying job that enabled him to pay while on parole. He also had other criminal justice debt: he owed $1,275 to the DMV for suspended license and restoration fees, and $4,200 bail. Luckily, the court dismissed Billy's court fees, including his public defender fees. He also owed $700 to his bank for charges related to having his identity stolen, a common experience among incarcerated individuals who leave their communities and become vulnerable to identify theft. He is trying to address these charges with the bank.

Billy is working, and earns $1,200 per month. He does not receive any benefits. Billy has paid off his DMV charges, a friend paid his bail, and Billy is trying—but struggling—to make payments on his child support. He has prioritized this debt because of the risk of re-incarceration for non-payment.

Because of that risk, Billy is not yet paying down his parole fee. Each missed child support payment costs him $5 and the chance of an arrest warrant.

In addition to his income, Billy relies on support from his child's mother who, in turn, has the support of her family, as well as benefits and unemployment insurance. He lives with her because he wants time with the kids, but also because she receives housing assistance for a large portion of her monthly $1,200 in rent and utilities. They share the costs of transportation, and he pays for his phone and internet. Still, they have other expenses to cover. Billy and his child's mother rely on welfare payments for their daughter's day care, and he explains that this is why his child's mother continues to collect benefits, which keeps the child support order in effect. He expresses frustration that the child support system does not allow him to survive financially—without relying on benefits, friends, or family—nor does it recognize that he provides care for his child. Billy believes that the system values money over care. He urges the system to look at each case individually, paying attention to the particulars of the family situation.

Each missed child support payment costs him $5 and the chance of an arrest warrant.

Q

Q, whose quotation opens this paper, came home after three years in prison to $12,000 in child support debt, the majority of which accrued while he was incarcerated. He was homeless upon his release and went to a shelter. Q was still living there at the time of the interview, although he intended to move out imminently. He receives assistance from his younger sister, about whom he says, "I don't know how she does it." Q also receives assistance from his child's mother, and remarks about her and his mother, "Them two help me. When all else fails, I can call them, but I don't like to." He laments, "It's [child support debt] a burden, it's hard, and I understand that it's my child. But if I'm incarcerated, the state is taking care of me. So how can I take care of someone else?"

Q's child support order is to pay off arrears for his oldest child, who was 21 at the time of the interview. The child support order went into effect in February 2006 and was set for $50 a week. Q believes his child's mother filed for child support upon learning that Q had fathered another child. He states that at the initial hearing where his child support was ordered, the mother stated her income was $46,000 (she has never been on public assistance), which was double the $21-23,000 he was making at the time. At this time, Q was working in construction, making about $500 a week pre-tax, of which $50 went to child support, and about $110 to taxes and other automatic deductions. He says he paid the first few child support payments directly to the mother, but he missed a payment, and the payment was thereafter garnished from his check.

Q tried to file for a modification when he was incarcerated: "I tried to put in a motion to have it modified, because from my understanding, child support is a percentage of your income, and I was incarcerated, I had no income. So I tried to get it modified, and I sent the motions in, the paperwork, they sent it back, and the court stated they were going to bring me from upstate to hear the case. They kept sending me letters saying the judge was going to hear it, and I never heard anything for it."

In the spring of 2006, Q was sentenced to incarceration for three years. He was released on March 30, 2009 to a total of $12,000 in child support debt, which he has since paid down to $7,800. In addition to the child support accrued while he was in prison, Q owes $900 in fees, and the interest accumulated while he was in prison and unable to pay. He had filed a motion during his hearing to request to pay the surcharge upon his release from his prison wages of 14 cents per hour, rather than from his inmate account, but the judge refused. However, upon his release, Q found out this charge still existed.

Upon his release, Q was homeless and ended up in a shelter. The shelter helped him file for a downward modification, but he was told at the hearing that the current amount of $50 a week was unchanged, and his motion for modification of the order was dismissed. "I'm being punished for a crime, I can't get a decent apartment because my credit is messed up. They don't see that it's child support arrears, they see delinquent and they see the amount, they're fearful, which I understand too," he says. "There's other things too, like I can't get my driver's license to find employment because of the bill."

Q is working as a cook in a restaurant and earns $26,000 yearly for a bi-weekly paycheck of about $800. His child support arrears payments are taken out of his check automatically, and he is left with a bi-weekly take home of about $580. He's been unable to move out of his shelter residential program because of his debt: "The law needs to be change, it really does, it's hard. I say it again because what are you going to do? If I had a job that pay me minimum wage, it took me 16 months to get out of here, saving my money. I'm 4 months overdue, some other individual could have had this opportunity, this chance. But instead I had to take an extra 4 months because of child support issues, court fees, things like that. My burden cause someone else's problem."

"Whenever I have money in my pocket I give it to [my daughter]."

Q has also faced discrimination. He applied for multiple apartments, but his child support debt hurt his credit, and no one would rent to him. Q has now found an apartment for $700 a month,

rented from a friend who understands his situation and “has seen the change in me.” He brought his paint roller to the interview, and intended to leave the shelter immediately afterward to prepare his apartment. It is no wonder that Q, despite his reluctance, calls upon his family and his daughter’s mother. In addition to his rent, he saves $33 a week and spends about $80 per month on transportation to see his parole supervisor or visit his children. Q spends another $60 per month on toiletries and laundry. His costs are likely to increase as he moves out of his program into an apartment. Finally, he says, “Whenever I have money in my pocket I give it to [my daughter].” Financial help from his sister and his daughter’s mother provides the crucial safety net he often needs. “Them two helped me. When all else fails, I can call them two.”

Dave

Dave's child support order went in to effect as he was transitioning home after incarceration. Upon his release from incarceration in 2005, the mother of his child petitioned the court for child support. The court issued a support order in the amount of $46 a week at a time when Dave was just transitioning home:

"I was just being released. I was unemployed looking for work, which is difficult. After going from [prison], I was able to get a few interviews, second interview, everything up until criminal history, then I would run into a problem. I really thought I had a couple jobs."

"Basic retail stores, Walmart shipping, Ikea, grocery overnight stock (Shoprite). I never could actually land a job. But at $46 [child support/week] I had a pretty good family, we're tight knit, with that being the situation, my mother would help out. I had a brother who was working, he'd spend time, he understood how tough it was. They'd help out."

He had trouble securing employment because of his record, so his family helped him with his child support payments. Dave worked on and off at a job he secured through a family connection, and things were fairly stable as he lived with his family and received additional money and insurance support from them. However, Dave describes tension as his child support payments went up at a hearing he was not notified about, and arrears accumulated. He is less able to support his child than before. Dave has relied on his mother and his brother to make his child support payments as he searched for employment. At some point, his child's mother filed a petition to modify the amount of the child support order, and in 2008 his payments were increased to $95. However, this increase was ordered at a hearing Dave says he knew nothing about and therefore did not attend. In fact, for about a year and a half after that change, Dave continued to pay what he thought was due: $46. He became aware that there was an issue with his child support only after receiving a notice from the Department of Motor Vehicles that his driver's license had been suspended because of non-payment of child support. Dave went to court. He says:

"Judgment was issued because they had problems notifying me to appear. [The] order stood. We'd had a few court hearings, 2005-09, I'd attended. My argument to the judge was: Why would I miss this one? Why would I just let that [go] into default? Of course, when I went into court, it was a different judge—and their favorite line is "There's nothing I can do about that."

"I had no problem with handling my responsibility. I understand that comes with being a father. I have a conscience, too, I understand that my daughter have needs, and should be provided for, like every child. I'm not being defiant. My pay record will show that. I would never defy that situation. She should be taken care of by her mother and father."

Not only were Dave's mother and brother helping to pay his original child support, from 2007 to 2010, he was employed by a family friend—a position Dave secured because the family friend "would hire me as needed because he understood the situation"—but he lost the position when the family friend retired. He also received $200 to $300 a week in assistance from his family, but since his child support order was increased, there has been tension with his family. Still, Dave relies on his family for housing and health insurance. He is not currently paying rent, but did contribute about $400 a month when he was working. Dave has also been less able to give his child extra money: "I give money to my daughter, $20-30 to help her [buy] sneakers or outfits. She might say, 'Daddy, I want an outfit.' Occasionally, I'll hand the mother an extra $50 a week, [but] since it [the CS] has been raised, I don't do it as often." Since he lost the job with his family friend, he has been doing side jobs here and there.

Monc

Monc, a 36-year-old African American man from New Jersey, emphasized needing time after being released to start paying the child support arrears that had accumulated to approximately $15,000 while he was incarcerated. He has relied on financial support from his mother and sister to—among other things—avoid re-incarceration on warrants issued for nonpayment of his debt. His sister has also helped him to work through tensions with his daughter's mother arising from the child support order.

Two days before Monc was supposed to be released from prison after over three years of incarceration, he was taken to family court, where he learned of his child support debt. "First of all," Monc explains, "I didn't even know I was on child support." He had received a letter while in prison saying that he owed child support, and he sent a note back explaining that he was incarcerated and vowing to pay upon his release, not knowing that the amount owed was increasing even while he was incarcerated. Monc says, "You won't even hear nothing about child support [while you're in prison]. My thinking was when I come home, I won't owe nothing."

This experience is not uncommon; many interviewees reported not knowing about their child support in prison. Upon learning of it, they believed that if they sent a letter back explaining the situation, that would halt the accumulation of arrears. Others learned of their debt, but were unable to attend child support hearings.

Monc explained to the judge that he had been incarcerated for 3½ years, and was told he had 60 days to start paying on a total of $15,000 in debt. "They don't want to hear [that I was in prison], they want you to work. At least give me some time to get situated, and I'll start paying on it." After his initial court appearance, and while taking classes and searching for a job, Monc was arrested twice more on child support warrants. He had to repeatedly explain to the judge that he had not found a job and therefore could not pay the child support. He could not find a job in time. The best he could do was to get $25 from his family to put towards his child support debt. Shortly thereafter, Monc was arrested for nonpayment of child support debt, and again his family was able to pay something towards it.

"[The] number one thing is if someone do get locked up, at least put a freeze on child support until he come home. Nobody has a problem with paying the child support, but if you in jail and it just keep build up, that can really stress someone out, push you back to streets to selling drugs, rob to get money to pay back child support. Put a freeze on it 'til person get home, give them a little while to be able to start paying on it. Cause really nothing no one can do. Just drop it 'til I come home."

Monc's sister took responsibility for negotiating with his daughter's mother to obtain some relief. His mother and sister cared for his daughter while Monc was in prison, and they bought her clothing and other necessities. Monc has not checked his total DMV surcharges, but admits "I know it was still accumulating while I was locked up," and he knows that his mother and sister have made some payments towards this debt. And regardless of the amount, he cannot afford to pay as he is unemployed. Monc is trying to get an education while living with his girlfriend and relying on gifts from his mother for interview clothes. He survives through an under-the-table job, working for his sister; he helps her with day care for $400 a month. He also pays $250 to his girlfriend to support the household. In Monc's words,

[When] you come home, you might still have fines [from the] DMV. Lots of jobs need [a] driver's license now, so if your driver's license got suspended [and] you got the surcharge, so much you have to do on top of finding a job. And in my situation, the kind of job you gonna get, you have to get driver's license back together, rent, pay fines warrants, pay child support so no warrants… Now everything falling short in the house. You want to take care of your kid, but you taking care of all these fines. [As a] grown man, you don't want to be laying on your family house. You're a grown man, you need your own. You come home with more problems then you went in. It don't stop 'cause you locked up.

For Monc, Dave, L, Billy, and Q., the story is the same, though their individual circumstances are different. As is true for many parents returning from prison with substantial debts, the possibility of getting by depends heavily on the support—whether in the form of monetary loans or help with housing and other necessities—of the parallel welfare state constituted by family and friends.

Theme Three:

(In)Ability to Pay

How is the onus of debt (whether from fines, fees, or child support enforcement) perceived by those who are caught up in the web of debt obligations? And what changes in policy and program requirements did the interviewees, themselves, espouse?

One reason to consider interviewees' perspectives on this question is purely pragmatic: If individuals are to be expected to pay—voluntarily, and without resorting to the use of further incarceration—then understanding the perceptions of those who are subject to the strictures of debt is crucial. This means understanding not just the individual's economic constraints and capacities, but also the meanings that individuals attach to these realities. If there is a single summary evinced from our respondents' comments, it is that almost all fathers with financial obligations would provide more outright economic support if they could. Most either stated or intimated that they do recognize child support (and other criminal justice debts) as obligations. But alongside this recognition is the belief that the care that they show to their children, whether through time spent with a child or through material gifts offered at important moments in the child's life, constitutes an important part of their self-described obligation as fathers.

One respondent, Panama, stressed the obligation that he knew was his even as he inveighed against the economic pressures he was faced with:

> *"You know, I really don't have a bad feeling about child support because in most cases, those of us who are incarcerated or come from an area where there is a lot of crime, we make these decisions and we have these children. It's really not fair to the mother to have to foot the bill. There are two people who make the child. Two people should be responsible for the upbringing. [If the parents can't pay,] then the taxpayer has to pay, and that's not fair either. But you can't get blood out of a rock."*

Others spoke of their mostly non-monetary contributions (clothes, games) and their efforts to seek visitation and time with their children. Take, for example, Jose. He pays $25 in child support every two weeks and is trying to get visitation with his two children. He has given his son a video game recently, and is glad to interact more with his daughter, who is older. "I'm trying to build my life right now," he explains, "so I can be there for my kids."

Junior does not owe child support, but is paying court fees. "I don't want nothing to do with child support," he says. "I do what I gotta do for my little one. I give like $40-$60 a month. I don't really have it, but that's my baby. She'll come before I would anytime. Sometimes I just save up my welfare and give it to my daughter. It's more important about her eating and making sure her clothes is alright."

Stuart owes arrears of about $5,000 and pays $25 a month in child support. He explains that he and his child's mother "weren't living in the same household [before I was incarcerated], but I was taking care of him in terms of clothing, money in his pocket."

What is incontestable is that fully responsible fathers by any definition cannot on their own pay child support arrears or other financial obligations while incarcerated and earning only prison wages. Consider that a mere $200 in court fees owed may take well over four years to pay when it's part of the 20% deducted from the minimum daily wage of less than a dollar (assuming, reasonably, that the incarcerated individual wishes to retain the rest for stamps and other commissary expenses). Paying thousands of dollars in accumulated child support arrears from prison is not only unimaginable, but impossible.

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The frustration of debt obligations is not simply aimed (as with Q.'s comment above) at the arrears that accumulate in prison that no amount of

prison wages at existing levels can reduce; it is also about the continued financial obligations that individuals face once released. These are further aggravated by indigence and inadequate skills, education, discrimination based on a criminal justice record, the inevitable frustration of a search for jobs at wages that can scarcely cover the everyday costs of an individual living alone—not to mention the burdens of ongoing arrears and continuing fines, fees, and other debt. The theme of excessive debt from accumulated arrears, low pay, ongoing child support, loans, fines associated with the restoration of motor vehicle licenses that have been suspended as a punitive measure for non-payment of other debts, victim restitution costs, parole fees, and many more monetary levies, are voiced in close to every interview. Bob, introduced above, articulates how the costs—financial and otherwise—of being incarcerated endure long beyond an individual's release from prison. In financial terms, the debts owed to various law-based collection groups—Victims of Crime Compensation Board, or New Jersey's Drug Enforcement and Demand Reduction (DEDR) penalties, for example—hamstring an individual's ability to get back on their feet after release. "Everyone wants some money," Bob explains. "A large part of the financial burden is almost causing another incarceration outside of the typical inside-the-facility incarceration."

Discussion

We recognize that such stated intentions ("I would pay if I could") or seemingly small gestures in the form of money for school clothes are seen by some custodial mothers, caseworkers/child support enforcement personnel and others as excuses—rationalizing a reluctance to assume "true" financial responsibility. Sociologist Maureen Waller addresses this point in her study of low-income parenting, in which she argues for the importance of seeing parenting beliefs and practices through a cultural lens. Economic choices, she observes, are always embedded in cultural norms. Ideas about the traits that low-income men and women value in a father stress as much men's emotional involvement with children as behaviors associated with the difficult-to-realize traditional breadwinner model. In poor communities, "good" and "bad" fathers, as Waller's study elucidates, are not primarily defined along a simple axis of economic success (Waller 2010).[32]

Devoid of cultural context, suggests Glenn Martin, Founder of JustLeadershipUSA, "it is easy to make the false assumption that poor fathers returning from prison have terribly misplaced priorities, since a non-custodial parent might spend his scarce resources on his own wardrobe, full of high-priced luxury items, while neglecting to address outstanding child support obligations and arrears." Martin continues, "However, in many poor communities in America, with few other vehicles to power and authority, an individual's prosperity, stature, and self-esteem are often defined by possession of luxury items and other property."[33]

Clearly what should be noted here is the economic reality formerly incarcerated individuals face. Formerly incarcerated people have little income to spend on basic necessities, let alone self-indulgencies. Western and Pettit, for example, show that 80 percent of men incarcerated between 1986 and 2006 had earnings in the bottom fifth of the earnings distribution.[34]

It is the case that those we interviewed have all been convicted of violating the law. Compounding their status as people with criminal records have been personal decisions or structural impediments that undermine financial well-being. Some have, out of impatience with poor pay and frustrating job conditions or pressures and responsibilities at home, left a job or been let go. Many have entered parenthood, as fathers or mothers, without resources to provide fully for the care and upbringing of these children. Some fathers contribute, alone or with the help of family members, an astonishingly large proportion of their pay or unemployment check towards the

financial obligations they owe. Others do not contribute financial support and believe that their responsibilities are met by occasional visits, buying school clothes, or providing money in response to the specific requests of their children's mothers. In communities where self-sufficiency is out of reach and where the heavy burdens of debt make the breadwinner prototype close to unattainable, self-expectations may veer far from the idea of such a model. Dependency on family and on friends—on what we have called the parallel welfare (family) state—has to be understood in this light. When individuals released from prison return to society with massive fines, fees, and child support arrears that have accumulated throughout the duration of their incarceration, it seems a matter of elementary logic to realize that these financial obligations will consign the individual to a life-path which will be strewn with successive rounds of further punishment: warrants, garnishment, loss of a motor vehicle license, loss of passport, and possibly a return to prison. What principles are being realized in this imposition of continuous chastisement? Deterrence? Retribution? Rehabilitation?

Principles aside, on a pragmatic level, neither the state nor the taxpayer can expect to reap the intended financial returns. Indeed, heavy arrears seem to militate against the aim of sustaining fathers' labor force participation.[35] In the face of unwieldy obligations, the cost of collections weighs heavily against the income gained.

Indeed, recognition of this practical truth underlies what appears to be growing support at both the regional and the federal levels for more realistic child support levies. New York City, for instance, has launched an effort to assist low-income non-custodial parents who seek to reduce unrealistic child support orders, on the argument that fathers or mothers are more likely to pay an order that they can in fact afford. As of September 2012, orders were reduced for 147 non-custodial parents by an average of $280 a month—adjusting these payments downward to, on average, $40 a month. A similar New York State attempt to help individuals lower their arrears brought the average down for over a thousand individuals from over $15,000 to just over $5,000.[36] In other states, too, experiments are under way to provide incentives to non-custodial parents to pay a regular amount of their debt, in return for reduced arrears. Wisconsin's Families Forward has had favorable results from such incentive arrangements, and other states, encouraged by the Federal Government, are undertaking explorative projects.[37]

At the federal level, a 2012 document issued by the Office for Child Support Enforcement, entitled "Realistic Child Support Orders for Incarcerated Parents,"[38] states:

Not only is this debt unlikely to ever be collected, but it adds to the barriers formerly incarcerated parents face in reentering their communities and may interfere with their ability to obtain housing and employment in order to support their child. Child support debt increases the likelihood that noncustodial parents released from incarceration will enter the underground economy. Modifying orders for incarcerated, reentering, and unemployed parents can make child support a reliable source of income for children. And, the safe and consistent presence of both parents in the lives of their children is usually emotionally, psychologically, and socially beneficial to the child.[39]

The federal government is experimenting with mechanisms that can help non- custodial parents, including those with criminal history records, adjust their child support obligations. For example, an "Enhanced Transitional Jobs Demonstration" program, operated by the Center for Community Alternatives and funded by the U.S. Department of Labor, includes legal services for program participants. While participants gain work skills, including on-the-job experience through transitional jobs, they also have access to legal services that can help them achieve modifications of support orders, restoration of drivers' licenses, as well as legal services that ensure that their criminal records relied upon employers, are accurate.

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The growing recognition that imposing crippling financial levies on currently and formerly

incarcerated individuals is self-defeating for the collector and unhealthy for the individuals and families involved echoes the commentary we heard ceaselessly among the men and women interviewed for this project. As one thoughtful respondent (Glenn) commented, "you can't collect billions from people who make less than ten thousand." He added, "Some years ago, one of them [from a collection agency] said, 'You never know when one of those guys is going to win lotto and then you can collect.'" Do we want to entrust the lives of poor children and their families to a game of Lotto?

Debt owed by those who have served time in prison should not be shifted to the responsibility of families and friends to whom an individual may turn in desperation and who are likely, themselves, to have highly limited resources. Injustice is compounded, not redressed, by such practices.

The narratives related here point towards two sets of policy recommendations that warrant reflection. The first is that debt should not be levied on those who cannot pay for reasons of principle as well as pragmatism. No lives are ameliorated by requiring people who do not have the means to pay to be burdened with such debt. It does not help children to have a parent whose everyday movements are constricted by the arm of the law. Nor is it in the best interest of the state, which often expends more in enforcement than is gained in collection.

The second reason is that—fundamental to a society that seeks to enhance individual responsibility—debt must be individually assessed. Debt owed by those who have served time in prison should not be shifted to the responsibility of families and friends to whom an individual may turn in desperation and who are likely, themselves, to have highly limited resources. Injustice is compounded, not redressed, by such practices. The support that families and friends provide to formerly incarcerated individuals challenges stereotypes that formerly incarcerated individuals do not have families that care enough to step up. While families do step up, given their own impoverished situations, this becomes a real hardship and calls for policy reforms.[40] No one is better able to delineate the urgency of these policy reforms than the individuals who narrate their lives in these pages.

Policy Recommendations

We join with the Center for Community Alternatives' Marsha Weissman, Alan Rosenthal, and Patricia Warth to conclude this paper with a set of policy recommendations that would remove or mitigate the unfair and unwieldy burdens now present in our system of assessing and collecting criminal justice financial penalties.

1 *Child Support*

a. Prevent the Accumulation of Child Support Arrears That Individuals Cannot Realistically Pay. States should accomplish this goal by providing for the automatic administrative suspension of child support obligations for any person who is unable to meet his or her child support obligations because of his or her incarceration. This automatic suspension should be accomplished administratively at the commencement of the person's incarceration, without requiring the incarcerated person to file a motion or submit a petition. As the first-person accounts in this paper reveal, too often people are confused about or do not fully understand their child support obligations, and as a result, lack the information needed to affirmatively file a motion or submit a petition to suspend or modify their child support payments during their incarceration. For that reason, an automatic, administrative mechanism is necessary.

b. Utilize license forfeiture based on accrual of child support as a penalty of last resort, to be used only where there is compelling evidence that the accrual results from willful failure to pay rather than inability to pay. Unless failure to pay child support is willful, forfeiture of licenses—including drivers' licenses and professional licensing—will necessarily make it virtually impossible for a person to earn a living wage, and thus pay child support arrears. For this reason, license forfeiture is often counter-productive, because a person who cannot earn a living wage certainly cannot pay child support arrears.

2 *Take steps to toward more transparency in criminal justice debt*

a. Jurisdictions should develop a comprehensive inventory of all financial penalties that exist and how they overlap.

b. These financial penalties should then be consolidated into one moderate fee to promote the efficiency of actual collection, to ameliorate the barrier that such fees erect to successful reintegration, and to enhance transparency.

c. Restitution, which serves a direct reparative purpose, should not be included in this one moderate fee. But if the amount of ordered restitution exceeds the consolidated fee that would otherwise be imposed, the fee is to be waived for those individuals who could not pay it. In this sense, restitution should be prioritized over other criminal justice debt.

3 *Jurisdictions should amend all mandatory criminal justice sanctions so that sanctions are imposed on an ability to pay basis.*

a. It is simply not good public policy to impose financial penalties on people who live below the poverty line, and thus, criminal justice financial penalties should not be imposed on people who cannot pay such penalties.

b. All criminal justice financial penalties should be assessed based on a person's actual ability to pay. Jurisdictions should give judges the discretion to waive fees for people who demonstrate, at the time of sentencing, that such fees would create a financial hardship on the individual or his or her family.

c. Supervision fees should be eliminated or in the alternative, applied only to those individuals who actually have the ability to pay them.

4 *Jurisdictions should adopt a moratorium on the enactment of any additional criminal justice debt until the foregoing recommendations are adopted.*

5 *Jurisdictions should not adopt new law allowing for additional criminal justice debt without first conducting a "reentry impact" statement on any proposed law that establishes additional criminal justice debt.*

A reentry impact statement would require legislatures to review all existing financial penalties before proposing new ones or enhancing already existing ones. It would also require an analysis of how the new or increased financial penalty would affect people's ability to successfully reintegrate into the community.

Footnotes

1. For other studies that explore the dependency of families, see Christy Visher, Jennifer Yahner, and Nancy La Vigne, "Life after Prison: Tracking the Experiences of Male Prisoners Returning to Chicago, Cleveland, and Houston," Research Brief, May 2010; and Donald Braman, Doing Time on the Outside, Incarceration and Family Life in Urban America, Ann Arbor, University of Michigan Press, 2004.

2. A small sampling of the research supporting this includes: Alicia Bannon, Mitali Nagrecha, and Rebekah Diller, "Criminal Justice Debt: A Barrier to Reentry," Brennan Center for Justice, New York, 2010 (referred to hereafter as "Brennan Center Study); Rebekah Diller, "The Hidden Costs of Florida's Criminal Justice Fees," Brennan Center for Justice, New York, 2010; Alan Rosenthal, Esq. and Marsha Weissman, Ph.D., "Sentencing for Dollars: The Financial Consequences of a Criminal Conviction," Justice Strategies Working Paper, February 2007; "In For a Penny: The Rise of America's New Debtors' Prisons," American Civil Liberties Union, New York, 2010, available at http://www.aclu.org/files/assets/InForAPenny_web.pdf; Kristen D. Levingston and Vicki Turetsky, "Debtor's Prison: Prisoner Accumulation of Debt as a Barrier to Reentry," Clearinghouse Review, Journal of Law and Policy, July–August 2007; Vicki Turetsky, "Staying in Jobs and Out of the Underground; Child Support Policies that Encourage Legitimate Work," 2007, available at www.clasp.org/publications/cs_brief_2pdf); Rachel L. McLean and Michael D. Thompson, "Repaying Debts," Council of State Governments Justice Center, New York, 2007; Nate Rawlings, "Welcome to Prison. Will You Be Paying Cash or Credit?," Time, August 21, 2013; available at http://nation.time.com/2013/08/21/welcome-to-prison-will-you-be-paying-cash-or-credit/. Additionally, a number of research scholars have published work that describes the growing imposition of court fees and fines, charges for reimbursement of the costs of incarceration and supervision, as well as the increase in tough enforcement of child support obligations. Among them: Jessica Pearson, "Building Debt While Doing Time: Child Support & Incarceration," Judges Journal, vol. 43, no. 1, pp. 5-12, available at http://peerta.acf.hhs.gov/pdf/buildingdebt/pdf; Marta Nelson, Perry Dees, and Charlotte Allen, "The First Month Out: Post-Incarceration Experiences in New York City," Vera Institute of Justice, September 1999; as well as articles by Katherine Beckett & Alexes Harris, Traci R. Burch, Pat O'Malley, Mary Fainsod Katzenstein & Mitali Nagrecha, R. Barry Ruback in "Monetary Sanctions as Misguided Policy: Special Issue on Mass Incarceration," Criminology & Public Policy, vol. 10, no. 1, August 2011; as well as research from the Justice Center available at http://csgjusticecenter.org/courts/legal-financial-obligations/.

3. Mary Fainsod Katzenstein and Mitali Nagrecha, "Policy Essay: A New Punishment Regime," Special Issue on Mass Incarceration, Criminology & Public Policy, vol. 10, no. 3, pp. 555-569, August 2011, referred to hereafter as "Policy Essay."

4. The low income status of families with incarcerated family members is discussed in Amanda Geller, Irwin Garfinkel, and Bruce Western, "Paternal Incarceration and Support for Children in Fragile Families," Demography, vol. 48, no. 1, pp. 25-47, Feb. 2011; and Bruce Western and Becky Pettit, "Incarceration & Social Inequality," Dædalus, vol. 139, no. 3, pp. 8-19, Summer 2010.

5. Bannon, Nagrecha, & Diller, Brennan Center Study, p. 12. New Jersey charges such fees and New York does not.

6. Bannon, Nagrecha, & Diller, Brennan Center Study, pp. 9-10. (Noting, for example, over 25 fees in Cambria County, Pennsylvania; 39 fees in Texas misdemeanor cases; and 35 fees in Texas felony cases).

7. Mary Fainsod Katzenstein and Mary Lyndon Shanley, "No Further Harm: What We Owe to Incarcerated Fathers," Boston Review, July/August 2008.

8. American Civil Liberties Union, "In For a Penny"; Bannon, Nagrecha, & Diller, Brennan Center Study; Katherine Beckett and Alexes Harris, "On Cash and Conviction: Money Sanctions as Misguided Policy," Criminology & Public Policy, 10(3): 509-39, 2011; Alexes Harris, A Pound of Flesh: Monetary Sanctions as a Permanent Punishment for Poor People, Russell Sage Foundation, ASA Rose Series in Sociology, New York, forthcoming; Alexes Harris, Heather Evans, and Katherine Beckett, "Drawing Blood from Stones: Monetary Sanctions, Punishment and Inequality in the Contemporary United States," American Journal of Sociology 115(6): 1753–1799, 2010; Alan Rosenthal and Marsha Weissman, "Sentencing for Dollars."

9. Bannon, Nagrecha, & Diller, Brennan Center Study.

10. Bannon, Nagrecha, & Diller, Brennan Center Study.

11. Pew Charitable Trusts, "Collateral Consequences: Incarceration's Economic Effects on Economic Mobility," 2010, p. 18.

12.In 2007, one study estimated that about one third of all states considered incarcerated parents who owed child support to be ineligible for any modification of their financial obligation due to their criminal actions having been "voluntarily chosen." For more, see Vicki Turetsky, "Realistic Child Support Policies that Support Successful Re-entry," Center for Law and Social Policy, Revised January 2007, p. 11. According to a recent chart released by the U.S. Department of Health and Human Services Office of Child Support Enforcement, 14 of 50 states do not allow for modifications at all. For details, see "'Voluntary Unemployment,' Imputed Income, and Modification Laws and Policies for Incarcerated Noncustodial Parents," U.S. Department of Health and Human Services Office of Child Support Enforcement, Project to Avoid Increasing Delinquencies), July 2012, available at http://www.acf.hhs.gov/sites/default/files/programs/css/paid_no_4_companion.pdf. See also the accompanying report: "Realistic Child Support Orders for Incarcerated Parents," available at http://www.acf.hhs.gov/sites/default/files/ocse/realistic_child_support_orders_for_incarcerated_parents.pdf.

13. Amy Solomon, Kelly D. Johnson, Jeremy Travis, and Elizabeth McBride, "From Prison to Work: The Employment Dimensions of Prisoner Reentry: A Report of the Reentry Roundtable," Washington, DC, Urban Institute, 2004.

14. The 1986 Bradley Amendment to Title IV-D proscribes all retroactive modifications to child support orders, regardless of the reason for the request.

15. Nancy Thoennes, Child Support Profile: Massachusetts Incarcerated and Paroled Parents, Center for Policy Research, May 2002, p. 27. Parents behind bars, according to a Massachusetts study, owed on average $10,543 in arrears at the time of initial incarceration. The amount owed increased to $21,004 at the time of release.

16. Child Support Fact Sheet Series, Number 4, "Project to Avoid Increasing Delinquencies," Office of Child Support Enforcement, Administration for Children & Families, U.S. Department of Health and Human Services.

17. Elaine Sorensen, "Parents Who Owe Back Child Support and Their Children Benefit from Strengthening Families Through Stronger Fathers Pilot Programs," Urban Institute Income and Benefits Policy Center, October 2011, available at http://www.

urban.org/UploadedPDF/412443-Parents-Who-Owe-Back-Child-Support.pdf.

18. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement, "Incarceration, Reentry and Child Support Issues, National and State Overview," March 2006, pp. 2-3.

19. Katzenstein & Nagrecha, Policy Essay.

20. Bannon, Nagrecha, & Diller, Brennan Center Study.

21. Compendium of Best Practices in Child Support – 2006 IM-07-01 January 17, 2007, Massachusetts License Suspension Program, addendum, p. 4.

22. Bannon, Nagrecha, & Diller, Brennan Center Study.

23. American Civil Liberties Union, "In For a Penny."

24. See, for instance, the recommendation of the Council of State Governments, Reentry Policy Council: Report of the Re-Entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community, Council of State Governments, Reentry Policy Council, New York: Council of State Governments, January 2005.

25. Both New York and New Jersey revoke driver's licenses for failure to pay child support. For NJ, see http://www.judiciary.state.nj.us/union/childsupport.htm; for NY see https://www.childsupport.ny.gov/dcse/support_enforcement.html.

26. According to the Brennan Center Study, "thirteen of the fifteen states also charge poor people public defender fees simply for exercising their constitutional right to counsel." Bannon, Nagrecha & Diller.

27. A commissary account holds individuals' wages earned in prison and money deposited by families. The funds are used to pay criminal justice debt and to purchase personal items in prison such as snacks and soap.

28. Visher, Yahner, and La Vigne, "Life after Prison," 2010.

29. As cited in "Engaging Fathers for Successful Reentry: Research, Tips, Best Practices" by the National Fatherhood Initiative (2011), available at www.fatherhood.org, "A study of prisoners' reentry found that men with closer family relationships, stronger family support, and fewer negative dynamics in their relationships with intimate partners were more likely to have worked after release, and less likely to have used drugs." L.M. Lopoo & B. Western, "Incarceration and the Formation and Stability of Marital Unions," Journal of Marriage and the Family, vol. 67, no. 3, 2010, pp. 721–734; J.P. Lynch & W.J. Sabol, "Prisoner Reentry in Perspective," Crime Policy Reports, Vol. 3, Urban Institute, Washington, DC, 2001. Qualitative, longitudinal, and now intervention research indicate that a man's capacity to fulfill his role(s) as father is embedded in his relationship with the child's mother. Programs that are effective at strengthening the relationship between parents who live together have been found to increase fathers' involvement in parenting. For parents who are no longer together, the link is even stronger. See also C. Visher, N.G. LaVigne, & J. Travis, "Returning Home: Understanding the Challenges of Prisoner Reentry—Maryland Pilot Study: Findings from Baltimore," Urban Institute, Washington, DC, 2004. See also: Solangel Maldonado, "Deadbeat or Deadbroke: Redefining Child Support for Poor Fathers," University of California, Davis Law Review, vol. 39, 2006, pp. 991-1023.

30. Paula Roberts, "Child Support Cooperation Requirements and Public Benefits Programs: An Overview of Issues and Recommendations for Change," Center for Law and Social Policy, November 2005, available at http://www.clasp.org/admin/site/publications/files/0252.pdf. Roberts explains the federal laws under which TANF recipients must "cooperate" with child support: "If an individual is covered by the cooperation requirement, he/she will be referred to the state's child support enforcement agency. 45 CFR § 264.30(a)(1). This agency is also funded by a combination of federal and state funds. Thus, there are federal rules here as well. One is that the child support agency must accept all individuals referred by the TANF program and provide services to them at no cost. 42 USC §§ 654(4)(A)(i)(I) and 654(6)(B). Another is that the child support agency provide services to 1) locate the absent parent and identify his/her income and resources; 2) establish paternity if that is an issue; 3) establish a support order if one is not already in place; 4) enforce an order for child or spousal support if one exists; and 5) periodically modify the child support order if circumstances change. 42 USC §§651and 654."

31. Billy refers here to the fact that "[f]amilies on Temporary Assistance for Needy Families (TANF) must assign their right to receive child support to the government as a condition of receiving cash assistance. . . . Recently, when Congress reauthorized TANF through the Deficit Reduction Act of 2005 (DRA), it provided incentives to states to distribute more child support to families on welfare. Starting October 1, 2008, states will be able to pass through up to $100 a month of child support to TANF families with one child and up to $200 a month of child support to TANF families with two or more children without reimbursing the federal government its share of the child support collected." Laura Wheaton and Elaine Sorenson, "The Potential Impact of Increasing Child Support Payments to TANF Families," Urban Institute, Brief 5, December 2007, available at http://www.urban.org/publications/411595.html.

32. Maureen R. Waller, "Viewing Low-Income Fathers' Ties to Families through a Cultural Lens: Insights for Research and Policy," Annals of the American Academy of Political and Social Science, vol. 629, pp. 102-124, 2010.

33. Personal Communication with Mitali Nagrecha, March 26, 2013.

34. Western & Pettit, Op. cit at 14.

35. Daniel P. Miller and Ronald B. Mincy, "Falling Further Behind? Child Support Arrears and Fathers' Labor Force Participation," Social Service Review, vol. 86, no. 4, December 2012, pp. 604-635.

36. Memo "Arrears Program Data" sent to Mitali Nagrecha from Rochelle Haynes, Director of Policy, NYC Human Resources Administration–OCSE. Personal Communication, March 21, 2013.

37. Carolyn J. Heinrich, Brett C. Burkhardt, and Hilary M. Shager, "Reducing Child Support Debt and Its Consequences: Can Forgiveness Benefit All?" Journal of Policy Analysis and Management, vol. 30, no. 4, 2011, pp. 755-774.

38. U.S. Department of Health and Human Services, Office of Child Support Enforcement, "Child Support Fact Sheet Series," no. 4, June 2012.

39. Ibid., p. 1.

40. In his study of evictions, Mathew Desmond describes this support as sometimes "brittle" and "fleeting." See his "Eviction and the Reproduction of Urban Poverty," American Journal of Sociology, vol. 118, no. 1, July 2012, pp. 88-133.