

Justice

This Town Ran An Illegal Debtor's Prison For Years. Now It Has To Pay Back The People It Jailed.

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Colorado Springs will pay back destitute people it illegally jailed because they couldn't pay court fines, the city announced Thursday.

The city will also discontinue its debtor's prison policy, which violated both the U.S. Constitution and a 2014 state law in Colorado. The system usually targeted non-jailable offenses like jaywalking, violating park curfews, or drinking in public.

More than 60 victims of the city's debtor's prison policy are getting repaid with interest under the \$103,000 settlement with the state's American Civil Liberties Union (ACLU) chapter. Under the city's previous "pay or serve" sentencing policy, people who couldn't afford fines for non-criminal violations like panhandling near highways were forced to spend one day behind bars for every \$50 the court said they owed. The settlement sets compensation for 66 pay-or-serve victims at the rate of \$125 per day they were jailed.

That translates to an \$11,000 payout for Shawn Hardman, a homeless man who was imprisoned for more than 90 days at significant taxpayer expense under multiple pay-or-serve sentences for panhandling.

Colorado Springs had issued more than 800 separate "pay or serve" sentences in less than two years, the ACLU found. The group alerted the city of the figures and relevant legal arguments in October. Mayor John Suthers said Thursday he was "pleased to report that our Municipal Court, City attorneys and Councilmembers worked expeditiously to correct the situation upon learning of the non-compliance."

Three quarters of the time, the people jailed for being broke had been brought to court for an offense that carries no jail time under the relevant statute. Yet jailed they were, as the city treated poverty as a criminal offense.

Debtor's prisons are banned by the Constitution, as the Supreme Court established in the early 1980s. Yet the practice has made a resurgence in communities around in the country in recent years, as cash-starved states and towns enacted a huge number of new fines, process fees, and related courtroom charges associated with non-criminal offenses. All but two states have added fees or increased existing ones since 2010, according to a 2015 review by the Alliance for a Just Society. The threat of jail time for non-payers gives teeth to those stiffer fee structures — and politicians too focused on fee revenues often fail to notice they're spending more to illegally jail the poor than the fees are even bringing in, according to the Brennan Center for Justice.

The increasing reliance on criminal fees for revenue, and the corresponding debtor's prison revival, coincide with the severe budget crunch most communities experienced during and after the financial crisis and Great Recession. Some of that budget pressure was inevitable given how deep a crater the Wall Street crisis created. But in many corners of America, those conditions were exacerbated by decades of starve-the-beast fiscal policy designed by conservatives hell-bent on shrinking government down small enough to "drown it in the bathtub."

The tax-cutting obsession promoted by generations of conservative lawmakers has harsh consequences for all manner of public programs.

But for people like Hardman, it's gone even further, depriving them not just of their freedom and their constitutional rights but of any real opportunity to find their footing in life. "I was told over and over that I either had to pay or go back to jail," the Colorado Springs pay-or-serve victim said in a statement. "Without a home or a job, the cycle kept repeating."

And in communities like Ferguson, Missouri, the same civic reliance on scraping fees off of desperately poor people has antagonized deep-rooted racial inequalities in ways that fundamentally threaten American societal cohesion.

It's little wonder, then, that the pattern of local debtor's prisons has caught federal law enforcement officials' attention. The Department of Justice warned lower court systems across the nation against such practices in March, while also issuing grant funding for court administrators who want to reform these policies.