

***PROBATION
IN
ALLEGHENY
COUNTY***

A REPORT BY ALC COURT WATCH



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A Report by ALC Court Watch, 2023

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KEY FINDINGS

Black residents, especially Black men, are vastly overrepresented among the probation population. Black men make up roughly 6.5% of the Allegheny County population, but they constitute 42% of the county's currently supervised probation population.

Black defendants are more likely than white defendants to be sentenced to incarceration instead of probation alone. This sentencing pattern is true for every Allegheny County Court of Common Pleas judge.

Among those sentenced to probation, **Black people receive longer average probation sentences and are more likely to have their probation revoked than white people.**

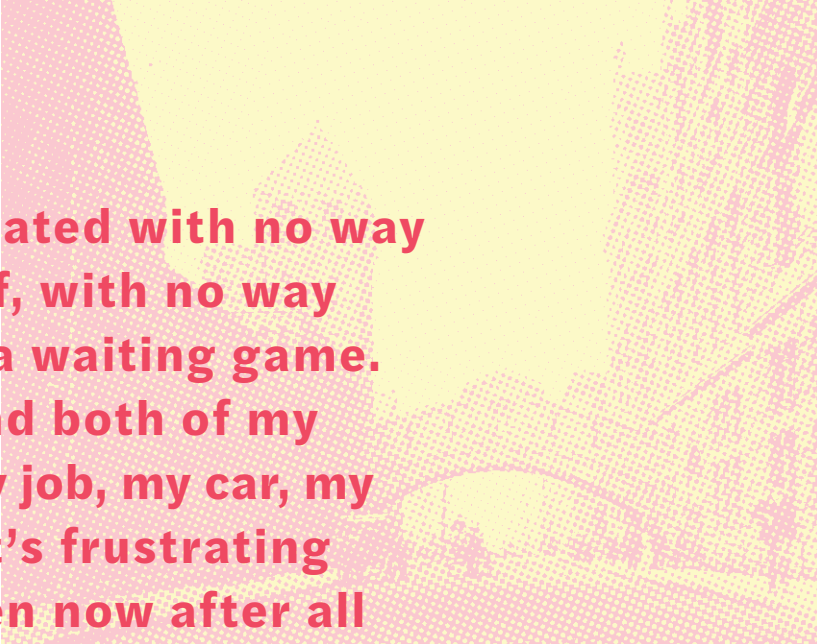
Low-income Black neighborhoods are hit the hardest by probation. Zip codes with lower median incomes and a higher proportion of Black residents also have a higher proportion of people on probation.

People sentenced to probation in Allegheny County are ordered to **pay an average of \$6,545 in court costs, \$1,644 in fines, and \$14,592 in restitution.** Restitution is a court ordered repayment to a victim of a crime.

The most common "victims" owed restitution are large corporations such as Walmart, Giant Eagle, Home Depot, Rite Aid, and Target, that carry insurance to cover losses. Duquesne University and UPMC are also both common "victims" owed restitution by Allegheny County residents.

The majority of these costs, fines, and restitution remain unpaid. Among the probation population, 86% of restitution and 81% of court costs are outstanding.

The highest category of court costs is the Offender Supervisor Fee, charged to those supervised by County Probation. In other words, people on probation are extorted into paying for the cost of maintaining that system. At the same time, **unpaid court costs, fines and fees are all considered probation violations that can lead to incarceration. As it stands, probation causes the very financial burdens that it criminalizes.**



“It’s hard being incarcerated with no way to try to fight for myself, with no way out. Everything here is a waiting game. I missed the holidays and both of my kids’ birthdays. I lost my job, my car, my apartment, everything. It’s frustrating that I’m sitting here even now after all of my charges are resolved. I wasn’t sentenced to any jail time and I have no open cases. I’m just sitting.”

—Rahdnee Oden-Pritchett

This report is dedicated to the countless number of individuals whose lives have been destroyed by probation. To those who have lost their homes, their jobs, their loved ones, and even their lives while incarcerated pursuant to a probation detainer. To the hundreds of individuals sitting in the Allegheny County Jail as they await their probation violation hearings. To those who are punished by probation for the substance use and mental health issues that

probation itself exacerbated. To those detained for reasons out of their control. To those pressured into taking plea deals in exchange for probation sentences, not knowing what it would truly entail. And, finally, to the families and communities who have drained their emotional and financial resources to support their loved ones on probation.

INTRODUCTION

While probation may have originally been intended as a reform to the criminal punishment system, today's probation system is a carceral tool in its own right. Instead of functioning as an alternative to incarceration, probation is a barrier to freedom. Today, community supervision is the primary driver of mass incarceration, both in jails and prisons.¹ Its impact on Allegheny County is significant as well: the primary reason for pretrial detention in the region is probation detainees.² Probation detainees, orders by judges prohibiting pretrial release for individuals on probation, account for over a third of the jail population — far greater than the proportion of people held on cash bail alone.³

Because probation is a driving force of mass incarceration, local data surrounding probation should be widely available to county residents. Unfortunately, Allegheny County authorities provide very little probation-specific data. In an attempt to increase transparency about how our local courts function and who bears the brunt of supervision and incarceration sentences, the Abolitionist Law Center (ALC) collected

and analyzed information from all publicly available dockets for criminal cases filed in Allegheny County courts from 2000 through the end of 2021. While there are limitations to this method, ALC was able to gather sufficient data to make estimates about the demographics of the probation population, trends in sentencing and probation revocation, and the staggering amount of court costs, fines and restitution carried by those who have moved through the criminal punishment system. Unsurprisingly, there are vast racial disparities in all of these categories, as well as notable variations among judicial practices.

While this report seeks to shed light on county-specific probation data, the responsibility for increasing transparency rests with the courts. The courts have access to far more nuanced and refined data that could answer many questions about the efficacy of probation — but the majority of that information is not publicly released. Residents of Allegheny County, whom the judges are supposed to serve, deserve access to this valuable information.

1 Human Rights Watch & ACLU, *REVOKED How Probation and Parole Feed Mass Incarceration in the United States*

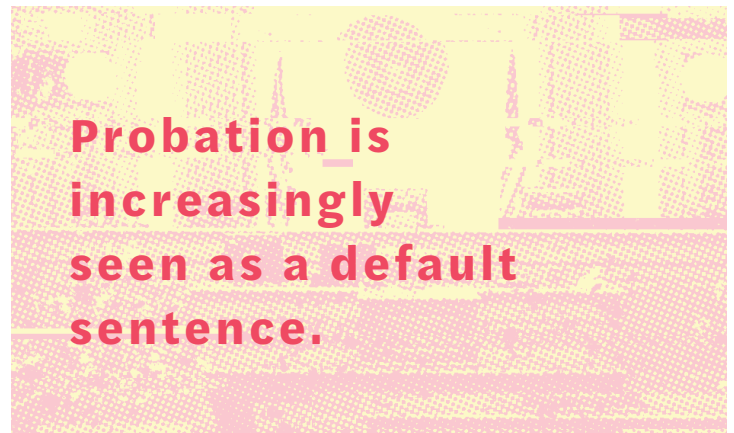
2 *Holding Status Breakdown, Allegheny County Jail Population Management Dashboards*

3 *Id.*

PROBATION OVERVIEW

As mentioned, probation as it functions today, fuels mass incarceration. Probation is a form of community supervision that is imposed either in lieu of or in addition to a sentence of incarceration — though, as explained below, it is increasingly given as a default sentence rather than an alternative sentence. People on probation are subject to various conditions of their probation which outline what they can or cannot do while supervised under probation. This includes not committing new crimes. Any alleged violation, criminal or otherwise, can result in incarceration. If found guilty of violating probation conditions at a probation revocation hearing, an individual can be resentenced to the maximum sentence that was available for their initial conviction. This remains true even if that individual served an entire sentence worth of probation or pretrial incarceration by the time of the alleged violation.

Despite its impact, probation is often overlooked when discussing decarceral initiatives. Possibly, this is in part because



the idea that probation causes incarceration, rather than prevents it, seems counterintuitive. The main reasons probation functions as a driver of incarceration are:

- (1) probation is increasingly a default sentence;
- (2) unreasonable probation conditions; and
- (3) lessened due process rights.

While many judges insist that probation is a “privilege,” in reality it is increasingly a default sentence.⁴ Low-level crimes that typically would result in release are now punished with probation. Even when judges impose sentences of incarceration, they frequently tack on consecutive sentences of probation without much thought as to

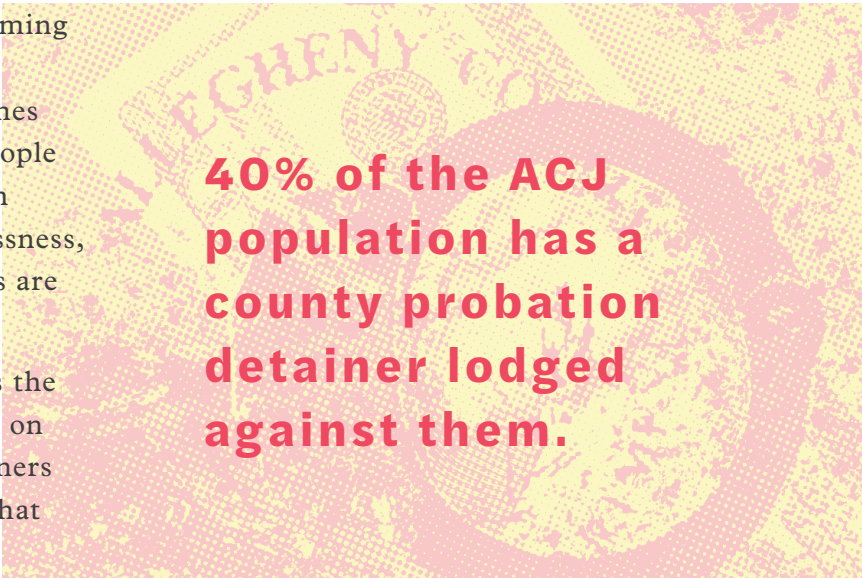
⁴ Fiona Doherty, *Obey All Laws and Be Good: Probation and the Meaning of Recidivism*

the negative (and often counterproductive) consequences of doing so.⁵ Consequently, probation is now used as an alternative to freedom and is imposed in place of clean release.

Additionally, the onerous and often unreasonable conditions of probation set people up to fail. In Pennsylvania, judges have virtually unlimited discretion when creating conditions of probation. Common conditions include paying fines or restitution; attending expensive programming; having a stable housing situation, which cannot include a shelter; submitting to (and passing) random drug tests; following a curfew; finding employment; refraining from contact with specific individuals or categories of individuals; complying with mental health or substance abuse programming; performing community service; and a host of other paternalistic, unreasonable, and sometimes contradictory requirements. As many people on probation struggle with mental health diagnoses, substance use issues, homelessness, and/or poverty, many of these conditions are functionally impossible to adhere to.

Lastly, probation detainers are perhaps the main reason for probation's heavy impact on the pretrial population. Probation detainers are orders issued by judges mandating that

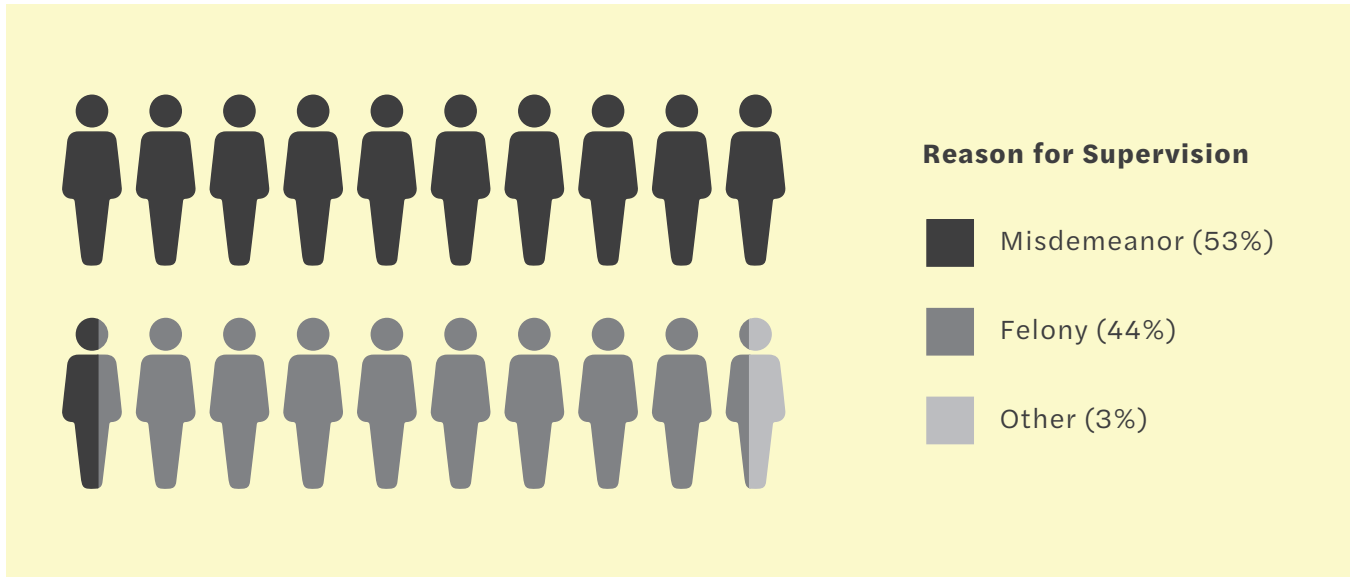
individuals on probation who are accused of probation violations remain detained pending their probation revocation hearings. These hearings take months or sometimes years to be scheduled, as they are often not scheduled until after the resolution of any new charges. Currently, 40% of the Allegheny County Jail population has a county probation detainer lodged against them.⁶ By the time people finally complete probation, they may have spent more time incarcerated pretrial than the maximum sentence for their conviction. Probation prevents people from exiting the carceral system and rebuilding their lives.



⁵ Id. at 340

⁶ May 19, 2023

PROBATION IN ALLEGHENY COUNTY



From 2008–2018, the Allegheny County Adult Probation Department released annual reports detailing the breakdown of the probation population, ongoing initiatives, community partnerships, grants received, new hires, and other information.⁷ Unfortunately, County Probation has since ceased releasing these annual reports.

According to the most recent annual report, there were 17,428 people on probation being supervised by Allegheny County as of 2018.⁸

This number excludes the approximately 8,000 other individuals who were supervised via other mechanisms (parole, accelerated rehabilitative disposition (ARD), etc.).⁹ Over half of all individuals supervised in the county had been convicted of misdemeanors.¹⁰ Additionally, Black people made up 43% of all individuals supervised by County Probation,¹¹ despite only making up 13% of the County’s population.¹²

7 Annual Reports, FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA

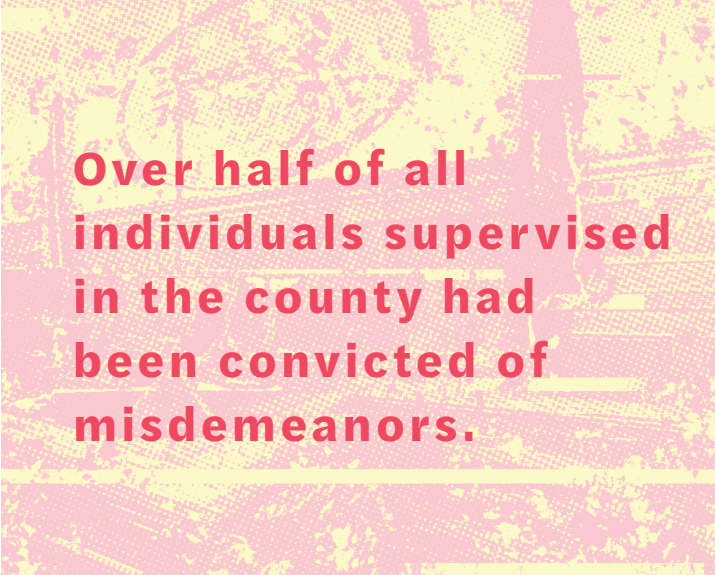
8 Adult Probation, ALLEGHENY COUNTY FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA

9 Id.

10 Id.

11 Id. at 10

12 Allegheny County, Pennsylvania, U.S. CENSUS BUREAU (2020)



Over half of all individuals supervised in the county had been convicted of misdemeanors.

While annual reports contain a wealth of information, probation has access to much more data than what was previously shared — including statistics that are particularly important for transparency and accountability. A barrier to transparency is that County Probation is overseen by the County Courts, which at the highest level is made up of Common Pleas judges. Thus, the determination about what data is publicly shared is made by judges who may want to avoid the scrutiny that comes with releasing the data.

Judges have an incredible amount of discretion when it comes to sentencing individuals to probation, revoking probation, and lodging probation detainers. This discretion means that certain judges are primarily responsible for a disproportionate percentage of the probation population and the jail population — a fact that they may be reluctant to publicize. This report utilizes data collection and analysis of publicly available criminal dockets in an attempt to unveil data not publicly disclosed by the courts.



METHODOLOGY

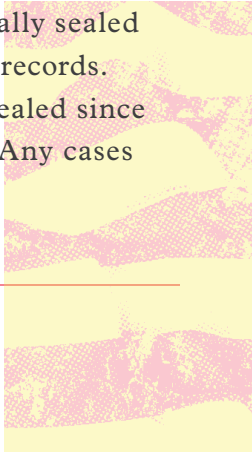
The Pennsylvania Courts make court records publicly available through the Unified Judicial System of Pennsylvania Web Portal website¹³ as PDF documents and via a mobile app. The Abolitionist Law Center (ALC) downloaded information for each court record via the Application Programming Interface (API) that sends information to the mobile app to capture case information in a well-structured JSON format. This information was stored in a Postgres database for analysis.

In March 2022, ALC downloaded all publicly available criminal cases filed in Allegheny County courts from 2000 through the end of 2021. Pennsylvania docket numbers follow a standard structure comprised of the court, court office, case type, case number, and year. For example, the first criminal case filed in the “05003” Court Office of Allegheny County Magisterial District Court in 2022 has the docket number MJ-05003-CR-0000001-2022 and the first criminal case filed in “02” court office of Court of Common Pleas the CP-02-CR-0000001-2022. After organizing all cases by the date filed, ALC interpolated

any case numbers that were missing within each court office and specifically searched for the files corresponding with those case numbers to ensure no public cases were missing.

Cases filed from 2016 through July 2022 were downloaded in July 2022 to provide updated information about cases from these recent years. The analyses presented here reflect the case information present when the case was last downloaded. If case information for a specific case changed between the time cases were originally downloaded in March 2022 and re-downloaded in July 2022, then the information presented here includes the information as it stood in July.

ALC validated the data by comparing the number of annual criminal case filings in the database to the numbers the courts release in data dashboards.¹⁴ There are several reasons that the case totals might differ. The most common cause is the Clean Slate law enacted in 2018 which automatically sealed millions of Pennsylvania criminal records. Over 40 million cases have been sealed since the process began in June 2019.¹⁵ Any cases



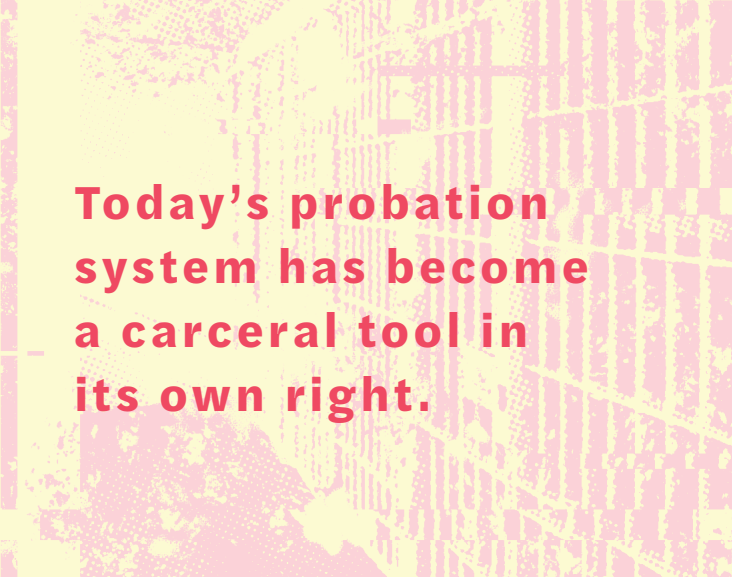
13 Case Search, Unified Judicial System of Pennsylvania Web Portal, ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS (2022)

14 Data Dashboards, Unified Judicial System of Pennsylvania Web Portal, ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS (2022)

15 The Clean Slate Movement, COMMUNITY LEGAL SERVICES

that were sealed from the program's inception through March 2022 are not captured in ALC's data. The difference in filings may also be due to data migration; as courts moved physical records into electronic systems over the past two decades, not all records might have been converted. Additionally, there are some cases that are not sealed under Clean Slate but are otherwise not made available to the public; these cases are also missing from the ALC database and these analyses.

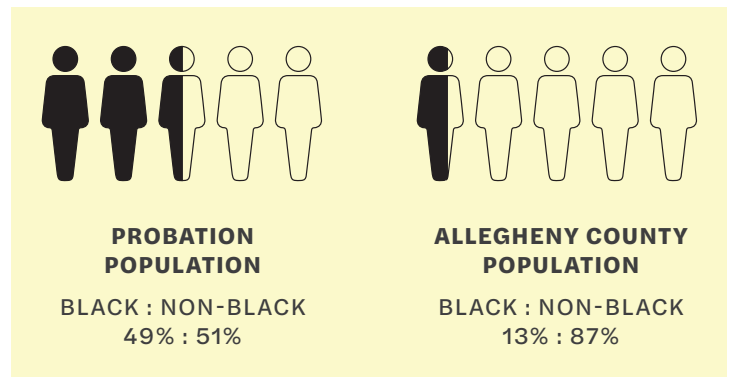
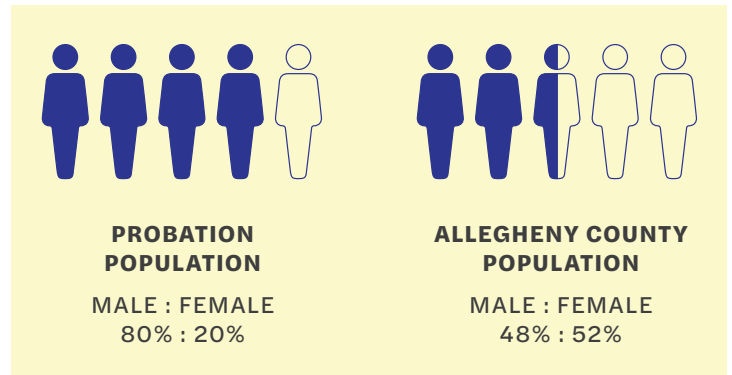
This report focuses on individuals currently on probation. Docket records do not explicitly identify whether an individual is on probation; we had to infer probation status based on the individual's sentences across one or more dockets. First, we assigned a unique ID number to each defendant that shared the same first name, last name, and date of birth to allow us to identify multiple dockets impacting the same individual. Next, we estimated the date on which each sentence would start and end based on the maximum sentencing period and any concurrent or consecutive sentences across dockets. We also accounted for sentence revocation terminating a sentencing period before the next one began.



Today's probation system has become a carceral tool in its own right.

FINDINGS

DEMOGRAPHICS Approximately 9,445 people¹⁶ were identified to be on probation at the beginning of 2022, based on the data collected. The probation population is disproportionately Black and male: 80% of the probation population is male, while only 48% of the population of Allegheny County is male; 49% of the probation population is Black, while only 13% of the population in Allegheny County identifies as Black. The median age of the probation population is 32–33, with no significant differences between men and women. The median age among Black people is 29, while the median among white people is 34. There are vast gender disparities as well, with 80% of the probation population categorized as male and the 19% categorized as female in the dockets.¹⁷ The probation population overall is disproportionately Black and male: Black men make up roughly 6.5% of the Allegheny County population, but they constitute 42% of the probation population.



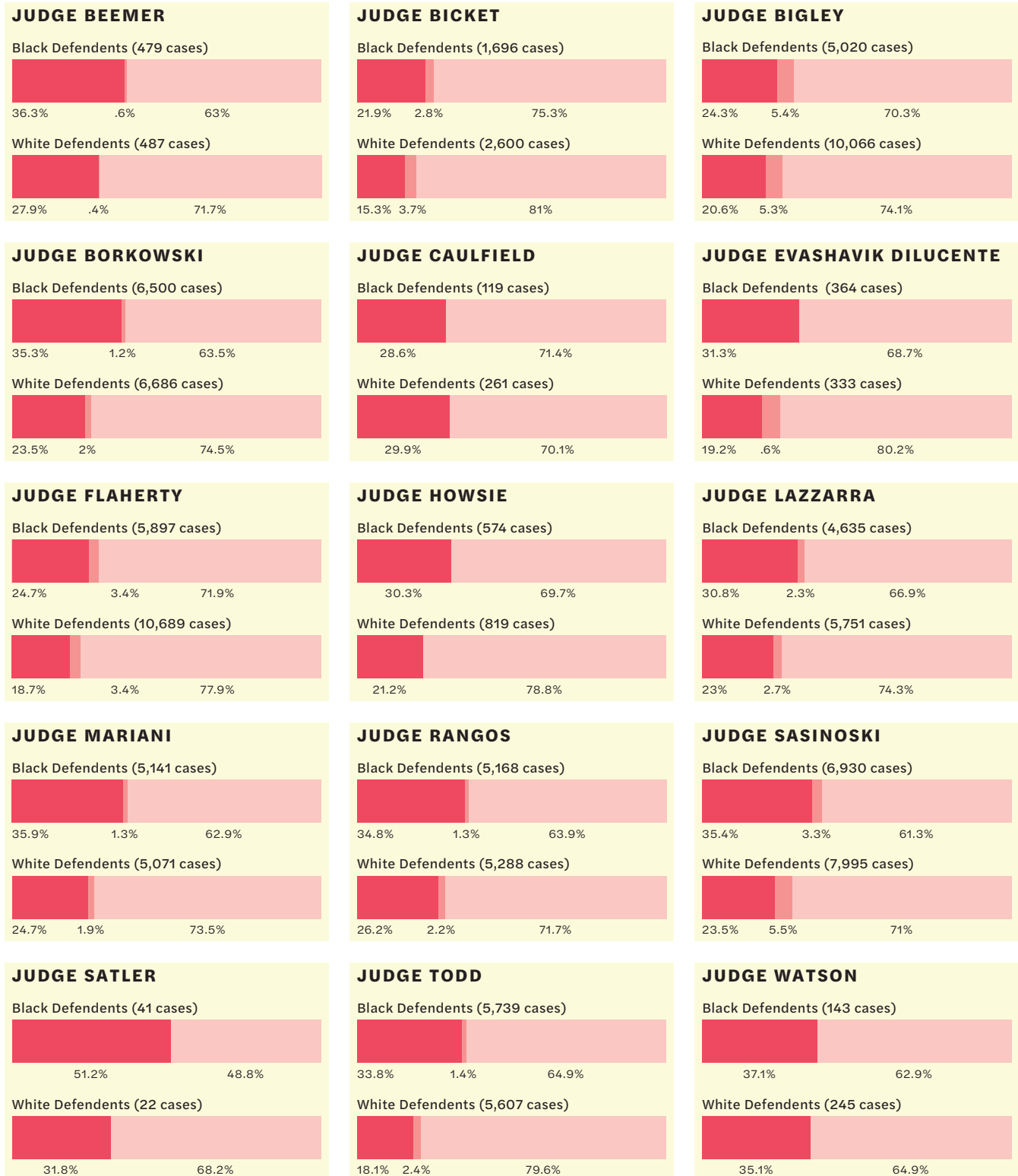
¹⁶ Due to lack of transparency, this number is much lower than the 17k mentioned in the introduction.

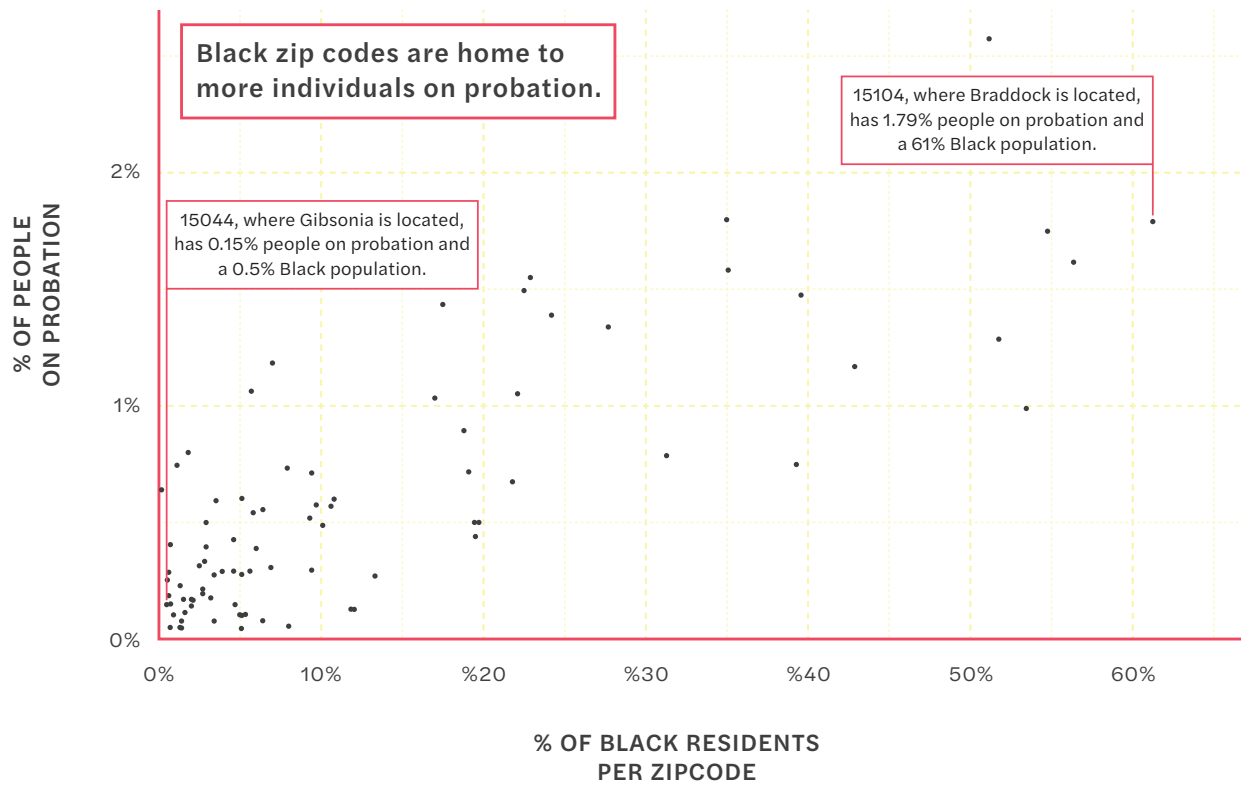
¹⁷ Criminal dockets exclusively categorize gender as “male” or “female,” and so our analysis is

limited by these categorizations. About 1% of dockets did not have gender listed at all, but there is no clear reason why that may be.

CURRENT JUDGES

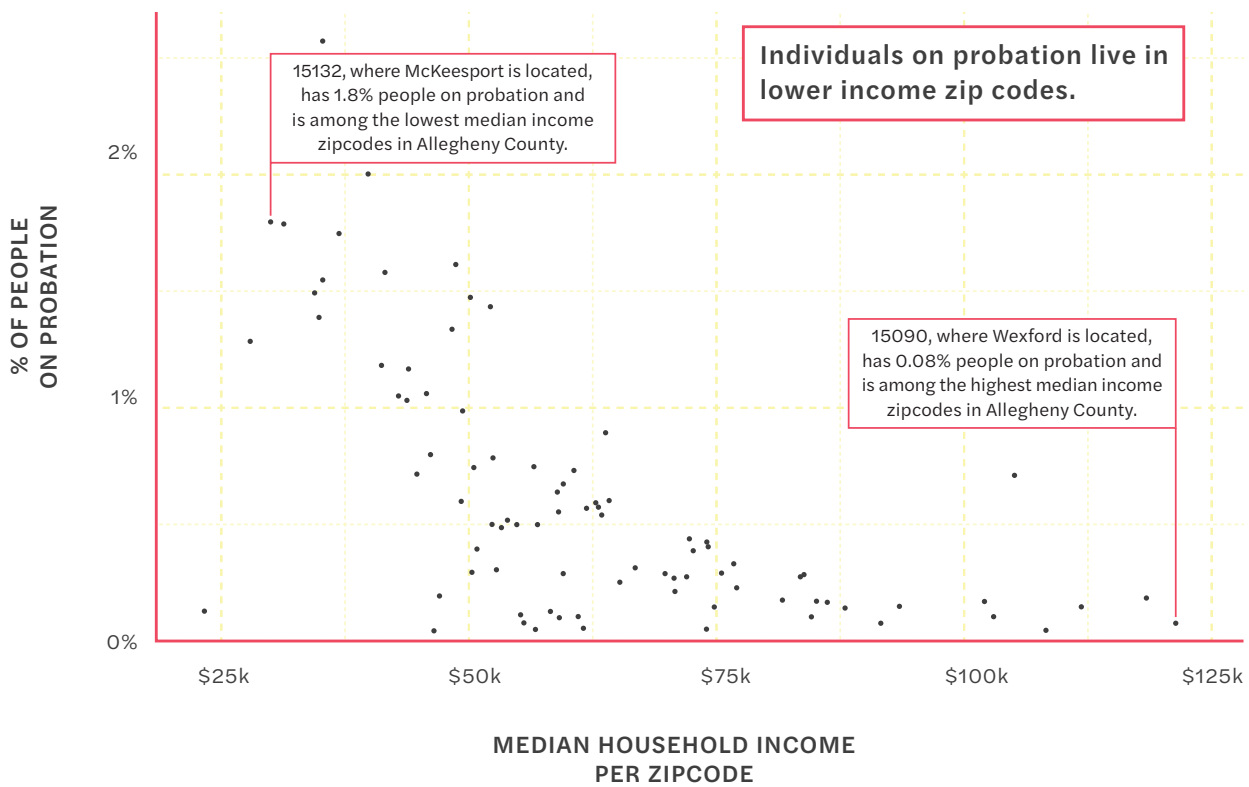
INITIAL SENTENCES BY JUDGE & RACE





RACIAL DISPARITIES Even though probation often leads to a cycle of incarceration, comparing the rates of sentencing between individuals sentenced to probation against those solely sentenced to a period of incarceration is helpful in understanding racial disparities in sentencing. When comparing the types of sentences imposed for the same convictions between Black and white defendants, a clear pattern emerges: Black defendants are far more likely to be sentenced to periods of incarceration, whereas white defendants are more likely to receive sentences of probation without terms of incarceration.

Across all non-DUI criminal charges, judges sentence Black defendants to confinement at higher rates than white defendants. The racial disparities are most acute for defendants charged with drug related charges such as, Manufacture, Delivery or Possession with Intent to Distribute—one of the most common convictions. Judge Edward J. Borkowski of Allegheny County Common Pleas Court, for example, sentences Black defendants to incarceration 29.8% of the time and white defendants 10.7% of the time when convicted of Possession with Intent to Deliver.



Racial disparities are present when comparing how often individuals on probation have their sentences revoked. 16% of Black men have had their sentences revoked at least once, compared to only 12% of white men. Black and white women have comparable rates of revocation—12% and 11%, respectively.

Zip codes that have larger Black populations also have higher rates of individuals on probation. Many of the zip codes where more than 20% of the population is Black see rates of 1–2.5% of adults on probation. Additionally, lower income zip codes have a higher percentage

of people currently on probation. In zip codes with median household incomes below \$50,000, 1–2.5% of the population is on probation. In comparison, in zip codes with incomes above \$50,000, less than one percent of the population is on probation.

The average length of probation is also imposed in a disparate way: Black individuals receive an average probation sentence length of 693 days, and white individuals receive an average sentence length of 639 days, meaning Black individuals are on average sentenced to approximately two additional months of probation.





Walmart, Giant Eagle, Rite Aid & Home Depot are some of the most common “victims” owed restitution.

COSTS/FEES, FINES & RESTITUTION

There are three primary categories of financial penalties imposed by the courts: costs/fees, fines, and restitution. Costs/fees are amounts imposed on virtually all criminal defendants. These costs/fees support multiple aspects of the criminal punishment system, including but not limited to: booking center fees, court technology fees, record management fees, costs of prosecution, district attorney fees, and probation/parole administration fees.¹⁸

Fines are imposed as a part of a sentence, and may also be included as a condition of probation. Examples include fines for speeding, for driving under the influence, or hefty amounts in the thousands or ten thousands imposed alongside incarceration and/or probation for various misdemeanors and felonies.

Restitution is distinct in that it is a mandated repayment to a “victim” of a crime. Like fines, these too may be imposed as part of a sentence and/or a condition of probation. While this may seem more justifiable compared to most financial penalties, the reality is that most people ordered to pay restitution are not paying small sums to wronged individuals to compensate them for damaged or stolen property: many owe vast amounts to multi-million dollar corporations that

are already insured for such losses.

Among the probation population, the most common “victims” owed restitution are:

- » Walmart (98 instances)
- » Giant Eagle (87)
- » Rite Aid (59)
- » Home Depot (50)
- » Target (42)
- » Macy’s (30)
- » Lowe’s (27)

These results mirror the most common restitution “victims” among all criminal dockets:

- » Walmart (409 instances)
- » Giant Eagle (252)
- » Rite Aid (138)
- » Target (131)
- » Lowe’s (120)
- » Home Depot (98)
- » Kohl’s (90)

Other common restitution “victims” include Macy’s, Dollar General, Shop N Save, Marshall’s, Family Dollar, Duquesne University, and UPMC.

Based on the data collected,¹⁹ defendants owed over \$370 million in outstanding court costs

¹⁸ Appendix A, Case Financial Information, Example Docket.

and fees on the nearly \$588M total costs originally levied against them. Only 37% of all outstanding financial penalties have been repaid. Costs and Fees account for 59% of all costs, while Restitution accounts for 31%. The largest cost/fee is the Offender Supervisor Fee (OSP (Allegheny/State) (Act 35 of 1991)) which accounts for 20% of all financial penalties. This fee is charged to those supervised by Allegheny County Adult Probation—yet another way the probation population is acutely harmed by the criminal punishment system. For those currently on probation as of Jan. 1, 2022, the average case results in \$1,634 in financial penalties and has an outstanding balance of \$1,031 to date.

Based on court debt data collected, the average amounts of the following categories of payments per criminal docket are as follows:

- » Costs/Fees average at \$1,422
- » When imposed, fines average at \$958
- » When imposed, restitution averages at \$4,064

However, the individual costs are higher because a single person might carry court debt from

COURT COSTS & FEES

	PAYMENT PER CRIMINAL DOCKET	PAYMENT PER PERSON
CATEGORY	AVERAGE	AVERAGE
Cost / Fees	\$1,422	\$2,883
Fines, when imposed	\$958	\$1,284
Restitution, when imposed	\$4,064	\$6,100

multiple cases. The average individual in the criminal legal system carries \$4,778 in outstanding court debt and 52% of the cost is outstanding. The average amounts of the following categories of payments per person are as follows:

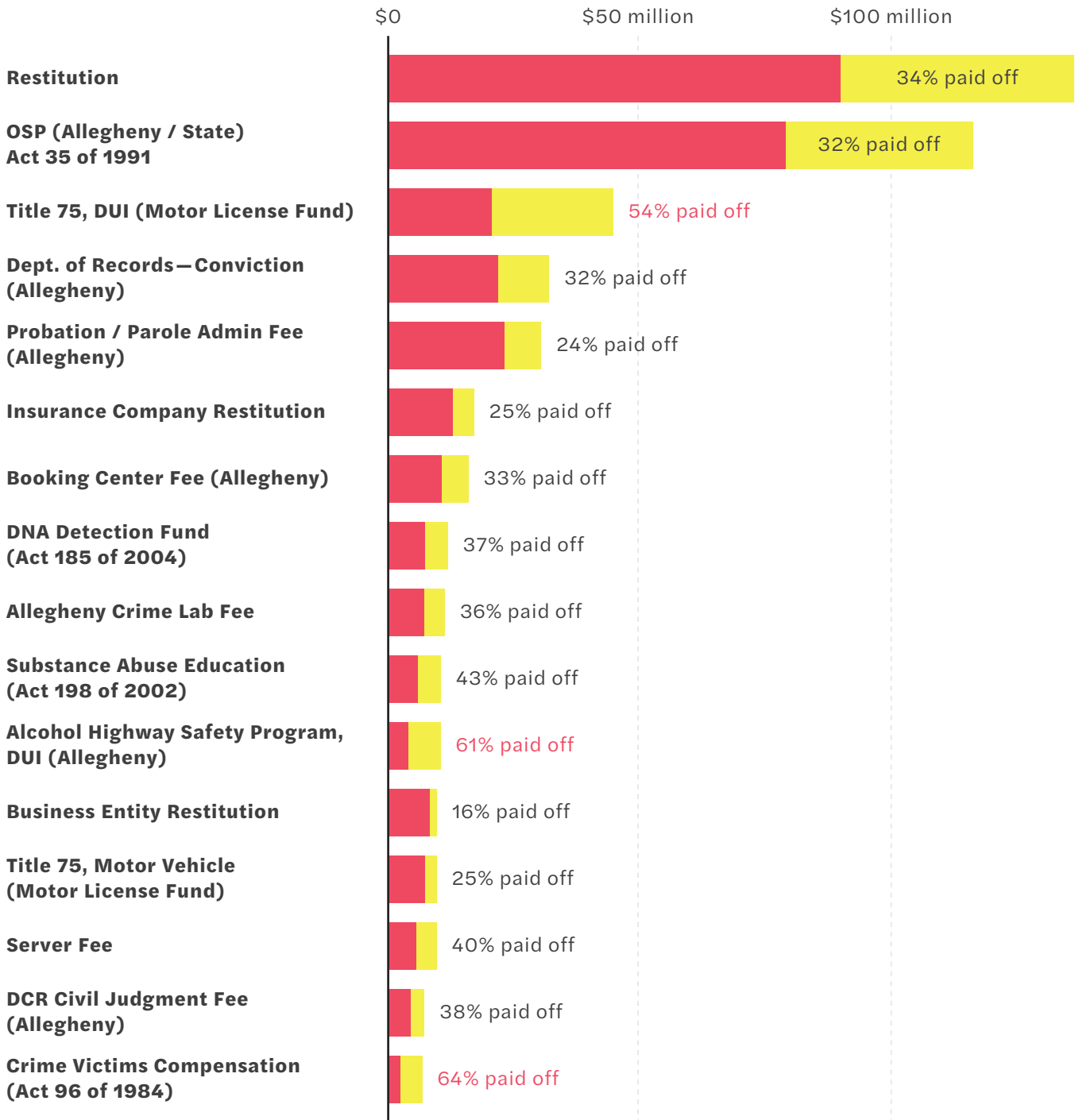
- » Costs/Fees average \$2,883
- » When imposed, fines average \$1,284
- » When imposed, restitution averages \$6,100

¹⁹ The data presented is a snapshot in time based on the court data at the time the data was downloaded in 2022. Some cases in the database were filed in 2000 and still had court debt while others were filed in the middle of 2021. This difference

in time between case filing and the time of data collection should be considered when interpreting this information about the amount of unpaid court debt.

MOST FINANCIAL PENALTIES ARE OUTSTANDING

The pink bar represents the amount still outstanding. DUI fees and Crime Victims Compensation are the only large financial penalties where **more than 50% of the penalties have been paid off**.



Structural racism impacts court debt as well. While Black and white defendants carry about equal amounts of court debt, the average Black person in the criminal legal system has 65% of their court debt outstanding while the average white person has only 45% outstanding. Geographically, court debt is concentrated among zip codes with lower average incomes and a higher proportion of Black residents.

Among the probation population, the averages are higher.

- » Average Costs/Fees: \$2,811
- » Average Fines: \$1,313
- » Average Restitution: \$14,563

Individuals on probation carry far higher average court debt than the total population of people who owe court debt. Here, we present the average and the median values for the financial categories (Costs/Fees, Fines, and Restitution).

Based on the median, individuals currently on probation carry 2.5 times as much restitution as the general population.

TOTAL AMOUNT ASSESSED

CATEGORY	TOTAL POPULATION		PROBATION POPULATION	
	AVERAGE	MEDIAN	AVERAGE	MEDIAN
Cost / Fees	\$2,683.73	\$1708	\$6,544.81	\$4,962.55
Fines	\$1,283.87	\$1000	\$1,643.56	\$1,000
Restitution	\$6,115.57	\$1099.61	\$14,592.32	\$2,766

CURRENT BALANCE REMAINING

CATEGORY	TOTAL POPULATION		PROBATION POPULATION	
	AVERAGE	MEDIAN	AVERAGE	MEDIAN
Cost / Fees	\$1,667.23	\$670.49	\$4,871.46	\$3,494.75
Fines	\$665.93	\$30.61	\$1,258.44	\$600
Restitution	\$4,177.84	\$1,527.05	\$11,553.21	\$1,642.09
Server Fees	\$12.24	\$0	\$8.46	\$0

PERCENT OUTSTANDING

CATEGORY	TOTAL POPULATION		PROBATION POPULATION	
	AVERAGE	MEDIAN	AVERAGE	MEDIAN
Cost / Fees	53%	67%	67%	81%
Fines	49%	42%	77%	1%
Restitution	61%	39%	66%	86%
Server Fees	5%	0%	3%	0%

20 We present both the average and the median because the average value alone is heavily influenced by outlier values. Where the average and the median differ substantially, this indicates that there are outlier values raising or lowering the

average. This phenomenon is most explicit in the Restitution category where the average restitution for the total population is \$6,116, whereas the median is \$1,099 (a similar disparity exists in the probation population as well). This difference

indicates that there are a small number of individuals with extremely high restitution amounts which is raising the average.

21 Id.

In all categories, the average and median percent of outstanding court debt is higher for individuals on probation compared to the total population. There are large differences in the percent of outstanding debt across categories. For restitution, the average individual still has 61% of their restitution remaining, though the median is 39%. This difference suggests that most individuals have paid down more than half their restitution, but a number of individuals who have not paid much (less than 39%) are increasing the average. The opposite is true for the probation population, the average individual on probation has paid 66% of their restitution but the median is 86%, indicating that there are large differences in how much restitution individuals have paid.

Consequences of unpaid financial costs, fines, or restitution include suspension of one's driver's license, denial of food stamps, and ineligibility to have criminal records expunged per the Clean Slate Law.²¹ Additionally, unpaid amounts in any of these categories are technical probation violations. While financial technical

violations rarely result in incarceration, they often result in revocation of probation—especially unpaid restitution.

Take for example a scenario where an individual owes \$5,000 in restitution and has a three-year probation sentence. In the entirety of her probation period, she is not charged with any new crimes and she complies with all of Probation's requirements. However, she is unable to fully pay off the \$5,000 in restitution during her probation period. At the end of her three-year sentence, she will thus be told she is in technical violation of probation. While she will not be incarcerated for this violation, it is used as justification to revoke her current probation and re-impose a new period of probation. This is often phrased as an extension of time to pay off her restitution, when in actuality imposing a new period of probation on this basis without a finding of willful nonpayment is a violation of the Fourteenth Amendment of the U.S. Constitution.²² Despite its illegality, ALC Court Watch has observed numerous instances of this practice. This can and does happen often, keeping people in a cycle of probation for years or even decades, while being subjected to all of probation's onerous conditions and perpetually vulnerable to fast-tracked, long-term incarceration.



[Financial technical violations] often result in revocation of probation.

22 ACLU-PA FAQs | Probation: Payment of Fines, Costs & Restitution, ACLU-PA (Oct. 2021)

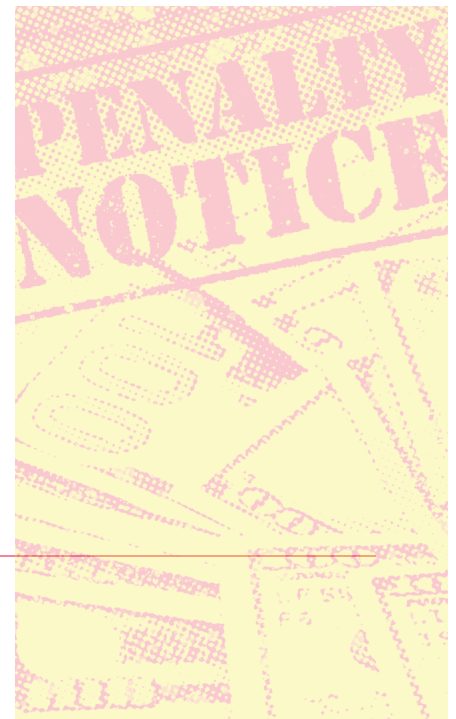
The ever-growing scale of financial penalties illuminates the predatory nature of today’s criminal justice system:

“The dramatic growth of policing and punishment since the 1970s greatly expanded the scale of predatory operations. At the same time, the center of gravity in criminal legal predation shifted from labor to finance. Indeed, the present era is distinguished less by its ‘criminalization of poverty’ or its racialized use of ‘justice’ for predatory purposes (both of which are long-standing) than by the financialization of criminal justice itself. Consistent with developments that financialized the broader political economy, predatory criminal justice practices pivoted toward tools that charge prices, create debts, and pursue collections.

New methods of financial takings allowed extractive practices to spread throughout criminal legal institutions and turned justice-involved people into entry points for practices that drain resources from larger social networks. Financialization also expanded predation temporally: By imposing debts, legal authorities lay claim to future resources, enhancing their ability to take what poor communities, by definition, lack.

From this perspective, the criminal legal system can be seen as part of a broader class of predatory enterprises, such as payday lenders, subprime mortgage loans, and high-interest credit card traps. All these operations disproportionately target RCS [race-class subjugated] communities for revenue projects based on steep financial charges, perpetual debt traps, and aggressive collection efforts. Predatory businesses turn to criminal courts to enforce payments, while fees imposed by these same courts drive many legal debtors into the arms of predatory lenders.”

23 Joshua Page & Joe Soss, *The Predatory Dimensions of Criminal Justice*, 374 *SCIENCE* 291, 291 (2021) (internal citations omitted).



CONCLUSION

While this report highlights concerning trends among the probation population, it was limited by what dockets were publicly available and what information was included in the dockets that were available. There was a great deal of additional information we hoped to obtain but ultimately could not, including:

- » The frequency of direct probation violations vs. technical probation violations
- » The most common charges resulting in probation violations
- » The average length of stay in the jail for those held on probation detainers
- » The frequency with which probation detainers are (1) imposed and (2) lifted
- » How many motions to lift detainers result in (1) hearings and (2) orders to lift the detainers
- » The proportion of the probation population with mental health issues and/or substance use issues, and the length of stay of these individuals in particular
- » Variance among judges in all the above categories

- » Racial disparities among any of the above categories

County Probation and the Courts have access to all of this data and more. County Probation has their own internal dashboard which displays many of these trends, so sharing this information to the public should not be logistically difficult. However, it is the courts that oversee County Probation, and thus have the final say in what information is released to the public.

The courts, of course, are made up of the same judges who may be responsible for some of the worst trends in probation and incarceration. Still, these judges are responsible to the residents of Allegheny County, and ought to be as transparent as possible. Judges themselves may learn from reviewing this type of data, and begin to recognize the way their own subconscious bias has affected their rulings, hopefully motivating them to act more equitably. Other judges, however, may not wish to change their behavior and do not want their methods questioned. We hope that most judges would



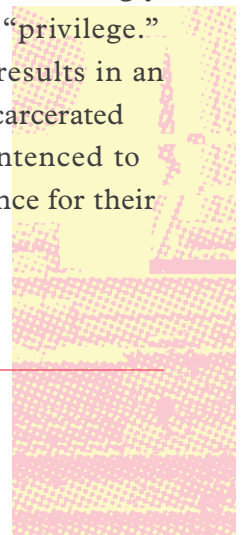
fall into the former category and be willing to have their methods scrutinized and accept constructive feedback.

In addition to calling for increased transparency, this report also seeks to highlight the impact of probation on mass incarceration. Any politician genuinely in support of decarceral policy change could begin with probation. Specific reforms that can and should be adopted include:

» **ABOLISHING** the use of probation detainers for individuals deemed bailable. Too often, individuals with new charges that form the basis of their alleged probation violation are deemed bailable on those new charges. This means a judge has made a determination that the individual is not a flight risk nor a threat to public safety. And yet, because supervising judges often lodge probation detainers for anyone on probation merely accused of a new crime, individuals must still sit in jail for months or even years while simply awaiting their probation revocation hearing. This is blatantly unjust and is the cause for needless pretrial incarceration in our County. The jail is short-staffed and

unable to meet incarcerated individual's basic needs as is; this reform alone would vastly reduce the jail population and decrease the constitutional violations occurring daily at the Allegheny County Jail.

- » **ABOLISHING** the use of probation detainers for individuals accused of technical violations of probation. Technical violations are by definition non-criminal. There is no justification for incarcerating an individual for any time at all for the commission of non-criminal activity, such as missing a meeting with their PO or not being able to afford mandatory programming (anger management classes, DUI classes, etc. that the defendant must pay for out of pocket).
- » **ABOLISHING** the use of split sentences. Split sentences refer to sentences of incarceration followed by a consecutive sentence of probation. This practice has increased, and is part of why probation is increasingly a default sentence rather than a "privilege." As mentioned, probation often results in an individual spending more time incarcerated overall than if they had been sentenced to the maximum confinement sentence for their



underlying crime alone. If judges are going to incarcerate someone, keeping them on probation after only serves to further destabilize that individual and trap them in a cycle of probation and incarceration.²³

» **ABOLISHING** fines, fees, and restitution. If the state chooses to over-police, over-incarcerate, and over-supervise its residents, at the very minimum it should foot the bill for doing so. If such financial penalties continue to be imposed, payment of these costs should under no circumstance be a condition of probation. Doing so keeps poor people on probation indefinitely, subjecting them to fast-tracked, long-term incarceration at the mere allegation of a probation violation. Nor is the payout worth it: most individuals have not paid off the vast majority of the costs and restitution that they owe — and keeping them subject to these payments itself poses another barrier to financial stability.

Any politician serious about reversing mass incarceration should consider how to stop the harm created by community supervision. While redressing the harms caused by probation may not be as popular or easy to

message on as ending cash bail or other initiatives, community supervision is a crucial pillar of mass incarceration that should not be overlooked. This report seeks to educate politicians, judges, community activists, and the public generally about the need to end the harm created by this harmful institution that keeps our jails and prisons needlessly crowded, and drains resources from our community's most vulnerable populations. The racial disparities present throughout the criminal punishment system unsurprisingly are replicated within the probation population; probation's impact on Black residents and their families is unquantifiable and indefensible. Increased transparency is one of many steps required to fully assess the harm inflicted by this system and the ways in which those harms can be curtailed on the way to being fully abolished.

24 Marianne Stein & Alex Domingos, Probation in Pennsylvania, Explained, ACLU-PA (Oct. 21, 2021)



CITATIONS

1 Human Rights Watch & ACLU, REVOKED How Probation and Parole Feed Mass Incarceration in the United States (2020), https://www.hrw.org/sites/default/files/media_2020/07/us_supervision0720_web_1.pdf.

2 Holding Status Breakdown, Allegheny County Jail Population Management Dashboards, (Place Holder Website)

3 Id.

4 Fiona Doherty, Obey All Laws and Be Good: Probation and the Meaning of Recidivism, 104 GEO. L. J. 291, 338 (2016) (citing Andrew Horwitz, The Costs of Abusing Probationary Sentences: Overincarceration and the Erosion of Due Process, 75 BROOK. L. REV. 753, 754 (2010) (stating that probation is now “the default sentence imposed upon a majority of defendants with little to no regard for whether probation makes sense for that defendant”).

5 Id. at 340 (“In Pennsylvania, for example, judges regularly sentence defendants to a term of incarceration followed by a ‘tail’ of probation”) (citing Commonwealth v. Basinger, 982 A.2d 121, 127 (Pa. Super. Ct. 2009)).

6 May 19, 2023

7 Annual Reports, FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA, <https://www.alleghenycourts.us/criminal/departments/adult-probation/annual-reports/> (last accessed Oct. 12, 2022).

8 Adult Probation, ALLEGHENY COUNTY FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA (2018), at 8, [https://www.alleghenycourts.us/wp-content/uploads/2022/ADULT%20PROBATION%20ALLEGHENY%20COUNTY%20FIFTH%20JUDICIAL%20DISTRICT%20OF%20PENNSYLVANIA%20\(2018\),%2006/Crim_AR_2018.pdf](https://www.alleghenycourts.us/wp-content/uploads/2022/ADULT%20PROBATION%20ALLEGHENY%20COUNTY%20FIFTH%20JUDICIAL%20DISTRICT%20OF%20PENNSYLVANIA%20(2018),%2006/Crim_AR_2018.pdf).

9 Id.

10 Id.

11 Id. at 10

12 Allegheny County, Pennsylvania, U.S. CENSUS BUREAU (2020), www.data.census.gov/cedsci/profile?g=0500000US42003.

13 Case Search, Unified Judicial System of Pennsylvania Web Portal, ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS (2022), <https://ujportal.pacourts.us/CaseSearch>.

14 Data Dashboards, Unified Judicial System of Pennsylvania Web Portal, ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS (2022), <https://www.pacourts.us/news-and-statistics/research-and-statistics/dashboard-table-of-contents>.

15 The Clean Slate Movement, COMMUNITY LEGAL SERVICES, <https://mycleanslatepa.com/movement/> (last accessed Oct. 12, 2022).

16 Due to lack of transparency, this number is much lower than the 17k mentioned in the introduction.

17 Criminal dockets exclusively categorize gender as “male” or “female,” and so our analysis is limited by these categorizations. About 1% of dockets did not have gender listed at all, but there is no clear reason why that may be.

18 Appendix A, Case Financial Information, Example Docket.

19 The data presented is a snapshot in time based on the court data at the time the data was downloaded in 2022. Some cases in the database were filed in 2000 and still had court debt while others were filed in the middle of 2021. This difference in time between case filing and the time of data collection should be considered when interpreting this information about the amount of unpaid court debt.

20 We present both the average and the median because the average value alone is heavily influenced by outlier values. Where the average and the median differ substantially, this indicates that there are outlier values raising or lowering the average. This phenomenon is most explicit in the Restitution category where the average restitution for the total population is \$6,116, whereas the median is \$1,099 (a similar disparity exists in the probation population as well). This difference indicates that there are a small number of individuals with extremely high restitution amounts which is raising the average.

21 Id.

22 ACLU-PA FAQs | Probation: Payment of Fines, Costs & Restitution, ACLU-PA (Oct. 2021), https://www.aclupa.org/sites/default/files/field_documents/aclu-pa_faqs_probation_payment_of_fines_costs_and_restitution.pdf.

23 Joshua Page & Joe Soss, The Predatory Dimensions of Criminal Justice, 374 SCIENCE 291, 291 (2021) (internal citations omitted).

24 Marianne Stein & Alex Domingos, Probation in Pennsylvania, Explained, ACLU-PA (Oct. 21, 2021), at Slide 9, https://www.aclupa.org/sites/default/files/field_documents/aclu-pa_probation_in_pa_explained_2021-10-21.pdf.

Dion Horton was sentenced to two years of probation. A condition of his probation is that he must be wearing an electronic monitoring device at all times and cannot leave his house except for during pre-approved windows for work. Mr. Horton must pay \$150 a month in electronic monitoring fees — a fact he was unaware of when he accepted his plea deal. He currently owes approximately \$5400 in court costs and fees, and approximately \$3300 in restitution. This doesn't include his monthly electronic monitoring fees. Being on probation, confined to house arrest, and having a criminal record made it hard for Mr. Horton to find a job to pay his restitution and court costs, which are conditions of his probation. He was accused of violating his probation in March 2023 for not paying money towards his restitution while he was unemployed and on house arrest. "This is crazy," said Mr. Horton. "They're extorting me."

"They're extorting me"
—Dion Horton

