

DIGITAL ACCESS TO JUSTICE: AUTOMATING COURT
FEE WAIVERS IN OKLAHOMA

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INTRODUCTION

This Note discusses a novel, technology-enabled approach to address the issue of people being sent to jail for unpaid court debt in the United States. In 2016, the state of Oklahoma passed a law that makes formerly incarcerated people eligible for a waiver of their outstanding court fees if they comply with all probation requirements and make payments on their court debt for twenty-four consecutive months following release. However, awareness of this mechanism for debt relief is low among debtors, defense attorneys, and judges, and the process to determine eligibility is technical and complicated. This leads to low waiver uptake and high levels of outstanding debt that hold formerly incarcerated people back from building savings and fully ending their entanglement with the criminal legal system.

Our team worked in partnership with Legal Aid Services of Oklahoma to explore the potential of digital tools to increase access to these court debt waivers. First, we demonstrated that it is possible to generate lists of people who are likely eligible for fine and fee waivers. We applied a rule-based algorithm that mimics the statutory requirements for waiver eligibility to a database web scraped from publicly available court records. Drawing on a sample of court records in Oklahoma's three largest counties over a fifteen-year period, we identified between approximately 218 and 1,381 people who may be eligible for such a waiver today, depending on the construction of the statute accepted in that county. The variation reflects how a construction that accepts twenty-four non-consecutive months of payments increases the eligible population sixfold. This analysis—the first seeking to quantify an eligible client base—suggests that up to 5,500 people statewide may be eligible from this period. Second, our team created an interactive digital tool for legal aid attorneys. The tool synthesizes and summarizes relevant information about a person's outstanding court fees and waiver eligibility in less than one minute, enabling legal aid attorneys to prepare more motions for relief. Finally, our empirical findings show that reforms expanding eligibility for debt relief could reduce the number of people incarcerated due to unpaid fees and reduce racial disparities in who is eligible for such waivers. This type of sensitivity analysis, which can be performed entirely on publicly available data, should inform future policy on the terms of indigency-based waivers, Clean Slate laws, and efforts to encode legal rules into digital tools.

I. INCARCERATION FOR INABILITY TO PAY: THE FINES AND FEES PROBLEM

Debtors' prisons are illegal in the United States, yet many states still incarcerate people for unpaid court debt.¹ This debt results from the accumulation of fines and fees. Fines are assessed as punishments for traffic violations, misdemeanors, and felonies.² Fees are akin to "user fees" charged to defendants in order to raise revenue that covers the cost of their "use" of the criminal legal system.³ When defendants start to miss payments or court dates, trouble begins.⁴ The court can issue a bench warrant to compel the person to appear in court in order to adjudicate the outstanding debt, but indigent defendants frequently do not comply with or are unaware of the warrant issuance; many fear that showing up to court without their payment in hand may trigger one of many consequences of nonpayment, including license suspension, arrest, jail time, and for some, deportation.⁵ Their failure to appear constitutes another offense for which a judge may issue an arrest warrant, impose additional fines and fees, and order incarceration that will "pay off" a certain amount of debt with each day spent in jail. When people are involuntarily imprisoned on a charge stemming from inability to pay, or when they are forced to choose imprisonment because it is the only way they will be able to pay down their debt,⁶ they often face issues including job loss, car impoundment, eviction, and loss of

¹ See Tim Curry, *Why Are We Still Sending People to Jail for Being Poor? It's Time to Truly Abolish Debtors' Prisons*, FINES & FEES JUST. CTR. (Apr. 25, 2023), <https://finesandfeesjusticecenter.org/2023/04/25/why-are-we-still-sending-people-to-jail-for-being-poor-its-time-to-truly-abolish-debtors-prisons/> [https://perma.cc/U8V7-ZZNY].

² See Matthew Menendez, Michael F. Crowley, Lauren-Brooke Eisen & Noah Atchison, *The Steep Costs of Criminal Justice Fees and Fines*, BRENNAN CTR. FOR JUST. (Nov. 21, 2019), <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines> [https://perma.cc/5GAU/GNU5].

³ *Id.*

⁴ See *id.*

⁵ See *id.*; Amairini Sanchez, Michele Cadigan, Dayo Abels-Sullivan & Bryan L. Sykes, *Punishing Immigrants: The Consequences of Monetary Sanctions in the Crimmigration System*, 8 RUSSELL SAGE FOUND. J. SOC. SCIS. 76 (2022).

⁶ Anne Tiegan, *Assessing Fines and Fees in the Criminal Justice System*, NAT'L CONF. OF STATE LEGISLATURES (2020), https://documents.ncsl.org/wwwncsl/Criminal-Justice/Fines-and-Fees_v02.pdf [https://perma.cc/6BDN-YM3E].

child custody.⁷ This is a widespread issue: one in three Americans have been directly impacted by fines or fees in the past ten years.⁸ Ending fine-based incarceration is thus a crucial part of broader efforts to end poverty-driven encounters with the legal system.⁹

The current system of fines and fees also fails to accomplish its purported revenue-raising goals. Fines and fees are intended to supplement government budgets, but they often backfire. For example, according to the Brennan Center, courts in some parts of New Mexico spend \$1.17 to collect every \$1.00 in carceral fees.¹⁰ In Oklahoma, one judge estimated that people in his county had a collective balance of over \$100 million due across 124,000 criminal cases between 2000 and 2014, but that his office could only expect to collect between 5–11% of those debts.¹¹ Meanwhile, jailing a person who cannot pay fines and fees costs the government as much as 115% of the potential revenue the government could have generated from successful debt collection.¹² The cost of collection could potentially be explained as the price of a desirable deterrence effect, but studies show that imposition of fines and fees can actually increase the likelihood of a new conviction.¹³

⁷ *About Us, FINES & FEES FREEDOM FUND*, <https://www.finesandfeesfreedom.fund/about-us> [https://perma.cc/LQ9J-9BT4].

⁸ Press Release, Fines & Fees Justice Center, Press Release: 1 in 3 Americans Directly Impacted by Legal Fees/Fines According to First-of-its-Kind National Survey (May 24, 2023), <https://finesandfeesjusticecenter.org/2023/05/24/press-release-1-in-3-americans-directly-impacted-by-legal-fees-fines-according-to-first-of-its-kind-national-survey/> [https://perma.cc/HMG7-LGWN].

⁹ See Kiren Jahangeer, *Fees and Fines: The Criminalization of Poverty*, AM. BAR ASS'N (Dec. 16, 2019), https://www.americanbar.org/groups/government_public/publications/public_lawyer_articles/fees-fines/ [https://perma.cc/F3RS-9XWA].

¹⁰ Menendez et al., *supra* note 2.

¹¹ GENE PERRY, THE COST TRAP: HOW EXCESSIVE FEES LOCK OKLAHOMANS INTO THE CRIMINAL JUSTICE SYSTEM WITHOUT BOOSTING STATE REVENUE: PART II, OKLA. POL'Y INST., (May 2, 2019), <https://okpolicy.org/cost-trap-excessive-fees-lock-oklahomans-criminal-justice-system-without-boosting-state-revenue-part-ii/> [https://perma.cc/5NB4-ZUQV].

¹² Menendez et al., *supra* note 2.

¹³ See Devah Pager, Rebecca Goldstein, Helen Ho & Bruce Western, *Criminalizing Poverty: The Consequences of Court Fees in a Randomized Experiment*, 87 AM. SOCIO. REV. 529, 546 (2022) (finding that “respondents whose fines and fees were relieved were no more likely to face new criminal justice contact after one year compared to the control group, but they were slightly less likely to incur new charges and convictions in the first three months.”); see also Joseph W. Critelli & Ronald F. Crawford, Jr., *The*

Despite their revenue-raising intent, it makes sense that for most jurisdictions, fines and fees only minimally benefit the bottom line. In theory, user fees advance three interests: (1) they maximize economic efficiency by allocating government resources to people who value them enough to pay for them; (2) they make the government more responsive to the preferences of the people who most value using a particular service; and (3) they represent a principle of fairness because they allow taxpayers to pay only for the services that they will use.¹⁴ However, underlying this theory is the assumption that the people paying the user fee in return for the service have affirmatively made the choice to do so, because they have decided that receiving the service is worth the cost of the fee. This logic breaks down in the criminal justice system: people are not choosing to use the criminal legal system when they are fined for failing to signal a lane change or for driving to work on a suspended license.¹⁵ Therefore, criminal fines lack the willingness-to-pay element inherent to the revenue-raising schemes of traditional user fees. Imposing such fines on the indigent proves particularly ineffective as a profit-generating strategy.

In 2016, the Oklahoma legislature passed a bill creating a pathway to debt relief for certain people through House Bill 3160.¹⁶ This statute addresses the debt obligations of formerly incarcerated people, as their criminal records often present significant barriers to securing employment that would enable them to pay off their debts. The statute permits defendants leaving Department of Corrections custody to petition for debt relief if they have complied with all supervision requirements and have made installment payments on their debt—typically \$25.00 per month—for twenty-four consecutive months following their release.¹⁷

This option for relief is codified in Oklahoma Statutes § 22-983a and allows eligible people to bring a motion requesting a “983a waiver” to eliminate their outstanding court fees.¹⁸ Applying for a

Effectiveness of Court-Ordered Punishment, 7 CRIM. JUST. AND BEHAV. 465, 469 (1980) (“Subjects receiving a fine had a higher probability of future crimes than those receiving no punishment, and, of those who were fined, the ones receiving a comparatively severe fine had a higher probability of future crime than those receiving fines which were small compared with the suggested fine for that crime.”)

¹⁴ David G. Duff, *Benefit Taxes and User Fees in Theory and Practice*, 54 U. TORONTO L.J. 391, 392–93 (2004).

¹⁵ See Louis Fisher, *Criminal Justice User Fees and the Procedural Aspect of Equal Justice*, 133 HARV. L. REV. F. 112, 116 (2020).

¹⁶ H.B. 3160, 55th Leg., 2nd Reg. Sess. (Okla. 2016).

¹⁷ See *id.*

¹⁸ *Id.*

waiver should be routine, but many judges do not know about the 2016 law.¹⁹ Among those who do, many read the discretionary language as an obligation to deny waivers in cases where they think the defendant might be capable of paying—even though indigence is not mentioned in the statute.²⁰ Moreover, eligible people typically do not know about this waiver option, both because it is not well-publicized and because defense attorneys, who might know of it, tend not to remain involved with cases post-conviction.²¹ Further, preparing a waiver motion can take significant time. Attorneys must search across three public records databases, and often must click into and manually tally dozens of lines in each case to calculate the debt relief amount. This manual review comes on top of client interviews to understand the client’s ability to pay and circumstances behind the debt, which attorneys report strengthen their motions.²² Legal aid attorneys say some clients hesitate to take advantage of the law, even if eligible, particularly when judges ask if they can continue to contribute even a small amount monthly to their debt.²³

Leaving this debt on the books has collateral consequences. When automatic record expungement commences in 2025, pursuant to Oklahoma’s new Clean Slate Bill, certain records will be cleared only if the defendant has paid outstanding costs.²⁴ Under these rules, indigent defendants with outstanding debt cannot benefit from expungement, and will continue to face stigma and discrimination based on their felony record, which negatively affects employment, housing, higher education, and more.²⁵ It will be crucial to identify people who stand to benefit from this new law and to prioritize their fine and fee waivers so that outstanding costs will not prevent record expungement. More broadly, this issue shows the need to analyze fine and fee waiver uptake. Policymakers often lack data on who holds court debt, who can access waivers, and what barriers exist to broader uptake, including disparities along racial, socioeconomic,

¹⁹ Telephone Interview with Ed Wunch, Attorney, Legal Aid Services of Oklahoma (Feb. 17, 2023).

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *See id.*

²⁴ OKLA. STAT. ANN. tit. 22 §18 (2021).

²⁵ *See* Devah Pager, *The Mark of a Criminal Record*, 108 AM. J. SOCIOLOGY 937 (2003); Robert Stewart & Christopher Uggen, *Criminal Records and College Admissions: A Modified Experimental Audit*, 58 CRIMINOLOGY: AN INTERDISCIPLINARY J. 156 (2020); Peter Leasure & Tara Martin, *Criminal Records and Housing: An Experimental Study*, 13 J. EXPERIMENTAL CRIMINOLOGY 527 (2017).

and other lines. Filling this research gap can guide data-driven policymaking in the future.

II. THE DIGITAL OPPORTUNITY: USING TECHNOLOGY TO INCREASE ACCESS TO FINE AND FEE WAIVERS AND INFORM POLICY DESIGN

Our team worked in partnership with Legal Aid Services of Oklahoma to explore the potential of digital tools to increase access to these court debt waivers. First, we demonstrated that it is possible to create a *judge*-facing tool that automatically and proactively generates lists of people who are likely eligible for 983a waivers, based on publicly available court records. Courts could use such a tool to waive fees for eligible people without requiring them to prepare a motion or appear in court. Second, we created an *attorney*-facing tool that synthesizes and summarizes relevant information about a client's outstanding court fees and waiver eligibility, enabling legal aid attorneys to prepare more motions for relief in limited time. Finally, we performed an empirical sensitivity analysis on publicly available data to inform future policy on the terms of indigency-based waivers. Our analysis is the first seeking to quantify an eligible client base for 983a waivers.

The 983a waiver-eligible population may ultimately prove to be relatively small when compared to the broader cohort of litigants that could benefit from better support for indigency-based fee waivers, criminal record expungement, and other legal processes that allow people to meaningfully and permanently move on from criminal legal involvement. However, the impact of our digital tools will extend beyond the context of 983a waivers alone. This is because the tools' logic, and the working model we used to develop it, can be applied to any new law which establishes clear conditions to determine eligibility for a public benefit.

For example, in May 2023, the Oklahoma legislature passed a law to standardize the definition of indigence and to reduce the role of judicial discretion in indigency-based waiver hearings.²⁶ Whereas before, judges had wide latitude to determine whether someone was able to pay their debt, a defendant is now presumptively eligible for court debt relief when they meet one of four objective criteria: (1) are recognized as totally disabled by any federal, state, or tribal disability services; (2) receive federal need-based financial support; (3) benefit from government-subsidized housing; or (4) have total income below 150% of the federal poverty level.²⁷ For people who are not presumptively eligible, the law sets out a list of eight factors

²⁶ H.B. 2259, 59th Leg., 1st Reg. Sess. (Okla. 2023).

²⁷ *Id.*

that courts must consider to determine ability to pay, such as their income and living expenses, physical and mental health, and child support obligations.²⁸

A rule-based algorithm, like the one in our 983a waiver tool, could be used to determine whether a candidate is presumptively eligible for an indigency-based waiver, and if not, whether they have a strong case against the eight factors the judge must consider. Stronger cases can be routed to a public-facing version of our tool that assists pro se litigants in scraping and compiling the relevant information about their case to prepare their motion, while more legally complex cases could be directed to legal aid attorneys for more intensive review and support. Any opportunity to encode legal rules as a decision tree is ripe for this kind of digital tool.²⁹

A. Overview of Digital Tools: Judges, Attorneys, Policymakers

In collaboration with Legal Aid Services of Oklahoma and in consultation with several other Oklahoma-based legal advocacy organizations, we created digital tools to make three contributions:

1. Currently, there is no publicly available figure for the number of people who are eligible for fee waivers under 983a. In some counties, judges have indicated willingness to proactively waive the court costs of people who qualify without requiring that they file a motion or appear in court—if the judge could see a list of those eligible.

Our *judge*-facing tool generates a list of every person who might be eligible for a fee waiver in a given county.

2. Currently, attorneys serving indigent defendants must look across three different public databases to determine a client's eligibility. Attorneys then input the fee information into a spreadsheet, tabulate a fee summary, and detail both the total cost and an itemized list of outstanding fees in a motion to petition the court for debt relief.

Our *attorney*-facing tool automates the eligibility process so that attorneys can serve more people, more efficiently.

²⁸ *Id.*

²⁹ See Hamish Fraser, *What Is Better Rules?*, DIGITAL.GOV.T.NZ (Dec. 20, 2019), <https://www.digital.govt.nz/blog/what-is-better-rules/> [<https://perma.cc/9DK7-22VQ>].

3. Currently, there is no analysis examining whether current rules governing waiver eligibility lead to disparities in who can clear their debt.

Our *policymaker*-facing analysis uses publicly available data to understand specific changes to eligibility rules that could decrease disparities in access to fee waivers.

B. Overview of Input Data: Gathering and Integrating Data from Various Public Sources

Data collection required reviewing and aligning three publicly accessible databases:

1. Oklahoma Department of Corrections (ODOC) Public Inmate Data

ODOC prepares data files that contain all publicly available information on all current and past inmates, refreshed quarterly.³⁰ This population includes all people who would have served a sentence in the Department of Corrections (DOC) and thus, would be eligible for a 983a waiver. The dataset, available in a downloadable format, includes inmate names, case numbers, sentences, reception dates, supervision statuses, and demographic details. We used this data to create a “universe” of individuals and their sentences for analysis, narrowing nearly 1.5 million rows of sentence information to a targeted sample of 55,442 potentially eligible sentences.

We identified a sample based on three criteria: sentences where an individual was convicted during the fifteen-year period between January 1, 2000 and January 1, 2015; served a prison sentence; and is currently not serving time for another offense. To improve the statistical power of our results, we selected all potentially eligible sentences from Cleveland County—our pilot county—and a random sample of 30,000 cases from each of the state’s two largest sentencing courts: Tulsa and Oklahoma Counties.

2. Oklahoma State Courts Network (OSCN) Docket Data

The Oklahoma Judicial Center makes basic docket information from most court records publicly available at no cost through the Oklahoma State Courts Network (OSCN) website. Available docket

³⁰ The data are current as of January 1, 2023. *ODOC Public Inmate Data*, OKLA. DEP’T OF CORR., <https://doc.ok.gov/odoc-public-inmate-data> [<https://perma.cc/Y9C8-PPXG>].

information includes case number, parties, attorneys, counts and disposition, and proceedings, including hearings for fines and fees. However, there is no application programming interface (API) to download a record, nor does DOC Public Inmate Data include a hyperlink to the docket associated with a particular case. Therefore, we reverse engineered hyperlinks from a given case number and sentencing court.³¹

Case Number	Sentencing Court	Generated Hyperlink
93-8305	Cleveland County Court	https://www.oscn.net/dockets/GetCaseInformation.aspx?db=cleveland&number=CF-93-8305

Figure 1: Based on a given case number and sentencing court, we were able to generate hyperlinks for 97.3% of court records in the sample.

We used these hyperlinks to web scrape the docket information of each OSCN court record in our sample. By “scrape,” we mean writing a computer program to extract data from a docket table and copy it into a structured format for analysis.³²







05-30-2001 [AFISA]		#3	\$ 0.06
AFIS ADMINISTRATIVE FEE			
05-30-2001 [CLEETA]		#3	\$ 0.08
CLEET ADMINISTRATIVE FEE			
05-30-2001 [PFE7]		#3	\$ 3.00
LAW LIBRARY FEE			
05-30-2001 [AFIS]		#3	\$ 2.94
C.L.E.E.T. PENALTY ASSESSMENT FOR AFIS			
05-30-2001 [CLEET]		#3	\$ 3.92
C.L.E.E.T. PENALTY ASSESSMENT			
05-30-2001 [SSF]		#3	\$ 5.00
SHERIFF'S SERVICE FEE ON ARRESTS			

Figure 2: Fees listed in a docket table. The tool identifies the fines and fees assessed to a particular defendant, returning total amount owed and total amount paid, as well as the total consecutive and non-consecutive months paid.

³¹ While imperfect, this method successfully scraped 97.3% of court records in the sample.

³² See UC Berkeley Center for Long-Term Cybersecurity, *Data Scraping for Research Purposes*, YOUTUBE (Apr. 3, 2022), https://www.youtube.com/watch?v=_mTGWquOEos.

3. On Demand Court Records (ODCR)

Some counties use a service provided by KellPro Inc. called ODCR to post their full case files. While OSCN has all docket and fee information for most counties, ODCR houses court records for certain county courts in Oklahoma that are not part of the OSCN system.³³ Finding court fee information requires a nuanced scraping method as there is only a generic link (<https://www1.odcr.com/results>) when searching for any given person in the database.³⁴

	1,422,055	136,739	69,965	55,442	N/A
Sentences					
Individuals	333,870	51,517	36,658	35,797	218-1,381
	In the Oklahoma Department of Corrections Database	Sentences in the three largest counties (Oklahoma, Tulsa, and Cleveland) that meet the following criteria: <ul style="list-style-type: none"> • Conviction date between 1/1/2000 and 1/1/2015 • Person served time in DOC • Person is not currently serving time for another offense 	Sentences in the sample, including: <ul style="list-style-type: none"> • 30,000 random sentences from Oklahoma County • 30,000 random sentences from Tulsa County • 9,965 cases from Cleveland County (all cases) 	Sentences successfully matched to docket data in OSCN; at this stage, we only scraped once where there were multiple rows for a given individual and case number	Individuals who meet payment eligibility criteria to qualify for a waiver

Table 1: Summary of Data Collection. This table shows the data collection funnel, from the initial universe of sentences to the sample that guided our analysis.

III. JUDGE-FACING TOOL: CREATING A DATABASE OF WAIVER-ELIGIBLE INDIVIDUALS

Our first tool enables judges to proactively waive fees for formerly incarcerated people who may not know they are eligible for waiver, and thus do not know they may petition the court for relief. Clearing this debt before people fall into nonpayment prevents the issuance of arrest warrants and resulting complications, allows them to reallocate money to other expenses, and enables them to seal their criminal records. Taking these steps, they can meaningfully move

³³ See Dylan Goforth, *Public Records Website Finds Way to Monetize Access to Court Documents*, THE NORMAN TRANSCRIPT (July 11, 2020), https://www.normantranscript.com/news/oklahoma/public-records-website-finds-way-to-monetize-access-to-court-documents/article_5eda9654-395a-5db6-9135-ea4299a27dfc.html [<https://perma.cc/NYF8-ADLX>].

³⁴ Our attorney-facing tool includes the ability to aggregate a person’s cases across OSCN and ODCR; our pilot judge-facing tool only summarizes the payment information for a single OSCN case.

forward with opportunities in employment, education, and housing that will contribute to their long-term thriving.

The pilot tool creates a database of all people eligible from our sample population:

Sentencing Court	Name	Judge	Streak Length	Total Months	Streak End	Amount Paid	Amount Owed	Balance
TULSA COUNTY COURT	A	Y	51	54	2023-10-19	1298.2	4542	3243.8
TULSA COUNTY COURT	B	Y	34	93	2023-10-18	1034.42	3008.84	1974.42
OKLAHOMA COUNTY COURT	C	Y	44	112	2023-10-16	2930.16	3261.3	331.14
TULSA COUNTY COURT	D	Y	65	109	2023-10-15	2137.68	4161.31	2023.63
OKLAHOMA COUNTY COURT	E	Y	31	39	2023-10-12	1885.1	2403.04	517.94
TULSA COUNTY COURT	F	Y	54	74	2023-10-11	1790	2690	900
TULSA COUNTY COURT	G	Z	53	53	2023-10-11	1325	2599.49	1274.49
CLEVELAND COUNTY COURT	H	Z	44	114	2023-10-10	2369.91	5182.7	2812.79
CLEVELAND COUNTY COURT	I	Z	50	57	2023-10-08	2807.42	3369.3	561.88
TULSA COUNTY COURT	J	Z	92	94	2023-10-08	27350	27670.83	320.83
TULSA COUNTY COURT	K	Z	59	70	2023-10-05	1775	2961.68	1186.68
TULSA COUNTY COURT	L	Z	63	78	2023-10-04	2063.01	2349.31	286.3
TULSA COUNTY COURT	M	Z	33	55	2023-10-04	2320.9	3075	754.1

Figure 3: This is a sample output of the judge-facing tool, with identifying information removed.

To create the database, our team first pulled court records for every potentially eligible individual in the three-county sample. Based on the 983a statutory requirements, a “potentially eligible individual” is someone who has: (1) served time in prison; (2) been released from the DOC; and (3) made twenty-four months of consecutive payments upon release.³⁵ Then, we ran each record through a process to determine eligibility. Mechanically, this process involved scraping court fee information from a person’s public OSCN docket. Our code checks for payments by resampling the data to a monthly frequency, counting payments in each month, and then determining the longest streak of consecutive months with payments.

We gathered information from a sample of 55,442 sentences across Oklahoma’s three largest sentencing counties. The 36,658 unique individuals with these sentences were convicted between January 1, 2000 and January 1, 2015, served time in the DOC, and are currently not serving time for another offense. From this list, depending on the leniency of the consecutive-months requirement, we identified between 218 and 1,381 people who are eligible for fee waivers and still have an outstanding account balance.³⁶ This translates to between 0.6% and 3.8% of individuals in the sample. This tool is in use today: we are actively working to facilitate outreach to the people we have identified to make them aware of this potential opportunity.

In addition, the tool can be used to identify and inform those who are close to meeting the payment threshold. For example, twenty-

³⁵ H.B. 3160, 55th Leg., 2nd Reg. Sess. § 983a (Okla. 2016).

³⁶ To account for minor discrepancies in our fee calculation algorithm, we set a minimum outstanding balance of \$50 to be considered eligible.

four people in the sample had paid fees for between twelve and twenty-four consecutive months and still had an outstanding balance. A legal aid attorney could proactively reach out to ensure members of this subset are aware of the waiver opportunity once they hit the eligibility threshold. Overall, we believe the tool can be useful to both identify those who are already eligible as well as those who could become eligible in the next year.

A. Demographic Analysis: Access to Waivers by Race, Gender, and Age

This data not only allows us to identify formerly incarcerated people who are eligible for 983a waivers, but it also allows us to analyze the data for demographic disparities in patterns of payment activity and waiver eligibility. For example, consider a defendant's ability to pay, which relates to their ability to find a quality job after release. One study found that "a criminal record reduces the likelihood of a callback or job offer by nearly 50%," but the magnitude of that impact is "substantially larger" for Black job applicants compared with white ones.³⁷ The policy imposes a disparate impact if the twenty-four-month requirement has no clear benefit but induces racially adverse impacts.

When we examined patterns of debt and payments among litigants, we discovered statistically significant disparities by race in the length of payment streaks achieved, showing that relative to their older and white peers, young people and people of color tend to achieve shorter payment lengths.³⁸ It follows that on waiver eligibility, we observed statistically significant racial disparities—driven in part by racial disparities in payment streak given the criteria's emphasis on consecutive payments in the law.

First, we tested whether certain factors might influence the number of total months in which an individual has paid off their debt (i.e., non-consecutive payments). We used a linear multiple regression model to estimate the association between demographic characteristics and the total number of months in which defendants made payments, which helps to show how differences in payment

³⁷ Devah Pager, Bruce Western & Naomi Sugie, *Sequencing Disadvantage: Barriers to Employment Facing Young Black and White Men with Criminal Records*, 623 ANNALS AM. ACAD. POL. SOCIOLOGY AND SCI. 195, 199 (2009).

³⁸ Statistical significance measures the probability that the outcome identified from a statistical analysis would have occurred by chance. The lower the probability that the observed disparity could have occurred by chance, the stronger the inference we can draw from the data. *See Segar v. Smith*, 738 F.2d 1249, 1282 (D.C. Cir. 1984).

totals can lead to differences in waiver eligibility. In this model, we included all cases in which the defendant had been released from DOC custody and had made at least one month of payments (N=29,500). We interpret results as statistically significant if the associated p-value is less than .05. Our analysis applies fixed effects, meaning that we adjust to account for unobserved differences across different conviction years, counties, and statutes under which a person was convicted.³⁹

The following results are statistically significant at the five percent level. Overall, our model has an R-squared value of 0.149, meaning that the model explains 14.9% of the variation we see in the number of monthly payments. While there is more to explore, this analysis offers important insights for future analysis. Among those who made at least one month of payments, we found that:

- Men, on average, have 0.98 *fewer* months of payments compared to women with similar characteristics.
- Black and Hispanic individuals, on average, have 1.64 and 2.02 *fewer* months of payments, respectively, compared to white individuals with similar characteristics.
- Someone who was approximately 44 years old when convicted, on average, has one *more* month of payments than someone with similar characteristics who was convicted at age eighteen.⁴⁰
- Individuals who have set up a payment plan with the court, on average, have 1.96 more months of payments than those without a payment plan but who have similar characteristics. These people have explained in court that they cannot meet the monthly payment requirement and a judge has consented to this person paying a lower monthly amount to meet the payment obligations. Importantly, we cannot conclude from this analysis that payment plans increased monthly payment compliance; it is also possible that litigants who knew to request payment plans could afford more sophisticated representation than those who did not, which may independently indicate relatively more ability to pay.

³⁹ By including fixed effects for conviction year, for example, we compare people convicted in the same year to each other, rather than comparing people across different years. The result gives a clearer picture of the true impact of our main variables, such as race, without the results being distorted by conditions that differ between years.

⁴⁰ Each additional year in the age of an individual at the time of their case adds approximately 0.038 months to the total duration of court fee payments.

Variable	Estimate	Standard Error	t-value	Significance
Total Amount Owed	0.0004	0.00001	6.8	*** (p < 0.001)
Has Payment Plan	1.96	0.3	6.7	*** (p < 0.001)
Male	-0.98	0.15	-6.6	*** (p < 0.001)
Age at Conviction	0.04	0.01	2.81	** (p < 0.01)
Race: Hispanic	-2.02	0.5	-4.06	*** (p < 0.001)
Race: Black	-1.64	0.42	-3.86	*** (p < 0.001)
Race: Asian	1.63	1.54	1.06	
Race: Pacific Islander	1.58	1.78	0.89	
Race: Native American	-0.33	0.43	-0.76	

Legend: *** < 0.001: Very Significant; ** < 0.01 Highly Significant; * < 0.05 Significant

Table 2: Regression Estimates of the Effect on Total Months Paid. This table reports the coefficient estimates from the OLS regression that also includes county, sentencing statute, and conviction year fixed effects.

Second, we demonstrate that the proportion of eligible defendants who are people of color would increase by eight percentage points if non-consecutive payments were allowed. Of those in our sample with at least twenty-four consecutive months of payments (i.e., those who meet the threshold for eligibility), 29.3% are people of color. A more lenient threshold of twenty-four *non*-consecutive months would increase the proportion of eligible people of color to 37.6%. This difference is statistically significant at the five percent level ($p = 0.02$). Considering that the racial composition of the sample is 43.0%, the more lenient threshold would keep the racial composition of eligible defendants closer to that of all potentially eligible defendants.

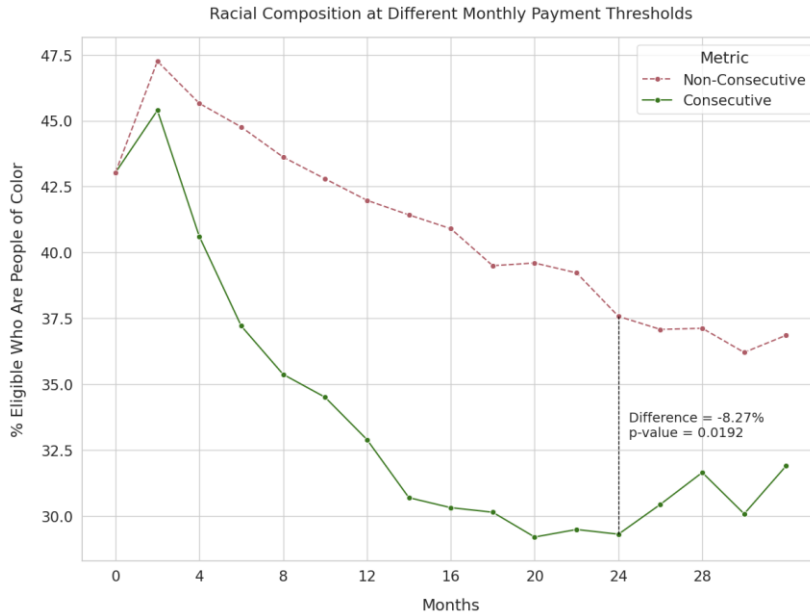


Figure 4: This chart shows the racial composition of the eligible defendant population across different consecutive and non-consecutive month payment thresholds.

Publicly available court data on fines and fees is constrained to purely procedural information, so it is difficult to identify a cause for these disparities without access to narrative or other data explaining reasons for nonpayment for different people. However, these results are consistent with barriers to payment reported by our partner organizations and bolstered by academic research, like the fact that people incarcerated as children tend to experience lower earnings over the course of their life and thus may be less able to make regular payments.⁴¹ Further, in the return from prison to work, Black and Hispanic people have lower total earnings than white people, and thus may be less able to make payments.⁴² Our future work across the state of Oklahoma will seek to answer these questions, in addition to searching for patterns in more granular data on race, age, and instant offense than the size of our proof of concept dataset could support.

⁴¹ See Marilyn Metzler, Melissa T. Merrick, J. Klevens, K. Ports & Derek C. Ford, *Adverse Childhood Experiences and Life Opportunities: Shifting the Narrative*, 72 CHILD. & YOUTH SERVS. REV. 141 (2016).

⁴² See Bruce Western & Catherine Sirois, *Racialized Re-Entry: Labor Market Inequality After Incarceration*, 97 SOC. FORCES 1517 (2019).

B. Analysis to Support Legislative Reform: Testing Alternative Legislative Schemes

We also wanted to explore how many people would be eligible under different legislative reform scenarios, such as a more lenient consecutive months requirement (e.g., allowing someone to pay roughly every month or about every forty days) or allowance of payments made over a greater number of non-consecutive months (e.g., if someone pays for a total of fifty months but does not pay for twenty-four months consecutively). This chart shows how many people would meet the eligibility criteria for a fee waiver under different consecutive and non-consecutive payment thresholds.

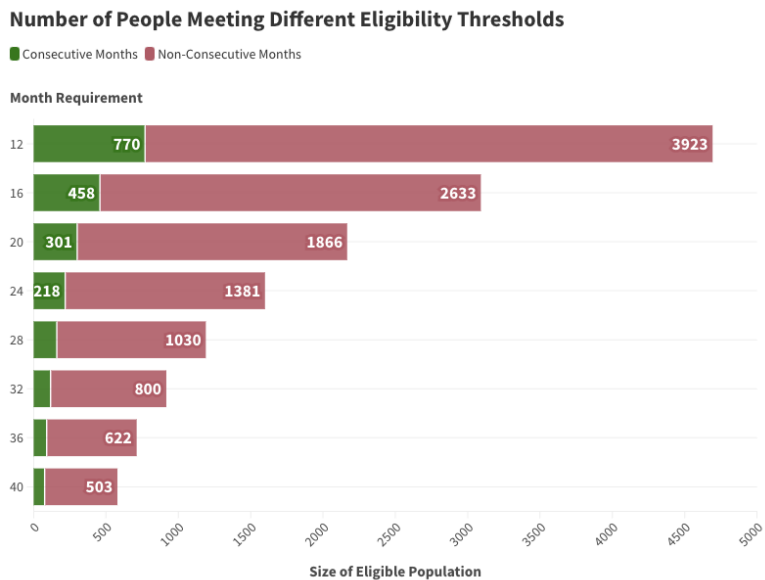


Figure 5: This chart shows how much the eligible population would increase under a more lenient non-consecutive month requirement.

While only 218 people have paid for at least twenty-four consecutive months, expanding the threshold to twenty-four non-consecutive months would increase the eligible population by a factor of six. Both results yield the same amount of revenue to the state, and payment over a longer period of time reflects a strong commitment on the part of the formerly incarcerated person to meet their post-release obligations. Because of those reasons, this issue is ripe for legislative change, and this kind of analysis can be useful to advocates seeking to ground their recommendations in evidence about the quantifiable impact of various statutory features on the resulting pool of eligible people. These seem like small numbers, but relative to the share of people actually receiving waivers today, this

represents a significant increase in the number of people who could access relief.⁴³

Assuming our sample figures roughly extrapolate statewide, then up to 5,500 people across Oklahoma may be eligible for fee waivers from this fifteen-year period.⁴⁴ In future iterations of this analysis, we plan to replicate this process to quantify the actual statewide opportunity.

IV. ATTORNEY-FACING TOOL: INTERACTIVE TOOL FOR LEGAL AID

Our second tool automates the most burdensome and error-prone steps in determining client eligibility for a fee waiver, enabling attorneys to serve more people more efficiently. It was designed for an organization that provides free and low-cost legal services, but has also been deployed on a limited, trial basis for supervised use by law students in a clinic that our team helped to start to supplement the efforts of attorneys to increase fee waiver uptake.

To create this tool, we segmented the current intake process into five modular components. We then determined which components were best suited for automation based on their reliance on publicly available data sources and amenability to conversion into rule-based algorithms for processing. After initial scoping, we decided to focus the first phase of our automation project on Step 2 (Institutional Record Search) and Step 3 (Court Record Search) of the current intake process.

1. Initial Legal Aid Intake Meeting: The client approaches a legal aid organization about waiving their fines and fees, and an attorney gathers basic information (e.g., incarceration history, income, why they are seeking a waiver) to understand their potential options.
2. Institutional Record Search: An attorney looks up the client in ODOC to see if the client has served a prison sentence and received parole or release on supervision.
3. Court Record Search: The attorney looks up the client in OSCN in the counties where cases are reported, or where the attorney sees that they have had cases per ODOC or ODCR.

⁴³ Exact figures for 983a waivers granted are not known, but these cases are only docketed at most several times per year.

⁴⁴ To make this estimate, we extrapolated from the eligible population identified in the three-county sample to calculate an approximate upper bound from the fifteen-year period in the three-county population. Since these three counties accounted for 41.2% of all sentences in the ODOC database during this period, we extrapolated again to the Oklahoma population.

The attorney reviews each individual court record to determine whether the fines on that record will be eligible for a waiver and adds up the paid and outstanding fines across all eligible cases.

4. Meeting with Client: The attorney discusses what they found with the client and learns more about the client's goals and needs, including their responses to a battery of questions designed to provide the attorney with the narrative information needed to support a motion in court.
5. Prepare Court Motion: The attorney synthesizes their research and conversations with the client into a motion for the waiver and argues it in a hearing.

Our team was committed to building a digital tool that met the actual needs of legal aid attorneys in our partner organizations. To that end, we configured a working structure that enabled our law students with backgrounds in project management to interface directly with our partner organization. The law student sub-team translated what we learned about the legal processes of fine and fee waivers into specific goals and capabilities to prioritize for development in the tool. The law student sub-team then worked with the technical sub-team to build out these capabilities, relaying questions and answers between the legal aid attorneys and technical developers. This working structure allowed us to constructively engage our legal aid partners, who provided substantive input and guidance.

We were also committed to constructing a tool that was easy to use and sustainable to maintain. To that end, we built a simple user interface with Streamlit. Streamlit is an open-source Python library that streamlines the building and deploying of data apps.⁴⁵ It provides a simple, intuitive, no-bells-and-whistles front-end design that allowed us to devote our focus in this proof-of-concept phase to building a rigorous back-end system, and to more easily hand over the tool to our partner organizations.

Below are screenshots of the initial prototype of our attorney-facing tool:⁴⁶

⁴⁵ STREAMLIT DOCS, <https://docs.streamlit.io/> [<https://perma.cc/UD7A-DEZF>].

⁴⁶ See *Our Approach*, FINES & FEES FREEDOM FUND, <https://finesandfeesfreedom.fund/ourapproach> [<https://perma.cc/43KA-EXDW>].

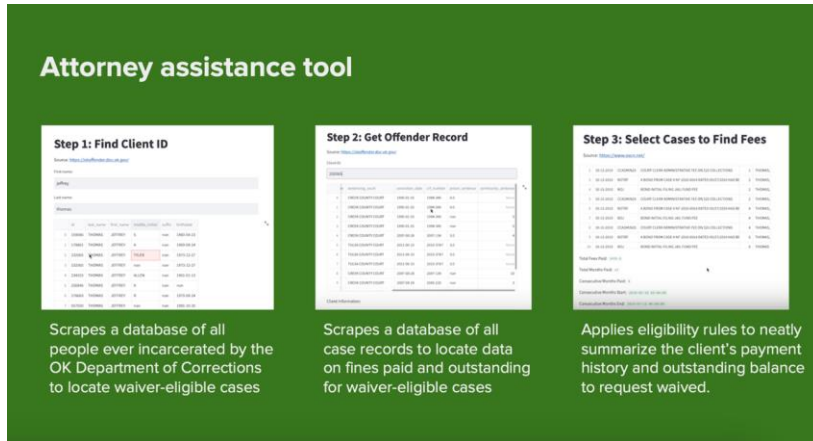


Figure 6: The pilot attorney-facing tool allows a legal aid attorney to enter a person’s name and select cases in their record to summarize.

Initial feedback was positive, with one attorney user stating that “[our] current Excel spreadsheet does half of this a quarter as well” and that the tool “reduces ten steps into one.” We made three changes to the initial design based on user feedback. First, we added new functionality that shows all cases based on a scrape of ODCR, and not just OSCN, records.

Step 3: Search Cases on ODCR

Source: <https://www1.odcr.com/>

Search Cases

Select courts:

Oklahoma x

	selected	Court	Case Number	Filed On	Party	Case
33	<input type="checkbox"/>	Oklahoma	CS-1991-5248	09/18/1991		CREDIT AC
34	<input type="checkbox"/>	Oklahoma	CF-1999-5936	10/29/1999		STATE OF
35	<input type="checkbox"/>	Oklahoma	CM-1989-2051	08/31/1989		State of OI

Figure 7: Incorporating ODCR records allows legal aid attorneys to search across a broader range of cases where an individual made payments. ODCR includes cases from courts that are not part of the OSCN network.

Second, to make the tool more user-friendly, we pre-filtered and organized the search results based on courts in which the individual

has served DOC time, and maintained this categorization and organization system throughout each step in the tool. To mimic how attorneys actually think about a person's cases and overall waiver eligibility, we provide detail on fines owed and potential waiver eligibility for each case, as well as across all cases for a given individual.

Third, on the click of a button, an attorney can download the summarized information into an Excel spreadsheet. The spreadsheet includes a homepage with information across all selected cases, with tabs summarizing the docket table for each individual case.

Overall, this tool has the potential to significantly reduce the amount of time it takes attorneys and clinic students to determine a person's eligibility for a court fee waiver. While this first iteration was designed for use by one organization, future versions could be offered to free and low-cost legal providers across the state. Legal providers could embed the tool on their websites for direct use by potential clients who wish to represent themselves pro se, and the tool could be bolstered with additional functionalities to support motion drafting and argumentation that is specific to a particular jurisdiction.

This tool accomplishes more than the data pulls in its code. Automation in the legal field is drawing significant attention, and it has been our experience that developing this tool in partnership with Legal Aid Services of Oklahoma and other advocates across the state has tapped into that energy. It has contributed to a feeling of empowerment among providers of legal aid services, sparked conversations about where else automation might be used to increase access to high-quality legal services, and rejuvenated focus on the issue of fines and fees in the communities in which we developed it, as well as the scope of what advocates think they will be able to achieve. The process of developing this tool, from process mapping to modular development, has given us a structure to redeploy on future problems to which automation could be one solution. As with most legal innovations, this tool and the process we used to create it has applicability outside of our narrow focus area. We are excited to explore where to take this next.

V. CONTEXTUALIZING THE ANALYSIS: DATA LIMITATIONS, ETHICAL CONSIDERATIONS, AND FUTURE RESEARCH DIRECTIONS

The project has various limitations and raises several potential ethical issues that will be important to continue monitoring as the work develops further. We have also identified a variety of opportunities for future analysis, both on this issue in Oklahoma and on other issues in other states.

A. Data Limitations

First, the empirical analysis of the Waiver Eligible Database does not control for type of offense (e.g., violent vs. non-violent). This was due to a discrepancy between the offense codes in our sentencing dataset and the offense codes in our offense name dataset. Although this analysis would not change our answer on how many people are eligible for waivers, future teams could clean this data and explore racial and gender disparities in payment patterns and waiver eligibility while controlling for whether an offense was violent or non-violent. For example, it may be that those convicted of more serious crimes systematically struggle more with finding employment and sticking to payment schedules. That insight could further focus legislative reform efforts on ensuring broad access to waivers.

Second, there was some leakage at each step of the funnel that involved switching between databases. For example, we had to construct URLs to search on the Oklahoma State Court Network based on case numbers from Department of Corrections data, because URL information was not available in any database. Most URLs took us to the correct page, but some nuances in the input data resulted in 2.7% of records that did not direct to the correct URL and thus were not included in our dataset. Because we could not locate those records, we could not conclude whether they were systematically different from the ones we included.

Finally, we chose to start with a tool that is addressed toward attorneys because the tool has predictably required various adjustments to address anomalies in the data and law that complicate the otherwise straightforward process of summing up a person's outstanding fines, and attorneys have both the legal sophistication and the professional responsibility obligations to sense-check the tool's outputs. The tool is limited insofar as it is not presently available to litigants to check their own eligibility; this is a future aim of our project.

B. Ethical Considerations: Data Privacy and Dignity

We hope these tools inform important work to reduce the vicious cycle of poverty and incarceration in Oklahoma, but acknowledge some important ethical considerations to monitor as we continue to do this work. First, protecting the privacy of people with court records is an ongoing issue. Currently, anyone can search for an individual's name in the Oklahoma Department of Corrections database and view pictures and demographic information about them, even after they have served their sentence. Under even the strictest U.S. state privacy laws, such as the California Privacy

Rights Act, individual personal information is not protected when it is made available by federal, state, or local government records.⁴⁷ Unfortunately, tools like ours rely on such availability of personal data. While it is legally permissible to scrape publicly available government databases, we exercise caution when processing, storing, and further disseminating data about individual people and will continue to be thoughtful about the importance of protecting individual privacy when we work with the clerks and other bureaucrats who, in part, decide what information will be public.

Second, while more efficiency in access to fee waivers is broadly a good thing, our digital tools also pose the risk of undermining some of the dignity-promoting features of the fee waiver process. We have heard from advocates that some individuals desire to show that they can meet financial obligations, even unfair ones, imposed by the court, and in some cases, may try to persevere in repaying their court debts despite a judge's offer to waive them in full. Others find great value in the opportunity to go before an attorney and then a judge, explain all that they have done to pay their debt and contribute to their communities in non-monetary ways, and hear a judge acknowledge the immensity of the burden they have carried; they might not reach the same feeling of closure if their debt is waived as a matter of administrative convenience. The automation of the waiver eligibility assessment through digital tools can potentially diminish the personal satisfaction and restoration of dignity that can come from the finality of a court hearing and ruling.

Moreover, there is a risk that litigants, attorneys, and judges could rely too heavily on these digital tools to determine waiver eligibility. For example, if the tool deems a defendant unqualified for waiver, litigants and their attorneys might choose not to pursue a waiver at all, even if the purported ineligibility stems from a quirk in the data in their case rather than from a disqualifying event. Furthermore, judges might reject a waiver based solely on an initial determination made by a digital tool, instead of offering a potentially more compassionate evaluation after an in-person hearing.⁴⁸ By embedding specific eligibility thresholds in these tools (e.g., eligibility after twenty-four consecutive monthly payments or for everyone under 150% of the federal poverty line), these tools may also reduce the use of waivers in cases where judges currently

⁴⁷ See CAL. CIV. CODE § 1798.140 (v) (2) (“‘Personal information’ does not include publicly available information. For purposes of this paragraph, ‘publicly available’ means ‘information that is lawfully made available from federal, state, or local government records.’”).

⁴⁸ See Sarah Brayne & Angèle Christin, *Technologies of Crime Prediction: The Reception of Algorithms in Policing and Criminal Courts*, 68 SOC. PROBS. 608 (2021).

exercise discretion to waive fees for people who do not quite meet those criteria (e.g., people who have paid for twenty months, or who are at 200% of the federal poverty line).

We plan to continue to monitor and address these concerns by centering them in conversations with advocates and community members as we deploy future iterations of our tools. We want to ensure the tools are having the intended impact of increasing access to fee waivers and protecting the other interests that indigent defendants want to protect.

C. Future Applications: Widening Access to Income-Based Waivers

These tools have the potential to support additional legislative reform and access-to-justice initiatives across Oklahoma's legal landscape. For example, both the courts and legislature allow indigent defendants to obtain fee waivers upon proving that they are unable to pay. This process is called a "Rule 8 hearing."⁴⁹ In contrast with 983a waivers, which depend on objective attributes like the number of consecutive payments made, Rule 8 waivers are highly dependent on the presiding judge's opinions about what constitutes indigency.⁵⁰ While some judges rely in large part on the case defense attorneys make, others use imperfect heuristics that can limit access to waivers for people who truly cannot afford to pay. For example, through interviews with advocates, we learned that when a defendant is claiming hardship due to low income and has had their nails done, or when they are claiming hardship due to disability but do not visually appear to be disabled in the courtroom, some judges are unwilling to grant indigency-based waivers.⁵¹

HB 2259, a new law passed in the most recent legislative session, will change those rules.⁵² HB 2259 amends existing statutes on indigency-based fee waivers to make explicit that judges must presumptively find people unable to pay if they are totally disabled, receive federal need-based financial or nutrition support, benefit

⁴⁹ OKLAHOMA.GOV, COURT FINANCIAL OBLIGATIONS: COUNSELING YOUR CLIENTS REGARDING THEIR COURT-RELATED FINANCIAL OBLIGATIONS AND ADVOCATING FOR RELIEF 2 (2023) ("Legal Financial Obligations are administered under Rules 8.1 through 8.8 of the Court of Criminal Appeals. The process is commonly referred to as Rule 8."); *Rule 8.1-Judicial Hearings*, OKLA.COURT OF CRIMINAL APPEALS, <http://okcca.net/rules/rule-8.1/> [<https://perma.cc/X497-BLCV>].

⁵⁰ Advocates with Legal Aid Services of Oklahoma, Still She Rises, and Access to Justice Foundation, Zoom Meeting with Author, March 28, 2023.

⁵¹ *Id.*

⁵² H.B. 2259, 59th Leg., 1st Reg. Sess. (Okla. 2023).

from government-subsidized housing, or have income below 150% of the federal poverty level. The law further recognizes specific pieces of information that the judge must consider when determining indigency for people outside of those categories, including household income, expenses, and childcare obligations.⁵³ This legislation makes Rule 8 more rule-based, and the information needed to apply those rules can be determined by scraping an individual's case information and asking them basic questions about their benefits and finances. Therefore, our tools can be modified to serve not only the formerly incarcerated, waiver-eligible population, but also indigent defendants more broadly.\

CONCLUSION

We are excited about the potential of these digital tools to contribute to the fight against the criminalization of poverty in the American legal system. First, our judge-facing tool will make it possible for judges to identify lists of people who are likely eligible for 983a waivers. We have identified as many as 1,381 people in the three-county sample who could receive waivers today on court debt incurred between 2000 and 2015. We estimate that there may be 5,500 eligible people statewide for court debt incurred during the same period. Clearing this debt would open the gate for these litigants to meaningfully move forward from their past legal involvement, and would help them access criminal record clearing and with it, better educational and employment opportunities.

Second, our attorney-facing tool will make it easier for legal aid attorneys to identify a client's outstanding court fees and waiver eligibility. It allows attorneys to spend more time directly interfacing with more clients, by automating a labor-intensive, error-prone, and distinctly non-legal part of the process of preparing a motion to waive court debt. Although designed for attorneys and clinic students in the 983a waiver context, the attorney-facing tool also offers a structure upon which to build a litigant-facing tool to help pro se litigants more vigorously and easily represent themselves in ability-to-pay hearings.

Third, our sensitivity analysis has the potential to inform future policy on the terms of both 983a waivers and indigency-based waivers. We explored and quantified disparities in payment by race, age, and gender, and show corresponding disparities in eligibility for debt waivers along the same lines. For example, while people of color accounted for 43.0% of our sample of cases, they accounted for only 29.3% of the group who met the twenty-four consecutive payment threshold to qualify for waiver eligibility. If that threshold

⁵³ *Id.*

were relaxed to permit twenty-four non-consecutive months of payment, people of color would account for 37.6% of all eligible people. As policymakers continue to revise eligibility criteria in the wake of the 2023 legislative reforms to court debt waivers, our analysis can support data-driven policy change to promote equity in access to waiver opportunities.

In the short term, our digital tools and the clinic we have developed to deploy them will significantly expand access to court debt waivers throughout the state of Oklahoma, mitigating the risk of fee-based incarceration for low-income Oklahomans. In the longer term, we believe that statistical analyses like those presented here have the potential to both increase access to justice across rule-based processes and drive smarter, more targeted reforms to the criminal legal bureaucracy. Importantly, we share this work so that others can learn what we did through doing it; namely, that the increasing availability of state data presents an immense opportunity to multiply the impact of advocates practicing public interest law. This data is publicly available; anyone can start digging in and building up. We believe this project demonstrates the positive value that can be realized through the use of technology by public interest lawyers, and hope it will inspire similar work in other states and issue areas.