

Private-Public Court Debt Collection Scheme Continues to Profit

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When Aberdeen Enterprizes II threatened to have her arrested over \$1,200 in outstanding court fines and fees, Kendy Killman became a prisoner in her own home.

The mother of eight feared being arrested unexpectedly, so she avoided unnecessary trips to the grocery store or her children's school. She said the third-party debt collector rejected her proposition to set up a monthly payment plan, wanting only a lump sum or nothing at all.



Kendy Killman

“They would call once a week to threaten me, saying you’re going to jail and they’re going to come to your house and arrest you,” Killman said. “And I said OK, there’s nothing I can do about it. When you have no resources you have no resources. So I just kept waiting for them to show up.”

Cleveland County deputies arrested Killman on a failure-to-pay warrant in June 2016 during a routine traffic stop. Her debt was finally settled in November 2018, nearly a decade after she was convicted of misdemeanor possession of marijuana in 2009.

Killman is one of seven plaintiffs in a 6-year-old class-action lawsuit challenging Oklahoma’s court debt collection processes, which remains pending in the U.S. District Court for the Northern District of Oklahoma. The plaintiffs claim Aberdeen threatened indigent debtors with jail time and worked with sheriffs across the state to issue arrest warrants when payment did not come.

Federal law prohibits debt collection agencies from threatening arrest because of a lack of payment. However, Oklahoma law authorizes district courts to issue failure-to-pay warrants if a defendant has not paid their fines and fees or made contact with the courthouse.

The lawsuit, which is in the written argument stage, is credited with prompting legislation reforming how Oklahoma courts determine a criminal defendant’s ability to pay court fines and fees. Despite the federal litigation the Oklahoma Sheriff’s Association continues to profit from a partnership with Aberdeen Enterprizes to collect unpaid court debt.

Tax forms filed with the Internal Revenue Service show the Oklahoma Sheriff's Association, a 501(c)(3) nonprofit that organizes training, offers administrative support and lobbies on behalf of 77 county sheriffs across the state, received more than \$2 million from Aberdeen Enterprizes II between 2017 and 2021. The sheriff's association received more than \$415,000 from the arrangement in 2021, accounting for nearly 40% of the organization's total revenue.

Since 2010, state law has authorized county sheriffs to refer unpaid debt cases to the sheriff's association, which over the past 13 years has compiled the information and forwarded it to Aberdeen Enterprizes II. The collection agency tacks on a 30% collection fee, which is split with the sheriff's association after payment is received.

Reached by phone, Aberdeen director Robert Shofner declined to comment. Ray McNair, executive director of the sheriff's association, did not respond to several telephone messages seeking comment.

In federal court filings, Aberdeen and the sheriff's association attest that their conduct did not violate federal or state law. John R. Woodard and Jennifer Struble, Tulsa-based attorneys representing Aberdeen Enterprizes II, wrote in a July filing that the company cannot be expected to be neutral because of how the debt collection industry works.

For the petitioners, who often struggle to pay for both necessities and the fees, the threat of arrest can be devastating. Killman, for instance, receives a monthly disability benefit to support her as she cares for her disabled son.

Some indigent defendants will see relief under a state law that took effect Nov. 1.

House Bill 2259 by Rep. Danny Sterling, R-Tecumseh and Sen. Brent Howard, R-Altus, requires judges to notify defendants of their financial obligations at the time of plea or sentencing and allow them to present evidence that they are indigent. Those who are classified as totally disabled by a government entity, receive state or federal nutrition or housing assistance or whose income is below 150% of the federal poverty line will be presumed unable to pay court debt. Using 2023 federal poverty guidelines, an individual with an annual income of less than \$21,870 or a family of four earning less than \$45,000 per year would qualify for relief.

The legislation also requires outside collections agencies, such as Aberdeen Enterprizes II, to notify individuals of their right to request a cost hearing if they are unable to pay the debt.

Sterling said the legislation will ensure that criminal defendants statewide are treated fairly. Some district court judges are overly harsh while others are too lenient, he said.

"It was just not a very efficient system," Sterling said. "It wasn't working. This is maybe not perfect, but we feel like it's a step in the right direction."

Also taking effect this month is House Bill 2041, which authorizes law enforcement to give a verbal warning to individuals with outstanding misdemeanor warrants and advises them to contact the county clerk to resolve the issue. Rep. Monroe Nichols, D-Tulsa and Senate Pro Tem Greg Treat, R-Oklahoma City, sponsored the measure.

Criminal justice reform advocates have long criticized the state's reliance on fines and fees to fund district courts and some state agencies. Since Fiscal Year 2007, between 66% and 90% of the state's district court funding has come from fines and fees. Approximately 25% of court debt assessed is collected, The Frontier reported last year.

While Gov. Kevin Stitt and legislative leaders have indicated support for reducing some court fines and fees, several bills seeking to tackle the issue have fizzled out in recent legislative sessions.

A proposal filed this year aimed at reducing administrative fees placed on defendants cleared the House but did not receive a hearing in the Senate. In 2022, a bill that would have waived court costs after 48 to 60 months of on-time payments unanimously cleared the Senate but stalled in the House.

Killman, who secured stable employment and moved with her eight children from a two-bedroom apartment to a four-bedroom house after paying off her court debt, said she's hopeful the state will continue to make strides in reforming its court fines and fees system. She said a good next step would be to outlaw third-party court debt collections.

"That should not even be legal," Killman said. "All it does is cause more stress and cause people to owe more than what they began with. It just makes it harder on a person."

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