

February 23, 2006

Debt to Society Is Least of Costs for Ex-Convicts

By [ADAM LIPTAK](#)

It is increasingly expensive to be a criminal.

Beverly Dubois, a 49-year-old former park ranger in Washington State, spent nine months in jail for growing and selling marijuana. She still owes the state almost \$1,900 for court costs and various fees. Until she pays up, the state has taken away her right to vote.

Wilbert Rideau, 64, a convicted killer, spent 44 years in Louisiana prisons. Not long after he was released last year, he filed for bankruptcy in an effort to avoid the state's attempts to collect \$127,000 in court costs.

Almost every encounter with the criminal justice system these days can give rise to a fee. There are application fees and co-payments for public defenders. Sentences include court costs, restitution and contributions to various funds. In Washington State, people convicted of certain crimes are also charged \$100 so their DNA can be put in a database.

Private probation companies charge \$30 to \$40 a month for supervision. Halfway houses charge for staying in them. People sentenced to community service are required to buy \$15 insurance policies for every week they work. Criminals on probation and parole wear global positioning devices that monitor their whereabouts — for a charge of as much as \$16 a day.

The sums raised by these ever-mounting fees are intended to help offset some of the enormous costs of operating the criminal justice system. But even relatively small fees — \$40 per session, say, for a court-ordered anger management class or \$15 for a drug test — can have devastating consequences for people who emerge from prison with no money, credit or prospects, and who live in fear of being sent back for failing to pay.

"The difference between 30 years ago and today," said George H. Kendall, a lawyer with Holland & Knight in New York who represents Mr. Rideau, "is that people who everyone agrees are poor are leaving the courthouse significantly poorer."

Prosecutors and political leaders often say it is only fair that criminals rather than taxpayers pay for what it costs to protect the public.

But Judge James R. Thurman of the Magistrate Court in Lee County, Ga., said his state's many fees, known there as add-ons, were a backdoor way to make poor people pay for the free lawyers guaranteed to them by the United States Supreme Court's decision in *Gideon v. Wainwright* in 1963.

"You're asking the people who can't afford to hire an attorney to pay anyway by making them pay through add-on fees," Judge Thurman said.

Indeed, according to the American Bar Association, at least 15 states, including New Jersey and Connecticut, charge application fees to people seeking court-appointed lawyers. Washington has one of the longest lists of fees assessed to criminals, and it is diligent in trying to collect them. Ms. Dubois, disabled after a car accident, makes payments of \$10 a month toward what was once a \$1,610 debt — \$1,000 for a county "drug enforcement fund," a \$500 "victim assessment fee" and \$110 in court costs.

"I still don't know who the victim was," she said.

Her efforts notwithstanding, her debt is growing because of the 12 percent interest assessed annually by the State of Washington. As of September, it stood at \$1,895.69.

"I will never have it paid off in my lifetime," Ms. Dubois said.

Washington also uses an unusual tool: it denies people who have not paid such debts the right to vote.

"You have to complete all the terms of your sentence" to regain the right to vote, explained Jeffrey T. Even, a lawyer for the state. "If the monthly payment is low enough and if the debt is high enough, you can actually be going backwards."

Aaron H. Caplan, a lawyer with the American Civil Liberties Union in Washington State, which has filed a lawsuit on behalf of Ms. Dubois challenging her disenfranchisement, said that tens of thousands of people were affected and that their number would grow. "Over the last 20 to 25 years, the Legislature has been making it more and more expensive to purchase back the right to vote," Mr. Caplan said.

National figures concerning fees assessed to criminals are not available, but Washington is something of a case study. The state sends out some 79,000 bills every month, and it collected about \$25 million last year. But these collection efforts are barely making a dent in the \$1.2 billion owed by former offenders, much of it for the cost of prison room and board, which can reach \$50 a day. The budget of the State Department of Corrections for the two-year period ending in 2007 is more than \$1.4 billion.

Fees for room and board are levied in many states, and they can quickly mount to levels that are essentially uncollectible, with states not bothering, except in special cases. Even other types of fees can be unwieldy.

Mr. Rideau, for instance, has been billed \$127,000 for the cost of his fourth and final trial last year.

Louisiana wants him to pay for the costs of housing, feeding and transporting his jury from across the state. The prosecution has submitted bills from more than two dozen establishments, including the Seafood Palace (\$435.68), Ruby Tuesday (\$312.66) and Best Suites (\$16,874.33).

His trial was expensive partly because Mr. Rideau was so famous in Lake Charles, La., where he killed a bank teller in 1961. He was convicted of murder three times, in 1961, 1964 and 1970, but appeals courts threw out the verdicts, citing misconduct by the government.

A fourth jury last year rejected the murder charge and found Mr. Rideau guilty of manslaughter, which had a maximum sentence of 21 years, meaning his sentence was complete. Mr. Rideau, who was also a prison journalist during his four decades behind bars, was freed that same day.

But Louisiana was not done with Mr. Rideau. David A. Ritchie, the judge in the case, ruled that Mr. Rideau was responsible for all of the charges billed by the prosecution.

"Mr. Rideau is the one that committed this crime that led to this trial, then led to all these costs," Judge Ritchie said at a hearing in August. "That's why people are charged court costs, because it's their actions."

Mr. Rideau has filed for bankruptcy, even though it is not clear that bankruptcy can erase debts of this kind. He has also appealed the decision, saying he is puzzled by the state's efforts.

"Society's interest is in an ex-con becoming solvent and in becoming a contributing member of society," Mr. Rideau said. "They created this court-costs sham to sabotage my efforts to create a life."

John F. Derosier, the district attorney in the case, defended the charges in court papers opposing Mr. Rideau's appeal last month. "He owes a debt to society which must be paid," Mr. Derosier wrote.

The assessment of court costs is common in civil cases. Many state laws allow or require the costs to be imposed in criminal cases, too, though rarely for an amount even approaching that sought from Mr. Rideau. Vanita Gupta, a lawyer with the NAACP Legal Defense and Educational Fund, which also represents Mr. Rideau, said his case might have unintended consequences.

"The prospect of having to pay for court costs is going to dissuade some defendants from going to trial," Ms. Gupta said. Even an innocent defendant, she said, may prefer a guilty plea to a trial if the downside includes not only a longer sentence but also a crushing debt.

Georgia is also aggressive in collecting fees, and it has enlisted private probation companies to help. The companies charge a monthly fee of \$30 or \$40 for their services. That fee can rival the fine.

"You're basically charging an interest fee that would make a finance company blush," said Stephen B. Bright, the director of the Southern Center for Human Rights.

In 2003, for instance, Sabrina Byrd, a 27-year-old single mother, was ordered to pay \$852 for failing to leash and vaccinate her dog in College Park, Ga. Too poor to pay, she was placed on probation while she made 10 monthly installments, along with a monthly fee to a probation company of \$39 — about half of the fine. When she fell behind and failed to contact the company, a judge revoked her probation and sentenced her to 25 days in jail.

Though the Supreme Court has said that defendants may not be jailed for failing to pay a fine when they have no money, they can be jailed for failing to report to their probation officer. Many poor people do not appreciate that distinction and fail to report when they have no money.

Judge Thurman, who was not involved in Ms. Byrd's case, said he took pains to tell people to report no matter what. Otherwise, "I have no alternative but to issue a warrant for your arrest," he tells defendants.

But some probation companies, according to court records, effectively use the threat of arrest as a collection tool.

John Cole Vodicka, the director of Georgia's Prison and Jail Project, questioned the current system.

"A \$500 fine going into probation translates into \$1,500 coming out of probation," he said. "No one's really benefiting, except maybe private companies."

New technologies can also add fees. Isecuretrac, an Omaha company that sells global positioning

monitors to local governments to track sex offenders and others, promotes a system that encourages offenders to pay, often on a sliding scale based on financial resources. Thomas E. Wharton Jr., the company's chief executive, said about 70 percent of county agencies that use electronic monitoring charge the offenders for them.

"I don't think the intent really is to gouge offenders," Mr. Wharton said, "because they have a difficult enough time to get back into their communities and to support themselves."