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IN THE SUPREME COURT OF THE STATE OF WASHINGTON BY RONALD R. CARPENTER
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STEPHEN CHRISS JOHNSON,

Petitioner,

vs.

STATE OF WASHINGTON,

Respondent.

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STATE OF WASHINGTON
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**BRIEF OF *AMICI CURIAE* GOT GREEN AND THE DEFENDER
ASSOCIATION'S RACIAL DISPARITY PROJECT**

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I. SUMMARY OF THE ARGUMENT

Automatic suspension of driver's licenses for failure to pay fines disproportionately punishes the poor simply for being poor. The respondent's argument—that the statutory scheme applies equally to everyone—would only be true in a theoretical world. The reality is that poor individuals cannot afford to pay their fines, but they still need to drive to work, pick up their children, buy groceries, and fulfill countless other tasks. The reality is that the punishment of indigent individuals,¹ for doing something that others do lawfully every day, is more than just a monetary penalty and temporary license suspension. Indigent persons are trapped in a cycle of increasing debt, indefinite license suspension, and repeated criminal justice system-involvement. This cycle, in turn, leads to plummeting credit scores, reduced employment opportunities, and broken families due to incarceration. *Amici* urges this court to find the automatic suspension of driver's licenses for inability to pay unconstitutional.

II. IDENTITY AND INTEREST OF *AMICI*

The identity and interest of *Amici Curiae* in the current matter is set forth in *Amici's* Motion for Leave to File *Amici Curiae* Brief.

¹ In this brief, *amici* use the terms “indigent individuals” and “indigent persons” to refer to all people who are unable, because of poverty, to pay traffic fines or the accrual of penalties, interest, and fees on those fines.

III. ISSUES TO BE ADDRESSED

(1) Whether automatic suspension of driver's licenses for unpaid traffic fines disproportionately affects indigent persons. (2) Whether automatic suspension of driver's licenses for unpaid fines impedes the ability of indigent persons to pay fines imposed by the court.

IV. STATEMENT OF THE CASE

Amici adopt the petitioner's statement of the case. *See* Petitioner's Opening Brief at 8-9. The record shows that the petitioner was indigent at all relevant times in the case, and that he complied with the terms of the infraction he received in 2007 by responding to the ticket and appearing at his requested hearing. *See id.*

V. ARGUMENT

It is well settled that a driver's license is a constitutionally protected property right. *See City of Redmond v. Moore*, 151 Wn.2d 664, 670, 91 P.3d 875 (2004). As such, principles of due process and equal protection apply to the revocation or suspension of a driver's license. One of the issues in the present case is the constitutionality of automatic driver's license suspension for failure to pay traffic fines.² The petitioner

² The state bases automatic suspension of driver's license for failure to pay traffic fines on RCW 46.20.289, which states: "The department shall suspend all driving privileges of a person when the department receives notice from a court under RCW 46.63.070(6), 46.63.110(6), or 46.64.025 that the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in

and respondent differ as to the constitutional analyses applicable to this issue. *Compare* Petitioner’s Opening Brief, at 29-30 (applying a combined due process and equal protection analysis, drawn from *Bearden v. Georgia*, 461 U.S. 660, 103 S.Ct. 2064, 76 L.Ed.2d 221 (1983)), *with* Respondent’s Brief, at 28-35 (applying rational basis review to the equal protection issue, denying that a substantive due process issue exists, and applying Washington case law to assess the adequacy of due process). Although *Amici* supports Petitioner’s analysis, this brief addresses two pivotal issues that are presented regardless of the constitutional analysis the Court employs: (1) whether automatic license suspension for failure to pay traffic fines disproportionately affects indigent persons, and (2) whether automatic license suspension impedes the ability of indigent persons to pay fines imposed by the court.

A. Indigent persons are disproportionately impacted by monetary fines and automatic suspension of their driver’s licenses for failure to pay fines.

National studies have found that low wage workers are disproportionately affected by license suspensions that arise from their inability to pay fines and fees. *See* Sandra Gustitus, Melody Simmons &

court, or has failed to comply with the terms of a notice of traffic infraction or citation, other than for a standing, stopping, or parking violation, provided that the traffic infraction or traffic offense is committed on or after July 1, 2005.” Petitioner has challenged whether this statute, in fact, authorizes license suspension for failure to pay fines.

Margy Waller, The Mobility Agenda, *Access to Driving and License Suspension Policies for the Twenty-First Century Economy* 9 (2008). The automatic suspension of driver's licenses functions as a limitation on liberty because it impedes the ability of indigent people to address such basic needs as transporting their children, going to the doctor, and buying groceries. See Ken Zimmerman & Nancy Fishman, N.J. Inst. for Soc. Justice, *Roadblock on the Way to Work: Driver's License Suspension in New Jersey* 2 (2001). When the driver's licenses of indigent persons are suspended because they cannot afford to pay traffic fines, it criminalizes them merely for their inability to pay and converts the driver's license into a form of collateral debt. See John B. Mitchell & Kelly Kunsch, *Of Driver's Licenses and Debtor's Prison*, 4 Seattle J. for Soc. Just. 439, 452 (2005).

Many drivers simply cannot afford to pay their traffic fines because they are poor. See Mitchell & Kunsch, *supra*, at 470. Such individuals are not willfully refusing to pay; rather, it is a literal impossibility for them to pay their fines *and* afford basic life necessities. The inability to pay is due to numerous factors that cause or contribute to poverty, including: a lack of income, temporary job loss, a lack of disposable assets, and significant debt, among others. See Center for Justice, *An Intimate Look into Washington's Policy of Suspending*

Driver's Licenses for Non-Payment of Traffic Fines: Voices of Suspended Drivers 7-12 (2013), Appendix hereto, and *available* at <http://www.cforjustice.org/2013/01/14/driven-to-despair/>.

The disproportionate burden of these fines is illustrated by the experiences of indigent people who have had their licenses suspended. Like Mr. Johnson, many of these individuals are not completely devoid of income or assets; however, their poverty renders them unable to pay traffic fines and associated fees and interest without undue hardship. For example, in order to sustain a payment plan for her traffic fines, J.A., a 40-year-old Seattle Vocational Institute Pre-Apprenticeship Construction Training student, would have to allocate 93% of her monthly income to payment of fines. She explained: "I tried to set up a payment plan for my tickets, but they . . . want me to pay \$184 a month, and I only get \$197 a month." Center for Justice, *supra*, at 10. This disproportionate burden forces indigent suspended drivers to choose between basic life necessities and paying their traffic fines. M.G., a 43-year-old father in Eastern Washington stated, "[I]t's like, 'Okay do I pay my electricity this week, or do I pay this ticket?' . . . 'Can my kids have hot water for a shower, or [do I pay my tickets]?'"*Id.* at 8; *see generally id.* (describing the impact of traffic fines on Washington residents who have experienced driver's license suspension).

These experiences illustrate that monetary fines impose a higher burden on indigent persons by taking such a large percentage of their limited income that they are often forced to forego basic necessities in order to pay their fines. This reality makes it much more likely that indigent people will default on their fines and have their licenses suspended.

The above individuals are not alone. There are nearly 300,000 drivers in Washington State whose licenses are suspended due to unpaid fines. *See Austin Jenkins, Nearly 300,000 Wash. Drivers Suspended for Failure to Pay Ticket*, NPR, Jul. 22, 2011, available at <http://www.npr.org/templates/story/story.php?storyID=138627811> (last visited Jan. 30, 2013). King County Councilmember Larry Gossett recognizes that poverty is the main obstacle to paying fines in his description of the massive need for the King County Relicensing program. The program allows suspended drivers to resolve fines through work crew, community service, and/or reasonable payment plans. In discussing the beginnings of the program, Councilmember Gossett explained:

I had thought that 40, 50 people would show up, but no, it was 258, mostly unemployed or barely employed African Americans from Central and Rainier Valley telling us that ‘We’re not scofflaws,’ ‘We don’t want to drive without [a license].’ [T]hey told stories about having children and having to get them to school, having to

go to work at minimum wage jobs, but knowing that they may owe \$800 to \$1500 [in fines], and [to] get[t] their licenses back, they would be willing to make reasonable sacrifices. They just couldn't pay it all up front.

As stated in Video: *The Road to Relicensing: An overview of one of Washington's toughest problems* (The Relicensing Task Force et al. 2012), <http://www.youtube.com/watch?v=qlh6Vbu4aE4&feature=youtu.be> (last visited Jan. 30, 2013).

Other advocates working with suspended drivers have also observed the disproportionate impact that a driver's license suspension and criminal charges for driving while license suspended has on indigent individuals.³ For example, of the 190 participants in Center for Justice's relicensing program, in Spokane, Washington, between January and November 2012, who provided financial information, 113 reported having a monthly income of less than \$1,296; 30 reported an income between \$1,297-1,558; and 21 reported an income between \$1,559-1,671. *See* Timematters Summary of Clients' Self-Reported Income, from Julie

³ There is evidence that traffic fines and automatic suspension of driver's licenses disproportionately burden not only indigent and low-income communities, but also minorities in Washington state. *See* Task Force on Race and the Crim. Just. Sys., *Preliminary Report and Washington's Criminal Justice System*, A-11-12 (2011) ("Multiple studies have been conducted based on [data collected by Washington State Patrol since 2000]. There is no evidence of racial profiling or any observable racial disparity in traffic stops. However, there is a *substantial racial disparity in the outcome of these stops*. The data shows that *minorities are cited more often*, and that when they are cited, their citations are *for more serious offenses*." (emphasis added). Because minorities may be cited disproportionately for traffic infractions and for more serious infractions, which may carry higher monetary penalties, minorities are likely to be disproportionately burdened by traffic fines.

Schaffer, Staff Attorney, Center for Justice (Dec. 4, 2012) (on file with Center for Justice); *see also* Joanne I. Moore and David K. Chapman, Wash. St. Off. of Pub. Def., *Driving While License Suspended 3rd Degree Survey of Courts of Limited Jurisdiction* 1 (2008) (“[S]ome of the courts in areas of Washington, which have a significantly higher percentage of unemployment, had a much higher rate of DWLS 3 charges.”).

B. Indigent drivers are disproportionately impacted by the fees, interest rates, and policies imposed by collection agencies collecting traffic fines on behalf of courts.

Many courts contract with collection agencies to collect delinquent traffic fines. *See Mitchell & Kunsch, supra*, at 466. Collection agencies add collection fees and charge interest on top of the court-ordered fines, which can grow over time to an amount that is nearly impossible for an indigent person to ever pay. *See Mitchell & Kunsch, supra*, at 466. In Washington, collection agencies charge fees ranging “between 30% and 50% of the original amount,” and “interest at 12% per year.” *See Moore & Chapman, supra*, at 2.

These high fees and interest rates penalize indigent people who, at most, can only afford small monthly payments. *See Center for Justice, supra*, at 9-10. For example, J.D.A., a 29-year-old mother in Spokane recounts: “I tried to make arrangements with the collection agency, but . . . I was [only] able to afford \$50 [per month]. And [the

collection agency employee] said that was absolutely pointless because that was my interest alone, and [that] I wasn't going to go anywhere doing that." *Id.* at 9.

Indigent individuals often get trapped in a cycle of debt, where unpaid fines result in suspended licenses. Out of necessity, these people continue to drive and incur new infractions. These new offenses continue to accrue on top of existing debt, and the indigent find themselves trapped in debt without a chance for escape. *See id.* at 12-14; Moore & Chapman, *supra*, at 2. Much like other forms of legal debt assigned to collection agencies, traffic fines “contribut[e] to the accumulation of disadvantage in three ways: by reducing family income; by limiting access to opportunities and resources such as housing, credit, transportation, and employment; and by increasing the likelihood of ongoing criminal justice involvement.” *See* Alexes Harris, Heather Evans & Katherine Beckett, *Drawing Blood from Stones: Legal Debt and Social Inequity in the Contemporary United States*, 115 *Am. J. of Soc.* 1753, 1763 (2010).⁴

⁴ While traffic fines can be distinguished from legal financial obligations resulting from a misdemeanor or felony conviction because they are civil, rather than criminal, these two forms of legal debt, nonetheless, have similar impacts on people who cannot afford to pay their fines. For further evidence of the disproportionate impact of legal debt on indigent individuals, see American Civil Liberties Union, *In for a Penny: the Rise of America's New Debtor's Prisons* 79 (2010); Alicia Bannon, Mitali Nagrecha & Rebekah Diller, Brennan Center for Justice, *Criminal Justice Debt: A Barrier to Reentry* 27 (2010).

C. Automatic driver's license suspension for failure to pay disproportionately burdens indigent individuals who are unemployed or seek job advancement.

As the Supreme Court has recognized, "Once licenses are issued . . . their continued possession may become essential in the pursuit of a livelihood." *Bell v. Burson*, 402 U.S. 535, 539, 91 S.Ct. 1586, 29 L.Ed.2d. 90 (1971). National studies produced over the last decade confirm that a driver's license, in fact, has become a prerequisite to obtain, sustain, and advance employment in today's job market. A driver's license has become so important to employment prospects that one study found that a valid driver's license is a more accurate predictor of employment than a General Education Development (GED) diploma. *See* Center for Driver's License Recovery & Employability, Just. 2000, Inc., *2007 Program Report* (2008). The driver's license requirement is particularly prevalent in certain industries, such as construction, health care, automobile sales and service, and government jobs. *See* Mitchell & Kunsch, *supra*, at 459; Jon A. Carnegie et al., N.J. Department of Transp., *Driver's License Suspensions, Impacts, and Fairness Study 3* (2007); Center for Justice, *supra*, at 4; Gustitus et al., *supra*, at 9. This is confirmed by Lee Newgent, Executive Secretary of the Seattle Building and Construction Trades Council, which represents 7,000 to 10,000 trade workers. He stated, "If you were to ask me, the number one barrier for people getting into the construction

industry is having a suspended driver's license." As stated in Video: *The Road to Relicensing, supra*. The second reason that a driver's license is so important to employment is simple infrastructure: For most Americans, work and home are connected by roads. See Mitchell & Kunsch, *supra*, at 460. Without a car, it is very difficult for most people to get to work. See *id.* at 459.

Public transportation is simply not, for most people, an adequate substitute for travel by car. Most people depend on a personal vehicle to effectively manage the distance and travel time between work and home, as well as access goods and services not well served by public transit. See Gustitus et al., *supra*, at 4; see also Center for Justice, *supra*, at 6-7. According to the United States Census Bureau, 86.1% of workers age 16 and over commute by automobile, while only 5% of workers commute by public transportation. See Brian McKenzie & Melanie Rapino, U.S. Census Bureau, *Commuting in the United States: 2009, American Community Survey Reports 3* (2011), available at <http://www.census.gov/prod/2011pubs/acs-15.pdf>; see also Gustitus et al., *supra*, at 5 (finding that 86% of all trips are made in a car).

The inadequacy of public transportation applies to Washington State as well. For example, S.A.S., a 40-year-old man living in Eastern Washington described his access to public transit as follows: "I live in

Deer Park, Suncrest. There is not a bus stop. The closest would probably be in the north side of Wandermere, which is about 17-18 miles [away]. You don't use the bus out there." Center for Justice, *supra*, at 6; *see also id.* at 5-8 (further illustrating the lack of public transportation in many areas of Washington).

For the above reasons, a driver's license suspension places the poor at a severe disadvantage. M.C., a student at SVI-PACT, lamented: "The job market mainly has been closed off to me. I haven't been able to get a lot of jobs because most of them require you to have a Washington state driver's license." *Id.* at 3; *see also id.* at 4 (a construction worker who lives in Washington, stating, "Without a driver's license, it's hard to get a job. . . I had applied to several different companies, and they wouldn't even give me a chance because I didn't have a driver's license").

Moreover, license suspension impedes the ability of underemployed workers to obtain job advancement and promotions. Another individual, E.L., Jr. a 29-year-old father in Spokane, explained: "[a suspended license] hinders my promotion at work. I could move up, [be] doing better things at my company." *Id.* at 5. He believes that the promotion would result in a \$3-4 raise in his hourly wage. *See id.*

Consequently, this inability to obtain a job or a promotion further impedes an individual's ability to pay traffic fines. *See Mitchell &*

Kunsch, *supra*, at 460 (“For many, if you cannot drive, you cannot work. If you cannot work, you cannot make money. If you cannot make money, more likely than not, you cannot pay fines for tickets.”); Center for Justice, *supra*, at 13 (K.C.H., interviewed in Spokane stated, “So it’s just a vicious cycle: You don’t have your license, you can’t get to work, you can’t get that job, you can’t pay your [traffic] fees.”). By limiting employment prospects and potential sources of income, automatic license suspension disproportionately burdens the indigent, whose failure to pay fines is not willful.

These stories told by suspended (or previously suspended) drivers themselves, as well as observations by individuals and agencies working with such drivers, illustrate the same point as multiple studies cited above: Monetary fines and automatic suspension for failure to pay disproportionately burden those who are unable to afford such fines.

D. The lack of alternatives to monetary payment of traffic fines exacerbates the disproportionate impact on indigent individuals of automatic suspension of driver’s licenses for failure to pay fines.

According to the respondent, Mr. Johnson’s equal protection claim should fail because the statutory scheme—authorizing traffic fines, automatic license suspension for failure to pay traffic fines, and criminal prosecution of DWLS 3—does not, on its face, single out or target

indigent individuals in any way. *See* Respondent's Brief, at 28-29.

However, it is precisely the lack of distinction between those who can pay and those who cannot pay that renders the statutory scheme discriminatory in its effects, rather than on its face.

Currently, the only place in the statutory scheme that explicitly provides accommodations for those who are unable to pay fines is the point at which monetary penalties are first imposed by the court. At this point, courts are authorized to reduce, waive, or suspend traffic fines; establish payment plans; and offer community service in lieu of monetary payment. *See* RCW 46.63.110(6); 46.63.120(2).

If these discretionary alternatives were implemented consistently throughout Washington State, they have the potential to mitigate the disproportionate impact of fines and automatic license suspension on indigent individuals,⁵ while establishing a realistic mechanism for indigent persons to pay their fines.⁶ National studies have found that system

⁵ The success of relicensing programs throughout Washington shows that the disproportionate impact of traffic fines and license suspension can be mitigated, if indigent individuals are provided a payment plan or other alternatives that accommodate their income level. *See* Moore & Chapman, *supra*, at 7 ("A majority of the programs estimate that approximately 50% of [relicensing program] participants were able to reinstate their license during the program. . . . A study conducted in 2004 by Christopher Murray & Associates showed the King County relicensing program with a 52% success rate of participants reinstating their licenses.").

⁶ *See, e.g.*, Email from Michael Reinken, Spokane City Prosecutor, to Julie Schaffer, Attorney, Center for Justice (Dec. 3, 2012, 11:07AM PST) (on file with Center for Justice) (stating that the five jurisdictions participating in the City of Spokane

improvements that increase access to alternatives, such as community service, reasonable payment plans, and relicensing programs, can positively impact indigent persons whose driving record does not demonstrate unsafe driving. *See* Gustitus et al., *supra*, at 14-15; Zimmerman & Fishman, *supra*, at 11-13.

Unfortunately, Washington drivers report that these discretionary alternatives authorized by state statute are *not* being offered consistently by municipal and district courts and *not at all* by some courts. For example, J.D.A., a 29-year-old mother in Spokane explained that she had never been offered community service as an option to satisfy any of her fines. She said, “I have about 17 tickets in the district court, but I have never heard of being able to work [the ticket] off. Not once . . . I would have definitely, definitely [done community service].” *See* Center for Justice, *supra*, at 11; *see also id.* at 10-13 (describing how other individuals have received alternatives to monetary payment from some courts for some tickets, but not from other courts for other tickets).

Aside from these alternatives, which vary greatly by jurisdiction, the statutory scheme does not accommodate those who are unable to pay their fines. Once a court does not grant an alternative and sends notice to the Department of Licensing (DOL) pursuant to RCW 46.20.289 that a

relicensing program collected a total of \$2,503,113.74, between 2008 and May 2012, from monthly payments made by participants in the relicensing program).

person has failed to comply with a traffic infraction, DOL's procedures do not offer any relief on the grounds of indigence. While DOL must provide notice of suspension and opportunity to request a hearing, that hearing is limited to two ministerial issues: (i) whether that person was correctly identified; and (ii) whether information from the court or other reporting agency is accurate. *See* RCW 46.20.245. In other words, DOL does not have the authority to consider inability to pay fines, and so indigent persons cannot avoid license suspensions in the DOL process due to inability to pay.

The effect of this statutory scheme is that indigent persons who desire to resolve their infractions, but who lack the means to pay their fines, have no clear or consistent avenue of preventing driver's license suspension or reinstating a suspended license. Because the availability of alternatives and the procedures for identifying who needs those alternatives have not been standardized, indigent drivers rely on "luck of the draw" with respect to the court and judge when asking for alternatives to monetary payment. Thus, under this patchwork system, those who cannot afford to pay and who desperately need alternatives to resolve their traffic fines remain disproportionately burdened by the impact of monetary fines and license suspension.

E. Automatic driver's license suspension impedes indigent persons from resolving their traffic fines and reinstating their driver's licenses.

The experiences of indigent persons illustrate the lack of rational basis for automatic license suspension on both practical and psychological levels. As a practical matter, driver's license suspension poses a significant obstacle to obtaining employment, and thereby, earning income to pay traffic fines. *See* Section C, above. The practical impact experienced by these suspended drivers undermines the State's interest in collecting fines levied for the traffic infraction. *See* Petitioner's Brief at 23-24 (*citing City of Redmond v. Moore, supra*, 151 Wn.2d at 677).

On a psychological dimension, driver's license suspension contributes to a state of hopelessness that discourages many indigent drivers from resolving their traffic fines and having their driver's license reinstated. As discussed above, many indigent drivers believe that, regardless of what action they take, it is impossible to resolve their traffic fines and reinstate their driver's licenses because they are simply unable to pay the continuously increasing fine amount (which accrues interest in collection), and they have difficulty with or are unable to navigate the complex legal and collections system. *See* Mitchell & Kunsch, *supra*, at 467-69; Center for Justice, *supra*, at 12-15. As applied to indigent suspended drivers, the statutory scheme does not "promote public safety

and respect for the rules of the road.” *See* Respondent’s Brief, at 32.

Instead, these indigent drivers get trapped in a cycle of debt and punishment from which there is no escape. They see no hope of redeeming themselves by getting a valid license again.

For example, C.M., a 34-year-old father in Spokane stated:

Like a lot of people say, you get to the point where you just start to not care. . . . I mean you get so in debt, you try to work and you try to work, and you’re not getting anywhere. You’re just like, ‘Well I guess it doesn’t really matter.’ You get so far in the hole because of interest . . . [that you begin to think] ‘Oh, I’m never going to have th[e] type of money [needed] to pay off my fines’].

Center for Justice, *supra*, at 14. As a result of this hopelessness, many indigent drivers lose motivation to resolve their traffic fines, *see id.*, but continue to drive out of necessity.

Once individuals reach this point of demoralization—where they see no possible way of resolving their traffic fines—license suspension completely fails to function as “a disincentive to failing to pay” or as an incentive to “respect . . . the rules of the road,” as the respondent claims, *see* Respondent’s Brief, at 31-32. Instead, many indigent drivers are forced to drive with their license suspended because driving is absolutely necessary for them to accomplish crucial responsibilities, such as employment and parenting. *See* Mitchell & Kunsch, *supra*, at 460 (“[F]or the poor who do not have the money to pay their initial traffic fines . . .

[t]he reality is that many need to keep driving, even though their licenses are suspended.”); *see also* Center for Justice, *supra*, at 3-7, 12-15 (“I had no choice, but to drive with my license suspended because I had to work and to take my kids to appointments.”). As P.K., a 39-year-old Seattle Goodwill student explains, “All it is [doing] is creating a bunch of individuals [who are] driving around without their licenses, and just taking the risks that they *need* to, to do what they *have to do*, to take care of their family.” *See* Center for Justice, *supra*, at 14 (emphasis added).

Thus, automatic license suspension contributes to and compounds this sense of demoralization by criminalizing the simple and necessary act of driving for those who are too poor to pay their fines. E.L., Jr., of Spokane stated in disbelief: “[I]f you’re driving to work, you’re taking your kids to school, or even going to the grocery store, and then you’re going to jail for that? . . . The courts should [have] a better outlook on a person’s life, on their circumstances, and consider why they need to drive.” *See id.* at 14. As these statements from suspended (or previously suspended) drivers indicate, automatic license suspension for failure to pay fines actually erodes respect for the law,⁷ rather than promotes it.

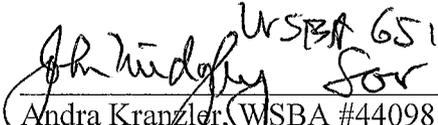
⁷ Social science research also indicates that people’s perceptions of the fairness of procedures used by a justice system affect how legitimate they believe the institution to be, which, in turn, affects individuals’ willingness to comply with the law. Accordingly, perceptions that a system is unfair are correlated with decreased respect and obedience of

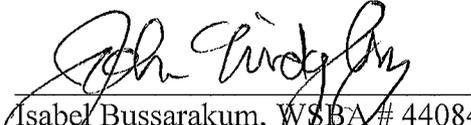
Thus, for persons unable to pay their fines, automatic driver's license suspension neither encourages the collection of fines nor promotes respect for traffic laws. Instead, it impedes realization of these public goals.

VI. CONCLUSION

Amici urge this Court to find unconstitutional the automatic suspension of driver's licenses as applied to indigent individuals. The indigent are not inherently callous or indifferent to the laws of this state. Rather, the very nature of being poor impedes their ability to responsibly respond to traffic fines. *Amici* urge this Court to consider the implications of this system of injustice and allow for a better process that addresses the practicalities that the indigent face every day.

Respectfully submitted this 8th day of February, 2013


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the law. See E. Allan Lind & Tom R. Tyler, *The Social Psychology of Procedural Justice*, 209 (1988); Tom R. Tyler, *Why People Obey the Law*, 273 (2006).

Appendix



Changing things for good

**An Intimate Look into Washington's Policy of Suspending Driver's
Licenses for Non-Payment of Traffic Fines**

Voices of Suspended Drivers

A Report by:
Center for Justice
January 2013

Introduction & Methodology

INTRODUCTION

In Washington State, a person's driver's license can be suspended indefinitely for failure to pay traffic fines. The suspension can remain until all fines and associated collection fees and interest are collected. As of 2011, nearly 300,000 Washington licenses were suspended for failure to pay tickets.¹ Many who cannot afford to pay the fines are nevertheless compelled to keep driving in order to earn a living. When people drive while their license is suspended for nonpayment of fines, they can be charged and convicted of the crime of Driving While License Suspended 3 (DWLS 3) under current law. This crime is a misdemeanor and carries a penalty of up to 90 days in jail and a \$1,000 fine. DWLS 3 makes up one-third of the misdemeanor cases filed statewide.¹¹

This report seeks to present the perspectives of individuals who have had their driver's licenses suspended. As a result of listening to and working with suspended drivers, the organizational author of this report believes that the policy of automatic driver's license suspension for unpaid traffic fines has a devastating effect on the lives and employment opportunities of low-income and indigent drivers. To illustrate these effects, this report shares the direct views and voices of suspended drivers.

ORGANIZATIONAL AUTHOR

This report is authored by the Center for Justice (CFJ), a legal advocacy organization in Spokane, Washington. CFJ works for the empowerment of individuals by providing vigorous oversight and advocacy on issues where the community's rights need to be defended and community voices need to be heard. Founded in 1999, CFJ is dedicated to working on civil rights, discrimination, poverty, government

accountability, and the environment, through individual and policy advocacy, public education, and community organizing.

Through its work, CFJ sees first-hand how the current system of suspending driver's licenses for unpaid fines disproportionately affects the poor and contributes significantly to the cycle of poverty, unemployment, and incarceration. To break this cycle, CFJ offers a Relicensing Program that helps participants pull their unpaid tickets out of collection agencies, consolidate them into one reasonable monthly payment per court, eliminate interest and fees, and drive legally while making payments. Additionally, a mandatory Rules of the Road and Fundamental Budgeting class provides tools for long-term success. CFJ's Relicensing Program changes lives by giving people an opportunity to stop the cycle of debt, incarceration, and unemployment caused by indefinite license suspension.

INTERVIEWS WITH SUSPENDED DRIVERS

To better understand the barriers facing suspended drivers, service providers reached out to individuals throughout Washington State who self-reported that their driver's licenses had been suspended. The participating service providers include: The Center for Justice's Relicensing Program; Columbia Legal Services' Legal Financial Obligations Clinic; Legacy of Equality, Leadership, and Organizing (LELO), which operates King County District Court's relicensing program; Legal Voice, which provides reentry services to women; Seattle Goodwill; and Seattle Vocational Institute (SVI) PACT. Over 50 individuals were contacted and asked to complete a survey about their license suspension.

Follow-up focus groups and interviews were then conducted with approximately 20 individuals, who have actually been charged, at

least once, with driving while license suspended (DWLS). This criterion ensured that interviewees either currently or previously had their driver's license suspended. Moreover, in the view of these individuals, their inability to pay traffic fines has either contributed to or exacerbated their suspended status.

Interviewees were generally asked:

- Why is your driver's license important to you?
- What led to your driver's license suspension?
- What impact has a suspended license had on your life?
- What challenges have you faced in attempting to reinstate your license?
- What would (have) help(ed) you reinstate your license?

This report does not provide statistical or numerical data about the problem of suspended driver's licenses, nor does it purport to present the views of a large sample size of individuals. Rather, it simply attempts to give a voice to those most affected by driver's license suspension policies.

We would like to thank all of the individuals who shared their stories with us.

Voices of Suspended Drivers

The perspectives of suspended (or previously suspended) drivers interviewed for this report are organized into three sections. The first section explains why a driver's license is essential to the lives of those interviewed, and consequently, why a suspended driver's license is such a disruptive force in their lives. The second section highlights some of the challenges that interviewees face in resolving their traffic fines and reinstating their driver's licenses. The third section illuminates the interviewees' views on the policy of automatic driver's license suspension for unpaid traffic fines and the criminalization of driving while license suspended (DWLS). The report concludes with observations and policy recommendations.

I. DRIVER'S LICENSE: MODERN DAY CITIZENSHIP

Independently of one another, several individuals stressed that in modern-day society, a driver's license is the equivalent of citizenship. Without a valid license, many of life's daily tasks, including employment and parenting, become extremely burdensome and even impossible for some.

Three basic themes emerged from the interviews, as to why a driver's license is so crucial: (1) A driver's license is a prerequisite for employment; (2) a driver's license is necessary to fulfill the responsibilities of parenting; and (3) public transportation is inadequate.

HOW IMPORTANT IS A DRIVER'S LICENSE?

"To eat, to breathe, you need to have a driver's license."

-C.M., 34-year old single father living in Mead

"[Having a suspended driver's license is] almost like not being a citizen in this country. [Without a license] you're not permitted to do anything . . . that everyone else is basically doing."

-E.L., Jr., 29-year old father living in Spokane

"I need a driver's license so I can be a functional citizen."

-C.A., 26-year old mother interviewed in Seattle

Driver's License: A Prerequisite for Employment

According to those interviewed for this report, a suspended driver's license poses numerous obstacles to employment. For the unemployed, not only does a driver's license provide a means of transportation to interviews and employment centers, but a driver's license is often listed as an explicit requirement in job postings. This has become such a widespread practice among employers that, M.C., a student at Seattle Vocational Institute, stated:

"The job market, mainly, has been closed off to me. I haven't been able to get a lot of jobs because most of them require you to have a Washington State driver's license."

This is particularly true in certain industries. For example, interviewees working in sales, in construction, as auto mechanics, and in executive assistant positions stated that a driver's license is explicitly required because job

responsibilities in those fields, respectively, include selling products in the field, traveling to construction sites, test-driving cars, and running errands for an executive.

**DRIVER'S LICENSE: A NECESSITY FOR THE
CONSTRUCTION WORKER**

"I live in Washington, and I work in Idaho. So I really have no choice but to drive on a suspended license. . . There's no bus or train that goes to Idaho. I got in contact with one co-worker that lives over here [in Washington], so I [could] quit driving. But sometimes we don't work at the same job site. . . I try not to drive, but it's not always possible. It's construction work, so the job site change[s]. . . Without a driver's license, it's hard to get a job. . . I had applied to several different companies, and they wouldn't even give me a chance because I didn't have a driver's license."

-Construction Worker, interviewed in
Spokane

"Not having a license is very trying. You can't do too much of anything, especially when it comes to work. And especially in . . . the construction field that I'm in, having your license is very important. You might have to move a truck, [run] errands, . . . and I can't do any of that."

-S.N., SVI Pact Student interviewed in
Seattle

"Since I was 18, I've been doing construction, demolition, various jobs, where I have to have a driver's license to have . . . these jobs. It's required to have a driver's license because I might be working in different sites, and I have to be there. For me, honestly, I have to have a driver's license because of the skills I possess for my work."

-N.P., 25-year old student at Seattle
Goodwill

**OTHER INDUSTRIES AFFECTED
BY LICENSE SUSPENSION**

"[My suspended license] had affected some employment opportunities because most of my positions are project management and/or executive assistance, where of course you have to . . . run errands. It's pretty embarrassing to say, 'No, I don't have my license because I made one mistake, and here it is, four years later, and I'm still dealing with the same mistake.'"

-P.K., 39-year old student Seattle
Goodwill

"I really couldn't get a job at a normal company because I don't have a driver's license. In other words, if I was to go to Ed's premier auto body and ask for a job, . . . as soon as I put down 'no driver's license,' well, now I can't take [a car] to the frame job, I can't test drive it to make sure all the bugs are out." *M.G. would like to get a job in car sales, which would pay three times more than his current job, but he's unable to, due to his suspended license. He explained: "You have to be able to demo [the car] with the customer. To move up—to sell cars—you have to have a driver's license. So I'm kind of stuck where I'm at, doing what I'm doing, because I can't grow, because I don't have a driver's license."*

-M.G., 43-year old Auto Mechanic
interviewed in Spokane

"As a matter of fact, I was turned down . . . for jobs because they would run a background check. And I'm in sales, and the fact that I had a suspended license and a history of suspended license, I was turned down for jobs because of that. . . Now today, I'm not in field sales because I couldn't drive. I'm in inside sales, [and my] income was affected."

-A.M., 43-year old mother interviewed in
Seattle

Not only are driver's licenses required to apply for jobs, a number of interviewees also observed that a driver's license is required for job advancement—whether that means acquiring new vocational skills or being eligible for job promotions.

For example, K.C.H. is a 43-year old woman interviewed in Spokane is attempting to switch careers by entering an apprenticeship trade program. She stated:

"My license has to be valid for me to get into the [five-year] apprenticeship program. . . Without my license, I can't even apply."

Another individual living in Spokane, E.L. Jr., stated that his suspended license has prevented him from obtaining a job promotion for which he would have otherwise been qualified. He said:

"[At the] company I work for, I would have had a company truck by now, but I can't drive them because I'm not allowed to. . . I've actually been asked by my boss multiple times, [whether my license is going to be reinstated], because [he] wants to issue me a company truck."

"[A suspended license] hinders my promotion at work. I could move up, [be] doing better things at my company."

E.L. Jr. believes the promotion would result in a \$3-4 raise in his hourly wage.

Driver's License: Essential to Responsible Parenting

Interviewees who are parents discussed the challenges of raising children with a suspended driver's license. Some noted that a suspended

license eats away at their already tight schedule by making it more difficult and time-consuming to juggle employment, school, and parental responsibilities.

For example, C.L., a 28-year old mother living in Spokane stated:

"Taking the bus is very time-consuming. [It takes] hours out of your day, depending on how far you're travelling. It's just sometimes not possible to juggle a normal schedule with kids and work and school and stuff like that. It's not possible sometimes."

This is not simply a matter of inconvenience. Parents also feel that their suspended driver's license compromises their children's safety by requiring not only them, but also their children, to take public transportation, sometimes in unsafe areas, in the dark, in the winter, and in areas without comprehensive public transportation service.

COMPROMISED SAFETY: CHILDREN ON PUBLIC TRANSPORTATION

"With my children—they are 4 and 6—having to walk to the bus stop last winter, it was really excruciating. My daughter would have to go to school out in the valley, and I work downtown. It was very time-consuming to take the bus. At the same time, I felt that it was . . . dangerous too, because at night, when we'd come back, it'd be dark, [and] we'd have to walk across the bridge. And . . . taking the little ones, I never felt safe doing that. . . It wasn't the greatest part of town."

-J.D.A., 29-year old mother interviewed in Spokane

The parents interviewed believe that their suspended driver's licenses force them to choose between complying with the law by not

driving, or protecting their children's safety by driving. Weighing these two competing interests, some parents feel they have no choice but to drive their children, even while their license is suspended.

**A PARENT'S DILEMMA:
SAFE TRANSPORTATION FOR CHILDREN**

"I knew I had a suspended license, and I wasn't driving. I was carpooling, I was walking, I was taking the bus, [and] I was figuring whatever I could. I had people picking up my son and dropping off my son. And it was difficult."

"But there was a day that he couldn't get a ride, and we live several miles from the nearest bus stop. So I said, 'Okay, take the bus as far as you can take it, and call me when you get there.' He did that, and I said, 'Okay, I'm going to come get you.' It was a mistake. It was the worst mistake I made. I didn't know what else to do . . . There's no public transportation where I live. . . I have friends, but I don't have family, here. . . I had no other way to come get my son."

During the drive to pick up her son, A.M. was pulled over and given a traffic ticket.

-A.M., 43-year old single mother interviewed in Seattle

As demonstrated by the testimony above, many parents interviewed for this report feel they need to drive in order to safely and punctually transport their children to school, doctor's appointments, and other activities. Moreover, alternative means of transportation are not always a sufficient substitute.

Public Transportation: An Inadequate Substitute for a Driver's License

Parents are not the only interviewees who believe public transportation is an inadequate substitute for driving.

A number of interviewees live in suburban or rural neighborhoods where the nearest public transportation stops are miles away. For these individuals, relying solely on public transportation is simply not an option.

THE RURAL OR SUBURBAN RESIDENT

"I live in Deer Park, Suncrest. There is not a bus stop. The closest would probably be in the north side of Wandermere, which is about 17-18 miles. You don't use the bus out there. You drive, or have family members who drive you, or hitchhike."

-S.A.S., 40-year old man living in Eastern WA

"[While living in a secluded area near Mount Rainier] you either have to have a car or you don't go nowhere. [With a suspended license] it's hard to go to school, or to go to the grocery stores, doctor's appointments . . . I mean, anywhere. When you're living out there, you can't go nowhere. You have to find rides, and that's hard to do."

-C.A., 26-year old mother interviewed in Seattle

"[The bus] doesn't run early enough, it doesn't go far enough. . . Like where I live, there's no bus for miles. . . You have to go about three miles to the transportation."

-C.M., 34-year old father living in Mead

Even interviewees who live closer to public transportation sites conclude that public transportation still does not suffice in a fast-paced society, which often requires them to accomplish multiple tasks, in different parts of town, in one day.

For example, L.S., a 40-year old father living in Bellevue noted that with a suspended driver's license, "It was tough to get to work and to get around to take care of my family. If you have to

take the kids to doctor's appointments, go to job interviews, and [run] other errands, the bus isn't really conducive to that."

Ultimately, L.S. concluded:

"I had no choice but to drive with my license suspended because I had to work and to take my kids to appointments."

Living in a sprawling, automobile-centered society means that even simple, daily tasks are difficult to accomplish by public transportation. K.C.H., a 43-year-old woman interviewed in Spokane noted,

"People say, 'Take the bus and use other [means of transportation]' which I'm willing to do, but it's about time. . . If I have to take three hours out of the day to go down and handle some business downtown, [which] should take 45 minutes [by car, it creates] a huge ripple effect [in my day]."

Echoing this sentiment, M.G., a 43-year-old father living in Spokane also found it infeasible to rely solely on public transportation. He said,

"Actually, I had a son move from where I grew up in Wenatchee over here because he said, 'Dad, I love you. I can't see you do this anymore. Give me your keys.' He's sitting in the parking lot right now, waiting for me. . . [Even with my son's dedication,] it's still very hard to have drivers at all times."

Finally, a few interviewees pointed out that public transportation is an inadequate substitute for suspended drivers who have disabilities and greater mobility challenges.

THE DISABLED DRIVER

"I get \$698 a month on SSI. I'm disabled, and I have a hard time making my doctor's appointments . . . without my license. It's just been a really hard time. My caregiver [is only] allowed [to drive] 60 miles a month, and one [of my] doctor's appointments is 68 miles roundtrip."

-M.S., a 52-year old SSI recipient living in Spokane Valley

"Going to school, I walk probably half-a-mile to the bus stop to get to school . . . and then I walk another half-a-mile to get to school from the bus stop. I do that every day, in the morning, and then, when I go home. . . I'm doing that with rain, if it's storming, if it's snowing. . . I have a degenerative disc disease in my back and . . . Type 2 Diabet[es]. So there will be days when I wake up, I can't really walk that."

-M.S.F., a 29-year old student at Seattle Goodwill

Thus, for myriad reasons—including, employment duties, parenting responsibilities, inadequacy of public transportation, and mobility challenges for the disabled—interviewees view a driver's license as necessary in modern society, and the suspension of that license as extremely disruptive. In fact, as some of the above quotes indicate, some interviewees believe that driving is so indispensable that they have no choice but to drive, even with their license suspended.

II. BARRIERS TO DRIVER'S LICENSE REINSTATEMENT

Given the disruption and criminal liability triggered by a suspended license, it does beg an obvious question: Why do these drivers continue *not* to pay their traffic fines? What our interviews revealed is that many interviewees do not willfully refuse to pay their fines. Rather,

they are unable to pay their traffic fines for a variety of reasons, including: (1) An inability to pay their fines in full, when due; (2) inability to pay their fines, when combined with the fees and interest charged by collection agencies; and (3) lack of alternatives to monetary payment.

Inability to Pay Traffic Fines in Full

A number of interviewees said they were unable to pay traffic fines when first imposed because of lack of income, resulting from temporary job loss, incarceration, lack of disposable income, or a combination of these factors. Below are a few illustrative stories that emerged from these interviews.

INABILITY TO PAY DUE TO JOB LOSS

"I was laid off. I had no income for 30 days. Like zero. Nothing. No resources. And then, I was a single parent—3 boys at home—and I was going to school full time. . . I was eventually able to get on unemployment. But I [had been] making \$100,000 a year, and [that] went down to \$24,000 [on unemployment]. I had bills and everything. I was so far behind in everything that I couldn't see a way out. . . [At that time], I was paying for my food, my electricity, my electricity cut off multiple times, my water cut off multiple times, my car was repossessed . . . I had to move out of my four-bedroom house into a one-bedroom apartment with me and my three boys. It really was not a good time. It was hard."

-A.M., 43-year old single mother interviewed in Seattle

"I . . . received two traffic tickets [and] somehow, my name got into a relicensing program. But I lost my job, and I was unable to keep paying the monthly \$100 payment, so they retook my license."

-T.G., 33-year old student at Seattle Goodwill

Incarceration also prevented drivers from timely paying traffic fines. M.S., a 52-year old SSI recipient, had his license suspended for failing to pay tickets. He explained:

"I couldn't pay those traffic tickets because I was sitting in jail for ten-and-a-half months. When I came out, [the tickets] were already in collections."

Even for drivers with some income, a common challenge is finding surplus money to pay fines. Interviewees stressed that those with low or fixed incomes have little, if any, disposable money, and that most of their income is used to pay bills and meet other necessities.

PAYING THE BILLS VERSUS PAYING TRAFFIC FINES

"It's like, 'Okay, do I pay my electricity this week, or do I pay this ticket?' . . . 'Can my kids have hot water for a shower, or [do I pay my tickets]?' . . . That's the bottom line. . . People *do* have to choose between water, electricity, food, diapers, *or a ticket.*"

-M.G., 43-year old father in Eastern WA

"The first time my license was suspended, I had employment, but it wasn't stable. . . I also have a daughter, so it was pretty much pay bills, [and] see what I can scrounge up [that's] left over. But after just the expense of living—the expenses of laundry, phone bill, [and] transportation—it was . . . hard to put money away for the tickets."

-M.F.S., 29-year old student at Seattle Goodwill

"I had necessities at that time, and I felt that I had no other option. I was paying for bills in general, overwhelming debts, having to pay for child care, and everything. There was nothing left over [to pay traffic fines]."

-J.D.A., 29-year old mother interviewed in Spokane

Collection Agencies: A Life Sentence of Driver's License Suspension

The fees and interest charged by collection agencies is another key contributor to unpaid fines and indefinite license suspension. Interviewees generally agreed that these fees and interest rates are so high that it is virtually impossible to pay off traffic fines. P.K., a 39-year old Goodwill student living in Seattle said:

"These collection agencies—they're predatory lenders. They're no different than predatory lenders."

Interviewees said that they were shocked at the amount their fines increased—sometimes, even doubling—upon being sent to collections.

For example, S.A.S., a 40-year old man living in Eastern Washington noted:

"As soon as it goes to collection agencies, there's another third that gets added to [the fine], if not more, plus the compound fees."

Confirming this experience, T.G., a 33-year old Seattle Goodwill student stated:

"[What started as] a \$200 ticket right now is well over \$900 today for me."

In addition to the exponential increase in the total amount of debt owed, a number of interviewees described how the interest rate charged by collection agencies hurts low-income and indigent drivers, in particular. For these drivers, the interest rate simply outstrips the monthly amount they can afford to pay. This places them on a never-ending treadmill of paying only the interest that has accrued each month. For drivers in this situation, the interest rate can make it effectively impossible to pay off the principal on their traffic fines.

OUTSTRIPPED BY THE INTEREST RATE

"I tried to make arrangements with the collection agency, but because of how many tickets I had at that time, I was [only] able to afford \$50 [per month]. And [the collection agency employee] said that was absolutely pointless because that was my interest alone, and [that] I wasn't going to go anywhere doing that."

-J.D.A., 29-year old mother interviewed in Spokane

"[Collection agencies] are very inflexible, actually. . . When you finally get down to it, a \$30 [monthly] payment is probably going to cover a portion of the interest [and other fees charged by collection agencies.]"

-M.G., 43-year old father in Eastern WA

"There's \$13,000 worth of interest on [my] tickets. They've been due since 2005. . . I can't afford \$13,000. . . Most of the payments that you make don't even cover the interest, and it's the interest that's killing you."

-M.S., a 52-year old SSI recipient living in Spokane Valley

Interviewees also described how difficult collection agencies are to work with. Not only did the fees and interest rate pose obstacles, so did the agencies' draconian policies, such as the requirement of a sizable down payment to even initiate a payment plan, a minimum monthly payment to sustain a plan, or payment of the fine in full.

**DRACONIAN POLICIES: MINIMUM
DOWN PAYMENTS & MONTHLY PAYMENTS**

"The agencies wanted me to come up with a down payment of at least 20% of the fines. They weren't really trying to work with me. It was creating a lot of stress."

-L.S., a 40-year old father living in Bellevue

"[When I couldn't make the next payment by the due date] I was in default. Then in order for me to get back [on the payment plan] I had to pay \$700 up front, and then pay \$150 a month. . . And it got to a point where I couldn't pay [again], and the same thing happened. . . [I defaulted] and I tried to get back on the [payment plan], and they told me I had to pay at least 50% of the fines . . . plus \$50 a month. Fifty percent of the fines was about \$1,000-\$1,200. I didn't have that kind of money. I didn't have it."

-A.M., 43-year old single mother interviewed in Seattle

"I tried to set up a payment plan for my tickets, but they wanted me to go and pay all the rest of the tickets that started back in 1990. . . They want me to pay \$184 a month, and I only get \$197 a month."

-J.A., a 40-year old SVI Pact student living in Seattle

Finally, in addition to these down payment and minimum monthly payment requirements, interviewees described the collection agencies as generally inflexible and unwilling to work out alternative ways to resolve their debts.

For example, C.M., a 34-year old father interviewed in Spokane stated:

"I called the collection agency. I told them these are my bills and this is how much money I have. I asked them, 'Work with me to help me get my license?'

The answer was, 'No, that's not good enough. You don't have enough money.'"

Similarly, S.A.S., a 40-year old man living in Eastern Washington, who once had traffic fines in multiple collection agencies, echoed the above sentiments:

"[The agencies] wanted money . . . and they wouldn't accept a half a payment, or whatever I tried to negotiate, [such as] half a payment and then [a] payment plan. They want[ed] everything paid in full."

Underutilized and Unknown: Alternatives to Monetary Payment of Fines

While alternatives to monetary payment of traffic fines do exist, they are not consistently available throughout Washington state and do not appear to be well publicized.

Some jurisdictions have "relicensing programs" designed to help suspended drivers reinstate their driver's license. For example, such programs are run by the King County District Court, the Spokane City prosecutor, and the Center for Justice.

In addition to these structured programs, courts have the authority to pull tickets out of collection agencies and consolidate them into a time-pay agreement with the court. This option can benefit suspended drivers because the court does not typically charge additional fees and interest. (Where courts do charge a fee for a payment plan, it is generally a nominal amount.) Moreover, courts can reduce the total fine amount or can authorize community service or work crew hours in lieu of monetary payment.

Many interviewees indicated that these alternatives would assist and expedite the resolution of their traffic fines. The most

common response from interviewees was that having a more reasonable payment plan (which courts have the power to provide) would assist them in resolving their traffic fines.

**WHAT WOULD HELP SUSPENDED DRIVERS
RESOLVE THEIR TRAFFIC FINES?**

"It would be helpful to have reduced fines, community service, or possibly having a less stringent payment plan [though] I understand that the court has to keep people accountable."

-L.S., 40-year old father living in Bellevue

"[It would help] if I can get [my tickets] out of collections and at least set up like a \$20 payment plan. . . Work crew or community service would help a lot, if people don't have jobs . . . [That way] it doesn't go into collections, and so it kind of prevents everything."

-C.A., 26-year old mother interviewed in Seattle

"[It would help to have a] payment plan . . . [or] a way to work it off. . . I'm willing to volunteer my time . . . I mean, it would be nice to have . . . some way [to resolve traffic fines] other than going into your pocketbook."

-M.S., 52-year old SSI recipient living in Spokane Valley

Unfortunately, these alternatives are not offered consistently; some interviewees had never been offered these alternatives for any of their fines. For example, J.D.A., a 29-year old mother interviewed in Spokane stated:

"I have about 17 tickets in the district court, but I have never heard of being able to work [the ticket] off. Not once. . . I would have definitely, definitely [done community service]."

Similarly, C.M., a 34-year old single father interviewed in Spokane said he only received the opportunity to do community service on one of his tickets.

"On one of my driving [without a valid license tickets], they gave me the option of community service . . . It was the only county that did that. They gave me the option . . . [of] do[ing] 10 hours of community service. . . I was like, 'Where do I sign up?' I went and did 10 hours down there at the mission, and I was done."

Interviewees also suggested that even having *restricted* driving privileges while they are resolving their traffic fines would be helpful in paying off fines. Although Washington State does have an Occupational / Restricted Driver's License (ORL), it is difficult to obtain for individuals who cannot afford to pay their traffic fines. In order to be eligible for the ORL, an individual whose license is suspended for failure to pay traffic tickets must have entered into a payment plan for those tickets.¹¹ None of the individuals interviewed for this report had successfully obtained an ORL.

For example, M.S.F., a 29 year old Goodwill student living in Seattle stated:

"At least, if I could get the occupational restricted license, I could go get a job for driving, or get to and from work earlier."

Similarly, S.A.S., a 40-year old man living in Deer Park emphasized that having his driver's license restored earlier would help him make payments.

"Pulling everything from collections, putting it back in courts, giving me my driver's license, and allowing me to make payments. . . Give me my driver's license, and I will make payments. [That

*would be more helpful than telling me],
'Well, pay this \$20,000, and then we'll
give you your license.'"*

Thus, while interviewees asserted that alternatives to monetary payment of fines would assist them in resolving their unpaid traffic fines earlier and faster, these alternatives are not consistently offered to drivers. They are an under-utilized resource that, if expanded, could widely mitigate the negative effects of the automatic driver's license suspension policy.

III. AUTOMATIC DRIVER'S LICENSE SUSPENSION: CONTRARY TO THE UNDERLYING GOAL OF STATE POLICY

The perspectives of suspended drivers in this report offer important insight into how the policy of automatic driver's license suspension affects indigent and low income drivers' lives. For individuals who are not willfully refusing to pay their traffic fines, but who are simply unable to do so, the policy of automatic driver's license suspension for unpaid fines does *not* appear to be serving the state's underlying goal of encouraging individuals to obey traffic laws and to be licensed and insured when they drive.

The interviews revealed that the policy of automatic driver's license suspension for unpaid fines actually seems to increase, rather than decrease, the number of unlicensed, uninsured drivers on the road. The interviews suggest that the reason this is true is because 1) driving is a necessity, 2) people cannot afford to pay their fines, and 3) fines rapidly increase, at a rate that surpasses what indigent and low-income individuals can pay, due to additional tickets, fees, and interest. The latter results in indefinite suspension.

The "Snowball Effect" of Traffic Fines

Many interviewees described the automatic suspension of driver's licenses due to unpaid fines as a policy that traps them in a vicious

cycle of accumulating traffic fines that they cannot afford to pay, which, in turn, continuously suspends their driver's license. A few interviewees, independently of each other, described this cyclical accumulation of traffic fines and license suspension as a "snowball effect."

WHAT IS THE "SNOWBALL EFFECT"?

"So I got one ticket, didn't know how to pay for it, and then they suspend [my] license. Then [I] get another fine, and then [I] can't take care of that fine because [I] couldn't take care of the first fine in the first place, and then [my debt] gets bigger and bigger. . . People only have so much disposable income. The only reason I got the ticket in the first place . . . was because I didn't renew my tabs. . . Well I couldn't renew my tabs because I didn't have the money at that time because I was unemployed for a very brief time . . . Then I couldn't pay the ticket, and then it just snowballed because if I couldn't pay the first one, I can't pay the second one."

- A.M., 43-year old single mother
Interviewed in Seattle

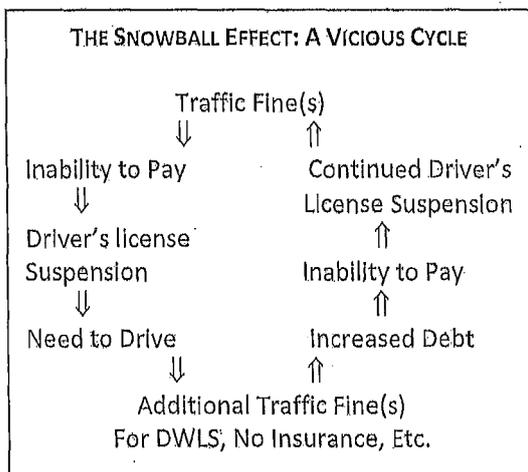
"It's just like a snowball effect. Once you get pulled over, it just keeps happening, and if you can't get your license, it's just a snowball effect."

-C.A., 26-year old mother living in
Seattle

Here it is important to emphasize that the policy of automatic driver's license suspension subjects drivers who cannot afford to pay their underlying traffic fines to increased liability. This comes in the form of traffic tickets for driving without a valid license, and more likely than not, tickets for driving without insurance (since an individual without a valid driver's license cannot get automobile insurance). These

types of tickets are particularly expensive, and increase the driver's overall debt of traffic fines.

While suspended drivers can mitigate the risk of receiving these tickets by not driving, some drivers (as described in Part I) strongly believe that they have no choice but to continue driving in order to fulfill their employment, parenting, and other daily responsibilities. Thus, these drivers get caught in a snowball effect: They continue to drive, receive additional tickets for driving without a valid license and/or driving without insurance, increase their traffic fines, remain unable to pay their mounting debt, and continue to have a suspended license as a result of unpaid fines.



An additional factor for some drivers caught in this vicious cycle is that driver's licenses are a widespread requirement for employment and job advancement (discussed earlier in Part I). For those who are unemployed or looking for higher paying jobs, a suspended driver's license poses an additional obstacle to earning income—income that would enable them to pay their fines more quickly.

Illustrating this point, K.C.H., a 43-year old woman interviewed in Spokane explained:

"You know, a driver's license is pretty much a pre-requisite now for whatever

employment you need. So it's just a vicious cycle: You don't have your license, you can't get to work, you can't get that job, you can't pay your [traffic] fees. So it just doesn't seem like a practical solution to not have a driver's license."

As demonstrated, the snowball effect of traffic fines and license suspension can lead to prolonged and even indefinite driver's license suspension. Some interviewees viewed this length of suspension as so extensive as to be excessively punitive. For example, E.J., Jr., a 29-year old father living in Spokane stated:

"Maybe there [should be] some disciplinary action there, [such as] a month [of driver's license suspension] . . . but years and years, which a lot of people are suspended for? That's intense. That's severe."

Hopelessness: The Psychological Effect of Unaffordable Traffic Fines

Interviewees expressed that being trapped in this snowball effect engenders a sense of hopelessness. Many initially attempted to pay off their fines through a variety of avenues. They contacted the courts and collection agencies to find out how to resolve their tickets, they got on payment plans (which, for one reason or another, they could no longer maintain), and some had completed community service or utilized another alternative to resolve some, but not all, of their tickets.

However, after exhausting the options above, interviewees said they began to view the resolution of their traffic fines as an impossible task. M.G., a 43-year old father living in Spokane who has received over 100 tickets, stated: *"I'm at a loss as to what to do with my life."*

The significance of this psychological state of hopelessness—created by the vicious cycle of unaffordable traffic tickets and driver’s license suspension—is that it causes these drivers to lose motivation to even attempt to resolve their traffic fines.

**THE SNOWBALL EFFECT:
CREATING LAWBREAKERS**

“Like a lot of people say, you get to the point where you just start to not care. . . [I was] losing jobs because of court dates. I mean you get so in debt, you try to work and you try to work, and you’re not getting anywhere. You’re just like, ‘Well I guess it doesn’t really matter.’ You get so far in the hole because of interest . . . [that you begin to think] ‘Oh, I’m never going to have th[e] type of money [needed] to pay off my fines’.”

-C.M., a 34-year old father in
Spokane

“Adding an additional \$500 ticket on top of someone who is already in financial hardship, you’re not going to get your money any faster. All it is [doing] is creating a bunch of individuals [who are] driving around without their licenses, and just taking the risks that they need to, to do what they have to do, to take care of their family. . . I feel like they’re digging me further into a financial hole . . . [They’re] trying to pull money from where there is no money.”

-P.K., a 39-year old student at Seattle
Goodwill

***Criminalization of Driver’s License Suspension:
Excessive Punishment***

A number of interviewees also opined that criminalizing driving on a suspended license is disproportionate punishment for the offense.

Some interviewees felt that incarceration was disproportionate because of the myriad consequences of incarceration: Loss of jobs, time, money, housing, benefits, family obligations, and dignity, as well as the discrimination that one faces due to having a criminal record.

THE TRUE COST OF INCARCERATION

“Years and years ago—and we’re talking decades, now—you could do a year [in jail] on a driving suspended third. And believe it or not, I’ve done a year. In my entire life, I did the math, and I’ve probably spent 10 years—over a decade of my life—incarcerated because of a driver’s license. . . And I’ve had to start my life over *every time*. . . [I’ve lost] cars, jobs, money. Then more fines. . . It’s insane what the state deems a criminal act, and why you’re going to jail for it.”

-M.G., 43-year old father living in
Spokane

“I went to jail for [driving while license suspended] before, and actually lost a job for that. True story. I mean, it was only 10 days, but I lost my job because of that.”

-E.L., Jr., 29-year old father living in
Spokane

“They arrested me, and they took me in the holding cell. I was on my way to work. . . Then [the officers] put the shackles on me and took me into the court with shackles on my feet. . . They pulled me over because they ran my plates [and saw that I had a suspended license].”

-A.M., a 43-year old single mother
interviewed in Seattle

Some interviewees stated that criminalizing driving on a suspended license is excessive because of the minimal harm that driving causes.

For example, M.G. exhorted:

"I just go to work . . . I get stopped for driving suspended. . . In my opinion, what is a criminal act? When there's a victim. I want you to tell me, that day [when] I'm going to the store, where's my victim? Who is the victim when I'm taking my daughter to the store?"

Other interviewees expressed that criminalizing driving on a suspended license is excessive because the underlying suspension is unfair to indigent and low-income drivers. They expressed that they are suspended and punished solely for being poor. S.A.S., a 40-year old resident of Deer Park succinctly stated:

"I don't think it should be a jailable offense if you're driving [while license suspended] in the third degree. . . So you owe money, so you would go to jail?"

Several interviewees viewed the punishment for driving while licenses suspended as disproportionate to the punishment imposed for offenses posing greater harm to society, such as driving under the influence ("DUI"). A person convicted of a DUI generally will have a finite suspension or revocation, followed by a limited restricted license requirement. Ultimately, full driving privileges are generally restored. Conversely, someone who merely fails to pay a ticket can face indefinite suspension if they are too poor to pay their ticket.

**COMPARATIVELY EXCESSIVE PUNISHMENT:
DWLS VERSUS DUI**

"I've been incarcerated for driving while license suspended. I [was] sitting in a cell next to somebody who had five DUIs, and was about to get out of jail, [be] given [an ignition interlock device], and can go on off with [his life]? [While] I'm in there for driving while license suspended, and every time I get hit [with DWLS], they're giving me time and time? . . . I don't think that's right. I think they should be harder on [people convicted of DUIs], than on [people convicted of] driving while licensing suspended. . . [The laws] are kind of backwards."

-M.S.F., 29-year old Goodwill student living in Seattle

"If you're out running people over, maybe racking up a whole bunch of DUIs . . . if you're criminally driving, doing things like high-speed chases, [criminal liability is] understandable. But if you're driving to work, you're taking your kids to school, or even going to the grocery store, and then you're going to jail for that? . . . The courts should [have] a better outlook on a person's life, on their circumstances, and consider why they need to drive, before they just take their privileges away."

-E.L., Jr. 29-year old father living in Spokane

According to many of those interviewed, the policy of automatic driver's license suspension for unpaid traffic tickets and the criminalization of driving while license suspended generally makes it more difficult for indigent and low-income drivers to resolve their traffic fines and to reinstate their driver's license, while also creating psychological stress and hopelessness for many interviewed.

Conclusions & Policy Recommendations

The Center for Justice (CFJ) offers the following observations and recommendations based on the interviews conducted for this report, the relicensing work they have accomplished with clients, and research performed on driver's license suspension:

- Driving is essential for employment and meeting the day-to-day demands of life. Because of the inadequacy of most public transportation systems and the automobile-centered lifestyle in the United States, if a person cannot drive, they cannot effectively maintain employment and meet family responsibilities.
- Incarceration does *not* coerce payment from indigent and low-income individuals. Rather, it places these individuals in a worse situation. While incarcerated, people lose jobs, housing, benefits, and enrollment in school. They are also unable to meet family obligations. Meanwhile, incarceration costs taxpayers tremendous amounts of money, clogs court dockets, and uses limited police resources.
- The use of driver's license suspension, jail, and fines for non-safety-related driving infractions does not make society safer. Rather, these tools are used in an attempt to collect revenue, but are counterproductive in doing so.
- Reasonable payment plans and alternatives to monetary fines, such as community service, can help drivers avoid suspension, reinstate their licenses, and increase the amount that courts recoup in fines.

However, these alternatives must be tailored to an individual's circumstances, so that the likelihood of success is increased.

For example, payment amounts must be set low enough so that a person is not forced to choose between buying food, paying rent, or paying fines. Additionally, people must have transportation to community service sites, and community service opportunities must be offered on evenings and weekends to allow people to continue to work or search for work.

- Many suspended drivers lack basic life skills, such as budgeting, organization, and time management. Further, many are confused and overwhelmed by the court system. Increased education regarding basic life skills and navigating the legal system could help drivers avoid the cycle of fines, suspension, and DWLS 3 convictions. Courts, prosecutor's offices, and local governments should increase the number of relicensing programs offering classes that teach these skills and should provide reasonable payment plans, community service, and/or work crew as options to satisfy traffic fines.
- Because jail does not coerce payment and because nonpayment of fines does not pose a danger to society, driving while license suspended should be decriminalized. However, this does not solve the entire problem. Even if driving on a suspended license for nonpayment is decriminalized, drivers may still have their licenses suspended under current law simply because they are unable to pay their fines.

The authors of this report strongly support ending the policy of revoking driver's licenses for nonpayment of fines issued for non-safety-related infractions. It is counterproductive for both drivers and taxpayers, and does nothing to make us safer on the roads.

Endnotes

ⁱ See Austen Jenkins, *Nearly 300,000 Wash. Drivers Suspended for Failure to Pay Tickets*, National Public Radio, Jul. 22, 2011, available at <http://www.npr.org/templates/story/story.php?storyId=138627811>.

ⁱⁱ See *Id.*; see also Joanne I. Moore & David K. Chapman, Washington State Office of Public Defense, *Driving While License Suspended 3rd Degree Survey of District and Municipal Courts*, 1 (2008), available at http://www.opd.wa.gov/TrialDefense/090602_DWLS3Survey.pdf.

ⁱⁱⁱ See RCW 46.20.391(2)(b).