

Final Report to the Barbara McDowell and Gerald S. Hartman Foundation
Texas Fair Defense Project

On October 27, 2015, the Texas Fair Defense Project and co-counsel filed a class action lawsuit against the City of Austin on behalf of thousands of people living in Central Texas with outstanding warrants for unpaid Class C misdemeanor tickets. The lawsuit, styled *Gonzales et al. v. City of Austin*, alleged that the City of Austin has an unlawful policy and practice of jailing poor people unable to pay the fines and fees from Class C misdemeanor tickets, which are “non-jailable” and “fine-only” offenses under Texas law. Additionally, *Gonzales* alleged that the City of Austin has an unlawful policy and practice of failing to provide for the appointment of counsel for indigent defendants before jailing them for nonpayment of fines and fees.

Plaintiff’s claims are grounded in a series of U.S. Supreme Court cases that require courts to hold ability to pay hearings and consider alternatives to full and immediate payment of a criminal justice debt before jailing a person for their failure to complete their original sentence.

The City of Austin moved to dismiss the original complaint and the subsequent first amended complaint. On March 15, 2016, the court dismissed the case without prejudice. After substantial research and reflection, the Texas Fair Defense Project and co-counsel Drinker Biddle, Susman Godfrey and the Civil Rights Clinic at the University of Texas Law School decided not to appeal the dismissal or refile the litigation in the short-term. It became clear that we would be more likely to achieve permanent changes to the policies of the Municipal Court by working with the City of Austin through the political process.

The Texas Fair Defense Project, the Civil Rights Clinic and several additional coalition partners (the ACLU of Texas, Texas Appleseed, the Equal Justice Center, and the Safe Alliance) are presently engaged in a campaign advocating before the Austin City Council and City committees and commissions to revise Austin’s local ordinance in order to change the policies of the Austin Municipal Court directly.

In addition to coalition member meetings with Austin City Council members and staff and testifying before Council committees, the coalition has hosted community meetings to build relationships with Austin residents who are concerned about the Municipal Court’s practices or have been directly impacted by them. The Texas Fair Defense Project continues to monitor the court and represent individuals jailed by the court in order to provide current information to the campaign regarding court practices.

Since the filing of litigation, the Austin Municipal Court is fewer individuals and for shorter periods of time than before the litigation was filed.

There is substantial support for bringing an end to the use of jail as a penalty for failing to pay fines and fees owed to the Austin Municipal Court at Austin City Council. When Austin City Council comes back from its summer break at the end of July we will move forward with a new ordinance that we hope will end jailing for ticket debt in Austin, Texas.