

TEXAS FAIR DEFENSE PROJECT

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

On October 27, 2015, the Texas Fair Defense Project 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 who 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.

The Texas Fair Defense Project and co-counsel Drinker Biddle, Susman Godfrey and the Civil Rights Clinic at the University of Texas Law School are in the process of determining next steps in the case.

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