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Skip Child Support. Go to Jail. Lose Job. Repeat.

By FRANCES ROBLES and SHAILA DEWAN APRIL 19, 2015

NORTH CHARLESTON, S.C. — By his own telling, the first time Walter L. Scott went to jail for failure to pay child support, it sent his life into a tailspin.

He lost what he called “the best job I ever had” when he spent two weeks in jail. Some years he paid. More recently, he had not. Two years ago, when his debt reached nearly \$8,000 and he missed a court date, a warrant was issued for his arrest. By last month, the amount had more than doubled, to just over \$18,000.

That warrant, his family now speculates, loomed large in Mr. Scott’s death. On April 4, he was pulled over for a broken taillight, fled on foot and, after a scuffle with a police officer, was fatally shot in the back.

The warrant, the threat of another stay behind bars and the potential loss of yet another job caused him to run, a brother, Rodney Scott, said.

“Every job he has had, he has gotten fired from because he went to jail because he was locked up for child support,” said Mr. Scott, whose brother was working as a forklift operator when he died. “He got to the point where he felt like it defeated the purpose.”

Walter Scott’s death has focused attention not just on police violence, but also on the use of jail to pressure parents to pay child support, a policy employed by many states today. Though the threat of jail is considered an effective incentive for people who are able but unwilling to pay, many critics assert that punitive policies are trapping poor men in a cycle of debt,

unemployment and imprisonment.

The problem begins with child support orders that, at the outset, can exceed parents' ability to pay. When parents fall short, the authorities escalate collection efforts, withholding up to 65 percent of a paycheck, seizing bank deposits and tax refunds, suspending driver's licenses and professional licenses, and then imposing jail time.

"Parents who are truly destitute go to jail over and over again for child support debt simply because they're poor," said Sarah Geraghty, a lawyer with the Southern Center for Human Rights, which filed a class-action lawsuit in Georgia on behalf of parents incarcerated without legal representation for failure to pay. "We see many cases in which the person is released, they're given three months to pay a large amount of money, and then if they can't do that they're tossed right back in the county jail."

There is no national count of how many parents are incarcerated for failure to pay child support, and enforcement tactics vary from state to state, as do policies such as whether parents facing jail are given court-appointed lawyers. But in 2009, a survey in South Carolina found that one in eight inmates had been jailed for failure to pay child support. In Georgia, 3,500 parents were jailed in 2010. The Record of Hackensack, N.J., reported last year that 1,800 parents had been jailed or given ankle monitors in two New Jersey counties in 2013. (The majority of noncustodial parents nationwide are men.)

Unpaid child support became a big concern in the 1980s and '90s as public hostility grew toward the archetypal "deadbeat dad" who lived comfortably while his children suffered. Child support collections were so spotty that in the late 1990s, new enforcement tools such as automatic paycheck deductions were used. As a result, child support collections increased significantly, and some parents rely heavily on aggressive enforcement by the authorities.

But experts said problems could arise when such tactics were used against people who had little money, and the vast majority of unpaid child support is owed by the very poor. A 2007 Urban Institute study of child support debt in

nine large states found that 70 percent of the arrears were owed by people who reported less than \$10,000 a year in income. They were expected to pay, on average, 83 percent of their income in child support — a percentage that declined precipitously in higher income brackets.

In many jurisdictions, support orders are based not on the parent's actual income but on "imputed income" — what they would be expected to earn if they had a full-time, minimum wage or median wage job. In South Carolina, the unemployment rate for black men is 12 percent.

The Obama administration is trying to change some of these policies, proposing to rewrite enforcement rules to require that child support orders be based on actual income and consider the "subsistence needs" of the noncustodial parent, to bar states from allowing child support debt to accrue while parents are incarcerated and to finance more job placement services for them.

"While every parent has a responsibility to support their kids to the best of their ability, the tools developed in the 1990s are designed for people who have money," said Vicki Turetsky, the commissioner of the federal Office of Child Support Enforcement. "Jail is appropriate for someone who is actively hiding assets, not appropriate for someone who couldn't pay the order in the first place."

Under a 2011 Supreme Court ruling, courts are not supposed to jail a defendant without a specific finding that he or she has the ability to pay. But that process does not always work as intended, especially when the client does not have a lawyer, advocates for the poor say.

In the Georgia class-action case, the plaintiffs were jailed in civil contempt-of-court proceedings in which they did not have lawyers. They included three veterans — one who had paid \$75,000 in child support but fell behind when he lost his civilian job because of combat-related stress and family deaths; a second who was mentally ill and had a letter from a Veterans Affairs doctor saying he was unable to work; and a third who was incarcerated despite having paid \$3,796 toward his debt by working odd jobs.

But the Georgia Supreme Court ruled against them, saying they did not

have a categorical right to a lawyer.

Walter Scott had four children, two in the early 1990s outside of marriage, and two in the late 1990s with a woman to whom he was married. The marriage crumbled when one of the children was still a toddler, and Lisa Scott, his estranged wife, began writing letters to family court asking for help.

“My husband bears no responsibility for his family,” she wrote in 2000.

In an article about a parenting program published in *The Post and Courier of Charleston* in 2003, Mr. Scott said that he had fallen behind when the checks he sent to a state agency for his ex-wife were mistakenly directed to the mother of his first children. (The South Carolina Department of Social Services, citing privacy laws, said it could not verify his account.)

Mr. Scott eventually spent two weeks in jail — a stint that cost him a \$35,000-a-year job at a filmmaking company and sent him into isolation and alcohol abuse, he told *The Post and Courier*.

“I got mad at everybody in the whole world because I just lost the best job I ever had,” he said. “I just stopped doing everything.”

In 2002, Mr. Scott, further behind on his payments, agreed to participate in a parenting program called Father to Father and pay \$350 a month. Mr. Scott reunited with his family, turned himself in for the unpaid child support and served another five months in jail.

Still, Charleston County Family Court records show that he remained in a cycle of unpaid child support debt, stints in jail and more threats of time behind bars. The records also show that when Mr. Scott was working in 2011, \$125.76 was deducted from his check each week. He paid \$11,411 that year, which included a lump-sum payment. But he was behind again in July 2012, and he paid \$3,500, his last recorded payment, to avoid jail. The money came from his parents, Mr. Scott’s brother Rodney said.

Rodney Scott said his brother resented that his ex-wife was not required to work and that the pressure was always on him to pay support. Critics of the child support system say this imbalance is reflected in rules that say that if a mother receives public assistance, the father must pay it back, even if he is also poor. In many cases, though not in Mr. Scott’s, child support actions are

brought by state officials seeking welfare reimbursement.

Lisa Scott could not be reached at addresses or phone numbers listed in her name. Samantha Scott, a daughter from Mr. Scott's first relationship, said she had never heard her own mother complain about a lack of support. "If he had money, he would give it to us," she said.

Ms. Turetsky, the head of the federal child support office, said the system should be based on the expectation that both parents would contribute toward their children's needs. "It's nuts," she said of the policy of making destitute fathers repay welfare. "She gets the assistance; he gets charged with the bill."

Jahmal Holmes, 28, is a current participant in the Father to Father program in North Charleston. He has two children, 4 and 8, and said he had agreed to court-ordered child support because he had been told that it was a requirement for their mother to receive Medicaid. The two have since broken up and share custody of the younger child, but he is still required to pay support for both.

Mr. Holmes said he did not realize that if he fell behind on payments, he would face jail. "I am behind now, and they are threatening to suspend my driver's license — and I'm a truck driver," he said. "When I saw that Walter Scott died, and he was in this program, that touched me emotionally. I see myself trying to get out of that situation."

Rodney Scott said that he sometimes thought his brother did not do everything he could to catch up, but that Walter seemed to consider it a hopeless cause. He recalled seeing his brother plead to a judge that he just did not make enough money.

"He asked the judge, 'How am I supposed to live?' " Mr. Scott said. "And the judge said something like, 'That's your problem. You figure it out.' "

Frances Robles reported from North Charleston, and Shaila Dewan from New York. Ben Rothenberg contributed reporting from Charleston, S.C.

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