**Your Right to Know by Emma Shakeshaft**

Improve access to municipal court records

Wisconsin’s municipal courts can have a significant and devastating impact on the lives of people who can’t afford to pay a citation due to poverty. Without critical legal protections, unpaid municipal citations can lead to warrants, arrests and incarceration.

There is no right to counsel in Wisconsin’s municipal courts, meaning people unable to afford an attorney face court alone, compounding the cycle of poverty and punishment. These courts risk operating in ways that undermine constitutional standards and disproportionately harm vulnerable communities, hence there is a heightened need for transparency and accountability.

Public access to accurate court records and data is essential to upholding constitutional and statutory requirements. In December, a Milwaukee County Circuit Court judge [ordered](https://www.wjiinc.org/blog/judge-orders-milwaukee-municipal-court-to-comply-with-recording-requirements) the Milwaukee Municipal Court and its judges to comply with statutory requirements mandating electronic recordings of all hearings on motions to reopen because of a defendant’s inability to pay a judgment due to poverty. Judge David Borowski found that the court and its judges “have violated and very likely will continue to act in violation of their plain duties” to record these hearings.

These hearings can determine whether an individual faces severe sanctions, including arrest warrants, writs of commitment, or driver’s license suspensions. They also establish whether a judge is required to abide by certain poverty protections, like community service in lieu of payment for a defendant who faces incarceration due to poverty.

The ACLU of Wisconsin, for which I work, released a [report](https://www.aclu-wi.org/en/failure-to-pay) last fall that underscores both the scope and the severe consequences of municipal court practices. The data used in this report was gathered from open records requests sent to each of Wisconsin’s 219 municipal courts and 73 county jails.

Each court and jail operates independently, with differing policies, procedures, and levels of transparency. Many courts and jails either failed to respond to our open records requests or provided incomplete data. Some jails claimed they could not separate out municipal warrants or commitments, while others demanded exorbitant fees to locate records.

Municipal courts face minimal oversight and reporting requirements. They are encouraged, but not required, to submit an annual voluntary questionnaire.

The only statewide municipal court data [published](https://www.wicourts.gov/publications/statistics/municipal/municipalstats.htm) consists of the total number of cases by state, county and year, but these statistics are self-reported, unauthenticated, and often incomplete. The result is an unreliable, outdated, and incomplete dataset that fails to provide the transparency necessary for meaningful review.

We can’t rely only on open records as the primary tool for oversight. Governments must implement systems for collecting, vetting and reporting court data. Basic information, such as the number of warrants and commitments issued annually, how many people are jailed for failure to pay, and for how long, should be readily available. If a court or jail cannot provide this information, it should not have the ability to impose or enforce these sanctions.

Transparency is not an abstract ideal; it is a safeguard against unconstitutional practices and a tool for ensuring justice. When courts operate without transparency, individuals, especially those who are economically disadvantaged, are at a heightened risk of having their rights violated.

Courts and carceral institutions must have standardized, reliable systems for recording, analyzing, and reporting data. Wisconsin’s municipal courts must be held to higher standards of transparency, and the state must implement policies that ensure courts are accountable to the communities they serve.

Without meaningful change, without appropriate oversight, many municipal courts will continue to punish poverty, making it difficult to ensure that community members receive the constitutional and statutory protections they are entitled to.

*Your Right to Know is a monthly column distributed by the Wisconsin Freedom of Information Council (wisfoic.org), a group dedicated to open government. Emma Shakeshaft is a senior staff attorney and researcher for the ACLU of Wisconsin Foundation.*



Emma Shakeshaft, provided photo