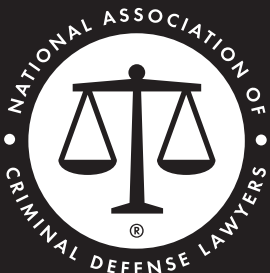


"YOU FEEL LIKE YOU RUINED YOUR LIFE":

Compounding Negative
Consequences of
Misdemeanor Penalties

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“You feel like you ruined your life when you go through something like this”: The compounding negative consequences of misdemeanor penalties¹

Abstract

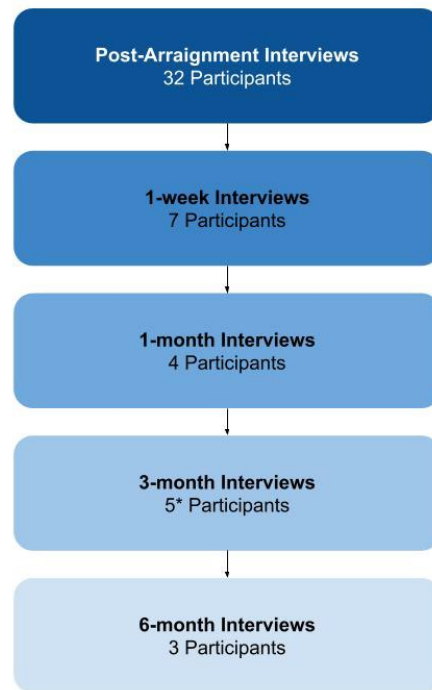
Prior research demonstrates that the misdemeanor court process encourages defendants to resolve their cases quickly and efficiently at the expense of due process. Building on previous scholarly research, we found that misdemeanor defendants adopt the court's efficiency language immediately after resolving their cases, minimizing the consequences of the financial penalties and the necessity of counsel and downplaying the future consequences of their rights waivers, pleas, and penalties. Longitudinal interviews, however, uncovered disparities for those without financial advantages: They experienced consequences they did not expect from the uncounseled plea and quick resolution, including collateral effects, which negatively impacted the quality of their lives and increased their cynicism about the legal system. Policy recommendations will be discussed to improve awareness of rights and access to counsel, and fairness in the misdemeanor court system.

Introduction

An estimated 13 million people are prosecuted yearly in the lower criminal courts,² which include misdemeanor, municipal, and traffic courts, and nearly all resolve their cases by entering quick pleas,³ often without counsel or with minimal advice.⁴ The proceedings in these courts are often perfunctory and lack due process.⁵ Judges do not ensure that defendants fully understand their forfeited rights⁶ or the hidden and collateral consequences of entering a plea.⁷ The practices and procedures of these courts send the message that misdemeanor charges are not serious,⁸ a message defendants both absorb and often share, believing these charges are not serious enough to warrant legal defense.⁹ It has been suggested that there may be long-term adverse effects on quality of life, even with financial-only penalties.¹⁰ While there are myriad studies of the misdemeanor courts in action¹¹ and summary, anecdotal, statistical, and news reports on the consequences of misdemeanor punishments and unpaid debts,¹² the long-term quality-of-life effects of rushed and ill-informed plea decisions on the lives of defendants with misdemeanor cases is understudied.¹³ This interview-based study asks how defendants anticipated their decision to plead guilty or no contest would impact their lives, then follows up with select defendants for six months to reveal the actual consequences on their day-to-day lives.

For this study, thirty-two unrepresented misdemeanor defendants were interviewed immediately after resolving their cases. Seven participated in extended interviews one week later,¹⁴ four at one month, five at three months, and three at six months after arraignment (see Figure 1). These interviews revealed that defendants initially perceived their cases as not serious, prioritizing efficiency over getting an attorney or delaying resolution, and expected few future consequences associated with their plea. Later, several participants who were unable to pay their fines described the effects of unannounced yet cascading and debilitating consequences from their pleas and financial punishments with dismay.

FIGURE 1. Number of participants in longitudinal interviews



*One participant skipped the one-month interview, but participated in the three-month interview.

Literature Review

Scholarly research suggests that most individuals do not understand their rights, even after having them explained by the police¹⁵ and judges.¹⁶ Individuals facing misdemeanor criminal charges consider the immediate and additional financial burdens of counsel fees¹⁷ as well as the delays associated with asking for counsel or the hefty charges for hiring private counsel in calculating the decision to proceed without representation.¹⁸ Asking for the appointment of a public defense lawyer or time to hire private counsel at arraignment delays case resolution, requiring follow-up meetings with an attorney and returning to court for at least one additional appearance.¹⁹ These costs consciously and subconsciously may play a role in defendants' consideration of whether to use the assistance of counsel in resolving misdemeanor cases.²⁰ While the courts' undue focus on efficiency minimizes the importance of misdemeanor cases and messages to defendants that it is best to resolve their cases quickly and without counsel.

Most misdemeanor cases are resolved by defendants agreeing to pay financial penalties, including fines, fees, costs, and restitution.²¹ Few individuals know the litany of collateral consequences that follow the resolution of their case²² or understand the

significant ramifications of failing to pay their financial penalties.²³ While judges typically warn defendants of the potential for deportation or violation of probation when entering a misdemeanor plea, these individuals are not alerted to the other, far-reaching collateral consequences, including having their case sent to collections and having their driver's license suspended if their fines and fees are not paid timely; difficulty getting housing; being unable to secure certain types of employment, professional licenses, or clearances. Summary, anecdotal, statistical, and news reports suggest that some misdemeanor defendants' quality-of-life suffers from misdemeanor punishments and unpaid debts,²⁴ but longitudinal interview-based studies are difficult to conduct,²⁵ such that stories of defendants' personal and vicarious experiences with misdemeanor courts are rare. The present study seeks to fill that gap by interviewing misdemeanor defendants about their experiences with courts, especially the collateral consequences of unpaid court fees.

Theoretical Framework

Young and Billings (2020)²⁶ theorized the relationship between Legal Consciousness and Cultural Capital. We see this framework as useful for understanding and analyzing the consequences of financial punishments in the lower courts for our interpretive, critical interview analysis.

Legal Consciousness

What individuals think about the law and their rights influences how they act with the legal system,²⁷ including how they interact with police on the streets and judges in the courts. This social process has been called *legal consciousness*. Legal consciousness is an important framework for both understanding how people interact with legal actors and how these actions create, sustain, and subvert power relationships. A legal consciousness framework has been used to consider the legal cynicism of residents whose neighborhoods have a higher arrest rate,²⁸ the potential of police reforms to decrease legal estrangement,²⁹ and the role of relational legal consciousness in shaping parole board members' determination of remorse.³⁰ In the present study, interviews with misdemeanor defendants revealed the legal consciousness of the individuals, including their perceptions of their misdemeanor charges, their arraignment hearings, their decision to proceed without counsel, the anticipated consequences of their convictions, and the actual long-term adverse impacts on their daily lives. Their immediate and later experiences in turn shaped, reshaped, and perpetuated their perceptions of the law, legal actors, and informed their decisions to assert or not assert their constitutional rights.

Cultural Capital

Within a given culture, certain attitudes, knowledge, skills, tastes, mannerisms, and interactional styles are privileged over others. Individuals and groups who understand and participate in these privileged ways have social advantages over those who do not. These privileges and advantages are what Bourdieu has called *cultural capital*,³¹ a concept that has been applied widely in education research³² and has recently been extended to legal research.³³ Cultural capital is not simply about capturing what advantages a particular person or group has in society but is specifically focused on how these advantages create and recreate social inequalities for different groups of people. Taken with legal consciousness, a cultural capital framework can direct the researcher's focus toward the oppression of groups by the legal system, including how the non-assertions of rights reinforce inequalities for the most disadvantaged members of society.

Research Design

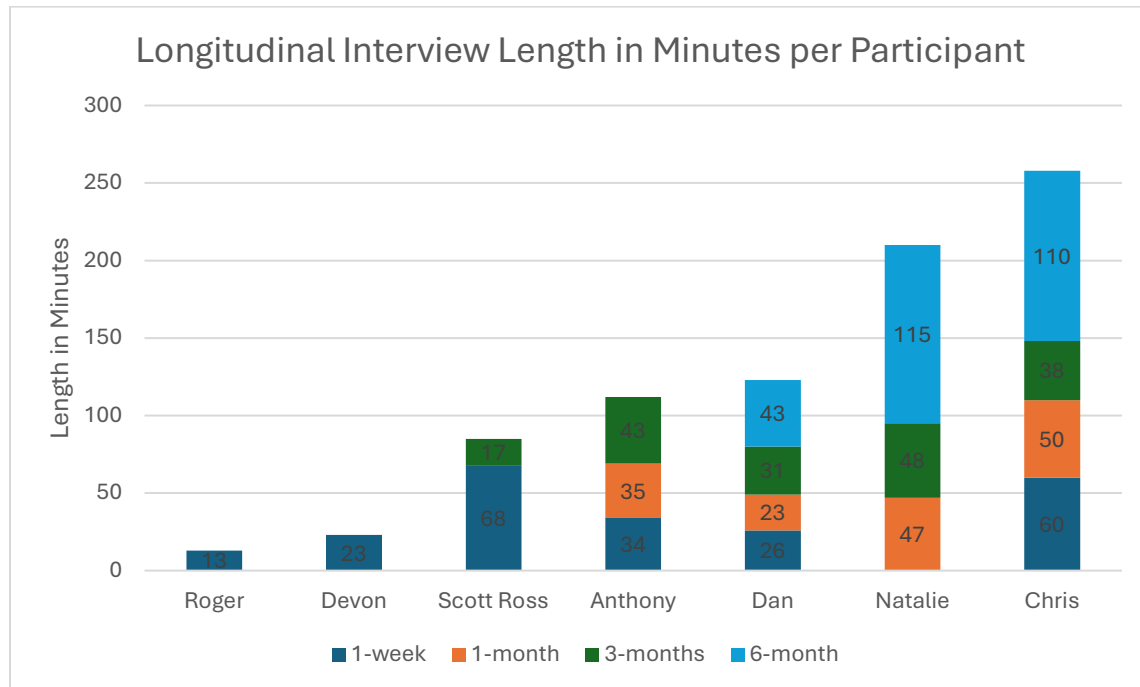
This report is part of a larger mixed-methods study being released as a series of reports. The study was conducted in two Southeastern lower criminal courts that offered public defender representation to misdemeanor defendants who qualified (i.e., making less than 200% below the poverty level).³⁴ Misdemeanor crimes and criminal traffic infractions, including petit theft, battery, trespassing, and driving with a suspended license or while intoxicated, are prosecuted in these courts. Defendants face penalties of fines and costs, probation, and, in some cases, jail terms. Some arrested defendants resolve their cases at first appearance, a hearing held within 24-48 hours of arrest.³⁵ For defendants given citations to appear or who are released on bail before their first appearance, their first court appearance is at their **arraignment hearing**.

Arraignment hearings are typically scheduled for three to four weeks after an arrest. At these hearings, trial judges inform defendants of their charges, advise them of their right to counsel, including appointed counsel, and ask them to enter a plea. At this hearing defendants are given the option to hire an attorney, request court-appointed counsel (if eligible), or represent themselves. The cost of a private attorney varies, but in this state even appointed representation is not free. Asking for the help of the public defender costs \$50 for the application fee and an additional minimum fee of \$50 in recoupment costs if appointed.³⁶ Many defendants opt to resolve their cases by plea, doing so without consulting counsel, and some resolve their cases at their initial appearance. They prioritize getting the case concluded and avoiding returning to court, over meeting with a lawyer to identify legal defenses and strategies, receiving and reviewing the state's evidence, trying to negotiate a better outcome, sharing relevant mitigating evidence, or fully challenging illegal and improper police tactics.

The present study compares defendants' rushed costs-benefit calculations that minimized the significance of penalties and the need for counsel, resulting in some not fully appreciating the direct and collateral costs that later overwhelmed their daily lives. Our post-arraignment interviews captured defendants' expectations for the consequences of their plea decision, while administrative data and extensive longitudinal interviews provided insight into how the decision actually had cascading negative effects, particularly for participants who were unable to satisfy their court debts.

Initial, post-arraignment interviews were conducted with 32 unrepresented misdemeanor defendants immediately after resolving their cases. Follow-up interviews were completed one week later with seven participants, four participants at one month, five participants at three months, and three participants six months after resolving their cases at arraignment (see Figure 2).

Figure 2. Longitudinal Interview Length in Minutes per Participant³⁷



Although there was significant attrition from the first to the last, the longitudinal interviews allowed for building rapport with the interviewed participants, who offered rich and detailed descriptions and stories that described the true costs of resolving their cases and the negative impact on their lives. Attrition may also be connected to the lives of the participants. For some, phones were disconnected, phone numbers changed, and finding time for an hour-long interview was impossible. For others, paying off the court fines and fees was simple, and the participants may have felt that they had nothing else to share with the interviewers. For those who continued to participate, the court fines and fees were impossible to pay off, so their plea decision directly and indirectly impacted their lives, and they felt that their stories were worth sharing.

Previous Studies

The current study is part of a larger mixed methods case study involving court observations, interviews with defendants, and administrative data,³⁸ being released in a series of reports. One report, *Offstage and Off-Script: Performing Bureaucratic Due Process and Waiving Counsel in the Misdemeanor Court*,³⁹ using observations and administrative data, underscored that the lower criminal courts placed an unyielding focus on efficiency and quick, unrepresented resolutions, sacrificing meaningful understanding of the gravity of case outcomes and consequences.⁴⁰ In the fast-paced and highly stressful environment, defendants were expected to understand difficult-to-read affidavits for public defender appointments and plea waiver forms.⁴¹ They were confronted by judges who asked them yes-no questions in front of an audience of strangers,⁴² and in serial fashion, defendants were asked about understanding the

rights they forfeited, informed of the direct consequences of their pleas (the financial penalty amount), and occasionally directed to the location to pay those financial penalties at the courthouse, but little else. In another report, *Complex Decisions Under Short Time Constraints: Why Misdemeanor Defendants Proceed without Counsel*,⁴³ and relying on interview data, it was unearthed that defendants resolved their cases without counsel because of anxiety about being in and returning to court, distrust of public defenders, and misconceptions about the court proceedings.

Research Questions

Here, we focus on administrative and interview data to answer the following research questions:

- 1) Is there a disparity between defendants' initial perceptions and expectations in resolving their cases without counsel and the later consequential effects?
- 2) What are the unanticipated, negative, and long-term effects of rushed plea decisions by unrepresented misdemeanor defendants?

Methodology

To best answer these research questions, narrative inquiry was employed through interviews. Building on the work of Bruner⁴⁴ and Polkinghorne,⁴⁵ narratives reflect how people make sense of their experiences and serve as a source to answer why a particular outcome came about. Like legal rights researchers Engel and Munger, we believe that “narrative can help breach the barriers of detachment, doctrinal technicality, skepticism, and even irony that often separate legal scholars from the actual life experiences on which they should draw.”⁴⁶ From the beginning of data collection, research assistants (RAs) worked to build rapport with participants, and interview guides were designed to elicit detailed stories of participants' experiences. Initial, shorter interviews were focused on the immediate court experiences after the arraignment and plea hearing, while later interviews were broadened to include life-story narratives: detailed accounts of our participants' childhood, adolescence, and adulthood that shaped their legal consciousness. We do not necessarily expect these stories to be a factual recounting of events, nor have we fact-checked our participants' accounts and experiences with the law. Rather, we accept their narratives as a sense-making mechanism that explains how and why their experiences have shaped their legal consciousness. We align our work with the goal of *critical storytelling*⁴⁷ “to empower the powerless and transform existing social inequalities and injustices.”⁴⁸

Data Collection

Data collection for the present study included interviews immediately after their arraignment with 32 willing participants who had just entered guilty pleas in their cases, the administrative data from the clerk's office collected more than six months after the arraignment hearings, and longitudinal interviews conducted at one week, one month, three months, and six months after the initial interview.

Six research assistants (RAs) observed arraignment proceedings by fourteen judges and approached defendants who had resolved their cases without attorneys to

participate in interviews.⁴⁹ They were trained to approach individuals, identify themselves as working on a research study to understand the decision to proceed without counsel, and explain that they did not work for the courts, police, prosecutors, or public defenders' offices. Participants were asked if they would participate in a brief and recorded interview about their court experience.⁵⁰ The RAs used a conversational style and a question guide for structure. The guide employed lead-off questions and lists of possible follow-up questions. RAs also formulated individualized follow-up questions in response to participants' answers, eliciting stories about their current and prior experiences, how they prepared for their court hearings, and the factors that influenced their decisions, particularly to enter a plea without counsel, drawing out their stories and clarifying meaning. This flexible approach encouraged participants to offer rich, detailed responses akin to a structured conversation.⁵¹ Participants were asked to reflect on their court experience, describe what happened in court, what motivated their decision to proceed without counsel, and their perceptions about prior interactions with the legal system, judges, and attorneys.

During this initial interview, RAs also asked individuals if they would be willing to participate in later, longer, and compensated phone interviews. If they agreed, the best method and contact time were obtained for the telephone interviews. The same RA who conducted the initial post-arraignment interview telephoned the participants and conducted the later interviews.⁵² Again, RAs used a guide with question prompts and follow-up questions revolving around their decision to enter the plea, but also how resolving the case and the imposed sanction impacted their lives and how they might handle a case in the future.⁵³ Research assistants formulated individualized and responsive questions for each participant's stories for the consecutive interviews.

Most participants provided their real names (and pseudonyms for publication) and other identifying information, which were kept confidential. We obtained case status data with this information and the date of the hearings. Information was missing for seven of the 32 interviewed participants. Four refused to give their names and case numbers, so we could not obtain their transcripts or follow up on the status of their fine payments. One of the interviews occurred only the week after his arraignment, so we did not have his case number and could not obtain transcripts or case files. Two participants' cases were dismissed, and their case numbers were unidentifiable. For the remaining 25 participants, their case status was determined, particularly focusing on the satisfaction (or not) of the imposed financial penalties more than six months after they resolved their cases by gathering information from publicly available databases maintained by the county clerks.

Description of Participants

During the summer of 2022, RAs interviewed 32 unrepresented defendants after they resolved their misdemeanor cases at arraignment (see Appendix A for pseudonyms, charges, and financial penalties). They conducted later interviews with as many of the initially interviewed participants as possible. Seven participated in one-week interviews.

Four participated in one-month interviews. Five participated in three-month interviews,⁵⁴ and three participated in six-month interviews (see Figure 2 above).

A higher proportion of men appeared in misdemeanor court and participated in our study. Twenty-nine men and three women participated in the post-arraignment interviews. There was significant attrition in participation rates over time, with four men and one woman participating in the three-month interviews and two men and one woman participating in the six-month interviews. Some participants reported more than one racial or ethnic identity. Sixteen described themselves as Black, fifteen as white, twelve as Hispanic, and one as Middle Eastern.

The most common charges involved driving claims, such as No Valid License or Driving with a Suspended License (DWSL; n=12) and Petit Theft (n=8). No participant was sentenced to additional jail time (some were given time served for time spent in jail after arrest). Only two participants were sentenced to probation (one was charged with driving on a suspended license, and the other was charged with petit theft). All participants received some form of financial penalty, including fines and/or court costs. Some participants were sentenced to pay restitution to compensate victims for their losses. Many participants were placed on payment plans to make monthly payments on court costs, fees, and fines.

Reviewing the clerk's records more than six months after their cases were resolved, eleven had paid off their debts, but fifteen failed to pay off their financial debts to the court (Table 1).⁵⁵ This resulted in sending their cases to collections, increasing their debts by 40%, and suspending their driver's licenses.

Table 1. Arraignment Interview Participants and Administrative Data

Paid Same Day	Paid by 6 Months		Sent to Collections, Driver's License Suspended		
2	9		15		
Butter ⁵⁶	Tre	Scott	Chris	Devon	Josh
Marcus	David	Ross ⁵⁷	DeDe	Johnny Law	Done Deal
	John	Kevin	Ron	Sabrina	Khalif
	Jason	Dalton	Mark	Jose	David
	Roger	Matt	Natalie	J. Star	Dan

Data Analytic Procedures

Interviews were digitally recorded and automatically transcribed using Rev.com.⁵⁸ The transcriptions were manually edited and updated by the interviewers.⁵⁹ The transcriptions were uploaded, housed, and analyzed in ATLAS.ti (version 23) data management software.⁶⁰ The coauthors analyzed the participants' narratives of their experiences and examined their case files, collected at least six months after the arraignment to capture the actual long-term consequences of defendants' plea decisions, and compared them with participants' self-described expectations for resolving their cases at arraignment to answer the first research question: *Is there a disparity between defendants' initial perceptions and expectations in resolving their cases without counsel and the later consequential effects?*⁶¹ Defendants consistently minimized the seriousness of the charges and the financial consequences. The discrepancies between participants' confidence in resolving their cases at arraignment and the shocking number of participants (58%) who had difficulty closing their cases is discussed in the findings.

The narratives of the two participants who completed interviews over six months and shared their reflections, regrets, and the long-term consequences of resolving their cases were relied on more heavily for the analysis of the second research question: *What are the unanticipated, negative, and long-term effects of rushed plea decisions by unrepresented misdemeanor defendants?* These narratives were organized chronologically and topically to structure the story of the participants' experiences in a meaningful and coherent way, noting the case effects on their lives, their children's lives, the emotional toll, financial strains, unemployment, and suspensions of their driver's licenses. The ultimate collateral effect was these participants' cynicism and distrust of the legal system, perceiving the courts as part of a larger system perpetuating inequality.

Findings

We found that (1) defendants downplayed the seriousness of their cases and expected consequences, and (2) those who could not pay their financial penalties suffered long-

term effects from hidden collateral consequences,⁶² including difficulty in finding gainful employment, compounding interest deepening the cycle of crushing debt,⁶³ and having their driver's license suspended for not making payments. As such, the uncalculated consequences were more significant than those from the expected process costs,⁶⁴ threats of incarceration,⁶⁵ and immediate financial penalties.⁶⁶ The quick resolution and seemingly unimportant penalties had long-term, negative impacts on the quality of life for some defendants and their children and increased distrust and cynicism of the legal system.

Our findings are separated into two parts. In the first part, arraignment interviews illustrate that defendants' initial perceptions and expectations in resolving their cases were optimistic, with high confidence in their ability to pay their fines quickly and forget about what seemed to be a minor inconvenience, whereas the administrative data reveals that nearly 60% of participants struggled to pay their financial debts. In the second part, two participants who shared their life stories in extended interviews over the course of six months provide a detailed answer to the question of the long-term, negative consequences of their deeply regretted plea decision.

Part I: Initial Perceptions vs. Later Consequences

The initial perceptions of participants were that their cases and the consequences were not serious. For most of our participants, the reality and later consequences were much harsher than anticipated, when an inability to pay the court fines resulted in their cases being sent to collection and their driver's licenses being suspended.

Initial Perceptions: Minimized Seriousness

Immediately following their arraignment hearing, interview participants shared their perception that their misdemeanor charges, the financial penalties, and the potential future consequences were negligible. A common refrain about their decision to represent themselves was that the case was not serious enough to warrant counsel, and counsel meant hiring a private attorney, which would be more expensive than paying court costs. As **Chris** described his thought process, "I would hire a private attorney if this was a more serious case...I know they can't really do nothing [on the current case] but try to make me pay some money." Josh also believed his case was "pretty cut and dry and simple," so he "didn't need" an attorney and "didn't want to pay for one." Generally, those interviewed believed misdemeanor charges were not serious enough or were too simple to justify getting an attorney.

Like downplaying the seriousness of the accusation, individuals also minimized the significance of the imposed financial penalty. This was particularly true when people thought that they might get a jail sentence, which they might have presumed either because the judge informed them of the maximum punishments that invariably included sixty days to six months for most offenses or because they saw the punishment ranges on the back of the plea waiver form. Immediately after resolving their cases, participants

described relief or even satisfaction with the judge, who gave them financial rather than carceral punishments. For example, **Mike** contrasted the consequence of probation that he would have received in another state with the ease of paying court fines in the current state. **Matt** expressed relief that “I was supposed to do 60 days in jail and six months’ probation, and they ended up giving me \$50 in court costs on top of the \$50 fee and \$300 in court costs. So, I ended up paying \$300 instead of going to jail.” **Marcus** happily shared, “I expected to have to pay a fine, and the judge was really, really, really kind and took it out my bail. And so, I’m walking out without having to pay any fine, really satisfied.” With trial judges regularly informing defendants of the maximum punishments, which often included jail time, financial punishments seemed far less significant.

The importance of resolving their cases quickly was a prominent focus, even when participants believed they were innocent, and their charges should have been dropped. Though **Natalie** shared that she felt wrongfully charged, she described feeling satisfied at the time of her hearing that “it was just the court costs,” because “it wasn’t a ridiculous amount of things to do, just pay this and da-da-dum, and the main thing was just to resolve it.” **Butter** expressed the same sentiment: “I would’ve loved to have had [my charge] dropped, but I seriously thought that that would’ve happened.... Having something pending is worse than just getting something resolved. Just getting stuff resolved is better, in my opinion.” **Roger**, who attempted to hire a private attorney to fight the charges but did not hear back from the attorney’s office, decided, “I just wanted to resolve this as quickly as possible.” Efficiency and not having to return to court coupled with the added anxiety associated with delaying, which meant the case continued to hang over their heads, motivated many to enter pleas without counsel. Participants did not factor in that paying their financial obligations and other potential consequences delayed the actual resolutions of their cases.

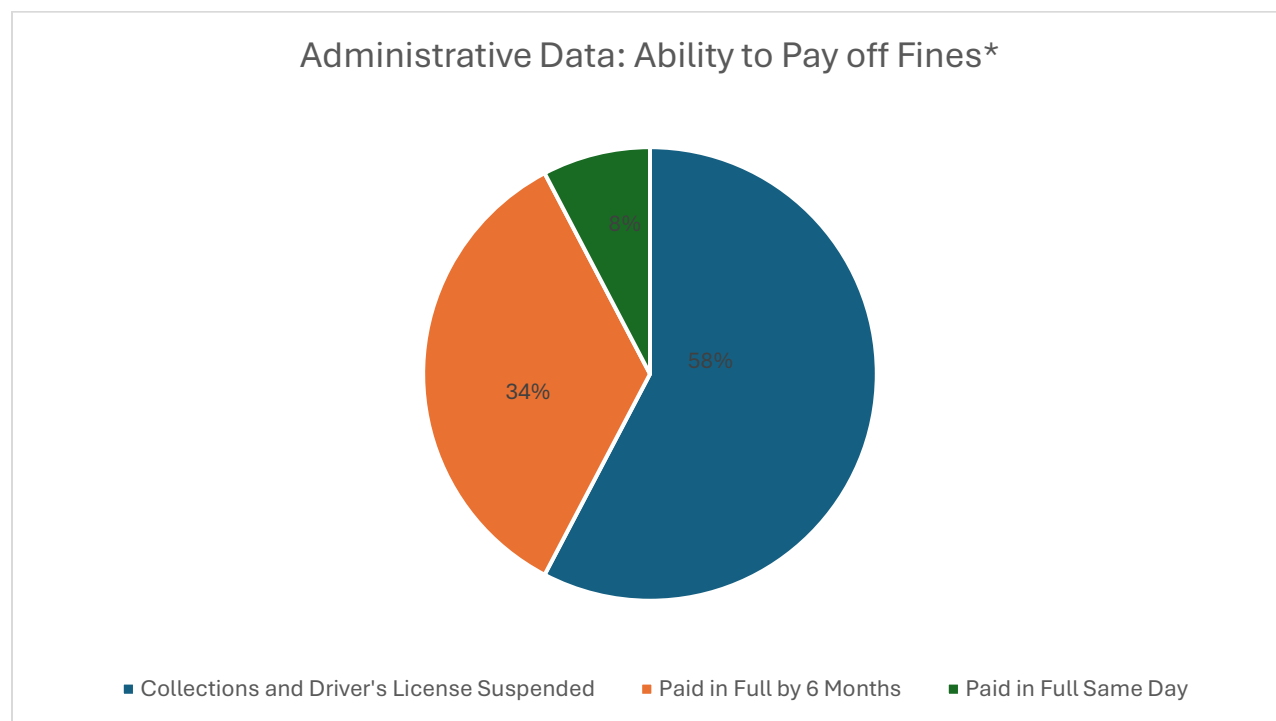
When asked if they thought the case would affect their lives, many responded with a simple “no” without further elaboration. Others were unsure or relied on non-court personnel’s information and guessed at the potential future consequences. **John**, who had no prior criminal charges, explained, “I heard if you’re driving on a suspended license three times, they get suspended up to five years... And they’re gonna suspend my license [if I don’t pay the costs].”

Some participants were also unaware of what was expected of them, the next steps, and what they needed to do to comply with their court obligations. Participant **Chubby** knew that “I have to pay a fine, and I have to do a class,” but “whatever the class is, I don’t know.” **Dan**’s answer to the question, *Did anyone notify you of potential future consequences of resolving your case?* was “Not this time. Probably if I get caught again or whatever, I’d go to jail or something or get a bigger fine.” Similarly, **David** had questions about the consequences that he assumed would be explained when he reported for probation: “I guess I would go from there and have the details sent to me through them.” The speculative nature of these answers highlights the lack of information received regarding the potential consequences of the plea.

Later Consequences: Hidden and Collateral Costs

Paying the court fines, ranging from \$200 to \$400, was a greater challenge than some participants anticipated (see Figure 3). In our sample, eleven participants paid off their financial obligations within six months. Some of those participants had ready access to monetary resources, and others used their cash bail to pay off their court costs, fees, and fines.⁶⁷ For example, **Marcus**, who posted a cash bail, was able to use his bail to immediately pay his court fees and fines. Similarly, **Butter** told the interviewer, “I’m just gonna go down and pay the court fines now. So, I don’t have to worry about that later.” According to the administrative data, he did pay the fines immediately. The other nine participants took up to six months to pay their debts in full, even though some believed they’d be able to pay the total on the same day. Though they ultimately were able to pay the full amount, many of them had to pay additional fees associated with being put on a payment plan.

Figure 3. Ability to pay off fines by 6 months after resolving their cases at arraignment*



*When the participant's administrative data were available.⁶⁸ See Appendix A for all available participant pseudonyms, charges, fines, and payment plan information.

Despite the participants' optimism that the financial penalties would be a relatively easy consequence for their misdemeanor charges, fifteen participants could not pay their court fines within six months of their arraignments. The nonpayment resulted in participants' obligations being sent to Collections and the Department of Motor Vehicles suspending their driver's licenses. A driver's license suspension meant they had to find alternate transportation to work, run errands such as getting groceries, and take their children to school and doctor's appointments.

Participants who did not have access to money suffered more from the cascading effects of their cases, escalating their debt and everyday life difficulties. The participants described financial challenges associated with their growing debts and court-ordered financial penalties, the inability to drive because of resulting suspension of their driver's licenses, and difficulty getting employment. They described the vicious debt cycle that prevents them from getting out from under the weight of their cases.,

For **Natalie** and **Chris**, who could not pay their financial penalties even when using a payment plan, the long-term effects of their misdemeanor conviction could be described as cruel and unusual punishment.⁶⁹ The impact of their debt, suspended driver's licenses, and stress on their already precarious lives was inordinate to the crimes of which they were convicted. Pervasive, negative interactions with the legal system left them both disillusioned, feeling that the legal system was not there to work for them but only against them. In what follows, **Natalie** and **Chris's** life stories, as told over the course of six interviews, are condensed into digestible narratives to illustrate the incredible hardships they faced both before and after their misdemeanor arraignment hearings.

Though interviews with two participants can certainly not be considered generalizable or indicative of other participants' lives, their stories join those of countless others⁷⁰ who struggle to pay their legal financial obligations. Their narratives shed light on the cycle of poverty, the absolute inescapability of negative interactions with the law, and the deleterious impact on the legal consciousness of those who are systemically oppressed.

Part II: The Consequences of a Hasty, Uncounseled Plea

The arraignment experiences of **Natalie** and **Chris**, two of our longitudinal interview participants, are similar in many ways. Both sensed they were wrongfully charged, believed in their innocence, and assumed the charges would be dismissed at court. Both were shocked when they stood before the judge and were informed that the prosecutor had not dismissed their charges. Despite earlier conversations with family and friends where they expressed that they would not plead guilty, **Natalie** and **Chris** hastily decided to plead guilty without counsel and pay the associated court costs. Though their stories differ in many ways, over time, both came to the same conclusion – regretting their decision to plead without counsel and suffering enhanced consequences related to their finances, emotional state, and family lives. The details of **Natalie's** and **Chris's** life stories cannot definitively show a cause-and-effect relationship between their plea decision and the difficulties that followed; however, their accounts of increased hardship reveal the precarious state of their lives before the hearing and the compounding effects that having a misdemeanor and court fines added to their lives. They also shared how the pervasive and oppressive presence of the law and legal system in their daily lives placed additional burdens on their everyday activities, leading to the deep cynicism that the legal system represents the interests of *other* people.

Natalie: “It made me feel like wanting to give up because everything’s happening at once.”

Arrest and arraignment

A mother in her mid-thirties, **Natalie** pleaded guilty to a misdemeanor charge of petty theft at her arraignment hearing. Recounting the story of her arrest, she shared that her neighbors were fighting, and someone dropped and broke their phone. In trying to help, she picked up the phone. When the police arrived, **Natalie** still held onto the phone, and they charged her with grand theft. Shocked and confused, **Natalie** spent the next few days researching her charges, what to expect at her arraignment hearing, and how to take it to trial. She received a free consultation from a law firm that could represent her but could not afford their quoted \$2,500 retainer fee. Consulting with family, friends, the internet, and the law firm, she felt confident that she could win her case at trial. She felt even more confident about it because she had had a previous case in which the prosecutor dropped her charges. She went to her arraignment believing that the prosecutor would understand that the charges were wrongfully applied to her and would dismiss the case.

To her surprise, at court **Natalie** found that her charge had been reduced to misdemeanor petty theft but not dismissed. In her two-minute interaction with the judge, she pleaded guilty and accepted the associated sentence of fines and costs in the amount of \$279 and two days in jail, with credit for serving two days.⁷¹ The judge ordered **Natalie** to have no contact with the victim. In an interview immediately following her arraignment hearing, she expressed that she was happy to be done with court and expected to pay off the court fines without any long-term consequences from her decision to resolve rather than fight her case. However, the six months following her decision told a different story. We start with a brief history of her personal and vicarious experiences with the legal system to understand how **Natalie's** life changed after her arraignment and uncounseled plea.

Pre-arraignment Experiences with the Legal System

Growing up in a financially unstable household, Natalie was in and out of the foster care system as her mother tried to find a life partner who could support her financially but also treat her children with respect. **Natalie** reported having a difficult childhood, including that a stepfather molested her. During the investigation of the molestation, Natalie denied the abuse to protect her mother and family. Still, the Department of Family Services determined that her home did not have enough food to support her and her siblings. Despite the hardships, **Natalie**, in describing the judge who oversaw her family’s case, fondly remembered him taking her aside to ensure she felt safe returning to her home and advising her what to do if her stepfather made her uncomfortable. Though she was glad to be reunited with her mother, **Natalie** lived on the streets with her friends during her early teenage years to escape her stepfather without losing her mother.

After this self-described positive experience with a judge, **Natalie** faced a series of negative interactions with the legal system. At the age of 16, she got pregnant and gave up her child under pressure from the baby's paternal grandparents, who were wealthy and could afford legal representation. Heartbroken over the loss of her first child, she struggled to understand how to navigate the legal system on her own. She was convinced that her parental rights had been terminated in favor of the paternal grandparents, only to find out years later that they were not, and that she had the right to visit her son, whom she had not seen in years, but also that she owed child support.

She also described a series of bizarre, minor arrests that followed: riding a bike without a light at 17 years old resulted in a driver's license suspension before she had even received her license; walking on the wrong side of the road, despite feeling safer on the side she had chosen; and a trespassing charge.

Over the next fifteen years, **Natalie** felt that she was the victim of several instances of racial profiling and harassment. In one instance she started a lawsuit for wrongful police behavior that took four years to resolve. First, she struggled to find a willing lawyer to institute a lawsuit against the police. Once she found an attorney, she had to take out a loan to pay the lawyer's fees. Although she prevailed in her case, financially she had very little to show for it by the time the case was done. On at least three other occasions, she encountered police who pulled her over while driving, then proceeded to abuse her verbally and physically, dragging her out of the car, beating her, roughly searching her and her car, and calling her racially derogatory names. On one of these occasions, her younger son (three-years-old at the time) was in the backseat of the car, and she was humiliated and enraged that he had to watch the policeman's behavior. After this incident, she had to put her son in therapy, and she continually reminds him that not all police are bad, but she sees that he is still afraid of the police. On another occasion, she was two months pregnant, and she attributes a miscarriage two weeks later to the stress of the police encounter. Though she has video footage of the police mistreatment, she learned from her first attempt at suing the police department that the process is long, costly, and hardly worth the trouble. The overbearing presence of the legal system in her life has been a continual burden leading up to her arraignment hearing, and accepting the misdemeanor charge has only exacerbated those negative experiences.

Post-arraignment Experiences with the Legal System

In just three short months after her misdemeanor hearing, **Natalie** had two unnecessary run-ins with the police. First, she was in a gas station convenience store with her young son, who kept picking up candy and asking for it. When she said no and set the candy back down, the clerk accused her of shoplifting. The clerk sent **Natalie** and her son out of the store without cameras to confirm the accusation. As they walked to another gas station across the street, a police officer stopped them and asked to search **Natalie** based on the clerk's accusation. He found nothing, and she was released, but she was rattled and felt that her time had been wasted and possibly that the attempted arrest had been racially motivated. She explained, "We didn't do anything, and this cop still

wanted to run my name, still wanted to search me, wanted to search my kid. It just went to the extreme, and I just couldn't believe it. It's just crazy."

At the time, **Natalie** was also receiving daily dialysis treatments. She took a medical transport van to and from the dialysis clinic, and one day, as she was waiting outside for the van, a police officer approached her and told her that loitering was not allowed. When she tried to explain that she was waiting for her medical transport van, he accused her of having an attitude with him. She tried to stay calm and moved to a new spot to wait for the van. She worried that he had targeted her because of her visible tattoos, the color of her skin, or the fact that she was smoking a cigarette: "I don't want to say race, but I feel like that's profiling, and that's not right."

Her interactions with the legal system did not end there. Due to a previous traffic ticket, **Natalie** was also in the midst of getting her driver's license reinstated. She explained that the Department of Motor Vehicles told her to take a four-hour drug and alcohol course, and she had to contact the local clerk's office and schedule a time to take the class. It took six months for her to find an open course and complete it. **Natalie's** children were registered as "walkers" at the school, requiring them to make the 1.9-mile walk home from school. **Natalie** preferred to pick up her kids from school, but since her driver's license was suspended, she relied on ride share services to pick up her two children from elementary school. Because **Natalie** did not know day-to-day if she would be able to get a ride, her children were always treated as "walkers" for after school pick up. The "walkers" were to be met in a designated area where cars were not allowed to park or stop. When **Natalie** would try to have the ride share driver stop there to pick up her kids, they would get reprimanded; but she was also reprimanded by the school resource officer if she called her kids over to the car pick-up area. She felt like her hands were tied, as no matter what she did she was being targeted. One day at pick up, the officer called out to her, "I looked up your record." **Natalie** was taken aback: What was the intention of that comment? Why was the school police officer publicly calling her out in front of the children, parents, and faculty at the school?

The number of negative police interactions in **Natalie's** life compound her anxiety, uncertainty, and cynicism towards the legal system as a whole. As **Natalie** put it, "That's another thing I worry about though, because when [the police] see that you have, with like bad cases and stuff like that, they treat you different. That's always another worry."

Not just my time [being wasted], but first of all, my kids are, from all the incidences that they have seen, they're scared. My kids are scared of the police and I don't want them to be. I want them to know there's some good, some bad.

Not just wasting my time, but wasting, there's other crimes happening out here that they need, they shouldn't be messing with somebody, for something as petty as that, with everything else that's going on in the world.

Difficulties with Finances, Jobs, and Housing

Three months after she resolved her misdemeanor case, **Natalie** lamented, “Now I’m seeing everything. It’s hitting me back, back-to-back to back-to-back.” **Natalie** had applied for many jobs and interviewed at a few, and all had turned her away. One interview that stood out to her was with McDonald’s, where she was expressly denied employment because of the petty theft on her public record. Though she understood why they would not employ someone who might steal from them, she felt completely demoralized: If she couldn’t get a job at McDonald’s, where *could* she get one? In her words, “It broke my heart ‘cause that’s just McDonald’s, can you imagine?” She had trained as a hairdresser but never took her state board exam, and she had lost her job at a hair salon during the COVID-19 pandemic. She began to feel concerned that this misdemeanor charge might now impact her ability to get a job as a hairdresser, an aesthetician, or a real estate agent – the career paths most intriguing to her.

However, her best friend worked as a paralegal and encouraged her to explain the petty theft charge to the next employer *before* they looked up her public record. By the six-month interview, **Natalie** had successfully shared her side of the story with employers and was on track to get a job at Wendy’s but had not yet started working. She was scheduled to take her state board exam for hairdressing and was studying hard, but she had broken her wrist when her house flooded and felt set back from her goals.

Natalie, her mother, and two of her children, one of whom has autism, all lived together. They struggled to make ends meet and **Natalie** felt a lot of pressure to get employment so she could provide for them all. In addition, she had a child support obligation for her oldest son who had been adopted by his paternal grandparents. When she was notified that she was behind on her child support payments, she explained:

It makes me just wanna cry because I have two other kids and I have one kid who has autism and it’s like [the judge] didn’t even care. I don’t mind paying [child support,] that’s my child, but give me an extension or lower the payment or something. I pleaded with her. It made me feel like wanting to give up, because everything’s happening at once. And it’s like, what’s the point of going on? What’s the point of trying? I can’t get a break. So it just, it really hurt me, you know?

Natalie and her mom were also looking for housing that was either closer to the children’s school so they could walk, or further away, so they could take the bus to school. The first apartment **Natalie** applied to denied them because of her petty theft conviction. She was shocked: What did a petty theft charge have to do with renting an apartment? The next time they applied, they listed her mother as the applicant and were accepted and they were getting ready to move at the time of the interview.

As a result of her court case, in addition to her expenses for transportation, doctor’s appointments, to get her license reinstated, child support for her firstborn son, and food

and clothing for her family, **Natalie** also now had a payment plan, **with interest**, for her misdemeanor charge. She explained, “It really affects all aspects of your life.” Without a job and with bigger financial priorities, **Natalie** had not made any payments on her court fines. She defaulted on her payment plan, failing to pay the \$25/month toward her fees, fines, and court costs. As a result, her case was sent to collections, where they **increased her court debt by 40%** and re-suspended her driver’s license.

Confusion over court-ordered punishments

At her three-month interview, **Natalie** thought she was only responsible for court fees and fines due to pleading guilty. However, as she reviewed her court documents months after her case was over, she realized, “I didn’t know there were certain stipulations that the judge had put down.” For one, the judge had ordered her to stay away from the “victim” of her petty theft charge (the arraignment transcript shows that the no-contact provision was imposed by the judge at sentencing without a request from the prosecutor, nor any on-the-record request or presence of the victim). **Natalie** found the order ridiculous – the person was her next-door neighbor, and she was unsure how she could stay away from her neighbor. Additionally, she was confused about whether she owed restitution because her court order listed restitution, but also the amount was \$0.00. **Natalie** did not understand her financial obligations, nor was she aware that she could challenge them. Even looking back at the paperwork she was given at arraignment did not provide any clarity:

And then the victim thing was, they’re saying that I need to pay for the phone that I broke, I guess, but I have to call because on the paperwork it says victim something, and then it says 00, 0, 0. So it’s not saying the price that I have to pay. The paperwork isn’t making any sense to me. So I really was gonna call this legal aid place, and see if I can get some help, just a consultation [to ask] what the paper mean.

However, the legal aid office only offered to advise **Natalie** for one of her cases, so **Natalie** had to choose between her misdemeanor petty theft charge and her child support case:

I know you can only pick one case, they say, and my mom was telling me that I really need to focus on [the child support]. So she said, just call the clerk of courts for [the theft case] to figure out what I have to pay. They’ll be able to tell me, but with my child support case to go ahead and use legal aid or whatever that’s called, and I think that’s what I’m gonna do.

She was further concerned and confused about a driving course that a different judge had ordered from a prior ticket; she found that she had a one-year hold placed on her driver’s license from a previous driving ticket. At different points in her interview, **Natalie** expressed confusion over the court’s orders:

- *I didn’t know there was things that I didn’t know that I had to do to get my license back.*

- *I guess I didn't understand the judge at all.*
- *There was a class that she wanted me to do, and I do not remember the judge stating that.*
- *It was something about the victim and nothing was stated, I don't remember the judge stating any of this, it was something about the victim in the case.*
- *I thought what the judge told me was that you pay your court fines and we'll adjudicate you guilty.*
- *I called the DMV...They're saying something about a year hold and some other things, and that was not stated to me.*
- *I don't believe [the information] was told to me.*

Natalie's plea hearing was quick, and the judge did not ensure that she understood the constitutional rights she forfeited, her case outcome and sentencing, or how to satisfy the court's expectations.⁷² (See Appendix B: Transcribed Plea Colloquy). Months later, she remained confused and felt alienated from the legal system. Reflecting on her decision to proceed without counsel, **Natalie** mused, "I feel like if I had an attorney or even just a public defender, I would've known this."

Emotional Turmoil

Natalie's pervasive negative experiences with the legal system and ongoing financial struggles took a major toll on her emotional state. Though she remained unexpectedly idealistic – reminding her son that not all police are bad, continuing to apply for jobs and housing, and working toward her state licensure for hairdressing – she expressed how stressed and depressed she felt:

Sometimes you feel like giving up because these people make you feel that way, but you can't, you can't let them win... If I do give up, it's only hurting myself. It's not hurting them. It's hurting my children, my family, and myself.

'Cause honestly all this, all this brought on a lot of depression. You know? 'Cause like I said, I feel like my kids are suffering, you know? And so it brings on a lot of, it brings on a lot of stuff. Not, it's not just financial... It brings on depression, it brings on a lot of things. I feel better. I think I'm handling it a lot better because when it first happened I was like, well, I was a wreck. I was really upset.

Chris: *"I can't even get money to even feed myself. So it's like how I'm supposed to pay court fees and stuff?"*

Chris's legal experience is strikingly similar to **Natalie's**, with prior charges that had been dropped, a belief in his innocence regarding his current misdemeanor charge, and a continuous sense of police targeting in his everyday life. Like **Natalie**, **Chris** grew up in poverty and has struggled to make ends meet into adulthood. Unlike **Natalie**,

however, **Chris** retains no idealism for the legal system but rather places his hope in his ambition to make a career for himself.

Arrest and Arraignment

At 23 years old, **Chris** has gone through more hardships than most people can imagine. **Chris** and his two younger brothers were brought to the United States by his parents when they were children. Throughout his life, he has continually watched his parents struggle to find housing, secure jobs, and attain legal status. In and out of homeless shelters, sleeping on the floor of others' homes, and trying to make money since he was 13 years old to just put clothes on his back, **Chris** struggled to pay attention in school. He spent his youth being bullied because of how he dressed and what he and his family lacked. He describes living in neighborhoods surrounded by drugs and crime from a very young age. Before turning 20, **Chris** had several misdemeanor charges and spent time in jail for theft. His current case was for a misdemeanor charge of resisting arrest without violence. The details of his arrest showcase the pervasive presence of the police in his life.

At dusk one day, riding his bike down the street to a friend's house, a police car followed him and signaled him to stop. Unsure whether or why the police were following him, **Chris** kept going. When they finally stopped him, they explained it was because he was riding a bike without a light at night. Despite the seemingly minor nature of the charge, the police immediately began searching him for drugs and weapons. **Chris** was livid; the search felt excessive and invasive, and he told the police the same.

They charged him with resisting arrest without violence, but on their way to the police station, they stopped at a warehouse, where they pulled up his Instagram account and asked him to identify himself. The police proceeded to question him about the murder of his childhood friend that had occurred a few months before. Disconcerted to be reminded of such a chilling event and disconnected from his present police interaction, **Chris** shared no details with the police.

The arrest experience was so absurd that **Chris** felt certain the prosecutor would dismiss the charge – as had happened once before when **Chris** was mistreated during an arrest and found out unexpectedly that his charges had been dismissed. However, when the day of this arraignment hearing arrived, **Chris** found that the charges had been filed and the prosecutor would not dismiss the case, and he could not tell his side of the story at the arraignment hearing. **Chris** repeatedly bemoaned in his interviews that the judge only paid attention to what was written on the police report “in black and white” but was not interested in the facts of his experience. He was convinced that if he could have shared his side of the story, the judge would have understood the situation and dismissed the charge.

However, in **Chris**' mind pleading not guilty and going to court with a public defender was not an option. In his view public defenders were guaranteed to lose the case, and a private attorney would be too expensive for such a minor offense. **Chris**'s evaluation

that this charge was minor was connected to him not facing jail time. In his two-minute hearing, he entered a no-contest plea in exchange for court and investigative costs of “just over \$300.”⁷³ In his interview immediately after the arraignment, **Chris** hoped the case would be dropped, but he was resigned to how the legal system works, and his experience was “nothing new.”

Difficulties with Jobs, Finances

At the time of the present misdemeanor hearing, **Chris** already owed approximately \$1,300 in prior court fees and fines for his previous charges. On the day of his arraignment hearing, he hoped they would not add anything to those fees because he did not have a job, and he had to pay for food for himself, his girlfriend, and the three children living with them. Hiring a private attorney was definitely out of the question, and even a public defender required a \$50 fee. **Chris** described how his family struggled to get enough food every day and how tormented he felt that his children went hungry: “You got so much bills to pay, you manage to get scrambled up some amount of money, but you still behind on bills, you only pay half of the bills or something.”

The \$300 court costs imposed with his conviction added to his already heavy financial burden. This burden grew substantially when, not long after his arraignment hearing, his son had surgery for two congenital hernias, adding medical expenses to their already strained financial situation.

Chris has had difficulties finding and keeping a job for various reasons. Without a car or a driver’s license and an undependable public bus system, **Chris** felt limited to only working jobs within walking distance of his urban apartment. Trying to get his driver’s license and his car in working condition felt like an impossible feat:

I haven’t had money to even think about a driver’s license or a car. My car is still in the backyard just sitting, like it needs the oil change, it need two new tires I need to fix the windshield [and] put[in] a new battery. . . . I ain’t even been thinking about that cause I ain’t got, I ain’t got the means to now. If I had the means to, okay, I could think about, okay, I could go and get my license right. . . . But I ain’t got the money. I ain’t never had the chance to even get close to that kind of money, so I could be able to handle this and that and this and that and this and that. Like one at a time or all at once.

Knowing that his prior theft charge will prevent him from getting a job in retail, he mostly applies for restaurant and warehouse jobs. He is excited by the prospect of a job that pays \$15 an hour and pays weekly since waiting two weeks for a check makes it difficult to feed his family.

He senses that racial profiling has played a part in his getting fired from his most recent jobs. At one restaurant, there was only one other black employee, and the two of them were asked to do the most menial, filthy labor, like cleaning behind the grill, where grease and grime had built up over the years. At another restaurant, he was asked to

put his hair back, and he felt profiled for his dreads. Speculating that they might have let him keep the job if he'd cut his hair, he filed a complaint with the Department of Economic Equality, but he could not schedule the required interview to explain his claims because the website was down. On at least two other occasions, he was fired for missing shifts, once due to his son's hospital stay and another time because a friend who was supposed to cover his shift didn't show up.

In a moment of vulnerability, **Chris** shared how he felt when he lost his most recent job:

*I don't want to get my hopes up and then my hopes get broken again.
Cause that day I lost that job. I ain't gonna lie, I cried cause it's like, I, I
already told my momma ... that, you know, I got this job and all.*

At the time of his final interview, **Chris** had one month remaining before his work visa would expire. He was feeling discouraged that he had applied for, worked for, and been fired from all the jobs near enough to his house for him to walk to work. Furthermore, he worried that even if he got a job, he would lose it within a month when his work visa expired.

Chris's Legal Orientation

Aware that he made poor choices in the past that resulted in arrests, jail time, and a record, Chris now feels that he has turned his life around and is trying hard to work legally to pay his bills and support his family. But he shares that the police still just see him as a criminal, and it feels impossible to escape the corruption of the legal system. Despite his best efforts, it feels like the courts are intentionally raising barriers to keep him from being successful:

Well I I just be wondering like if, if like society wants certain people to do it right in life and stuff and like not do the wrong thing, why do they make it hard for those people to even like get back on the right track or be on the right track? Like felons and stuff. You gonna be struggling just to even have a job. Like you gonna go through hell and then, and then, then again you might go back to doing what you just did cause you like, damn, there ain't no way else I could have, I could get me some money, and bills are due next week. Ain't nobody else gonna gimme, gimme that money so I gotta go and get it myself. And that's when they ended up end up doing something stupid that cost them they life or their freedom. And it's like why they, why somebody gotta go through that? Why can't it just be simple? Like, they might have not even went to jail if that one job, like that one job kept there, they didn't get fired. They making all the money they need some of that job. They don't need to go out and look for okay, bills due so I gotta go and rob somebody. Like really?

Specifically, **Chris** has had negative experiences with police officers and judges, which gave him the impression that no one cares about him. On one occasion, upon being

released from jail, **Chris** went to collect his belongings, only to find that a valuable item was missing from his backpack. When he asked the officer about the item, **Chris** says,

[H]e gave me a smirk, like a grin like he know where my shit at, but he not gonna tell him. . . . Like, they really like two faced. Like they, they they dirty like, like you think like they some good people that gonna look out, but really like, they, they'll play tricks and games just to like, basically like humiliate you, make you look bad or even put you in jail.

From his experiences in court, Chris has determined that “the legal system isn’t fair” because the judges “don’t look at the facts, they just look at what’s on paper,” namely, the police report, but “if they actually see what you going through,” they might “make it a little bit easier for them.” **Chris** concludes, “But no, they make it; they just be trying to make everything harder and harder for us.”

Optimism and Despair

Despite his hardships, **Chris** still maintains an optimistic mindset. He fondly recounts the blessings of his past, especially a kind woman at the local Boys and Girls Club who helped him as a child and the Catholic charity that helped his mother establish a business in Haiti to send money to her husband and young children in the U.S. He feels blessed today that he is still alive and able to keep trying, knowing many who have not lived to adulthood or who are locked up for “being at the wrong place at the wrong time.” Still, keeping his hopes up is challenging when there are no opportunities for him:

I thought it was gonna change, but, Yep. It's like it should be getting worse day by day and you like, and you try and you trying to be positive and be like, I got this, I ain't gonna fold on myself, and you know go back to your old ways or procrastinate or whatever. But it's like life just be throwing you down sometimes. You like damn, you know, if you have the means and things would change. Like you'll, you'll be on your, on your P's and Q's, like you'll actually be handling everything. But since you don't got the opportunity. . . . You gotta get out your area. I feel like you gotta get out this, your whole state to go look for it.

And yet, without a car, an income, or any money in savings, **Chris** has no hope of leaving his neighborhood, much less his state, to find more opportunities. His only hope, he feels, is to make it as a rapper. If he makes it, he has dreams for his children’s future:

Really all I really see myself doing is making it as an artist and being able to like, basically bless, bless my kids with the life I never had. Like, I wanna be able to like, they could go to school and they have the shoes that they need. They need like, like the transportation that they need too. Like I, I, I could come pick 'em up like, like I'm not missing. Like I'm, I'm always there like, you feel me? Like I'm making sure like they eat, they got food in they stomach, like everything that they want. Like clothes, shoes towards like the stuff that my parents couldn't get me. . . . Like bless their,

like with the childhood I never had like, yeah. Cause I never wanted to see kids go through the same shit I did.

The only successful Haitian emigrant in America he knows is Kodak Black, a rapper with a remarkably similar background to **Chris**, including struggles in school and with the law from a young age. Seeing that Kodak Black made it big and can now support his family and supply anything they want gives **Chris** hope that he can achieve the same success. He has recorded a few songs locally and released music videos, but he knows he needs a steady job to afford the overhead costs of recording and releasing music. Although his career dream is to make it big, his desires for his children are simple: that they have food, clothes, shoes, and a simple childhood, not riddled with the ravages of poverty that he experienced as a child.

Discussion

The primary concern arising from these findings is the high variability in consequences for defendants with very similar financial penalties, which is completely unforeseen in participants' optimistic post-arraignment interviews. Participants' experiences with the lower courts depend on their cultural capital.⁷⁴ Those with the most cultural capital can afford to hire private attorneys who waive their clients' court appearances. One participant, **Kevin**, described the appeal of private counsel: "You don't even have to show up."⁷⁵ However, defendants who were pro se or were represented by public defense lawyers have to appear in court.

In court, participants often initially felt their case was fair and equal as long as the judge came across as respectful and assigned roughly similar financial penalties to everyone.⁷⁶ However, this report reveals that the defendants' optimism rooted in procedural fairness was misplaced; the sameness of financial penalties belied the differences in ability to pay them off; and the inequitable nature of the financial penalties reproduced disadvantages and legal cynicism.

Minimized seriousness is rooted in flawed perceptions of procedural fairness

Findings from our previous reports show that the lower courts are focused on quick resolutions at the expense of the defendants' comprehension of rights and the consequences of their plea decision,⁷⁷ and defendants share the desire for quick resolutions, adopt the court's idea that pleading will provide the easiest resolution, and express satisfaction with treatment by judges⁷⁸ even when it came at the expense of their rights.⁷⁹ Structural inequalities, however, cannot be eradicated by procedural

fairness.⁸⁰ Today, for some, the process *and* the collateral consequences are the punishment,⁸¹ and the long-term effects are more than mere “procedural hassle.”⁸² The misdemeanor system, with its façade of legitimacy and focus on quick proceedings, “functions to either reproduce class and racial inequality or manage the effects of class and racial inequality in a punitive fashion.”⁸³ Self-represented misdemeanor defendants distrust the legal system because of their personal and vicarious negative interactions with the police and public defenders. Repeatedly, they are disappointed by how the legal system intercedes but fails them.⁸⁴ The unrepresented defendants in our multi-report study were not adequately informed of the negative consequences of failing to pay their financial obligations, including myriad collateral consequences⁸⁵ with deleterious and far-reaching effects on the quality of some lives.⁸⁶ For participants unable to pay their financial obligations, procedural fairness belied the collateral consequences of resolving cases quickly and accepting burdensome financial penalties. Instead of procedural fairness, we advocate for structural changes that prioritize fair outcomes and improved legal consciousness over a vague, general sense of satisfaction with the treatment received from court personnel.

Disparities in the relative difficulty of paying court fines are rooted in the façade of equality

Of the participants in our study, few paid their financial penalties on the same day in court. Some paid their obligations over a period of months, but more than half could not pay their financial obligations, even over time and with the support of a payment plan. These participants suffered additional long-term consequences.

The appearance of legitimacy and fairness by imposing the same financial punishments presents inequities under a façade that even our participants embraced as fair. Many defendants gave favorable reviews of judges and their case outcomes because of the appearance of sameness, downplaying the need for counsel and minimizing the significance of their financial penalties.⁸⁷ Participants adopted the court’s false message of equality, glossing over the inherent disparities of treating everyone the same,⁸⁸ when the imposed financial penalties impacted some participants much more than others. As highlighted in a previous report,⁸⁹ these defendants were initially content to receive the same financial penalties as the other defendants, while time showed that the \$300 penalty was easy for two participants to pay off, a little harder for nine participants to pay in full, and completely impossible for 15 participants.⁹⁰ Those with fewer financial resources suffered far more than other participants, reinforcing cynicism and resignation about how law enforcement and the legal system treat people like them, even when they express satisfaction with the judge’s treatment. So, while the defendants felt they had been treated fairly because they had been treated the same, the reality is that *equity* would be a better goal for the court’s than *equality*.⁹¹

The legal burdens of fees for public defense, case delays, fine-only consequences, and suspended driver's licenses for unpaid fines create financial and emotional struggles for the most financially disadvantaged. When public defender representation is not free (and it is not for many people in the U.S.⁹²), asking for counsel adds to the burdens of the financially disadvantaged.⁹³ The same is true for case delays, which cause further burdens on the already overburdened by adding financial and emotional costs of returning to court for due process. In the end, the disparate consequences raise a systemic question: *What is the point of punishing minor offenses with financial penalties?* These penalties do not serve as a crime deterrent. Arrest and financial punishments provide a false sense of short-term control – like the government is doing something – but in reality, no long-term objective exists in resolving entrenched social issues that make their way into the lower criminal courts. For those with capital and resources, misdemeanor court is a minor inconvenience; while for those without financial resources, the punishment saddles them with debt and other collateral consequences that inequitably punish them for peccadilloes. Although fines “grossly disproportional to the gravity of the defendant’s offense”⁹⁴ violate the Eighth Amendment’s Excessive Fines Clause,⁹⁵ and the Court has held that the state may not imprison defendants for not paying their fines when they do not have the ability to make those payments,⁹⁶ the Supreme Court has provided no further guidance on what amounts to grossly disproportionate⁹⁷ or other limits on consequences for not paying financial obligations (like suspending drivers’ licenses). We agree with the scholars who advocate for income-based financial penalties that consider income disparities.⁹⁸

Policy Recommendations

While defendants’ legal consciousness was idealistic – believing that the judge treated them fairly, the fines were imposed equally to all who pleaded guilty, and the resolution would be quicker and easier than getting an attorney or having to reappear in court – the result was often the opposite: delayed resolution because of inability to pay court fines and, in the worst cases, long-lasting negative collateral consequences for quality of life. Our policy recommendations, therefore, will focus on the necessity of providing free and easy access to counsel at initial appearance; improving relationships with public defender and court appointed counsel; raising rights awareness in the community; allowing virtual counsel consultations and court appearances; imposing penalties that consider individual circumstances; and explaining constitutional rights and the consequences of waivers and pleas in easy to understand language..

Providing Free, Easy, and Early Access to Counsel

We recommend the elimination of application and recoupment fees for public defender representation and offering immediate access to advice and representation before and during arraignment hearings. These practices will allow misdemeanor defendants the opportunity to get meaningful advice before deciding to waive counsel and plead guilty. Such practices will not only help promote more knowing and informed decisions on waivers and entries of pleas, but they may also improve the community's perceptions of public defense representation.⁹⁹ Eliminating financial barriers to accessing legal representation or at a minimum, allowing free, preliminary advice to individuals charged with misdemeanors, including answering questions, reviewing basic case documents such as police reports, and helping to clarify any misunderstandings about the court proceedings and the risks and benefits of proceeding to trial or accepting a plea agreement. Early access to information and advice from counsel could help to reduce confusion about a person's constitutional rights and legal procedures, as well as helping advocate for lowered financial penalties and better informing a person of the potential collateral consequences of a plea and the impact of failing to pay financial penalties. Counsel could also assist defendants with understanding and completing court related forms (e.g., applications for counsel).¹⁰⁰ Representation could be provided by public defenders, court appointed counsel, or through utilizing programs such as Maine's Lawyer of the Day which provides individuals with access to a lawyer during their initial appearance in court. The Lawyer of the Day can provide advice, negotiate with prosecutors, and provide limited in court advocacy on behalf of any individual.¹⁰¹

Like any other attorney-client communication, these initial appearance meetings should be held in spaces that promote privacy. All steps should be taken to avoid having these critical conversations occur inside the courtroom where the environment not only undermines privacy and confidentiality but promotes hurried and incomplete information sharing. To help facilitate having the time needed for these critical conversations, courts should use staggered court appearance schedules. Staggered dockets also have the benefit of reducing the number of people and amount of time they are waiting for their cases to be heard.

Improving Public Defense Counsel-Client Relationships

One entrenched issue was defendants' mistrust of public defenders. Free and accessible counsel is a threshold necessity, but such representation is only meaningful if those public defense lawyers provide *high-quality* representation. This requires steps to ensure that counsel has the time, resources, and training to provide constitutionally effective representation. This can be facilitated by courts giving the counsel of record sufficient access to any case-relevant police reports as well as adequate time to consult with clients as a first step to improving public perceptions. Public defense lawyers

should be able to provide meaningful legal advice on rights assertion, raise factual issues in police reports, and advise individuals on the short- and long-term consequences of waiving their rights. These proactive, advocacy-oriented steps can help improve citizens' perceptions of public defense lawyers, their role, and their allegiance to their clients.

When given opportunities to communicate with individuals facing criminal charges, whether by phone or in court, these conversations provide opportunities for misdemeanor defendants to feel safe in asking questions, sharing their side of the story, and getting the information they need to make more informed decisions on whether to use an attorney or plead guilty.

Public defense lawyers can further improve defendants' perceptions¹⁰² through their linguistic and advocacy choices.¹⁰³ Slee's work on the legitimization of public defenders shows the benefit of humanizing language (e.g., "my client" or Mr. Smith instead of "case number"), advancing a defendant's requests with the court, and avoid using in-group terminology with the other court personnel.¹⁰⁴ These linguistic strategies hold potential for building defendant trust in public defenders.

In addition to improving initial contacts with public defense lawyers in court, we recommend counsel find ways to engage with the community outside of the courthouse. Promoting the use of community-oriented, holistic defense, public education campaigns, and hosting expungement clinics¹⁰⁵ can help build community confidence that public defense lawyers are working for their clients, rather than for the courts or their own interests. Hosting these events in community centers, libraries, and other public forums can make the programs readily accessible, encouraging people to become educated about court procedures, their legal rights, and some of the consequences of forfeiting those rights.

In a world largely shaped by social media, another avenue to promote public trust and improve knowledge is the use of social media platforms.¹⁰⁶ Providing information online can help individuals have a better understanding of what to expect during the court process as well as what their rights are and how to effectuate them. In addition, online platforms can help public defense lawyers re-shape the public's narrative of them and their work.¹⁰⁷ Similar media strategies have been deployed to improve perceptions of and participation in jury service,¹⁰⁸ and public defender campaigns, coupled with improved representation and court experiences, might enhance public trust in public defense.

Raising Rights Awareness

Rights awareness should begin at arrest or reception of citations and notices to appear. Any notice to appear in court should include links to informational resources. Given the wide range of individuals served by the court system, these resources should be available in multiple formats such as video, audio, and written and accessible across an array of devices including computers and phones. Adding QR codes or other links could offer easy-to-understand information that explain what to expect during their court proceedings; their constitutional and legal rights, especially the right to counsel, and why they are important; and information about the potential for long-term consequences from a criminal conviction. An additional resource could be ready access to a free attorney to help further explain the process, answer questions, and provide general information so that they might arrive at court more informed about the proceedings and expectations.

Allowing for Virtual Counsel Meetings and Court Hearings

The options to meet with public representation before attending court to consult with counsel should be available, likewise people should have the opportunity to attend future court hearings virtually, alleviating the outsized impact of the desire to avoid a return trip to court due to financial costs, such as missed work, travel expenses, child care, or even the emotional stressors of coming to the courthouse. Some unrepresented misdemeanor defendants expected to make arguments at the arraignment hearing, telling the judge the “facts” of their case in contrast with the information in the police report. However, these defendants were surprised to be advised to remain silent and simply answer the judge’s yes or no questions. These individuals would have benefited from private and virtual counsel consultations. Virtual meetings with counsel and court appearances would allow individuals the opportunity to get information, address their questions, and offer more time to consider their options, thinking through their choices before making the important decision to plead. If individuals decided to plead guilty, or no contest, **after consultation**, they could do so virtually, avoiding the unnecessary trip to the courthouse. If individuals want to plead guilty or no contest, after consulting an attorney, the opportunity to do so without attending court (like resolving traffic citations) would save time and money, and the consultation would ensure knowing and voluntary waivers of rights. Moreover, Judges could then schedule in-person arraignments and trials for the remaining individuals, who want to plead not guilty, to contest their cases at a hearing held on the same day, permitting those individuals the opportunity to challenge their case without having to return for another court appearance.

Imposing Individualized Penalties

As is true in many jurisdictions, the courts in this study imposed similar financial penalties on everyone based on their charge, without consideration of their individual financial circumstances. Although the court has a process to examine a person's financial situation (used to determine eligibility for court-appointed counsel), no such assessment was done when considering the financial penalties to be imposed. As this study shows, using payment plans did not properly account for many defendants' inability to get out of debt and pay their court fees and fines. And, as those who did not pay had their debts sent to collections, where exorbitant fees were added, the net impact of these fines and fees were greatest on those who had the least.

We recommend sliding-scale financial penalties and the availability of alternatives such as community service, to help promote a more balanced approach to punishment. This is especially critical when we consider that among the recognized purposes of sentencing are to punish the individual and deter them from future violations. The deterrent and punitive effects of a \$200 fine on a person making \$20,000 per year and a person making \$200,000 per year are substantially different.

Furthermore, we recommend an end to practices which suspend a person's driver's license for unpaid fines and fees as this practice undermines the debtor's ability to get to work and earn the money needed to pay the fines. Many regions of the country have little to no public transportation infrastructure, and even in places where the transit system is more robust, challenges remain due to unpredictable schedules, delays, and limited hour operations.

Similarly, we recommend that any decision to send unpaid court debts into collection only be done after a person is given adequate notice and an opportunity to be heard. Those without counsel are often unaware of or are unable to easily access avenues to re-structure or amend payment plans or seek extensions of time. The excessively high rates added to unpaid debt for collection activities only add to the burdens placed on those least able to pay them, and some research has shown that collections are largely ineffective in collecting the unpaid debts with collection programs costing more than they recover.¹⁰⁹

Informing Defendants of Direct and Collateral Consequences and Eliminating *Unnecessary* Collateral Consequences

Overtime, governing bodies have added many more collateral consequences in criminal cases, despite the fact that very few improve public safety or reduce recidivism.¹¹⁰ Consistent with the research findings of other legal scholars, we found numerous short- and long-term collateral consequences for misdemeanor participants.¹¹¹ We agree with Professor Chin's recommendations that "[c]ollateral consequences should be rationalized and reformed to promote public safety, fairness in individual cases, and a more effective overall criminal justice system."¹¹² Eliminating, reducing, or reforming the impact of collateral consequences is necessary to improve the misdemeanor justice system.

And, even though the Supreme Court does not require that defendants are informed of collateral consequences (except those concerning deportation),¹¹³ legislatures could require such advisements and state courts could invalidate pleas as unknowing or involuntary when defendants are not informed of the collateral consequences.¹¹⁴ At a minimum, having access to public defense counsel available can help ensure misdemeanor defendants are better informed of the potential impacts of their conviction, helping them to take their misdemeanor cases more seriously, advocate for themselves in court, and ask questions, resulting in greater due process, equity, and improved legal consciousness.¹¹⁵

Conclusion

The decision to plead without counsel was perceived as the easiest outcome for misdemeanor defendants who measured their sentences and fees as inconsequential, but for those who were already financially disadvantaged, the decision proved detrimental. Cascading effects on our participants' job searches, housing situations, stress levels, children, medical burdens, and legal cynicism amounted to cruel and unusual punishment for the sentences they received. Even though both our longitudinal participants believed their arrests and charges were wrongfully given, neither believed fighting the charges by retaining a private attorney or requesting a public defender would be worth the effort of returning to court. Their legal consciousness, defined by cynicism and distrust, resulted in little hope of a different outcome or future for themselves and their children.

The collateral consequences our participants faced were unanticipated at the time of pleading, and only became more problematic over time. Instead of blaming the financial situation of our participants, we see these consequences as systemic in the sense that

the courts promoted uncounseled rights waivers, imposed fair fees and fines, and leveled insurmountable consequences like revoked driver's licenses for unpaid fees. Our recommendations for reform are structural because the burden of misdemeanor pleas is heavier than defendants and courts often realize. Systemic issues for our participants began in childhood and continued into adulthood, with no social support for change. One seemingly insignificant decision to plead to a misdemeanor charge resulted in the feeling that they "ruined [their] life." Hopelessness should never be a person's relationship to the legal system or the society in which they live. No matter the charges, defendants deserve hope for their future.

Appendix A

Pseudonyms, Charges, Financial Penalties, and Payment Timelines

<i>Costs Unpaid; Sent to Collections and Driver's License Suspended¹¹⁶ (15 participants total; 47%)</i>			
Name	Charges	Financial Penalties	Payment Timeline
Chris	Resisting	\$273 \$54 Investigation cost	6 months
DeDe	Petit theft, 2 nd degree	\$274	End of year
Ron ¹¹⁷	Petit theft	\$100 fine and court costs \$50 prosecution costs \$146 cost of investigation	18 months
Mark ¹¹⁸	Petit theft	\$100 fine and court costs \$50 prosecution costs \$54.95 restitution \$162 cost of investigation	6 months
Natalie ¹¹⁹	Petit theft, 2 nd degree	\$279 court costs	4 months
Devon ¹²⁰	No valid DL	\$301 Court costs	Unknown
Johnny Law	No valid DL Speeding ticket	\$301 Court costs, prosecution \$100 fine	Unknown ¹²¹
Sabrina	Permitting an unauthorized person to drive	\$251 Court costs \$50 Prosecution	30 days
Jose (1) ¹²²	Operating MV with license expired, 2 nd degree Speeding ticket	\$280 fine \$314 court costs	60 days
J. Star	Disorderly conduct Resisting arrest	\$200 court costs \$490 costs	Unknown
Josh ¹²³	Missing Driver's License Endorsement	\$271 court costs	30 days
Done Deal	Contractor w/o license	\$250 fine \$2,500 restitution and costs	Unknown ¹²⁴
Khalif	Driving with license suspended	\$100 fine \$271 court costs	Unknown
David	Driving with license suspended	\$271	Unknown
Dan	Expired DL more than 6 months Traffic ticket	\$100 fine \$283 court costs	Unknown ¹²⁵

<i>Paid in full with payment plan (8 participants total; 25%)</i>			
Name	Charges	Financial Penalties	Payment Timeline
Trey	Petit theft	\$250	90 days ¹²⁶
John	DWLS, failure to yield	\$306 Court costs \$200 fine	45 days
Jason	Disorderly conduct	\$10 filing fee \$233 court costs	180 days
Roger	Engaging in business of contractor w/o registration or certification, 1 st degree	\$273 court costs \$50 cost of prosecution \$301	90 days
Scott Ross	No driver's license	\$271 court costs	Payment Plan ¹²⁷
Kevin	Petit Theft	\$271 court costs	Payment Plan ¹²⁸
Dalton	Driving with license suspended	\$150 fine Court costs	Unknown
Matt	No Driver's license for motorcycle No valid DL	\$50 fine \$271 court costs	Unknown

<i>No administrative data¹²⁹ (7 participants total; 21%)</i>		
Name	Charges	Financial Penalties
Roger	No Driver's License	Fine and court costs
Anthony	Leaving the scene of an accident	Fines and a driving class
Tay	Possession of marijuana	Pre-trial diversion Watched video Charges dismissed
Chubby	Open carry of firearm	Complete class within 90 days
Lergios	No DL	Payment Plan
Jose (2)		Fine
Mike	Driving without a license	Fine

<i>Paid in full without payment plan (2 participants total; 6%)</i>		
Name ¹³⁰	Charges	Financial Penalties
Butter	Petit theft, 2 nd degree	\$275
Marcus	Disorderly conduct	\$233

Appendix B

Transcribed Plea Colloquy

Judge (00:00): What's your name?

Natalie (00:01): [Announced her name].

Judge: (00:03): Case number [2022 xxxxx]. Ma'am, you are here for a charge of petty theft. Um, state, does she have any history?

Prosecution (00:18): Is this [Natalie]?

Judge (00:21): Yes.

Prosecution (00:21): Okay. Um, yes. Previous history is, uh, 2007, a petty theft withhold and another one in 2007

Judge (00:28): Ma'am, if you would like to resolve this case today. Um, the offer is an adjudication, credit time served for two days, I would reserve on restitution, joint and several with the co-defendant. So again, it's a time served offer, but it will be a conviction. Would you like to accept that offer?

Natalie (00:45): Yes, ma'am.

Judge (00:45): Do you need any time to speak with a lawyer?

Natalie (00:47): No.

Judge (00:48): Can you read, write, and understand the English language?

Natalie (00:51): Yes, ma'am.

Judge (00:51): I'm showing you this paper. Did you read it and understand it?

Natalie (00:54): Yes, ma'am.

Judge (00:54): All right, and how do you plead to the crime of petty theft, the misdemeanor of the second degree? Guilty, No contest or not guilty?

Natalie (01:01): No contest.

Judge (01:03): Did anybody force you to say no contest?

Natalie: (01:06): No, ma'am.

Judge (01:06): Do you understand we will not have a trial in this case based on your plea?

Natalie (01:09): Yes ma'am.

Judge (01:10): Do you understand that if you're not a United States citizen, you will be subject to deportation by entering a plea today?

Natalie (01:15): Yes ma'am.

Judge (01:16): Do you also understand that if you are on probation when you committed this crime by plain today, your terms of probation would be violated?

Natalie (01:22): Yes, Ma'am.

Judge (01:24): And one thing that was not on the plea form is the fact that theft is an enhanceable offense. I am going to convict you in this case. If you commit a future act of theft, you will be charged with a felony despite the value of the items. Do you understand that?

Natalie (01:36): Yes, ma'am.

Judge (01:36): All right. I'll accept your plea in this case. I will adjudicate you guilty. We'll get some fingerprints from you, give you credit for two days-time served, I'll reserve on restitution joint and several with the co-defendant for a period of 30 days. And, um, you owe court costs, court costs are \$279. I'm also ordering no contact, no return with the victims of this case, and I'll give you until, um, September 17th, 2022 to pay your court cost. Is that enough time?

Natalie (02:06): Yes.

Judge (02:07): Okay. That's four months.

Natalie (02:08): That's fine. Yes.

Judge (02:09): All right. Thank you.

Natalie (02:10): Thank you.

ENDNOTES

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² ROBERT C. BORUCHOWITZ, MALIA N. BRINK & MAUREEN DIMINO, *MINOR CRIMES, MASSIVE WASTE: THE TERRIBLE TOLL OF AMERICA'S BROKEN MISDEMEANOR COURTS*, NACDL (2009), <https://www.nacdl.org/Document/MinorCrimesMassiveWasteTolofMisdemeanorCourts>; Sandra G. Mayson & Megan T. Stevenson, *Misdemeanors by the Numbers*, 61 B.C. L. REV. 971 (2020); Megan Stevenson & Sandra Mayson, *The Scale of Misdemeanor Justice*, 98 B.U. L. REV. 731 (2018).

³ *E.g.*, ALISA SMITH & SEAN MADDAN, *THREE-MINUTE JUSTICE: HASTE AND WASTE IN FLORIDA'S MISDEMEANOR COURTS*, NACDL (2011), <https://www.nacdl.org/Document/ThreeMinuteJusticeFloridasBrokenMisdemeanorCourts>; BORUCHOWITZ, BRINK & DIMINO, *supra* note 2; Alexandra Natapoff, *Misdemeanors*, 11 ANN. REV. L. & SOC. SCI. 255 (2015).

⁴ Robert C. Boruchowitz, *Judges Need to Exercise Their Responsibility to Require that Eligible Defendants Have Lawyers*, 46 HOFSTRA L. REV. 35 (2017); BORUCHOWITZ, BRINK & DIMINO, *supra* note 2, at 14–15.

⁵ ALEXANDRA NATAPOFF, *PUNISHMENT WITHOUT CRIME: HOW OUR MASSIVE MISDEMEANOR SYSTEM TRAPS THE INNOCENT AND MAKES AMERICA MORE UNEQUAL* (2018); Alisa Smith & Sean Maddan, *Misdemeanor Courts, Due Process, and Case Outcomes*, 31 CRIM. J. POL'Y REV. 1312 (2020); Thomas B. Harvey, Jared H. Rosenfeld, & Shannon Tomascak, *Right to Counsel in Misdemeanor Prosecutions After Alabama v. Shelton: No-Lawyer-Courts and Their Consequences on the Poor and Communities of Color in St. Louis*, 29 CRIM. J. POL'Y REV. 688 (2017).

⁶ *See, e.g.*, Allison D. Redlich et al., *Guilty Plea Hearing in Juvenile and Criminal Court*, 46 L. & HUM. BEHAV. 337 (2022); Allison D. Redlich & Catherine L. Bonventre, *Content and Comprehensibility of Juvenile and Adult Tender-of-Plea Forms: Implications for Knowing, Intelligent, and Voluntary Pleas*, 39 L. & HUM. BEHAV. 162 (2015); Sharyn Roach Anleu & Kathy Mack, *Intersections Between In-Court Procedures and the Production of Guilty Pleas*, 42 AUSTL. & N.Z. J. CRIM. 1 (2009).

⁷ Alec Ewald, *"These Are the Things That You Have to Learn": The Misinformation Problem and Collateral Consequences Facing People with Conviction Histories in the United States*, 58 CRIM. L. BULL. 1 (2022); *See also* COLLATERAL CONSEQUENCES RES. CTR., *NEW REPORT: MOST STATES RESTRICT FIREARM RIGHTS TOO BROADLY AND MAKE RESTORATION DIFFICULTY* (June 6, 2025), <https://ccresourcecenter.org/>.

⁸ ALISA SMITH & SARAH K. STICE, *OFFSTAGE & OFF-SCRIPT: PERFORMING BUREAUCRATIC DUE PROCESS AND WAIVING COUNSEL IN THE MISDEMEANOR COURTS*, NACDL (2024), <https://www.nacdl.org/Document/Offstage-Off-Script-Report>; Alisa Smith, *It Was Just a Little Situation: A*

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⁹ Smith, *supra* note 8; SARAH K. STICE & ALISA SMITH, COMPLEX DECISIONS UNDER SHORT TIME CONSTRAINTS: WHY MISDEMEANOR DEFENDANTS PROCEED WITHOUT COUNSEL, NACDL (2025), <https://www.nacdl.org/Document/ComplexDecisionsUnderShortTimeConstraintsReport>.

¹⁰ Taylor Needham, Abena Subira Mackall & Becky Pettit, *Making Sense of Misdemeanors: Fine Only Offenses in Convivial Court Rooms*, 63 SOCIO. PERSPS. 962, 974 (2020) (“Our findings reveal that those who do not—or cannot—satisfactorily or summarily resolve their cases may experience enduring consequences, sometimes even including time in jail.”).

¹¹ See, e.g., *supra* notes 2–5.

¹² See, e.g., Beth A. Colgan, *The Excessive Fines Clause: Challenging the Modern Debtors’ Prison*, 65 UCLA L. REV. 2 (2018); William E. Crozier & Brandon L. Garrett, *Driving to Failure: An Empirical Analysis of Driver’s License Suspension in North Carolina*, 69 DUKE L.J. 1585, 1594–1602 (2020); Beth A. Colgan, *The Burdens of the Excessive Fines Clause*, 63 WM. & MARY. L. REV. 407 (2021); Alex R. Piquero & Wesley G. Jennings, *Research Note: Justice System-Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders*, 15 YOUTH VIOLENCE & JUV. JUST. 325, 334 (2016). See also Thomas B. Harvey & Janae Staicer, *Policing in St. Louis: “I Feel Like a Runaway Slave Sometimes,”* in THE CAMBRIDGE HANDBOOK OF POLICING IN THE UNITED STATES 39 (Tamara Rice Lave & Eric J. Miller eds., 2019) (highlighting the lived experience of five Black women in St. Louis, their negative interactions with the police, and the deleterious effects of financial penalties and obligations on the quality of their lives); KATHERINE A. BECKETT, ALEXES M. HARRIS & HEATHER EVANS, WASH. STATE MINORITY & J. COMM’N, THE ASSESSMENT AND CONSEQUENCES OF LEGAL FINANCIAL OBLIGATIONS IN WASHINGTON STATE (2008), <https://finesandfeesjusticecenter.org/articles/the-assessment-and-consequences-of-legal-financial-obligations-in-washington-state/> (reporting on the deleterious effects of felony convictions, fines, and collateral consequences); BECKETT, HARRIS & EVANS, *supra*, at 62 (interviewing fifty residents with felony convictions and fines, observing the challenges of paying off the debt, re-entering mainstream society, and leading stable and productive lives); Alexes Harris et al., *Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States*, 115 AM. J. SOC. 1753 (2010).

¹³ See generally, Colgan, *The Burdens of the Excessive Fines Clause*, *supra* note 12 (observing that with limited access to counsel for misdemeanors, “it is highly unlikely that people subjected to economic sanctions would be aware of the [Excessive Fines] Clause’s existence, let alone the mechanism for determining proportionality, the types of arguments related to the financial effect of the sanctions on them or their families that may be in play, or how to preserve or undertake an appeal of the excessiveness determination.”); BECKETT, *supra* note 12, at 42 (“\$10 doesn’t sound like a lot, but it is a lot when you’re living on \$300 a month”).

¹⁴ For one participant (Anthony), this was his first interview; he did not participate right after resolving his case at arraignment.

¹⁵ See, e.g., Richard Rogers et al., *An Analysis of Miranda Warnings and Waivers: Comprehension and Coverage*, 31 L. & HUM. BEHAV. 177 (2007); Richard Rogers & Eric Y. Drogin, *Miranda Rights and Wrongs: Matters of Justice*, 51 COURT REV.: J. AMER. JS. ASS’N 150 (2015).

¹⁶ Redlich & Bonventre, *supra* note 6; Allison Redlich & Alicia Summers, *Voluntary, Knowing, and Intelligent Pleas: Understanding the Plea Inquiry*, 18 PSYCH., PUB. POL’Y & L. 626 (2012).

¹⁷ MAREA BEEMAN ET AL., AT WHAT COST? FINDINGS FROM AN EXAMINATION INTO THE IMPOSITION OF PUBLIC DEFENSE SYSTEM FEES, NAT’L LEGAL AID & DEF. ASS’N (2022), https://www.nlada.org/sites/default/files/NLADA_At_What_Cost.pdf; Erica Hashimoto, *The Problem with Misdemeanor Representation*, 70 WASH. & LEE L. REV. 1019 (2013).

¹⁸ Hashimoto, *supra* note 17; STICE & SMITH, *supra* note 9; Smith, *supra* note 8.

¹⁹ SMITH & STICE, *supra* note 8.

²⁰ Alisa Smith, *The Cost of (In)Justice: A Preliminary Study of the Chilling Effect of the \$50 Application Fee in Florida's Misdemeanor Courts*, 30 U. FLA. J. L. & PUB. POL'Y 59 (2019); Smith, *supra* note 8.

²¹ Natapoff, *supra* note 3, at 261 ("Fines are the great underappreciated engine of the misdemeanor world and its inequalities . . . fines can be a heavy-handed and long-term form of punishment that displaces necessities like food and rent, destroys credit, and otherwise derails defendants' lives.").

²² Collateral consequences may be wide-ranging, even for misdemeanors, precluding some from certain types of employment, licensing, housing, education, and other benefits and opportunities. See NAT'L INVENTORY OF COLLATERAL CONSEQUENCES OF CONVICTION, <https://utahforms.com/abacollateralconsequences/>; Jenny Roberts, *Ignorance is Effectively Bliss: Collateral Consequences, Silence, & Misinformation in the Guilty-Plea Process*, 95 IOWA L. REV. 119 (2009); COLLATERAL CONSEQUENCES RES. CTR., <https://ccresourcecenter.org/>; Ewald, *supra* note 7.

²³ Jenny Roberts, *Informed Misdemeanor Sentencing*, 46 HOFSTRA L. REV. 171, 201 (2017) ("Misdemeanor sentencing fails to account for the wide range of consequences of a misdemeanor conviction, which go far beyond the penal sanction that the misdemeanor judge imposes at the time of sentencing.").

²⁴ See, e.g., *supra* note 12; Colgan, *The Excessive Fines Clause*, *supra* note 12 ("It is highly unlikely that people subjected to economic sanctions would be aware of the [Excessive Fines] Clause's existence, let alone the mechanism for determining proportionality, the types of arguments related to the financial effect of the sanctions on them or their families that may be in play, or how to preserve or undertake an appeal of the excessiveness determination."); BECKETT, HARRIS & EVANS, *supra* note 12, at 62 (interviewing fifty residents with felony convictions and fines, observing the challenges of paying off the debt, re-entering mainstream society, and leading stable and productive lives); Harris, *supra* note 12; BECKETT, HARRIS & EVANS, *supra*, at 42 ("\$10 doesn't sound like a lot, but it is a lot when you're living on \$300 a month").

²⁵ Alisa M. Smith, Natalie Mousa, & Sarah K. Stice, *Studying Unrepresented Defendants in the Lower Criminal Courts: Methodological Lessons Learned*, L. & METHOD (2024).

²⁶ Kathryn M. Young & Katie R. Billings, *Legal Consciousness and Cultural Capital*, 54 L. & SOC'Y REV. 33 (2020).

²⁷ *Id.*

²⁸ David S. Kirk & Mauri Matsuda, *Legal Cynicism, Collective Efficacy, and the Ecology of Arrest*, 49 CRIMINOLOGY 443 (2011).

²⁹ Monica C. Bell, *Police Reform and the Dismantling of Legal Estrangement*, 126 YALE L.J. 2054 (2017).

³⁰ Kathryn M. Young & Hannah Chimowitz, *Remorse, Relational Legal Consciousness, and the Reproduction of Carceral Logic*, 56 L & SOC'Y REV. 237 (2022).

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³² ELIZABETH ARIES, RACE AND CLASS MATTERS AT AN ELITE COLLEGE (2008); Jessica McCrory Carlaco, *"I Need Help!": Social Class and Children's Help-Seeking in Elementary School*, 76 AM. SOCIO. REV. 862 (2011); ANNETTE LAREAU, UNEQUAL CHILDHOODS: CLASS, RACE, AND FAMILY LIFE (2d ed. 2011).

³³ Young & Billings, *supra* note 26.

³⁴ Lawyers are unavailable in some communities. E.g., ALISA SMITH ET AL., RUSH TO JUDGMENT: HOW SOUTH CAROLINA'S SUMMARY COURTS FAIL TO PROTECT CONSTITUTIONAL RIGHTS, NACDL (2017), <https://www.nacdl.org/Document/RushtoJudgmentSCSummaryCourtsDontProtectConstRight>; Harvey, Rosenfeld & Tomascak, *supra* note 5.

³⁵ Arrested defendants may bond out of jail before their first appearance (typically scheduled within 24 or 48 hours of an arrest) or appear before a judge, who reviews the charges and determines eligibility for counsel and release. Incarcerated defendants might be released or given special conditions, including monitoring.

³⁶ Appointed counsel is not free in forty-two states and the District of Columbia, where the law authorizes application and recoupment fees for counsel costs. BEEMAN ET AL., *supra* note 17, at 2; see also Smith, *supra* note 20.

³⁷ To protect the participants' privacy, we asked them to select a pseudonym, and we use the name that they selected in place of their real names, to mask their identities.

³⁸ Previously released reports examined the findings from the court observations and case study comparisons of the administrative data collected in both counties.

³⁹ SMITH & STICE, *supra* note 8.

⁴⁰ See also Jenny M. Roberts, *Why Misdemeanors Matter: Defining Effective Advocacy in the Lower Criminal Courts*, 45 U.C. DAVIS L. REV. 277 (2011) (noting that the absence of counsel leaves misdemeanor defendants unaware of collateral consequences, including deportation, loss of public housing, and challenges with employment); Samantha Luna, Amy Dezember & Allison D. Redlich, *The Validity of Misdemeanor Pleas*, in THE LOWER CRIMINAL COURTS 66, 67–70 (1st ed., 2019) (summarizing the literature on the validity of guilty pleas and identifying gaps in the literature); Allison D. Redlich et al., *The Psychology of Defendant Plea Decision Making*, 72 AM. PSYCH. 339, 347–49 (2017) (summarizing the literature on the psychology of defendant plea decision making); Natapoff, *supra* note 3, at 265 (noting the lack of scholarly attention to the “impact of a minor conviction on a defendant’s employment prospects, housing, education, credit, or other life opportunities.”); Redlich & Summers, *supra* note 16 (reporting the study findings from interviews and testing of 99 adult defendants immediately after they entered guilty pleas to felonies or gross misdemeanors and found plea comprehension poor, with two-thirds answering less than 60% of questions correctly).

⁴¹ The readability scores for the legal forms indicated reading levels that likely exceeded the capacity of most misdemeanor defendants representing themselves. See Amanda Izes, Sarah Stice & Alisa Smith, *“Do You Understand?” Unrepresented and Unknowing Rights Waivers by Misdemeanor Defendants* (forthcoming) (on file with authors). See also previous studies on defendant comprehension: Redlich & Bonventre, *supra* note 6, at 167 (in a national study of plea forms, content varied widely and exceeded the reading comprehension of most defendants); Karl Haigler et al., U.S. Dep’t Educ. Off. Educ. Rsch. & Improvement, LITERACY BEHIND PRISON WALLS: PROFILES OF THE PRISON POPULATION FROM THE NATIONAL ADULT LITERACY SURVEY xvii–xxiii (1994). See also research by Rogers and colleagues, analyzing the comprehensibility of *Miranda* warnings: Rogers et al., *supra* note 15; Richard Rogers et al., *The Comprehensibility and Content of Juvenile Miranda Warnings*, 14 Psych. Pub. Pol’y & L. 63 (2008).

⁴² SMITH & STICE, *supra* note 8.

⁴³ STICE & SMITH, *supra* note 9.

⁴⁴ JEROME BRUNER, ACTS OF MEANING (1990).

⁴⁵ DONALD POLKINGHORNE, NARRATIVE KNOWING AND THE HUMAN SCIENCES (1988).

⁴⁶ David M. Engel & Frank W. Munger, *Narrative, Disability, and Identity*, 15 NARRATIVE 85 (2007).

⁴⁷ Thomas E. Barone, *Beyond Theory and Method: A Case of Critical Storytelling*, 31 THEORY INTO PRAC. 142, 144 (1992) (“The primary responsibility of the writer: To speak for those who cannot speak for themselves.”).

⁴⁸ PETER MCLAREN, LIFE IN SCHOOLS: AN INTRODUCTION TO CRITICAL PEDAGOGY IN THE FOUNDATIONS OF EDUCATION 160 (1989).

⁴⁹ Only adults (over the age of 18) and English speakers were recruited for participation in the study. The study's observational and interview protocols received human subjects' approval from Pearl IRB. PEARL IRB, <https://www.pearlirb.com/>. The research assistants were walked through the IRB forms and requirements for voluntary participation and confidentiality, and the importance of assigning each participant a pseudonym of the participant's choice. For a detailed description of the methodology and interview process, difficulties, and how they were resolved, see Smith, Mousa, & Stice, *supra* note 25.

⁵⁰ The study was IRB-approved. Each research assistant recorded the participants' informed consent and also obtained verbalized consent.

⁵¹ David M. Fetterman, *Ethnography*, in THE SAGE ENCYCLOPEDIA OF QUALITATIVE RESEARCH METHODS 288, 290–91 (David M. Fetterman & Harry F. Wolcott eds., 2008).

⁵² There were only a couple of exceptions when research assistants were unable to continue working on the project, and another research assistant conducted later interviews. The initial research assistant introduced the new interviewer to the participant to ensure rapport and trust.

⁵³ The general guide prompts included asking participants to describe (1) how the misdemeanor case affected their lives (including employment, family, or unexpected consequences), (2) how they might handle another case in the future, including whether they would use an attorney, and why, (3) how they perceived and experienced the legal system and actors, and (4) how they resolved conflicts or disagreements, and if they might consider involving the legal system.

⁵⁴ One participant skipped the one-month interview but participated in the three-month interview.

⁵⁵ Data were missing for 7 participants – Roger, Anthony, Tay, Chubby, Lergios, Jose, and Mike. These interview participants desired anonymity and therefore did not share their legal name or case number with the interviewer.

⁵⁶ All names are pseudonyms. Participants chose their own pseudonym during the arraignment interview.

⁵⁷ Bolded names are those who participated in longitudinal interviews.

⁵⁸ ABOUT REV, <https://www.rev.com/about-rev>.

⁵⁹ On several occasions an interview was edited by someone other than the interviewer.

⁶⁰ ATLAS.TI, <https://atlasti.com/>.

⁶¹ One participant (Anthony) began the study during the interviews conducted the week after his arraignment, and he continued through three months. His first interview was not included in this initial analysis because he did not interview with us immediately after he resolved his case at arraignment.

⁶² The Supreme Court does not require that defendants are informed of potential collateral consequences. “[M]any legal scholars argue that defendants should be informed of the numerous collateral consequences associated with their pleas, such as consequences around employment, education, and welfare benefits, as this knowledge could lead to different plea decisions.” Luna, Dezember & Redlich, *supra* note 40, at 69 (citing Allison D. Redlich, *The Validity of Pleading Guilty*, in 2 ADVANCES IN PSYCHOLOGY AND LAW 1 (Brian H. Bornstein & Monica K. Miller eds., 2016)).

⁶³ Alexandra Natapoff, *Misdemeanors*, 85 S. CAL. L. REV. 1313, 1320 (2012); Natapoff, *supra* note 3; Roberts, *supra* note 40.

⁶⁴ MALCOLM FEELEY, THE PROCESS IS THE PUNISHMENT: HANDLING CASES IN A LOWER CRIMINAL COURT (1979).

⁶⁵ Terry-Ann Craigie et al., *Conviction, Imprisonment, and Lost Earnings: How Involvement with the Criminal Justice System Deepens Inequality*, BRENNAN CTR. (2020), <https://www.brennancenter.org/our-work/research-reports/conviction-imprisonment-and-lost-earnings-how-involvement-criminal>.

⁶⁶ NATAPOFF, *supra* note 5, at 19–38; Chris Mai & Maria Rafael, *The High Price of Using Justice Fines and Fees to Fund Government in New York*, VERA INST. (2020), <https://www.vera.org/downloads/publications/the-high-price-of-using-justice-fines-and-fees-new-york.pdf>; Matthew Menendez et al., *The Steep Costs of Criminal Justice Fees and Fines*, BRENNAN CTR. (2019), <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>.

⁶⁷ Several organizations are studying and advocating for reforming court fees, costs, and fines. See generally FINES & FEES JUST. CTR., RESEARCH, <https://finesandfeesjusticecenter.org/content-types/research/>; BRENNAN CTR. JUST., FEES & FINES, <https://www.brennancenter.org/issues/end-mass-incarceration/changing-incentives/fees-fines>; CTR. JUST. INNOVATION, FINES, FEES, AND FINANCIAL BURDENS, <https://www.innovatingjustice.org/fines-fees>. The cost of public defense—not borne by these participants because they opted out of court-appointed counsel—was documented by Marea Beeman, Kellianne Elliott, Rosalie Joy, Elizabeth Allen, & Michael Mrozinski, in *At What Cost? Findings from an Examination into the Imposition of Public Defense System Fees*. See BEEMAN ET AL., *supra* note 17.

⁶⁸ One participant, Done Deal, was charged with Contracting without a License and owed \$2,500 in restitution and costs, plus a \$250 fine. At the time of data collection, he still owed \$2,557.50.

⁶⁹ Among other arguments against excessive fines, Beth Colgan has asserted that the indignity of “[u]nmanageable economic sanctions [which] effectively punish people for their poverty. . . . conflicts with each of the core principles that undergird the Cruel and Unusual Punishment’s Clause’s proportionality doctrine, from which the excessive test was adopted.” Colgan, *supra* note 12, at 76.

⁷⁰ See *id.* at 12–13.

⁷¹ See Izes, Stice, & Smith, *supra* note 41.

⁷² See Izes, Stice, & Smith, *supra* note 41.

⁷³ Izes, Stice, & Smith, *supra* note 41.

⁷⁴ See sources cited *supra* note 31.

⁷⁵ STICE & SMITH, *supra* note 9.

⁷⁶ SMITH & STICE, *supra* note 8; see also Stephen L. Brickey & Dan E. Miller, *Bureaucratic Due Process: An Ethnography of a Traffic Court*, in 22 SOC. PROBS. 688 (1975).

⁷⁷ SMITH & STICE, *supra* note 8.

⁷⁸ The purpose of procedural justice or procedural fairness is to demonstrate the legitimacy of and trust in the criminal legal system and encourage cooperation with the police and the courts. See TOM R. TYLER, *WHY PEOPLE OBEY THE LAW* (1990). “Individuals’ perceptions of procedurally just encounters are based on four central features of their interactions with legal authorities: . . . Whether they were treated with dignity and respect[,] . . . Whether they were given voice[,] . . . Whether the decision-maker was neutral and transparent[,] and . . . Whether the decision-maker conveyed trustworthy motives.” PROCEDURAL JUSTICE, YALE L. SCH., <https://law.yale.edu/justice-collaboratory/procedural-justice>.

⁷⁹ In another report, we found that judges were perceived as fair when they treated the defendants with respect and assigned similar financial penalties to most of the defendants in the hearing. See STICE & SMITH, *supra* note 9.

⁸⁰ Critics of procedural justice theory identify its limits, including that it is poorly equipped to address structural inequalities. See, e.g., David Thacher, *Critic: The Limits of Procedural Justice*, in POLICE INNOVATION: CONTRASTING PERSPECTIVES 95 (David Weisburd & Anthony A. Braga eds., 2019); Dorian Schaap & Elsa Saarikkomäki, *Rethinking Police Procedural Justice*, 26 THEORETICAL CRIMINOLOGY 416 (2022). Monica Bell proposed an alternative legal estrangement theory built on more complex reforms focused on procedural injustice, vicarious marginalization, and structural exclusion from society. Bell, *supra* note 29.

⁸¹ Cf. FEELEY, *supra* note 64.

⁸² ISSA KOHLER-HAUSMANN, MISDEMEANORLAND: CRIMINAL COURTS AND SOCIAL CONTROL IN AN AGE OF BROKEN WINDOWS POLICING (2018).

⁸³ *Id.* at 257.

⁸⁴ SMITH & STICE, *supra* note 8; NICOLE GONZALEZ VAN CLEVE, CROOK COUNTY: RACISM AND INJUSTICE IN AMERICA'S LARGEST CRIMINAL COURT (2016).

⁸⁵ The Supreme Court does not require advising defendants of *collateral* consequences, like the potential for eviction from housing and loss of professional and occupational licenses. *Brady v. United States*, 397 U.S. 742, 758 (1970) (holding plea bargaining constitutional and requiring guilty pleas to be made with an understanding of all the direct consequences of entering a guilty plea). The collateral consequences, even for misdemeanors, are significant. See NATIONAL INVENTORY OF COLLATERAL CONSEQUENCES OF CONVICTION, <https://niccc.nationalreentryresourcecenter.org/>.

⁸⁶ Craigie et al., *supra* note 65; sources cited *supra* note 66.

⁸⁷ STICE & SMITH, *supra* note 9.

⁸⁸ SMITH & STICE, *supra* note 8; STICE & SMITH, *supra* note 9.

⁸⁹ STICE & SMITH, *supra* note 9.

⁹⁰ See also Needham, Mackall & Pettit, *supra* note 19.

⁹¹ Darrin M. McMahon, *The Triumph of 'Equity' Over 'Equality': Academic Ideals Have Shifted in Recent Decades*, CHRON. HIGHER EDUC. (Apr. 1, 2024), <https://www.chronicle.com/article/the-triumph-of-equity-over-equality>.

⁹² See, e.g., BEEMAN ET AL., *supra* note 17; Smith, *supra* note 20, at 60 ("At least 27 states, including Florida, charge application fees to poor defendants to determine whether they qualify for the appointment of counsel.")

⁹³ Cf. Roberts, *supra* note 40.

⁹⁴ *United States v. Bajakajian*, 524 U.S. 321, 334 (1998).

⁹⁵ U.S. CONST. amend. VIII.

⁹⁶ *Bearden v. Georgia*, 461 U.S. 660, 662, 669–72 (1983) (holding the trial court erred in automatically revoking defendant's probation for failing to pay his financial penalties, without determining he "had not made sufficient bona fide efforts to pay or that adequate alternative forms of punishment did not exist.").

⁹⁷ Daniel S. Harawa, *How Much Is Too Much? A Test to Protect Against Excessive Fines*, 81 OHIO ST. L.J. 65, 67 (2020); *Bajakajian*, 524 U.S. at 334.

⁹⁸ Colgan, *The Excessive Fines Clause*, *supra* note 12; Crozier & Garrett, *supra* note 12; Alec Schierenbeck, *The Constitutionality of Income-Based Fines*, 85 U. CHI. L. REV. 1869 (2018); Colgan, *The Burdens of the Excessive Fines Clause*, *supra* note 12; Piquero & Jennings, *supra* note 12; Beckett, Harris & Evans, *supra* note 12.

⁹⁹ *Deason Center Launches Campaign to Advance Post-Arrest Rights*, DEASON CTR. (Dec. 11, 2024), <https://www.smu.edu/news/latest/deason-center-launches-campaign-to-advance-post-arrest-rights>.

¹⁰⁰ Andy Davies & Shelby Sirivore, *Getting Magistration Right: How Texas Can Guarantee the Right to Counsel in Misdemeanor Cases* (forthcoming) (on file with authors).

¹⁰¹ See *The 6th Amendment in Maine*, SIXTH AMENDMENT CTR., <https://6ac.org/us-territory/maine/#:~:text=What%20is%20the%20lawyer%20of,out%2Dof%2Dcustody%20defendants>; see

also *Volunteer Lawyers at Your Court*, COMMONWEALTH MASS., <https://www.mass.gov/info-details/volunteer-lawyers-at-your-court>.

¹⁰² *Americans' Views on Public Defenders and the Right to Counsel: National Public Opinion Survey Conducted for the Right to Counsel National Campaign*, RT. COUNSEL (Mar. 16, 2017), https://www.american.edu/spa/justice-initiatives/initiatives/right-to-counsel-nc/upload/americans-27-views_11-7-17.pdf.

¹⁰³ Gillian Slee, Thematic Session at the American Society of Criminology 79th Annual Meeting on “*Nobody Trusts What They Get for Free*”: *Legitimation in the Criminal Legal System* (forthcoming) (Nov. 13, 2024); Christopher M. Campbell & Kelsey S. Henderson, *Bridging the Gap Between Clients and Public Defenders: Introducing a Structured Shadow Method to Examine Attorney Communication*, 43 JUST. SYS. J. 26 (2021) (advancing a method to aid understanding and improve attorney-client communication).

¹⁰⁴ Slee, *supra* note 103; Gillian Slee, *Of the State, Against the State: Public Defenders, Street-Level Bureaucracy, and Discretion in Criminal Court*, 97 SOC. SERV. REV. 675 (2023).

¹⁰⁵ See, e.g., Alexis Hoag-Fordjour, *Community Responsive Public Defense*, 92 FORDHAM L. REV. 1309 (2024); Melanca Clark & Emily Savner, *Community Oriented Defense: Strong Public Defenders*, BRENNAN CTR. (2010), <https://www.brennancenter.org/sites/default/files/legacy/Justice/COD%20Network/Community%20Oriented%20Defense-%20Stronger%20Public%20Defenders.pdf>.

¹⁰⁶ With boundaries and regulation to reduce misuse and ensure accurate information about public defenders and the legal system. Cf. Nicola A. Boothe-Perry, *Friends of Justice: Does Social Media Impact the Public Perception of the Justice System?*, 35 PACE L. REV. 72 (2014); Andrew Palmer, *Social Media and the Legal System: A Double-Edged Sword*, LAW. MONTHLY (Aug. 23, 2024), <https://www.lawyer-monthly.com/2024/08/social-media-and-the-legal-system-a-double-edged-sword/>.

¹⁰⁷ *Zealous* offers an excellent model of using media, technology, and storytelling in collaboration with public defenders, advocates and other impacted by the legal system to raise awareness. ZEALOUS, <https://zealo.us/about/>.

¹⁰⁸ Matthew J. Dolliver, *Enhancing Public Trust and Participation in Jury Service*, SCHOLARS STRATEGY NET. (July 25, 2024), <https://scholars.org/contribution/enhancing-public-trust-and-participation-jury>; Julianna C. Chomos et al., *Increasing Juror Satisfaction: A Call to Action for Judges and Researchers*, 59 DRAKE L. REV. 707, 711 (2011) (“[T]he courts and government could produce a mass advertising campaign to promote jury service using television, newspaper, radio and other media forms.”).

¹⁰⁹ See Tim Lau, Matthew Menendez & Michael Crowley, *Criminal Justice Fees and Fines Don't Work*, BRENNAN CTR. (Nov. 21, 2019), <https://www.brennancenter.org/our-work/analysis-opinion/criminal-justice-fees-and-fines-dont-work#:~:text=But%20the%20fees%20and%20fines,efforts%20to%20improve%20public%20safety> (finding that counties spend a high proportion of their fee and fine revenue on collection and enforcement costs, rather than on efforts to improve public safety).

¹¹⁰ Gabriel J. Chin, *Collateral Consequences of a Criminal Conviction*, 18 CRIMINOLOGY, CRIM. JUST., L. & SOC'Y 1, 7 (2017); see also Sam McCann, *The Harms of Mass Incarceration Extend Far Beyond Courtrooms, Jail Cells, and Prison Beds*, VERA. INST. (Nov. 29, 2023), <https://www.vera.org/news/how-collateral-consequences-keep-people-trapped-in-the-legal-system>.

¹¹¹ Alexandra Natapoff, *Appreciating the Full Consequences of a Misdemeanor*, COLLATERAL CONSEQUENCES RES. CTR. (May 10, 2018), <https://ccresourcecenter.org/2018/05/10/appreciating-the-full-consequences-of-a-misdemeanor/>.

¹¹² Chin, *supra* note 110, at 9.

¹¹³ *Id.* at 4.

¹¹⁴ *Id.* at 9.

¹¹⁵ Legal scholars argue for improved information, particularly on the potential collateral consequences associated with entering pleas. Even if these advisements on consequences for employment, education, and welfare benefits, might not increase rights assertion, improving the consciousness of defendants' understanding will reduce the *unanticipated* consequences. See, e.g., Luna, Dezember & Redlich, *supra* note 62.

¹¹⁶ Data collected at 6-months post-arraignment.

¹¹⁷ New case opened – serious felony charges.

¹¹⁸ New felony charges 15 months after resolved misdemeanor.

¹¹⁹ New charges: DWLS, DUI, Drugs.

¹²⁰ New charges, incompetent to proceed.

¹²¹ The arraignment transcript showed that Johnny Law advised the trial judge that he would make the payment the same day.

¹²² Two participants chose the same pseudonym, Jose.

¹²³ DL reinstated after paying \$296.

¹²⁴ Six months after resolving his case, the clerk's office record showed that Done Deal still owed \$2,557.50.

¹²⁵ Six months after resolving his case, the clerk's office records showed that Dan had paid \$50 toward his court costs, and still owed \$383.

¹²⁶ According to the court clerk records, it took Trey five months to pay off his financial obligations.

¹²⁷ According to the court clerk records, it took Scott ten months to pay off his financial obligations.

¹²⁸ According to the transcribed arraignment hearings and the clerk's office records, Kevin was offered the payment plan without being fully advised of the additional costs of \$25 for that processing.

¹²⁹ Some participants chose not to share their case number, so administrative data nor arraignment transcripts could not be collected or reviewed.

¹³⁰ All names are pseudonyms. Participants chose their pseudonyms during the arraignment interview.

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