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Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States¹

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The expansion of the U.S. penal system has important consequences for poverty and inequality, yet little is known about the imposition of monetary sanctions. This study analyzes national and state-level court data to assess their imposition and interview data to identify their social and legal consequences. Findings indicate that monetary sanctions are imposed on a substantial majority of the millions of people convicted of crimes in the United States annually and that legal debt is substantial relative to expected earnings. This indebtedness reproduces disadvantage by reducing family income, by limiting access to opportunities and resources, and by increasing the likelihood of ongoing criminal justice involvement.

INTRODUCTION

The massive expansion of the U.S. penal system is an unparalleled institutional development, one that has given rise to substantial bodies of sociological scholarship. The U.S. incarceration rate is 6–12 times higher than those found in Western European countries and is now the highest

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in the world (Western 2006). As a result, the lives of a large and growing number of U.S. residents are profoundly shaped by criminal justice institutions. Between 1980 and 2007, the total number of people under criminal justice supervision—which includes the incarcerated and those on probation and parole—jumped from roughly 2 million to over 7 million (Bureau of Justice Statistics 2008). More than one in every 100 adult residents of the United States now lives behind bars (PEW Center on the States 2008). Yet penal expansion has affected various demographic groups quite differently. An estimated one-third of all adult black men, for example, have been convicted of a felony offense (Uggen, Manza, and Thompson 2006), and nearly 60% of young black men without a high school degree have spent time behind prison bars (Pettit and Western 2004). Criminal punishment is also overwhelmingly concentrated in poor urban neighborhoods (Clear, Rose, and Ryder 2001; Fagan, West, and Holland 2003; Travis and Waul 2004; Travis 2005; Clear 2007).

The unprecedented growth of the penal system has important consequences with which sociologists increasingly grapple. For example, mass incarceration has unprecedented demographic reach and implications, fundamentally altering the institutions with which key segments of the population come into contact over the life course (Pettit and Western 2004; Uggen et al. 2006). Penal expansion also affects measures of sociologically important phenomena such as voter turnout (McDonald and Popkin 2001) and unemployment rates (Western and Beckett 1999). And the expansion of the “carceral state” (Gottschalk 2008) has had a significant impact on important democratic institutions such as voting (Manza and Uggen 2006) and census taking (Lotke and Wagner 2005).

Another body of research highlights the connection among penal expansion, the contraction of the welfare state, and social inequality (Sutton 2000, 2004; Beckett and Western 2001; Crutchfield and Pettinicchio 2009; Wacquant 2009). The association between penal expansion and welfare retrenchment is most evident in the United States, where Braithwaite’s observation that the “punitive state stands alone as the major exception to ‘the hollowing out of the state’” (2000, p. 227) is most apt. This transformation of state institutions and practices has important consequences for studies of urban poverty and social inequality. As Western puts it, “the penal system has emerged as a novel institution in a uniquely American system of social inequality” (2006, p. 8; see also Wacquant 2009).

Indeed, the growth of the criminal justice system has been so consequential that punishment, urban poverty, and social inequality are increasingly treated as overlapping rather than distinct areas of inquiry (see Hagan and Dinovitzer 1999; Western and Beckett 1999; Western and McLanahan 2000; Travis and Petersilia 2001; Braman 2003; Mauer and Chesney-Lind 2003; Pager 2003, 2005, 2007; Pettit and Western 2004;

Western and Pettit 2005; Manza and Uggen 2006; Uggen et al. 2006; Western 2006; Comfort 2007; Foster and Hagan 2007; Massoglia and Schnittker 2009; Wacquant 2009). These studies indicate that the U.S. penal system is implicated in the accumulation of disadvantage and the reproduction of inequality for a number of reasons: the growing number of (mainly poor) people whose lives it touches, the impact of criminal conviction on employment and earnings, the effects of confinement on inmates' mental and physical health, mass incarcerations' destabilizing effects on families and urban communities, and the widespread imposition of "collateral" or "invisible" sanctions that transform punishment from a temporally limited experience to a long-term status.

We refine the theoretical and empirical understanding of the processes by which penal institutions reproduce inequality by examining a previously ignored dimension of penal expansion: the imposition of monetary sanctions. Although the causes and consequences of mass incarceration have been extensively studied, we are aware of no previous studies of the prevalence, extent, accumulation, or consequences of monetary sanctions in the contemporary United States. Criminological discussions of fines and other monetary penalties focus instead on the advantages of using monetary sanctions as an alternative to incarceration and criminal justice supervision, a common practice in many Western European countries (Hillsman and Greene 1992; Vera Institute 1996; Tonry 1998; Ruback and Bergstrom 2006; Nagin 2008; O'Malley 2009). The implicit—and sometimes explicit—assumption in this literature is that monetary sanctions are (or ought to be) alternatives to confinement and criminal justice supervision; the U.S. commitment to incarceration therefore means that monetary sanctions are "rarely imposed for felonies" (Nagin 2008, p. 38).

At the same time, many observers note that federal authorities, states, counties, and cities have authorized criminal justice decision makers to impose a growing number of monetary sanctions on people who are convicted—and sometimes merely accused—of crimes (McLean and Thompson 2007; Rosenthal and Weissman 2007; Levingston 2008; Anderson 2009).² Although it is clear that the number of monetary sanctions potentially imposed has increased, the imposition of monetary sanctions by criminal justice actors is often discretionary and sometimes limited statutorily to those who are determined to be "able to pay." Because levels of indigence among felons are high, and because data regarding the actual

² In Washington State, e.g., some jails assess booking fees and charge inmates up to \$100 a day for the cost of their detention even before adjudication. Sentencing judges are also allowed to assess a fee for indigent defense counsel and may not waive this fee if the defendant is not convicted or if his or her conviction is reversed on appeal (Anderson 2009).

imposition of monetary sanctions are scarce, it is not clear how frequently the criminal justice actors who are increasingly allowed to impose monetary sanctions actually do so. Nor do we know much about the magnitude of the monetary sanctions that are imposed, how legal debt accumulates over time in the lives of people with criminal histories, or how it affects those who possess it.

We explore these questions here. Our findings indicate that monetary sanctions are now imposed by the courts on a substantial majority of the millions of U.S. residents convicted of felony and misdemeanor crimes each year. We also present evidence that legal debt is substantial relative to expected earnings and usually long term. Interviews with legal debtors suggest that this indebtedness contributes to the accumulation of disadvantage in three ways: by reducing family income; by limiting access to opportunities and resources such as housing, credit, transportation, and employment; and by increasing the likelihood of ongoing criminal justice involvement.

These findings have important implications for theoretical understanding of the role of the penal system and debt in the reproduction of poverty and inequality. Sociological research shows that people who are convicted of crimes are, as a group, highly disadvantaged before their conviction; criminal conviction and incarceration exacerbate this disadvantage, most directly by reducing employment and earnings (Western and Beckett 1999; Pager 2003, 2005, 2007; Western and Pettit 2005; Western 2006). Criminal justice involvement, then, is recognized as both consequence and cause of poverty. However, because the prevalence and consequences of monetary sanctions have not been systematically explored, the extent to which penal expansion contributes to inequality, and the full array of mechanisms by which it does so, has not been fully recognized. Similarly, although consumer debt is widely understood to be both a measure and a cause of poverty (Oliver and Shapiro 1995; Conley 1999, 2001; Keister 2000, 2005; Shapiro 2004), analyses of the role of debt in the stratification system have not considered the impact of legal debt. Our findings indicate that penal institutions are increasingly imposing a particularly burdensome and consequential form of debt on a significant and growing share of the poor.

Monetary Sanctions, Past and Present

Monetary sanctions, sometimes called legal financial obligations (LFOs), include the fees, fines, restitution orders, and other financial obligations that may be imposed by the courts and other criminal justice agencies on persons accused of crimes. Although a few case studies shed light on the magnitude of the monetary sanctions imposed in a particular juris-

diction for a particular category of cases,³ monetary sanctions have not generally been recognized as an important part of criminal sentencing in the United States. For example, analysts of contemporary U.S. penal practices do not mention monetary sanctions when discussing the trend toward penal severity in the United States (e.g., Beckett 1997; Garland 2001; Western 2006; Wacquant 2009). Similarly, the sentencing literature largely ignores monetary sanctions, assuming that “monetary sanctions for non-trivial crimes have yet to catch on in the United States” (Tonry 1996, p. 124; see also Nagin 2008).

The claim that monetary sanctions are rarely imposed in felony cases may rest on the idea that monetary sanctions other than fines are neither intended as punishment nor legitimated in traditional penological terms and are therefore better understood as civil penalties than as monetary “sanctions” (see Harland 1992).⁴ By contrast, we treat all financial penalties as a group, for two reasons. First, legislatures sometimes justify the imposition of all LFOs (not just fines) in traditional penological terms. For example, Washington State’s statutory framework emphasizes the role of all monetary sanctions in enhancing offender “accountability,” a goal that is difficult to distinguish from the most venerable of penal objectives, retribution.⁵ In other states, restitution is justified in terms of its alleged rehabilitative effects on offenders (Ruback and Bergstrom 2006), also a traditional penological objective. Moreover, for our more sociological purposes, the significance of monetary sanctions lies not in the intentions of the policy makers who authorize them but rather in their implications for the sociological analysis of punishment and social in-

³ See Ruback and Bergstrom (2006) for a useful overview of this literature. Researchers have also analyzed the offense and offender characteristics associated with receipt of monetary sanctions in misdemeanor cases (e.g., Gordon and Glaser 1991), the sanctioning practices most likely to result in payment of monetary sanctions (e.g., Raine, Dunstan, and Mackie 2004; Weisburd, Einat, and Kowalski 2008), and jurisdictional variation in the imposition of restitution orders (Ruback, Shaffer, and Logue 2004).

⁴ Many other “collateral sanctions” are similarly defined as civil rather than criminal penalties. The courts have generally upheld this distinction, although some recent rulings do recognize the possibility that a “civil” penalty may be so punitive in its effect that what was intended to be a civil penalty is in fact a criminal penalty (see, e.g., *Students for Sensible Drug Policy Foundation v. Spellings*, 460 F. Supp. 2d 1093, 1105 (D.S.D. 2006).

⁵ The Washington State Sentencing Reform Act identifies the goals of legislation that guide the assessment of LFOs as follows: “The purpose of this act is to create a system that: (1) Assists the courts in sentencing felony offenders regarding the offenders’ LFOs; (2) *holds offenders accountable* to victims, counties, cities, the state, municipalities, and society for the assessed costs associated with their crimes; and (3) provides remedies for an individual or other entities to recoup or at least defray a portion of the loss associated with the costs of felonious behavior” (*Revised Code of Washington [RCW] 9.94A.760*; emphasis added).

equality. We therefore treat all LFOs as a group and refer to them as monetary sanctions.

The use of monetary sanctions in the criminal process is not new. In many European countries, restitution was the primary criminal penalty for centuries (Mullaney 1988). In the United States and its colonial territories, fees and fines have sometimes been imposed since the aftermath of slavery (Adamson 1983; Oshinsky 1996; Merry 2000; Blackmon 2008). Indeed, the imposition of monetary sanctions was the foundation of the convict lease system in the southern United States through the 1940s. Charged with fees and fines several times their annual earnings, many southern prisoners were leased by justice officials to corporations who paid their fees in exchange for inmates' labor in coal and steel mines and on railroads, quarries, and farm plantations (Adamson 1983; Blackmon 2008; Perkinson 2008). Collected fees and fines were used to pay judges' and sheriffs' salaries (Blackmon 2008). Monetary sanctions were thus integral to systems of criminal justice, debt bondage, and racial domination in the American South for decades.

Although the use of monetary sanctions receded in the United States by World War II, it was not entirely eradicated. By 1974, only 11 years after *Gideon v. Wainwright*, the U.S. Supreme Court upheld an Oregon statute that allowed courts to require that indigent defendants be assessed a fee for the legal representation provided to them by the state because they could not afford private representation.⁶ By the late 1980s, the author of a national government survey of correctional institutions concluded that "the types and total number of user fees [that exist] in criminal justice have grown dramatically" (Mullaney 1988, p. iv). And in recent years, a number of observers have noted that the range of monetary sanctions potentially imposed in criminal cases has continued to proliferate (Mullaney 1988; Butterfield 2004; California Performance Review 2005; Liptak 2006; McLean and Thompson 2007; Rosenthal and Weissman 2007; Levinston 2008).

For example, in Washington State, superior court judges may now impose up to 17 fees and fines on felony defendants at the time of sentencing; one of these sanctions is mandatory. In New York State, judges may now impose 19 statutorily authorized fees (Rosenthal and Weissman 2007). Yet it is not just the courts that may impose monetary sanctions; a variety of criminal justice agencies are now authorized to levy such

⁶ *Gideon v. Wainwright*, 372 U.S. 335 (1963): in this decision, the U.S. Supreme Court unanimously ruled that state courts are required under the Sixth Amendment of the Constitution to provide defense counsel to criminal defendants who are unable to afford their own attorneys. *Fuller v. Oregon*, 417 U.S. 40 (1974): for a legal discussion of this practice, see Anderson (2009).

fees. State departments of corrections and the private companies often responsible for supervising probationers, for example, are increasingly authorized to charge inmates for the cost of their imprisonment, supervision, and court-mandated tests (Liptak 2006; Levingston 2008; Perry 2008). Jail fees are also increasingly permitted and, to the extent that they are imposed, would supplement the fees and fines imposed by the courts (Gordon and Glaser 1991; Levingston 2008).

Unpaid LFOs may also be subject to interest, surcharges, or collection fees. Many states have authorized county clerks or collection agencies to charge interest and collection fees in addition to the initial court LFO sentence. In California, there are now more than 3,100 separate fines, fees, surcharges, penalties, and assessments that may be levied against criminal offenders (California Performance Review 2005). The interest rates to which unpaid legal debts are subject vary. Financial obligations assessed by Washington State criminal courts are subject to an interest rate of 12%.⁷ California recently allowed the Department of Revenue and Recovery to charge 15% interest on accounts that are delinquent for more than 30 days.⁸ Some states have adopted “collection improvement programs” that authorize county clerks and private collection agencies to charge interest and collection fees. In Florida, for example, collection agencies may now charge up to 40% of the assessed LFO as a collection fee (Florida Office of Program Policy Analysis and Government Accountability 2004). These reports suggest that if imposed, monetary sanctions may accumulate considerably over time.

Collection tactics appear to vary across jurisdictions. In some locales, probation offices and correctional agencies are responsible for the collection of some or all legal debt. Where this is the case, probation revocation and the incarceration of violators appear to be the main tools available to debt collectors (Weisburd et al. 2008). In some states, including Washington, responsibility for the collection of legal debt transfers to county clerks or private collection agencies on completion of confinement or supervision sentences. These agencies possess an increasing array of civil tools to facilitate their collection efforts.

In sum, the number and type of monetary sanctions potentially imposed on those accused and convicted of crimes have clearly proliferated in recent years. Yet little is known about the frequency with which monetary

⁷ In Washington State, LFOs ordered in criminal proceedings are subject to the greater of two interest rates: 12% or four points above the 26-week Treasury-bill rate. For at least the past decade, the greater of these two has been 12% (*RCW* 10.82.090 and 4.56.110[4]).

⁸ California Revenue and Taxation Code, sec. 19280.

sanctions are actually imposed across the United States, their magnitude and accumulation, or their consequences for those who possess them.

Penal Expansion and Social Inequality

As noted previously, the number of people whose lives are affected by the criminal justice system has grown dramatically. More than 2 million of these U.S. residents currently live behind bars, and recent estimates suggest that over 16 million people—7.5% of the adult population—possess at least one felony conviction (Uggen et al. 2006). But even these impressive figures do not capture the reach of the U.S. criminal justice system. In 2007, there were also an estimated 10.5 million misdemeanor prosecutions in the United States (Boruchowitz, Brink, and Dimino 2009), and roughly 13 million people are now admitted to jail annually (Sabol and Minton 2008). Each year, nearly 10 million people leave jail or prison; millions more are released from criminal justice supervision (McLean and Thompson 2007).

Recent studies indicate that the increasingly massive U.S. criminal justice system has important consequences for labor markets and social inequality. For example, conviction and incarceration reduce the employment prospects and earnings of those with criminal records (Western and Beckett 1999; Pager 2003, 2005, 2007; Western and Pettit 2005; Western 2006). The federal government and some states have adopted policies that ensure that felony conviction (even in the absence of incarceration) entails additional adverse consequences, including the loss of occupational opportunities, eligibility for student loans, public assistance, public housing, the right to reside in the United States, and other civil rights (Uggen et al. 2006, table 4). Poor people, people of color, and men are more likely to be involved in the criminal justice system and therefore to incur these direct and collateral costs.

Yet the adverse effects of criminal conviction are not limited to the legally guilty (Comfort 2007; Foster and Hagan 2007). For example, incarceration worsens health outcomes not only for inmates but also for their families and communities (Farmer 2003; Johnson and Raphael 2006; Massoglia 2008; Massoglia and Schnittker 2009; Sykes and Piquero 2009). Most of those convicted of crimes in the United States are parents of minor children, and many are obligated to pay child support.⁹ Mass in-

⁹ Roughly 70% of male state prison inmates ages 33–40 are fathers (Western 2006, p. 137); approximately the same proportion of female prisoners are mothers of young children (Greenfield and Snell 1999). In the United States more than 1.5 million children under age 18 have a parent in prison (Mumola 2000). A recent study found that people released on parole owed an average of \$16,600 in child support payments.

carceration harms families by reducing child well-being, increasing the likelihood of divorce and separation, and reducing family income (Western and McLanahan 2000; Braman 2003; Western 2006; McLanahan 2009). The perennial removal and return of large numbers of young men destabilizes communities by exacerbating residential instability and diminishing the well-being and earning power of residents (Clear et al. 2001; Travis 2005; Clear 2007).

In short, a substantial body of scholarship indicates that the U.S. penal system plays an important role in the accumulation of disadvantage over the life course, across generations, and at the community level (Hagan and Foster 2003; Mirowsky and Ross 2003; Foster and Hagan 2007). Yet if the imposition of monetary sanctions is also considered, the impact of penal expansion on the stratification system may be far greater than these studies suggest, and the mechanisms by which poverty and inequality are reproduced are even more numerous. Similarly, many sociologists have noted that people with a criminal conviction are at high risk of reoffending and that rearrest and reincarceration reproduce poverty (Hagan and Dinovitzer 1999; Austin 2001; Hagan and Coleman 2001; Travis and Petersilia 2001; Roberts 2004; Council of State Governments 2005; Travis 2005; Clear 2007). Yet the fact that nonpayment of monetary sanctions may trigger a warrant, arrest, or incarceration has not been widely recognized. Indeed, warrants may be issued, and arrests and confinement may occur, solely due to nonpayment of legal debt (Bonczar 1997; McLean and Thompson 2007; Rhode Island Family Life Center 2007; *New York Times* 2009). Although some researchers claim, perhaps rightly, that “it is unconstitutional to imprison offenders for nonpayment of debt” (Ruback and Bergstrom 2006, p. 243), this does not mean that it does not occur, as the U.S. Supreme Court has ruled that debtors may be incarcerated for “willful” nonpayment of legal debt.¹⁰

Even if it does not lead to arrest or incarceration, having a warrant issued—that is, being “wanted” by the police—has important social and economic consequences for people with warrants and their families. On the basis of six years of fieldwork in a poor, black Philadelphia neighborhood, Goffman (2009, p. 353) concludes that “young men who are wanted by the police find that activities, relations, and localities that others rely on to maintain a decent and respectable identity are transformed into a system that the authorities make use of to arrest and confine them. The police and the courts become dangerous to interact with, as does showing up to work or going to places like hospitals.” Goffman’s findings thus indicate that being wanted by the police shapes the lives of many of the urban poor, often in adverse ways. Moreover, federal welfare legislation

¹⁰ *Bearden v. Georgia*, 461 U.S. 660 (1983).

adopted in 1996 prohibits states from providing Temporary Assistance for Needy Families, Supplemental Security Income, general assistance, public and federally assisted housing, and food stamps to individuals who are “fleeing felons” (i.e., have a bench warrant stemming from a felony conviction) or are in violation of any condition of probation or parole.¹¹ The Social Security Administration (SSA) database is now linked to state warrant databases, so that the cessation of benefits occurs automatically on issuance of an arrest warrant (provided that warrant appears in the state database).¹² People who have a warrant for their arrest are also unable to obtain or renew driver’s licenses; this barrier to transportation reduces their employment prospects (Pawasarat 2000, 2005). Warrants are thus a unique and consequential aspect of legal debt.

In short, the sociological literature recognizes that criminal convictions and mass incarceration exacerbate inequality. Yet monetary sanctions’ additional stratifying effects have not been recognized. Similarly, sociological studies show that debt is both a cause and a consequence of poverty but have not previously recognized that penal institutions are an important source of a particularly deleterious form of debt.

Debt, Poverty, and Social Inequality

In the sociological literature, debt is generally understood to be the consequence of consumer borrowing (Keister 2000; Sullivan, Warren, and Westbrook 2000) or racial inequality in the credit and mortgage markets (Blau and Graham 1990; Oliver and Shapiro 1990; Horton 1992; Massey and Denton 1993; Conley 1999; Shapiro 2004). This literature indicates that debt has important consequences for the measurement and reproduction of poverty and social inequality. For example, consumer debt—and the poor credit ratings that result from it—may negatively influence job prospects, as employers increasingly check credit reports when making hiring decisions (Bayot 2004). Apartment managers often check credit histories in determining eligibility for housing.¹³ Banks and other lending agencies also routinely check credit histories before opening new accounts.

¹¹ 42 U.S.C. § 608 (a)(9)(A)(ii); Szymendera (2005).

¹² States now send the SSA’s Office of Inspector General the name and identification of all of those in their warrant database; the SSA matches “wanted persons” files provided by the participating law enforcement agency against SSA’s computer files of individuals receiving Title XVI payments or Title II benefits or serving as representative payees, in order to ensure that benefits are stopped in such cases (see <http://www.socialsecurity.gov/oig/organization/investigations.htm>).

¹³ Under the Fair Credit Reporting Act, lenders, insurance companies, landlords, credit card companies, potential employers (with the applicant’s written consent), child support enforcement agencies, and others may access credit reports.

As a result, individuals with debt and poor credit ratings often cannot open traditional bank accounts and may be compelled to borrow on less favorable terms (Caskey 1994; Elliehausen and Lawrence 2001). In such circumstances, debtors are not able to build or raise their credit scores and often pay more for loans, services, and goods (Squires 2004).

For all of these reasons, debt reduces household wealth and reproduces poverty over time. Yet the sociological literature has not yet recognized that the penal system may be an important source of an even more damaging form of debt. Indeed, legal debt is particularly injurious: unlike consumer debt, it is not offset by the acquisition of goods or property, is not subject to relief through bankruptcy proceedings, and may trigger an arrest warrant, arrest, or incarceration. Assessing monetary sanctions' prevalence, magnitude, and consequences is therefore essential to the development of a comprehensive understanding of how penal expansion fuels poverty and inequality.

DATA AND METHOD

Our analysis draws on national and state-level data to address these issues. First, to assess the frequency with which monetary sanctions are imposed nationally, we analyze data from the nationally representative Survey of Inmates in State and Federal Correctional Facilities and from Bureau of Justice Statistics sentencing data. While the former pertain only to felons sentenced to state or federal prison, analysis of the latter allows us to identify trends among persons who are convicted of felonies but are sentenced to less than one year of confinement time (and therefore serve their confinement sentence in jail), felons who are sentenced to probation but not confinement, and misdemeanants.

Although useful for assessing the prevalence with which monetary sanctions are imposed, these national-level data do not shed light on the magnitude of the monetary sanctions assessed. In order to assess the magnitude and accumulation of legal debt, we analyze data regarding the dollar value of the monetary sanctions imposed by Washington State superior courts for all felony cases sentenced in the first two months of 2004 ($n = 3,366$). This sample was drawn from the Washington State Sentencing Guidelines Commission (WSSGC) database, which summarizes information entered from individual judgment and sentence forms submitted each month by every superior court in the state to the Washington State Administrative Office of the Courts (WSAOC). The unit of analysis in this data set is convictions rather than individuals. These data include only the monetary sanctions assessed by Washington State superior courts. Although Washington State courts may now impose an impressive range

of monetary sanctions (see table 1), these court data omit other potential sources of legal debt, including jail fees, department of corrections (DOC) fees, and the accumulation of interest on unpaid legal obligations. In addition, these data capture the sanctions imposed for a single felony charge, yet many of those convicted of a felony offense are convicted of multiple charges; many also acquire multiple criminal convictions over time. These court conviction data thus shed light on the magnitude of the monetary sanctions associated with a single felony charge only.

Ideally, our assessment of the magnitude of the monetary sanctions imposed by the penal system would be based on national rather than state-level data. However, the imposition of monetary sanctions is largely a state and local affair; the acquisition of empirical information about this practice will necessarily be an incremental process.¹⁴ Given the absence of data regarding the magnitude of the LFOs imposed on criminal defendants in other states, it is not currently possible to ascertain whether the magnitude of the LFOs imposed by Washington State criminal justice agencies is typical. However, reports from other states suggest that the monetary sanctions imposed in Washington State are broadly similar to those that may be assessed in other states (see, e.g., McLean and Thompson 2007; Rosenthal and Weissman 2007).

In order to assess how legal debt imposed by a broader range of criminal justice agencies accumulates over time in the lives of persons with criminal histories, we randomly selected 500 individuals from among those convicted of a felony in Washington State superior courts in January or February 2004. We then compiled and analyzed data provided by the WSAOC regarding all monetary sanctions that had been imposed on these 500 individuals by juvenile, state, and local courts over their lifetimes as of May 2008. These data also include information about the amount of legal debt these same 500 individuals owed to the courts and to the DOC as of May 2008. Unlike the cross-sectional data from which this subsample was drawn, these longitudinal data provide a sense of how legal debt imposed by a broader range of criminal justice agencies accumulates in the lives of persons with criminal histories. Nonetheless, these data still underestimate the magnitude of the legal debt possessed by people with criminal histories, as they omit monetary sanctions potentially imposed by federal courts, jails, county clerks, private collection agencies, and offices of public defense or assigned counsel. Our results therefore underestimate the size of the legal debt possessed by Washington State residents with criminal histories.

¹⁴ Over 94% of all convicted felons are sentenced in state courts; only 5.8% are sentenced in federal courts (Durose 2004, table 1.10). Those accused of misdemeanors are sentenced in lower, or local, courts.

TABLE 1
 AUTHORIZED MONETARY SANCTIONS: WASHINGTON STATE SUPERIOR COURTS

Obligation Type	Amount Specified	Applicable Cases	RCW
Payments to victims:			
Victim penalty assessment	\$500	Mandatory for all felony convictions	7.68.035
Restitution	Up to twice the offender's gain or victim's loss	Felony convictions involving injury to person or loss of property	9.94A.753
Fees:			
Bench warrant*	\$100	Bench warrant issued	10.01.160
Filing/clerk's fee*	\$200	All felony convictions	36.18.00
Court-appointed attorney fee ...	Not specified	Defense attorney provided by state	9.94A.00
Deferred prosecution*	\$150	Prosecution deferred	10.01.10
Crime lab analysis fee	\$100	Lab work performed	43.43.60
DNA database fee	\$100	DNA entered into database	43.43.74
Jury fee	\$125 6 person/\$250 12 person	Cases adjudicated at jury trial	10.46.10
Interlocal drug fund	Variable	Most felony drug convictions	69.50.41
Incarceration costs	\$50 per prison/\$100 per jail day	Convictions resulting in confinement sentence; cost of pretrial supervision	9.94A.70
Emergency response	Actual costs	Vehicle assault and homicide	38.52.40
Extradition costs	Actual costs	Extradition involved	9.95.210
Extension of judgment fee	\$200	Judgment after 10 extended years	6.17.020
Fines:			
VUCSA fine	\$1,000/\$2,000	Drug convictions	69.50.430
Domestic violence penalty	Up to \$100	Domestic violence convictions	10.99.00
Other fines	Not specified	All	9.94A.50

NOTE. — *RCW = Revised Code of Washington*; *VUCSA = violation of the Uniform Controlled Substance Act*. Only legal financial obligations that may be assessed by Washington State superior courts are listed; other fees assessed by clerks, collection agencies, jails, municipal courts, district courts, and the department of corrections are not shown.

* Fee may be imposed absent conviction: "Costs may be imposed only upon a convicted defendant, except for costs imposed upon a defendant's entry into a deferred prosecution program, costs imposed upon a defendant for pretrial supervision, or costs imposed upon a defendant for preparing and serving a warrant for failure to appear" (*RCW* 10.01.160). Incarceration costs and attorney fees cannot be imposed by the court without a conviction, although jails and offices of public defense may charge their own separate fees independent of conviction status.

The WSSGC database from which the cross-sectional and longitudinal data were drawn includes information about defendants' race/ethnicity, gender, and age, as well as their case characteristics. Although some Hispanic defendants were identified as such in the WSSGC database, some state courts identify defendants by race only, ignoring ethnicity/Hispanicism. As a result, some Hispanic defendants were not classified as such in the WSSGC database. We used Hispanic Surname Analysis to estimate the proportion of white, black, and other defendants who are Hispanic. This program uses the U.S. Census Spanish Surname database and assigns a numeric value between 0 and 1 to all surnames in that database. These numeric values are provided by the U.S. Census Department and represent the probability that a given surname corresponds to persons who identified themselves as Hispanic/Latino in the 1990 U.S. census (Word and Perkins 1993; Perkins 1996). The list used to identify defendants of Hispanic origin in the WSSGC data included only Spanish surnames that are classified by the Census Bureau as "heavily Hispanic."¹⁵ The demographic characteristics of the full sample and subsample are very similar, as shown in table 2.

Finally, we draw on interviews with 50 Washington State residents living with a felony conviction to assess how legal debt affects those who possess it and to analyze whether and how monetary sanctions may contribute to the accumulation of disadvantage. We interviewed and surveyed 50 people who had at least one felony conviction from one or more of four Washington State counties (King, Pierce, Yakima, and Clark). These interviews were supplemented by informational interviews with at least one correctional officer and one defense attorney working in each of these four counties and three county clerks; seven superior court judges were also interviewed.

The four counties in which we recruited these interview subjects were selected to maximize variation in LFO assessment and demographic composition. Respondents with felony convictions were recruited through flyers posted in a variety of clerk, court, social service, and DOC offices and by word of mouth. The flyers indicated that our study would investigate the personal and financial effects of LFOs. Approximately 50 flyers were posted over two months. The sample obtained from this recruitment effort is a convenience rather than a probability sample and is not representative

¹⁵ It is possible that applying this methodology led to the misidentification of some (mainly white) defendants as Hispanic. It is also possible that some Hispanics remain unidentified as such, as many Hispanics do not have surnames that are on the list generated by the Census Bureau. However, by classifying only those with surnames considered to be "heavily Hispanic," we have presumably erred on the side of undercounting Hispanics.

Drawing Blood from Stones

TABLE 2
 DEMOGRAPHIC CHARACTERISTICS OF SENTENCED FELONS:
 WASHINGTON STATE SUPERIOR COURTS (%)

	Full Sample (<i>n</i> = 3,366)	Subsample (<i>n</i> = 500)
Race/ethnicity:		
Black	13	12
White	68	70
Latino/Hispanic	11	9
Native American	2	2
Asian/Pacific Islander ...	2	2
Other	4	3
Gender:		
Male	81	83
Female	19	17
Age (median years)	33	32

SOURCE.—Washington State Guideline Commission and Administrative Office of the Courts.

of all persons convicted of felonies.¹⁶ Although the gender composition of our interviewees is nearly identical to the gender composition of Washington State and U.S. felons, blacks are overrepresented, and whites underrepresented, in our interview sample (see table 3).

Because of the nonrandom nature of the interview sample, the interview results may not capture the experience of persons convicted of felonies across Washington State or the United States. However, our interview sample includes people with fairly typical LFOs. Specifically, the amount assessed to those we interviewed ranged from \$500 to approximately \$80,000, with a median LFO of \$9,091. Similarly, in our subsample of 500 drawn from the court records, assessments ranged from \$500 to \$305,145, with a median debt of \$7,234. Thus, the median legal debt reported by our interviewees was only slightly larger than possessed by Washington State felons generally. Neither does the overrepresentation of blacks among our interviewees appear to have led our sample to be notably poorer than felons generally. Specifically, just over half of those we interviewed reported monthly household incomes that placed them under the federal poverty line; nationally, 80% of those charged with a felony offense are indigent (New York State Bar Association 2006). Our interviews thus provide a window into the financial lives of felons with fairly typical incomes and LFOs.

The interviews lasted from one to two and a half hours and were conducted individually in a variety of public spaces, including DOC of-

¹⁶ As a result, there is no response rate.

TABLE 3
 DEMOGRAPHIC CHARACTERISTICS OF INTERVIEW SAMPLE: WASHINGTON STATE FELONS
 AND U.S. FELONS (%)

	Legal Financial Obligations Interview Sample (2007)	Washington State Felons (2004)	U.S. Felons (2004)
Race/Ethnicity:			
Black	52	13	36
White	36	72	59
Other	12	5	3
Gender:			
Male	82	81	82
Female	18	19	18
Age (median years) ...	37	31	32

SOURCES.—Authors' analysis; Washington State Guideline Commission and Administrative Office of the Courts; U.S. Department of Justice, Bureau of Justice Statistics, National Judicial Reporting Program, 2004.

NOTE.—National data include those convicted of felonies in state superior courts across the United States. Hispanicism is not systematically reported in either data set but was inferred in the Washington State database using Hispanic Surname Analysis.

fices, coffee shops, churches, and shelters. Participants were paid \$20 for their time. Each interview began with a survey questionnaire that included questions regarding the year of the last felony conviction, the number of felony convictions, estimated legal assessment and debt, monthly income, demographic characteristics, housing situation, marital status, and number of children. After the surveys were administered, interviewers posed more open-ended questions designed to assess how legal debt affected our respondents. Specifically, the interview questions explored how the interviewees acquired information about their LFOs, how and by whom their monthly minimum payments were determined, whether they made regular payments, why they did or did not make regular payments, and the consequences of making or not making regular payments.

The open-ended portion of the interviews was digitally recorded and transcribed for analyses. We used a grounded theory approach to analyze these qualitative data. We met frequently throughout the time in which the interviews were collected to discuss emerging and salient themes (see Glaser and Strauss 1967; Miles and Huberman 1984; Strauss 1987; Lofland et al. 2006). We then coded the transcriptions for main themes, concepts, and events. This inductive analytic approach allowed us to investigate the “meanings, intentions and actions of the research participants” (Charmaz 2001, p. 337). Once the codes were created, memos on key themes were developed (Emerson, Fretz, and Shaw 1995). Contrary or diverging findings were also noted and allowed us to highlight potential

variation in informants' experiences or understandings. Representative excerpts from the interviews were then identified and are used below to illustrate these key themes.

FINDINGS

Monetary Sanctions: Prevalence and Trends

The Survey of Inmates in State and Federal Correctional Facilities provides nationally representative data regarding state and federal prison inmates (who, by definition, were convicted of at least one felony offense). The survey asks inmates about any monetary sanctions imposed by the courts; the results do not include monetary sanctions imposed on prisoners by departments of corrections, jails, or other noncourt agencies. These data therefore understate the prevalence with which monetary sanctions are imposed on felons sentenced to prison. Nonetheless, the results indicate that two-thirds (66%) of the prison inmates surveyed in 2004 had been assessed monetary sanctions by the courts, a dramatic increase from 25% in 1991 (see fig. 1).

These survey results thus indicate that the proliferation of authorized fees and fines has in fact led to the increased imposition of monetary sanctions in the federal and state courts. Although fees are the most common type of monetary sanction imposed on felons sentenced to prison, the percentage of prison inmates who received fines and restitution orders

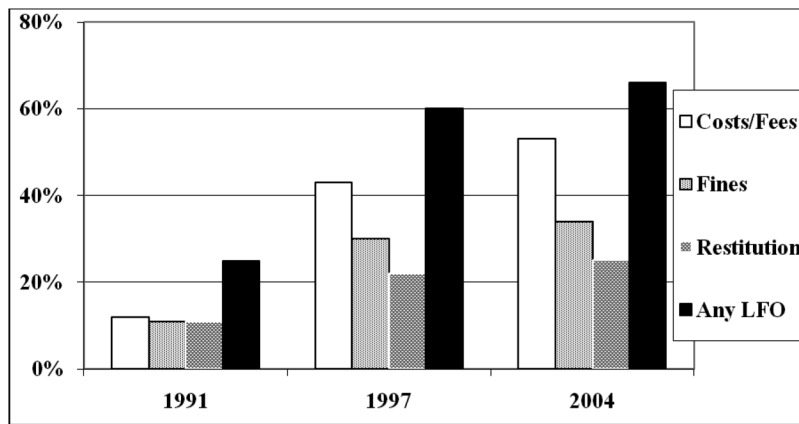


FIG. 1.—Percentage of prison inmates with court-imposed monetary sanctions by type of sanction, 1991–2004. Sources: Authors' compilations; data from U.S. Department of Justice, Bureau of Justice Statistics; Survey of Inmates in State and Federal Correctional Facilities, Ann Arbor, Mich. (Interuniversity Consortium for Political and Social Research [producer and distributor], 2007-02-28, nos. 6068, 2598, 4572).

as part of their court sentence has also jumped notably, from 11% to 34% and 25%, respectively. Thus, although fees are most frequently imposed by the courts on felons sentenced to prison, one-third of all felons sentenced to prison are also fined, and one-quarter are obligated to pay restitution by the courts.

When disaggregated by jurisdiction, the results of the inmate survey indicate that the use of monetary sanctions is now common in the majority of U.S. states and in the federal system (see table 4). Specifically, in 2004, a majority of inmates reported that they had been assessed monetary sanctions by the courts in 36 of the 51 jurisdictions listed in table 4.

These prison inmate survey data include only felons sentenced to prison. Yet 30% of felons are sentenced to probation rather than confinement, and some felons serve their confinement sentence in jail (Bureau of Justice Statistics 2004). Moreover, misdemeanants are not sentenced to prison. As a result, the prison inmate survey results do not shed light on the frequency with which monetary sanctions are imposed on either felons not sentenced to prison or misdemeanants.

Court and survey data collected by the Bureau of Justice Statistics help to fill these lacunae. These data indicate that misdemeanants and felons not sentenced to prison are even more likely than felons who are sentenced to prison to receive monetary sanctions. Specifically, 84.2% of felons sentenced to probation were ordered by the courts to pay fees or fines in 1995; 39.7% were also required to pay restitution to victims. Similarly, 85% of misdemeanants sentenced to probation were assessed fees, fines, or court costs; 17.6% were also assessed restitution. It thus appears that felons sentenced to probation and misdemeanants are more likely than felons sentenced to prison to receive monetary sanctions.

The data shown in figure 2 provide additional evidence that the frequency with which fines are imposed on persons convicted of felony offenses in state courts has increased.¹⁷ For example, the percentage of felons sentenced to jail who were also fined rose from 12% in 1986 to 37% in 2004. The share of felons sentenced to probation and prison who also receive fines has also increased since 1986 (see fig. 2). These data thus challenge the claim that fines are rarely imposed for felonies in the United States (Nagin 2008, p. 38); it appears instead that monetary sanctions are now a common supplement to confinement and criminal justice supervision.

In sum, the national inmate survey and court data support three conclusions regarding the use of monetary sanctions. First, the imposition of monetary sanctions is increasing, and a majority of felons and misdemeanants now receive monetary sanctions as part of their criminal sen-

¹⁷ Unfortunately, this longitudinal survey does not specifically ask about fees.

tence. Insofar as these data include only information about monetary sanctions imposed by the courts, the true prevalence of monetary sanctions is likely even greater than indicated by our findings. Second, misdemeanants and felons sentenced to probation are even more likely than felons sentenced to prison to be assessed monetary sanctions by the courts. Finally, although fees are the most frequently imposed monetary sanction, the use of fines has also increased over time.

Given estimates of the number of people who are sentenced as felons and misdemeanants each year, these findings suggest that millions of mainly poor people living in the United States have been assessed monetary sanctions by the courts. Below, we analyze data provided by the WSAOC to empirically assess the dollar value of the monetary sanctions imposed and to analyze their accumulation over time.

The Magnitude and Accumulation of Monetary Sanctions

The results described in this section shed light on the magnitude and accumulation of the monetary sanctions imposed in Washington State. Table 5 provides descriptive statistics regarding the monetary penalties assessed for all felony cases sentenced in Washington State superior courts during the first two months of 2004. The minimum and maximum amounts shown indicate that there is wide variation in LFO assessment. Specifically, the minimum amount assessed for conviction of a single felony charge was \$500; the maximum was a surprising \$256,257. As a result of this variation, the median and mean dollar values were quite disparate. Specifically, the median dollar value of the LFOs assessed per felony conviction was \$1,347; the mean LFO assessment was \$2,540.

These data illuminate the nature of the monetary penalties imposed by Washington State courts for conviction of a single felony charge. However, they do not include other sources of legal debt or show how legal debt accumulates over the life course of persons with criminal histories. Toward these ends, table 6 shows the total LFO amounts assessed to, and owed by, 500 of the (randomly selected) defendants sentenced by the Washington State superior courts in the first two months of 2004. In this table, the value of LFOs assessed includes monetary sanctions imposed by juvenile, district, and superior courts over the life course as of May 2008; legal debt refers to the amount currently owed and also includes fees assessed by the Washington State DOC and the accumulation of interest over time.¹⁸ Neither of these two categories includes any fees potentially as-

¹⁸ In Washington State, fees and fines assessed by the courts are subject to interest, but costs charged by the DOC are not. The Washington State DOC charges inmates for the cost of their imprisonment, supervision, and court-mandated tests (unless

TABLE 4
 PRISON INMATES WITH COURT-IMPOSED MONETARY SANCTIONS BY
 JURISDICTION, 2004

Jurisdiction	Percentage with Court-Imposed Monetary Sanctions	Number of Inmates Surveyed
Alabama	69	54
Alaska	84	295
Arizona	42	162
Arkansas	56	418
California	82	1,729
Colorado	86	218
Connecticut	7	188
Delaware	75	116
District of Columbia ...	0	1
Florida	60	826
Georgia	42	549
Hawaii	35	34
Idaho	26	464
Illinois	52	299
Indiana	91	161
Iowa	67	51
Kansas	68	143
Kentucky	28	170
Louisiana	14	209
Maine	55	141
Maryland	29	249
Massachusetts	0	1
Michigan	48	425
Minnesota	78	59
Mississippi	85	478
Missouri	72	188
Montana	71	79
Nebraska	58	38
Nevada	52	410
New Hampshire	91	321
New Jersey	54	107
New Mexico	76	758
New York	86	7
North Carolina	43	49
North Dakota	69	49
Ohio	34	520
Oklahoma	83	271
Oregon	59	124
Pennsylvania	80	460
Rhode Island	66	56
South Carolina	25	214
South Dakota	83	48
Tennessee	55	239

Drawing Blood from Stones

TABLE 4 (Continued)

Jurisdiction	Percentage with Court-Imposed Monetary Sanctions	Number of Inmates Surveyed
Texas	43	1,997
Utah	57	81
Vermont	82	353
Virginia	50	16
Washington	92	205
West Virginia	86	228
Wisconsin	100	2
Wyoming	0	1
Federal prisons	90	3,541
All jurisdictions	66	17,802

SOURCES.—U.S. Department of Justice, Bureau of Justice Statistics; Survey of Inmates in State and Federal Correctional Facilities, Ann Arbor, Mich. (Interuniversity Consortium for Political and Social Research [producer and distributor], 2007-02-28, nos. 6068, 2598, 4572).

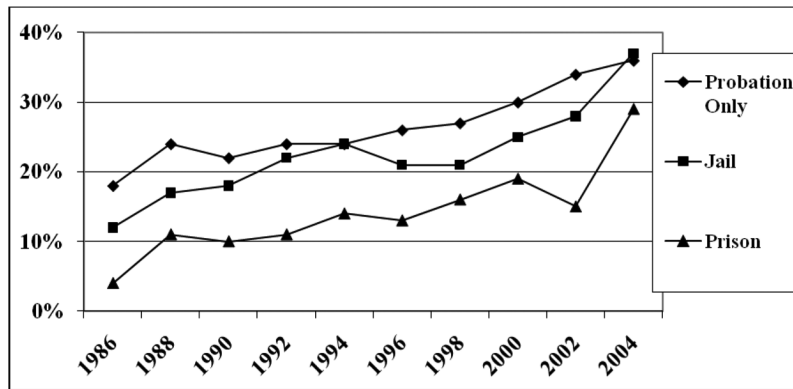


FIG. 2.—Percentage of convicted felons with fines by sentence type, 1986–2004. Sources: Authors' compilations; data from the Bureau of Justice Statistics, Felony Sentences in State Courts, 1986–2004.

sessed by jails, clerks, private collection agencies, or offices of public defense/assigned counsel. The results therefore underestimate the accumulation of legal debt in the lives of people with criminal histories.

Nonetheless, the results shown in table 6 indicate that average LFO assessments to, and the average legal debt possessed by, persons convicted of a felony offense in 2004 are substantial. On average, these 500 indi-

waived by the court or by the DOC). It collects payments for these costs during the time of confinement and supervision but does not actively collect payments for DOC fees once a person has been released from supervision.

TABLE 5
 MONETARY SANCTIONS ASSESSED BY WASHINGTON STATE SUPERIOR COURTS PER
 CONVICTION, 2004 (\$)

	Median	Mean	Min	Max
Violent offenses (<i>n</i> = 295)	935	5,444	500	256,257
Drug offenses (<i>n</i> = 1,111)	1,647	2,069	500	33,770
Other offenses (<i>n</i> = 1,960)	1,010	2,536	500	185,346
Total legal financial obligations, all offenses (<i>n</i> = 3,366)	1,347	2,540	500	256,257

SOURCE.—Washington State Guideline Commission and Administrative Office of the Courts.

viduals had been assessed \$11,471 by the courts by 2008; the mean amount these same individuals owed was similar, at \$10,840. Overall, the mean ratio of LFO assessments to LFO debt is 0.77, meaning that in 2008, felons in our subsample owed 77% of what they had been assessed by the courts over their lifetime. If we focus on median LFO assessment and legal debt, the pattern is similar: felons included in the sample had typically been assessed \$7,234 and owed \$5,254, with a median ratio of 0.77. It thus appears that legal debt is sustained over time for many of those who receive monetary sanctions.

The significance of these LFOs may be best appreciated by placing them in the context of expected earnings. The following analysis draws on Western's (2006) estimates of the annual earnings of formerly incarcerated men to illustrate the significance of average and typical legal debts in relation to estimated earnings.¹⁹ We use Western's estimates because they are based on a nationally representative sample of formerly incarcerated men. Because he analyzed the earnings of men who served time in jail or prison, the LFO data shown below are also limited to men who were sentenced to confinement.²⁰

¹⁹ Western's estimates are based on analysis of National Longitudinal Survey of Youth data and refer to the annual earnings of a 27-year-old who was previously incarcerated (2006, p. 116). His income measure is based on self-reported earnings, which exclude transfer payments from general assistance or unemployment insurance. Although general assistance may enhance income for some men, most formerly incarcerated men have not worked enough to qualify for unemployment insurance (Western 2006). In some states, felons are disqualified from general assistance (Uggen et al. 2006). General assistance was recently terminated in Washington State.

²⁰ Although felons sentenced to probation rather than prison may be slightly less disadvantaged than felons sentenced to jail or prison, this difference appears to be relatively small. In 1995, 54.4% of felony probationers had a high school diploma or GED (General Equivalence Degree), compared to 30.6% of prisoners and 87.3% of young adult males living in the United States (Uggen et al. 2006, table 3). Overall, 80% of those charged with a felony offense are indigent (New York State Bar Association 2006).

TABLE 6
 MEDIAN AND MEAN ASSESSED AND OWED LEGAL FINANCIAL OBLIGATIONS: WASHINGTON STATE FELONS, 2008

Race/Ethnicity (n)	Median LFOs		Median Legal		Mean LFOs		Mean Legal		Ratio: Mean Legal Debt/Assessed LFO
	Assessed by 2008 (\$)	Debt by 2008 (\$)	Debt by 2008 (\$)	Legal Debt/Assessed LFO	Assessed by 2008 (\$)	Debt by 2008 (\$)	Debt by 2008 (\$)	Legal Debt/Assessed LFO	
Black (64):	5,369	3,802	3,802	.72	11,879	15,641	15,641	.76	
Men (55)	5,733	3,970	3,970	.73	13,201	17,769	17,769	.75	
Women (9)	3,610	2,750	2,750	.64	3,799	2,635	2,635	.78	
Hispanic (45):	4,440	3,734	3,734	.86	10,477	9,194	9,194	.82	
Men (38)	4,350	3,704	3,704	.86	8,975	7,149	7,149	.77	
Women (7)	7,724	9,845	9,845	1.22	18,635	20,293	20,293	1.05	
White (351):	7,877	5,897	5,897	.78	11,692	10,532	10,532	.76	
Men (278)	9,044	6,672	6,672	.79	12,664	11,518	11,518	.76	
Women (73) ...	5,631	3,333	3,333	.72	7,991	6,774	6,774	.75	
Other (40):	8,372	6,117	6,117	.81	10,005	7,723	7,723	.80	
Men (34)	6,810	5,697	5,697	.69	9,216	6,641	6,641	.77	
Women (6)	13,045	12,432	12,432	.96	14,478	13,855	13,855	.98	
All (500)	7,234	5,254	5,254	.77	11,471	10,840	10,840	.77	

SOURCE.—Washington State Administrative Office of the Courts.

NOTE.—Legal financial obligation (LFO) assessment includes monetary sanctions imposed by state and district (local) courts. LFOs owed also include any department of corrections charges outstanding in 2008 and the accrual of interest on court-imposed sanctions but also reflect payments made. Individuals included in the sample had an average of five court convictions by May 2008; n = 500.

TABLE 7
 MEDIAN AND MEAN LEGAL DEBT IN RELATION TO ESTIMATED ANNUAL EARNINGS:
 FORMERLY INCARCERATED BLACK, HISPANIC, AND WHITE MEN

	Black Men	Hispanic Men	White Men
Estimated average annual earnings (2008 dollars)	8,012	10,432	11,140
Legal debt by 2008 (\$):			
Median	3,970	3,704	6,672
Mean	17,769	7,149	11,518
Legal debt as a percentage of ex- pected annual earnings:			
Median	49.6	35.5	59.9
Mean	222	69	103

SOURCES.—Washington State Administrative Office of the Courts; Western 2006, table 5.2.
 NOTE.—Western’s (2006) estimates of average annual earnings of formerly incarcerated men were provided in 2004 dollars; these have been converted to 2008 dollars; $n = 500$.

Western’s findings indicate that formerly incarcerated white men earned an annual average of \$11,140; Hispanic men earned \$10,432, and black men earned \$8,012.²¹ If we compare these expected earnings to median legal debt, it appears that formerly incarcerated white, Hispanic, and black men owed 60%, 36%, and 50%, of their annual incomes in legal debt, respectively (see table 7). If we compare expected earnings to average (mean) legal debt, the results indicate that formerly incarcerated white men had, by 2008, been assessed monetary sanctions roughly equivalent to their expected annual earnings. The average legal debt of formerly incarcerated Hispanic men is equivalent to 69% of their expected earnings. For black felons, however, average legal debt was equivalent to more than twice (222%) their expected earnings. These findings indicate that typical legal debt is quite substantial relative to the expected earnings of formerly incarcerated men.

Table 8 takes into account the accumulation of interest on court-imposed monetary sanctions and helps to explain why legal debt tends to be long term. The results show that even felons who make payments of \$100 a month (11% of the expected monthly earnings for formerly incarcerated white men, 12% for formerly incarcerated Hispanic men, and 15% for formerly incarcerated black men) toward a typical (median) legal debt will still possess legal debt 10 years later because of the accumulation of interest. Felons who consistently pay \$50 a month will still possess legal debt after 30 years of regular monthly payments.

In summary, Washington State court data indicate that the dollar value of the monetary sanctions levied against, and owed by, persons convicted

²¹ Western’s results have been converted to 2008 dollars.

TABLE 8
 LEGAL FINANCIAL OBLIGATION AMOUNT OWED IN 5, 10, 15, AND 30 YEARS BY
 MONTHLY PAYMENT FOR MEDIAN WASHINGTON STATE LEGAL ASSESSMENT

LEGAL DEBT	MONTHLY PAYMENT (\$)			
	\$10	\$25	\$50	\$100
5 years later	12,325	11,100	9,059	4,975
10 years later ...	21,575	18,124	12,373	871
15 years later ...	38,378	30,884	18,395	0
30 years later ...	225,110	172,686	85,311	0

NOTE.—Typical (median) LFO amount assessed by the courts by individuals included in our subsample of 500 was \$7,234 in 2008.

of a felony offense is substantial relative to expected earnings. Even those who make regular payments of \$50 a month toward a typical legal debt will remain in arrears 30 years later, and it will take more than a decade for those who regularly pay \$100 a month to eradicate their legal debt, even assuming no additional monetary sanctions are imposed. These findings suggest that monetary sanctions create long-term legal debt and significantly extend punishment’s effects over time. Below, we draw on our interview data to identify the consequences that flow from the often long-term possession of legal debt.

The Consequences of Legal Debt

Our interview findings suggest that legal debt has three sets of adverse consequences. First, respondents who made LFO payments lose income and experience heightened financial stress. This drain on their income represents an additional economic liability that compounds the challenge of securing employment. Second, possession of legal debt—and resulting poor credit ratings—constrains opportunities and limits access to status-affirming institutions such as housing, education, and economic markets. Third, when respondents do not make regular payments, they often experience criminal justice sanctions, including warrants, arrest, and reincarceration. As a result, our interviewees conveyed a strong sense that they were unable to disentangle themselves from the criminal justice system and, in addition to carrying the stigma of a felony conviction, were burdened with an economic punishment that constrained their daily lives and future life chances. Each of these findings is described below. First, however, we briefly summarize our survey findings, which shed light on our interviewees’ financial circumstances.

Financial context.—Like most felons, our interviewees reported living under adverse social and financial circumstances (see table 9). Fewer than

TABLE 9
 LEGAL FINANCIAL OBLIGATIONS INTERVIEW SAMPLE: SOCIAL AND FINANCIAL
 CHARACTERISTICS (*n* = 50)

Characteristic	Percentage
Employed (full or part time)	48
Less than a high school education	26
High school degree or General Equivalence Degree only ...	40
Unstably housed/homeless	26
Supporting minor children	58
Below federal poverty line	51
On community supervision	60
Formerly incarcerated	100

half (48%) were employed at the time of the interview. One-quarter (26%) of those interviewed were unstably housed (e.g., living in transitional housing or temporarily with a friend/family member) or were homeless. Over half (58%) were supporting children either by raising a child in their home or by providing child support payments. Most (60%) were under community supervision at the time of the interview, and all had previously been incarcerated. Just over one-quarter (26%) had less than a high school education; another 40% had only a high school diploma or a GED. Over half (51%) of those interviewed were living on incomes that fell below the federal poverty line. (Poverty rates were estimated on the basis of reported household income, marital status, and the number of dependent children.) Although the interview sample was not randomly drawn, the social and financial circumstances reported by our respondents were thus similar to those found in national studies.

Reduced income and wealth.—Legal debt reduced our respondents’ income and their capacity to accumulate wealth. The most obvious impact was a reduction in take-home pay after monthly LFO payments were made. In some instances these payments were made voluntarily; in other cases, they resulted from court-mandated wage garnishment. In either case, making LFO payments reduced household income and decreased opportunities to accumulate savings, make investments, or purchase assets—all of which are vital to building wealth.

A minority (20%) of those we interviewed indicated that making payments toward their legal debt was not unduly burdensome. Yet the vast majority did not find themselves in such fortuitous circumstances. Living on limited incomes and in precarious housing situations meant that making even small payments was a significant burden for most of our respondents. Respondents who made regular payments were less able to meet other pressing needs, such as paying for rent, medicine, and food, or to financially support their children. Many described making difficult

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decisions about which bills to pay and which needs to meet in the face of a financial shortfall each month. As Darrell explained:

I take it [the LFO payment] out of my Social Security check, it's part of my budget, so at the beginning of the month, I make my budget, I pay my rent, I pay my house fees, because there's a fee to stay at the house where I'm at, for toilet paper, laundry soap, stuff like that, and then I also put money, I get the money orders for paying my LFOs. But sometimes, if I pay my LFO, I don't have enough left over for food.

Respondents often provided a careful accounting of every dollar that comprised their monthly budget. Many indicated that after making payments toward their obligations, including legal debt, they would not have enough money left over to pay for food. In some cases, as Jose describes below, making LFO payments would force them to downgrade their housing situation:

I got my Section 8 voucher. . . . If I [got] a one-bedroom apartment, my part would only be \$216 a month, but I don't have \$216 a month. Cause I gotta pay \$50 a month on the LFOs. If I did pay the \$216, I couldn't feed myself, I couldn't pay LFOs and utilities. So I gotta stay in this shelter.

Many respondents expressed great difficulty in making ends meet while also paying their LFOs. In attempting to resolve this dilemma, some reported borrowing money. Chris describes such circumstances in the following excerpt:

A lot of the things that I have bills for are personal loans, people who help me to make it through the month. So I pay them back at the end of the month. For me, paying people [that I borrow from] is a priority more than it is paying these things [LFOs] that I have been paying for a long time.

Some respondents stressed the importance of making regular payments toward their LFOs, even if it meant other areas of their lives would be negatively affected. Even in such cases, though, interviewees feared that they would never be able to rid themselves of their legal debt. Indeed, all but one of our respondents described their legal debt as long term and predicted that it would hang over their heads for many years to come. Below, Jeff describes the frustration he feels because his legal debt accumulates despite his regular payments:

My biggest question is like uh, you know, am I ever going to pay this amount off? At the rate I'm going now, I'll never pay it off. That amount now is about \$44,000. Because of the interest, and in spite of me paying the payments pretty religiously.

Indeed, as Ross describes below, many of our respondents noted that their legal debt would hang over their heads for the long haul.

I figured out that like all the funds I owed, going on the current payment plans, I figure out I'll be paying till I'm past 30 years old. And I've been doing it [paying] since I was 18.

The fact that legal debt often grew despite regular payments led some to feel so frustrated that they eventually stopped paying. Gary illustrates this sentiment in the follow excerpt:

I mean, if you have a normal job, you can't really gain no headway. I mean, the bottom line is if I go pay on it, and \$50 a month ain't covering it, and I'm still, you know I'm still tolling forward, then why would you want to pay on something without seeing any deduction in the debt?

In summary, our respondents, like felons nationally, reported living on quite limited incomes. As a result, respondents who attempted to make regular payments were compelled to choose between competing financial obligations and pressing needs, including housing and food. While some borrowed, scrimped, and juggled money to make payments toward their LFOs, others told us that they did not make payments. Whether paying or not, legal debt was reported to be long term by all but one of our respondents.

Legal debt as opportunity constraint.—Even aside from the potential loss of income it entailed, legal debt was experienced by most of our respondents as a significant constraint that compounded the difficulty of securing housing, employment, occupational opportunities, and credit on favorable terms. For example, many of our respondents reported that their unpaid legal debt affected their credit ratings, which impaired their ability to find stable housing. As Thomas put it, “I couldn't get an apartment. They just said your credit's no good and we don't want to rent to you. ‘You're a liability,’ pretty much.”

Our respondents' inability to pay off their legal debt also constrained their efforts to enhance their education, keep necessary licenses, or otherwise improve their occupational situation. In the excerpt below, Michael describes the tension between his desire to further his education and the economic constraints his LFO payments represented:

I got my undergraduate degree prior to my conviction. I would like to do graduate school. I have not yet looked into, uh, what the finances of that is going to be, but um, yeah, \$200 [in LFOs] a month is going to have quite an impact on whether or not I can go to school full time, whether or not I can go to school at all.

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Some told us that legal debt constrained occupational options. Charles describes below how he lost his truck driver's license as a result of his outstanding LFOs:

Well, I've been a fisherman for a long time, and I've been a laborer, and now I'm truck driving. I can't do it [truck driving] no more. Because the state took my license away. I'm in noncompliance because I can't pay.

Legal debt also prevents some from accessing bank loans to support business endeavors or purchase assets. For example, Lisa, now working as a case manager in a reentry program, reported that she still is unable to secure bank loans more than a decade after her last conviction:

It [my legal debt] jammed my credit, shows up on my credit. . . . So my name can't be on the house, because, you know, I don't have any credit. And so, well we first had to get the loan through [her husband's] mother, and so now she's a co-borrower. . . . But even though I'm still a homeowner, but it's kind of like I'm really not because my name is not on anything, just because I pay for everything every month. . . . And then we have our own business, and so that's a, we um, have a couple transitional houses, and it's really hard for me to like get loans and stuff. So that's made it really hard.

For others legal debt created a disincentive to find work. For example, Sam reports that his legal debt encouraged him not to find a job but instead remain dependent on state benefits:

Cause as soon as I get off of DSHS, and I'm self-supporting, they will come in, each little outfit, and say, well we want this much, we want this much. They'll take it out of your check. And by that time, you were better off to stay on welfare.

Similarly, in the following excerpt, Jerry, a veteran, vacillates between struggling to make ends meet or enrolling in the local veterans retirement home:

I'm tempted to just go to the Old Soldier's Home and let the VA take care of me for the rest of my life. . . . It's, it's like a retirement home for veterans, but even though I'm only 50, I can go there. I'm eligible to go there, let them take care of me. . . . I don't want to give up—goin' to the Old Soldier's Home is kinda givin' up, you know—but I don't think I have a choice about it.

These reports are consistent with Holzer, Offner, and Sorensen's (2005) and Holzer's (2009) conclusions that child support payments impose a debilitating debt that discourages legitimate earnings, which would in

many cases be garnished. Indeed, many of those with legal debt are also obligated by the courts to make child support payments and would therefore be subject to garnishment for both purposes. Moreover, several community corrections officers (CCOs) interviewed for this study reported that employers generally dislike hiring those whose wages are garnished because of the cumbersome bureaucratic processes garnishment entails. To the extent that this is the case, people with either child support obligations or LFOs are additionally disadvantaged in the labor market.

Criminal justice consequences.—As noted previously, many of those interviewed for this study did not make regular LFO payments, a pattern that appears to be widespread (Ruback and Bergstrom 2006; Weisburd et al. 2008).²² In the following excerpt, Rhonda described feeling overwhelmed by the size her legal debt and her decision to try to ignore it

Interviewer: You don't really know how much you owe?

Rhonda: Mm-mmm. Cuz it started off with a four and then a comma, so, that's too much. [Baby cries.] So, from the beginning I was like, there's no way I can pay that. I was a kid without a job.

Many interviewees who did not make regular payments reported that this decision led to ongoing entanglement with the criminal justice system. Walter described waiting until he was arrested for nonpayment to find out how much he owes:

Interviewer: So it sounds like you don't know exactly how much you owe, but it's still in the thousands.

Walter: I don't have a clue.

Interviewer: You don't get any monthly statements?

Walter: No. I get arrested. And then they tell me.

Some of our respondents reported that their fear of being sanctioned for nonpayment led them to hide from the authorities. Here, Sam reports that he stopped making payments after he lost his job and, as a result, subsequently decided to evade the criminal justice system:

Well I was paying \$20 until I lost my job and I decided to just cut and run on these people, and then they caught up with me, and I just—he wanted me to send \$20 or \$40 a month—I said, [DOC officer's name], the money's not there! So I'm on the run again.

As a result of their nonpayment and decision to go “on the run,” many

²² These reports are generally confirmed by the court data, which indicate that a majority of those with felony convictions make no LFO payments in the 2–3 years after completion of their confinement sentence.

of our respondents continued to be ensnared in the criminal justice system. Some of these individuals were still serving a community supervision sentence at the time of our interview and reported that their failure to make regular LFO payments was the basis of a warrant, violation, rearrest, or reincarceration by the DOC.²³ As Steve explained,

If you miss a payment, then you get a probation violation. And that means like you go back to jail, you know, or they give you some time: it depends on who your probation officer is. . . . And so like, if, say I don't pay this much, they'll send something in the mail saying that if I don't make the payment then they'll issue a probation warrant out for my arrest.

Some respondents no longer under DOC supervision similarly reported that the courts issued a bench warrant for their arrest in response to nonpayment.²⁴ Robert, no longer under DOC supervision, described his recent arrest for nonpayment:

Interviewer: Have they ever picked you up for nonpayment?

Robert: Oh yeah, they came right to my door in the middle of the night.

Interviewer: And what happened then?

Robert: Oh, well they were real nice to me; they came and knocked on the door; they let me get my shoes and socks on. . . . They said you haven't made payments so you're under arrest.

Given the absence of any reference to the incarceration of legal debtors in the criminological literature, we were surprised that nearly one in four of our respondents reported having served time in jail as a sanction for nonpayment. Even more surprisingly, some of those we interviewed reported that their legal debt increased when they were reincarcerated for nonpayment because they were charged by the jail for the cost of their

²³ According to officials we interviewed, the DOC recently altered its policy and no longer responds to failure to pay LFOs by issuing warrants or incarcerating violators when failure to pay is the sole violation. Yet some of those interviewed for this study indicated that they had been sanctioned by their correctional officer solely for nonpayment. There appear to be four possible explanations for this discrepancy. First, it may be that our respondents were describing incidents that took place before the shift in DOC policy. Second, it may be that the DOC's new policy has not been fully assimilated and implemented across all counties. Third, our respondents may have had other violations in addition to failure to pay but did not realize, recall, or report this. Fourth, respondents may have thought their CCO issued the warrant but in fact the warrant was issued by the courts (which are authorized to issue warrants for any violation of any condition of sentence).

²⁴ This practice is allowed under state law: "If an offender violates any condition or requirement of a sentence, the court may modify its order of judgment and sentence and impose further punishment in accordance with this section" (RCW 9.94A.760)

reincarceration. Below, Pete describes being ill in jail yet not seeing a doctor for fear of the resulting fee:

And so I go back to jail, and by the time I left I owed \$261 to the jail. OK? Do you know when I went in I owed \$11. I stayed there one week, and by the time I checked out I owed \$261, and I didn't see the doctor; I didn't dare see the doctor even though I needed medication and I had withdrawals from being on lithium . . . because that would cost me another \$10 for the doctor visit. And I still racked up \$261.

Thus, some of those who told us that they were jailed for nonpayment reported that they were charged for these jail stays. By contrast, other respondents reported that spending time in jail was a means of reducing or eliminating debt. This, we learned, is officially known as the “pay-or-stay” option. Bob describes this process:

And then you go in front of the judge, and they say, well you have a probation warrant, a no-bail warrant, because you didn't pay your fines. . . . And then you say, well I can't pay, your honor; I'm not going to pay. I don't have the money to pay. He said, OK, 60 days. To wipe off your debt. You either pay, or you do 30–60 days to wipe off your debt.

CCOs working in the counties in which respondents reported being incarcerated for nonpayment confirmed that this pay-or-stay option was frequently used. The pay-or-stay option is authorized by state statute.²⁵

Some of our interviewees also told us that their legal debt had the effect of extending the time during which they were officially identified as criminally involved. Below, Susan reports that official court records identified her as still under community supervision, despite having completed that requirement:

So when they do your criminal history record, that stuff [LFOs] pops up. . . . So it pops up, because I know when I applied there they said, “Oh, you're still on active supervision.” . . . I told her I haven't been on active supervision for a long time; she was like well . . . she showed me the paper when they do your criminal history background, and it pops up as you still being on probation.

²⁵ Under *RCW* 9.94A.634(3)(c) and (d), incarceration for nonpayment of LFOs is permitted, but “before converting a defendant's legal financial obligations to jail time, for failure to make timely payments toward those obligations, the court must find that the defendant's failure to make payments was willful” (see also *State v. Curry*, 118 Wn.2d 911, 917–18, 829 P.2d 166 [1992]). It is not clear whether or how this determination was made or what circumstances constitute willful nonpayment. Washington State is not alone: a recent survey found that incarceration for nonpayment of monetary sanctions is authorized in all of the 10 states included in the study (Brennan Center for Justice, n.d.).

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Similarly, others reported that their LFOs prevented them from getting their criminal records sealed. Paul describes the long-term consequences of this process:²⁶

Well . . . after a certain amount of time your crime can get sealed, but if you haven't paid off the legal financial obligations off them, they can't get sealed. So like if I got 10 years on a felony without getting another one, then automatically it's sealed, but if I haven't paid my legal financial obligations, it won't.

Finally, several respondents indicated that LFOs encourage them to return to crime. Although only a few of our respondents raised this issue, it is conceivable that legal debt creates an incentive to seek illegal means to support themselves and, ironically, to make LFO payments, a pattern that would further increase the risk of criminal justice involvement. Justice describes this dilemma in the following excerpt:

And my last PO, I asked her for a bus ticket to get to my appointments; she's like, oh, we don't do that anymore. It's like, oh, OK, I'm not supposed to do any crime, I'm not supposed to . . . and frankly, I mean, I'm not trying or wanting to do any crime, and I still can't quite commit myself to do prostitution, but I think about it sometimes . . . at least that way I could pay some of these damn fines.

In summary, our respondents, like felons nationally, reported living on quite limited incomes. While some borrowed, scrimped, and juggled money to make payments toward their LFOs, others told us that they did their best to ignore their legal debt and did not make payments toward their LFOs. Many of our respondents indicated that legal debt reduced either their income or life chances, or both. Together with the increased risk of a warrant, arrest, and incarceration, these consequences added a significant additional burden to those already struggling to overcome multiple forms of disadvantage.

DISCUSSION

Summary of Findings

The data analyzed for this study support three main conclusions. First, the courts now routinely impose monetary sanctions on millions of people

²⁶ Washington State felons may request that their record is sealed after completion of all of the conditions of their sentence. This means that prospective employers and others will not see their conviction in the criminal record database. However, completion of all sentencing conditions, including payment of legal debt, is a prerequisite for expunction (*RCW* 10.97.060).

across the United States each year. Nationally, two-thirds of felons sentenced to prison, and more than 80% of other felons and misdemeanants, were assessed monetary sanctions by the courts in 2004. Contrary to popular perception, the use of monetary sanctions for nontrivial crimes has indeed caught on in the United States but as a supplement rather than alternative to other criminal punishments.

Because monetary sanctions are increasingly employed, and because the number of people convicted of criminal offenses in the United States has reached a record high, we can infer that the number of people who possess legal debt is significant and rapidly increasing. Indeed, the figures reported above suggest that over 1 million people sentenced as felons in 2004 received monetary sanctions from the courts; millions more received monetary sanctions from the misdemeanor courts that year. Yet even these figures dramatically understate the number of people who acquire legal debt, as many other criminal agencies also impose monetary sanctions. In Ohio and Texas, for example, 58% and 39% (respectively) of inmates exiting prison owe DOC supervision fees (McLean and Thompson 2007, p. 7). Although estimating the precise number of U.S. residents who possess legal debt is beyond the scope of this article, it appears likely that tens of millions of mainly poor people have received monetary sanctions and currently possess legal debt.

Second, Washington State data suggest that legal debt is substantial relative to the earning power of people with criminal histories. As a result, and because unpaid LFOs are often subject to interest and other collection fees, legal debt tends to be long term in nature. Our findings indicate that even if formerly incarcerated male debtors manage to pay \$100 a month—10%–15% of their expected monthly earnings—toward a typical legal debt, they will continue to possess substantial legal debt 10 years later. Because our data omit some potential sources of legal debt, these results almost certainly understate the magnitude of a typical Washington State legal obligation. Monetary sanctions imposed by the criminal justice system thus constitute an additional and substantial long-term financial liability for people living with a criminal conviction.

Finally, interviews with legal debtors suggest that legal debt contributes to the accumulation of disadvantage and the reproduction of inequality in three ways. First, if payments are made, the legal debt substantially reduces household income and compels people living on very tight budgets to choose between food, medicine, rent, child support, and legal debt. This financial effect is over and above the decline in employment and earnings that results from criminal conviction. Second, whether people make regular payments or not, monetary sanctions often create long-term debt, which in turn may reduce access to housing and employment, extend one's criminal status, limit possibilities for improving one's educational

or occupational situation, and worsen credit ratings. Legal debt also creates disincentives to find work and encourages some to go on the run. Third, legal debt heightens the risk of having an arrest warrant issued, which further destabilizes the lives of the wanted and their families and may lead to the termination of federal benefits, arrest, or incarceration.²⁷

Sociologists analyzing the role of debt and penal expansion in the stratification system have not recognized these potential effects. Below, we explore the implications of these findings for the study of criminal punishment, as well as for our theoretical understanding of how debt and penal expansion contribute to poverty and inequality.

Implications for Sociological Research and Theory

The study of criminal punishment.—These findings have two important implications for the study of criminal punishment. First, analysis of the dynamics surrounding the collection of LFOs may help to explain the ongoing expansion of the criminal justice system in the context of falling crime rates. Although our interviewees' claims that nonpayment-triggered criminal sanctions derive from just four Washington State counties, there is evidence that warrants are issued in response to nonpayment in other locales as well and that both correctional and bench warrants for nonpayment often lead to reincarceration. Nonpayment of legal debt appears to account for a nontrivial portion of probation and parole violations nationally. In 1991, 12% of the probation violations among probationers sent to state prison for technical violations involved failure to pay monetary sanctions (Cohen 1995, p. 3; see also McLean and Thompson 2007). In 1995, 34.1% of adult felony probationers had a disciplinary hearing as a result of failure to pay monetary sanctions; 29.1% of all disciplinary hearings resulted in incarceration (Bonczar 1997, tables 12 and 13). Approximately 15% of those serving time in a Washington State county from which our interview respondents were not drawn are behind bars as a result of their failure to make regular payments toward their legal debt (Lawrence-Turner 2009). Similarly, "incarcerations for court debt currently comprise 17% of all pre-trial commitments in the state of Rhode Island" (Rhode Island Family Life Center 2007, p. 16). And in her ethnographic study of a poor Philadelphia neighborhood, Goffman (2009) recounts several incidents of reincarceration (for up to a year) for failure to pay LFOs among the roughly 15 young men included in her study (see also *New York Times* 2009; Schwartz 2009). It thus appears that non-

²⁷ None of our felon interviewees told us that the issuance of a warrant for their arrest had triggered the cessation of benefits. However, defense attorneys with whom we spoke reported that they were aware of this occurring with some regularity.

payment of monetary sanctions may lead to a nontrivial number of warrants, arrests, probation revocations, jail stays, and even prison admissions in locales across the country.

Second, the fact that legal debtors are sometimes incarcerated for nonpayment illuminates some important historical parallels, which in turn invite sociological analysis. In particular, the incarceration of legal debtors raises the specter of the return of “debtor’s prisons,” in which debtors were routinely imprisoned across the United States (and elsewhere) through the 19th century (Coleman 1974; Mann 2002; Blackmon 2008; *New York Times* 2009; Schwartz 2009). Although the adoption of bankruptcy and usury laws purportedly put an end to this practice, legal debt created by monetary sanctions still cannot be eradicated through bankruptcy proceedings, and the Supreme Court has ruled that debtors whose nonpayment is “willful” may constitutionally be incarcerated for failure to pay off their debts. “Willful,” it appears, is a highly elastic concept.²⁸ Although little noticed, the incarceration of debtors continues and has been condoned by the Supreme Court as a legitimate state practice under some circumstances.

The impact of penal expansion on social inequality.—Our findings also have two important implications for our understanding of the role of U.S. penal institutions in the stratification system. The first of these pertains to our theoretical understanding of the process by which penal institutions reproduce poverty and inequality. Existing studies suggest that criminal conviction reproduces social disadvantage for several reasons. First, it creates a stigmatized status that constrains efforts to secure employment and reduces earnings. Second, the punished are physically separated from their families and communities and confined in circumstances that have been shown to worsen social, mental, and physical well-being. These outcomes affect not just the criminally convicted but their families and communities.

Yet our findings suggest that criminal punishment fuels poverty and inequality in other ways as well. Specifically, the widespread imposition of monetary sanctions creates long-term legal debt, which often has several adverse consequences: reduced household income, constrained opportunities, and ongoing criminal justice entanglement, even in the absence of repeated criminal conduct. These effects, like those of incarceration, are not limited to the legally guilty. In Washington State, for example, county clerks may impose additional collection fees; garnish of up to 25% of the wages of the debtor or his or her spouse; and seize bank assets, home

²⁸ For example, one CCO interviewed for this study told us that all nonpayment is willful because felons “can always go out and get a day job.” The relevant statutes do not specify how judges are to determine whether nonpayment is willful or nonwillful.

equity, and tax refunds (Beckett, Harris, and Evans 2008; see also Lawrence-Turner 2009). These effects have not been included in previous accounts of the impact of penal expansion on social inequality.

Figure 3 shows how monetary sanctions create additional mechanisms by which criminal conviction contributes to the reproduction of poverty and inequality; those that are specific to legal debt are highlighted. As this diagram makes evident, a comprehensive theoretical understanding of how penal expansion contributes to social inequality requires recognition of the frequency with which penal institutions now impose a particularly debilitating and consequential form of debt on millions of poor people each year.

Although we have emphasized legal debt's unique consequences, these effects coexist with many other sources of disadvantage and are best understood as cumulative and interactive rather than discrete causes of inequality. As Sampson and Laub (1997, p. 153) explain in their discussion of cumulative disadvantage, "Among the disadvantaged, things seem to work differently. Deficits and disadvantages pile up faster, and this has continuing negative consequences for later development. . . . Perhaps most problematic, the process of cumulative disadvantage restricts future options in conventional domains that provide opportunities for social 'inter-dependence' (e.g. stable employment)."

Our data suggest that monetary sanctions are significantly involved in this interactive and cumulative process. For example, having an arrest warrant leads some to opt out of the legal employment market and go on the run; it also makes it impossible to obtain a driver's license, which has been shown to reduce employment prospects (Pawasarat 2000, 2005). As noted previously, possession of an arrest warrant now leads to the cessation of many federal benefits in most states. Similarly, the short-term jail stays that may result from failure to pay LFOs have been found to further diminish employment, income, and housing stability (Council of State Governments 2005; Solomon et al. 2006). In short, our findings indicate that monetary sanctions interact with and compound other deficits in ways that lead to the accumulation of disadvantage and to the reproduction of inequality over time. As one of our interviewees explained,

Interviewer: So how do you manage the payments?

John: I rob Peter to pay Paul.

Interviewer: What do you mean by that?

John: Gypping other obligations that I should have been responsible for.

Interviewer: What were the other responsibilities?

John: Rent, and car payments, insurance payments, and um, well you think it's only a couple days, but you get pulled over, and then you've got no insurance, so then you get another ticket, another court, another fine added on to that, and you know, it just snowballs.

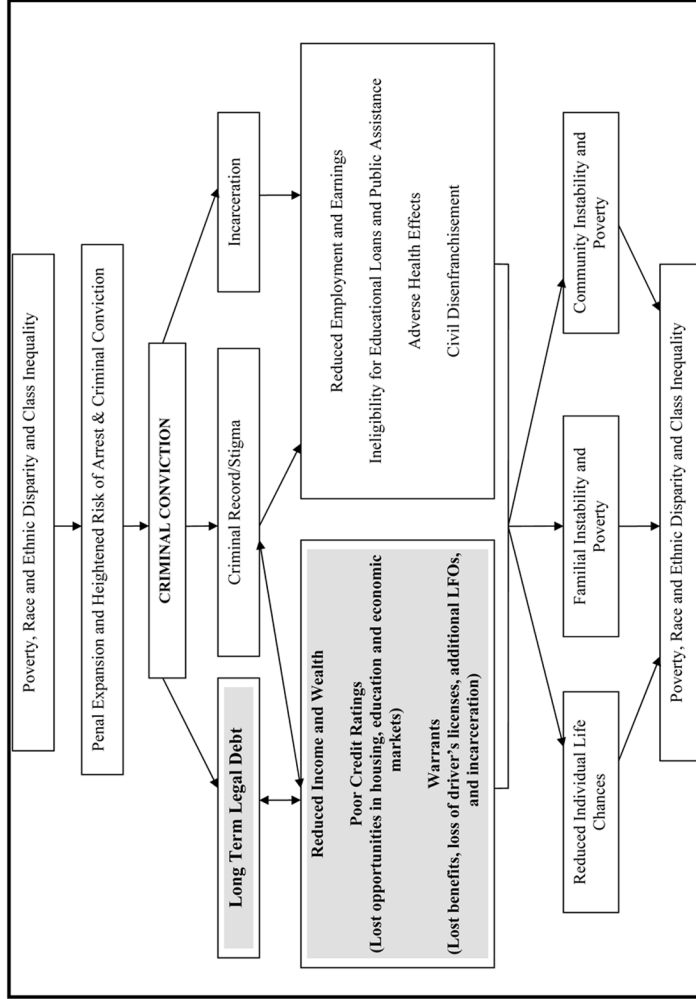


FIG. 3.—Impact of penal expansion on poverty and inequality

Our findings are relevant to the stratification literature for another reason as well: monetary sanctions may contribute to, and help to explain, racial inequality in household wealth. Many sociologists have emphasized the importance of wealth as a measure of inequality and as a mechanism by which it is created (Oliver and Shapiro 1995; Conley 1999, 2001; Keister 2000, 2005; Shapiro 2004). Wealth—total assets minus total liabilities (Keister 2000, p. 7)—is much more unevenly distributed than either income or education (Keister 2005; Neckerman and Torche 2007). Moreover, racial inequality in the distribution of wealth is quite large and has not been reduced by rising earnings and educational achievement among blacks (Oliver and Shapiro 1995; Conley 1999; Shapiro 2004). Although parental wealth, inheritance, and investment decisions help to explain the racial gap in household wealth, some of the black-white wealth gap remains unexplained (Conley 2001). The growing and racially disparate imposition of monetary sanctions may help to explain the persistence of large and unexplained race differences in household wealth.²⁹

CONCLUSION

A particularly unproductive and unyielding source of debt is now imposed on millions of mainly poor people each year by the increasingly massive penal system. Although the criminally punished are no longer leased to corporations if they cannot pay their fees and fines, they are nonetheless saddled with a substantial financial debt, one that enhances their poverty and impairs their ability to extract themselves from the reach of the criminal justice system. By reducing income; limiting access to housing, credit, transportation, and employment; and increasing the chances of ongoing criminal justice involvement, monetary sanctions significantly expand the duration and intensity of penalties associated with a criminal conviction. Like other “collateral” consequences, the imposition of monetary sanctions affects not only those convicted of crimes but all of those embedded in their familial and social networks. The prevalence and magnitude of the monetary sanctions now routinely imposed by criminal justice institutions have important implications for sociological understand-

²⁹ It appears that legal debt among nonincarcerated felons is reflected in some but not all estimates of household wealth. Specifically, the U.S. census survey questions about household debt do not specifically mention legal debt but include the following question: “How much do you owe for *any other debt* we have not yet mentioned? (U.S. Census Bureau 2004 Survey of Income and Program Participation, AL03A; emphasis added). Other surveys, including the Survey of Consumer Finances, do not appear to include legal debt. Survey-based estimates of household wealth that do not include legal debt overestimate household wealth but underestimate the racial gap in household wealth.

ing of the role of penal expansion and debt in the reproduction of poverty and inequality.

From a policy perspective, it might be argued that criminal justice costs are appropriately borne by convicted criminals and that victims and governments should be reimbursed for the costs of offenders' felonious behavior. Yet few victims actually receive compensation through court-ordered restitution (Ruback et al. 2006). Indeed, some might argue that requiring that offenders financially restore victims will inevitably fail and that this approach is a predictably ineffective way of ensuring that crime victims' needs are met. In addition, it is not clear whether government efforts to recoup funds are actually a net gain for the state (Beckett et al. 2008). Moreover, our data indicate that the widespread imposition of substantial legal debt may encourage antisocial rather than prosocial outcomes. In particular, our respondents reported that possession of legal debt created a disincentive to work and encouraged going on the run. If the policy goal is to improve the lives of victims, recoup state expenditures, and reduce crime, our findings suggest that the imposition of monetary sanctions is very likely a policy failure.

At a more theoretical level, the pervasiveness of monetary sanctions indicates that the transformation of poverty management in the United States may be more profound than has been previously recognized. The imposition of monetary sanctions—particularly the “fees” imposed on defendants and inmates for the cost of their own arrest, incarceration, supervision, and even legal representation (Anderson 2009)—rests on the idea that persons accused or convicted of crimes are obligated to pay, financially, for the cost of their own court proceedings and punishment. The frequency with which monetary sanctions are now imposed suggests that the recent transformation of governance in the United States goes beyond the “hollowing out” of redistributive welfare programs and simultaneous expansion of the penal apparatus. Rather, the U.S. penal system itself is being rapidly divested of any redistributive elements. Although U.S. criminal justice institutions have become an important, if inadequate, supplier of social services for the poor (Comfort 2007; Sykes and Piquero 2009), recipients of these services are now often charged for them, and these fees are subject to interest. The reach and impact of neoliberal ideas on state practices and institutions thus appears to be deeper and more profound than has been previously recognized.

This study also highlights the need for additional research. Our results lead us to expect that monetary sanctions, like incarceration and felony conviction, are a critical component of the process by which disadvantage accumulates over the life course among many of the urban poor. Long-term ethnographic research may help to disentangle the ways in which monetary sanctions interact with and compound other sources of social

disadvantage; statistical analyses may usefully isolate the impact of legal debt on specified outcomes such as the loss of Social Security benefits and incarceration. Additional research is also needed to assess the magnitude of the legal debt that is created by all components of the criminal justice system, and in states other than Washington. And although our findings clearly establish that the courts impose monetary sanctions on nearly all of those convicted of crimes, this trend—and variations within it—remains unexplained.³⁰

Nonetheless, it is clear that a comprehensive analysis of punishment, urban poverty, and inequality in the United States is incomplete without reference to the imposition of a particularly noxious form of debt by the expanding penal system. Understanding the degree to which, and mechanisms by which, criminal punishment fuels poverty and inequality requires consideration of the imposition and consequences of monetary sanctions. These findings are of obvious relevance to scholars seeking to understand and account for inequality, as well as for those seeking to reduce the costs associated with entrenched urban poverty and crime—costs that are borne by all of us.

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³⁰ Although it is clear that the escalation in the use of monetary sanctions predates the current recession, there is some speculation that financial pressures are encouraging reliance on monetary sanctions (Schwartz 2009). Currently, the state of Texas is reportedly considering offering judges financial incentives (of \$50,000) to encourage the aggressive collection of delinquent LFOs (Doniach 2008).

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