

== Chapter 1 ==

The Criminal Justice System and Monetary Sanctions

Oh my God, I'm going to get emotional. . . . I really feel like it's time for me to move on. I'm going to be fifty years old next year, it's just time for me to have my own life again. And the financial obligations are, I mean it's something I think about every single day. I mean there's not a day that goes by that I don't think, *Okay, what can I do today to try and figure this out?* And then there are days that I do everything in my power, *Okay, it's there, but I have other things to focus on today.*

—Kathie, legal debtor

At the time of our interview in 2009, Kathie owed over \$20,000 in monetary sanctions to the Washington State Superior Court.¹ She was disabled and living with her three children, ex-husband, and father-in-law in a three-bedroom apartment because she was unable to secure her own home. Kathie's experience was similar to that of many of the defendants I interviewed and observed for this study. Washington State statutes allow judges to sentence people involved in the criminal justice system to fines, fees, restitution, and surcharges. Statutorily, monetary sanctions are viewed as a mechanism to recover the costs of the criminal justice system; like tolls and park fees, they are a product of our fee-for-service culture. And besides being imposed on defendants to obtain restitution for the victims of crimes, they are also symbolically important: in an era of increasing attention to crime and punishment, they are meant to hold offenders accountable for their offending.

Because so many defendants are poor and will face further financial hardship after they have been convicted and served time in jail or prison, criminal monetary sanctions are both real and symbolic. People like Kathie, given the size of their debt and limited capacity to pay, will be indebted to the state for the rest of their lives. For most poor, unem-

ployed, undereducated, and physically and mentally disabled individuals who have contact with the criminal justice system, monetary sanctions are insurmountable. The legal, economic, and social consequences of legal debt often further inhibit their participation in “free” society.

Legal debt is analogous to being sentenced, like Antonio, to give “a pound of flesh.” Impoverished defendants have nothing to give. For them and others barely getting by at or near the margins of economic self-sufficiency, monetary sanctions amount to perpetual punishment.

The Significance of Monetary Sanctions

Author: Do you think you should have to pay this money?

Reuben: Yeah, absolutely . . . it was a part of the judgment and sentence, and I have no qualms about it. I’m willing to pay it, every single dime. Unfortunately, you know, [the criminal justice system] took the opportunity, that opportunity, and made it a capital opportunity for themselves. They knew my situation. You know, I was broke, that’s the reason I did what I did, and I was still broke in the prison system, so uh, they basically took advantage of the situation and said, “If you can’t pay, we’re going to put interest on it.” . . . I don’t blame them, I really don’t . . . they have to live with themselves, if they want that amount of money, then they can have it.

Author: This is really interesting that you talk about the debt while you were locked up, that it’s on people’s minds.

Reuben: It’s one of the only things that we are worried about. You know, they give us this opportunity with a release date, you know, to start a whole new chapter, with your debt to society, as far as serving time, but uh, a lot of people get scared. For one, the economy is going bad. Two, they can’t, they know they don’t have no job lined up for them because they got their . . . [criminal] history. And uh, a lot of them don’t have the work background like myself. I’ve been locked up since I’ve been sixteen. So I definitely have the record against me and the [lack of] experience. So you have a lot of people like myself getting out, you know, with debts that are more than \$6,000, somewhere up to the tens, hundreds, and fifty thousands of dollars, and uh, it’s very prevalent on their minds that they will fail if they cannot find a job, and so a lot of them be stressing. Writing lawyers. Trying to get some legal remedies, and uh, most of the time you have to pay a, uh, what you call it, a fee?

In all states, most defendants like Rueben receive monetary sanctions as part of their sentence. Rueben had spent all of his teenage years and his entire adult life in juvenile and criminal facilities. At the time of our interview, he was twenty-four years old, enrolled in a work release program while living at the local county jail, and awaiting his full release. He had been transferred to the adult criminal system at the age of fourteen and convicted of a violent offense that included assault and burglary. In addition to the initial fines, fees, and restitution, Reuben had also been assessed surcharges, interest, and collection costs.

Many states impose these additional costs after the initial sentence. Legally, monetary sanctions are equivalent to court sentences such as jail or prison and community service or probation, and sanctions are often levied in addition to these other punishments. People with outstanding legal fees who do not make regular payments toward their monetary sanctions are regularly called to attend court hearings on the matter. If they do not respond to the court summons, warrants can be issued for their arrest and they can be put in jail for violation of court orders. Furthermore, if a judge labels a person as *willfully* not making payments toward his or her legal debt, the judge may impose further sanctions, including incarceration.

As a result of the rise in monetary sanctions—also called legal financial obligations (LFOs)—indigent defendants, who comprise the vast majority of criminal defendants in the United States, remain under criminal justice supervision, paying per-payment and collection costs and interest on the initial sentence for the remainder of their lives. Long after they complete their custodial sentence or sentenced community supervision, “legal debtors,” as they are commonly known, are required to report regularly to the court, explain their living and employment circumstances, and give court clerks and judges the details of their budgets. Debtors cannot regain certain rights lost upon conviction, such as the right to vote, carry a weapon, serve on juries, or run for elected office, until their account is paid in full. Debtors are unable to receive certificates of discharge from the court, to have their records sealed, to receive pardons, or to request deferred prosecutions.² Since employers, banks, and apartment managers frequently search applicants’ credit and legal backgrounds, legal practices that suppress convictions from the public are essential for those applying for jobs or loans or trying to rent an apartment or purchase a home. Furthermore, LFOs cannot be cleared through bankruptcy.³ Thus, criminal monetary sanctions trigger a long series of consequences and barriers to full societal integration for poor people that are very different from the effects of monetary sanctions on defendants with financial means.

The Justification for Monetary Sanctions

Monetary sanctions arose as a way to recoup the expenses associated with the criminal justice system for both victims of crimes and the broader society. The legal reasoning of policymakers for imposing these sanctions is threefold: (1) to reimburse victims for lost wages, the cost of hospitalization, and damage done to their property (restitution); (2) to require people involved in the criminal system to help reimburse the state for the costs resulting from their criminal behavior, including the costs of arresting, prosecuting, and punishing them (fines and fees); and (3) as a means beyond the original sentence, to hold offenders accountable for their behavior and seek societal retribution (additional punishment).

A great deal of judicial discretion goes into deciding the type and amount of the LFOs imposed on defendants, and whether to impose them at all. Each state has its own statutes detailing the types of fines, fees, costs, interest charges, surcharges, and restitution costs that judges can impose as punishment for felony convictions. Within each state, counties implement their own formal policies as legally prescribed by county or parish code. In county courthouses across the United States, judges exert unfettered discretion in sentencing defendants to a wide array of monetary sanctions; monitoring, with court clerks, their payment of LFOs; and imposing additional sanctions on those they deem as *willfully* not making payments.

The Revised Code of Washington (RCW) establishes which LFOs are always assessed. Since courts across the state generally interpret the code's definition of LFOs as mandatory sanctions, judges impose a \$500 victim penalty assessment (VPA) and a \$100 DNA collection fee as the mandatory minimums. Thus, just as state sentencing guidelines set mandatory minimum custodial sentence lengths for particular offenses, the total mandatory minimum fiscal penalty for any felony conviction in Washington is \$600. In addition to these mandatory minimum sanctions, the code also lists sanctions that "may be" assessed, and these are routinely interpreted by judges as discretionary. A number of other discretionary sentences in the form of fines, fees, and restitution can also be imposed. As a consequence, the mean sentenced LFO in Washington is \$1,300—more than two times the statutory minimum.⁴

Monetary sanctions are a routine part of sentencing practices in most states, though the mandatory minimum amounts vary. In Louisiana, at the time of sentencing, indigent defendants are assessed an up-front fee of \$40 for their criminal public defender and then a \$300 fee for the "Judicial Expense Fund." All felony defendants in North Carolina are assessed a general "cost of justice fee" in the amount of \$154.50. In

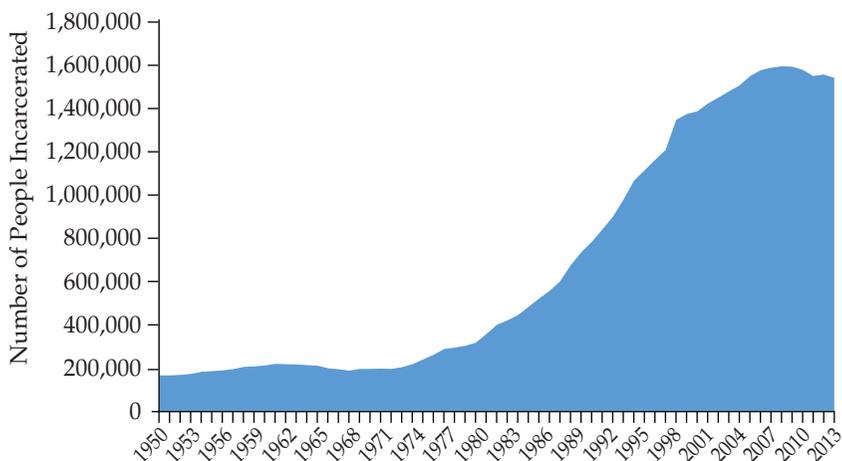
all states, LFOs are imposed per felony conviction; thus, costs multiply for someone who is convicted of multiple offenses at one time. States can—and often do—charge interest on unpaid LFOs. Washington State charges 12 percent interest that begins accruing from the day of sentencing, as well as a \$100 annual collection surcharge per felony conviction.⁵

Although monetary sanctions have been a feature of the formal American criminal justice system ever since its beginnings, the practice ballooned in the early 1990s, when states began to formally codify their financial penalties. The number and types of fees and surcharges have expanded ever since. As a result, the majority of people convicted of misdemeanor and felony crimes in the United States receive some type of monetary sanction. All fifteen states in one recent study imposed fees upon conviction, all imposed parole, probation, or other supervision fees, and all had laws authorizing the imposition of jail or prison fees.⁶ Further evidence indicates that in most jurisdictions monetary sanctions are levied in addition to the other common sentencing options, such as community service, probation, and incarceration.⁷

Even seemingly small LFOs are of inordinate significance in the lives of poor defendants who have virtually no access to income or wages while incarcerated. Most defendants are not able to make payments toward their LFOs while incarcerated, and thus their financial situation is already precarious when they are released from jail or prison. Because of this debt, people remain subject to the surveillance and sanctioning of criminal justice agents, as well as the stigmatizing effects of their felony conviction, for long periods of time. Moreover, the added interest and surcharges expand their debts at a time when their earnings prospects, already dismal for many of them, are further diminished. As a result, the monetary sanctions associated with criminal justice contact contribute to the mounting disadvantage of poor defendants by reducing their income and creating long-term debt.

Mass Conviction, Incarceration, and Collateral Consequences

Today the number of people who have been convicted and incarcerated and are currently under surveillance by the U.S. criminal justice system is unprecedented: after forty years of expanding conviction and incarceration rates, 2.25 million Americans are incarcerated and 7.1 million are under some form of criminal justice supervision through incarceration, probation, or parole.⁸ Figure 1.1 illustrates the rise in state and federal imprisonment rates since 1925. One in thirty-seven U.S. adults have spent time in state or federal prisons,⁹ and more than 700,000 peo-

Figure 1.1 State and Federal Prisoners in the United States, 1950–2014

Source: Author's calculations based on data from the Bureau of Justice Statistics, National Prisoner Statistics Program.

ple leave prison each year.¹⁰ A much larger number of people have experienced a felony conviction in their lifetime. Estimates suggest that in 1976, 1.17 million U.S. adults had received a felony conviction in their lifetime; in 1996 the number had grown by 285 percent, to 3.34 million, and in 2010 the number of adults living with a felony conviction had increased by 500 percent, to 5.85 million.¹¹ Across the United States today, 2.5 percent of the adult population—one out of every forty adults—have been convicted of a felony.¹²

No national data sets are available that count how many people have been sentenced to monetary sanctions. But given the increase in the number of statutes that allow for monetary sanctions, it is reasonable to suspect that a large portion of the population with felony convictions have received monetary sanctions, thus incurring legal debt.

At the center of the American criminal justice system expansion is a particular subset of the U.S. population. Over half of the people living in prison are people of color (60 percent). Among African American men in their thirties, one in ten are living behind bars. If recent incarceration trends continue, one in three African American males born today may live in prison at some point in their lifetime, as may one in six Latino males, in contrast to one in seventeen white males. Observing that criminal defendants tend to be undereducated and that the odds of being incarcerated are much higher for those without a high school di-

ploma or GED, Becky Pettit and Bruce Western have concluded that “imprisonment now rivals or overshadows the frequency of military service and college graduation for recent cohorts of African American men.”¹³ The same disproportionate pattern prevails among those with felony convictions living in the United States. One out of thirteen African American adults have experienced a felony conviction (7.7 percent), while one out of fifty-six non-African Americans have been convicted of a felony (1.8 percent).¹⁴ With disproportionately high rates of criminal conviction, African Americans are disproportionately burdened by monetary sanctions.

Poor people are also disproportionately shouldering the weight of monetary sanctions. People convicted of felonies tend to be financially worse off before arrest and conviction than those not connected to the criminal justice system, and defendants tend to have higher unemployment rates than nondefendants: estimates suggest that between 30 and 36 percent of jail and state prison inmates did not have a job prior to their arrest.¹⁵ Among state prison inmates who had a job, 26 percent were working part-time.¹⁶ Of those working in the month before arrest, nearly one-quarter (23 percent) reported monthly earnings of \$600 or less, and one-half reported a monthly income of \$1,200 or less. Nationally, the earned annual income of two-thirds of jail inmates was under \$12,000 in the year prior to arrest.¹⁷ Clear majorities of criminal defendants are poor, and they face a variety of financial hurdles even in the absence of monetary sanctions.

In addition to low levels of education and high rates of unemployment, people involved in the criminal justice system experience more physical and mental health issues than the general population. In 1996, one-third of jail inmates reported physical or mental health problems, almost half (48 percent) of women in jail reported being physically or sexually abused, and 27 percent reported being raped prior to jail admission.¹⁸ Data from the same period on adults who were on probation for both felony and misdemeanor offenses illustrate other social dislocations: 37 percent were undergoing drug or alcohol treatment, 65 percent were unemployed, and 84 percent had been sentenced to fines, fees, and court costs.¹⁹ Another 42 percent had less than a high school diploma at the time of their arrest.²⁰ A 2004 court survey of inmates in New York found that, “of the people released on parole in . . . New York State, 49% were unemployed, 81% needed services for drug abuse, and 15% had only a grade school education.”²¹ The numbers illustrate that prior to even entering the criminal justice system, defendants experience a host of health, economic, and social challenges.

Conviction only compounds the problems of the poor. Convicted felons in many states are politically disenfranchised, face unemploy-

ment or underemployment as well as reduced income and wages, suffer poor health, and have difficulty reintegrating into their families and communities after release. In many states, convicted felons lose the right to vote and to serve on juries.²² They can be legally discriminated against in hiring decisions by employers who see them as a liability.²³ Convicted felons can also lose custody of their children and be required to pay child support.²⁴ They can become ineligible for several types of federal benefits, such as Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP, formerly known as food stamps), and educational loans.²⁵ Several jurisdictions have “one-strike” housing prohibitions that disqualify convicted felons from living in certain areas.²⁶ And those who are not U.S. citizens may face deportation when convicted of a felony. Felony convictions leave people in a liminal legal space where they cannot exercise their full rights as citizens and are marked as qualitatively different from others in society.

Incarceration has a tremendous influence on children and families. Over 2.7 million minor children, or one in twenty-eight, have a parent in jail or prison. A recent study found that among children born in 1990, one out of every twenty-five white children and one out of every four black children had a parent imprisoned.²⁷ In fact, having an incarcerated parent has become such a common experience that the long-running children’s television program *Sesame Street*, in an effort to teach children and caregivers how to talk about incarceration and its effects on children, developed a character named Alex who has a father living in prison.

The criminal justice system reinforces the U.S. system of social stratification. Felony conviction is now directly linked to the generation and maintenance of inequality. People who are poor, undereducated, and of color disproportionately make contact with the criminal justice system. They are arrested, detained in jail, prosecuted, convicted, and sentenced at higher rates than their peers who are wealthy, more educated, and white.²⁸ When people are released from court with a criminal conviction, they face a myriad of social, legal, and financial problems that exacerbate the dislocations they may have experienced prior to their contact with the criminal justice system.²⁹

Although all U.S. states now allow the imposition of fiscal penalties on people convicted of felonies, suggesting that monetary sanctions have become widespread, data are not currently available with which we could directly estimate the prevalence or ubiquity of monetary sanctions. What evidence we do have indicates that LFOs are widespread and consequential for race and class inequalities. I begin by asking two central questions: How are monetary sanctions legally structured and

imposed? And what are the consequences of LFOs for people convicted of felonies?

The American Culture of Punishment

In their classic Marxist analysis of punishment systems, Georg Rusche and Otto Kirchheimer suggest that “punishment must be understood as a social phenomenon freed from both its juristic concept and its social ends.”³⁰ This study’s dissection of the contemporary culture of punishment embodied in the U.S. criminal justice system is one way to understand the exceptional U.S. criminal justice practices. Moreover, this study provides a window through which the unique reliance on the criminal justice system in the United States can be compared to practices in other nations.

Societal values and morals can be viewed as embedded in the laws and policies that guide justice practices and outcomes. Thus, the criminal justice system shares, and is infused with, the aims, values, priorities, and goals of the broader U.S. society and can be studied not only for the outcomes it produces—such as the number of people who are convicted and incarcerated—and related consequences, but also for the culture it represents. Past and current iterations of the U.S. criminal justice system reflect this society’s conceptions of justice, fear, and punishment. As such, I use the term “punishment culture” as a framework to understand why and how the system of monetary sanctions is implemented across the United States—and more specifically in my case study, how monetary sanctions operate in Washington State.

The Expanding Costs of the U.S. Criminal Justice System

The study of monetary sanctions also offers insight into the practical costs associated with the expansion of the U.S. criminal justice system and the ways in which those costs have become an additional punishment for defendants. Local, state, and federal jurisdictions face enormous expenditures related to increased conviction, supervision, and incarceration rates. The criminal justice system includes police, courts, community-based supervision, and jails and prisons, and each of these arms of the system has grown, as have personnel and management costs. State corrections spending totaled \$47 billion in 2013, and state and local jurisdictions have attempted to pay for the rising costs of their criminal justice systems brought on by the unprecedented growth in conviction and incarceration rates by shifting their budget priorities. Between 1986 and 2013, states increased spending on K–12 education

by 69 percent, on higher education by less than 6 percent, and on corrections by 141 percent.³¹ In other words, some state legislators and local politicians have increased spending on criminal justice at the expense of educational programming.

It is important to note that many more costs are associated with the rise in conviction rates than just corrections. A recent study of prison costs in forty states found that total corrections budgets came to \$33.5 billion, but the actual total costs to taxpayers for the prison system was \$39 billion. The report highlighted the fact that, above and beyond the costs related to corrections management—which are extraordinary in their own right—several other expenses not normally included in corrections budgets result from the massive rise in conviction rates, including employee benefits and taxes, pension contributions, retiree health care contributions, capital costs, legal judgments and claims, and state-wide administrative costs, as well as the costs associated with having private businesses provide hospital care and education and training. Thus, in addition to the expense of housing, securing, feeding, and clothing inmates, billions of dollars are paid to state employees to process and manage inmates. The average total per-inmate cost across the United States in 2010 was \$31,286. Per-inmate expenditures ranged from \$14,603 in Kentucky to \$60,076 in New York. In contrast, per-pupil spending for K-12 education averaged \$12,608 across the United States.³²

In the face of rising criminal justice–related costs, many states have come to rely on private for-profit entities to manage their criminal justice system. Such strategies include the use of private business to oversee community supervision and probation (including electronic monitoring); to operate work release programs, halfway houses, and for-profit residential treatment centers; and to manage local jails and prisons and the people living in them. Private industries also are contracted by state corrections agencies to provide services within corrections facilities such as health care, email and phone systems, and inmates' payments and accounts.³³ It is unclear whether such reliance on private businesses reduces criminal justice costs for jurisdictions or instead creates another layer of punishment for people who are unable to pay for services rendered while they are under criminal justice supervision.

The exponentially increasing costs associated with mass conviction and incarceration, combined with the effects of the 2008 economic recession, have compelled states to explore strategies for reducing criminal justice costs and generating financial resources. California has experienced a highly public struggle over the management of its criminal justice–related expenses. In 2011 the U.S. Supreme Court, in *Brown v.*

Plata, established a limit for prison populations. The Court determined that a prison population at 137.5 percent of a prison's design capacity was the limit of crowding that a state could impose. Any further overcrowding would be considered cruel and unusual punishment and thus constitute a violation of a person's Eighth Amendment rights. In the same year as the *Plata* decision, California's legislature passed the Criminal Justice Realignment Act, which shifted the management of lower-level offenders, at the state's discretion, from the state to the counties. Although the act did not lead to the release of any prisoners, it gave local law enforcement the flexibility to give low-level offenders community-based, less costly, noncustodial sentences. In its first two years, the act allocated more than \$2 billion to local programs, including alternative community-based sentences for more than 100,000 prisoners. What has been called the "biggest penal experiment in modern history" was intended, as stated by California governor Jerry Brown, to address "the costly, ineffective and unsafe 'revolving door' of lower-level offenders and parole violators through [California's] state prisons."³⁴

State legislatures and county courts have also decided to shift criminal justice costs directly onto defendants. Sentencing defendants to pay the costs related to their own court processing and incarceration has been identified as a way to recoup criminal justice expenditures. This study of monetary sanctions sheds light on the practical financial costs associated with contemporary U.S. criminal justice practices and examines the blurred line between punishment and fiscal management.

The Study of Monetary Sanctions and Social Inequality

Political rhetoric is partly responsible for the aggressive law enforcement and criminal justice policies and procedures that have produced the current state of mass conviction and incarceration.³⁵ Policies such as "three strikes," mandatory minimum sentences, and sentence enhancements have extended sentencing ranges and led to compulsory incarceration for people convicted of a wide range of offenses. Meanwhile, the stigma attached to felony conviction and incarceration stunts individuals' ability to reenter society and move forward with their lives after contact with the criminal justice system. We know that felony convictions reduce wages, stigma perpetuates inequality among African American and Latino men and among high school dropouts in the employment market, and the aggregate effect of the loss of voting rights on convicted felons is profound.³⁶

Despite this large body of research, little attention has been devoted

to understanding how policymakers and practitioners define, interpret, and apply policies *within* the criminal justice system that allow it to act as a social stratifying institution. Nor has any significant amount of scholarly attention been focused on the ongoing nature of contemporary punishment: for many defendants, criminal justice contact continues well beyond the one discrete moment of conviction or the period of incarceration. Little research has detailed the practice of monetary sanctions, much less the practical significance of such debt for community reentry.³⁷

The complex context of monetary sanctions includes not only the forty-year rise in U.S. conviction rates but also the punitive culture of punishment now prevailing in the United States. Justified by the increasing costs of criminal justice processing, monetary sanctions practically represent a sentence for cost recoupment, but symbolically they also represent a sentence of accountability. In addition, the criminal justice system plays an important part in the reproduction of social inequality.

Because of the complexities and legal variations in the amounts and types of monetary sanctions that can be imposed nationally and within states, I decided to focus this study on the monetary sanctions imposed on people convicted of felony offenses in state superior courts, especially in Washington State. I should note, however, that multiple types of legal monetary sanctions are imposed at numerous court levels, with similar outcomes for debtors. In addition to felony adult court, additional sites of debt include court-related services, private debt management, privatized probation, child support costs, fines for parents with truant children, and the legal monetary sanctions resulting from involvement in misdemeanor and traffic courts, juvenile courts, district courts, and the federal courts. Furthermore, just as with criminal debt, the state can sanction debtors in most arenas through both publicly and privately administered court summonses, warrants, and even incarceration. The imposition of felony legal debt may be the focus of this book, but it is important to understand the wider context in which legal debt is imposed and the ways in which the state controls and sanctions debtors.

Why Washington State?

To better understand the system of monetary sanctions, I selected one state, Washington, and five counties within it for an analysis of the mechanisms and outcomes related to the imposition of monetary sanctions. Washington is an ideal case study for several reasons. All U.S.

states have statutes governing the use of fines and fees for the punishment of felons, but Washington has a clearly articulated and detailed statute that outlines “legal financial obligations.”³⁸ As a result, the legal climate surrounding the use of monetary sanctions has developed with the passage of multiple supplementary statutes and been the focus of legal and political discourse over the past twenty-five years in both case law and the state legislature. Such an environment provides an interesting case study for understanding monetary sanctions, as well as a unique opportunity to examine how policymakers and practitioners understand the sanctions, the various ways in which the policies are imposed in the state, and the resulting legal outcomes and contestations.

I obtained access to a sample of court data from Washington that allows a statistical analysis of both state- and county-level decision-making. The data raise important questions about the county- and individual-level differences in assessment and sanctioning norms and thus provide an important context for my qualitative research. These analyses in Washington are particularly illuminating about the different ways in which county officials interpret the legislation governing the assessment of monetary sanctions and the various mechanisms they use to sanction nonpayers. Thus, future research on the uses and consequences of monetary sanctions in other states should benefit from my analysis of the legal and political culture surrounding monetary sanctions in Washington, the types of mechanisms used to impose sanctions, and the consequences for legal debtors. The continuum of punishment in this state is a valuable starting point from which to understand the parameters of varying cultural orientations toward punishment on the national scale. My analysis sketches the various policies and practices used to interpret and apply state monetary sanction statutes as well as the various ways in which debtors are sanctioned and monitored.

A growing segment of Washington’s judiciary, legislators, practitioners, and citizens have become interested in changing the state’s use of monetary sanctions: some want to broaden the use of monetary sanctions, while others seek to curtail their use.³⁹ This environment has generated a field site with informants who want to discuss the uses, policies, practices, and outcomes associated with monetary sanctions. The legal context, the availability of quantitative and qualitative data, and the widespread attention to this practice make Washington State a prime setting for investigating the interactions of the political, legal, and social dimensions of monetary sanctions with court officials’ interpretations and applications of state law.

The Logic of Monetary Sanctions

In many ways it may seem rational to sentence defendants to repay the costs resulting from their own criminal offending, processing, and punishment. Further, the payment of monetary sanctions could be a useful tool for offenders in expressing their accountability to their victims and remorse for their offending. With the expansion of the criminal justice system and the disparate ways in which poor and racialized communities are harmed, however, it is important to understand how this system operates. My analysis and discussion here are guided by two sets of questions.

First, how do monetary sanctions operate, both nationally and within one specific state, and with what consequences? In this line of inquiry, I investigate the similarities and differences between the fifty state statutes governing monetary sanctions and the effects of these laws on the criminal justice system as an institution and on individual offenders. From this analysis the second set of questions emerges: How do practitioners interpret and apply the statutes governing monetary sanctions? What are the local cultural and organizational contexts within which people are labeled “legal debtors,” and how are they subsequently monitored and sanctioned for incomplete payment or nonpayment?

In answering these questions, I tell a modern-day American story about crime and punishment that relies on quantitative and qualitative data and analyses to give a contextualized and detailed account of monetary sanctions. I have relied on eighty-nine interviews—with judges (fifteen), clerks (eight), prosecutors (four), defense attorneys (four), state representatives (three), and felony defendants (fifty)—as well as on five case studies of persons convicted of felonies and 140 observations of LFO sentencing and sanctioning hearings.⁴⁰ My detailed review of state statutes has enabled me to compare and contrast monetary sanction policies and practices across the United States. The book is also informed by my statistical analysis of a sample of 2004 criminal court data from the Washington State Administrative Office of the Courts (AOC).

Using this mixed-method approach, I present empirical evidence to support two arguments. First, *monetary sanctions imposed by the criminal justice system create and sustain inequality in the United States*. The sentencing of fines and fees generates financial hardship for defendants, and because LFOs are disproportionately imposed on impoverished defendants, they reinforce inequality. Further, monetary sanctions contribute to the social and emotional marginalization of defendants through continual court monitoring of payments and sanctions for nonpayment and the emotional stress from related economic hardships.

Monetary sanctions represent a class-based punishment scheme that differentially affects poor defendants.

Second, *the system of monetary sanctions is enforced by criminal justice bureaucrats whose discretion is shaped by a culture of accountability*. Relying on cultural ideas about personal responsibility, meritocracy, and paternalism, court officials translate the seemingly rational system of monetary sanctions aimed at recouping expenses related to offending into perpetual punishment for those defendants who have little to no economic means and are viewed by these officials as having poor moral character. As a result of officials' reliance on personal beliefs and values to guide their imposition of policy and their practice, monetary sanctions have become inherently localized, with extreme variability in the sentencing, monitoring, and sanctioning of legal debtors. Monetary sanctions amount to a two-tiered system of justice imposed by street-level bureaucrats with little governmental accountability and oversight.

The Outline of the Book

The remaining six chapters of this book present support for these two arguments. To begin my analysis of the broad system of monetary sanctions in chapter 2, I ask the simple question: what does the system of monetary sanctions look like across the United States? I review related research on monetary sanctions, outline the consequences of legal debt, and describe the shared set of legal practices that provides the framework for monetary sanctions across all fifty states. I then outline the similarities between the states in their monetary sanction statutes—including fines, user fees, costs for incarceration, community supervision, treatment, and indigent public defense—and describe the legal contexts and justifications for the imposition of such costs on defendants. This chapter reveals that monetary sanctions have become an increasingly common national sentencing practice, with indeterminate and unending legal consequences for indigent defendants.

In chapter 3, I explore the experiences of people sentenced to monetary sanctions and provide amortization tables to show how debt increases as a result of interest and collection costs. Using interview data, I examine the sense of marginalization among convicted felons caused by debt-related frustration, the difficulty they experience in moving forward with their lives because of LFOs, and the strain that legal debt creates in other areas of their lives. I also outline the ways in which monetary sanctions serve as perpetual punishment and both emotionally and structurally marginalize indigent defendants, who remain tethered to the criminal justice system and cannot take advantage of

deferred prosecutions and avoid the court expenses related to subsequent sanctions.

Chapter 4 interrogates the legal justifications for and outcomes of monetary sanctions. I trace the legal statutes in Washington that govern LFOs and present the conceptualizations of LFOs held by legislators and court officials. In the interviews, they commonly talked about LFOs as a mechanism to provide restitution to victims, to recover the costs of using the criminal justice system, to impose further punishment, and to hold offenders “accountable” for their criminality. My examination of data on LFOs from Washington reveals, however, that most defendants can pay only very little of the amount they owe and that victims receive little, if any, restitution in many jurisdictions. In fact, some jurisdictions prioritize paying for the cost of collection over paying restitution to victims. Monetary sanctions have become a marginally self-sustaining system: just enough is collected to pay for the maintenance of the system. Monetary sanctions may have initially been created to recoup costs, but they are now embedded in a system under which poor defendants receive sentences that they can never complete. Condemned to a life sentence of criminal justice monitoring, they remain subject to continual assessment according to the amorphous standard of “accountability.”

In chapter 5, I move from an examination of the structure of monetary sanctions in the state of Washington to a consideration of how the system operates on the ground level. My examination of court data, interviews, and observations reveal wide variability in Washington’s sentencing, monitoring, and sanctioning practices, thus supporting the concept of a punishment continuum. Sentencing and monitoring range from less to more punitive across counties within the state, but county-level characteristics do not explain all of the variation in LFO amounts to which offenders are sentenced. Interview and observational data illustrate that local court officials translate the legal intent established at the state level to fit local norms and assumptions about criminality and punishment.

In chapter 6, I consider more closely the alternative explanations for the sentencing, monitoring, and sanctioning decisions of judges, prosecutors, and clerks. The chapter shows that how these officials understand crime—whether as a social problem resulting from structural inequalities and lack of opportunities or as an individual problem resulting from character flaws and personal choice—helps explain the variability among them in how they sentence, monitor, and sanction legal debtors. In other words, their orientation toward “American values” shapes and informs officials’ use of discretion, and their decisions

can be understood in relation to both individual and collective adherence to ideas of personal responsibility, meritocracy, and paternalism.

In the final chapter of the book, I consider the implications of monetary sanctions for social stratification and inequality. Effectively serving as permanent punishment, LFOs reinforce poverty, destabilize community reentry, and relegate impoverished debtors to a lifetime of punishment because their poverty leaves them unable to fulfill expectations of accountability. Disproportionately imposed on economically and marginalized citizens, LFOs permanently tether poor criminal defendants to the criminal justice system and lead to lifelong—and bitter—relationships with justice agents. My institutional analysis, drawing attention to monetary sanctions as a method of social control that symbolically, physically, and perpetually punishes the poor, thus has even greater significance for the scholarly study of inequality and critiques of the American Dream.