CRIMINOLOGY

# INTERORGANIZATIONAL UTILITY OF WELFARE STIGMA IN THE CRIMINAL JUSTICE SYSTEM*

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*The appropriation of "welfare stigma" or stereotypes about poor people's overreliance and abuse of public aid in two core criminal justice functions is examined: felony adjudication in a court system and space allocation in a jail. Through a comparative ethnographic study in which an abductive analysis of data (20 months of fieldwork) was used, we show that criminal justice gatekeepers utilize welfare stigma to create stricter eligibility criteria for due process in criminal courts and occupancy in jails. Specifically, the number of court appearances, motions, trials, jail beds, food, showers, and medical services is considered by professionals to be the benefits that individuals seek to access and abuse. Professionals view their role as preventing (rather than granting) access to these resources. The comparative nature of our data reveals that welfare stigma has interorganizational utility by serving two different organizational goals: It streamlines convictions in courts, which pulls defendants through adjudication, and conversely, it expands early release from jails, which pulls inmates out of the custody population. In the context of diminishing social safety nets, our findings have implications for understanding how discretion is exercised in an American criminal justice system increasingly tasked with the distribution of social services to the urban poor.*

The results of recent analyses have revealed that, in the context of diminishing social safety nets, criminal justice institutions are becoming an important source of social services for the urban poor (Comfort, 2007, 2013; Gustafson, 2011; Natapoff, 2015). That is, the urban poor increasingly receive social services through contact with the criminal justice system rather than through contact with traditional welfare agencies. As a result, scholars are now studying the provision of social services across almost all criminal justice contact points, including policing (Stuart, 2014, 2016), therapeutic jurisprudence in courts (Hannah-Moffat and Maurutto, 2012; Johnson and DiPietro, 2012; Moore, 2007), drug-treatment programs in penal settings (Haney, 2010; McCorkel, 2004), and reentry

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programs in probation settings (McKim, 2008; Miller, 2014). Criminal justice settings that combine social service provision, such as therapeutic and rehabilitative programming, with traditional crime control goals, such as surveillance and incapacitation, have been documented in these studies (Schept, 2015). Decision makers grapple with organizational tension as they simultaneously evaluate individuals for criminal risk and social need (Hannah-Moffatt, 2005). Such assessments, which rely on practitioners' discretion, often leverage stereotypes about worthy and unworthy types of social need to allocate healthcare, counseling, shelter, food, and other resources increasingly unavailable outside of prison (Haney, 2010; McCorkel, 2004).

In this article, we examine how these trends might affect discretion in two empirical sites where we would not readily expect social service provision: felony criminal courts and local jails in large urban jurisdictions. These gateways are important because they process most of the nation's poor people of color into the criminal justice system. Specifically, how does the tension of criminal justice social service provision structure organizational decision-making and the allocation of resources in these respective agencies? Moreover, how does this tension affect the interorganizational dynamics between courts and jails?

We report on comparative findings from two ethnographic field sites: the felony courts in Cook County, Illinois, experiencing extreme docket pressure, and a jail intake unit making use of alternative release mechanisms. These two cases are apt for comparison because extreme docket pressure in courts and the expanded use of alternative release mechanisms in jails are growing features of large urban jurisdictions in the United States (Gershowitz and Killinger, 2011; Shubik-Richards and Stemen, 2010; Stuntz, 2013). Ethnographic fieldwork is particularly well suited for examining actors who exert broad discretion; in particular, it allows for the observation of formal and informal processes that govern how defendants are adjudicated in the court and how space is allocated in a jail (Haney, 2015). We study courts and jails as "criminal justice adjacencies" (Van Cleve and Mayes, 2015), which highlights the shared culture between loosely coupled criminal justice institutions to explicate wider structural effects. As with many criminal justice contact points, courts and jails share structural co-dependencies in case management despite their distinct organizational objectives. In large jurisdictions, jail capacity often pressures criminal courts to manage caseloads more efficiently. Likewise, the number of pretrial detainees and convicted inmates exerts pressure on jail capacity.[1]

Our findings demonstrate how frontline criminal justice gatekeepers mobilize "welfare stigma" or stereotypes about poor people's overreliance and abuse of public aid to allocate criminal justice resources. These stereotypes center on the belief that poor people abuse public resources because they are morally deficient; that is, the expectation that poor people—especially poor people of color—tend to be lazy, lead mismanaged lives, and hail from dysfunctional households (Katz, 2013). Welfare stigma is used to create

1. From a cultural standpoint, in jails, sheriffs play a gatekeeping role in granting or denying attorneys access to pretrial detainees, thereby forcing defense attorneys to learn the formal and informal rules of the jail (e.g., how to cope with lengthy lock-downs). In courts, sheriffs escort attorneys through side lock-ups, transport defendants, and are important fixtures within courtroom culture. We observe that jailers are important fixtures within courtroom culture and wield considerable informal power: translating legal jargon to defendants, publicly shaming some defendants, and even creating cumbersome challenges for defense attorneys in accessing their clients.

stricter eligibility criteria for due process in criminal courts and occupancy in jails. In the logic of professionals, the number of appearances in court, legal motions, trials, jail beds, food, showers, safe haven from the streets, and in-custody medical services is interpreted as part of the many criminal justice "benefits" that arrested individuals seek to access and abuse. In part, professionals see their institutional role to be gatekeepers who are tasked with preventing (rather than granting) access to these resources. This stance requires decision makers to reimagine many individuals in their caseloads as mainly welfare abusers rather than as true criminal threats.

The comparative nature of our data reveals a structural effect of how welfare stigma is used across courts and jails, which we term the "push-and-pull" effect. In the courts, welfare stigma works to "push" people through the adjudicative process, whereas in the jails, it rationalizes "pulling" people out of the inmate population. More specifically, in courts, defendants understood to be unworthy of criminal justice resources are denied due process, which aids in the expediency of their conviction. Jailers, on the other hand, mobilize welfare stigma to expand the use of alternative release mechanisms. With the simplified framework of welfare stigma, professionals streamline discretion in both institutions but, critically, with different goals in mind. In the conclusion to this article, we elaborate on how these findings relate to current debates on discretion in criminal justice and broader transformations of the penal landscape in America (Haney, 2010; Kohler-Hausmann, 2013; Phelps, 2016).

## THEORETICAL PERSPECTIVE

In advancing our inquiry, we draw on two theoretical perspectives in criminal justice research. The first body of work emphasizes the hybridization of contemporary forms of punishment, in which a concern for social needs is increasingly fused with the goals of managing criminal risk. The second, more long-standing, body of work focuses on how discretion is exercised in criminal justice decision-making.

### HYBRID FORMS OF PUNISHMENT

A growing number of criminal justice researchers are interested in the renewal of social service provision and a concern for social need within penal systems (e.g., Haney, 2010; Schept, 2015; Stuart, 2016). Scholarship in this vein has taken as its starting point the sevenfold growth of the incarceration rate since the 1970s (Western and Pettit, 2010). This growth is characterized as "mass imprisonment" insofar as the incarceration rate is now high enough and concentrated enough to affect an entire demographic group (Garland, 2001): poor men of color from large urban areas (Clear, 2007). Feeley and Simon (1992), among others, have contended that the dominant penology of this period was squarely focused on a concern for incapacitation or on the effort to keep crime rates low simply by locking up and "warehousing" as many supposedly risky individuals as possible.

The extensive growth of incapacitation is relevant to scholars studying hybridization because such growth occurred during what is considered the declining generosity of the American welfare state (Wacquant, 2010; also see Soss, Fording, and Schram, 2011). Especially within large urban areas, the incarceration rate affected those same individuals likely to reside in areas experiencing public infrastructure decay, the diminishment of low-skill formal labor markets, and the dismantling of social safety nets (Hagan, 1994; Sampson and Wilson, 1995).

Comfort (2007) argued that in a society with less public aid, correctional institutions have become central hubs that distribute "carceralized aid" (including rehabilitative services, goods, and healthcare) to the urban poor. This makes social service provision contingent on accepting punishment and continued surveillance (Gustafson, 2011; Miller, 2014). Given these trends, Hannah-Moffatt's (2005) analysis of risk assessment suggested a "mixed models of governance" where inmates are increasingly assessed for criminal risk (in regard to punishment and containment) and need (in regard to services and rehabilitation).

A variety of criminal justice settings exhibit such hybridity. Stuart (2014, 2016) examined the convergence of policing and local rehabilitative programs in a "skid row" area. Rather than simply managing criminal infractions, police collaborated with social service institutions to ameliorate individual pathologies associated with homelessness. Miller (2014) found that prisoner reentry shifted surveillance into therapeutic spaces, churches, and community centers. Schept (2013) studied the emergence of a "justice campus," which aims to integrate welfare and penal institutions by providing a full-service, one-stop location for a continuum of state assistance and punishment. As such, welfare and incarceration are collapsed into "one spatial–political articulation" (p. 80). Therapeutic jurisprudence is another important site of hybridity (Baker, 2013; Hannah-Moffatt and Mauruto, 2012; Moore, 2007). Moore (2007) examined the paradoxical notion of "therapeutic surveillance," whereby seemingly benevolent monitoring of defendants' intimate lives is "coterminous with coercive maneuvers" (p. 255).

Given this hybrid orientation, moral evaluations about what constitutes worthy or unworthy types of social need are central to the discretionary distribution of resources. Such evaluations center on the stigmatized expectations that the recipients of social provision are morally deficient, lazy, lead mismanaged lives, and hail from dysfunctional households (Gans, 1994; Katz, 2013). For instance, Haney (2010), through her research on community correctional institutions, illustrated that therapeutic treatment is informed by stigmatized understandings of the private lives of prisoners. Penal officials attempt to cure inmates of perceived personal vices or unproductive emotions, and these techniques tend to cut along race, class, and gender lines. Likewise, the results of McCorkel's (2004) research at a women's minimum-security prison demonstrate how prison officials deploy race, class, and gender stereotypes to interpret the rehabilitative needs of prisoners. Importantly, McCorkel (2004) found that stereotypes about inmates' tendency to abuse welfare are linked to the provision of rehabilitation services inside the prison. In total, the results of the scholarship on criminal justice "hybridity" have illustrated how goals, rhetoric, and decision-making have evolved as a result of the demands of criminal justice work that straddles both welfare and punishment.

## DISCRETION IN CRIMINAL JUSTICE

Because criminal justice is a "loosely coupled system," it is characterized by frequent violations of formal rules and the dominance of informal practices (Hagan, Hewitt, and Alwin, 1979). Although policy may originate from higher level decision-makers, frontline officials are the ones who implement and decide how to enforce policy (Lipsky, 1980).

Steen, Engen, and Gainey (2005) deftly described discretion in criminal justice decision-making as shaped by both larger cultural beliefs among practitioners and informal norms on an organizational level. Larger, widely held stereotypes about race, class,

and gender associate certain defendants with dangerous behavior and criminality. As actors exercise discretion, these widely held stereotypes inform their judgment and create bias in decision-making. Steffensmeier, Ulmer, and Kramer (1998) advanced the notion of "blameworthiness," which constructs sentencing as a function of legal factors of cases (e.g., criminal charges) as well as of professionals' views of defendants' biographical or other extralegal attributes (e.g., race or class). They found that, among judges, stereotypes about the propensity of young Black men to commit crimes were particularly important on public defenders (see Richardson and Goff, 2013). In addition, it is now well established that racial bias in discretion is accumulated through the life course of criminal cases rather than at any single point (e.g., Baumer, 2013; Sutton, 2013; Ulmer, 2012). As defendants move from one stage to the next, previous adverse decisions are used as evidence of danger and culpability, signaling the need for punitive actions in later decisions (e.g., Albonetti, 1990; Hagan and Zatz, 1985; Schlesinger, 2005).

Discretion is also shaped by local, informal work norms at the organizational level. Eisenstein and Jacob (1977) used the term "courtroom workgroup" to make sense of courtrooms as micro-organizations with shared goals and values that prioritize efficiency over adversarial ideals with courtrooms regularly engaging in procedural shortcuts (also see Feeley, 1979; Packer, 1964). Through repeated interaction, among what should be adversarial actors like prosecutors, defense attorneys, and judges, workgroups develop shared norms about how cases should be efficiently processed (Eisenstein, Flemming, and Nardulli, 1988). As Sudnow (1965) observed, "court workers develop local standards about what constitutes a 'normal crime' based on the types of defendants and offenses they see on a regular basis" (as quoted in Steen, Engen, and Gainey, 2005: 438). To meet caseload requirements, professionals engaged in "bureaucratically ordained or controlled 'work crimes,' shortcuts, deviations and outright rule violations" (Blumberg, 1967: 22). In addition, shared norms such as "going-rates" for sentencing or the level of courtroom combativeness also extend beyond single courtrooms to create "communities of practice" across entire jurisdictions (Mather, McEwen, and Maiman, 2001; Van Cleve, 2012).

## POINT OF DEPARTURE

Our approach to decision-making is that discretion is shaped by both widely available culture as well as by local organizational culture. Widely available culture comprises stereotypes, biases, and beliefs that practitioners derive from outside their organizational contexts. Local organizational cultures develop through everyday practices and shared experiences around routine problem solving. It is through both larger and local culture that individuals develop what Swidler (1986) called a "cultural toolkit" or repertoires of symbols, stories, narratives, rituals, and worldviews that individual actors deploy in varying degrees and combinations to solve complex problems.

The literature on renewed social services in criminal justice agencies is instructive in predicting the types of larger culture that may inform the practitioners in our study. Hannah-Moffatt (2005), Haney (2010), and McCorkel (2004) all illustrated the salience of moral evaluations and stigma that cross race, class, and gender among criminal justice decision-makers. We expect "welfare stigma" or stereotypes about poor people's overreliance and abuse of public aid to play a role in court and jail decision-making. This expectation is informed by the results of Katz's (2013) seminal work detailing America's historically persistent belief that poor people abuse public resources because they are

supposedly morally deficient, tend to be lazy, lead mismanaged lives, and hail from dysfunctional households. Such wider beliefs about poor people play functional roles in U.S. society: These stereotypes allow for scapegoating, risk reduction, and other utilitarian functions for those who are well-off (Gans, 1994).

We anticipate that actors may incorporate a wider culture of welfare stigma and adapt it to their respective local organizational norms, using it to help them understand their caseloads. Our goal is to elaborate the content of these norms and specify its organizational functions *within* and *between* these two contact points.

## METHOD

This article brings together findings from two independent research projects undertaken separately and concurrently by the authors. We each conducted ethnographic data collection in our respective field sites. During the analysis and coding of our respective data, we found a common theme: a notion of criminal justice as a type of welfare handout among professionals. Although not initially intended as a comparative study, our data collection strategies and common thematic findings provided us with an opportunity to conceptualize organizational dynamics.

Timmermans and Tavory (2012) described this type of ethnographic analysis as "abductive analyses." Rather than assume researchers enter the field without any theoretical goals (e.g., grounded or inductive methodology) or enter the field with a specific theoretical question in mind (e.g., extended case or deductive method), abductive analysis requires engagement with multiple theories or explanations to revisit data and find new or surprising explanations. For Timmermans and Tavory (2012), engagement with theory entailed recoding field notes after encountering a comparison case or a new body of scholarly literature. Our study follows this analytic approach: After engaging with one another's work in the analysis stage, we revisited our respective data to explore the patterned use of welfare stigma. We explored other emergent themes from the fieldwork in other outlets.[2] As with other comparative qualitative analysis (Chung and Bloemraad, 2013; Hagan and Gonzalez Baker, 1993; Menjívar and Abrego, 2012), the "analytic generalizability" (Yin, 2003) is strengthened because our findings extend across independent projects.

### DATA COLLECTION

The two research efforts relied on ethnographic methods for data collection, which is particularly useful for the study of discretion in criminal justice agencies (Haney, 2015). Researchers embed themselves within an organization's culture and gain trust with insiders. As elaborated by Jerolmack and Khan (2012), ethnographic methods offer a particular advantage: Rather than asking respondents to reflect on their decision-making after the fact, the use of ethnography can help empirically capture informal discretion in real time. This approach guards against respondents concealing aspects of their informal

2. For Lara-Millán, other themes included the role of organizational uncertainty, medical provision, and spillover into social welfare organizations (Lara-Millán, 2014). For Van Cleve, other themes included the patterned use of racial tropes in plea-bargaining, racialization of criminal charges, and adjacent racialization of poor Whites processed alongside people of color (Van Cleve, 2016).

decision-making. Real-time observation is useful for empirically capturing complex criminal justice decision-making, which is shown to be the product of cumulative discretion and not isolated, discrete decisions (Emerson, 1983; Mather, 1979; Maynard, 1984).

Thus, our unit of analysis is not individuals or interviewees, but instead it is a group culture that is independent of particular individuals (Eliasoph and Lichterman, 2003). Indeed, during the course of the fieldwork, many specific individuals moved in and out of these agencies. In the courts, we studied the workgroup of actors that have the ability to affect case disposition: prosecutors, defense counsel (public defenders and private attorneys), sheriffs who transport defendants, and judges. In the jail, the group includes all actors who have the ability to affect the routing of inmates: sheriff's deputies (who patrol the intake unit and classify), unit commanders (who make final routing decisions), civilian custodial staff (who also conduct classification and conduct other duties), and clerical support staff (who provide background information on inmates).

In both the courtroom and the jail, a largely White population of workers processed a mostly non-White population of inmates and defendants. Where there was racial variation among workers, it tended to be professionally stratified. In the courts, there were slightly more non-White actors among public defenders and clerical staff than among prosecutors and judges, and in the jail, there were more non-White actors among custodial assistants and clerical staff than among deputies and administrators. This racial composition is consistent with that of professional and administrative roles across the justice workforce (Ward, 2006). One difference is that there was more gender variation among courtroom workers than among jail workers. Nevertheless, judges and high-ranking prosecutors were mostly male. In contrast to the workers, most defendants were Black, Latino, and poor.

Van Cleve, conducted fieldwork in the Cook County State's Attorney's Office, the Office of the Public Defender, and the general courthouse environment. Over the course of 7 years (1997–2004), she completed three sustained visits to the field sites, amounting to 9 months of observation. In addition, intermittent revisits were conducted until 2010. Van Cleve volunteered as a law clerk and informed participants that she wanted to observe the organizational dynamics of the courts. She was socialized by attorneys and was afforded access to both public court proceedings as well as court officials' respective offices, lock-ups, and the judges' chambers. She worked a full nine-to-five workday during the three sustained field visits. Because note taking is commonplace among attorneys, it was possible for her to scrawl extensive field notes during observation. These notes were transcribed upon returning from the field site. To ensure variability in her observation, Van Cleve rotated through multiple courtrooms to compare workgroups.

While Van Cleve was continuing to conduct revisits to her field site, Lara-Millán conducted 8 months of fieldwork between 2010 and 2011. He was introduced to jail officials through a third-party organization that had been conducting consulting work in the jail. Lara-Millán asked for, and was granted, permission to observe the intake process with the goal of understanding the challenges of routing inmates. This fieldwork took place in a jail intake room located in a large urban county that is under a court-ordered population cap. During that time, Lara-Millán conducted two separate sustained research efforts. The first effort lasted 5 months and included three outings per week. After a pause in research, Lara-Millán conducted a second effort that lasted 3 months and included two outings per week. Outings in both efforts lasted for 4 hours. Lara-Millán was allowed to carry a notepad but only wrote short phrases that reminded him of specific events and

the sequence of those events. Detailed field notes were recorded upon returning from the field. Lara-Millán shadowed workers who conducted risk classification of incoming inmates, which included both civilian custodial staff and deputies. He sat with officers as they interviewed inmates and was allowed to roam freely in the areas of the intake unit barred to inmates. In these areas, office staff, medical professionals, and deputies interacted and spoke openly about their work. Lara-Millán developed friendships and rapport with staff members.

The data that we present highlight particular cases that were emblematic of patterned, informal practices. We omit all subject names to protect anonymity and only refer to the subject's role in the field site (e.g., judge, prosecutor, deputy, and defendant). Although field notes reflected the events and cases as observed, in the reporting of this data, we altered distinguishing features of cases and people to avoid revealing the identity of subjects. Both researchers followed the internal review board protocols of their respective academic institutions during the time of the research. The courthouse data were collected in the Cook County Court System, but the branch location or the specific courtrooms will not be disclosed to ensure anonymity (there are a total of seven branch locations). Likewise, the jurisdiction where the jail intake data were collected cannot be disclosed because of institutional agreements.

## GENERALIZABILITY

Extreme docket pressure is a general characteristic of court systems in large urban jurisdictions (e.g., Gershowitz and Killinger, 2011; Stuntz, 2013). Gershowitz and Killinger (2011: 266) noted that "[al]though these large district attorneys' offices are all organized somewhat differently, they have one thing in common: far too few prosecutors are tasked with handling far too many cases." Our case, the Cook County criminal court system, is archetypal (Chicago Appleseed Fund for Justice, 2007; Gershowitz and Killinger, 2011; The Spangenberg Group, 2001). For instance, the 36 judges in Cook County average approximately 275 pending cases on their individual dockets (Chicago Appleseed Fund for Justice, 2007).

Many large urban jurisdictions rely on alternative release mechanisms to diffuse overcrowded jail populations (Johnson and DiPietro, 2012; Pitts, Griffin, and Johnson, 2014; Shubik-Richards and Stemen, 2010). The types of release mechanisms vary greatly: own recognizance release, home supervision, electronic monitoring, halfway houses, emergency early release, and many other programs (Clear, Reisig, and Cole, 2015). There is also great variation in how these programs are instituted, who is eligible for them, and at what point in the incarceration process they are instituted (Pitts, Griffin, and Johnson, 2014). In some cases, jail administrators release inmates based on the percentage of time served, others weigh the most recent criminal offense, and still others weigh some kind of risk classification score. Some jurisdictions review files in-house, and others rely on probation departments to assess inmates. Moreover, standards for who is released can change daily depending on available jail space, fluctuations in arrests, and inmate behavior (Hoffman, 2009: 597–602). To diffuse overcrowding amidst budget constraints, many jurisdictions are moving toward the greater use of assessment tools to evaluate not only risk but also need (instruments that score social, familial, and mental health status alongside criminal risk) to determine those best fit for release (Monahan and Skeem, 2014). In the attempt to ensure public safety while reducing the incarcerated population, such

models attempt to standardize scoring across racial groups (Skeem and Lowenkamp, 2016). Nevertheless, as Turner (2011) noted, these are "nonperfect" tools that vary in validation success rates and, like most examples of policy implementation, are always subject to worker discretion.

In our analysis, we do not aim to provide a theory of the technical ways these practices operate in all jurisdictions. The criminal justice landscape in the United States is both complex and unstandardized. Instead, we study two examples of these general processes—docket pressure and alternative release mechanisms—and make claims about how cultural practices may inform them under certain conditions. That is, what is transportable from our study is not the structural features of adjudication or release but the informal frameworks required to accomplish decision-making. In demonstrating the existence of empirical phenomenon in one corner of the criminal justice landscape, we suggest inferences about the more general type, which as Burawoy (2009) rightly pointed out, are open to revision with the discovery of new cases, times, and context (also see Haney, 2015; Small, 2009).

## CRIMINAL COURTS AND THE RATIONING OF DUE PROCESS

The focus of this section is on how the courtroom workgroup uses welfare stigma to expedite case processing. Professionals use welfare stigma to denote some cases as less worthy of due process and the valuable workgroup time due process requires. Due process and the time needed to achieve it are not considered to be a right afforded to all but a privilege that must be safeguarded.

### "MOPES" VERSUS "MONSTERS"

Every day, prosecutors push carts from their offices to their respective courtrooms. These carts are packed with case files that compose the daily docket. Although the large quantity of these files visually indicates the enormity of the caseload, it also denotes the importance of some cases over others. In most instances, the thickness of a file is an easy way for prosecutors to ascertain the case's stature on the docket: Eye-catching "accordion files" stretch a foot wide with discovery materials and represent cases prosecutors believe are worthy of their time and litigating effort.

The workgroup categorizes defendants that correspond with these large case files as "monsters." "Monster" is an informal category deployed by lawyers to refer to defendants believed to be true violent threats to society. In the words of prosecutors, "monsters" are the ones who, as one prosecutor said, "hurt kids … a wild dog [referring to monsters], murdering people—the really violent guys." Another prosecutor described "monsters" as so dangerous that they need to be incapacitated or "put away." As she stated:

> Putting the bad guy away; not just locking them up, but making sure they don't hurt others again … because they don't stop.

These defendants and their cases motivate prosecutors because they validate what prosecutors consider to be their role in the criminal justice system: engaging in crime control as a means to prevent violence. The opportunity to incapacitate "monsters" is the reason many prosecutors chose careers in criminal law.

Prosecutors mobilize legal facts about cases to assign a defendant the informal label of "monster." As noted in field notes, "accordion files" are filled with reports, evidence, crime scene photos, and victim or witness statements. Charges in these files are typically for murder, attempted murder, sexual assault, armed robbery, and the like. For prosecutors, this plethora of discovery material denotes the severity of the crime and the defendant's standing as a true criminal threat among the population of defendants.

Despite the space these larger files consume, they are dwarfed in number by thinner files, which lack discovery materials beyond the minimal requisites. These files tend to deal with nonviolent offenses and lifestyle crimes such as possession of a controlled substance, possession of a stolen motor vehicle, or shoplifting. Although still felony-level crimes, the workgroup refers to many of these charges as "glorified misdemeanors" and anticipates that such cases will be resolved through plea agreements shortly after their first appearance.

These thinner files are assigned another important informal category: The workgroup refers to the defendants in these cases as "mopes." Unlike the label of "monster," which is defined by the legal attributes of the case, the "mope" label is defined by welfare stigma. As one defense attorney described:

> I've always understood mope to be something of a catch-all term for someone that you have a low opinion of for one reason or another … I hear it used most frequently when the speaker is trying to communicate that he/she thinks someone else isn't very bright, under motivated, or a ne'er-do-well.

Another prosecutor elaborated on this definition by using a popular trope associated with welfare abuse:

> I'm just sick and tired of them living off my back. … As long as there is a McDonald's "Help Wanted" sign in the window, there's a job for them.

In contrast to "monsters," "mopes" are imagined as social burdens (i.e., akin to welfare recipients with moral failings) rather than as true criminal threats. Consider the example of defendants charged with violating their probation. In practice, these additional crimes are often simple technical violations similar to welfare infractions: failure to pay court fees, sustain employment, remain sober, or comply with reporting procedures (Gustafson, 2011). When Van Cleve asked a probation officer why a particular defendant was referred to as a "mope," the probation officer replied:[3]

> See this guy … He's like, 'oh man dat ain't right … 'dis shit ain't right. Why da judge be like dat, man?' If all I had to do was just show up every day and report to probation, pay $25 fines, and do some community service, just to stay out of lock-up … I would. Is there a choice?
>
> Putting some of these guys on probation is like throwing trash in the ocean … it just comes back to you. This guy's a piece of shit … he'll be back.

3. During the disposition of violation of probation charges, probation officers are important fixtures in the courtroom. Although prosecutors are supposed to be in close consultation with probation officers, they are visibly disinterested and often defer to probation officers to take the lead in presenting evidence of defendant violations.

Rather than focus on criminal offenses, the probation officer uses welfare stigma to highlight the defendant's lifestyle choice. Without reference to the crime, the officer places the blame on the defendant's inability to pay a minor fine and an unwillingness to work in community service. The defendant is also mocked with the use of Black English Vernacular, which underscores the racialized nature of welfare stigma (Collins, 2000).

Even though prosecutors are highly critical of the moral failing of "mopes," they are also critical of a criminal justice system that forces them to spend time processing such cases. For instance, a prosecutor criticized the criminal justice system as a type of "factory mill" concerned with case disposition:

> There are way too many repeat offenders, way too many of them. … We've become a factory mill, just concerned with the disposition of the case.

Other prosecutors described the war on drugs as "draconian" and blamed it for "breaking" the system with low-grade arrestees (Chicago Appleseed Fund for Justice, 2007). In their view, prosecutors are tasked with managing a systemic problem caused by a system incapable of dealing with social needs. This ambivalence is consistent with welfare bureaucrats working in public aid departments (Watkins-Hayes, 2009).

## THE DENIAL OF DUE PROCESS

The workgroup makes use of an important colloquialism that translates the notion of a "mope" into an administrative imperative and signals how cases should be processed. Attorneys use the word "dispose" as a noun and pronounce it with the inflection "dispoh." Cases labeled as a "dispose" are expected to be resolved with as little due process requirements or other supposedly burdensome administrative tasks as possible. Professionals reduce "disposes" to a type of ceremony without substance, or what we call "ceremonial charades." These covert evasions of due process allow professionals to expend the least amount of effort on cases. Often, files are barely opened and discovery materials are copied so sloppily that they are unreadable and are nearly in violation of Brady obligations of evidence disclosure. Speedy legal admonishments are all but incomprehensible as judges read rights into the record rather than explain them to defendants. As one prosecutor jested, while a defendant listened to his rights, "sit back, relax, enjoy your flight"—a commentary on the speed of the ceremonial charade.

It is typical for attorneys to ask one another "how many 'dispose' did you get?" in a day, a week, or a month, as though disposing cases is a type of game where one earns points. For cases where defense attorneys violate this workgroup norm and request cumbersome motions or hearings for a defendant deemed a "mope," prosecutors and judges may still refer to these cases as "dispose." This communicates to the defense attorney that the defendant is a "mope" and should have been denied due process. In summary, "dispose" is a workgroup term referencing welfare stigma and signals how a case should be treated administratively.

From an administrative standpoint, due process compliance is a costly time commitment for workgroups faced with high case volume. Because due process rights consume prosecutorial time, these constitutional guarantees are viewed by the workgroup as a privilege preserved for "monsters" rather than as a right reserved for all defendants. As one prosecutor explained, "Somewhere along the line, they were trying to protect their rights, but yeah, most of it's a waste."

For defendants categorized as "monsters," a more formal performance of legal procedures is customary. Judges slowly read admonishments and wait for responses. Sometimes, public defenders from specialized task forces or pro bono attorneys from law firms enter into the courtroom to represent the most serious defendants. The presence of outsiders infuses the courtroom with a professional standard and accountability that requires workgroup regulars to adhere to formal procedure. As a result, courtroom processes slow down into easily discernible exchanges.

Experienced prosecutors and judges socialize new attorneys on how to streamline adjudication to the minimum of legality, even laughing at "wet behind the ears" attorneys who cite case law. For example, a defense attorney described being scolded for pursuing a legal motion:

> One of my first introductions to the system was in front of Judge D. I'm arguing back in chambers and the judge says, 'What's this motion about?' And I said, "It's based on *People v. Jones*," and Judge D says, "Fuck *People v. Jones*."

In another example, first and second chairs (i.e., the high-ranking prosecutors) in one courtroom were coaching their inexperienced third chair to avoid conducting plea bargains the "long way." When judges requested the factual basis for pleading guilty, this third chair naively read a detailed account of the case. The two first chair attorneys explained that she should add fewer facts into the record so as to not "waste time:"

> First Chair: "All I say is, 'On such-and-such date he was found stealing. So, stipulated? OK. Let's move on.'"
>
> Third Chair: "They [formal management] said I wasn't putting enough facts."
>
> First Chair: "You can never put too little."

For professionals, allowing full due process rights slows down case disposition and, in their view, extends rights to unworthy "mopes." Even when a defendant pleads guilty (waiving his or her right to trial), reading too many facts into the court record is considered a waste of time. The reading of too much evidence creates ambiguity and the potential for defendants to interrupt the "dispose." For instance, frequently, defendants hear details in police reports that are in conflict with their experiences. For example, after a prosecutor read a police report summary, the judge asked:

> Judge: "Are those the correct facts?"
>
> Defendant: "That's what the police say."
>
> Private Attorney [whispering off the record to the defendant]: "Yes!"
>
> Defendant: "Yes, Judge."

During this exchange, the court record hid the informal coercions required of the "ceremonial charade" to move the court docket along. As Van Cleve observed, glares from the judge and a barking whisper from his attorney led the defendant to plead to facts that he believed were fabricated.

Another example of a ceremonial charade is how some "mopes" come to be denied public defenders and indigence hearings. This tactic eliminates additional hearings and induces fast guilty pleas. Indigence hearings (wherein a judge determines eligibility for a public defender) take a lot of court time and resources. Because "mopes" are thought to be unemployed when they post bonds, judges assume the bond money was acquired illicitly and use that rationale to deny defendants an indigence hearing. Such defendants are told to return with a private attorney. Given the financial burden of procuring a private attorney, such defendants are pressured to accept plea agreements quickly, thus, saving precious workgroup time. In short, welfare stigma is so pervasive in the jurisdiction that it produced normal outright violations of the law. Although the Chief Judge recently issued a general administrative order (no. 2013-11) to curb this practice, it serves as an important example of how welfare stigma can gain a strong foothold among practitioners and circumvent due process.

The following example shows how "mopes" are generally denied full due process. The defendant was charged with possession of a controlled substance. During his plea bargain, the defendant was visibly confused and asked for clarification of his rights. In the ultimate violation of courtroom expediency, the defendant requested to address the judge. He said:

> You are a most gracious and honorable judge. I truly want to be a productive member in society. I want to change my behavior and put structure in my life. Your Honor, I am speaking from the kindness of my heart. I need to change and be there for my six children. I want this longer sentence for the drug program.

As noted in field notes, the workgroup professionals rolled their eyes, laughed, and engaged in communication undetectable by the court record. Despite presenting himself to the contrary, the man could not shed his welfare stigma: The irresponsible fathering of many children and addiction are key assumptions about poor people of color who rely on public aid (Gustafson, 2011). In addition to slowing down the case, this defendant was asking for a longer sentence to access intensive probation with drug treatment or "carceralized aid" (Comfort, 2007). Regardless of the defendant's remorse, he was cast as a "mope" for wasting the workgroup's time and was denied his request.

Although it may initially appear that a defendant's criminal charge, especially a low-level, nonviolent charge, predetermines their categorization as a "mope," there are important examples in which low-level defendants are not considered "mopes." Even though we present one example here, across the jurisdiction, the way that White, wealthier, low-level defendants are granted precious court time stands in stark contrast to the way that poor people of color are denied due process. In the following example, the defendant was a young White woman with a low-level charge and her case was afforded court time usually reserved for "monsters." Her mother was allowed to sit in the front bench of the gallery—a spot usually reserved for attorneys and officers. In the context of a public gallery composed of mostly poor people of color, the mother stood out with a large diamond ring on her manicured hands, details that denoted her wealth and social status. During the proceedings, the judge studied progress reports from the defendant's rehabilitation program, praised the defendant for her progress, addressed the defendant's mother as though she was a collaborator in the defendant's recovery, and ended with a pep talk:

Judge: "You're young. You can kick this."

Defendant: "Yes, I can, Judge."

The punitive tenor of the court was tempered for this low-level defendant who did not meet the workgroup's expectations about "mopes." The court call assumed the slow pace of a therapeutic court with a treatment orientation—a jarring contrast to the break-neck pace that predominates across the jurisdiction. In modifying his punitive demeanor (which often intimidates defendants and dissuades them from participating in their defense), the judge acted more like a coach, patiently engaging the defendant's therapeutic needs. This case illustrates how welfare stigma is used to understand which low-level felony charges should receive precious court time and due process.

## THE JAIL AS A WELFARE INSTITUTION

In this section, we document how intake staff in a large urban jail use welfare stigma to inform discretion during inmate classification. Because classification officers—the deputies and civilian custody staff who interview incoming inmates and assign them classification scores—know that their jail's classification system can inform early release decisions, they have informally altered the way they assess risk. This section is divided into two parts. First, we detail the particular form welfare stigma assumes in this particular agency. Second, we detail how it shapes inmate classification.

### DENYING "JAIL BENEFITS"

Intake staff members view a portion of the jail population as purposely committing crimes to receive "jail benefits"—what staff members construe as shelter and safety from the streets, food, showers, and medical services. As they have come to understand it, their role, in addition to more traditional jail concerns (e.g., appropriately assigning risk scores, maintaining security, and meting out punishment), is in part to keep people they primarily understand as the undeserving poor from entering the jail. It is common among the intake unit to refer to inmates as "regular customers" and to be on the lookout for inmates trying to "game the system." Officers also refer to the cells or units of space within the jail as "beds," which emphasizes their characterization of the jail as housing. The following quote from an intake officer illustrates the numerous components of this orientation:

> Look, sometimes they will just come out and tell you [that] they robbed or did something to get thrown in here. … It's such a waste. We are overbooked with murderers, gangsters … who do this for a living, who don't care about hurting people [pause] and we have to deal with these people who can't control themselves, can't take care of themselves.
>
> I've seen some guys here for years. You're telling me you can't get your act together in 15 years? We have programs to help them out … they get sentenced to these programs and just drop out. They'd rather be in here 'cause they don't have to do anything. [They] just want us to take care of them.
>
> You see it in the way they complain … this whole entitlement thing. They are always yelling at us "Take care of me! Take care of me!" to make sure they are safe. And

> the moment something happens that's out of our control, it's like, "Oh I'm gonna sue you, I'm gonna do this and that." One guy told me he gets arrested to come in here just so he can get a settlement and make some money. That's the attitude … we have to pick out the real criminals, the people who are out to actively plan and hurt people.

Similar to court professionals (who divide cases between "monsters" and "mopes"), intake staff members categorize the inmate population into "real criminals" and those who intend to abuse criminal justice resources. Note the phrase "entitlement," which parallels prevailing political rhetoric about welfare institutions and the people who use them. The officer describes staff members' view of unworthy inmates' characteristics: the desire to be incarcerated (even faking crime), an infantile nature, and the ability to manipulate the jail and legal system as a resource. The officer also emphasizes a self-conception in which he assumes a paternalistic burden of caring for this population.

This shared logic is maintained through storytelling. In break rooms, hallways, and during key moments of decision-making, intake personnel share stories about specific inmates who purport to abuse the jail's resources. The key here is that the individuals featured in these stories have the effect of stereotyping the inmate population as a whole. For example, the following exchange illustrates how an officer used storytelling to give a different inmate a lower classification score. As the officer explained:

> "There's no way that I give this guy a bump on his ranking … no way. I've seen that guy in here, in and out of here, for the past month. He's no kingpin … he's just looking for a shower and meal. Too lazy to go wait in line at the shelter, [he would] rather just get dropped off here."
>
> "So the felony drug charge? That's not serious?" Lara-Millán asked.
>
> "For him? No way. Look … there is a guy in here … he comes in here every week ranting and screaming that he is playing tricks on us … that he plants drugs on himself so he can get a free ride in here. No lie, he admits this. He just sits right over there … and mocks us."

In this excerpt, despite the cases being unrelated, a story involving welfare stigma about one inmate is used to justify a downward nudge in classification of another inmate. The classification officer believed the inmate was seeking a shower and was too lazy to stand in line at a shelter. Officers use such stories involving welfare stigma about some individuals who proclaim their desire to be jailed as a way to make sense of the difficult classifications of other inmates.

## THE CLASSIFICATION OF "NONGANG RELATED"

The effect of welfare stigma in the jail is best understood by detailing its deployment in the otherwise rigid inmate classification system. Conventionally, jail classification assigns a number or risk score to inmates based on their threat to in-jail security. The classification system uses a decision-making tree that weighs key variables, such as current offense, relationship to gang activity, institutional behavior, escape history, and criminal history. For instance, an inmate with an assaultive felony charge requires a risk score no lower than a 7, which is considered a medium-risk score. If the inmate has a history of behavioral

problems while institutionalized, his security level should rise to 8 or 9, which are high-risk scores. Officially, the aim of jail classification is to assign inmates to an appropriate area of the jail (e.g., maximum, medium, or minimal security or other special area of the jail); that is, such classification should have little to do with early release. Nevertheless, in this jurisdiction, scores affect release in two ways. First, in the absence of more developed assessment tools designed for reentry, the score is one factor that administrators weigh in release decisions.[4] Second, because the number of available beds within different security levels fluctuates, the number of inmates with medium-risk, high-risk, or special status scores affects the jail's ability to meet its population cap in an efficient manner. Thus, because classification officers know that their scores have a direct and indirect effect on jail administrators' ability to release inmates, they informally modify the way they use their discretion.

At several points officers can use discretion to "nudge" classification scores during semistructured interviews. First, they can use "overrides" to circumvent the decision tree. Officers are provided with blank space on classification sheets to explain their justifications for ignoring the rules of the decision tree. Second, classification officers have the discretion to identify special classes of inmates (e.g., gang members or the mentally ill) and refer them to more specialized assessment teams (e.g., gang intervention units or mental health providers). Such inmates could be placed into scarce specialized housing areas of the jail. Third—and less well acknowledged—are aspects of the classification tree that require subjective decision-making. For example, when considering history of assaultive felonies, officers have the discretion to factor in (or not) "elapsed time" since prior convictions. When considering escape history, beyond noting specific escape attempts from the jail, classification officers have the discretion to include a "walk-away" from nonsecure sites (e.g., halfway houses or work release programs) as an escape attempt. Most prominently, when considering institutional behavior problems, beyond noting whether an inmate has a specific infraction on file, classification officers also have discretion to determine whether an inmate is cooperating with facility staff, intimidating fellow inmates, or demonstrating positive attitude changes. In practice, officers can, if they wish to do so, emphasize information garnered from semi-interviews with inmates to inform such discretionary points.[5]

An example of this discretion is the emergence of the informal label of "nongang member," which is used to nudge inmates' classification scores downward and better position them for release. This is not an official category on the decision tree. Although there are other examples of how officers put welfare stigma to use in classification, this label is particularly important because it is malleable to many types of criminal backgrounds. To be sure, officers do not have free rein to alter scores—they must follow the strict rules of the decision tree—but when discretion allows for the subjective interpretation of an inmate's criminal history, officers will make use of their informal understanding of inmates as "nongang members."

Analogous to the "mope" category in the courts, the "nongang member" label is largely determined by welfare stigma. When officers understand inmates' felony-level charges as

4. See Hoffman (2009: 597–602) on the variety of jail-administered release practices informed by risk classification.

5. See Goodman (2008) on the interactional basis of classification work between inmate and intake workers. See Hannah-Moffitt (2005: 36–38) on the discretion inherent in risk classification.

emanating from a culture of poverty—especially what they perceive to be dysfunctional family culture—such crimes are susceptible to being labeled as "nongang related." We found that a broad range of case circumstances pushed officers to designate some serious crimes as "nongang related," but the following were the most prevalent: domestic arguments resolved by police, inmates with cases pending in the child welfare system (e.g., paternity, child support, and children in the care of the state), homelessness, and most importantly, drug addiction. For instance, if officers come to learn that inmates have cases pertaining to child support, they associate their current charges with dysfunctional family culture. If an inmate blames a domestic partner for causing an altercation related to his criminal charge, officers can find ways to nudge the scores downward. The following excerpt from a classification interview illustrates these points:

> "You have a court date in family court?" asked the classification officer to the inmate.
>
> "Yeah, I'm having paternity issues," replied the inmate. "You know how these ladies are, man? I'm not trying to be a dad right now. That's not my responsibility. I didn't ask for that."
>
> "Why don't you just pay the payments, get it over with?" replied the officer.
>
> The inmate did not respond.
>
> "You pled no contest to a year in here, three years' probation … let's see … what-did-you-do? They put possession for sale … hmmm."
>
> The officer stopped reading from the database and suddenly asked the inmate, "How come you stopped going to the drug program? … What happened?"
>
> "No, no, I was trying to do it, but my brother died so I couldn't make one of the sessions," replied the inmate.
>
> "Uh-huh. Is that when you got that girl pregnant? … I see what this is. What a waste, man. You are just messing around."
>
> After giving the man a classification of 6 (a medium-risk score), the officer clarified his reasoning to Lara-Millán: "He's not really a danger to anyone. I mean, yeah, it says possession for sale, so I guess he COULD be a serious gang guy, if that's what you're asking me, but I don't think he is … 'cause you saw all the custody issues with the girl and some kid. He's just a deadbeat dad. He's out there doing coke or whatever and he knows to stay away from that girl. I mean, he wants to stay away from her … just the cockroaches fighting over crumbs. That's it. He's no big deal."

This excerpt illustrates a downgrade that results from an officer's use of welfare stigma; that is, his belief that an offense was related to dysfunctional family culture. The inmate's supposed familial dysfunction supersedes his robust criminal history. As the officer said, this history could have been used to indicate a more serious inmate. Instead, the officer mobilized welfare stigma, characterizing him as drug addicted and a "deadbeat dad" who was unwilling to rehabilitate.

The following excerpt is taken from a classification interview in which an inmate had many indicators that classification uses to identify gang involvement: some violent charges

on his criminal record, a specific mention of gang involvement, a "cholo" aesthetic, shaved head, and prominent tattoos:

> "Look, man, yeah, I was involved with a crew back in the day. I won't lie, but look, that's not what this is about," said the inmate, as he leaned in close. "I was out there with my lady and the guys got into some stuff; I had to say something … and I ended up here."
>
> The officer responded, "But why did you have the gun on you? That's a deadly weapon."
>
> "I'm not the only one in here with charge, man. That's status quo; that's just living, man; you know that."
>
> After the classification officer moved the inmate along, Lara-Millán asked him, "Not that serious?"
>
> "Yeah, I mean, he's obviously been mixed up in gangs in the past and the case involves a deadly weapon, but look, on some level he's right; lots of guys are like that," said the officer.

In this example, the framing of the arrest as related to the inmate's girlfriend (e.g., dysfunctional family culture) is, at first, insufficient to downgrade the inmate. The officer notices the various markers that indicate gang affiliation and pushes the inmate to account for the firearm. The officer nudges the inmate's classification downward only after he concedes that this type of case is "nothing special." That is, among the overabundance of similarly situated inmates, he believes the case is unremarkable. Lara-Millán pushed the officer to elaborate on the exchange:

> "What about the incident … what if that's gang related?"
>
> The officer said, "You can just tell … like that incident, he's there with a girl. … These jokers are just out there; [they] can't control themselves, and they get into it and now we have to deal with them. Pretty much all filled up with these lazies in here … he's not special."

At this juncture, the officer mobilizes welfare stigma to justify the downgrade post hoc. The violent assault is framed as a fight over a female partner, as a squabble with other "lazy" criminals, and as occurring in a world where all poor people carry firearms as a part of their normal, mismanaged lives. The officer views the incarcerated person as part of a category of "lazies" that he must dutifully manage and "deal with" as part of his job. Welfare rationale works to label this incarcerated person as a "nongang member."

As we observe with these two examples, officers produce downward movements or nudges in classification scores based on their understanding of whether they perceive an inmate to be a "nongang member." The key here is that the "nongang member" category is an informal cultural innovation whose features are made up of extralegal inputs related to welfare abuse. That is, the welfare stigma changes the way practitioners perceive criminal history. In the end, officers' deployment of this informal category improves the chances that inmates will be pulled out of the jail population and released—thus, denying them the imagined benefits of the jail.

## CONCLUSION AND THEORETICAL IMPLICATIONS

On its face, the reemergence of a criminal justice system that balances social services and crime control could be interpreted as a welcome, progressive change in American criminal justice. Indeed, with the rise of therapeutic courts and policing, drug treatment in penal institutions, and therapeutic reentry services, some argue we are witnessing a turning away from a four-decade-long period of "warehousing offenders" to an era with more attention paid to rehabilitation and reintegration (Clear and Frost, 2015; Simon, 2014).

Nevertheless, scholars who are examining the hybridity of criminal justice settings temper such optimism. When provided by criminal justice institutions, social services come at high cost to the incarcerated person. For instance, therapeutic policing effectively forces individuals into rehabilitation programs by arresting them (Stuart, 2014). Therapeutic courts provide service on the condition of guilty pleas and the surrendering of legal rights (Moore, 2007), and mental health services in community corrections are provided with great emotional violence (Haney, 2010). In short, to receive "carceralized aid" (Comfort, 2007), the urban poor must submit to surveillance and enter into carceral spaces.

In our examination of core criminal justice functions of felony adjudication in courts and space allocation in jails, we found two additional consequences to an emerging "hybrid" criminal justice system. The first consequence relates to discretion in criminal justice agencies. The second consequence contextualizes our comparative finding within the broader criminal justice landscape.

### WELFARE STIGMA AND DISCRETION

We found that "welfare stigma" or wider beliefs and stereotypes about poor people's overreliance and abuse of public aid influence the distribution of court and jail resources. Through the framework of welfare stigma, the number of appearances in court, legal motions, trials, jail beds, food, showers, safe haven from the streets, and in-custody medical services is viewed as part of the many criminal justice "benefits" that incarcerated people hope to access and abuse. When cases are similarly situated in terms of criminal history and criminal charges, welfare stigma acts as an additional informational resource—albeit an extralegal one—that expedites and simplifies complex choices.

This finding is consistent with the results of previous research on discretion that show how extralegal biases about race or class inform the construction of traditional variables like criminal charges and criminal history (Steen, Engen, and Gainey, 2005). Indeed, Sudnow (1965) described how attorneys create conceptual shorthand for crimes and the ascribed racial characteristics of the people who "normally" commit them. Nevertheless, in the context of a criminal justice system increasingly tasked with social service provision, we found that beyond ascribed characteristics of race and class, it is welfare stigma that provides professionals with the ability to understand cases quickly and how those cases should be processed. For example, rather than rely on stereotypes that Black defendants are prone to violence, professionals in our cases rely on stereotypes that Black defendants are attempting to abuse public resources. The application of welfare stigma to incarcerated persons' biographies allowed many felony-level charges in our study to be perceived as less serious (even characterized as "glorified misdemeanors"). Welfare stigma changes how professionals view the criminal justice system, their role in it, and the defendants they are processing: Punishment is a type of privilege to be parsed out,

defendants are not considered criminal elements but social burdens to be managed, and criminal justice professionals become more akin to welfare bureaucrats primarily tasked with seeking to disqualify people for purported benefits.

Because courts and jails have different tasks and routine problems (Eisenstein, Flemming, and Nardulli, 1988), it was imperative we compared and explored how the larger culture of the welfare stigma (Katz, 2013) was adapted within the respective local organizational discretion. In courts, welfare stigma is used to rationalize minimal compliance with due process requirements. Frontline actors simplify incarcerated persons and their cases into two categories: "monsters," primarily defined by the seriousness of their criminal charges, and "mopes," defined by extralegal welfare stigma. This sorting of cases informs attorneys' discretion over the allocation of their time, and consequently, "mopes" are understood to be undeserving of what should be considered protected constitutional guarantees; due process is a "ceremonial charade" whereby covert evasions of procedural justice are considered justified. These practices become organizationally expedient because they "push" incarcerated persons through the system by inducing plea bargains. Thus, in the courts, welfare stigma works to expand the ability of the workgroup to render guilty felony convictions.

Conversely, in the jail, welfare stigma works to "pull" inmates out of the jail population. Intake staff members understand a portion of the incoming jail population as seeking out desirable "jail benefits." Classification officers deploy welfare stigma to label some inmates as "nongang members" whose crimes are understood to originate from domestic squabbles, drug addiction, and other problems stereotypically faced by only the poor. Practitioners subsequently work to—within their limited opportunities for discretion—nudge classification scores downward for such inmates. These downward movements of scores increase the likelihood that so-called "nongang members"—those same inmates whose moral evaluations worked to expedite their conviction in courts—will be released or released earlier.

Thus, welfare stigma is not merely a reflection of the normal, ongoing activities in court and jail decision-making; instead, it actively shapes how discretion unfolds. That is, one may argue that the interdependent relationship between courts and jails has always exerted a pressure on courts to convict and jails to release inmates. Nevertheless, we argue that welfare stigma increases organizational capacity to process, convict, and release inmates in the context of high caseload volume. In courts, it is likely that some defendants would be acquitted or their charges dropped if their cases were subject to close scrutiny, full evidence disclosure, and other protections afforded by full due process compliance. In jails, some inmates may not be releasable without the downward nudges in classification scores.

## DIFFERENTIAL EFFECTS AND THE CHANGING PENAL LANDSCAPE

Our comparative perspective reveals that welfare stigma creates a "push-and-pull" dynamic between these gateways. In the courts, the stigma works to "push" people through the adjudicative process. That is, in rationalizing the denial of due process, welfare stigma saves the court valuable time and expedites convictions. In the jails, welfare stigma rationalizes "pulling" people out of the custody population, nudging risk scores downward, and increasing the ability of the jail to release inmates early. Thus, the adoption of welfare rationale across these two contact points allows criminal justice professionals to keep

processing and convicting despite the immense uncertainty of case backlog endemic in large urban jurisdictions.

The interorganizational effect of welfare stigma, "the push-and-pull" dynamic between courts and jails, simultaneously expedites the conviction of defendants but also pushes officials increasingly to make use of incarceration alternatives for more types of inmates. Thus, a possible consequence of welfare stigma is that individuals endure the long-term effects of felony conviction—the labeling and surveillance effects of a criminal "mark" (Ispa-Landa and Loeffler, 2016; Pager, 2007)—with fewer costs to correctional systems. Defendants can be continuously "marked" despite the expansion of incarceration alternatives.

Sociolegal scholars are now suggesting that the primary sites of the criminal justice system's formal social control may be moving into various noncorrectional or correctional alternative environments (e.g., Haney, 2010; Kohler-Hausmann, 2013; Miller, 2014). After four decades of sharp growth in the number of incarcerated individuals, 2008 saw the first decrease since 1972 (Shubik-Richards and Stemen, 2010). Furthermore, "these declines in incarceration are the result of a flurry of reform efforts, including revised criminal codes and sentencing guidelines, expanded prison alternative programs, and improved community supervision policies" (Phelps, 2011: 51: also see Aviram, 2015). Alongside those of Kohler-Hausmann (2013), our findings suggest a pipeline in highly overburden jurisdictions with increasing ability to convict alongside a decreasing need to expend resources on "carceralized aid." If decarceration trends continue, future research should involve investigation of possible concurrent growths in post-incarceration surveillance and intimidation that shapes the lived experience of the urban poor (Rios, 2011). We should also be concerned with conviction rates in addition to declining rates of incarceration. For instance, preliminary review of federal data suggests that despite recent declines in incarceration rates, more individuals were being sent to prison in 2014 than in 2010. It is possible that defendants are being convicted on shorter sentences only to "pass through" the prison (Ehrenfreund, 2016).

The use of welfare stigma for criminal justice discretion is problematic on several fronts. Through the degradation of due process, it is likely that welfare stigma pushes weak cases through the courts and potentially convicts innocent people. This argument is consistent with Stuntz's (1997) claim that criminal procedure helps some defendants at the expense of defendants who are likely poor and, perhaps, innocent. In the context of penal institutions, welfare stigma turns health and welfare resources that many would consider to be basic human rights into privileges that should be rationed. Moreover, no research has yet resulted in identification of a group of people who normally reoffend for the sole purpose of accessing "carceralized aid." Assumptions of such reoffending ignore how individuals must submit to surveillance, loss of freedom, and the many other dire consequences of incarceration. Even a conviction without being sent to prison or jail results in life-long consequences on individuals' prospects for employment, housing, and education (Pager, 2007; Wakefield and Wildeman, 2014).

Future scholarship should involve examination of "criminal justice adjacencies" (Van Cleve and Mayes, 2015) or how larger culture is shared between agencies, but also it should involve how it is adapted for routine problem solving in locally specific ways. This approach is fruitful for distilling interorganizational uses of a shared culture, which may generate wider system-level effects. Although we have identified welfare stigma as primary in our respective cases, there may be variations or other repertoires operative in

other parts of the criminal justice landscape. Researchers could investigate multiple agencies within the same jurisdiction or trace how culture moves across jurisdictions or, even, internationally. Collaborators might conceive of projects at the design stage, spend equal time in respective jurisdictions or agencies, alternate field sites between researchers, or simultaneously observe agencies. Such steps could add breadth and interobserver reliability. In addition, scholars can use this approach to examine the effects of new laws or policy changes that directly affect multiple agencies. Such external changes may cascade across the sequential decision-making that links different agencies. This approach takes seriously both the fact that loosely coupled criminal justice agencies experience isomorphism—or become similar over time—but also respects the complexity and varieties that similar ideas can take on in vastly different organizational contexts.

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