Being a Disadvantaged Criminal Defendant: Mistrust and Resistance in Attorney-Client Interactions

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Researchers have documented the power of legal officials to administer sanctions, from arrest to court surveillance and incarceration. How do those subject to punishment interact with officials and attempt to subvert their power? Drawing on interviews and ethnographic observations among 63 criminal defendants and 42 legal officials in the Boston-area court system, this article considers how socioeconomically and racially disadvantaged defendants interact with their defense attorneys, and with what consequences. Given racialized and classed constraints, many disadvantaged defendants mistrust their court-appointed lawyers. Their mistrust often results in withdrawal from their lawyers and active efforts to cultivate their own legal knowledge and skills. Defendants use their lay legal expertise to work around and resist the authority of their lawyers. Defense attorneys and judges respond with silencing and coercion, given the unwritten norms and rules of the court. These findings complicate existing accounts of disadvantaged defendants as passive actors and contribute to cultural sociological and relational theories of how people engage with professionals across institutional spaces. Unlike in mainstream institutions such as schools and hospitals where self-advocacy is rewarded in interactions, criminal court officials reject disadvantaged defendants' attempts to advocate for themselves.

Introduction

Sociologists and criminologists have long studied the functioning of criminal courts in the United States. Court ethnographies have detailed how police,

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lawyers, probation officers, and judges—operating within courthouse workgroups and constrained by state and federal laws—administer legal sanctions (Eisenstein and Jacob 1977; Feeley 1992 [1979]; Kohler-Hausmann 2018; Lynch 2016; Ulmer 2019; Van Cleve 2016). In recent decades, with the rise of mass criminalization concentrated in poor communities of color, researchers relying on administrative data alongside ethnographic data have documented inequalities in defendants' legal outcomes, including pretrial detainment, conviction, and sentence length (see Baumer 2013). Recent research, however, often overlooks the perspective of defendants, who are assumed to be passive consumers of legal sanctions. Defendants' viewpoints are therefore not fully understood.

How do those subject to punishment interact with legal officials and attempt to subvert their power? This article examines how disadvantaged criminal defendants—those who are working-class or poor and often racially subordinated—interact with their defense attorneys and with what consequences. Existing research often assumes disadvantaged defendants are passive, with little agency and whom defense attorneys view as having little interest in their court cases and little understanding of the law (Casper 1972; Emmelman 2003; Feeley 1992 [1979]; Flemming 1986). Drawing on interviews and ethnographic observations from a study of 63 defendants and 42 legal officials in the Boston-area court system, I present an alternative account: many disadvantaged defendants are active in learning the law and resisting legal power, but defense attorneys and judges reject their efforts to advocate for themselves. I show how racialized and classed constraints in court and in everyday life produce higher levels of mistrust among disadvantaged defendants, similar to the cynicism of police and legal institutions commonly documented in disadvantaged communities (Bell 2017; Sampson and Bartusch 1998). In attorney-client interactions, such mistrust often results in withdrawal from their lawyers and efforts to cultivate their own legal knowledge and skills in their communities, in jail, and through observation. I conceptualize defendants' legal knowledge and skills as lay forms of legal expertise, which allow for resistance. When defendants seek to use their cultivated expertise to resist legal control, lawyers and judges—themselves constrained by what they understand to be the norms of court processing—commonly respond with silencing and coercion.

These findings at once complicate existing accounts of disadvantaged defendants as passive and contribute to broader sociological theories of how disadvantaged people engage with institutional authorities. Cultural sociologists studying mainstream institutions such as schools and doctor's offices have described working-class and poor people as passive, deferential, and resigned to authorities and professionals (Calarco 2018; Gage-Bouchard 2017; Jack 2019; Lareau 2011, 2015; Shim 2010; Stephens, Markus, and Phillips 2014). It is often argued that disadvantaged people would gain more resources and help if only they were more assertive in their interactions and cultivated knowledge of institutional procedures (Bourdieu 1984; Lamont and Lareau 1988; Lareau 2015; Stephens et al. 2014). Incorporating insights from cultural capital theory and relational theory on professional-client interactions, this article shows that the dynamics of interactional disadvantage work differently in criminal courts. Cultivating

knowledge of the law and attempting to assert one's rights is one common way disadvantaged people interact with court officials, but officials reject these efforts rather than reward them. These findings thus reveal a paradox of the criminal legal system for those subject to its control: self-advocacy often backfires among the disadvantaged.

Active Officials and Passive Defendants

Qualitative research on legal officials provides important understandings of the power of criminal courts and how they reproduce unequal experiences. Court ethnographies in the mid-twentieth century documented how officials, burdened by heavy caseloads, engaged in "assembly line justice," whereby they collaborated to dispose of defendants' cases quickly and uniformly (Blumberg 1967). Following the due process revolution of the 1960s and 1970s, when the right to an attorney and other procedural rights were expanded, studies nonetheless continued to document the pressures officials faced (Eisenstein and Jacob 1977; Feeley 1992 [1979]). Defense attorneys encouraged their clients to waive their rights and take pleas (Heumann 1977), worried about trial penalties and efficient use of resources (Eisenstein and Jacob 1977; Flemming 1986; Uphoff 1992) as well as their standing among other officials (Eisenstein and Jacob 1977; Heumann 1977). Meanwhile, prosecutors used the threat of mandatory sentences to procure convictions (Heumann 1977), and judges felt constrained by prosecutorial power as well as new sentencing guidelines. Into the twenty-first century, courts now face growing caseloads and continued racial disparities, given government investment in the criminalization of low-level offenses (Kohler-Hausmann 2018; Lynch 2016; Van Cleve 2016). These shifts have been uneven and have varied across places, but they nevertheless present new and recurring dilemmas for officials. For instance, Kohler-Hausmann (2018) shows how New York City's misdemeanor courts responded to increasing arrests by controlling defendants through record-keeping, court appearances, and pretrial programs rather than expending scarce resources on conviction and incarceration.

While existing research has provided important insight into officials' decision-making, it has had little to say about defendants' perspectives and actions. Defendants' perspectives are typically filtered through those of legal officials or mentioned only in passing (e.g., Feeley 1992 [1979], p. 152). Some studies have shown that officials view defendants, especially the disadvantaged, as passive. For instance, in their respective studies of public defenders, Emmelman (2003) and Flemming (1986) describe how defense attorneys grow frustrated with defendants who mistrust them and who must be persuaded to care about their cases. Feeley (1992 [1979], p. 89) writes that defendants represented by public defenders "have much less intensity and interest than the clients of private lawyers." More recent ethnographies sometimes describe legal officials' negative attitudes toward defendants, including those who attempt to defend themselves. Van Cleve (2016, p. 163), for instance, describes how defense attorneys in Cook

County, Illinois, sometimes mock defendants' legal consciousness as "street law." But like older ethnographic accounts, recent work has rarely considered whether and how defendants use their legal knowledge and skills in attorney-client interactions and court proceedings.

In the rare instances when researchers have considered defendants' perspectives systematically, studies have similarly portrayed disadvantaged defendants as passive. For instance, Casper (1972) argues that most defendants in his study are resigned to the legal process. He acknowledges that they often attempt to hustle plea deals that are less harsh than the sentences they may otherwise receive, but he frames their strategies as inconsequential. He argues that defendants' distrust of their lawyers, combined with their lack of legal knowledge, results in little meaningful engagement with the process. Other research on defendants' attitudes conducted during and after the due process revolution has documented disadvantaged defendants' distrust through survey-style instruments or brief interviews (e.g., Boccaccini and Brodsky 2001; Campbell et al. 2015). Yet, relying on defendants' brief recollections alone, this work has had less to say about defendants' interactions with court officials and the court process.

This article takes defendants' agency and perspectives seriously, drawing on in-depth interviews and ethnographic observations to provide an account of disadvantaged defendants' interactions with court officials in the present era. Since Casper's (1972) study of defendants, much has changed about the criminal law, including the rise of mass incarceration, the greater incidence of lower-level forms of legal involvement across groups (Travis, Western, and Redburn 2014), and greater access to legal resources among civil litigants (see Bertenthal 2017) and prisoners seeking to overturn their convictions or file civil suits (see Feierman 2006). In poor communities of color, the imprint of the carceral state has grown, profoundly altering the way people view the police, their neighbors, and the state (Bell 2017). Amidst distrust and legal estrangement, these communities have been shown to resist their criminalization, often by cultivating knowledge of police practices (Stuart 2016; Weaver, Prowse, and Piston 2019; Young 2014). How might disadvantaged people facing a criminal charge in court today seek to interact with their lawyers and subvert court officials' power?

Legal scholarship and journalistic accounts suggest that defendants should have numerous opportunities to influence the court process. Defendants have various legal choices to make during a case, including choosing counsel, choosing to go to trial or plea, taking the witness stand, and consenting to sentencing alternatives (see Mather 2003; Schulhofer and Friedman 1993). A recent interview-based study of 22 defendants found that some defendants exhibited agency in their communications with their lawyers and in their efforts to ask the court to be re-assigned counsel (Moore et al. 2020). Another study on "voice" in two juvenile courts found that youth and their families sought to share their concerns during key moments of the legal process (Pennington and Farrell 2019). Moreover, a number of law review articles and journalistic accounts have examined "jailhouse lawyering" or the process whereby incarcerated people study the law, share their knowledge, and attempt to influence future court cases. Yet, we know surprisingly little about—and are

lacking theoretical approaches to conceptualize—how disadvantaged defendants today interact with officials in the court process.

Expertise in the Attorney-Client Relationship

This article considers disadvantaged defendants' interactions in the attorney-client relationship, which is central to how defendants engage the courts. Sociologists have called for more attention to how interactions between legal officials—rather than their independent decisions alone—produce power and inequality (Ulmer 2019, p.483). This call for research on interactions between officials can be extended to the study of defendants as court actors. Just as officials' actions are constrained by those of other officials (Clair and Winter 2016; Lynch 2017), defendants' actions and perspectives may also emerge not in isolation but rather in relation to those of judges, prosecutors, and defense attorneys—with implications for legal power.

I draw on cultural sociology and relational theory to conceptualize the attorney-client relationship in criminal court as a set of repeat interactions between a client (the defendant) and a professional (the defense attorney) that is constrained by institutional rules and procedures, some explicit and others unwritten. Relational approaches in sociology have theorized how power and inequality are produced not by the unilateral actions of institutional authorities but more precisely by the "unfolding transactions" (Emirbayer 1997, p. 293) embedded in "the relations between people and positions" (Tomaskovic-Devey 2014, p. 52). In cultural sociology, scholars studying schools and doctor's offices have similarly attended to the way cultural capital operates in relational dynamics between professionals and clients, even if such scholarship does not always engage with relational theory (Calarco 2018; Gage-Bouchard 2017; Jack 2019; Lareau 2011). Taken together, both literatures provide a theoretical foundation for studying how defendants experience the attorney-client relationship.

When entering a relationship, professionals and their clients are meant to work together to solve a problem or complete a task. To do so, they rely on expertise—or knowledge, skills, and other institutional relationships suited to the problem or task (Collins and Evans 2007). Relying on their specialized expertise, professionals choose whether and how to advocate on behalf of their clients in the face of administrative authorities distributing rewards and sanctions (Maynard-Moody and Musheno 2003). Clients, however, can question professionals' strategies for assisting them (Collins and Evans 2007; Haug and Sussman 1969)—and they do so unequally. The dynamics of professional-client interactions have been studied in mainstream institutions (e.g., Calarco 2018; Gage-Bouchard 2017; Haug and Sussman 1969; Lareau 2011), where power is co-produced as interactions unfold between professionals (e.g., teachers, physicians) and their clients (e.g., students/parents, patients). For instance, middle-class parents question the expertise of schoolteachers, whereas working-class parents defer to and trust in teachers' expertise (Calarco 2014; Lareau 2011).

The demanding and entitled ways middle-class people engage with teachers results in rewards, given obscure institutional rules that value these styles of interaction and therefore constitute dominant forms of cultural capital (see Bourdieu 1984; Lamont and Lareau 1988).

In civil legal settings, scholars have also examined relational struggles between clients and professionals (Berrey, Nelson, and Nielsen 2017, chapters 5 and 6; Kritzer 1990; Rosenthal 1974; Sarat and Felstiner 1995). For instance, clients dealing with a divorce can doubt their lawyers' commitment to their side of the story and strive to control important decisions (Sarat and Felstiner 1995). In workplace discrimination cases, employers, who are repeat players and have access to substantial resources, control their lawyers in ways unavailable to most plaintiffs—the most disadvantaged of whom have trouble acquiring legal representation in the first place (Berrey et al. 2017). While the literature on professional-client interaction is large and diverse, two central findings stand out: first, privileged clients appear more likely to accrue their own expertise and contest professionals' authority than disadvantaged clients, who are often described as deferential; and second, accruing lay expertise and questioning professionals results in rewards for the middle class (Lareau 2015; Stephens et al. 2014).

In the criminal courts, professional-client interactions and struggles over expertise operate differently. I find that disadvantaged defendants are not always passive in their interactions with authorities and the threat of state punishment. Legal cynicism—or feelings that legal authorities are illegitimate and ill-equipped to deal with crime (Kirk and Papachristos 2011)—in their communities carries into defendants' understandings of defense attorneys and interactions in court (see Alward and Baker 2019). Given mistrust of their court-appointed lawyers, many cultivate legal knowledge and skills in an effort to resist legal control. Such lay expertise (see Haug and Sussman 1969)—which includes basic knowledge of constitutional rights and formal court procedures such as motions and the presentation of mitigating evidence, as well as experiential knowledge of how court sanctions operate in their lives—contrasts with the professional expertise of court officials. Professional legal expertise, which enables officials to apply rights and procedures in specific cases and in relation to other members of the courtroom workgroup, is acquired in law school and in court practice (Kritzer 1998; Sandefur 2015). Professional expertise constitutes not just specialized knowledge about rights and procedures but also situated cultural knowledge about the unwritten expectations and preferences of, and working relationships with, other officials. Their knowledge is honed through routine engagement in the courtroom workgroup. Defense attorneys draw on their knowledge of and relationships with prosecutors and judges to assist defendants in mitigating the potential consequences of their criminal charge. But when defendants feel that their lawyers are unwilling or unable to effectively use their professional expertise, they withdraw from the relationship, relying on their lay expertise and contesting their lawyers' authority. I refer to this process as *withdrawal as resistance*.

Research Design

Between October 2015 and January 2019, I collected interviews and ethnographic observations among defendants and legal officials in the Boston, Massachusetts, area criminal court system. The goal of the study was to gather in-depth data on a diverse range of defendants to understand how race and class differences influenced their interactions in court. This article foregrounds the experiences of the disadvantaged defendants in the study—those who are currently working-class or poor and about half of whom are racial/ethnic minorities.

Case

The Boston area is diverse, and its court system is unequal. In 2012, blacks and Hispanics were overrepresented, relative to their share of the general population, in state courts in Boston and Cambridge, a medium-sized city just north of Boston (Clair 2018, pp. 62–3). Most defendants have few financial resources, as indicated by the overwhelming number of court cases assigned to the indigent defense system (Cruz, Borakove, and Wickman 2014).

Disadvantaged defendants in the study were typically represented by court-appointed lawyers rather than privately retained lawyers. Court-appointed lawyers in Massachusetts are of two types—public defenders and bar advocates. Public defenders are salaried state employees, whereas bar advocates are private attorneys who agree to serve indigent clients in addition to their private clientele. I refer to both groups of lawyers as court-appointed attorneys, given that defendants rarely differentiate between them. From defendants' perspectives, both kinds of lawyers are assigned (randomly at arraignment) and compensated (typically a $150 fee to the court) in the same way.

The Boston-area court system likely provides a conservative case with respect to studying disadvantaged defendants' interactions with court-appointed lawyers. Along numerous indicators, including lawyers' payment structure and the per capita amount of money spent on indigent defense, the Massachusetts courts offer relatively more robust indigent representation than other systems (Clair 2020, p. 27). Consequently, the accounts of mistrust and resistance among the disadvantaged defendants in this study would likely be magnified in other systems.

Data and Methods

I followed 63 defendants and 42 legal officials. I conducted in-depth interviews with most defendants (52 of 63), in-depth observations of some defendants as they went to court and met with lawyers (18 of 63), and interviews with all legal officials (42 of 42). I spent more than 100 hours observing respondents in the study, and more than 100 hours observing public court proceedings involving other defendants and officials who were not core respondents. Over the study period, I visited all nine district courts and both superior courts[1] in Boston

and Cambridge at least once. The bulk of my time in the field, however, was spent in four state courthouses—three Boston district/municipal courts and the Suffolk County Superior Court. For one month in fall 2018, I interned in one of Boston's public defender offices, where I shadowed three public defenders as they interacted with their clients, remaining in contact with the defenders to discuss their clients' cases until January 2019.

Interviews and observations among defendants typically lasted 75 minutes. I asked respondents to choose at least one court experience to discuss in detail. Respondents discussed a median of two cases per interview. Court cases ranged from shoplifting to drug possession to robbery to felony murder. Slightly more than half the cases were drug or alcohol related. Although charge types carry different possible legal punishments, there are basic features of the attorney-client relationship and of the process of court hearings commonly faced by nearly all defendants, regardless of their charge. Six of the defendants interviewed allowed me to attend their upcoming court dates, where I observed their interactions in court and in closed-door meetings with their lawyers. I observed and followed 12 additional defendants during my internship at the defender's office, where I was able to gain greater access to attorney-client interactions. Although I had informal conversations with all 12 of these defendants, I interviewed only one of them in depth. Administrative records from public defenders provided information about the educational status, employment, and criminal histories of those I did not interview.

Recruiting defendants to participate in the study focused on constructing a diverse sample (see Weiss 1994). Rather than seeking representativeness, the goal was to capture a range of defendants occupying varying race and class positions. I relied on four recruitment strategies, including sampling from arrest logs, posting flyers in sober houses and shelters, recruiting clients in a defender's office, and snowball sampling (see Clair 2020, Appendix for details). The resulting sample is racially and socioeconomically diverse.

Table 1 summarizes the demographics of all defendants in the study—interviewed and/or observed. Although this article focuses on the disadvantaged (working-class people, especially of color, and poor people), I use insights gleaned from interviews with the privileged (middle-class people of all racial backgrounds) for contextualization. Fifty-two of the defendants are men, and eleven are women. Thirty-two are white, 27 are black, seven are Latino/a, and one is Native American.[2] I group respondents into three SES categories, defined by their educational status and their employment status. Cultural sociologists commonly use education and employment as indicators of SES when studying how different people interact with professionals and authorities. I did not consider income because I do not have information about the income of the 11 defendants who did not sit for in-depth interviews and because highly educated people in the study were often able to privately retain attorneys through their social networks regardless of income. Eleven defendants are middle class (at least a four-year college degree), 32 are working class (less than a four-year college degree but maintain a stable job or occupation), and 20 are poor (less than a four-year college degree and no stable job or occupation).

Table 1. Summary Characteristics of Defendants in the Study

			$N = 63$
Race/ethnicity*			
	White		32
	Black		27
	Latino/a		7
	Native American		1
Gender			
	Male		52
	Female		11
Educational attainment			
	Four-year college degree or above		11
	Some college or associate's degree		19
	High school degree or GED		26
	Less than high school degree		7
SES at interview/observation			
	Middle class		11
	Working class		32
	Poor		20
SES at interview/observation, by race/ethnicity*			
	Middle class		
		White	6
		All nonwhite	5
	Working class		
		White	14
		All nonwhite	18
	Poor		
		White	12
		All nonwhite	9

*Total is more than *N* because of those who identify as more than one race/ethnicity.

Interviews and observations among legal officials focused on understanding how they think about their roles in court, especially in relation to defendants. In total, I interviewed 14 court-appointed lawyers (five public defenders and nine bar advocates), three prosecutors, one judge, nine probation officers, eight police officers, and seven other officials, including social workers and sober house staff. I conducted informant interviews with 39 of the 42 officials, typically lasting between 30 minutes and an hour. I conducted two in-depth interviews with each of the three defenders I shadowed. Each of their interviews lasted between 90 and 160 minutes and asked about their personal backgrounds and experiences

with clients. I purposively recruited the three defenders to be racially diverse (black, white, and Latina) and to have a range of experiences practicing law as public defenders (from about two years to almost a decade). Other legal officials were recruited periodically and purposively, as I moved through courthouses and sought clarification about certain procedures or norms.

All in-depth interviews were recorded and transcribed, whereas I jotted notes from informant interviews in my fieldnotes alongside notes from observations. Fieldnotes were typed up at the end of each day of observation and totaled over 350 single-spaced pages. In total, I collected interview transcripts and/or fieldnotes on 150 unique court cases. Coding focused on themes related to trust/mistrust and the cultivation and use of legal expertise. I analyzed interactive moments in each defendant's attorney-client relationships, as recalled in interviews and observed by me in court. This analytic approach allowed me to document the "visualizable sequence of events" (Weiss 1994, p. 179) that unfolded between defendants and their lawyers in each of their court cases. In final rounds of coding, I categorized 114 of the 150 court cases[3] into three common attorney-client relationship types—*withdrawal as resistance*, *withdrawal as resignation*, and *delegation*—which will be described in detail below. Disadvantaged defendants were more likely than their privileged peers to withdraw from their lawyers. Whereas middle-class defendants in the study withdrew from lawyers in 8 percent of their cases, poor defendants withdrew from lawyers in 76 percent of their cases.[4] This article focuses on cases when disadvantaged defendants withdrew into resistance, which occurred a little under half the time defendants withdrew.[5] Such cases are important to understand because they are the most surprising, given existing assumptions about disadvantaged defendants as passive, and because these cases unmask the power of the court process over defendants' lives even in the face of their resistance.

Findings

Given racialized and classed constraints, disadvantaged defendants in the sample commonly reported mistrusting their court-appointed lawyers. They mistrusted that their lawyers understood, and would be willing and able to achieve, their legal goals. Mistrust almost always resulted in defendants' withdrawal from the attorney-client relationship and efforts to cultivate lay legal expertise. Such expertise enabled them to contest and resist their lawyers' authority in consequential moments. When defendants sought to question their lawyers' authority, lawyers and judges alike commonly responded with silencing and coercion. I conclude the findings by discussing two alternative cases: disadvantaged defendants who appear resigned rather than resistant, and middle-class defendants who accept their (often privately retained) lawyers' expertise and delegate authority to them. These alternative cases provide further context to the specific constraints that produce mistrust, withdrawal, and resistance among many disadvantaged defendants and suggest avenues for future research.

Mistrust of Lawyers

Mistrust was common among disadvantaged defendants in the study, especially the poor and working-class people of color. They provided a few reasons for mistrust. First, disadvantaged defendants were skeptical of court-appointed lawyers' abilities, precisely because they were part of the indigent defense system. Court-appointed lawyers were thought to be underpaid. Royale (B, WC)[6] believed that public defenders have no financial incentive to assist their clients: "He's not getting paid enough, and half the time, the public defenders are working with the DA (district attorney). So, they try to get you to take deals." Court-appointed lawyers, who routinely interact with prosecutors to make deals and to socialize, were assumed to be professionally compromised. Robert (W, WC) told me: "Sometimes you get the feeling like a lot of these public defenders are friends with the DAs, you know. They don't want to fight them because they have to eat lunch together later in the day." Others felt that the indigent defense system was structurally overwhelmed by a high caseload, resulting in their lawyers making tradeoffs between clients. Christopher (W, P) said:

> I mean, public defenders—I just don't think they have too much of a chance. I think it's a huge difference, a huge jump to hiring your own attorney. [. . .] I know public defenders have like huge caseloads and no time.

For disadvantaged defendants, the caseload pressures perceived to be a routine part of a court-appointed lawyer's job result in perverse incentives to reduce their caseload by coercing defendants to plea or by refusing to employ time-consuming legal procedures.

Second, disadvantaged defendants mistrusted lawyers because of cultural differences. Black working-class and poor defendants were particularly likely to report difficulty finding commonality with their lawyers, who are middle-class and mostly white.[7] Some black defendants felt that white lawyers were racially discriminatory. For instance, Slicer (B, WC) discussed two OUI cases with me. He was assigned court-appointed lawyers for both. One was a black man, and one was a white woman. Even though both cases resulted in similar outcomes (a continuation without a finding [CWOF][8] with probation terms), he felt that his black lawyer was "looking out for a black brother" but his white lawyer was a "white liar" who was "working for them [the government]." He concluded: "But when you're black and you have a white lawyer, you're fucked." Poor black defendants often reported feeling stereotyped by their lawyers, even those who were also black. For instance, Tim (B, P) was initially excited that he was assigned a black lawyer in one of his cases, but they ultimately failed to establish a trusting relationship given their cultural distance and his sense that she stigmatized him as a drug dealer. After a few meetings, Tim felt she was "stereotyping me [. . .] like I was some drug dealer," because "so many black kids come through there with criminal records [and] she was surprised that I had only, like, petty cases like trespassing." Tim was annoyed his lawyer kept expressing surprise that his record had no major drug-related arrests on it. He concluded his lawyer was a "sellout"—"one of them type of [black people] who is like 'Yes, sir.' 'No, sir.'"

Third, prior negative experiences with legal authorities contribute to defendants' skepticism of their present lawyers' role in the system and willingness to assist the poor and racially subordinated. In interviews, the disadvantaged often described their early arrest experiences as traumatic and discriminatory (see also Bell 2017; Brunson 2007). Meanwhile, early experiences with police and courts among the privileged were often described as weightless. For instance, Kema (W, MC) laughed about her first arrest when she was driving under the influence. The police were courteous. And her father, a college-educated engineer, hired their neighbor as her lawyer. They "took care of everything [and] just took the reins." Kema said: "I never went to court or anything."

Disadvantaged defendants, by contrast, reported that negative early experiences with legal officials taught them to distrust the system, even the lawyers who are meant to defend them. Richard (B, WC) described how the first time he was arrested in his teens, he had tried to work with his court-appointed lawyer. He was optimistic: "I was young. I was naive. It took time for me to gain wisdom and understand, you know, the law." His lawyer convinced him to take a plea deal that he now regrets because of its implications for his record: "I took the deal, but as I said, these things keep piling on your record." After spending years in prison, Richard further saw the many ways the system, which he referred to as "the New Jim Crow," exploited him and other black people. In particular, he felt court-appointed lawyers were a problematic component of a system driven by monetary incentives:

> The lawyer doesn't give a fuck, because they work hand-in-hand with the DA and the judge. So, they know exactly what the outcome of each case is going to be. [. . .] It's pretty much he [the lawyer] doesn't give a fuck. If you pay them money, they give a fuck.

Donna (W, P) similarly carried prior feelings of mistreatment at the hands of legal authorities with her into future interactions. At the age of 14, she was arrested for marijuana possession. She vividly remembers her lawyer, whom she "didn't think did a good job at all." At their first meeting, her lawyer was dismissive:

> She looked at me and was like "Okay," and she wrote things down. And I was like, "What are you writing down?" And she was like, "Don't worry about it." And [I was] like, "I have the right—it's my case."

Later, while she was detained pretrial, Donna went to a court hearing, where she tried to tell the judge about the poor conditions of the youth detention facility. Initially, her attorney spoke for her, telling the judge that Donna had witnessed a social worker "hit a client in the face." The judge surmised that Donna may have hallucinated the incident: "Maybe it's the medicine [she's taking]," Donna recalled the judge saying. "And I said, 'No, I wasn't seeing things.' And then he [the judge] said, 'Shut up. I'm not talking to you.'" These early experiences of mistreatment have stuck with Donna for over three decades; she cannot shake the feeling that her lawyers are always "working for the other side."

If an indigent defendant indicates that the attorney-client relationship is beyond repair, judges sometimes allow them to be reassigned to another lawyer. But reassignment of counsel is rare, and most of the time, defendants choose simply to remain with the lawyer they were appointed meanwhile cultivating their own expertise and attempting to work around or pressure them. For instance, Kevin (W, WC) lamented: "I could've fired [my lawyer], but I tried to fire him and the judge wouldn't let me." Tonya (W/N, P) described how difficult it is to be assigned a new lawyer when detained pretrial: "I would put letters into the court [from jail] saying 'I want to change my lawyer.' I would get nowhere. I wouldn't hear back." Ultimately, Tonya was unable to be assigned a new lawyer. Nowadays, she, like many disadvantaged defendants, does not bother trying to acquire a different court-appointed lawyer; instead, she finds various ways to resist lawyers she mistrusts by relying on her lay legal expertise.

Cultivating Expertise and Resisting Lawyers' Authority

Mistrust in the attorney-client relationship emerges from the combination of racialized and classed constraints discussed above, often leading defendants to withdraw from their lawyers and cultivate expertise on their own. Such lay expertise allows them to question their lawyers' strategies and resist their authority in court. Jeffrey (B, P) described how his growing mistrust of lawyers contributed to his desire to cultivate expertise. After he was sentenced to incarceration on a cocaine charge, he was angry and frustrated at his former lawyer. In prison, he began to plan for his future and learn about the law by talking to others:

> The lawyers told me they would get me off, and they never got me off. [. . .] If you're going to jail because of all these charges, and he's not representing you—I mean, I know a lot of people who know about the law more than the other people and [than] their lawyers! Um...that's one thing about jail, especially [facility name redacted], they have a law library where you can look over your case. You can do a lot with that. You know a lot of people have overturned their case by getting into the law library.

Jeffrey's time in prison contributed to greater mistrust of lawyers, after hearing about others' experiences, as well as a heightened faith in his and other incarcerated peoples' own expertise.

Jail and prison provide formal opportunities to cultivate knowledge about case law and criminal procedure. John Blaze (W, WC) told me that he read about the law while awaiting trial in jail: "I studied about my case. And I got all the paperwork. And I felt very confident about the case." When I asked Gregory (B/L, P) about his familiarity with motions and other procedures, he said, "I was studying it [in jail]. I kind of learned, and it was just reading and comprehending, you know?" He also described how jail and prison provided a community for cultivating legal expertise: "Just being around people like, you know, people um from jail, prison, like that . . . there were jailhouse lawyers." In Massachusetts,

state prisons provide access to case law databases and other legal materials through their library services. Access to legal materials in prison—where those convicted of a crime are serving time (as opposed to jail, where many are awaiting trial)—is meant to provide already-convicted people the opportunity to work on appealing their prior convictions or litigating poor prison conditions. Some people also strive to cultivate knowledge to avoid a future conviction. For instance, Ken (W, WC) told me he took constitutional law classes: "I took constitutional law. I like the law. [. . .] I think everybody should get to that law library and look at your case and learn about it. If you're going to commit a crime, you want to learn how not to be caught."

Defendants also cultivate expertise from their communities. Disadvantaged defendants regularly talk about their legal cases in courthouses, neighborhoods, community meetings, and justice-involved organizations. They share stories about the law with others. Troy (W, P) spent his childhood "hanging out with the wrong crowd." From his friend group, he learned how to avoid incriminating himself. When I asked about his legal knowledge, he explained: "Because I've had friends who have been in the system for a long time. And like I said, I know a lot of cops." Community organizers have also established formal spaces for sharing knowledge. A representative from an organization in Roxbury, a predominantly black and low-income neighborhood, described "participatory defense" to me as a way for friends and neighbors to protect one another from the criminal legal system (see Moore, Sandys, and Jayadev 2015). Once a week, the organization holds a meeting where people share their experiences and seek advice. "We want to push lawyers to work harder and be more zealous," the representative told me.

Finally, defendants can cultivate expertise through courthouse observations. Don (B, WC) described how he learned one possible way to mitigate his sentence through observations of other cases. Charged with heroin possession and distribution, Don noticed that many people who received lesser sentences provided evidence about their history of drug addiction. He said: "I've seen it over and over again, where certain people get it: treatment facilities." Tonya (W/N, P) recounted that she learned from court observations and from a woman in her sober house that acquiring a letter from a psychologist about her addiction could help to mitigate her potential sentence. The woman in her sober house referred Tonya to a psychologist who "looks at how addicts' neurons work differently." Observations allow defendants to cultivate not only knowledge of legal procedures such as the presentation of mitigating evidence, as in Don and Tonya's cases, but also knowledge of how court sanctions might operate in their lives (see Young 2014 on "second-order" legal consciousness). For instance, Tweedy Bird (B, WC) described how years spent sitting in courtrooms and watching other cases afforded him insight into the unequal treatment he could expect as a black man in court. He said, "Man, me and you can go to court on Monday, and I guarantee you'll sit there, and you'll see a white boy coming in there with the same charge as a black boy, and they'll walk! [. . .] A black guy come out? Same way, with drugs. 'Let's give him $10,000 bail.'" For disadvantaged defendants, their lay expertise often contradicted that of their

lawyers, contributing to struggles behind closed doors and in open court, as the next section shows.

Rejecting Defendants' Expertise and Resistance

Court officials often silence or coerce defendants when they attempt to resist their lawyers' expertise and authority. Defense attorneys, in particular, silence and coerce their clients because their professional expertise affords them specialized insight into the expectations and norms of judges and prosecutors. These norms make up the unwritten legal rules of the court, which delimit the way certain rights and procedures can be employed by defendants.

For instance, a bar advocate described how one of her clients in superior court attempted to file a motion without her knowledge while he was detained. He submitted the motion directly to the judge without informing the prosecution. This defendant had basic knowledge of a motion but not of the specialized way a motion should be filed. According to the bar advocate, motions must be submitted to a judge in the presence of a representative from the DA's office; otherwise, it constitutes *ex parte* communication, which violates criminal procedure. The bar advocate said it "really pisses me off" when defendants seek to file motions on their own because it calls into question her "legal expertise and practice of the law." Indeed, Gregory (B/L, P) recounted how he had once tried to file a motion to suppress evidence by mailing it to the judge from jail without his lawyer's assistance. The judge denied his motion: "You mail it [from jail]. You put it, and they look at it. And then [. . .] nine times out of ten, they're going to deny, because the judge, you know, he's an asshole." Kevin (W, WC) described the futility of trying to get his lawyer to file motions in his case: "I'm telling him to file these motions because I'm looking up stuff on my own and asking questions of other people. So, I'm like, 'File this, this, and this.' And he's like, 'Nah, the judge is a bitch. She won't do it. It's not gonna work.'" These examples underscore the "beleaguered" (Uphoff 1992) position court-appointed attorneys find themselves in; even when they are committed to helping their clients, they are constrained by limited resources and norms that dissuade exercising certain legal procedures.

Lawyers commonly silence defendants who attempt to speak in court without their assistance, often fearing such forms of resistance will harm their clients' outcomes. I observed a black man, dressed in a jersey and baggy jeans, become upset during his pretrial hearing in a district court. His court-appointed attorney asked the judge for a motion to suppress with respect to video footage of his arrest. The prosecutor argued that the video footage should be included because it showed the defendant resisting arrest. At this suggestion, the defendant shouted, "Man, I'm only one person. I can't fight four officers!" His outburst was an attempt to articulate how his actions did not meet the legal definition of resisting arrest. At this point, the judge was visibly annoyed. Yet to hear full arguments from the ADA, she said: "Please speak through your attorney, sir." His attorney tried to quiet him, but the client rebuffed his attorney. He turned to him and yelled, "Man, but I didn't resist arrest!" His lawyer yelled back:

"Stop talking! Why would you do this, what are you doing? Stop talking!" The judge interrupted their squabble and said: "Okay, okay. Second call." "Thank you, your honor," the lawyer muttered, as he and his client brushed through the gallery and out into the hallway. As the doors closed behind them, I could hear the muffle of the lawyer's shrill voice reprimanding his client. Oftentimes, defense attorneys seek to control their clients in court to protect them from accidentally incriminating themselves (Natapoff 2005), but these instances are experienced as silencing among defendants.

Drew (B, WC) experienced both silencing and coercion when he sought to use his expertise by having his lawyer file motions in his superior court case. Arrested on a gun possession charge while driving, Drew felt that his stop was illegal. He wanted to pursue several motions to dismiss certain charges and suppress evidence. In one meeting, I watched Drew's lawyer Tom, a white public defender, try to convince Drew that these motions were likely to fail: "I want to set your expectations though, Drew. Suppressions are very hard. It's hard to—for the court—to deal with suppressing evidence. The court hesitates to not take in and accept police evidence." Later, Tom would try to persuade Drew to take a plea, telling me that "I don't see a way out of this case" and that the deal would result in far less time in prison than if Drew were to lose at trial. But "[Drew] started to really push back," in Tom's words. During one of the motion hearings, Drew's frustrations surfaced in court. One of the police officers did not show up to the hearing, and so the judge asked Tom and the prosecutor to come up to the judge's bench to discuss why the officer was not present to testify. Drew wondered aloud why their conversation needed to be at the judge's bench. Tom whispered that he would share what was discussed. But Drew, with his hands in his pockets, blurted out: "This is my life we're talking about here." The judge told Drew to take his hands out of his pockets. Drew did not budge. His lawyer pleaded for him to comply. After this incident, Tom decided to stop representing Drew: "I can't manage him, and I can't litigate his case effectively if at every moment I fear there's an outburst that'll intrude upon my litigation." Drew would be assigned to another lawyer—a bar advocate who Tom told me is "not very competent."

Judges, not just lawyers, sometimes penalize defendants for resisting their lawyers' expertise and authority. One morning in a district court, I observed a working-class black man and his lawyer bickering in front of a judge. The lawyer, a white man whose law firm represented members of a worker's union, told the judge that he no longer felt he could represent the defendant. The defendant spoke up, explaining to the judge that his lawyer was refusing to file motions in his case; this was the source of their disagreements. The lawyer stepped away from his client and toward the judge's bench. Visibly trying to restrain his annoyance, the lawyer said:

> *Defense attorney*: I want to withdraw, because there's a breakdown in the relationship.
>
> *Defendant*: But why is he withdrawing?! I need someone from his firm. He is a union lawyer. But he's not doing what I ask him to do.

Judge: But, he is withdrawing from you because there is a breakdown in the relationship. You have to get another lawyer, sir.

Defendant: But how do I do that? I need help getting a lawyer. See, this is why I have to have him as my lawyer. I can't get another lawyer on my own. I need his representation—or at least representation from someone.

Judge: But you're not indigent! You make too much money to get appointed counsel.

Defendant: But I need his representation!

Judge: Look, the fact that you all keep going back and forth up here in court suggests to me that there is a breakdown in communication between you all. The motion for withdrawal is allowed. . . . Sir, you need to come back to court on [date 30 days from now] for your next court date.

Defendant: OK, can I get another date? I won't be able to get a lawyer by then.

Judge: Nope. You have a date set for [same 30-day date].

The defendant turned his back to the judge, muttering as he left the courtroom. Rather than encouraging the lawyer to listen to his client, the judge took their bickering as evidence of an attorney-client relationship beyond repair. The judge's decision left the defendant without representation: the defendant's income was too high to qualify him for indigency (and thus be appointed a new lawyer) but too low for him to privately retain a lawyer outside his union.

Alternative Cases

Not all defendants in the study withdrew, cultivated expertise, and resisted their lawyers' authority. About half the time, disadvantaged defendants in the sample withdrew into resignation rather than resistance, and privileged defendants, with higher levels of education and greater access to private lawyers, almost always delegated authority to their lawyers rather than withdrawing from the relationship.[9] Space constraints prevent full consideration of these two alternative types of attorney-client relationships, but two brief examples provide greater insight into the specific constraints that account for mistrust and resistance and suggest avenues for future research.

Some disadvantaged defendants in the study were resigned in their interactions with their lawyers; yet, their resignation in court emerged not from disinterest, as prior research suggests, but rather from the many adversities and constraints faced in their daily lives. Resigned defendants in the study reported similar mistrust as their more resistant and active peers. The difference is that those who appeared resigned in court felt that the problems they encountered in their everyday lives were more pressing than the problem of court involvement. For instance, Mary (L, WC) exhibited ambivalence toward her lawyer: "At first, I did not [trust him]" because "he looked very inexperienced." She reflected that despite her reservations, she was "trying to trust him." When I first observed her in court, she was quiet. The second time I was supposed to observe her,

she did not show up to the hearing, leaving her lawyer to apologize for her absence and make decisions without her input. At first glance, Mary appeared disinterested and passive. But I learned that she did not show up because she had been hospitalized for problems stemming from her substance use disorder, as her lawyer would inform the judge. In our interview, Mary had mentioned to me her struggles with addiction. A couple years earlier, she had lost her job in customer service at a hospital, and "I just hit rock bottom. I went through a really bad depression, and it completely changed who I was." Depressed, she started abusing alcohol: "This last year I started drinking a lot." Her focus now was to kick her addiction. Although disadvantaged defendants like Mary may seem passive in court, their resignation takes on a different meaning considering the adversities they face beyond court officials' purview.

For their part, middle-class defendants in this study had access to trustworthy lawyers, had more power in the relationship (given payment if the lawyer is privately retained), and had relatively less knowledge about rights and procedures. Thus, the privileged often delegated authority to their lawyers and accepted their lawyers' expertise. For instance, Arnold (B, MC) was originally assigned a court-appointed lawyer when he was arrested. At the time, he was working as a freelance writer and training as a semi-professional basketball player. Several months into his district court case, he was drafted to start on a minor league team. Wary of his court-appointed lawyer and increasingly worried about the collateral consequences of his case on his career, he retained a private lawyer with the help of his basketball agent's social connections and his family's financial resources. In contrast to the court-appointed lawyer, the privately retained lawyer made Arnold feel "confident." "In hiring him and paying him a huge lump of money, there is a certain level of trust there," he explained. Unlike disadvantaged defendants, Arnold did not draw on his own legal expertise to resist the authority of either of his lawyers. With both, he felt he did not have the expertise to question their strategies. But he felt at greater ease with his privately retained lawyer because the lawyer took the time to explain legal concepts to him: "He's broken things down even further than most people have." Several social conditions differ in the case of middle-class defendants that account for the different kinds of relationships they have with lawyers.

Discussion and Conclusion

This article examined how a sample of disadvantaged criminal defendants interacts with their defense attorneys. Pushing beyond simplistic understandings of poor defendants as passive, many disadvantaged defendants in this study were quite active in engaging with the law and resisting legal power. Given racialized and classed constraints, they commonly mistrusted their court-appointed lawyers, resulting in *withdrawal as resistance*: cultivating legal expertise to assist them in working around their lawyers. Lawyers and judges responded by silencing and coercing defendants who attempted to use their expertise to

resist their lawyers' authority, given the unwritten legal rules and norms of court processing.

These findings contribute to research on the power and functioning of criminal courts. Existing research tends to focus on the perspective of legal officials and, when defendants are considered, tends to portray them as passive (Casper 1972; Emmelman 2003; Feeley 1992 [1979]; Flemming 1986). This article has offered in-depth evidence to improve understandings of defendants' perspectives. Many disadvantaged defendants in the present era are active in their resistance to their lawyers and legal power, contrary to existing portrayals. Yet, they find that their resistance is penalized, making for a difficult experience of court processing and, potentially, having negative implications for formal outcomes, such as their likelihood of conviction or sentence length. Even those disadvantaged defendants who appear resigned in court are nevertheless dealing with pressing matters in their everyday lives—matters that may be more consequential than their court case and require their active attention.

Research on legal cynicism has documented distrust of legal authorities and feelings of the illegitimacy of legal institutions, often focusing on how such distrust shapes levels of violence or willingness to call the police in poor and racially marginalized communities (Kirk and Papachristos 2011; Sampson and Bartusch 1998). This article showed how mistrust in disadvantaged communities bleeds into the court process. I revealed that cynicism of legal institutions and officials can exist alongside faith in legal rights and procedures (see Calavita and Jenness 2015). Many disadvantaged defendants in this study retained a surprising faith in the usefulness of procedures, such as motions to dismiss or suppress evidence and the presentation of mitigating factors. This ordinary faith in legal tools, which has been documented in reference to everyday legality (Ewick and Silbey 1998), could ironically contribute to the criminal law's power despite the perceived illegitimacy and bias of the officials who enforce it (see Bell 2017; Weitzer and Tuch 2005).

This article also contributes to broader sociological theories of how disadvantaged people engage with professionals and other authorities. My findings in the criminal courts contrast with cultural sociological research on how disadvantaged people interact with professionals and authorities in other, more mainstream institutions. For instance, research on the navigation of schools—a commonly studied institutional space—has shown how working-class and poor people defer to teachers and other professionals, whereas middle-class parents and students gain rewards through proactive and demanding interaction styles (e.g., Calarco 2014; Lareau 2011, 2015). Moreover, Calarco (2014) shows how working-class parents' deference toward, and trust in, teachers as experts negatively impacts their children's classroom and problem-solving strategies. Researchers have come to similar conclusions in doctor-patient interactions, where the privileged gain advantages when using professional medical vocabulary and by asking for additional tests (Gage-Bouchard 2017; Shim 2010). And in civil courts, clients with power and status have been shown to proactively control the direction their lawyers take, often to their benefit (Berrey et al. 2017; Rosenthal 1974). By contrast, in the criminal courts, many disadvantaged

people cultivate legal knowledge and are demanding of lawyers—but frequently to their detriment. Unlike in mainstream institutions (whose authorities reward assertiveness, self-advocacy, and the cultivation of lay expertise), authorities in criminal courts reject these similar ways of interacting. Thus, my findings underscore not only differences in the consequences of professional-client interactions in different institutions but also how sociological assumptions about the interactional styles of disadvantaged people may not translate beyond mainstream institutions.

Future research, also drawing on analytic approaches from relational theory and engaging with findings in cultural sociology, could consider the dynamics of professional-client interactions in other spaces where punitive logics are diffusing. This research could examine how interactions between ordinary people and authorities unfold, revealing the contradictions of formal institutional rules and the power of unwritten norms. For instance, in her study of parents engaging with Child Protective Services, Reich (2005) similarly found that case workers responded negatively to parents who resisted their authority. As criminalization continues to expand and morph across numerous institutional spaces in American society, a greater number of people have come to experience forms of legal control beyond incarceration (Kohler-Hausmann 2018; Phelps 2016). And in the face of budget cuts and the general trend toward the devolution of punitive control from the state to private institutions (Miller 2014), various organizations (e.g., prisoner re-entry organizations) and agencies (e.g., welfare offices and immigration courts) have faced growing caseloads. In these institutions, clients must interact with professionals who control the extent to which they can avoid myriad legal, political, and civic penalties (Asad 2019; Maynard-Moody and Musheno 2003; Soss 2005). Much of the power of officials in the criminal courts derives from the state's ultimate authority to restrict the liberty of its subjects, regardless of whether and when defendants exercise their formal legal rights. In other institutions increasingly inflected with punitive logics and state power, it remains important to investigate the way people are rewarded or penalized in their interactions with professionals.

Notes

1. In Massachusetts, district courts (referred to as the Boston Municipal Courts in Boston) handle misdemeanors and low-level felonies that can result in up to 2.5 years in jail. Superior courts handle more serious felonies that can result in lengthy prison sentences.
2. These numbers add up to more than 52 because a few respondents identified as more than one race/ethnicity, as indicated in table 1.
3. I excluded 36 of the 150 cases because the interviews and/or fieldnotes did not contain enough information for me to classify the kind of relationship the defendant had with their lawyer during the case.
4. See Clair 2020, Appendix table 10.

5. Among cases of withdrawal, 45% were coded as cases of resistance, and 55% were coded as cases of resignation. See Clair 2020, Appendix table 9.
6. Most names are pseudonyms, sometimes chosen by the respondent. I designate each defendant by their race (W = white, B = black, L = Latino/a, N=Native American) and social class (MC = middle class, WC = working class, P = poor) throughout the text.
7. Just under 25 percent of staff public defenders serving in Boston-area courthouses in 2016 were racial minorities, whereas nearly 67 percent of defendants in 2012 were racial minorities (See Clair 2018, p. 152).
8. In Massachusetts, a Continuance without a Finding (CWOF) is a plea deal that results in a finding of no guilt (dismissal) if the defendant abides by the court's conditions (e.g., stay out of trouble by not getting arrested again) for a mandated period of time.
9. See Clair 2020, Appendix tables 9–14 for details.

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