

**Protecting vs. Policing:
Indigent Defendants in Rhode Island's Court Debt Collection Regime**

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ABSTRACT

I. Introduction

Many have voiced alarm that the United States' rate of incarceration has more than quadrupled in the past four decades. Fewer are aware that the financial arm of the sentencing system has similarly expanded over the same period. In fact, so-called "court debts"—lump sums of fines, restitution and administrative fees—are a major element in the "widening net" of the carceral state (Leone, 2002; Natapoff, 2015) that extends beyond prison walls and into communities alongside parole and probation programs, reentry and diversion initiatives, court-mandated drug treatment centers, and other forms of community-based social control. Even as public opinion moves towards the dismantling of mass incarceration, the impact of community-based elements of the criminal justice system remain under-examined.

Each year, thousands of people in Rhode Island are assessed court debts ranging from \$93.50 for a single misdemeanor to over \$1000 for violent, drug-related felonies (Rhode Island Judiciary, n.d.). Those who fail to appear at subsequent payment dates in court can be jailed for up to 48 hours and brought before a judge to discuss their delinquency, create a payment plan, and begin the debt cycle anew. In 2008, Rhode Island's legislature attempted to protect indigent defendants from both court debts, themselves, and jail time for failure to appear at payment dates. For this honors thesis in Public Policy, I investigated the implementation of this protective legislation in order to understand:

1. Who is incarcerated for court debt delinquency in Rhode Island?
2. How is Rhode Island's debt collection policy regime being implemented in light of recent reforms?

3. How does this policy regime (including any implementation challenges) affect arrested debtors' lives?

II. Policy Context & Literature Review

The term “court debts” describes a bundle of fines, fees and/or restitution payments that virtually all offenders in Rhode Island are assessed upon conviction in a District or Superior Court. In response to anti-crime fervor and victims’ rights advocacy in the 1980s and ‘90s, Rhode Island legislators passed large increases in fines and restitution amounts across most crime categories, while simultaneously creating new “administrative fee” and “court cost” categories intended to raise revenue and cover rapidly growing criminal justice costs. This expansion mirrors trends in court debt assessment across the country, and researchers are beginning to find that court debts may significantly impact debtor employment (Bannon, Nagrecha, & Diller, 2010; Beckett, Harris, & Evans, 2008; Pleggenkuhle, 2012; Vallas & Patel, 2012), wellbeing (Alexander, Konanova, & Ross, 2010; Diller, 2010; Martire, 2010; Richards & Jones, 2004), and ultimate recidivism risk (Blattenberger, Fowles, & Krantz, 2010; George, 2012; Martire, Sunjic, Topp, & Indig, 2011). But even though many are studying the impact of court debt *assessment* on offenders’ lives, far fewer have researched the impact of the *collection* practices that courts use to enforce debt payment (Alexander et al., 2010; Horton, 2008). This is a significant oversight, because court debts largely gain meaning in debtors’ lives via the practices that courts use to collect them.

In Rhode Island, the Judiciary essentially employs one method of enforcing debt payment: issuing arrest warrants for everyone who fails to appear at monthly payment dates in court. In 2007, Horton (2008) reported that the state was arresting and jailing 24 adults per day on debt-related warrants—these adults constituted 18% of all statewide commitments annually

(Horton, 2008). He further found that this time in jail caused job and housing loss, strained family relationships, and pushed debtors into even more financial hardship. In 2008, state legislators attempted to respond to the negative impacts of jailing delinquent debtors by expediting the debtor arrest and commitment process and allowing judges to waive the costs of any defendant they found to be legally indigent.

III. Methods

I analyzed both quantitative and qualitative data to investigate the implementation and impact of the debt collection policy regime in Rhode Island. First, I analyzed Department of Corrections data on all commitments to Rhode Island's central jail, the Intake Service Center, in 2015 to generate cross-tabulations on the demographics and criminal history for all 1,556 debt-related commitments. I used these statistics to compare jailed debtors to other inmates at the Intake Center. For a random sample of 270 of these 1,556 debt-related commitments, I manually inputted and analyzed data on defendants' debt payment history from the Rhode Island Judiciary's CourtConnect database. Second, in January 2016, I interviewed 21 jailed debtors who were held at the Intake Center and observed 25 "ability to pay" hearings that court magistrates conduct with every jailed debtor. All inmate interviews were audio recorded, transcribed, and coded in two ways: I created a list of categorical variables corresponding to every potential interaction in a debtor's arrest and commitment process (*i.e.*, did the debtor see a Justice of the Peace before being committed?) in order to track variation in debtors' pathways through the system, and I coded responses for key themes (*i.e.*, confusion, regret, criminalization). Courtroom observations were recorded using written notes and used to contextualize interviewee narratives of their experience with debt-related hearings.

My efforts to incorporate implementation analysis into research on the personal impact of debt collection practices were inspired by Jodi Sandfort & Stephanie Moulton's (2015) novel framework for evaluating implementation at the "front-lines" of bureaucratic agencies, the Frontline Interactions Audit. This methodological framework focuses on mapping out different debtor trajectories (via my quantitative and qualitative data) and expectations (via my qualitative data) and exploring how this variation influences overall policy results.

IV. Key Findings

Recent policy reforms have produced marginally improved but largely insufficient protection of indigent debtors. Moreover, erratic implementation of the debt collection process is widespread and exacerbates the negative effects of court debts on debtors' lives, including job loss, financial strain, and feelings of anxiety, helplessness, and criminalization. While the total number of debtors committed annually has fallen by 30% since 2007, debt-related commitments still made up 15.5% of all Intake Center commitments in 2015. Further, although the corrections system successfully limited debt-related jail time to just one night per debtor on average, judicial magistrates failed to regularly assess debtor ability to pay and ultimately only waived the costs of about 3% of jailed debtors—a percentage far smaller than the population of indigent debtors who were eligible for cost abatement under the law.

The jailed debtor population also experienced significant variations in the nature of their arrest, incarceration and judicial processing—and displayed similarly varied (mis)understanding of the debt collection system and their responsibilities within it. In the interview sample, multiple debtors did not even know the reason they were in jail or when they could expect to be released. Others had been denied the opportunity to make even one phone call and believed their partners and family members did not know their whereabouts. These procedural injustices significantly

exacerbated the negative impacts of court debts observed in this and other studies—namely job loss and feelings of criminalization and anxiety. In fact, implementation failures in the debt collection process made some jailed debtors *less* likely to pay their debts than they were before, due to frustration with the system and a perception that it was illegitimate or mismanaged. In contrast to other research on the impact of court debts, I did not find that jail time significantly impacted most debtors’ housing or social relationships. Responding to a lack of consensus in the emerging literature on court debts, my findings support the hypothesis that the impacts of court debts are significantly mediated by the policies that states enact to collect them. Broader and more punitive collection efforts, especially poorly implemented ones, may drive much of the highly concerning effects of court debts that have been observed in many studies in recent years.

V. Policy Recommendations

Rhode Island criminal justice stakeholders seeking to respond to these findings should consider pursuing both process-based and structural changes in the debt collection system. First, the Judiciary and Department of Corrections must implement agency-level policies that ensure arrested debtors are informed of the reason for their arrest and offered the opportunity to contact a family member, friend, or employer. In order for this to occur, the Judiciary needs to start systematically distinguishing delinquent debtors from other types of offenders on all bench warrants issued so that police and corrections officers can respond appropriately to questions and requests during a debtor’s arrest. But beyond these necessary improvements to the existing debt collection apparatus, state lawmakers should pass legislation that better protects indigent debtors by making debt abatement mandatory instead of discretionary for all debtors who qualify as unable to pay under the criteria already laid out in the law. Given the high poverty and history of repeat offending in the jailed debtor population, the legislature is strongly encouraged to pilot

alternatives to jail time for debt nonpayment and phase out court costs in the Judiciary altogether. Revenue generation through the courts is increasingly viewed as fundamentally unethical and unconstitutional, and Rhode Island legislators should, at a minimum, take steps to minimize the negative effects of this practice on defendants who are simply unable to pay.

CHAPTER 1: INTRODUCTION

It is often said that a criminal offender owes a debt to society. Lately, though, it seems that a growing number of bill collectors are trying to cash in on that debt (Logan & Wright, 2014)

I. Introduction

The United States' rate of incarceration has more than quadrupled in the last four decades, and there are currently over 2.2 million Americans behind bars (American Civil Liberties Union, 2016). But even as the federal and state governments begin to attempt widespread reductions in their prison populations, few are paying equal attention to the large and growing criminal justice apparatus *outside* of prison walls that includes everything from probation supervision to restitution obligations to drug courts and court-mandated community service. Sociologists have called this growth in non-prison sanctions a “widening of the net of social control” (see Leone, 2002) because, although sanctions may be less intrusive, they ultimately impact a larger swath of the population in subtler but significant ways. While mass incarceration has understandably received substantial policy attention in recent years, attention to the “net-widening problem” is increasingly necessary as hundreds of thousands of reentering prisoners and newly sentenced individuals interact with the criminal justice system from within their own communities. Do community-based sanctions and programs ameliorate the damage caused by incarceration, or do they instead create new and unique obstacles for those subject to them?

In this thesis, I shine a light on court debts, the financial side of the net-widening phenomenon. Court debts—also known as criminal justice debts or legal financial obligations—are bundled combinations of fines, restitution and/or administrative fees that a majority of convicted offenders in the United States are assessed as part of the criminal sentencing process

(Council of Economic Advisers, 2015). These debts have grown in both size and scope at all levels of government alongside increases in mass incarceration. Although some argue that court debts are both a viable alternative to incarceration and a justifiable cost-shifting to the offender, critics counter that revenue generation in the courts is a fundamental violation of due process and constitutes an undue burden on an already vulnerable defendant population.

II. History of the Growth of Court Debts

More than one in 100 American adults are behind bars today (Vallas & Patel, 2012) and the United States is the most punitive society in the world in terms of its use of incarceration (Reitz, 2015). The current period of mass incarceration is the result of a complex period of “punitive expansionism” that began in the 1970s and has continued into the most recent decade, though incarceration rates have flattened out since 2010 (Reitz, 2015). The three basic categories of court debts—fines, restitution, and fees—all grew in size and scope during the same time period. In 1986, 12% of those incarcerated were also charged a fine and/or fee, compared to 66% in 2004 (Council of Economic Advisers, 2015). The Office of the United States Inspector General writes that the number of criminal debts pending at the end of each fiscal year grew by 150% between 1994 and 2014—and in all but three years between 1994 and 2014, “more criminal debts have been opened than closed” at the federal level (United States Department of Justice, 2015, p. 12). While fines and restitution increased in response to the nationwide War on Crime and Victims’ Rights Movements, administrative fees were instead developed as revenue generators for budget-crunched states attempting to fund growing prison populations.

A) History of Fines

Fines have always been a part of the American criminal justice system (see Logan & Wright, 2014 for a comprehensive overview) but during this prison expansionist period, their use

has increased in both scope and amount (Bannon et al., 2010; Harris, Evans, & Beckett, 2010). While the increased usage of monetary sanctions is largely part of a broader “thrust toward greater severity in sentencing” (Reitz, 2015, p. 1738), it was actually driven, in part, by a group moving *against* that thrust. Criminal justice reform advocates in the 1980s and ‘90s who were alarmed by skyrocketing incarceration rates actually began advocating for greater use of fines as an *alternative* to incarceration. Pro-reform policy researchers sponsored by organizations like the Vera Institute for Justice studied European sentencing systems, where fines are used far more extensively than in the United States. Some even set up model “day fine” pilot systems in the United States and attempted to modernize American legal debt collection systems in preparation for this change in sentencing (Winterfield & Hillsman, 1993). But even as fines did increasingly show up in sentences, a move toward community-based sentences never really occurred. As Reitz (2015) writes,

Economic sanctions are not worth very much on the retributive scale...over the past several decades, the metric of “serious” punishment in American law and culture has been prison time...Because of the low retributive valuation of economic sanctions, American legal systems have not found it possible to use them as substitutes for jail or prison terms. (p.1740)

The result is that fines in the modern era are simply more likely to be added *on top* of prison or probation sentences, not in place of them.

B) History of Restitution

Restitution orders have increased in size and frequency in recent decades in response to a victims’ rights movement in the 1990s. The idea that the state should compensate victims of crime for their losses was initially popularized by penal reformer Margery Fry in the 1950s (see

Young & Stein, 2004). California enacted the first formal victims' compensation program in 1965, and advocacy groups have pushed for increasingly more stringent compensation legislation since then, from the Victims of Crime Act of 1984 to the Mandatory Victims Restitution Act of 1996 to the Crime Victims' Rights Act of 2004. While victims of crime gained well-deserved protection and recourse, they also produced an unprecedented expansion in restitution orders. Today, judges can order defendants to compensate victims for an increasingly broad number of losses, including "emotional and psychological losses and losses for which the defendant was found not guilty" (Lollar, 2014, p. 93). As a result, the non-federal debt balance for restitution has grown seven times faster than the overall U.S. criminal debt balance in the last 20 years (United States Department of Justice, 2015).

C) History of Administrative Fees

Unlike growth in fines and restitution, historic growth in administrative fees was *not* tied to philosophical questions about punishment and retribution in the criminal justice system. Instead, fees (also known as court costs or surcharges) have skyrocketed across virtually all states in recent years due to criminal justice budget shortfalls. While administrative fees have always played at least a small role in criminal justice systems, most states developed a host of new fee categories in recent years specifically to address budget shortfalls. Florida, for example, has introduced 20 new types of fees since 1996, including public defender application fees, crime prevention fund surcharges, and domestic violence program payments (Diller, 2010). Fees tend to be politically popular for legislators who claim to shift the costs of the criminal justice system away from law-abiding taxpayers or create funding streams for new crime prevention programs or other correctional initiatives. By 2010, all 15 states with the largest prison populations had

imposed some kind of administrative fee upon conviction, during prison or jail, and during the supervision period (Bannon et al., 2010).

D) Historical Summary

Today a majority of all criminal defendants owe debt to the government upon completion of other parts of their sentence (Visher, La Vigne, & Travis, 2004a). In California in 2006, there were 269 separate court fines, fees, forfeitures, surcharges, and penalty assessments that were available to be assessed to defendants (Nieto, 2006). While the size of these debts varies by sentence type, they can easily add up to the thousands of dollars. In Pennsylvania, for example, a person convicted of a Class E Felony for driving while intoxicated will owe around \$7500 dollars in total. A person convicted of manufacture of a controlled substance will be charged with three months in prison, a \$500 fine, \$325 in restitution, and \$2,674 from 26 other administrative fees and surcharges (Rosenthal & Weissman, 2007).

III. The Ethics of Revenue Generation in the Courts

While restitution ultimately accrues to the victims of an offender's crime, fines and fees instead bring in revenue for the state. As described above, revenue generation has been a primary reason why states have raised fines and added new fee categories in recent decades. But as revenue streams become larger and more normalized within state judicial systems, a host of critics have argued that the practice of using the Judiciary as a tax collector is unethical and perhaps even unconstitutional. Indeed, the United States Justice Department publicly announced in March 2016 that, "In addition to being unlawful, to the extent that these practices are geared not toward addressing public safety, but rather toward raising revenue, they can cast doubt on the impartiality of the tribunal and erode trust between local governments and their constituents" (Gupta & Foster, 2016).

The most common argument in favor of using the courts to generate revenue is that the practice is “justifiable cost shifting from the taxpayer to the offender” (New York State Bar Association, 2006, p. 197). This argument treats those who pass through the courts like those who cross over a toll bridge—positing that people who derive a “private benefit” from the courts should provide money to cover their operating costs. But this argument raises deeper questions about whether offenders really “choose” to use the criminal courts—some counter that because criminal defendants are “involuntary consumers,” the comparison to a toll arrangement for a public utility does not stand up to scrutiny (New York State Bar Association, 2006; Parent, 1990). Additionally, offenders forced to pay a user fee are in some cases paying twice for a service already supported by their general income taxes (Baird, Holien, & Bakke, 1986, p. viii). Others have called debt assessment a “regressive tax” for turning the poorest populations into funding fodder for the Judiciary and other government budgets (Council of Economic Advisers, 2015; Natapoff, 2015).

The allocation of court debt revenue is also controversial. In states that send court debt revenue straight to the general fund, some lawmakers portray this revenue flow as illegal because the judicial branch is not constitutionally allowed to levy taxes. The Louisiana Supreme Court recently struck down the assessment of any fees that are not directly connected to the administration of the courts on the grounds of separation of powers. The majority opinion stated, “our clerks of court should not be made tax collectors...nor should the threshold to our justice system be used as a toll booth to collect money for random programs created by the legislature” (State v. Lanclos, 2008). This “toll booth” can be dangerously appealing to budget-crunched legislators—Logan and Wright (2014) point out that, when there is a major disconnect between the nature of the offender’s crime and the entity ultimately receiving the court debt funds, a risk

arises that defendants will “pay amounts driven more by the needs of government in a given moment than by the nature and consequences of their crimes” (p. 1178).

But judicial systems that keep all of the revenue they generate grapple with their own major conflicts of interest—at least in theory, these systems face an incentive to convict more offenders in order to generate more money. Indeed, judges in some municipalities have reported being pressured by colleagues to collect more penalties or risk receiving fewer operating funds (ACLU, p.6 in Shookhoff, Constantino, & Elkin, 2011). The National Center for State Courts in 1996 released a statement that it is “beyond dispute that [the concept of self-supporting courts] is not consistent with judicial ethics or the demands of due process” (Tobin, 1996). A due process concern emerges if court systems’ ability to meet clients’ needs depends solely on transient or erratic court debt revenue. In early 2016, the chief public defender in New Orleans announced that his office was unable to meet growing client demand because they were largely funded by insufficient traffic fine revenue (Bunton, 2016). For these reasons, the Conference of State Court Administrators and the Conference of Chief Justices have both released statements urging state governments to provide the Judiciary with a sustainable and predictable funding stream that is not tied to fees, fines, and/or costs (Montgomery, 2015; Reynolds & Hall, 2012). More recently, the authors of the second Model Penal Code have stated, “On principle, the MPC regards revenue generation as an illegitimate purpose of the sentencing process” (Reitz, 2015, p.1749).

Looking beyond revenue, court debts can be similarly criticized as part of an overall widening of the net of social control. Natapoff (2015) places them in the category of “microcontrols”—“small-scale penal intrusions, formal and informal, that shape offenders' lives” (p.3). These microcontrols range from the constant intrusions and anxieties of supervision to the financial pressures exerted by fines and fees to the informal but influential ways that a citation,

arrest, or conviction alters an offender's relationship to police, employers, schools, hospitals, social services, and other institutions (Rappleye & Seville, 2014). The United States not only has the largest prison population but also one of the largest probation and parole populations (Reitz, 2015). Court debts extend the criminal justice system's social control to an even broader swath of the population, raising troubling questions about imbalances of power and control in our society at large.

IV. Modern-Day Debtors' Prison

Regardless of the ethics or legality of court debts, judges are increasingly assessing them at sentencing—and court systems are struggling to collect even a majority of these outstanding obligations. Debt collection statistics are not always tracked, but those who have researched the problem produce shocking results. In Florida, just 9% of fees assessed in felony cases are expected to be collected (Bannon et al., 2010)—in New York in 2001, the collection rate for one fee category—monthly supervision payments—was only 1% (Rosenthal & Weissman, 2007). At the end of 2014, the U.S. Inspector General's Office actually classified 92% of the federal court debt balance as uncollectible. These low collection rates translate to enormous outstanding debt balances—a survey of eleven states found an average of \$178 million per state in uncollected court debts, while outstanding federal criminal debts totaled \$103 billion (United States Department of Justice, 2015).

In an effort to solve the collection problem, most states authorize incarceration as a punishment for anyone who “willfully” refuses to pay their court debts, but is financially able to do so. In 1971, the Supreme Court ruled that the state could not incarcerate people who were financially unable to pay public debts (*Tate v. Short*, 1971), and twelve years later it specified that judges must inquire into a person's ability to pay *and* consider alternatives to incarceration

before imposing a jail sentence for nonpayment (*Bearden v. Georgia*, 1983). While this may seem to leave jail as a collection tactic of last resort, a growing body of research has found that judges and court administrators routinely pave paths around the “willful nonpayment” requirement. The Brennan Center for Justice reported in 2010 that there are four common paths to jail for those who fail to pay court debts:

1. *Parole or probation revocation*: For debtors with sentences involving supervision in the community, judges may make debt repayment a part of the supervision requirements (along with things like weekly reports to an officer and maintaining an address in the court’s jurisdiction). While the Supreme Court rulings technically cover indigent parolees and probationers, judges can jail offenders for a technical violation of their supervision agreement without leaving an incriminating paper trail.

2. *Pre-hearing jail time*: Judges routinely issue arrest warrants for debtors in the community who miss a monthly payment date. Police officers then arrest the debtors in question and jail them for one or more days until a judge can see them for an “ability to pay” hearing. Because this jail time is technically for “failure to appear” instead of “failure to pay,” it skirts the Supreme Court ruling.

3. *Allowing debtors to “choose” jail*: Some states and counties have clauses that grant debtors a financial “credit” for each night they stay in jail for failure to pay. They allow indigent debtors to “choose” jail as the only way to pay off large debt balances—but the choice itself is coerced by the justice and enforcement system.

4. *Wrongfully determining “willful” nonpayment*: Even judges who technically consider ability to pay before jailing someone may use crude, careless, or outright discriminatory processes to do so. Bannon et al. (2010) reported that one judge in Michigan would jail anyone who was a

cigarette smoker or subscribed to cable television because that money could have been spent repaying their court debts (pp.21-22). Beckett et al. (2008) interviewed one judge who ordered jail if the debtor simply had an “I don’t care attitude” (p.44).

Jail for failure to pay is clearly used far more often than it is constitutionally allowed to be—and the practice is made worse by the fact that the court debts themselves may violate the constitution as well. Court debts have recently received a wave of attention in the popular press, as citizens speak out against the criminalization of poverty and the return of debtors’ prisons, which are widely viewed to be unlawful (Champagne, 2010; Dolan, 2015; Esman, 2014; Rappleye & Seville, 2014; Robertson, 2015a, 2015b; Rosenberg, 2011). This media coverage is driven largely by investigative work by advocacy groups like the American Civil Liberties Union and New York University’s Brennan Center for Justice.

V. Conclusion

All three elements of court debts—fines, fees, and restitution—have increased in scope and size in recent decades. While the financial arm of the sentencing system has historically gone unstudied, advocacy groups and media platforms are beginning to raise an objection to legislatures’ use of the courts as revenue “toll booths.” In 2008, Rhode Island became one of the first states in the nation to attempt to systematically identify low-income debtors and protect them from the punitive court debt collection regime. Because Rhode Island is a pioneer in this policy arena, the state provides an excellent opportunity to evaluate the implementation of this legislation and provide a model for states considering similar reform.

CHAPTER 2: POLICY CONTEXT

I. Introduction

The historical rise of court debts in Rhode Island mirrors the national trajectory—and like most states, Rhode Island’s primary payment enforcement tactic is the use of arrest warrants and brief jail commitments for delinquent debtors. But from 2006 to 2008, state legislators passed a group of reforms intended to protect impoverished debtors from debt obligations. The implementation of these reforms is the focus of this thesis research.

II. Court Debt Assessment

Many nationwide forces that drove fine, restitution, and fee increases across the country also influenced Rhode Island in the 1980s and 1990s. While fines were always part of the array of sanction options, the state legislature increased fine amounts across most categories in the 1980s as tough-on-crime rhetoric gained political popularity (J. Ippolito, personal communication, February 9, 2016). Similarly, restitution obligations increased in size and frequency in the 1980s in response to the National Victims’ Rights movement described above—Rhode Island passed its own Victims’ Bill of Rights in 1986, and have since bolstered it with extra measures for restitution collection (§12-28). These included limiting the use of parole or work release until restitution payment plans are written and prioritizing the collection of restitution before other categories of court debts (§13-8-14, §42-56-21.2, & §12-19-34). Finally, administrative fees—called “court costs” in Rhode Island—have also been systematically increased since the 1980s. The legislature added several new cost categories for drug-related crimes under the Uniform Controlled Substances Act (like the Victims’ Rights movement, anti-drug fervor was sweeping the nation at this time), and added others as a result of similar advocacy efforts. For example, the RI Coalition Against Domestic Violence successfully lobbied

in 2009 for domestic violence offenders to be charged an additional \$125 that would support domestic violence prevention in the state (80% of which actually goes directly to the Coalition) (§12-29-5).

Many cost categories that were already on the books were raised to higher levels during the mid 1990s, with an apparent central motive of revenue generation. State legislators in this era exhibited an interesting pattern of redirecting revenue intended for specific criminal justice initiatives into the state's general fund. Though many cost categories that existed prior to the 1990s started out as "restricted receipts" for specific programs—fees on prostitution crimes would go to a special prostitution prevention fund, "probation & parole support" fees would feed directly into the Department of Corrections—virtually all of these were gradually redirected to general revenue during the 1990s and 2000s. Despite this fact, all of the state's court cost categories still maintain their original names—an offender convicted of Schedule I drug possession still has to pay a \$100 "Laboratory Maintenance" fee, even though that money goes right to the general fund (§23-1-3).

Virtually all court costs in Rhode Island are mandatory at sentencing. While judges have some discretion in the punitive aspect of a sentence (the combination of fines, prison and/or probation), they cannot waive or reduce costs on a defendant's first two charges in any circumstance, regardless of the defendant's ability to pay (see §12-25-28(2)(c) & §12-18-1.3(3)(c)). The result is that every single person charged with a misdemeanor will automatically be charged a minimum of \$93.50 (§12-18-1.3, §12-25-28, & §12-20-6). Likewise, a person with a felony will automatically be charged a minimum of \$270, and will pay much more if convicted of a drug-related felony, a felony for assault or other interpersonal violence, or prostitution. Figure 1 displays all fees available to be assessed at sentencing.

Figure 1: Court Costs in Rhode Island

ALL OFFENDERS		DRUG POSSESSION / SALE	
Violent Crimes Indemnity Fund	\$30-\$150	Drug Education Fund	\$400
Probation & Parole Support Fund	\$60-\$300	Laboratory Fee	\$118
Court Appeals Cost	\$3.50	Forfeited Property Account	<\$1000
DUI		DOMESTIC VIOLENCE	
Driver Retraining Course Fund	\$100	Domestic Violence Training and Monitoring Fee	\$125
PROSTITUTION			
Additional Assessment for Prostitution-Related Offenses	\$350-\$500		

Beyond the court debts assessed at sentencing, offenders in Rhode Island will continue to be charged expenses during their time in prison and in any form of community supervision. This thesis does not focus on these subsequent debts because they are all civil penalties, which means debtors are not jailed for failure to pay them. However, it is important to realize that offenders with monthly court debt payments may simultaneously face other public debt obligations. Offenders will also accrue additional expenses during the process of repaying their original court debts. Rhode Island recently started allowing District Court debtors to make debt payments online, but they are charged a \$5.25 processing fee each time they do so (E. Bucci, personal communication, January 22, 2016). Additionally, debtors who are arrested for missing a payment date are charged a \$125 warrant fee that gets added to their total debt balance.

Figure 2: Fees Accrued During the Sentence

PRISON	WORK RELEASE	PAROLE / PROBATION
Wage Garnishment	Wage Garnishment	Rehabilitation Fee
Medical Co-Pays		Drug Testing Fee
		Batterers' Intervention Program Fee

III. Court Debt Collection

The Rhode Island Judiciary has one primary method for collecting outstanding court debts: clerks set periodic incremental payment dates with any debtors who are unable to pay in full, and then issue arrest warrants for anyone who fails to appear on the designated date. This practice parallels the second of the Brennan Center for Justice’s four paths to debtor’s prison, as jailed debtors are classified as “awaiting trial” for “failure to appear” until they see a judge to discuss their debt delinquency.

In both the District and Superior Courts, clerks and magistrates* are authorized to set up monthly payment plans with debtors who cannot pay their debts all at once. After receiving this payment schedule, debtors in Rhode Island are required to make payments periodically (usually monthly) until their court debts are fully paid off. The traditional mode of payment requires debtors to appear in person in the courthouse where they were sentenced and pay a court clerk at a designated “payment window.” The legislature enabled online payments in 2014 (§8-15-11), but only the District Court is currently equipped with this capability. Superior Court debtors still must pay at the court monthly in person, and District debtors who do pay online face a \$5.25 charge for every transaction (“Online Payments,” 2014). If a debtor fails to appear in court on any one of his monthly payment dates, a bench warrant (essentially a judge’s order for arrest) is issued. As described previously, judges are never allowed to jail debtors who are simply financially unable to pay their monthly payment—but they are allowed to issue “bench warrants” for debtors who do not pay online or show up in court in a given month. These warrants are for “failure to appear,” and magistrates are authorized to issue them for anyone who does not show up at any type of court date, from an arraignment to a sentencing to a payment date (§8-8-8.1).

* Magistrates are lay judges or civil officers who have jurisdiction over minor criminal cases and preliminary hearings, including all payment-related hearings in Rhode Island. Clerks are administrative workers who maintain accounts and accept debt payments.

Once a magistrate has issued a bench warrant for failure to appear, state or local police who encounter the debtor (usually via a routine traffic stop) will arrest him and commit him to the Intake Service Center. Every debtor who is arrested for “failure to appear” is charged a \$125 warrant fee that is added to his outstanding debt balance (§12-6-7.1). If a debtor wishes to see a Justice of the Peace (who could accept bail if the debtor has money on his person) he is charged \$50 for a daytime visit or \$200 if the Justice of the Peace visits between 11PM-8AM (§12-10-2). If a debtor cannot pay his full court debt balance and cannot persuade a Justice of the Peace to release him on a lower bail (or cannot afford to see a Justice of the Peace at all) then the debtor will be taken to the Intake Service Center, Rhode Island’s central jail, and held until a magistrate from the district that issued the bench warrant is available to see him in court. In the District Court, this court date is called an “Ability to Pay Costs” date. In Superior Court, it may be called either a “Cost Review,” “Restitution Review,” or “Payment Schedule” date. At this hearing, the magistrate may probe the debtor’s reasons for failing to appear in court. She is authorized to either abate or reduce the debtor’s outstanding obligations, or send the debtor back to jail for a few more days, or do nothing at all. The practice of re-committing an intransigent debtor for “willful nonpayment” is called “commitment for failure to obey judgment or sentence (§12-21-9). If the magistrate does not send the debtor back to jail, the debtor is released from court with a new scheduled payment date, and his payment cycle begins anew. Since 1992, magistrates have been authorized to suspend the driver’s licenses and/or garnish the wages of employed offenders with unpaid court debts (§10-5-8)—but use of these alternative practices is currently limited, and jail time remains the central punishment for delinquent debtors in the state.

Prior to 2008, Rhode Island incarcerated an average of 24 adults per day for failure to appear at a court payment date and spent about \$489,000 per year to do so (Horton, 2008). This

meant that more people were jailed for failure to appear at payment dates in a given year than were jailed for any other single charge. The average inmate owed \$826 at the time he was arrested, and he was held for three days. Twelve percent of jailed debtors spent a week or more in jail before seeing a judge (Horton, 2008).

IV. Recent Legislative Reforms

In 2008, state legislators acknowledged the historical accumulation of court debts in the state and the real burden that these debts and their punitive enforcement policies placed on indigent debtors. They adopted a number of policy changes to the debt assessment and collection process (The full scope of the changes is documented in Appendix A). Most notably, the legislature required that magistrates actively assess a debtor's ability to pay court debts as part of the debt collection process. The legislation specifically orders magistrates to "make a preliminary assessment of the debtor's ability to pay immediately after sentencing" (in the Superior Court) "or nearly thereafter as practicable" (in the District Courts) using a standardized "financial assessment instrument" (§12-21-20). As a first step towards the creation of this "instrument," the legislature named a list of conditions that legally qualify as "prima facie evidence of the debtor's indigency," including:

- Qualification for and/or receipt of TANF, Social Security, Public Assistance, Disability Insurance and/or food stamps.
- Outstanding court orders in excess of \$100 for other civil debts, including restitution, child support, and/or court-ordered counseling (i.e. mental health, domestic violence, or substance use) (§12-20-10).

The legislature also authorized magistrates to fully abate or reduce the court costs of anyone they find to be legally indigent. It is important to note that this law does not *require* magistrates to

remit debts—it just empowers them to do so and provides a standardized list of criteria to guide their decision. Magistrates who do not fully abate a debtor’s court costs are required by law to develop a “payment schedule” based on the debtor’s determined ability to pay (§12-21-20).

Further, the legislature attempted to reduce the use and length of jail time for those who are arrested for failure to appear at a payment date. In 2006, the legislature voted to compensate jailed debtors with \$150 for every night spent in jail, in order to allow indigent debtors to “pay” their outstanding debts using this jail time. This credit was later reduced down to \$50 per night in 2012 (§11-25-15). The legislature also attempted to shorten the time that debtors wait at the Intake Center before seeing a magistrate. They required police officers to bring debtors directly to court if they are arrested while court is still in session, and ordered the Judiciary to see all other debtors within 48 hours, or, if debtors are arrested on a weekend or holiday, on the next available date court date (§12-6-7.1).

V. Conclusion

Trends in Rhode Island’s court debt growth mirrored those in the rest of the country and were driven by similar factors—anti-crime sentiment, victims’ rights advocacy, and pressure to generate public revenue. But while Rhode Island’s history in this area is not unique, the state is a pioneer in attempting to ameliorate potential harms caused by the court debt regime by accounting for debtors’ ability to pay (Gupta & Foster, 2016; Harvard Law Review, 2015). With this in mind, the state presents an excellent opportunity to study the implementation of court debt reforms and understand how court debt collection policies influence debtors’ lives. The following chapter articulates the specific research questions guiding this project and shows how this work fits into existing literature on the impacts of court debts and best practices in implementation of policy reforms in the criminal justice arena.

CHAPTER 3: LITERATURE REVIEW

I. Introduction

As described in Chapter 1, citizens across the country are growing increasingly alarmed by the large and growing financial arm of the sentencing system. Some of this concern arises from ethical questions of whether the Judiciary should ever be used to generate revenue, and whether financial sanctions are inappropriate for low-income “involuntary consumers” of the criminal justice system. But others are concerned that court debts may negatively impact the lives of vulnerable ex-offenders subject to them. Many advocacy groups have argued that court debts are a structural barrier to successful reentry. Though scholars have not yet reached consensus, an emerging body of research confirms that court debts negatively impact multiple areas of debtors’ lives, including employment, housing, social ties, mental health, and recidivism risk.

The first section of this literature review summarizes early findings from scholarship on how court debt impact ex-offenders attitudes, circumstances and future criminal activity. The second section surveys the smaller body of work that has investigated the effect of specific debt collection practices on both offenders’ debt payment behavior and the rest of their lives. The final section shows why implementation research is a crucial addition to court debt scholarship by documenting implementation challenges in parallel criminal justice reform arenas. Implementation research on court debt reforms is currently nonexistent—and as legislators across the country attempt to respond to damage caused by court debts, it is crucial to develop a body of work on common policy successes and challenges in this field.

II. The Impact of the Court Debt Burden

Researchers seeking to understand how court debts impact debtors' lives have primarily investigated whether court debts exacerbate common challenges that people with criminal histories face: securing employment and housing, maintaining supportive social relationships, and managing material and psychological stress. Early findings are concerning but contradictory—while some scholars have documented negative impacts of court debts across all of these categories, others have found neutral or even positive impacts. These inconsistencies highlight the need to identify key mediating variables that may be driving variation in outcomes.

A) Employment Impacts

Some researchers have found that court debts encourage employment by prompting debtors to find a steady source of income, but others report that court debts instead provide substantial barriers to finding and keeping a job. Although people with criminal records have a comparatively more difficult time finding formal employment (Levingston & Turetsky, 2007; New York State Bar Association, 2006), Pleggenkuhle (2012) and Visher, Debus-Sherrill & Yahner (2011) found that offenders with court debts may work harder to overcome these barriers because of the pressure to repay their debts. In Pleggenkuhle's (2012) unpublished dissertation on the debt experiences of 105 former felons in Missouri, she reported, "The majority of debtors expressed that legal financial obligations positively impacted their employment attitudes" (p.97). Similarly, Visher et. al. (2011) compared the post-release employment outcomes of state prisoner releasees across Illinois, Ohio, and Texas and found that offenders with court debts worked a higher percentage of time in the months after release than those with no court debts. Thus, there is some evidence to suggest that court debts actually incentivize debtors to find and maintain employment.

In contrast, a few scholars have found that large debt burdens actually reduce debtors' incentive to work by decreasing their take-home income (Beckett & Harris, 2011; Pleggenkuhle, 2012). Court debts may also provide a structural barrier to obtaining employment by damaging delinquent debtors' credit scores. In interviews with 50 former prisoners in Washington State, Beckett, Harris, & Evans (2008) found that multiple debtors identified their credit score as a barrier to finding employment, but no other researchers have echoed this finding. In Martire et al.'s (2011) interviews with 156 reentering prisoners in New South Wales, 81% of respondents said that government debts reduced their ability to obtain jobs, but the authors did not probe the reasoning behind these responses.

In summary, scholars at the intersection of court debts and employment have not yet reached a consensus on how court debts impact an offender's motivation or ability to find and retain a job. The fact that most existing research draws from small, nonrandom samples of people with criminal histories and relies on unverified self-reported data (Beckett et al., 2008; Gowdy, 2011; Martire et al., 2011; Nagrecha & Katzenstein, 2015; Pleggenkuhle, 2012) further prevents scholars from reaching firm conclusions.

B) Housing Impacts

Court debts may block debtors from obtaining housing by damaging credit scores and weakening their ability to retain housing by forcing difficult tradeoffs between rent and debt payment. Many researchers have documented landlord biases towards people with criminal histories (see New York State Bar Association, 2006)—but even in states where discrimination based on criminal records is illegal, landlords can and do still check credit history before deciding to rent (Alexander et al., 2010; Bannon et al., 2010). The ACLU interviewed former prisoners across five states about their experiences with court debts, and one participant

expressed, “Well, for the most part, anybody who’s renting doesn’t want anything to do with anyone who has a criminal history. However, there are a few places that would accept me if I could get my credit in line, so having the poor credit [is] a bigger barrier than the criminal history” (Alexander et al., 2010, p. 71). Beckett et al. (2008) and Pleggenkuhle (2012) echoed this finding. Even some public housing agencies who do systematically rent to ex-offenders have separate rules banning people with poor credit histories (Bannon et al., 2010). Further, multiple qualitative researchers have confirmed that, in systematically reducing the income of ex-offenders, court debts force difficult tradeoffs between rent payments and other necessities that can lead to eviction (Alexander et al., 2010; Beckett et al., 2008; Pleggenkuhle, 2012).

C) Social Impacts

Although some have found that court debts encourage debtors to build a stronger social and financial support system, others report that debts do just the opposite by isolating debtors who do not want to be a financial burden on family, or by tainting relationships with those who help with repayment. A large body of research has documented the protective value of strong social ties for offenders who are reentering into the community from jail or prison (see James, 2015; Sampson & Laub, 2001). Morris & Tonry (1991) theorized that the “imposition of fines on at least some impecunious offenders may serve preventive ends by catalyzing family and social support” (p. 114), a hypothesis backed up by the framework of life course criminology (Sampson & Laub, 1993; Laub & Sampson, 2003 in Roman & Link, 2015). Nagrecha & Katzenstein (2015), Pleggenkuhle (2012), and Gowdy (2011) all confirmed that a majority of debtors that they interviewed relied on family, friends, and intimate partners for financial and emotional support post-release from prison.

Even though court debts may initially catalyze a social safety net, long-term financial dependence could damage a debtor's most important relationships (Harris et al., 2010; Martire et al., 2011; Nagrecha & Katzenstein, 2015; Pleggenkuhle, 2012). Martire et al. (2011) specifically reported that 64% of reentering prisoners in their sample categorized the effect of government debts on relationships with children and family as "large" and "negative" (p.265). Court debts may weaken relationships by causing family members to resent the debt-burdened offender, or they may instead challenge key aspects of a debtor's identity. Pleggenkuhle (2012) found, "[T]he inability to financially provide for the family caused negative feelings and essentially challenged [offenders'] masculinity" (p.152). She further reported that, in addition to straining existing relationships, legal debts also deterred some interviewees from pursuing new intimate relationships. Many in Gowdy's (2011) and Nagrecha & Katzenstein's (2015) interview pools expressed similar feelings of guilt for not being able to sufficiently provide for dependent children and partners.

Finally, court debts may also damage debtors' relationship with their community supervision officers. Parole and probation officers have a dual responsibility of deterring criminal behavior but also encouraging rehabilitation. One national study of probation officers reported that 58% of officers felt that fee collection interfered with their attempts to help the offender (Morgan, 1995). Two more contemporary researchers noted that select debtors acknowledge this interference (Nagrecha & Katzenstein, 2015; Pleggenkuhle, 2012). Pleggenkuhle (2012) quotes an interviewee, Mario, saying "But when you know I'm not working, and I'm showing you this here [describing his job seeking efforts] that I'm doing, trying- why would you put this pressure on me [to pay my debts]?" (p.116). Nagrecha & Katzenstein (2015) echo this frustration in a quote from Afi, a parolee in New York: "One of the

first things you hear when you first meet your parole officer is, ‘You know you have to pay a supervision fee.’ Instantly, I got nervous. I don’t have money. I just got home. I don’t have money” (p.17). Harris et al. (2010) found that debtors in their interview sample frequently skipped supervision meetings out of fear they would be punished for debt nonpayment. Thus, to the extent that a supervision officer can act as a rehabilitative influence on the offender, court debts may interfere with this positive relationship.

D) Emotional Impacts

Regardless of whether court debts negatively impact housing, employment or social relationships, researchers have unequivocally found that these debts are a chronic source of stress with a large and negative impact on debtors’ quality of life. Pleggenkuhle (2012) reports that a majority of debtors in her interview sample characterized their court debts as stressful, while debtors in other studies describe debts as “crushing” or “a perennial source of stress” (Martire et al., 2011; Richards & Jones, 2004). In addition to the financial strain that court debts directly produce, they may also make debtors feel helpless and less in control of their lives. Alexander et al. (2010) quote one interviewee who lamented, “It’s like, ‘Oh God.’ It’s just like a nightmare. You know? Like is this ever going to go away? And the only thing, I keep hearing the judge say, ‘if you have to pay \$20 for the rest of your life, that’s what you are going to be doing’” (p.79). Finally, unpaid court debts may cause further stress by labeling debtors as criminals long after they have completed their original sentence. Feelings of criminalization are perpetuated by the marks that court debts leave on offenders’ lives—in addition to showing up on a credit score, unpaid court debts also prevent debtors from voting or obtaining a drivers’ license in some states (Bannon et al., 2010).

E) Recidivism Impacts

While it is becoming clear that court debts negatively impact at least some areas of debtors' lives, it is far less clear whether they ultimately increase recidivism risk. Some scholars have found that court debts are linked to a higher risk of reoffending, while others have found that court debts either have no effect or even reduce the risk of reoffending. While these conflicts are likely driven (at least somewhat) by differences in the specific types of offenders and court debts studied, it is clear that the connection between court debts and recidivism requires further research attention.

Reitz (2015) theorizes that pushing vulnerable reentering offenders into poverty is a criminogenic act. In this vein, multiple researchers have found that court debts increase the temptation to commit income-generating crimes (Alexander et al., 2010; Beckett et al., 2008; Pleggenkuhle, 2012). One of 50 former felons from Washington State interviewed by Beckett et al. (2008) reflected,

And my last P.O., I asked her for a bus ticket to get to my appointments, she's like, 'oh, we don't do that anymore.' It's like, oh, ok, I'm not supposed to do any crime, I'm not supposed to... and frankly, I mean, I'm not trying or wanting to do any crime, and I still can't quite commit myself to do prostitution, but I think about it sometimes... at least that way I could pay some of these damn fines. (p.40)

Martire et al.'s (2011) study of reentering prisoners in New Zealand provides the only instance of respondents actually admitting to new crimes (as opposed to simply reporting the temptation to reoffend). Roughly 13% of those who admitted to reoffending post-release from prison reported that, "the repayment of one or more forms of debt was among the motives for their crime" (p.264). However, it is plausible that this criminal activity is missing in other scholarship

because self-reported delinquency tends to be at least somewhat underreported (see Thornberry & Krohn, 2000). In a public records analysis of one quarter of all Utah parolees in 2006, Blattenberger et al. (2010) found that those who owed child support and restitution had a greater likelihood of parole revocation than offenders without these financial obligations.

While some have documented that court debts raise recidivism rates, others have found no correlation at all. In Pleggenkuhle's (2012) unpublished dissertation on the debt experiences of former felons in Missouri, she found that the size of an offender's debt burden had no statistical relationship with returns to prison or technical violations. Iratzoqui & Metcalfe (2015) surveyed the recidivism outcomes of 358 low-income probationers in Florida and found no statistically significant relationship between court debt size and debtor probation violations.

Finally, a third group of researchers have found that offenders with court debts actually experience reduced recidivism compared to their debt-free peers. When Bucklen & Zajac (2009) studied determinants of parole revocation in Philadelphia, they found that "parole successes"—those who did not return to prison within three years—had larger median court debts than their recidivating counterparts (\$5,000 vs. \$2,000), even after controlling for parolee income, criminal history, and other demographic characteristics. Roman & Link (2015) documented the presence or absence of child support orders (a financial obligation analogous to court debts) in a sample of participants in the Serious and Violent Offender Reentry Initiative and found that offenders with child support orders had a marginally significant reduction in the odds of re-arrest three months post-release. In a review of recidivism among drunk drivers, Yu (1994) found that drivers who received larger financial penalties were less likely to drive drunk in the future. Finally, Cherry (2001) compared the median financial sanctions in 90 counties in North Carolina and concluded

that higher “fines and forfeitures” produced a “significant deterrent effect on county-level criminal activity” (p.7).

These varied findings on the link between court debts and recidivism are likely driven by mediating variables that have not yet been studied, including variation in the type of financial obligation (*i.e.*, restitution vs. administrative fees) or the type of offender (*i.e.*, violent vs. non-violent) or the nature of the original sentence (*i.e.*, prison-based vs. community-based). While most researchers discussed above focused on individuals reentering from prison (Beckett et al., 2008; Blattenberger, Fowles, & Krantz, 2010; Bucklen & Zajac, 2009; Martire et al., 2011; Pleggenkuhle, 2012; Roman & Link, 2015), a few limited their sample to those who served their sentence in the community (Iratzoqui & Metcalfe, 2015; Yu, 1994). Some researchers isolated one type of financial obligation—like restitution—while others analyzed court debts as a whole. These mediating variables are largely unacknowledged in the existing literature, resulting in scholarship that treats court debts as a “black box.” This in turn prevents policymakers and other interested stakeholders from understanding where to intervene in the court debt system in order to mitigate harm.

III. The Impact of Jail as a Debt Collection Tactic

One mediating variable that has only been given slight attention in the literature above is variation in the debt collection practices that states employ to enforce payment. Most researchers have chosen to define their independent variable as either the size of an offender’s court debt balance or the overall presence or absence of court debts in an offender’s sentence. This research design is logically weak because court debts of any size largely gain meaning in debtors’ lives via the specific debt collection practices that debtors are subject to. A non-punitive missed payment letter will likely affect both a debtor’s payment behavior and his wellbeing differently

than a three-night stay in jail for the same infraction. The small body of literature that does attend to variation in debt-collection practices indicates that more punitive policies may better encourage debt payment adherence but also exacerbate the negative impacts of court debts overall.

Since the 1980s, a small group of scholars has reported that jail time (or at least the threat of jail time) is a superior tactic for yielding payment from delinquent debtors in the Judiciary.

Hillsman & Mahoney (1988) write,

Practitioners across America and Europe report how effective the *threat* of immediate jailing is in getting debtors to pay the full amount due. One American court clerk called this “the miracle of the cells,” a visible phenomenon in many courtrooms when a judge threatens imprisonment, only to have a family member or friend of the offender dash forward, cash in hand. (p.30)

In a study of a broader sample of criminal justice stakeholders, Parent (1990) reported that, “Corrections officials interviewed believed that, ultimately, debtors must face a credible threat of imprisonment if they willfully refuse to pay fees” (p.16).

Isolated studies have provided support for this common perception. Williams (1987) concluded that jurisdictions that utilized both short repayment periods and strict enforcement penalties (including jail) had higher fee and fine collection rates than more lenient jurisdictions (in Olson & Ramker, 2001). Hillsman, Sichel, & Mahoney (1984) found that, in a nationwide study of American courts, three-quarters of courts they categorized as “successful” in collections reported “often” jailing debtors who were brought to court for debt nonpayment (p.103). Only one randomized experimental study has assessed jail as a debt collection tactic, but it found that probationers in New Jersey who were jailed for failure to pay were significantly more likely to

pay court debts than those subject to “regular probation supervision” (Weisburd, Einat, & Kowalski, 2008). While the experiment’s sample size was fairly small (N=228), the design was strong and the findings were highly statistically significant (p=.01). Thus, there appears to be consensus—at least in this older body of work—that the threat of jail effectively induces debt payment.

On the other hand, jail time likely exacerbates much the negative impacts on debtors’ lives that policymakers and advocates are most concerned about. The only two studies that have specifically investigated the impact of debt-related incarceration report that the practice may disrupt debtor housing, employment and social ties, and worsen emotional stress and financial strain. Horton (2008) interviewed 25 Rhode Island men while they were jailed for failure to appear at a court payment date. Seventy-five percent of respondents had been jailed for failure to pay at least once in the past and said that the jail time seriously disrupted their lives and efforts to thrive in the community. One respondent who had been jailed two times already that year, revealed,

I lost my job, I lost my girl, my apartment. I will probably get violated because I didn’t show up for a probation appointment. They’ll put another warrant out on me. I lost my job twice, they gave it back to me before; I don’t think they will this time. I try so hard but I’m losing everything over and over again. (p.16)

Other isolated impacts from the jail time in Horton’s sample included loss of public benefits, disruption of medication for chronic illness, and the accrual of additional court debts directly linked to the arrest and commitment.

American Civil Liberties Union researchers (2010) spoke with current and former offenders who had been jailed for failure to pay across five states—Louisiana, Michigan, Ohio,

Georgia, and Washington—and their findings largely overlapped with Horton’s (2008). An immediate and direct impact of debt-related incarceration is the additional cost that debtors accrue from the jail time—including a warrant fee and sometimes even a bill for room and board. The ACLU also found evidence of debtors losing jobs and housing as a result of jail time for failure to pay, but did not aggregate these findings across their interview sample (Alexander et al., 2010). In summary, although this body of research is quite preliminary, it is clear that the use of jail as a debt collection tactic may be a significant mediating factor in how court debts affect offenders’ lives.

IV. Implementation Challenges in Criminal Justice Reform

Policymakers seeking to respond to the potential link between court debts and recidivism would be hard-pressed to identify evidence-based guidelines for whom to protect from potentially harmful effects of court debts, and how to go about protecting them. Implementation research in this arena is essentially nonexistent despite the fact that court debt reforms share some of the most historically challenging policy elements to implement—including personalized intervention, inter-agency coordination, and broad judicial discretion.

Literature on recidivism reduction policies in American criminal justice systems shows that promising programs are often implemented erratically or incompletely (see Rhine, Mawhorr, & Parks, 2006). Rhode Island’s court debt reforms share characteristics with other criminal justice initiatives that have historically failed in the implementation phase. First, a cornerstone of the reforms is personalized indigency determinations for every debtor—but corrections workers have historically implemented personalized programs much more erratically than more uniform interventions (Wilson & Davis, 2006). Second, the court debt reforms require several independent entities to work together (the courts, police departments, and the Department of

Corrections). Inter-agency collaboration has historically provided administrative and communicative stumbling blocks in policy implementation (Zajac et. al., 2015). Third, police officers and judges interacting with indigent debtors may fail to implement the reforms if they hold beliefs that conflict with the more protective or rehabilitative norms of the new debt collection guidelines (Cooley, 2011; Goodstein & Sontheimer, 1997; Heale & Lang, 2001; Lin, 2002; Price, 2004). Finally, in programs involving judicial discretion, judges' philosophies about when and how to apply the new policy may not align with policymakers goals (Bazemore, 1993; Law & Sullivan, 2006). For these reasons and others, criminal justice scholars conclude that implementation fidelity significantly mediates the success of recidivism reduction policies (Hubbard & Latessa, 2004; Landenberger & Lipsey, 2005; Lowenkamp, Latessa, & Smith, 2006). Indeed, the sole preexisting study on the implementation of fee waivers for indigent debtors in Canada reported that judges routinely diverted from stated policy goals by basing waiver decisions on factors other than a debtor's indigence and generally waiving fees more often than legislators had intended (Law & Sullivan, 2006).

Implementation research in the court debt arena is also important from a procedural justice perspective. A small but compelling body of work demonstrates that offenders who perceive the criminal justice system to operate with fairness, uniformity and consistency are less likely to be frustrated by any sanctions against them and are ultimately less likely to reoffend (Mazerolle, Bennett, Antrobus, & Eggins, 2012; Paternoster, Brame, Bachman, & Sherman, 1997; Tyler & Huo, 2002). With this in mind, this research not only examines whether the 2008 reforms are being applied with fidelity but also evaluates whether this application is consistent across different offenders and circumstances.

V. Conclusion

Preliminary findings in the court debt literature reveal that court debts likely negatively impact multiple aspects of ex-offenders' lives, from employment and housing to emotional wellbeing and financial stability. But court debts' ultimate impact on recidivism is unknown—and all court debt impacts are likely mediated by multiple under-studied variables, including the nature of the debt collection practices that different judicial systems adopt to enforce payment. The only two studies that have examined the specific impact of incarceration as a debt collection tactic found that jail time disrupts debtors' employment and social lives and exacerbates the documented negative impacts of court debts overall.

But because Rhode Island legislators were among the earliest respondents to this challenge in 2008, this state provides an excellent opportunity to start building an evidence base by mapping out the implementation of debt collection reforms and evaluating whether policy goals were achieved. As Rhode Island attempts to respond to the harms caused by court debts, it is important to analyze policy results with potential implementation challenges in mind. The next chapter introduces my mixed-methods approach to respond to three overlapping questions that fill gaps in the existing literature:

1. Who is being incarcerated for court debt delinquency in Rhode Island?
2. How is the state's debt collection policy being implemented in light of recent reforms?
3. How does this policy regime (including any implementation challenges) impact arrested debtors' lives?

CHAPTER 4: METHODS

I. Introduction

Sandfort & Moulton (2015) write, “One of the most troubling aspects of how policy and program implementation is often studied is how little attention is paid to understanding target groups’ perspectives and behaviors” (p.23). This target group perspective is important because “seeking to understand the way such behavior is indeed logical by attending to the actual motivations and realities of these target groups is essential for orienting what implementation improvements should address” (Sandfort & Moulton, 2015, p. 10). In keeping with Sandfort & Moulton’s (2015) argument, my research design pairs a quantitative overview of the debt collection policy regime in Rhode Island with a qualitative deep-dive into jailed debtors’ reactions to and understanding of the debt collection process. As described at the close of the previous chapter, I seek to answer three questions in this thesis:

- 1) Who is being incarcerated for court debt delinquency in Rhode Island?
- 2) How is debt collection policy implemented in light of recent reforms?
- 3) How does this policy regime (including any implementation challenges) affect debtors’ lives?

I employ a mixed-methods research design to respond to these questions. The quantitative data analysis responds to Questions One and Two by compiling and summarizing demographic, occupational, and criminal activity data on everyone jailed for failure to appear at a court payment date in 2015. My qualitative data contextualizes the quantitative findings in Questions One and Two and responds to Question Three via analysis of interviews with debtors currently jailed for failure to appear at a court payment date. The first section in this chapter introduces the quantitative and qualitative data sources and summarizes the collection and data

preparation processes for each source. The following section identifies the data sources and forms of analysis that contributed to each of the three overarching research questions.

II. Data Collection

Quantitative data on all 1,556 debtors jailed in 2015 was sourced from two government databases—INFACTS and CourtConnect and manually validated for a random sample of 270 debtors. Qualitative data sources included interviews with debtor inmates, observation of payment-related court hearings, and informal conversations with court clerks, magistrates, and corrections officers.

A) Quantitative Sources

1. Department of Corrections INFACTS Data

The primary quantitative data source for this research is a data file with demographic, occupational and criminal history information for every adult committed to Rhode Island’s central jail, the Intake Service Center, in 2015. This file was provided by Michael Eldridge, computer systems manager at the Rhode Island Department of Corrections, via the Department’s INFACTS Database. A list of relevant variables is provided in Table 1.

Table 1: Key variables in the 2015 Intake Service Center Commitments File

Demographic Variables	Criminal History Variables	Commitment Variables
Date of Birth	Offender Type	Commitment Type
Sex	Criminal Case ID	Admission Date
Race	Charge Code	Discharge Date
Citizenship Status	Charge Description	Supervision Violation Status
Country of Origin		Bail Amount
Occupation		
Marital Status		
Number of Children		

The data set included 20,940 observations, and the level of observation was the criminal charge. This means that a person arrested and jailed on two different charges simultaneously (say, both a DWI and Reckless Endangerment) would have two unique entries for the date of his commitment. If he were arrested again later in 2015, he would receive one or more additional unique entries for that arrest, with each entry corresponding to a new charge. Those who were arrested and jailed for violating some term of their sentence (including the delinquent debtor subjects of this research) were treated very similarly, with the *arrest warrant* replacing the *charge* as the level of observation. If an inmate had multiple outstanding arrest warrants (say, he failed to appear at a payment date at multiple courts in one month) he would also receive multiple entries for the date he was jailed. With this data structure taken into account, the 20,940 observations in the data file translate to 10,836 unique *commitments* and 8,238 unique *people* jailed in 2015 in Rhode Island.

People who were committed to the Intake Center for failure to appear at a court payment date were not systematically identified in this data set. While the “Admission Type” variable did include a “failure to pay costs/fines” category, jailed debtors were frequently mislabeled with other admission types as well, including the broader category “failure to appear” or simply “new commitment.” Because of this inconsistency, the primary method for identifying jailed debtors is the Bail Amount variable—jailed debtors were given bails that equaled their exact unpaid court debt balance, so these bails almost never ended in two zeros (unlike the bails for newly charged inmates). Using bail as an identifier, I flagged all commitments in 2015 that were solely for failure to appear at a court payment date. Anyone who was jailed on both a new charge and a debt-related warrant was left out of the sample. This identification process yielded a debtor inmate data set of 1,871 observations, 1,685 commitments, and 1,556 unique individuals.

Demographic and criminal history variables for both debtors and non-debtors are displayed in Table 2. As shown in the table, women were over-represented among debtor inmates compared to the general inmate population. In contrast, foreign-born inmates were under-represented among debtors. This finding is itself noteworthy, but its causes were not explored in this research.

Table 2: Demographic Characteristics of Rhode Island's Inmate Population

Characteristic	Non-Debtors (N=6,682)		Debtors (N=1,556)	
	Frequency	Percent	Frequency	Percent
Race				
White	3,464	51.84%	829	53.28%
Black	1,576	23.59%	364	23.39%
Hispanic	1,405	21.03%	307	19.73%
Asian	66	0.99%	15	0.96%
American Indian	49	0.73%	15	0.96%
Mixed Race/Other	106	1.59%	21	1.35%
Missing	16	0.24%	5	0.32%
$X^2 = 3.204$ P = 0.783				
Gender				
Male	5,674	84.91%	1,258	80.85%
Female	1,008	15.09%	298	19.15%
$X^2 = 15.644$ P = 0.000*				
Marital Status				
Single	5,169	77.36%	1,226	78.79%
Married	677	10.13%	127	8.16%
Divorced	524	7.84%	128	8.23%
Separated	245	3.67%	58	3.73%
Widowed	53	0.79%	15	0.96%
Missing	14	0.21%	2	0.13%
$X^2 = 6.473$ P = 0.263				
Immigration Status				
Born in United States	5,773	86.40%	1,380	88.69%
Foreign-Born	909	13.60%	176	11.31%
$X^2 = 5.801$ P = 0.016*				

2. Rhode Island Judiciary CourtConnect Data

The second quantitative data source was the Rhode Island Judiciary’s CourtConnect database, which allows for public searches of the criminal court dockets by offender name or criminal case ID. For a random sample of 300 jailed debtors in the INFACTS data file, I manually accessed each debtor’s original criminal case page and added values for the following variables to my data set:

Table 3: Variables in the CourtConnect Database

Pre-Commitment Variables	Post-Commitment Variables
Number of prior payment-related court appearances	Did inmate pay within one month?
Number of prior payments	Did inmate pay in full by end of 2015?
History of debt-related bench warrants	Did inmate attend next payment date?
Number of prior debt-related commitments	Did inmate attend next two payment dates?
Most recent missed payment date	Were inmate’s costs abated by a judge?
Most recent warrant issue date	Did inmate post bail?
	Was inmate re-committed within six months?

These variables were created with policy implementation in mind—I wanted to understand jailed debtors’ payment compliance history and track any payment-related behavior after the jail period as well. While manually entering information for the following variables into the data set, I identified and removed 30 inmates who had been erroneously included in the debtor inmate population, resulting in a final sample size of 270 debtors with 333 observations.

B) Qualitative Sources

1. Inmate Interviews

The largest qualitative data source was transcripts from interviews with 21 adult male inmates who were, at the time of the interview, currently jailed at the Intake Center for failure to appear at a court payment date. All interviews were conducted at the Intake Center’s visiting

room in January 2016 during the facility’s visiting hours between 4-6PM. I identified eligible interviewees from a list of daily Intake Center admissions using the bail-based identification method described above. 19 out of 21 interviews took place on Sunday afternoons, when there was a critical mass of debtor inmates at the Intake Center over the weekend prior to their Monday morning payment hearings before a magistrate. The weekend interview method meant that debtors in my interview sample spent more nights in jail than the average jailed debtor in 2015. Demographic characteristics for the interview sample are displayed in Table 4.

Table 4: Demographic Characteristics of the Debtor Inmate Interview Sample

Characteristic	Interviewees (N=21)	
Race	Frequency	Percent
White	8	38.10%
Black	9	42.86%
Hispanic	2	9.52%
Asian	1	4.76%
American Indian	0	0%
Mixed Race/Other	1	4.76%
Missing	0	0%
Gender	Frequency	Percent
Male	21	100%
Female	0	0%
Marital Status	Frequency	Percent
Single	14	66.67%
Married	2	9.52%
Divorced	3	14.29%
Separated	2	9.52%
Widowed	0	0%
Missing	0	0%
Immigration Status	Frequency	Percent
Born in United States	20	95.24%
Foreign-Born	1	4.76%

People of color and those born in the United States were over-represented in the interview sample compared to the rest of the jailed debtor population in 2015—and because I only gained access to the men’s commitment facility, women were not represented in the sample at all. In contrast, single inmates were under-represented in the interview sample compared to the overall debtor inmate population, but still comprised a majority of interviewees.

When I arrived at the visiting room with a list of potential interviewees, all eligible interviewees were phoned down to the room one by one and told that a “student researcher” was here to see them. Immediately upon meeting each inmate, I briefly introduced myself, summarized my research, and invited him to speak with me. In my initial sample, one inmate declined to be interviewed upon meeting me and another did not speak English—both men were free to return to their cells. All other inmates sat down with me at a visiting room table and provided informed consent via a protocol approved by the Brown University Institutional Review Board for Research with Human Subjects (see Appendix B for a copy of the consent form). Each interviewee received a paper copy of the consent form for him to take back to his cell.

For the first five interviews, I used an exact replica of the interview form that Horton (2008) used in debtor inmate interviews for his original research on the same topic. This interview form briefly asked inmates to explain the events leading up to this time in jail and then focused primarily on the inmates’ perceptions of how the time in jail would affect their lives upon release—asking specifically about employment, housing and relationships with children and family members. After the first five interviews, I realized that inmates reported a significant range of experiences and implementation failures within the debt collection system that the interview tool did not significantly capture. With a new eye towards mapping out this range of

inmate experiences with (and understanding of) the debt collection process, I revised the interview form and used an updated version for the following sixteen interviews. The original and updated interview templates can be found in Appendix B.

All inmate interviews were recorded with an Olympus digital recorder and then transcribed into a word document for processing. At the close of each interview, I identified my contact information on the informed consent sheet and invited each interviewee to reach out to me with any future updates on his case or the debt collection process in general. Just one out of twenty-one interviewees reached out via email with some follow-up information. Beyond the value in this extra information, the email was a welcome confirmation that interviewees were indeed permitted by corrections officers to keep the consent forms in their possession.

2. Courtroom Observation

The inmate interviews were supplemented by observation of 25 “ability to pay” hearings and informal interviews with three magistrates who preside over these hearings. I visited the three courthouses that issue the most warrants for failure to appear at debt payment dates—Providence Superior, 6th District and 3rd District—and sat in on payment hearings conducted by magistrates from each courthouse. For each hearing, I recorded the questions asked by the magistrate and key elements of debtors’ responses. All observations were recorded using written notes, as audio recorders are prohibited from judicial complex premises. I was also able to speak informally with magistrates at each of the three courthouses I visited. In these unstructured interviews, I asked questions to elicit information on how the magistrates determine debtors’ ability to pay and make decisions around cost abatement and reduction and debtor incarceration. These informal interviews lasted between thirty minutes to one hour and were recorded using written notes.

III. Data Analysis

During the data analysis process, I drew upon both quantitative and qualitative data sources to respond to each research question. Generally, the quantitative analysis provided an overarching portrait of pathways the court debt collection system, while the qualitative analysis supplemented and contextualized these broad findings by drawing on individual debtors' narratives and experiences.

A) Who is being incarcerated for debt delinquency in Rhode Island?

First, I used the random sample of debtor inmates to produce summary statistics on the criminal history, debt payment history, and employment status of jailed debtors prior to their arrest. The qualitative data contextualized all three of these areas of analysis—first, interviewees provided richer information on their employment, income, and social services receipt that built a narrative around the basic employment rate in the larger data sample. Debtor interviewees also provided information about why they missed the hearing that ultimately resulted in a bench warrant. These responses were coded for common themes and compared to the quantitative debt payment history findings.

B) How is debt collection policy being implemented in Rhode Island in light of recent reforms?

I analyzed policy implementation from two perspectives: implementation fidelity and process variation. First, I developed a set of quantitative and qualitative indicators to determine the extent to which the following four key legislative reforms were being applied to arrested debtors. I isolated the main elements of each reform and investigated each element in turn.

1. Determination of Ability to Pay (§12-21-20 and §12-20-10):

- a) Did the Judiciary promptly and systematically determine ability to pay for all debtors in 2015?
- b) Did magistrates draw on a standardized financial assessment instrument to do so?
- c) Did this assessment process include the criteria for determining ability to pay laid out in §12-20-10?

2. Cost Abatement (§12-20-10):

- a) Did magistrates waive eligible costs of those who they determined to be legally unable to pay?

3. Minimization of Jail Periods for Arrested Debtors (§12-6-7.1):

- a) Were all arrested debtors brought before a judge within 48 hours, with the exception of those whose commitments included weekends and judicial holidays?
- b) Were daytime arrestees brought immediately before a judge instead of being taken to the Intake Center?

4. Credit for Nights in Jail (§11-25-15):

- a) Were all arrested debtors credited \$50 towards their outstanding court debt balance for each night spent in jail?

I investigated the implementation of ability to pay determinations using courtroom observation and conversations with clerks and magistrates, as these determinations were not systematically recorded in the quantitative INFACTS or CourtConnect data sources. Incidences of cost abatement, however, were systematically noted in CourtConnect, and I produced a total abatement rate for the random debtor sample. I evaluated the implementation of the jail minimization reforms by calculating every debtor inmate's length of stay in the INFACTS data

file and checking for the presence of daytime arrestees among my inmate interview sample. Finally, I investigated the use of the \$50 credit through courtroom observation, inmate interviews, and informal interviews with magistrates and other criminal justice stakeholders.

Beyond examining high-level fidelity with recent legislative reforms, I also tracked variation in debtor experience within the debt collection process, starting from a debtor's original missed payment date to his ultimate release from jail. This analysis largely relied on qualitative data and was informed by Sandfort & Moulton's (2015) "Frontline Interactions Audit." In keeping with the authors' novel implementation research protocol, I analyzed interview transcripts with a goal of evaluating whether interactions with arrested debtors were uniform and consistent with both policy intent and debtor expectations. First, I coded interviewee narratives about the nature of their treatment by law enforcement during arrest and commitment to identify common debtor pathways to the Intake Center and key points of variation in debtor inmate experience while in jail. In each debtor's narrative, I also flagged every misconception about the debt collection process and every miscommunication with a judicial or law enforcement representative. Within these two categories I identified common themes and linked them to key breakdowns in the implementation of the debt collection process. Finally, I drew upon courtroom observation and informal interview notes to identify variation in magistrates' behavior and decision-making during the payment hearings that follow a debt-related commitment.

C) How does the debt collection regime (including any implementation challenges) affect arrested debtors' lives?

I drew on both quantitative and qualitative data to analyze the impact of jail time on three dimensions of debtors' lives: their behavior, their circumstances and their wellbeing. First, in order to understand how jail time influenced debtors' future debt payment behavior, I drew upon

the random debtor sample to track jailed debtors subsequent payments and court appearances. I calculated the percent of jailed debtors who attended one or more payment hearings and made a payment on their debt within the month out of release, as well as the percent of jailed debtors who paid their debts in full by the end of 2015. I contextualized these findings with interviewee narratives about how their time in jail affected their willingness to comply with future court debt obligations. Second, I coded interviewees' responses about how their time in jail would affect three key factors of stability in their lives: employment, housing, and social relationships. I also created a list of other effects of the jail time that interviewees voluntarily identified and aggregated this list for common themes. Finally, I coded the tone of interviewee responses to all questions for emotional themes and indicators of debtors' overall wellbeing.

IV. Conclusion

In this mixed-methods study, I sought to respond to the debt collection reforms passed in 2008 with a focus on implementation challenges and their effects on debtors' lives. I attempted to understand who was jailed for failure to appear at debt payment court dates and what their experiences were within the system. I also sought to understand how variations in debtor experiences with the debt collection regime might affect debtors' lives and their future interaction with the criminal justice system. While this research suffers from limitations in both the data sources used and the experimental design employed, it sheds light on a population that is undocumented and unnoticed in Rhode Island's current criminal justice bureaucracy. It also provides a comparative follow-up to Horton's (2008) study that helps state policymakers observe changes in debt collection policy in the state over time.

CHAPTER 5: RESULTS

I. Introduction

The jailed debtor population in Rhode Island in 2015 was predominantly low-income and composed of non-violent, misdemeanor offenders who had a history of debt payment attempts and noncompliance. The presence of indigent debtors in the Intake Center population signals that the Judiciary did not systematically assess debtor ability to pay or abate the costs of those found to be legally indigent—courtroom observations and conversations with magistrates confirm this implementation failure. The state criminal justice system did successfully reduce the length of commitments for debt delinquency and credited every arrested debtor \$50 per night at the Intake Center—but a significant portion of low-income debtors should never have arrested in the first place. Multiple procedural injustices within the debtor arrest and commitment process—especially failure to provide debtors with information or phone access—jeopardized debtors’ employment status and exacerbated debtor financial and emotional vulnerability.

II. Portrait of the Debtor Inmate Population

In 2015, roughly 1,556 adults in Rhode Island were jailed for failure to appear at a payment date in one of Rhode Island’s District or Superior courts. This translates to 1,685 debt-related commitments, because some debtors were jailed multiple times in the 12-month period. Commitments in 2015 represent a 31% decrease from 2007, when there were 2,446 debt-related commitments annually (Horton, 2008, p.11). But while the total number of debt-related commitments has gone down, the proportion of debtors relative to the total inmate population has fallen by less than half as much, from 18% in 2007 to 15.5% in 2015.

A) Criminal History

The vast majority of jailed debtors in Rhode Island in 2015 were nonviolent, misdemeanor offenders who were not incarcerated as part of their original sentence, as shown in Tables 1A and 1B.

Table 1A: Criminal History Comparison of Debtor and Non-Debtor Inmates

Characteristic	Non-Debtors (N=19,068)		Debtors (N=1,871)	
	Frequency	Percent	Frequency	Percent
Crime				
Non-Violent	5,617	29.46%	1,384	73.97%
Violent	7,791	40.86%	163	8.71%
Drug	2,913	15.28%	201	10.74%
Breaking & Entering	1,496	7.85%	59	3.15%
Weapons	309	1.62%	8	0.43%
Rape / Child Molestation	325	1.70%	0	0.00%
Murder	104	0.55%	0	0.00%
Sex	261	1.37%	13	0.69%
Other	252	1.32%	43	2.30%
$X^2 = 1.6e+03$ P = 0.000*				
Crime Type	Frequency	Percent	Frequency	Percent
Misdemeanor	11,166	58.56%	1,354	72.37%
Felony	7,512	39.40%	517	27.63%
$X^2 = 154.093$ P = 0.000*				
License-Related Charge	Frequency	Percent	Frequency	Percent
License Charge	1,475	7.74%	675	36.08%
Non-License Charge	17,593	92.26%	1,196	63.92%
$X^2 = 1.5e+03$ P = 0.000*				

Table 1B: Incarceration History of Debtor Inmates

Characteristic	Debtors (N=333)	
	Frequency	Percent
Incarceration Status		
Was Not Incarcerated	269	80.78%
Was Incarcerated	60	18.02%
Missing	4	1.20%

The final variable in Table 1A describes the percentage of debtors who were arrested for debt delinquency on an original charge of driving with a suspended license. This was isolated for review because it was the most common single charge for both debtor and non-debtor inmates.

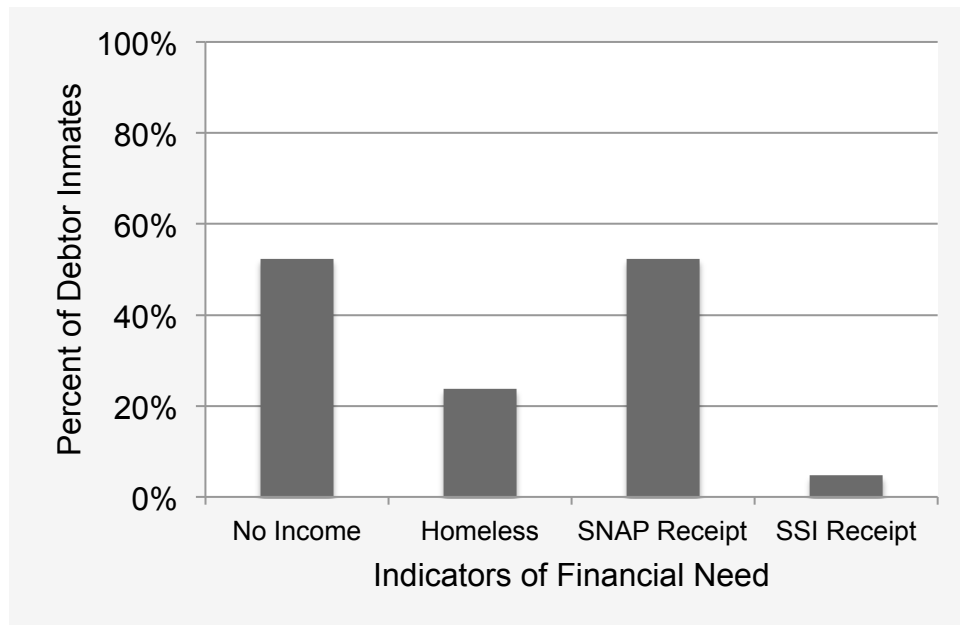
B) Employment & Income

In 2015, just under half of arrested debtors were unemployed, and many likely met one or more of the criteria for determining “inability to pay” put forth in §12-20-10 (see Appendix A). As shown in Table 2, the overall debtor inmate unemployment rate was 44% in 2015. The interview sample presented an opportunity to collect richer data on debtors’ financial need— Figure 1 displays key indicators of poverty among the 21 interviewees.

Table 2: Unemployment among Debtor Inmates

Employment Status	All Debtor Inmates (n=1,556)		Interview Sample (n=21)	
	Frequency	Percent	Frequency	Percent
Employed	866	55.66%	10	47.62%
Unemployed	690	44.34%	11	52.38%

Figure 1: Indicators of Inability to Pay among Debtor Inmates (n=21)

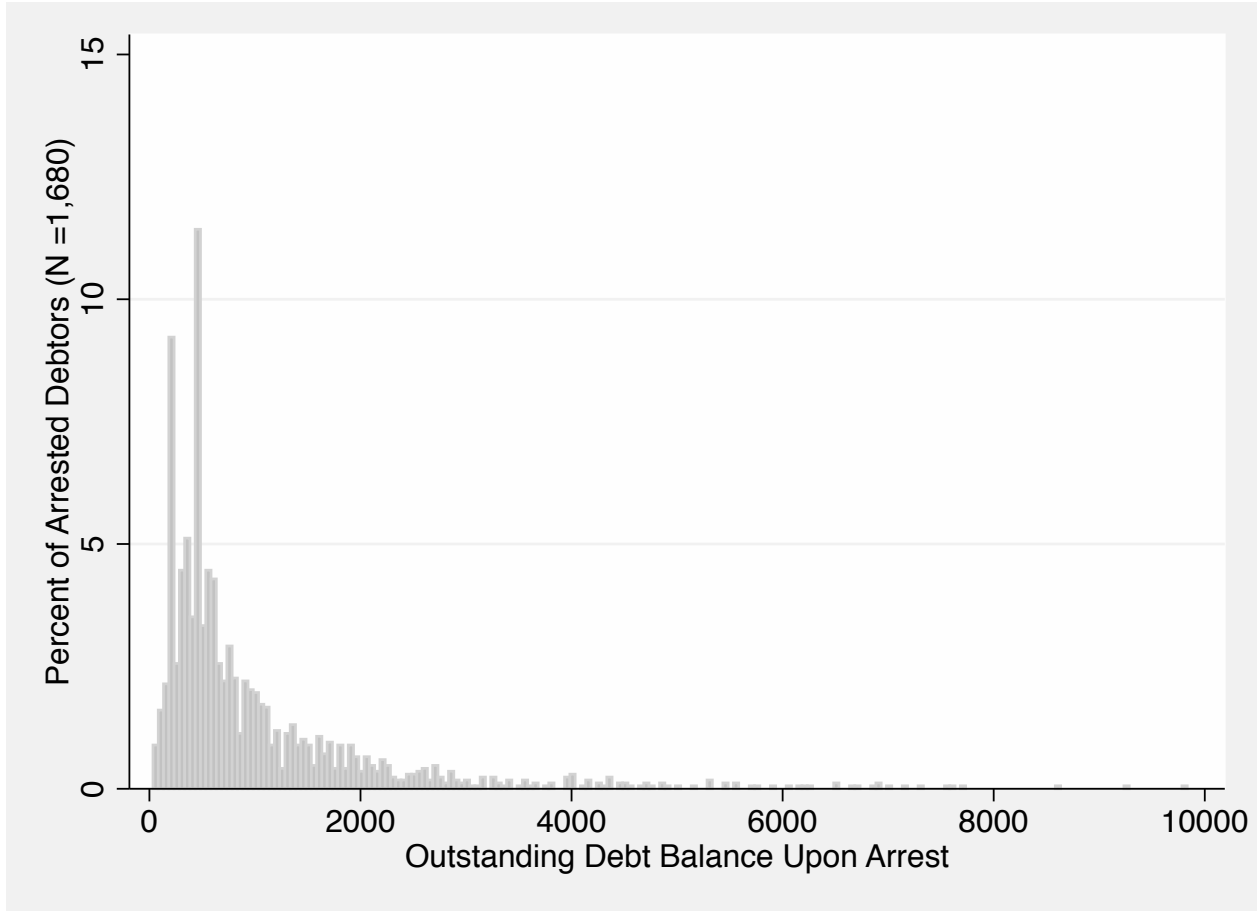


The mean monthly income among employed interviewees was \$2,050, but a majority of debtors interviewed had no employment or other source of income. In parallel with this finding, a majority of debtors interviewed received food stamps, and one out of 21 received social security benefits. Moreover, five out of 21 of debtors interviewed were homeless—three were “couch surfing” with no stable address, and two were staying in a shelter. As Table 2 shows, unemployed debtors were overrepresented in my sample compared to the overall debtor inmate population in 2015, so it is possible that the other indicators of financial need were also more severe in this small non-random interview sample.

C) Debt Payment History

Delinquent debtors who were committed to the Intake Center in 2015 had a history of both positive and negative involvement with the system—they had generally tried to pay their debt obligations but sometimes failed to do so. This resulted in a history of one or more bench warrants and subsequent Intake Center commitments for debt delinquency. Arrested debtors’ mean and median debt balances were \$1,082 and \$592 respectively. Thus, mean debt balance in 2015 was 31% higher than in 2007—and because this represented only the debt owed on the cases that each debtor had fallen *behind* on, it is an understatement of the total amount owed per debtor across all criminal convictions. In my interview sample, jailed debtors owed court debts on an average of five criminal cases in total, including the case they were currently arrested on. Figure 2 displays a histogram of the size and distribution of debt balances in the arrested debtor population in 2015.

Figure 2: Outstanding Debt Balances for Arrested Debtors



Tables 3A and 3B represent patterns of historical debt compliance across the sample. Table 3A shows the mean number of prior interactions each debtor had on the case(s) that they were ultimately arrested on, with a 95% confidence interval. Table 3B shows the percent of debtors who had previously appeared and paid at least once on the case that they ultimately fell behind on. It also displays the number of jailed debtors who had received at least one prior bench warrant for failure to appear at a court payment date.

Historical Debt Compliance among Debtor Inmates

Table 3A

Variable	Mean (N = 333)	Median	Maximum
# of Prior Scheduled Payment Dates	4.41 ± 0.37	2	40
# of Prior Voluntary Court Appearances	3.59 ± 0.36	1	43
# of Prior Payments	3.23 ± 0.35	1	42
# of Prior Debt-Related Commitments	1.34 ± 0.10	1	13

Table 3B

Variable	Debtor Sample (N=333)	
Made one or more prior voluntary court appearances	Frequency	Percent
Yes	191	58.59%
No	135	41.41%
Missing	7	2.10%
Made one or more prior debt payments	Frequency	Percent
Yes	185	56.75%
No	141	43.25%
Missing	7	2.10%
Received one or more prior bench warrants – this case	Frequency	Percent
Yes	164	50.75%
No	169	49.25%
Missing	0	0.00%
Received one or more prior bench warrants - all cases	Frequency	Percent
Yes	289	86.79%
No	43	12.91%
Missing	1	0.30%
Been arrested for debt delinquency one or more times		
Yes	192	57.66%
No	141	42.34%
Missing	0	0.00%

A slim majority of jailed debtors had shown up voluntarily to at least one prior payment-related court date and made at least one payment on their case prior to missing a payment date and getting arrested (58% and 56%, respectively). The median numbers of prior voluntary

appearances and prior payments across the sample were both 1. Although most jailed debtors had made some effort to comply with payment obligations, many had also been arrested before for debt delinquency. While the average arrested debtor had two prior hearings on his court calendar, he had only voluntarily appeared to one of them. A full 55% of the debtors arrested in 2015 had been jailed at least once before for failure to appear at a court payment date. 24% of debtors had experienced just one prior debt-related commitment, but one debtor had been jailed 13 times in the past. 84% of the sample had received at least one prior bench warrant for failure to appear at a payment date. The latter population is larger because bench warrants do not always result in jail time—if delinquent debtors appear in court voluntarily after receiving a bench warrant, their warrant is often cleared.

Even though most arrested debtors had a history of involvement with the debt collection process, 6% of arrested debtors had no history of warrants or arrests for debt delinquency and were arrested after missing their very first debt payment hearing in court.

Responses from the inmate interviews illustrate common reasons that debtors miss court payment dates. Half of debtor inmates in the interview sample reported that they simply forgot to attend their last payment date (N=9). Seven of these interviewees reported that they became caught up in the excitement of completing a prison or probation sentence and forgot that they were still responsible for debt payments. Other interviewees were aware of their payment dates but chose to skip them—either because they chose to spend scarce funds on other needs (N=5) or because they perceived their debt obligations to be unjust (N=2). One interviewee, Charlie,[†] was an unemployed 48-year-old Black man who owed \$592 on a driving with suspended license charge. Reflecting on his payment history, he revealed,

[†] All interviewee names have been changed

So you know the main reason I blow it off, it's a choice of eat now or pay...and it's easier for me to pay later cause now I'm locked up, and they're subtracting money off of my fines for being locked up, and believe it or not, that's easier for me.

Jordan, a 47-year-old Black man, had been chronically homeless for the last five years but owed \$1,445 across two old charges. At his most recent conviction, he felt he was forced into an unfair plea bargain on his original charge and decided, "That's it, I'm done with court." From then on, he refused to attend his payment dates because "I don't want to see no judge when I have no money."

Some also faced transportation challenges on the day of their court appearance. Because a large portion of jailed debtors have suspended or revoked licenses, they rely on rides and public transit to reach courthouses that sometimes are far from where they live. Red, a 37-year-old who was "couch surfing" and had no stable address, explained,

I don't have transportation and right now—I'm staying with my sister, she's in Central Falls. Before that I was staying in Woonsocket, and it's hard to get from Woonsocket to over here if you don't got a ride...It's usually during the week that you gotta go [to court] and most people I talk to they got jobs. It's hard for them to come take me to court.

Finally, two debtors in my sample reported that they missed their court dates because they were unable to receive permission from their boss to take a day off of work and attend the payment date.

In conclusion, jailed debtors were largely nonviolent and misdemeanor offenders who owe debts on multiple prior convictions. A majority of these debtors had attempted to comply with their debt obligations, but most had been arrested at least once before for debt delinquency.

III. Implementation of the Debt Collection Regime

While the state criminal justice system has successfully implemented most reforms governing a debtor's time in jail, the Judiciary only minimally assesses debtor ability to pay and thus abates costs for a minority of eligible debtors under the current legislative guidelines. Moreover, arrested debtors face a host of procedural injustices from the date of their missed payment to their release from jail, including a lack of correct information provision by state agents and a denial of access to a phone.

A) Assessment of Ability to Pay

As described in Chapter 2, legislative reforms passed in 2008 required judges to systematically assess all defendants' ability to pay court debts, and set forth guidelines for how and when this assessment should take place. In observation of 25 debt-related hearings and interviews with multiple magistrates and court clerks, I found that Superior and District court judges in Rhode Island do not systematically or sufficiently determine the ability to pay of debtors arrested for debt-delinquency.

During observation of 25 debt-related hearings across the 3rd & 6th District and Providence Superior courts, I did not witness any magistrate ask *any* defendant about *any* of the criteria for determining ability to pay that the legislature laid out in §12-20-10 (which can be found in Appendix B). Although the hearing sample size was small and non-random, the Judiciary's failure to adopt a uniform financial assessment instrument was confirmed by a statement from a Rhode Island judicial librarian. In response to my question "Does the Judiciary use a standardized financial assessment instrument?" the librarian reported:

There are a couple of ways in which a defendant's indigency is determined. One is to refer a defendant to the Office of the Public Defender, which has an interview process for

making that determination. Another is for a judge to query a defendant in open court under the criteria enumerated in §12-21-10. (C. Hanna, personal communication, November 18, 2015)

This statement implies that, while Rhode Island judges are certainly aware of the legislature's criteria, the Judiciary has not yet adopted a tool for magistrates to use that ensures uniformity across hearings or includes any documentation or recording procedures.

Instead of using the legislature's criteria for determining ability to pay, magistrates most commonly probed for debtor financial need by asking about employment status (N=15) and weekly or monthly income (N=8). They also consistently asked debtors "How much can you afford to pay each month?" (N=15) and "When can you make your next payment?" (N=10). Three representative exchanges are displayed in Figure 2 on the following page.

Because I only observed hearings that took place after a delinquent debtor's arrest, it is possible that magistrates gathered more information in debtors' first ability to pay hearings after sentencing. However, informal interviews with three magistrates did not imply that this was the case. Indeed, most magistrates and clerks told me that they did not hold initial hearings at all, and simply relegated a newly sentenced debtor's first "ability to pay" diagnosis to their clerk's office. A conversation with one District Court clerk confirmed this trend:

At sentencing, they get a payment date. [It is] usually about two months post-sentence. We tell them they have to pay minimum \$20 on that date, but if they pay less, we work with them. On their first payment date they sign a monthly contract for a payment plan. We ask them what their income is and how much they can pay each month (D. Bellamy, personal communication, January 25, 2016).

In response to a similar question about how her office determines ability to pay, a Superior Court clerk simply said, “We usually do [payment plans of] \$30 per month” (personal communication, January 13, 2016).

In summary, it appears that the Rhode Island Judiciary may be failing to fully implement almost all elements of §12-21-20 that govern determination of ability to pay. First, magistrates did not always “make a preliminary assessment of a defendant’s ability to pay immediately after sentencing or nearly thereafter as practicable...” (§12-21-10 (b) & (c)). When they did inquire about ability to pay, they did not use “standardized procedures including a financial assessment instrument...” (§12-21-20 (d)). Finally, these inquiries were not “completed based on a personal interview of the defendant [that] includes any and all relevant information relating to the defendant’s present ability to pay, including, but not limited to, the information contained in §12-20-10” (§12-21-20 (d) (2)).

Figure 3: Debt-Related Hearings in the Rhode Island Judiciary

3rd District Court – 1/19/16

Judge: *Why did you miss your payment date?*

Debtor: *I tried to send my girlfriend with a payment with but they wouldn't accept it. Every [month] I make a 20 dollar payment!*

Judge: *Not on this case you haven't!*

Debtor: *I can pay on Friday*

Judge: *How much do you earn?*

Debtor: *\$22 an hour...I can do better than \$20 per month.*

Judge: *I want \$100 by Friday*

Debtor: *I have to pay rent; can you do \$75?*

Judge: *Thereafter beginning in February it's \$125 a month. You're making good money so it's time to step up to the plate.*

6th District Court – 1/20/16

Judge: *What's going on? We've never gotten one dime!*

Debtor: *I have to find a job. I have two kids.*

Judge: *Who has been supporting the kids?*

Debtor: *My kids' mother. She is right there. [points]*

Judge: *You also owe restitution [in addition to costs]. You haven't paid that either. That was three months ago. I don't know why I shouldn't have you locked up right this second!*

Debtor: *I'm sorry.*

Judge: *You'll be back on February 10th for a payment review.*

Providence Superior Court – 1/13/16

Judge: *What is your plan for paying these?*

Debtor: *After February 22 I can start paying*

Judge: *What will you be able to afford to pay?*

Debtor: *Maybe \$30 per month?*

Judge: *I'll put you on that schedule.*

B) Abatement of Costs

Perhaps resulting from a limited determination of ability to pay, magistrates only abated the court costs of 3% ($\pm 0.09\%$) of debtors arrested in 2015. Thus, they did not take widespread advantage of the power granted to them by the legislature to abate most cost categories for those who are found to be unable to pay (see Table 4). Courtroom observation and interviews with magistrates and clerks suggest that the abatement rate is low for two reasons: first, as documented above, magistrates do not systematically determine ability to pay in a way that would allow for cost abatement. Second, magistrates who do encounter an indigent defendant prioritize intermediate solutions rather than full abatement, especially incremental and/or intermittent payment plans.

Table 4: Cost Abatement for Arrested Debtors

Court	Abatement (N = 333)		
	# of Debt-Related Cases	# Abated	Abatement Rate
2 nd District	10	1	10.00%
3 rd District	104	3	2.88%
4 th District	19	4	21.21%
6 th District:	99	2	2.02%
Providence Superior	75	0	0.00%
Kent Superior	11	0	0.00%
Newport Superior	9	0	0.00%
Washington Superior	6	0	0.00%

Like the results described in the previous section, the 3% abatement rate only pertains to hearings that took place after each debtor's arrest. Any abatement that occurred during a different hearing (for example, immediately after sentencing) would not appear in this result. For this reason, the abatement rate documented here is likely an under-estimate of the total

abatement rate for all debtors (both arrested and not arrested) in 2015. Similarly, the abatement rate does not reflect any partial reductions in court debts, as these are not systematically recorded in clerks' notes on CourtConnect.

When asked how they respond to indigent debtors, most magistrates reported that they preferred to encourage small payments rather than waive costs altogether. One magistrate mentioned, "If someone comes to me for multiple months and says he can't pay, I ask for proof of employment search and set weekly court dates. Often they'll just get frustrated by the frequent dates and start paying something." Another magistrate reported that she only regularly abated the costs of inmates who have been sentenced to long prison terms and will be unable to begin paying for quite a while. For all other debtors, she explained, "I prefer to lower [the debt balance] rather than get rid of it altogether because I think it's useful for them to pay at least some amount of the costs." In stark contrast to this trend, however, one magistrate from the 6th District Court reported that he automatically abated costs for anyone who was "on SSI permanently" and offered a community service alternative to people with "marginal ability to pay." This exception to the norm shows that judicial discretion may produce troublesome disparities in debtor outcomes in the absence of a standardized protocol for determining and responding to ability to pay.

C) Reduction of the Commitment Period

In 2015, the Judiciary successfully limited most debtors' time in jail to less than 48 hours and granted virtually all debtors the \$50 nightly credit required by law—but they needlessly incarcerated a significant population of delinquent debtors who were arrested during the day and brought directly to court for a hearing.

The mean number of nights spent in jail by debtors was 1.21, and 87.5% of debtors spent fewer than two nights in jail. As shown in Figure 4, virtually all arrested debtors are processed more efficiently than they were prior to the 2008 reforms. While clerks do not systematically record the application of the \$50 nightly credit on CourtConnect, interviews with inmates, magistrates, and clerks all confirmed that the credit is automatically granted and universally applied. Despite widespread application of the 48-hour commitment limit, there were two types of circumstances where arrested debtors were treated outside the bounds of the 2008 reforms. First, one arrested debtor in my interview sample was accidentally held in jail for 27 days because a clerk in the 6th District Court forgot to release a “hold” on his record after the conclusion of his “ability to pay” hearing. Such a catastrophic oversight is likely rare within this system, but its severity merits individual recognition in these findings. In addition to the debtor described above, one additional debtor in 2015 was held for more than 20 days solely on a debt-related charge (the specific reason for his extended stay remains unknown).

Second, a larger group of arrested debtors were needlessly committed to jail even though they had been arrested during the day and brought immediately before a judge for an ability to pay hearing. In the interview sample, seven out of 21 arrested debtors actually saw a judge and went through an ability to pay hearing *before* being admitted to the Intake Center (see Figure 5). Under the assumption that the legislature passed the “immediate hearing” provision in order to help some arrested debtors bypass jail altogether, the judicial practice of jailing daytime arrestees seems to counteract this goal.

Figure 4: Arrested Debtors' Nights in Jail

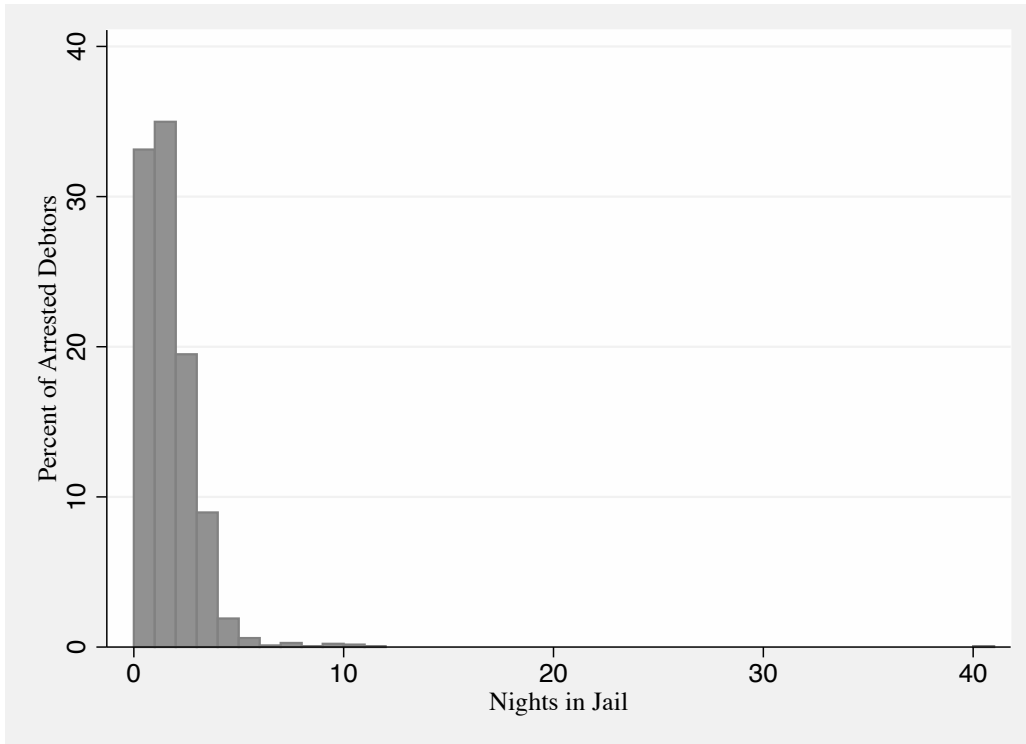
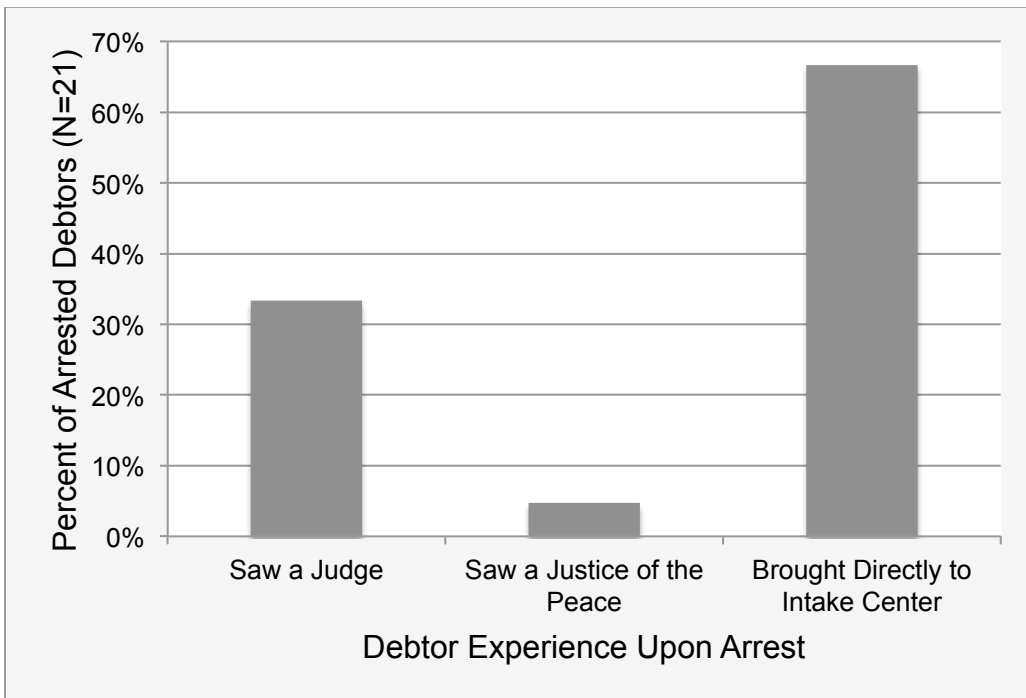


Figure 5: Debtor Arrest and Commitment Patterns



Just like the cost abatement arena, judges' decisions about whether to jail daytime arrestees are left to their discretion. One daytime arrestee who was subsequently sent to jail expressed frustration with this use of discretion:

I feel like it should be more written rules than just how the judge feels... because when I got picked up I was with somebody—he had the same thing, he got picked up on a suspended license [charge that] he didn't pay or anything. But he had a son so the judge let him go, and then [she] put my bail for what I owe. And I'm like, how does that even work?... I just felt like he had a nice cut clean cut and I didn't shave, so she probably thought I don't have any money...I don't know she just looked at my face and [thought] 'you know what you're just another one of those,' and...he had [nice] shoes on, he was dressed up.

D) Process Failures

Beyond evaluating adherence to the laws governing court debt delinquency, I also sought to map out the debtor arrest and incarceration process and identify any elements of the process that might be undermining policy goals. Using both quantitative and qualitative data sources, I identified three key process failures experienced by many debtors in the debt collection regime. Before debtors were arrested, a variety of state agents sent them conflicting cues about how the court would respond to their missed payment date. Upon arrest, delinquent debtors were sometimes misinformed or under-informed as to the reason for their arrest and the terms of their commitment. Finally, almost all arrested debtors were denied the opportunity to place a phone call for the entire time they were in the custody of the state. All three of these phenomena may significantly impact the achievement of the legislature's goal of minimizing the use of jail for debt delinquency and the harm it causes.

1. Inconsistent Response to Failure to Appear

Debtors who failed to attend a court payment date received an inconsistent and sometimes halting state response to their actions that caused confusion and prevented voluntary debt compliance. First, while courts universally issued warrants for failure to appear, they varied drastically in the length of time they allowed to elapse between the missed payment date and the warrant issue date. Second, probation and parole officers did not inform supervised debtors of debt-related warrants, even if they met in person with their supervisee while a warrant was out for their arrest.

In 2015, the median “warrant lag”—the time elapsed between a missed payment date and a warrant issue date—was 15 days, and ranged from 0 days to 1432 days (see Figure 6). It is possible that the observed variation was exaggerated by incomplete information on the Judiciary’s CourtConnect database, but multiple judicial workers confirmed that long lag times were the norm, especially in courts with larger case loads. A District Court clerk reported that these lags often occur because magistrates have to personally sign every bench warrant, and some courts with larger dockets simply are not able to make time for this process. A 6th District Magistrate reported that his courthouse processes bench warrants in large chunks a few times per year, while a Providence Superior court magistrate instead signs most bench warrants on the same business day as a debtor’s missed payment. Disaggregation of lag times by courthouse confirmed this anecdotal evidence. The 6th District Court (the court with the largest criminal case load) had the longest median warrant lag time, at 52 days. The superior courts (with comparatively smaller case loads) exhibited the shortest lag times (See Table 5).

Figure 6: Warrant Lag Times for Delinquent Debtors

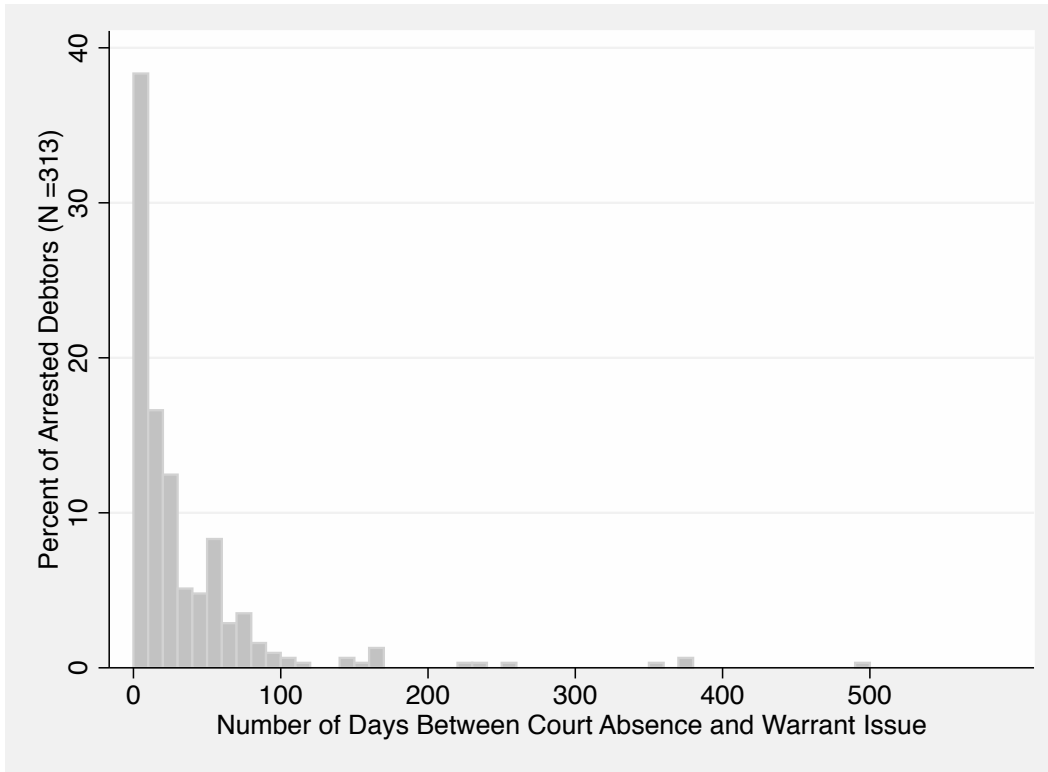


Table 5: Warrant Lag Times by Courthouse

Jurisdiction	Median Warrant Lag	Maximum Warrant Lag
6 th District	52 days	1432 days
4 th District	23 days	358 days
3 rd District	17.5 days	239 days
2 nd District	7.5 days	56 days
Providence Superior	5 days	370 days
Newport Superior	4 days	6 days
Washington Superior	3 days	7 days
Kent Superior	1 day	75 days

Even after a warrant was issued, debtors were not systematically notified of the open warrant by the Judiciary or their probation or parole officers. Seven out of 21 debtors in the interview sample believed that their probation officers were responsible in some way for monitoring and reminding them of their court debt payment dates, and they were surprised to

learn of their warrants upon arrest. Scott was a White 29-year-old who owed \$218.50 on a domestic disorderly conduct charge. He reported,

I had disorderly conduct and it was twelve months ago. So I did probation, six months probation, and the whole time I did six months probation they didn't say nothing about me having a warrant. They should tell you if I even had a court date—at least tell me if I have a court date—but I did the whole 6 months probation like I don't get in trouble!

John, an unemployed 26-year-old who owed \$1,350 on a DUI charge, reflected,

They wanted my ID and I was like, 'yeah no problem.' I didn't know I had a warrant, I would have handled the warrant. The warrant's almost been out for a year almost! My probation never told me...I'm surprised she didn't tell me about the warrant because she's my probation officer.

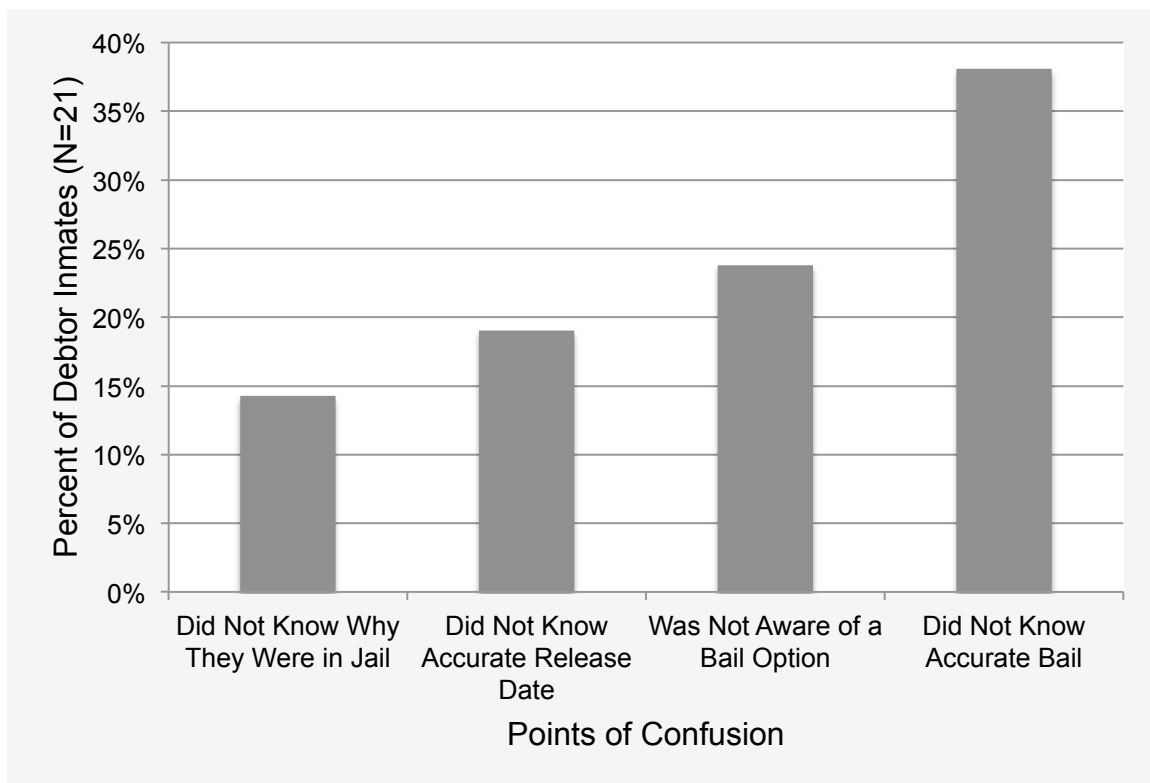
A spokesperson for the Department of Probation and Parole confirmed that officers do not take any responsibility for helping debtors keep up with court dates. She expressed the sentiment that this element of the system is debtors' own responsibility (C. Imbroglio, personal communication, January 26, 2016). Nevertheless, it is logical that some supervised debtors would expect such guidance from their probation officers.

2. Lack of Communication During the Arrest Process

Upon arrest, debtors were not systematically informed of the reason for their arrest or the terms of their commitment at the Intake Center. While most debtors interviewed were aware of their outstanding warrant and familiar with the consequences of debt delinquency, debtors who did not understand the process received very little explanation from police or corrections officers.

As Figure 7 shows, debtors in the interview sample lacked a range of crucial information about their commitment at the Intake Center. Three out of 21 men interviewed actually *did not know why they were in jail* until I explained their status during our interview. One of these interviewees was told he had been arrested for a probation violation. The other two interviewees were both arrested on warrants more than 10 years old, and the only information the police provided (according to the interviewees) was the nature of the original charge that their warrant was linked to. In fact, two interviewees asked me to return the next day with additional information about their incarceration so that they could better grasp the details of their situation.

Figure 7: Points of Confusion among Debtor Inmates



Even among interviewees who knew why they were in jail, eight interviewees could not report their accurate bail amount within \$200, and five interviewees did not know they even had a bail option. Primo, a 26-year-old Black man who had never been to jail before, lamented, "You

have to over-communicate here because they fail to tell you and they assume you've been here a million times so you should know!" Finally, some debtors did not understand the finite nature of their commitment—and at least one had been actively misinformed about his commitment length by a magistrate. He lamented:

[I'll be here] until someone bails me out...[the magistrate] is telling me that, no, this is my third time trying to pay these court fines, so she's not going to let me out until somebody pays it for me—or I just sit out my days until the court fines is paid up!

In fact, as legally required, he would be released within 48 hours regardless of whether he paid his debts or not. He was not aware that this was the case.

3. Lack of Phone Access

While at the Intake Center, almost none of the debtors in the interview sample were given permission to use the phone even though official Department of Corrections policy allows every new inmate one bail call. In informal conversations with two corrections officers at the Intake Center, both affirmed that every new inmate is given multiple opportunities in the morning and evening to place one permitted phone call to request bail. But in stark contrast to this official narrative, a majority of interviewees reported that they were not allowed to use the phone while in jail. Five out of 21 interviewees had actively requested a bail call and reported that they were denied the opportunity to make one. One complained,

I mean it shouldn't take as long for people to be able to use the phone. Because, like, I've been sitting in here for the last three days and it's like, I could have called my mom and gotten out. I could have been bailed out already. And I can't even get on the phone to send a message out to say 'Hey, I'm locked up, can you come bail me out?'...The first time I ever came here they did a bail call for me, but other than that [they never have]...

and even then, it took me like 45 minutes, I like cussed a guy out because I wanted to get a phone call, and then they put me in a room where the phone didn't even work. So it was like...the judge sent paperwork saying I had to make a phone call and [even then] they didn't even let me go.

While the Department of Corrections insists they make the bail call opportunity available, two out of three magistrates interviewed for this study reported hearing similar inmate reports about a lack of access to phone calls.

In addition to inmates who were denied a bail call, other interviewees were simply not aware of the bail call opportunity. This second group of inmates believed that they had no access to the outside world until their Intake Center prepaid calling accounts were activated. Right now, the activation process takes up to *two weeks* after an inmate's admission date. According to one corrections officer, this lag time occurs because the Intake Center has just one employee tasked with manually inputting each new inmate's PIN and list of approved phone numbers into the Department's phone vendor's online system (C. Barney, personal communication, January 26, 2016). DOC representatives acknowledge that this arduous and understaffed process results in long delays. New inmates have no connection to the outside world for up to two weeks, aside from one bail call opportunity that many did not know existed.

IV. Impacts of the Debt Collection Regime

As currently implemented, the debt collection process negatively impacted debtors' future payment compliance, their employment status, and their emotional wellbeing. By default, arrests for debt delinquency also pushed debtors further into debt through the application of a \$125 warrant fee for every debt-related arrest.

A) Effects on Debt Payment Compliance

As described in the literature review, a major assumption underlying the use of jail as a debt collection tactic is that harsher enforcement methods are more likely to yield payment from delinquent debtors. In my random sample of jailed debtors from 2015, full payment after most debtors' arrests did not occur. 6% of debtors arrested in 2015 were bailed out of jail (and thus paid in full), and 22% of debtors paid their court debts in full within six months. The low abatement and paid-in-full rates indicate that the majority of arrested debtors arranged or continued a payment installment plan for their outstanding debts. This incremental method had somewhat high but non-universal compliance. 65% of debtors made one payment of any size within a month after going to jail. 68% of arrested debtors showed up to their next payment date in court. This means that around 20-30% of jailed debtors promptly received another warrant for failure to appear and began the arrest and commitment cycle again without having made a single payment in between. The effects of jail on debt compliance seemed to wear off over time as well—only 62% of those who attended their first post-jail payment date attended their second payment date as well. First-time jailed debtors in 2015 were slightly more likely to make payments compared to repeat offenders: 21% paid in full within six months (vs. 17% overall) and 67% made some payment of any kind within a month of being in jail (vs. 65% overall).

In the interview sample, select debtors indicated that jail time made them more likely to comply with future payments, but others indicated that the time in jail actually made them *less* likely to pay. A few interviewees acknowledged that the commitment offered a useful opportunity to reflect on their actions. Primo admitted, "I mean it's reasonable, it's an eye opener, it really does help...it makes you think in here. Like 'what the hell was I doing, I should have just paid that, I wouldn't be in here.'" Another agreed, "I guess the time I'm in here sorts

stuff out like in your head, you know...[you] think about things, your life, where you want it to go.”

However, other interviewees reported that their experience in jail made them less likely to pay in the future. Some inmates viewed the arrest as a sign that the state was trying to prevent them from building a crime-free life. Ted was a 41-year-old Social Security recipient with a long criminal record, but he had not been convicted of a new crime in about eight years. He explained,

A lot of it's my own fault, but it's just...I don't know. Even when you try to get out of it—even when you try to get past it all—it's like they just won't let you. It's like they do whatever they do just to hold you down and that's not right to me. If somebody's trying to better [themselves] they should let them better themselves. But the court isn't gonna see it that way.

Ted and one other interviewee both reported that they actually planned to move out of state after their release to escape a system they viewed as oppressive. Other interviewees were reticent to pay their debts because their arrest strengthened a view of the state as inefficient and mismanaged. Scott, who owed just \$93 dollars to the courts, joked,

It's costing you guys more just to bring me here! 93 dollars just to drive me here, 93 dollars to drive me back, two dollars for every meal, two dollars for this jumpsuit...it's a really big inconvenience. Everybody could be saving money.

Another described the court debts as, “Just a way for this stupid state to make money, and God knows they don't even know how to spend it because we're still broke.” Finally, most interviewees simply reported that they would not be paying because they were financially unable to. Jordan lamented, “They're trying to find ways to make me give them money I don't have.”

B) Employment Effects

As described in the Literature Review, employment is largely believed to be a key factor in preventing offender recidivism by helping offenders establish pro-social ties and meet basic needs. When the eleven employed men in the interview sample were asked whether this jail time would jeopardize their employment, four said yes, four said maybe, and three said no.

Those inmates who were sure that the commitment would result in job loss were aware of specific workplace policies that they were violating during their time in jail. Primo reported that he would lose his job because he was committing his second “no call, no show.” Two others had both just started their jobs less than a week ago and were violating a behavioral trial period. Finally, one respondent had a history of losing jobs after being jailed for debt delinquency and expressed certainty that this would happen again based on his experience.

Those who were not sure about the effect of jail on their job status expressed frustration with not being able to contact their work or even a family member who could reach out to an employer on their behalf. Tito, a 26-year-old Puerto Rican, owed \$93.50 on a receiving stolen goods misdemeanor charge from 2008. He explained,

I’ve got to go over and talk to them, show the paperwork, and see if they still going to take me back or if I lost my job...so that’s still in the air. I missed my shift today—a nine-hour shift, so I mean...kinda weighs in on the restaurant when they are depending on you to be there to open and close and you’re not even there...it’s kinda like, ‘Damn, do we need him or no?’

Another was concerned because he had told his employer he did not have any outstanding warrants when he got hired and thought that the employer would see this time in jail as a betrayal

of trust. Primo also felt like this jail time would confirm his employer's existing prejudice against him as a black male in a predominantly white suburban community:

Hell yeah. I'm already a stereotype...in Lincoln a lot of people are not exposed to minorities, more of the exposure is from TV, so I'm like their first black person they see and what I represent is what they see from black people....so I don't know. It's my manager, you know, he's a good guy and everything but it's just...I'm a minority... sometimes they don't want to deal with problems that we bring.

Of the ten interviewees who were out of work, three reported that this time in jail would negatively impact their job search, while the remaining seven believed that this jail time would have no effect on their employment prospects. All three of the unemployed respondents who believed this time in jail would affect their job search also erroneously believed that this arrest would show up as a new charge on a background check. This misunderstanding fits into the landscape of confusion among this population that was described in the previous section.

C) Social Relationships Effects

Researchers have found that ex-offenders with stable and strong social relationships are less likely to commit future crimes. When interviewees were asked whether this time in jail would impact their social relationships, three said "yes," four said "maybe," and thirteen said "no."

Those who were sure that the jail time would negatively impact their relationships told stories of families and partners who were "fed up" with their history of offending and had told them that any more criminal activity would be the "last straw." Frankie, a 20-year-old White male who owed \$405 to a District Court, explained,

I just proved them all right that I was gonna end up back in jail...like it's my fault...[but] they're gonna look at it like I got arrested [for] a new crime! And now a lot of my family is probably just going to be like, 'well you f***ed up again, now you have to build it back'—and it's like, dude, I didn't even really go to jail for a crime, I went to jail for not paying a court fine.

Those who believed the jail time might negatively affect their relationships worried that partners or parents would be angry about a new arrest or anxious because they didn't know their whereabouts. Jay, a 29-year-old White male who had been denied permission call his girlfriend upon arrest, expressed,

I mean think about it: I had my girlfriend's car; she lives all the way in Plymouth with me; we are stuck here in Rhode Island and there's no way to get her kids, no way to know where or how to get back, no nothing—and nobody knows where I am! For all she knows, I took the car to Mexico.

Those who were unconcerned about the impact of this jail time on social relationships either reported that family members were “used to this” behavior from them and wouldn't be hurt or surprised, or that family members “know them to be a good person” and would not be affected by this time in jail. Charlie explained,

I've done a lot of time, I just finished doing 20 years, [and] I've been out for going on five years, so [this arrest] is not really a big scare for them, it's just...you know this is minor things compared to what I could be into. But I'm a pretty good guy, I'm staying out of trouble. That's why I take all this with a grain of salt.

D) Housing Effects

Criminal justice scholars have reached consensus that stable housing acts as a foundational protective factor in preventing recidivism by physically stabilizing ex-offenders and allowing them to meet basic needs and plug into a community. When interviewees were asked whether this time in jail would impact their housing situation, two responded “yes,” five responded “maybe,” and fourteen responded “no.”

Both of the men who were sure this time in jail would affect their housing situation were homeless and expected to lose their shelter beds because they would not be showing up to claim them. It is common practice in most shelters across the state to cede unclaimed beds to people on a shelter’s “waitlist” if a bed owner does not claim the bed by a certain time each night. Wilson was a 59-year-old homeless man who still owed \$368.50 on a domestic assault charge from 2002. He reported, “I was at the Mission. I don’t know how that’s going to pan out [now]... I’ve got to go talk to these folks.”

Those who were unsure about disruptions to their housing reported that they might lose housing via changes in the other factors described above, employment and social ties. Three interviewees who lived with partners or family members reported that they feared these people would kick them out of the house out of anger from their arrest. James, a 22-year-old unemployed male who owed \$1,190 across four previous charges, admitted,

“My parents said [if I got arrested for] driving without a license I would be kicked out and I would have my car impounded...but...it’s for court costs—not for that—so I really don’t know until I talk to them, and the phone takes two weeks to go on, so you really can’t talk to anyone in here.”

Two who rented their own apartments were nervous that they would be unable to pay rent if this time in jail caused them to lose their job. John simply said, “If I lose this job—if I lose this job it’s going to screw everything up.”

E) Emotional Effects

When debtors were asked to volunteer other effects of this time on jail on their lives, many identified emotional impacts including anxiety, frustration, and feelings of helplessness and unjust criminalization. Tito said, “It’s just a headache. It’s just annoying man... I might lose my job or anything like that for something so simple and stupid.” Red, who had been held at the Intake Center for 11 days before I spoke to him, admitted, “I got real bad anxiety right now. If I knew when I was going to court it would be one thing—but to sit here...and above all for court fines. It’s that that’s really bothering me.” Others expressed that they were “confused,” “upset,” and “more than stressed.” Ryder, a 49-year-old roofer who owed \$557 on a driving with suspended license charge, called jail “a waste of time...it’s four days of my life I’ll never get back.”

A second reported effect was a feeling of unjust criminalization. Some interviewees had never been in jail before and were alarmed by both the other inmates and the treatment by corrections officers. Primo explained,

This does open your eyes...but it’s just like, I’m in here with...like my cellmate is a first degree arsonist, like I don’t belong here. I know people who attempted murder, I’m here with people who shot people’s moms and like the craziest things, and I’m just here for court fees.

He went on to complain about a correctional officer’s assumption that he was a habitual criminal even though this was his first time in jail: “I told the C.O., ‘you look familiar, wasn’t you here

last night?’ and he said ‘no, you probably remember me from the last time.’” Paul, a 52-year-old dog breeder who owed \$4,505 on six unpaid cases, complained that it wasn’t enjoyable to have “a bunch of weirdos running around you.”

Other debtors with longer criminal histories felt like this time in jail triggered painful memories. E.J., who paying debts on a felony assault charge from 2013, explained, “I was a heroin addict, and I got my life together, and everything just started falling into place and then... I left the state for a couple years and came back and had these warrants.” Ted reflected,

I went to prison, I did my time, and I got out—you can ask Florida, I ain’t been in trouble since I got out. It’s been maybe eight years since I got out of prison and I ain’t looked back, I ain’t got in trouble, I don’t even hang around anybody no more or nothing. And it’s like, I don’t know, just when I thought I was doing good and not getting in trouble and everything else, this pops up.

Wilson, who had just moved back to Rhode Island to be closer to his kids, admitted,

Well it brought up old wounds, you know, scars. Because I wasn’t expecting it. You know, I thought there might be a warrant, I don’t know, but after thirteen years...It triggers those old scars. So I’m a little perturbed about that.

Several debtors worried that they had “proved family and friends right” by being re-arrested, and felt compelled to highlight the distinction between this debt-related arrest and a “real crime”—especially those who were employed and, as one interviewee put it, “productive members of society.” Gordon, a 51-year-old White male who owed \$2,591 on multiple license-related misdemeanors, complained, “I’m at work, you know what I’m saying, I’m doing something positive, I’m not really doing drugs, I’m not stealing, I’m pretty old. I’m old enough to know what my priorities are. And right now my priority is my job.” Others echoed this sentiment, with

statements like “I was out there doing good!” or “No, [I hadn’t started paying,] but I stayed out of trouble.”

F) Financial Effects

Finally, interviewees also reported frustration that their arrest had pushed them deeper into debt via the \$125 warrant fee assessed for all arrested debtors. James described that the jail time “just puts people in a bigger hole.” Those interviewees with suspended or revoked licenses were especially likely to feel trapped in a cycle of punishment and debt. Paul lamented,

Yeah I got like two [suspended license charges] back to back, and I can’t drive anymore. I’ve just gotta get my license...and believe it or not, I got an \$80 ticket and that’s why my license was suspended. See how it all snowballs? You miss one little thing and forget it. Now I’m in, here I am. It all snowballed.

Primo echoed his sentiment: “I feel like now that I have [a suspended license charge] it’s just so much easier to get sucked in here”

V. Conclusion

In summary, jailed debtors in Rhode Island in 2015 were largely non-violent misdemeanor offenders who were not incarcerated during their original sentence. Those arrested for court debt delinquency had a complex history with debt compliance—most had been arrested on a debt-related warrant at least once before, despite multiple attempts to pay off their outstanding balance. The Judiciary did not systematically identify indigent debtors or abate their costs, even though at least half of arrested debtors were low income and likely qualified for abatement under current legislative guidelines. Thus, while the criminal justice system minimized the amount of time each debtor spent in jail, the proportion of debtors within the

inmate population only fell by 13% over the last eight years. More worrisome, arrested debtors' mean outstanding debt balances rose by \$256 over the same period.

Once arrested, delinquent debtors were at risk of falling victim to an array of procedural injustices in the debt collection system, from a lack of police communication about the nature of their arrest to the denial of a phone call while in jail. These implementation failures exacerbated a host of negative effects of debt-related incarceration—most notably job loss, frustration and anxiety, and financial strain. Beyond its harmful effects, it is unclear whether this jail time actually achieved policy goals of inducing delinquent debtors to comply with future payments and court dates.

CHAPTER 6: DISCUSSION

I. Introduction

In this thesis, I sought to understand who was being incarcerated for debt delinquency in Rhode Island, how that process was being implemented, and what effects it might have on jailed debtors' lives. I employed a mixed-methods research design that included quantitative data collection and analysis and qualitative interviews and observation. I found that approximately 1,556 adults were jailed for failure to appear at a court payment date in 2015 and were held at the Intake Center for an average of one night with a mean outstanding debt balance of \$1,082. As it currently operates, Rhode Island's court debt collection regime suffers from two major implementation challenges. First, the state needlessly incarcerates a significant population of debtors who either legally qualify as indigent or have already been brought before a judge for an ability to pay hearing. Second, criminal justice employees subject arrested debtors to an array of small procedural injustices, including denial of information and phone access, that significantly negatively impact debtors' debt compliance attitudes, their wellbeing, and their material circumstances.

II. A Portrait of the Debtor Inmate Population

Debtors arrested in Rhode Island in 2015 were predominantly non-violent misdemeanor offenders who did not go to prison for the crime they owe court debts on. This finding conflicts with the predominant focus on reentering prisoners in the academic literature on court debts and suggests that a research focus on lower-level offenders who serve their sentence in the community may be more relevant to policymaking. Because data on the total proportion of misdemeanor versus felony debtors in the state is unavailable, this research cannot draw conclusions about the criminal history of *all* debtors in Rhode Island, including those who were

not arrested in 2015. However, it is likely that misdemeanor offenders do make up a majority of total debtors, given that the District Courts (which process misdemeanor charges) assess more total court debts annually than do the Superior Courts (which process felonies) (K. Davis, personal communication, February 22, 2016).

Approximately half of the arrested debtor population was unemployed with limited sources of income, and a majority may have been eligible for court cost abatement under the existing criteria set forth by the legislature in §12-20-10. The legislature has declared receipt and/or qualification for public benefits as “prima facie evidence” of a defendant’s indigency, and in my interview sample, 52% of arrested debtors received Supplemental Nutrition Assistance for Needy Families (SNAP) and 5% received Social Security benefits. An additional 19% of interviewees were in the process of applying for either SNAP or Social Security. These findings present a conservative estimate of total abatement eligibility in the debtor population because they only tally receipt of benefits and do not account for those who are simply “qualified” for these benefits. Although the sample size in this research was small and nonrandom, the degree of indigency among interviewees suggests, at the least, that a significant proportion of the larger debtor population is legally indigent.

Debtors also faced other public debts that were not reflected in the single outstanding debt balance they were arrested on. Most arrested debtors had built up a history of convictions and, on average, owed court debts on four other cases in addition to the one they were currently behind on. Debtors who were still serving their original sentence also owed probation and educational program fees, and others may have had outstanding child support balances. Roughly one third of arrested debtors likely also owed 400-500 dollars in driver’s license reinstatement fees. Oscar, a 29-year-old Black man who owed \$1,755.50 in court debts, explained,

I owe about 700 dollars on my license. And I'm in the process of doing that—that's also another cost. I have these two court costs plus I have to pay off my license so that's everything...if I total, add it up, it's probably like 2,000 dollars that I have to pay slowly. It's not like I can just dish it all out.

Thus, arrested debtors were not only a low-income population but also a group burdened with an array of financial obligations in addition to any criminal fines, fees and restitution.

III. Implementation Fidelity in the Debt Collection Regime

Although the 2008 legislative reforms largely ensured that arrested debtors attended a payment hearing within 48 hours, the magistrates presiding over these hearings did not make use of a “standardized financial assessment instrument” to assess ability to pay, and they ultimately abated the costs of a small minority of debtors. The result was that many defendants who qualified as unable to pay under the legislature's current list of criteria were not removed from the debt collection system and were instead needlessly punished with jail time for failure to appear at a court payment date.

In 2015, the Department of Corrections and the Judiciary ensured that almost all arrested debtors saw a judge within 48 hours or on the next available court date. 98.5% of jailed debtors were held for five nights or fewer—and anecdotal evidence from my interview sample suggested most debtors who spent three to five nights in jail were either arrested over the weekend or had to clear warrants at multiple courthouses. That said, it appears that a few arrested debtors per year fall through the cracks and are held at the Intake Center for far longer than they should be—for 41 nights and 27 nights, in the case of two men in my research sample. While these administrative failures are hopefully rare, the risk of a mistake like this occurring may be

exacerbated by the fact that arrested debtors are not allowed widespread access to phones once committed to the Intake Center.

Even though the length of jail stays for debt delinquency was successfully reduced down to one night on average, magistrates across state courthouses did not use the payment hearings that came after these commitments to identify indigent debtors or remove them from the court debt system. In 2015, only 3% of jailed debtors had their costs abated by a magistrate. Even though abatement was extremely limited, it is important to note that incremental debt reductions may have been much more common, and were not observable in the data. Indeed, all debtors who were arrested for failure to appear at a payment date were credited \$50 for each night they spent in jail. That said, two homeless men in my interview sample—one of whom was a four-year resident of Harrington Hall shelter—did not have their costs abated by the court. As a result, the shelter resident still owes \$327 dollars to the state even though he has no job and no means to repay it.

The low abatement rate may be a product of the fact that magistrates did not use a “standardized financial assessment instrument” when conducting post-jail payment hearings. Most payment hearings in both district and superior court lasted less than three minutes and were limited to inquiries into a defendant’s employment status. Magistrates typically allowed defendants to choose their own monthly payment rate, but they almost never inquired into any item on the legislature’s list of “evidence of inability to pay,” including social security, food stamps, or welfare receipt. The absence of this line of questioning from the post-jail payment hearings contradicted state law, which declares that every arrested debtor must “be afforded a review hearing on his or her ability to pay within 48 hours” (§12-6-7.1) While the legislature only specified for a “financial assessment instrument” to be used during a newly sentenced

debtor's first payment hearing (§12-21-20), it is clear that they still intended for some kind of indigency determination take place at the post-jail hearing. Because the jailed debtor population exhibits such widespread poverty, post-jail hearings are an excellent opportunity to identify and protect vulnerable debtors who fully qualify for cost abatement under existing legislative criteria.

Magistrates further delayed reduction in the population of debtors at the Intake Center by choosing to jail some debtors who were brought to them immediately after arrest. When state legislators indicated in a 2008 amendment that any debtors arrested during the day should be brought immediately before the court, it is reasonable to assume that they intended for these debtors to circumvent Intake Center commitment and be released directly from court. However, this expedited arrest process did not always happen in practice. Seven of the 21 inmates in my debtor interviewee sample had seen a magistrate before being committed to the Intake Center—in their cases, the magistrate simply set their bail and scheduled a second payment hearing for them to take place a few days later. This practice complies with the letter of the law but not its underlying goals—it needlessly inflates the Intake Center's population with a group of debtors who have already attended a hearing in court and thus fulfilled the purpose of their original arrest warrant.

IV. Procedural Injustices in the Arrest and Commitment Process

Beyond evaluating fidelity to the overarching policies governing court debt collection in Rhode Island, this research also identified gaps in judicial and corrections administrative processes that significantly impacted policy outcomes and debtor experience. Debtors ultimately arrested for failure to appear at a court payment date reported receiving mixed messages from multiple state agencies and representatives about the nature of their debt payment responsibilities and the consequences for noncompliance. More troubling, jailed debtors were consistently

denied access to crucial information about their arrest and commitment status and were barred from using phones to request bail or notify family and friends of their whereabouts.

Even though one magistrate quipped in court that bench warrants follow a failure to appear “like the sun follows the moon,” many arrested debtors did not realize that this was the case. Debtors in my interview sample reported a range of signals that they interpreted to mean they would not be punished for failure to appear in court. Multiple interviewees assumed that their probation officers would notify them of upcoming court dates—or, at the very least, tell them if they had an outstanding warrant. Some of interviewees assumed that silence from their POs meant that they did not need to appear in court—but others directly asked for this information from probation officers and reported that they were actually told that no payment action was required of them. The long lag times between a debtor’s missed payment date and a warrant issue date may exacerbate this pattern of miscommunication and misunderstanding by preventing debtors or other state agents from linking the missed payment date to any punitive state action.

Multiple magistrates, clerks and corrections officers were hesitant to believe inmates’ claims that they were not aware of their debt responsibilities. One magistrate asserted, “These people are not stupid! Don’t assume that they are innocent and simpleminded...many are very street-wise.” Indeed, state employees’ skepticism aligns with the fact that most arrested debtors in 2015 had been to jail at least once before for debt delinquency. But debtors operate within an ecosystem of different criminal justice requirements that justifiably cause confusion when they conflict with court debt payment. For example, though debtors will always receive an arrest warrant for fine and fee nonpayment, it appears that they currently face no penalty whatsoever for failing to pay monthly probation fees. When debtors on probation are never punished for

failing to pay a single dollar toward their probation fees, they might reasonably view their fine and fee obligations as part of the same non-punitive system.

Other debtors in my interview sample received cues from state agencies that made them logically assume their debt obligations were terminated. When one interviewee received permission from the state to transfer his child support wage garnishment to a new employer in North Carolina, he assumed that meant he was “allowed” to move out of state and stop paying court debts. Another made a similar assumption after receiving approval to transfer his probation sentence from Rhode Island to Florida. Although state agents might argue that it is not their job to help debtors keep track of their various sentence requirements, they must also concede that it may be difficult for even repeat offenders to keep track of the different terms of their sentence.

Once arrested, a troubling number of debtors were not provided crucial information about the reason for their arrest or the circumstances of their commitment. Some interviewees in my sample did not know why they were at the Intake Center or when they could expect to be released—others did not know that they had a bail payment option or had not been told what their bail was set at. While a few debtors in my sample had been offered a phone call upon arrest, debtors who attempted to use a phone once they were committed to the Intake Center were routinely denied the opportunity to do so. This finding runs counter to official Department of Corrections policy, which allows every new inmate to receive one bail call before his prepaid phone account is activated. My interviews show that inmates were not in fact given bail calls—and the seven- to fourteen-day lag time in the activation of their prepaid phone accounts left debtors with no contact with the outside world until their release. Even though the average debtor commitment period was just one night on average, debtors’ lack of access to phones prevented

those who want to pay bail from doing so. Lack of phone access also significantly exacerbated the other negative impacts of this jail time, as described further below.

V. The Impact of Poor Implementation

Debt-related incarceration often negatively impacted debtors' employment status and mental health and occasionally jeopardized debtors' housing and social relationships as well. The observed negative impacts are consistent with most existing scholarship (Alexander et al., 2010; Beckett et al., 2008; Horton, 2008; Martire, 2010; Pleggenkuhle, 2012) but contradict a smaller body of scholarship that finds court debts to have a positive effect on debtors' lives by incentivizing stable employment and social ties (Gowdy, 2011; Nagrecha & Katzenstein, 2015; Visher, Debus-Sherrill, & Yahner, 2011). Although the observed effects themselves echo prior findings, the mechanism by which they arose is novel: virtually all observed negative impacts of debt-related incarceration in this study were either exacerbated or fully produced by the process failures described above—most notably, the lack of access to phones.

Although most interviewees reported that jail time would not impact their housing status or relationships, the negative effects that were reported in these categories were largely produced by either a lack of access to phones or a failure of the system to identify and protect indigent debtors. Those who reported that jail time would impact their housing were both homeless men who feared losing their bed in their respective shelters—and if their ability to pay had been appropriately diagnosed prior to this arrest, they likely would have had their costs abated and would not have received a warrant at all. Those who reported that jail would negatively affect their relationships all cited the inability to contact family members as the primary reason for this social damage. Others who reported that the time in jail might damage their relationships were primarily interested in calling family members to reassure them that they had no in fact

committed a new crime and would be released soon. Similarly, almost all interviewees who reported that the jail time would jeopardize their employment were most concerned about their inability to contact their employers and explain their absence.

Most of the observed negative impacts on debtors' mental health were also caused by both the lack of access to phones and the denial of key information about their arrest. Multiple debtors who reported feelings of anxiety or frustration explicitly identified these process failures as the cause of their distress. Jay exclaimed,

I've gotta work today, and I can't get in touch with anybody to let them know... I'm not even allowed to call my mom, so it's like, no one even knows where I am! I've got my girlfriend with her kids who doesn't know what's going on. I don't even care when I get out as long as I knew these things were taken care of.

Implementation failures during the arrest and commitment process may have also dissuaded debtors from future payment compliance because they perceived the debt collection system to be inconsistent or unjust. Though a slim majority of debtors arrested in 2015 made at least one debt payment in the month after their arrest, only 20% paid in full within six months, and attendance at payment dates appeared to wear off over time. In interviews, debtors expressed a view of Rhode Island's criminal justice system as arbitrary and mismanaged—and this directly influenced debtor decisions about future payment compliance. Two out of 21 interviewees told me, unprompted, that their treatment in jail had made them decide to leave Rhode Island permanently and move to another state. Jay reported he would not make future payments because, "it's just a way for this stupid state to make money and got knows they don't even know how to spend it because we're still broke." Others were aware that their commitment cost the

state more than they actually owed, and saw this as symbolic of the system's mismanagement and lack of credibility. Charlie, who was unemployed and earned no income, reflected,

It's just a really ridiculous waste of money. It's not going to make us pay any faster...It just costs the taxpayers more money to have us here for the weekend, who knows how much it costs them. It's crazy it's not helping it's not [prompting] us to pay the fines...there's no motivation there. If anything it's motivation not to pay because you know when you stay that it subtracts from what you owe.

Thus, although jail time provided a useful opportunity for reflection for some delinquent debtors, the observed implementation failures seemed to largely counteract this positive effect. Overall, jail time likely hurt rather than helped debtors' attitudes toward future debt compliance.

Finally, the current debt collection regime automatically pushed arrested debtors further into debt by assessing them with a \$125 warrant fee that was added to their outstanding debt balance. Even though virtually all debtors received a \$50 debt credit for one night spent in jail, the average debtor still emerged from jail with \$75 added to an existing debt balance of \$1,082. Because at least half of arrested debtors in 2015 earned little to no income, the warrant assessment made their financial circumstances even more dire and produced profound feelings of helplessness and anxiety. Multiple debtors in my interview sample expressed frustration that the state was continuing to label them as criminals long after they had completed their original sentence. They expressed a profound desire to prove to their family, employers, and even to me that they were not in jail for a "real crime." Though some debtors had been convicted quite recently, others had not participated in any criminal activity for over five years. This latter group of arrested debtors saw court debts as a barrier to their finding and maintaining stable employment and becoming "productive members of society."

VI. Research Limitations

While noteworthy, these research findings should be interpreted as early warnings rather than comprehensive diagnoses of implementation failures in the court debt collection process in Rhode Island. While a limited range of demographic and criminal history data was available for all debtors committed to the Intake Center in 2015, much of the research findings drew upon data from small and nonrandom samples of debtor inmates and courtroom observation hearings, and anecdotal evidence from conversations with state criminal justice workers. Moreover, the population identified for this analysis may not have entirely overlapped with the true debtor population, as debtors were not systematically identified in Department of Corrections databases.

First, interviewees and court hearings used in this study were identified non-randomly and did not overlap temporally with the quantitative data source. All quantitative data was drawn from the Department of Corrections' 2015 commitment file, while interviews and courtroom observation took place in January and February of 2016. Further, all interviewees were men—and although men made up the majority of jailed debtors, women were actually overrepresented in the jailed debtor population compared to the general inmate population. Thus, female interviewees would likely have provided a unique and valuable perspective on the effect of debt collection practices on debtors' lives. Debtors in the interview sample also spent more nights in jail than the average debtor in 2015 because most were arrested over the weekend. Thus, it is likely that they experienced more severe negative impacts from debt-related incarceration than did the overall debtor inmate population.

In the quantitative data source, the debtor population was only roughly identified using inmate bail amounts as a proxy. Because the Department of Corrections does not systematically identify inmates who are arrested for failure to appear at a court payment date, “odd” bail

amounts (that did not end in two zeros) provided the only sign of a debt-related commitment. Manual data validation in a random sample of 300 debtor inmates revealed approximately 10% of observations to be erroneously included in the data set. If this pattern held true in the entire data file, then the number of debtors jailed in 2015 may have been closer to 1400. In contrast, however, the bail-based identification method also left out any debtors who happened to have an outstanding debt balance ending in two zeros. Thus, there is ultimately no way of determining whether the debtor population size identified in this research is conservative or overstated.

Finally, both the quantitative and qualitative data analysis did not include long-term or uniform follow-up periods. In the quantitative debtor sample, attempts at identifying patterns in debt compliance behavior after jail were limited by the fact that each debtor had a different follow-up time length depending on what time of the year they were jailed in. An inmate jailed in January 2015 had 11 months of follow-up before data collection occurred in January 2016, while another jailed in November 2015 only had two months of follow-up. This lack of a uniform follow-up period limited the value of post-jail behavior indicators like debtors' payment rates. In the qualitative interview sample, there was no opportunity to follow up with interviewees. Thus, analysis of the impact of debt-related incarceration relied fully on debtors' prospective predictions of how jail would affect them instead of reports on their lived experience. A factor that mitigates this limitation is that a majority of interviewees in my sample had been experienced debt-related incarceration before and were using past experience to predict effects of the present jail period. That said, a uniform follow up period would have corroborated the effects they reported while incarcerated.

VII. Suggestions for Future Research

Future researchers should both replicate these research questions with larger samples and more rigorous methodology and pursue the follow-up questions that arise from these findings. First, this research prompts a larger scale investigation of the implementation failures described above—most notably the Judiciary’s failure to diagnose and respond to defendant indigency and the Department of Corrections’ denial of inmate phone access. The current findings strongly suggest that both of these practices are widespread in the current system, but more expansive data collection is required to document the exact scope of each problem. Researchers interested in further exploring the impact of debt-related incarceration would benefit from the use of larger and more diverse interview samples and multiple longer-term follow-up periods. The specific impact of debt-related incarceration could be better approximated using a comparison group of debtors who were not arrested for delinquency in the same period—although this population would likely exhibit other external and internal differences from the arrested debtor population that would limit meaningful comparison.

This research also prompts evaluation of the impact and extent of other public debts on the lives of low-income people involved in the criminal justice system. Specifically, the high rate of suspended license charges among the jailed debtor population raises questions about how driver’s license suspensions (and their accompanying reinstatement fees) impact ex-offender employment, financial status, and criminal activity. This thesis suggests that driver’s license suspension may initiate long-term involvement in the criminal justice system for low-income individuals who accrue a sequence of “driving with suspended license” charges and the large debt burden that accompanies them. The cost to the criminal justice system of arresting and prosecuting these offenders for the charge itself and for subsequent debt nonpayment may

outweigh the state's revenue gains from license reinstatement fees. If a suspended license limits an individual's ability to find stable employment, then payment of the license reinstatement fee becomes even less likely and criminal involvement becomes more likely. Future research could identify alterations to license reinstatement policies as a powerful lever to prevent low-income individuals from entering the criminal justice system.

VIII. Policy Recommendations

As shown above, implementation failures are undermining state legislative efforts to reform the debt collection process. Criminal justice stakeholders interested in following through on the goals of the 2008 reforms should consider immediate improvements to the arrest and commitment process for delinquent debtors as well as broader policy reforms to more consistently remove indigent debtors from the collection system as a whole.

A) Process Reforms

Conversations with employees of the Judiciary, Department of Probation and Parole, and Department of Corrections suggest that many state workers believe delinquent debtors are simply repeatedly choosing not to show up at payment dates and do not need to be “babysat” or “coddled” through better debt education, payment reminders, or other forms of communication. But these agencies' current failure to consistently provide essential information and communication opportunities to delinquent debtors may actually be hindering voluntary debt compliance. Urgent process changes are necessary to fully respect arrested debtors' rights *and* encourage future payment. Three key reforms are identified below.

1. *Better Debtor Identification & Tracking*: Judiciary and Department of Corrections staff should create a unique identifier for delinquent debtors within both the CourtConnect and INFANTS databases so that staff at every level of each agency are aware of debtors' status as

such and are able to tailor the information and treatment they provide to that status. Right now, debtors are categorized with all other offenders who have “failed to appear” at any type of court date, and this may prevent police and corrections officers from appropriately tailoring any information they provide about the nature of the arrest and commitment process.

2. *Better Information Provision:* All defendants in Rhode Island who are assessed court debts should be given the Public Defender’s office’s existing Court Debts Informational Brochure so that they better understand their responsibilities moving forward. Moreover, arresting agents must ensure that delinquent debtors review their bench warrants and understand the reason for their arrest. The arrest also provides a second opportunity to offer debtors the Court Debt brochure and thus ensure that debtors have the knowledge required to alter their payment behavior (if possible) after release. Finally, probation officers should, at the very least, monitor open warrants for their supervisees and give delinquent debtors an opportunity to clear the warrant in court voluntarily.

3. *Guaranteed Phone Calls:* All arrested debtors must be offered an opportunity to contact a family member or friend *prior* to their commitment at the Intake Center, in order to ensure clear communication about the nature of the arrest and duration of their commitment. Intake Center leadership must also investigate the inconsistent implementation of its bail call policy and consider devoting more staff time to expediting the current prepaid phone account setup process that results in such long account activation lag times.

B) Systemic Reforms

While the administrative changes summarized above are urgently needed if the current debt collection regime is to continue unchanged, these research findings suggest that further policy changes are necessary to follow through on the legislature’s existing goal of removing

indigent defendants from the court debt collection process. The Judiciary’s failure to exempt indigent debtors from payment responsibilities could stem in part from magistrates’ punitive ideology—but it likely also arises from a contradictory legislative mandate that attempts to maximize revenue generation and minimize harm to debtors at the same time. Legislators must need to take a clearer position on the protection of indigent debtors in order for the Judiciary to fully implement reforms.

1. *Resolve Mixed Messages on Cost Assessment and Abatement:* The legislature should reverse the current status quo wherein all debtors are assessed debts “unless proven indigent.” This reversal would require two changes: first, ability to pay assessments must be integrated directly into the sentencing process instead of taking place after sentencing, so that debtors are never assessed costs until *after* an indigency assessment takes place. Second, cost abatement should be mandatory instead of discretionary for all debtors who meet existing financial criteria for inability to pay. This pair of changes would ensure the Judiciary’s use of the standardized financial assessment that it has failed to adopt and guarantee abatement instead of leaving it up to judicial discretion.

2. *Pilot Incremental Responses to Missed Payment Dates:* In addition to systematically relieving indigent debtors of payment responsibilities, the legislature should reframe jail time as a sanction of last resort rather than a default option for delinquent debtors. First, legislators should allocate funding for mail and text-message missed payment date warnings that give delinquent debtors an opportunity to come to court voluntarily before a warrant is issued. The state should also consider a three-strike system for payment-related court absences so that only repeat offenders are ultimately incarcerated.

3. *Gradually Phase Out Court Costs:* Beyond improving court debt collection practices, the legislature should pursue significant reductions in existing cost categories and/or the removal of select cost categories altogether. As shown in Chapter Three of this thesis, multiple prominent criminal justice organizations across the country—including the United States Justice Department—have denounced the very premise of court costs as a revenue generation tool and have raised arguments about their unconstitutionality. In 2008 the Louisiana Supreme Court actually outlawed all court fees that do not directly support the Judiciary. Because virtually all of Rhode Island’s court cost revenues flow directly to the general fund, they are already illegal within that state’s framework. Thus, it is not out of the question that cost assessment will be ruled unconstitutional in a state or federal court in the coming years. With that in mind, the Rhode Island legislature must make a proactive transition away from this problematic revenue source.

IX. Conclusion

The debt collection regime in Rhode Island is poorly implemented, and it disrupts the lives of vulnerable low-income ex-offenders. Debtors are not adequately informed of their payment responsibilities and view responses to their failure to appear in court as unjust, inconsistent, and mismanaged. The use of jail as a primary debt collection tactic jeopardizes employment, strains emotional wellbeing, and pushes those subject to it further into debt. Overall, the policy goals of the Rhode Island legislature’s 2008 reforms have not been fully achieved—in some cases are being counteracted by procedural injustices. Beyond the implementation failures within the existing system, this research raises questions about the overall premise of court debt assessment and collection. In Rhode Island host of debtors who

truly cannot pay their fines and fees are needlessly incarcerated—and those who do earn an income are often hurt the most by the negative effects of jail time on their employment stability.

Magistrates, corrections officers and other criminal justice stakeholders frequently characterize delinquent debtors as intransigent offenders who are simply choosing not to comply with debt requirements. Within this mental framework, many conclude that the existing jail-based punishment regime is the only way to squeeze payment out of such a population. Indeed, it is may be true that court debt payment compliance would be even lower without the threat of jail—but the harm *and* expense that this practice accrues could outweigh gains in compliance. Although magistrates rightly point out that a system that failed to punish debt nonpayment would lose credibility, it may be necessary to remove court debts from the judicial process altogether. Revenue generation in the Judiciary is increasingly being viewed in the highest levels of government as unethical and contrary to due process. This research yields insight into necessary incremental reforms to improve the existing debt collection regime—but it also raises larger questions about the future of debt collection in Rhode Island.

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APPENDIX A: LEGISLATIVE TEXT

This appendix reproduces in full the exact reforms passed by the state legislature in 2008. All newly added language is underlined.

**Chapter 326
2008 -- S 2234 SUBSTITUTE A AS AMENDED**

Enacted 07/08/08

AN ACT

RELATING TO CRIMINAL PROCEDURE -- WARRANTS FOR ARREST

Introduced By: Senators Metts, Pichardo, C Levesque, Issa, and Goodwin

Date Introduced: February 06, 2008

It is enacted by the General Assembly as follows:

SECTION 1. Section 12-6-7.1 of the General Laws in Chapter 12-6 entitled "Warrants for Arrest" is hereby amended to read as follows:

12-6-7.1. Service of arrest warrants. -- (a) Whenever any judge of any court shall issue his or her warrant against any person for failure to appear or comply with a court order, or for failure to make payment of a court ordered fine, civil assessment, or order of restitution, the judge may direct the warrant to each and all sheriffs and deputy sheriffs, the warrant squad, or any peace officer as defined in section 12-7-21, requiring them to apprehend the person and bring him or her before the court to be dealt with according to law; and the officers shall obey and execute the warrant, and be protected from obstruction and assault in executing the warrant as in service of other process. The person apprehended shall, in addition to any other costs incurred by him or her, be ordered to pay a fee for service of this warrant in the sum of one hundred twenty-five dollars (\$125). Twenty-five dollars (\$25.00) of the above fee collected as a result of a warrant squad arrest shall be divided among the local law enforcement agencies assigned to the warrant squad. Any person apprehended on a warrant for failure to appear for a cost review hearing in the superior court may be released upon posting with a justice of the peace the full amount due and owing in court costs as described in the warrant or bail in an other amount or form that will ensure the defendant's appearance in the superior court at an ability to pay hearing, in addition to the one hundred twenty-five dollars (\$125) warrant assessment fee described above. Any person detained as a result of the actions of the justice of the peace in acting upon the superior court cost warrant shall be brought before the superior court at its next session. Such monies shall be delivered by the justice of the peace to the court issuing the warrant on the next court business day.

(b) Any person arrested pursuant to a warrant issued by a municipal court may be presented to a judge of the district court, or a justice of the peace authorized to issue warrants pursuant to section 12-10-2, for release on personal recognizance or bail when the municipal court is not in session. The provisions of this section shall apply only to criminal and not civil cases pending before the courts.

(c) Any person arrested pursuant to a warrant issued hereunder shall: (1) be immediately brought before the court; (2) if the court is not in session then the person shall be brought before the court at its

next session; (3) be afforded a review hearing on his/her ability to pay within forty-eight (48) hours;

and (4) if the court is not in session at the time of the arrest, a review hearing on his/her ability to pay will be provided at the time for the first court appearance, as set forth in subsection (c)(3) of this section.

SECTION 2. Section 12-18.1-3 of the General Laws in Chapter 12-18.1 entitled "Probation and Parole Support Act" is hereby amended to read as follows:

12-18.1-3. Court costs. -- (a) The court shall assess as court costs, in addition to those otherwise provided by law, against all defendants charged with a felony, misdemeanor, or petty misdemeanor, and who plead nolo contendere or guilty or who are found guilty of the commission of those crimes, as follows:

(1) Where the offense charged is a felony and carries a maximum penalty of five (5) or more years imprisonment, three hundred dollars (\$300) or ten percent (10%) of any fine imposed on the defendant by the court, whichever is greater;

(2) Where the offense charged is a felony and carries a maximum penalty of less than five (5) years imprisonment, one hundred eighty dollars (\$180) or ten percent (10%) of any fine imposed on the defendant by the court, whichever is greater; and

(3) Where the offense charged is a misdemeanor, sixty dollars (\$60.00) or ten percent (10%) of any fine imposed on the defendant by the court, whichever is greater.

(b) These costs shall be assessed whether or not the defendant is sentenced to prison and in no case shall they be remitted by the court.

(c) When there are multiple counts or multiple charges to be disposed of simultaneously, the judge shall have the authority to suspend the obligation of the defendant to pay on all counts or charges above ~~three (3)~~ two (2).

(d) If the court determines that the defendant does not have the ability to pay the costs as set forth in this section, the judge may by specific order mitigate the costs in accordance with the court's determination of the ability of the offender to pay the costs.

SECTION 3. Section 12-19-34 of the General Laws in Chapter 12-19 entitled "Sentence and Execution" is hereby amended to read as follows:

12-19-34. ~~Restitution payments~~ Priority of restitution payments to victims of crime. -- (a)

(1) If a person, pursuant to sections 12-19-32, 12-19-32.1, or 12-19-33, is ordered to make restitution in the form of monetary payment the court may order that it shall be made through the administrative office of state courts which shall record all payments and pay the money to the person injured in accordance with the order or with any modification of the order; provided, in cases where court ordered restitution totals less than two hundred dollars (\$200) payment shall be made at the time of sentencing if the court determines that the defendant has the present ability to make restitution.

(2) Payments made on account when both restitution to a third-party is ordered, and court costs, fines, and fees, and assessments related to prosecution are owed, shall be disbursed by the administrative office of the state courts in the following priorities:

(i) court ordered restitution payments to person injured until such time as the court's restitution is fully satisfied; and

(ii) court costs, fines, fees, and assessments related to prosecution after the full payment of restitution.

~~(3)~~(2) Notwithstanding any other provision of law, any interest which has been accrued by the restitution account in the central registry shall be deposited on a regular basis into the violent crime indemnity fund, established by chapter 25 of this title. In the event that the office of the administrator of the state courts cannot locate the person or persons to whom restitution is to be made, the principal of the restitution payment shall be deposited into the general fund.

(b) The state is authorized to develop rules and/or regulations relating to assessment, collection, and disbursement of restitution payments when any of the following events occur:

(1) The defendant is incarcerated or on home confinement but is able to pay some portion of the restitution; or

(2) The victim dies before restitution payments are completed.

(c) The state may maintain a civil action to place a lien on the personal or real property of a defendant who is assessed restitution, as well as to seek wage garnishment, consistent with state and federal law.

12-20-10. ~~Remission of costs~~ Remission of costs-Prohibition against remitting restitution to victims of crime-ability to pay-indigency. -- (a) The payment of costs in criminal cases may, upon application, be remitted by any justice of the superior court; provided, that any justice of a district court may, in his or her discretion, remit the costs in any criminal case pending in his or her court, or in the case of any prisoner sentenced by the court, and from which sentence no appeal has been taken. Notwithstanding any other provision of law, this section shall not limit the court's inherent power to remit any fine, fee, assessment or other costs of prosecution, provided no order of restitution shall be suspended by the court.

(b) For purposes of sections 12-18.1-3(d), 12-21-20, 12-25-28(b), 21-28-4.01(c)(3)(iv) and 21-28-4.17.1, the following conditions shall be prima facie evidence of the defendant's indigency and limited ability to pay:

(1) Qualification for and/or receipt of any of the following benefits or services by the defendant:

(i) temporary assistance to needy families

(ii) social security including supplemental security income and state supplemental payments program;

(iii) public assistance (iv) disability insurance; or (v) food stamps (2) Despite the defendant's good faith efforts to pay, outstanding court orders for

payment in the amount of one-hundred dollars (\$100) or more for any of the following: (i) restitution payments to the victims of crime; (ii) child support payments; or (iii) payments for any counseling required as a condition of the sentence imposed

including, but not limited to, substance abuse, mental health, and domestic violence.

SECTION 5. Section 12-21-20 of the General Laws in Chapter 12-21 entitled "Recovery of Fines, Penalties, and Forfeitures" is hereby amended to read as follows:

12-21-20. ~~Order to pay costs~~ Order to pay costs and determination of ability to pay. – (a) If, upon any complaint or prosecution before any court, the defendant shall be ordered to pay a fine, enter into a recognizance or suffer any penalty or forfeiture, he or she shall also be ordered to pay all costs of prosecution, unless directed otherwise by law.

(b) In superior court, the judge shall make a preliminary assessment of the defendant's ability to pay immediately after sentencing by use of the procedures specified in this section.

(c) In district court, the judge shall make a preliminary assessment of the defendant's ability to pay immediately after sentencing or nearly thereafter as practicable by use of the procedures specified in this section.

(d) The defendant's ability to pay and payment schedule shall be determined by use of standardized procedures including a financial assessment instrument. The financial assessment instrument shall be:

(1) based upon sound and generally accepted accounting principles;

(2) completed based on a personal interview of the defendant and includes any and all relevant information relating to the defendant's present ability to pay including, but not limited to, the information contained in section 12-20-10; and

(3) made by the defendant under oath.

(e) The financial instrument may, from time to time and after hearing, be modified by the court.

(f) When persons come before the court for failure to pay fines, fees, assessments and other costs of prosecution, or court ordered restitution, and their ability to pay and payment schedule has not been previously determined, the judge, the clerk of the court, or their designee shall make these determinations by use of the procedures specified in this section.

(g) Nothing in this section shall be construed to limit the court's ability, after hearing in open court, to revise findings about a person's ability to pay and payment schedule made by the clerk of the court or designee, based upon the receipt of newly available, relevant, or other information.

SECTION 6. Section 12-25-28 of the General Laws in Chapter 12-25 entitled "Criminal Injuries Compensation" is hereby amended to read as follows:

12-25-28. Special indemnity account for criminal injuries compensation. -- (a) It is provided that the general treasurer establish a violent crimes indemnity account within the general fund for the purpose of paying awards granted pursuant to this chapter. The court shall assess as court costs in addition to those provided by law, against all defendants charged with a felony, misdemeanor, or petty misdemeanor, whether or not the crime was a crime of violence, and who plead nolo contendere, guilty or who are found guilty of the commission of those crimes as follows:

(1) Where the offense charged is a felony and carries a maximum penalty of five (5) or more years imprisonment, one hundred and fifty dollars (\$150) or fifteen percent (15%) of any fine imposed on the defendant by the court, whichever is greater.

(2) Where the offense charged is a felony and carries a maximum penalty of less than five (5) years imprisonment, ninety dollars (\$90.00) or fifteen percent (15%) of any fine imposed on the defendant by the court, whichever is greater.

(3) Where the offense charged is a misdemeanor, thirty dollars (\$30.00) or fifteen percent (15%) of any fine imposed on the defendant by the court, whichever is greater.

(b) These costs shall be assessed whether or not the defendant is sentenced to prison and in no case shall they be waived by the court unless the court finds an inability to pay.

(c) When there are multiple counts or multiple charges to be disposed of simultaneously, the judge shall have the authority to suspend the obligation of the defendant to pay on all counts or charges above ~~three (3)~~ two (2).

(d) Up to five percent (5%) of the state funds raised under this section, as well as federal matching funds, shall be available to pay administrative expenses necessary to operate this program. Federal funds for this purpose shall not supplant currently available state funds, as required by federal law.

SECTION 7. This act shall take effect upon passage.

APPENDIX B-1: INFORMED CONSENT FORM

You are being invited to participate in a Brown University study about being put in jail for court fines.

You will be asked about the causes and effects of this jail time, your court fines and court fines hearings, and your living situation before this time in jail. The interview will take roughly a half hour. **This interview is completely voluntary!** Whether or not you agree or refuse to answer questions will have no effect on your treatment by law enforcement officials. With your permission, the interviewer will record your responses using written notes.

Some of the questions may make you uncomfortable. You are free to refuse to answer the questions or to refuse to answer any particular question. You can ask that the interviewer stop recording notes at any time.

If you agree to participate, your responses will be kept confidential. That means that only the research staff will have access to them. Any reports that are generated as a result of this study will NOT include your name or other identifying information.

There are no direct benefits for you by participating in this study.

The research is being conducted by Brown University student Rachel Black and supervised by Brown University Professor of Political Science, Ross Cheit. If you have any questions later about this interview you can reach the student researcher at rachel_black@brown.edu or Dr. Cheit at ross_cheit@brown.edu or call both researchers at 401-863-3523

This study has been approved by Brown University’s Institutional Review Board for the protection of human subjects. If you have questions regarding your rights as a research subject, please contact the Human Research Protections Program at 401-863-3050.

I agree to participate in this study of Rhode Island court fines. I have read the above statement and understand what will be required and that all information will be confidential. I also understand that I can withdraw from the study at any time without penalty.

- I am 18 years of age or older
- I agree that the interview may be recorded using written notes
- I agree to be contacted for future research studies

Name _____ Date _____

Researcher _____ Date _____

APPENDIX B-2: INTERVIEW FORM

Revised or added questions are **bold and underlined**

Pseudonym: _____

Date: _____

Age: _____

Gender: M F

Race: Black/African American White
 Asian American Indian
 Native Hawaiian/Pacific Islander

Hispanic or Latino: Y N

Verify that the current incarceration is for court debts, and ask the following questions about it.

A. Description of current incarceration

1. How long have you been at the Intake Center?

Since [date] _____ approximate / exact

2. Are you being held on any other charges? Yes / No

Would you be incarcerated if you did not owe court fines? Yes / No

Explain (if either is "yes"): _____

3. How long do you expect to be held (for court fines)?

Until [date] _____ approximate / exact

4. Do you think you will be able to pay your bail?

Yes

No

5. Did you see a magistrate, judge, or justice of the peace before coming to the Intake Center?

6. How did you end up in front of the judge who incarcerated you for court fines?

I was brought in on a warrant after missing an ability to pay hearing

Other (specify) _____

7. Describe your arrest. Where did you encounter the police? What was it like?

8. When was your last ability to pay hearing **OR payment date** scheduled?
Date: _____ approximate / exact

7. How much was the payment that you were supposed to make before the ability to pay hearing **OR payment date**?
\$_____ approximate / exact

8. **Were you on a monthly payment plan? If so what was it set at?**

9. What is the total amount that you owe **on this case?** **What is the total amount you owe across all cases?**
\$_____ approximate / exact

10. **Do you know if this debt includes restitution? Fines? Costs?**

11. What was your bail set at?
\$_____ approximate / exact

12. What is the total amount that you will owe in fines after you are released?
\$_____ approximate / exact

11. Before you were incarcerated for court fines, ...
...how much (of these debts) had you paid **on this case?** \$_____ approximate / exact
...how much (of these debts) had you paid **on all cases?** \$_____ **approximate / exact**

...how many times had you appeared at an ability to pay hearing:
For this case: _____ approximate / exact
For all cases: \$_____ **approximate / exact**

...how many times **have you been arrested for** missing an ability to pay hearing (for these fines)? Number: _____ approximate / exact

12. Why did you miss the **most recent** hearing?

13. What did you do differently in your life because of the need to pay debts?

14. Were any problems caused by the need to pay court debts?

15. Were any problems caused by the need to appear at court debt hearings?

B. Questions about living situation

1. Where are you currently living?

- Homeless/on street
- Your own market rate house/apartment (name on lease)
- Your own apartment; public housing or section 8 (name on lease)
- Someone else's house
- At many different houses ("couch surfing")
- Residential treatment facility/supportive housing:
Name: _____
- Transitional house or halfway house
Name: _____
- Shelter or rooming house
Name: _____
- No set place
- Other _____

2. Are you responsible or partially responsible for the care of children?

- Yes No

If yes, who is taking care of them currently _____?

3. On average, how many total hours per week do you usually work for pay at all jobs?
_____ hour per week

4. How much money do you currently earn at your jobs before taxes, including tips, bonus, and commissions?

ONLY FILL IN ONE LINE

- \$ _____ per hour
- \$ _____ per day
- \$ _____ per week
- \$ _____ per two weeks
- \$ _____ per month
- \$ _____ per year

5. Do you receive income from Social Security Insurance or Social Security Disability?

- Yes
 No

6. Do you get food stamps?

- Yes
 No

7. Do you have a high school diploma or GED?

- Yes
 No

8. Do you currently receive any mental health treatment?

- Yes
 No

9. **Do you currently receive any substance use treatment?**

- Yes
 No

10. What is your living situation going to be after you are released (including housing and employment)?

11. Will being in jail have any other effects on your life when you get out?

A) Employment

B) Housing

C) Relationships

D) Other Effects

12. Other than court fines, did you have to pay any other expenses directly related to your sentence, incarceration or parole?

13. What would help you avoid spending time in jail as a result of having court fines and court fine hearings?

14. Is there anything else you'd like to tell me about this experience?