# Layaway Freedom: Coercive Financialization in the Criminal Legal System[1]

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Economic sociologists have documented the rise of financialization, including credit and debt. In the case of monetary sanctions in the criminal legal system, courts frequently extend payment plans—or "layaway"—as a way for defendants to manage financial court debt and gain their freedom. Using 241 hours of courtroom ethnography and 155 interviews with court actors and people paying their court debt in Illinois, the authors offer a microsociology of financialization that shows how the creditor/debtor relationship commodifies freedom, confuses and suffuses court processes, amplifies control, and expands the financial sector into domains that obligate participation. Layaway freedom represents a case of coercive financialization, or the externally imposed, involuntary, or last-resort entry into financial engagements. The manipulation of money and time achieves disproportionate punishment that is multiplicative, rather than simply additive, all under the guise of routine financial responsibility. The authors discuss implications of these concepts for both economic and criminal-legal sociology.

When Gary Becker applied his economist's tools to the study of law and criminal sentencing, he concluded that the most parsimonious form of punishment

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for most crimes was monetary fines. "Social welfare is increased," he wrote, "if fines are used *whenever feasible*" (Becker 1968, p. 193). His logic was that prison, probation, and other modes of confinement and surveillance cost society money, whereas fines bring in revenue with nothing more than the cost of collection. It is the most efficient way, he argued, for offenders to, proverbially, pay their debt to society (p. 194). Becker did not inaugurate the use of monetary punishments for criminal offenses. Fines and restitution date back millennia and are used across societies (Miethe and Lu 2005). What is new is the proliferation of costs and charges, increasing financial amounts, and their ubiquity as a component of criminal sentencing, beginning just about the time that Becker was writing (Mullaney 1988). The growth of monetary punishments has increased the number of people who cannot pay them and who must therefore enter into payment plans—layaway—with the punitive arm of the state.

While Becker and other law and economics scholars saw fines as a matter of efficient punishment, an economic sociology approach attends to the kinds of meanings, scripts, and performances that money occasions. This raises two questions: How are courts changed when financial negotiations take center stage? And, what is the character of financial schemes when they are directed at marginalized populations? To answer these questions, we offer empirical elaboration of the practice of *layaway freedom* to illustrate the broader concept of *coercive financialization*. Using courtroom ethnographies and interviews in Illinois, we show how the layaway relationship commodifies freedom and creates performances of quasi-market exchange that multiply punishment for poor defendants through a recursive play of time and money. Moreover, as the trappings of financialization trickle down to the most socioeconomically disadvantaged, the balance between agency and coercion tips decidedly in the latter direction. Coercive financialization represents the externally imposed, involuntary, or last-resort entry into financial engagements. Money talk in criminal courts represents an important frontier in the study of financialization (Krippner 2005; Lin and Tomaskovic-Devey 2013) and in the study of credit and debt as forms of governance and social control (Harris 2016; Haney 2018; Quinn 2019).

Monetary sanctions (also called legal financial obligations, or LFOs) include fines, fees, surcharges, interest, assessments, restitution, and other court costs imposed on people who are convicted of crimes ranging from traffic violations to violent felonies.[2] State and federal statutes authorize these sanctions and define the "prices" that defendants are "charged," as well as the accounts where revenues are deposited (Friedman and Pattillo 2019). When defendants cannot pay the full price of their sentence, the court imposes a

[2] See Logan and Wright (2014) for monetary sanctions imposed before conviction. And see Colgan (2018) for a legal and conceptual comparison of fines and fees.

payment plan to pay the balance over time (Bannon, Nagrecha, and Diller 2010; Harris 2016; U.S. Commission on Civil Rights 2017).

Payment plans put defendants' freedom on "layaway," achievable once they have fully paid off their financial debt. Freedom is not a self-obvious or absolute concept. We might construe anyone outside of state confinement as free, but punishment scholars have documented the long arm of the penal system well beyond jails and prisons. The literature on collateral consequences, hidden punishments, and stigma all illustrate the freedom-curtailing mark of criminal legal involvement across nearly every domain of life (Richie 2001; Pager 2008; Kirk and Wakefield 2018). For this article, we focus on freedom from system monitoring upon payment of the monetary sanction, since it is the fines and fees that are managed through layaway. Unlike stigma or hidden consequences, we show how LFOs are actively managed by the courts—tied to regular and repeated appearances and supervision—which regulates people's bodies and time, in addition to their finances. The involvement of collections agencies extends control and restrictions into the civil realm and has repercussions for later criminal legal contact. While fully paying one's monetary sanction may not grant unrestricted access to rights, reputation, services, and movement, we use the term freedom specifically to convey termination of criminal financial debt and the systems that manage it.[3]

In the sections that follow, we develop the concept of layaway freedom as a form of coercive financialization by reviewing the relevant literature on financialization, credit, and debt, and the uses of debt for social control, particularly in the criminal legal system. We then discuss the layaway analogy as an analytical tool that yields insights into how the manipulation of money and time achieves disproportionate state punishment under the guise of routine financial responsibility. Finally, we present our theory of coercive financialization as a practice that addresses social problems with (quasi-) market responses, which exacerbate the original social problem.

Then we turn to the empirical evidence. Using ethnography and interviews, we show how monetary sanctions in practice commodify freedom and feature familiar financial discourses about charging and billing, payment plans, and due dates, all of which confuse the purpose of the courts (Kohler-Hausmann 2018) and deny freedom for those who cannot afford to pay in full. We conclude by discussing how the coercive nature of layaway freedom

[3] In a pointed illustration of the staying power of LFOs, a successful 2018 ballot referendum in Florida restored the right to vote to most "Floridians with felony convictions after they complete all terms of their sentence including parole or probation" (ACLU 2018). The Florida legislature, however, interpreted "all terms of their sentence" to include monetary sanctions, an interpretation that was upheld by the 11th Circuit Court of Appeals in September 2020. Uggen et al. (2020) estimate that this restriction excludes approximately 900,000 Floridians from voting.

pushes economic sociology to recognize the ways in which finance acts as a tool of domination, even in institutions that are not as obvious as the criminal courts (i.e., the character of financial schemes when directed at marginal populations) and how the financialization of punishment affects criminal legal processes (i.e., how courts change when financial negotiations take center stage).

## THE BUILDING BLOCKS OF COERCIVE FINANCIALIZATION: FINANCIALIZATION, CREDIT, LAYAWAY, AND DEBT

The sociology of finance covers a range of financial activities "including simple borrowing, saving, and lending, but also investing, rating, analyzing, arbitrage, origination, taxing, underwriting, regulating, trading, listing, and hedging" (Carruthers and Kim 2011, p. 240). Krippner (2011, p. 2) defines financialization as "a broad-based transformation in which financial activities (rather than services generally) have become increasingly dominant in the U.S. economy over the last several decades." Financial activities include the provision of capital with expectations for interest or other capital gains such as fees, which is an oft-hidden device of financial accumulation and dispossession (Fergus 2018). At the household level, financialization translates into greater involvement with financial institutions and products, accompanied by "new frames of meaning and repertoires of action" (Fligstein and Goldstein 2015, p. 577) that alter "the inner workings of democratic society" (van der Zwan 2014, p. 100).

Consumer credit is one of the simplest forms of finance. Access to credit unfolded unequally, with the most advantaged enjoying the greatest initial access (Carruthers and Ariovich 2010), followed by the full "democratization" of credit by the 1980s (Calder 2009; Hyman 2011; Prasad 2012; Krippner 2017; Robinson 2020). Now, nearly everyone qualifies for some kind of school loan, credit card, or mortgage.

Layaway is a small corner of the financing industry, but it is more familiar to low-income households than mutual funds or e-trading. A survey of low- and moderate-income households in Detroit found that a quarter used layaway for purchases (Barr 2012, p. 44), and a 2017 national survey of holiday shoppers found that 13% planned to take advantage of seasonal layaway plans (Deloitte 2017, p. 35). Like payday loans, rent-to-own stores, and pawn shops, layaway is primarily used by "lower budget consumers" (Dimitrov and Ceryan 2019, p. 1161), which is where the minimal sociological attention to layaway can be found (e.g., Barnes 2005, p. 108). While this sector has been labeled as "alternative" or "fringe" (Caskey 1994; Barr 2012; Faber 2019), it is in fact characterized by deep "interpenetration with mainstream and capital market networks" (Langley 2008*a*, p. 170; also see Fergus 2018). For these reasons, we position layaway—and the mimicry of layaway in the courts—within the scholarship on the financialization of the economy.

Layaway differs from installment plans like mortgages or car loans in that consumers do not take possession of the merchandise until they have fully paid for it (Federal Trade Commission 2019*b*). The merchant extends credit to the buyer by holding the item in reserve to ensure availability. The debt owed by the buyer is a function of entering the contract, rather than possession of the good itself. The Federal Trade Commission (2019*a*) instructs businesses as to when layaway constitutes lending that is subject to federal regulation, stating: "Your layaway plan may be covered by the Truth in Lending Act if you require your customers to agree in writing to make all payments until an item is paid in full. If you do not bind your customer in writing to complete the layaway purchase, then the Truth in Lending Act does not apply." In other words, it is the *contractual obligation to pay* that defines a layaway plan as lending. The courtrooms we observed are not market economies, yet they contractually obligated defendants through written and signed pleas and orders to fully pay the amounts charged as part of their sentence. This created a pseudolending relationship managed by the coercive arm of the state.

Many retail layaway plans avoid this layer of regulation by not obligating payment. If the consumer defaults on a payment, the item is returned to inventory and the payments are returned to the buyer (or offered as store credit), minus a cancellation or service fee. The merchant profits either from the sale of the item or from fees.[4] *Consumer Reports* identifies the fees of layaway as possibly outstripping the interest of credit cards, warning: "Though layaway might sound like a good substitute for credit, you could end up paying more in fees than you would pay in credit card interest" (Rosato and Walker 2016). For example, Burlington Coat Factory charges a $5 up-front fee and a $10 cancellation fee for its layaway. Walmart skips the front-end fee for its holiday layaway program but charges $10 for canceling.[5]

Credit begets debt and "binds a debtor to a creditor" (Carruthers 2010, p. 70), establishing a relationship of indebtedness. In many instances, the debtor is in the inferior position of "supplicant, subject to the creditor's scrutiny and judgment" (Krippner 2017, p. 13). Thus, debt is also a subject position,

[4] The profitability of layaway for firms is unclear (Marketwatch 2011). Dimitrov and Ceryan (2019, p. 1162) identify "a critical market default rate below which the firm benefits from offering layaway and above which the firm is better off not offering layaway."

[5] For the retail layaway examples cited in this article, see Burlington Coat Factory at https://www.burlington.com/helpcenter/layaway, Furniture Outlet at https://furnitureoutlet.co/layaway.html, Kmart at https://www.kmart.com/en_us/dap/layaway.html, Sears at https://www.sears.com/en_us/dap/layaway.html, and Walmart at https://www.walmart.com/cp/Layaway/1088466. All sites were last accessed November 2, 2020.

enmeshed within discourses of responsibility, freedom, self-sufficiency, autonomy, and worth (Tach and Greene 2014; Marron 2015). Scholars have characterized debtors as "shortchanged" (Karger 2005) and "collateral damaged" (Geisst 2010). Deville's (2014) study of consumers with past-due bills in collections shows how debt is about the management of affect. Creditors balance threats of negative action with doses of empathy. The "persistent barrage of reminders, threats, and solicitations" that collections agencies send to debtors begets "a diffuse, embodied sense of worry" (p. 475) and a prolonged, simmering sense of panic in anticipation of the possible consequences of nonpayment. These interactional and affective techniques and reactions were plainly evident in the courtrooms we studied and in the narratives of the people we interviewed.

The normalization of debt relationships through the explosion of credit is what makes them easily transferable to new settings outside of the market. In the case of the courts, the state does not disburse a loan and charge interest over a repayment period. Instead, it sentences defendants to pay monetary punishments for their crime. When they cannot pay, judges and prosecutors impose the readily available and statutorily authorized terms and conditions of consumer credit and debt to organize the criminal legal relationship (Sobol 2017). The motivation is only partly financial. While the revenues from monetary sanctions accrue to the court system, municipalities, and the state (Martin 2018; Fernandes et al. 2019), the profitability, considering collection costs, is questionable (Harris 2016; Menendez et al. 2019). More important is how the rhythms and routines of the financial entanglement work to obscure the unequal delivery of justice and multiply the punishment and control of marginalized groups.

The final building block of coercive financialization is the relationship between debt and social control. That the criminal legal system is a place of social control is no grand insight. That debt is a technology of social control is also far from novel, although the emerging scholarship on financialization and the expansion of credit has not fully explored how debt can be put to such purposes beyond the market. Harris (2016, p. xxiii) offers a detailed analysis of criminal justice debt as a particular kind of "social control that manages, punishes, and marginalizes a subset of the U.S. population because of their poverty status." Similarly, Haney (2018) examines the relationship between men's child support debt—not to their families but rather to pay back the state for their families' use of welfare benefits—and incarceration. As in our research, the courts in Haney's study are the primary state agency demanding payment of "public debt," and the result is a circular sequence of debt and incarceration such that "fatherhood was doubly mediated for these men, shaped by physical and financial confinement" (p. 39). While this literature theorizes the use of debt as a means of punishment, it does not recognize how financial routines obscure punishment to create a pretense of business as usual.

## THE LAYAWAY ANALOGY

We deploy analogy as an analytic method, highlighting the ways in which courts look like layaway windows at retail establishments, which themselves are face-to-face instantiations of financialization. Analogy is a core component of theory building in sociology (Stinchcombe 1978; Swedberg 2012). Levine (1995, p. 241) chronicles how Auguste Comte "introduced an analogy between society as a natural being and the biological organism" that would be taken up and debated by sociologists from Emile Durkheim (Jones 1986) to Charles Cooley to Robert Park to Herbert Spencer. W. E. B. Du Bois criticized Spencer's "biological analogy" as spewing "vast generalizations" (Du Bois quoted in Reed 1997, p. 45) but at the same time deployed analogy in his likening of the U.S. color line to the Indian caste system (Goyal 2019). Analytic analogy—or the inference that "objects which agree in various respects may very likely agree also in other respects" (Peirce quoted in Swedberg 2012, p. 23)—is ubiquitous in sociology: in the method of "comparing similar activities in different social settings" (Vaughan 2004, p. 318); in the formulation of theories that equate cities with ecological systems, or social interactions with theater performances (Swedberg 2012); and in the iterative application, refinement, and development of theory itself. Vaughan (2006, p. 357) writes that analogy is the "mechanism that enable[s] theory to travel."

The practical use of analogy involves the "importation of conceptual resources (exemplars) from the area with which the analogical connection has been made" (Jones 1986, p. 621) or the examination of "the set of predicates [that cases] 1 and 2 have in common" (Stinchcombe 1978, p. 27). We use the analogy of layaway to show how the steps involved in making a layaway purchase correspond to procedures observed in contemporary courtrooms. In both situations, there is a good on offer, and individuals are charged, billed, set up on payment plans, and faced with due dates. Of these steps, we drill down further on the payment plan, detailing its specific discourses about time and responsibility. The end goal is not simply comparison but rather to arrive at a "more sophisticated perspective" about the mutual imbrication of these two worlds (Jones 1986, p. 621) and perhaps even to arrive at some "causally interesting statements" (Stinchcombe 1978, p. 28) about what coercive financialization might mean for both courts and markets.

Layaway requires defendants to perform financial agency and responsibility. Furniture Outlet boasts that its program "allows you to break down your order's purchase price over a number of payments *that you set*" (emphasis added). Layaway puts an item previously out of reach within reach through the savvy budgeting of the consumer. These plans tend to emphasize a shift in power from the merchant to the consumer. “Pay Your Way with Layaway” is how Sears announces its plan. And Kmart takes a superhero approach, announcing “Save the Day with Layaway.” Payment plans in the courts similarly rely on the ruse that defendants have entered them as an exercise of their own agency, and thus compliance proves their financial and legal responsibility. This is a hallmark of the everyday incursion of financialization. As Martin (2002, p. 109) writes: “The shrinking of welfare rolls communicates to every citizen that there is ‘no free ride,’ meaning that all must take for themselves the responsibility for a safety net.” Responsibility discursively flips the locus of control from the state (the judge, the court, the criminal legal system) to the defendant/debtor (Harris 2016, p. 150). It aims at accomplishing “the exercise of power over the self by the self” (van der Zwan 2014, p. 114), apropos of Foucauldian notions of governmentality. Of course, the state still wields the ultimate power, but “the hidden hand of the market and the iron fist of the law [work] in concert to forge governmentalities that suture debt with discipline” (Mahmud 2012, p. 470). The layaway analogy shows how the internalization of debt through the mechanism of responsibility and time offers the criminal legal system an additional tool in its toolbox of control. Meanwhile, the financial scheme of layaway directed at mostly poor and near-poor criminal defendants uses legal obligation to impose debt.

Analytic analogy requires considering other plausible comparisons. From the economic perspective, the use of criminal financial penalties has been analogized to (regressive) taxation, since revenues are used to fund public functions (Katzenstein and Waller 2015; Goldstein, Sances, and You 2020; Graham and Makowsky 2021). While useful, this analogy focuses more on the purposes of LFOs rather than on the modalities of extraction. Closer to our observations is the analogy of LFOs to predation in which “state and market actors routinely target subjugated groups for resource extraction” (Page, Piehowski, and Soss 2019, p. 152). Yet predation requires an analysis of the intentions or goals of the state or market actor, whereas our focus is to theorize what courtroom performances of monetary sanctions accomplish through their substitution of terms of payment for attention to terms of justice.

The layaway analogy—which follows the sequence of commodification, charging and billing, payment plans, and due dates—allows us to highlight that freedom has a price that is paid in both time and money. Whereas carceral sentences are fixed in days, months, and years—time periods that are equivalent across persons—monetary sanctions for poor defendants who struggle to get the cash create crises of both money and time. Both crises are absent for monied defendants who quickly dispense with the LFO, thereby avoiding the time commitments of the layaway arrangement. As we will show, placing freedom on layaway prolongs other components of the criminal legal sanction. It keeps the docket on the court calendar while requiring regular appearances to pay small sums (or nothing), with arrest warrants as just one of the coercive mechanisms for ensuring adherence. Layaway freedom introduces uncertainties as to the time period of punishment. Moreover, the inability to pay fines and fees causes a multiplicative cascade of additional costs, from collection and late fees, to bail if arrested for nonpayment, to transportation and childcare costs, to lost wages. Through coercive financialization, the practice of layaway freedom extracts more in both time and money from low-income than high-income defendants while operating as a routine system of prices, costs, debts, and payments.

## COERCIVE FINANCIALIZATION

Coercive financialization is a theory about what happens when social problems are transformed into money problems. The social problems investigated here are poverty and crime. The provided solution—layaway—is a technology that masks the inequalities of punishment. There are other manifestations of this transformation. In health care, the social problems are poverty, poor health, and the absence of universal health care, and the response is bankruptcy (Himmelstein et al. 2005). In housing, the social problem is racism in lending and the response is contract-for-deed sales (Satter 2009; Immergluck 2018; Seymour and Akers 2019) and subprime loans (Faber 2013; Steil et al. 2018). In higher education, the social problem is a lack of affordability and the response is the proliferation and securitization of student loans (Soederberg 2014). In international affairs, the social problem is underdevelopment and poverty (historically rooted in colonialism), and the solution is the World Bank and the International Monetary Fund (Babb 2005). And in another criminal legal example, the social problems are mental illness and fiscal constraints, and the response is contracts with telephone companies who charge inmates for their calls (Lara-Millan 2020).

All these examples feature the deployment of financial schemes when marginalized actors have no other recourse to address the social problem they face. In some cases, the financial arrangement is externally imposed, as in monetary sanctions or the structural adjustment requirements of the International Monetary Fund. In other cases, they are involuntary but not imposed, as in taking on a subprime loan because sellers claim there are no other options or withhold key details and terms or use other tactics that curtail a borrower's ability to make an intentional decision. Still other examples of coercive financialization are measures of last resort, such as bankruptcy to dispense with medical bills or high-cost student loans to improve future earning potential.

The specific case of layaway freedom illustrates that financialization is not just a characteristic of the economy. The contours and dictates of financialization also act back on the state (Quinn 2017), normalizing the use of financial instruments for public purposes (Hagan et al. 2015) and replacing citizen/state relationships with debtor/creditor ones (Haney 2018). Coercive financialization, however, is the opposite of the statecraft in which "credit programs provide status and enhance financial citizenship" of borrowers, such as through farm loans or mortgage insurance (Quinn 2019, p. 17). Instead, in the case of monetary sanctions, the state acts as the note holder in order to weaken defendants' status and delay or withhold rights of citizenship.

A similar pattern characterized government-supported housing finance. The government's use of financial tools to save the housing market for White households in the post-Depression era did not require coercion; instead, it was an opportunity for White families to move to new housing in the suburbs under highly favorable terms (Freund 2010). In contrast, Janice Johnson, a poor Black woman in 1970s Philadelphia, was desperate for housing and looking for an affordable rental. Instead, the agent sold her a home under a private mortgage program backed by the Federal Housing Administration. "Johnson was concerned, but by the end of August she was facing eviction proceedings from her condemned apartment. Johnson, with her young son to care for, was desperate. Within two weeks the transaction was complete" (Taylor 2019, p. 2). Johnson entered home ownership as a last resort, coerced by both the agent and the public/private program that made the deal possible.[6] As might be expected from such dealings, the house began to fall apart days after she took ownership. Just as these examples show racially divergent pathways into and outcomes of financialization, the state's growing reliance on money in the courts barely affects the rich but multiplies punishment and precariousness for the poor.

Deploying the frame of coercive financialization specifies the interactional and discursive techniques by which social control is accomplished. In this case, it is layaway. It is not simply the aggregate debt that keeps defendants burdened, tethered, and under control (Harris 2016). Rather, the infrastructure of layaway—from commodification to due dates—provides the rationale for punctuated interactions that require both time and money and opens space for new private market actors. It is this financial disguise that differentiates layaway freedom from parole or probation, because it hinges on an externally imposed contract that many defendants will frequently break because of their poverty. Moreover, the techniques of layaway do not invoke conventional court functions such as punishment or rehabilitation—as in the case of parole or probation—and instead transport stakeholders into roles that take place in Kohl's, Walmart, or your local jewelry shop. The mash-up can be dissociative and confusing, for both court actors and defendants, and

[6] Coercive financialization differs from "predatory inclusion" (Seamster and Charron-Chénier 2017; Taylor 2019), by focusing on the forced point of entry into financialization rather than the unequal terms of the deal.

the result is disproportionate punishment as well as further financial strain. Rather than solving the social problems that practices of coercive financialization purport to address, they often exacerbate them.

## SETTING, DATA, AND METHODS

Illinois is neither unique nor an outlier in its use of monetary sanctions (Martin et al. 2018). As in other states, the growth of LFOs in Illinois began in the 1970s and 1980s, in response to greater enforcement of low-level offenses and limits on local taxing authority that negatively affected public revenues (U.S. Commission on Civil Rights 2017). Growth in dollar amounts charged and expansion of the number of LFOs continues in the contemporary period. In one Illinois county, from 1995 to 2015, "the number of add-on fees [for a driving under the influence conviction] increased from nine to 27 [and] the amount of those fees also increased—from $300 to $2,172" (Statutory Court Fee Task Force 2016, p. 21).

The extreme localism of monetary sanctions laws and practices makes national comparisons difficult, but the existing comparative research suggests that there is no such thing as a representative state or jurisdiction (Bannon et al. 2010; U.S. Commission on Civil Rights 2017; Martin et al. 2018). In some ways Illinois is a conservative case of layaway freedom. Illinois has a unified court system in which there are no judicial municipal courts, which have been identified as egregious perpetrators of revenue-based policing (U.S. Department of Justice 2015; Goldstein et al. 2020). Under the unified system, prosecution, probation, defense, and administration are all publicly funded and staffed by state employees, whereas in some states public defense and especially probation have been privately contracted (Bureau of Justice Assistance 2000; Human Rights Watch 2018). If court procedures are suffused with financial transactions in Illinois, then it is likely even worse in states with greater privatization of justice services. More germane to layaway freedom, Illinois does not charge defendants an additional fee to pay their court debt through payment plans, whereas nine of the 15 states studied by Bannon et al. (2010) included an additional charge.

The data for this article come from 241 hours of courtroom observations, and qualitative interviews with 68 people paying their court debt and 87 court actors from across the state of Illinois. Data collection took place from 2016 to 2018.[7] The findings are based on an analysis of the full data set, but because our focus in this article is on the interactional, performative,

[7] The research was conducted by the two authors and the following team members: Brandon Alston, Erica Banks, Niamba Baskerville, Janae Bonsu, Erin Eife, Brittany Friedman, Madisen Hursey, Austin Jenkins, Kris Kenn, and Sydney Levison.

and routinized aspects of financial procedures, we rely more heavily on the courtroom ethnography. Despite claims of studying performances of financialization using interview data (e.g., MacKenzie and Millo 2003), we concur with Jerolmack and Khan (2014, p. 181), who argue that "the study of situated face-to-face encounters . . . is a key component of explaining social action . . . and explanations of a behavior's meanings." The field of performance and performativity is grounded in observational and ethnographic methods (Goffman 1978). We use the interviews as elaborations, explanations, and reflections on what we observed but privilege the ethnographic descriptions to illustrate the micropractices of financialization. Below, we describe the ethnography, provide a brief sketch of our interview methods and sample, and explain our analysis of both types of data.

We did ethnography in five judicial circuits (of 24 in the state) and seven (of 102) counties (a judicial circuit can include multiple counties). We chose the counties to have variation by region (downstate, midstate, and Chicagoland), racial composition, poverty/affluence, and political leanings. Other than Cook County, which includes the City of Chicago and which is large enough to name and still maintain the anonymity of defendants and court actors, we do not name the other counties where we did observations. In the smaller counties, there may have been only one courtroom, which heard everything from speeding to homicide cases. In those counties, we observed all cases over the course of several weeks. Cook County, however, has six geographic subdistricts including Chicago and the surrounding suburbs, each with several courtrooms with specialized functions. We did observations (and interviews) in four of the five suburban jurisdictions of Cook County and the two main Chicago courts that heard traffic, misdemeanor, and felony cases (see Van Cleve [2016] for a thick description of the Cook County felony courts). Overall, half of the observation hours were in Cook County (40 in Chicago and 80 in the suburbs), and half were in the additional six counties across the state.

We recorded information for 2,036 unique cases in the courtrooms observed. Monetary sanctions were discussed in some fashion in 716 cases. This could mean that the defendant was sentenced to pay fines and costs or that there was a hearing on balances owed or simply that the amount outstanding was announced in court. These statistics show that financial dealings are not the predominant activity happening in the courts. Indeed, many court actors saw monetary sanctions as a minor part of their work. A defense attorney in suburban Cook County said: "Our job is so much geared towards walking in there and keeping as many people out of jail as you can, that you don't really sit back and talk or think about the money that much." There were even hints of resistance. A prosecutor in Chicago proclaimed: "It's not my job to be imposing these fines and fees. . . . We need to prosecute these cases. . . . I'm not a collection agency." Some judges had similar complaints, and even the National Center for State Courts rejects fees as a way

TABLE 1
Race and Gender of Courtroom Observation
Sample and Illinois (%)

| | Observed Defendants | In Illinois |
|---|---|---|
| Asian | | 6 |
| Men | 1 | |
| Women | 0 | |
| Black | | 15 |
| Men | 24 | |
| Women | 9 | |
| Hispanic | | 17 |
| Men | 13 | |
| Women | 4 | |
| White | | 61 |
| Men | 28 | |
| Women | 14 | |
| Mixed, other, or not recorded | 5 | 2 |

Note.—Courtroom observations, $N = 716$. Illinois data are from https://www.census.gov/quickfacts/IL. Observed defendant totals do not sum to 100% because of rounding.

to fund courts (National Task Force on Fines, Fees, and Bail Practices 2017). Still the broadcasts of balances and requests for payment—often without even a mention of the original criminal charge—constituted over a third of the cases we observed.

Table 1 shows the racial and gender composition of the defendants we observed in the 716 cases in which monetary sanctions were discussed, compared with their representation in the state population. White (28%) and Black (24%) men were the groups most frequently observed, followed by White women (14%) and Hispanic men (13%). All other race/gender groups made up less than 10% of our observations. Although we did not randomly sample courtrooms or cases for observation, the racial and gender composition of our sample generally aligns with what is reported in state-level criminal offender statistics once misdemeanor and felony cases are combined (Illinois Department of Corrections 2018; Illinois Sentencing Policy Advisory Council 2018). Compared to the racial demographics of Illinois as a whole (see table 1), White people are underrepresented and Black people are overrepresented in our data, in the Illinois criminal legal system (Lyons et al. 2013), and nationally (Alexander 2010; Hinton, Henderson, and Reed 2018).[8]

[8] Several studies have uncovered the racially disparate use and impacts of fines and fees (Harris, Evans, and Beckett 2011; Henricks and Harvey 2017; Piquero and Jennings 2017; Sances and You 2017; U.S. Commission on Civil Rights 2017; Henricks 2019). Credit markets also disadvantage Black and Latinx people in the realms of home mortgages, car loans, student loans, financial services, and more (Squires 1994; Chiteji 2010; Addo, Houle, and Simon 2016; Faber 2019). The financialization of a state institution that manifestly targets Black and Latinx people exacerbates the debt disparities identified in the private market.

We interviewed 68 people paying their court debt, whom we recruited through Craig's List ads, approaching people after court hearings, sitting in probation offices, and hanging flyers widely. Interviews lasted 42 minutes on average and focused on the financial component of their sentence and its effects on their lives. The sample was 57% men and 43% women and 50% Black, 32% White, and 12% Latinx. A majority of interviewees (59%) had total incomes of under $1,500 per month. Just over half were unemployed, and just over half had experienced homelessness at some point in their lives. This aligns with local and national data on people under criminal legal control. In Cook County, as an example, 89% of defendants qualify for a public defender (Bellware 2017). Nationally, 80% of people in prison and jail had no reported labor market earnings in the year before their incarceration (Looney and Turner 2018, table 1).

Our sample of court actors ($N = 87$) consisted of 28 judges (majority male and White), 18 prosecutors (majority male and White), 20 defense attorneys (slight majority female and majority White but more racially diverse than judges or prosecutors), 13 court clerks (nearly all female and majority White), and 8 probation officers (nearly all female and racially diverse). We approached many of these officials after having spent several hours in their courtrooms, but some we contacted cold through e-mail or in-person visits. Interviews lasted between 45 minutes and 2 hours and focused on the workings of monetary sanctions.

As part of a larger multistate study (Shannon et al. 2020), we used standardized templates and guides for doing observations, writing field notes, and conducting interviews. In addition to logging general characteristics of the case (e.g., case ID, charge, type of proceeding), the defendant (e.g., race, age, gender, in custody or not), and courtroom personnel (e.g., race, age, gender, public or private defense attorney), we wrote detailed field notes on the setting, interaction, and dialogue. We transcribed our handwritten field notes into digital format and had the interviews professionally transcribed. We used NVIVO qualitative data analysis software to code all data. We coded the field notes for 69 topics. We analyzed the following codes to arrive at the findings for this article: Ability to Pay, Payment Plans, Making/Not Making LFO Payments, Consequences for Non-payment, Explanations for Non-payment, Civil Judgements Regarding Monetary Sanctions, and Types and Amounts of LFOs. We also did word searches of the full database for terms like "paid in full," "bill," "freedom," "interest," and "more time" to capture relevant data that may not have been coded at one of our themes of interest. The coding revealed a sequence of events that mirrors the financial processes under layaway plans. Our presentation of the data follows that sequence—identifying the commodity, processes of charging and billing, the imposition of payment plans, and the arrival of due dates. Each section contributes to our general findings that this form of coercive financialization commodifies freedom, confuses and suffuses court processes, amplifies control, and expands the financial sector into domains. The data stand in for the hundreds of moments we observed when dollar values were one of the issues—and sometimes the only issue—that kept people involved in the system and delayed their freedom.

## FINDINGS: LAYAWAY FREEDOM

### The Commodity

In a Chicago courtroom, an African American man's case is called before the judge. It is a postconviction hearing, and no one mentions the original criminal charge, only the financial one, an illustration of how justice morphs into bookkeeping. Upon recitation that the defendant still owes LFOs, the judge asks: "Why didn't you tell us you were having trouble with money? You have had numerous chances, now you are telling me?" The defendant answers: "I tried, I didn't . . . social service didn't want anything to do with me." The judge answers, with little sympathy, "We don't judge people on their mistakes here but on how people go forward fixing them." These moments of mandatory and regular court scrutiny illustrate the limitations on freedom, not because people are behind bars but because they are behind on their court payments. How this man "go[es] forward fixing" his court debt will partially determine when he can possess unrestricted freedom.

This court appearance represents a ritual we saw many times: a postconviction defendant facing an accounting of his compliance with the terms of his sentence in front of a judge. The literal financial accounting is evidence of freedom's commodification, or the "process in which economic value is assigned" (Almeling 2011, p. 3). In the exchange above, freedom has a price, one that was not announced aloud, but one that this man was not able to pay. Freedom—the intangible, supposedly priceless matter of American political myth and aspiration—is monetarily quantified in court-imposed LFOs. Although not a classic market, courtroom interactions around monetary sanctions show all the signs that defendants buy their freedom by paying their fines and fees. These were instances when "the sale of nonmarketable commodities" represented "the ultimate conquest of the market in the modern world" (Zelizer 1994, p. 20).

By freedom, we mean full release from penal, court, or civil oversight through satisfaction of the financial sentence. In only 7% of the cases we observed that involved LFOs was the defendant held in custody. Like the person in the previous example, defendants were "free" in the common use of the term. But the conditions of being under probation or supervision—which are the usual conditions accompanying monetary sanctions—is precarious (Phelps 2013). Intensive monitoring, more severe consequences for new infractions, arrest warrants for failing to appear at court dates, and the threat of jail for nonpayment of LFOs make incarceration an ever-present reality. As Petersilia (2002, p. 72) notes, community supervision "does not represent freedom" and "may have a more punitive bite than prison." Moreover, the debt can remain active even when supervision ceases. In such cases, the clerk or bill collectors replace the judge and probation officer as agents of monitoring and demand, and the fact of nonpayment can be reintroduced upon any future criminal legal involvement.

Our interview respondents cherished the freedom of being out of jail but also recognized that it was tenuous and incomplete. A White man in the southern part of the state stated: "How you supposed to be able to pay for gas on the way to work if you're giving your gas money to stay out of jail? All you're doing is buying freedom." A white woman in the middle of the state explained why she often agreed to payment plans that she could not afford: "You're thinking freedom. And so I'm gonna tell you whatever you want to hear. You want money? All right, as long as you ain't taking me." And a Black man in Cook County, who had received notice from a collection agency that his fines and fees had grown from roughly $1,500 to $9,680, shared: "It could affect me . . . as far as my freedom goes. I hope it doesn't come down to that. That's the main thing. I don't want to lose my freedom over something that happened, this is 2017, so 13 years ago." On their face, these comments equate freedom with being out of jail. Yet these respondents' recognition of the highly provisional nature of being out of jail, and the evident stress it caused, illustrates instead their deep unfreedom. Free movement is contingent on paying—or at least agreeing to pay—their financial obligations. Their bodies are (relatively) free, but their minds, their time, and their purses are not their own. By participating in the rituals of payment they avoid default, maintaining the layaway contract in force. The ultimate commodity on offer, however, is not this ongoing abridged freedom but rather the absence of court requirements and surveillance altogether. The mechanics of layaway in the courts begins with charging and billing, which further illustrates freedom's commodification, and then progresses to payment plans and due dates.

## Charging and Billing

The 18th-century philosopher Jeremy Bentham argued that "the penal code was a menu of fixed prices" (Harcourt 2011, p. 36). Similarly, economist Richard Posner writes that the "criminal justice system maintains a proper schedule of prices for unlawful acts. . . . If our object is to minimize the amount of crime, we must 'charge' more to people who value that activity more" (1985, pp. 1215–16). These statements highlight the double meaning of terms such as price and charge in the criminal legal system. Whereas prosecutors determine what parts of the penal code a person is alleged to have violated as the basis for the criminal charge, the other connotation of charge is how it is used in phrases like charge card, finance charge, or free of charge. This charging happens at sentencing and references a specific dollar amount. This charge is the price of the commodity, the price of freedom. Through charging and billing, the confusion and suffusion of court processes begins in the first step of what often develops into a layaway relationship. A criminal charge results in a financial charge upon conviction, at which point a significant proportion of the dialogue between court actors and defendants turns monetary. In 236 (or 33%) of the 716 courtroom observations in which monetary sanctions were discussed, there was no mention at all of the underlying criminal charge, only the financial charge. This is the confusion, the mix up, the confounding. What begins as a process to assess guilt and impose punishment ends as an exercise in accounts receivable, with the first step being the assignment of a price to the offense.

Our analysis of statewide court records from the Illinois Criminal History Records Information system from 2010 to 2018 shows that 98% of all cases ending in conviction were sentenced to pay fines, costs, or restitution.[9] Financial charging is a routine component of the courtroom process. When judges read defendants the possible penalties of their crime if found guilty, they always include the monetary charge. A judge in downstate Illinois read out the charges to a White woman in her fifties: "possession of meth, less than 5 grams, a class 3 felony, punishable by 2–5 years IDOC [Illinois Department of Corrections], 30 months probation, or $25,000 fine, and a mandatory drug assessment of $500." This is the suffusion, the permeation, the inundation. It was not uncommon in our fieldwork to record nine or 10 cases in a row in which the main item of business was announcing financial terms of a sentence, charging financial penalties, making payment, or explaining nonpayment. In the sprawling Cook County Circuit Court, whole courtrooms served that role for several hours of the day.

Figure 1 illustrates the menu of prices for criminal infractions in Illinois. Dollar amounts are shown for each category of infraction (e.g., "Schedule 7: Misdemeanor Drug Offense (705ILCS135/15-35) $905"). Under a new state law—the Criminal and Traffic Assessment Act (State of Illinois 2019)—which took effect in July 2019, the Illinois legislature created a standardized list of prices and decided on a consistent terminology of "assessments" to replace language about fees, costs, and surcharges. The act also introduced full and partial fee waivers for people earning up to 400% of the poverty level. We conducted our observations and interviews before the law went

[9] We thank Frank Edwards for these calculations. Harris, Evans, and Beckett (2010) report that nationally, in 1995, 84.2% of felony probationers were ordered to pay fines or fees. It is not surprising that the figure in Illinois is now nearly 100%.

| STATE OF ILLINOIS,<br>CIRCUIT COURT<br>[redacted] | SENTENCING ORDER | |
|---|---|---|
| THE PEOPLE OF THE STATE OF ILLINOIS,<br>v.<br><br>Defendant *(First, middle, last name)* | | |
| States Attorney____________________ | Deft. Attorney______________________ | **Case Numbers**<br>______________________ |
| Court Reporter____________________ | Deputy Clerk______________________ | ______________________<br>______________________<br>______________________ |

**1. Fines**

☐ DEFENDANT ADMONISHMENT: 705 ILCS 135/5-5 (effective July 1, 2019) established a minimum fine of ☐ $25 for a minor traffic offense and ☐ $75 for any other offense, unless otherwise provided by law.

☐ If applicable, DEFENDANT HAS BEEN ADMONISHED of his/her right to elect whether he/she will be sentenced under the law in effect at the time of the offense or at the time of sentencing.

Defendant has elected (*Check one*):

☐ He/she **will be sentenced under the law in effect at the time of the offense;**
☐ He/she **will be sentenced under the law in effect at the time of the time of sentencing.**

**PLEA:** ☐ NOT GUILTY ☐ GUILTY **FINDING BY:** ☐ COURT ☐ JURY **SENTENCE IS:** ☐ AGREED ☐ CONTESTED

☐ CONVICTION TO ENTER ☐ PROBATION ☐ CONDITIONAL DISCHARGE ☐ COURT SUPERVISION
☐ WITHHOLD JUDGMENT ☐ PROBATION per 730 ILCS 5/5-6-3.4 ☐ PROBATION per 730 ILCS 550/10 OR 570/410

Offense ________________________________________ a Class ______ Misdemeanor/Felony $________
Offense ________________________________________ a Class ______ Misdemeanor/Felony $________
Offense ________________________________________ a Class ______ Misdemeanor/Felony $________

**Total Fine Amount $________**

**2. Criminal Assessment *(Check the highest class offense only)***

☐ Schedule 1: Generic Felony (705ILCS135/15-5) $549 $________
☐ Schedule 2: Felony DUI (705ILCS135/15-10) $1709 $________
☐ Schedule 3: Felony Drug Offense (705ILCS135/15-15) $2215 $________
☐ Schedule 4: Felony Sex Offense (705ILCS135/15-20) $1314 $________
☐ Schedule 5: Generic Misdemeanor (705ILCS135/15-25) $439 $________
☐ Schedule 6: Misdemeanor DUI (705ILCS135/15-30) $1381 $________
☐ Schedule 7: Misdemeanor Drug Offense (705ILCS135/15-35) $905 $________
☐ Schedule 8: Misdemeanor Sex Offense (705ILCS135/15-40) $1184 $________
☐ Schedule 9: Major Traffic Offense (705ILCS135/15-45) $325 $________
☐ Schedule 10: Minor Traffic Offense (705ILCS135/15-50) $226 $________
☐ Schedule 10.5: Truck Weight/load Off (705ILCS135/15-52) $260 $________
☐ Schedule 11: Conservation Offense (705ILCS135/15-55) $195 $________
☐ Schedule 13: Non-Traffic Violation (705ILCS135/15-65) $100 $________

**Total Criminal Assessment Amount $________**

1 OF 3

Fig. 1.—Excerpt of sentencing order from an Illinois county

**3. Conditional Assessment *(Check all that apply)***

- ☐ Arson/residential arson/aggravated arson (705ILCS135/15-70(1)) $500 for each Conviction $_________
- ☐ Child pornography (705ILCS135/15-70(2)) $500 for each conviction $_________
- ☐ Crime lab drug analysis (705ILCS135/15-70(3)) $100 $_________
- ☐ DNA analysis (705ILCS135/15-70(4)) $250 $_________
- ☐ DUI analysis (705ILCS135/15-70(5)) $150 $_________
- ☐ Drug related offense, possession/delivery (705ILCS135/15-70(6)) Street Value $_________
- ☐ Methamphetamine related offense, possession/manufacture (705ILCS135/15-70(7)) Street Value $_________
- ☐ Order of protection violation (705ILCS135/15-70(8)) $200 for each conviction $_________
- ☐ Order of protection violation (705ILCS135/15-70(9)) $25 for each conviction $_________
- ☐ States Attorney petty or business offense (705ILCS135/15-70(10)(a)) $4 $_________
- ☐ States Attorney conservation or traffic offense (705ILCS135/15-70(10)(b)) $2 $_________
- ☐ Guilty plea or no contest, DV against family member (705ILCS135/15-70(13)) $200 for each sentenced violation $_________
- ☐ EMS response reimbursement vehicle/snowmobile/boat violation (705ILCS135/15-70(14)) Max Amount is $1000 $_________
- ☐ EMS response reimbursement controlled substances (705ILCS135/15-70(15)) Max amount is $1000 $_________
- ☐ EMS response reimbursement reckless driving/aggravated reckless driving/speed in excess 26 mph (705ILCS135/15-70(16)) Max amount is $1000 $_________
- ☐ Weapons violation, Trauma Center Fund (705ILCS135/15-70(18)) $100 for each conviction $_________

**Total Conditional Assessment Amount** **$_________**

**4. Other Assessments**

- ☐ Restitution (See supplemental order) $_________
- ☐ Probation/Supervision/Conditional Discharge Fee $__________ x _____ months until ___/___/___ 9 am $_________
  - ☐ Comply with all conditions set out in the corresponding order.
  - ☐ Shall not violate any laws of any jurisdiction, including Federal, State or Local Ordinances.
- ☐ Service Provider Fee ___________________________ $_________
- ☐ Public Defender assessment $_________
- ☐ Victim Impact Panel $_________
- ☐ Other $_________

**5. Credits** (to be applied before offsets)

- ☐ Bond Applied ($________)
- ☐ Credit for time served _____ day(s) x $5 day credit ($________)

**Total Credits** **($________)**

Total amount due shall be paid by_________________. **Total Amount Due** **$_________**

Unless a court ordered payment schedule is implemented or the assessment requirements of this Act are waived under a court order, the Clerk of the Circuit Court may add to any unpaid assessments under this Act a delinquency amount equal to 5% of the unpaid assessments that remain unpaid after 30 days, 10% of unpaid assessments that remain unpaid after 60 days and 15% of the unpaid assessments that remain unpaid after 90 days. (705 ILCS 135/5-10(e))

2 OF 3

FIG. 1.— (*Continued*)

into effect, but limitations of the law maintain the relevance of our data.[10] During the period of our research, there was a much more disorganized menu of prices, which varied across courtrooms and counties. Still, they presented a similar structure of costs per offense and total amounts due as shown in figure 1.

Figure 1 demonstrates how the statute is transferred to a sentencing order that is used in the courts, with computer-fillable check boxes to indicate the precise offense and a column that tallies the total amount charged. It includes both scheduled assessments by offense and, under item 3, "conditional assessments" that add costs under additional circumstances, such as for DNA analysis ($250) or child pornography ($500 per conviction). Defendants are also charged fines, which can range widely. There is a $25 minimum fine for minor traffic offenses, whereas felony fines can range from $75 to $25,000. The sentencing order in figure 1 resembles a standard order form that contains items and accompanying costs—merchandise on the left, dollar signs on the right—underscoring the commodified rendering of how to satisfy a court sentence. In Illinois, a generic felony will "cost you" $549, a felony DUI $1,709, a felony drug offense $2,215, and on down the line to a nontraffic violation for $100. Defendants are not, of course, purchasing a DUI. Instead, the charge is what is required to attain freedom from court involvement. Just like a dress on layaway, the court holds defendants' freedom until their monetary sanctions (and the other components of the sentence) are paid.

The sentencing order is both the charging document and a bill, a demand to remit payment.[11] The sentencing order in figure 1 breaks down the subtotals by fines, criminal assessments, and conditional assessments, resulting in a " total amount due" with a due date. Other forms across the state include language such as "balance owed" or "amount due after all credit applied," to account for the $5 per day incarceration credit. Such bills are familiar market artifacts. For example, Coast High Performance in California (to give an example other than a national retailer) allows its customers to buy engine parts on layaway. On its layaway form are the lines "total due" and "final payment due date."[12] In other words, the language of "amount due" and "balance owed" is standard billing parlance when purchasing commodities on layaway (or

[10] Regarding limitations, the waivers do not apply to fines or to any LFOs for traffic offenses, including convictions for driving under the influence (DUIs); the law is not retroactive and so does not offer relief for people with outstanding balances; and the process requires defendants to petition for relief.

[11] "Bill" also has a legal meaning in criminal procedure. A "bill of indictment" is the accusation presented to a grand jury. The grand jury decides whether the evidence presented warrants prosecution, signing either a "true bill" in the affirmative or a "no true bill" in the negative.

[12] See Coast High Performance, http://www.coasthigh.com/v/vspfiles/downloadables/CHP-Layaway-Agreement.rtf (accessed October 31, 2020).

otherwise). Billing in the criminal legal system informs defendants of their financial responsibility to comply with the terms of their sentence in order to attain their freedom. The correspondence of the two processes in the physical form of a bill further accentuates the commodification of freedom.

While the sentencing order in figure 1 may appear straightforward, in practice it illustrated the confusion that monetary sanctions introduce into criminal procedure. In a Chicago courtroom, a judge commented in open court that he thought the financial part of the sentencing order sheet was undecipherable. “I hope the lawyers have gotten together and ordered the right ones,” he remarked as he sentenced a defendant. Financialization confuses and obscures legal processes as lawyers instead confer to satisfy the financial demands of the state, and judges show much less care with LFOs than they do with how the facts of the case relate to the criminal statutes. Just as with mortgage documents or retirement plans, even the experts can be stumped by financial forms and technologies (MacKenzie 2011). The knowledge imbalance under financialization is, of course, more detrimental to the defendant who will ultimately have to pay the bill. Such generalized and widespread confusion in court processes is what leads many debtors to enter financial commitments that they will not meet (Ruback et al. 2006).

In addition to the sentencing order, there is online billing. This is one of the ways in which monetary sanctions open space for private vendors. If all defendants could pay immediately upon sentencing, there would be no need for layaway payment plans and thus no need for additional infrastructure to manage those payments. The socioeconomic profile of the population under criminal supervision, however, makes plain that most defendants will not be able to pay in full upon sentencing.

Judici.com handles billing and payments for 51 of Illinois’s 102 county courts. Figure 2 shows an online bill from Judici.com for a defendant in one of the counties we studied. The bill differs from the sentencing order by listing the specific court functions that LFOs fund. Again, defendants are not paying to directly purchase the sheriff’s office ($52) or document storage ($12.50), but rather funding these public purposes grants the opportunity for release from criminal legal involvement. This case was a 2014 criminal felony for which the defendant was sentenced to four years in prison and $708.50 in monetary sanctions. When the defendant was released and had still paid nothing, the county’s state’s attorney’s office turned the bill over to a collection’s agency, adding a 30% collections fee (see “SA Collections” for $212.55 in fig. 2).

In the online version of the bill, next to the case listing is a bold red box that reads “pay now.” Clicking on it brings up a familiar credit card payment screen with the notice that “an additional fee will be charged for paying online. This fee is collected by the Circuit Clerk on behalf of Judici and is not reflected in the amount above.” This fine print describes a mutual financial relationship: Judici provides the portal to bill and accept payment for the courts, while

[redacted]

HOME | CASES | PREMIUM SERVICES
CASE SEARCH | FAQ/HELP |

My: Cases | Schedule | Filings | Account

NOTICE: By clicking the 'Search' button below, or otherwise using the Judici.com website, you are agreeing to abide by its terms of use.

Case: e.g.: 2007TR111 Name: e.g.: Smith, J* Charge Text: Search Exact Match?

Subscribe to Case

2014[redacted]

Last Search | Information | Dispositions | History | Payments | Fines & Fees

| Fee | Due | Paid | Balance | Due Date |
|---|---|---|---|---|
| Total | $921.05 | $0.00 | $921.05 | |
| Fine | $185.00 | $0.00 | $185.00 | |
| Clerk | $80.00 | $0.00 | $80.00 | |
| State's Atty | $40.00 | $0.00 | $40.00 | |
| Sheriff | $52.00 | $0.00 | $52.00 | |
| Court | $50.00 | $0.00 | $50.00 | |
| Automation | $12.50 | $0.00 | $12.50 | |
| Violent Crime | $52.00 | $0.00 | $52.00 | |
| Judicial Security | $25.00 | $0.00 | $25.00 | |
| Document Storage | $12.50 | $0.00 | $12.50 | |
| Medical Costs | $10.00 | $0.00 | $10.00 | |
| Lump Sum Surcharge | $130.00 | $0.00 | $130.00 | |
| Clerk Op Add-Ons | $10.00 | $0.00 | $10.00 | |
| Child Advocacy Fee | $15.00 | $0.00 | $15.00 | |
| SA Collections | $212.55 | $0.00 | $212.55 | |
| State Police Svcs | $10.00 | $0.00 | $10.00 | |
| State Police Ops | $12.50 | $0.00 | $12.50 | |
| SA Automation Fee | $2.00 | $0.00 | $2.00 | |
| Probation Ops Fee | $10.00 | $0.00 | $10.00 | |

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Last modified: 2019/11/05 13:54 Version: 3.9.0.313

FIG. 2.—Online bill for fines and fees from an Illinois county

the courts collect an additional fee for Judici. The service fees are proportionally higher for smaller payment amounts (e.g., $2 for any payment under $50 vs. $94 for a $5,000 payment; Judici 2019). Commodified freedom gets more expensive with the participation of additional financial players.

Practices of charging and billing in the courtroom and beyond replace legal with financial terminology and technology, confusing the purposes and practices of courts. Sentencing orders put a price on defendants' freedom, likening it to a commodity on offer, with an explicit "pay by" date. Online billing brings in the private sector and further strips away references to the legal details of the case, leaving only the commodity nature of freedom that can be bought at a click. Bills are a familiar object for everyone, but for low-income people like those we interviewed and observed, bills occasion "stress, screaming, crying, and praying" and require "an extensive set of personal coping strategies to manage" (Tach and Greene 2014, pp. 9, 5). They conjure failure and frustration. Hence, deploying the language of charging and billing in the courts compounds punishment by triggering dispositions of financial powerlessness. Such stress only grows over the repeated financial status hearings that payment plans produce.

## Payment Plans

Criminal court bills are often higher than most low- and moderate-income people can afford to pay in a lump payment. Forty of the 68 people with court fines and fees that we interviewed reported LFOs greater than or equal to their full month's income. As a result, most of them were under a "court ordered payment schedule" (see bottom of fig. 1). The devices of credit and debt from the financial world penetrated the courtroom, appearing as a reasonable and even generous response to the predominant poverty of defendants.[13] A payment plan was their only option for staying compliant with their sentences and not incurring interest on delinquent accounts. Hence, entry into this quasi-financial product was not the same as retail layaway but rather included an element of coercion. The state's monopoly on the ability to deprive freedom makes it a powerful creditor. In this section, we highlight two components of payment plans—extensions of time and statements about financial responsibility—to illustrate the coercive nature of the relationship and how the performance rituals of layaway freedom pervert the purposes of the courts and multiply the experience of punishment.

*Extensions of time*.—In a courtroom in the middle of the state, we recorded the following case:

> A White male is called up. The judge says, "I show you paid $0." The defendant says something about not making enough money. The judge asks him how much he makes and he says $1,600 a month. The judge asks him what bills he has and they discuss for a minute. The judge continues "This is going to be a good lesson for you. You need to learn to budget your money. Determine what is need or want. Over the state's objection, you are going to come see me once a month until this is paid." He owes $589. "You should be able to pay $75 a month towards this. You can work with your fiancée. You need to be here 9/5."

This example illustrates the authority of judges to impose financial agreements on defendants who must accept them as a last resort to fulfill their sentence. These are the ingredients of coercive financialization and even include, in this case, an extension to the defendant's partner (Katzenstein and Waller 2015). This exchange also demonstrates that layaway plans are as much about time as about money. In this case, time is evidenced by the monthly court visits to begin on a specified date in the future. The courtrooms we observed were similar to the global trading markets studied by Knorr Cetina and

[13] On layaway as an act of generosity, one jewelry store in Texas announces: "At Tenenbaum, we take pride in offering everyone the opportunity to own a piece of fine jewelry and are pleased to offer a generous layaway policy" (https://www.tenenbaumjewelers.com/layaway/; accessed October 31, 2020). Judges and occasionally prosecutors saw their negotiation of payment plans as generous, and we take their perspective as genuine. Many judges we interviewed were lukewarm about monetary sanctions and did not see them as forwarding justice. Some participated in the ritual of collections reluctantly, and a very few took actions to interrupt the system. However, many defendants did not experience payment plans as generous but rather as illegitimate (Pattillo and Kirk 2020). Illegitimate debts can produce resistance (Tach and Greene 2014), and acts of financial "benevolence" can provoke skepticism and strategic manipulation (Hoang 2015).

Bruegger (2002, p. 920) in that they constituted “communities of time.” However, rather than overcoming geographic distance with shared clocks as in the case of commodities traders, the stakeholders in the courts used punctuated encounters to manage punishment within a context of poverty and socioeconomic fragility. Legal elites and defendants were bound together by the rhythms of rotating court calls, court dates, sentence lengths, waiting, probation check-ins, and an overload of cases for the time allotted.

Trying to keep up with the rapid pace of case processing in a Chicago courtroom, we often managed to record only bare details and dialogue:

> Next was a Black man in his 40s. He was paying $30 today. The judge asked him, “Do you want to come back in one month or two?” I couldn’t hear his answer. Next was a Black man in his 30s. He made a $15 payment and the judge asked, “Do you want to come back in one month or two?” He chose to come back in two months and she gave him a July court date. . . . A Latino man who must have missed a previous court date because the judge said, “You need to make sure you come to court each and every time.” Then she moved quickly to “Are you making a payment today? Do you want to come back in one month or two?” He chose one month.

Many of the defendants observed that day would see the judge, and each other, again at the next scheduled court date, when they would again be asked about payment and again be given another date one or two months forward. When they did not produce payment, they were often given more time.

In our interviews with court personnel, references to “more time” were pervasive. A court clerk downstate told us: “Our local people, most of them, they make steady payments. [Judges] will extend them a little bit more time to get it paid, or whatever. That’s about the majority of what happens.” A judge in the middle of the state described his standard practice when someone had reached the end of a probation term and still had not paid the fines and fees. First, he let the prosecutor file a petition to revoke the probation, which could result in the defendant being resentenced on the original offense, which could include jail time. But then he pulled back and used the tools of layaway to maintain both the debt and supervisory relationship: “I’ll give them a payment plan that will space their payments out longer. Then that’s really what they needed was just more time to pay, and now they have more time and they understand the seriousness of it. They thought maybe we’d just ignore it. Now they know we won’t and then they make the payments.” Signaling incarceration as always a possibility illustrates the coercive character of the layaway contract, while renegotiating the payment plan shows how LFOs create sentences of indefinite duration.

Finally, a judge in Chicago described how he sometimes asked defendants: “Is there anything stopping you from paying?” Common responses included sick family members, unemployment, or unexpected car repairs. “We take that into consideration and work with them on it. More time. Give them more time." Even though it is rendered as an accommodation under the camouflage of financialization, the refrain of "more time" in the criminal legal context is almost always a bad thing. More time to pay the court fines and costs meant more time bound to the courts. Without freedom from the LFO, surveillance and legal precariousness endured.

The repeated nature of the "more time" refrain was held in particular relief when it was interrupted. A White woman wearing a black pantsuit with her hair pulled back in a neat bun and with a private attorney approached the bench in a midstate courtroom. She plead guilty to possession of a controlled substance, and her fines and fees totaled nearly $5,000. The judge asked her when she wanted to pay and whether she wanted a payment plan. She responded that she wanted to pay "as soon as possible. I can pay it today." Our field notes describe that the judge seemed a bit taken aback, but then replied, seemingly on autopilot, "we'll give you a month, shouldn't be any problem." Rich defendants who could pay $5,000 in a day were rare sights in the courtroom, but they illustrate the disproportionality of monetary sanctions across defendants, some of whom can pay without needing to enter into time-extending financial agreements. Nonetheless, the judge—so accustomed to granting more time—extended the payment due date even when the woman said she did not need it. She disrupted, if only discursively and briefly, an otherwise predictable rhythm of financial lack on the part of defendants and temporal accommodation on the part of judges.

The extension of time is not without consequence. Debt is a relationship of time (Pellandini-Simányi, Hammer, and Vargha 2015; Storms and Verschraegen 2019) in which present consumption is made possible by expectations about future repayment. The arrangement is different in the case of layaway: future consumption is promised through a commitment to repeated payments. For layaway freedom, this means future access to freedom requires present and ongoing payment. The extensions of time push forward that access to freedom. People's limited financial means push freedom further off into the future, often beyond the initial period of supervisory sanction. In the meantime, the lingering financial commitment becomes the driving pretense for collective expenditures of more time. The activity in a Chicago courtroom illustrates the suffusion of court time with a parade of defendants who are paying their fines and fees on installment:

> A Black male defendant comes up and has $1,324 remaining from his fines and fees. The judge asks him if he is working and then asks him how much time he needs to make a payment. The judge sets another court date.
>
> Black male defendant in his 50s. He has $840 left from his fees and fines. He is making a $25 payment today and the judge gives him a status date for 7/1.
>
> Next a Hispanic male defendant is called up who is in his 30s. He has some outstanding community service hours, has not completed his victim impact panel,

> and owes $850. The social worker doesn't have any information, but the defendant has a paper that says he completed 20 hours of treatment and completed 100 hours of community service. Now he just owes the money.
>
> The next defendant is a Black woman in her 20s. The social service worker announces that she owes $1,114. The woman starts to say that she just started working. The judge nods and gives her a date a few months out saying, "We'll let you get a couple of paychecks first."

These payment hearings consume the time of both judges and defendants, not to mention court staff and the people who accompany or drop off their family members. But whereas courtroom employees are paid for their time, defendants (and their families) expend time in order to pay for their freedom.

Albeit muted by the rapid flow of periodic payments, many stakeholders understood the full impact of these drills. In a courtroom in the exurbs of Chicago, a White woman appeared before the judge and had still not paid her LFOs. The judge gave her two additional months and commented, "The faster you get it paid off the fewer trips you have to make here." And an African American man in a far suburb of Chicago reported in an interview, "I don't really think the fines and fees is fair because . . . you take somebody that's made a mistake in their life and you sentence them to the time behind bars, then you turn around and when they get out, you give them more time on this imaginary leash." That leash included frequent trips to the courthouse for payment. These procedural hassles (Kohler-Hausmann 2018) create "pressure points" (Cadigan and Kirk 2020) that intensify the control of the state over defendants. "That's overkill," the man concluded.[14]

Nonpayment left defendants continuously vulnerable to rearrest. In the following case in suburban Cook County, a man had been arrested for a warrant for not complying with the terms of his probation. The scene unfolded as follows:

> The next case was for a Black man in his 40s, in custody. The judge ordered "no bail" rather quickly and then the probation officer on site discussed the man's achievements with treatment services. Apparently, this defendant had completed 75 out of the 75 required hours of treatment services with Alcoholics Anonymous. As the probation officer stated, the man "has reported [to probation services] as directed, but still owed fines and fees that are past term. Otherwise everything is well." The judge then ordered an extension for the defendant's fines and fees until the last week of September.

[14] Harris (2016) develops the concept of "tethering," in which "the 'ball' was the debtor and the 'rope' was their legal debt" (p. 72), which left the debtor "disappointed, frustrated, disillusioned, and with nothing left to give" (p. 73). There is more work to be done on how LFOs affect defendants' ability to plan for the future in the domains of family, education, housing, and other important life matters.

Outstanding monetary sanctions landed this person in jail. He will go "free" again, but the additional two months will be as precarious as the prior repayment period. He remains marked. He remains in the system. He remains in debt. The extension of the financial bond adds more time to the criminal legal bond, despite compliance in the other matters of his sentence.

Layaway is based on establishing affordable payment amounts, which necessarily extend the payment time. In downstate Illinois, an older Black woman appeared before the judge and immediately said, "$55." Such interactions had become so routinized that she did not even wait for the prosecutor to present the case or for the judge to ask her a question. Instead she blurted out her payment amount. The prosecutor then read that she still owed over $1,000. At $55 a month, she will have at least 18 more months of these exchanges, which explains the familiar and swift manner of her appearance. As with layaway, the amount of monthly payments should be set such that the defendant can successfully comply with the terms, as this woman did on this day. Sears, for example, highlights the manageability of payments on its layaway plans, which consist of "four *easy* payments of balance due" for 8-week plans and "six *easy* payments of balance due" for 12-week plans (emphasis added).

The definition of an "easy" payment, however, is relative to one's means. Even what seem to be small payments can be a hardship. In a Chicago courtroom, we observed the following interaction:

> While I was waiting during one of the recesses, I heard a White man public defender approach a Black woman who was sitting in the gallery next to me. He asked if she had "made any progress." She said she paid $10/month. She said she was a single mother and it was hard. That's all she could do. He said that's all they needed to see, that she was trying and making an effort. He talked about the conviction being cleared if she complied with all of the terms. "That's why the court gave you some leniency." Later, I saw this case called. The case was from 2013.

The case was five years old at the time of the observation, which highlights how dividing large monetary sanction dollar amounts by payments that were affordable for defendants yielded long repayment periods and thus long periods of court monitoring. Recurring small payments added another layer on top of community service or drug testing or probation check-ins.

*Financial responsibility*.—Alongside the manipulation of money and time, layaway freedom deploys a language of financial responsibility to obscure coercion and explain continued criminal legal involvement as in the control of the defendant. "Where do you stand on payment of the balance?" a judge in a Chicago exurb asked a White man in his twenties who was nearing the end of his two years of supervision for a bodily harm conviction. At that point, he had not paid anything, although monies from his initial bond had been applied to his total bill of $886. The judge told him: "The State can file a Petition to Revoke your probation if you do not pay your fines and costs, and you could be resentenced on the Class A Misdemeanor. Come back on July 9 and show me that you've made progress and I'll give you some slack for the next court date. So, more than 70 bucks." The judge promised special dispensation in exchange for the performance of financial responsibility. "Show me that you've made progress" conjures the gaze of a parent or a teacher, full of optimism that the child or student will see for himself the importance of the matter and rise to the occasion. So that there was no confusion, the judge specified that responsible progress equaled $70. The tools of time and responsibility converge in the judge's governing technique. The facts of the original offense from two years prior had faded, just as the underlying asset of a mortgage disappears under layers of securitization (Fligstein and Goldstein 2012). The reward for a show of financial responsibility was "slack for the next court date," in other words, more time. Money talk suffused the courtroom proceedings and propagated the notion that the defendant had voluntarily taken on a debt that he should now show good faith in paying.

Likewise, a judge in the middle of the state set up payment plans on a daily basis, both for people newly sentenced and for those returning to court because of previous nonpayment. He frequently emphasized how defendants' fates were in their own (financial) hands. In the case of a Black man who had violated his probation by picking up new infractions and by not paying his fines and fees, the judge gave him less jail time than the prosecutor requested and set up a payment plan for his monetary sanctions. "He owes $1,142 still," we recorded in our field notes. "The judge gives him a $68 a month payment plan for 20 months [and says] 'Prove the state wrong. Prove me right, that you can do this.'" The judge put the onus on the defendant to illustrate that he was reformed both by staying out of trouble and by making regular payments. Another judge in the same county, apparently aware of the quasi-mercantile routine into which the court had fallen, asked a Black woman who approached the bench if she had made her monthly payment of $50. She had. He then joked: "When you get 10 payments in on time, you get to miss the 11th, get some Kohl's cash." This off-color comment laid bare the confusion of core court functions with commercial specials, and revealed the regulation of behavior through the obligation of layaway payments.

In the same courtroom, in the case of a White man with various drug convictions, the judge enacted a back-and-forth ritual that gave a veneer of agency on the part of the defendant, which further solidified his responsibility to follow through on his "chosen" terms. The judge announced "you still owe $180. Do you want a payment plan?" The defendant answered in the affirmative. "What do you want to pay each month?" the judge asked. The defendant answered $50, to which the judge responded, "Let's make it $30. Do you want it on the first or the fifteenth of the month?" The defendant chose the fifteenth. "July or August start?" The defendant chose August.

Epitomizing a "pay your way" sensibility, these courtroom mini dramas are not of the ilk reviewed in criminal law courses that train judges and lawyers on adjudicating guilt or innocence, nor do they represent any clear journey toward justice. Rather, they rest within the "mundane practices and practicalities of everyday finance" (Deville and Seigworth 2015, p. 623) in which subjects are perhaps even better socialized than in the life ways of the courts. The combination of threat and relief mirrors the affect engendered by the calling scripts of bill collectors "in which adverse consequences and possible remedies, veiled threat and apparent empathy are tossed together" (Deville 2014, p. 477). While judges demand layaway agreements through the coercive power of incarceration or unsatisfactory probation determinations, the negotiations of payment plans offer rare moments when defendants get to speak aloud to judges and have some input about their time and money. At the same time, however, their full-throated participation in setting the terms of the payment plans makes them more responsible when they fail, which many of them do given their financial predicaments. The logic and language of debt hide the external coercion of the court and instead foreground the defendant's responsibility to comply with the payment plan. Because LFOs were an obligation that low-income defendants were especially vulnerable to failing, new punishments were easily construed as of their own doing.

## Due Dates

The repeated extensions of time and the emphasis on personal responsibility assume that nonpayment is an issue of cash flow or budgeting, rather than absolute lack. This was not, however, a financial transaction that defendants entered into purposefully, voluntarily, or with advanced planning. They had not worked this bill into their monthly finances, nor did court actors do any real calculations of what defendants could pay given their means. If they had, the answer frequently would have been zero. In a convenience survey of 318 respondents in three Illinois counties, 72% said they had to choose between buying groceries and paying their LFOs, and 62% said they had to choose between utility and rent/mortgage payments or paying their court debt (Gleicher and DeLong 2018). Given this reality, many defendants failed to pay even after several rounds of refinancing and grace periods. At some point, however, they came up against a final due date, the date on which the state's attorney or judge had no more tolerance for the defendant or the case. The handling of due dates offers a final illustration of the commodification of freedom.

In the commercial world of layaway, consumers have a strong incentive to show up on the due date because they want to collect their merchandise.

In the court system, it is the opposite. Paying means not having to show up to court, since full payment means freedom. Judges often made this clear in their instructions. In a county in the middle of the state, a Black man was in court because he was nearing the end of his one-year probationary period for criminal damage to property. He had still not done his community service or paid $757 in court fines and fees and $200 in restitution. The lawyers and judge decided on a final due date that was eight months away. The judge instructed the defendant "if you have all your costs paid up by February you don't have to show up. But if you don't, you do." These "pay or appear" directives were standard across the state and are prevalent across the country (Bannon et al. 2010). Such conditions illustrate how the procedural hassle of layaway freedom is only operative for the poor, since paying means not appearing, while appearing means an inability to pay and repeated and prolonged court monitoring.

There are several possible outcomes when defendants arrive at a final due date and have not paid—from extending or revoking probation/supervision to incarceration (Pattillo and Kirk 2020). These types of outcomes represent the punitive arm of the state. The financial expression of the state, however, uses other modes of coercion. The defendant who owed $757 still did not pay when February arrived. In March, he appeared in court and his case was closed and his fines and fees were sent to collections. This option represents another opening (alongside third-party billing and credit card payments) for private financial firms and another moment of commodification. The state's attorney can add "an additional fee of 30% of the delinquent amount" (see fig. 2) and decide to keep the fee or assign "any portion of the fee to the retained attorneys or the private collection agent" (Illinois General Assembly 2019*a*). Thirty percent is well above the 20% cancellation fee that Walmart charges for its holiday layaway, and of course there is no option to get the payments already made refunded once court debt goes into delinquency.

Collections agencies find new clients in the state court system because of monetary sanctions. One such provider in Illinois responded to our e-mail inquiry, writing that they were "proud to be an active partner" with several county courts in Illinois to recover monies owed because of "violent crimes and drunk drivers." With debt transferred to collection agencies, the task of monitoring moves from the courts to these private firms, and the price of freedom continues to go up. In addition to the collections fee, the court clerk's office can add "a delinquency amount equal to 5% of the unpaid assessments that remain unpaid after 30 days, 10% of the unpaid assessments that remain unpaid after 60 days, and 15% of the unpaid assessments that remain unpaid after 90 days" (Illinois General Assembly 2019*b*; see bottom of fig. 1). Finally, unpaid debts can accrue interest: "A default in payment of a fine, fee, cost, restitution, or judgment of bond forfeiture shall draw interest at the rate of 9% per annum" (Illinois General Assembly 2019*a*).

These details are the fine print of monetary sanctions. They are like the "contractual detail buried in contemporary credit card agreements [that] stymies most nonlawyers" (Carruthers and Kim 2011, p. 247). These "high-cost consumer transactions that are hidden or appear unremarkable" (Fergus 2018, p. 95) are commonplace in the era of financialization.

These details were not announced in the courtroom or explained on the sentencing orders. Judges indicated the referral to collections with the vague phrase "with fines and fees to stand" or that fines and fees would be "reduced to judgement." If given the opportunity, when defendants reached their due dates they readily opted to stop the monthly court appearances and payments at the clerk's window. But they were not yet free. The debt followed them, accruing additional financial penalties that would make it even harder to pay. The financial judgment against them also created "feedback loops of disadvantage" (Haney 2018, p. 4; also see Herring, Yarbrough, and Alatorre 2020). As one defense attorney told us: "Usually they'll put, even on the file, the judges [will put] 'fines to stand,' so that the clerk will go after that person civilly. Then it becomes a question down the road if that person tries to expunge the supervision. The judge granting the expungement could look at the fact that they never paid their fines and costs and say, 'You have to pay your fines and costs before I will expunge it from your record.'" Freedom is pushed further into the future, a commodity out of reach for many low-income defendants.

Some defendants reached their due dates and paid. The case of a Latino man was up in a Chicago courtroom for an offense that was not announced aloud. The state's attorney read from his file that the man had completed 90 hours of community service, alcohol/drug treatment, and a victim impact panel. He had paid $1,015 in court fees and owed only $13.89, which the defendant said he could pay that day. The judge offered his congratulations and directed him to the secretary of state's office to get his license reinstated. Similarly, a white man in his forties who had completed his payments was up for a hearing in another Chicago courtroom. The judge proclaimed: "Another success story, Mr. O'Keefe, Congratulations. Probation is terminated satisfactorily. Good luck to you Mr. O'Keefe." Congratulatory sentiments mark the attainment of something important, and the good luck wishes clarify the termination of entanglement with the law. At the same time, the financial accounting recited at these final appearances illustrates the commodification of freedom. It is the culmination of a process of charging, billing, and paying that borrowed heavily from the repertoire of retail and financial institutions. For the many people who never reached this celebratory day, their unfreedom was sustained not through prison bars or ankle bracelets but through technologies and rituals of financial debt.

## DISCUSSION

How does the analogy of layaway deepen our perspective about the worlds being analogized—courts and processes of financialization—and how might it help to think causally, as Stinchcombe (1978) intoned? Below we lay out some extensions of our model that push both economic and criminal legal sociology.

Becker (1968, p. 180) rather blithely recommended fines as a criminal justice sanction, writing: “Fines produce a gain to [society] that equals the cost to offenders, aside from collection costs, and so the social cost of fines is about zero, as befits a transfer payment.” As our detailed recounting of layaway freedom shows, the social cost of monetary sanctions is far from zero. The collection costs (in judge and staff time and courtroom maintenance) are considerable, the affronts to fairness are manifold, and the coordination with private agencies creates new stakeholders. Beyond Becker’s aseptic calculations, a foundational postulate of economic sociology is that “inserting money into a situation has consequences” (Carruthers 2010, p. 54). So, what are the consequences of using money as a criminal legal sanction? Our analysis of time as an integral feature of payment plans shows that monetary sanctions are not additive but multiplicative of other criminal punishments.

The standard criminal penalty focuses on time—jail time, prison time, or number of hours doing community service or taking rehabilitative classes. Individuals have an equal store of time. Everyone has 24 hours in a day, 7 days in a week, and 365 days in a year. (We will set aside inequalities in life expectancy by, say, gender and race.) Unquestionably, the value of people’s time differs both in monetary (e.g., wages or forgone remunerative activities) and sentimental (spending time with one’s children vs. one’s coworkers) ways. While the relative pain caused by encumbering time might vary across individuals, the objective punishment as a proportion of the store of time is always equivalent. Ninety days of incarceration for a stockbroker and a street sweeper is the same 2,160 hours, roughly three months, and roughly one-fourth of a year. People’s store of money, however, is vastly unequal. Whether through wages, inheritance, public benefits, or informal/illegal income, everyone does not have the same amount, and the distribution is wide. Making monetary sanctions an integral part of criminal sentencing bakes these vast inequalities in stores of money into regimes of punishment.

As we have shown, layaway freedom combines sanctions of money and time. Layaway is a financial product marketed to those with lower stores of cash who thus must finance a purchase over a longer horizon of time. Such contracts are not free, however, and thus layaway often costs low-income consumers more than the item’s sticker price, digging deeper into their store of money, which is already lacking. The well-to-do have sufficient money to buy things right now. Exploiting the layaway analogy helps to highlight that those who can pay their LFOs outright experience one domain of punishment (monetary), while those who cannot pay experience two domains—money and time. Moreover, the initially uniform and standardized money sanction (as illustrated in fig. 1) grows more unequal given the additional costs of layaway, represented for defendants as collection and late fees. The additional time under court supervision also incurs additional costs in transportation, wages, childcare, meals out, and so on. Only through attending closely to the financial rituals that defendants are compelled to enact can we recognize the compounding effects of monetary sanctions and how they introduce profound inequalities into criminal sentencing. The analogy, then, uncovers a "causally interesting statement": disparities in ability to pay court fines and fees cause inequalities in the total burden of criminal punishment that are multiplicative, rather than simply additive. Further testing of the hypothesis could be rendered through additional comparative cases in other jurisdictions or through detailed representative data (at the county or state level) that quantifies total amounts paid (including late fees and interest) and total time under supervision for defendants of varying income levels but with the same initial sentence.

Money also commodifies. Money creates a quantitative index of value. Economic sociologists have illustrated the commodification of both market and nonmarket objects and relationships, from reproductive material to human life (Almeling 2011; Zelizer 2013). Monetary sanctions index the value (or the negative value) of criminal offenses. The schedule of prices in figure 1 illustrates the transformation of proscribed actions into monetary penalties. While beyond the scope of our data, future research might interrogate how lawmakers decide that driving while drunk merits an assessment of $1,709, whereas sexual assault (of the felony or misdemeanor sort) deserves $400–$500 less in punishment. In other words, how do legislators commensurate criminal acts to money (Espeland and Stevens 1998)? And how do these differing monetary punishments relate to the financial wherewithal of their most frequent offenders? As Zelizer (2013, p. 14) notes about the commodification of human beings: "No straightforward price-setting market exists for valuation of human life—and therefore for the loss of life—the way a price-setting market values gold or other commodities." The same can be said about crime, and probing the methods of commensuration among legislators, the publics they represent, and the court actors who impose LFOs could yield interesting findings about ideologies of responsibility, culpability, victims, and evil. Our purpose here, however, is to push the sociology of commodification to see how fundamental rights can also be commodified, and can be priced out of reach, just as in the formal market where the costs of daily living are out of reach for a large proportion of the population. Once commodified, market practices like credit—and the private actors who administer them—quickly follow to transform the social problem of affordability (or racism or underdevelopment) into complex money problems. Financing freedom through layaway-like arrangements, however, is unlike financing car parts or a dress. The stakes are much higher, and the relationship of social control that debt entails in the market sector reaches the ultimate expression of power in the criminal legal system.

The high stakes in the courts is (partially) what makes layaway freedom a form of coercive financialization. Foregrounding courts as a site of financialization problematizes arguments about a growing cultural acceptance of individual financial risk-taking, asset maximization, and leveraged lifestyles (Davis 2009). Layaway freedom instead emphasizes the forced nature of many financial arrangements. The idea of force is latent in some of the existing literature on financialization (Fligstein and Goldstein 2015). It is most salient in the discussion of debt among middle- and low-income individuals who "are being forced into borrowing by circumstances not to their liking (and often not of their making) and are suffering keenly as a consequence" (Hodson, Dwyer, and Neilson 2014, p. 333). Bringing force to the fore opens the door for research on topics in which coercion may be more subtle than in the criminal legal system but nonetheless consequential. As financialization trickles down to lower-income populations, services like payday loans and pawn shops represent last resorts for accessing the necessities of daily life. In the face of unaffordable medical bills, people may refinance their homes or agree to disadvantageous repayment plans with hospitals as a last resort. Dubiously marketed reverse mortgages call into question the intentionality and voluntariness of lower-income older borrowers confronting the meager provisions of social security. Even mandatory 401k or pension contributions might be conceptualized as coercive, especially recognizing the paradox that working-class people buy shares in companies that often lobby to keep their wages low or bust their unionizing efforts (Langley 2008*b*). Layaway freedom offers just one example of these broader experiences of coercive financialization.

## CONCLUSION

Monetary sanctions get the government in the business of extending credit and of using state resources and private firms to recoup that debt. The qualitative data analyzed here show how this financialization of the court system suffuses court practices with talk of charges, bills, payment plans, and due dates; amplifies control through the power differentials essential to credit arrangements and the internalization of the responsibility attendant to debt; and puts a price on freedom that allows those with money to exit quickly and keeps those without in a condition of "perpetual punishment" (Harris 2016,

p. 2). It also opens the doors of the court to private billing enterprises, technology companies, and collections agencies.

Studies of financialization and credit have underappreciated the direct involvement of the state—and specifically the justice system—in creditor-debtor relationships at the microlevel and the performances and inequalities that result. Coercive financialization as a concept can also travel beyond the most punitive of institutions to help understand how situations of severe lack and unmet basic needs force people into disadvantageous and controlling financial arrangements. The criminal legal scholarship on monetary sanctions and the processing of poor defendants has not located LFOs within the broad spread of financialization as a method to avoid redistribution by privatizing risks and burdens. Unlike the government-backed credit that allows people to buy homes, save farms, and go to college, the kind of debt created in the courts is on the losing end of redistribution (Katzenstein and Waller 2015; Pattillo and Kirk 2020), further impoverishing poor defendants and opening the courts for financial services firms to capture new clients. This article brings these literatures together to illustrate how freedom is withheld (or postponed) by coercively applying the trappings of financial discourse and engagements.

Finally, the regularity of financial activities in the courtroom illustrates how "neoliberalism envisions the state as a site for the application of market principles" (Soss, Fording, and Schram 2011, p. 21; also see Wacquant 2009) in a coercive way. The privatization of criminal legal functions is further evidence of this phenomenon (Gilmore 2007; Harris, Smith, and Obara 2019). Layaway freedom pinpoints how particular market forms have gained traction in the public sector, from the pen of Gary Becker to the courtrooms of Illinois and beyond (Brown 2015). Coercive financialization generalizes layaway freedom to other domains and illustrates how states and markets attempt to make social problems disappear under the machinations of finance. As defendants are transformed into debtors, the details of the original offense are evermore abstracted from the processing of accounts. And after jail stints and probation terms, freedom for many defendants remains out of financial reach.

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