

CONTENTS

*List of Tables* · xi

*Preface* · xiii

	Introduction	1
CHAPTER 1	Different Paths to the Same Courts	31
CHAPTER 2	Disadvantage and Withdrawal	64
CHAPTER 3	Privilege and Delegation	102
CHAPTER 4	Punishing Withdrawal, Rewarding Delegation	136
	Conclusion	178

*Appendix. The Study's Methods* · 197

*Notes* · 225

*References* · 255

*Acknowledgments* · 277

*Index* · 283

# Introduction

DREW, A WORKING-CLASS black man in his early thirties, is no stranger to the legal system.<sup>1</sup> When we met in fall 2018, he told me that he had been arrested numerous times in Mattapan and Dorchester, two predominantly black and low-income neighborhoods in Boston, Massachusetts. When he was in his twenties, he had served several years in state prison for gun possession. Months before I met him that fall, Drew had been arrested on another gun possession charge. He had been stopped by the police for rolling through a stop sign. He sped off when the police asked to search his vehicle. After a short chase, he was apprehended, along with an unlicensed firearm. This time, he was desperate not to return to prison. Over the years, speaking with friends in his neighborhood and in prison, Drew had gained much knowledge about his legal rights and the potential court process ahead of him. He wanted to use this knowledge at trial to beat his current case. But, as he would soon come to find, his own legal knowledge would not be of much use in the criminal courts—in fact, his efforts to exercise his legal rights would often backfire.

The day he was arraigned on the new gun charge, Drew remembered growing frustrated. His lawyer at the time, a white male public defender with nearly a decade of experience, did not seem to be listening to him. The prosecutor relayed the allegations of the traffic stop and short chase as she asked the judge to set a several-thousand-dollar bail. She argued that the judge should be aware that Drew was currently facing another gun charge that had yet to be resolved. But this claim was inaccurate: Drew's unresolved case involved possession of an illegal knife, not a gun. Drew grew livid, fearing this mischaracterization would provide the judge an excuse to set a higher bail amount. He urged his lawyer to correct the prosecutor's misstatement. But his lawyer did not have a chance to do so before

the judge ruled. Although the judge ultimately set bail at an amount he could afford, Drew was angry. His lawyer seemed indifferent to him and his case.

Drew knew of another lawyer whom he trusted more—another white male public defender named Tom who was already representing him on his knife case (which, it turns out, would be dismissed later that same day). Drew asked Tom to represent him on the gun charge. Tom had a “reputation” for fighting for his clients, Drew later told me. Tom agreed to represent him on the gun case. Over the next few months, they worked well together. During one of their meetings at the public defender’s office, I watched as they spent an hour and a half discussing Drew’s new job, the details of his arrest, his allegations of police corruption, and what possible motions—procedural requests to the judge to rule on certain matters that pertain to the case, such as whether to permit certain forms of evidence at trial—they could file. Drew listened, and at times he spoke excitedly, gesticulating with his tattooed arms when talking about the unfairness of the police. It was Drew who had suggested they pursue a motion to dismiss the charges on the grounds that the police did not provide sufficient evidence to the grand jury. He also wanted to expose the officers’ corruption through another motion, in which they would present evidence that the officers who arrested him exhibit a pattern of racial bias in their traffic stops. But Tom would never get to argue this motion, because their relationship would “hit a bit of a rocky patch,” as Tom put it.

Over the next several months, Drew and Tom experienced multiple moments of tension and disagreement before their relationship ultimately ended. In one meeting, Tom suggested that Drew take a plea deal. Tom explained that the prosecutor would drop one of the charges (which contained a mandatory minimum sentence of several years in prison) in exchange for his guilty plea on the gun charge. If he took the deal, he would likely serve far less time in prison than if he were convicted at trial. But Drew had always been insistent on taking the case to trial. He did not want to hear about a possible plea. “He started to really push back,” Tom recalled. At one point in the meeting, Drew told Tom that he felt their relationship was on the skids and that he needed a new lawyer. A week later, Drew texted Tom, hoping to reconcile. They agreed to continue working together and to focus on winning their pretrial motions.

But during one of the motion hearings, things fell apart for good. One of the police officers did not show up to the hearing; the judge asked Tom and the prosecutor to approach the bench and discuss why the officer was not present and how they would like to proceed. Drew wondered aloud

why their conversation needed to be held privately at the judge's bench. The judge ignored his comment, and Tom whispered to Drew that he would share what they discussed. But Drew, with his jaw clenched and his hands in his pockets, blurted out: "This is my life we're talking about here." The judge told him to take his hands out of his pockets. Drew did not budge. Tom pleaded for him to comply. "I heard him," Drew said and slowly removed his hands. After this incident, Tom decided to stop serving as Drew's lawyer. Tom later explained:

I can't manage him, and I can't litigate his case effectively if at every moment I fear there's an outburst that'll intrude upon my litigation. . . . He's threatened it at trial. He would stand up on the witness stand himself and tell the jury his own thoughts about how fucked up these officers were. And I said, "You realize that may not be possible because there are rules that govern trial." And he said, "I don't care."

At Drew's next court date, the court assigned his third lawyer. According to Tom, the lawyer on duty that day was "passive" and "not very competent." Drew's case "could drag on indefinitely," Tom suspected.

Drew's experience with his defense attorney is common among the poor people and working-class people of color I met over several years of research on the Boston-area court system. Like Drew, many disadvantaged people feel that they cannot trust their defense attorneys. They often attempt to work around their lawyers. Using the legal knowledge and skills they have cultivated in their communities, in jail or in prison, and in their all-too-frequent encounters with the law, they seek to advocate for themselves. But defense attorneys—caught between the expectations and power of prosecutors and judges, on the one hand, and the hopes of their clients, on the other—often ignore, silence, or even coerce defendants who attempt to do so. Lawyers' efforts to control their clients are often well intentioned: passionate defense attorneys view their jobs as reducing their client's legal costs, costs that can result from the exercise of certain legal rights. But for many defendants, such control far too often feels like punishment, and more is at stake than formal legal outcomes. Thus, disadvantaged people are stuck in a bind: they feel they cannot trust their lawyers to help them, and when they try to help themselves, they face negative consequences. The stories of people like Drew reveal how important the attorney-client relationship can be for disadvantaged criminal defendants in court.

Meanwhile, privileged people's experiences with their lawyers and the court are quite different. Their attorney-client relationships are just

as central to their experiences, but for the better. Take, for instance, the experience of Arnold, a middle-class black man in his twenties. In another courthouse, situated in a mostly white town west of Boston, Arnold was facing his own gun possession charge. He had been driving home to Boston from a vacation in New York when he and a couple friends were pulled over by a state trooper. The trooper alleged that the car had been stolen, providing probable cause to search the vehicle. After a search, the trooper found an unlicensed gun in the trunk. Arnold was shocked. He had borrowed the car from a friend and did not know about the gun, as he would later explain to me. Indeed, Arnold's fingerprints were never found on the weapon. At the time of his arrest, Arnold had been working as a freelance writer while training for a career as a professional basketball player—a dream since college. With the help of his basketball agent and his family, he was able to pay thousands of dollars to hire a private lawyer rather than rely on the public defender the state had initially appointed him.

Arnold got along quite well with his private attorney, a young-looking but serious white man named Brett. Like Arnold, Brett had also played college basketball. This shared experience was a huge comfort for Arnold. “He actually had a previous understanding of who I was as an individual and athlete. He was a former athlete himself,” Arnold reflected. This background mattered because it helped to contextualize his trip to New York and his affiliation with his friends in the car, who happened to have criminal records:

I knew he could understand the dynamics, which would not necessarily be understood. Because most people wouldn't understand why I would be going to New York with no money in my pocket with a couple of people who were basically convicted felons on paper, you know? But he knew I had suffered an injury and was going through a period where I was leaving one situation and entering another stage—this transition period [from being a] college athlete.

Their shared experiences made Arnold “confident of what he [Brett] was doing” as a lawyer. As part of his legal practice, Brett also worked as a bar advocate, meaning that in addition to his work as a private lawyer he also served as a court-appointed lawyer for indigent clients. Bar advocates in Massachusetts are often conflated with public defenders among people who do not pay for their services; one main difference, however, is that public defenders are salaried state employees, whereas bar advocates are contracted hourly by the state. To many poor defendants, they are all “public pretenders” anyway. For Arnold, paying for Brett's services put him

at ease regardless of his simultaneous work as a bar advocate. “In hiring him and paying him a huge lump of money, there is a certain level of trust there,” Arnold told me.

Arnold and Brett met regularly over the course of his case; their meetings were productive and agreeable. It was Arnold’s first time in court for a crime that held the possibility of jail time. He was worried. He did not know much about the law, his legal rights, or how best to choose among various legal options, but Brett helped to fill his gaps in understanding. “He’s broken things down even further than most people have,” Arnold said. Together, they worked through possible motions. One motion sought to prove there was no reasonable suspicion for the stop. During the motion hearing, Arnold watched as Brett caught “the police officer lying” (in Arnold’s words) about one element of the stop. He was impressed and hopeful. Although the judge denied the motion, Arnold continued to have faith in Brett, insisting that if they could not make the case go away through motions, then he wanted to go to trial. He understood the risk of jail time but was adamant about his innocence. Brett agreed. Brett felt, as he later told me, that the only reason Arnold and his friends were stopped was “because they were black.” When the prosecutor offered a plea deal, Brett rejected it on Arnold’s behalf. They both felt the case was winnable in front of a jury.

On the morning of his trial, Arnold was sitting nervously next to his mother in the courthouse’s front hallway. She was dressed in a dark gray pant suit and wore her hair in a ’fro. Arnold was wearing a navy blazer, a tie, fitted khakis, and brown loafers. As the three of us waited for Brett to arrive, a middle-aged white man started a conversation with Arnold. “What are you here for today? Jury duty?” he asked. Arnold politely shook his head and tried to change the subject. Brett arrived just in time, and we huddled in his direction. Brett had just learned that the judge in the trial session that day was a former defense attorney; he wondered aloud whether Arnold would like to do a bench trial instead of a jury trial. Arnold thought for a second, then looked to Brett and asked, “What do you think I should do?” Brett explained the benefits of a bench trial. In a bench trial, the judge, rather than a jury, would rule on his guilt. Brett suggested that taking a chance with this former defense-attorney judge was less risky than taking a chance with what appeared to be an all-white jury pool. Without hesitation, Arnold said, “Okay, let’s do it. I trust you.”

Later that day, Arnold’s case would be called twice before the judge—once for Arnold to state that he would like a bench trial and another time for the trial to begin. During the trial, Arnold sat quietly upright at the

defense table as Brett made opening arguments, cross-examined the trooper, and made closing arguments. After the prosecutor made her closing arguments, the judge was ready to rule. He quickly found Arnold not guilty, stating that even though the trooper had probable cause to stop the car, there was not enough evidence that Arnold possessed the firearm. Arnold exhaled in relief. From the back of the courtroom, near where I was seated, I heard his mother whisper, “Thank you, judge. God bless you.”

Arnold’s experiences with his lawyer and in court contrast sharply with Drew’s. Although both men faced gun possession charges and both men were desperate to avoid legal punishment, their attorney-client relationships unfolded in divergent ways. Their social positions in American society brought different life experiences and access to different kinds of resources. Commonly, scholars and ordinary people conflate the experiences of people of color, especially when it comes to the criminal legal system.<sup>2</sup> Although both Drew and Arnold felt they experienced racism in their encounters with the law, particularly in their experiences of policing, Arnold was able to leverage class-based resources and experiences unavailable to Drew. Ironically, Arnold’s relative lack of knowledge about the law and willingness to defer to his lawyer afforded him relative ease in his court experience. By contrast, Drew’s knowledge of his legal rights and various legal procedures often backfired, fostering mistrust of his lawyer and, ultimately, resulting in difficulties navigating the courts. These differences are rooted in the intersections of their classed and racialized experiences in American society and in interactions with their lawyers and other legal officials. Of course, other details about their cases differed, such as their actual innocence and their prior criminal histories. These differences are important elements that are also rooted in inequalities and that undoubtedly shaped their divergent trajectories through court. And yet, the differing quality of their attorney-client relationships was also a key component of how those trajectories unfolded.

This book examines how race and class inequalities in society are embedded in and reproduced through the attorney-client relationship, a defendant’s most important relationship in court. I draw on interviews and courthouse observations among criminal defendants from various walks of life and among various kinds of legal officials (including lawyers, judges, police officers, and probation officers) living and practicing in the Boston, Massachusetts, area. By analyzing their experiences, this book develops a detailed understanding of the way privilege and inequality work in court interactions. Much of what we know about the interactional dynamics of privilege in American society comes from research on mainstream

everyday institutions, such as schools, workplaces, and doctor's offices. We know that when middle-class people interact with these institutions, they tend to be assertive and demanding.<sup>3</sup> They exhibit entitlement when asking for accommodations to the rules, such as exemptions from homework in school, and are unafraid to ask for more resources, such as medical attention.<sup>4</sup> Meanwhile, the working class and poor, scholars argue, tend to defer to institutional authorities and rarely make demands for accommodations or extra resources. This typical understanding of privilege and inequality in institutional interactions, however, cannot fully account for Drew and Arnold's divergent experiences with their lawyers and the court.

The criminal courts are now an all-too common institution in people's lives; and yet, privilege works differently here. In the courts, it is the disadvantaged who are demanding and seeking accommodations through their attempts to advocate for themselves in court and exercise their legal rights, whereas the privileged defer to their lawyers and the court's authority and have little knowledge about criminal law. Inequality exists in both the content of these attorney-client relationships and in their implications. Race and social class inequalities are *constituted* in the numerous tiny moments between lawyers and their clients.<sup>5</sup> In other words, the different experiences privileged and disadvantaged people have, and the meanings they make from them, are themselves markers of inequality. Whereas the privileged tend to experience attorney-client relationships like Arnold and Brett's, the disadvantaged tend to experience relationships like Drew and Tom's. Not only are these relationships markers of inequality, but they also have implications for inequality. The attorney-client relationship *reproduces* race and class inequalities.<sup>6</sup> For the disadvantaged, a relationship with a lawyer often results in coercion, silencing, and punishment. For the privileged, a relationship with a lawyer often results in leniency, ease of navigation, and even some rewards. Therefore, race and class disparities in legal outcomes likely emerge, in part, from the taken-for-granted and hidden rules of the courts, which discriminate between defendants based on how they interact with their lawyers and present themselves in front of judges.

I define disadvantaged people as those who live in neighborhoods with high levels of punitive police surveillance and who have routine (and often negative) experiences with the legal system, limited social ties with empowered people, and limited access to financial resources. Privileged people, by contrast, are those who have access to empowered social ties and financial resources and who rarely have negative encounters with police or other legal officials.<sup>7</sup> These dimensions of privilege



and disadvantage vary along traditional axes of racial (e.g., black/Latino/white) and socioeconomic (e.g., middle-class/working-class/poor) stratification among the people in this study. Much like other sociologists, I define middle class as having a four-year college degree and stable employment; working class as having stable employment but less than a college degree; and poor as lacking both a degree and employment.<sup>8</sup> In the pages that follow, I share the experiences of sixty-three defendants—some who are disadvantaged people of color struggling to make ends meet, and others who are white and/or middle class, from aspiring basketball players to nurses to investment consultants, who have fallen on hard times and wound up facing a criminal charge. As we will see, middle-class people of all racial backgrounds (like Arnold) and white working-class people in this study tend to fall into the privileged category with respect to attorney-client relationships, whereas working-class people of color (like Drew) and the poor of all racial backgrounds tend to fall into the disadvantaged category.

Throughout the book, I adopt a situational approach, paying careful attention to the intersections of race and class inequality as felt in interactive moments among the people I met and as enacted by the hidden rules of the court.<sup>9</sup> Privilege and disadvantage are better understood as characteristics of the situations in which people often find themselves rather than as fixed characteristics of individuals.<sup>10</sup> One characteristic of inequality that this book does not fully examine is gender. Men in the United States, especially poor black and Latino men, are more likely to face various forms of punishment—from policing to incarceration—than women. And yet, when compared to others, our country punishes women more harshly than other countries punish their average citizens, of all genders.<sup>11</sup> Indeed, as part of my research, I met eleven women defendants whose experiences I have included and analyzed alongside those of the fifty-two men defendants in the study. Although I do not find systematic differences between men and women, a different study with greater gender diversity might uncover important, and even counterintuitive, realities about gendered interactions between lawyers and their clients.<sup>12</sup> The focus of this book, however, is on race and class inequality—enduring features of inequality in the criminal legal system.

This book is about *injustice* as much as it is about inequality. Over the past forty years, the number of people arrested, processed in court, and incarcerated has skyrocketed. This increase in punitive legal control has disproportionately impacted poor and marginalized communities of color. The experiences of Drew, Arnold, and the other people in

this book take place in a uniquely punitive moment in American history. This moment, as it is experienced in our courts, raises fundamental questions about fairness and justice. As we will see throughout the book, legal representation alone does not ensure justice. The disadvantaged, who are afforded court-appointed attorneys by law, nevertheless find themselves in attorney-client relationships that are fraught, commonly resulting in unfavorable legal outcomes and almost always leaving defendants feeling unheard and resentful. The mere fact of being represented by a lawyer, for the disadvantaged, is not a means to equitable outcomes. For the privileged, however, a trusting relationship with an effective lawyer is often accompanied by a reduction in one's sentence or—far less often, but still possible—a not guilty verdict. The inequality between the two groups is unfair and could be remedied, but all is not well for the privileged either. A positive attorney-client relationship cannot make up for the stigma, lost resources, and stress that comes with court processing. Among almost all the defendants I met, the court process rarely contributed positively to their rehabilitation, willingness to admit fault for their crimes, or efforts at repairing the harm they caused their victims. The injustice of the courts, I have come to realize, extends well beyond the inequalities disadvantaged defendants face.

### *The Courts in an Era of Mass Criminalization*

Countless books, articles, and essays have been written about “mass incarceration.” The term speaks to the sheer size—unmatched both in American history and anywhere else in the world—of our incarcerated population.<sup>13</sup> Beginning as early as the 1960s, the US federal government and state governments shifted from investing in social services to investing in punitive programs and policies meant to control the poor and other stigmatized groups, particularly young black men. Jail and prison were increasingly seen as the best-available tools for dealing with social problems and harms such as drug use, civil disorder, poverty, and various forms of violence, which appeared to be increasing during that period. Incarceration rates began rising in the late 1970s and peaked in 2008, but more than a decade later, the United States continues to have the highest incarceration rate in the world. In 2016, 450 of every 100,000 residents in the country were incarcerated in state or federal prisons; in 1978, that number was 131.<sup>14</sup> Although incarceration rates have slightly declined in the past decade, the number of people incarcerated in prison, jail, and other detention facilities today totals more than two million.<sup>15</sup>

This present era of punitiveness extends far beyond the prison. Beyond incarceration, other forms of punitive legal control have similarly expanded over the past forty years. State and federal governments have invested more and more resources in policing, pretrial detainment, probation, and parole.<sup>16</sup> Meanwhile, local jurisdictions have used criminal fines and fees to raise revenue.<sup>17</sup> In 2015, nearly 4.7 million adults were on probation or parole, which are forms of legal control that often require people to abide by certain conditions—such as drug testing or GPS monitoring—to remain in their communities rather than be incarcerated.<sup>18</sup> In the same year, nearly a million people over the age of sixteen had been arrested in the past twelve months, and 53.5 million experienced some form of contact with the police.<sup>19</sup> Instead of mass incarceration, then, we can speak of *mass criminalization*, or the use of an array of punitive legal techniques and institutions—from policing to court-manded probation and parole to incarceration—that have affected a broad swath of Americans. Lawyer and social activist Deborah Small contrasts the term “mass criminalization” to the term “mass incarceration,” noting how the former is a broader term that “includes the expansion of law enforcement and the surveillance state to a broad range of activities and settings.”<sup>20</sup>

Mass criminalization emerged from a confluence of social and political shifts in the mid to late twentieth century. Partly motivated by a rise in crime rates in the 1960s, the government shifted from social welfare provision to punishment.<sup>21</sup> Federal and state governments stopped investing in social initiatives, such as job programs, housing, and neighborhood revitalization, and started investing in punitive programs, such as police militarization, prison expansion, and the imposition of fines and fees meant to manage “dispossessed and dishonored populations.”<sup>22</sup> Young urban black men, portrayed as uniquely deviant and violent, were used as props by multiple presidents and numerous congresspeople to motivate public support for political campaigns, perhaps most infamously the war on drugs.<sup>23</sup> “Between 1982 and 2001, the United States increased its public expenditures for police, criminal courts, and corrections by 364% (from \$36 to \$167 billion, or 165% in constant dollars of 2000) and added nearly 1 million justice staff,” writes sociologist Loïc Wacquant.<sup>24</sup> Despite a dramatic decline in crime rates beginning in the mid-1990s, this instinct toward punishment has largely remained in place into the twenty-first century.<sup>25</sup>

Poor communities of color have been disproportionately and negatively impacted by mass criminalization.<sup>26</sup> Arrest and incarceration rates are higher among blacks and Latinos compared to whites and among those with lower levels of education compared to their better-educated peers.<sup>27</sup> At the same time, mass criminalization has been felt across demographic

groups. Legal control has expanded so much that people who have had contact with the criminal legal system come from all walks of life. Over the past several decades, members of more privileged demographic groups—even if they are not the intended targets of punitive governmental policies—have been pulled into the system in increasing numbers. For instance, the rate of incarceration has slightly increased among highly educated men. About 5 percent of black men with some college education born in the 1940s experienced incarceration by their mid-thirties, compared to over 6 percent of similarly educated black men born three decades later.<sup>28</sup> Among white men, these numbers tripled—from 0.4 percent to 1.2 percent. The percentages of black and white men with some college education who have been incarcerated seem small, but they represent hundreds of thousands of people. Moreover, the geographic location of criminalization has expanded from urban, mostly black areas to whiter suburban and rural areas.<sup>29</sup> Criminalization appears to be expanding its demographic reach.

This dual reality—the disproportionate criminalization of poor people of color alongside increased criminalization of more privileged groups—also manifests, not surprisingly, in the courts. Numerous studies show that the courts tend to magnify race and class disparities at arrest, translating them into more pronounced disparities at incarceration.<sup>30</sup> Black people, Latinos, and the unemployed receive harsher court outcomes than similarly situated white people and employed people who happen to be brought into court.<sup>31</sup> From the prosecutor's decision to charge a person for a crime to the judge's decision to sentence someone to probation or prison, disadvantaged defendants often fare worse. The data vary by court jurisdiction and crime type, but they nevertheless paint a consistent and overarching portrait of inequality in the courts that cannot be fully explained by differences in legal factors, such as the nature of the offense committed or the defendant's criminal record.<sup>32</sup>

These big-picture statistics are damning enough, but my concern in this book is different. I offer another vantage point—a look at how race and class inequalities in the criminal courts are experienced on the ground. Doing so requires an analysis of everyday experiences, not just an analysis of macrolevel trends. It requires moving from the quantitative and abstracted toward the qualitative and lived. It requires asking not just how many white people, black people, or poor people are represented in the nation's police stations, courts, and prisons in any given year but also how these different groups of people experience the criminal legal system when they are up against it. It requires assessing how the advantages and disadvantages of occupying particular race or class categories in everyday

life spill over into the way people experience being sorted by the criminal legal system.

We know an increasing amount about the courts as an organization and how court officials (that is, judges, prosecutors, probation officers, and defense attorneys) make decisions; but we know far less about the other side of the equation—the experiences of defendants. When a person is arrested and charged with a crime, they become designated, by law, as a defendant who is legally presumed innocent until they are convicted. Popular and scholarly accounts of the courts portray defendants as passive consumers of legal sanctions, constrained by powerful forces beyond their control. Courts are oft imagined as processing institutions—simple machines, spitting out convictions with little care for the particular circumstances or factual guilt of the defendant.<sup>33</sup> Even when cases receive individualized attention, the process is thought to move quickly for most defendants and to provide little room for negotiation. At best, only the most privileged defendants can afford lawyers who exercise every legal avenue on their behalf, heroically litigating motions and prompting days-long trials. Meanwhile, most defendants have their cases adjudicated through plea deals or dismissals, which are thought to involve little, if any, participation from defendants. There is a reason these narratives are taken for granted—there is much truth in them. And yet, while common narratives speak to certain realities of our nation’s courts, they are incomplete.

This book offers a corrective to this literature by describing the many ways defendants exert agency during the court process in the face of various constraints and opportunities.<sup>34</sup> Shifting attention toward the defendant as an undertheorized actor, I examine defendants’ experiences of the court process through the lens of their most important relationship in court: the attorney-client relationship. My argument departs from how most academics have come to understand and study the criminal courts, precisely because of my attention to defendants’ interpretations of, and interactions with, their lawyers. Just as schools cannot be understood only from the perspective of teachers or workplaces only from the perspective of employers, courts cannot be understood only from the perspective of court officials. Scholarship on workplaces, schools, and other institutions is growing more comprehensive, affording us a better understanding of the complexities of all kinds of relationships, and revealing how the exploitation between an employer and employee, for instance, is complex, often produced through interaction and rooted in fundamental power asymmetries. By peering into the attorney-client relationship, we can see the many ways defendants strategize, resist, and even consent with respect to the

power of officials and the hidden rules of the court process. Consequently, this book paints a more complete portrait of injustice as it manifests inside, and reverberates outside, the courtroom.

One of the earliest detailed ethnographies of the courts was sociologist Abraham Blumberg's 1967 book *Criminal Justice*. Before its publication, many scholars and journalists assumed that criminal courts involved vigorous trials and passionate disagreements between prosecutors and defense attorneys. Blumberg dispelled that myth and gave us the bleak vision of the courts that still prevails a half century later. He argued that most defense attorneys and prosecutors engaged in "justice by negotiation," whereby they relied on plea deals to quickly dispose of court cases. He characterized the courts as engaging in "assembly line" justice: overwhelmed court officials facing heavy caseloads disposed of cases quickly and with little attention to the unique features of a case or a defendant.<sup>35</sup> A gloomy portrait of rampant plea deals and the conviction of innocent defendants replaced the more dramatic (and desirable) narrative of defense attorneys zealously defending their clients at trial. Blumberg's findings also critiqued the then-common assumption that defendants could fight their cases if they had the right resources at hand. He argued that resources related to a defendant's class status—such as money or social esteem—had little influence on a defendant's legal outcomes. According to Blumberg, the processing bureaucracy did not differentiate between the rich and the poor.<sup>36</sup> And yet, racial and class disparities have remained a durable feature of the courts—a feature for which Blumberg's many important insights could not account.

In the 1960s and 1970s, the US Supreme Court expanded due process rights for criminal defendants across the country—rights that seemed destined to slow down the court process, provide greater leverage to defendants, and ensure the criminal law's fair application across social groups. These newly enshrined procedural rights included the right to a defense attorney, the right to remain silent, and the right to know about exculpatory evidence held by the prosecution.<sup>37</sup> In 1963, in *Gideon v. Wainwright*, one of the most celebrated rulings expanding the right to an attorney, Justice Hugo Black wrote:

From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble ideal cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him.<sup>38</sup>

Justice Black's opinion suggested that expanding the right to counsel would help to ensure "equal[ity] before the law" for poor defendants. Over time, the right to counsel has been extended to numerous stages of the criminal process, including police interrogations, arraignment, pretrial hearings, probation revocation hearings (in some states), and the plea colloquy.<sup>39</sup>

Despite these constitutional guarantees, researchers kept documenting more of the same: high plea rates, a lack of adversarialism, and coercion by defense attorneys. For instance, James Eisenstein and Herbert Jacob studied felony courts in Baltimore, Chicago, and Detroit in the early 1970s. They found that public defenders felt pressure to control their clients, given their high caseloads and limited time (state funding for the defender's office was based on the efficiency by which defenders disposed of their clients' cases).<sup>40</sup> Yet, in contrast to Blumberg's description of the court as an assembly line, Eisenstein and Jacob argued that defendants' cases—at least felony cases—did receive some individualized attention from officials seeking to determine whether they were truly guilty or innocent. Studying a lower court in New Haven in the 1970s, political scientist Malcolm Feeley also observed overworked defense attorneys and a preponderance of plea deals. He offered his own critiques of Blumberg and other scholars, arguing that high plea rates in courts do not necessarily suggest a lack of adversarialism. He showed that even plea deals involve sparring between defense attorneys and prosecutors. For instance, defense attorneys appeared to use motions and off-the-record negotiations to uncover the facts of the case and convince prosecutors and judges to be more lenient toward their clients.<sup>41</sup> Although he focused on the role of court officials in shaping these negotiations, he suggested that defendants might also play a role in influencing the process. He wrote: "The interests of the accused can also shape the outcome of a case. Many defendants are intense, and willing to do whatever is necessary to avoid conviction or minimize their sentence."<sup>42</sup>

A handful of interview-based studies conducted among defendants in the 1970s revealed pervasive frustration with lawyers (especially the new wave of indigent defense attorneys and public defenders, who emerged as a result of the recent Supreme Court rulings). Frustration, mistrust, and skepticism was especially common among defendants from disadvantaged backgrounds—the very people who were supposed to have benefited most from the Supreme Court's expansion of the right to counsel.<sup>43</sup> A study published in 1971 reflected this sentiment in its title: "Did You Have a Lawyer When You Went to Court? No, I Had a Public Defender."<sup>44</sup> Often, indigent defendants reported feeling that their attorneys pressured them



to take plea deals against their best interests.<sup>45</sup> Meanwhile, defendants who retained private attorneys reported higher levels of trust in their lawyers and a greater belief in their lawyers' legal competence.<sup>46</sup> More recent research has found that involvement is a key factor: when a defendant felt that their lawyer (whether court appointed or privately retained) allowed them to participate in their own legal defense, they were more likely to trust that lawyer.<sup>47</sup>

Since the late 1970s, the criminal courts have experienced even higher caseloads and more apparent racial and class disparities. Although racial disparities in incarceration, for instance, have been a feature of the criminal legal system since the beginning of the twentieth century, such disparities peaked in the 1990s nationwide and persist today.<sup>48</sup> These disparities also manifest in bloated courtroom caseloads and police arrest records, which vary from jurisdiction to jurisdiction. In New York City, for instance, broken windows policing in the 1990s—a proactive form of policing that focuses on policing disorder and low-level offenses rather than reacting only to serious offenses—resulted in a sharp rise in misdemeanor arrests, with racial disparities reaching their peak in 2007.<sup>49</sup> In Massachusetts, marijuana possession arrests in the first decade of the twenty-first century peaked in 2007 and sharply declined after decriminalization in 2009. Despite these reforms, racial disparities increased from 2001 to 2010. In 2001, black people across the state were 2.2 times more likely than white people to be arrested for marijuana possession and 3.9 times more likely in 2010.<sup>50</sup> In Suffolk County alone, where Boston is located, blacks were 4.8 times more likely than whites to be arrested for marijuana possession in 2010.

Recent qualitative and mixed-methods research on the court has begun to unpack these inequalities. In sociologist Nicole Gonzalez Van Cleve's 2016 study of the court system in Cook County, Illinois, she reveals how race is embedded in punishment.<sup>51</sup> She argues that prosecutors, judges, and even defense attorneys rely on racist moral labels to determine which defendants to punish and which to treat leniently. Defense attorneys—worried about their “street cred” among prosecutors and judges, which is necessary to obtain favorable plea deals for certain clients—participate in the court's racist culture by mocking their clients, treating them as burdens, and devoting time only to those deemed worthy of their advocacy. Sociologist Issa Kohler-Hausmann, in her 2018 study of misdemeanor courts in New York City, examines how today's courts responded to the rise in low-level arrests, a defining feature of the period of mass criminalization.<sup>52</sup> From 1980 to 2010, the annual number of people arrested in the



city for a misdemeanor nearly quadrupled. Faced with this bevy of new arrestees, but constrained by the same resources, court officials responded by sorting, testing, and monitoring defendants rather than adjudicating their guilt or innocence. The likelihood of being convicted of a misdemeanor decreased over the period, but an abundance of adjacent tools were refined and regularly employed by officials. These tools—creating misdemeanor arrest records, requiring frequent court appearances, issuing restraining orders, and requiring enrollment in drug abuse programs—only deepened the courts' investment in social control rather than justice, further entrenching existing inequalities.

While this research tradition has contributed to our understandings of the logics, tools, and actions of court officials and how they contribute to the function of the courts, scholars have far less understanding of how defendants and their interactions with lawyers play a role in the system. Interactions with lawyers are important features of the system that, this book argues, has profound implications for people's court experiences. To be sure, Feeley, Van Cleve, Kohler-Hausmann and others have hinted at defendants' agency in courtrooms.<sup>53</sup> And a handful of interview-based studies have provided important insights into defendants' attitudes about their lawyers.<sup>54</sup> But these studies, many of which were conducted in the 1970s, do not tell us how defendants think and interact today, in a time when they have greater access to legal resources and rights.<sup>55</sup> Moreover, studies drawing only on interview data do not afford sufficient insight into the complex dynamics of attorney-client interactions. We have yet to observe and unpack the small, yet important, moments of attorney-client interactions in private and in open court settings. What theoretical tools might we need to understand more fully the making of privilege and inequality in the attorney-client relationship?

### *The Perils of the Attorney-Client Relationship*

To understand how inequalities are constituted and reproduced between lawyers and their clients, we must examine the *relationships* between the two, rather than the attitudes or behaviors of one or another. I draw on cultural sociological theory and relational theory—two related sociological approaches that have been used by scholars to analyze the human relationships at the heart of a wide variety of other institutions.

Each defendant, as they make their way through the legal process, is faced with several consequential choices. Legal scholars studying the rights of defendants regularly note the myriad choices defendants are

theoretically afforded. For instance, they must choose (or refuse) legal counsel, have privileged conversations with their attorneys, consider their lawyer's proposed pretrial strategy, choose to take their case to trial or plead guilty, decide to take the witness stand, and consent to sentencing alternatives.<sup>56</sup> These decisions involve immense uncertainty and risk; each choice opens or forecloses further choices and uncertainties that have important implications in defendants' lives. And these decisions take place in an asymmetrical relationship (no matter how wealthy the defendant is), whereby lawyers often have more power to control the terms of interaction.<sup>57</sup> We can think of the choices of each defendant as being as constrained as they are consequential; thus, it is important to understand how they make their decisions, at what cost, and with what effect.

A defendant's choices and ways of engaging with the court are relational, meaning they unfold with respect to other social actors who have their own motivations, power, and constraints. Nothing in a courtroom happens in isolation. And the process is enacted by people. Despite popular portrayals of the criminal courts as processing machines, defendants do not stand before an inanimate system known as the "court" that mechanically dispenses one punishment after another. Rather, the court is a collection of humans—a judge, a prosecutor, a defense attorney, a probation officer, a court officer, and a court clerk—before whom the defendant must stand.<sup>58</sup> With their own professional and personal motivations, worries, and blind spots, these officials make decisions in relation to, and in expectation of, one another.<sup>59</sup> Outside the courtroom, each of these court officials belongs to broader organizations, such as the prosecutor's office or the defender's office, to which they must report. These organizations, in turn, have organizational policies that constrain the on-the-ground decision making of each official. These policies are themselves enacted in a relational way through directives from those in charge (e.g., a district attorney or a chief counsel) to their subordinates (e.g., assistant district attorneys and staff public defenders). Those in charge of these organizations are themselves constrained by legal policies created by their respective legislative bodies (bodies also made up of humans who have relationships to constituents, donors, and the like), and then upheld by appellate judges.<sup>60</sup>

The attorney-client relationship, in particular, is unrivaled in its significance for a defendant. It is the only relationship that legally protects every single interaction. Conversations between lawyers and defendants are privileged, meaning the lawyer is bound not to share any confidential information the defendant shares with them, save for statements about

plans to commit future crimes. Indeed, in Boston, public defenders send letters to their clients warning them that they should speak only to their lawyers—not even their friends or family—about their case.<sup>61</sup> No relationship is more fraught, despite, and precisely because of, its seeming import in the minds of defendants. Of course, defendants also have relationships with other court actors. They regularly appear in front of judges, who assess them and may speak directly to them. If they are on probation, they may have regular check-ins with probation officers, who report back to the court. They may even have informal relationships with court officers, who are law enforcement officers in courthouses and who can come to know repeat defendants by name. Yet, these other relationships are almost always mediated through their relationship with their lawyers.

Understanding how these relationships work is key to understanding race and class inequalities in the courts. Most scholarship on race and class inequality in court focuses on either defendants' individual attributes in isolation or court officials' individual attributes in isolation. Research in this vein has importantly documented, for instance, racism and classism—sometimes subtle, sometimes explicit—among lawyers, judges, and probation officers throughout the country.<sup>62</sup> Journalistic accounts, citizen-generated social media posts, governmental investigations, and appellate decisions have also uncovered officials' racism and classism.<sup>63</sup> Other research has shown how the attitudes of defendants, such as whether they ascribe to a “code of the street” mentality, and their material resources, such as access to private lawyers, can be associated with differences in sentencing outcomes.<sup>64</sup> Still other work simply documents the existence of unequal outcomes at various stages of criminal processing, from arrest and the bail decision to charge reductions and conviction to incarceration and sentence length. All this work provides important lenses into inequality. But these accounts do not provide *thorough descriptions* of how inequalities are constituted in everyday moments, nor do they provide *thorough explanations* of how inequalities are reproduced as attributes unfold, are challenged, and change in social interaction with others.<sup>65</sup>

When I first began research for this book, I was focused on individual attributes rather than relational processes, much like other researchers. I thought I would focus on defendants' perspectives and attitudes only. But I soon realized that their accounts were fully interpretable only in reference to their interactions with other people—their lawyers, mostly, but also the judges who sentenced them, the prosecutors who negotiated with their lawyers, and their family and friends. They were not moving through the courts with their own unchanging perspectives; instead,

they seemed to be both acting on and reacting to other people. Their actions emerged in anticipation of, and through their interpretations of, the actions of others—a fundamental insight about social behavior long theorized among interactionist scholars in sociology.<sup>66</sup> As I continued to gather more interviews and ethnographic observations, I refocused my analysis on the contingent and unfolding nature of attorney-client interactions. Some of these dynamics have been considered by scholars studying civil court contexts, such as divorce law and employment law, but not by those studying criminal court, where questions of state power and the loss of liberty are of great concern.<sup>67</sup> In many ways, more is at stake for clients in attorney-client relationships on the criminal side. I slowly came to see more fully what was at stake from various vantage points. I saw how tensions and concessions emerged as lawyers and clients from different backgrounds and social positions and with different things to lose came (and were often compelled) to interact with one another.<sup>68</sup> I also began to understand how court officials saw defendants as indicative of a particular social category, rather than as individuals, and made assumptions accordingly.

Let us return, for a moment, to the examples of Drew and Arnold. Understanding their experiences as relational (that is, in relation to their lawyers) provides deeper insight into their unequal court experiences than simply viewing their behaviors in isolation. Drew's relationship with his lawyer Tom can be understood as a *relationship of withdrawal*. The two of them experienced multiple moments of mistrust and tension that pulled them further from their mutually recognized goal of assisting Drew in altogether avoiding, or at least minimizing, legal punishment. Their mounting tensions can be understood as a dynamic I refer to as *withdrawal as resistance*. For Drew, his own legal ideas and strategies—his cultivated legal expertise—directly conflicted with those of his lawyer, not to mention the norms of the court. Multiple moments of conflict drove the relationship apart. At times, their disagreements related to the very definition of the goal of the court process, or what was at stake. For Drew, the goal was not just acquittal but also recognition of the bias of the police in arresting him in the first place. Resistance happens behind closed doors and in open court sessions. Other disadvantaged defendants, as I discuss in chapter 2, often experience another form of withdrawal—what I call *withdrawal as resignation*. Resignation arises less from a conflict between attorneys and their clients and more so from a defendant's exhaustion from striving to survive under oppressive conditions within and outside the legal system. Missed meetings and missed court dates, which frustrate lawyers

and leave them unaware of crucial information about their clients' lives and legal preferences, are rarely intentional acts of resistance. Rather, they occur when defendants are dealing with more pressing matters, which can be a laundry list of anything from drug addiction to housing troubles to mental illness.

Withdrawal, in both its forms, often—though not always—has negative consequences. More common among poor defendants and working-class defendants of color, withdrawal is itself a marker of disadvantage. The racism and classism poor people experience in their neighborhoods, communities, and prior interactions with legal officials provide them with countless reasons to distrust the system and mistrust their current lawyers.<sup>69</sup> Their resultant withdrawal from lawyers throughout their relationships constitutes what it means to be a disadvantaged person in the courts. Moreover, withdrawal reproduces disadvantage. Sometimes, minor forms of resistance can force a lawyer to pay better attention to their client's needs or even raise a lawyer's awareness of procedural possibilities; yet, withdrawal more often has negative implications for court experiences. When disadvantaged defendants withdraw into resistance or resignation, they are often ignored, silenced, or coerced, whether by their own lawyers or by judges. Withdrawal is mutual: when clients withdraw from their lawyers, lawyers, in turn, often withdraw from their clients.

Meanwhile, privileged people experience quite different interactions with their lawyers. In contrast to relationships of withdrawal, attorney-client relationships like that of Arnold and Brett are more common among middle-class people of all racial groups and white working-class people. Arnold and Brett's relationship can be understood as a *relationship of delegation*. They experienced multiple moments of trust and engagement that pulled them closer to each other and toward their mutually recognized goal of assisting Arnold in avoiding, or at least minimizing, legal punishment. Whereas withdrawal entails mistrust and resistance or resignation, delegation entails trust and consensus in interaction, and it unfolds in one common way. Lacking prior experience with the legal system and benefiting from a relative lack of experiences of racism and classism in their neighborhoods and communities, privileged defendants are more likely to engage with their lawyer's professional expertise, defer to their lawyer's advice behind closed doors, and defer to judges and other officials in open court sessions. They are often on the same page about the defendant's ultimate goals, often because, unlike the disadvantaged who seek redress from police bias and other injustices, privileged people rarely want more than to avoid a harsh sentence. Some privileged defendants, like Arnold, may

perceive racism or unfairness from police, but they often do not view these experiences as systemic or as necessarily indicative of an untrustworthy *court* system. Even when they do view the broader legal system as unjust or corrupt, they view their encounter with the law as rare and unexpected rather than routine and oppressive.

Relational theory in sociology provides theoretical insight into how and why attorney-client relationships are unequal. For relational theorists, social relationships—as documented in all aspects of our lives—themselves *constitute inequality*. In sociologist Charles Tilly's book *Durable Inequality*, he argues that differences in material and symbolic goods, such as wealth, education, respect, and deference, often exist along categorical lines.<sup>70</sup> Paired categories of social groups—men/women, black/white, the middle class/the poor—are defined, in many ways, in relation to their differential access to resources. Whiteness, when understood as a marker of privileged status or of greater access to material resources, takes on its most vital meaning in relation to blackness (or another nonwhite racial category).<sup>71</sup> Similarly, the working class has meaning only in relation to the middle class (or another class category). Sociologist Pierre Bourdieu famously theorized that the cultural styles and tastes of the middle and upper classes (e.g., taste in opera or fine art) are valued precisely because they are characteristic of the privileged class and therefore serve as a form of dominant cultural capital that can accrue resources, material and symbolic.<sup>72</sup> Such tastes become a marker of what it means to be privileged; the lack of such tastes, in turn, becomes a marker of what it means to be disadvantaged. In thinking about inequality among defendants, then, I argue that delegation in attorney-client relationships (and the trust in lawyers and lack of experience with the law that it entails) constitutes what it means to be a privileged defendant. Withdrawal in attorney-client relationships (and the mistrust of lawyers and cultivation of legal knowledge and skills that it entails) constitutes what it means to be a disadvantaged defendant.

Unequal relationships also *reproduce inequality*. The withdrawn relationships of disadvantaged defendants, as well as the delegating relationships of privileged defendants, likely reproduce disparities in their court outcomes. Relational theorists and cultural sociologists have, for some time, been interested in understanding how interactions between people reproduce macrolevel patterns of inequality.<sup>73</sup> Relational theorists in particular have insisted that sociologists, when interrogating the causes of inequalities in organizations and institutions, should move away from studying static variables as the unit of analysis (e.g., students or teachers

independently) and toward studying dynamic relationships as the unit of analysis (e.g., student-teacher interactions). As sociologist Donald Tomaskovic-Devey writes, “Inequalities are . . . *not* lodged in people, races, or genders but in the relationships between people and between status categories. . . . It is the relations between people and positions that generate the power, status, and selves that appear to be traits of individuals and jobs.”<sup>74</sup> Or as sociologist Mustafa Emirbayer puts it: “Unfolding transactions, and not preconstituted attributes, are thus what most effectively explain equality and inequality.”<sup>75</sup> Meanwhile, cultural sociologists have often, though not always, remained content to study groups in isolation, more so than they have ventured into studying groups in relation, as they search for the processes undergirding inequality. In part, the dominant use of interview data has made it difficult to analytically see interactions unfold. Still, even when studying groups as static categories, cultural sociologists’ claims are ultimately about how cultural clashes between groups shape inequality.<sup>76</sup>

Both relational and cultural sociological theories have illuminated how relational inequalities between groups are reproduced within mainstream institutional spaces, such as workplaces and schools. While the rules and practices of such organizations often appear standardized and neutral, symbolic power imbalances are often at play and can result in material inequalities. Institutional gatekeepers and organizational policies have been shown to value the social, cultural, and economic resources of the privileged and devalue the resources (or lack thereof) of the disadvantaged; they distribute their institutional resources accordingly, which only furthers inequality. For instance, sociologist Annette Lareau has been influential in examining how cultural knowledge and skills matter in navigating institutions.<sup>77</sup> Her work shows how elementary school teachers’ rules and expectations about homework assignments, honors class placements, and proper parent-school engagement systematically disadvantage working-class and poor parents and children.<sup>78</sup> Whereas middle-class parents in her study displayed entitlement by intervening on behalf of their children, questioning teachers, and seeking accommodations when their children struggled with class work, working-class and poor parents often deferred to teachers’ professional expertise and maintained distance from the school. Both groups valued education and wanted to see their children succeed; yet, she argues, the expectations of the school devalued the knowledges, approaches, and resources of working-class and poor parents.

Numerous studies have followed in this tradition, examining similar power dynamics—sometimes informal but very constraining—within secondary schools, universities, workplaces, and even health-care



institutions. Scholars have documented how cultural resources (e.g., knowledge of cultural objects, educational credentials, or organizational procedures) and cultural styles (e.g., skills, habits, dispositions, or ways of speaking) play a crucial role in who successfully navigates these spaces, and who does not.<sup>79</sup> While this research literature is large and diverse, a central finding is that middle-class people tend to interact in ways that are individualistic, entitled, and demanding, whereas working-class and poor people tend to lead with deference.<sup>80</sup> These differences have implications for people's trajectories. Demanding and entitled styles have been shown to accrue valued resources—everything from better health care to more attention in classrooms. Thus, the privileged rely not only on money or social ties to hoard resources and maintain their advantages but also on styles of interaction that are either valued by gatekeepers (such as doctors, employers, and teachers) or that force these gatekeepers to provide them with more resources than their peers.<sup>81</sup> Sociologists Kathryne Young and Katie R. Billings have recently called for a “Bourdiesian construction of legal consciousness” that examines how “individuals in different power positions [within the legal field] understand and interact with the law.”<sup>82</sup> Such an analysis, in the study of criminal legal institutions, would require using cultural concepts (like cultural capital, resources, and styles) alongside relational epistemologies (like relational ethnography). Drawing on relational theory and cultural sociology, this book moves research on the criminal courts in that direction.

In many ways, *Privilege and Punishment* complements core conclusions of cultural sociological literature, but it offers two novel contributions. First, the book shows that the divergent interactional styles typically associated with the middle class, on the one hand, and the working class and poor, on the other, are not perfectly transposable across institutional spaces. Given our existing understanding of class cultures in mainstream spaces such as schools and workplaces, it would be easy to assume that defendants who are skeptical of their lawyers' expertise and make demands of their lawyers and the court would be rewarded, and that those who defer to their lawyers' influence and the court's authority would receive harsher sanctions. But the opposite is the case. Instead, withdrawal, resistance, and assertiveness (characteristic of the disadvantaged in court) are punished. Meanwhile, delegation and deference (characteristic of the privileged in court) are rewarded. This difference has much to do with the different rules, expectations, and structural constraints that more mainstream institutions hold in comparison to punitive institutions. Where schools and workplaces might value initiative, thoughtfulness, and



creativity, the courts value compliance, silence, and admitting fault, as we will see in the pages to come. Other institutions similar to, and increasingly entwined with, the courts—such as welfare agencies and sober houses—may operate in the same way. Sociologist Jennifer Reich’s study of parents engaging with child protective services documents how a middle-class black woman with various forms of resources ultimately lost her children to the state because she did not exhibit deference toward the police, physicians, and case workers handling her child’s case.<sup>83</sup> As punitive logics and tools of criminalization continue to expand and morph across institutional spaces and demographic groups in American society, it becomes ever more necessary to understand how privilege in relational interactions works in these spaces.

Second, this book demonstrates the added value of moving away from a study of culture as group or individual centered to a study of culture as embedded in relationships and dynamic interactions.<sup>84</sup> Much research in cultural sociology, as noted earlier, continues to center analysis on individuals and groups rather than interactions. A focus on relationships better explains why people’s behaviors are not always consistent over their lives. For instance, Arnold’s relationship with his lawyer Brett was a typical example of delegation; yet, months earlier, he had been assigned a different lawyer by the court. His relationship with that public defender was characterized by withdrawal. He did not trust this public defender and felt that he needed to try to cultivate knowledge about the law himself. Ultimately, he was able to secure financial resources to hire Brett with the help of his family and his basketball agent. Arnold thus went from experiencing withdrawal to experiencing delegation in the same court case. His experience shows how behaviors are not rooted in innate features of individuals or groups but rather in access to resources such as money or social ties that matter in interaction. Such access varies by situational context as well as relational context. By analyzing Arnold as a person in relation to other people (his assigned public defender and his hired private lawyer) rather than as an individual with supposedly one coherent cultural perspective on life, I could more clearly see how Arnold’s seemingly irreconcilable perspectives on lawyers emerged from two very different relationships influenced by the immediate resources available to him at particular times and in particular situations. Thus, attention to culture as it emerges from relationships also reveals how many features of class and race inequality can be rooted in situational advantages or disadvantages, rather than long-lasting, inflexible dispositions.<sup>85</sup>

## *The Study*

This book is based on interviews and ethnographic observations collected in the Boston, Massachusetts, area between fall 2015 and winter 2019. Here, I provide a brief overview of the study's design and relevant background information about the Boston court system. For curious readers, more details about gaining access to research sites, conducting interviews, observing court, and analyzing data can be found in the book's appendix. There, I also reflect on how my social position as a middle-class black man without a criminal record influenced the study. My identity—along with my experience witnessing my cousin in court, described in the preface—not only motivated the study but may have played a role in how defendants and lawyers interacted with me and accounted for my brief presence in their lives. The researcher-respondent relationship has its own dynamics and uncertainties.

To understand attorney-client relationships, I interviewed and observed criminal defendants and court officials in the Boston area. I interviewed defendants in cafes, on street corners, and in food courts—neutral places, where they might feel comfortable sharing their court experiences. Conversations and interviews with legal officials took place in courthouse hallways, in offices, or in the back of a police car. The sixty-three defendants in this study were intentionally selected to be from a diverse range of race and class backgrounds.<sup>86</sup> But they all shared one thing in common: they had dealt with at least one criminal court case in either Boston or Cambridge, a medium-sized city just north of Boston across the Charles River.<sup>87</sup> Most reported experiences with drug- or alcohol-related court cases.<sup>88</sup> Many of these people had also been charged in other cities and towns in Massachusetts and even in other states.<sup>89</sup> Nearly all names of defendants, lawyers, judges, and other officials are pseudonyms, save for the rare instances when a person asked that I use their real name.

Eleven courthouses serve Boston and Cambridge.<sup>90</sup> Nine are municipal-level district courts (eight of which are often referred to as the Boston Municipal Courts [BMC]). These district courts handle misdemeanors and low-level felonies that can result in up to 2.5 years in jail. Two of the eleven are county-level superior courts; they handle more serious cases that can result in lengthy prison sentences. I visited all eleven courthouses during the study period, but the bulk of my time was spent in three district courts in Boston and in the Suffolk County Superior Court.<sup>91</sup>

Between fall 2015 and summer 2017, I spent more than one hundred hours in these courthouses—visiting them for sustained periods, alongside conducting scores of in-depth interviews with defendants. Over the course of one month in fall 2018, I embedded in a public defender’s office as an unpaid intern. Over the month, I spent thirty hours per week closely shadowing three public defenders—Selena (a Latina woman), Sybil (a black woman), and Tom (a white man)—as they went about their daily work in their offices and in court. I conducted additional interviews with a handful of defendants during the month.

Some differences between Boston courthouses likely shape defendants’ formal court outcomes, even if they do not bear on fundamental features of the attorney-client relationship. One difference is the “going rate” of charges. The going rate refers to the common sentence applied to specific charges and facts relating to a crime. For instance, in most Boston courthouses, a first-offense operating under the influence charge (OUI) is typically sentenced to a continuance without a finding (CWOFF)—a sentence that results in a finding of no guilt on the condition that the defendant successfully completes a period of probation.<sup>92</sup> While a CWOFF is a common sentence for many first-time misdemeanors, the typical probation conditions attached to the CWOFF—for example, drug treatment courses, payment of fees, urine screenings—vary by courthouse and by judge.<sup>93</sup> The policies of district attorney (DA) offices can play a large role in determining going rates between courts. The Suffolk County DA has authority over filing criminal complaints in Boston courts, whereas the Middlesex County DA has authority in Cambridge. Each DA’s office and their line prosecutors, or assistant district attorneys (ADAs), negotiate with defense attorneys during bail and plea negotiations.<sup>94</sup> These negotiations contribute, in part, to a defendant’s ultimate sentence, as numerous scholars have argued. This book shows how negotiations between court officials are themselves influenced by attorney-client interactions.

Boston provides an analytically useful setting for studying inequalities in the attorney-client relationship. Boston is racially and socioeconomically diverse—and unequal, especially as measured by the disproportionate arresting, charging, conviction, and incarceration of racial minorities. Black and Hispanic people are overrepresented in both district and superior courts in Boston relative to their share of the general population.<sup>95</sup> Statewide, racial minorities are overrepresented in conviction rates and incarceration rates.<sup>96</sup> These inequalities follow from a sordid history of racism in Boston and in its criminal justice agencies. Beginning in the

1980s, the Boston Police Department (BPD), like others across the nation, engaged in broken windows policing in predominantly black neighborhoods. Tactics included arrests for minor offenses, such as drinking in public or loitering, and an increased focus on certain neighborhoods and individuals who were deemed likely to commit more-serious crimes.<sup>97</sup> These tactics make it likelier to be stopped by the police in working-class and low-income communities of color like Roxbury, Dorchester, and Mattapan, neighborhoods where people like Drew live. Recent studies have found these police stop rates to be racially discriminatory and illegitimate.<sup>98</sup> Differences in the incarceration rate between blacks and whites in Massachusetts have also been shown to be not fully explained by differences in criminal involvement (as measured by arrest) and therefore are partly due to racial discrimination in court processing.<sup>99</sup>

Boston is also a revealing site of study because, despite these inequalities, the Boston-area court system is arguably one of the more lenient systems in the United States. Over the period of mass criminalization, Massachusetts' overall incarceration rate has been consistently low compared to that of other states. In addition, other indicators suggest that the Boston courts are less punitive than other systems. For instance, the indigent defense system is known to be accommodating. Courts use relatively generous criteria to determine whether a defendant can receive a court-appointed lawyer free of charge.<sup>100</sup> Moreover, the right to a lawyer attaches as early as arraignment and applies during probation hearings, which is not the case in many states. The Committee for Public Counsel Services (CPCS), which oversees the indigent defense system, is well resourced.<sup>101</sup> CPCS trains both bar advocates and staff public defenders, who are among the most respected public defenders in the nation.<sup>102</sup> Consequently, where this study finds fault in the way the Boston courts operate, one could assume that things are likely to be worse in other parts of the country. Journalistic accounts of court systems in places like New Orleans, Louisiana, and Ferguson, Missouri, suggest that a systematic study of attorney-client relationships in these other systems would not only confirm but magnify this book's core insights. Withdrawal in interactions with lawyers would likely be more common and result in worse consequences in systems where lawyers are comparatively more burdened and courts less willing to encourage defendants to use their lay legal expertise and assert their legal rights. Readers should understand the evidence presented here as a look at the inequalities that even one of the most ideal versions of our courts reproduces.

### *Book Overview*

The following pages tell the stories of ordinary people from various walks of life as they navigate the criminal courts alongside their lawyers.

Chapter 1 explains the different paths that lead to the same outcome: becoming a defendant. These paths are guided by race and class differences, but they are initiated by a common reality: nearly every defendant, privileged or disadvantaged, experienced some form of alienation from school, family, neighbors, peers, or broader society in adolescence. Criminalized behaviors, such as drug use and dealing, emerged amid alienation. Among the privileged, such behaviors were more likely to be described as acts of pleasure and diversion, whereas among the disadvantaged, these same behaviors were more likely to be linked to racial and economic structural constraints. Regardless, at some point in life, everyone in the study was caught by the police. But the privileged were more likely to report relying on social and cultural resources embedded in their neighborhoods, their class positions, or their racial identities (or all three) to negotiate their way out of police encounters or even avoid them altogether. The disadvantaged, not surprisingly, were not. These unequal pathways to the courts have important implications for the attorney-client relationship. The disadvantaged are predisposed to distrust the legal system and mistrust their lawyers, thanks to repeated negative experiences with the law in their communities, lack of social ties with empowered authorities, and lack of financial resources to choose their lawyers.

Chapter 2 shows how disadvantaged defendants often experience withdrawal in their relationships with lawyers. For some, like Drew, mistrust of their lawyers contributes to withdrawal as resistance. They resist their lawyers' expertise and strive to cultivate their own legal knowledge and skills. I show how defendants cultivate legal expertise in jail, in their communities, and through observation of court proceedings. They often contest their lawyers' legal recommendations behind closed doors and sometimes even in open court, so frustrated by the legal system's lack of attention to their needs. Sometimes cultivated expertise constrains defendants' legal options, making the choice of seemingly harsh legal punishments (such as incarceration) preferable to seemingly lenient punishments (such as probation). For other disadvantaged defendants, withdrawal operates differently. In interactions with their lawyers, their withdrawal manifests as resignation to the legal process. These defendants appear to care little about their legal choices and often ghost their lawyers by cancelling meetings or even skipping court dates. Mistrust of lawyers

plays a part here, but poor defendants' concerns about forms of adversity they face outside the courts—everything from poverty and police surveillance to drug addiction and mental illness—play an even greater role.

For privileged defendants, the situation is the opposite: their relative lack of experience with the law, greater access to social ties with empowered authorities, and ability to hire lawyers of their choosing all foster trust in their defense attorneys. Chapter 3 shows how these elements of trust foster delegation of authority. Privileged defendants recognize their inexperience with the law, seek to engage with their lawyers about their legal goals and possible strategies for attaining them, and ultimately defer to their lawyers' professional assessments. Deference operates not only behind closed doors but also in open court, where privileged defendants remain silent and deferential to their lawyers and other court officials. They rarely have reason to be frustrated by their treatment in court, where they feel they are largely treated with respect. Still, they experience uncertainty, fear, and worry about their formal legal outcomes, much as their disadvantaged peers do.

Turning our attention to the perceptions of defense attorneys, chapter 4 considers how lawyers—constrained by the norms, expectations, and power of judges and prosecutors—behave in their interactions with defendants, and how the pattern of their responses functions as a covert form of race and class discrimination. Defense attorneys must navigate relationships with other court officials, not just their clients. Although many of them are passionate about defending clients they often believe have been unjustly treated by the law and broader society, defense attorneys understand effective representation to mean the mitigation of their clients' legal sentences, not necessarily the pursuit of justice. For different reasons, lawyers and judges alike ignore, silence, and coerce defendants who withdraw into resistance and resignation. Meanwhile, court officials reward defendants who delegate authority to their lawyers, offering them future legal services and opportunities for rehabilitation and other alternatives. Given race and class patterns in defendants' likelihood of withdrawal or delegation, court officials' tendencies to punish withdrawal and reward delegation operate as legitimated and taken-for-granted forms of race and class discrimination.

The conclusion considers the importance of the book's arguments for scholars, policymakers, lawyers, and ordinary people who care about race and class injustices and how they are embedded in our country's criminal courts. An important lesson of this book is that effective legal representation alone is not justice. A defense lawyer's presence and passion

are neither indications of justice nor are they certain means to achieving a just legal outcome. Poor defendants, wealthy defendants, victims, and broader society rarely find justice from the way we currently process social problems (such as drug use) and social harms (such as assault and murder) in our court system. Alongside suggesting practicable reforms to the attorney-client relationship that might ensure relatively better legal outcomes for some defendants, I imagine possibilities for fundamentally transforming the attorney-client relationship, courthouse cultures, and the place of the courthouse in the management of social harm. Such transformation requires us to commit to rectifying race and class injustices that precede, and extend beyond, the courthouse doors.



## INDEX

- 911 calls, 54, 193
- abolition, 180, 192
- abuse: alcohol, 92; domestic, 36–38, 162; drug, 16, 36, 46, 82, 107, 121, 199, 254n24; police, 65, 164, 173
- addiction: alcohol and, 33–34, 36, 46, 94, 102; courts and, 20, 29, 33–34, 36, 40, 46–47, 51–52, 192–93; delegation and, 102, 105, 107, 121–23; disadvantage and, 6, 67, 82–83, 92–94, 99; drug, 20, 29, 33, 36, 46–47, 51–52, 82–83, 94, 99, 102, 107, 121, 123, 148, 154, 192–93; mental illness and, 20, 29, 36, 92–93, 99, 192–93; prescriptions and, 47, 58, 103, 107, 176; sober houses and, 4, 66–68, 78, 93, 102, 105–7, 132, 199, 205; study methodology and, 223; withdrawal and, 148, 154
- African Americans. *See* black people
- Akbar, Amna, 192
- alcohol: addiction to, 33–34, 36, 46, 94, 102; Breathalyzers and, 56, 128; courts and, 8, 25, 32–40, 46–48, 178; delegation and, 102–4; disadvantage and, 92, 94; drunkenness and, 33, 48, 114, 118, 124, 128; keg parties and, 48; night-clubs and, 47–48; operating under the influence (OUI) and, 26, 33–34, 55, 59, 74, 92–93, 102, 105–6, 111–14, 121, 124, 126, 128, 165, 218, 234n95; sober houses and, 24, 66–68, 78, 93, 102, 105–7, 132, 199, 205; study methodology and, 205, 218; violence and, 37
- Alcoholics Anonymous (AA), 40
- Alexander, Michelle, 227n26, 244n17
- alienation: adolescent, 28, 35–42, 61, 104, 108, 215; courts and, 34–42, 46, 61, 181; disadvantage and, 94; drugs and, 28, 34, 42, 46, 61, 215; home life and, 35–42; marginalization and, 36; peers, 28, 36, 40–41, 104; privilege and, 34, 104, 108, 127, 178; school and, 34–42; teachers and, 35–36, 42
- American Indians. *See* Native Americans
- American Criminal Justice: The Defendant's Perspective* (Casper), 230n54
- American Sociological Association, 184
- Anderson, Elizabeth, 181
- anxiety, 33, 92, 103, 222
- appellate courts, 17–18, 80, 142, 191, 231n63, 248n11, 251n40
- Argersinger v. Hamilton*, 229n39
- Asian Americans, 88, 111, 207, 209, 218, 228n31, 239n38, 240n44, 243n16
- assault, 30, 40, 43, 91–93, 137, 152, 161–64, 168, 192–93
- assistant district attorneys (ADAs), 120, 203; bail and, 26, 234n94; clerical errors and, 150; CWOFF and, 128; deals with, 131, 164; defense attorneys and, 26, 128, 147–50, 158–63, 234n94; *ex parte* communication and, 157; racism and, 122–23; reputation and, 147–48; warrants and, 130
- attorney-client relationships: courts and, 3, 6–9, 12, 16–27, 30, 35, 51, 63, 182–87, 225n6, 226n12, 230n56, 231n67, 232n83, 253n15; delegation and, 104–7, 116, 123, 126–27, 133, 137–42, 151, 155, 165, 167, 170, 173, 175–76; disadvantage and, 9–10, 74–78, 90; expectations and, 140–41; injustice and, 182–86; perils of, 16–24; possibilities for change and, 186–88, 192; privilege and, 3–4, 7, 9, 16, 21, 35, 51, 63, 104–7, 116, 123, 126–27, 133, 141, 151, 182, 218, 225n6; reform and, 30, 186–88; relational theory and, 182; study methodology and, 197–202, 207, 214–18, 219–20; withdrawal and, 137–42, 151, 155, 165, 167, 170, 173, 175–76
- attorneys: bar advocates and, 64 (*see also* bar advocates); Community-Oriented Defender Network and, 187; district (DAs), 17, 26, 33, 64, 71, 76, 116, 128, 149, 157, 166, 234n94; effective



- attorneys (cont.)  
representation and, 142-53; expertise and, 74, 77-78, 100-101, 120, 140, 151-52, 159, 167, 175; guilty pleas and, 12, 14, 17, 127, 142, 155-56, 167, 185; judges and, 3, 5, 12-15, 25-26, 29, 68, 72-73, 77-78, 92, 101, 127, 129, 136, 140-42, 149-51, 158-65, 169-74, 186, 190-91, 194, 201, 203, 205, 232n83, 234n94, 242n7; motions and, 12, 14, 101, 139, 142, 149-50, 162, 172, 191, 202; private, 4, 15, 64, 71, 103-4, 108-13, 122, 128, 138, 246n2; public defenders and, 64 (*see also* public defenders); resignation and, 19, 29, 90, 99-100, 153, 184, 214; resistance and, 12, 19, 29, 78, 100-101, 137, 165, 184, 214; trust and, 3, 14-15, 20-21, 29, 51, 61-65, 71, 74, 76, 104, 106, 110, 113, 120, 123, 126, 132, 152, 158, 172, 175, 186-87, 214, 235n101, 241n3, 242n4, 246n2; withdrawal and, 140-41 (*see also* withdrawal)
- Bach, Amy, 191
- bail: courts and, 1-2, 18, 26, 33, 72, 78-81, 142, 149-50, 153-56, 161-62, 168-72, 192, 228n32, 233n87, 234n94; disadvantage and, 72, 78-81; guilty pleas and, 154; important implications of, 153-54; judges and, 1-2, 26, 72, 80-81, 105, 142, 149-50, 153, 162, 169, 172, 234n94; personal recognizance and, 105; revoking, 169; withdrawal and, 142, 149-50, 153-56, 161-62, 168-72
- bar advocates: client swapping and, 189; delegation and, 104, 113, 129-30, 145-48, 152, 157-61, 248n15; disadvantage and, 64, 70-71, 75, 243n16; indigent clients and, 27, 64, 70, 145, 158, 235n102; payment of, 4-5; privilege and, 104, 113, 129-30; study methodology and, 203, 209, 223; training of, 27, 188; withdrawal and, 145-48, 152, 157-61, 248n15
- battery, 40, 91-93, 152, 161-63
- Bell, Monica, 88, 236n7
- bench trials, 5, 199
- benzodiazepines, 33, 103
- bias: class, 183, 228n32; cultural, 249n43; defendants' silence and, 170; desirability, 200, 209; disadvantage and, 173; institutional, 249n43; police and, 19-20; psychology of, 173-74; racial, 2, 74, 110, 141, 174, 183, 193, 228n32, 231n63, 243n16; rationalization and, 43; socioeconomic, 141, 173, 193
- Bibas, Stephanos, 189
- bikes, 114-15
- Billings, Katie R., 23
- Black, Hugo, 13-14
- Black Bourgeoisie* (Frazier), 221
- Black Lives Matter, 179, 250n5
- black people: arrests and, 1, 4, 11, 15, 26-27, 50-54, 57, 74, 82, 93, 117, 159, 169, 215-16, 222, 228n27, 230n49; courts and, xiii-xiv, 1, 4-5, 8-15, 21, 24-27, 31-32, 38-44, 49-54, 57, 60-63, 179, 183, 192, 195, 226n12, 227n26, 228n27, 228n29, 228n31, 230n49, 231n63, 234n95, 234n96, 235nn97-99, 237n17, 238n23, 238n25, 239nn36-38, 240n40, 240n44, 250n5, 250n14; disadvantage and, 69, 71-78, 81-88, 93, 98, 241n3, 242n9, 243n16, 244n18, 245n26, 246n44; Dorchester and, 1, 27, 38, 45, 66, 144, 240n44; incarceration and, xii, 9, 11, 26-27, 52, 87, 98, 227n26, 228n27, 228n29, 234n96; jail and, 5, 9, 78, 85, 110, 222, 228n29; jurors and, 183, 231n63, 250n14; marginalization of, 227n26, 246n44; Mattapan and, 1, 27, 52, 144; neighborhoods of, 1, 10, 27, 31, 38-39, 42-45, 49, 54, 62, 88, 143-44, 203, 233n90, 235n97, 237n11, 238n23, 240n44, 243n14, 254n22; Obama and, 221; privilege and, 108-10, 113, 115-21; probation and, 87-88; study methodology and, 198, 201, 206, 209, 210, 213, 215-20, 221-24, 254n22, 254n25; violence and, 10, 49; withdrawal and, 136-37, 143-45, 158-59, 161, 166-67, 169, 175, 248n18, 249n35
- Blumberg, Abraham, 13
- Boston: courts and, 1, 3-4, 6, 15, 18, 25-27, 31-41, 44-45, 47-48, 51-54, 57-58, 62, 186, 188, 193, 228n29, 231n61, 233n89, 233n90, 234n95,

- 235n97, 235n98, 235n101, 237n11, 239n33, 240n44; delegation and, 113, 116, 118–19, 122, 124, 133, 143–45, 147, 168–70, 174–75, 248n15; disadvantage and, 64, 66, 70, 80, 83–84, 86, 89, 98, 243n14; Dorchester and, 1, 27, 38, 45, 66, 144, 240n44; Mattapan and, 1, 27, 52, 144; privilege and, 113, 116, 118–19, 122, 124, 133; Roxbury, 27, 31, 38–39, 42, 44–45, 49, 143–44, 233n90, 235n97, 237n11, 240n44, 243n14; segregation and, 240n44; study methodology and, 25–27, 198–200, 210, 222; withdrawal and, 143–45, 147, 168–70, 174–75, 248n15
- Boston Municipal Courts (BMC), 25, 199, 204, 233n90, 243n14
- Boston Police Department (BPD), 27, 205, 235n97, 239n38
- Boulé, 221
- Bourdieu, Pierre, 21, 23, 233n85
- Brady v. Maryland*, 229n37
- Breathalyzers, 56, 128
- broken windows policing, 15, 27, 230n49
- Bronx Defenders, 188
- bullying, 40, 254n26
- Butler, Paul, 192, 195
- Calavita, Kitty, 98
- Cambridge Police Department (CPD), 53, 205, 239n38
- caseloads, 12–15, 70–71, 105, 170, 188–89, 235n102, 242n7, 243n11, 250n4
- Casper, Jonathan D., 230n54
- Center for Court Innovation, 194
- child protective services (CPS), 38, 249n35
- class: bias and, 183, 228n32; classism and, 18, 20, 35, 61, 141, 173–74, 183, 185, 226n7; disparities and, 7, 11, 13, 15, 141, 171, 173–74, 186, 228n27, 228n32; elitism and, 221; marginalization and, 35, 74, 163, 195, 241n48, 243n14; messy categories of, 253n15; middle, 4 (*see also* middle class); reform and, 180; resources and, 6–7, 13, 21–24, 28, 34, 61–62, 109, 135, 182, 188, 207, 226n7, 253n15; socioeconomic status (SES) and, 206, 209–17, 218–19, 228n31, 238n25, 253n14; study methodology and, 206, 209–17, 218–19; upper, 13, 21, 108, 240n46; working, 3 (*see also* working class)
- client-centered representation, 187–88, 235n101
- cocaine, 32, 46, 52, 55, 66–68, 85, 93, 104–5, 233n87, 237n17
- coercion, 7, 14, 75, 141, 155, 170, 172, 181, 186, 248n24
- Committee for Public Counsel Services (CPCS), 27, 144, 146, 188, 201, 235n101, 235n102, 243n14
- Community-Oriented Defender Network, 187
- Condemnation of Blackness, The* (Muhammad), 195
- continuance without a finding (CWOFF): courts and, 26, 33–34, 74, 94, 96–97, 105–7, 124–25, 128, 156, 165, 233n92, 236n2; guilt and, 26, 106–7, 125, 156, 233n92; meaning of, 236n2; probation and, 26, 33–34, 94, 96–97, 105, 107, 124, 156, 233n92
- convictions: court reputations and, 12–14, 18, 26, 192, 225n6, 228n27, 228n32, 236n2, 239n29; delegation and, 106–7, 120, 125, 142, 145, 149, 152, 156, 164–65, 176–77; disadvantage and, 79, 87; increase of, 179; inequality and, 183; poor people and, 70; privilege and, 106–7, 120, 125, 180; withdrawal and, 142, 145, 149, 152, 156, 164–65, 176–77
- Court Activity Record Information (CARI), 204
- court dates: brief updates and, 94; CARI and, 204; final, 123; interviews on, 200; missed, 19, 28, 92–96, 99, 142, 153; rescheduled, 103, 139
- courts: appellate, 17–18, 80, 142, 191, 231n63, 248n11, 251n40; bail and, 1–2, 18, 26, 33, 72, 78–81, 142, 149–50, 153–56, 161–62, 168–72, 192, 228n32, 233n87, 234n94; Boston Municipal Courts (BMC) and, 25, 199, 204, 233n90, 243n14; caseloads and, 12–15, 70–71, 105, 170, 188–89, 235n102, 242n7, 243n11, 250n4; continuance without a finding (CWOFF) and, 26, 33–34, 74, 94, 96–97, 105–7, 124–25, 128, 156, 165, 233n92, 236n2; convictions and, 12–14, 18, 26, 192, 225n6,

courts (cont.)

228n27, 228n32, 236n2, 239n29; guilty plea and, 2, 12, 14, 17, 97, 106-7, 123-25, 127, 142, 152-56, 164-70, 176, 180-81, 185, 233n92, 247n10, 248n24, 251n20; inequality and, 6-7, 9, 11, 15-18, 21-22, 26-27, 180-82, 185, 191, 225n5, 229n34, 240n44; injustice and, 8-9, 13, 20, 29-30, 61, 75, 138, 140, 172, 180-86, 190-91, 194-95, 242n9; innocence and, 5-6, 12-16, 110, 164, 170, 180; judges and, 1 (*see also* judges); juries and, 2-5, 47, 106, 124, 136, 142, 147, 157, 176, 183, 199, 231n63, 233n87, 250n14; leniency and, 7, 14-15, 27-28, 56, 72, 107, 109, 128, 130, 139, 141, 156, 159, 169, 174, 185, 248n25; mass criminalization and, 9-16, 27, 85, 179, 195, 197, 226n11, 227n20; meaning of crime and, 42-50; not-guilty verdicts and, 6, 9, 106, 157, 166; plea deals and, 2, 5, 12-15, 33, 94-96, 116, 123, 128, 141, 152, 154-55, 164, 167-68, 170, 172, 176, 201, 208, 233n92, 242n7; possibilities for change and, 186-95; pretrial conditions and, 103, 155-56, 233n92; probation and, 6, 10-14, 17-18, 26-28, 33-34, 51, 185, 227n20, 229n39, 232n83, 233n89, 233n92, 234n95, 250n1, 253n9, 254n24; public defenders and, 1-2, 4, 17-18, 24, 26-27, 186, 188-91, 231n61, 233n91, 235n101, 235n102; punishment and, 3, 6-10, 15-20, 23, 28-29, 32, 34, 182, 186, 192-95, 227n20; reform and, 180, 186-95, 248n20, 251n40; rules of, 3, 7-8, 13, 22-23, 38, 67-68, 77, 101, 133, 140-41, 166, 168, 172, 174-75, 184-88, 244n20, 246n44, 249n35; US Supreme Court, 13-14, 142, 250n14; verdicts and, 9, 142, 145, 157, 166; warrants and, 53-55, 60, 93, 119, 130, 153, 155-56, 239n29; witnesses and, 3, 17, 83, 92-93, 95, 118-19, 129, 131, 161-62, 190-91

Court Watch NYC, 191

crime rates, 10, 195, 227n25, 237n11, 240n46

*Criminal Justice* (Blumberg), 13

criminalized people: decriminalization and, 15, 51, 238n28; felonies and, 14,

25, 119, 228n27, 233n87; guilty plea and, 2, 12, 14, 17, 97, 106-7, 123-25, 127, 142, 152-56, 164-70, 176, 180-81, 185, 233n92, 247n10, 248n24, 251n20; guns and, 1-2, 4, 6, 41, 110, 166, 237n11; incarceration and, 10 (*see also* incarceration); mass criminalization and, 9-16, 27, 85, 179, 195, 197, 226n11, 227n20; meaning of crime and, 42-50; misdemeanors and, 15-16, 25-26, 87, 175, 229n35, 230n49, 233n87; murder and, 30, 42, 192-93, 233n87, 235n102; parole and, 10, 134, 143, 246n44; peer pressure and, 33, 39, 238n19; personal recognizance and, 105, 161-62; policing of crime and, 50-61 (*see also* police); prison and, 1 (*see also* prison); probation and, 6 (*see also* probation); rehabilitation and, 9, 29, 82, 193; second chances and, 35, 50, 54, 56, 62-63, 104-5, 117, 169; warrants and, 53-55, 60, 93, 119, 130, 153, 155-56, 239n29; witnesses and, 3, 17, 83, 92-93, 95, 118-19, 129, 131, 161-62, 190-91

cross-examination, 6, 106, 164

cultural capital, 21, 23, 233n85, 245n34

Davis, Angela Y., 192

defendants: alienation and, 181; courts and, 1-19, 23-39, 44, 50-51, 61-63, 179-95; delegation and, 103-4, 107-12, 118-23, 127-47, 150-77, 246n2, 246n3, 247n4, 247n6, 247n1, 248n24, 250n47; disadvantage and, 64-65, 69-101, 241n1, 241n3, 242n7, 243n14, 243n16, 245n26, 245n28, 246n35; effective representation and, 142-53; gender and, 226n11; guilty pleas and, 2, 12, 14, 17, 97, 106-7, 123-25, 127, 142, 152-56, 164-70, 176, 180-81, 185, 233n92, 247n10, 248n24, 251n20; innocence and, 5-6, 12-16, 110, 164, 170, 180; mass criminalization and, 9-16, 27, 85, 179, 195, 197, 226n11, 227n20; participatory defense and, 84-85, 191-92, 245n22; privilege and, 104, 107, 114-20, 133-35; study methodology and, 197-98, 204-5, 210, 215, 217, 222, 224; surveillance and, 10, 35, 50, 132; withdrawal and, 141, 143-49, 153, 165, 172-77

- deference: lawyers and, 21, 23, 104, 117, 123, 127-33, 141, 167, 214, 249n35; police and, 24, 171, 232n83, 239n37; privilege and, 21, 23, 104, 117, 120, 123, 127-33, 141, 167-71, 182, 214, 232n83, 249n35
- delegation: attorney-client relationships and, 104-7, 116, 123, 126-27, 133, 137-42, 151, 155, 165, 167, 170, 173, 175-76; bar advocates and, 104, 113, 129-30, 145-48, 152, 157-61, 248n15; Boston and, 113, 116, 118-19, 122, 124, 133, 143, 145, 147, 168-70, 174-75, 248n15; convictions and, 106-7, 120, 125, 142, 145, 149, 152, 156, 164-65, 176-77; defendants and, 103-4, 107-12, 118-23, 127-47, 150-77, 246n2, 246n3, 247n4, 247n6, 247n1, 248n24, 250n47; deference and, 21, 23, 104, 117, 120, 123, 127-33, 141, 167-71, 182, 214, 232n83, 249n35; engagement and, 20, 104, 120-27, 171, 180, 188, 214, 226n12; guilty pleas and, 176-77; inexperience and, 29, 103-4, 115-20, 126, 133, 164, 214; injustice and, 138, 140, 143-44, 151, 172; jail and, 110, 116; leniency and, 107, 109, 128, 130, 139, 141, 156, 159, 169, 174; plea deals and, 116, 123, 128, 141, 152, 154-55, 164, 167-68, 170, 172, 176; prison and, 121-23, 143, 167; probation and, 105-10, 117-18, 120, 123-29, 134, 137, 139-40, 145, 147, 152, 155-56, 160, 164, 168-71, 249n35; public defenders and, 104-5, 110-11, 113, 116, 118, 124, 126, 130, 142-49, 152, 158, 165, 172, 248n15, 248n19; punishment and, 117, 129, 133; relationship of, 19-21, 127, 137, 165, 167; rewarding, 23, 164-70, 182; trust and, 103-23, 126, 129-33, 164, 166, 186; white people and, 102-3, 107-18, 123-24, 128-29, 132, 136-37, 141-44, 155, 158-59, 163-68, 173, 246n1
- delinquency, 39, 45, 49, 62-63, 215, 240n46, 241n48
- depression, 34, 36, 46, 92, 207, 237n9
- "Did You Have a Lawyer When You Went to Court? No, I Had a Public Defender" (study), 14-15
- disadvantage: addiction and, 6, 67, 82-83, 92-94, 99; alcohol and, 92, 94; alienation and, 35-42, 94; attorney-client relationships and, 9-10, 74-78, 90; bail and, 72, 78-81; bar advocates and, 64, 70-71, 75, 243n16; bias and, 141, 173; black people and, 69, 71-78, 81-88, 93, 98, 241n3, 242n9, 243n16, 244n18, 245n26, 246n44; Boston and, 64, 66, 70, 80, 83-84, 86, 89, 98, 243n14; convictions and, 79, 87; courts and, 3, 7-11, 14, 19-23, 28, 35, 50, 61-65, 69-72, 75-77, 82-83, 86, 90, 99, 104, 108, 116, 118, 127, 133, 135, 139-45, 158, 171-74, 178, 182-90, 194-95, 216, 218, 228n31, 241n2, 241n3, 242n7; defendants and, 64-65, 69-101, 241n1, 241n3, 242n7, 243n14, 243n16, 245n26, 245n28, 246n35; discrimination and, 88; disparities and, 11, 21, 141, 171, 173-74, 228n27, 228n31; drugs and, 66, 74, 78-83, 89, 94, 99; education and, 72-73, 77, 82-83, 101; Hispanics and, 88; homeless people and, 68, 93, 99; incarceration and, 66, 77, 79-80, 85, 87-89, 98-99, 244n17, 245n26; indigent people and, 64, 70, 72, 242n7; injustice and, 75, 242n9; jail and, 66, 73, 77-79, 84-85, 89-90, 97-98; judges and, 67-82, 91-93, 96-98, 101; Latinos and, 78, 243n16, 246n44; leniency and, 72; mental issues and, 90-93, 99; middle class and, 70-71, 74, 86-87, 241n3, 243n14; people of color and, 69-70; plea deals and, 94-96, 242n7; police and, 64-66, 72, 74-75, 77, 82, 84, 86, 88, 95-99, 242n9; poor people and, 69-71, 74, 77-78, 82-90, 98-100, 241n3, 242n7, 242n9, 243n14, 246n36; possibilities of change for, 186-95; prison and, 68, 70, 76-79, 85-86, 89, 98-99, 242n5, 245n26, 246n44; probation and, 65-70, 74, 77-78, 82, 87-89, 94-99, 241n2, 243n14, 245n26, 246n44; public defenders and, 64, 67, 70-71, 80, 82-83, 89-90, 100, 243n14, 243n16, 246n35; punishment and, 69, 87, 90, 93, 99, 101; racism and, 75, 243n16, 244n17; resignation and, 65, 69, 90-100, 241n1, 246n35; resistance and, 69, 76-92, 97-101; social ties

- disadvantage (cont.)  
and, 82, 84, 88; surveillance and, 74, 77, 87–88, 98; teachers and, 22, 76, 100, 182; trust and, 3, 6, 9, 14, 20–21, 28, 50, 62–65, 69–76, 81–83, 88, 91, 97–101, 104, 108, 116, 133, 152, 158, 172, 175, 180, 182, 186, 241n3; white people and, 8, 11, 21, 43, 50, 63–64, 71, 74, 108, 116–17, 178, 218, 228n31, 241n3; withdrawal and, 65, 68–69, 78, 90–100; women and, 66–67, 75, 78; working class and, 66, 71, 75, 79, 81, 83, 86–91, 98, 242n9, 244n18
- discrimination: bias and, 173 (*see also* bias); courts and, 5, 7, 27, 29, 36, 183, 186, 227n20, 231n63, 235n99, 240n44; disadvantage and, 88; housing and, 186; institutional, 174, 249n43; privilege and, 32, 113; study methodology and, 254n25; surveillance and, 132; withdrawal and, 141, 171–75, 249n42, 249n43, 250n47
- disparities: class, 228n27, 228n32; class and, 7, 11, 13, 15, 141, 171, 173–74, 186, 228n27, 228n31; courts and, xiii, 7, 11, 13, 15, 21, 141, 171, 173–74, 180; disadvantage and, 11, 21, 141, 171, 173–74, 228n27, 228n31; pretrial detainment and, 228n32; racial, 13, 15, 96, 173, 227n26, 228n31, 228n32, 230n49, 234n95, 235n98, 235n99; recognition gaps and, 184; study methodology and, 204; unwarranted, 228n32; upper class and, 141
- district attorneys (DAs), 17, 26, 33, 64, 71, 76, 116, 128, 149, 157, 166, 234n94
- doctors, 7, 23, 47, 76, 100, 133–35, 182, 237n9
- Dorchester, 1, 27, 38, 45, 66, 144, 240n44
- drugs: addiction to, 20, 29, 33, 36, 46–47, 51–52, 82–83, 94, 99, 102, 107, 121, 123, 148, 154, 192–93; alienation and, 28, 34, 42, 46, 61, 215; arrests for, 32, 38, 46, 49, 52, 60–61, 66, 74, 82–83, 106, 111, 122, 169, 205; cocaine, 32, 46, 52, 55, 66–68, 85, 93, 104–5, 233n87, 237n17; courts and, 9–10, 16, 20, 25–38, 42–52, 60–63; dealing, 20, 25, 28, 31–32, 36, 43–44, 52, 60–61, 63, 74, 83, 123, 141, 156, 168, 192, 218, 223, 238n22, 254n25; decriminalization of, 15, 51, 238n28; delegation and, 102–7, 111, 113, 121–23; disadvantage and, 66, 74, 78–83, 89, 94, 99; First Step Act and, 179; heroin, 40, 44, 46–47, 51–52, 59, 82–83, 121–22, 154, 163–64; homeless people and, 31–32, 51, 61, 93, 99, 154, 199; increased use of, 228n29; legalized, 238n28; LSD, 105; marijuana, xv, 15, 32–33, 39, 42–44, 46, 49–51, 54–56, 88, 94, 99, 105, 109–12, 116, 160, 238n19, 238n28; mushrooms, 105; nightclubs and, 47–48; opioids, 36, 123; painkillers, 47; prescriptions and, 47, 58, 103, 107, 176; programs for, 16, 89, 121, 169, 179, 199; punishment and, 10, 141, 167–70, 192–93, 250n1; rehabilitation and, 82, 193; school and, 28, 31, 33, 42, 47, 61, 66, 83, 215, 238n22; status of using, 238n22; study methodology and, 199, 205, 215, 218, 223, 254n25; testing and, 10, 66; therapy meetings and, 66; war on, 10; withdrawal and, 141–42, 144, 148–49, 154, 156–57, 160, 163, 165, 167–71, 177
- drunkenness, 33, 48, 114, 118, 124, 128
- Du Bois, W.E.B., 237n18, 240n46
- due process, 13, 159, 242n7, 246n35, 249n35
- Durable Inequality* (Tilly), 21
- Durkheim, Émile, 236n3
- East Boston, 37, 240n44
- education: college, 4–5, 11, 32–42, 46–49, 53, 55, 57, 59, 63, 72, 82, 88, 102, 111–17, 121–22, 132, 144, 178, 206, 210, 221, 228n27, 237n13, 253n14; disadvantage and, 72–73, 77, 82–83, 101; expectations and, 22–23; First Step Act and, 179; health issues and, 62; high school, 33, 39, 41, 47, 83, 117, 124, 228n27; impact of, 62, 73, 228n31; incarceration and, 11, 228n27; inequality and, 21; in jail, 77, 85–86; learning disabilities and, 40; middle class and, 21–22, 32–33, 39, 53, 103, 115; neighborhood help and, 83–85; observation and, 80–82; parents and, 22, 32–33, 39, 47, 53, 59, 82, 104, 115, 117, 121, 207; prior experience and, 82–83; privilege and, 103–4, 111, 115, 117, 120–21, 124, 134;

- self, 77–86; study methodology and, 203–7, 210; teachers and, 12, 21–23, 33, 35–36, 39–42, 76, 100, 113, 119, 121, 133–34, 178, 182, 221, 223, 232n81, 249n43; teachers and, 22 (*see also* teachers); withdrawal and, 72–73, 77, 82–83, 101; women and, 21, 32, 39, 47, 55, 59, 82, 111, 117, 121, 178
- Eisenstein, James, 14
- elitism, 221
- Emirbayer, Mustafa, 22
- employers, 12, 23, 125–26, 134, 182, 227n20, 243n15
- empowerment, 7–8, 28–29, 64, 134, 158, 171, 207
- engagement, 20, 104, 120–27, 171, 180, 188, 214, 226n12
- entitlement, 7, 22–23, 134, 142, 182
- Escobedo v. Illinois*, 229n39
- ethics, 39, 144, 150, 198, 201
- ex parte* communication, 157
- expertise: attorneys and, 74, 77–78, 100–1, 120, 140, 151–52, 159, 167, 175; criminal sanction and, 86–87; effective representation and, 142–53; lawyers and, 19–20, 23, 28, 65, 74, 78–86, 97, 101, 103–4, 120, 127–29, 133–34, 151–52, 159, 163–71, 175, 180, 182, 187, 245n28; neighborhood help and, 83–85; observation and, 80–82; prior experience and, 82–83; public defenders and, 80, 152, 203; self education and, 77–86
- Facebook, xiv, 222
- Feeley, Malcolm, 14, 16, 230n53, 246n35
- fees, 10, 26, 89, 94, 97–98, 126, 235n100
- felonies, 14, 25, 119, 228n27, 233n87
- finest, 10, 87, 98
- First Step Act, 179
- foster care, 38
- Foster v. Chatman*, 231n63, 250n14
- Frazier, E. Franklin, 221
- gender: courts and, 8, 12, 22, 142, 226nn11, 248n18; defendants and, 226n11; inequality and, 226n12; punishment and, 8; racism and, 248n18; resource access and, 21; study methodology and, 201, 206, 207, 209, 210–13; women and, 209, 226n11 (*see also* women)
- gentrification, xiv, 243n16
- Gideon v. Wainwright*, 13, 229n37, 229n38
- Gilmore, Ruth Wilson, 192
- guilty pleas: attorneys and, 12, 14, 17, 127, 142, 155–56, 167, 185; continuance without a finding (CWOFF) and, 26, 106–7, 125, 156, 233n92; defendants and, 2, 12, 14, 17, 97, 106–7, 123–25, 127, 142, 152–56, 164–70, 176, 180–81, 185, 233n92, 247n10, 248n24, 251n20; delegation and, 176–77; judges and, 12, 14, 127, 142, 153; nolo contendere and, 247n10; prosecutors and, 2, 12, 14, 142, 167, 180–81, 185
- guns, 1–2, 4, 6, 41, 110, 166, 237n11
- harassment, 31–32, 42, 52, 53, 143, 190
- Haug, Marie R., 100–1
- health issues: 911 calls and, 193; care for, 22–23, 183, 195; care of, 195; depression and, 34, 36, 46, 92, 207, 237n9; doctors and, 7, 23, 47, 76, 100, 133–35, 182, 237n9; drugs and, 165 (*see also* drugs); education and, 62; insurance and, 33, 100; mental issues and, 36 (*see also* mental issues); physicians and, 24, 182, 221, 237n9
- hegemony, 101, 229n34
- heroin, 40, 44–47, 51–52, 59, 82–83, 121–22, 154, 163–64
- Hispanics: courts and, 26, 230n49, 234n95, 234n96, 235n98, 239n38, 240n44; disadvantage and, 88; incarceration and, 26, 234n96; study methodology and, 204, 254n25
- homeless people, 38; courts and, 236n1; disadvantage and, 68, 93, 99; drugs and, 31–32, 51, 61, 93, 99, 154, 199; Police-Public Contact Survey and, 226n19; shelters and, 31–32, 51–52, 109, 168, 199, 205; withdrawal and, 154, 168; working class and, 236n1
- housing: courts and, 10, 20, 31, 42, 51, 186, 188, 195, 227n26, 240n44; discrimination and, 186; government investment in, 10; lawyers and, 188; low-income, 51; mitigating circumstances and, 160; privilege and, 125; projects and, 38, 44; public, 31, 42



- immigration, 145, 188, 195, 197, 207, 235n101, 239n29
- incarceration: black people and, 9, 11, 26–27, 52, 87, 98, 227n26, 228n27, 228n29, 234n96; courts and, 8–11, 15, 18, 26–28, 51–52, 179, 183, 185–86, 192, 226n11, 226n14, 227n20, 227n25, 227n26, 228n27, 228n29, 230n34, 234n94, 234n96, 250n1; disadvantage and, 66, 77, 79–80, 85, 87–89, 98–99, 244n17, 245n26; education and, 11, 228n27; First Step Act and, 179; Hispanics and, 26, 234n96; increased rates of, 8–16, 27; Latinos and, 10–11, 172, 228n27; mass, 9–16, 98, 197, 199, 227n20, 227n25, 227n26, 244n17; parole and, 10, 134, 143, 246n44; pretrial, 154; privilege and, 122; rates of, 9–10, 26–27, 179, 226n11, 228n29, 234n96; reform and, 192, 227n20; study methodology and, 197, 199, 205; U.S. rates of, 9; white people and, 11, 27, 51, 226n11, 228n27, 228n29, 230n54, 234n96; withdrawal and, 154, 156, 168, 170–73; women and, 66, 226n11
- indigent people: bar advocates and, 27, 64, 70, 145, 158, 235n102; courts and, 4, 14, 27, 187, 189, 235nn100–102; delegation and, 108–12, 138–39, 145, 158, 165; disadvantage and, 64, 70, 72, 242n7; public defenders and, 14, 27, 64, 70, 110, 145, 158, 165, 235n102; study methodology and, 204; trust and, 14, 70, 110, 158; withdrawal and, 138–39, 145, 158, 165
- inequality: class and, xv–xvi, 7 (*see also* class); convictions and, 183; courts and, 6–7, 9, 11, 15–18, 21–22, 26–27, 180–82, 185, 191, 225n5, 225n6, 229n34, 240n44; education and, 21; gender, 226n12; injustice and, 181–86; moral issues and, 15, 175, 181; racial, 6, 15, 18, 26, 141, 174, 182 (*see also* racism); reform and, 180; reproduction of, 6–7, 16, 18, 21–22, 27, 229n34; schools and, 22–23; study methodology and, 198, 204–5, 214, 222–23; teachers and, 22; Tilly on, 21; withdrawal and, 141, 170, 174–75; workplaces and, 22–23
- inexperience, 29, 103–4, 115–20, 126, 133, 164, 214
- informants, 60, 111, 252n1
- injustice: attorney-client relationships and, 182–86; courts and, 8–9, 13, 20, 29–30, 61, 75, 138, 140, 172, 180–86, 190–91, 194–95, 242n9; delegation and, 138, 140, 143–44, 151, 172; disadvantage and, 75, 242n9; hidden rules and, 184–85; inequality and, 8, 181–86; privilege and, 182–86; procedural justice literature and, 184; restorative justice and, 193–94; social, 181, 195; withdrawal and, 138, 140, 143–44, 151, 172
- innocence, 5–6, 12–16, 110, 164, 170, 180
- Instagram, 222
- Institutional Review Board (IRB), 200–202, 222, 252n7
- Jacob, Herbert, 14
- jail: black people and, xii, 5, 9, 78, 85, 110, 222, 228n29; courts and, 3, 5, 9, 25, 28, 32–34, 46, 49, 62, 179–80, 189, 192, 194, 228n29, 229n39, 233n87, 253n9; delegation and, 110, 116; disadvantage and, 66, 73, 77–79, 84–85, 89–90, 97–98; era of mass criminalization and, 9–16; incarceration and, 10 (*see also* incarceration); parole and, 10, 134, 143, 246n44; study methodology and, 198–99, 208, 222; withdrawal and, 145, 152, 154, 157, 164, 166, 168, 171
- jailhouse lawyers, 85–86
- Jamaica Plain, 34, 132
- Jayadev, Raj, 191–92
- Jim Crow, 75, 221, 227n26, 244n17
- judges: appellate, 17–18, 80, 142, 191, 231n63, 248n11, 251n40; attorneys and, 3, 5, 12, 14–15, 25–26, 29, 68, 72–73, 77–78, 92, 101, 127, 129, 136, 140–42, 149–51, 158–65, 169–74, 186, 190–91, 194, 201, 203, 205, 232n83, 234n94, 242n7; bail and, 1–2, 26, 72, 80–81, 105, 142, 149–50, 153, 162, 169, 172, 234n94; bench trials and, 5, 199; desire for order by, 150–51; disadvantage and, 67–82, 91–93, 96–98, 101; discretion of, 139, 149; expectations and, 3, 17, 29, 77, 140–41, 151, 171, 203; guilty pleas and, 12, 14, 127, 142, 153;

- lawyers and, 1, 3, 6, 12, 17–20, 25, 29, 72–82, 92–93, 98, 101, 103, 106, 109, 112, 123–42, 149, 151, 156–61, 164–72, 175–81, 186, 189–92, 235n100, 242n7, 247n1, 248n24, 249n35, 251n20; leniency and, 7, 14–15, 27–28, 56, 72, 107, 109, 128, 130, 139, 141, 156, 159, 169, 174, 185, 248n25; motions and, 2, 5, 12, 14, 78, 81, 92, 101, 119, 131–32, 137–38, 142, 149–50, 157, 159–60, 172, 180, 190–91; not-guilty verdicts and, 6, 9, 106, 157, 166; privilege and, 102–9, 112–13, 118–20, 123–35; prosecutors and, 1–6, 11–18, 26, 29, 77, 93, 96, 102, 129, 131, 136, 139–42, 149–50, 158–63, 166, 170–74, 180, 183, 190–91, 194, 203, 205, 209–10, 232n83, 234n94, 242n7, 247n4; reform and, 186, 189–94; rulings of, 2, 5–6, 68–69, 150, 166, 190; sentencing and, 11, 18, 20, 29, 68, 70, 78, 107, 127, 131, 141–42, 149, 153, 170, 172, 174, 233n92, 234n94; study methodology and, 201, 203, 205, 209–10; tailoring defense to, 149–50; warrants and, 53–55, 60, 93, 119, 130, 153, 155–56, 239n29; withdrawal and, 136–42, 147–66, 169–76
- juries: black jurors and, 183, 231n63, 250n14; courts and, 2–5, 106, 136, 142, 147, 157, 176, 183, 199, 231n63, 233n87, 250n14; grand, 2, 233n87; race and, 5, 183, 231
- knives, 1–2, 78, 131
- Kohler-Hausmann, Issa, 15–16, 175, 230n53, 233n92, 248n25
- kratom, 47
- Lamont, Michèle, 184
- larceny, 36, 38, 86, 116
- Lareau, Annette, 22, 232n76
- Latinos: courts and, xiii, 8, 10–11, 37, 44, 50, 54, 57, 61, 179, 183, 228n27, 228n31, 231n63, 237n9, 250n14; disadvantage and, 78, 243n16, 246n44; incarceration and, 10–11, 172, 228n27; neighborhoods of, 54, 61; privilege and, 112, 124; study methodology and, 205–9, 210, 213, 218; violence and, 169; withdrawal and, 136, 160, 165, 173, 175; women and, 8
- lawyers: Blumberg on, 13; caseloads and, 12–15, 70–71, 105, 170, 188–89, 235n102, 242n7, 243n11, 250n4; confidence in, 4, 91, 105, 133; court-appointed, 64 (*see also* bar advocates; public defenders); cross-examination and, 6, 106, 164; deference to, 21, 23, 104, 117, 123, 127–33, 141, 167, 214, 249n35; delegation to, 104 (*see also* delegation); effective representation and, 142–53; expertise of, 19–20, 23, 28, 65, 74, 78–86, 97, 101–4, 120, 127–29, 133–34, 151–52, 159, 163–71, 175, 180, 182, 187, 245n28; frustration with, 14–15; guilty pleas and, 12, 17, 123, 127, 142, 156, 164, 167–68, 170, 176, 181, 248n24, 251n20; housing, 188; indifference of, 1–3, 64–66, 74–77, 156, 187; individual effectiveness of, 175–76; jailhouse, 85–86; judges and, 1, 3, 6, 12, 18, 20, 25, 29, 72–82, 92–93, 98, 101, 103, 106, 109, 112, 125–42, 149, 151, 157–61, 165, 169–72, 175–80, 186, 189–92, 235n100, 242n7, 247n1, 249n35; motions and, 2, 12, 71, 92, 101, 111, 122, 131, 137–39, 142, 152, 154, 157, 159–60, 172, 190; as “public pretenders,” 4, 64, 66; resignation and, 10–20, 28–29, 65, 69, 94, 99, 108, 154, 177, 184, 189, 214, 246n35; resistance and, 12, 19–20, 23, 28–29, 65, 69, 77–78, 100–101, 139, 165, 184, 189, 246n36, 248n20; salaries of, 4, 235n102; shaming clients and, 158–60; trust and, 2–3, 6, 9, 14–15, 19–21, 24, 28–29, 51, 63–65, 69–76, 82–83, 86, 91, 98–104, 108–17, 120–23, 126, 129, 131–33, 137, 152, 158, 164, 172, 175, 179–82, 186, 214, 231n69, 241n3, 242n4, 242n6, 242n7, 246n2, 246n35; withdrawal and, 65 (*see also* withdrawal)
- learning disabilities, 40
- legal control: attorney-client relationships and, 226n12; increased punishment and, 8, 10–11, 227n20; probation officers and, 6, 12, 17–18, 66, 68, 82, 97, 99, 109–10, 129, 137, 139–40, 147, 204–5, 209, 232n83, 246n44
- legal cynicism, 36, 83, 97–98, 242n9, 245n31



- legal rights, 1, 3, 5-6, 27, 78, 98, 182-85, 245n28
- leniency: courts and, 7, 14-15, 27-28, 56, 72, 107, 109, 128, 130, 139, 141, 156, 159, 169, 174, 185, 248n25; delegation and, 107, 109, 128, 130, 139, 141, 156, 159, 169, 174; disadvantage and, 72; parole and, 10, 134, 143, 246n44; privilege and, 107, 109, 128, 130; second chances and, 35, 50, 54, 56, 62-63, 104-5, 117, 169; withdrawal and, 72, 139, 141, 156, 159, 169, 174, 248n25
- licenses, 1, 4, 41, 74, 77, 82-83, 106, 121, 124, 126
- LinkedIn, xiv
- Links, 221
- LSD, 105
- lying, 5, 107, 146, 190
- Lynch, Mona, 167
- marginalization, xiv; alienation and, 36; black people and, 227n26, 246n44; class and, 35, 74, 163, 195, 241n48, 243n14; resources and, 8, 35-36, 63, 74, 85, 163, 179, 192, 195, 226n12, 227n20, 227n26, 240n46, 241n48, 243n14, 246n44; women and, 226n12
- marijuana, 42-44, 56, 105, 116
- Marsden v. Commonwealth*, 229n39
- Martin, Trayvon, 222
- Marx, Karl, 236n3
- Massachusetts Department of Correction, 79
- mass criminalization, 9-16, 27, 85, 179, 195, 197, 226n11, 227n20
- Mattapan, 1, 27, 52, 144
- mental issues: 911 calls and, 193; addiction and, 20, 29, 36, 92-93, 99, 192-93; courts and, 20, 29, 36, 40, 57, 188, 192-93, 237n9; disadvantage and, 90-93, 99; withdrawal and, 141, 143, 165, 168-69
- middle class: courts and, 4, 7-8, 20-23, 34, 39, 43, 51, 54-62, 232n76, 232n81, 236n1, 237n14, 238n22, 238n25, 240n40; disadvantage and, 70-71, 74, 86-87, 241n3, 243n14; education and, 21-22, 32-33, 39, 53, 103, 115; Obama and, 221; privilege and, 103, 108-10, 113-14, 117-19, 124, 129, 133-35, 246n1; study methodology and, 198, 205-9, 210, 213, 215-22, 253n14, 253n15, 254n22, 254n25, 254n26; teachers and, 22; withdrawal and, 165, 247n7, 249n35
- Mills, C. Wright, 225n2
- Miranda v. Arizona*, 229n37
- misdeemeanors: courts and, 15-16, 25-26, 175, 229n35, 230n49, 233n87; CWOFF and, 26, 33-34, 74, 94, 96-97, 105-7, 124-25, 128, 156, 165, 233n92, 236n2; disadvantage and, 87
- Mission Hill, 41
- monitoring, 10, 16, 134, 156, 191, 230n53, 248n25
- moral issues, 15, 55-56, 60, 118, 144, 163, 174-75, 181, 200, 236n3, 249n43
- Morris, Norval, 87
- Movement for Black Lives, 192, 250n5
- Muhammad, Khalil Gibran, 195
- murder, 30, 42, 192-93, 233n87, 235n102
- mushrooms, 105
- Native Americans, 64, 205-7, 209, 210, 213, 218, 228n31
- neighborhoods: Dorchester, 1, 27, 38, 45, 66, 144, 240n44; East Boston, 37, 240n44; Jamaica Plain, 34, 132; Mattapan and, 1, 27, 52, 144; Mission Hill, 41; Roxbury, 27, 31, 38-39, 42, 44-45, 49, 143-44, 233n90, 235n97, 237n11, 240n44, 243n14; South Boston, 36, 45, 233n90; South End, 45, 62, 143, 240n44
- nightclubs, 47-48
- nolo contendere, 247n10
- not-guilty verdicts, 6, 9, 106, 157, 166
- Obama, Barack, 221
- operating under the influence (OUI), 218; courts and, 26, 33-34, 55, 59, 234n95; delegation and, 102, 105-6, 111-14, 121, 124, 126, 128, 165; disadvantage and, 74, 92-93; police and, 55, 59
- opioids, 36, 123
- Ordinary Injustice* (Bach), 191
- Oxycontin, 47
- Pager, Devah, 200
- painkillers, 47
- parole, 10, 134, 143, 246n44
- participatory defense, 84-85, 191-92, 245n22

- partying, 47-48, 117, 137, 148, 238n22
- passivity, 3, 12, 59, 90, 99-100, 182, 189, 230n54, 246n35
- paternalism, 187
- peer pressure, 33, 39, 238n19
- Peña-Rodriguez v. Colorado*, 250n14
- people of color: courts and, 3, 6, 8, 11, 36, 51, 54, 62, 183, 185, 238n25; delegation and, 133, 141, 143-44, 173; disadvantage and, 69-70; study methodology and, 216-19
- Percocet, 47
- personal recognition, 105, 161-62
- physicians, 24, 182, 221, 237n9
- plea deals: Blumberg on, 13; courts and, 2, 5, 12-15, 33, 94-96, 116, 123, 128, 141, 152, 154-55, 164, 167-68, 170, 172, 176, 201, 208, 233n92, 242n7; delegation and, 116, 123, 128, 141, 152, 154-55, 164, 167-68, 170, 172, 176; disadvantage and, 94-96, 242n7; street cred and, 15; study methodology and, 201, 208
- police: abuse by, 65, 164, 173; bias and, 19-20; Boston Police Department (BPD), 27, 205, 235n97, 239n38; broken windows policing and, 15, 27, 230n49; Cambridge Police Department (CPD), 53, 205, 239n38; courts and, 1-11, 14-15, 24-36, 42, 45-46, 49-63, 179-85, 190-95, 226n7, 226n19, 227n26, 228n31, 229n37, 229n39, 230n49, 231n63, 234n94, 235n97, 235n98, 236n7, 238n21, 238n26, 239n29, 239nn36-38; death by, 228n31; deference and, 24, 171, 232n83, 239n37; demographics of, 239n38; disadvantage and, 64-66, 72, 74-75, 77, 82, 84, 86, 88, 95-99, 242n9; era of mass criminalization and, 9-16; harassment and, 31-32, 42, 52, 53; informants and, 60, 111; lying by, 5, 146; militarization of, 10; policing of crime and, 50-61; poor people and, 236n7; privilege and, 10-11, 115-19, 122, 128, 131-32, 134; racism and, 6, 20-21, 35, 50, 57-58, 61, 143, 146, 183, 226n7, 231n63; respect and, 54-57, 61-63, 239n36; school and, 31, 42, 52-53, 58-59, 61, 215, 249n43; search on sight and, 235n97; stop and search by, 179; study methodology and, 198-99, 204-5, 207, 209, 215-17; surveillance and, 7, 29, 35, 50-53, 62, 74, 77, 98, 132, 182, 185; Terry stops and, 54; trust and, 20-21, 35, 42, 50-51, 61, 65, 88, 97-98, 104, 236n7, 242n9; violence and, 176, 222; warrants and, 53-55, 60, 93, 119, 130, 153, 155-56, 239n29; withdrawal and, 137, 143-44, 146, 151, 153, 156, 160, 163-64, 171, 173, 176, 249n43
- Police-Public Contact Survey, 226n19
- poor people: conviction rates and, 70; courts and, 3-4, 14, 20-23, 29-30, 33-34, 36, 38, 40, 43-44, 46, 49-51, 54, 60-63, 178-83, 185, 187-88, 195, 230n54, 232n76, 235n100, 236n1, 236n7, 237n17, 238n21, 238n25, 240n40, 240n44, 240n46, 241n3, 241n48; delegation and, 103, 108-9, 113, 117, 133, 139, 141, 143, 154-55, 158, 160, 165, 167, 173; disadvantage and, 3, 8, 20-22, 34, 43, 61-63, 69-71, 74, 77-78, 82-90, 98-100, 108, 117, 173, 178, 180, 182, 185, 188, 218, 232n76, 241n3, 242n7, 242n9, 243n14, 246n36; homeless people and, 32, 38, 51-52, 61, 68, 93, 99, 154, 168, 193, 199, 226n19, 236n1; indigent, 4, 14, 27, 64, 70, 72, 108-12, 138-39, 145, 158, 165, 187, 189, 204, 235nn100-102, 242n7; median arrest age and, 117; passivity and, 69, 90, 99-100, 182; police and, 236n7; poverty and, 9, 29, 32, 35, 63, 90, 99, 109, 159, 240n44; privilege and, 7-8, 21, 34, 43, 62-63, 103, 108-9, 113, 117, 133, 139, 141, 143, 154-55, 158, 160, 165, 167, 173, 178, 180, 187, 218, 232n76, 240n44, 246n1; probation and, 88-89; projects and, 38, 44; prostitution and, 237n17; shelters and, 31-32, 51-52, 109, 168, 199, 205; study methodology and, 205-7, 209, 210, 213, 215-21, 253n14; withdrawal and, 139, 141, 143, 154-55, 158, 160, 165, 167, 173; women and, 209, 243n11
- poverty, 9, 29, 32, 35, 63, 90, 99, 109, 159, 240n44
- prejudice, 45, 141, 174, 183
- prescriptions, 47, 58, 103, 107, 176
- pretrial conditions, 103, 155-56, 233n92
- pretrial detainment, 10, 154, 228n32

- prison: courts and, 1-3, 9-11, 25, 40, 179-80, 192, 194-95, 227n26, 228n27, 228n29, 233n87, 234n95, 235n99, 250n1; delegation and, 143, 167; disadvantage and, 68, 70, 76-79, 85-86, 89, 98-99, 242n5, 245n26, 246n44; era of mass criminalization and, 9-16; federal, 9, 179; Latinos and, 121-23; parole and, 10, 134, 143, 246n44; reimprisonment and, 246n44; self education while in, 77-80; state, 1, 79, 233n87; study methodology and, 222; withdrawal and, 143, 167
- privilege: alienation and, 34, 104, 108, 127, 178; attorney-client relationships and, 3-4, 7, 9, 16, 21, 35, 51, 63, 104-7, 116, 123, 126-27, 133, 141, 151, 182, 218, 225n6; bar advocates and, 104, 113, 129-30; black people and, 108-10, 113, 115-21; Boston and, 113, 116, 118-19, 122, 124, 133; convictions and, 106-7, 120, 125, 180; cultural commonalities and, 113-14; defendants and, 104, 107, 114-20, 133-35; deference and, 21, 23, 104, 117, 120, 123, 127-33, 141, 167-71, 182, 214, 232n83, 249n35; delegation and, 23, 29 (*see also* delegation); discrimination and, 32, 113; education and, 103-4, 111, 115, 117, 120-21, 124, 134; empowerment and, 7-8, 28-29, 64, 134, 158, 171, 207; engagement and, 20, 104, 120-27, 171, 180, 188, 214, 226n12; entitlement and, 7, 22-23, 134, 142, 182; housing and, 125; incarceration and, 122; inexperience and, 29, 103-4, 115-20, 126, 133, 164, 214; injustice and, 182-86; judges and, 102-9, 112-13, 118-20, 123-35; Latinos and, 112, 124; leniency and, 107, 109, 128, 130; middle class and, 103, 108-10, 113-14, 117-19, 124, 129, 133-35, 246n1; police and, 10-11, 115-19, 122, 128, 131-32, 134; poor people and, 7-8, 21, 34, 43, 62-63, 103, 108-9, 113, 117, 133, 139, 141, 143, 154-55, 158, 160, 165, 167, 173, 178, 180, 187, 218, 232n76, 240n44, 246n1; privacy and, 86; punishment and, 117, 129, 133; racism and, 122-23; scholarship on, 6-7; social ties and, 7-8, 23-24, 28-29, 54, 58-59, 62-63, 82, 84, 88, 179, 182, 207, 226n7; teachers and, 23, 36, 113, 119, 121, 133-34, 178, 182, 221; trust and, 9, 20-21, 29, 50-51, 62-63, 103-23, 126, 129-33, 180, 186; upper class and, 103, 108-9; use of term, 226n7; whiteness and, 21, 54, 221; withdrawal and, 20-21, 23, 133, 151, 218; working class and, 103, 109-10, 113-17, 124, 133, 232n76, 246n1
- probation: black people and, 87-88; continuance without a finding (CWO) and, 26, 33-34, 94, 96-97, 105, 107, 124, 156, 233n92; courts and, 6, 10-14, 17-18, 26-28, 33-34, 51, 185, 227n20, 229n39, 232n83, 233n89, 233n92, 234n95, 250n1, 253n9, 254n24; delegation and, 105-10, 117-18, 120, 123-29, 134, 137, 139-40, 145, 147, 152, 155-56, 160, 164, 168-71, 249n35; disadvantage and, 65-70, 74, 77-78, 82, 87-89, 94-99, 241n2, 243n14, 245n26, 246n44; era of mass criminalization and, 10-14; fees of, 94, 96-97, 126, 201; officers of, 6, 12, 17-18, 66, 68, 82, 97, 99, 109-10, 129, 137, 139-40, 147, 204-5, 209, 232n83, 246n44; poor people and, 88-89; probation and, 241n2, 243n14, 245n26, 246n44; revocation and, 14, 51, 66-67, 126, 229n39, 241n2; study methodology and, 198, 201-5, 209; violating terms of, 66-69, 78, 82, 88, 160, 171, 253n9
- procedural justice, 173, 184, 189, 192, 238n26, 242n6, 242n9, 251n19
- procedural rights, 13, 172, 190-91
- Progressive Era, 195
- prosecutors: district attorneys (DAs) and, 17, 26, 64; guilty pleas and, 2, 12, 14, 142, 167, 180-81, 185; judges and, 1-6, 11-18, 26, 29, 77, 93, 96, 102, 129, 131, 136, 139-42, 149-50, 158-63, 166, 170-74, 180, 183, 190-91, 194, 203, 205, 209-10, 232n83, 234n94, 242n7, 247n4; motions and, 2, 5, 12, 14, 142, 157, 159, 172, 191; progressive, 193
- prostitution, 237n17
- psychiatrists, 237n9
- psychologists, 47, 57, 67, 78, 167, 225n2, 237n9, 238n24, 242n6, 242n9
- public defenders: courts and, 1-2, 4, 17-18, 24, 26-27, 93, 186, 188-91, 231n61, 233n91, 235n101, 235n102; delegation

- and, 104-5, 110-11, 113, 116, 118, 124, 126, 130, 142-49, 152, 158, 165, 172, 248n15, 248n19; disadvantage and, 64, 67, 70-71, 80, 82-83, 89-90, 100, 243n14, 243n16, 246n35; effective representation and, 142-53; expertise and, 80, 152, 203; frustration with, 14-15; indifferent, 1-2; indigent clients and, 14, 27, 64, 70, 110, 145, 158, 165, 235n102; resignation and, 90; resistance and, 100; salaries of, 4, 235n102; study methodology and, 201-3, 209-10; trust and, 14-15, 24, 64, 71, 104, 110, 152, 158, 186, 235n101; withdrawal and, 142-49, 152, 158, 165, 172
- “public pretenders,” 4, 64, 66
- punishment: courts and, 3, 6-8, 10, 15, 17, 19-20, 23, 28-29, 32, 34, 182, 186, 192-95, 227n20; deference and, 23-24, 101, 133, 141, 168, 171, 232n83, 249n35; delegation and, 117, 129, 133; disadvantage and, 69, 87, 90, 93, 99, 101; era of mass criminalization and, 9-16; felonies and, 14, 25, 119, 228n27, 233n87; incarceration and, 9 (*see also* incarceration); increased rates of, 8-16; mitigation of, 29, 59, 68, 121, 125, 140-43, 147, 151, 159-61, 165, 171-73, 180, 187, 248n180; parole and, 10, 134, 143, 246n44; pre-trial detainment and, 10, 154, 228n32; privilege and, 117, 129, 133; race and, 7, 15, 29; reform and, 186-95; study methodology and, 197; surveillance and, 7, 62, 98, 168; withdrawal and, 23-24, 69, 87, 90, 93, 99, 101, 136-41, 151-64, 169-74, 249n35
- racism: bias and, 2, 74, 110, 141, 174, 183, 193, 228n32, 231n63, 243n16; courts and, 6, 18, 20-21, 26, 35, 44-45, 58, 61, 183, 185, 226n7, 240n44; disadvantage and, 75, 243n16, 244n17; gender and, 248n18; police and, 6, 20-21, 35, 50, 57-58, 61, 143, 146, 183, 226n7, 231n63; privilege and, 122-23; study methodology and, 221, 223; teachers and, 221, 223; trust and, 20-21, 50, 65, 74-75; withdrawal and, 144, 173-74, 249n42
- Ramos v. International Fidelity Insurance Company*, 80, 245n21
- rape, 68, 193
- reform: 911 calls and, 193; abolition and, 180; attorney-client relationships and, 30, 186-88; Center for Court Innovation and, 194; class inequality and, 180; courts and, 180, 248n20, 251n40; Court Watch NYC and, 191; decriminalization of drugs and, 15, 51, 238n28; First Step Act and, 179; immigration, 197; incarceration and, 227n20; judges and, 186, 189-94; mass criminalization and, 197, 227n20; possibilities for change and, 186-95; Progressive Era and, 195; resistance and, 172, 248n20; restorative justice and, 193-94; welfare, 197
- rehabilitation, 9, 29, 82, 193
- Reich, Jennifer, 24, 172, 232n83, 249n35
- relational theory, 16, 21-23, 182, 229n34
- reputation, 2, 146
- resignation: attorneys and, 19, 29, 90, 99-100, 153, 184, 214; disadvantage and, 65, 69, 90-100, 241n1, 246n35; lawyers and, 10-20, 28-29, 65, 69, 94, 99, 108, 154, 177, 184, 189, 214, 246n35; missed court appearances and, 93-96; public defenders and, 90; trust and, 20, 28, 65, 99, 108, 230n54, 246n35; withdrawal and, 4, 7, 19-20, 63, 65, 69, 90-100, 108, 140-41, 153-54, 177, 219, 230n54, 241n1, 246n35
- resistance: attorneys and, 12, 19, 29, 78, 100-101, 137, 165, 184, 214; cost of, 155-56, 163-64; disadvantage and, 69, 76-92, 97-101; lawyers and, 12, 19-20, 23, 28-29, 65, 69, 77-78, 100-101, 139, 165, 184, 189, 246n36, 248n20; public defenders and, 100; reform and, 172, 248n20; trust and, 19-20, 28, 50, 65, 97; withdrawal and, 19-20, 23, 28-29, 45, 69, 76-92, 97-101, 135-41, 155-56, 163, 167, 171-72, 184, 189, 219, 241n1, 244n18, 246n36, 248n20
- resources: access to, 6-7, 16, 18, 21, 24, 64, 87, 109-10, 145, 168, 170, 207, 226n7, 235n102; Blumberg on, 13; class and, 6-7, 13, 21-24, 28, 34, 61-62, 109, 135, 182, 188, 207, 226n7, 253n15; education and, 62 (*see also* education); marginalization and, 8, 35-36, 63, 74, 85, 163, 179, 192, 195, 226n12, 227n20, 227n26, 240n46, 241n48, 243n14, 246n44

- respect, 27, 54–57, 61–63, 70, 113, 118, 130, 184, 239n36, 246n44
- restorative justice, 193–94
- restraining orders, 52, 162–63
- revenue, 10, 26, 87, 89, 94, 97–98, 126, 235n100
- revocation hearings, 14, 51, 66–67, 126, 229n39, 241n2
- Rivera, Lauren, 243n15
- robbery, 42, 45, 86, 94, 116
- Roberts, Dorothy, 192
- Rodriguez v. Colorado*, 231n63
- Rogers, Joel, 181
- Rollins, Rachael, xv
- Roxbury, 27, 31, 38–39, 42–45, 49, 143–44, 233n90, 235n97, 237n11, 240n44, 243n14
- search on sight, 235n97
- second chances, 35, 50, 54, 56, 62–63, 104–5, 117, 169
- segregation, 227n26, 240n44
- shame, 158–60, 171
- shelters, 31–32, 51–52, 109, 168, 199, 205
- shoplifting, 33–34, 46, 129, 131
- Simonson, Jocelyn, 189
- Sklansky, David, 190, 251n38
- slavery, 45, 76, 192
- Small, Deborah, 10, 227n20
- smoking, 33, 39, 43, 46, 51, 56, 81, 88, 105
- snitching, 52, 54, 59–60
- sober houses, 24, 66–68, 78, 93, 102, 105–7, 132, 199, 205
- social capital, 240n44
- social disorganization theory, 241n48
- social ties: courts and, 7–8, 23–24, 28–29, 54, 58–59, 62–63, 179, 182, 226n7; disadvantage and, 82, 84, 88; privilege and, 7–8, 23–24, 28–29, 54, 58–59, 62–63, 82, 84, 88, 179, 182, 207, 226n7; study methodology and, 207
- social welfare, 10
- socioeconomic status (SES), 206, 209–17, 218–19, 228n31, 238n25, 253n14
- South Boston, 36, 45, 233n90
- South End, 45, 62, 143, 240n44
- stereotypes, 74
- stigmatization, 9, 39–40, 108, 126, 197, 227n26
- stop and search, 179
- strain theory, 241n48
- Strickland v. Washington*, 248n11
- study methodology: access and, 198–214; addiction and, 223; alcohol and, 205, 218; analysis and, 214–19; attorneys and, 197–202, 207, 214–18, 219–20; bar advocates and, 203, 209, 223; black people and, 198, 201, 206, 209, 210, 213, 215–20, 221–24, 254n22, 254n25; Boston and, 25–27, 198–200, 210, 222; class and, 206, 209–17, 218–19; defendants and, 197–98, 204–5, 210, 215, 217, 219, 222, 224; discrimination and, 254n25; disparities and, 204; drugs and, 199, 205, 215, 218, 223, 254n25; education and, 203–7, 210; gender and, 201, 206, 207, 209, 210–13; Hispanics and, 204, 254n25; incarceration and, 197, 199, 205; indigent people and, 204; inequality and, 198, 204–5, 214, 222–23; interviews and, 197–200, 205–18, 221–24; jail and, 198–99, 208, 222; judges and, 201, 203, 205, 209–10; Latinos and, 205–9, 210, 213, 218; middle class and, 198, 205–9, 210, 213, 215–22, 253n14, 253n15, 254n22, 254n25, 254n26; people of color and, 216–19; plea deals and, 201, 208; police and, 198–99, 204–5, 207, 209, 215–17; poor people and, 205–7, 209, 210, 213, 215–21, 253n14; positionality and, 220–24; prison and, 222; probation and, 198, 201–5, 209; public defenders and, 201–3, 209–10; punishment and, 197; qualitative tradition and, 197; racism and, 221, 223; social ties and, 207; socioeconomic status (SES) and, 206, 209–17, 218–19, 228n31, 253n14; white people and, 201–5, 206, 209, 210, 213, 215–24; women and, 205–7, 209; working class and, 205–7, 209, 210, 213, 215, 218–19, 224, 253n14, 253n15, 254n25
- Suboxone, 47
- Suffolk County Superior Court, 15, 25–26, 199, 233n90, 243n14
- Supplemental Security Income (SSI), 71
- surveillance, 156; defendants and, 10, 35, 50, 132; disadvantage and, 74, 77, 87–88, 98; discrimination and, 132;

- for-profit forms of, 179; police, 7, 29, 35, 50–53, 62, 74, 77, 98, 132, 182; punishment and, 7, 62, 98, 168; withdrawal and, 168, 173, 177
- Sussman, Marvin B., 100–101
- teachers: alienation and, 35–36, 42; disadvantage and, 22, 76, 100, 182; inequality and, 22; interactions with, 12, 33, 40–42, 76, 100, 232n81, 249n43; learning disabilities and, 40; middle class and, 22; privilege and, 23, 36, 113, 119, 121, 133–34, 178, 182, 221; racism and, 221, 223; relational theory and, 21–22; violence and, 39
- Terry stops, 54
- theft, 33–34, 43–46, 61, 115, 129, 131
- therapy, 66
- Tiger, Rebecca, 193
- Tilly, Charles, 21, 181
- Tomaskovic-Devey, Donald, 22
- Tonry, Michael, 87
- Trump, Donald, 179
- trust: attorneys and, 3, 14–15, 20–21, 29, 51, 61–65, 71, 74, 76, 104, 106, 110, 113, 120, 123, 126, 132, 152, 158, 172, 175, 186–87, 214, 235n101, 241n3, 242n4, 246n2; confidence and, 4, 91, 105, 133; cultural commonalities and, 113–14; delegation and, 103–23, 126, 129–33, 164, 166, 186; disadvantage and, 3, 6, 9, 14, 20–21, 28, 50, 62–65, 69–76, 81–83, 88, 91, 97–101, 104, 108, 116, 133, 152, 158, 172, 175, 180, 182, 186, 241n3; distrust and, 20, 28, 35, 42, 61, 70, 76, 88, 98, 152, 230n54, 231n69, 236n7, 242n9, 246n35; indigent people and, 14, 70, 110, 158; lawyers and, 2–3, 6, 9, 14–15, 19–21, 24, 28–29, 51, 63–65, 69–76, 82–83, 86, 91, 98–104, 108–17, 120–23, 126, 129–33, 137, 152, 158, 164, 172, 175, 179–82, 186, 214, 231n69, 241n3, 242n4, 242n6, 242n7, 246n2, 246n35; mistrust and, 6, 14, 19–21, 28, 50, 61, 64–65, 69–71, 74–76, 83, 86, 91, 97, 99, 101, 108, 110, 116, 131, 137, 142, 152, 172, 175, 180, 186, 215, 231n69, 242n7; participation of defendant and, 15; police and, 20–21, 35, 42, 50–51, 61, 65, 88, 97–98, 104, 236n7, 242n9; privilege and, 9, 20–21, 29, 50–51, 62–63, 103–23, 126, 129–33, 180, 186; public defenders and, 14–15, 24, 64, 71, 104, 110, 152, 158, 186, 235n101; “public pretenders” and, 4, 64, 66; racism and, 20–21, 50, 65, 74–75; resignation and, 20, 28, 65, 99, 108, 230n54, 246n35; resistance and, 19–20, 28, 50, 65, 97; withdrawal and, 19–21, 24, 28, 65, 97, 133, 137, 142, 152, 158, 175, 180, 186, 215
- Twitter, 222
- unemployment, 72, 104, 110, 122, 158
- upper class: courts and, 13, 21, 30, 43, 63, 180; delinquency and, 240n46; disparities and, 141; privilege and, 103, 108–9 (*see also* delegation)
- US Supreme Court, 13–14, 142, 250n14
- Van Cleve, Nicole Gonzalez, 15–16, 25–26, 87, 175, 229n35, 230n49, 233n87
- verdicts, 9, 142, 145, 157, 166
- Vicodin, 47
- victims, 9, 30, 143, 181, 193–94
- violence: alcohol and, 37; armed robbery and, 94, 116; assault and, 30, 40, 43, 91–93, 137, 152, 161–64, 168, 192–93; black people and, 10, 49; community justice and, 194; guns and, 1–2, 4, 6, 41, 110, 166, 237n11; Latinos and, 169; murder and, 30, 42, 192–93, 233n87, 235n102; police and, 222; Roxbury and, 237n11; school and, 41–42; teachers and, 39
- Wacquant, Loïc, 10
- warrants, 53–55, 60, 93, 119, 130, 153, 155–56, 239n29
- Weber, Max, 231n58, 237n18
- Western, Bruce, 195
- white people: Boston and, 4, 15, 38, 45, 51, 57, 62, 64, 83, 102, 113, 116, 124, 228n29, 234n95, 240n44, 243n14; courts and, 1–5, 8–11, 15, 20–21, 26–27, 32–63, 178–79, 195, 234n95, 243n16; delegation and, 102–3, 107–18, 123–24, 128–29, 132, 136–37, 141–44, 155, 158–59, 163–68, 173, 246n1; depression and, 237n9; disadvantage and, 8, 11, 21, 43, 50, 63–64, 71, 74, 108,



- white people (cont.)  
116-17, 178, 218, 228n31, 241n3; drugs and, 34, 43, 46-47, 52, 61-63, 82-83, 113, 144, 228n29, 238n22; mass criminalization and, 226n11; incarceration and, 11, 27, 51, 226n11, 228n27, 228n29, 230n54, 234n96; police and, 2, 11, 27, 46, 50-59, 62, 64, 163, 179, 195, 209, 216, 228n31, 230n49, 235n98, 238n21, 238n25, 239n38, 240n40; privilege and, 21, 54, 221 (see also privilege); study methodology and, 201-5, 206, 209, 210, 213, 215-24, 254nn22-25; withdrawal and, 64, 69-75, 78-79, 82-83, 88  
*Williams v. Commonwealth*, 229n39  
Winter, Alix S., 210, 248n15  
withdrawal: addiction and, 148, 154; attorney-client relationships and, 137-42, 151, 155, 165, 167, 170, 173, 175-76; bail and, 142, 149-50, 153-56, 161-62, 168-72; bar advocates and, 145-48, 152, 157-61, 248n15; black people and, 136-37, 143-45, 158-59, 161, 166-67, 169, 175, 248n18, 249n35; Boston and, 143-45, 147, 168-70, 174-75, 248n15; concept of, 247n1; convictions and, 142, 145, 149, 152, 156, 164-65, 176-77; defendants and, 141, 143-49, 153, 165, 172-77; disadvantage and, 65, 68-69, 78, 90-100; discrimination and, 141, 171-75, 249n42, 249n43, 250n47; drugs and, 141-42, 144, 148-49, 154, 156-57, 160, 163, 165, 167-71, 177; education and, 72-73, 77, 82-83, 101; effective representation and, 142-53; frustration and, 19, 65, 78, 100, 151; homeless people and, 154, 168; incarceration and, 154, 156, 168, 170-73; indigent people and, 138-39, 145, 158, 165; inequality and, 141, 170, 174-75; injustice and, 138, 140, 143-44, 151, 172; jail and, 145, 152, 154, 157, 164, 166, 168, 171; judges and, 136-42, 147-66, 169-76; Latinos and, 136, 160, 165, 173, 175; leniency and, 72, 139, 141, 156, 159, 169, 174, 248n25; mental issues and, 141, 143, 165, 168-69; middle class and, 165, 247n7, 249n35; police and, 137, 143-44, 146, 151, 153, 156, 160, 163-64, 171, 173, 176, 249n43; poor people and, 139, 141, 143, 154-55, 158, 160, 165, 167, 173; prison and, 143, 167; privilege and, 20-21, 23, 133, 151, 218; public defenders and, 142-49, 152, 158, 165, 172; punishment and, 23-24, 69, 87, 90, 93, 99, 101, 136-41, 151-64, 169-74, 249n35; racism and, 144, 173-74, 249n42; as resignation, 4, 7, 19-20, 28-29, 63, 65, 69, 90-100, 108, 140-41, 153-54, 177, 184, 189, 219, 241n1, 246n35; as resistance, 19-20, 23, 28-29, 45, 69, 76-92, 97-101, 135-41, 156, 163, 167, 171-72, 184, 189, 219, 241n1, 244n18, 246n36, 248n20; surveillance and, 168, 173, 177; trust and, 19-21, 24, 28, 65, 97, 133, 137, 142, 152, 158, 175, 180, 186, 215; white people and, 64, 69-75, 78-79, 82-83, 88; working class and, 163, 165, 168, 173  
witnesses, 3, 17, 83, 92-95, 118-19, 129-31, 161-62, 190-91  
women: criminalization and, 226n11; disadvantage and, 66-67, 75, 78; education and, 21, 32, 39, 47, 55, 59, 82, 111, 117, 121, 178; incarceration and, 66, 226n11; inequality and, 226n12; marginalization and, 226n12; poor, 209, 243n11; prostitution and, 237n17; punishment and, 8; rape and, 193; resistance and, 155; resource access and, 21; study methodology and, 205-7, 209  
workgroups, 163, 186, 188, 203, 231n59, 234n93, 242n7  
working class: courts and, 3, 7-8, 20-23, 36-38, 46, 55, 58-62, 178, 182, 185, 188, 232n76, 236n1, 238n25, 240n40; disadvantage and, 66, 71, 75, 79, 81, 83, 86-91, 98, 242n9, 244n18; homeless people and, 61, 236n1; inequality and, xv-xvi; privilege and, 103, 109-10, 113-17, 124, 133, 232n76, 246n1; study methodology and, 205-7, 209, 210, 213, 215, 218-19, 224, 253n14, 253n15, 254n25; withdrawal and, 163, 165, 168, 173  
Wright, Erik Olin, 181  
Young, Kathryn, 23  
Zimmerman, George, 222