

LIVING WITH WARRANTS:
LIFE UNDER THE SWORD OF DAMOCLES

by

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Table of Contents

LIST OF TABLES	v
LIST OF FIGURES	vi
ACKNOWLEDGEMENTS.....	vii
ABSTRACT	ix
CHAPTER 1: INTRODUCTION AND STUDY RATIONALE	1
STATEMENT OF THE PROBLEM	1
DESCRIPTION OF WARRANTS	3
SCOPE OF PROBLEM	5
SIGNIFICANCE TO SOCIAL WELFARE.....	9
SOCIAL WELFARE POLICY IMPLICATIONS.....	14
STUDY PURPOSE AND CONTRIBUTIONS.....	15
CHAPTER 2: LITERATURE REVIEW AND THEORY	18
HISTORICAL DEVELOPMENT OF WARRANTS.....	18
OVERVIEW OF WARRANTS.....	22
LITERATURE REVIEW ON WARRANTS	25
ORGANIZING FRAMEWORK.....	30
DISCUSSION	34
CHAPTER 3: METHODOLOGY	36
RESTATEMENT OF PURPOSE.....	36
STUDY OVERVIEW	36
RATIONALE FOR QUALITATIVE RESEARCH	37
ASSUMPTIONS OF QUALITATIVE DESIGN	37
ETHICS.....	38
LOCAL BENCH WARRANT PROCESS DESCRIPTION.....	40
GROUNDED THEORY RESEARCH	41
SAMPLING PROCEDURE.....	45
DATA COLLECTION PROCEDURES	50
PILOT TESTING	52
DATA ANALYSIS PROCEDURES	52
VALIDITY AND RELIABILITY	55
CHAPTER 4: RESULTS.....	58
RESEARCH QUESTIONS	58
WARRANT RESPONDENTS AND TRUSTED RESPONDENTS.....	58
CRIMINAL JUSTICE PROFESSIONALS	62
DESCRIPTION OF LOCAL BENCH WARRANT ISSUANCE PROCESS	63
MANAGING LOW-LEVEL FUGITIVE STATUS	84
OPEN CODING.....	86
AXIAL CODING	88
TRUSTWORTHINESS RESULTS	92
SELECTIVE CODING	93
LOW-LEVEL FUGITIVE PROCESS	116
CHAPTER 5: DISCUSSION.....	121
STUDY FINDINGS	121
STRENGTHS AND LIMITATIONS	136

LESSONS LEARNED	139
IMPLICATIONS FOR SOCIAL WORK PRACTICE AND POLICY	141
DIRECTIONS FOR FUTURE RESEARCH	144
CONCLUSION	146
APPENDIX	148
INFORMED CONSENT: WARRANT RESPONDENT	148
INFORMED CONSENT: TRUSTED INDIVIDUAL	150
INFORMED CONSENT: FOCUS GROUP	152
CRIMINAL JUSTICE PROFESSIONAL CONSENT AND INFORMATION SHEET	154
WARRANT AND TRUSTED INDIVIDUAL RESPONDENT RECRUITMENT BROCHURE	155
CRIMINAL JUSTICE PROFESSIONAL RECRUITMENT EMAIL	158
PARTICIPANT COMPENSATION DETAILS	159
WARRANT PARTICIPANT INTERVIEW GUIDE.....	160
FOCUS GROUP INTERVIEW GUIDE.....	162
TRUSTED INDIVIDUAL RESPONDENT INTERVIEW GUIDE.....	163
CRIMINAL JUSTICE PROFESSIONAL INTERVIEW GUIDE	164
NYS CPL § 530.70 ORDER OF RECOGNIZANCE OR BAIL.....	165
ROCHESTER CITY CODE 44.....	167
NYS PL § 215.55 BAIL JUMPING IN THE THIRD DEGREE	168
NEW YORK STATE CRIMINAL PROCEDURE LAW CPL §420.....	169
THEMATIC AUDIT	177
REFERENCES	185

List of Tables

Table 1. Warrant Respondent Demographic Data	59
Table 2. Trusted Individual Respondent Demographic Data.....	61
Table 3. Individual Level Characteristics for Warrant Respondents	85
Table 4. Individual Level Characteristics for Trusted Individual Respondents	86
Table 5. Final Categories and Proposed Operational Definitions.....	93

List of Figures

Figure 1. Stages of Court Processing and Warrant Issuance	4
Figure 2. Stages of Court Processing (Condensed Version).....	68
Figure 3. Headings of Strauss and Corbin Paradigm Model	89
Figure 4. Paradigm Model of Living with a Bench Warrant	91
Figure 5. Proposed Conceptual Model for Living with a Bench Warrant	95

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Living with Warrants:
Life under the Sword of Damocles

Abstract

By

JANELLE DUDA-BANWAR

Most criminal justice processing is for low-level offenses, not serious, violent offenses. Yet, few studies have examined local criminal justice processing practices and how these affect lives. Bench warrants, issued for non-compliance with court orders, not for threats to community safety, disrupt lives. This study utilized Strauss and Corbin's grounded theory approach to understand how individuals manage low-level fugitive status, defined as having a bench warrant. Twenty-six in-depth interviews were conducted with individuals with current bench warrants and trusted individuals. Eleven interviews with criminal justice professionals were conducted to understand bench warrant issuance practice. The results reveal a core category of risk calculation. Seven additional categories emerged as critical to managing this status: strategies to evade arrest, create power, emotional distress, distrust of the justice system, escalation, surrender planning, and warrant resolution. The results indicate that bench warrants have longstanding impacts on individuals, often pushing them to detach from society, missing out on crucial resources and support. The study provides an empirical foundation for management of low-level fugitive status. Implications for social work practice, policy, and research include outreach with this vulnerable population, policies for ability to pay hearings, and exploring the proposed model in more depth.

Chapter 1: Introduction and Study Rationale

As told by Cicero, Damocles was a courtier under the tyrant King Dionysius II of Syracuse in the 4th century BC. As the courtier, Damocles' role was to flatter the King. Damocles would go on and on about how much happiness the King's power, wealth, and abundance, must bring to him. During one of these fawning sessions, King Dionysius offered, "Damocles, as this kind of life pleases you, to have a taste of it yourself, and to make a trial of the good fortune that attends me?" Damocles immediately agreed to this offer and all was put in place by the King (perfumes, ointments, exquisite meats). As Damocles found his new seat, he noticed a bright sword suspended by a single horsehair directly above his head. If he was to enjoy this new life, then he would have to live with this perpetual sword above his head. Damocles no longer had a desire for this life and realized, "there can be no happiness for one who is under constant apprehensions." Damocles quickly understood that living with a constant threat was no way to live (Cicero, trans. 1877)

Statement of the Problem

There are millions of individuals living under the constant threat of arrest due to an open warrant (Bierie, 2014; Sekhon, 2017). Warrants can stem from violations to unpaid legal financial obligations to low-level misdemeanor offenses to serious felony offenses. Charges or violations that originally carried no jail time can escalate into the possibility of arrest and subsequent incarceration for non-compliance with court orders. Living with a warrant adversely impacts individuals' lives, leading to disruption and disconnection (Flannery & Kretschmar, 2012; Goffman, 2009; Goffman, 2014).

Contrary to common perceptions, the majority of warrants are issued for non-compliance with court orders, not for threats to public safety (Bierie, 2014). Bench warrants, issued post-arraignment for administrative reasons such as failure to appear or pay a fine, are the most frequent type of warrant issued (Bierie, 2014; Guynes & Wolff, 2004; Hager, 2005). Traffic violations, which carry no jail time, are the most common original offense for bench warrants (Sekhon, 2017). The critical implication of a bench warrant is that arrest is imminent. As a result, many citizens seek to evade law enforcement once a bench warrant is issued; subsequently living a life on the lam. Living on the verge of arrest takes its toll: affecting relationships, community engagement, experiencing higher levels of victimization, social service eligibility, among other facets; yet limited studies have examined individuals living with a warrant (Bierie, 2014; Goldkamp, 2012). This is the first known in-depth qualitative study to examine living with low-level fugitive status. Low-level fugitive status is defined as having an active bench warrant for any charge lower than a violent felony.

Bench warrants may increase harm (Sekhon, 2017), as they place multiple civic limitations on individuals, such as driver's license suspension and social service eligibility. Further, individuals may forego medical treatment for fear of being caught on their open warrant.

The purpose of this exploratory study is to add to the limited research on individuals with warrants. An exploratory study leads to the identification and description of the nature of a problem in rich detail; specifically, the range, depth and texture of experiences. A more thorough understanding of the manner in which living with an open bench warrant impacts various life domains, including relationships, familial dynamics,

eligibility for social service and public assistance, community engagement, immigration status, and levels of victimization, will produce a set of concepts, definitions, and hypotheses about low-level fugitive status that can inform future policy discussions and empirical study.

Description of Warrants

The criminal justice system was established to uphold and enforce laws and includes the following main systems: law enforcement, courts, and corrections. Warrants are relevant to all three of these systems, as the court system issues warrants, the law enforcement system enforces warrants, and if jailed or remanded to probation, then the corrections system supervises individuals. The many layers of the criminal justice system can make it a difficult system to navigate. Numerous agencies and professionals intersect, which can cause confusion and misinformation, such as day and time of court appearance, payment schedule, and resolution of outstanding payments. If one finds out that a warrant has been issued on them, they may not know how to go about clearing the warrant. Further complicating the issue, many people do not know what their warrant was issued for; still others do not even know whether they have a warrant or not (Flannery, 2013).

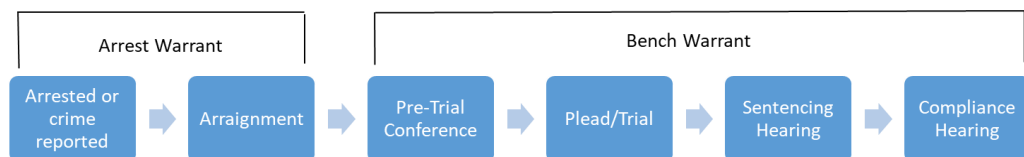
Definition of warrant. Warrants are issued for a variety of reasons, such as probable cause that an individual committed a crime, for a violation of a court order (Guynes & Wolff, 2004), for being held in contempt of court, and for failing to timely satisfy a “legal financial obligation,” “carceral debt,” or other economic sanction (American Civil Liberties Union, 2010; Atkinson, 2016; Birchhead, 2015; Harris,

Evans, & Beckett, 2010). Such warrants can be issued by judges in all types of courts, including municipal, criminal, traffic, and family.

The study is situated within Rochester, New York and will follow the local criminal justice system vernacular. There are two main warrant types in Rochester: arrest and bench. An arrest warrant is issued prior to arraignment, while a bench warrant is issued post-arraignment, and typically for administrative reasons, such as failure to appear or failure to pay fees or fines. Figure 1 outlines this process. The qualitative distinction for the purpose of the current study is that an arrest warrant can be issued without an individual being aware that charges have been brought against the person, so they may not know that they are “wanted;” conversely, someone with a bench warrant would likely be aware of the warrant because they failed to pay or to show up in court on a specified date. The latter population is the focus of the proposed study.

Figure 1

Stages of Court Processing and Warrant Issuance



Rochester’s warrant system is similar to other cities across New York State, with two main types of warrants and one warrant issued per incident. Across the U.S., nearly all jurisdictions have at least arrest and bench warrants, but may issue one warrant per charge. Each jurisdiction can decide how to issue and count warrants. The local warrant issuance process is described in greater detail in the *Overview of Warrants* section in Chapter two.

Within bench warrants, there is a distinction between levels of bench warrant: federal, felony, misdemeanor, and violations. In Rochester, level of warrant is determined through the court issuing the warrant (e.g., federal, criminal, or family). For example, a bench warrant issued through criminal court, could be for a violation (lower level than misdemeanor), misdemeanor or a felony charge, while a warrant issued through family court is for family court violations (non-criminal, and most frequently child support related). The focus of this study is on misdemeanor and non-violent felony bench warrants. Other jurisdictions outside of New York, such as Pennsylvania, may capture level of warrant differently, and may even include a separate category for traffic warrants.

Scope of Problem

General warrant incidence. Studies on warrants and wanted persons are scarce (Bierie, 2014). The National Crime Information Center (NCIC) database is the best estimate on warrant incidence data. There were 1.95 million warrants in the Wanted Persons file in the NCIC database on a particular day in 2011 (Bierie, 2014). However, the NCIC database's Wanted Persons file is comprised of individuals who have outstanding federal warrants (Federation of American Scientists, 2008), is more often used for extradition purposes (Guynes & Wolff, 2004), and is not a mandatory system (Bierie, 2014); therefore, lower level warrants are not included in this database. For example, there were an estimated 265,000-385,000 unserved arrest warrants in the State of Kentucky in 2005 (Hager, 2005), yet in the NCIC Wanted Persons database in 2011 there were only 13,066 warrants listed for Kentucky. The already vague number provided by Kentucky and the discrepancy between the two figures highlights the lack of

systematic collection of warrant data across jurisdictions, even within the same state. Further, individuals can have multiple outstanding warrants at any time and some jurisdictions issue one warrant per charge while other jurisdictions, like Rochester, NY, issue one warrant per incident even if there are multiple charges.

State and county level data. The majority of individuals with warrants in the NCIC database were white (69%), male (79%), and an average of 35.7 years old at the time of warrant issuance (Bierie, 2014). All race and gender groups had the same top three warrant charges in the following rank order: court, property, and drug (Bierie, 2014). Guynes and Wolff's (2004) examination of two jurisdictions' warrant databases over a timespan of three years revealed the low-level nature of the majority of warrants. In both Montgomery County, Maryland and Hennepin County, Minnesota, the majority of warrants were issued for failure to appear (59.8% in Montgomery County and 69.2% in Hennepin County) with the next most common for probation and parole violations. The most common original offenses that the warrants were issued for in both counties were for traffic offenses. Unsurprisingly, in the NCIC database, 59% of the warrants were generated through the courts, commonly for probation and parole violations, failure to appear, and failure to pay fees and fines (Bierie, 2014). Warrants for violent crimes only accounted for 4% of the warrants.

Many warrants are issued as a response to administrative issues associated with the original charge or violation (Bierie, 2014). For example, an original violation for a broken tail light can result in a warrant if the fee assessed is not paid or if the person fails to appear at their court date. The United States Department of Justice (2015) has recognized this issue and in their scathing report on Ferguson, Missouri's criminal justice

practices, it was found that, “[M]ost strikingly, the court issues municipal arrest warrants not on the basis of public safety needs, but rather as a routine response to missed court appearances and required fine payments” (p. 3).

FSS data. Fugitive Safe Surrender (FSS), a 4-day long program enacted in over 21 cities across the U.S. from 2005-2010, provided an opportunity for individuals with warrants to voluntarily surrender at a non-law enforcement affiliated location: a faith-based institution. Since 2010, FSS has been implemented locally without Department of Justice participation, but instead with coordination through the jurisdiction’s State Attorney General’s office in over 35 cities (e.g., Jersey City, Cleveland). The overwhelming response to this program provides important background to the current study. During FSS, this marginalized population described experiencing difficulties in many aspects of life, including mental health, employment, education, and relationships with friends and family (Galanek, Duda-Banwar, Flannery, Butcher, Kretschmar, 2016). Participants described the need for driver’s license reinstatement, reduction in anxiety and fear of the police, and the importance of taking responsibility (Galanek et al., 2016).

Over time, FSS shifted its focus from felony-level warrants to low-level warrants for traffic violations and misdemeanor charges. This change occurred as a response to the backlog of low-level warrants in jurisdictions, the higher volume of low-level warrants than felony warrants, and the US Marshals’ departure from the program. Overall, 84% of the individuals who surrendered at FSS had misdemeanor warrants or lower (Flannery, 2013). Over time, sites showed an interest in using the program as a way to reduce the number of warrants and license forfeitures in their jurisdictions than as a safe way for

serious fugitives to surrender. This shift supports the need to study and understand the impact of living with low-level warrants.

Ethnographic examination of fugitives. Alice Goffman's (2014) recent ethnographic examination of fugitives living in Philadelphia revealed similar findings to the FSS results as individuals described familial relationships, romantic relationships, employment opportunities, and fear as areas affected by fugitive status. Goffman's work centers on seven central male informants, nearly all of whom could be described as violent offenders. The thesis put forward by Goffman is that for certain individuals (i.e., low-income, young, black males), constant entanglement with the criminal justice system is normal and thus lives are built around avoiding the system. The work received stark criticism, bringing forth allegations of the author's credibility, affiliation with criminal activity, and the reliability of her door-to-door survey methodology (Campos, 2015; Harris, 2015; Lubet, 2015). The criticism cannot be ignored, and raises serious questions as to the trustworthiness of her findings.

Gaps. There are no known qualitative studies examining the lives of individuals with lower-level, non-violent warrants. The FSS study utilized participants' written responses to a survey, limiting the ability to probe respondents and ask clarifying questions. The depth of the impact and how this is experienced and interpreted for the individuals within a cultural context remains unknown. With Goffman's credibility under scrutiny, a rigorous study examining how individuals manage fugitive status will be an important contribution to the field.

Bierie explains, "understanding the personal, social, and structural implications of being a fugitive . . . may provide new and important insight into persistence and

desistance from offending” (2014, p. 329). It is unclear if warrant level, number of warrants, or length of time since warrant issued have an impact on the effects of living with a warrant. The FSS survey findings indicated that 50% of individuals were currently working at a job where they received a paycheck. Limited research has described individuals who are working or connected to formal systems yet have an open warrant. To the author’s knowledge, there have been no studies conducted to date that qualitatively study individuals with low-level warrants to understand how they found themselves to have a warrant, how their lives were impacted by warrant status, and to what degree escalation occurs.

Significance to Social Welfare

Individuals with warrants are often overlooked in academia, yet this issue is multifaceted and has vast effects on communities (Goldkamp, 2012), families, and individuals (Galanek et al., 2016). It is often assumed that individuals with warrants are a threat to public safety, but the limited data do not support this assumption. The U.S. Department of Justice’s (DOJ) investigation of Ferguson, MO highlights the serious impact of warrants on individuals’ lives, with warrants often stemming from low-level infractions, such as traffic and status offenses. These offenses escalate into issues that affect lives in monumental ways, such as the threat of arrest. The potential for a serious life disruption seems unbalanced when warrants are issued, yet there is minimal threat to public safety (US DOJ, 2015).

Structural Disadvantage. History has many noteworthy instances of legal injustices done on urban communities of color (e.g. racial profiling, mistreatment of individuals based on race, and stop and frisk policies) (Alessio, 2016). Dimensions of

structural disadvantage include societal devaluation, material hardship, and opportunity restrictions as compared to those in high-status categories (Bakouri & Staerkle, 2015). Within the criminal justice system, court appearance and traffic tickets often include unnecessary obstacles for resolving cases, such as requiring multiple court appearances. Court appearances disproportionality impact low-wage workers, single parents, and those with limited access to transportation (Harris et al., 2010; Dolan & Carr, 2015).

In Bierie's (2014) examination of warrants in the national database in 2011, 28% of warrants were issued for individuals who identify as black; this is more than twice the proportion of African-Americans in the United States (12%, US Census). In the FSS data, 75% of the participants identified as African-American. This raises structural implications for warrant issuance. The overrepresentation of African-Americans in our criminal justice system is evident (Carson, 2014; Federal Bureau of Prisons, 2016; Geller & Fagan, 2010). While the warrant data are limited, this disparity is clear.

When rights are distributed unequally, then social justice concerns are raised. For example, do individuals who are unable to pay a traffic ticket deserve to have their license forfeited or, worse, have the risk of being taken to jail? Individuals with warrants are an increasingly marginalized population which leaves them open to vulnerabilities, such as increased victimization, in addition to driver's license forfeiture and reduced employability.

Criminalization of the Poor. Failure to pay is a common cause for warrant issuance (Bierie, 2014; Wolff & Guynes, 2004). The criminalization of the poor is illegal (*Bearden v. Georgia*, 1983), yet with the recent (2014-2015) media attention on Michael Brown and the criminal justice system in Ferguson Missouri, many instances of

systematically criminalizing the poor were exposed. The DOJ investigators claimed that the Ferguson Police Department engaged in racially biased practices, revenue-based policing, criminalization of the poor, unnecessary obstacles to warrant resolution (e.g. warrants result in suspension of driver's license but then require a court appearance to resolve warrants), and frequently checking individuals for outstanding warrants (U.S. DOJ, 2014).

The occurrence of debtor's prisons has gained momentum across the United States. While these are illegal, (*Bearden v. Georgia*, 1983) individuals are becoming increasingly responsible for their associated court and incarceration costs, which can place a tremendous burden on individuals. Recently, in order to increase revenue for states that have limited revenue streams, additional fees have been imposed on individuals involved in the criminal justice system (Goldkamp, 2012). According to National Public Radio's (NPR) examination of court fees, all but three states in the U.S. have increased their civil and/or criminal fees since 2010. The majority of states require individuals to pay for electronic monitoring, probation or supervision, public defender or legal costs, and room and board (NPR, 2014). Bench warrants are issued for failure to appear or pay fines, but it is unknown if this is due to inability to pay or other issues.

Policies Exacerbating Warrant Issuance. There are policies and activities that contribute to warrant issuance. Recent scrutiny over the warrant issuance process from both the Federal government and the American Civil Liberties Union (ACLU) have contended that there are civil rights concerns surrounding the over-issuance of warrants (ACLU, 2016; U.S. DOJ, 2014).

Excessive Policing. Individuals in poor, black neighborhoods are disproportionately subject to police stops (Fagan, Geller, Davies, & West, 2010). Police stops have increased fivefold in cities, including New York City, in the last decade, yet arrests from these stops have decreased (Fagan et al., 2010). This indicates that while surveillance has increased, crime has not increased to the same degree. This constant surveillance leads to more tickets and arrests issued to community residents. Excessive policing in communities of color contributes to poor, black, urban individuals' greater involvement with the criminal justice system. This likely leads to more warrants being issued on this population.

The 'Terry Rule.' The legal standard regulating the constitutionality of citizen stops stems from *Terry v. Ohio* (1968). The 'Terry Rule' provides language as to what is considered a constitutional stop by law enforcement. The 'Terry Rule' states that there must be reasonable suspicion that a crime has been, is being, or has been committed, in order for a legal citizen stop and frisk (*Terry v. Ohio, 1968*). Based on this ruling, it is unconstitutional to stop someone who does not meet the above criteria and to query their warrant status. From 2003 – 2013, Stop and Frisk tactics in New York City resulted in an overwhelming number of stops of innocent individuals (New York Civil Liberties Union, 2018b). During those eleven years, 88% of those stopped were deemed to be totally innocent and over half of those stopped identified as black (New York Civil Liberties Union, 2018b).

However, in 2016, the Supreme Court ruled that if an individual is stopped without reasonable suspicion (which is illegal), evidence seized during the stop may still be admissible in court (Holloway, 2016). This includes warrant database searches during

the stop and subsequent arrest for a warrant. Justice Sotomayor's fiery dissent criticized the ruling, "This case tells everyone, white and black, guilty and innocent, that an officer can verify your legal status at any time . . . It says that your body is subject to invasion while courts excuse the violation of your rights. It implies that you are not a citizen of a democracy but the subject of a carceral state, just waiting to be cataloged" (Kolpan, 2016). This ruling has serious implications for individuals with warrants.

Arduous Citation Process. There is a cost to breaking the law, both in time and money. Often, courts are only open during daytime hours throughout the weekdays. Individuals who are employed, have children to care for, or other obstacles may struggle to appear in court. Rarely is a case heard within a timely manner; individuals may sit in court for hours before being seen by the judge. Once a fee or fine is assessed, paying off the amount can become another burdensome process, as the Clerk's Office may not be open consistently or during reasonable times. Further, if the amount cannot be paid in full, then there may be interest accrued, or the Court may simply refuse payment until it can be made in full. Further exacerbating this process, default payments are often outsourced to private debt collectors that impose additional collection penalties and costs at inflated rates (Evans, 2014). This can affect individuals' credit reports (Goldkamp, 2012), which can then impact employability and future housing prospects. At any point in this process, a person may stop payments, resulting in warrant issuance.

After Warrant Issuance. Once a warrant is issued for an individual, there are policies in place that contribute to maintaining that warrant. License forfeiture will likely impact transportation to employment, which may result in losing the income needed to pay off the fees and fines. Further, if not currently employed, but seeking employment,

employment background checks may reveal that there is a warrant, often resulting in failure to be hired. Public assistance benefits are limited when a warrant is issued. Individuals can quickly become ineligible for services, yet have no legitimate means to earn money to pay off fees associated with the warrant. If the individual is arrested for the warrant, then disruption occurs, regardless of their current employment, family obligations, and relationship status.

Social Welfare Policy Implications

The National Association of Social Work (NASW) is the largest professional membership organization of social workers in the world, with 140,000 members. The NASW Code of Ethics asserts that the primary mission of social work “is to enhance human well-being and help meet the basic human needs of all people, with particular attention to the needs and empowerment of people who are vulnerable, oppressed, and living in poverty” (NASW, preamble, 2008).

Access to public assistance is critical to meet basic needs. However, warrant issuance affects eligibility for numerous public assistance programs. One such far-reaching agency, The Department of Social Services (DSS), will perform a federal warrant check on anyone applying for benefits (Reentry Resource Center: New York, 2016). If a warrant is found, then this can impact specific benefits and, if requested by law enforcement, DSS will share personal information such as an applicant’s home address and/or phone number with law enforcement. As explained, “Federal and state law also require DSS to share certain information about cash assistance and food stamp recipients with law enforcement officers to help them apprehend these clients” (Cohen,

1998, para. 2). This policy may put marginalized individuals in precarious situations that impacts their families and dependents.

In addition to public assistance restrictions, limitations are often placed on other aspects of individuals' lives. Frequent restrictions include driver's license revocation, exclusion of obtaining a passport, being unable to fly, or enter a military base. Driver's license revocation creates a vicious cycle, as one may need a car to get to their job to pay their fee (Goldkamp, 2012). The escalating effects of warrant status then require more resources from already limited resources to clear a warrant.

Study Purpose and Contributions

The current study addresses the critical gaps in understanding the experiences of individuals living with warrants for non-violent crimes (Goldkamp, 2012; Bieri, 2014). Little is known about this vulnerable population. The largest proportion of individuals with warrants are for misdemeanor, non-violent offenses; not violent, felony warrants. The limited available data suggest that living with an open warrant impacts quality of life, connections, and opportunities. Therefore, an in-depth study of these individuals to learn about the impact of warrants, system navigation issues, the role of cost, price of bail, and other issues will contribute to the limited research on this population.

There is a clear need for an in-depth qualitative approach to studying individuals with warrants and describing their experience with the criminal justice system that imposed the warrant(s). A qualitative approach offers a way to understand how living with low-level fugitive status impacts individuals' lives. This method emphasizes the meanings, experiences and views of the study participants (Pope & Mays, 1995). From understanding the individuals' daily lives and their attempts (or lack of) to clear the

warrant, this study focuses on individuals' experiences with bench warrants. The author is not aware of any research that has focused on individuals with warrants to provide a rich and succinct description of warrant issuance from the initial charge to warrant clearing efforts.

The research questions guiding this study are:

1. What are the local bench warrant practices in a mid-sized community?
2. How do individuals manage living with low-level fugitive status?
3. And, specifically, what are these individuals' experiences with the criminal justice system while living with low-level fugitive status?

The purpose of the study is to provide a description and explanation of living with low-level fugitive status. The project aims to describe how low-level fugitive status affects lives, the process of living as a low-level fugitive, the role of social welfare for this marginalized population, and interactions with the criminal justice system throughout the entire warrant process.

An approach utilizing grounded theory methods will lead to a rich description of the process of living with a warrant and the impact of warrants on lives. Through a qualitative approach, individuals with warrants will describe their initial offense, what led to the warrant issuance and their daily experiences of living with a warrant. Social relationships will be studied to further understand the impact of warrants on lives. Criminal justice system professionals will be interviewed to provide a comprehensive understanding of the local warrant issuance process, with a focus on the systems in place. A set of descriptions, concepts, definitions, and propositions will be presented, moving the field forward in understanding what it means to live with a warrant, interactions with

the criminal justice system, and potential points of intervention. The study will make the following contributions:

1. Information gathered from this hard to reach population will contribute to the general understanding of what it means to be a fugitive;
2. A description of how warrants impact lives or, alternatively, how they do not impact lives;
3. The development of a framework for future study of individuals with warrants;
4. The development of a conceptual map of the range of concerns experienced by this population;
5. A systematic approach to generating narratives from a population that is living life on the lam;
6. A collection and understanding of the community level vocabulary for describing, detailing, and comprehending low-level fugitive status; and
7. Implications for intervention at the policy level, CJ system level, local level, and at the individual level.

The extension of the bench warrant system to encompass administrative violations has received surprisingly little research attention as it relates to understanding the culture and experiences of living with an open warrant. The development of a set of propositions related to low-level fugitive status will contribute to future empirical study in the field, while suggesting points of intervention in the warrant process, such as legislative policy, criminal justice, community, and individual levels. The outcomes of the study will be relevant to criminal justice system processing, treatment of individuals with warrants, and warrant issuance in practice.

Chapter 2: Literature Review and Theory

Historical Development of Warrants

Arrest warrants are a powerful mandate and were initially introduced to protect citizens against unwarranted searches. The fourth amendment most closely guides the warrant issuance process in the United States:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. (U.S. Const. amend. IV).

The fourth amendment was established in 1791 at a time when American colonists were struggling with English control, specifically around political expression (Taslitz, 2006). The authors of the United States Constitution recognized the power of a warrant, and wanted to provide safeguards against abuse of this power. For over 200 years, this amendment protected individuals from illegal search and seizure.

However, during this same time, debtor's prisons (i.e., being imprisoned for owing a debt that has gone unpaid) began to emerge. In the United States, debtor's prisons were so pervasive in the 18th and 19th centuries that in many states, there were three to five times more debtors imprisoned than individuals who had committed crimes (Peterson, 2003). Debtor's prisons were outlawed in 1865, at the end of the Civil War (Peterson, 2003), but while they were illegal, there is evidence that they still existed, particularly towards African Americans (Bannon, Nagrecha, & Diller, 2010). After the abolition of slavery, debt collectors found a way to re-enslave African-Americans through the collection of debt by way of leasing "black convicts by paying off criminal justice debt that they were too poor to pay on their own" (Bannon et al., 2010).

In the twentieth century, the fourth amendment received newfound attention, specific to the interpretation of searching persons outside of their homes. In *Terry v. Ohio*, (1968) it was established that a police officer could stop an individual and search him or her but only if they had reasonable suspicion that the person broke the law or was in the process of breaking the law. This is referred to as the ‘Terry Rule.’ The ruling was specifically relevant in that reasonable suspicion was defined as being more than an officer’s hunch, but that the officer must be able to “*point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion*” (Opinion, III). These standards were later modified, to specifically include a location’s characteristics when defining reasonable suspicion (Fagan et al., 2010). For example, if an individual is loitering outside a store, reasonable suspicion could be considered in that the person may be casing the store for a burglary. It has been suggested that this alteration unequally affects individuals living in high-crime neighborhoods (Goldkamp, 2012).

In 2016, another ruling connected with the ‘Terry Rule’ was affirmed, which finds that if an individual is stopped and searched without reasonable suspicion, but a warrant or some other cause for arrest is discovered during this illegal stop, the person can still be arrested legally (*Utah v. Strieff*, 2016). This has important ramifications for individuals who are illegally searched, as they can still be arrested on a warrant, even if it is discovered during the illegal search as this is constitutional. There was disagreement on the bench, and Justice Sotomayor opened her dissent of this ruling with the following:

The Court today holds that the discovery of a warrant for an unpaid parking ticket will forgive a police officer’s violation of your Fourth Amendment rights. Do not be soothed by the opinion’s technical language: This case allows the police to stop you on the street, demand your identification, and

check it for outstanding traffic warrants—even if you are doing nothing wrong. If the officer discovers a warrant for a fine you forgot to pay, courts will now excuse his illegal stop and will admit into evidence anything he happens to find by searching you after arresting you on the warrant. Because the Fourth Amendment should prohibit, not permit, such misconduct, I dissent (*Utah v. Strieff*, 2016).

Warrants and Debtor's Prisons. While these cases related to legal search and seizure have been argued in Federal Court throughout the last 50 years, in recent years warrants are frequently issued as punishment for not paying fees or fines or for failure to appear to a court date. The limited data show that the majority of warrants issued today are bench warrants, indicating that the warrant system has gotten swept up in the administrative role of assessing and collecting fees associated with crimes and the criminal justice system, and not the original purpose of the warrant system: to protect individuals from unreasonable search and seizure. This administrative purpose has shifted from the original intent of a warrant, which was to protect citizens against unreasonable search and seizure to warrants now used as a tool for police to enforce the payment of fees and fines and court appearances.

In the 1983 case of *Bearden v. Georgia*, the Supreme Court held that even if “a State determines a fine or restitution to be the appropriate and adequate penalty for the crime, it may not thereafter imprison a person solely because he lacked the resources to pay it.” Courts are required to consider alternative methods of punishment, such as community service, if the person charged does not have the means to pay. Yet, too many municipal judges fail to ask whether a person has the means (Bannon, et al., 2010). This can be disastrous for individuals and their families. “Those tangled within it routinely lose jobs, housing, future employability, health care, and other benefits, not to mention the time spent in sometimes atrociously maintained local jails” (Benns & Strode, 2016).

A 2010 report by the Brennan Institute analyzed criminal justice fees across the 15 states with the highest prison populations, which includes New York State (Bannon et al., 2010). The findings indicated that user fees, including fines with surcharges, restitution, fees for designated funds, fees for court administration costs, and prosecution and public defender reimbursement fees have not only increased over time, but they regularly total thousands of dollars in debt (Bannon et al., 2010).

Recently, in order to increase revenue for states that have limited revenue streams, additional fees are imposed on individuals involved in the criminal justice system (Goldkamp, 2012). Further, when the fees go unpaid in a timely manner, additional penalties, fees and interest accrue. While the *Bearden v. Georgia* finding declares that it is unconstitutional to imprison someone for poverty, there is evidence that individuals are incarcerated for their indigency (Bannon et al., 2010). For example, individuals on probation who do not pay their probation fees often get probation revoked which can result in reincarceration (Bannon et al., 2010). In other cases when individuals are unable to pay, they are incarcerated and additional fines are levied against them (Dolan & Carr, 2015)

The criminalization of the poor received widespread attention in Ferguson, MO as part of the aftermath of the shooting and resulting death of Michael Brown by Ferguson police. The Department of Justice investigated the practices and the resulting report prompted the resignations of the Chief of Police and City Manager, along with the termination of the top Court Clerk and two police officers. The report revealed numerous systematic instances of the Ferguson police department taking advantage of the poor. These reduced opportunities included short window times to pay the fee in person,

window times only available during the daytime, and the night court offered once a month was regularly overcrowded and the judge did not always see individuals. Further, individuals who did not have the money to pay the initial fee/fine, had very limited opportunities to set up a way to pay off the fees. This contributed to the high number of warrants in the jurisdiction; there were more warrants than residents. Less than six months after the DOJ report's release, a Ferguson judge withdrew all arrest warrants prior to 2015 (Botelho & Sidner, 2015).

Ferguson is not an outlier in its handling of warrants. The DOJ report noted nearby jurisdictions that have evidence of similar practices; thus Ferguson is likely not the only jurisdiction engaging in these practices. According to the FSS data, financial constraints are the leading issue in resolving court cases for these individuals. Participants most commonly cited that the reason for not previously surrendering was that they did not have the money to pay the fees and fines (Flannery & Kretschmar, 2012). The concepts of monetary sanctions and legal debt are becoming increasingly relevant to the discussion of warrants and the reach of the criminal justice system (Harris et al., 2010; New Your Civil Liberties Union, 2018a). Warrants are now a unique consequence of legal debt (Harris et. al., 2010).

Overview of Warrants

Warrant processes vary across jurisdictions. In some jurisdictions warrants are incident based, with one warrant issued per incident, while in other jurisdictions warrants are charge based, with one warrant issued per charge. For example, if someone is charged with breaking and entering, trespassing, and damage to property during a burglary, in one jurisdiction one warrant would be issued, while in another up to three warrants could be

issued. In Rochester, warrants are issued per incident. For example, someone in Rochester may have three charges for one incident, and therefore only one warrant. There are different levels of offenses as well. In some jurisdictions, there are only misdemeanor and felony warrants, in other jurisdictions violation warrants are issued, and in still others, specifically Pennsylvania, summary offense warrants (low-level misdemeanors) are issued.

Bench warrants are often considered the lowest priority to serve by law enforcement (Hager, 2005); however, individuals can and are arrested for bench warrants. A potential system problem is that warrant tracking often refers to the last warrant issued, but not for the original charge. For example, in the system, the warrant charge will state failure to appear (FTA), but not the original charge. While it may appear that many warrants are for FTA, it is unclear if the original charge was for a felony, drug possession, traffic citation, etc. Warrants remain active until either they are served (person arrested or re-served by law enforcement with a new court date) or recalled by the court (Hager, 2005). One of the contributors to the dearth of reliable data on warrant count includes the lack of expiration for warrants.

Guynes and Wolff's (2004) examination of warrant databases revealed that less than 10% of warrants were issued for serious offenses in Montgomery County, Maryland and Hennepin County, Minnesota (serious offenses defined here as: major crimes against persons, major crimes against property, and weapons). Typically, in low-level crimes, someone will receive a court date and if they fail to appear, then a warrant may be issued. To clear the warrant, the individual can surrender at the police station (to which he or she may be then arrested or issued another court appearance date and allowed to go free).

When issued a ticket or a sentence of paying fees or completing community service, then it is expected that the person will either pay via mail or pay in person, at the Clerk's Office. If the entire amount cannot be paid up front, then the person may be placed on a payment plan, be sentenced to community services, or some other alternative, depending on the state and jurisdiction. If they fail to pay or complete community service on time, then a warrant for failure to pay fees or fines may be issued for the individual.

Warrant backlog. Bench warrants are issued at such high rates that warrant system backlogs have occurred across many jurisdictions. Some contributors to the backlog include death, moving out of jurisdiction, and low priority given to serving bench warrants. The National Institute of Justice (NIJ) sought to examine this backlog, resulting in the report, *Un-served Arrest Warrants: An Exploratory Study* (2004). The findings indicated that warrants are issued by the Courts, and it is not always clear whether the Court data management system is linked and integrated with other systems managed by different entities, such as police or probation (Guynes & Wolff, 2004). In practice, this could result in a warrant being issued and documented by the Court, and then served by a police officer and inputted into the police system, with the warrant still considered outstanding in the Court system. The introduction of electronic databases in the 21st century has begun to allow for a more straightforward way to study warrants (Guynes & Wolff, 2004).

States and smaller jurisdictions continue to struggle with warrant backlogs. Once a warrant is issued, it is not cleared until the person is either arrested or appears in court or pays off his or her outstanding balance. If someone has a warrant for a low-level offense (i.e., misdemeanor or violation), then it is entirely possible that the individual could have

that warrant for years, decades, or even at the time of their death, because law enforcement prioritizes its execution of warrants, with high level warrants (i.e., arrest and felony) receiving more attention.

Literature Review on Warrants

The most complete warrant data is available through the National Crime Information Center (NCIC) database. The NCIC database captures felony warrants nationally, but does not systematically collect data on lower level warrants, such as misdemeanor and traffic. Of the nearly 2 million warrants in the NCIC database in 2011, close to 6% of the warrants were issued prior to 2002. On average, there were 6 warrants per 1,000 residents, but the states with the highest warrants per capita were Arkansas (47 per capita), Georgia (28 per capita), Washington D.C. (19 per capita) and the lowest warrants per capita were Hawaii (.38), Puerto Rico (.29), and Massachusetts (.20) (Bierie, 2014).

The majority of individuals with warrants were white (69%), male (79%), and an average of 35.7 years old at the time of warrant issuance (Bierie, 2014). In the FSS data, about 36% of the surrenderees identified as female (Flannery, 2013), which is a much higher proportion than the NCIC database reported (Bierie, 2014). Unsurprisingly, 59% of the warrants were generated through the courts, commonly for probation and parole violations, failure to appear, and failure to pay fees and fines (Bierie, 2014). All race groups and gender groups had the same top three warrant charges in the following rank order: court, property, and drug (Bierie, 2014).

Regardless of what data source is used, there are many outstanding warrants issued across the United States. The few reports that have examined warrants find that the

majority of warrants are for low-level, non-violent offenses and issued for administrative reasons such as failure to pay or failure to appear in court (Bierie, 2014; Guynes & Wolff, 2004). Further, “The vast majority of crime, whether violent or non-violent, is committed by persons who do not have outstanding arrest warrants” (Guynes & Wolff, 2004, p. 29).

Warrant clearing. The criminal justice system is inundated with warrants to be served, yet often cannot keep up with the demand, as is evidenced by the recent “clearing” of warrants for traffic-related infractions in many jurisdictions (Guynes & Wolff, 2004; McKinley, 2017). Programmatic efforts to reduce the large volume of warrants fall across a continuum, ranging from bait and switch methods to amnesty. Some agencies have taken advantage of individuals’ good faith and utilized different types of bait-and-switch programs to lure in fugitives (e.g. Adams, 2009; Cody, 2011; Duffin, 2011; Love, 2018). These types of programs are often advertised to pre-identified individuals that they “won” an item, such as a television, and that to claim the prize, they must show up at a specific location. The individual then arrives at the location to claim the prize, only to be surprised by law enforcement who take the person into custody.

In more recent years, many criminal justice agencies have recognized that there is a need to handle the backlog of warrants in an efficient and community-oriented manner. Different jurisdictions have handled this by providing partial amnesty programs, in which late fees or additional FTA processing fees are removed and the individual is only required to pay the initial citation fee (e.g. Carleo-Evangelist, 2015; Dickson, 2015; Kinch, 2016). Other jurisdictions have implemented programs that offer complete amnesty, such as Harlem’s “Clean Slate” program. The “Clean Slate” program was

offered to individuals with warrants for minor infractions (e.g., open container) to be eradicated without having to pay the fees or fines.

In August 2017, 644,000 low-level warrants older than 10 years were cleared across New York City (McKinley, 2017). The goal was to reduce the volume of individuals interfacing with the criminal courts and jails that would merit no jail time if the warrant had not been issued. The Manhattan District Attorney explained that these outstanding warrants were driving a wedge between the police and the community and creating unnecessary obstacles for individuals related to housing and employment (McKinley, 2017). The implementation of these programs points to the need for law enforcement to handle the large number of warrants that are inundating the system.

Impact of Warrants. The scant research on warrants indicates that warrants affect lives in a multitude of ways (Flannery & Kretschmar, 2012; Galanek et al., 2016). In Harlem’s 2015 one-day “Clean Slate” warrant clearing effort for low-level infractions, the participants explained that having warrants is stressful (Driscoll, 2015). Utilizing FSS data, domains affected include family, transportation, employment, and affective changes, such as reduced anxiety and fear (Galanek et al., 2016).

One substantial way that warrants affect an individual’s livelihood is through the denial of public assistance benefits (Harris et al., 2010). Per federal statute [i.e. 42 U.S.C. §608(a)(9)(A); Title 42 (Public Health and Welfare) Chapter 7 (Social Security) Subchapter IV (Grants to States for Aid and Services to Needy Families with children and for Child-Welfare Services) Part A (Block Grants to States for Temporary Assistance for Needy Families) §608 (Prohibitions; requirements) states must deny assistance to fugitive felons and probation and parole violators (Cornell University Law School Legal

Information Gateway, 42 U.S. Code § 608 - Prohibitions; requirements, 2012). However, the specific phrase: “fleeing to avoid prosecution in a felony case” is ambiguous. Per Minneapolis’ policy, “A warrant for your arrest is not enough to prove this because many people don't know they have open warrants. Instead, the warrant must be issued because you are intentionally fleeing law enforcement” (Michigan Reentry Law Wiki, 2014). It is not clear if all counties and states follow this interpretation.

Furthermore, states receiving grants for public assistance must agree to share the current address of a recipient if a law enforcement officer requests the information and provides evidence that the recipient is a fugitive felon and/or a probation and/or parole violator (42 U.S. Code § 608, 2012). The services covered under the statute include: Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), SSDI, public and federally assisted housing, and Food Stamps (Reentry Resource Center: New York, 2016). Medicaid is an exception, as warrant status does not affect Medicaid eligibility (Michigan Reentry Law, 2014; Reentry Resource Center: New York).

This issue of denial of public support is taken a step further, as the threat is not only that services will be denied, but also that through one’s attempt at receiving benefits, they may then be targeted by law enforcement for an outstanding warrant. On a NY Law website is this disclaimer: “NOTE: DSS shares information about who is applying for assistance with the local law enforcement. If you have an outstanding warrant, you could be arrested at your welfare application appointment.” (LawNY, 2017, para. 2). This message could dissuade people from getting necessary assistance and result in unintentional harm.

The financial burden of having a warrant is significant, as Tabarrok (2012) explains that with so many defendants living in poverty, the associated criminal justice fees can be a “personal and public policy disaster” (p. 466). Frequently, individuals have to pay the fees and fines and other costs in order to get a warrant cleared. However, if someone has limited resources, the percentage of their income going towards the criminal justice costs can be exorbitant and disproportionate to their other living costs (Harris et al., 2010). This is a heavy burden for those already living in poverty. There are no known studies examining the lives of individuals with lower-level warrants. There are civic limitations placed on individuals with warrants, but it is unclear how these limitations affect individuals.

Escalation. With limited empirical data but an abundance of news media and reports targeting warrants (e.g., Holland & Zhang, 2018; Robles & Dewan, 2015), an important task was to review relevant news and publications for preliminary information related to this topic. The DOJ investigation into Ferguson led to an increase in media attention focused on individuals living with a warrant. Articles appeared in the New York Times, Washington Post, and National Public Radio describing nearly identical stories. Most stories begin with an individual, often poor and a person of color, receiving a ticket for a traffic violation. The individual lacks the money or resources to handle the ticket, which results in unpaid fees, which quickly escalate into warrant issuance, subsequent arrest and days spent in jail. The arrest then leads to loss of job due to days away from work, children in need of a caregiver, and loss of public benefits. Then the individual is released from jail on a new payment plan only to have additional fees assessed. This results in a period of living on the fringes trying to pay off the fees, but failing, only to be found

again and re-arrested for failure to pay due to inability to pay (e.g. Aspinwall, 2017; Holland & Zhang, 2018; Robles & Dewan, 2015; Schmadeke, 2017; Shapiro, 2015a; Shapiro 2015b). This escalating, disruptive cycle continues, affecting children, credit and driving privileges, relationships, and housing.

Organizing Framework

It is clear that the majority of warrants are issued for administrative reasons; not for new criminal behavior. These are often for low-level warrants that then escalate into more serious charges and repercussions. In the small number of empirical studies on warrants and the news media and advocacy reports related to warrants, a few concepts began to surface. For example, increasing sanctions, turning points, and the interaction between personal responsibility and organizational structures emerged as potentially relevant to the warrant process. The element of time and the chronological sequencing of events, such as when the initial charge occurs followed by warrant issuance are also important to living with a warrant. The life course perspective constructs of trajectory, transitions, critical events, turning points, timing, ordering, and duration can frame a study of individuals with warrants.

Life Course Theory. Life course theory came out of a “desire to understand social pathways, their developmental effects, and their relation to personal and social-historical conditions” (Elder, Johnson, & Crosnoe, 2003, p.7). The theory was developed in response to the impact that the Great Depression had on both individual and family trajectories. The consideration of historical factors influencing development was novel compared to the other theories around at the time (Hutchinson, 2014). During this time period, the sub-discipline of social history was developing within the field of history.

Elder, Johnson, and Crosnoe (2003) describe four driving forces behind the development of life course theory: (1) Influx of prospective and retrospective data collection; (2) the changing demographics of American society (increasing longevity and increased diversity related to race/ethnicity, gender, geography, and socioeconomic status); (3) increase in longitudinal studies in 1960s; (4) and a recognition of the effects of social change on lives (e.g. Great Depression, World Wars, and Civil Rights Movement).

Life course theory (LCT) spans across time, and key concepts include: trajectory, transitions, turning points, timing, ordering, and duration. Trajectories are understood as long-term patterns of stability and change (Hutchinson, 2014). LCT responds to age-graded transitions, such as marriage and child rearing. Transitions are embedded within trajectories and are changes in roles and statuses throughout the life course (Hutchinson, 2014). Transitions include births, deaths, and marriages. Individuals have multiple trajectories because of the various life domains, include work, health, and educational trajectories (Hutchinson, 2014). A turning point is when a major, lasting change occurs in an individual's life, impacting his or her trajectory (Hutchinson, 2014).

Elder (1994, 1998) has identified six themes of the life course perspective: (1) interplay of lives and historical time; (2) timing of lives, (3) linked or interdependent lives, (4) human agency in making choices (1994), (5) diversity in life course trajectories, and (6) developmental risk and protection (Elder et al., 2003). The first theme refers to the influence of historical time on the life course. The timing of lives refers to the biological age, psychological age, and social age of individuals and the age at which certain life events and transitions occur (Hutchinson, 2014). Linked or interdependent

lives are the ways in which lives are influenced by relationships, which support and control individual's behavior (Hutchinson, 2014). Personal agency emphasizes the role of personal power to achieve goals (Hutchinson, 2014). Diversity in trajectories refers to the heterogeneity in life courses, as they vary by gender, socioeconomic status, and geography, among other factors. Developmental risk and protection is associated with the cumulative effects of risk and protective factors throughout the life course (Hutchinson, 2014).

In the early 90s, life course theory found its way into criminology through Sampson and Laub's criminological version of life course theory (Laub & Sampson, 1993; Sampson & Laub, 2005). Sampson and Laub posited that family dynamics, education, and employment should be included when trying to reduce reoffending /recidivism; importantly, they acknowledged that early childhood has an impact on criminality (Messer, Patten, & Candela, 2016). The criminology literature on life course theory focuses on turning points such as marriage, parenthood, and employment. It is proposed that the mechanisms by which these events result in turning points is through informal social control (Messer et al., 2016).

Within the developmental criminology literature, concepts including social capital, turning points, and situated choice are emphasized (Sampson & Laub, 2016). Social capital is understood as, "the social ties that exists among persons and positions" (Piquero, Jennings, Piquero, & Schubert, 2014, p. 366). Situated choice is the interrelation between personal choice (agency) and structural location; lives are not entirely personal choice nor are they entirely institutional options, but the intersection of the two. The examination of situated choice over time can help to identify turning points.

Messer and colleagues (2016) expanded the criminological literature on turning points to go beyond facilitators of one's free will such as parenthood or marriage to include mandated events such as drug court.

In recent years, various disciplines including epidemiology (e.g., Ben-Shlomo & Kuh, 2002), criminology (e.g., Sampson & Laub, 2005), social work (e.g., Hutchison in Levesque, 2014), and addiction psychology (e.g., Hser, Longshore, & Anglin, 2007) have utilized life course theory to understand phenomena. Chronic drug use, chronic illness, and chronic criminality are all phenomena that have been studied using a life course theory lens. This lens invites questions about historical context, social structures and environment, and intra- and inter-individual differences.

One of the core assumptions of life course theory is that timing and ordering of events is relevant. The focus on the temporal relationship between constructs allows for a more nuanced understanding of a phenomenon and multiple intervention points. It also accounts for accumulation and escalation effects, such as the accumulation of missing payments, resulting in increased sanctions, initiating jail time for an original violation that carried no jail time, and culminating in missing work and eventual termination from employment for missed work. The term, collateral damage, seems relevant to this effect. Previous studies following a life course framework have utilized a qualitative interview approach (i.e., Messer et al., 2016)

A benefit to incorporating a life course perspective is the inclusion of turning points, which are qualitative. Implications include the development of policies based on trajectory phases or trajectory typologies rather than specific diseases. This may parallel policy development in criminal justice system related to warrants.

Limitations of LCT. Life course theory is rooted in explaining human development, which is a different phenomenon than the process of being issued an arrest warrant and living with a warrant. It is unclear whether these psychological and social processes parallel that of a warrant issuance process. Because of the focus on heterogeneity, it may be difficult to identify patterns. The link between individuals and families to large institutions is limited and not fully explained (Hutchinson, 2014). Some of the methodological limitations to this approach include the time frame of the study, the end state, and limited research with birth cohort studies with repeat measures. Further, these studies often require longitudinal research, which is expensive, rare, and time-consuming.

Discussion

With few studies examining this population, the question cannot be ignored, “Why have researchers overlooked this population?” One possible reason is that the system that has been set up is indeed working as intended, and so there is no reason to examine it closer. The system seems to be effective in generating revenue to pay the necessary costs to run the criminal justice system. Another possible reason is the marginalization of this population makes it a difficult group to find, connect with, observe, and track. This group does not want to be found, and these individuals are likely *actively* trying to hide from anyone with a connection to any official system, which is a clear barrier to research engagement. Another possibility is that this is a forgotten population. The low-level nature of these offenses that lead to warrant issuance (i.e., failure to pay and failure to appear), indicates that these individuals are a very low, if any, threat to public safety. Further, with many criminal justice agencies not actively

searching for low-level warrant individuals this suggests that this this is a forgotten group.

This study will provide a different methodological approach to studying fugitives than the few previous studies examining low-level fugitive status. A grounded theory approach allows for new questions to be asked and for the individuals experiencing the phenomenon to both guide and generate the interview topics, ensuring that the data collected are rooted in their experiences. Interviewing a person close to the individual with a warrant to understand the experience of living with a warrant not only provides data triangulation, but also gives voice to those who may not have been included in previous studies. The inclusion of interviews with individuals employed by the criminal justice system provides context and recognition that locality matters. Systems operate differently from the city to the county to the state and to the federal. An informed description of the local policy and practice of warrant issuance produces a comprehensive study with relevant opportunities for intervention.

The utilization of life course theory to guide the study informs sample selection. With the introduction of the concepts of trajectories, turning points, and transitions, sampling a broad range of individuals across the warrant spectrum is critical. Individuals will be interviewed who currently have an active warrant, have recently been arrested on an active warrant, or who have cleared up any active warrants.

Chapter 3: Methodology

Restatement of Purpose

The current study examined how individuals manage low-level fugitive status. The study described how low-level fugitive status affects various life domains, the process of becoming a fugitive, and the local warrant issuance process. Through a grounded theory approach, a set of propositions was generated; this included a range of concepts, their definitions, and descriptions. The results of this study move the field forward in understanding what it means to live with a warrant and potential points of intervention. The vocabulary and lay understandings of what it means to live with low-level fugitive status, grounded in the data, also emerged from the study.

Study Overview

The overall study design included the (1) identification, recruitment, and interviews with 15 individuals who had a current or previous bench warrant. These respondents were interviewed on one occasion and followed a grounded theory semi-structured interview guide. Concurrently, (2) eleven trusted individuals of individuals with warrants were interviewed on one occasion to gather more data on the impact of living with a warrant. Lastly, (3) eleven local criminal justice system experts were interviewed to understand the local warrant process. Participants from the police department and courts were interviewed. Interviews were conducted over four months. Data analysis occurred parallel to data collection, and an emerging set of constructs, definitions, and propositions were the result of this study.

Rationale for Qualitative Research

Quantitative inquiry is frequently based on theory testing; this commonly includes variables which are measured by numbers and the use of statistical procedures with a goal of prediction (Babbie, 2011; Creswell, 2003). In contrast, qualitative inquiry is based on a holistic understanding of process, context, and deeper meanings of human experience in an effort to generate “theoretically rich observations that are not easily reduced to numbers” (Rubin & Babbie, 2011, p. 437). Qualitative research is both a data collecting and theory generating activity. Living with low-level fugitive status is not well understood and is therefore well situated for a qualitative approach. A strength of qualitative inquiry is its comprehensiveness and the ability to go right to the phenomenon of interest for study (Rubin & Babbie, 2011). A qualitative approach allows for responsiveness and adaptability to the subjects and research (Shaw, 2008).

Assumptions of Qualitative Design

Creswell (2013) outlines four assumptions of qualitative research which are described in this section. *Ontological* assumptions are about the nature of reality and its characteristics. Qualitative inquiry asserts that there are multiple realities and that the qualitative researcher is collecting and reporting these multiple realities. Evidence of this assumption can be seen in the use of different participants’ words when describing themes. This grounded theory study drew directly from the words used by participants to generate the findings. The *epistemological* assumption is concerned with ways of knowing and how these knowledge claims are justified. In qualitative research, knowledge is known through the subjective experiences of individuals which makes it important to conduct work in the field (Creswell, 2013). The research was conducted out

in the community and two groups (i.e., individuals with warrants and trusted persons of warrant individuals) described the impact of warrants on their lives.

Qualitative researchers acknowledge the role of values in research, or *axiology*, and position themselves within the study. Positionality is done through the researcher admitting that the study is value-laden and “actively report their values and biases as well as the value-laden nature of information gathered from the field” (Creswell, 2013, p. 20). The use of memoing (described later in this chapter) provided a way to protect against researcher bias. Finally, the *methodology* assumption within qualitative research is that it is inductive not deductive, always emerging, and the collection and analysis of data shapes the researcher’s experience (Creswell, 2013). This constant emergence of data became more focused throughout analysis, resulting in concise findings that led to future studies, and affected the researcher’s understanding of this population.

Ethics

Qualitative research incurs unique ethical considerations, particularly around consent and fieldwork (Shaw, 2008). The researcher needs to be very clear with the research subjects when data collection is occurring. Shaw (2010) points out that in quantitative research the data collection period is often clear, with a survey or other measure being completed, and when finished data collection is done. However, in fieldwork, when the researcher is not actively recording or taking notes, this does not mean that data collection has halted. It is important that this is made clear to respondents prior to consent, and that the participants are reminded of this throughout the study.

Participants’ data were kept confidential, with no identifying information kept with the data. Participants were assigned a unique ID number and their self-report of

warrant status was not checked against official records, as this check could potentially put individuals at greater risk of arrest if their names were searched through law enforcement records databases.

Ethics issues could have arisen in the nature of the interviews, as often times researchers are asking specifically about deficiencies and hardships, as opposed to positive attributions (Shaw, 2008). To overcome this, the study included a balance of questions and documentation, attempting to understand the robust, full aspects of lives as well as the challenges to living with a warrant. As the current research has implications for public policy, ethics concerns were raised due to the possibility of the findings resulting in policy changes that adversely affect the research subjects (Shaw, 2008). It is possible that the findings could reinforce negative stereotypes that others have of this population. Shaw (2008) purports, “the ethical dimension of research utilization is rarely addressed in social work” (p. 410). In the current study, the subjects were recruited based on a legal status, and so maintaining confidentiality was that much more critical to the research.

The Institutional Review Board (IRB) at Case Western Reserve University approved the study as an expedited review (IRB-2018-471) on November 9, 2018. Rochester Institute of Technology’s IRB approved the study on May 3, 2018 (SRS-18-050975).

Informed consent. For each of the interviews, the respondents were provided with an informed consent document (see Appendix). This document outlined the purpose of the study, the risks, the benefits, compensation information, audio recording policy, and contact information. Before the research began, the author reviewed the document

with each respondent. After review, respondents gave verbal consent to participate. If they chose to participate then the interview moved forward and they received a copy of the consent form. The respondents could choose to not answer any questions and/or terminate the interview at any time without any negative consequences. Warrant and trusted individual respondents received study compensation after the consent document was signed, and received full compensation even if they ended the interview early.

Local Bench Warrant Process Description

A thematic analysis approach guided the description of the local bench warrant issuance practice to answer the first research question (i.e., what are the local bench warrant practices in a mid-sized community?) The overall purpose of the current study was to understand how individuals manage low-level fugitive status, but context was important to understand and describe that process. Therefore, the actual policies and practices associated with bench warrant practice required description. Interviews with criminal justice professional respondents that focused on those policies and practice were conducted. Thematic analysis then guided the summary of these interviews.

Thematic analysis is flexible, as it can be used across a wide range of theoretical and epistemological approaches (Nowell, Norris, White, & Moules, 2017). It is a descriptive method that includes the identification and analysis of patterns (themes) within the data (Braun & Clarke, 2006). Because various patterns can be identified in one dataset, the research question guides the identification of patterns (Braun & Clarke, 2019). Thematic analysis is useful when examining different perspectives or summarizing key aspects within a dataset (Nowell et al., 2017). This made it appropriate method for guiding research question one.

While there is limited information describing the process of thematic analysis, Nowell and colleagues (2017) provide some guidance. Interviews are conducted, the interview data are then reviewed, next initial codes are generated, this is followed by the development of themes from these codes, review of the themes, concluding with defining and naming the themes (Nowell et al., (2017). In this study, descriptive codes were generated from the data; these summarized the primary topic of the statement or idea (Braun & Clarke, 2019). The result was a description, organized by themes, of the local bench warrant issuance process. This description provided context critical to understanding what it was like to live with a bench warrant. Interview topics included the current bench warrant system, barriers, and facilitators to the process. The sequence of events leading up to bench warrant issuance, including the decision to issue a bench warrant, and the ways in which warrants are cleared were included in the description.

Grounded Theory Research

Research questions two and three were answered using grounded theory analysis (i.e., How do individuals manage living with low-level fugitive status? And, specifically, what are these individuals' experiences with the criminal justice system while living with low-level fugitive status?) Grounded theory emerged in 1967 with Glaser and Strauss proposing a new kind of qualitative research that inductively generates theory (Evans, 2013). The key elements of this new research were: systematic collection of data, the constant comparative method, and the generation of theory (Glaser & Strauss, 1967/2012). Rooted in pragmatic and symbolic interactionist traditions, this method seeks to uncover relevant conditions, identify how individuals react and respond

to change, and the consequences of these actions (Corbin & Strauss, 1990). The goal of this method is description and explanation (Corbin & Strauss, 1990).

In grounded theory research, data collection, coding, and analysis happen simultaneously (Glaser & Strauss, 1967/2012). Glaser and Strauss (1967/2002) adhere to the traditional qualitative data collection procedures of interviews and observations. The researcher is constantly comparing the emerging categories with previous categories and properties to identify similarities and differences. These findings are used to direct sampling and theory generation. Theoretical sampling, defined as participant selection based on emerging findings, is employed in this tradition. Glaser and Strauss (1967/2012) introduced memoing throughout the coding and analysis process. Memoing is done as the researcher documents ideas about the emerging theory (Creswell, 2013). Through the constant comparative method developed by Glaser and Strauss (1967/2012), the end result is a theory or a set of constructs. The theory should provide clear hypotheses describing relationships that can be tested. Glaser and Strauss (1967/2012), posit three elements of theory: categories, properties of categories and hypotheses.

Grounded theory was well suited to the current study because there is no theory available to explain the process of low-level fugitive status. Glaser and Strauss (1967/2012) contend that theory rooted in data can usually not be disregarded or replaced entirely by a different theory. A grounded theory examination of individuals with warrants brought the voices and experiences of these individuals to the forefront. Grounded theory is used when there is an interest in focusing on a process (i.e., the process of being a low-level fugitive) that the researcher is interested in explaining. With

scant empirical data, an approach that utilizes data collection in the natural setting seemed an appropriate method to develop a theory of low-level fugitive status.

Straussian versus Classic Grounded Theory. In 1990, Glaser and Strauss began to diverge on their approach to grounded theory, which resulted in two distinct grounded theory approaches: Glaser's Classic grounded theory (CGT) and Straussian grounded theory (Straussian GT). After Strauss and Corbin's book, *Basics of Qualitative Research: Grounded Theory Procedures and Techniques* (1990), Glaser criticized the publication for diverging from the original grounded theory aims, principles, and methods (Evans, 2013). Glaser contended that Straussian GT became too prescriptive. This study utilized Straussian methods for two key reasons: the inclusion of a preliminary literature review to guide the study and the use of a semi-structured interview guide; two components that are not found in CGT.

Generally, the two approaches share much in common, including the employment of the constant comparative process, memoing, and theoretical sampling. However, there are some nuanced differences in how these techniques are used. For example, memoing is integral to theoretical coding in CGT as it is considered part of the data, while it is less so in Straussian GT. Straussian GT does not consider memoing to be data, but instead to be part of the reflexivity process of the researcher (Evans, 2013). Analysis in CGT is conducted through a substantive and theoretical coding process, but the Straussian approach follows a strict process of open, axial, and selective coding (Evans, 2013). Substantive coding is very similar to open coding in Straussian GT and theoretical coding is very similar to selective coding in Straussian GT (Evans, 2013). However, axial coding happens in between open and selective coding and is done by identifying the causal

conditions, strategies, intervening conditions, and consequences associated with the phenomenon (Creswell, 2013).

The more distinct differences are in the determination of the actual phenomenon under study and the use of a literature review. Glaser insists that the phenomenon to be studied comes from the data, while the Straussian approach contends that the researcher brings the idea of the phenomenon prior to data collection (Evans, 2013). This difference is most apparent in the interview guide; a CGT interview consists of one planned question, "How do you resolve your main concern?" Followed by probes dependent on the participant's response, but always going back to how the main concern is resolved. In the Straussian approach, a semi-structured interview guide is commonly used, with questions that cover how the person manages the problem/phenomenon.

All grounded theorists are concerned with the potential bias that prior literature can introduce into the emerging theory. In CGT, literature is not reviewed prior to the study as it can prematurely close off certain directions (Evans, 2013). Conversely, Strauss and Corbin (1990) expect that the researcher will be familiar with the literature and even purport that a literature review prior to the study sensitizes the researcher to the data.

A Straussian grounded theory approach was well suited to examine individuals with low-level fugitive status. The Straussian approach provides more guidance on analysis, employs a literature review prior to the study, and semi-structured interviews direct the study. The present study employed memoing as an important reflexivity process and adhered to the stricter open, axial, and selective coding procedures outlined by Strauss. This stricter process provided clear guidance on data analysis and the development of the emerging theory. Relatedly, the semi-structured interview approach

provided a clear structure for interviewing, but still allowed the participants to describe the different ways that they resolve the concern of living with a warrant. The study was grounded in data from participants who have experienced the process, and followed the Straussian GT approach in an effort to be systematic and deliberate in studying this population.

Sampling Procedure

The research design included the identification, recruitment, and interviews with individuals who have or previously had low-level fugitive status. Low-level fugitive status was defined as an individual who was already arraigned on misdemeanor or low-level felony charges (charges other than violent part one crimes defined by the Federal Bureau of Investigation) but had not completed all of the requirements of court processing, resulting in a warrant being issued for their arrest. Each of these respondents were asked to identify a person close to them who knew of their warrant status and these trusted individuals were interviewed on one occasion to gather more data on living with a warrant. In some cases, there was no trusted person, and so recruitment of trusted individuals occurred through the same agencies that recruited warrant respondents. Finally, criminal justice system professional respondents were identified, recruited, and interviewed through a semi-structured interview guide to understand the warrant issuance process at the local level. Interviews were conducted over a four-month period.

As interviews and analyses got underway, a focus group with warrant respondents was conducted in an effort to check the emerging findings with the group under study. The focus group respondents were identified, recruited, and interviewed through a semi-structured interview guide to gain more depth and confirm the emerging findings.

Geographic Focus. Warrants are uniquely handled at the state, county, and even city levels. The study was conducted in Monroe County, NY. Monroe County was the focus because of the feasibility of conducting the study in this community. There are 747,000 Monroe County residents, and a little over a quarter (28%) of the population lives in the urban center: Rochester, NY. As of July 1, 2017, there were 5,326 individuals with warrants in Monroe County and they were responsible for 8,166 total warrants in the County (Monroe Crime Analysis Center, 2017). In Monroe County, bench warrants are more common than arrest warrants, with about 46% of all warrants categorized as bench warrants. Arrest warrants are the second most common (41%), and the remaining 13% are for other warrant types including family court and violation of probation warrants. As of July 1, 2017, 37% of the 8,166 warrants were issued in 2017, with some warrants dating back 30 years or more (Monroe Crime Analysis Center, 2017). In Monroe County, a bench warrant is issued after an individual has been arraigned on the charges; an arrest warrant is issued prior to arraignment.

Participant Selection. This study recruited from three populations: (1) Individuals with a warrant(s), (2) a trusted person in the lives of individuals with a warrant(s), and (3) criminal justice system professionals. Individuals with warrants were selected if they had a previous or current bench warrant for a misdemeanor or low-level felony charge, spoke English, lived in Monroe County, and were 18 years old or older. This same selection criteria was used for the focus group.

After initial interviewing, theoretical sampling guided participant selection for the warrant individuals. This is aligned with the grounded theory approach, with the data controlling the emerging theory (Glaser & Strauss, 1967/2012). Glaser and Strauss

(1967/2012) point out that it is not necessary to know everything about everyone engaging in the process under study, but instead rely on careful selection through theoretical sampling to describe the relevant behavior. The emerging theory points to the next steps, and as categories are saturated, then participants will be recruited to identify new categories. When no new categories emerge, then data collection will be complete.

In order to compare warrant individuals to another group of individuals experiencing the same phenomenon, each warrant respondent was asked if they have someone in their lives who they trust and who knows of their warrant status. If they did not identify anyone, then trusted individuals were recruited in the same way as warrant respondents were. A trusted individual was selected to participate if they spoke English, were 18 years old or older, and lived in Monroe County. In Straussian GT (and CGT), the use of constant comparisons is a vital guard against bias and to challenge emerging concepts (Corbin & Strauss, 1990).

Eleven criminal justice professional respondents were interviewed for the purpose of information-gathering. Interviews with officers in the Rochester Police Department, Judges, lawyers, and a city court clerk were conducted. These respondents were selected because they have daily dealings with the warrant issuance process and provided key information and context as the study findings emerged.

Recruitment. Warrant individuals were recruited through the Monroe County Public Defender's Office, MC Collaborative, and Action for a Better Community's Save Our Youth program. The purpose of the multiple recruitment points was to interview individuals that fell across the full spectrum of the warrant process, from living with an open warrant to being arrested for the warrant, to clearing up a warrant. Sampling across

the spectrum is aligned with a life course framework, as it could help to identify potential transitions, turning points, and trajectories while accounting for timing and ordering.

MC Collaborative is a small agency that serves the hard-to-reach homeless population and other individuals that need counseling and/or service connection and/or case management. Save Our Youth conducts street outreach in Rochester in an effort to connect young people to case management, education and employment support, and other needed resources. They serve individuals as young as 13 years old, but go up to 35 years old.

Non-profit agency staff identified individuals with warrants through their already in-place intake process. If someone with a warrant was identified, then they presented a flyer describing the study to the prospective respondent (see Appendix). If the individual wanted to participate, then the staff member shared their contact information with the researcher or, if the individual preferred, the potential respondent contacted the researcher themselves. The researcher then called the potential respondent and followed the script in the appendix. The same recruitment method was used for the focus group, but focus group recruitment was only conducted by Save Our Youth staff.

Recruitment through the public defender's office adhered to the following process: After an individual's court case was completed, and if they received a bench warrant at any stage of their case, then they were recruited into the study. Recruiting at an earlier point in the process could cause undue stress, as the individual may be preoccupied with their current case. A flyer explaining the study was presented to the individual which included the researcher's contact information. If the individual was interested in participating, then they contacted the researcher themselves.

The trusted individual in the warrant respondent's life was identified at the conclusion of the warrant respondent's interview. The warrant respondent was asked, "Is there someone in your life who you trust and is aware of your warrant status?" "Can I speak with them about your warrant status?" If the warrant respondent identified someone and was willing to recruit them into the study, then the researcher gave the warrant respondent the recruitment brochure, and the trusted individual then contacted the researcher to participate. Trusted individual respondents were also recruited through the two community agencies, using similar recruitment methods as the warrant respondents, but instead with language for trusted individuals. In some cases, trusted individual respondents included agency staff that had intense experiences with individuals with warrants. Recruitment of criminal justice professionals occurred through email. Individuals received a recruitment email from the researcher (see Appendix).

Inclusion and exclusion criteria. Inclusion criteria for warrant respondent included: age 18 years and older, English-speaking, living in Monroe County, and at least one identified bench warrant for a misdemeanor or low-level felony offense. Inclusion criteria for trusted individual respondent was: age 18 years and older, English-speaking, and living in Monroe County. Inclusion criteria for the criminal justice agency participants included working at their agency for at least one month.

Snowball sampling. At the conclusion of the warrant respondent interview, the respondent was asked if they knew anyone else with a current or a previous warrant who was willing to participate in the study. They were given the recruitment brochure to share with the prospective individual. In referral sampling, the researcher did not contact the prospective respondent, instead, they contacted the researcher if they were interested.

Sample size. Theoretical saturation was used to identify the appropriate sample size for individuals with warrants. “Beyond the decisions concerning initial collection of data, further collection cannot be planned in advance of the emerging theory (as is done so carefully in research designed for verification and description). The emerging theory points to the next steps—the sociologist does not know them until he is guided by emerging gaps in his theory and by research questions suggested by previous answers” (Glaser & Strauss, 1967/2012, p. 47). While it was not possible to identify the number of study participants prior to the end of the study (Glaser & Strauss, 1967/2012), it was reasonable to estimate that between 20 to 30 individuals would be interviewed (Creswell, 2013). Others contend that most studies reach saturation at 8-24 interviews (Evans, 2013). The study began with interviewing 10-12 warrant respondents and then increased to 15; the second group of respondents, trusted individuals, began with ten interviews and increased to eleven to reach theoretical saturation.

Compensation. Individuals with warrants were compensated for their participation. Upon agreement to participation and the start of the interview, the warrant respondent received \$25 cash. Trusted individual respondents received \$20 cash for their participation. Focus group respondents received food. See Appendix for more detailed compensation information.

Data Collection Procedures

Data collection was expected to occur over four months. Grounded theory methods utilize interviews to collect data, and interviews were transcribed for analysis.

Location(s) of Interview. Warrant respondent and trusted individual respondent interviews occurred in the public library or the recruitment agencies. Criminal justice

professional respondents were interviewed at their place of employment or over the phone. The warrant respondent focus group occurred in Save Our Youth's building.

Interview Guide. The interviews with the warrant respondents were aligned with a grounded theory semi-structured interview. See Appendix for the warrant respondent interview guide. The warrant respondent focus group followed a semi-structured interview guide centered around the emerging categories and their relationships. See Appendix for the interview guide.

The semi-structured trusted individual respondent interviews asked similar questions as described above in the warrant respondent interview, but framed the questions from the trusted individual respondent's perspective (e.g. instead of the description question, "Could you describe having a warrant?" it was "Could you describe what it is like to have someone close to you that has a warrant?"). See Appendix for the trusted individual respondent interview guide.

Finally, the criminal justice professional questions were semi-structured and included items specific to a description of the warrant issuance process, clearing a warrant, determining warrant status, purpose of a warrant, and frequency of warrants. See Appendix for the criminal justice professional interview guide.

Respondents were informed at the beginning of the interview, in writing and verbally, that their participation and any information provided during the interview was confidential, and would not be shared with law enforcement or otherwise made public with their identity attached. The researcher recognized that this was a vulnerable population and took all necessary measures to make sure that the participants were protected.

Pilot Testing

Once all materials were in place, the interview guide was pilot tested with one warrant respondent. The purpose of the pilot interview was to identify any issues with both the recruitment and interview process. The pilot interview helped to get a sense of how long the interview would last, whether the question ordering made sense, and if there were any questions that were difficult to understand. At the end of the pilot interview, the respondent was asked if there were any additional questions that should be included in the interview to help understand what it meant to live with a warrant.

Data Transcription

Interviews with warrant respondents and trusted individual respondents were audio-recorded and transcribed. This was in line with grounded theory methods. If someone refused to be audio recorded then they were not be eligible to participate in the study because it was critical that their exact words were coded to make sure that the data were grounded in the respondents' words.

Data Analysis Procedures

A cyclic approach to data collection was congruent with a grounded theory approach. Warrant respondents were interviewed and the data were transcribed shortly after the interview. The purpose of a cyclic approach was to approach the next warrant respondent's interview with directed questions about the emerging concepts. The warrant respondent and trusted individual respondent interviews were first coded through open coding (selecting categories to be the focus), followed by axial coding (detailing additional categories and focusing on the core phenomenon), and concluded with selective coding (the development of a theoretical model) which was grounded in the

intersection of the categories (Creswell, 2013). Data analysis was completed using the NVivo software suite.

Constant Comparative Analysis. Central to grounded theory is the employment of comparative analysis to generate theory (Glaser & Strauss, 1967/2012). The constant comparative method was done in the following four stages: (1) Comparison of incidents applicable to each category; (2) Integration of categories and their properties; (3) Delimitation of theory; and (4) Theory writing (Glaser & Strauss, 1967/2012, p. 105). These steps were done through open, axial, and selective coding.

Open coding. The identification of similarities and differences began through open coding. This was done through an initial line by line coding of incidents to build concepts and categories. Glaser & Strauss (2012) pointed out that grounded theory data collection may begin with a loose framework of local concepts to designate a few principal features of the structure and process under study. In this study, some of these local concepts were drawn from criminological lifecourse theory literature and included, turning point, situated choice, and social capital. These concepts were a starting point, but it was not clear how relevant these concepts were to this population and phenomenon.

Axial coding. Open coding was followed by axial coding which related the codes to one another. In axial coding, the core phenomenon was the focus and categories were identified around the core phenomenon (Creswell, 2013). The conditions which caused the phenomenon (Causal conditions), actions or behaviors done in response to the phenomenon (strategies), situational factors that influence the strategies (intervening conditions), and the outcomes of these strategies (consequences) were brought to the front during this phase (Corbin & Strauss, 1990). The result was an axial coding

paradigm which is a visual representation of how these categories related to the core phenomenon. Relationships between the categories and subcategories were tested against the data in this step (Corbin & Strauss, 1990).

Selective coding. Selective coding transformed codes to main categories. Categories described what the main concern is and are composed of events and instances (Strauss & Corbin, 1990). Conceptual categories were developed from the data in an effort to generate theory. The goal was to “generate general categories and their properties for general and specific situations and problems” (Glaser & Strauss, 1967/2012, p. 30).

When one category was saturated, the next step was to gather data on new groups for additional categories in an attempt to saturate these categories too (Glaser & Strauss, 1967/2012). An adequate theoretical sample was determined by the basis of “how widely and diversely the analysts chose his groups for saturating categories” Glaser & Strauss, 1967/2012, p. 63). Theoretical sampling required that data were collected on categories to generate properties and hypotheses (Glaser & Strauss, 1967/2012). The data from the trusted individual respondents followed the open, axial, and selective coding process, and was compared with the warrant respondents’ emerging findings throughout analysis. In this way, the data were analyzed simultaneously to identify any categories that solely emerged from one group, and to then determine what that means and how to make sense of it.

Memoing. Memoing is used in Straussian GT to help the researcher move the thick descriptive data into the theoretical state (Creswell, 2013). The researcher wrote down short notes about their thoughts and reflected on the evolving theory (Creswell,

2013). In essence, the researcher stopped and recorded memos on emerging ideas that were rooted in the data (Glaser & Strauss, 1967/2012). This was so that the fresh ideas were not forgotten later. Memoing was continuous and was done from the beginning through the end of the study (Corbin & Strauss, 1990).

Generating Theory. The end result was conceptual categories and their conceptual properties and hypothesized relationships between the categories and their properties (Glaser & Strauss, 1967/2012, p. 36). “Grounded theory can be presented either as a well-codified set of propositions or in a running theoretical discussion, using conceptual categories and their properties. It is a theory because it explains or predicts something; the form does not make it a theory” (Glaser & Strauss, 1967/2012, p. 31).

While it was not known what categories would emerge from the data, the preliminary work pointed towards a few anticipated areas of focus. These areas of focus included examining motivations for warrant status, impact of warrant status on specific life domains, and system barriers and facilitators to warrant issuance and clearing. It was expected that the constructs and their definitions, propositions, and descriptions would provide information, explanations, and linkages on these important areas to move the field forward in understanding this status.

Validity and Reliability

Credibility, Trustworthiness, and plausibility. Glaser and Strauss (1967/2012) explain that through the employment of the constant comparative method, an inductive approach, and the integration of theory there are many opportunities to demonstrate credibility, trustworthiness, and plausibility of the findings. They go on to assert that the various verification methods used in quantitative methodologies including sampling,

reliability, and validity, are appropriate for quantitative methods, but not for a grounded theory approach (Glaser & Strauss, 1967/2012). Instead, the grounded theory techniques themselves incorporate credibility. The use of quotes directly from the interviews demonstrate how what was said led to the generation of theory. The codified procedure described (open, axial, selective coding) also provided evidence of credibility.

While Glaser and Strauss posit that reliability testing is not necessary, reliability testing can be done within qualitative studies. This study incorporated three additional methods to establish reliability/trustworthiness. During open coding, a second coder participated in reading and coding a portion of the warrant respondent and trusted individual respondent interviews. After discussion and agreement on the categories, the second coder read and coded 15% of the total warrant and trusted individual participant interviews. With 25 total interviews, four interviews were coded by the second coder to establish consistency. A Cohen's kappa interrater reliability test was conducted on the categories identified, with a Kappa $> .61$ considered acceptable (Warner, 2013).

The second coder was a research assistant and an undergraduate student in the criminal justice department. She had experience conducting research related to the criminal-justice system and was trained by the author on a grounded theory approach. The author trained the research assistant by first coding two interviews together, then coding one interview separately and coming together to discuss the process and resolve any disagreements. This was followed by multiple discussions of the concepts and emerging categories. Then, the four interviews were coded separately for interrater reliability.

The second method was a thematic audit, which was part of the research audit trail. A research audit trail is a documentation of all research activities, memos, data collection, analysis procedures, and, specifically, how research decisions were made (Carcary, 2009; Creswell & Miller, 2000). There were six categories of information that were collected as part of the audit process: raw data, data reduction and analysis notes, data reconstruction and synthesis products, process notes, materials related to intentions and dispositions, and preliminary development information (Lincoln & Guba, 1985). This process provided transparency throughout the research process. Imbedded within the overall research audit trail was a thematic audit. The researcher put together a table with the emerging concepts and at least one illustrative quotation within each concept. This thematic table was then shared with a dissertation committee member. The dissertation committee member reviewed the table for trustworthiness.

The third method to establish trustworthiness was through a focus group with warrant respondents to conduct member checking. This allowed for feedback from informants to confirm that the emerging concepts fit with the reality of living with a bench warrant (Lincoln & Guba, 1985). After the twelfth warrant respondent interview, a focus group of four individuals who had a current or previous bench warrant was conducted. The focus group questions were based on the emerging categories to saturate the categories and gain more depth but also to check the emerging findings with the respondents. This also allowed for the respondents to judge the accuracy and credibility of the findings themselves (Creswell, 2013).

Chapter 4: Results

Research Questions

This study used in-depth interviews to answer three overarching research questions:

1. What are the local bench warrant practices in a mid-sized community?
2. How do individuals manage living with low-level fugitive status?
3. And, specifically, what are these individuals' experiences with the criminal justice system while living with low-level fugitive status?

The findings are organized by first describing the samples from all three groups (warrant respondents, trusted individual respondents, and criminal justice professional respondents), followed by a description of the current system in place to issue bench warrants, and concluding with the grounded theory analysis of how individuals manage low-level fugitive status.

Warrant Respondents and Trusted Respondents

The pilot interview was conducted with a warrant respondent in March 2018, and resulted in no changes to the recruitment process, interview guide, or other research methods. The warrant respondent and trusted individual respondent interviews were conducted over the same four months in the fall of 2018 and into the winter of 2019. All interviews were conducted in-person and audio-recorded for transcription; consent was obtained from every respondent to be audio-recorded. In order to maintain confidentiality, for respondents with open warrants in a state other than New York, the state was changed in the reporting of the results. The majority of the interviews occurred in one of the local library branches, and all other interviews occurred in community

agencies. Interviews lasted from 30 minutes – 1 ½ hours. Every participant that confirmed the interview date and time with the researcher showed up for the interview.

Demographic information on the 15 warrant individuals can be found in Table 1. There were eight male warrant respondents and seven female respondents. The age of the warrant respondents ranged from 21 years - 57 years (mean = 36.9 years) and nearly all respondents resided in the city of Rochester. The majority of the warrant respondents identified as African American/Black, with the remaining identifying as white or Latino. Six of the warrant respondents had at least one active bench warrant at the time of the interview. The number of previous bench warrants ranged from zero (this was their first bench warrant) to 20. The length of time that someone had a bench warrant ranged from 1 day to 25 years. There was also wide variation in the age that the warrant respondents first had a bench warrant issued: 13 years old to 47 years old.

Table 1

Warrant Respondent Demographic Data

Warrant Respondents (n=15)	
Age (in years)	
Mean	36.9
Range	21-57
Gender	
Male	8 (53.3%)
Female	7 (46.6%)
Race	
Black	11 (73.3%)
Latino	2 (13.3%)
White	2 (13.3%)
Number of Current BWs	
Mean	0.64
Range	0 - 3
Total BWs in Lifetime	
Mean	5.13
Range	1 - 20

Note: BW = bench warrant

Original Charges. The original charges on the bench warrants were wide-ranging from violations (i.e., open container, unlawful possession of marijuana, disorderly conduct, harassment, hopping turnstile, jay walking) to low-level misdemeanors (i.e., aggravated unlicensed operation of a motor vehicle, selling marijuana) to high level misdemeanors (i.e. assault, DUI, menacing, criminal mischief, criminal possession of stolen property, leaving the scene of an accident without reporting injuries), and a few non-violent felonies (i.e., grand larceny, burglary, criminal sale of a prescription for a controlled substance). The most common original charges were: assault (n = 4 respondents), possession of marijuana (n= 4 respondents), and disorderly conduct (n = 3 respondents). The original offenses in the sample were representative of offenses across the entire criminal justice system in Rochester. The top seven offenses in Rochester by ranking are: petit larceny, harassment, criminal mischief, burglary, grand larceny, drug possession, and assault (Monroe Crime Analysis Center, 2018).

Demographic information on the nine trusted individual respondents can be found in Table 2. Of the eleven trusted individuals, eight were female and three were male. The age of the trusted individual respondents ranged from 20 years – 50 years, with a mean age slightly older than the warrant respondents (mean = 38.1 years). The majority of the trusted individual respondents identified as white, with two identifying as Latino, and one identifying as African American/Black. The most common relationship with the warrant person was current partner or ex-partner (at the time of the bench warrant the trusted individual respondent was in a relationship with the person), this was followed by two care managers that worked closely with individuals with warrants and two other service

providers that worked closely with individuals with warrants, and the remaining two had family members with bench warrants.

Table 2

Trusted Individual Respondent Demographic Data

Trusted Individuals (n = 11)	
Age	
Mean	38.1
Range	20-50
Gender	
Male	3 (27.3%)
Female	8 (72.7%)
Race	
Black	1 (9.1%)
Latino	2 (18.2%)
White	8 (72.7%)
Relationship w/ Warrant Person	
Partner	5 (45.5%)
Client	4 (36.4%)
Brother	1 (9.1%)
Uncle	1 (9.1%)

The focus group of warrant respondents was conducted after the twelfth warrant respondent interview. The group lasted 1 ½ hours and was conducted at a local outreach organization. The focus group was not audio recorded, instead the research assistant took notes to establish whether the emerging findings made sense to the group. Three respondents identified as African American/Black and one identified as African American/Black and Arab. Three respondents were male and the remaining respondent was female. The average age was 30.5 years, and ranged from 21-38 years. One respondent had a current bench warrant and each of the remaining three respondents had at least one previous bench warrant. The number of bench warrants in their lifetime ranged from one to six.

Criminal Justice Professionals

In order to answer research question two and three in depth, the first step was to understand the local bench warrant issuance process. To answer this question, in-depth interviews with eleven criminal justice professionals were conducted: three judges (city, town, and county criminal court), three public defenders, one private attorney, one prosecutor, one city court clerk, and two Rochester police officers. Criminal justice professionals were recruited through convenience sampling. All but two of the interviews were conducted in person. The interviews lasted between 45 minutes and 1 ½ hours. The criminal justice professional interviews occurred simultaneous to the warrant respondent and trusted individual respondent interviews, and occurred over four months in the fall of 2018 through the winter of 2019. Throughout this section, this group of respondents is referred to as “CJ professional respondents” when discussed in general, and referred to by their role in specific instances (e.g., Judge A, Public Defender A). In order to maintain confidentiality, the pronouns of some of the CJ professional respondents may not reflect their identified gender. This was a conscious decision so that no one could be identified by their statements.

The author reviewed all of the CJ professional respondents’ interview notes for themes related to the issuance of bench warrants. This was to organize and identify the main components associated with the local bench warrant issuance process. An undergraduate research assistant read three of the interview notes for themes (two judges and a public defender). The themes were discussed together to reach agreement on how to organize the themed in the results.

Description of Local Bench Warrant Issuance Process

Overview. The local warrant issuance process is described in New York State Criminal Procedure Law, specifically statute, CPL § 530.70 **Order of recognizance or bail; bench warrant** (see Appendix). Per CPL § 530.70, a bench warrant can only be issued by a judge with the goal of compelling someone to appear in court. Any law enforcement officer may execute the bench warrant and, upon execution:

. . . such executing police officer . . . must without unnecessary delay bring the defendant before the court in which it is returnable; provided, however, if the court . . . is not available, . . . such executing police officer may bring the defendant to the local correctional facility of the county in which such court sits, to be detained there until not later than the commencement of the next session of such court occurring on the next business day (CPL § 530.70, para 2).

In all of the interviews, it was clear that bench warrants are issued by a judge when someone fails to appear in court post-arraignment. However, the decision to issue a bench warrant is at the discretion of the judge; not all missed court appearances result in the issuance of a bench warrant. For example, if someone fails to appear to court, the judge can issue a bench warrant or can instead reschedule the court date.

CJ professional respondents indicated that common practice is that law enforcement (frequently Rochester Police Department or Monroe County Sheriff's Office) serves a bench warrant and the individual spends at least one night in jail because adding-on to the court docket the day of is rarely available for these individuals. In practice, then, bench warrant issuance results in at least one night in jail for individuals.

Bench warrant issuance can occur at any stage in court processing after the individual has been arraigned (i.e., when the individual is brought before the judge and informed of the formal charges against them). Bench warrants are issued at pretrial hearings, trials, sentencing hearings, and even post-sentencing at compliance hearings.

The CJ professional respondents revealed that people fail to appear in court daily, disrupting case processing. One of the judges had a large file drawer labeled, “Bench warrants,” and opened it up to show how many files there are: the entire drawer was full of case files. Law enforcement estimated that for every five to six stops that they make, an individual has a warrant.

All CJ professional respondents agreed that the purpose of a bench warrant is to get a defendant to court. Most agreed that bench warrants were serving this purpose, whether it was the threat of the bench warrant for failure to appear or the issuance and serving of bench warrants to compel someone to appear in court.

Decision to Issue a Bench Warrant. Interviews with the CJ professional respondents revealed multiple discretion points throughout the life of a bench warrant. One CJ professional respondent explained, “Many of the decisions made are personality driven and depend on the relationship between the judges and attorneys.”

It became clear early on in the interviews that bench warrants are not issued every time someone misses court, instead there is wide discretion in the decision to issue bench warrants. For this reason, CJ professional respondents were asked how the decision to issue a bench warrant is made. Judge A stated, “Judges have different philosophies as to when to issue [a bench warrant].” He went on to describe his philosophy, “If someone has been coming to court eight or nine times and then they miss and they have talked to their attorney, then I won’t issue a warrant, but I will move the case to the next day or next week.” He then explained that if someone misses court without a reason, then he issues a bench warrant.

Judge A made the point that he more readily issues bench warrants earlier in court processing to demonstrate an immediate consequence for missing court, while later on, if the individual has consistently appeared and then misses, he may not issue the bench warrant. Judge C had a different philosophy, “It’s rare that I would issue a warrant at the first missed court date. Instead I will tell the attorney to get their client to court and I will also mail out a criminal summons, even though it’s not really a summons, to let them [the defendant] know that they missed their court date. Often times I will send it [the criminal summons] out for two to three instances of failure to appear and then I will finally issue a bench warrant.” His reasoning was, “I don’t like to issue warrants, warrants are clumsy, there are many valid reasons why people don’t make it to court, transportation issues, medical issues, etc.”

Judge B described a whole system in place using the bail set amount to inform him of the defendant’s bench warrant history. His internal system, using the bail set amount as the code, quickly gave him information on the number of times that the defendant had a bench warrant issued during the current criminal case. For example, with misdemeanors he usually releases everyone at arraignment. If the defendant misses court, then he issues a bench warrant. Bail is set at a specific amount for everyone the first time they miss court (e.g., \$250¹). If the individual is picked up on the bench warrant, he or she is then released after they are brought before Judge B. Then, if the individual misses court again, a bench warrant is issued and the bail amount increases by \$800 to \$1,050. This indicates to the Judge that his person has had two bench warrants and will therefore not be released (in most cases). This was an effort by Judge B to be fair and equitable to

¹ Note: To protect confidentiality, the actual amounts were not used.

all defendants. He explained that he announces this practice to the defendants in an effort to be transparent about his process. Public Defender A confirmed the use of bail amounts as code and elaborated, “The judges speak in code by the bail amount. If someone is held on something in the amount of \$625² then it is a signal to other judges that they’ve been arrested on a warrant, and do not release them.” This code is important when cases cross over into other courtrooms for logistical reasons (e.g., sick, vacation).

Judge C described a practice of issuing a bench warrant a few days after someone misses court. He explained that he would tell the attorney that the defendant needs to get in touch with the court within three days; if they do not, then he will issue the bench warrant. This provides a window of time for the individual to surrender without the consequences of having a warrant issued. This judge was concerned about the consequences of a bench warrant, and described many legitimate reasons that individuals may miss court.

Case Closure. Interviews with the judges reiterated that the goal is to close cases, “We love to close cases here, so you don’t want to do anything that will keep cases open long” (Judge C). This is where a bench warrant is a tool to get someone to court to move the case along. This goal was referenced in many of the CJ professional interviews as reasons to issue a bench warrant. Judges can close cases by dismissing charges, resentencing someone (e.g., to time served), or by successful completion of the original sentence. Issuing warrants for missing court was viewed as an important tool for judges to close cases.

² Note: To protect confidentiality, the actual amounts were not used.

Bench Warrant Notification. After a bench warrant is issued, the defense attorneys (public defenders and private attorneys) mail a letter through first class mail informing individuals that a bench warrant has been issued. Interviews with warrant respondents confirmed that these letters are indeed sent out and received, as long as the individuals have a stable address. CJ professional interviews revealed that judges may also send out a letter informing defendants of their bench warrant status; this seemed to be the exception more than the rule. None of the warrant respondents recalled getting a letter about a bench warrant from anyone other than their attorney.

Interviews with the warrant respondents that did not receive a letter revealed that the most common way that respondents were made aware of their status was an assumption of this status. Other ways included being told by others that the police were looking for them, or calling the Public Safety Building to learn about status. The court clerk said that in her experience, the clerks get an influx of calls on Thursdays inquiring about bench warrant status. She went on to say, “It’s for them [defendants] to see if they can go out over the weekend.” However, not all warrant individuals were willing to contact the public safety building. One respondent explained, “Yeah I could probably go there [to the Public Safety Building] but I’m real skeptical because you never know, because if I go there and they tell me I got a warrant then what happens is they will arrest me right there.” And still others never realized they had a bench warrant until they were stopped for another reason by police, such as a traffic infraction.

Court Adjudication Stage and Bench Warrant Issuance. CJ professional respondents were asked whether there were stages in court processing (e.g., initial appearance/arraignment, pretrial conference, plea bargaining, trial, sentencing,

compliance) that seemed to result in a higher number of bench warrants being issued (See Figure 2 for court process diagram). None of the respondents described any pattern that emerged in their experience. The court clerk explained that weather is a major factor; that when the weather is bad, more people seem to miss court. While one Judge explained that he is more apt to issue bench warrants for missed court appearances early in court processing, he did not know if the frequency of bench warrants varies throughout court processing. There did not seem to be a way that the criminal justice professionals could track this. Respondents were not asked about the court management database, but data availability was referenced in some of the interviews. The court database cannot be queried to answer straightforward questions such as: how many individuals failed to appear to court in one day? or, what stages in court processing have a high volume of bench warrant issuance?

Figure 2

Stages of Court Processing (Condensed Version)



Court Appearance Reminders. Because bench warrants are issued for missing court, CJ professional respondents were asked about notifying individuals of their court appearances. Interviews revealed that defense attorneys are responsible for this, and that they provide their clients with a reminder card with the date, time, and location of their next court appearance. Judges explained that they always announce the next court date during the court proceedings. In addition to this, some courts hand out a piece of paper to defendants (referred to as a ‘notify slip’) with information on their next court appearance.

Common practice is that defendants will leave court with their next court date in writing. When asked about reminding individuals of their upcoming court date, there was a variation in responses. As one defense attorney explained, “Some may send a reminder, it’s also nice when clients have email, so you can email a reminder, you can call too, but often times we are very busy, so we don’t send a reminder.” There seemed to be a difference in reminders for public defenders and private attorneys, with the private attorney stating that he will remind his clients of their court dates, while the public defenders explained that due to their high caseloads, they often do not have time to remind their clients. Judge C suggested implementing a robo system that made calls to remind people of court appearances. Other CJ professional respondents also recommended some mechanism to send out court appearance reminders through text.

Bench Warrants and Nonjailable Offenses. The question of issuing a bench warrant on nonjailable offenses was raised in many of the CJ professional interviews. As some states have shifted to decriminalizing some offenses, nonjailable has become a term used to describe the few offenses that cannot result in a jail sentence. One of the most frequently referenced offenses in the interviews was unlawful possession of marijuana. In New York State, according to NY Penal Law, section 221.05, “Unlawful possession of marihuana is a violation punishable only by a fine of not more than one hundred dollars”. Another example of a nonjailable offense is a first time charge of an open alcoholic container in public (see Appendix, Municipal Code of the City of Rochester, § 44-9, G).

The CJ professional respondents were split on how to handle missed court appearances for nonjailable offenses. Judges admitted that while there may be agreement that a judge can legally issue a bench warrant on these cases, but in practice, at least one

judge said that he does not issue bench warrants on these cases. Conversely, another judge reported that he issues bench warrants on these cases. An attorney explained, “Some judges will and can argue that it is in the best interest of society to close the case, so they will do what they need to do to get the person into court.” Another attorney said, “It truly is dependent on what judge you are in front of,” when asked about the issuance of bench warrants on nonjailable offenses.

Violations, such as harassment, are related to nonjailable offenses, because even though the law may allow for a sentence of up to 15 days in jail, in local practice, defendants are rarely sentenced to jail for criminal violations. Instead, according to the interviews, it is more likely that a fine will be required in these cases. However, bench warrants are still issued for these violations, resulting in at least one night spent in jail, for a charge that rarely results in a jail sentence. One warrant respondent described consistently missing court on open container violations, making the judge so frustrated that he issued a bench warrant and did not release the individual for seven days, until the case was resolved. The warrant respondent explained, “He [the judge] was pissed off.”

Bail Jumping Statute. During an interview with one of the judges, the bail jumping statute was referenced. Statute §215.55, **Bail jumping in the third degree** (see Appendix) was described as an additional consequence for failing to appear in court.

A person is guilty of bail jumping in the third degree when by court order he has been released from custody or allowed to remain at liberty, either upon bail or upon his own recognizance, upon condition that he will subsequently appear personally in connection with a criminal action or proceeding, and when he does not appear personally on the required date or voluntarily within thirty days thereafter §215.55.

This is an added consequence of failing to appear in court. A judge can issue a bench warrant immediately after someone's non-appearance, but then if the person does not surrender within 30 days of the missed court date, the bail jumping charge can be added by the prosecution. Conviction of a Class A misdemeanor can result in a maximum sentence of one year in jail or a \$1,000 fine. This is one example of how a missed court appearance can contribute to worse criminal justice outcomes for individuals.

Data on the frequency of this additional charge was unavailable, but interviews revealed that this is a tool that is used in negotiating plea bargains. As one CJ professional respondent described, "It's a tool that we can use to put pressure on people. I've never used it, but some people use that statute every time, while others don't."

Serving Bench Warrants. Most of the CJ professional respondents raised concerns about the impact on law enforcement required to serve bench warrants. Some of the criminal justice respondents described bench warrants as a burden to law enforcement. While Rochester Police Department (RPD) does not have a warrant unit, the patrol officers are required to attempt to find individuals to serve the bench warrants. This is done through each of the police section's crime coordinator. Each of the five police sections have a crime coordinator, who shares a warrant tracker sheet with officers for them to attempt to locate and serve both bench and arrest warrants. Each officer is assigned a list of individuals to locate; they will document their progress on the hard copy warrant tracker sheet.

The interviews indicated that officers make at least three attempts to serve bench warrants and at least six attempts to serve arrest warrants before the case is set to the side. When asked about the responses when serving bench warrants, interviews revealed that

RPD is mostly successful in serving bench warrants. One officer stated, “In maybe two out of ten cases, we might not find the person, but I’m not sure what happens [with the case] after that.” An officer explained, “People have this mentality that they think that the warrant or the case will go away – but it won’t! If I do talk to mom or relative, I’ll always say, ‘this is very minor. This is not serious. The best thing for them to do is to turn themselves in.’ We make contact with someone connected to the person and who can communicate the message to them the majority of the time.”

It is unknown how many bench warrants are cleared through law enforcement serving them and how many are cleared by other ways, such as a new arrest. When asked about this, Judge C responded, “Most warrants are cleared through a new arrest.” Many of the warrant respondents that did not surrender confirmed that their bench warrants were cleared in the process of a new arrest.

Non-criminal trajectory to criminal offenses. Aggravated Unlicensed Operation of a Motor Vehicle (AUO) was identified by most respondents as a big problem for people and the courts, and directly impacting the number of bench warrants. An AUO is often the result of non-criminal offenses (failure to pay traffic tickets) becoming criminal offenses. The process follows something like this: An individual receives a traffic ticket for \$100; the fine goes unpaid for whatever reason and the individual continues to drive. Failure to pay the fine results in license suspension by the Department of Motor Vehicles (DMV). The person continues to drive, risking getting pulled over for a suspended license. Driving with a suspended license is a criminal offense. “The \$100 fine is now \$350 and it’s a misdemeanor. If they have the money, then it’s easy to fix. They will pay it and say sorry, I didn’t realize it was suspended. And, more likely will get a 509(1) and

get fined and you're good." However, if they do not have the money to pay it, then, "they are now talking about jail. AUO is very much a punishment for people who don't have money," as explained by one the CJ professional respondents. For individuals that can afford to pay the increased fines and fees, the 509 (1) is under the New York Vehicle and Traffic Law (VAT) and is a non-criminal violation. However, for those who cannot afford to pay the increased fines and fees, they are charged with an AUO. This is one example of how differential responses to the same behavior (driving on a suspended license) can have enormously different consequences based on ability to pay, and how these charges can escalate.

As one prosecutor directly stated, "AUOs are the bane of my existence" and he went on to say, "We live in an area where we don't have a reliable, cheap way to get around easily. People need to drive, when that ability is taken away, how can someone pay off tickets if they can't get to their job?" Judge C agreed, "AUOs are the most problematic and they are driving the number of warrants." He then went into detail, describing the same vicious cycle that Prosecutor B outlined, "You get a traffic ticket, don't pay, so now have a suspended license, but you have to get to work and court, and have these fees to pay for, but can't drive."

Characteristics of Individuals that Fail to Appear. CJ professional respondents were asked if, in their experience, there were certain groups of individuals or certain charges that led to the issuance of more bench warrants. Some respondents described no patterns, while others thought that there did seem to be some groups that struggled with court appearances. Some of the groups identified included: young people, homeless individuals, and individuals with mental illness. In one professional's experience, those

who are older and employed are more likely to come to court. No one identified any charges that seemed to result in a higher number of bench warrants being issued.

Reason for Missing Court. CJ professional respondents were asked why individuals miss court. According to the interviews, some of the reasons that individuals may miss court include forgetting about the court date, work, fear of losing their job, transportation issues, financial limitations, or childcare issues. One of the CJ professional respondents went on to describe challenges that work against getting people to court. These included: an inadequate public transportation system, children are restricted from entering the criminal courtroom, and clients often do not have strong support systems. However, a prosecutor described otherwise, “You’d be hard pressed in the city if the defense attorney can put on the record that they talked to the person today and they have car trouble or their kid is sick. Usually they [the defendant] just don’t show.” This response reveals the dichotomy of court appearance: intentional versus unintentional failure to appear. Intentionally failing to appear occurs when an individual knows and remembers the court date, has control over appearing, yet does not. Unintentional failure to appear is defined as either forgetting their court date or knowing the court date, but not being able to make it due to something out of their control (e.g., transportation does not show up, bus is late, childcare cancels).

Warrant respondents gave a number of reasons for missing court. Reasons for failure to appear ranged from forgetting about the court appearance to intentionally missing court because the respondent knew that they would go to jail. For example one respondent said, “I actually pretty much missed the court date, sometimes I know I have appointments, but there’s times where I forget the dates so that’s actually how I got [the

warrant].” Another respondent shared that he was sentenced to jail weekends and that he satisfied his first two, but missed the third one because of transportation and financial issues. He failed to appear at his compliance hearing because he assumed that he would be taken into custody for missing the jail weekend; he did not want to go to jail.

Bench Warrant Harms. CJ professional respondents were asked how they think individuals are impacted by bench warrants. One concern consistently raised was the impact of the impending jail stay: “Being in custody is not a good way to negotiate” (Public Defender B). Another defense attorney explained, “Having a warrant puts additional pressure on individuals and public defenders to plead out versus going to litigation, when someone initially would have gone to litigation.” With over 90% of misdemeanor cases plead out, this concern was high on defense attorneys’ lists.

The CJ professional respondents agreed that a bench warrant history works against someone going through the court process. A defense attorney explained that the judge is less likely to release or give bail on a second arrest when someone has a history of bench warrants. A prosecutor agreed, “It’s a fact of life – just how things are, but it does build your record. It is forever in your record and the prosecutor can and will use this for any future charges.” He went on, “They may be considered a bad bail risk; prosecution and judge can leverage that and won’t consider release.” Another CJ professional respondent explained, “Judges love hanging their hat on [the previous bench warrant], saying, ‘we can’t let them out because of previous bench warrants, they are a risk for fleeing.’”

Another concern raised was that bench warrants introduce another imminent interaction with law enforcement that can go very bad. The defense attorneys were

particularly concerned with this. The bench warrant increases the potential for things to go wrong, and these stops can lead to aggravating circumstances because “there are differences between cops, some may puff out their chest and want to give people a hard time, while others want to deescalate and just bring them in” (defense attorney). It was also possible that the warrant individual could escalate the situation, putting themselves, officers, and bystanders in potential harm.

When a defense attorney was asked, “How are people affected by this warrant status?” Her response was, “Devastated.” She goes on, “If they failed to appear it may be because of a job and that was their path to success. But now they have this over their head and they fall back into the cycle.” Another concern was that they may not be able to get their medication for medical or mental health treatment, and that the warrant can really set people back who may have been on the road to recovery. Many of the CJ professional respondents described bench warrants as a serious disruption.

One of the CJ professional respondents reported, “There is a civil disability that comes with this.” He was referring to individuals going underground or on the run after the issuance of a bench warrant and this affecting their driving, employment, and even public assistance.

Surrender Process. When CJ professional respondents were asked about the surrender process, there was wide variation in how judges handle an individual’s attempt to surrender. Public Defender A explained that if someone fails to appear in court, then they can contact their attorney who would then contact the court clerk to get on the judge’s calendar. He goes on, “The judge could say yes or no to this, and locally it is across the board, some allow, some don’t.” Another defense attorney stated, “Depending

on the judge, they may allow person to add-on. It's 50/50." In practice, this means that when someone cannot be added on to the docket, then the attorney will advise the client to turn him or herself into the Public Safety Building late at night, Monday through Thursday. This is to spend as short amount a time in jail as possible. Thus, for some people, getting a bench warrant can mean jail is inevitable, even if they choose to turn themselves in.

Judge B explained that until recently he allowed defendants to call his court clerk and request to be added to the docket. However, due to a recent administrative change that reduces the court clerk hours, Judge B explained that there is not time to add defendants to the docket anymore. Judge B described his own workaround to this, which includes the defendant still showing up to court, but then getting a new appearance date through the issuance of a new appearance ticket and clearing the bench warrant, requiring the person to show up in court again at a later time in order for their case to be heard. Interviews revealed that other judges do not use this workaround. Instead, some judges do not allow adding on to the docket while others might in specific cases.

Length of time that the individual has had the warrant may impact whether a judge will allow an individual to add-on to the docket. One defense attorney explained that if someone has been on the run for a month, then the Judge likely would not allow him or her to add-on, and so their only option is going to jail.

The interview with the City Court Clerk revealed that there is more process in place than disclosed in the judge interviews. The Court Clerk referenced a document that the court clerks refer to when defendants show up in the morning and request to be added to a judge's docket. Each judge had their own add-on policy described in this document.

Examples include: “Defendant must ask their attorney to email a request to the judge. The judge will let them know if they can add on and when.” Another judge has more policies: “No add-on if they missed sentencing, or non-compliant with pretrial release, or if they missed compliance, or if they have had more than 1 bench warrant, or if more than 30 days.”

Disparity in Justice between City and Town/Village Courts. Interviews revealed perceived disparities between city and town/village courts. One glaring disparity pointed out in many of the interviews was the process of handling traffic violations. Courts outside of the city have an agreement that they will work with defendants to combine tickets, reduce points, and reduce fines and surcharges, while in the past, the city has not agreed to this. Nearly all the CJ professional respondents interviewed described the town courts as having more discretion in pleading down traffic tickets than in the city.

In practice, individuals ticketed in the city who were unable to pay these fines and fees had no reprieve, and if they did not pay, then their license was suspended. This meant that a traffic ticket issued in the city, in which one-third of individuals live below the poverty level compared to 14% below poverty level in Monroe County (U.S. Census Bureau, 2019), required the full payment of the original fines and fees. With many residents unable to pay these fines, they lost their driver’s license for non-payment, but often continued to drive in order to get to work, get to the doctor, or do other daily activities. They were then arrested for an AUO, and often times failed to appear in court, resulting in a bench warrant. Meanwhile, their counterparts that were ticketed in towns and villages, were able to plead the fines and fees to a minimum and have fewer points added to their license, making payment manageable, and never resulting in a license

suspension. Some CJ professional respondents interviewed were sympathetic to this issue, while others were not outwardly concerned. As Judge A explained, “AUOs are a big problem. Driving is a privilege. Not a right. People don’t pay their fines, don’t take responsibility, and shouldn’t be driving.”

Interviews revealed that the City made recent changes based on this concern of unequal justice across the community. On April 23, 2018, the new Rochester Traffic Violations Agency opened in response to this concern. Rochester Mayor Warren explained:

Under the current system (Former Rochester Traffic Bureau), if you can’t pay your traffic ticket, people lose their licenses, which restricts their ability to access jobs, safe and vibrant neighborhoods and quality educational opportunities. These fines compound, causing legal problems for the individual and perpetuating the cycle of poverty. In other words, it’s a crime to be poor” (City of Rochester, 2018).

The decision to issue a bench warrant seemed to be a different process in the town/village courts than in the city. A defense attorney explained, “In town courts, they may send a notification letter to the person, that they missed court, and that they adjourned without a bench warrant issued for a new appearance date, but if the person doesn’t show up at the next date then they will issue a bench warrant,” he went on, “But in city court, I’ve never seen them send a notification letter first. They [the judge] will issue the bench warrant.” One CJ professional respondent even went so far as to state, “Town courts treat people better.”

One of the limitations of town courts is that court is in session only a few days per month. Therefore, judges may be less likely to have someone taken into custody on a warrant. Instead, Judge C gave an example of a defendant that had a bench warrant served, and instead of taking the individual in custody, law enforcement called the Judge.

The Judge advised law enforcement to issue a new appearance ticket and not take the person into custody. He went onto say, “I’m not holding someone for goofy charges, my court only meets four times³ a month, so that means they will stay in jail longer than they would if they were convicted of the offense.”

Fines, Fees, Surcharges, and Restitution. The payment of fines and fees and their connection to compliance hearings was a topic raised in many of the CJ professional interviews. Compliance hearings occur post-sentence and are essentially court appearances to provide status updates to the judges. In some of the respondents’ eyes, compliance hearings are problematic because they introduce another opportunity for bench warrant issuance.

Fines are imposed at sentencing and guided by NYS Penal Law§ 80.05. Mandatory surcharges are state mandated fees required in addition to the sentence. These include the New York State \$88 surcharge on all traffic violations and \$250 surcharge on DWI offenses. Another surcharge is the New York State DNA databank fee, which is required for all felony and misdemeanor penal law convictions. Fees are associated with sentences, including monthly probation fees, payment for the continuous alcohol monitoring (SCRAM) bracelet, among other requirements. Because there are so many fines and fees associated with offenses, a fines and fees manual is published annually that outlines the current fines and fees for each offense (See Magill’s Vehicle & Traffic Manual for Local Courts or Magill’s Penal Law Manual for Local Courts by Triebwasser, 2019). Restitution is a way to provide victims of crime with compensation, but is not always a part of sentencing, and was not brought up in any of the interviews.

³ Note: number of times the court meets was modified to protect confidentiality; actual number is less than five times/month.

Payment of fines and fees provides yet another discretionary point for judges, as one CJ professional respondent stated, “There’s wide variability among judges on how they handle payment of fines.” For example, some judges allow partial payment, while others do not. Judge B stated that he does not allow partial payment for logistical reasons, “The reason is because the paperwork becomes too much to start offering partial payments.” The CJ professional respondents revealed that it is entirely dependent on which judge an individual is before that determines when their payment is due, how the payment is paid over time, and if they must appear to report on their progress.

One consequence of this practice is that some defendants are offered individualized plans to complete their payments, while others are required to pay and report the same way as all other defendants in a particular judge’s courtroom are sentenced. For example, some judges may sentence someone to a fine and require it be paid by a certain date, while other judges may ask the defendant when they think they can pay the fine by and set the date based on their response. Judge B explained, “I’m dealing with people with no funds, limited funds, so I have to adjust.” Some judges may work with a defendant who cannot afford the fine and so will ask them to pay \$1/day until payment is complete. This may mean that to pay a \$120 penal law violation surcharge, the defendant is given four months (120 days) to complete the payment.

In addition to the sentence of the fine and the required fees, interviews revealed that the judge may then determine that a condition of the sentence is for the individual to report regularly on their progress, referred to as a compliance hearing. These compliance hearings can (and do) occur at any frequency, completely dependent on the judge. CJ professional respondents provided examples of judges that require defendants to come to

court weekly or monthly for compliance hearings. While Judge C said that he does not use compliance hearings, he explained that other judges use them, to keep track of defendants and to keep them engaged. The prosecutor agreed, “Most judges want to see progress.” Interviews with warrant respondents revealed that there were instances when individuals intentionally missed compliance hearings because they did not have the money to pay their fines.

CJ professional respondents were asked about client’s ability to pay the fines and fees. When asked about ability to pay or financial hardship hearings, one of the judges responded, “No, we don’t have that. And how would you even determine ability to pay?” None of the CJ professional respondents could provide information on ability to pay or financial hardship hearings. However, some of the CJ professional respondents discussed the “notice and opportunity to be heard” requirement when it came to fines, fees, surcharges, and restitution. Essentially, defendants must be notified in court when they are required to pay fines, fees, surcharges, and/or restitution, but also afforded an opportunity to say that they do not have the ability to pay. However, when this requirement was observed in court, it was full of legal language that was unclear and did not come across as an opportunity for a defendant to say they are unable to pay. Instead, it appeared to be a notification only.

NY CPL §420 (see Appendix) does offer guidance on the payment of fines, fees, surcharges, and restitution. Specific to fines and fees, “Where a sentence provides that the defendant be imprisoned for failure to pay a fine, the court shall advise the defendant that if he is unable to pay such fine, he has a right, at any time, to apply to the court to be resentenced as provided in subdivision five of this section” (CPL §420.10

subdivision 3). However, resentencing reopens every possible sentence for the crime, and all original deals are off the table, putting the defendant in a difficult position if they cannot afford payment. Instead, civil judgements have become a common tool to deal with nonpayment in order to close the case.

It is regular, local practice for judges to convert unpaid fines, fees, surcharges, and restitution to civil judgments. As Judge B estimated, “one half to two-thirds of cases are converted to a civil judgment.” One defense attorney explained that legally, the judge is supposed to put on the record why something was reduced to a civil judgment, including the reason and the grounds. The defense attorney went on, “If I know my client doesn’t make much money, then I will ask for the nominal fees and even for the fine to be waived, but the Judge can disagree and still do what they want.” One CJ professional respondent explained that technically the resentence might be the civil judgement and that the court is trying to streamline. It is unclear what the short- or long-term consequences of this pervasive practice are. At a minimum, it affects credit scores and may result in exclusion from certain housing and debt collectors intruding in people’s lives.

Summary of Local Process. In sum, bench warrants are issued for missing court at any time during case processing post-arraignment. Individuals are notified of the bench warrant through their attorney, and law enforcement makes efforts to serve the warrant. Judicial discretion is built into the process at many stages, including:

- Decision to issue a warrant for FTA
- Decision to allow surrenderee to add-on to the court docket or be taken into custody

- Decision to release on bail after arrested on bench warrant
- Decision on how fees and fines are paid and how this is reported to the court
- Decision to convert nonpayment to civil judgments

The lack of consistency in the bench warrant issuance process was echoed throughout the interviews. CJ professional respondents identified many challenges to the current process, including court appearance reminders, the issuance of bench warrants on nonjailable offenses, the volume of AUOs, and lack of consistency across judges. The CJ professional respondents also identified reasons why individuals may miss court, as did the warrant respondents. Bench warrant harms were also suggested by the CJ professional respondents, including the impact on plea bargain negotiations and future court cases, along with the emotional toll of living with a warrant.

Managing Low-Level Fugitive Status

The grounded theory analysis was conducted to understand how individuals manage low-level fugitive status and their interactions with the criminal justice system. The process began with open coding and constant comparison of the warrant respondent and trusted individual interviews. In order to achieve theoretical saturation, interviews were analyzed throughout data collection. The warrant respondent interviews picked up quickly and categories began to emerge by the fourth interview. By the tenth warrant respondent interview, concepts became clearer and the remaining five warrant respondent interviews were used to fill in the gaps and saturate the concepts.

The trusted individual interviews were conducted simultaneous to the warrant respondent interviews, but trusted individual recruitment took longer than warrant respondent recruitment. In spite of their slower recruitment, by the fourth trusted

individual interview, the categories were saturated, and the remaining interviews were used to provide depth to the emerging findings. By the final three interviews, new information was scarce and sampling was completed. Table 3 presents individual level characteristics for the warrant respondents, including pseudonyms.

Table 3

Individual Level Characteristics for Warrant Respondents (n = 15)

Pseudonym	Age (in years)	Gender	Race/Ethnicity	Number of Current BW's	Total BW's in Lifetime
Alonso	30	M	Dominican	unknown	7
Nick	36	M	AA/Black	1	close to 20
Tori	57	F	AA/Black	3	0
Malik	24	M	AA/Black	0	6 or more
Jason	50	M	AA/Black	0	15-20
Ava	24	F	White	0	1
Emma	50	F	White	1	0
Julian	52	M	Puerto Rican	2	1
Taye	38	M	AA/Black	0	2-3
Ayanna	29	F	AA/Black	1	2
Brandon	22	M	AA/Black	0	3
Kayla	34	F	AA/Black	1	4
Jayden	21	M	AA/Black	0	4-5
Kiara	34	F	AA/Black	0	4
Sydney	53	F	AA/Black	0	3

Note: BW = bench warrant

Table 4 presents similar data, but for the trusted individual respondents. The relationship variable was defined as the relationship that the trusted individual had with the warrant person at the time of their bench warrant. For example, there were three trusted individual respondents who were no longer dating the warrant person, but they are listed as boyfriend or husband because they were in a relationship at the time. In two of the three instances, the men with bench warrants were also the fathers of at least one child with the trusted individual respondents.

Table 4

Individual Level Characteristics for Trusted Individual Respondents (n = 11)

Pseudonym	Age (in years)	Gender	Race/Ethnicity	Person Close to them with BW
Christina	43	F	Latino/White	Brother
Erica	33	F	White	Client
Mia	41	F	Puerto Rican	Boyfriend
James	46	M	White	Client
Carrie	43	F	White	Husband
Lauren	27	F	White	Boyfriend
Ava	24	F	White	Boyfriend
Rachel	20	F	White	Uncle
Emma	50	F	White	Boyfriend
David	50	M	White	Client
Marcus	42	M	AA/Black	Client and Friends

Note: BW = bench warrant

Open Coding

Analysis began by the author coding the data line by line. Open coding resulted in the identification of more than 200 concepts. Initially most of the codes were created in vivo (based on terms used by the respondents). These concepts included: AUO, living in the moment, police show up at work, abide by all rules, homeless, friends snitching about status, looking over shoulder, money paid towards warrants, catch me if you can, others assisting in evading arrest, and when it's okay to put self at risk of arrest.

Memo writing. Memo writing was completed after each interview to capture immediate thoughts related to the interview, but also to pull apart some of the emerging categories. This is a portion of a memo written after an interview with Taye:

As we were talking he described being on the run for 2-3 weeks. That really sent him in a downward spiral. Is that where we want people to be? He was angry at

the system. Very angry, and had this mentality of “I’m going to make you work for it.” The important thing for self-preservation was to lay low. Stay in his room. Even risk safety by jumping out of the window. It was worth it. But, he didn’t go too far. Return about 45 minutes later. He was literally hiding in the bushes. He felt that the system is out to get him but he won’t let it defeat him. He doesn’t want to be entangled in the system, but he can’t seem to get out.

This warrant respondent was actively avoiding the police and any individual or system that could snitch on him. For him, it was important to avoid custody at nearly all costs. He was willing to stay in his room every hour of the day, isolated from nearly everyone, just to avoid jail. Earlier in the interview, he described distrust in the criminal justice system. Part of the illegitimacy of the system, from his perspective, may be connected to his view that law enforcement needs to work hard to find and arrest him.

Memos were also written throughout analysis to get a more general sense of what the data mean. As concepts emerged in open coding, memoing became useful to identify which concepts were related and potentially fell within the same category, but also to start identifying potential relationships between concepts and emerging categories. This is an example of a memo written about going from no warrant to a warrant, and the emerging category of risk calculation:

At some point, this group starts to live as though they have a bench warrant. What does this mean? This means that they change how they were living before the warrant. There is a distinction between being a *legitimate* member and an *illegitimate* member of society. Or is it not about legitimacy but more about authenticity? You go from being *authentic* in how you live your life to inauthentic. There is an active, willful, *intentional* change that occurs. Like a switch. They tell themselves that they have a warrant and can be arrested. There is a change process that is undertaken. It becomes a *priority to live below/under the radar*. There are a few areas that everyone described as being affected: home, employment, contact with law enforcement. You begin the process to *withdraw* from society. Need to assess whether law enforcement knows where you live. If they know where you live, then . . . you are at home *infrequently*, and *unpredictably*. You *change your previous patterns* of behavior. It is about determining what is safe and what is unsafe.

Concepts to Categories. During open coding, ten preliminary concepts were identified as potential categories to then begin breaking down into properties (i.e., duration, degree, and intensity). Categories were identified by grouping similar concepts. The original categories were: Risk Calculation, Evading Arrest, Emotional Distress, Create Power, Support, Detached/Disconnected, Distrust in the system, Surrender Planning, Surrender, and Exhaustion.

Axial Coding

Open and axial coding are distinct analytic procedures that occurred simultaneous to one another; as concepts emerged in open coding, conceptual relationships and conceptual depth were explored in axial coding. During axial coding the data are put together in new ways by making connections between the categories (Strauss & Corbin, 1990). The iterative process of data collection, coding, and analysis resulted in new insights and minor modifications to the interview probes to gain more depth (e.g. When avoidance came up, respondents were probed more to understand why places/people were avoided, in what context, and how it was decided that they were unsafe). The author coded all the interviews at every stage of coding, but at this stage, an undergraduate research assistant also coded a portion of the interviews for reliability testing. During open and axial coding, the warrant respondent and trusted individual respondent interview codes and concepts were compared for any differences. There were no differences in content, but only in depth and intensity, with warrant respondents providing more detail and depth for the categories.

Throughout axial coding, a paradigm model, as suggested by Strauss and Corbin (1990) was developed to fill in the relationships, properties, and dimensions. Figure 3

shows the headings used to guide axial coding. For example, following the diagram, a causal condition for the bench warrant is failing to appear because the individual did not have transportation. A bench warrant is issued (the phenomenon). One contextual factor may be that this is the individual's first interaction with the criminal justice system. An intervening condition may be that they are homeless and have no transportation. The strategy is to evade arrest so that they do not get picked up on the warrant. The consequence is that they remain on the run, undetected for six months until they decide to turn themselves in. This highlights procedurally how the analysis was conducted.

Figure 3

Headings of Strauss and Corbin Paradigm Model

Causal conditions	Phenomenon	Context	Intervening conditions	Action/interaction strategies	Consequences
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Throughout coding, inductive and deductive analysis was conducted. For example, it was proposed that the issuance of a bench warrant is followed by a negative emotional response (e.g., anxiety, fear). This deduction was then checked against the data in every instance of bench warrant issuance to determine if this was true, verifying the proposition inductively (Strauss & Corbin, 1990). Further, the proposed relationships have to be supported throughout the data, again and again (Strauss & Corbin, 1990). For example, for one warrant respondent that surrendered, she disclosed that she surrendered because she was tired of running. The data were then checked to see if in every instance that someone turned themselves in, was exhaustion a motivating factor? Trying to develop conceptual density through the verification of statements against the data is key to grounded theory (Strauss & Corbin, 1990). This method helps to uncover variation in

the theory, developing a theory that is conceptually dense, specific, and can be applied to different instances of “any given phenomenon” (Strauss & Corbin, 1990, p. 109).

Throughout axial coding, the categories were solidified, which resulted in a few changes to the original categories proposed. As relationships were identified in this stage, categories were linked at the dimensional level. For example, differences emerged at this stage in how someone with a bench warrant for more than a week manages this status as opposed to individuals who had a bench warrant for less than one week. By the end of axial coding, there was clarity in each category’s properties, dimensions, and associated paradigmatic relationships (Strauss & Corbin, 1990). The final paradigm model is displayed in Figure 4 (the final categories are boldface type in the model). Each category is rich and dense and there was a preliminary understanding of the relationships between the major categories.

Figure 4

Paradigm Model of Living with a Bench Warrant

Causal Conditions ↓	Resulted in the occurrence or development of the phenomenon	Failure to Appear: • Forgot Court Date • No transportation, employment conflict, no childcare • Disorganized • Intentional
Phenomenon ↓	Central incident	Bench Warrant Issuance
Contextual Conditions ↓	Specific set of conditions within which the action/interactional strategies are taken	Original Offense Charges Number of Bench Warrants Court (jurisdiction) Judge Date of Warrant/Length of Warrant Court Processing Stage Representation
Intervening Conditions ↓	Conditions which facilitate or constrain the action/interactional strategies	Age Criminal Justice History Knowledge of CJ system/Court Processing Resources/Financial Ability Employment Stability • Homeless • Mental Illness • Addiction Distrust CJ System
Action/Interaction Strategies ↓	Actions/interactions directed at managing, handling, responding to the phenomenon	Risk Calculation Evade Arrest Surrender Planning Create Power
Consequences ↓	Outcomes of the strategies	Emotional Distress Warrant Resolution Escalation

Trustworthiness Results

Three efforts were conducted to confirm the trustworthiness of the findings: interrater reliability, thematic audit, and member checking. Regular meetings were held between the author and the research assistant to discuss coding and make decisions. Once the categories began to emerge and were defined, interrater reliability testing was conducted to assess reliability of the emerging categories and content within the categories. A first step in the process was to code one interview together. The next step was to independently code two interviews and come back together to identify questions, confusion, disagreement, and make decisions. The categories evolved throughout the coding of these three interviews. Next, the main categories (Table 5) were listed and defined. At this stage, interrater reliability testing was conducted by coding the main categories for two warrant respondent interviews and two trusted individual respondent interviews separately (16% of the sample). The kappa was .65 (.649), which is acceptable; there was 96.19% agreement. Most of the disagreement was associated with different amounts of text coded by each researcher, but still under the same category. For example, one coder coded the question and response, while the other may have only coded the response, but both coded the content under the same category. These results indicated that the coding is reliable. This process also helped to fine-tune the analysis.

Part of the audit trail included not only memoing and tracking the changes in codes and categories, but also the development of a table listing the categories and examples of statements coded under each respective category. A member of the dissertation committee reviewed this table for content (see Appendix). The goal of this was to confirm that the categories and statements within each category made sense. The

feedback from this step was that the statements all made sense in their respective categories. The reviewer suggested that the risk calculation category needed more explanation because it was not as straightforward as other categories. This recommendation was applied to the analysis and continued development of the theory.

The focus group notes were reviewed and discussed to identify confirmation of emerging findings and additional insight into living with a bench warrant. The focus group respondents agreed with the emerging categories and provided more depth to the categories.

Table 5

Final Categories and Proposed Operational Definitions

Category	Working Definition
Risk Calculation	Assessment of risks and rewards associated with particular actions, people, and places
Evade Arrest	Strategies utilized to avoid getting arrested for the warrant
Surrender Planning	Contemplating and/or preparation taken to turn oneself in
Create Power	Taking control of their status to feel a sense of power
Escalation	Increasing sanctions and/or problems
Emotional Distress	Intense negative emotions associated with warrant status
Warrant Resolution	The actions surrounding the warrant being cleared, either self-initiated or from an external source (e.g., law enforcement)
Distrust in CJ system	The belief that the CJ system, and actors within the CJ system, are unreliable and unfair

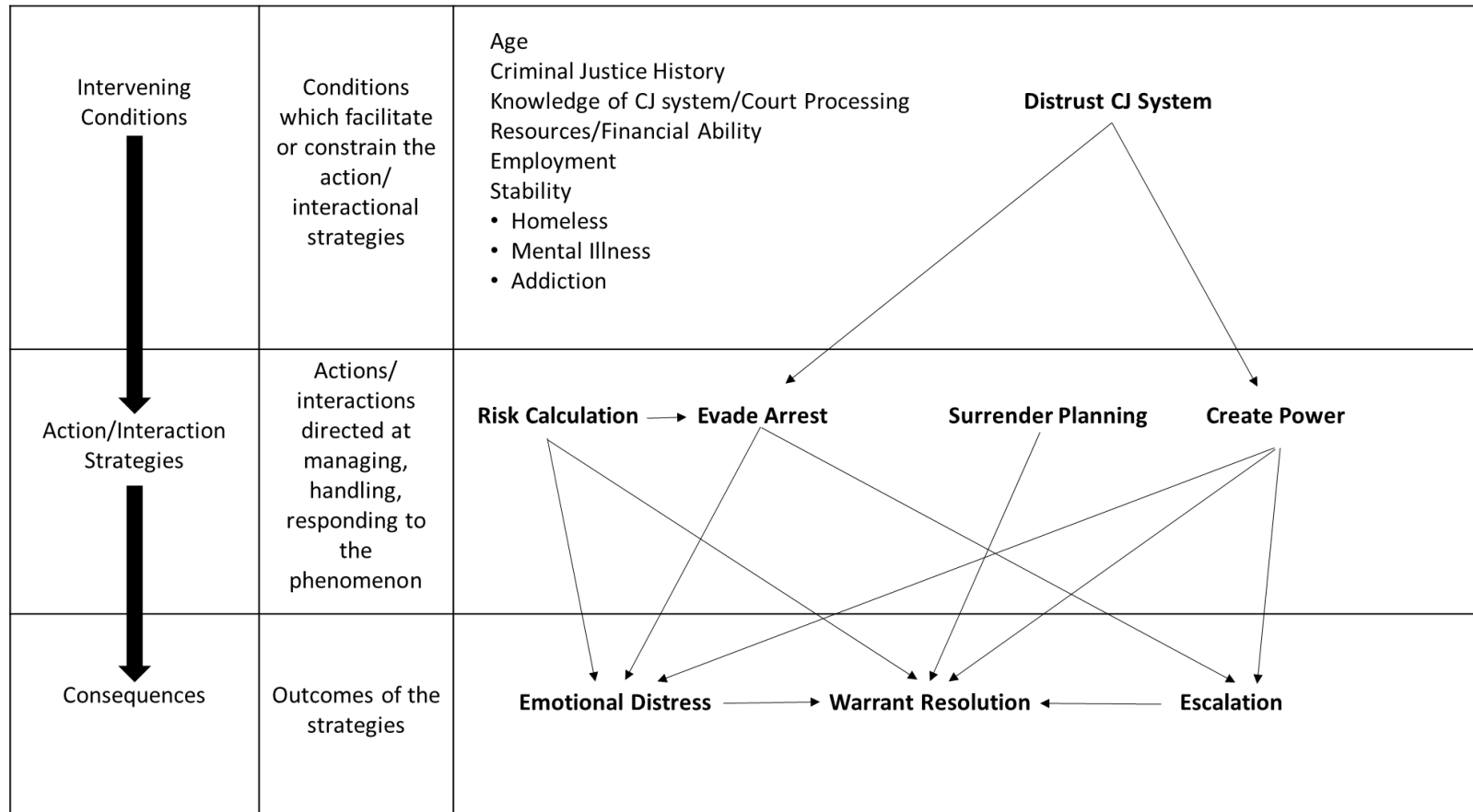
Selective Coding

As the analysis progressed into selective coding, the final categories were established. The following eight categories emerged from the data: risk calculation, distrust in the criminal justice system, evade arrest, surrender planning, create power, emotional distress, warrant resolution, and escalation. Table 5 lists the categories and working definitions for each category. During the selective coding stage, a core category

was identified and relationships between all the categories were explained. The core category is a central concept or phenomenon in which all other categories are integrated (Strauss & Corbin, 1990). The core category was validated by going back to the data to see if this category permeated all of the interviews. The analytical process gave rise to a core category for how individuals with bench warrants manage this status. Figure 5 presents the proposed relationships between the categories.

Figure 5

Proposed Conceptual Model for Living with a Bench Warrant



Core Category. *Risk calculation* was identified in every interview and shaped how respondents managed their low-level fugitive status. Risk calculation permeated the interviews, with constant assessments of how certain actions would play out. Respondents did not directly state that they weighed the pros and cons of doing something or assessing whether something was safe or unsafe, but instead when asked about their behavior, an overarching response was the need to determine how risky something was.

Risk calculation often began with the decision to appear in court or miss court, and ended once the warrant was resolved. There was a group of respondents that unintentionally missed court and once they realized they missed court, they immediately turned themselves in as explained by Ayanna:

I was upset, like oh my God I got a bench warrant, oh my God I'm going to go to jail. I kept thinking oh my God what are my kids going to think if their mommy is in jail, they're going to have to come down to the jail to see their mom. I don't want to have my kids come down to visit me downtown.

For those that immediately turned themselves in, the cost was too high to stay on the run (e.g. Ayanna's fear of her children visiting her in jail). Respondents that unintentionally missed court frequently simply forgot their court date. These respondents forgot for a variety of reasons, including substance abuse, homelessness (difficult to track appointments), and disorganization. For individuals that intentionally missed court, they already calculated the risk of appearance versus not appearing and determined that failing to appear had greater rewards, which was mainly staying out of jail. Respondents intentionally missed court most frequently due to a fear of going to jail to complete their sentence.

Two important components of risk calculation were probability and severity. Probability is related to how likely it was that the behavior would lead to arrest. Severity is associated with how harsh the consequence of the action is. Severity seemed to be related to the level of the original charge. Specifically, individuals distinguished between lower level offenses (e.g. violations) that result in zero or less than two weeks in jail versus higher level offenses (e.g., A or B misdemeanor) that result in longer jail stays (e.g., 30 days – 1 year), as described by Jason:

Q: So do you think . . . if you had a more serious charge, let's even talk misdemeanor, if you had like a high level misdemeanor offense do you think you would show up in court for that or do you think you would . .

Jason: Yes, because that you can get jail time for that.

Q: Okay, so for something more serious you would . . .

Jason: I would go to court for that because it can turn into worse, for a misdemeanor you can maybe get 30 days or you can get probation or something, but if you don't go you can get up to a year, I don't want to do that much.

In some instances, the respondent assumed that he or she would be taken into custody to serve out the remainder of their sentence and so those individuals may be willing to go to further lengths, like jumping out of a window to avoid arrest, than others who had yet to be sentenced. In other words, for those that intentionally missed court, this was related to risk calculation. When talking about her boyfriend at the time, Ava explains,

Q: So it sounds like your ex, he intentionally didn't show up in court?

Ava: Yeah, like if he would come up dirty on the urine he would just not go, you know.

Q: Yeah.

Ava: So he would avoid a dirty drug test and take a missed court date instead, you know what I mean.

Respondents who were employed often calculated that continuing to work was worth the risk of being captured. Malik explained that he had a bench warrant for a low-

level offense and did not think that the police were looking for him, so he continued to work.

Check this out, this is how I got caught . . . One night I was working and the sheriffs come in, they literally come in and like they were are you, you know, they ask me my name and stuff and I was like nah that's not me. . . Yeah, and I'm like that's not me and they were like you sure cause we got a call saying that you were working here and you have a warrant. So I'm like no, no, and they do run my name and try and get a picture of me and they do and it's me so I got arrested for that warrant at my job.

Others explained that employment would make them vulnerable to capture. Some may continue working under the table, but others stopped working or were not working to begin with.

Risk calculation included the need to protect family and friends from their status. For example, Julian would check in with his family, but never disclosed to them where he was living so that when the police knocked on his mother's door, she told the truth when asserting that she was unaware of where Julian was. However, other respondents described isolating themselves from going over to friends' homes because they did not want to jeopardize their friends. For some respondents, entire states were deemed unsafe, but in specific cases it might be worth the risk to visit, as explained by Emma:

Q: So I mean in terms of your plans, you won't go back to New Jersey until you pay that \$500 which you hope will be soon?

Emma: You know I might but I'd just decide.

Q: Depending on if something went wrong?

Emma: If my mom were in the hospital I would go in a heartbeat, I would go yes. Absolutely yes.

Q: But you would be as careful as could be and all that.

Emma: Yeah, and I don't know if I would let [my husband] drive because there's not a lot of Puerto Ricans where I come from so I don't know if they would [making hand gestures]...

Q: Profile him?

Emma: Yes, they're like that so I would have to drive."

For Emma, visiting her healthy mother was not worth the risk, but if her mother's health declined, then it was worth the risk. The risk calculation goes a step further, though, in the assessment of who will drive to reduce the chances of getting pulled over, which would most likely result in Emma's arrest. In some cases the cost of running and leading an unstable life caught up with them. Risk calculation shifted to a concern about the future beyond their warrant. Mia goes on to say,

So eventually he turned himself in, he finally turned himself in. I think he got so fed up with the running and he had come to a point in his life where he was actually looking for a job and wanting to make that change in his life and obviously he couldn't because if I do get this job and I have this one they're going to pick me up at work, and so finally he turned himself in and I remember it like it was yesterday.

It was uncommon that individuals would engage in criminal behavior to avoid arrest, as that was too risky. For example, no one disclosed stealing to support their life on the lam. Instead, as Kiara explained, "I knew like . . . I'm not going to be able to run forever, I don't even have the resources like that so eventually I'm going to get caught."

Risk was always calculated relative to the likelihood of getting arrested. Risk was calculated at various levels, from who respondents could socialize with to whether they could go outside during daylight hours to driving. As respondents identified strategies to evade arrest, there was a constant assessment of potential outcomes associated with the behavior. For example, avoiding medical treatment was worth the medical consequence if it meant that the individual would not be found by law enforcement. For some, living in isolation was worth the consequence if it meant that they would not be arrested; but for others, living so detached from society and holed up in a room was not worth avoiding capture. For those who remained on the run, it seemed that the emotional toll of being on

the run was worth the cost because it meant that they were not in jail. It was better to live in the community even with a longstanding warrant over their head, than to turn themselves in.

Evading arrest. Respondents' lives were guided by doing what was necessary to avoid arrest. Most behavior to evade arrest was strategic, in that the respondents intentionally acted to avoid arrest. Key components of evading arrest were: avoidance, social isolation, hypervigilance, unpredictability, and hiding in plain sight.

Avoidance permeated the interviews, especially efforts to stay away from the police. This was logical in that the police have the direct authority to take them into custody. For example, as explained by Taye, “. . . and there was some times literally jumping out of windows [to avoid police].” In addition to avoiding law enforcement, other systems were deemed unsafe and so must be avoided. There was a repeated concern that agencies with system affiliations (e.g., medical, public safety, human services, employment, and education) would share warrant status information or address information with law enforcement, leading to their arrest:

Q: Okay. What about like are you going to the doctors or is there anything . . .

Julian: No I don't go to see any doctors right now because I fear making an appointment will appear on the computer system or something will appear there. . . . I have a lot of health issues, I have hypertension, I have diabetes, I've got a lot of stuff I need my medication for right now which I don't have because of the situation.

Q: Okay, so you're avoiding even getting your medication?

Julian: Yeah.

Julian avoided the pharmacy and so he stopped taking his high blood pressure medication, escalating his condition. Escalation was closely related to evading arrest as some strategies resulted in worsening problems for people. Medical institutions were commonly avoided, as were some shelters, and even public assistance. Two respondents

(and the pilot interview respondent) avoided entire states because of their warrant status.

Specific to public assistance and housing, Erica explained:

So DHS is able to track warrants in their system and stuff like that so a lot of our guys will refuse DHS services and a lot of them won't tell us why. I mean people aren't really open to share that they have warrants and things like that because they are afraid somebody is going to turn them in.

Other forms of avoidance include staying away from particular neighborhoods where there is a heavy police presence, certain streets, specific people that may bring them trouble, going out in the day time, and driving. As explained by Carrie, "So, you know, he didn't go out a lot so it wasn't just avoidance of like benefits, it was also avoidance of driving places. He used it the way you would use a limited driver's license [to drive to work and the kids around]." This less formal avoidance often began as soon as the warrant was issued, but may ease up as the months go on for some people. For those that continued avoidance at such a high intensity from the beginning of warrant issuance to currently, the severity component of risk calculation seemed to direct that behavior: these respondents were facing jail or prison time and did not want to go.

Social isolation was commonly described among respondents. Respondents had to be aware of whom they were around so as to not bring attention to their circumstance, but many respondents described going further to isolate themselves from everybody, as Jason described:

I won't go out at all, you stay in the house, you eat, and sleep, and then you get bored and it's like I've got to go somewhere and the minute you go somewhere someone is like oh you know the police were looking for you . . . and now you go home again, you run back home.

In some cases respondents identified either family members or partners as being safe, but almost anyone outside of that small circle could not be trusted. It was more than

individuals not sharing their warrant status with people, it was that in most cases no one knew of their warrant status, but they still would isolate themselves. Social isolation was intentional, but an unintentional consequence was that individuals withdrew from support and resources. When conducting the member checking through the focus group and social isolation came up, some of the participants responded, “That’s jail!” and went on to explain that if you are living so isolated and detached from everyone and everything, then you might as well be in jail. Yet, others still viewed staying in their house or room as better than jail.

Another strategy to evade arrest was to be *hypervigilant*. Hypervigilance came out mostly when asked about the police. Respondents, like Nick, explained “It just sucks because now every time I see a cop I have to look over my shoulder, you know what I’m saying.” When Jason’s warrant was cleared, he explained, “Then I was kind of glad that she did do that because you kind of want to get it over with because you don’t want to be looking behind your back every day trying to run from something that’s small.”

Hypervigilance is about an enhanced sense of alertness and behavior that prevents assumed danger, which often led to emotional distress such as panic or anxiety in the respondents. Respondents were very attentive to where the police were. For example, Mia described a time when she was driving her car with a friend inside who had a bench warrant. Mia explained that when a police car pulled behind her, she started “freaking out” and eventually pulled into a mechanic shop to get away from the police. She was terrified that the police would pull her over and arrest her friend.

Cultivating *unpredictability* was another strategy to evade arrest. Respondents shared examples of moving from place to place, not working, and being in touch with

family erratically. Julian explained, “Well I do look over my shoulder all of the time. I can’t go and see family, I need to stay away from friends, I need to stay away from the streets, I need to stay away from [a] steady place, I need to move around for now.” Kiara also had this to say, “Yeah I would move to different spots so I wouldn’t be somewhere too long, like a couple different places, stay a couple days and then move to the next place.” Unpredictability seemed to be more vital in instances where individuals knew that the police were actively looking for them (e.g., friends or family told them that the police knocked on their door looking for the person).

Finally, there were respondents that continued their life as it were before, but in an effort to appear normal and not suspicious. *Hiding in plain sight* was identified as a way to avoid unwanted attention. Respondents would continue to do normal things, such as driving, walking in the community, work, and receive public assistance, but so as to not bring attention to themselves. A few respondents continued working with the warrant, as explained by Jason who had a warrant for a violation:

Jason: I can always find work it’s no problem.

Q: Are your employers . . . not necessarily concerned about background, are they doing that official background check?

Jason: They do but they don’t, mine are not real serious ones so . . .

Respondents’ lives were organized around evading arrest. Avoidance of formal systems and hypervigilance were the most common strategies, while other strategies such as cultivating unpredictability or hiding in plain sight, were less common. Respondents ranged in how long these strategies would last, for some they would test the waters by coming out of hiding for a brief moment, often to find out that the police were looking for them, resulting in a return to hiding. Evading arrest was closely associated with risk calculation, escalation, and emotional distress. Individuals were constantly assessing the

risks associated with different strategies and the intensity of each of these strategies (e.g. avoiding the police versus avoiding streets, employment, and driving) which often resulted in emotional distress such as depression or fear.

Surrender planning. Respondents expected that they would eventually be caught, and most respondents had a general sense that they would surrender at some point. These surrender plans ranged from contemplating the idea of turning themselves in, (e.g., Kiara stating, “Every holiday I would say okay you know what, after this holiday I’m going to go turn myself in.”) to active surrender planning (e.g., Emma stating, “He’s going to turn himself in in January.”) For some, there was a need to get things “settled” before turning themselves in. Erica explained:

So most of the time when people are deciding to surrender it’s very much about their situation, so if they got an apartment coming up in two days they’re waiting until they get their apartment and you know then they have the sense of being settled, they know they’re coming out of jail, you’re coming to your apartment, you have these supports as opposed to these people who know they’re coming out of jail and coming back to the streets or back to the shelter.

Motivation seemed to differ depending on the respondent. Some respondents described external motivation, like, Nick:

Nick: Oh yeah I just went into court and got on the docket and just ...

Q: So you turned yourself in.

Nick: Yeah.

Q: Turned yourself in, showed up, so you weren’t trying to wait to get arrested?

Nick: Yeah, no at the time I had too much going on and my wife would have kicked my ass, her and the other one I couldn't deal with them on my back so yeah.

Kiara’s family also motivated her, “It [an amnesty program] was on the news and my grandmother seen the news and she called me and she was like . . . well she’s [the judge] doing this thing turn yourself in and she won’t lock you up.” While others, like

Ayanna, described internal motivation to surrender, “I just came downtown at this point and [said] lock me up, I’m tired of running.”

James shared his experience with clients on the run and described a technique that engaged with them. In this activity, clients envision a stable future, which might include their own apartment, reuniting with their partner and/or children, and taking care of their well-being. He would then say, “Okay what if we get this beautiful place and you’re back with your wife and your kids and then they bust down the door, is that what you want, and we deal with that now.” James goes on to say,

People are very, if you kind of play the tape out and visualize it and then if people are really motivated by their children, you know, if there’s a motivating factor then it works. I think if you think that everybody wants that then you’re wrong,... with some people that’s not as important as we might think it is.

For some, surrender planning entailed getting money and resources together for their significant other, for others it was about saying their good-byes, and for still others, there was minimal planning, just that they showed up in court. Surrender planning could occur even while evading arrest. Respondents did not seem concerned with the logistics of surrendering, such as asking themselves “Will I be added onto the docket” or “Should I turn myself in at the Public Safety Building instead of court?” Respondents were more concerned about what they needed to take care of before they surrendered. This often included saving money to leave with their partner, getting into a better housing situation, and saying their good-byes. Jayden talks about his surrender planning:

So then I waited, I kept prolonging it, I waited until I think like a week or two, maybe a month, I’d say a month at the latest then I finally turned myself in. I called and asked just take me in because I really thought I was going to go to jail for a while, so I take a month and was chillin’ with my friends, I’m telling them I don’t know if I’m going to be gone for a minute, but even if I’m not I’m just

doing this just in case. So I know we left off on good terms and I told you what it was and so then after I went to turn myself in.

Surrender planning was often related to warrant resolution. After planning was completed, individuals surrendered. Planning lasted months for some who were still in the contemplation stage of change, while it could last weeks for others, and last one day for still others. For those where the planning lasted such a brief time, it was often connected to this realization that they are exhausted from running, and now is the time to surrender. However, there were respondents who did not engage in surrender planning, and had no plans to surrender. This group planned to be on the run indefinitely.

Create power. Powerlessness was described by many of the respondents. This intersected with a view that the court was not vested in their best interest. Respondents repeatedly viewed the court system as being against them, not with them. Respondents generally acknowledged committing a form of the crime that they were charged with, but in very different ways. Some admitted to committing the crime exactly as charged (“I stole food for us to eat” (Julian)) but with vital context missing from the court proceedings (“we don’t have no food, we don’t have no income at that moment and we were starving” (Julian)), others committed crimes that were relationship-based and difficult to entangle. It was as if the court system stepped into the mediator role, but had the power to remove people from society when they did not follow a discretionary-based process. Respondents felt powerless and some refused to go down without a fight. The notion of creating power to take control was echoed in the sentiment of, “Catch me if you can.” As explained by Kiara:

My family couldn't believe it, you're not scared, no I'm not. It's actually fun and I want to see if they can recognize who I am if I had the warrant or not, and so it's basically catch me if you can.

During the member checking focus group, an entire discussion ensued about having a warrant being analogous to a battle. One respondent explained that when you are on the run, it is a battle that you are winning while you are still out on the run; you lose upon arrest. Respondents also talked about how officers need to earn their paycheck. Brandon created power by running from the police, "I was running because I'm basically going to jail for nothing, in my eyes I'm going to jail for nothing, smoking weed, they're about to take my life away."

Another way of exerting control was through benefitting from relationships with law enforcement. Alonso explained that even with his warrant in New York City, that not only would he still visit, but he would commit low-level offenses, like drinking in public. When asked about this he explained, "Because my family is police officers, I got two cousins on the police department and I have another cousin that's an undercover cop, and my other cousin he has like the card saying that it's a free pass." James explained that often times these individuals have so little power that they will take any advantage that they can get. Sometimes the risk of getting caught was worth it for these individuals if it mean that they had exerted some power.

Taking control could lead to warrant resolution because some respondents explained that they wanted to surrender on their own terms, while for others it could lead to escalation. While they might gain some sort of control over when they get caught, they still exerted minimal control over their case outcome.

Escalation. Bench warrants often resulted in an increase in sanctions or negative consequences for respondents. Throughout the interviews, there were numerous examples of the warrant escalating their criminal justice sanctions and other aspects of their lives.

Jayden explained how his bench warrant escalated things for him:

I showed up to the first [court appearance] when I came to court and I went to jail I had to go to court, then I came to the next one, the third one I missed, the third one was going to be dismiss the whole case because that was disorderly conduct, a slap on the wrist and I prolonged that case because of missing court. So then I had to go through the program, I had to go to do an anger management program just to get the case cleared up. I had to do all these things just because I missed court, if I wouldn't have missed court I wouldn't have had to do all those steps.

One frequent consequence was employment-related. Almost every respondent that had a job prior to their warrant, lost their job post warrant issuance. Respondents that had calculated the risk was too high to work stayed away from employment and so had no resources to provide for their basic needs. Marcus shared about a young person that had a warrant, and the sheriff contacted Marcus (the employer) about the warrant. Marcus refused to turn in the person, but did speak with him and encouraged him to surrender. However, the warrant person instead stopped showing up to work, "so he ended up losing his job for no call, you know . . . so then he lost his job but then he wasn't even around to know that he lost his job."

Some respondents steered clear of public assistance and did not receive benefits that they were eligible for. Another aspect of escalation was for individuals that had an original non-criminal offense that resulted in being taken into custody because of their warrant. Jason was only charged with open container (non-jailable offense), but because of his failure to appear, when he was picked up, he spent seven days in jail.

Escalation often resulted in respondents getting disconnected from society and resources. Phrases such as, “drop out of life,” “people detach themselves,” “limited parenting,” and “throwaway people” all came up in the interviews. This often led to instability for people. David described what happened to someone he knew:

Right and he lost his job . . . He still comes around every now and then to say hi to us, but he lost his connection with [the agency], he would have had a year [on the job], because he could have gone through that whole thing [court case] while he was at [the agency] . . . and we would have helped support him in court, so because he went kind of on the run or underground he lost the connection for a while with even me or Marcus who would have gone to court with him and kind of advocate on his behalf because he felt like I got to go underground and if I go see any adults or any organization or facility there’s a chance that I could get locked up there and so you now lose a positive connection.

Many respondents rarely trusted anybody and trusted even fewer few systems, and so essentially went into hiding, further secluding themselves from society. As explained by Taye, “I was in that room, I was like just like very isolated, very depressed, just like very depressed because it was like the most drama end of the year.” And Kayla explained, “Yeah, that was the only thing that changed with the third one was I lost a lot of weight. . . I was so consumed with looking out that window and smoking weed, it was crazy.” Escalation was associated with evading arrest and emotional distress. Individuals would do things like isolate, avoid, and be hypervigilant in an effort to avoid arrest, but these often escalated the situation for individuals. Then, emotional distress such as fear often motivated individuals to act in a certain way (e.g., fail to show up in court) or resulted in a physical or emotional toll that escalated the situation.

As shown below, Mia’s boyfriend avoided medical care to evade arrest, and this may have contributed to current medical problems, 15 years later.

Mia: You just reminded me, so one day I'm home and laying in bed, it's night time, I could start crying, back then I probably didn't cry because just the shit we go through. So one day he comes home and it's winter and it's about 11 or 12 and he says, he goes babe I just got hit by a fucking car . . . I said what? he said right down the street I was walking and the fucking car it just fucking hit me . . . and I was like well you got to go to the hospital and he's like fuck that, I just got up and I came home, I came home quickly, I hurried up and I came home, because he was scared of going to the hospital.

Q: Because of the warrant?

Mia: Because of his warrant. So he literally got hit by a car, got up off the ground, got up and walked home. Continued his journey home.

Q: Wow, so what happened in the moment?

Mia: So it kind of stopped, we just left it there.

Q: He did not go to the doctor?

Mia: No and I wonder, I remember saying probably when you got hit by the fucking car, that's probably why you can't walk right now.

Q: Oh so like long term [consequences] sort of, yeah.

Mia: I don't know, we'll never know because he never went to the doctor. But when health stuff would come later on after that I remember arguing with him like that's why you should have went to the fucking doctor because now you're limping or you can't walk when it gets cold, you know.

Escalation could result from avoiding systems or avoiding the police by running from them, resulting in a situation as described by Brandon who had a warrant for failure to appear on a possession of marijuana offense.

Brandon: [I] was running because I'm basically going to jail for nothing, in my eyes I'm going to jail for nothing, smoking weed, they're about to take my life away.

Q: I see, so you run.

Brandon: Yeah, he [the police officer] said he was going to shoot me and I made a right and I ran and started running straight and then hit the snow mobile and I went and jumped over it and clipped my leg and fell in the snow on the road and he jumped on me and I got up and ran and I jumped on the fence and he put his gun to my back and said stop before I shoot you. I was like nah I'm not getting down . . . and then he was like get down or we're going to take you down, so I'm like alright I'll get down, so he got off me and I got down. So as soon as I put my feet down like on some little metal thing that was in the backyard that helped me jump over the fence they [the police] ran up on me and they said too late and they jumped me and threw me in the snow and they beat me up. That's how I got it, that's how I ended up in jail. He sexually assaulted me, he smacked my butt too, disrespected me.

Brandon's experience demonstrated how avoiding the police escalated an originally low-level offense into not only additional charges, but also physical recourse, allegations of sexual assault, and the potential to be shot. Yet, his position was that the system is unfair and that he should not be facing such serious consequences for his offense. This accumulation of disadvantage was repeated in the interviews as respondents described ways that things got worse for them. Other respondents confirmed that once arrested on the warrant, they would agree to plea deals simply to get out of jail. When asked about fines and fees owed, many respondents had no idea how much money they had paid, while others responded "thousands of dollars" and still others responded that they never paid anything because the amounts were converted to civil judgments. When asked about civil judgments, respondents seemed to appreciate this practice, and even relied on it so as to not have to serve jail time for nonpayment. However, they acknowledged that it made their credit worse, but with the qualifier that it was already abysmal.

Emotional distress. Respondents described intense negative emotions related to their warrant. For those that did not realize their warrant status or became aware of their warrant status through a letter, phone call from an attorney, or some other way, when asked how they felt upon realization that they had a warrant, many described fear. While living with a warrant, most participants described feelings of anxiety, depression, fear and sadness. These feelings were intense and high-level on a daily basis. This negative psychological state seemed to permeate them on a chronic basis, affecting their health and mental well-being as described by the respondents. These unpleasant feelings, in turn, could cause problems, such as changes in appetite. As explained by Carrie:

Carrie: He definitely has depression, he definitely has sleep problems, he uses a sleep apnea type of thing

Q: Oh yeah, yeah. Do you think that's related to this?

Carrie: I think it's related to depression and I think depression is related to constant stress and you know just he doesn't see a way forward to be the person he wants to be in his mind, like there's no way to get from here to there because of things that are out of his control. The child support rule and the bench warrant rule are like they don't really have any, he doesn't have any ownership of them, somebody else controls those things.

Ayanna explains, "I was scared when I first read it [the bench warrant notification], I was scared because I kept saying oh my God I'm going to go to jail, I don't know what's going on I don't want to go to jail." When Julian was asked if he had anxiety about the warrant, he responded, "Of course I've got anxiety, depression, fear." Ayanna described feelings of depression and sadness when she first had the warrant, but the feelings dissipated as time went on. Others did not describe a reduced intensity; instead, many talked about eventually becoming exhausted from running.

Exhaustion was a key component of emotional distress and often coincided with surrendering or "giving up" when arrested for some individuals. Kiara explained, "I just came to a point where I was just being tired of running from house to house." Taye affirms this exhaustion leading to his arrest.

Taye: Every time they came there I was there, they just didn't know I was there that's how quiet I was. The time that they came looking for me my door was actually unlocked and they opened it and I was sleeping, I was just laying in my bed asleep, just like tired.

Q: And that's when they got you.

Taye: That's when they got me, I was just tired.

Q: What do you mean you were tired?

Taye: Just tired of everything that was going on, just everything. That's when I was picked up on the bench warrant and I said I just want to do my time and get it over with. I'm going to be free.

Kiara talked about how the stress impacted her, “Yeah sometimes I would wake up sick, I would wake up with headaches. Sweaty palms, I would pace back and forth.” Respondents talked about feeling panic, anxiety, paranoia, being worried, embarrassed, and even sadness about the warrant. The continuous threat of arrest weighed on people. Emma explained, “It’s a terrible thing to have to hold over your head all the time, to want to take someone and show them where you lived and have to worry about the police coming.”

Warrant resolution. Bench warrants were resolved through either respondents turning themselves in or being arrested by law enforcement. For those who surrendered, it was most common to show up at the Courthouse and ask to be added onto the docket. A few respondents called their attorney and some turned themselves into the police station. Jayden describes turning himself into the police:

I’m sitting on the bench and my mom was starting to cry now and I was like oh man what did I do . . so they come get me and when they put me in handcuffs she was just like I can’t watch you, just leave, I’m good, just go ahead. I was processed and got through booking and sat there, they put me in a cell.

There were many respondents that surrendered as soon as they realized that they missed court or received notification that they had a bench warrant issued. Most of these respondents missed court because they forgot, and so had intended to appear. On the other end, were individuals who intentionally missed court and were “on the run,” but were now ready to surrender. Some of these respondents described initial plans to never surrender, but then over time they became exhausted, and turned themselves in. Individuals that intentionally missed court seemed to fail to appear during the court processing stage of compliance hearing (post-sentencing) and had not followed through with their sentence. For these individuals, there was more risk associated with

surrendering as they would likely be resentenced and locked up for 30 or more days. Alternatively, for those that unintentionally missed court, failure to appear seemed to occur at all stages of court processing, but the consequences of missing court for this group were less serious, such as a one night jail stay or converting fines to a civil judgment.

Distrust the criminal justice system. The interviews revealed a number of possible intervening conditions associated with how individuals manage warrant status. These are listed in Figures 4 and 5 and include age, criminal justice history, and knowledge of court processing. One intervening condition that was described in depth in many of the interviews was a feeling of distrust towards the criminal justice system.

Many of the respondents raised concerns with the current justice system, and identified it as being unfair and untrustworthy. Respondents described a system that did not respect, empathize, or show concern for who they were and their situation. One respondent explained that while she had a bench warrant, the presiding judge launched a media campaign that she was offering amnesty to individuals with bench warrants. In other words, if they turned themselves in, then they would not go to jail. This respondent took advantage of the program partially because she was tired of running, but even as she made the decision, she did not trust the judge.

Q: That was the third warrant when she [the judge] was doing the [amnesty] program and that's when you showed up and then you surrendered on your own but even though she said she was doing this program, you still weren't that trusting?

Kiara: I didn't trust it at all."

In some cases respondents provided examples of why they distrusted the criminal justice system. These examples were frequently connected to their personal prior

experiences with different actors in the criminal justice system. The distrust was associated with judges and police, but also towards criminal laws in general. One respondent explained that he should not be facing such serious consequences for crimes associated with marijuana, while another respondent explained that the judge did not allow him to explain himself and his situation.

Other respondents gave examples of police, judges, or attorneys not looking out for their best interest. A recurring concern in the interviews was that the current system in place does not acknowledge individuals holistically. System was defined differently across the respondents, some included the police, while others only talked about courts and the judges, still others talked about their attorneys. Respondents wanted to have an opportunity to explain themselves and their actions in court.

Taye: No I don't really talk about certain things because that's just how I am, so it was just like there's no sympathy, there's no empathy, just you do the crime you're going to do the time, so anything else I'm dealing with personally I just feel like it's going to be looked upon and deemed irrelevant so it doesn't matter.

Q: So interesting because one of the first things you said when we started the interview was that the system doesn't look holistically at somebody and that's pretty much what you're describing. . .

Taye: I care not to care because that's the attitude that I feel I'm receiving, I care not to care."

Distrust of the system was related to how respondents dealt with their warrant status. Respondents who gave specific examples and talked at length about the system being unfair and distrustful often used the phrase, "catch me if you can" when referring to evading the police. This category is related to creating power. Marcus explained that the system is unfair to black males in particular:

But I think our young people they get hassled for chillin' so some might say chillin', some might say loitering, just for being, right? but you figure if you're a young Black male especially and you're just hanging there, chillin' with the boys, coming out of the corner store, cops roll around the block, run everyone's ID like

literally almost every day, every day anywhere you are you could be a potential of either getting arrested for the first offense, right, and that might be how it works, you're on the street they run everybody else, you got to go to jail, you go to court right, you don't go to court, now they issue a warrant and now again you're in this constant cycle that next time anything happens you're out walking around the neighborhood, anything happens at school, any time your name gets run you got a potential to go to jail.

While distrust of the system was not identified as a strategy or a consequence, it did seem to be an intervening condition. Erica described other concerns with potential intervening conditions:

So yeah, when you have substance abuse and mental health and things like that you're not thinking clear anyway so even to put yourself in the mindset that you're going to go turn yourself in, like you already don't have anything, like you're already coming from a shelter, and I feel it's a hard thing to do and people are afraid too because when they get into the system, and it's hard to get anything once you get into the system.

Erica describes these conditions that are out of individuals' control, yet can have devastating consequences. Distrust in the system was also described during the member checking focus group, with individuals agreeing that the system is not set up to work with them, but instead, against them.

Low-Level Fugitive Process

Living with a warrant follows a dynamic series of actions and consequences (see Figure 5). Risk calculation is integral to the low-level fugitive process and begins with the decision whether to appear in court. This was heavily dependent on the causal conditions of failure to appear, which can be grouped into intentional failure to appear and unintentional failure to appear. For individuals that intentionally failed to appear, they determined that it was worth it to miss court and have a warrant issued.

For those that unintentionally failed to appear (FTA), their initial risk calculation resulted in a plan or intent to appear in court, however, they missed court for an

unplanned reason. After missing court, they then calculated the risks associated with staying on the run. Based on this assessment, the individuals turned themselves in (warrant resolution) or evaded arrest. Most unintentional FTAs decided that the risk was too high to remain on the lam and surrendered. However, developmental age and previous criminal justice history impacted this decision. Younger respondents and limited interaction with the CJ system frequently resulted in the decision to remain on the run, with mostly fear and uncertainty driving the decision.

For those that intentionally missed court, they often calculated the risk relative to the level of the original charge, the stage of court processing, and fear of jail. Those that determined the risks of remaining on the run outweighed turning themselves in often had misdemeanor or felony original charges (as opposed to violations) and/or were past the adjudication stage of court processing (sentencing or compliance hearings).

Once intentionally on the run, strategies to evade arrest were utilized. Not everyone utilized all five general strategies of avoidance, social isolation, unpredictability, hypervigilance, and hiding in plain sight. Hypervigilance and avoidance were the most common. Hiding in plain sight was the least common, as it was one of the consequences of creating power.

Almost everyone used avoidance and hypervigilance to some degree. The degree to which avoidance occurred was dependent on the perceived probability and consequence of arrest. Longer and more serious criminal justice histories were associated with more intense efforts to evade police. Individuals that were facing more than 30 days in jail and even possible prison time, went to greater lengths to evade arrest, often socially isolating themselves in addition to avoidance and hypervigilance. These more

serious efforts included actual running from the police, isolating themselves from everyone with no plans to reengage with society, disconnected from all service providers and resources, and medical treatment avoidance. The exception was for those that did not have prior experience with the criminal justice system and had misinformation on the possible consequences of a conviction. For this group, fear seemed to drive failure to appear, and they would engage in intense efforts to evade the police. Risk calculation was heavily intertwined with these strategies.

As strategies to evade arrest were utilized, escalation of problems followed. The longer that individuals were living with the warrant, the more severe the escalation. However, for those with warrants from other states, risk calculation frequently resulted in leading a “normal” life: staying connected to services, driving, applying for public assistance, but avoiding the state where the warrant was issued. There was, however, an enduring concern of what would happen once there was an emergency and they had to return to the state. Even while they led their lives as normal, negative emotions such as depression hung over their heads. This constant state of knowing that they had this serious issue continued to add stress and even resulted in questioning their own decency.

Remaining on the lam resulted in anxiety and fear, which, dependent on how individuals reacted to emotional distress, either resulted in escalation and continued evasion of arrest, or a decision to resolve the warrant. Emotional distress persisted throughout the entire time individuals were on the run. Emotional distress escalated for some into changes in appetite, paranoia, and a lack of physical activity. More severe emotional distress was related to more severe strategies to evade arrest.

For those that calculated the risk was too high to remain on the run, they frequently missed a court appearance during adjudication (prior to sentencing and compliance hearings) and they then began surrender planning which often lasted less than 24 hours. This frequently led to self-initiated warrant resolution. For others, surrender planning lasted longer. Surrender planning ranged from contemplating surrendering to actions associated with surrendering (e.g., saying good-bye to friends and family), this frequently resulted in self-initiated warrant resolution. For those that remained in the contemplation stage of surrendering, they could stay there for a while and continued to evade arrest or eventually were arrested. For those that moved into action steps taken to surrender, this frequently resulted in surrendering within a few weeks. These individuals were often motivated either externally or internally, external motivations included family or agency staff helping them to surrender while internal motivation was often associated with exhaustion from emotional distress and, in fewer cases, with self-realization that they were ready for long-term change, like staying out of trouble and gaining steady employment.

The intervening construct of distrust of the criminal justice system played out in different ways, for those that talked in depth and gave examples of prior injustices perceived by them, they were more likely to attempt to create power in response to the warrant issuance. Creating power through the “catch me if you can” or “earn your paycheck” attitude often resulted in utilizing numerous strategies, for a longer duration, and more severe ends of the strategies to avoid arrest. Strategies included jumping out windows, running from the police, and completely withdrawing from society. Even while creating power, emotional distress permeated individuals. Some described initial feelings

of excitement, but those feelings dissipated as time went on and emotional distress began to sink in. While distrust of the CJ system was rampant, for most, power creation was not a strategy used. Individuals that did not create power seemed to recognize the end goal (i.e., remaining out of jail until they were ready to surrender) was more important than taking control of the situation.

Chapter 5: Discussion

Study Findings

The purpose of this study was to understand the current bench warrant issuance process in a local community, how individuals manage low-level fugitive status, and how individuals interact with the criminal justice system with this status. A description of the local bench warrant issuance process was put forward and a grounded theory approach was used to describe the management of low-level fugitive status.

Eighty percent of court processing is for misdemeanor crimes (Natapoff, 2016); yet, low-level offenses are often overlooked in criminal justice research. This study contributes to the field by examining court processing for low-level offenses and individuals' behavior in response to this processing. Study respondents described a criminal justice system that was difficult to navigate, which frequently led to an escalation of problems, not always due to new offending, but for failure to comply with the burdensome court system. Respondents forgot court dates, did not have the resources or were too disorganized to get to court, while others intentionally missed court. Once on the run, respondents utilized various strategies to evade arrest, but most eventually planned to turn themselves in. As a result of this study, possible system- and individual-level contributors to this arduous process were identified.

Motivations, Facilitators, Barriers. It was anticipated that motivations for warrant status, impact of warrant status on specific life domains, and system barriers and facilitators to warrant issuance and clearing would be identified through the analysis. Motivations for warrant status were dependent on whether the individual intentionally or unintentionally failed to appear. For those that unintentionally failed to appear, many had

simply forgotten their court date, while others were struggling with challenges such as addiction and mental illness. For those that intentionally failed to appear, motivations frequently included fear of the unknown (what would happen to them in court), distrust of the criminal justice system, and jail or prison avoidance. Warrant resolution motivation was tied to exhaustion and support.

As expected, low-level fugitive status affected life domains for every respondent. Respondents described emotional distress from living with a warrant, independent of the original charge, or what state it was issued in, or criminal justice history. For most respondents, employment and transportation were no longer an option. A major component of evading arrest was social isolation, which often resulted in disconnection from resources and service providers. For some, the negative impact that warrant status had on their life domains resulted in self-initiated warrant resolution. Families were impacted in similar ways, even asserting that it felt like they had a warrant too.

System barriers to warrant clearing include resource concerns but also the perception that these low-level warrant clearing efforts were time-consuming and burdensome. In general, law enforcement believed that the majority of bench warrants were cleared by arrest, but after three attempts, the search ends, allowing the person to remain on the run. For self-initiated warrant clearing, one system barrier was the language of the bench warrant issuance letter: the punitive wording scared some respondents into remaining on the run. Conversely, it scared some into surrendering. Respondents that had limited criminal justice system interaction described that language as scary and serious, and led some to remain on the run, even if they unintentionally missed their court date. For those who wanted to turn themselves in, respondents

described having no problem showing up to the jail or the court house to surrender.

However, additional barriers included overall distrust of the criminal justice system, and that respondents were not provided opportunity to explain themselves.

System facilitators included the respondents reporting that they knew exactly how to surrender, where to go and what to do. They also identified agency staff from different service providers as being supportive in various, important ways, including providing transportation and advocacy. Being provided with opportunities to explain their actions, such as why they missed court, were also identified as encouraging future court appearances.

Issuance of bench warrants. New York State Criminal Procedure Law defines the process of bench warrant issuance, but it was not clear how this law translated into practice in Monroe County, NY. In-depth interviews with criminal justice professionals were conducted to understand the local warrant issuance process. The results included overarching topics of uneven distribution of justice, unclear process to determine someone's ability to pay, escalation, goal of case closure, and use of civil judgments to satisfy nonpayment of fees and fines. Discretion was a vital contributor to the uneven distribution of justice.

Judge discretion is built into every stage of court processing, and while there are benefits to this, including flexibility in treating every defendant as a unique case, unintentional consequences include systemic biases. These biases manifested in different ways, such as defendants in the city taken into custody on their warrants while defendants in the towns and villages were provided a new appearance ticket, resulting in very different disruptions for the two groups. Discretion may also encourage the practice of

defendants seeking out specific judges to handle their cases dependent on the judge's reputation in the community. Further, prosecutor discretion played a role in the local process, as some prosecutors always added the bail jumping statute (when applicable) to negotiations, and others did not. This was yet another example of escalation.

Similar to the warrant respondents, judges seemed to conduct their own risk calculation; judges described constantly assessing the risks associated with issuing a bench warrant, adding someone onto the docket, or keeping someone in custody. While it seemed that the judges made these assessments based on their own experiences and philosophies, instead of empirical evidence, there was an ongoing assessment of risk. Some perceived risks may be related to reelection or releasing someone who goes on to commit a heinous crime.

Harms associated with bench warrant issuance include the impact on plea negotiations. Most cases in the criminal justice system are disposed of through a guilty verdict by way of a plea bargain; jury trials are an exception (Feeley, 1997; American Bar Association, 2013). This process avoids taking a case to trial, which can be lengthy, expensive, and uncertain (ABA, 2013). It seems that the cost for avoiding trials has shifted the burden to defendants, who now are strongly encouraged to negotiate instead of going to trial. One highly sought after point of leverage for the prosecutor was bargaining while the defendant is in custody. In Heaton, Mayson, and Stevenson's (2018) examination of misdemeanor cases, they found that individuals in pretrial detention were 25% more likely than similar defendants out of custody to plead guilty. As Dervan and Edkins (2013) point out in their study of innocent individuals willing to falsely admit

guilt in exchange for a benefit, people, especially if in jail, can be more impressionable or coerced into admitting guilt in return for release from jail.

For most defendants, bench warrant clearance results in detention, thus increasing the chance of pleading guilty in lieu of going to trial. A guilty plea creates long-term impacts for individuals, such as the guilty plea on their record, but also the sentence associated with the plea. Interviews revealed that failure to appear (FTA) is part of the assessment for pretrial release, and so FTAs can have significant impact on pretrial detention decisions and the outcomes of future criminal cases. This intersects closely with the bail reform movement, as bail reform relies heavily on assessing the likelihood of failing to appear (Koepke & Robinson 2018).

An important implication of nonjailable offenses is that legal representation is not required through the Constitution (Natapoff, 2015). This was affirmed in case law, *Scott v. Illinois* (1979), where it was held that, “The Sixth and Fourteenth Amendments require that no indigent criminal defendant be sentenced to a term of imprisonment unless the State has afforded him the right to assistance of appointed counsel in his defense.” With counsel potentially eliminated from the process, it raises civil rights concerns for individuals that spend time in jail for a bench warrant on a “nonjailable” offense.

While some of the issues, such as nonjailable offenses, the volume of AUOs, and the handling of traffic fines and fees may seem unique to Monroe County, there is overlap with justice system trends across the country. These more general issues include the use of civil sanctions in addition to criminal justice sanctions and the movement towards decriminalization and partial decriminalization of specific crimes (e.g., certain drug possession offenses).

States are increasingly motivated by financial crises and so have begun to experiment with the decriminalization of various crimes, such as marijuana possession, driving on a suspended license, and traffic offenses (Natapoff, 2015). Natapoff asserts that without full legalization of certain “offenses,” decriminalization still carries the punitive consequences and collateral impact on individuals. The current study’s findings support this assertion, as individuals with nonjailable offenses and violations spent time in jail, often for longer periods than they could legally be sentenced for the original offenses. This raises questions about decriminalization in practice and its goals.

The increased reliance on formal civil sanctions in the United States to punish individuals has received more attention in recent years (Corda, 2018). Formal civil sanctions include driver’s license suspension, payment of fees and/or mandatory surcharges, housing restrictions, housing loss, and social services loss (due to eligibility). Formal criminal sanctions include imprisonment and payment of fines. When assessing civil sanctions, it is important to identify a link between the underlying offense and the civil sanction (Corda, 2018). In many cases, there did not seem to be a clear link between the original offense (e.g. drug possession) and the civil sanction (e.g., license suspension). The CJ professional respondents raised concerns about driver’s license suspension and mandatory surcharges, while the warrant respondents described avoidance and disconnection from services and resources to protect themselves from arrest. Some respondents refused public assistance and employment because of their status, escalating their current situation. Civil sanctions seemed to contribute to escalation, often creating more harms for individuals than protecting society in general.

Criminal law is a powerful tool and has been used to oppress individuals or groups of people who exhibit unfavorable opinions or behaviors (Lindquist, 1988). Discretion contributes to an uneven distribution of justice, but the CJ professional respondents' blasé attitude towards establishing a mechanism to determine individuals' ability to pay, is perplexing. Some CJ professional respondents insisted that criminalization of the poor is illegal and does not occur in the current system, pointing to the practice of converting fines and fees to civil judgments. However, this does not address the underlying problem: many individuals cannot afford the fines, fees, and mandatory surcharges associated with convictions. While the Court system may technically be abiding by the law by not incarcerating individuals, they are still placing impossible sanctions on low-income individuals. Unlike the findings in Ferguson (U.S. DOJ, 2015), respondents did not report unfair payment plans, inconsistent court operating hours, or warrants being issued directly because of an inability to pay. Instead, the common practice of converting unpaid fines and fees to civil judgments seemed to escape this criticism. Nonetheless, respondents did report high amounts of legal debt and were often unable to provide a direct amount that was owed, instead, they had no plans to ever pay any money towards the judgment. This legal debt became something that would remain with them.

Dolan & Carr (2015) recommend that criminal justice agencies do not incarcerate someone for criminal justice debt until an ability to pay hearing occurs. These hearings would help to ensure that only individuals who can afford to pay but refuse to pay are incarcerated or receive other sanctions related to failure to pay. There are some local

examples that could be used to guide this effort. NYS CPL 420.10 5(d) article provides some guidance on how to assess for ability to pay:

. . . the court shall not determine that the defendant is unable to pay the fine, restitution or reparation ordered solely because of such defendant's incarceration but shall consider all the defendant's sources of income including, but not limited to, moneys in the possession of an inmate at the time of his admission into such facility, funds earned by him in a work release program as defined in subdivision four of section one hundred fifty of the correction law, funds earned by him as provided for in section one hundred eighty-seven of the correction law and any other funds received by him or on his behalf and deposited with the superintendent or the municipal official of the facility where the person is confined.

The Office of the Public Defender also assesses financial ability to determine whether someone is eligible to receive the services of a public defender. Both of these could be a starting point to develop a process locally to determine ability to pay.

Jurisdictions across the U.S. have been exploring ways to deal with these low-level crimes that tie up the system. The Brennan Center for Justice recommends that indigent defendants be exempt from user fees, payment plans, and other debt collection efforts (Bannon et. al, 2010). San Francisco has recently tried a different approach by ending the issuance of bench warrants for failure to appear or failure to pay tickets for certain quality of life infractions (Thanawala, 2017).

As communities continue to grapple with the burdens associated with warrants, CJ professional respondents in the current study identified how the local system reinforces poverty. For example, license suspension was identified as a problem because it limits employment opportunities, childcare responsibilities and other life domains, making it nearly impossible to pay off fines and fees. Similar to Hager (2005), the RPD officers also described these warrants as low priority and frustrating to deal with because

of all the more important work (from their perspective), that their time should be spent on.

Management of low-level fugitive status. The goal of grounded theory is to capture as much complexity as possible, while recognizing that reality is overwhelmingly complicated, so it can never all be fully captured. This was a first step in exploring the process of living with a low-level warrant. There were eight categories identified for how individuals manage their warrant status. The most critical category was *risk calculation*. Risk calculation permeated the interviews, with constant assessments of how certain actions would play out. Key to risk calculation was identifying the probability that some things would occur and the severity of the consequence. Strategies to *evade arrest* guided individuals' lives. Important components of evading arrest included: avoidance, social isolation, hypervigilance, unpredictability, and hiding in plain sight. Many individuals described *distrust of a justice system* that ignores their well-being. For some, this led to a need to *create power* and take control because they felt powerless. Power was created by using any advantage that came their way or finding ways to get the police to "earn their paycheck," by ducking and dodging from the police.

Every respondent described *emotional distress* related to their warrant status. This was often in the form of fear, depression, and/or anxiety. For some, they would eventually become exhausted from being on the run and so would then begin *surrender planning*, which often included getting settled before turning themselves in. *Warrant resolution* was either through arrest or self-initiated by surrendering. *Escalation* was embedded throughout this entire process, including an unintentional failure to appear resulting in being on the run or detaching from available support.

Gonzales' (2011) ethnographic study of 150 Mexican-origin undocumented immigrants and how they experience illegal status has some parallels to this work. His life history interviews with immigrants between the ages of 20-34 years revealed that the transition from not knowing legal status to learning of it influenced friendship patterns, aspirations, and social and economic mobility. Using life-course theory to guide his work, he identified three stages to this process: discovery, learning to be illegal, and coping. When the immigrant respondents discovered their illegal status, they described emotional responses such as anger, frustration, and despair. Warrant respondents also described the moment when they realized they had a warrant as being associated with emotional distress. For warrant respondents, avoiding specific places and social isolation were strategies to evade arrest that affected friendship patterns, as well as social and economic mobility. The undocumented respondents described experiences of exclusion from activities, similar to what warrant respondents described, with a key distinction: for warrant respondents exclusion was initiated to avoid arrest, while for undocumented respondents, exclusion was forced on them. The overlap of some constructs within both of these processes should be explored further, for example, to identify if there are discrete stages (such as discovery, learning to be illegal, and coping), that help to explain managing fugitive status.

Risk calculation was identified as being integral to managing low-level fugitive status, with respondents constantly assessing how safe and unsafe people, places, and activities were. Respondents with warrants issued post-adjudication often had more severe consequences (e.g. long-term detention) associated with warrant clearing, and so were apt to engage in more serious strategies to evade arrest. Fear of jail drove much of

the risk calculation. There were calculated risks taken, such as Julian's physical health being compromised by not taking needed medication in order to avoid the risk of being caught. These risks could then contribute to different trajectories, with some respondents immediately turning themselves in, resulting in fewer sanctions, and others remaining on the run, increasing their criminal trajectory. Risk calculation was intertwined with escalation, as decisions aimed at reducing the likelihood of arrest often resulted in increased negative consequences in most aspects of lives, such as emotional distress, employment loss, and disconnection from vital resources. As Sekhon (2017) explains, "warrants pose unique dangers, constitutional and otherwise . . . outstanding warrants beget arrests and arrests beget more warrants" (p. 1). Similar to previous work in this area (e.g., Galanek et al., 2016), the respondents identified escalation as a key construct to living with fugitive status.

Many respondents described distrust of the criminal justice system. This is unsurprising, as elements of structural disadvantage were identified in the interviews. For example, respondents described a burdensome, confusing court process (e.g., some respondents did not know what type of warrant they currently had). Other respondents, such as Marcus, described living in communities with a heavy police presence, while still others described differences in warrant issuance dependent on whether the case was in the city or surrounding towns.

While distrust of the criminal justice system was described by many of the respondents, it is unknown if, for some, this was an effort to rationalize behavior. The study sample was comprised of individuals that allegedly committed crimes, and so the concerns about the justice system raised in interviews may be efforts to justify behavior

with what appear to be plausible reasons, but may not be true. For example, a respondent said that he hated the police because they are crooked, but in reality, he may have never experienced a corrupt police officer. However, when probed, the respondents often gave specific examples of their experiences where they felt unheard or dismissed by system actors. On the other end, criminal justice professionals, and specifically judges, process cases on a daily basis and likely come across numerous instances of people with multiple warrants with no intention of handling the warrant or taking the case seriously. While there may be underlying explanations for this behavior, judges and other system professionals may grow wary and skeptical of defendants that claim to want to take responsibility but need support.

With life course theory framing this study, the constructs of turning point, situated choice, and social capital, along with trajectory and ordering were expected to emerge in the data. Turning points were difficult to tease out in the data. The closest concept to a turning point was exhaustion often resulting in surrender. Probes were used in an attempt to learn more about the process of surrendering and what contributed to it, but the notion of a turning point was not revealed consistently in the data. While Galanek and colleagues (2016) did not focus on turning points in their study of Fugitive Safe Surrender (FSS) participants' reasons for surrendering, they found that the most common reason for surrendering was for family, legal related concerns, and driver's license reinstatement. It is possible that there were turning points associated with these reasons. The current study found that surrendering seemed to be more closely connected with exhaustion from running, than family, legal concerns, or driver's license reinstatement. In

the current study, family played a role in supporting individuals to surrender, but family was not identified as the reason for surrendering.

The eight categories that emerged seem to impact trajectories, with situated choice and social capital closely related to living with a low-level warrant. Social capital was reduced for individuals with warrants as they utilized different strategies to evade arrest. As respondents became detached from friends and disconnected from resources, they lost their social capital. Some trusted individual respondents gave examples of how they could have helped the individuals with warrant if they had not isolated themselves. Support for situated choice was found in the results. Respondents recognized that they had agency in some ways, but that bench warrant issuance and the consequence of a surrendering was dependent on their attorney, the prosecutor, and the judge. Discretion seemed to be interrelated with situated choice. Agency was used to stay away from the police if the system was viewed as distrustful. A few respondents were no longer involved in the criminal justice system, and while well-documented turning points such as stable employment and recovery from addiction were identified, these events occurred after warrants were cleared, and were not related to living with a warrant.

Every respondent described emotional distress associated with the warrant. For most respondents, feelings associated with anxiety, depression, and fear were ongoing and intense throughout the duration of their time on the run. Stressful experiences alter individuals' neurochemistry (McEwen, Gray, & Nasca, 2015), and it is unknown how chronic stress may have a role in the decision to stay on the run for individuals with low-level warrants. Chronic stress has physical and psychological impacts, including changes to brain chemistry, that may influence how individuals manage their low-level fugitive

status (Mariotti, 2015). These neurological changes are another example of escalation for individuals living with low-level fugitive status.

This study provided support for Flannery and Kretschmar's (2012), proposition that there are important differences between intentional versus unintentional failure to appear ("inadvertent fugitive".) In the current study, unintentional failure to appear was associated with a different trajectory than intentional failure to appear. Most unintentional FTAs immediately surrendered. However, some that unintentionally failed to appear reported becoming fearful of the bench warrant notification letter and had a lack of information about the potential consequences of their charges, which drove them to stay on the run. Those that intentionally stayed on the run determined that it was more important to be out of custody than in custody. Policies targeting interventions for these different groups should be adapted to address these differences (Flannery & Kretschmar, 2012).

Unlike the FSS data in which 60% of the participants overwhelmingly responded that they did not surrender previously due to financial limitations (Flannery & Kretschmar, 2012), that theme did not emerge in many of the interviews in the current study. Instead, most said that they were fearful of going to jail. Sampling and recruitment may partially explain this difference, with many study participants distrustful of the criminal justice system, and so potentially would not participate in FSS. This difference may also be related to the local process of converting fines and fees to civil judgements, diminishing the reason for failure to appear being associated with inability to pay. However, a note of caution here: some respondents described not even having \$25 to pay a fine, let alone the more common fines and fees of well over \$100. Respondents did not

report any knowledge of their right to an ability to pay hearing; instead many dismissed these fines and fees being converted to civil judgments as not negatively impacting them. The way the respondents saw it, anything was better than being in jail. This is an example of how marginalized populations can be taken advantage of by withholding information and processes that are supposed to prevent these practices from happening.

Strategies to evade arrest, particularly avoidance and social isolation, were related to public assistance. Respondents described avoiding certain systems in an effort to evade the police, but this often resulted in escalation of problems for individuals. CJ professional respondents and trusted individual respondents both described past practices of immediately calling the police when someone with a warrant applied for assistance. It is unclear if this practice is completely eradicated locally, but based on the interviews, the ramifications from these past practices have a lasting impact on decisions made about seeking or continuing public assistance. Public assistance is meant to be a safety net for individuals with no other options, and individuals with warrants seem to fit this category. However, the fear of being caught outweighed many respondents' decisions to seek housing assistance, food stamps, or SSI.

Respondents did not generally have a bench warrant for more than one year. In most instances, it was less than six months. However, the group of individuals with out of state warrants had warrants that lasted years. This group also reported a reduced impact on their everyday lives from the warrant. This lack of a lasting, chronic, severe impact may explain why the warrants were so old: there was no pressing motivation to clear the warrant. Instead, the plan was to hold off, and deal with the consequences if there was a need to return to the state (e.g. failing health of a family member). For FSS participants,

the average length of the warrant was a little over two years, and ranged from zero to 28.5 years (Flannery, 2013). The FSS participants, on average, had warrants that were open more than twice as long as most of the present study's respondents. It is unclear what might contribute to this shift from an eventual plan to surrender to no plan to ever surrender, other than out of state warrants. Future research could examine this potential shift from running to staying to understand why some people remain on the run for such long periods of time and how they manage that status.

Strengths and Limitations

While the present study contributes to the bench warrant and fugitive literature in its identification of categories important to managing this status, there are several limitations to the study. As with many qualitative studies, a smaller sample size can limit the transferability (referred to as generalizability in quantitative research) of the findings. However, the diversity of the sample characteristics including gender, age, warrant history, and age/ethnicity, reduces some of the limitations associated with a small sample size. The demographics of the respondents in the current study more closely matched the demographics of the majority misdemeanor participants in the FSS study (75% African-American, 64% male) than the more serious offenders in the NCIC database (69% white, 79% male). This provides some support that the present study sample is representative of individuals with low-level fugitive status.

This study was conducted in a community in upstate New York, which has specific vehicle and traffic laws, criminal codes, and criminal procedure law guiding court processing and the issuance of bench warrants, limiting the transferability of the study. The jurisdiction under study issued one bench warrant per incident; it is unclear if

these results would be different for jurisdictions that issue one warrant per charge. Differences across jurisdictions, such as warrant types, whether warrants are issued per incident versus for each charge, how unpaid traffic fines and fees are handled, and warrant clearing efforts may limit the transferability of these findings. Further, this study focused on low-level fugitive status, defined as having a bench warrant for any charges other than a violent felony, and so the results cannot be generalized to individuals with serious violent crimes or arrest warrants. Essentially, the proposed model represents the lived experiences of the study respondents, which provides a foundation for future studies on how individuals manage low-level fugitive status.

Recruitment through the public defender's office can result in a biased sample, as this service is used only by individuals who cannot afford to hire a defense attorney. This threat was minimized by also recruiting from participants and other agencies (MC Collaborative and Save Our Youth). Sampling through a mix of convenience and referral sampling may limit those that were included in the study and therefore may not be transferable to the total bench warrant population.

It became clear by the third interview that while every effort was made to ensure that respondents had an active or previous bench warrant, the warrant might actually have been an arrest warrant in some cases. Additionally, some respondents never received a bench warrant notification, and so assumed that they had a bench warrant because they missed court. While these are limitations, it provides important information about the impact of bench warrants: arrest versus bench warrant might not matter when it comes to managing the status. Another limitation was that in some of the interviews, respondents were asked to recall their behavior years ago, and memories are not always reliable. The

respondents may have poor recall; give “desirable” responses, or both. Efforts to reduce this bias include prompts such as, “where were you living at the time,” and “where were you working” in an effort to orient the respondents.

Researcher bias remains a threat in the current study. The researcher’s own feelings towards the group under study could influence the findings. Researchers cannot completely put aside their bias, but through positionality the author was able to locate where she was coming from and bring potential bias to the forefront in an effort to then reduce the bias. A second attempt to limit bias was through the use of memoing, which ensured that the emerging findings were rooted in data and not bias.

Despite these limitations, there are many strengths and important contributions that this study makes to the field. This study successfully recruited from a hard-to-reach population (individuals with active bench warrants) to understand what it is like to live with low-level fugitive status. No previous studies that the author is aware of have conducted a grounded theory study of this population to understand this process. The results indicated that there are concepts critical to this status that require further study. This study utilized an inductive approach to data, in that the codes were generated from the “ground” (i.e., what was said), no preconceived codes were included in the analysis. This process ensured that the proposed theory came directly from the experiences of those living with low-level fugitive status.

The three methods of establishing the trustworthiness of the data resulted in strong support that the findings were reliable. Further, interviews with two groups: the warrant respondents and trusted individual respondents in addition to the focus group, contributed to a rich dataset that allowed for depth and nuances to be discovered.

Uncovering the terms used by this population to describe their behavior (e.g., ducking and dodging, laying low) strengthened the current understanding of what it means to live with a low-level bench warrant. The study did find support that living with a warrant impacts opportunities, connections, and quality of life.

Lessons Learned

This research provided a view into the lives of individuals with warrants. This methodological approach resulted in a rich dataset that led not only to the identification of concepts, but also group differences within those concepts. For example, participants that unintentionally failed to appear responded differently than those that intentionally failed to appear, out of state warrants impacted respondents differently than warrants from their home jurisdiction, and warrants for less serious offenses resulted in more adaptive coping strategies than more serious warrants. Other methodological approaches may not have captured these differences. This approach also produced the proposition that emotional exhaustion led to surrender planning. Respondents described being exhausted from avoidance, isolation, hypervigilance, and unpredictability, eventually leading to the decision to turn themselves in. The interviews with criminal justice professionals provided important background to help understand how the operation of criminal justice systems affects warrant status, such as the practice of converting fines and fees to civil judgments.

Conducting research with a hard-to-reach population resulted in many lessons learned. It was anticipated from the beginning that trust would be crucial to participant recruitment. This had a few important consequences. First, verbal consent to participate was utilized and respondents signed their study ID number (not their name) to confirm

receipt of compensation. Second, interview audio-recordings were uploaded to a password-protected, secure cloud (box.com), immediately after the interviews concluded, and the recordings were deleted from the recording device. Third, the decision to trust individuals claiming they have or had a warrant and not confirm with law enforcement, likely impacted recruitment in a positive way. Specifically, prior to consent some respondents asked about law enforcement's role in the study and, in some instances, appeared visibly anxious. After dispelling these concerns, those respondents appeared to be at more at ease. If criminal records were corroborated with interviews, then this may have introduced more bias into the sample, due to certain types of individuals refusing to participate.

Participant recruitment was also conducted with sensitivity to the respondents' timelines. This often meant interviewing respondents within two hours and no more than 24 hours from their first contact with the researcher. This also meant responding to recruitment phone calls and text messages immediately, which could be in the evening hours or during the weekends. Further, compensating respondents with cash demonstrated that their time, experiences, and expertise were valuable. Respondents repeatedly confirmed prior to the interview that they would receive cash, not a gift card. The methods used in this study support the importance of determining what is a suitable incentive and compensation for vulnerable individuals to participate in research.

As is common in social service agencies, the staff at the recruitment agencies were overwhelmed, so study recruitment was not their priority. In response to this, the author made an effort to have a physical presence in the recruitment agencies. There were multiple occasions when the author stopped by agencies for an unplanned visit to check-

in and remind staff of the study. In almost every instance when this occurred, staff identified another potential participant. The opportunity to conduct the member-checking focus group came about from the author's presence at the agencies. The staff had time to ask more questions about the study, and then offered to help recruit participants for a focus group. Thus, agency staff saw the value of the study from interacting with the author on multiple occasions.

Being open-minded to recruitment outside of the original plan was also important. Initially there were no plans to interview service providers about their experience with individuals who had warrants, but as the study began to rollout and service providers became more interested in the study, it became clear that they had their own rich experiences with warrants. For this reason, they were recruited as participants into the study.

Finally, relationship building was also key to the criminal justice interviews. Before the study began, the author met with several public defenders to have general conversations about the potential study. Those interviews not only provided initial suggestions for recruitment efforts, but also suggestions on which statutes and local policies the researcher should be familiar with to proceed with the study.

Implications for Social Work Practice and Policy

The present study offers several implications for social work practice and policy. Respondents identified a variety of problems associated with their warrant status. These included avoidance of public assistance, lack of financial resources, and lack of transportation. In terms of practice, respondents described going to great lengths to avoid people, places, and systems, including social services. Social workers should conduct

outreach with this hard-to-reach, vulnerable population to connect them with safe agencies and systems that are not required to report warrant status or share information with law enforcement. This outreach might include working with clients to support them in making court appearances and/or surrendering. At the system-level, social workers could work with systems, including social services, education, and employment, to find ways to reduce the likelihood that individuals will withdraw from society due to a bench warrant. Solutions that keep people connected will likely reduce escalation.

Specific to policy, respondents frequently explained that they missed court unintentionally, which included forgetting the court date, or lacking transportation. Policies that address unintentional failure to appear may increase court appearance. During pretrial assessment, social workers should be available to conduct assessments to prevent bench warrant issuance. These pretrial assessments could include the assessment of addiction, mental illness, disabilities, transportation, and support, thus setting people up to successfully show up in court. Addressing individuals' needs during the pretrial process may be effective in disrupting the criminal justice cycle for some. Individuals have a responsibility to attend required court hearings, and social work interventions that strengthen individuals' ability to get to court could be useful. These might target organization and scheduling in an effort to help individuals better structure their lives. Encouraging more conversations about what can be done to reduce someone's likelihood of failure to appear might impact not only the individual, but result in more general solutions, such as text message or phone call court appearance reminder notification system. Caution should be taken in implementing any changes, as court personnel are

overburdened with enormous caseloads, so any reminder systems should be automatic and not require additional work by the attorneys.

The current bail reform movement aimed at using risk assessments to reduce pretrial detention relates closely to this work, as most risk assessment tools incorporate prior failure to appear into pretrial release decisions. Reviewing these assessment tools and advocating for more context other than simply the number and dates of failure to appear, such as length of time of warrant and reason for failure to appear, would provide for a more sensitive risk assessment.

Monroe County, as well as other jurisdictions, does not currently have a clear system in place to assess an individual's ability to pay. The regular practice of converting fines and fees to civil judgments still has the adverse consequences that comes with debt collection and debt owed: it reinforces the cycle of poverty. Social workers could advocate for ability to pay hearings. A first step may be to survey other jurisdictions that do have ability to pay hearings in place and then find ways to implement these hearings into jurisdictions, to ensure that the poor are not criminalized. This may include forming and facilitating a court working group to get these hearings implemented. As part of this work, social workers could encourage the courts to explore the option of offering community service programs that build job skills, interpersonal relationships, healthy living skills, and other prosocial behavior, instead of serving jail time or paying fines. Even further, when determining the sentence, policies should be in place that incorporate all combined sanctions for defendants, not just the criminal sanctions.

Directions for Future Research

This study is one step closer to understanding the structural features in place that contribute to the fugitive problem. Goldkamp (2012) urged that next steps in this area are to understand the nature of fugitive status and explanations for this fugitivity. The present study presents an empirical foundation for understanding how individuals manage low-level fugitive status. This is the first study known to the author that has resulted in a set of concepts, definitions, and propositions that describe managing low-level fugitive status. This contribution to the field provides the framework for future studies to test these propositions and operationalize these concepts.

Future research on the proposed model could explore the categories in depth by examining their dimensions and suggesting quantitative measures for the concepts. Relationships between the concepts could be tested, and similar processes could be reviewed for potential explanations of the concepts and relationships. Looking at similar processes, such as Gonzales' scholarship examining how undocumented individuals manage their status (i.e., Gonzales, 2011), may be fruitful in identifying both convergence and divergence in theory development.

Future studies could examine some of the proposed group differences within the categories. For example, do individuals that unintentionally miss court resolve their warrant swiftly and through turning themselves in quicker than those that intentionally miss court? Alternatively, studies could examine whether individuals that are later in court processing (e.g., post-sentencing) or have more serious original offenses engage in maladaptive strategies to evade arrest, resulting in escalation of their cases. Studies could

also examine whether individuals with out of state warrants utilize more adaptive coping strategies than those with warrants from the jurisdiction that they reside in.

A dearth of social work research has been conducted in the area of courts and specifically failure to appear. Gehring & Van Voorhis (2014) found a strong association between failure to appear and substance use, mental health, and homelessness. Future work should incorporate age, substance use, mental health, homelessness and the stage of court processing in which the failure to appear occurred. For example, a comparison between non-compliance warrants (issued post-sentencing) and all other bench warrants (issued pretrial or during trial) would help to identify any differences in the concepts and their relationships suggested in this study. This would help to contribute to the study of predictors of failure to appear and the relationship between court processing stage and failure to appear in order to develop interventions to get people to court.

Social Work research is often conducted to understand marginalized, vulnerable populations and this work has met that goal. The findings indicate a need for more studies addressing both system- and individual-level mechanisms that facilitate court appearance. For example, a better understanding of how situated choice affects the issuance and resolution of bench warrants may provide suggestions for new directions or overlap with life course theory.

The regular use of converting unpaid fines and fees to civil judgments, has received little empirical attention. Future studies should examine how rampant this practice is, the reason for issuing civil judgments, and the impacts on courts, individuals, and communities of this practice. There may be evidence that this conversion to civil sanctions produces even more harms than just those associated with debt collection.

Because the respondents described discretion contributing to disparities in responses to missed court appearances and the surrender process, future research could address the gaps in knowledge associated with the actual frequency of missed court appearances, the rate in which bench warrants are issued for missed court appearances, and how warrants are cleared. The current state of knowledge is missing this important information that would help to better understand the nature of the problem, and particularly how much of a toll bench warrants are at the system level.

Conclusion

In conclusion, hundreds of thousands of individuals live with warrants over their heads. The vast majority of bench warrants are for minor offenses, yet this fugitive status significantly affects lives, regardless of the severity of the charges. This study contributed to the field by providing a window into the lives of not only individuals with warrants, but also how this status fits within the criminal justice system. The findings revealed that numerous aspects of people's lives were impacted, including employment, relationships, housing, public assistance, medical care, and transportation. Individuals described going on the run, laying low, and ducking and dodging; all words that described detaching from society. These collateral consequences ripple out to affect others beyond family and friends, and into the community.

This study provides empirical groundwork for fugitive status, but there are still many unanswered questions that remain. The current study findings indicated that length of warrant may influence the warrant resolution process, but more studies are needed to determine whether this is supported or not. Other factors to study include the number of bench warrants, the level of the original charge, and criminal history. The misdemeanor

court system is set up to expeditiously process people, which, in turn, requires a tool to get people to court. Future research addressing motivations for appearing in court could help to identify individual and system level factors associated with successful court appearances, and then use that data to identify potential interventions for individuals that fail to appear. The results indicated that the costs associated with bench warrant issuance are high, in terms of the impact on lives, but also the resources required to process warrants. The final unanswered issue to address, then, is how the costs associated with low-level bench warrants fit within the purpose of the bench warrant, and whether there are other ways to meet that purpose.

Appendix

Informed Consent: Warrant Respondent

Introduction:

The purpose of this study is to understand the process of living with a warrant. You are being asked to participate in this study because you previously had a bench warrant or currently have a bench warrant. Please read this form and ask any questions you may have.

Procedures:

If you agree to be a participant in this research, we would ask you to do the following things:

- Be interviewed for 2 hours on one occasion
- Have the interview audio recorded.
- Complete a brief survey
- You can choose to stop participation for any reason at any time.

Risks and Benefits to Being in the Study

The risks for this research project are minimal. No identifying information will be shared with law enforcement. None of your official criminal history data, including your legal status, is a part of this study. Participation in this project will not affect your housing, public assistance, employment, or any other benefits. You may choose not to answer questions you find uncomfortable. We hope the information we learn today can be used to inform local policies related to criminal justice system processing, and specifically the administration and clearing of bench warrants.

Compensation

You will receive \$25 cash for participating in the interview

Confidentiality

The information you provide will be kept as confidential as possible, with the exception of certain information that we must report for legal or ethical reasons, such as child abuse, elder abuse, or intent to hurt yourself or others.

The records of this research will be kept private. In any sort of report we might publish, we will not include any information that will make it possible to identify a participant. Research records will be kept in a locked file or a password protected flash drive, and access will be limited to research staff. Audio recordings will be kept on a secure encrypted drive in a locked office. Audio recordings will be destroyed 3 years following the conclusion of the study.

Voluntary Nature of the Study

Your participation is voluntary. There is no penalty or loss of benefits for not participating or for discontinuing your participation.

Contacts and Questions

You may ask any questions you have now. If you have any additional questions, concerns or complaints about the study, you may contact Janelle Duda-Banwar through email at jmdgcj@rit.edu or through phone at 585-475-2816 or Irshad Altheimer through email at ixagcj@rit.edu or by phone at 585-475-6299.

- If the researchers cannot be reached, or if you would like to talk to someone other than the researcher(s) about; (1) questions, concerns or complaints regarding this study, (2) research participant rights, (3) research-related injuries, or (4) other human subjects issues, please contact Rochester Institute of Technology's Human Subjects at hsro@rit.edu or (216) 368-4514 or write: Rochester Institute of Technology; **HSRO**, University Services Center, Suite #2400; 93 Lomb Memorial Drive; Rochester, NY 14623.

You will be given a copy of this form for your records.

Permission to Record

Audio recording is an integral part of this study. Participation is voluntary. If you do not wish to be audio recorded, you should not participate in this study.

Statement of Consent

Do you agree to the following:

- You are at least 18 years of age.
- You have read (or been read) the information provided above.
- You have received answers to all of your questions and have been told who to call if you have any more questions.
- You have freely decided to participate in this research.
- You understand that you are not giving up any of your legal rights.

Print Name of Person Obtaining Consent: _____

Signature of Person Obtaining Consent: _____

Date: _____

Informed Consent: Trusted Individual

Introduction

The purpose of this study is to understand the process of living with a warrant. You are being asked to participate in this study because you know someone who has or had a bench warrant. Please read this form and ask any questions you may have.

Procedures

If you agree to be a participant in this research, we would ask you to do the following things:

- Be interviewed for 1 ½ hours
- Have the interviews audio recorded.
- Complete a brief survey
- You can choose to stop participation for any reason at any time.

Risks and Benefits to Being in the Study

The risks for this research project are minimal. Participation in this project will not affect your housing, public assistance, employment, or any other benefits. You may choose not to answer questions you find uncomfortable. We hope the information we learn today can be used to inform local policies related to criminal justice system processing, and specifically the administration and clearing of bench warrants.

Compensation

You will receive \$20 cash for participating in the project.

Confidentiality

The information you provide will be kept as confidential as possible, with the exception of certain information that we must report for legal or ethical reasons, such as child abuse, elder abuse, or intent to hurt yourself or others.

The records of this research will be kept private. In any sort of report we might publish, we will not include any information that will make it possible to identify a participant. Research records will be kept in a locked file or a password protected flash drive, and access will be limited to research staff. Audio recordings will be kept on a secure encrypted drive in a locked office. Audio recordings will be destroyed 3 years following the conclusion of the study.

Voluntary Nature of the Study

Your participation is voluntary. There is no penalty or loss of benefits for not participating or for discontinuing your participation.

Contacts and Questions

You may ask any questions you have now. If you have any additional questions, concerns or complaints about the study, you may contact Janelle Duda-Banwar through email at jmdgcj@rit.edu or through phone at 585-475-2816 or Irshad Altheimer through email at ixagcj@rit.edu or by phone at 585-475-6299.

- If the researchers cannot be reached, or if you would like to talk to someone other than the researcher(s) about; (1) questions, concerns or complaints regarding this study, (2) research participant rights, (3) research-related injuries, or (4) other human subjects issues, please contact Rochester Institute of Technology's Human Subjects at hsro@rit.edu or (216) 368-4514 or write: Rochester Institute of Technology; **HSRO**, University Services Center, Suite #2400; 93 Lomb Memorial Drive; Rochester, NY 14623.

You will be given a copy of this form for your records.

Permission to Record

Audio recording is an integral part of this study. Participation is voluntary. If you do not wish to be audio recorded, you should not participate in this study.

Statement of Consent

Do you agree to the following:

- You are at least 18 years of age.
- You have read (or been read) the information provided above.
- You have received answers to all of your questions and have been told who to call if you have any more questions.
- You have freely decided to participate in this research.
- You understand that you are not giving up any of your legal rights.

Print Name of Person Obtaining Consent: _____

Signature of Person Obtaining Consent: _____

Date: _____

Informed Consent: Focus Group

Introduction:

The purpose of this study is to understand the process of living with a warrant. You are being asked to participate in this study because you previously had a bench warrant or currently have a bench warrant. Please read this form and ask any questions you may have.

Procedures:

If you agree to be a participant in this research, we would ask you to do the following things:

- Participate in a 1 ½ hour focus group
- You can choose to stop participation for any reason at any time.

Risks and Benefits to Being in the Study

The risks for this research project are minimal. No identifying information will be shared with law enforcement. None of your official criminal history data, including your legal status, is a part of this study. Participation in this project will not affect your housing, public assistance, employment, or any other benefits. You may choose not to answer questions you find uncomfortable. We hope the information we learn today can be used to inform local policies related to criminal justice system processing, and specifically the administration and clearing of bench warrants.

Confidentiality

The information you provide will be kept as confidential as possible, with the exception of certain information that we must report for legal or ethical reasons, such as child abuse, elder abuse, or intent to hurt yourself or others. Because this is a focus group with others participating, it is possible that someone would share what you say with others. However, during the focus group, no questions will be asked about your current warrant status, so no one will know if you have an active warrant.

The records of this research will be kept private. In any sort of report we might publish, we will not include any information that will make it possible to identify a participant. Research records will be kept in a locked file or a password protected flash drive, and access will be limited to research staff.

Voluntary Nature of the Study

Your participation is voluntary. There is no penalty or loss of benefits for not participating or for discontinuing your participation.

Contacts and Questions

You may ask any questions you have now. If you have any additional questions, concerns or complaints about the study, you may contact Janelle Duda-Banwar through email at

jmdgcj@rit.edu or through phone at 585-475-2816 or Irshad Altheimer through email at ixagcj@rit.edu or by phone at 585-475-6299.

- If the researchers cannot be reached, or if you would like to talk to someone other than the researcher(s) about; (1) questions, concerns or complaints regarding this study, (2) research participant rights, (3) research-related injuries, or (4) other human subjects issues, please contact Rochester Institute of Technology's Human Subjects at hsro@rit.edu or (216) 368-4514 or write: Rochester Institute of Technology; **HSRO**, University Services Center, Suite #2400; 93 Lomb Memorial Drive; Rochester, NY 14623.

You will be given a copy of this form for your records.

Statement of Consent

Your signature below certifies the following:

- You are at least 18 years of age.
- You have read (or been read) the information provided above.
- You have received answers to all of your questions and have been told who to call if you have any more questions.
- You have freely decided to participate in this research.
- You understand that you are not giving up any of your legal rights.

Print Name of Person Obtaining Consent: _____

Signature of Person Obtaining Consent: _____

Date: _____

Criminal Justice Professional Consent and Information Sheet

Bench warrants are often issued for failure to pay or appear, but it is unclear how individuals with warrants are impacted by this status. The purpose of this study is to provide a description and explanation of living with low-level fugitive status, defined as having a bench warrant. Individuals with bench warrants, trusted friends of these individuals, and criminal justice experts will be interviewed on a wide-range of topics.

You are being asked to participate in this study because you are a criminal justice professional who has important insight about the bench warrant issuance process that can provide valuable information for this project. Interview topics such as the bench warrant issuance process, decision-making, and the role of bench warrants in criminal processing will be asked. Suggestions for improvement and examples of what is going well will also be solicited. The interview will last 1 - 1½ hours, and will occur either over the phone or in your office, whichever you prefer. Interviews will be confidential, with no names or identifiable positions attached to the results. Interviews will be synthesized into a report that describes the process of becoming a low-level fugitive, adjustment strategies, and managing this status. Actionable policy and practice steps to resolve problems associated with active warrants will be developed. The findings will help to improve criminal justice system processing, legal policy, and practice, while improving and stabilizing conditions for individuals with warrants.

If you agree to be a participant in this research, we would ask you to do the following things:

- Be interviewed for 1 – 1 1/2 hours on one occasion
- You can choose to stop participation for any reason at any time.

Please ask any questions you may have now.

Warrant and Trusted Individual Respondent Recruitment Brochure

The purpose of the study is to provide a description and explanation of what it is like to live with a bench warrant. The project aims to describe how this status impacts individuals' lives, such as employment, transportation, public assistance, relationships, and housing. In order to describe this experience, I would like to interview individuals who currently have a warrant or previously had a warrant. There will be one interview that will last about 2 hours. I will meet the individual in the community, such as a library, or in jail, whatever is best for the participant. They will be compensated for their participation. Everything will be confidential; I will not share anyone's name with anyone.

I am also interested in speaking with family members or close friends of individuals with warrants to understand, from their perspective, how their lives and their significant other/family members' lives are affected by the status. For these individuals, I would like to interview them for 1 ½ hours on one occasion. They will also be compensated for their participation and I will meet them in the community, such as a library, or in jail, whatever is best for them.

If your client is interested in speaking with me, s/he can contact me at 585-502-7014. Alternatively, if they tell you that they are interested, then you can provide me with their contact information and I will reach out to them.

Thanks!
Janelle

Janelle Duda-Banwar
Research Associate
Rochester Institute of Technology
Jmdgcj@rit.edu
585-502-7014

Warrant and Trusted Individual Participant Recruitment Script

Introduction and Background

Good afternoon. I'm trying to get in touch with ---. My name is Janelle Duda-Banwar and I work at RIT. I'm a researcher who is interested in how people are affected by the criminal justice system. I'm specifically interested in studying the impact of warrants on people's lives. <<Name of professional staff>> gave me your name and number and said that you are potentially interested in participating. I can tell you more now if you are interested.

The purpose of this study is to understand what it is like to live with a warrant. I'm contacting you because you indicated to <<Name of professional staff>> that either you have/had a warrant or someone close to you does/did. Is this accurate? Which category do you fit within? (e.g., Do you or have you had a warrant? What kind of warrant? Doe someone close to you, maybe your girlfriend/boyfriend, have a warrant?)

If warrant participant:

If you are interested in participating, the project consists of one interview that will last about two hours. I will ask questions about how you/your gf got the warrant, and what it was like for you to live with the warrant. If you are interested, I will meet you close to where you are, either at a library or a coffee shop. You will also be compensated for your participation. Your participation is completely voluntary, so you do not have to participate. If you choose not to, this will not affect your benefits or anything else in your life.

If trusted individual participant:

If you are interested in participating, then the project consists of one in-person interview. It will last about an hour and a half long. I will ask questions about how your friend/boyfriend/girlfriend got the warrant, and what it was like for you to live with the warrant. If you are interested, I will meet you close to where you are, either at a library or at <<the agency that identified the individual>>. You will also be compensated for your participation. Your participation is completely voluntary, so you do not have to participate. If you choose not to, this will not affect your benefits or anything else.

Conclusion – all participant types:

Would you like to participate?

- If yes, then when are you available? Proceed to identify date, time, and location to meet. Can I text you a confirmation with the time and place that we will meet?
- If no, then thank you and have a great day.

If no answer, then will leave this message on voicemail for both participant types:

Good afternoon. My name is Janelle Duda-Banwar and I work at RIT. I'm a researcher who is interested in how people are affected by the criminal justice system. I'm specifically interested in studying the impact of warrants on people's lives. <<Name of professional staff>> gave me your name and number and said that you are interested in participating. If you are, then please call me back at <<insert project number here>>. You can also text me. If I don't hear from you today, I will call you again tomorrow at <<insert time>>. Thanks for your interest and have a great day.

Criminal Justice Professional Recruitment Email

Good Morning/Afternoon,

My name is Janelle Duda-Banwar and I work in the Center for Public Safety Initiatives at RIT. The Center for Public Safety Initiatives (CPSI) is a research center housed in the Criminal Justice Department. CPSI staff work on a number of local projects including an evaluation of RPD's efforts to reduce gun violence and as a partner with Ibero's effort to disrupt the open-air heroin market in Northeast Rochester.

One of our current projects is an examination of individuals' experiences with bench warrants. As part of the project, we are interviewing individuals who currently have or previously had bench warrants. Gaining their perspective is integral to the project, but another key piece is hearing from professionals within the criminal justice system who deal with bench warrants in their regular practice. Questions about how bench warrants are issued and cleared, as well as the impact of bench warrants are topics that we are interested in learning more about.

I am contacting you because I believe that you have important insight about this process that can provide valuable information for this project. If you are interested, then I would like to speak with you either in-person or over the phone for no more than an hour. I will share the questions with you prior to the interview if you would like.

If you are willing to participate, then please let me know some days and times that you are available to speak, and whether you'd like me to come to you or if you'd prefer to speak over the phone. I am also happy to provide any additional information about this project and request.

Thank you for your consideration,
Janelle

Participant Compensation Details

Overview

Federal regulations provide no clear guidance on the level of compensation that should be offered to research subjects. However, subjects should be able to make informed decisions as to whether to participate based on the real risks and benefits of participation. Compensation is provided as remuneration for time and inconvenience in addition to incentive to participate. Concerns with compensation include undue influence, which can come about when an excessive or inappropriate reward is offered to obtain compliance, and coercion, which is an explicit or implicit threat of harm or negative consequence if the individual does not participate.

In this study, there are two participant types that will be compensated:

- *Warrant participant*: individual who currently has a warrant or had a warrant
- *Trusted individual participant*: individual close to person who has or had a warrant

The *warrant participant* will be interviewed in-person, in a public location (e.g., public library, social service agency). They will be interviewed on one occasion. The interview will last 2 hours.

The *trusted individual participant* will be interviewed in-person, in a public location (e.g., public library, social service agency). They will be interviewed on one occasion for 2 hours.

Compensation

For all interviews listed, compensation will be given in the form of cash, to allow for choice in how to spend the money and no additional fees going towards gift card activation or use charges. The cash will be provided in an envelope and distributed at the end of the interview. However, if the interview ends prematurely but after the consent form is signed, the participant receives the full compensation amount. Compensation amount is determined by the living wage in Monroe County, NY. The Living Wage calculator was developed by researchers at MIT and can be found here: <http://livingwage.mit.edu/counties/36055>. As of 3/13/2018, the living wage for one adult in Monroe County is \$11.36/hour. Additional information about compensation is below.

Warrant Participant Interview: \$25 compensation

$\$11.36 \times 2 \text{ hours} = \23.20 . However, because these individuals are experts in their own lives and are a unique population that is hard to reach, they will receive \$25.00 for the two-hour interview.

Trusted individual Participant Interview: \$20 compensation

$\$11.36 \times 1.5 \text{ hours} = \17.04 . However, because these individuals are experts in their own lives and are a unique population that is hard to reach, they will receive \$20.00 for 1.5 hours.

Warrant Participant Interview Guide

1. Let's start with some background questions:
 - a. What is your age?
 - b. What is your gender?
 - c. What is your race/ethnicity?
 - d. Do you have any children under 18? Do they live with you?
2. I'd like to hear about your warrant. Could you describe how you got the warrant issued, from the beginning to the end? (if you have more than one incident with a warrant, let's talk about your most recent one).
 - a. Probe: What is the original charge on your warrant?
 - b. Probe: When was it issued?
 - c. Probe: Where was your warrant issued?
 - d. Probe: How know about warrant?
3. What was going on in your life when you got the warrant – where living, employment?
4. Tell me about your experience with having a warrant.
 - a. Tell me what it was like when you first found out/realized that you had a warrant
5. Could you tell me about your experience with the court system, specific to warrant?
6. Could you tell me about your experience with the police, specific to warrant?
7. I'm interested to hear about all the ways that the warrant affected you. Can you describe some ways that having a warrant affects you?
 - a. Probe: For example, does it affect Public Assistance? Housing (e.g., food stamps)
 - Employment,
 - Daily movement (worried about being out in open?),
 - Emotionally – fearful? Didn't care?
 - Interaction with school/education,
 - Transportation,
 - Reporting crimes,
 - Victimization
 - b. Do you avoid specific places because of your warrant status? (e.g. emergency room, mom's house, police station, doctor's offices, DSS, Jail or prison visitation, Other court matters)
 - c. Does your warrant status impact family? Partner? Children? In what ways?
 - d. Do you do things to avoid arrest?
 - e. Are you fearful of being caught?
8. Who knows that you have a warrant?
 - a. Probe: How? Why? Why not?
9. Does having a warrant impact you financially? How so?
 - a. Probe: How much have you paid in fees for your warrant?
10. Has anyone ever threatened to snitch on you?
 - a. Probe: friends, family, landlord, employer, etc?

11. Do you have plans to resolve your warrant?
 - a. Have you asked anyone for help with your warrant?
 - b. Have others been helpful? Not helpful? In what ways?
12. Have you had a warrant before this one?
13. Do others around you have warrants?
14. Given your experiences, do you have any suggestions as to how the warrant issuance process could be better, both for you and for others?
15. What does it mean for you to have a warrant (or warrants)?
16. Is there something else that you think I should know to understand what it is like to have a warrant?

Focus Group Interview Guide

1. Should I even be studying bench warrants? Do they impact you?
2. How do you manage this status?
3. From the individual interviews, there are certain elements that seem to be important. Let's discuss each one (do you agree, disagree, why, describe):
 - a. **Untrusting** – of the system and of others.
 - b. **Emotional rumination** – anxiety, fear, anger, numb
 - c. Weighing the risks and rewards in two important ways: **Risk calculation**
 - i. Risk of getting caught
 - ii. Risk of the consequence of getting caught (e.g., pay fine versus 90 days in jail)
 - d. **Family safeguarding**
 - e. **Instability**
 - f. **Strategies to evade arrest:**
 - i. Avoidance (institutional and other)
 - ii. Social isolation
 - iii. Unpredictable
 - iv. Hypervigilance
 - g. **Plans to surrender** / future thinking
 - h. **Power exertion/your own terms?**
 - i. **Role/influence of supportive people?**
 - j. What am I missing?
4. Describe the process of turning yourself in or process of getting caught
5. Suggestions: How could the warrant issuance process could be better?
6. Is there something else that you think I should know to understand what it is like to have a warrant?
7. Why were you willing to talk with me today?

Trusted Individual Respondent Interview Guide

1. Could you describe what it is like to have a person close to you living with a warrant?
2. What was going on in your <<friend/family member's>> life when he/she got the warrant?
 - a. Probe: What control, if any, did he/she have over the issuance of the warrant?
3. Did your <<friend/family member>> have a warrant before this one?
 - a. Probe: What happened?
4. Could you tell me about your experience with the court system, specific to their warrant?
5. Could you tell me about your experience with the police, specific to their warrant?
6. I'm interested to hear about all the ways that a warrant affects you and <<your friend/family member>>
 - a. Are there aspects that are affected by warrant status?
 - b. Does <<your friend/family member>> avoid specific places because of his/her warrant status? (e.g. emergency room, mom's house, police station, doctor's offices, DSS)
 - c. Does <<your friend/family member>> avoid specific experiences because of his/her warrant status? (e.g. employment, attending gatherings)
 - d. Does <<your friend/family member>> affect you?
 - e. Does <<your friend/family member>> use strategies to evade arrest? What are these strategies?
 - f. Are you living with any fear that <<your friend/family member>> will be sent to jail?
 - g. Are you living in any fear related to the warrant status?
7. How often think about <<your friend/family member's>> warrant status?
8. Who knows that <<your friend/family member>> has a warrant?
9. Do others around you (friends, family members, etc) have warrants?
10. Have you provided any financial help related to your <<your friend/family member's>> current warrant?
11. What else should I know about <<your friend/family member>> warrant status? Is there anything that I missed?

Criminal Justice Professional Interview Guide

- I. Please describe your role in bench warrant issuance
- II. How common are bench warrants? Are there certain charges that seem to be more likely to lead to bench warrant issuance?
- III. Describe the bench warrant issuance process.
 - a. How determine whether to issue a bench warrant
- IV. What is the purpose of bench warrants?
- V. How effective are bench warrants at meeting this purpose?
- VI. How are warrants cleared?
- VII. Are there any assessed fees/fines that an individual cannot be on an installment plan (i.e., must pay total in one transaction)
- VIII. Can you describe how traffic violations can eventually result in bench warrants?
- IX. Anything else that I should know about bench warrants?

NYS CPL § 530.70 Order of Recognizance or Bail

1. A bench warrant issued by a superior court, by a district court, by the New York City criminal court or by a superior court judge sitting as a local criminal court may be executed anywhere in the state. A bench warrant issued by a city court, a town court or a village court may be executed in the county of issuance or any adjoining county; and it may be executed anywhere else in the state upon the written endorsement thereon of a local criminal court of the county in which the defendant is to be taken into custody. When so endorsed, the warrant is deemed the process of the endorsing court as well as that of the issuing court.
2. A bench warrant may be addressed to: (a) any police officer whose geographical area of employment embraces either the place where the offense charged was allegedly committed or the locality of the court by which the warrant is issued; or (b) any uniformed court officer for a court in the city of New York, the county of Nassau, the county of Suffolk or the county of Westchester or for any other court that is part of the unified court system of the state for execution in the building wherein such court officer is employed or in the immediate vicinity thereof. A bench warrant must be executed in the same manner as a warrant of arrest, as provided in section 120.80, and following the arrest, such executing police officer or court officer must without unnecessary delay bring the defendant before the court in which it is returnable; provided, however, if the court in which the bench warrant is returnable is a city, town or village court, and such court is not available, and the bench warrant is addressed to a police officer, such executing police officer must without unnecessary delay bring the defendant before an alternate local criminal court, as provided in subdivision five of section 120.90; or if the court in which the bench warrant is returnable is a superior court, and such court is not available, and the bench warrant is addressed to a police officer, such executing police officer may bring the defendant to the local correctional facility of the county in which such court sits, to be detained there until not later than the commencement of the next session of such court occurring on the next business day.
 - 2-a. A court which issues a bench warrant may attach thereto a summary of the basis for the warrant. In any case where, pursuant to subdivision two of this section, a defendant arrested upon a bench warrant is brought before a local criminal court other than the court in which the warrant is returnable, such local criminal court shall consider such summary before issuing a securing order with respect to the defendant.
3. A bench warrant may be executed by (a) any officer to whom it is addressed, or (b) any other police officer delegated to execute it under circumstances prescribed in subdivisions four and five.
4. The issuing court may authorize the delegation of such warrant. Where the issuing court has so authorized, a police officer to whom a bench warrant is addressed may delegate another police officer to whom it is not addressed to execute such

warrant as his or her agent when: (a) He or she has reasonable cause to believe that the defendant is in a particular county other than the one in which the warrant is returnable; and (b) The geographical area of employment of the delegated police officer embraces the locality where the arrest is to be made.

5. Under circumstances specified in subdivision four, the police officer to whom the bench warrant is addressed may inform the delegated officer, by telecommunication, mail or any other means, of the issuance of the warrant, of the offense charged in the underlying accusatory instrument and of all other pertinent details, and may request him or her to act as his or her agent in arresting the defendant pursuant to such bench warrant. Upon such request, the delegated police officer is to the same extent as the delegating officer, authorized to make such arrest pursuant to the bench warrant within the geographical area of such delegated officer's employment. Upon so arresting the defendant, he or she must without unnecessary delay deliver the defendant or cause him or her to be delivered to the custody of the police officer by whom he or she was so delegated, and the latter must then without unnecessary delay bring the defendant before the court in which such bench warrant is returnable.
6. A bench warrant may be executed by an officer of the state department of corrections and community supervision or a probation officer when the person named within the warrant is under the supervision of the department of corrections and community supervision or a department of probation and the probation officer is authorized by his or her probation director, as the case may be. The warrant must be executed upon the same conditions and in the same manner as is otherwise provided for execution by a police officer.

Retrieved from, <http://nyscrimallaws.com/cpl/article530.htm#c530.70>

Rochester City Code 44

Consumption and possession of open containers of alcoholic beverages in public code

§ 44-9, G

(G) Penalties. A violation of this section shall be a "violation" as that term is defined in the Penal Law. A person convicted of violating this section shall be fined not less than \$25 nor more than \$250, and, in addition, for a second conviction within 12 months of a preceding conviction, may be imprisoned for a term not longer than 15 days. In lieu of a fine, the court may impose an appropriate alternative sentence; provided, however, that an alternative sentence shall not be an unconditional discharge.

Retrieved from, <https://ecode360.com/8675322>

NYS PL § 215.55 Bail jumping in the third degree

A person is guilty of bail jumping in the third degree when by court order he has been released from custody or allowed to remain at liberty, either upon bail or upon his own recognizance, upon condition that he will subsequently appear personally in connection with a criminal action or proceeding, and when he does not appear personally on the required date or voluntarily within thirty days thereafter. Bail jumping in the third degree is a class A misdemeanor.

Retrieved from, <http://nyscriminallaws.com/penal.law/article215.htm#p215.55>

Section 420.05 Payment of fines, mandatory surcharges and fees by credit card

When the court imposes a fine, mandatory surcharge or fee upon an individual who stands convicted of any offense, such individual may pay such fine, mandatory surcharge or fee by credit card or similar device. In such event, notwithstanding any other provision of law, he or she also may be required to pay a reasonable administrative fee. The amount of such administrative fee and the time and manner of its payment shall be in accordance with the system established by the chief administrator of the courts pursuant to paragraph (j) of subdivision two of section two hundred twelve of the judiciary law.

Section 420.10 Collection of fines, restitution or reparation

1. Alternative methods of payment. When the court imposes a fine upon an individual, it shall designate the official other than the district attorney to whom payment is to be remitted. When the court imposes restitution or reparation and requires that the defendant pay a designated surcharge thereon pursuant to the provisions of subdivision eight of section 60.27 of the penal law, it shall designate the official or organization other than the district attorney, selected pursuant to subdivision eight of this section, to whom payment is to be remitted. (a) The court may direct:

- (i) That the defendant pay the entire amount at the time sentence is pronounced;
- (ii) That the defendant pay the entire amount at some later date; or
- (iii) That the defendant pay a specified portion at designated periodic intervals.

(b) When the court imposes both (i) a fine and (ii) restitution or reparation and such designated surcharge upon an individual and imposes a schedule of payments, the court shall also direct that payment of restitution or reparation and such designated surcharge take priority over the payment of the fine.

(c) Where the defendant is sentenced to a period of probation as well as a fine, restitution or reparation and such designated surcharge, the court may direct that payment of the fine, restitution or reparation and such designated surcharge be a condition of the sentence.

(d) When a court requires that restitution or reparation and such designated surcharge be made it must direct that notice be given to a person or persons to whom it is to be paid of the conditions under which it is to be remitted; the name and address of the public official or organization to whom it is to be remitted for payment and the amount thereof; and the availability of civil proceedings for collection under subdivision six of this section. An official or organization designated to receive payment under this subdivision must report to the court any failure to comply with the order and shall cooperate with the district attorney pursuant to his responsibilities under subdivision six of this section.

(e) Where cash bail has been posted by the defendant as the principal and is not forfeited or assigned, the court at its discretion may order that bail be applied toward payment of any order of restitution or reparation or fine. If the court so orders, the bail proceeds shall be applied to payment first of the restitution or reparation and then of the fine.

2. Death of victim. In the event that the individual to whom restitution or reparation is to be made dies prior to completion of said restitution or reparation, the remaining payments shall be made to the estate of the deceased.

3. Imprisonment for failure to pay. Where the court imposes a fine, restitution or reparation, the sentence may provide that if the defendant fails to pay the fine, restitution or reparation in accordance with the direction of the court, the defendant must be imprisoned until the fine, restitution or reparation is satisfied. Such provision may be added at the time sentence is pronounced or at any later date while the fine, restitution or reparation or any part thereof remains unpaid; provided, however, that if the provision is added at a time subsequent to the pronouncement of sentence the defendant must be personally present when it is added. In any case where the defendant fails to pay a fine, restitution or reparation as directed the court may issue a warrant directing a peace officer, acting pursuant to his special duties, or a police officer, to take him into custody and bring him before the court; provided, however, if the court in which the warrant is returnable is a city, town or village court, and such court is not available, and the warrant is addressed to a police officer, such executing police officer must without unnecessary delay bring the defendant before an alternate local criminal court, as provided in subdivision five of section 120.90 of this chapter; or if the court in which the warrant is returnable is a superior court, and such court is not available, and the warrant is addressed to a police officer, such executing police officer may bring the defendant to the local correctional facility of the county in which such court sits, to be detained there until not later than the commencement of the next session of such court occurring on the next business day. Such warrant may also be delegated in the same manner as a warrant pursuant to section 530.70 of this chapter. Where a sentence provides that the defendant be imprisoned for failure to pay a fine, the court shall advise the defendant that if he is unable to pay such fine, he has a right, at any time, to apply to the court to be resentenced as provided in subdivision five of this section.

4. Period of imprisonment. When the court directs that the defendant be imprisoned until the fine, restitution or reparation be satisfied, it must specify a maximum period of imprisonment subject to the following limits:

(a) Where the fine, restitution or reparation is imposed for a felony, the period may not exceed one year;

(b) Where the fine, restitution or reparation is imposed for a misdemeanor, the period may not exceed one-third of the maximum authorized term of imprisonment;

(c) Where the fine, restitution or reparation is imposed for a petty offense, the period may not exceed fifteen days; and

(d) Where a sentence of imprisonment as well as a fine, restitution or reparation is imposed, the aggregate of the period and the term of the sentence may not exceed the maximum authorized term of imprisonment.

(e) Jail time and good behavior time shall be credited against the full period of imprisonment, if served, as provided in section 70.30 of the penal law for definite sentences.

5. Application for resentence. In any case where the defendant is unable to pay a fine, restitution or reparation imposed by the court, he may at any time apply to the court for resentence. In such case, if the court is satisfied that the defendant is unable to pay the fine, restitution or reparation it must:

(a) Adjust the terms of payment; or

(b) Lower the amount of the fine, restitution or reparation; or

(c) Where the sentence consists of probation or imprisonment and a fine, restitution or reparation, revoke the portion of the sentence imposing the fine, restitution or reparation; or

(d) Revoke the entire sentence imposed and resentence the defendant. Upon such resentence the court may impose any sentence it originally could have imposed, except that the amount of any fine, restitution or reparation imposed may not be in excess of the amount the defendant is able to pay.

In any case where the defendant applies for resentencing with respect to any condition of the sentence relating to restitution or reparation the court must order that notice of such application and a reasonable opportunity to be heard be given to the person or persons given notice pursuant to subdivision one of this section. If the court grants the defendant's application by changing the original order for restitution or reparation in any manner, the court must place the reasons therefor on the record.

For the purposes of this subdivision, the court shall not determine that the defendant is unable to pay the fine, restitution or reparation ordered solely because of such defendant's incarceration but shall consider all the defendant's sources of income including, but not limited to, moneys in the possession of an inmate at the time of his admission into such facility, funds earned by him in a work release program as defined in subdivision four of section one hundred fifty of the correction law, funds earned by him as provided for in section one hundred eighty-seven of the correction law and any other funds received by him or on his behalf and deposited with the superintendent or the municipal official of the facility where the person is confined.

6. Civil proceeding for collection. (a) A fine, restitution or reparation imposed or directed by the court shall be imposed or directed by a written order of the court containing the amount thereof required to be paid by the defendant. The court's order also shall direct the district attorney to file a certified copy of such order with the county clerk of the county in which the court is situate except where the court which issues such order is the supreme court in which case the order itself shall be filed by the clerk of the court acting in his or her capacity as the county clerk of the county in which the court is situate. Such order shall be entered by the county clerk in the same manner as a judgment in a civil action in accordance with subdivision (a) of rule five thousand sixteen of the civil practice law and rules. Even if the defendant was imprisoned for failure to pay such fine, restitution or reparation, or has served the period of imprisonment imposed, such order after entry thereof pursuant to this subdivision may be collected in the same manner as a judgment in a civil action by the victim, as defined in paragraph (b) of subdivision four of section 60.27 of the penal law, to whom restitution or reparation was ordered to be paid, the estate of such person or the district attorney. The entered order shall be deemed to constitute a judgment-roll as defined in section five thousand seventeen of the civil practice law and rules and immediately after entry of the order, the county clerk shall docket the entered order as a money judgment pursuant to section five thousand eighteen of such law and rules. Wherever appropriate, the district attorney shall file a transcript of the docket of the judgment with the clerk of any other county of the state. Such a restitution or reparation order, when docketed shall be a first lien upon all real property in which the defendant thereafter acquires an interest, having preference over all other liens, security interests, and encumbrances whatsoever, except:

(i) a lien or interest running to the benefit of the government of the United States or the state of New York, or any political subdivision or public benefit corporation thereof; or

(ii) a purchase money interest in any property.

(b) The district attorney may, in his or her discretion, and must, upon order of the court, institute proceedings to collect such fine, restitution or reparation.

7. Undisbursed restitution payments. Where a court requires that restitution or reparation be made by a defendant, the official or organization to whom payments are to be remitted pursuant to subdivision one of this section may place such payments in an interest-bearing account. The interest accrued and any undisbursed payments shall be designated for the payment of restitution orders that have remained unsatisfied for the longest period of time. For the purposes of this subdivision, the term "undisbursed restitution payments" shall mean those payments which have been remitted by a defendant but not disbursed to the intended beneficiary and such payment has gone unclaimed for a period of one year and the location of the intended beneficiary cannot be ascertained by such official or organization after using reasonable efforts.

8. Designation of restitution agency. (a) The chief elected official in each county, and in the city of New York the mayor, shall designate an official or organization other than the district attorney to be responsible for the collection and administration of restitution and

reparation payments under provisions of the penal law and this chapter. This official or organization shall be eligible for the designated surcharge provided for by subdivision eight of section 60.27 of the penal law.

(b) The restitution agency, as designated by paragraph (a) of this subdivision, shall be responsible for the collection of data on a monthly basis regarding the numbers of restitution and reparation orders issued, the numbers of satisfied restitution and reparation orders and information concerning the types of crimes for which such orders were required. A probation department designated as the restitution agency shall then forward such information to the office of probation and correctional alternatives within the first ten days following the end of each month. In all other cases the restitution agency shall report to the division of criminal justice services directly. The division of criminal justice services shall compile and review all such information and make recommendations to promote the use of restitution and encourage its enforcement.

Section 420.20 Collection of fines, restitution or reparation imposed upon corporations

Where a corporation is sentenced to pay a fine, restitution or reparation, the fine, restitution or reparation must be paid at the time sentence is imposed. If the fine, restitution or reparation is not so paid, it may be collected in the same manner as a judgment in a civil action, and if execution issued upon such judgment be returned unsatisfied an action may be brought in the name of the people of the state of New York to procure a judgment sequestering the property of the corporation, as provided by the business corporation law. It is the duty of the attorney general in all criminal proceedings prosecuted by him, and, in all other proceedings, the county attorney for counties outside the city of New York, and, in the city of New York the corporation counsel of the city of New York, to institute proceedings to collect such fine, restitution or reparation.

Section 420.30 Remission of fines, restitution or reparation

1. Applicability. The procedure specified in this section governs remission of fines, restitution or reparation in all cases not covered by subdivision four of section 420.10.

2. Procedure. (a) Any superior court which has imposed a fine, restitution or reparation for any offense may, in its discretion, on five days notice to the district attorney of the county in which such fine, restitution or reparation was imposed and to each person otherwise required to be given notice of restitution or reparation pursuant to subdivision one of section 420.10, remit such fine, restitution or reparation or any portion thereof. In case of a fine, restitution or reparation imposed by a local criminal court for any offense, a superior court holding a term in the county in which the fine, restitution or reparation was imposed may, upon like notice, remit such fine, restitution or reparation or any portion thereof.

(b) The court shall give each person given notice a reasonable opportunity to be heard on the question of remitting an order of restitution or reparation. If the court remits such

restitution or reparation, or any part thereof, the reasons therefor shall be placed upon the record.

3. Restrictions. In no event shall a mandatory surcharge, sex offender registration fee, DNA databank fee or crime victim assistance fee be remitted provided, however, that a court may waive the crime victim assistance fee if such defendant is an eligible youth as defined in subdivision two of section 720.10 of this chapter, and the imposition of such fee would work an unreasonable hardship on the defendant, his or her immediate family, or any other person who is dependent on such defendant for financial support.

Section 420.35 Mandatory surcharge and crime victim assistance fee; applicability to sentences mandating payment of fines

1. The provisions of section 420.10 of this article governing the collection of fines and the provisions of section 420.40 of this article governing deferral of mandatory surcharges, sex offender registration fees, DNA databank fees and financial hardship hearings and the provisions of section 430.20 of this chapter governing the commitment of a defendant for failure to pay a fine shall be applicable to a mandatory surcharge, sex offender registration fee, DNA databank fee and a crime victim assistance fee imposed pursuant to subdivision one of section 60.35 of the penal law, subdivision twenty-a of section three hundred eighty-five of the vehicle and traffic law, subdivision nineteen-a of section four hundred one of the vehicle and traffic law, or a mandatory surcharge imposed pursuant to section eighteen hundred nine of the vehicle and traffic law or section 27.12 of the parks, recreation and historic preservation law. When the court directs that the defendant be imprisoned until the mandatory surcharge, sex offender registration fee or DNA databank fee is satisfied, it must specify a maximum period of imprisonment not to exceed fifteen days; provided, however, a court may not direct that a defendant be imprisoned until the mandatory surcharge, sex offender registration fee, or DNA databank fee is satisfied or otherwise for failure to pay the mandatory surcharge, sex offender registration fee or DNA databank fee unless the court makes a contemporaneous finding on the record, after according defendant notice and an opportunity to be heard, that the payment of the mandatory surcharge, sex offender registration fee or DNA databank fee upon defendant will not work an unreasonable hardship upon him or her or his or her immediate family.

2. Under no circumstances shall the mandatory surcharge, sex offender registration fee, DNA databank fee or the crime victim assistance fee be waived provided, however, that a court may waive the crime victim assistance fee if such defendant is an eligible youth as defined in subdivision two of section 720.10 of this chapter, and the imposition of such fee would work an unreasonable hardship on the defendant, his or her immediate family, or any other person who is dependent on such defendant for financial support. A court shall waive any mandatory surcharge, DNA databank fee and crime victim assistance fee when: (i) the defendant is convicted of loitering for the purpose of engaging in prostitution under section 240.37 of the penal law (provided that the defendant was not

convicted of loitering for the purpose of patronizing a person for prostitution); (ii) the defendant is convicted of prostitution under section 230.00 of the penal law; (iii) the defendant is convicted of a violation in the event such conviction is in lieu of a plea to or conviction for loitering for the purpose of engaging in prostitution under section 240.37 of the penal law (provided that the defendant was not alleged to be loitering for the purpose of patronizing a person for prostitution) or prostitution under section 230.00 of the penal law; or (iv) the court finds that a defendant is a victim of sex trafficking under section 230.34 of the penal law or a victim of trafficking in persons under the trafficking victims protection act (United States Code, Title 22, Chapter 78); or (v) the court finds that the defendant is a victim of sex trafficking of a child under section 230.34-a of the penal law.

3. It shall be the duty of a court of record or administrative tribunal to report to the division of criminal justice services on the disposition and collection of mandatory surcharges, sex offender registration fees or DNA databank fees and crime victim assistance fees. Such report shall include, for all cases, whether the surcharge, sex offender registration fee, DNA databank fee or crime victim assistance fee levied pursuant to subdivision one of section 60.35 of the penal law or section eighteen hundred nine of the vehicle and traffic law has been imposed pursuant to law, collected, or is to be collected by probation or corrections or other officials. The form, manner and frequency of such reports shall be determined by the commissioner of the division of criminal justice services after consultation with the chief administrator of the courts and the commissioner of the department of motor vehicles.

Section 420.40 Deferral of a mandatory surcharge; financial hardship hearings

1. Applicability. The procedure specified in this section governs the deferral of the obligation to pay all or part of a mandatory surcharge, sex offender registration fee or DNA databank fee imposed pursuant to subdivision one of section 60.35 of the penal law and financial hardship hearings relating to mandatory surcharges.

2. On an appearance date set forth in a summons issued pursuant to subdivision three of section 60.35 of the penal law, section eighteen hundred nine of the vehicle and traffic law or section 27.12 of the parks, recreation and historic preservation law, a person upon whom a mandatory surcharge, sex offender registration fee or DNA databank fee was levied shall have an opportunity to present on the record credible and verifiable information establishing that the mandatory surcharge, sex offender registration fee or DNA databank fee should be deferred, in whole or in part, because, due to the indigence of such person the payment of said surcharge, sex offender registration fee or DNA databank fee would work an unreasonable hardship on the person or his or her immediate family.

3. In assessing such information the superior court shall be mindful of the mandatory nature of the surcharge, sex offender registration fee and DNA databank fee, and the important criminal justice and victim services sustained by such fees.

4. Where a court determines that it will defer part or all of a mandatory surcharge, sex offender registration fee or DNA databank fee imposed pursuant to subdivision one of section 60.35 of the penal law, a statement of such finding and of the facts upon which it is based shall be made part of the record.

5. A court which defers a person's obligation to pay a mandatory surcharge, sex offender registration fee or DNA databank fee imposed pursuant to subdivision one of section 60.35 of the penal law shall do so in a written order. Such order shall not excuse the person from the obligation to pay the surcharge, sex offender registration fee or DNA databank fee. Rather, the court's order shall direct the filing of a certified copy of the order with the county clerk of the county in which the court is situate except where the court which issues such order is the supreme court in which case the order itself shall be filed by the clerk of the court acting in his or her capacity as the county clerk of the county in which the court is situate. Such order shall be entered by the county clerk in the same manner as a judgment in a civil action in accordance with subdivision (a) of rule five thousand sixteen of the civil practice law and rules. The order shall direct that any unpaid balance of the mandatory surcharge, sex offender registration fee or DNA databank fee may be collected in the same manner as a civil judgment. The entered order shall be deemed to constitute a judgment-roll as defined in section five thousand seventeen of the civil practice law and rules and immediately after entry of the order, the county clerk shall docket the entered order as a money judgment pursuant to section five thousand eighteen of such law and rules.

Retrieved from, <https://www.nysenate.gov/legislation/laws/CPL/A420>

Thematic Audit

The following categories have emerged as being integral to managing low-level fugitive status.

Risk Calculation	<p>#106:</p> <p>“Yeah. So do you think . . . if you had a more serious charge, let’s even talk misdemeanor, if you had like a high level misdemeanor offense do you think you would show up in court for that or do you think you would . .</p> <p>Resp Yes, because that you can get jail time for that.</p> <p>Q Okay, so for something more serious you would . .</p> <p>Resp I would go to court for that because it can turn into worse, for a misdemeanor you can maybe get 30 days or you can get probation or something, but if you don’t go you can get up to a year, I don’t want to do that much.”</p> <p>#108: (her warrant is from out of state)</p> <p>“Q So I mean in terms of your plans, you won’t go back to Pennsylvania until you pay that \$500 which you hope will be soon.</p> <p>Resp You know I might but I’d just decide.</p> <p>Q Depending on if something went wrong?</p> <p>Resp If my mom were in the hospital I would go in a heartbeat, I would go yes. Absolutely yes.</p> <p>Q But you would be as careful as could be and all that.</p> <p>Resp Yeah, and I don’t know if I would let [my husband] drive because there’s not a lot of Puerto Ricans where I come from so I don’t know if they would . .</p> <p>Q Profile him?</p> <p>Resp Yes, they’re like that so I would have to drive.”</p> <p>#114:</p> <p>“Resp I wouldn’t call it anxiety but I would say I had like, like I was a little nervous to, like what happens if I get caught, would I get more time than what they’re offering me. What additional charges come with this charge, like now I’m really thinking deeply about it, I was like okay since I’m thinking so deeply about it I ain’t going to turn myself in because I don’t want x, y, and z to happen, you know what I’m saying. So it’s like . .</p>
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	<p>Q Yeah, you go down this rabbit hole of the worst thing that's going to happen.</p> <p>Resp You just start thinking about a whole bunch of things like move out of town, you want to do this, then when you realize it's not even that deep because sometimes when you're young you don't want to deal with adult things and going to jail is an adult thing, even though kids go to jail every day now, but that's for adults and it's like when you're that young it's like you see people in jump suits and you see all these grown people and it's like wow, it hits you like this is real, you don't want to be here like, but it's life sometimes things happen and you can't control it."</p> <p>#203:</p> <p>"So eventually he turned himself in, he finally turned himself in. I think he got so fed up with the running and he had come to a point in his life where he was actually looking for a job and wanting to make that change in his life and obviously he couldn't because if I do get this job and I have this one they're going to pick me up at work, and so finally he turned himself in and I remember it like it was yesterday."</p> <p>#207:</p> <p>"Q: so it sounds like your ex he intentionally didn't show up in court?</p> <p>Resp Yeah, like if he would come up dirty on the urine he would just not go, you know.</p> <p>Q Yeah.</p> <p>Resp So he would avoid a dirty drug test and take a miss court date instead, you know what I mean."</p>
Emotional Distress	<p>#111:</p> <p>"Resp: I was scared yeah.</p> <p>Q: You were scared.</p> <p>Resp: I was scared when I first read it [the bench warrant notification], I was scared because I kept saying oh my God I'm going to go to jail, I don't know what's going on I don't want to go to jail. I was so scared when I first read it."</p> <p>#110:</p> <p>Q: Okay. Anything else about that time, those like three weeks . . . I'm really just curious about how you were living and all that was like for you?</p>

	<p>Resp: I was in that room, I was like just like very isolated, very depressed, just like very depressed because it was like the most drama end of the year.”</p> <p>#115:</p> <p>“Q Now did you do anything to like change your hair, the clothes you wore or ...?</p> <p>Resp No, the only thing with the third warrant was I lost a lot of weight and that was stress.</p> <p>Q Stress, yeah. Okay, yeah so you had a lot of physical ...</p> <p>Resp Yeah, that was the only thing that changed with the third one was I lost a lot of weight.</p> <p>Q Okay.</p> <p>Resp I was so consumed with looking out that window and smoking weed, it was crazy.”</p>
Evade Arrest	<p>#109:</p> <p>“Q: Okay. What about like are you going to the doctors or is there anything ...</p> <p>Resp: No I don’t go to see any doctors right now because I fear making an appointment will appear on the computer system or something will appear there.”</p> <p>#110:</p> <p>“Resp: No they just let them [the police] in but you know I would just like lights out, TV not on, tip toeing literally jumping out of windows, second floor windows, no fire escapes, there were no stairs, the fire escapes were all from just hanging out the window.”</p> <p>#103</p> <p>“Resp: Yeah see that’s the thing, see sometimes if I’m not drunk or getting drunk or getting fucked up it wears my mind a little bit, God damn it, God damn police and then I got weed, sometimes my friends will be around and I know when I start to see them gather in certain spots I’m like oh shit.</p> <p>Q The police?</p> <p>Resp Yeah see I got to be alert anyway because of what I do, but ah shit you need to kind of move from the area, now without the warrant I wouldn’t have to worry about it, you ain’t got to check me with my ID in front of my face, which is usually a good thing to have. See right now it’s kind of like a double edged sword, it’s like one way I like, it’s like</p>

	<p>forbidden fruit you know, it's kind of hey now I can get caught but I don't want to get caught, but then it's like oh I should have handled this or so it's almost like playing duck hunt or some shit."</p> <p>#111:</p> <p>"Q Were there certain people you would avoid?</p> <p>Resp People that don't like me I try to avoid them, like try and stay out of their way."</p>
Detached/Disconnected	<p>#110:</p> <p>"Resp: I was in that room, I was like just like very isolated, very depressed, just like very depressed because it was like the most drama end of the year, so it was actually around this timeframe. So I remember I went, I was actually caught on December 21st, actually December 21st, 2016, I was just tired."</p> <p>#106</p> <p>"Resp: Because you can't do anything, you can't go anywhere because you never know who will want you because Crime Stoppers and that and so you don't want to go anywhere, okay I'll stay home but eventually you want to leave home. So ...</p> <p>Q So sometimes you will just stay home for a few days or for a while.</p> <p>Resp I'll stay home a week or ...</p> <p>Q So for a significant amount of time, like you really won't go out at all.</p> <p>Resp I won't go out at all, you stay in the house, you eat, and sleep, and then you get bored and it's like I've got to go somewhere and the minute you go somewhere someone is like oh you know the police were looking for you.</p> <p>Q Okay, okay.</p> <p>Resp And now you go home again, you run back home."</p>
Surrender Planning (Future planning)	<p>#109</p> <p>"Resp Okay, right now we have a case manager helping her [my wife] and we're trying to move from the place we are now and find some family to take this apartment for us to move to another apartment and when that happens I'm going to be ready [to surrender] and plus put some money together</p>

	<p>from the social security to give her [my wife] some economic help.</p> <p>Q And then are you expecting that 35 days [in jail] that you would ...</p> <p>Resp 35 days each one, is like 70 days [total in jail].”</p> <p>#114:</p> <p>“Resp: So then I waited, I kept prolonging it, I waited until I think like a week or two, maybe a month, I’d say a month at the latest then I finally turned myself in. I called and asked just take me in because I really thought I was going to go to jail for a while, so I take a month and was chillin’ with my friends, I’m telling them I don’t know if I’m going to be gone for a minute, but even if I’m not I’m just doing this just in case. So I know we left off on good terms and I told you what it was and so then after I went to turn myself in.”</p> <p>#203:</p> <p>“Resp: Yeah I did believe him because he had never said that and I knew that he had finally gotten to a place where he was just tired of running and I think also it kind of became with him if it wasn’t the police it was, if it’s not the police knocking at the door is it someone trying to kill me or coming to rob me, so it’s all the levels of paranoia with people, so if I can eliminate this one, you know, and I think he got there. It was sad, it was sad because I didn’t want him to go, he didn’t want to go, our son we had just had, he’s now 10, we had just had him, he was a baby, but I think he was okay, it was sad but he was okay with it. He knew that I was going to be fine.</p> <p>Q Was there any sort of set up for him surrendering, like putting money aside or ...?</p> <p>Resp Yeah he had left me quite a bit of money, I think maybe like \$2,500 cash and that left me some cash.</p> <p>Q And that was planned like I’m going to be going away so I got to get some money together.</p> <p>Resp Yeah, yeah and so I’m going to leave this with you and he had like his family members made it, like told them go check on her, go check on the kids, his mom you know, like any of his support systems like when I’m gone make sure, so we had all that in place.”</p>
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Support	<p>#104</p> <p>“Q Sorry, to jump in a little bit back to your current case that you’re going to court basically every month for on these fees and fines, have you missed a court date at all?</p> <p>Resp No.</p> <p>Q So how do you remember?</p> <p>Resp The lawyer he texts me all the time.”</p> <p>#115:</p> <p>“Q And you said that they were saying like hey you should really turn yourself in, so they were trying to be supportive.</p> <p>Resp They were, but it just went in one ear and out the other. You guys can say that until you’re blue in the face, but you’ve never been arrested before so it’s easy for you to say that you know.”</p> <p>#114:</p> <p>“Resp I was, I remember the day, I was at my grandmother’s house and my mom she pulled up to my grandmother’s house and she said come out to the car you’ve got some mail, so I go out to the car and she gave me the letter [about the bench warrant] and said read it. I read the letter she’s like so what is this about and I told her I got in a fight at the beach with my friends and we was chillin’ and seeing some people we wasn’t likin’ at the time and things happen, she understood, and she was like I’m not going to force you to, she was not going to force me to do it, but she wanted me to do it. I don’t know if it sounds weird, she don’t want to make me do it but she wanted to show me that okay this is something real now that’s come into your life you got to handle this, now or later you got to handle this.</p> <p>So then I waited, I kept prolonging it, I waited until I think like a week or two, maybe a month, I’d say a month at the latest then I finally turned myself in.”</p>
Create Power	<p>Gain Power, Gain Advantages; create power (when have no power, create power)</p> <p>#115:</p>

	<p>“Resp Everybody, my family and friends knew I had the warrant, I would come and go as I pleased. I walked down the street, the cops would look at me but I wasn’t out there like that, they didn’t know me by face or name so you know it wasn’t like they drove past me and be like oh she’s known. So I would come and go as I pleased and I basically did what I wanted to do.</p> <p>Q So your life was the same.</p> <p>Resp Yeah it was and it was actually a thrill for me, like catch me if you can.”</p>
Mistrust of System	<p>#108:</p> <p>“Q So I’m talking about warrants is there anything more about your interaction with the police or the court system?</p> <p>Resp I don’t like the police.</p> <p>Q Why don’t you like the police?</p> <p>Resp Because they just, I just don’t like them, I don’t know why, I just don’t have a lot of trust in them.”</p> <p>#110:</p> <p>“Q Did you have an opportunity or did you feel like you had an opportunity to tell your public defender that this is tough, I’m going through stuff right now?</p> <p>Resp No I don’t really talk about certain things because that’s just how I am, so it was just like there’s no sympathy, there’s no empathy, just you do the crime you’re going to do the time, so anything else I’m dealing with personally I just feel like it’s going to be looked upon and deemed irrelevant so it doesn’t matter.</p> <p>Q So interesting because one of the first things you said when we started the interview was that the system doesn’t look holistically at somebody and that’s pretty much what you’re describing. . .</p> <p>Resp I care not to care because that’s the attitude that I feel I’m receiving, I care not to care.</p> <p>#115:</p> <p>“Q That was the third warrant when she [the judge] was doing the [amnesty] program and that’s when you showed up and then you surrendered on your own but even though she said she was doing this program, you still weren’t that trusting.</p> <p>Resp I didn’t trust it at all.”</p>

Surrender	<p>#203:</p> <p>“Q Was he released at all, so you drove him there at 3:00 in the morning and I assume he went before the judge the next day ...</p> <p>Resp yeah, and they kept him, there was no bail, no bond, no release, nothing.</p> <p>QHe at least expected that he would stay in custody for some period of time.</p> <p>Resp Yes and I think that was, obviously that was definitely one of the major barriers, you know, cause I know once I get there I’m pretty much going to say good-bye to my family for months and so ... it was sad, it was stressful. The oldest one he was a young boy and then the 10 year old he was a baby so he doesn’t remember his dad going to jail, but the other does and so it’s something that took place in the family and something that now the young man, he’s 23, I’m sure he has memories of it and we’ve never really talked about it.”</p>
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