

# Dual Debtors: Child Support and Criminal Legal Financial Obligations

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**ABSTRACT** Child support arrears and criminal monetary sanctions are two forms of state-imposed debt that have gained increasing attention for their role in perpetuating inequality. Although past research recognizes that both groups of debtors tend to be socioeconomically disadvantaged and are disproportionately members of marginalized racial groups, the overlap between these populations has not been examined. Our study uses administrative data to link individuals from both groups, providing the first description and comparison of three populations of debtors—those with only criminal legal debt, those with only child support debt, and those with both types of debt—highlighting disparities and the compounding nature of both types of debt. We then draw on 30 in-depth semistructured interviews with individuals subject to state surveillance from both forms of debt, emphasizing three key themes that emerged: debt as carceral vulnerability, the relative salience of each type of debt, and perceptions of fairness.

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State-imposed debt and its effects on poverty, inequality, and criminal legal entanglement have gained increasing attention in recent years. Two key strands of this research address, respectively, child support arrears and criminal monetary sanctions. Persistent legislative efforts to offset the costs of the welfare and criminal legal systems onto their respective “consumers” have yielded a profusion of legal financial encumbrances, both in kind and in amount (Crowley 2003; Colgan 2017). In particular, outstanding child support and criminal legal debts have expanded to vast, largely uncollectible sums, with grievous consequences for liable parties. Such state-imposed debts intensify economic insecurity (Cancian, Heinrich, and Chung 2009; Miller and Mincy 2012; Pogrebin et al. 2014; Harris 2016), generate social and emotional strain (Katzenstein and Waller 2015; Haney 2018; Pleggenkuhle 2018), and perpetuate criminal legal involvement (Olesen 2016; Piquero and Jennings 2017). Nearly all the studies on this issue have examined either child support or criminal legal debt but not both. This study expands on prior research by examining the demographics, experiences, perspectives, and behavioral strategies of people who carry both child support and criminal legal financial obligations, to whom we refer as “dual debtors.”

This article examines Minnesota as a case study of dual debtors. It is notable that Minnesota is neither a high arrears state (Sorensen, Sousa, and Schaner 2007) nor a comparatively punitive state in its handling of child support debt or criminal legal financial obligations. Thus, barriers and challenges that characterize individual debtors’ experiences in Minnesota are likely to be even greater in states with more punitive or complex child support payment regimes.

Child support involves a formal legal order requiring that noncustodial parents make continuous payments to Child Support Enforcement (CSE), ostensibly for the benefit of their children. Criminal legal debt, alternatively referred to as monetary sanctions or criminal legal financial obligations (CLFOs), consists of fines, fees, surcharges, restitution, and other monetary liabilities resulting from a violation or criminal conviction. Although it is evident that both populations of debtors are demographically skewed toward the indigent and marginalized racial groups (Harris, Evans, and Beckett 2010; Mincy, Jethwani, and Klempin 2015; Harris 2016), the overlap between these two debtor categories remains unclear.

The present study addresses this gap by linking individuals in Minnesota from two state administrative data sets. Thus, we provide the first

description and comparison of these three populations of debtors: those with only criminal legal debt, those with only child support debt, and those with both forms of debt. We consider how each type of encumbrance is experienced separately and in combination by individuals subject to both. Then, drawing on 30 in-depth semistructured interviews, we explore the following dimensions of dual debtor status: (1) the cumulative effects of multiple debt burdens, (2) the extent to which obligors differentiate among their various debts, and (3) the ways in which debtors handle these complex financial obligations.

The analysis renders dual debtors as prototypical subjects of the “surveilled society,” exposed to the extractive and coercive mechanisms of two state institutions, often simultaneously (Miller and Alexander 2015). The child support and criminal legal systems each levy substantial, regressively structured costs on these individuals, a plurality of whom lacks sufficient resources to comply (Cammett 2010; Mincy et al. 2015). Although the child support system technically inhabits the civil legal sphere, the sanctions it imposes are disciplinary in nature and may be experienced as functionally indistinguishable from criminal punishments, or they may be explicitly criminal (such as cases referred to prosecutors’ offices for nonsupport; Cook 2015). People of color are overrepresented among dual debtors, and racial minorities are subject to greater debt amounts in both realms. Hence, state-imposed debt burdens play a role in the reproduction of racial stratification. These dynamics and the consequences of involvement in both systems lead to myriad grievances and perceptions of unfairness, especially of child support. Relative to debt obligations stemming from embroilment in the criminal legal system, child support was consistently more salient in participant narratives. Moreover, as these systems operate in tandem, they may produce consequences that actually subvert their respective compliance aims. Although these forms of debt are ordered through distinct legal apparati and can be analyzed separately, people experience them collectively.

## **BACKGROUND**

### **CHILD SUPPORT**

Since its establishment in 1975, the public CSE program has become one of the essential pillars of federal antipoverty policy. After wage earnings, it is the second-largest source of income for poor families (Handler and

Hasenfeld 2006). For support-collecting families living below the federal poverty line, these payments account for more than half of household income (Edelman 2019). Formal orders are indispensable in sustaining noncustodial parents' provision of support over time, especially in cases of multipartner fertility (Cancian and Meyer 2010; Nepomnyaschy and Garfinkel 2010).

For all its benefits, CSE has serious shortcomings, particularly in terms of its approaches to dealing with indigent parents who are unable, rather than unwilling, to meet their obligations (Sorensen and Zibman 2001). Noncustodial parents cannot settle their debts if they have nothing with which to pay. In this commonplace scenario, CSE's aggressive collection and sanctioning tactics are both futile and needlessly punitive. Unsurprisingly, setting orders that claim unmanageably large portions of obligors' incomes have been shown to have a negative effect on compliance (Meyer, Ha, and Hu 2008). Specifically, when order amounts exceed 30 percent of a person's earnings, both the overall likelihood and regularity of payment decline (Hodges, Meyer, and Cancian 2020). As of 2019, nationwide arrears totaled \$117.7 billion—an amount that exceeded combined discretionary federal spending on housing and education by over five billion dollars that year (McCarty 2019; Shohfi and Tollestrup 2019; Brito 2020). Noncustodial parents with incomes below the poverty level owe the majority of that sum. Much like civil sanctions attendant to criminal convictions, which “affect poor people *almost exclusively*” (Cammett 2006, 319), it is the most disadvantaged obligors who end up carrying large encumbrances. Thus, the child support system fails to reduce aggregate economic disadvantage because it merely transfers financial burdens among impoverished populations.

Furthermore, of the more than five million men under correctional supervision in the United States, over half have open child support cases (Haney 2018). Incarcerated parents are especially vulnerable to arrears accumulation because most cannot secure adjustments to their child support orders. Consequently, large debts follow them when they are released from prison (Cammett 2006; Emory et al. 2020).

Whereas longstanding public discourse about “deadbeat dads” suggests that arrears are the product of unwillingness and irresponsibility, employment instability and incarceration appear to be principal drivers of nonpayment (Ha et al. 2008). In addition, a large proportion of child support debt carried by poor obligors is owed not to the custodial family

but to the state. Much of the revenue from these state-initiated orders goes toward reimbursing the government for costs of public assistance provided for the child. Depending on the state, these sums may include additional charges and interest (Ovwigbo, Saunders, and Born 2005; Hatcher 2007; Katzenstein and Waller 2015). Nonpayment can potentially lead to numerous other sanctions, from the suspension of professional and driver's licenses and the seizure of assets to incarceration for civil contempt-of-court or criminal nonpayment—measures that effectively criminalize poverty.

Although arrearages driven by parental indigence are a national issue, states vary considerably in their child support enforcement policies and practices and in their efforts to mitigate soaring debt burdens. Our Minnesota research setting represents a relatively progressive state child support system. In 2017, arrearages in the state totaled roughly \$1.5 billion, of which unpaid support accounted for nearly 90 percent (interest and fees comprised the remainder). Of that statewide sum, 18.7 percent (\$280 million) was owed on cases with public assistance arrears—a lower proportion than the 26 percent of nationwide arrears owed to the government (OCSE 2014; MN DHS 2017). In public assistance cases, Minnesota has a full pass-through policy, meaning that the state distributes all collected child support to the custodial parent rather than retaining a percentage of it as many other states do (though the beneficiary's Minnesota Family Investment Program grant is reduced by the amount of the support payment; Minn. Stat. § 256.741 subd. 2a, 2020). Also related to public assistance cases, a 2007 state statute that was part of the Strategies to Help Low-Income Families program permitted counties discretionary authority to lower permanently assigned public assistance arrears on an individual case basis (OCSE 2018).

Minnesota allows a self-support adjustment in the determination of the amount of a child support order. This is essentially a low minimum order for poor obligors. If the noncustodial parent's gross income does not exceed 120 percent of the federal poverty line, their monthly order may equal \$50 (1–2 children), \$75 (3–4), or \$100 (5+; NCSL 2013). The state's efforts to manage and prevent arrears buildup include initiatives specifically targeting incarcerated parents. According to Minnesota's Office of Child Support Enforcement (2013), the program encourages modifications for parents who are to be incarcerated for at least 6 months and facilitates order adjustment through a streamlined process with the assistance of caseworkers. The intake prison for men at St. Cloud houses the Child Support Liaison program, which consists of education and resource

provision during orientation, among other forms of assistance (NCSL 2019). This initiative is arguably the most distinctive feature of Minnesota's CSE program; in most other states, it is difficult if not nearly impossible for incarcerated obligors to successfully petition for modification of their support orders (Haney 2018).

#### CRIMINAL LEGAL DEBT

Criminal legal financial obligations have proliferated across the United States and are now the most commonly imposed punishment in the country (Martin et al. 2018; Slavinski and Spencer-Suarez 2021), even as rates of incarceration have slowly declined (Slavinski and Pettit 2021). CLFOs are ordered for offenses ranging in severity from minor infractions (e.g., traffic violations) to serious felonies, often in tandem with other sanctions such as probation, incarceration, or community service (Iratzoqui and Metcalfe 2015; Harris 2016).

The multitude of forms of CLFOs correspond to distinct aims of the state.<sup>1</sup> Fines are intended to be retributive charges, whereas court fees are tacked on to fines to generate state revenue. Restitution, uniquely, is sought as a means of healing and restoring victims (Martin et al. 2018) as well as a punishment upon persons convicted (Iratzoqui and Metcalfe 2017). "User fees" encompass the financial charges tied to court-mandated programs and surveillance, purposefully imposing the financial burden on the individuals using these services. Such services include fees for probation, GPS monitoring, and drug testing and treatment, among others, and are provided by both public and private agencies (Harris, Smith, and Obara 2019; Shannon et al. 2020). Regardless of their purpose or form, however, CLFOs bring about significant consequences when imposed on marginalized, impoverished individuals (Harris et al. 2010; Slavinski and Spencer-Suarez 2021).

One irony of the monetary sanctions system is that it typically imposes the greatest relative costs upon those who can least afford to pay them

1. Another complexity of CLFOs is tremendous location-based variation. Not only do amounts and types of monetary sanctions differ among and within states, so do the statutes that regulate enforcement, collection procedures, consequences for nonpayment, determinations of ability to pay, and determinations of willful nonpayment (Fernandes et al. 2019; Shannon et al. 2020).

(Fernandes et al. 2019; Slavinski and Spencer-Suarez 2021; Stewart et al. 2022). Pervasive racial and economic disparities are a defining feature of the criminal legal system. Black men, in particular, consistently represent the most disproportionately punished group (Western 2006; Miller and Stuart 2017). Furthermore, Native Americans in Minnesota are subject to the largest average overall CLFO orders and carry the largest debt loads compared with other groups, particularly in rural areas and in close proximity to tribal lands (Stewart et al. 2022). As Martin and colleagues (2018, 474) highlight, “the vast racial disparities in wealth combined with the significant racial disparities throughout the criminal legal system and the monetary sanctions that accrue at each step of case processing create enormous potential for these sanctions to worsen racial disparities.”

The repercussions of CLFO nonpayment span a range of formal sanctions and secondary consequences. Arguably, the most striking feature of the CLFO system is the divergent experiences of defendants based on their ability to pay. Those who immediately pay off their CLFOs avert any subsequent interactions, obligations, and potential penalties faced by those who cannot; consequences are worse for the poor (Harris 2016; Fernandes et al. 2019). Accrued debts may prove difficult to navigate, which can foster distrust and cynicism toward the legal system (Spencer-Suarez and Martin 2021). Nonpayment may then lead to tarnished credit, intercepted tax returns, wage garnishment, referral to private debt collectors, deductions from a prison account, lawsuits, and even the loss of voting rights (Martin et al. 2018; Friedman and Pattillo 2019).

The most insidious consequences of nonpayment are those requiring additional contact with the criminal legal system or those that increase the barriers to paying off the CLFO debt. Additional surveillance for nonpayment can occur through different mechanisms. Depending on the state, certain types of debt may potentially result in a probation extension, violation, or even revocation (Iratzoqui and Metcalfe 2017; Friedman and Pattillo 2019). Alternatively, those with outstanding debt are sometimes required to routinely attend review hearings when they are unable to make timely payments (Fernandes et al. 2019; Shannon et al. 2020). Those who are already facing difficulty with employment may need to take time off work to attend these hearings, leading to loss of income needed to repay outstanding debt. Missing a review hearing has even more severe consequences—resulting in a warrant, an arrest, and a stay in jail (Cadigan and Kirk 2020).

Driver's license suspension and even revocation can also be triggered by nonpayment. This has a counterproductive impact on individuals seeking or trying to retain jobs that require a license or are difficult to access using public transit (Cadigan and Kirk 2020; Shannon et al. 2020). Last, nonpayment can result in additional costs being imposed (e.g., late fees, interest, additional surveillance fees); ultimately, such penalties mean that a CLFO is more expensive for those lacking the resources to pay (Martin et al. 2018; Martin 2020; Shannon et al. 2020).

CLFOs share common features in the United States, but state-level laws and policies have a profound impact on the nature of these sanctions. Consistent with its approach to child support, Minnesota's system of criminal legal financial obligations is not particularly harsh relative to other states. Nevertheless, any imposition of monetary sanctions may significantly undermine financial stability, mobility, and criminal legal status (Harris et al. 2017).

As with child support, nonpayment of CLFOs carries significant consequences in Minnesota.<sup>2</sup> Additional costs can be added onto unpaid debts. Court administration may apply late payment fees to overdue accounts, and for most unpaid driving-related offenses CLFOs, current Minnesota State Court Administrator Policy 209(b) (SCAO 2014) allows the court administrator to request that the Department of Public Safety suspend the defendant's driver's license (Minn. Stat. § 171.16, 2020). For secondary obligations, consequences for nonpayment are determined by agency-specific policies but can include late fees, probation violations, and tax refund intercept.

2. The period of obligation to pay for criminal legal financial debts extends for 10 years from the due date or until the end of that case's probation sentence, whichever is longer (Minnesota Judicial Council 2010; Minn. Stat. § 609.104 subd. 2(a), 2020). After the active period, the legal debt is written off as uncollectible, and the case is closed. The legislature also explicitly prohibits a sentencing court from extending a defendant's probation period for failing to pay primary obligations other than restitution (Minn. Stat. § 609.104 subd. 2(d) [2020]); however, a defendant could violate their conditions of probation for not paying for services required as part of those conditions, such as chemical or sex offender treatment (see, e.g., *State v. Brown*, Minn. App. Unpub. LEXIS 325 (2016), wherein an indigent defendant's probation was revoked because of failure to attend sex offense treatment, despite the fact that his failure to attend was because he could not make the weekly payments required before being allowed to attend).

The exclusive debt collector for Minnesota courts and most of Minnesota's government agencies is the Minnesota Department of Revenue (DOR), including the child support system and criminal court-imposed fines and fees (Minn. Stat. § 480.15 subd. 10c, 2020). DOR can withhold funds from individual state tax refunds and/or paychecks and apply those funds to any outstanding debt.<sup>3</sup> If the debtor has multiple debts across different agencies, debts are paid in order of priority as defined by statute and DOR, beginning with state taxes, child support, restitution, hospital or ambulance claims, and finally claims by other agencies in the order in which those claims were received (Minn. Stat. § 270A.10, 2020).

With its progressive child support system and moderate approach to CLFOs relative to other states, Minnesota is thus a compelling site for the study of people with dual debt streams. Both systems can be difficult to negotiate, and nonpayment in either system poses the threat of impeding long-term financial stability, family and social relationships, and driving privileges.

#### DEBT, ECONOMIC INSECURITY, AND CARCERAL VULNERABILITY

For individuals with criminal convictions, social and economic stability is crucial to reducing the likelihood of future criminal legal involvement. Likewise, for the formerly incarcerated, these conditions are vital to reintegration. A large and theoretically diverse body of literature has identified attributes and processes associated with reentry and reintegration, particularly with recidivism, on the one hand, and desistance, on the other. Many of these factors fall under the umbrella of economic status or are at least related to it in the sense that they mitigate strain—for instance, stable income and employment (Bushway, Stoll, and Weiman 2007), housing (Lutze, Rosky, and Hamilton 2014; Herbert, Morenoff, and Harding 2015), and family relationships and social support (Sampson and Laub 2003; Bales and Mears 2008; Berg and Huebner 2011; Wyse, Harding, and Morenoff 2014).

Though empirical evidence is limited, existing theoretical frameworks provide a basis for linking legal financial obligations with recidivism and desistance. Using life course and social control theories, it may be argued

3. A collection fee of 20 percent of the total debt is also added in most cases to the outstanding balance.

that child support orders can promote desistance and successful post-prison reintegration because it establishes a legal obligation or bond to families. Formalized support may have the effect of reminding obligors of their parental roles and duties; there is some evidence that requiring support payments serves to increase family involvement (Seltzer et al. 1998; Huang, Han, and Garfinkel 2003). Moreover, paying legal debts and child support in particular may be part of what Maruna and colleagues (2004, 274) refer to as secondary desistance—not the cessation of criminal activity (i.e., primary desistance) but the “assumption of the role or identity of a ‘changed person’” (Maruna 2001; Giordano, Cernkovich, and Rudolph 2002).

However, the notion that legal financial obligations facilitate desistance and reinforce prosocial roles rests on the assumption that the individual has the ability to pay. For those without such means, legal debts are likely to complicate and intensify problems. For one, probation and parole sometimes stipulate that individuals maintain regular employment, comply with CSE (Roman and Link 2015), and pay fines, restitution, and other penalties. In such instances, the inability to pay can result in violations, the revocation of community supervision, and even reincarceration (Anderson 2008; Bannon, Nagrecha, and Diller 2010; Iratzoqui and Metcalfe 2017). Failure to pay child support may also lead to a debtor’s incarceration through civil contempt proceedings (Patterson 2008) and criminal non-support (Cook 2015). Whereas Seltzer and colleagues (1998) found that child support can fortify obligors’ connections with their children, other research has shown that arrearages and orders exceeding noncustodial parents’ financial means instead diminish parental involvement and relationships with custodial parents and discourage continued efforts at making payments (Sorensen and Zibman 2001; Martinson and Nightingale 2008; Turner and Waller 2017; Hodges et al. 2020).

Although research on the criminogenic nature of debt is in its nascent stages, complementary strands of research suggest such a relationship. First, employment is among the factors most clearly—and negatively—associated with recidivism (Uggen 2000; O’Connell 2003; Visher, Debus, and Yahner 2008), and evidence indicates that legal debts tend to diminish participation in the formal labor market (Holzer, Offner, and Sorensen 2005; Miller and Mincy 2012; Cancian, Heinrich, and Chung 2013; Link and Roman 2017). People involved in the criminal legal system are already at a significant disadvantage when seeking employment (Pager 2003, 2008; Uggen et al. 2014; Ray, Grommon, and Rydberg 2016). Legal debts

are likely to compound these disadvantages in the formal labor market. Debtors may find off-the-books income more attractive than reported wages because the latter may be subject to garnishment, particularly in the case of sizable child support arrears (Miller and Mincy 2012). Child support operates like a tax that consumes a sizable portion of an obligor's income—up to 65 percent of one's disposable earnings if arrearages are at least 12 weeks overdue (Cammett 2010). Money earned in the underground economy, on the other hand, cannot be garnished, nor does it count toward the income used by the courts to assess an obligor's ability to pay (so long as it goes undetected). For poor noncustodial parents struggling to make enough to feed, clothe, and shelter themselves, the benefits of unreported wages are obvious. Accrual of funds to the state in involuntary, state-initiated cases potentially further disincentivizes aboveground income because these payments largely do not go toward supporting their families. Findings from qualitative studies (Waller and Plotnick 2001; Waller 2002) reinforce these interpretations.

Crucially, the fact that legal debts may drive people out of the formal labor market also means that it pushes some toward illicit activity to make ends meet. However, current evidence regarding the criminogenic effects and, similarly, the relationship between legal financial obligations and recidivism appears mixed. Some studies have found little to no relationship between legal financial obligations and recidivism (Bucklen and Zajac 2009; Link and Roman 2017). Others have reported that the payment of restitution is associated with reduced recidivism (Outlaw and Ruback 1999; Haynes, Cares, and Ruback 2014; Ruback et al. 2018). Meanwhile, Pogrebin and colleagues (2014) found that study participants not infrequently returned to illegal activities due to their inability to keep up with burdensome payments, and Martire and colleagues (2011) found debt to be a motivating factor in respondents' most recent "instrumental crime."

Legal financial obligations also undermine desistance and elevate the risk of continued criminal legal contact in less direct ways. For instance, debtors who lose their driver's licenses because of court debt or child support nonpayment can find themselves in compromised positions. If maintaining their employment necessitates that they have transportation, they run the risk of being arrested for unlicensed driving (Bannon et al. 2010). Moreover, debt is a major stressor, linked to mental health problems (Fitch et al. 2011; Richardson, Elliott, and Roberts 2013; Hojman, Miranda, and Ruiz-Tagle 2016), strained family relationships (Conger et al. 1992, 1994;

Dew 2008, 2011), and even suicidal ideation (Hintikka et al. 1998). Those with histories of substance use may be at heightened risk of relapse and recidivism due to the stress of these debts.

These and other restrictions and legal exclusions imposed on people with criminal records profoundly alter the social and daily interactions of those whom Miller and Stuart (2017) identify as carceral citizens. Although carceral citizens are also afforded unique benefits/opportunities, in general, these individuals are pushed toward a distinct type of citizenship that encompasses a great deal of obligation and heightened carceral vulnerability. These include a rigid adherence to the law and the additional conditions of supervision to which they are subject, demonstrating they have paid their debts to society both symbolically and literally (in the case of monetary sanctions). This conceptualization provides a useful framework for contextualizing dual debtors, who carry not only child support and criminal legal debt but also accompanying convictions. They may face greater difficulty in achieving economic stability due to their debts, and they are subject to additional surveillance. If dual debtors attempt to embrace the ideal carceral citizen persona, their position will be extraordinarily fragile. However, with multiple surveilling entities seeking to extract money from them, it seems plausible that some dual debtors may reject this form of citizenship and instead withdraw into patterns of system avoidance (Brayne 2014).

## **CURRENT STUDY**

Our study is the first to empirically examine the dual debtor population. Thus, we begin by providing a descriptive overview of this group and how it compares with the subpopulations only subject to one form of debt. We then highlight three prominent themes that emerged in our semi-structured interviews with 30 dual debtors.

## **ADMINISTRATIVE DATA**

We generated our descriptive information by creating a data set composed of individual-level longitudinal data from Minnesota's child support and criminal legal systems. Specifically, we matched administrative data from the Minnesota State Court Administrator's Office (SCAO) and the Minnesota Department of Human Services (DHS), which operates Minnesota's

child support system. DHS child support data from 2004 to 2016 were obtained through the Minn-LinK project housed in the University of Minnesota's Center for Advanced Studies in Child Welfare, which uses administrative data from multiple state agencies to create cross-systems data sets for researchers and policymakers (Minn-LinK 2021). Minn-LinK merged the DHS child support data with the research team's SCAO data to create a linked data set that combines child support debtors with criminal legal debtors. These unique data allow our team to explore how non-custodial parents with child support obligations and CLFOs interact with the child support and court systems. We restrict our analysis to the years 2010–15 as restitution is not available for the two largest Minnesota counties, Hennepin and Ramsey, before 2010. The SCAO file is composed of all those who had a link with the DHS data, as well as a random sample of 50,000 individuals who appear in the SCAO data but do not in the DHS data. We define four different time-varying debt status categories within the merged data: no debt, child support only, CLFO only, and dual debtor. Individuals can enter and exit each form of debt at different times; we therefore analyze the data at the person-month level to account for these transitions. This results in a panel data set of 5,258,714 person-months with running tabulations of both DHS and SCAO debt.

#### QUALITATIVE INTERVIEWS AND PARTICIPANTS

Our qualitative analysis draws on semistructured interviews with 30 participants living in and around the Twin Cities metropolitan area conducted between September 2018 and March 2020. To be included in the study, interviewees had to be at least 18 years of age, with current outstanding child support debt administered by the State of Minnesota, and subject to financial obligations stemming from a criminal conviction. Regarding the CLFO eligibility criterion, penalties may have been attendant to the conviction (e.g., court costs, restitution, fines) or subsequent to the conviction but directly related to it (e.g., fees for court-mandated treatment programs).

Participants were recruited through online forums (e.g., Facebook, Craigslist) and through a nonprofit service provider that specializes in faith-based substance use treatment for men. Both avenues of recruitment yielded respondents. However, participation was far more consistent among individuals enrolled in the study at the residential treatment program. Over half of prospective participants recruited through online

forums did not appear for their scheduled interviews. The use of more than one site or recruitment strategy was intended to diversify the sample and, specifically, to counter the potential for homogeneity among experiential domains and perspectives. For instance, recruiting all participants from a residential treatment facility would artificially limit the range of responses to questions regarding the impact of debt on housing, and individuals with substance use issues would of course be overrepresented.

Among the 30 interviewees, 25 were men. This was unsurprising given that men are incarcerated and otherwise involved in the criminal legal system at significantly higher rates than women (Carson 2018) and hence may be more likely to owe CLFOs. Moreover, four out of five custodial parents in 2016 were mothers (Grall 2007), so it follows that child support obligors are usually fathers. With regard to race, a majority of the sample was White (18, 60 percent), with a few identifying as Black (5, 17 percent) and Native American (5, 17 percent). They ranged in age from 27 to 58 years old, with a mean age of 41. Under half (13, 43 percent) of our participants reported current employment; others reported earning off-the-books income or receiving government assistance such as disability benefits and subsidized housing. Participants had between 1 and 8 children, with the number of child support orders ranging from 1 to 3. Most reported having been sanctioned for unpaid child support, with driver's license suspension reported in 24 (80 percent) of our interviews. Participants reported criminal punishment experiences that ranged from having spent a couple weeks in jail to serving 9 years in prison. Fifteen (50 percent) had been convicted of a felony and 11 (37 percent) of only misdemeanor offenses.<sup>4</sup>

Regarding amounts of debt owed, one-third of our participants did not know how much criminal legal debt they had, whereas only one individual did not know how much he owed in child support. The amounts of criminal legal debts stated by our participants ranged from \$0 to \$9,000, and four (13 percent) reported they had paid off their CLFOs. Only one of our participants believed that he had paid off his child support debt. The arrears reported by the remaining participants ranged from \$1,200 to \$130,000. Only one of our interviewees related owing more in criminal legal debt than in child support.

4. The remaining 13 percent did not have these types of criminal records, having benefited from alternative sanctions such as participating in diversion programs such as drug court, which enabled them to avoid having a criminal conviction on their record.

## PROCEDURES

As noted above, our qualitative data consists of in-depth interviews with 30 dual debtors in and around the Twin Cities region. Interviews were semistructured, using an interview guide as a foundation but allowing for probing and for participants' descriptions of experiences in their own words. The interview guide included questions on many topics including family relationships and social support, housing, income, and employment. Interviews ranged from 45 minutes to just more than 2 hours in duration. They were audio-recorded for transcription and conducted in a one-to-one meeting in safe, convenient locations that afforded sufficient privacy (e.g., private rooms in public libraries). Following each interview, the participant was provided compensation in the form of a gift card.

We followed Deterding and Waters's (2021) flexible coding framework in developing our codebook, which was based in part on our earlier study of monetary sanctions (Harris, Pattillo, and Sykes 2022). Flexible coding is a method suitable for coding and analyzing semistructured interview data from samples of at least 30 and is advantageous in team-based research; thus, it was appropriate for this study. It involves three stages: first, indexing and memoing the text for broad topics; second, applying analytic codes to the data; and third, constructing a theoretically valid explanation of the data from the flexible coding process.

Deterding and Waters (2021) recommend that the application of analytic codes to data address one article at a time. Because this study is exploratory in nature, we focused on the most prominent and consistent emergent codes in our data, that is, those that were the most salient. The three themes we present come from codes on which we were able to achieve saturation in our sample of 30 participants. We follow the pragmatic definition of saturation provided by Low (2019, 137). The themes we present provide a "conceptual model . . . that makes sense" and, when taken together, constitute a general conceptual model that can be understood in the broader context of child support and monetary sanctions uncovered by prior scholarship.<sup>5</sup> We used NVivo qualitative software to code for case attributes

5. In this manuscript, we limit the themes presented to those that emerged organically from our analyses and were dominant throughout our interviews rather than including themes we anticipated on the basis of past literature. For instance, due to the finding in past scholarship that "informal" payments are often provided by noncustodial parents in child support cases (i.e., Nepomnyaschy and Garfinkle 2010), we explicitly asked our participants

(such as the race, gender, and age of our participants) as well as analytic codes guided by theory, literature, and our related research project.

#### STUDY LIMITATIONS

As this is the first study to examine the population of dual debtors, we acknowledge several limitations. First, it is based on one state (Minnesota), and results may not be generalizable to states that use different approaches to imposing and monitoring criminal financial debt and child support debt. Future research will be needed to take such state policy differences into account. A second limitation is that our interviewees were recruited through nonprobability sampling (and arguably convenience sampling). Their perspectives were valuable in understanding the impacts of these two forms of debt, but we cannot claim that those we interviewed are representative of the population of dual debtors.

#### FINDINGS

##### DESCRIBING THE DUAL DEBTOR POPULATION

Table 1 provides a basic illustration of the variation of debt among the three debtor groups. Due to the right-skewed distribution of the data (i.e., small numbers of extreme CLFO amounts), medians are more appropriate than means as a measure of central tendency. Importantly, this weekly amount is calculated at the individual level and may represent numerous concurrent criminal convictions or simultaneous child support orders. As is shown in table 1, criminal legal debt is eclipsed by child support debt. A Kruskal-Wallis ANOVA indicates significant variation in debt amounts among the debtor types ( $\chi^2(3) = 2978091, p < .001$ ), and pairwise comparisons between the debtor groups all revealed statistically significant differences in debt amounts after adjusting for multiple comparisons.<sup>6</sup>

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about this in our interviews with the following question: “Do you provide support to your children in other ways beyond your legal child support order, such as other financial support or in-kind (nonfinancial, e.g., clothes, school supplies, food) support?” However, whereas most of our respondents reported having provided informal support to their children, these discussions tended to be fairly short and less salient than the themes we present in this foundational manuscript. We plan to explore additional themes, such as in-kind support, in our future scholarship on dual debtors.

6. Adjustments for multiple comparisons were made using Bonferroni’s method, which controls the familywise error rate by multiplying the *p*-values by the number of comparisons.

TABLE 1. Median Monthly Debt by Debtor Type, 2010–2015

Debtor Type	CLFO Median Debt	CS Median Debt	Total Median Debt	Person-Months	Unique Persons
CLFO only	570	0	570	1,263,302	13,272
CS only	0	2,629	2,629	2,056,238	50,288
Dual debtor	1,137	5,138	7,570	959,422	14,237
No debt	0	0	0	979,752	39,540

Note.—All monetary amounts are in US dollars.

The median amount owed by persons with only CLFOs was \$570, relative to \$2,629 for those with only child support debt ( $p < .001$ ). Relative to those who only owe debt in one system, dual debtors hold higher levels of total debt ( $p < .001$ ) as well as higher levels of both child support and criminal legal debt, which suggests that the two forms of debt may be conditional on one another. This could be due to the concentration of dual debtor status among those with less ability to pay or because the imposition of one type of fine impedes payment of the other. Dual debtors owed \$5,138 in child support and \$1,137 in criminal justice debt, totaling \$7,570. In summation, the medians here indicate that child support debt carries a far greater financial burden in the average month than criminal legal debt but that those who experience both forms of debt in the same month are particularly burdened and experience greater amounts of both forms of debt.<sup>7</sup>

We also break down the debt series by race and gender to examine the variation in debt burden among different demographic groups. Figure 1 presents median CLFOs, child support (CS), and dual debtor debt amounts by each race-gender combination. Because we analyze population data rather than sample data, we focus on the broad pattern of results and the magnitude of differences rather than the statistical significance of tests of these differences. In table 1, we see a similar pattern in these debt amounts, in which CS debt is greater within all groups as compared with CLFO debt, but dual debtors owe amounts that exceed the sum of the other two categories. In terms of CLFO debt, we find significant gender (Wilcoxon Rank  $Z = 3.2 \times 10^{10}$ ,  $p < .001$ ) and racial (Kruskal-Wallis  $\chi^2(6) = 6952.6$ ,  $p < .001$ ) variation in debt amounts owed. In general, we find that Native

7. Our descriptive analyses make comparisons both within and across individuals in examining debt amounts by debtor categorization. The descriptive results here are also robust to a fixed-effects specification regressing monthly debt amounts onto the debt categories with fixed effects for individuals.

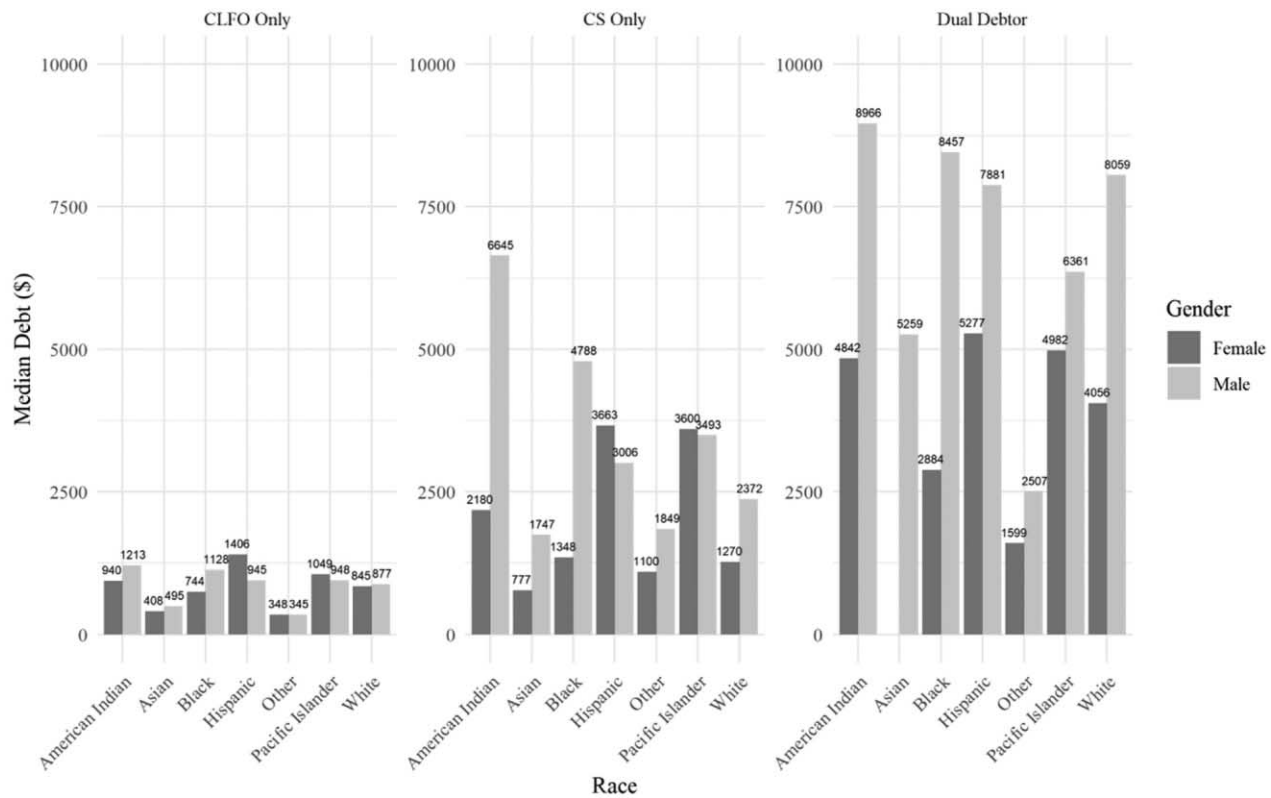


FIGURE 1. Median monthly debt amounts by debtor type and demographics, 2010–2015. A color version of this figure is available online.

American, Hispanic, and Black men have higher debt loads as compared with White men, whereas Asian, other, and Black females have lower median CLFO debts comparatively. In terms of CS debt, there is significant gender (Wilcoxon Rank  $Z = 1.3 \times 10^{11}$ ,  $p < .001$ ) and race (Kruskal-Wallis  $\chi^2(6) = 39173$ ,  $p < .001$ ) variation, with males generally owing higher median CS debt amounts as compared with females. In addition, the gender gaps in debt are larger among Native Americans and Black Minnesotans compared with the other groups. Finally, those who have monthly CLFO and CS debt have significantly higher total debt amounts compared with other debt statuses ( $p < .001$ ) and across all demographic groups. On average, a Native American male has a monthly debt balance of \$8,966, as compared, for example, with Black males (\$8,457;  $p < .001$ ), Hispanic males (\$7,861;  $p < .001$ ) and White males (\$8,059,  $p < .001$ ). In contrast to the other forms of debt, males owe more in debt compared with females across all racial groups (Wilcoxon Rank  $Z = 2.7 \times 10^{10}$ ,  $p < .001$ ), and the gender gaps are larger for White people. In summary, each debt status shows significant variation by race and gender, with males and Black and American Indian individuals carrying more debt generally on average.

#### QUALITATIVE ANALYSIS

Our qualitative analysis uncovered three prominent themes that emerged in our interviews with dual debtors: debt as carceral vulnerability, the comparative salience of child support debt compared with criminal legal debt, and perceptions of (un)fairness. We describe each theme and provide examples below.

##### *Debt as Carceral Vulnerability*

Child support and monetary sanctions can complicate debtors' entanglements with the criminal legal system in various ways. This holds especially true for dual debtors, given the multiplicity of conditions they must satisfy and the layers of institutional control that they must navigate (Brito 2019; Turetsky and Waller 2020). Although nonpayment can directly lead to incarceration in many states, Minnesota formally prohibited incarceration due to nonpayment of CLFOs in 2009<sup>8</sup> (Harris et al. 2017). Civil contempt for unpaid child support may result in jail time—nine participants reported

8. Minn. Stat. § 609.104 subd. 2(d), 2020.

civil contempt or criminal nonsupport charges, three of whom stated that they had actually been jailed.

Legal debt can also bring about further system involvement or custodial sanctions through other mechanisms. For instance, debts may have criminogenic effects. Numerous interviewees conveyed the sense that their hand was being forced—that their circumstances were so constrained as to make committing economically motivated crimes, whether to pay their debts or simply to get by, seem like their most viable option. For instance, Ken, a 38-year-old White man, explained during his interview how his paychecks, which were garnished due to outstanding child support, left him with less than he needed for basic subsistence:

And my paychecks were \$250, \$280 a week, I was bringing home. Two hundred eighty. So now, I can't live on that. I mean, my rent's \$900. That's my whole rent check. My whole check's all for my rent. Now I don't have no money for bills, food, nothing. I can't go to the county and get food stamps, I'm working. What are they going to give me, \$10 a month? The system sets it up for you to fail. The system's put in place for us to fail. And I think it's that way because if you fail, now you got to go commit crimes to get money, rob people, sell drugs, whatever it is, and now you end up in jail.

Ken went on, suggesting that the criminogenic effects of poverty and debt likely contributed to impending changes in the state's minimum wage:

They set you up to fail. That's what they're finally realizing. That's why next year minimum wage goes up to 13 bucks an hour. Why do you think that is? Because people can't live off \$9, \$10, \$11 an hour. I think, and now we're seeing that, the average person that never committed crimes in their life are now committing crimes or going out and stealing or going out and doing whatever because they got to survive. They got to pay food, they got to pay bills, they got to eat, they got to whatever. People with no records at all are now all of a sudden taking felonies because they can't survive on their job.

Geoff, a 32-year-old Native American man, expressed his dismay and frustration about the child support system garnishing his wages, empathizing with those who turn to crime to survive. He also related feelings

of being oppressed and discriminated against as a father in the child support system. Across the interviews, we encountered this perspective with relative frequency.

It makes people want to continue doing things under the table, cash. I can see how these orders . . . Supposedly, it's an antipoverty program, anticrime program. That's at the [Name] County office that says that in there, and I'm like, how is this anti-anything? 'Cause if you got some young kids from the ghetto who . . . I was in their position too. I was young. I had children at a young age, foolishly, and now you're 16 years old, and what's going on in your mind? How are you gonna get rid of this debt? How are you gonna make money to even survive, and how are you not gonna get automatically deducted from the state? I can see how people turn to crime, honestly, sell some weed or something, 'cause nothing about the system encourages a man to want to go along with their program as a program so messed up from junk. It's discriminatory from [the] get-go, and it's a really helpless feeling. If the goal is to support children so that they're consistently supported and they grow up to not [be] criminals or . . . I don't see how them oppressing their fathers so much, financially, is going to help in that cause because if there's a child support order, there's obviously already parental disjuncture or whatever.

As these examples show, carrying substantial legal debts may incentivize and potentially necessitate dual debtors' participation in the underground economy as a means of survival. This is in direct contradiction with foundational responsibilities that carceral citizens are expected to fulfill, such as participating in the formal labor market and paying taxes (Miller and Stuart 2017). Although numerous interviewees spoke of crime as a strategy for navigating myriad economic pressures and constraints, we also heard from people whose experiences with debt and nonpayment consequences were so stressful that they threatened to trigger a relapse back into substance use. Sandy, a 31-year-old White woman, expressed such a sentiment:

I think it's ridiculous because how are you going to suspend a parent's driver's license? It's kind of like they use kids in every situation, like "Oh, we're going to take your kids away." Or whatever. But they take away your license, okay, so then you can't get to work. Or make your car payments. Then you lose your car and can't get to work, or they send you to

jail. How are you going to make money if you're in jail? Or how is this benefiting anybody? It's scary to go to jail but how is it . . . you think they're just going to get right out of jail and get a job right away, you know? I don't think that really changes anything, I think that work program type things, something more productive in helping the parent get a job instead of imposing criminal charges or more and more fees on, you know. Just causing a stressor, and then the parent turns to drugs, for instance. So . . .

Sandy's quote highlights the counterproductive effects of punitive debt enforcement mechanisms like incarceration and driver's license suspensions, as well as the frustration experienced by those subjected to these tactics. Similarly, a few of our interviewees described how debt-related license suspensions led them to commit subsequent vehicle and traffic offenses because they needed to drive to maintain their livelihood. Danny, a 58-year-old Native American man, explained what it was like for him when he first lost his license and could not afford to get it back: "I couldn't afford it, and then if I . . . I was taking a chance and driving, trying to get a job, because it's like catch-22. You've got to go to work, but you can't if you ain't got a license."

Relevantly, some participants reported past arrests and convictions for such driving-related offenses. Beyond further complicating their criminal records and imposing correctional consequences, these convictions ramped up their existing debts as they piled on additional court costs, surcharges, and driver's license reinstatement fees. These varied costs associated with the loss of a driver's license put reinstatement further out of reach, which, in several cases, diminished their opportunities for securing and maintaining legitimate employment. This, in turn, undermined their ability to pay down child support arrears, court costs, and other debts.

Congruent with prior scholarship on ways that desperation can derail the desistance process (Halsey, Armstrong, and Wright 2017), facing seemingly insurmountable debt had contributed to a sense of despondency among some participants, which eroded their commitment to abiding by the law. Devin, a 40-year-old White man who served several years in prison, explained this connection. "At some point, you start to get, even if you're trying to do better, you just get this, excuse my language, but fuck-it attitude. Where, okay, well, then I'll just be what you want me to be, and I'll just be a bad person. And it takes a lot not to do that." Joel, a 30-year-old Native

American/Latino man, echoed a similar sentiment about criminal justice debt when he explained: “Court fees for what? They’re doing nothing, they’re not doing a thing except sitting there, in their minds saying, ‘Well, you’ve been here this amount of time before, you’ve been this many times.’ They’re not doing anything. They’re getting paid by taxpayers’ money; that’s money that you need to take care of your other bills, your family and stuff, and if they’re gonna take your money, that’s just gonna keep people going back out there and committing crimes. Really, that’s what it’s about. It’s like a revolving door: they take your money, and then you’re back in there. You go back out the door, you gotta have more money.”

It is worth emphasizing here that rarely if ever did participants talk about actually engaging in criminal activity themselves as a result of their debt burdens. Instead, they mostly discussed the criminogenic aspects of legal debt in theoretical, hypothetical, and speculative ways. Although their circumspection about disclosing to a researcher activities that could result in legal consequences was sensible, what they did say on the matter often revolved around a commonly held view that the criminal legal and child support systems erect barriers to formal employment (and hence economic stability) and thereby incentivize illegal activity. In summary, our interviewees revealed various mechanisms by which debts exacerbated their carceral vulnerability.

#### *Comparative Salience of Child Support Debt*

One remarkably clear theme that was visible from the early stages of data collection was the salience of child support. That is, child support arrears and enforcement played a larger, more consequential role in participants’ lives and personal narratives than did CLFOs. The subject of child support generally elicited more potent affective and emotional reactions, and, furthermore, most participants demonstrated much greater familiarity with particular details of their child support obligations than of their criminal legal debts. Whereas few could confidently state how much they owed toward monetary sanctions, many provided figures for their monthly child support obligations and arrearages. The regular notices they received about child support likely accounted for much of this discrepancy, especially considering the sparseness of CLFO notifications. Moreover, arrearages often triggered serious consequences, with driver’s license suspensions and wage garnishments referenced most frequently. In contrast, none of our interviewees had their wages garnished for criminal legal

debts (although garnishment from prison commissary accounts was noted), and only a few faced driver's license restrictions.

The fact that child support is regularly enforced through wage garnishment, but CLFOs generally are not, may help explain why some interviewees report paying child support but not paying criminal legal fines and fees. With involuntary garnishment, child support always gets paid first, though some would tend to prioritize it over court debt anyway because it ostensibly benefits their children. Taken together, it seems probable that child support debt and CSE policies have at least some diminishing effects on compliance with CLFOs.

The following exchange with Nate, a 33-year-old Black man, underlines some of the factors that make child support more conspicuous in debtors' day-to-day lives.

NATE: I think that the child support debt is a lot more present. The criminal justice debt, it's more of an afterthought.

RESEARCHER: Do you think that's because the consequences are more severe or because it has a different—

NATE: Everything. The consequences are more severe. I don't know if they're more severe, but they're definitely more present. You get reminded a lot about your child support debt. Also, your child's mother is going to be there in the court to figure it out too.

Danny, 58, called attention to yet another crucial factor, explaining how criminal legal debt differs from child support in that the latter is levied continuously.

Yeah. That's set. Set amount. If you owe \$1,500, you owe \$1,500, and then you pay that off, and it's a wrap, but child support is like every year, every year, all the time up until it stops. I don't know when it's going to stop. Maybe when they turn 18 or when they get off welfare.

Jenna, a 30-year-old Native American woman, echoed Nate's comments, emphasizing nonpayment consequences and the divergence in terms of severity between child support and CLFOs.

RESEARCHER: Would you choose to pay child support first or criminal justice debt first? Or just wait until it comes out of your taxes later?

JENNA: I would definitely pay child support first.

RESEARCHER: Why is that?

JENNA: I feel like more paranoid to it . . . I feel like more of like a risk. Because so far, I've been needing to pay my, my criminal stuff for years, and they haven't done nothing.

Complementing Jenna's point about direct consequences, Steven, a 55-year-old White man, reflected on second-order effects of arrears and how one can come to feel trapped.

RESEARCHER: Would you say one or the other has had a bigger impact on you?

STEVEN: Child support at this point.

RESEARCHER: Yeah. If you didn't have child support debt, how would your life look different?

STEVEN: I'd still be working. I wouldn't have to be trying to be how I was gonna get my license back and how I could get out of this mess that they've created. I don't know.

A stark example of participants' differential experiences and views of child support versus monetary sanctions emerged during an interview with William, a 47-year-old Native American man. At different points in the discussion, he was asked to characterize his overall experience with one set of debt obligations and then the other. Of the child support system, he said, "Horrible. Horrendous. Terrible. Ugly. Insane." Later, he reflected quite differently on the way the system handled monetary sanctions: "It's pretty good, fair."

Participants routinely reported that child support debt was more pressing and had a more dramatic impact on their lives than CLFOs, but this rule did have its occasional exception. Sandy, a 28-year-old White woman, made one such statement: "I would say the criminal justice debt is a little more serious, I guess. Has a little bit more consequences. The child support, I think that's just more like a state-run thing where they're just kind of separate in that way maybe. Kind of . . ."

With child support occupying so much space in dual debtors' lives, we can see how CLFOs might take a backseat. However, the failure to pay CLFOs can have serious repercussions (such as license suspension), which in turn enhances the carceral vulnerability of dual debtors.

*Perceptions of Fairness*

Most of our interviewees found at least some aspect of their legal debts unfair, and as might be expected given its relative salience, they often portrayed child support enforcement as particularly unjust. Some felt that their support orders had always been excessive, whereas others found that, due to incarceration and other major shifts in their circumstances, previously reasonable orders became unmanageable and quickly turned into onerous encumbrances. Danny, 58, was among the participants in the latter category:

There was a time when I thought it was fair, and I still kind of think it is, because my kids and the city and the state are being generous to help them [with] support. The only drawback I've got on that is the time I did eight months in [faith-based treatment] and the year in jail, where I came out and there's five grand on my books that says I owe, and I'm like, "You can look at my books. I was in jail. I was in your jail for the year," but it was my responsibility to bring it to them and I'm like, "Oh, man. You knew I was in jail, man."

In terms of debt-precipitating events, incarceration obviously stood out. Once locked up, an obligor's ability to pay craters, and debt builds, unless one manages to successfully petition for an order modification. Upon release, payment may be just as difficult as imprisonment due to the obstacles of reentry. Other kinds of volatility may further compromise the ability to pay. For instance, interviewees with seasonal or otherwise precarious employment found it difficult to keep up with initial child support orders. Lisa, a 47-year-old White woman, even accumulated child support arrears—with interest—during a number of years when she was caring for her child:

LISA: This is also another thing to add to this, which makes me very angry. I got my crap together after [my daughter] went to live with my mom because of the domestic violence between that second husband, that really icky one. He was like lighting me on fire, and he threw me out of a moving car. He shot me, stuff like that. Really, really bad, icky, icky. Stabbed me . . . Went to prison for it. Twice he's gone to prison for attempted murder . . . Then she came back to live with me after I left him. She came back to live with me when she was 13, so she was

only gone for three years, but [Name] County thought she still lived with my mom because we didn't know if they'd give her back to me even though I was clean and I had a job. I had an apartment. I didn't know if they'd give her back to me, so my mom just gave her back to me and said, "She can go live with you, and then if the case worker ever wants to come, she'll just come back here for a day or two." . . .

. . . We did it the sneaky way, but I just didn't know if they'd ever come back, and I didn't want to risk them watching so close that I couldn't have her overnight at all.

RESEARCHER: What was the child support order? How did that—

LISA: It wasn't very much. The county put it together. It was like, I don't know, \$89 or \$99 a month. It wasn't very much, but for three years that she was gone and then the next five years, that's eight years. It was eight years total . . . That adds up, plus arrears, plus interest, plus they charge fees for moving it around from wherever to wherever. It adds up, and she was with me for five of those eight years.

Legal debts can result from misfortunes or circumstances in which the debtor was actually a victim, as in this case where child support had the effect of straining a survivor of domestic violence. For Lisa, the impact of dual debt had affected both her housing and familial arrangements. On top of this, debtors face additional financial penalties for late or unmet payments. Like Lisa, other interviewees felt it was unfair (and perhaps absurd) that their inability to keep up with regular payments was punished by the imposition of even more debt, through interest and late fees. Lee, 53, took particular issue with the interest charges: "Because of the interest that they tacked on. And it's like, okay, so the interest is for a loan, and that's my definition. Interest is for a loan, this isn't a loan, so how am I paying interest on this? That's the way I feel about that, it ain't like she loaned me the money. I guess, in their eyes, she spent her money because I didn't pay money."

Another aspect of the child support system at which participants leveled criticism was the process of determining order amounts. Matt, a 40-year-old White man, commented about this during his interview:

Yeah, I would say so. I mean, I've learned so much just about how the family law works in the last year and a half. And with child support not being ordered, I mean, I understand how they come up with these

numbers, but I don't think that it's exactly fair, either. Because if I were to quit and go get a job in a fast-food joint for 10 bucks an hour to lower my child support, they'd say, "No, your potential income is this, so that's what they're going to charge you for." Well, what about my ex, who's working for \$12.50? She used to work another job for \$20 an hour, so why isn't her part of this based off of potential income? But they won't look at it that way . . .

Well, like I was saying earlier about your potential income. I don't think it's fair that they'll look at what my potential income should be but not hers. And when you're working and only making \$12.50 an hour, day care costs more . . . when you have two kids in diapers . . . it costs more than what you're making, but you can get assistance for that so that you can go work. It just doesn't make much sense. I think you'd be better off just giving her so much a month. It would be cheaper than paying the day care for her to go to work . . .

Matt's comments gesture toward a relationship between dual debt obligations and feelings of resentment and animosity toward the custodial parent. This dynamic can be highly consequential for carceral citizens, who often must lean on their social networks for support (Naser and LaVigne 2006). Consequences of nonpayment often arose in discussions of fairness, with participants pointing out how these are counterproductive or "make zero sense." A few of our previous examples illustrate this theme (consider Sandy and Danny discussing the driver's license suspension). Justin, a 30-year-old White man, shared his similarly critical view of driver's license suspensions: "I think that I'm okay with the child support, and I'm okay with the child support debt, because, with a few exceptions, like the license thing. Makes zero sense to me; taking a guy's license because he can't pay is absurd, because he can't work to pay. That's absurd . . ."

Justin's differentiation between the general fairness of child support, on the one hand, and the unreasonableness of specific practices and enforcement strategies, on the other, reflected a common perspective among participants. Many of our interviewees thought that the child support system, its implementation and consequences, was not inherently unjust—rather, it was operating poorly. Some thought that the sanctions for nonpayment were necessary but only in certain situations. During her interview, Laura, a 41-year-old White woman, described the garnishment of wages as a difficult, though perhaps understandable, consequence: "Garnishing

your wages. Maybe not the garnishing your wages one but taking all of your tax money or things like that. People still have to survive, I guess. I'm coming from both ends. I know that they did it to him, which is fine because it's coming to my son, but then I wouldn't want them to do it to me, but I wouldn't have that much debt, so I guess maybe it's fair. It's fair enough."

Perhaps most surprising, however, was the contrast in how respondents perceived the fairness of the criminal legal and child support systems. It seemed that for many of our interviewees, the child support system was so onerous that it made the criminal legal system seem fair in comparison. The following discussion took place in our interview with Lee, 53:

RESEARCHER: How would you describe your experience with the child support system?

LEE: Brutal, that's the right word, *brutal*. They beat me up and whip me, and they're still whipping me. Brutal, but some of that's my own fault. Like I said, if I knew what I knew now. Sometimes you just gotta grow up finally, it's like, okay . . .

RESEARCHER: How would you describe your experience with the criminal justice system as it relates to fines, fees, other financial sanctions that you've experienced?

LEE: I don't know. I'd call it an even trade.

Kyle, a 41-year-old White man, related a simple yet harsh critique of the child support system. Regarding the fairness of child support enforcement, he explained, "Oh, it's a completely broken system. To say the least. Oh, man." But later, when asked about the fairness of criminal legal financial penalties, he responded: "Yes, I don't think the way they do it is fair. I think having fines is fair because, like I said, in this circumstance, I could have went to jail. I could have lost my license for a really long time, however they work for me, but I feel like it's more of an income-based ordeal now; they're just looking for revenue instead of really punishing criminal activity."

Importantly, Kyle saw CLFOs as fair to some extent, yet he was still somewhat critical of the motivation underlying these fiscal penalties. Still other participants perceived both types of debt as unfair. Eric, a 39-year-old White man, provides an example of this. When discussing child support debt, he explained:

I really don't think it's fair. Honestly, from the experiences that I've had when I had custody of, well, when I was living with my daughter, which they considered I had custody of her. Even when my mom had the custody, they didn't go after the mother for child support at all. Saying, well, it just negates it. But then they kept late feeing me every month. So it was like I was still paying, and she didn't have to. I even talked to the child support worker about, "Well, I want to file for child support for her." And they're like, "There's no reason. There's no way you're going to get it." And they just dropped it.

When discussing sanctions for nonpayment, he stated:

Well, I think the driver's license thing, I think it's crap. How are they going to expect you to pay it if they're going to limit you being able to get a job? We were up in the country, where you got to go 10 miles to get a job. So without that driver's license, I have to ask people to drive me or have my girlfriend and get a car to borrow and then drive me. And that's so much of a hassle. I can understand my recreational license. Take my fishing license, take my hunting license, take all that stuff. But the driver's license is a basics of life nowadays. So I don't think they should be able to take that.

Later on in his interview, Eric echoed the sentiment expressed by many others that criminal legal financial penalties were fair when compared with child support debt:

RESEARCHER: Right. So in comparison, what are your thoughts about the fairness of criminal justice penalties in terms of fines and fees?

ERIC: I think they're pretty fair. You get one set amount, and if you don't pay that set amount, and then they do something about it, but they're not charging late fees constantly and putting [you] deeper.

## **DISCUSSION**

Taken together, our quantitative and qualitative findings provide a compelling account of dual debtor status. Our quantitative analysis, in which we matched individuals across state records, provides the first descriptive overview of dual debtors. From our population-level data on Minnesota

debtors, we draw three key conclusions. First, child support debt imposes greater financial burdens than criminal legal financial obligation debt. Second, the impact of having both forms of debt at the same time is non-additive; that is, individuals experiencing both forms of debt concurrently carry significantly more debt than would be suggested by examining those with either form alone. Third, each form of debtor status showed both race and gender variation, with males generally having greater outstanding debts across all types and racial categories, and Native American and Black debtors holding the greatest amounts of debt.

The qualitative portion of this mixed-methods study drew on in-depth interviews with 30 dual debtors in Minnesota, with three dominant themes emerging. First, accumulated debts amplify the carceral vulnerability of dual debtors through many mechanisms, including incentivizing economically motivated recidivism or generating high levels of stress, triggering potential substance use. Our interviews also revealed that the burden and severity of child support debt is typically much stronger than criminal legal debt, indicated by our second theme (greater salience of child support debt) and final theme (child support's perceived unfairness relative to their CLFOs) reported by dual debtors. This is congruent with our quantitative finding that dual debtors indeed hold greater amounts of accumulated child support debt relative to outstanding CLFOs. Likewise, the carceral vulnerabilities reported by dual debtors are consistent with and provide insights into the mechanisms through which the imposition of both debts has expanding, not merely additive, effects, as shown in our quantitative data.

Dual debtors are carceral citizens (Miller and Stuart 2017) being surveilled by at least two state institutions simultaneously. Our research illustrates how these debts, in combination, help to construct a precarious form of carceral citizenship. We find that people struggle to pay these state-imposed legal debts, extending the duration and intensity of surveillance by both the child support and criminal legal systems. As both our quantitative and qualitative analyses reveal, the impacts of these debts on individuals are not merely cumulative—when experienced in tandem with one another, these debts and their consequences for persons subject to them magnify. Although child support and criminal legal debt can be isolated for analytic purposes, people experience them collectively as a system of legal indebtedness. Thus, perhaps the most important implication of our study is the fundamental point that for people entangled in multiple systems of debt, these debts tend to “pile on” one another (Uggen and Stewart

2014) and “pile on” to the surveillance and social life of legal exclusion to which carceral citizens are already subject (Miller and Stuart 2017).

Although many carceral citizens are socialized into aspirations of abiding by rules and regulations from state entities and becoming productive tax-paying citizens despite their limited labor market prospects (Miller and Stuart 2017), the findings of this study suggest that the strains of dual debt push individuals away from the (limited) economic opportunities generally available to carceral citizens. Due to a literal inability to subsist with garnished earnings in the formal economy, those subject to dual debt turn to the informal labor market as a means of survival. This in turn has a cascade of implications for dual debtors. They are unable to reap the benefits that some obtain through formal employment (such as health insurance, paid time off work, workers comp, etc.). They often miss payments on their debts, which results in formal sanctions such as license suspension, which further limits their earning potential while increasing their carceral vulnerability.

Although there is wide variability in the ability of carceral citizens to rely on their familial relationships for support, aspects of dual debtor status may shape and strain these relationships in unique ways. Whereas it is beyond the scope of our study to draw conclusions, our findings point to several avenues through which debt may structure familial relationships. Dual debtors, by definition, are parents who have failed to provide the level of financial support for their children expected by the state, and as such, they are subject to being characterized as a “deadbeat” parent (potentially eroding their relationship with their children). Moreover, regardless of whether child support collections are given to the custodial parent or are reimbursed to the state to defray welfare costs, the custodial parent is typically the catalyst for the enactment of child support debt. This can create tension and resentment in the dual debtor-custodial parent relationship, cutting off a possible source of support in the dual debtor’s life. The absence of much-needed social support may in turn contribute to the unmet material and intangible needs of dual debtors, further magnifying their carceral vulnerability.

Carceral citizens are already subject to state and private monitoring, and their social, economic, and civic opportunities are heavily constrained; for dual debtors, these are strongly amplified. Put simply, the impact of the debts directly and the formal and informal surveillance and consequences that result from these debts may create cycles putting dual debtors at

increasingly greater disadvantage. The obligations of dual debt may produce nearly insurmountable obstacles to realizing a more idealized form of carceral citizenship in which income is generated through the formal economy, responsabilization is achieved through paying taxes, and familial relationships provide supplemental support (Miller and Stuart 2017). Therefore, we argue that dual debtors constitute a particular subset of carceral citizens, those for whom many of the most insidious aspects of carceral citizenship are magnified.

### **IMPLICATIONS FOR RESEARCH AND POLICY**

Our findings speak to policy and practice, identifying several priorities for reform. First, given the upsetting and counterproductive impact of driver's license suspensions for nonpayment, states should either remove this consequence or dramatically limit its use. Relatedly, given the compounding way that these debts work together, we recommend each system should take the other system into account when determining amounts imposed. To facilitate the ability of dual debtors to, minimally, be able to draw on the formal economic opportunities afforded to other carceral citizens, wage garnishment should be ceased or dramatically reduced for those with low incomes. Similarly, to make compliance with payment expectations more viable for poor defendants with limited employment opportunities, the amounts of debt ordered in each system should be reduced considerably.

This study speaks to scholarship in multiple fields of inquiry. In showing the nonadditive compounding nature of these debts, our study adds to the literature on child support noncompliance (Sorensen and Zibman 2001; Ha et al. 2008; Meyer et al. 2008; Hodges et al. 2020). Our work reveals another factor that may contribute to child support nonpayment and expands the literature that describes persons unable to pay their CLFOs (Harris et al. 2010; Fernandes et al. 2019; Slavinski and Spencer-Suarez 2021). Similar to past research on those affected by the criminal legal system (Shannon et al. 2017) and child support system (Grall 2007), we find that dual debtors are disproportionately men and are disproportionately racial minorities. In addition, whereas past work has highlighted the relationship between incarceration and child support debt (Cammatt 2006, 2010; Haney 2018) or correctional supervision and child support (CS) (Sorensen et al. 2007; Link and Roman 2017), our findings expand this line of work to a broader population: those with the most common sanction

imposed by the criminal legal system, monetary sanctions (Martin et al. 2018; Slavinski and Spencer-Suarez 2021).

Our qualitative findings speak to the literature on legal debts and recidivism by providing additional nuance in explaining why some may abscond or return to crime (Pogrebin et al. 2014) when they feel they are unable to make payments. Our interviewees provided compelling explanations for how debt can be a motivator in instrumental, economically motivated crime (Martire et al. 2011) for dual debtors. Our findings also confirm past studies on sizable child support arrears as a driver of participation in the underground economy (Miller and Mincy 2012).

Last, and most significantly, our study contributes to the growing field examining the experience of carceral citizenship (Miller and Alexander 2015; Miller and Stuart 2017). Through specifically examining the experiences of a population subject to multiple simultaneous forms of state surveillance, we argue these debts generate a unique form of carceral citizenship. Dual debtors, as carceral citizens, are subject to surveillance and care from public and private institutions (Miller and Stuart 2017). However, when carceral citizens are subject to dual debt, the consequences of these debts have cumulative and cascading impacts.

As the first of its kind, this study provides a base of foundational knowledge on dual debtors but raises many unanswered questions and topics to be explored in future research. For instance, the scope of our study is limited to a single state, Minnesota. Do our findings hold true among dual debtors living in other states and regions, especially in those with comparatively punitive systems of child support enforcement and collection of legal financial obligations? Our interviews show the broader human toll of criminal legal debt in relation to monetary sanctions and point to several pathways for further analysis of dual debtors' comparative experiences and assessments of each type of state-imposed debt. This raises questions about how debtors understand the rules, practices, and expectations of these systems and how they strategically navigate them. The implications of these decisions are important in understanding debtors' social and economic wellbeing and whether they are able to avoid continued carceral contact, obtain secure employment with benefits, and maintain positive or at least amicable relationships with persons with whom they share children. Finally, our somewhat heterogeneous sample of 30 interviews did not allow us to explore the racialized and gendered experiences of dual debtors; we hope that future scholarship will.

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