

Race, Class, and Access to Civil Justice

Sara Sternberg Greene*

ABSTRACT: Existing research indicates that members of poor and minority groups are less likely than their higher income counterparts to seek help when they experience a civil legal problem. Indeed, roughly three-quarters of the poor do not seek legal help when they experience such problems. Inaction is even more pronounced among poor blacks. This Article uses original empirical data to provide novel explanations for these puzzling and troubling statistics. This study shows, for the first time, a connection between negative past experiences with the criminal justice system and decisions to seek help for civil justice problems. For those familiar with the law, civil and criminal law are separate categories across which experiences do not generalize, any more than a negative experience of subways would lead one to avoid driving. For most respondents, though, the criminal and civil justice systems are one and the same. Injustices they perceive in the criminal system translate into the belief that the legal system as a whole is unjust and should be avoided. Second, this Article shows that past negative experiences with a broad array of public institutions perceived as legal in nature caused respondents to feel lost and ashamed, leading them to avoid interaction with all legal institutions. Third, my data and interviews suggest that respondents helped make sense of these troubling experiences by more generally portraying themselves as self-sufficient citizens who solve their own problems. Seeking help from the legal system might run counter to this self-portrayal. Finally, this Article provides a novel analysis of racial differences in how much citizens use the civil legal system and argues that disparities in trust levels help to explain these differences. This Article concludes by

* Associate Professor, Duke University School of Law. For invaluable comments and suggestions, I thank Jason Beckfield, Jaime Boyle, Rachel Brewster, Guy Charles, Kathy Edin, Daniel Greene, Maggie Lemos, Ralf Michaels, Orlando Patterson, Barak Richman, Neil Siegel, Van Tran, Neil Vidmar, and Chris Winship, as well as all of the participants of the Duke Law School January 2015 Faculty Scholarship Retreat. I also thank Alex Galbraith, Vince Geis, and Allison Schmidt, members of the *Iowa Law Review*, for excellent editorial work. The American Bar Association generously funded data collection and analysis. Additionally, the National Science Foundation provided support to the author for data analysis and writing. Special thanks to the residents of Cambridge, Massachusetts who agreed to be interviewed for this project and without whom this Article could never have been written. All errors are of course my own.

discussing potential policy implications of the findings and identifies key areas for further research.

I. INTRODUCTION.....	1265
II. EXISTING APPROACHES TO ACCESS-TO-CIVIL-JUSTICE	
SCHOLARSHIP.....	1270
A. <i>EXISTING RESEARCH ON ACCESS TO JUSTICE</i>	1271
B. <i>EXISTING RESEARCH ON RACE AND TRUST</i>	1275
III. DATA AND METHODOLOGY.....	1281
A. <i>QUALITATIVE METHODS</i>	1281
B. <i>SAMPLE SELECTION</i>	1283
C. <i>DATA COLLECTION</i>	1285
D. <i>DATA ANALYSIS</i>	1287
E. <i>DATA PRESENTATION</i>	1287
IV. RESULTS.....	1288
A. <i>SHARED EXPLANATIONS FOR INACTION</i>	1288
1. "To Me It's All Law and Courts and Bad": Criminal and Civil Justice Confusion.....	1289
2. "More Money, More Justice"	1290
3. Past Experiences with Courts and Other Institutions.....	1294
4. "I've Made It on My Own. I Don't Need No Lawyers or Courts": Self-Sufficiency Narratives.....	1298
B. <i>RACIAL DIFFERENCES IN CIVIL JUSTICE PERCEPTIONS AND UTILIZATION</i>	1301
1. Race, Trust, and Use of Civil Courts.....	1301
2. Racism	1304
3. Race, Corruption, and Use of Courts	1307
4. Civil Justice Utilization Differences: Black and White Respondents	1309
V. AGENDA FOR FURTHER RESEARCH AND POLICY CONSIDERATIONS.....	1313
A. <i>AGENDA FOR FURTHER RESEARCH</i>	1313
B. <i>POLICY CONSIDERATIONS</i>	1314
VI. CONCLUSION	1316
APPENDIX: CIVIL JUSTICE SURVEY	1320

respondent was assigned a unique identification number, which was included on their transcripts and data file. A name (not associated with the respondent's actual name) was assigned to each unique code number to ease data presentation and eliminate potential confusion. I omitted potentially identifying information from all data presentation, such as exact addresses and exact places of employment.

In presenting data in this Article, I primarily used adjectives such as "most," "many," and "some" to convey the prevalence of a theme across interviews, rather than reporting exact percentages of prevalence. In qualitative data, presentation of exact numbers can lead to a false sense of precision of the data. Further, these percentages do not take into account the strength of people's statements.

I used the word "most" when the vast majority of respondents in a given referent group (such as black respondents) indicated a specific viewpoint or theme. I used the word "many" when roughly half of the referent group referred to a position or theme, and the word "some" when a theme or idea was not representative of a group as a whole but was shared by several people and thus suggested a potentially important pattern. All findings presented in this Article were supported by multiple respondents, and no outlier viewpoints were presented, unless indicated as such. In some instances, I did report exact percentages or proportions of respondents who expressed a certain viewpoint because I believed these numbers would be helpful to the reader. This was technically possible to do for more themes, but I refrained from doing so because of the limitations and potential for misunderstanding such presentation of qualitative data can promote.

IV. RESULTS

The results of my analyses are described in two Subparts. In Subpart A, I discuss the explanations for inaction that emerged across all respondents.¹⁴² In Subpart B, I describe the explanations for inaction that differed between white and black respondents.

A. *SHARED EXPLANATIONS FOR INACTION*

The explanations for inaction that were shared across the respondents' racial groups fell into four general categories that were interrelated. First, most respondents believed that the criminal and civil justice systems were one in the same, and negative past experiences with, and perceptions of, the criminal justice system made them resistant to seeking help for civil problems. Second, respondents (most referring to the criminal justice system) believed that the justice system is one in which justice can be bought, and thus, if one does not have the money to pay for an expensive lawyer, seeking out formal

¹⁴². This Part details only explanations for inaction that were common among respondents. See *supra* note 16.

legal help is unlikely to resolve the issue. Third, negative past experiences with public institutions (both legal and non-legal) led respondents to want to avoid similar negative experiences, and they perceived involving themselves with the legal system as an experience that would reproduce those negatives feelings. Finally, in part as a way to make sense of their past perceptions of, and experiences with, the criminal justice system and other public institutions, many respondents developed personal narratives as self-sufficient citizens who take care of their own problems and stay “out of trouble.” Seeking help from the legal system was counter to this identity.

1. “To Me It’s All Law and Courts and Bad”: Criminal and Civil Justice Confusion

During the first few interviews I conducted, I noticed that even though my interview questions focused almost entirely on civil justice, respondents answered with examples from criminal justice experiences and perceptions. After a few more interviews, it became clear why: most respondents did not know the difference between the criminal and civil justice systems, or even about the existence of two different systems with different players and processes. Respondents were asked a specific question about the differences between the civil and criminal justice system, and 78% of the respondents said they did not know. Responses such as the following were typical:

I’m not really sure. To me it’s all law and courts and bad. Stay away from the law, that is my MO. It’s good advice.

—Lynn

I think it has something to do with what the crime is, but it’s the same lawyers and judges and courts. It’s a sorting, but a sorting why? I’m not so sure.

—Chris

It’s about all the same. They come up with fancy names and such so I can’t understand, but, um . . . it’s really the same. All the same.

—Isaiah

One plausible explanation for this confusion was that respondents did, as a practical matter, understand the difference between the two systems of justice but simply were not familiar with the term “civil” justice. However, asking follow-up questions confirmed that the confusion was not just around the word “civil.” Respondents were asked how they would go about finding a lawyer if they were being evicted, for example, and many respondents said they would have to seek help from a public defender:

Well, if I really needed a lawyer against my landlord I could get one of those public defenders for free. I wouldn’t want one, but yes they

are available and they are free. They have to take you. You'd just go right down there to that legal aid and get yourself a public defender.

—Tara

I'm not in the business of going to lawyers, but if I needed to, there are public defenders available for free.

—Valerie

Scholars who study the legal system typically fall into one of two broad camps: those who study the civil legal system and those who study the criminal legal system. These two groups rarely come together at academic conferences; rarely work together on research projects; and, for the most part, see themselves as studying two very distinct systems and bodies of law. While this may be true from a legal standpoint, for most poor respondents there is little difference between the two systems. Court is court. The law is the law. Lawyers are lawyers. Judges are judges.

For most respondents, the majority of their experience with what they consider “the law” had been with the criminal justice system or with hearings that they considered criminal in nature. Even though many respondents had not been charged with criminal activity themselves,¹⁴³ most had a close friend or family member who had been involved with criminal justice in one way or another.

2. “More Money, More Justice”

Most respondents believed that they were entitled to a free lawyer for any legal problem they had, seeming to confuse the right to a criminal defense attorney with the idea that one has the right to an attorney for any problem. Indeed, 72% of the respondents in this study believed that they could access a free lawyer to help them resolve any civil legal problem they had.¹⁴⁴

Unlike scholars and policymakers, the respondents were largely unaware of the long waitlists for civil legal services. A lack of available legal aid lawyers was far from the forefront of most respondents' minds. The problem, in their view, was not access to *any* lawyer, but that they did not have the money to hire a *good* lawyer. One respondent, Hilda, repeated “more money, more justice” over and over again throughout her interview. She said:

More money, more justice. I mean it. More money, more justice. It is true. The more money you have for an attorney, whether you are

143. This is likely due to the sample selection of public housing residents. *See supra* notes 127–28 and accompanying text.

144. It is important to note that the respondents may not have had accurate views of their ability to access a lawyer. *See supra* text accompanying note 33. This Article does not argue that increasing funding for lawyers is not important. Instead, it argues that we need to expand how we think about access-to-justice policy and research to include people who never seek out a lawyer but may benefit from some kind of help in addressing a civil legal problem.

a big case or not, the more justice. If you have more money, they have more time to do the paperwork, investigate, that kind of thing. Oh I can get an attorney, let me tell you. No problem at all. But it won't be one of the good ones.

According to Hilda and most of the other respondents, no matter how much money went to legal aid to increase the number of lawyers available, it would not solve the problem. The issue is not getting a free lawyer; the issue is getting a high quality lawyer, and that, most respondents believed, is only for the rich. The theme that free lawyers are not good lawyers presented in almost all of the interviews. Some of the respondents even provided specific examples of cases in which they believed money for a private lawyer directly affected the outcome of the case, and all of the examples they used were from criminal—rather than civil—cases. Amanda, for example, brought up a notorious murder case in Cambridge, Massachusetts:¹⁴⁵

Well, right now, I am a little on the side that if you have the money, you can get anything you want, even in a courtroom. [Interviewer question: What makes you say that?] Alex Pring-Wilson. His parents are both lawyers, and one of his parents is a district attorney in Colorado. And they have enough money and law experience to keep this going

The Pring-Wilson case, a murder case in which the defendant was a white Harvard graduate student with wealthy parents, came up in several interviews as an example of how money can buy justice. One respondent, Gemma, noted:

In the Pring-Wilson case, the money of the parents bought that kid his freedom. Keeping it alive with their lawyers, who are Massachusetts lawyers. Well they were able to buy such good legal representation and enough legal representation to get the first overturned, and now this one could be good. If he were represented by a public defender, he would probably be doing life. I'm not saying anything bad about public defenders. They are like social workers, yeah social workers. Department of, um, DSS workers. They have too many cases. In a way it is and in a way it isn't their fault. It's the system's fault by not having enough money to hire enough social

145. The case of Alexander Pring-Wilson received a great deal of attention in the local media. In April 2003, Pring-Wilson, a white Harvard graduate student, got into a fight with Hispanic male in Cambridge, Massachusetts. John R. Ellement, *Jury Deadlocks; DA Vows 3d Trial for Pring-Wilson; Judge Declares Mistrial in Manslaughter Case*, BOS. GLOBE, Dec. 15, 2007, at B1. Pring-Wilson ultimately stabbed and killed the Hispanic victim. *Id.* The exact course of events is debated, but Pring-Wilson was found guilty of voluntary manslaughter. *Id.* The case was in the news again at around the time of the interviews because a law allowing a victim's background to be revealed in court was retroactively applied, and thus, Pring-Wilson was released on bail and granted a new trial. *Id.* The jury deadlocked on this trial (after this interview was conducted). *Id.*

workers and public defenders. And then after a couple of years the good public defenders leave and go into private practice.

"Public pretenders" was a term used to describe public defenders in 35% of the interviews. Respondents were never asked about this term, but spontaneously used it themselves when describing lawyers. Many respondents discussed specific examples of injustices in the criminal system they or their families had experienced, and these instances reinforced the notion that free lawyers, public defenders, are inadequate. Mary discussed one specific example of how she came to decide public defenders are inadequate:

Two of my son's friends. One of them had a public defender. One had a private lawyer. They both went in there for the same thing. But the public defender one got a lot of time, and the other one got no time. They got caught together, same charges. One got off. That proved it to me. First offense for both of them.

Nia discussed her own experience with the criminal justice system:

Public pretenders, you mean? I was never contacted by my lawyer before my court case. Then, when I got there, he had the wrong file and thought I was someone else. They really suck because they're not getting paid like a regular lawyer would be, so they don't really care.

In contrast to the "bad" public defenders, some respondents talked about the positive experiences they or their family members had with "good" lawyers who cost money. For instance, Travis discussed the experience of his family member:

They don't spend enough time on it. I did have someone in my family with that. He didn't have a public defender. They gave him four to 12 years. They didn't want to give him any deal. The DA wanted murder one. And he, thank god he had money like that, because he ended up spending almost 5K. He would have gotten a lot more time. They came with something like manslaughter, I don't know what it was. They went to trial. The lawyer was pretty good. As a matter of fact the lawyer is a judge now.

Respondents' perceptions of the unjust criminal legal system directly affected their use of the civil legal system. Kenyatha's story is perhaps the best illustration of this. Kenyatha had been separated from her husband for 20 years. At the time of the interview, she had been living with another man and had not talked to her husband, with whom she had two children, in over five years. Because she did not file for divorce, she received no child support or alimony. I probed Kenyatha about why she had not filed for divorce. At first she avoided my questions, simply saying, "I just did not want to get involved" again and again. However, after further questioning she said:

Honey, to be honest, it pains me; I just could not face those public defenders. You may not believe it, but I just can't. I looked into that divorce stuff myself, honey, it's complicated. Pages and pages of writing, let me tell you. But seeing a public defender for help? Uh uh. No thank you very much. My brother went to jail because of those bastards. Uh uh no thank you. I'll just keep on keeping on. For all I know, I'd go in for a divorce and come out in jail. Really, I'm not seeing no lawyer—ever. That is if I can avoid it. And I can so I will, honey, I can so I will. Maybe I gave up some of my rights regarding him, and some money, but I need to avoid them, honey. That's how it is. No use getting involved.

Kenyatha's perception of the justice system is that for whatever problem she has, she would have to "face" a public defender, and seeing no lawyer is better than seeing a public defender. It was best to just avoid the system at all costs.

Even for those respondents (46%) who did not have direct experience with the criminal justice system (either themselves or through family), criminal justice was still what they spoke about when talking about "the law." This may be in part because crime is such a common occurrence in their communities.¹⁴⁶ However, another significant contributor to respondents' perceptions of the justice system came from television coverage of sensationalized criminal trials and television shows, such as *Law and Order*.

For example, the interview guide contained questions about the O.J. Simpson murder case toward the end of the interview. However, it turned out that the majority of respondents brought up Simpson before they were asked questions about him, using his case as an example of how money can buy freedom, even when one is guilty of a heinous crime.¹⁴⁷ All of the respondents who brought up Simpson believed that he was actually guilty but that his talented lawyers were the reason for the not-guilty verdict:

I think everyone should have the right to good counsel. I mean look at O.J., he got off. I KNOW he did that. It's not a black or white thing, it's about right or wrong. I mean come on, beating her all those years? And I'm so glad he got caught for this thing. So now maybe he'll pay. I think he got off because he paid, I mean he had a good lawyer. I mean if it was me, forget about it, I'd be in jail. I'd have one lawyer to do everything. That's not fair.

—Audrey

^{146.} See generally Lauren J. Krivo & Ruth D. Peterson, *Extremely Disadvantaged Neighborhoods and Urban Crime*, 75 SOC. FORCES 619 (1996).

^{147.} Most of these interviews were conducted before O.J. Simpson's second trial for armed robbery and kidnapping (among other felonies) in which he was, indeed, convicted and sentenced to time in prison.

Look at O.J. He did it. His lawyers is how he got off If he had a public defender, he'd be in jail. Everyone should have lawyers like that.

—Malcolm

I'll tell you one thing. And everyone of color hates me to say that. I knew O.J. was guilty. . . . He was guilty as sin. But he had enough money. And, what did he do, he is a black American that did something that a lot of whites do. But I knew he was guilty. I don't know why but I still feel that. But he got over it because he got the money. . . . He was everything to everyone till they heard that phone call from his wife. . . . I've had these discussions and people feel uncomfortable. No, say what you think.

—Sheri

Sensationalized trials such as the O.J. Simpson case only added to respondents' perceptions that money could buy justice. One of the final questions respondents were asked was what, if anything, they would change about courts, and almost half of the respondents said that they would change the degree to which money influences outcomes:

All is free and equal. That we all get our fair share of justice. Not more for some than others. It should be equal for everyone. No matter how much money your parents have. If rich kids do something, they should be penalized. Not daddy go get his lawyer and bail him out. No.

—Clarence

The buying of justice or supposed justice. The buying of getting off, getting your way. Keep it equal. I mean, um, I don't know if you saw the O.J. Simpson first trial. He had a battery of lawyers. He had a DNA lawyer, a blood lawyer, he had his own private lawyer, he had Johnnie Cochran, and two or three other lawyers. And they all had their own, um, niche. Thing that they did, and it was, at a point, it was bordering the ridiculous, where there were two prosecutors, and this battery of lawyers who you knew were actually going to batter these lawyers.

—Crystal

3. Past Experiences with Courts and Other Institutions

Even with a perception that money matters in the justice system, it is still not clear why respondents were so hesitant to pursue civil justice in cases where they would seemingly have little to lose. For example, if Tonya, the respondent discussed in the beginning of this Article who was being kicked out of her apartment by her landlord, had sought out free help from a lawyer,

the worst case scenario would have been exactly where she ended up without the help of a lawyer: having to move out of her apartment.

In many civil justice instances, respondents appeared to have little to lose and potentially a lot to gain by seeking out the help of a free legal services lawyer. Certainly the time it takes to contact a lawyer and having to meet with a lawyer during work hours would be difficult for some respondents, but the consequences of the civil legal problem would, in many cases, be even more difficult and potentially time-intensive. When probed further about resistance to seeking out help, it became clear that for many respondents the decision to stay away from courts was more complicated than just the perception of a system in which money controls outcomes.

Weighing on these respondents were their past (and current) interactions with other public institutions. These experiences were some of the most difficult in their lives and made them feel ashamed, inadequate, degraded, and confused. Thus, any situation (including civil legal problems) that even remotely looked like it had the potential to invoke such feelings was avoided. The past interactions that weighed so heavily on respondents were often public benefit hearings that were not actually criminal in nature, but felt criminal and punitive. Indeed, some respondents thought that public benefit hearings were in fact experiences with the criminal justice system.

These experiences, often with regard to public housing, Supplemental Security Income (“SSI”) benefits,¹⁴⁸ schools, unemployment insurance, or welfare—the list went on and on—contributed to respondents’ feelings that the “law” centered around criminal law. Most of the hearings they experienced on these issues focused on whether a benefit would be taken away based on something they had done wrong, for example, not reporting income while receiving welfare or a child being expelled from a school. It was not always clear during the interviews whether a respondent was describing an actual criminal case in court or some kind of non-criminal hearing, because the words used to describe the experiences were so similar.

One respondent, Larissa, explained that she had never been in a court, but she had an experience when she was on welfare that felt close enough. She was not clear on all of the details, but she said she was accused of having a man live with her. If found “guilty,” she was going to have to pay back welfare money and lose all of her benefits. She had to attend a hearing on the matter, and her experience at the hearing led to a strong desire to avoid interactions with public institutions in general, especially anything that looked like a court:

They tried taking, f---ing me up that day. I had no idea, my foot from my hand from my mouth. I think I had a panic attack. I tried saying

148. SSI is a government program that provides stipends to low income people who are either elderly, disabled, or blind. See SOC. SECURITY ADMIN., *Understanding Supplemental Security Income (SSI) Overview—2015 Edition*, <https://www.socialsecurity.gov/ssi/text-over-ussi.htm> (last visited Mar. 8, 2016).

what I needed to say, but no one was listening. That was a low, a low low low. I hated it all, that welfare. Always in my business. No siree, no thank you. . . . Stay away from them courts and that kind of thing, let me tell you. That's a one-way ticket to feeling like crap.

Many respondents reported they felt a similar loss of control and dignity, and several of them described these experiences as low points in their lives. Candy, a mother of four, described a welfare hearing (she called it a court appearance) in which she thinks she was "charged" with misrepresenting her income and was eventually made to pay back past welfare earnings. She said:

You know, after that time in court with welfare, and then another time too actually, keep me away. Uh huh. Worst day of my life. They were wrong. I'll tell you that. I had all this documentation and papers and things with me, and no one cared. That guy, he used words I didn't even understand. And I remember he asked me a question, but I couldn't even tell he was speaking to me so I didn't answer. And then he got angry. The nerve. Worst day of my life. Remind me never to do that again, no way, no way. Keep me away You know since I really haven't needed help. I've made it on my own, and I can avoid things like that. I can and I have, you see how it is? It's not fun. Not fun at all.

I asked Candy whether she was in court or had to go to an administrative hearing, but she said she was not sure:

Hmm, you know, I don't exactly know. All I know is there was a mean guy asking me questions, and they didn't even let me finish. I think he was a judge. Uh huh, I'm pretty sure he was a judge. He wasn't wearing those black robes though, but he seemed like a judge, so I think it was a court for criminals.

The words "scary," "confusing," and "afraid" were used consistently when respondents described their experiences with administrative hearings or meetings to determine eligibility or other issues:

I walked in there and man, I was scared. It was all formal and I felt like my life, my earnings, were on the line. They were not nice. Not nice at all, in fact. I honestly found it very confusing.

—Tonya

Not many things make me afraid, but that sure did. I remember taking the train over there, and my stomach hurt. Had no idea what to expect. I knew it would be bad. And it was. Confusing right from the get go about where to go, and only got worse. I had to wait, wait, wait, and then it was over in a jiffy. No chance to even talk. Wouldn't want to do that again.

—Monique

I was scared, real scared. I didn't know how to act, what to say. I tried to look real sweet, actually.

—Alberta

Fear. Honest to goodness fear. That's how I felt. Fear of what would happen. What they would say. They were tearing apart my life and I wasn't even allowed to talk. To defend myself. Honey, let me tell you, it was no fun. Keep me away from all of that. Keep me away.

—Mya

One respondent Lily, described a meeting she had with the principal and several teachers at her son's school as a turning point in her perception of government institutions:

I felt helpless for me and for my son. Like I was on the witness stand and it wasn't even me in trouble. I knew they were out to get us even before I got there, and sure enough, that's how they acted. They can have it, they can take it. I want him out of that school, first chance I get and he will be. I know why my son acts out, if they make him feel like shit like they made me feel like shit with their snotty ways. You know, I think that's just how it is. It's just how it is with these kinds of things. The government, well, the government it is better to stay away from. I'm looking into programs to help him get help, money help, going to private school.

The experiences of the respondents in this study and their feelings about public institutions are consistent with the work of Lipsky, who notes that people who are unable to purchase services in the private sector must seek them from the government, and thus poor people often end up having significant interactions with street-level bureaucrats through a range of services and experiences.¹⁴⁹ Further, "[t]he experience of seeking service through people-processing bureaucracies is perceived by enough people as dehumanizing that the phrase 'human services' is often understood as ironic by all but those who work under that label."¹⁵⁰ For respondents in this study, inaction was far more appealing than subjecting themselves to the feelings of dehumanization they had experienced in the past when dealing with street-level bureaucracy.

Some respondents described actual court experiences and feeling lost because they could not follow what was happening. They felt like outsiders attempting to navigate a new, complex world. There were a different set of norms and a new language in this world, and no one was there to explain it to them:

149. See MICHAEL LIPSKY, STREET-LEVEL BUREAUCRACY: DILEMMAS OF THE INDIVIDUAL IN PUBLIC SERVICES 11–12 (1980).

150. *Id.* at 27.

It's so confusing! I didn't know who my lawyer was and I couldn't understand nothing he was saying. I couldn't even hear the judge. The case was over and I didn't even get to say anything—I don't know why to this day! It's messed up.

—Chris

It's weird because it's way different than TV. You know I'm a *Law and Order* freak. But it's weird. It's not the same. . . . [Interviewer question: What are the differences?] . . . In the real court, I really didn't understand what they were saying. You know when they are talking, I don't know who is the lawyer, who is the defense. And the judge is way back there, you know? Just going in there everyone is sitting back there waiting to be called. It was chaotic but it also seemed scary.

—Betty

Whether respondents had experiences with actual court hearings or public benefit hearings, the feelings they described were the same—confusion, fear, and shame. All of these experiences were lumped together as experiences with the law, and they were negative experiences for most of the respondents. So negative, in fact, that they did everything they could to avoid experiencing such feelings again. This included avoiding any and all interactions with “the law,” no matter how different their present situation and their past experience might appear to be to an outsider.

4. “I’ve Made It on My Own. I Don’t Need No Lawyers or Courts”: Self-Sufficiency Narratives

As discussed above, for many respondents in this study, past experiences with public institutions were essentially the same as experiences with courts, particularly criminal courts. In fact, many respondents believed they had experienced a criminal justice court when most likely, from their description, what they experienced was a public benefits hearing. In general, respondents grouped courts and lawyers with other public institutions, and involvement with such institutions signaled failure. It meant asking for help, something they had had to do at vulnerable times in their lives and hoped they could avoid. Involvement with such institutions also signaled that they were in trouble or in need—a situation they actively sought to avoid. Respondents were quick to relate asking for public benefits help with asking for help with their legal problems:

I hated going and filling out all that paperwork for disability. I really needed it, I could hardly get up, my back was that shot. I got it, but they made me feel dumb. I resolved there and then I'd get back on me feet. And I did. I do things for myself. . . . So if my neighbors stole

something from me, I would handle the situation. I would look them in the eye and let them know I knew, and my look would tell it all.

—George

I haven't needed much assistance in years, actually. Actually, I like to do things myself, solve my own problems. It works out better and I feel better. It makes me better. No going back to those days. Unneeded. So yes, I would solve the problem myself. That's how I roll. In fact, that's what I did when I had a problem with my landlord, years ago.

—Cece

Cece equated seeking out a lawyer with getting "assistance" and said she did not want to go back to those days. Cece's quote shows a narrative shared by the majority of respondents: she solves problems herself and she does not want to ask for help. When she does have to ask for help, it means negativity and shame, and she fights against such experiences. Another respondent, Terry, described a similar narrative and resistance to going back to the "dark days":

Dark days. Welfare is dark days. I'm a worker now and I take care of myself. That's my MOA, my MOA. I take care of myself and I try to do this in all circumstances. I learned my lesson about how that feels. Someone always in your business. So I say, you have a problem, you take care of it yourself however you have to. That's my MOA. I would only seek out a lawyer if I was in real trouble, you know, my life was in danger, that kind of thing. It's against my MOA.

Being able to avoid lawyers and courts was consistent with a narrative of staying out of trouble, and people who are involved with the justice system are "people who go wrong." Antonia articulated this common sentiment when she said:

Well, the lawyers themselves aren't the reason not to go talk to them. I mean they suck, but if you are charged with murder one, they are better than nothing. If I really needed a lawyer, I'd go talk to them. I just don't need a lawyer never, really. I stay out of trouble and stay my own path. Who needs lawyers? People who go wrong. That's not me. I've had my share of needing help and it sucked. I'm done with that. So if someone do you wrong, there are two ways to deal with it. One is needing help and one is not. You take care of yourself. I take care of myself.

Tanisha, a young mother of four, first spoke passionately about the injustices associated with "poor persons' lawyers." However, when she was asked whether she would have pursued a civil justice issue she had previously described if she could afford an expensive lawyer, her response was:

No, no. I must say I really just am a self-solver. I don't seek out others to solve my problems for me. I solve them myself. When other people get involved, it's bad news. Do it myself or don't do it at all, that's what I've learned over the years. That's my wisdom, honey, my wisdom at play. . . . Let the rich have them lawyers.

Tanisha's response raises another narrative that was shared by many respondents: they justified not seeking "help" with problems through a narrative of self-sufficiency. They also created moral boundaries between themselves and "the rich" who, they believe, overuse lawyers. Indeed, many respondents echoed Tanisha, remarking that they were not interested in lawyers, even privately paid lawyers, and that "rich" people are too quick to seek out help from lawyers:

Eh, I think those rich people overuse lawyers anyway. I solve my own problems. Me, me, me. I don't need no help. I'd rather do it myself.

—Malcolm

Some people are sue-happy. I'm not.

—Gary

[Rich people] can take their expensive lawyers and stuff it. My Mama taught me how to do things for myself.

—Velma

I think there are some people in America, I'm just saying, who have too much time on their hands. And too much money. And so they go and they hire these people to take care of every last problem of theirs. Every last problem. That's not me. I would only do it if I really needed it, even if I was a millionaire. Put your money to something good. Don't give it to lawyers. You know? That's just me though.

—Rick

Notably, all of the respondents in this study were living in public housing, so they were indeed receiving government assistance. Many of them were receiving assistance from various government benefit programs, including the Supplemental Nutrition Assistance Program ("SNAP"), commonly referred to as food stamps, disability payments from SSI, and Temporary Assistance for Needy Families ("TANF"), commonly referred to as welfare. When asked follow-up questions that sought to determine how these forms of assistance fit into their self-sufficiency narratives, respondents often acknowledged such assistance but noted ways that they had moved beyond other forms of assistance (often TANF) they had previously received. Respondents made it clear that the goal was to need less help, not more, and that seeking legal assistance meant moving in the wrong direction:

Yeah, I do in fact get food stamps and housing assistance. You know my rent is very low. But let me tell you, I was in a homeless shelter. . . .

[N]ow that was bad. I'm making it on my own. Those programs help but I'm making it on my own and I'm going to make it on my own. I work for what I got and work to move on. Keep on moving on and up.

—Tia

I have some programs in place, but I'm done. Signed, sealed, and delivered. The last thing I need is more government in my life. More lawyers, more paperwork, more trouble. I stay in my own business, and let others stay in theirs.

—Betty

The help of a lawyer signaled a failure in self-sufficiency as well as entrance into an institution that could, and in many cases had already, invoked feelings of inadequacy. For these respondents, increasing the availability of legal services lawyers would do little to help them resolve their civil justice issues. The ability to avoid seeking help and the potential shame and fear that may come with it usually trumped the far-off seeming ability to have the civil justice issue resolved in a favorable way.

B. RACIAL DIFFERENCES IN CIVIL JUSTICE PERCEPTIONS AND UTILIZATION

For the most part,¹⁵¹ black and white respondents had similar perceptions of the justice system and similar explanations for their use or avoidance of formal law when faced with civil justice issues. However, when it came to trust and corruption, the views of black and white respondents diverged. The differences in levels of trust played a key role in black respondents' conceptions of themselves as self-sufficient citizens, and in turn, their resistance to seeking help when they experienced a civil legal problem. This Subpart will discuss the results of this study as they relate to trust.

1. Race, Trust, and Use of Civil Courts

There were clear racial differences between respondent groups when asked about trust of courts. Out of the 52 white respondents, 39 respondents (75%) said they ultimately trusted courts. One respondent, Tara, said: "Well, you gotta trust them. They are courts of law. They go back to Abraham Lincoln, George Washington, all that. There's a lot riding on them. Where would we be without them?"

Some white respondents said that they did trust courts, but added qualifications to their statements. For example, one respondent, Mary, said, "Well, they're not always fair, but in the end I trust them. They do a good job, as good as they can." Another white respondent, Vicky, echoed this sentiment,

¹⁵¹. As this Part will discuss further, trust levels were a key difference between black and white respondents.

"Yes, they are not perfect, but I do trust them. What is not to trust?" Similarly, a white respondent Bryan said: "Yeah, I trust them overall. There are mistakes that are going to be made, but in the long run I have a feeling that the way that it is set up is as fair as it possibly can be. Except with O.J. Simpson." Another respondent, Alix, had a slightly different take. She stated that overall she trusted courts, but "I don't trust them for people with money. Sometimes it works. Sometimes the system works but then sometimes they buy their freedom."

The white respondents who said that they did not trust courts tended to focus on specific experiences in the court system—either their own or those of family or friends. For example, one respondent Candy said: "No. I don't know. I don't trust the legal system. I've seen my friends go through a lot of stuff and get smoked for no reason." Another white respondent, Elliot, who had been in front of a judge himself several years prior said: "Hells no. Excuse my language, but no. I saw how things operate there. Complete chaos. Awful. No one knows anything. Definitely don't trust it. I'd do a better job than anyone there."

In contrast to the primary ethos of trust in courts among white respondents, only ten of the 45 black respondents, or 22%, that I interviewed said that they trusted courts.¹⁵² Not only did far fewer blacks than whites say they trusted courts, but black respondents also responded to the question with a different overall thought process about trust from most of the white respondents.

Most white respondents focused specifically on courts, talking about why they ultimately did or did not trust courts, often drawing on past experiences or things that they had heard. Most black respondents, however, focused on trust as a broader topic. In response to the direction question: "Do you trust courts?", one black male respondent, Chuck, said: "You can't trust nobody or nothing today. You don't know who will do what to you." Another black respondent, Michelle, said: "I don't trust anybody. I trust me and that's it." A third black respondent, Taylor, put it bluntly:

You can ask me if I trust courts, the police—damn, ask me if I trust my husband. The answer will be the same. No, no, no. I've gotten burned too many times by too many people. I'm very careful. My guard is up all day, every day. I am careful.

Several of the black respondents, such as Elsa, were straightforward about the roots of their distrust:

152. For an interesting discussion of within-race socioeconomic differences of blacks and their trust levels and views of the police, courts, and other legal institutions suggesting that higher income blacks may be less trustworthy and believe courts are less fair than lower income blacks, see Brooks, *supra* note 78; and Richard R.W. Brooks & Haekyung Jeon-Slaughter, *Race, Income, and Perceptions of the U.S. Court System*, 19 BEHAV. SCI. L. 249 (2001).

My mother was a strong woman, and she taught us from the start that the only person or thing we could trust is ourselves. She'd tell us to be careful. We weren't allowed to say hi and goodbye to people we didn't know. She didn't let us do a lot of stuff with groups if she didn't know who ran the group. She instilled a lot of that in us.

Another black woman, Krysta, also describing how her mother taught her to only trust herself, noted:

Even when we were at people's homes who we knew, we had to sit there and be quiet and not ask for nothing like food or drink because my mother said you never know what they put in there. Be careful, be careful, be careful, that's what she always said.

When black respondents talked about their childhood and what their parents taught them, most of them noted, with pride, that their parents taught them how to be "careful." White respondents gave more varied responses, but memories such as one from Carl, a 62-year-old white male respondent, were not uncommon:

I grew up in an Irish neighborhood. . . . Did I trust the people? Of course, I had to. They knew who I was. Everybody knew us. For the first 25 years of my life, I don't think a door was locked. In the doorway I lived in, in Washington Elm, it was all families. I could tell you the names of the families to this day. If my mother wasn't home, one of the ladies on the second floor would come and check on us. She didn't do it because she was asked, she just did it.

Other white respondents talked about an overall philosophy encouraging trust, but noted, like Eileen, that "[my parents] did say to be wary of strangers and not take candy from them—you know, the normal stuff."

The contrast in answers between black and white respondents when asked about trust in courts held in answers about other institutions as well. Before asking about courts, I also asked respondents if they trusted the police and if they trusted their neighbors. For the most part, black respondents' answers to these questions were similar to their responses about courts. They invoked invoked broad answers about trust in general, stating, for example: "I only trust myself." Natasha's answer to the question about whether she trusted her neighbors was typical:

Ha! Sweetie you don't trust your neighbors. You just don't. Hell, I don't trust everyone in my family. Why would I trust my neighbors? There are Godly neighbors, sure, and in the words of God I respect my neighbors because He tells me to. But trust them. Nah. I know to watch out. Watch my back.

White respondents mostly focused on the institution in question, and answered by drawing on past experiences with the same institution or group. Trust, for most white respondents, was something specific to individual

people, organizations, and institutions, and for the most part they did not have a general policy about trust in the way that many black respondents did. For example, when Colin, a white respondent, was asked whether he trusted his neighbors, he said:

It depends, of course. Some are good people, some are not. Now [my neighbors], they are good people. I've asked them to help me out a few times. When my car broke down, [my neighbor] even gave me a ride to work. Good people. That couple who moved in next door. They are shady. I'm guessing drugs. People in and out of their apartment at all hours. I don't look them in the eye. Don't want to get involved.

When respondents were asked whether they trusted the police, their responses similarly varied by race. Most of the black respondents answered with the blanket statement that they did not trust the police—often in the context of advice (to the interviewer) that it is best not to trust anyone. Chantell said:

Honey, you are young. Let me give you some advice. It's advice I was given when I was young, and it's good advice. Don't you think that just because the police are authority, that they have power that you should trust them. It's the opposite. You keep your guard up. You don't look at them, you turn the other way, but don't be obvious. You are white, I'm black, but it still holds. Even the black police are no good. People with power are on a power trip. People make the mistake of thinking those with power you can make an exception, that they are trustworthy. But they are not. In fact, they are worse than those without power. They are shady.

Another black respondent, Charise, connected the police, courts, and neighbors. After she was asked about trusting all three, she noted:

You can keep asking, and keep asking. But I'm not gonna tell you I trust no one or nothing. I don't. I trust me, I trust my Mom. I trust my sister. That's it, uh huh, that's it. Not even my other sister. Other people, they are out to screw you. You keep your guard up. I'm in fact showing my kids that now. I don't even let them go out for Halloween. You never know. So I buy them some candy the next day when it's on sale. Safer. And they can get what they want.

2. Racism

Concerns about racism certainly contributed to black respondents' mistrust of the legal system and other institutions. However, it was difficult to calculate exact percentages of black and white respondents who had concerns

about racism in the justice system. Respondents of both races gave nuanced responses specific to individual situations.¹⁵³

Many black respondents who said that they believed racism is a problem in the court system noted that it really depended on the individual judge and the individual jury. As one black respondent, Rhonda, said:

It's mostly men in court. They are mostly older and they are mostly white men. So when they grew up, [racism] was okay. But the judge my kids had was a black woman. And she fought for them. Everything I was trying to tell them, she told them. She was a single mom, and she had two sons at home.

Daisy had a similar sentiment:

There is indeed racism in courts—and everywhere—because there are racist people. But judges, juries, no more than anyone else. Sometimes I'll get a black judge this time. A Spanish judge the next time. The jury may be black. Or I may get a white peace keeper. So yes, there is racism, like anywhere else, but not always.

Another black respondent, Mia, stressed that she thought that unfairness in court outcomes was caused by access to money and power more than by race, a sentiment many other black and white respondents shared:

I think that who has power or not changes things. People who don't have access to power get brought to court. People who have really good lawyers, it helps them. I mean it's also acts of power. I think access to power matters a lot. And I don't think about it in terms of race, but access to power. But it's connected.

For some black respondents, the O.J. Simpson murder case was front and center to their belief that money, more than race, was a significant factor in court outcomes. Several respondents noted that they had watched hours upon hours of the Simpson trial and had concluded that he was guilty. This case, they said, was striking to them and the root of many of their beliefs about courts and fairness. Ella, a black respondent, said:

For a very long time I thought racism explained it. Explained it all with police and courts and all that jazz. But look at O.J. He got away with murder and look at the color of his skin. Black, black, black. And the lady was even white. But I'll tell you what he does have. Money. So, yes, race matters, but money matters more. Money can make race, black skin, go away. What do you do with that? I'm not even sure.

153. It is important to note that in the criminal court context, studies have documented that blacks are indeed more likely to receive biased treatment than whites. *See generally* COLE, *supra* note 89; WESTERN, *supra* note 17. Additionally, there is documented historical racism in the judicial system. *See generally* KENNEDY, *supra* note 18.

There were certainly other black respondents who believed racism was a significant problem in courts, and a reason to avoid the legal system. As one respondent, Thomas, said:

There is racism because it's the government. The government is racist, and courts are government. Same with the police. I know I won't get a fair chance because of the color of my skin. You hear about it all the time. All white juries stacking it against blacks. It's there. It's definitely there.

Another black respondent, Walter, in response to what he would like to change about courts, said:

The fact is that us blacks are never going to have it fair. Because of the color of our skin. For us jail, for other not. That is not fair, not fair.

The answers of white respondents were similarly mixed when considering racism in courts. One respondent, Colleen, summed up the beliefs of most of the respondents:

So, in fact, I am sure there is racism, just like there is classism, and sexism, gayism. . . . There are laws that are supposed to make things fair, but sometimes those laws don't work in terms of people. It's all about people, as you know.

Similarly, Mary, also a white respondent, said:

Of course there is racism. If you think we've moved beyond that. You have your head, well it's not screwed on straight. You'll find it with some people, not others. It's not just courts. I, for one, don't have a racist bone in my body. But some people do. It's always a concern.

Both black respondents and white respondents believed that there is some degree of racism in courts. However, unlike their responses about trust, black respondents were more nuanced when answering questions about racism. They noted that there was a chance they could end up with a black judge, for example. As one respondent, Tia, said: "It is sort of racism, but it goes deeper. Even if the judge is black, the jury is black, there is still a problem. Don't trust anything or anyone." Concerns about racism certainly factored into their decision not to seek out formal legal help, but just as Sandra Smith found in her study of blacks and employment, many black respondents do not trust other black people.¹⁵⁴ A generalized lack of trust, even more than concerns about racism, seemed front and center to their decision to try to ignore civil justice problems.

¹⁵⁴. See *supra* notes 112–18 and accompanying text.

3. Race, Corruption, and Use of Courts

Consistent with their distrust of courts, black respondents were more likely than white respondents to believe that there is widespread corruption in court proceedings. Just over half of the black respondents talked about their suspicion that courts are corrupt, whereas only six white respondents expressed a similar sentiment.

Both black and white respondents believed that money could “buy” justice. However, for many respondents, the idea that money could buy justice focused on whether one could afford a high quality lawyer—one that could give a case adequate time and preparation—instead of a public defender, described by most respondents as “bad” lawyers without enough time or concern for cases. The focus on the sentiment that money could “buy” justice was on the lawyers and their ability (or lack thereof) to effectively argue a case.

The idea of corruption, however, was more extreme. The respondents who talked about corruption believed that money was being used to “buy off” various parties (lawyers, judges, and juries), or that the system was specifically and purposefully rigged against certain people (in most cases, poor people were discussed, in a few cases, racial minorities). As one black woman respondent, Charise, said:

I don't like crack, I don't like heroin. They do damage to yourself and family. The courts, they are the problem. These aren't the people who brought in the drugs. Go after the big people. But the courts, then again you have to keep the drugs because that is big money, that is big business. Keep drugs, it keeps feeding the bigger people. So that's what the judges do. They want money, so they just keep the drugs in for the big rich guys who pay them off.

Another black respondent, Wilmer, was similarly suspicious of judges:

Never trust a judge. They are human, like everybody else. If they are not getting anything from it. If they are not getting a pay raise they would take money. You may think this is silly but it is true.

When asked an open-ended question about one thing they would change about the legal system if they could, some black respondents focused their answers on changing corruption within the courts:

You know what, I never thought, I think there should be more cameras in the courtroom. [Interviewer: Tell me more about that.] Because I'm watching everyone. I don't know if you paid off a juror. I'm watching the expressions. Who is looking at who? I want the cameras watching everything. There is a lot going on. Who is paying who? Who is paying this juror? You know you may see a lot of TV is about courtrooms and who paid this and this. And it's fiction. But there is a basis of truth. I want cameras watching everything. Who is

making deals? Who is up for election? Who is this client? Who is going to benefit? And a camera tells a lot.

—Betty

Independent monitors. People there to monitor judges and juries and lawyers. There is a false sense that what goes on is fair, and just. But in fact, it's the opposite. They are trying people for doing something wrong, but I'm telling you those monitors would find something in every single case. The judge sleeping with this juror, or that juror. The lawyers in bed together. You never know, but it's severe. There is inbreeding. And how those jurors get picked. I'm telling you it's no mistake. It's no chance. I was informed I had to go to court once to be considered for a jury. I sat there the whole damned day, then I was told I wasn't needed. It's not a coincidence. I didn't have anyone to be in bed with, so I wasn't needed. Ha. It's a joke. So independent monitors, that would be a good change. A good one.

—Hilda

Many black respondents discussed the O.J. Simpson murder trial in the context of corruption:

I think [O.J.] killed his wife and that man. If he didn't get off, a lot of blacks would have been upset and it might have caused a race riot. So they stopped that from happening. They probably paid off the jurors. . . . [Interviewer: Who paid off the jurors?] . . . The government. The judge, maybe? Who knows.

—Bo

Take the O.J. case. Now that was a conspiracy if I've ever seen one. . . . [Interviewer: Tell me more about that.] Well, I'm just saying. Something happened there. I watched every minute I could of that trial. Riveting. And guilty as hell. Something happened. Only God knows why, but it was a conspiracy. I can tell you that much. I feel for that lady Nicole and her poor children.

—Lauren

A few white respondents believed that there was widespread corruption in courts, but most did not bring up corruption unless prompted. When asked about corruption towards the end of the interview, Melanie's response was typical of white respondents:

Nah, not really corruption. That's things you see on TV, like made-for-TV movies. Money can get you places, but it's more about time than anything else. The lawyer having time for you, giving you the time of day. I've definitely seen movies about that, though.

Michael, a white man, said it can occasionally happen, but it is more the exception than the rule:

I mean judges are men of the law. Oh, and women too. I don't think there is actual corruption or shady stuff going on. It's unintentional but there. It's about having the money to buy a good lawyer. A really good one like those celebs get. But even public defenders, it's not that they are corrupt—they are not, well, not the brightest. I think a lightbulb is missing for a lot of them. That's why they went into this line of work. They are good people, just not, just not who you want to put your life on the line with because they are not all there, their minds.

These fundamental differences in perception of trust and of corruption can lead to different behaviors when poor blacks and whites are faced with civil justice issues.

4. Civil Justice Utilization Differences: Black and White Respondents

The most striking difference between black and white respondents was the degree to which they trusted courts. These differing trust levels led to differing behavior when respondents were faced with civil justice issues. Both black and white respondents were resistant to seeking out help from the formal legal system, as discussed above. This Article's findings indicate, however, that whites were more open than blacks to seeking out help in some specific circumstances, particularly when self-help measures failed and the consequences of ignoring a problem were significant. Indeed, we know from existing survey data that when poor people were experiencing a civil justice problem, 29% did, in fact, turn to the formal legal system for help.¹⁵⁵ This percentage is low, but still significant. While there has not been a study that has broken this data down by race, this Article's study suggests it is likely that the 29% of poor survey respondents who sought out legal help were disproportionately white.

Because my sample did not contain a group of people who had all experienced a similar civil legal issue, I asked a series of hypothetical questions: asking respondents to imagine themselves experiencing various civil justice problems and asking what (if anything) they would do first, second, and so on, to deal with the issue. It is important to acknowledge the disadvantage of hypothetical questions: respondents had not *actually* experienced the situation, so how they predict they would act may not be how they would actually act. However, as one of many tools in the interviews, hypothetical questions allowed me to look for patterns in responses of action or inaction to the same potential legal problem.

155. CONSORTIUM ON LEGAL SERVS. & THE PUB., *supra* note 3, at 11.

When I outlined the civil issue the respondent should imagine him or herself experiencing, I did not ask the respondent if he or she would go to court to solve the problem, but instead laid out the scenario and then asked, generally, "what would you do?"

One scenario was the following. The respondent was renting an apartment and in the middle of winter the heat stopped working. The respondent had contacted the landlord several times over a period of about two weeks, but the landlord ignored many of his or her calls and once mentioned that space heaters work well. During this two-week period, Boston was having a cold spell and the temperature was below freezing.

Almost all of the respondents, both black and white, said that they would initially invoke self-help to try to solve the problem. One white female respondent, Mary, said:

No heat and a child? I'd take care of it on my own. I have resources and smarts to do that; I don't think I would need to seek legal help. First I would call an oil delivery man. Tell him my case, and if he said there was nothing he could do, the delivery man, then I'd ask 1-800-ASK-JOE. That is free oil. [Interviewer asks what she would do if it was not a lack of oil problem, but rather a broken heating system problem.] If the heat was actually broken, I'd call someone to fix it, and I'd tell them we needed it fixed, and so I can't pay you, you're going to have to go to the landlord. And I would tell him if you need help collecting from the landlord, I'll help you.

Similarly, Gloria, a black respondent, said:

I would not want to bother with rocking the boat, it's just not how I operate. I would try to reason with him more. You know, make him feel bad for me to get to his core. I'm very persuasive, myself. And I'd let him know it's his responsibility. His job.

Mary, the white respondent, qualified her statement by saying,

If [the self-help remedies] didn't work, I would pay for it. I'd pay for it in installments and say I want receipts and then I would take the owner to court and I would sue him. I hate that idea, really I do, but sometimes you have to do what you have to do.

Gloria, however, had a very different course of action in mind if her self-help remedy did not work:

So I'll withhold my rent, try to find another place, take all my belongings and move out [instead of going to court]. And he can have his apartment. I deal with things myself. It is just how I was raised. My mother taught it. Take care of what you need to. It's a strong background.

Out of the 46 black respondents I interviewed, only four suggested that they might bring the landlord to court. Instead, the majority of black respondents

said they would ultimately move out of the apartment if they could not convince the landlord to fix the heat; fix it themselves, as some who were handy suggested they would try; or use space heaters and “‘rack up a big ole’ electric bill I couldn’t pay, but I would somehow find a way to deal with.” Al, one of the black male respondents I interviewed, put it this way:

I would move out. I won’t tell ya what I might do to the guy though. Or what my friends might do. I’m kidding. I’m kidding. But I’m not going to no court, no way. Might as well ask for a rights violation, the way those courts are.

Another black respondent, Harris, when talking about the possibility of going to court over a complex employment issue he had experienced said, “Why would I waste my time in court? You never know who is paying off who. I’ll just take care of it myself. Why risk it?” The theme of “risk” was present in almost half of all black respondent interviews when they talked about the possibility of going to court to resolve an issue. The theme of risk was often combined with the self-sufficiency narrative that many respondents also invoked to explain not wanting to seek formal legal help. When the interviewer followed up with Harris, asking “tell me more about the risk of going to court,” Harris said:

You can’t trust it will be what you put in for. I may go in to sue my boss and come out in jail. They’ll find something to hold against me, to get me for. Lots of behind the scenes stuff going on, my boss might pay someone off, might be friends with the judge. You can’t be too careful. Better to handle things yourself, anyway. My boss is a powerful man. You can end up screwed, and I mean royally screwed, not just losing your case. My case will turn into something else, that I guarantee.

Misty, a black woman, felt similar to Harris, as did many other black respondents. When talking about her decision to simply ignore a pressing civil justice problem, in her case a housing issue, Misty said, “It’s too big a risk making contact with the law. You never know what will happen, and you can’t trust it. I am someone who handles things myself. I don’t need the help, and I don’t want to risk the help.”

This finding regarding risk is consistent with Sandra’s Smith finding of “defensive individualism” among black jobseekers when it came to asking for help when finding a job.¹⁵⁶ The findings in this Article suggest that this defensive individualism may be more pervasive and affect other aspects of help-seeking behaviors outside of the employment context. The generalized distrust black respondents talked about when justifying their lack of action when it comes to civil justice problems may stem partly from defensive

156. See *supra* note 117 and accompanying text.

individualism. In the same way jobseekers were reluctant to seek help because of a fear of how they were viewed by others, and thus used individualism as a means of justifying this reluctance to seek help, black respondents in this study may have been concerned with how lawyers and other officials viewed the problems they had. Thus, a generalized identity of distrust and individualism may have been, in part, a way to avoid judgment and potential embarrassment when seeking help.

The white respondents in this study were more mixed than the black respondents about the potential to bring an issue to court. Out of the 52 white respondents I interviewed, when posed with the hypothetical question about the landlord who would not fix the heat, 21 (40%) said they would at least consider seeking legal advice or trying to bring the landlord to court. Only four of the 21 who said they would consider seeking legal advice said that they would *immediately* seek the advice of a lawyer. The remaining 17, like Mary (above), said they would only seek formal legal help after self-help measures failed. As Christine, another white respondent, put it:

With all my heart and all my soul I would avoid law. I always do with every problem I have. I am a selfer, a selfer with problems. But if it were freezing and I couldn't afford to move, I might have to call and find out what my options were. My legal options. I did something like this once before when I wasn't getting my disability check for weeks on end. I do have rights and if I have to, I go after them.

The percentages of each racial group that said they would seek formal legal help in the hypothetical landlord situation—nine percent of black respondents and 40% of white respondents—were consistent with the number of respondents who reported having sought legal advice in a (non-hypothetical) civil justice situation. Roughly 35% of white respondents had done so at some point in their lives, whereas only about ten percent of black respondents had ever sought out formal legal help (for a civil justice issue).¹⁵⁷

An important question was: what differentiated respondents of either race who either had sought out, or said they were willing to seek, formal legal help from those who did not? The major difference between respondents in this Article's study, of both races, was whether they knew of, or had experienced, a *positive* example of the legal system. One black respondent, Aubrey, who had once sought out help from legal aid to potentially take action against a past landlord said:

Well see my sister, my sister had gone and gotten herself a lawyer when she was about to be evicted. Bless that lawyer's soul. She worked so hard for my sister. I think those legal aid lawyers, they

157. These statistics do not include people who were sued by another party and then sought the advice of a lawyer for their defense. My focus was on people taking action to address a civil legal problem they were experiencing.

work hard for you, as long as you are a good person. My sister, she a good person. So am I. So I knew I would be taken care of. And I was.

A white respondent, Liz, who said she would consider seeking legal help if self-help did not work said:

[M]y friend Trish, she actually did see one of those Harvard student lawyers. They were real nice, apparently. The hospital put her in touch, believe it or not. And they worked things out for her, believe it or not. So maybe they would for me. I would try them first.

While respondents were not specifically asked if they had family members or friends with positive experiences with the justice system, all four of the black respondents who had previously sought out legal help noted in their interviews that they had had family members or friends who had told them about positive experiences with the justice system. Three of the respondents specifically said that those stories had contributed to their decision to seek out help in their own situation. Out of the 18 white respondents who had sought help from the legal system, 11 related positive experiences of family or friends as a contributing factor to seeking out help.

V. AGENDA FOR FURTHER RESEARCH AND POLICY CONSIDERATIONS

A. AGENDA FOR FURTHER RESEARCH

As discussed in Part III.B, this study provides important grounding for further representative studies of disparities in racial and socioeconomic civil justice utilization and experimental studies of potential policy interventions. Access-to-justice research is in its infant stages, but the need for more research is immense, and the potential for important follow-up studies to this one is significant.

First, more knowledge is needed about the types of problems that would most benefit from legal assistance, versus non-legal assistance, versus self-help, versus doing nothing. It is difficult to know how to allocate resources when the hard data about outcomes for the different types of potential help (or non-help) is non-existent. Long-term experimental and survey studies are needed to begin to dissect the complex web of problems and outcomes.

Additionally, more work is needed to better understand how structural differences (and potentially changes) in areas such as civil legal service delivery, policing, public defender offices, and courtrooms (at all levels), to name a few, affect perceptions and utilization of the justice system. There is potential that the renewed focus on, and potential changes to, criminal law, policing, and community trust ignited by the Ferguson movement will spur renewed trust in all aspects of the legal system, including the civil legal system.

Another important area for inquiry is the role of networks in legal service perceptions and utilization. As discussed in Part IV, findings from this study suggest that those who were positively inclined towards utilizing Legal Aid had