Rushed Justice and Linguistic Marginalization
A Mixed-Methods Case Study of Rights Waivers in U.S. Misdemeanor Courts

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ABSTRACT

The Sixth Amendment guarantees criminal defendants the right to counsel, yet in practice, this right is routinely curtailed in the adjudication of misdemeanor offenses. Supreme Court precedent limits the right to counsel in misdemeanor cases to those involving incarceration, enabling the widespread waiver of counsel in lower courts. This article examines how institutional processes and courtroom discourses facilitate the rapid and routinized waiver of the constitutional right—often without ensuring that such waiver is informed and knowing. Drawing on Erving Goffman's dramaturgical framework, this study conceptualizes the courtroom as a space of institutional performance, where defendants are subtly but powerfully coerced into conforming to procedural expectations. Through a qualitative study of two misdemeanor courts, we show how the staging of courtroom interactions—characterized by judge-dominated proceedings, overbearing police presence, and the observational influence of prior guilty pleas—generates social pressures that resemble "tick-box consent." In this context, defendants frequently waive counsel and plead guilty not as the result of meaningful deliberation, but as a ritualized act. Our findings reveal that rights-waiver processes are conducted in linguistically dense and legally opaque language, embedded in rushed and formalized procedures that create "situated compliance"—a form of organizational coercion that substitutes procedural efficiency for genuine understanding. These dynamics raise serious concerns about the validity of rights waivers in misdemeanor cases and call for procedural reform to better safeguard constitutional protections in the misdemeanor justice system.

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INTRODUCTION

The language of the Sixth Amendment guarantees defendants the right to counsel, yet in misdemeanor cases, the Supreme Court of the United States limits this right to only defendants jailed for their offenses,[1] and counsel is often waived or denied in misdemeanor courts.[2] When they plead guilty, misdemeanor defendants must consent to waive their rights to counsel and trial, but studies of rights literacy and comprehension call into question whether defendant consent is informed and knowing.[3] Furthermore, the procedures of legal encounters, such as *Miranda* rights advisements at arrest, police interrogations, and criminal hearings,[4] often mimic the "tick-box consent" that is pervasive in online encounters like terms-of-service agreements. Consenters are socially pressured to consent without reading the terms under the assumption that the box must be checked to proceed.[5] Defendants who are inadequately informed of their constitutional rights and ill-informed of the direct and collateral consequences of

1. Argersinger v. Hamlin, 407 U.S. 25, 40 (1972); Alisa Smith & Sarah K. Stice, *No Lawyer, No Jail: A Critical Case Study of Pragmatism and the Flaws of "Purposeful" Decision Making in* Argersinger v. Hamlin, 48 SEATTLE U. L. REV. 921 (2025).

2. SIXTH AMEND. CTR., ACTUAL DENIAL OF COUNSEL IN MISDEMEANOR COURTS: TESTIMONY TO THE UNITED STATES SENATE JUDICIARY COMMITTEE (2015), https://6ac.org/wp-content/uploads/2024/03/Actual-Denial-of-Counsel-in-Misdemeanor-Courts.pdf.

3. Hilary Crow & Clara Pino, *Civics in America Ahead of Our Country's 250th Anniversary*, U.S. CHAMBER OF COM. FOUND. (Mar. 13, 2024), https://www.uschamberfoundation.org/civics/civics-countrys-250th-anniversary; *Americans' Knowledge of the Branches of Government is Declining*, ANNENBERG PUB. POL'Y CTR. (Sept. 13, 2016), https://www.annenbergpublicpolicycenter.org/americans-knowledge-of-the-branches-of-government-is-declining/; Susan Erlich & Diana Eades, *Introduction: Linguistic and Discursive Dimensions of Consent*, *in* DISCURSIVE CONSTRUCTIONS OF CONSENT IN THE LEGAL PROCESS 18 (Susan Ehrlich, Diana Eades & Janet Ainsworth eds., 2015); Allison D. Redlich & Alicia Summers, V*oluntary, Knowing, and Intelligent Pleas: Understanding the Plea Inquiry*, 18 PSYCH. PUB. POL'Y, & L. 626, 634-40 (2012); Richard Rogers & Eric Y. Drogin, *Miranda Rights and Wrongs: Matters of Justice*. 51 CT. REV. 150, 150-54 (2015).

4. Ehrlich, Eades & Ainsworth, *supra* note 3, at 2-18; Rogers & Drogin, *supra* note 3.

5. Frances Rock, *Talking the Ethical Turn: Drawing on Tick-Box Consent in Policing*, *in* DISCURSIVE CONSTRUCTIONS OF CONSENT IN THE LEGAL PROCESS 94 (Susan Ehrlich, Diana Eades, & Janet Ainsworth eds., 2016).

pleading guilty suffer from the unexpected cascading effects of criminal debts, drivers' license suspensions, and lost employment and housing.[6]

Goffman's dramaturgical framework combined with critical discourse studies affords an apt lens for understanding how the power disparities of judge-defendant exchanges at arraignments are performed to pressure rights waivers through text and context.[7] Goffman's theater metaphor for understanding social interaction structures our exploration of how court personnel and defendants perform on the courtroom stage, and how the discourses (text and context) script, stage, and perform rights-waiver exchanges in ways that cursorily treat off-script conduct and encourage tick-box rights waivers.[8] Consent and rights-waiver studies must consider whether defendant consent is informed, how it is expressed, and what institutional setting and power relations impact the consent and rights-waiver process.[9] With these issues in mind and using several qualitative methods to study two lower criminal courts, we seek to answer the question: How do institutional discourses (textual and contextual) of courtroom performances and interactions encourage rights waivers?

The first section summarizes the previous literature on the persistent lack of counsel in the misdemeanor courts, systemic barriers to representation, and the limited scholarly attention to knowing waivers of rights. The second and third sections describe the conceptual framework that undergirds our understanding of rights waivers and the methodology that guides the present study, including descriptions of the study site and the data collected (i.e., the observations, interviews, documents, and transcripts). In the fourth and fifth sections, the data analysis and thematic findings are presented, discussed, and show how the oversized presence of law enforcement, judges' undue reliance on complex rights-waiver forms, and structured exchanges with unrepresented defendants resulted in rushed, routinized and controlled procedures that linguistically marginalized misdemeanor defendants and encouraged their uncounseled guilty pleas. The final section connects the findings to the larger body of research and

6. *See e.g.*, COLLATERAL CONSEQUENCES RESOURCE CENTER, https://ccresourcecenter.org/; SARAH STICE & ALISA SMITH, NAT'L ASS'N CRIM. DEF. LAWS., "YOU FEEL LIKE YOU RUINED YOUR LIFE WHEN YOU GO THROUGH SOMETHING LIKE THIS": THE COMPOUNDING NEGATIVE CONSEQUENCES OF MISDEMEANOR PENALTIES (2025), https://www.nacdl.org/Document/CompoundingNegativeConsequencesofMisdemeanorPenalt; ALEXANDRA NATAPOFF, PUNISHMENT WITHOUT CRIME: HOW OUR MASSIVE MISDEMEANOR SYSTEM TRAPS THE INNOCENT AND MAKES AMERICA MORE UNEQUAL (2018); Thomas B. Harvey, Jared H. Rosenfeld, & Shannon Tomascak, *Right to Counsel in Misdemeanor Prosecutions after* Alabama v. Shelton*: No-Lawyer-Courts and Their Consequences on the Poor and Communities of Color in St. Louis*, 29 CRIM. J. POL'Y REV. 688 (2018).

7. Jennifer Dell, *Extending Goffman's Dramaturgy to Critical Discourse Analysis: Ed Burkhardt's Performance after the Lac-Mégantic Disaster*, 41 CANADIAN J. COMMC'N. 569, 570-76 (2016); ERVING GOFFMAN, THE PRESENTATION OF SELF IN EVERYDAY LIFE (1959); Teun A. van Dijk, *Principles of Critical Discourse Analysis*, 4 DISCOURSE SOC'Y 249, 254 (1993).

8. *See* Mary R. Rose, Shari Seidman Diamond, & Kimberly M. Baker, *Goffman on the Jury: Real Jurors' Attention to the "Offstage" of Trials*, 34 LAW & HUM. BEHAV. 310 (2010).

9. Rock, *supra* note 5, at 95.

advances policy recommendations for improving due process in the misdemeanor courts.

I. LITERATURE REVIEW

A patchwork of estimates[10] suggests that even when entitled to counsel,[11] millions of defendants prosecuted in thousands of U.S. lower criminal courts[12] proceed without it.[13] Unrepresented defendants risk worse case outcomes and lowered perceptions of the criminal legal system.[14] The array of reasons that explain why individuals proceed in the criminal process without representation is as complex and diverse as the lower criminal courts themselves.[15] Some scholars ground this phenomenon of a persistent lack of representation in

10. TOM RICH & KEVIN M. SCOTT, DATA ON ADJUDICATION OF MISDEMEANOR OFFENSES: RESULTS FROM A FEASIBILITY STUDY 1 (2022), https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/damorfs.pdf (establishing that data on misdemeanor prosecutions, outcomes, and assertions of rights are limited because no systematically collected and reliable data on misdemeanor cases filed in state, county, or municipal courts exist); SIXTH AMEND. CTR., *supra* note 2, at 7; Sandra G. Mayson & Megan T. Stevenson, *Misdemeanors by the Numbers*, 61 B.C. L. REV. 971, 1014-16 (2020); Megan T. Stevenson & Sandra G. Mayson, *The Scale of Misdemeanor Justice*, 98 B.U. L. REV. 731, 763-64 (2018) (estimating that 13.2 million misdemeanor cases are prosecuted annually).

11. Robert C. Boruchowitz, *Judges Need to Exercise Their Responsibility to Require that Eligible Defendants Have Lawyers*, 46 HOFSTRA L. REV. 35, 35-36 (2018); ROBERT C. BORUCHOWITZ, MALIA N. BRINK, & MAUREEN DIMINO, NAT'L ASS'N OF CRIM. DEF. LAWS., MINOR CRIMES, MASSIVE WASTE: THE TERRIBLE TOLL OF AMERICA'S BROKEN MISDEMEANOR COURTS 14-15 (2009); DIANE D. PRICE ET AL., NAT'L ASS'N OF CRIM. DEF. LAWS., SUMMARY INJUSTICE: A LOOK AT CONSTITUTIONAL DEFICIENCIES IN SOUTH CAROLINA'S SUMMARY COURTS 8, 11-15 (2016), https://www.nacdl.org/Document/SummaryInjusticeConstitDeficienciesSCSummaryCourts; ALISA SMITH ET AL., NAT'L ASS'N OF CRIM. DEF. LAWS., RUSH TO JUDGEMENT: HOW SOUTH CAROLINA'S SUMMARY COURTS FAIL TO PROTECT CONSTITUTIONAL RIGHTS 6-7, 17, 39-40 (2017), https://www.nacdl.org/Document/RushtoJudgmentSCSummaryCourtsDontProtectConstRight.

12. The lower criminal courts comprise many different types referred to as misdemeanor, justice, summary, magistrate, and municipal courts. *See, e.g.*, Alexandra Natapoff, *Criminal Municipal Courts*, 134 HARV. L. REV. 964, 974-991 (2023). The phenomenon of proceeding *pro se* is common (maybe more so) in civil cases. *See* Anna E. Carpenter, Colleen F. Shanahan, Jessica K. Steinberg, & Alyx Mark, *America's Lawyerless Courts*, AM. BAR ASS'N LAW PRAC. MAG. (July 18, 2022), https://www.americanbar.org/groups/law_practice/publications/law_practice_magazine/2022/july-august/americas-lawyerless-courts/.

13. SIXTH AMEND. CTR., THE RIGHT TO COUNSEL IN AMERICA TODAY, https://sixthamendment.org/the-right-to-counsel-in-america-today/ (last visited Feb. 26, 2023); Emily Hamer & Caitlin Schmidt, *'America's Dirty Little Secret': Thousands of Misdemeanor Defendants Don't Get Attorneys*, LEE ENTERS. (Feb. 2, 2023), https://tucson.com/news/national/america-s-dirty-little-secret-thousands-of-misdemeanor-defendants-don-t-get-attorneys/article_08ed29a3-bb5d-5930-9cc7-58329543fdbd.html; Lauren Sudeall & Darcy Meals, *Every Year, Millions Try to Navigate US Courts Without a Lawyer*, THE CONVERSATION (Sept. 21, 2017) https://theconversation.com/every-year-millions-try-to-navigate-us-courts-without-a-lawyer-84159.

14. *See generally*, Andrew Davies & Kirstin A. Morgan, *Providing Counsel for Defendants: Access, Quality, and Impact*, *in* THE LOWER CRIMINAL COURTS 45, 48-50 (Alisa Smith & Sean Maddan eds., 2019).

15. Drew A. Swank, *The Pro Se Phenomenon*, 19 BYU J. PUB. L. 373, 378-79 (2005).

systemic issues relating to the lack of resources, high public defense caseloads,[16] legal deserts,[17] assembly-line procedures, and managerial process efficiencies.[18] Others identify real-world obstacles impeding defendant choice, including insufficient information about the legal right to counsel,[19] fees charged for applying for and using appointed counsel,[20] the personal costs incurred when cases have to be delayed to secure counsel, and defendants' interests in quick case resolutions.[21] Many of these systemic and real-world barriers translate into community perceptions of public defense counsel as being second-rate.[22] The present study adopts a conceptual framework of court as complex with routinized performances, conveying messages that shape defendants orientations to arraignment hearings and encourage rights waivers.[23] Underexplored are the

16. Erica Hashimoto, *The Problem with Misdemeanor Representation*, 70 WASH. & LEE L. REV. 1019, 1034-38 (2013); Lauren Sudeall, *Public Defense Litigation: An Overview*, 51 IND. L. REV. 89 (2018); *see* Jessica A. Roth, *The Culture of Misdemeanor Courts*, 46 HOFSTRA L. REV. 215, 234 (2018).

17. Sudeall & Meals, *supra* note 13; Am. Bar Ass'n, *Legal Deserts Threaten Justice for All in Rural America*, ABA NEWS (Aug. 3, 2020), https://www.americanbar.org/news/abanews/aba-news-archives/2020/08/legal-deserts-threaten-justice/.

18. ISSA KOHLER-HAUSMANN, MISDEMEANORLAND: CRIMINAL COURTS AND SOCIAL CONTROL IN AN AGE OF BROKEN WINDOWS POLICING 62-67, 76-98 (2018) (proposing a managerial model for understanding misdemeanor court practices); Alisa Smith & Sean Maddan, *Misdemeanor Courts, Due Process, and Case Outcomes*, 31 CRIM. J. POL'Y REV. 1312, 1334 (2020) (comparing Florida's misdemeanor courts to fast-food processing); *cf.* MALCOLM FEELEY, THE PROCESS IS THE PUNISHMENT: HANDLING CASES IN A LOWER CRIMINAL COURT 12 (1979) (resisting the label of "assembly line" satisfactorily describing lower court practices).

19. ALISA SMITH & SEAN MADDAN, NAT'L ASS'N CRIM. DEF. LAWS., THREE-MINUTE JUSTICE: HASTE AND WASTE IN FLORIDA'S MISDEMEANOR COURTS (2011), https://www.nacdl.org/getattachment/eb3f8d52-d844-487c-bbf2-5090f5ca4be3/three-minute-justice-haste-and-waste-in-florida-s-misdemeanor-courts.pdf.

20. MAREA BEEMAN, KELLIANNE ELLIOTT, ROSALIE JOY, ELIZABETH ALLEN, & MICHAEL MROZINSKI, NAT'L LEGAL AID & DEF. ASS'N, AT WHAT COST? FINDINGS FROM AN EXAMINATION INTO THE IMPOSITION OF PUBLIC DEFENSE SYSTEM FEES (2022), https://www.nlada.org/sites/default/files/NLADA_At_What_Cost.pdf; Alisa Smith, *The Cost of (In)Justice: A Preliminary Study of the Chilling Effect of the $50 Application Fee in Florida's Misdemeanor Courts*, 30 U. FLA. J.L. & PUB. POL'Y 59 (2019).

21. Alisa Smith, *"It Was Just a Little Situation." A Research Note on Proceeding Without Counsel by Misdemeanor Defendants*, 59 CRIM. L. BULL. 173 (2023); Hashimoto, *supra* note 16, at 1032-34.

22. Kelsey S. Henderson & Reveka V. Shteynberg, *Perceptions About Court-Appointed and Privately-Retained Defense Attorney Representation: (How) Do They Differ?*, 23 CRIMINOLOGY CRIM. JUST. L. & SOC'Y 45, 46 (2022) (comparing perceptions on court-appointed and privately retained counsel); *see* earlier studies: Jonathan D. Casper, *Did You Have a Lawyer When You Went to Court? No, I Had a Public Defender*, 1 YALE REV. L. & SOC. ACTION 4 (1971); JONATHAN D. CASPER, AMERICAN CRIMINAL JUSTICE: THE DEFENDANT'S PERSPECTIVE (1972).

23. The prior research that informs our study have explored how defendants' perception shaped their courtroom interactions and how their interactions shape their perceptions of the criminal legal system's legitimacy. *See e.g.*, Robert J. Sampson & Dawn Jeglum Bartusch, *Legal Cynicism and (Subcultural?) Tolerance of Deviance: The Neighborhood Context of Racial Differences*, 32 L. & SOC'Y REV. 777 (1998); TOM R. TYLER & YUEN J. HUO, TRUST IN THE LAW: ENCOURAGING PUBLIC COOPERATION WITH THE POLICE AND COURTS 108-09 (2002) (defining legitimacy as encompassing trust and confidence in the police); Tom Tyler et al., *The Impact of Psychological Science on Policing in the United States: Procedural Justice, Legitimacy, and Effective Law Enforcement*, 16 PSYCH. SCI.

lived experiences of the "unnoticed, untapped, and underappreciated" misdemeanor defendants, and how courtroom discourses (textual and contextual), bureaucratic routines, and institutionalized performances encourage their rights waivers,[24] particularly the right to counsel.[25] Calls to reform the misdemeanor courts must account for unrepresented defendants' perspectives; otherwise, "changes to the system might be made for the wrong reasons or end up being ineffective."[26]

Frances Rock, studying English and Welsh 'policing by consent' where individual police officers engaged the tick-box approach as a means of accomplishing tasks or solving difficulties, described true consent as requiring voluntary and informed decision-making, and the consenting person expressing a degree of enthusiastic agreement or acquiescence.[27] Though the most obvious threat to voluntary consent and rights assertion is coercion, Rock suggested that even unintentional coercion through social pressure can invalidate the voluntariness of consent, including when the consent exchange feels like "a mere formality to dash through."[28] Maynard's study of misdemeanor plea bargaining in a California courtroom demonstrated how most defendants seemed to cooperate automatically.[29] Further, Eades' study of cross-examination of Aboriginal minors in Australia found the tendency to answer "yes" to questioning as a type of "gratuitous concurrence" provoked by repeated questioning, complex question structures, and limited opportunities for the questioned to take control of the questioning.[30] For consent to be informed,

IN PUB. INT. 75, 86 (2015) (observing that negative police encounters, including disrespect result in perceptions of illegitimacy of the law and manifests in powerlessness); John Hagan, Bill McCarthy, Daniel Herda, & Andrea Cann Chandrasekher, *Dual-Process Theory of Racial Isolation, Legal Cynicism, and Reported Crime*, 115 PROC. NAT'L ACAD. SCIS. 7190 (2018); Monica C. Bell, *Police Reform and the Dismantling of Legal Estrangement*, 126 YALE L.J. 2054 (2017).

24. Christopher Campbell, Janet Moore, Wesley Maier, & Mike Gaffney, *Unnoticed, Untapped, and Underappreciated: Clients' Perceptions of Their Public Defenders*, 33 BEHAV. SCI. & L. 751, 751 (2015); Kathryne M. Young, *Everyone Knows the Game: Legal Consciousness in the Hawaiian Cockfight*, 48 LAW & SOC'Y REV. 499, 499 (2014); Kathryne M. Young, *Rights Consciousness in Criminal Procedure: A Theoretical and Empirical Inquiry*, 12 SOCIO. CRIME L. & DEVIANCE 67, 88 (2009); NICOLE GONZALEZ VAN CLEVE, CROOK COUNTY: RACISM AND INJUSTICE IN AMERICA'S LARGEST CRIMINAL COURT (2016); Bell, *supra* note 23, at 2054; Monica C. Bell, *Situational Trust: How Disadvantaged Mothers Reconceive Legal Cynicism*, 50 LAW & SOC'Y REV. 314 (2016).

25. Heather Pruss, M. Sandys, & S. M. Walsh, "*Listen, Hear My Side, Back Me Up": What Clients Want from Public Defenders*, 43 JUST. SYS. J. 6, 6 (2022).

26. Swank, *supra* note 15, at 374.

27. Rock, *supra* note 5, at 94.

28. *Id.* at 94.

29. Douglas W. Maynard, *Social Order and Plea Bargaining in the Courtroom*, 24 SOCIO. Q. 233, 233 (1983).

30. Diana Eades, *Erasing Context in the Courtroom Construal of Consent*, *in* DISCURSIVE CONSTRUCTIONS OF CONSENT IN THE LEGAL PROCESS 71, 81 (Susan Ehrlich, Diana Eades, & Jane Ainsworth eds., 2016).

language must be accessible.[31] However, legal documents,[32] courtroom exchanges,[33] and aspects of the criminal legal system,[34] remain linguistically complex and inaccessible to the public.

In one court study, most defendants claimed to understand the plea process, the possible penalties, and the legal proceedings, but in post-resolution testing, the average defendant in the study correctly answered only 55% of questions about the plea process, possible penalties, and legal proceedings.[35] In studies of *Miranda* rights' comprehension,[36] surveyed prospective jurors, undergraduates, and defendants held misconceptions about legal rights. For example, in one study, 20% of the prospective jurors wrongly believed silence could be used as incriminating evidence, and in another, 26% of the undergraduates, and 31% of pretrial defendants wrongly believed the same.[37] Judges often attempt to offer defendants clarifications or explanations of complex legal statements and documents. In a study of clarification strategies by judges during guilty plea hearings, Susan U. Philips questioned judges' effectiveness in clarifying the written rights and plea agreement forms and in providing any real benefit to defendants.[38] Defendants inability to understand the complex written and spoken language resulted in linguistic marginalization, which is exacerbated by the alienating features of court proceedings, like referring to defendants in the third

31. J.B. Green, R.E. Duncan, G.L. Barnes & F. Oberklaid, *Putting the 'Informed' into 'Consent': A Matter of Plain Language*, 39 J. PAEDIATRICS & CHILD HEALTH 700 (2003); DAVID MELLINKOFF, THE LANGUAGE OF THE LAW 434-35 (1963); Robert W. Benson, *The End of Legalese: The Game is Over*, 13 N.Y.U. REV. L. & SOC. CHANGE 519, 520-26, 571 (1985); Michael Blasie, *Regulating Plain Language*, 2023 WIS. L. REV. 687, 687 (2023).

32. Eric Martínez, Francis Mollica, & Edward Gibson, *Even Lawyers Do Not Like Legalese*, 120 PROC. NAT'L ACAD. SCIS. 1 (2023); ROGER W. SHUY, BUREAUCRATIC LANGUAGE IN GOVERNMENT AND BUSINESS 175-184 (1998); Gail Stygall, *Textual Barriers to United States Immigration*, *in* LANGUAGE IN THE LEGAL PROCESS 35-53 (Janet Cotterill ed., 2002).

33. Bridget Mary McCormack, *Access to Justice Requires Plain Language*, MICH. BAR J. 44, 45 (Feb. 2021).

34. Aneta Pavlenko, Elizabeth Hepford, & Scott Jarvis, *An Illusion of Understanding: How Native and Non-Native Speakers of English Understand (and Misunderstand) Their* Miranda *Rights*, 26.2 INT'L J. SPEECH LANGUAGE & L. 181, 184 (2019); Rogers & Drogin, *supra* note 3, at 150; Blasie, *supra* note 31, at 721-26.

35. Redlich & Summers, *supra* note 3, at 634-40.

36. The U.S. Supreme Court, in *Miranda v. Arizona*, 384 U.S. 436 (1966), held that arrested individuals were entitled to hear that they had the right against self-incrimination and an attorney before questioning by the police.

37. Rogers & Drogin, *supra* note 3, at 152-53; Richard Rogers, Chelsea E. Fiduccia, Jennifer A. Steadham, Eric Y. Drogin, Robert J. Cramer, & John W. Clark, *General Knowledge and Misknowledge of* Miranda *Rights: Are Effective* Miranda *Advisements Still Necessary?*, 19 PSYCH. PUB. POL'Y & L. 432, 438 (2013) (examining the free recall and knowledge of *Miranda* among jury pool members, n=420); Richard Rogers, Jill E. Rogstad, Nathan D. Gillard, Hayley L. Blackwood, Eric Y. Drogin, & Daniel W. Shuman, *"Everyone Knows Their* Miranda *Rights": Implicit Assumptions and Countervailing Evidence*, 16 PSYCH. PUB. POL'Y & L. 300, 308 (2010) (comparing *Miranda* rights knowledge and misconceptions among pretrial defendants (n=149) and undergraduate students (n=119)).

38. Susan U. Philips, *Strategies of Clarification in Judges' Use of Language: From the Written to the Spoken*, 8 DISCOURSE PROCESSES 421, 426-32 (1985).

person, using specialist terminology, and limiting defendants' speaking rights (including asking questions).[39]

Rock concludes that understanding courtroom discourse and legal dialogue to improve decision-making is as important as understanding the implications and consequences of consent decisions.[40] Rock's assertion was reinforced by a recent interview study by Stice and Smith finding that misdemeanor defendants who plead guilty without legal representation reported being blindsided by the unexpected and compounding negative consequences on their lives, families, emotional well-being, and employment.[41] Other scholars point to courtroom procedures as "an assembly-line where individuals are processed through the system quickly and efficiently" with misdemeanor defendants routinely agreeing to pleas without understanding the true stakes.[42] The present study builds on this foundation of research on informed consent in legal settings to call into question how an undue focus on procedural efficiency marginalizes defendants' understanding of court proceedings and therefore promotes rights waivers.

II. CONCEPTUAL FRAMEWORK

Seeking to understand interactions in context, this study employs Goffman's[43] dramaturgy to examine the courtroom exchanges between court personnel and defendants.[44] In *The Presentation of Self in Everyday Life*, Goffman[45] adopts the metaphors of "stage" and "performer" to describe social behavior in various contexts. He observes that when individuals are on the "front" stage, performing before an audience, they behave, or are expected to behave, according to their situated roles. In contrast, when individuals are

39. Jim O'Driscoll, *Dances with Footings: A Goffmanian Perspective on the Soto Case*, 14 J. POLITENESS RSCH. 39, 48 (2018).

40. Rock, *supra* note 5, at 95-96.

41. STICE & SMITH, *supra* note 6.

42. Stephen L. Brickey & Dan E. Miller, *Bureaucratic Due Process: An Ethnography of a Traffic Court*, 22 SOC. PROBS. 688, 696 (1974-1975); Redlich & Summers, *supra* note 3; Eisha Jain, *Proportionality and Other Misdemeanor Myths*, 98 B.U. L. REV. 953, 962-63 (2018); Allison Redlich, *The Validity of Pleading Guilty*, *in* ADVANCES IN PSYCHOLOGY AND THE LAW 1 (B.H. Borstein & M.K. Miller eds., 2016); Allison Redlich & C. Bonventre, *Content and Comprehensibility of Juvenile and Adult Tender-of-Plea Forms: Implications for Knowing, Intelligent, and Voluntary Guilty Pleas*, 39 LAW & HUM. BEHAV. 162, 162 (2015).

43. GOFFMAN, *supra* note 7, at 17-76; ERVING GOFFMAN, ASYLUMS: ESSAYS ON THE SOCIAL SITUATION OF MENTAL PATIENTS AND OTHER INMATES (1961); ERVING GOFFMAN, INTERACTION RITUAL: ESSAYS ON FACE-TO-FACE BEHAVIOR 5-46 (1967).

44. Robyn Penman, *Facework & Politeness: Multiple Goals in Courtroom Discourse*, 9 J. LANGUAGE & SOC. PSYCH. 15 (1990); Rose et al., *supra* note 8, at 310; Shannon Portillo, Danielle S. Rudes, Jill Viglione, Matthew Nelson, & Faye Taxman, *Front-Stage Stars and Backstage Producers: The Role of Judges in Problem-Solving Courts*, 8 VICTIMS & OFFENDERS 1 (2013); Brenda Danet, *Language in the Legal Process*, 14 LAW & SOC'Y REV. 445, 449 (1980).

45. GOFFMAN, *supra* note 7, at 17-76.

"offstage,"[46] they are more likely to let down their guard and reveal their authentic selves. Courtroom behavioral studies, relying on dramaturgy, find that court personnel act as "supporting producers"[47] of interactions, defendants' offstage behaviors affect juror decisions,[48] and "backstage" courtroom workgroup interactions influence case outcomes.[49]

The present study considers the onstage performance between the judge and the defendant as only a small part of the larger setting of the court. It adds to the current body of court research by observing off- and on-stage procedures of misdemeanor court *arraignment* hearings, not trials. Misdemeanor defendants do not participate in "backstage" interactions with judges and prosecutors during their encounters. Rather, they are involved in the more informal, offstage interactions with courtroom professionals, other defendants, and courtroom observers before their onstage performance with judges. These offstage interactions with court personnel, the ritualized procedures for conveying legal rights to defendants, and watching as other audience members are thrust on stage to perform with the judge and court personnel, inevitably shape defendants' onstage performances with judges and their decisions to consent and waive their rights.

III. METHODOLOGY

This varied qualitative methods case study of two lower courts is a Critical Discourse Study[50] that investigated how the discourses of courtroom performances encourage consent to guilty pleas and rights waivers.[51] Our understanding of discourse as textual and contextual motivated us to gather a variety of data sources to strengthen and triangulate our findings.[52] To

46. Plea-bargaining is typically an insider, backstage activity involving discourse among professionals that excludes defendants. *See* DOUGLAS W. MAYNARD, INSIDE PLEA BARGAINING: THE LANGUAGE OF NEGOTIATION 55-75 (1984).

47. Portillo et al., *supra* note 44.

48. Rose et al., *supra* note 8, at 310.

49. JOANN MILLER & DONALD R. JOHNSON, PROBLEM SOLVING COURTS: A MEASURE OF JUSTICE 173-74 (2009).

50. Ruth Wodak, *Critical Discourse Studies*, *in* THE BLOOMSBURY HANDBOOK OF DISCOURSE ANALYSIS 35, 36 (Ken Hyland, Brian Paltridge, & Lillian L.C. Wong eds., 2021) ("CDS do not begin with a fixed theoretical and methodological position. Instead, the CDS research process starts with a research topic, that is, a social problem – for example, racism, democratic participation, globalization, workplace literacy and so forth. Methodology is the process during which, informed through theory, this topic is further refined so as to construct the objects of research (pinpointing specific foci and research questions). The choice of appropriate methods (data collection and mode of analysis) depends on what one is investigating.") (internal citation omitted).

51. The empirical approach is qualitative and exploratory, beginning with a research question, not a hypothesis for scientific testing. *See* Alisa Smith, Natalie Mousa, & Sarah K. Stice, *Studying Unrepresented Defendants in the Lower Criminal Courts: Methodological Lessons Learned*, L. & METHOD (Mar. 2024).

52. *See generally*, *The Guide to Mixed Methods Research*, ATLAS.TI, https://atlasti.com/guides/the-guide-to-mixed-methods-research/triangulation-in-mixed-methods-research (last visited Nov. 19, 2025).

understand the textual and scripted discourses of the courts, we collected transcripts of rights-waiver hearings and legal documents, including a rights-waiver form the courts required defendants to fill out before their hearing. To understand the contextual, staged, and performed discourses, we conducted observations of arraignment hearings and interviewed defendants who pleaded guilty without counsel.

A. Study Sites and Setting

The present study was conducted in two Southeastern lower criminal courts in the United States. To maintain anonymity of the location and preserve the confidentiality of the participants, we characterized the courts only by their county size, i.e., small and large.[53] The research sites were adjacent and employed lawyers from the same prosecution and public defense offices but in geographic areas with contrasting economic and demographic communities. Misdemeanor crimes and criminal traffic infractions heard in these courts range from petit theft, battery, and trespass, to driving with a suspended license or while intoxicated. In both counties, cases began after defendants were arrested, issued notices to appear, or given civil citations (like traffic tickets). Arraignment hearings were typically scheduled three to four weeks later. At arraignment hearings, judges advised defendants of their charges and available plea offer(s) from prosecutors. Judges determined how defendants wanted to plead, and addressed, if unrepresented, their desire and eligibility for appointed counsel, or offered them time to hire counsel. Defendants may hire private attorneys, request court-appointed counsel (if they qualify), or represent themselves. In the present study, participant defendants were selected for the study because they waived their right to counsel and pled guilty or no contest at arraignment.[54]

B. Data Collection and Analysis

The present study was guided by Goffman**'**s dramaturgical theory and grounded in Critical Discourse Studies (CDS) to understand how courtroom performances produce and reproduce power in ways that kept unrepresented misdemeanor court participants in marginalized legal positions.[55] Critical discourse involves a multi-step approach of investigating how social power is created and maintained through written and spoken discourses,[56] and CDS with Goffman**'**s theater metaphor offered us the tools to analyze and understand the

53. The larger community has over one million people; the smaller county has less than 500,000 people.

54. Some defendants had the chance to informally discuss their case with public defenders.

55. Wodak, *supra* note 50, at 39.

56. Ruth Wodak & Michael Meyer, *Critical Discourse Studies: History, Agenda, Theory and Methodology*, *in* METHODS OF CRITICAL DISCOURSE STUDIES, 1, 14-15 (Ruth Wodak & Michael Meyer eds., 3d ed. 2016).

textual and linguistic features and the contextual and social environments of the judge-defendant exchanges.[57]

Our study critically examined how judges and court procedures encouraged defendants to consent to guilty pleas and rights waivers. We began by gathering observations of the courts interactions and procedures[58] that were analyzed using a bottom-up, inductive and critical approach in coding behavioral patterns to answer our research question.[59] As observations were ongoing, research assistants collected legal documents given to defendants, including the rights-waiver form[60] that defendants signed to waive counsel and plead guilty or no contest to their charges. The rights-waiver form was analyzed for readability using Flesch-Kincaid Reading Analysis.[61] Research assistants also approached defendants who waived counsel and pled guilty or no contest and requested brief (5-15 minute) interviews that followed an interview protocol which encouraged open-ended conversations about their performances and decision-making.[62] For example, the first question was, **"**Thinking about your court experience today, how would you describe what happened?**"**[63]

In total, 32 interviews were conducted and transcribed, and then inductively coded to answer the research question.[64] At the completion of the observations and interviews, the court reporter provided audio-recordings of 25 performed exchanges, and the hearings were transcribed. A subsample of 8 randomly selected hearings was analyzed using some conventions of Conversation Analysis[65] to identify the rhetorical strategies that judges employed that encouraged guilty pleas and suppressed rights assertion.[66] Figure 1 describes the data collected from 45 arraignment hearings, the rights-waiver form, 32 inductively coded interviews, and 25 transcripts.

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57. Martin Reisigl & Ruth Wodak, *The Discourse-Historical Approach (DHA)*, *in* METHODS OF CRITICAL DISCOURSE STUDIES, *supra* note 56, at 30-31.

58. *See* Appendix A for the field notes protocol.

59. KATHY CHARMAZ, CONSTRUCTING GROUNDED THEORY: A PRACTICAL GUIDE THROUGH QUALITATIVE ANALYSIS 22-54, 109-161 (2006).

60. *See* Appendix B for a redacted copy of the rights-waiver form.

61. Rudolph Flesch, *A New Reliability Yardstick*, 32 J. APPLIED PSYCH. 221, 223 (1948); Rudolph Flesch, *Measuring the Level of Abstraction*, 34 J. APPLIED PSYCH. 384, 387-89 (1950); Gisli H. Gudjonsson, *The 'Notice to Detained Persons', PACE Codes, and Reading Ease*, 5 APPLIED COGNITIVE PSYCH. 89, 90-91 (1991).

62. Kathryn Roulston, *Considering Quality in Qualitative Interviewing*, 10 QUALITATIVE RSCH. 199, 217-18 (2010); *see* Appendix C for a copy of our interview protocol.

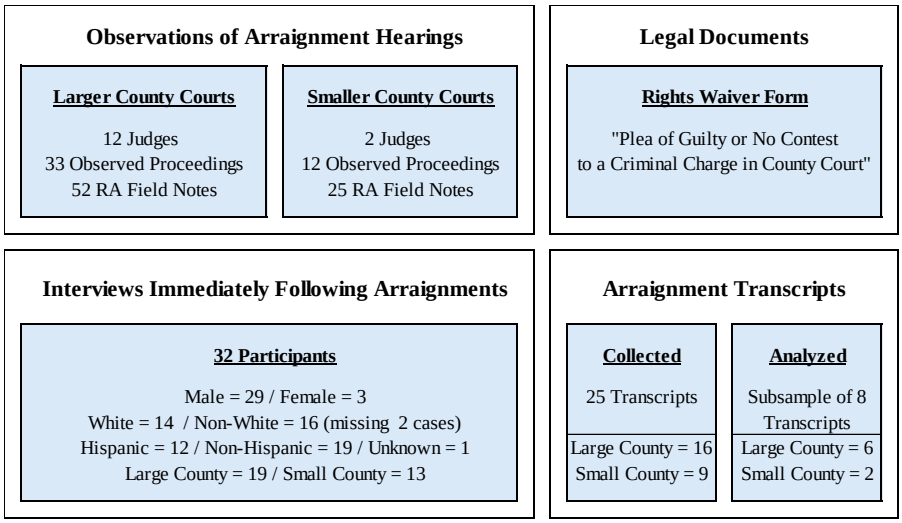
63. A copy of the post-arraignment interview guide is available online. SARAH K. STICE & ALISA SMITH, NAT'L ASS'N CRIM. DEF. LAWS., COMPLEX DECISIONS UNDER SHORT TIME CONSTRAINTS: WHY MISDEMEANOR DEFENDANTS PROCEED WITHOUT COUNSEL 60 (2025).

64. CHARMAZ, *supra* note 59, at 55-82, 138-161.

65. Charles Goodwin & John Heritage, *Conversation Analysis*, 19 ANN. REV. ANTHROPOLOGY 283, 283 (1990) (defining "conversation analysis" as a field of study that "describe[s] the underlying social organization—conceived as an institutionalized substratum of interactional rules, procedures, and conventions—through which orderly and intelligible social interaction is made possible").

66. *See* Appendix D for a sample arraignment transcript.

Figure 1. Collected Data



C. Observations

The study began with observations of arraignment hearings in the large and small county.[67] Observation data for this study was obtained through six research assistants' descriptive, field, and reflective notes. The research assistants were college graduates, and several were law students. The research assistants had more formal education than many of the defendants appearing in court, but none were attorneys. None belonged to or dressed like members of the courtroom "workgroup."[68] Descriptive, narrative, and reflective field notes of direct observations of the pre-court, off-stage procedures and on-stage judge interactions, including the behaviors and interactions of the performers (court personnel and defendants), offered rich, complex data for analysis.

The observation periods were staggered across the two courts. Observations were gathered over nine weeks in the large county courts, beginning the week of March 29, 2022, and lasting through the week of May 23, 2022. Observations were gathered for six weeks in the small county courts, beginning the week of May 30, 2022, and lasting through the week of July 4, 2022. The research assistants observed arraignment hearings by twelve different judges in the large county courts and two in the small county courts. Research assistants arrived (most often) thirty minutes before the arraignment proceedings were scheduled to observe the defendants' pre-court, offstage interactions with each other and court personnel. The arraignment hearings ranged from an hour to several hours, depending on the docket. Even though courts are open to the public, the chief

67. *See* the field notes and court observation protocol in Appendix A.
68. None had spent time in misdemeanor courts until working on this project.

judge overseeing both counties was notified of the research project. Research assistants (RAs) were permitted to enter the courtrooms, sit in the back, and take notes on the procedures, behaviors, and interactions.[69]

Before the start of the study, the RAs were trained and attended arraignment court proceedings to become familiar with general procedures. During the first week of court observations, the principal investigator accompanied the RAs, looking for unexpected events, answered questions, and refined the general observation guide used for the study. The observation guide was provided to facilitate notetaking, particularly highlighting attention to court personnel's language, demeanor, symbolism, gestures, and behaviors while interacting with each other and defendants. The RAs focused on describing observations, interactions, and details to tell the story of what happened on and off the courtroom stage rather than transcribing court proceedings or conversations. The guide was not a script but a tool for gathering information to describe the space, place, people, interactions, forms, and information.[70] The RAs were instructed to record when the court session started, who interacted with whom, how the court was organized, and the number of cases scheduled and heard.

During most weeks, two or three RAs observed courts, writing down their observations and reflecting on their experiences. The RAs were trained to make specific notes on how judges and court personnel interacted with defendants, including the language they used, and how defendants responded, providing observer insights on the courtroom interactions.[71] Research assistants differing perspectives allowed us to compare and contrast their observations and reflections in ways that improved reliability in uncovering the meaning of the procedures, personnel, and interactions.[72] Court proceedings were busy and quick; many interactions happened simultaneously. Having more than one observer allowed us to capture various interactions before, during, and after the court proceedings. In total, 77 field notes describing 45 different hearings were collected for this study (Figure 1, above).

69. This report is part of a larger project in which the research assistants interviewed defendants who resolved their cases without counsel. They were interviewed about their court experience and recruited for a long-term study with interviews about how they decided to proceed without counsel and the consequences of entering a plea without an attorney during the next six months. Research assistants also gathered administrative data from the smaller and larger jurisdictions to compare any differences that emerged across the jurisdictions on who resolved misdemeanor cases with counsel and who did not.

70. The guide is provided in Appendix A.

71. Kathy Mack & Sharyn Roach Anleu, '*Getting through the List': Judgecraft and Legitimacy in the Lower Courts*, 16 SOC. & LEGAL STUD. 341, 347 (2007) (employing similar court observation methodology to study of "judgecraft" in achieving "temporal goals" in lower criminal courts in Australia).

72. Aikaterini Argyrou, *Making the Case for Case Studies in Empirical Legal Research*, 13 UTRECHT L. REV. 95, 98-99 (2017).

D. Legal Documents

Research assistants collected the legal documents that were handed out to defendants before their hearings. Both courts distributed the same legal documents, and the first was an "Application for Appointed Counsel," which required defendants to fill out an extensive questionnaire to determine whether they were eligible for appointed counsel based on their financial ability. The second document, "Plea of Guilty or No Contest to a Criminal Charge in County Court," advised defendants of the rights they waived; thus, we have called this the rights-waiver form.[73] The rights-waiver form was significant to the present study as it functioned in scripting the interactions, the plea colloquy, and informing defendants of their legal rights, which all participants waived by pleading guilty or no contest.

E. Interviews

During the same timeframe as the observations, defendants were approached and recruited for the study after they left the courtroom. Every defendant who resolved their cases without legal representation were approached. We were unable to capture information on those that declined. Nineteen defendants agreed to an interview after arraignment in the large county, and thirteen in the small county. The RAs only approached those who had resolved their cases without attorneys, and they identified themselves as working on a research study to understand the decision to proceed without counsel. Upon approach, the RAs explained that they did not work for the courts, police, prosecutors, or public defenders' offices. Research assistants used a conversational style, formulating individualized questions based on participant responses, drawing out stories, and asking questions to clarify meaning. The interviews were initiated by lead-off questions followed by a list of possible and suggested questions that they could modify or create their own questions depending on the conversations.[74] Flexibility in approach was intended to encourage participants to offer rich, detailed responses.

After defendants resolved their cases without counsel, the RA approached them outside the courtroom and asked if they would be willing to participate in a brief and recorded interview about their court experience. The post-arraignment interviews were brief (ranging from 3-5 minutes), designed to capture preliminary information, explain confidentiality, and invite participants to longer and later compensated telephone interviews.[75] The post-arraignment interview process was changed due to low rates of recruitment to the later interviews. Since individuals were more willing to participate in the post-

73. See Appendix B for the redacted version of the Rights-Waiver Form.

74. *See* Appendix C for the Interview Protocol.

75. The later interviews are not analyzed in the present paper. *See* STICE & SMITH, *supra* note 6; STICE & SMITH, *supra* note 63.

arraignment interviews than the later telephone interviews, research assistants transitioned to asking more questions and extending the initial interviews to 15-30 minutes. As a result, research assistants obtained more detailed answers to questions. Example questions included, asking defendants to describe what happened in court, what influenced their decisions to proceed without counsel, how they prepared for court, and if they had prior interactions with attorneys and the courts to elaborate on those stories and explain what influenced their legal decisions, particularly to plead guilty without counsel.

F. Arraignment Transcripts

The court reporter agencies provided audio recordings of the rights-waiver proceedings for 25 of the 32 interviewed defendants.[76] Each defendant entered pleas of guilty or no contest to resolve their cases. The audio recordings were uploaded to an online service for automated transcription and manually edited for accuracy.[77] Using a random number generator, we selected eight of the twenty-five hearings for closer scrutiny of the judge-defendant interactions using conversation analysis conventions. Two participants resolved their cases in the small county (David, Matt) and six in the large county (Chris, Sabrina, Marcus, Devon, Natalie, Butter). Two participants identified as females. On average, the rights-waiver hearings lasted for about two minutes and 49 seconds, ranging from one minute and 57 seconds to 6 minutes and 40 seconds. We asked defendants to choose their own pseudonyms to connect them with our research project, empower agency and control over their identities, and encourage more authentic and rich descriptions of lived experiences.[78] Defendant's chosen pseudonyms are used to replace their real names in the transcripts and discussions. Legal actors, including judges, bailiffs (who are armed and uniformed police officers), prosecutors, and public defenders, are identified solely by their roles in the proceedings. Table 1 details the transcription conventions employed for the transcribed exchanges.

76. There were 32 defendants who were interviewed in the larger study, but not all defendants provided identifying information, so we were unable to obtain the recordings for those defendants. See Smith et al, *supra* note 51, at 16.

77. The automated transcriptions were completed using Rev.com.

78. Lynette Pretorius & Sweta Vijaykumar Patel, *What's in a Name? Participants' Pseudonym Choices as a Practice of Empowerment and Epistemic Justice*, 48 INT'L J. RSCH. & METHOD IN EDUC. 371, 371 (2025).

Table 1. Conversation Analytic Transcription Conventions

Symbols	Description
J:/C:/P:/S:	Speaker Labels (J = Judge; C = Clerk; P = Prosecutor; Other Letters = Defendant Name, e.g., S = Sabrina)
[ ]	Encloses talk produced in overlap (i.e. when more than one speaker is speaking)
( )	Encloses unclear talk
(0.0)	Silence in seconds
=	Links talk produced with no intervening pause or silence
(( ))	Encloses description of nonverbal communication
-	Indicates incomplete words and stuttered syllables

In analyzing the transcripts, we focused primarily on the on-stage verbal performances between judges and defendants as the primary participants and aimed to describe how language structured the institutional exchanges.[79] During the judge-defendant exchanges, "institutional realities are evoked, manipulated, and even transformed in interaction"[80] by how the participants exercised their roles and sequenced questions and answers, reflecting power disparities and constructing meaning.[81] Closely and critically examining courtroom discourse allowed us to uncover the scriptedness of speaker-and-listener exchanges, the "inequalities [ ] embedded in talk and interaction," and the unequal power relations that produced the highly structured arraignment hearings and misdemeanor guilty plea performances.[82]

79. Anita Pomerantz & B.J. Fehr, *Conversation Analysis: An Approach to the Study of Social Action as Sense Making Practices*, *in* DISCOURSE AS SOCIAL INTERACTION, VOLUME 2, 64, 72-4 (Teun A. van Dijk ed., 1997) (describing speakers implicate their roles in constructing, delivering, and performing interactions).

80. John Heritage, *Conversation Analysis and Institutional Talk: Analyzing Data*, *in* QUALITATIVE RESEARCH: THEORY, METHOD AND PRACTICE 222, 223 (D. Silverman, ed., 1997/2004).

81. *See id.*

82. Goodwin & Heritage, *supra* note 65, at 292-95; Anne Rawls, *Foreword*, *in* CRITICAL CONVERSATION ANALYSIS: INEQUALITY AND INJUSTICE IN TALK-IN-INTERACTION XV, XX (H.Z. Waring & N. Tadic eds., 2024).

IV. FINDINGS

Two central themes emerged from our multiple data sources in response to our research question, how do institutional discourses (textual and contextual) of courtroom performances and interactions encourage rights waivers? First, rushed and authority-laden procedures before and during the arraignment hearings encouraged guilty pleas and rights waivers. Second, linguistic marginalization, or the court's exertion of power and control over language, discouraged rights assertion. The combined evidence from arraignment hearing observations, defendant interviews, and discourse analysis of the rights-waiver form and a subsample of arraignment transcripts afforded robust theorizing about how both textual and contextual factors in courtroom interaction encouraged pleas and discouraged rights assertion.

A. Theme 1: Rushed and Controlling Procedures

Our first assertion is that the rushed routines and procedures of the arraignment hearings encouraged guilty pleas and rights waivers without counsel. Our analysis of the field notes, interviews with defendants, legal documents, and rights-waiver transcripts all pointed to the rushed, routinized and controlling nature of arraignment hearings, starting with the offstage preparations for the hearing, building with defendants' performance anxieties over being in and returning to court another day, and culminating with judges' overreliance on written forms and scripted exchanges for quick resolutions and "tick box consent" of rights waivers.[83]

1. Routinized Procedures

In both counties, the arraignment proceedings were presented as efficient and quick proceedings with court personnel taking center stage, and defendants performing as supporting actors, who were expected to follow the lead of the main characters and scripted routines. At the onset, defendants were expected to appear in the large county court at the same time for their arraignments, resulting in a "cattle-call" feel to the experience.[84] In the small county, defendants were directed to appear at staggered times, resulting in smaller crowds. The less chaotic feel diminished, however, when defendants were instructed to watch pre-recorded videos, while public defenders and audience members talked among themselves. The video briefly described the meaning of arraignments and identified defendants' rights and restrictions on behaviors in court (such as shutting off their phones). RAs observed few defendants paying attention to the video advisements.

83. Rock, *supra* note 5, at 97-99.

84. ROY B. FLEMMING, PETER F. NARDULLI, & JAMES EISENSTEIN, THE CRAFT OF JUSTICE: POLITICS AND WORK IN CRIMINAL COURT COMMUNITIES 108-11 (1992).

In the large county, defendants were noticed to be in court before the courtroom door was unlocked. The practice resulted in participants waiting thirty or more minutes in the lobby outside the courtroom for their arraignment hearings. In the small county, participants waited only a few minutes before the courtroom doors were unlocked, and they were ushered into the courtroom where they had the opportunity to individually but quickly speak with public defenders while the pre-recorded video was playing. Once judges took the bench in both counties, all conversations, even those between defendants and public defenders in the small county stopped, and the proceedings began. More cases were heard during large county court arraignment hearings compared to small county court hearings. [85]

When defendants arrived at the large county courthouse, they were held in the lobby outside the courtroom until the scheduled time of the arraignment hearings. As they waited, defendants were observed knocking on the courtroom door, checking the time, and expressing uncertainty about what to do. A few minutes before the hearings were scheduled, a bailiff exited the courtroom and made announcements to those waiting for arraignments. RAs reported that in the large county, bailiffs were primarily responsible for the off-stage preparations for the arraignment hearings. This was not the case in the small county.

In the large county, bailiffs handed out legal documents, including the rights-waiver form, and instructed defendants to fill out the forms to expedite proceedings and presumptively suggested that most defendants would plead guilty or no contest. The bailiffs also provided an overview of the upcoming hearing, including court expectations for etiquette and instructions for pleading and rights assertion. Though this opening speech varied from day to day, bailiff to bailiff, and court to court, the general content was the same across observations. One bailiff, succinctly and directly instructed defendants who considered pleading guilty, that "If you hear 'jail,' change your plea from guilty to not guilty; no one here is going to jail today." In the large county, the bailiffs controlled the seating arrangements, instructing defendants to "sit on the right-hand side, friends and family on the left," and further cautioning to "not leave without your paperwork," and advising them that "no phones [were] allowed." The conflation of rights assertion and rules for etiquette likely diminished the importance of rights. The mass-speech format of plea options prioritized procedural efficiency. Even with individualized interactions with public defenders in the small county courts, RAs observed that defendants were confused and frustrated by the complexity of the written forms and the quickness of the interactions. One RA succinctly observed that cases were processed quickly, and "many defendants were confused about the process." Interviews

85. Initially, the study was focused only on a few misdemeanor crimes. *See* Smith et al., *supra* note 51, at 11-12. To broaden the scope of the study, the focus was no longer restricted to only those misdemeanors but misdemeanor, ordinance, and traffic cases that were prosecuted in these lower courts.

following the arraignments revealed how defendants perceived their day in court as anxiety-riddled, and they were deeply motivated to not return to court again.

2. Defendant Anxieties and Oversized Bailiff Presence

In this section, we discuss our analytical findings on defendants' performance anxieties, which were exacerbated by the oversized presence of bailiffs in the large county courts. In the small county, only two bailiffs were present in the courtroom, and they remained in the background while defendants interacted with public defenders and judges. In the large county, on the other hand, bailiffs were the first court personnel that defendants encountered. At times there were as many as eight bailiffs in one courtroom. Bailiffs wore full police regalia with visible weapons, which was perceived as threatening to some defendants. The number of bailiffs seemed disproportionate to the number of defendants in each hearing, as well as the severity of the crimes in question (in this case, misdemeanor charges ranging from petty theft to traffic incidents). This police presence and show of authority was perceived by field researchers as intimidating and could encourage defendants to quickly resolve their cases, such that their choice to plead guilty and rights waivers might be considered coerced by off-stage and figurative social pressures.

Defendants in the small and large county reported being anxious about their court appearance and performance. When asked what influenced their decisions to proceed without an attorney, a frequent response was to "Just to get it over with." For example, two large county participants expressed this pressure directly. Johnny[86] replied, "I just didn't wanna prolong this whole situation 'cause, you know, it was gonna be on my mind, make me nervous. I just wanted to get it over with." Similarly, Chris said he would do "whatever just [to] get it over with." Anticipating a return and being in court created feelings of anxiety for defendants which pressured them to make the most expeditious plea.

Some of that anxiety originated from negative experiences with the police in their communities and the police presence in the courtroom. Chris described his visceral reaction to the police presence in the courtroom:

> I already don't like being around officers and all that kinda stuff. Like I, I don't like being around 'em. So it, it made feel some type of way being around 'em and being around 'em for a whole hour, hell nah I ain't trying to be around them… Well, with all, with all of 'em [the police in court], I feel like the way they feel like they, I feel like they look at everybody like criminals until proven not so it's like the way they talk to and approach you and treat you sometimes you'll feel like you already in jail, but you ain't in jail yet.

86. All names are pseudonyms. Direct quotations have been simplified for clarity, but the essential meaning has been preserved.

The choice to plead not guilty and acquire representation, whether private or public, would require returning to court for additional stressful performances and future appearances or trials added inconvenience for many in securing transportation, requesting time off work, and finding childcare.

Defendants only counted the charges as serious if they faced jail time. Other potential consequences of pleading guilty or no contest seemed inconsequential compared to the anxiety and hassle of returning to and appearing in court. The rushed procedures, though diminishing the likelihood of defendants pleading not guilty and asserting their right to counsel, ultimately aligned with defendants' desire to get their day in court over with as quickly as possible. With little time to read, review, or question the rights-waiver form, defendants likely glossed over its content and signed quickly to move the proceedings along. The form itself, even if read in its entirety, did not ensure that defendants comprehended their rights or the consequences of waiving those rights.

3. Judges' Overreliance on the Rights-Waiver Form

The rushed and routinized procedures and police presence before court continued in the onstage performance of the arraignment hearing. The patterned performances were similar across defendant-judge interactions. In both counties, defendants were expected to read and sign the rights-waiver form before being called to the podium, which allowed judges to presume that the defendants comprehended their rights, as well as the consequences of waiving those rights, and move through the proceedings quickly. In five of the eight arraignment transcripts, the judge relied exclusively on the form for the plea colloquy, simply confirming that the defendant read and signed the form. Examples from the five hearings are shown in Table 2. David and Matt appeared before the same judge in the small county; the other participants appeared before different judges in the large county.

TABLE 2. Judge's Reliance on Rights-Waiver Form

Defendant	Judge's Reliance on Rights-Waiver Form
David	"You understood the rights on this form before you signed it. Do you have any questions?"
Sabrina	"Is this your signature? Do you understand the rights you give up when you sign this?"
Marcus	"Everybody should have been given a plea form. Make sure that you've read that form because if you resolve your case, and make sure you sign it. I'm gonna say, is this your signature? . . . Did you read it? . . . Do you have any questions? No? Yes or no?"
Matt	"I'm holding a plea form…as well as your waiver of right to counsel. Recognize both of these forms? . . . Any questions?"
Devon	"Were you sworn to tell the truth earlier? . . . Is this your signature? . . . .Do you understand the rights you give up when you sign this?"

The routinized performance and closed-ended, confirmation-seeking question encouraged scripted proceedings presupposing that defendants answered "yes" and discouraged off-script questions or interruptions.[87] Instead of taking time to ensure defendant comprehension, small and large county judges rushed through the proceedings and used the rights-waiver form as shorthand to expedite hearings.

In the remaining three hearings, judges in the large county supplemented the rights-waiver form with some rights-comprehension questions. The research assistants noted that some judges recited the rights quickly and sounded scripted, which was likely unhelpful in educating defendants about the procedures, their rights, or how best to proceed with their cases:

> The Judge [in the large county] gave the same explanation as the days before on misdemeanors, pleas, right to trial, appeals, attorneys, [public defenders], and paperwork. She spoke quickly and [monotonously]. It sounded like a script, but she wasn't reading from anything.

For example, in Scott's hearing, the judge, in the small county, supplemented the rights-waiver form by saying:

> Paragraph three on the plea form sets forth some constitutional rights such as the right to a speedy trial and the right to a jury trial. By accepting the State's offer, do you understand that you're waiving those

87. "Even simple affirmative answers to consent questions can poorly indicate genuine, knowing consent. For example, the expression of consent becomes potentially meaningless if the consenter assumes that saying 'yes' is simply a formality." Rock, *supra* note 5, at 95.

rights?[88]

The judge in Natalie's large county hearing also supplemented the written form by asking, "Do you understand that we will not have a trial in this case based on your plea?" By highlighting some rights in the form or generalizing the rights to be waived under the broad category of "right to a trial," the judge may have been attempting to ensure informed consent. We question whether these follow-up questions provided clarity or space to ask questions. Especially since the language used by the judges duplicated the written and scripted rights-waiver form language rather than providing further information about what those concepts might mean for a layperson. Furthermore, choosing only one or two rights to check may have diminished the importance, or even existence, of the other rights being waived.

In sum, the bailiffs' opening speeches and police-dominated performance heightened defendants' anxiety about being in and potentially returning to court. Judges relied on the rights-waiver form as a script and deployed their authority to control the proceedings and shape interactions, which were emblematic of the quick and routinized procedures before and during arraignment hearings. Rushing through the proceedings likely encouraged defendants to plead without counsel and waive their rights.

B. Theme 2: Linguistic Marginalization

Our second assertion is that the court's onstage performance displayed power and control by scripted and complex language resulting in linguistic marginalization,[89] disempowered defendants' roles, and discouraged not guilty pleas and rights assertion. Analysis of the legal forms, field observation notes, defendant interviews, and rights-waiver transcripts indicated that judges exerted power and control discursively through their on-stage performances, procedures, and dialogue. The stilted and complex legal documents, judges' inconsistent and minimal rights advisements, and highly structured exchanges upstaged the defendants' leading role, discouraged clarifying questions, and left misdemeanor defendants feeling silenced and unheard.

1. Complexity of the Rights-Waiver Form

The same rights-waiver form was used in both counties. The advanced reading level of that form, combined with studies showing that many Americans possess low everyday literacy skills,[90] called into question the defendants' ability

88. When legal professionals respond by repeating the same formally stated rights, the response does not improve comprehension. *See* Philips, *supra* note 38, at 426-32.

89. O'Driscoll, *supra* note 39, at 48.

90. Brett Miller, Peggy McCardle, & Ricardo Hernandez, *Advances and Remaining Challenges in Adult Literacy Research*, 43 J. LEARNING DISABILITIES 101, 101-106 (2010); Jessie L. Krienert, Jeffrey A. Walsh, & Malia A. Kohls, *An Empirical Analysis of the (Un)readability of Inmate Handbooks*, 47 J. CRIME & JUST. 421, 422 (2023) (citing Lih-Wern Wang, Michael J. Miller, Michael

to understand the rights they waived or the consequences of that decision. The rights-waiver form had a Flesch-Kincaid[91] readability score of 13th grade or college (13.0). If defendants could only read at or below a 6th- to 8th-grade level,[92] the rights-waiver form could not have sufficiently ensured defendant consent was informed and voluntary.[93] Further analysis of the rights-waiver form revealed a plethora of comprehension impediments:[94] convoluted wording, conditional statements, and ambiguous, technical vocabulary all decreased the readability of the rights-waiver form.[95] Examples of impediments to comprehension are shown in Table 3.

R. Schmitt, & Frances K. Wen, *Assessing Readability Formula Differences with Written Health Information Materials: Application, Results, and Recommendations*, 9 RSCH. SOC. & ADMIN. PHARMACY 503 (2013)).

91. Flesch (1948), *supra* note 61, at 221; Flesch (1950), *supra* note 61, at 384; Gudjonsson, *supra* note 61, at 90-91.

92. Krienert et al., *supra* note 90, at 422 (citing Wang et al. 2013, *supra* note 90, at 503).

93. Rock, *supra* note 5, at 94.

94. Stygall, *supra* note 32, at 35-53.

95. *See* Appendix B for the full, redacted form and Table 3 for examples of each impediment to comprehension.

Table 3. Impediments to Comprehension of the Rights-Waiver Form

Type	Example
Convoluted Wording	The most important point, that defendants are waiving their rights, is placed in the middle of a long, convoluted sentence, followed by a list of rights stated as positives but negated by the opening sentence: *By pleading Guilty or No Contest, I swear under oath before the Judge that [1] I have read and understand the rights and consequences of entering a plea of Guilty or No Contest contained on this Form and [2] I wish to give up the below listed rights and [3] have the Judge impose the sentence to which I agree to in open court.*
Conditional Statements	The use of conditional statements require the reader to consider whether the *if* statement applies to them, then continue to hold that information in mind as they consider the implications of the *then* statement: *If I am unrepresented by an attorney, I hereby waive my right to consult with an attorney or to have one appointed for the plea and sentencing in this case.*
Ambiguous Technical Words	Technical words that have specific legal meanings and implications might be unknown to the reader or have alternate definitions in everyday lexicon, e.g., *sentence, waive, open court, harmful error, subpoena, no contest, adjudication*

Since knowledge is power, the complex rights-waiver form served as a prop that routinized performances, impeded comprehension, and manifested in linguistic marginalization.[96]

2. Variability in Judges' Contributions to Defendants' Decisions

Defendants rarely asked questions when they were on-stage and at the podium interacting with the judge. When they asked questions about their right to counsel or the appointment of the public defender's office, judges answered differently based on their respective predilections. Some judges were "personable" and "attentive to the defendants," whereas others were characterized as "strict" and "cut-throat." One large county judge consistently stated that she could not give legal advice and suggested that defendants with questions get appointed an assistant public defender. Other judges, in both

96. *See* Selen A. Ercan & Carolyn M. Hendriks, *Dramaturgical Analysis*, *in* RESEARCH METHODS IN DELIBERATIVE DEMOCRACY 320, 321-23 (Selen A. Ercan, Hans Asenbaum, Nicole Curato, and Ricardo F. Mendonça eds., 2022).

counties, acted in ways that severely impeded clarifying questions. When defendants asked questions, some judges appointed counsel as a matter of course. Others were vigilant in *not* appointing the public defender, working to resolve cases that day without counsel or postponing the hearing for another day. Significantly, how the case was resolved was a function of how judges performed their roles. The judges' preferences and priorities rather than the defendants' needs affected defendants' onstage performances.[97] This meant that the type of justice a person received varied significantly based on the assigned judge and their preferences.[98]

Overall, messaging from judges was inconsistent, ranging from heavily encouraging pre-trial diversion without mention of the higher costs associated with that route, to discouraging pre-trial diversion without mention that it could benefit the defendant's public record. While the "kinder" judges may have left better impressions on defendants, this kindness might also have disguised the fact that defendants were pressured to resolve their cases without being given the chance to fully understand their rights or get the necessary information to consider all of their options and the consequences of their decision.[99] Thus, defendants might have pleaded differently depending on the judge or even a judge's attitude on a given day. Regardless of the judge or the day, however, few judges took the time to fully explain to defendants their constitutional and procedural rights or advise them of the collateral consequences of pleading guilty.

3. Judicial Control of Off-Script Questions

Hearing transcripts confirmed the observers' notes that judges discursively constructed the performative exchanges by frequently discouraging questioning and using confusing terminology, which may have led defendants to feel that they could not assert their rights.[100] The judges exerted control throughout the exchanges, suppressing questions even when defendants expressed confusion. This was evident in the few examples when defendants responded with something other than single word replies, asked a question, or needed clarification. Judges in both counties met these "off-script" interruptions by quickly returning to the expected dialogue and sending messages to the defendant (and other defendants in the courtroom) that off-script comments were inappropriate or irrelevant.

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97. *See, e.g.*, JOHN M. CONLEY & WILLIAM M. O'BARR, RULES VERSUS RELATIONSHIPS: THE ETHNOGRAPHY OF LEGAL DISCOURSE 82-111 (1990).

98. *Id.*

99. This observation is consistent with other critics who have highlighted the "dark side of procedural justice." Robert J. MacCoun, *Voice, Control, and Belonging: The Double-Edged Sword of Procedural Fairness*, 1 ANN. REV. L. & SOC. SCI. 171, 193 (2005); *see also* Bell, *supra* note 23, at 2054; Dorian Schaap & Elsa Saarikkom . . . ki, *Rethinking Police Procedural Justice*, 26 THEORETICAL CRIMINOLOGY 416, 416 (2022).

100. *See* Ercan & Hendriks, *supra* note 96, at 328.

In the excerpt below, a small county judge was advising David on the deportation consequences of entering a plea if he was not a citizen, and as soon as David started to explain that he was a citizen, the judge interrupted.[101]

> J: Alright. You understand this is punishable, by up to 60 days in jail, up to a 500 dollar fine and that the entry of your plea could be used against you in any deportation proceeding if you're not a citizen (.) you understand? That's the maximum. It's not gonna happen. Don't wor--
>
> D: --Right, no but--
>
> J: [Okay.]
>
> D: [I-I'm] an American citizen, [so-]
>
> J: [Okay.] I figured you are.
>
> I got- but the the law says I gotta tell everybody just in case.
>
> D: Right.
>
> J: Alright, State, any, any record?

Here, David interjected to let the judge know that he was an "American citizen." David's bracketed response denoted that the speech overlapped with the judge's speech. The overlapping speech interrupted the typical and predictable flow of the scripted and standardized performance exchange. The judge explained that he was legally obligated to notify everyone, even when the information was not applicable. We noted that, in this response, the judge interrupted David before he could finish his sentence, short-circuited his clarifying comment, and prioritized sticking to the script. Without pausing or further elaborating, the judge returned to the expected roles and dialogue. The judge's response, "I figured you are. I got- but the the law says I gotta tell everybody just in case," prevented David from asking questions outside of the scripted path, emphasizing that even if the law did not apply to him, he should still respond that he understood. The formulaic nature of the proceedings sent the message that even pertinent interruptions were unwelcome, because the law and

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101. Advising defendants, including misdemeanor defendants, that they might be subjected to deportation for entering a plea to criminal charges if they were not citizens became routine after the United States Supreme Court decision in *Padilla v. Kentucky*, 559 U.S. 356 (2010); IMMIGRANT DEFENSE PROJECT & NYU SCHOOL OF LAW IMMIGRANT RIGHTS CLINIC, JUDICIAL OBLIGATIONS AFTER *PADILLA V. KENTUCKY* 13, 29 (2011), https://immigrantdefenseproject.org/wp-content/uploads/2011/05/postpadillaFINALnew.pdf); Danielle M. Lang, *Padilla v. Kentucky: The Effect of Plea Colloquy Warnings on Defendants' Ability to Bring Successful "Padilla" Claims*, 121 YALE L.J. 944, 962-966 (2012) (raising concerns that the issuing of general warnings by judges during plea colloquies prevents defendants from showing prejudice, but also fails to provide adequate advice); Ingrid Eagly, Tali Gires, Rebecca Kutlow, & Eliana N. Gracian, *Restructuring Public Defense After Padilla*, 74 STAN. L. REV. 1, 50-56 (2022) (observing changes in public defender practices and *Padilla* advisals). Mr. Padilla was a lawful permanent resident of over 40 years when he entered a plea to drug distribution in Kentucky and later faced deportation. *Padilla*, 559 U.S. at 359. Mr. Padilla was wrongly advised by his attorney that he did not have to worry about deportation because he had lived in the United States for a very long time. *Id.* His plea was reversed on appeal because his lawyer provided erroneous advice. *Id.* at 375.

the colloquy were not specific to the defendant's case, but were automated and bureaucratic.

Another off-script exchange occurred when Marcus, a defendant appearing in the large county, asked the judge to clarify the difference between pleading guilty and no contest.[102] The no contest plea, which gives misdemeanor defendants the chance to plead without admitting guilt, may be attractive and encourage them to quickly resolve their cases. In the example below, the judge's characterization of "no contest" oversimplified the choice and its potential consequences.

> J: Pleading "guilty" or "no contest" today?
>
> M: What's the difference?
>
> J: "Guilty" means I did it and "No contest" means "I just wanna resolve it."
>
> M: No contest. Thank you, your Honor.

In responding to Marcus, the judge emphasized that pleading no contest was the path of least resistance, resolving his case without saying "I did it." Marcus quickly pleaded no contest, without asking for further clarification or a lawyer to discuss his options, which might have led to a different outcome. The judges' oversimplification likely led Marcus to plead no contest.

Similarly, in a proceeding with a different large county judge, Butter requested clarification on the meaning of "withhold of adjudication," to which the judge responded with a simplified explanation.

> J: You're not formally-y if someone asked you, have you ever been convicted of a crime, the answer would be no 'cause you're not being adjudicated --
>
> B: --I'd like to take that offer today.
>
> J: Okay.

The judge focused on the consequence of being convicted, encouraging Butter to immediately accept the offer, even before the judge could finish the sentence. Although the judge seemed to take the time and explained the differences in adjudication and answered Butter's questions, the judge never

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102. No contest pleas originated in the 1970s, in the case *North Carolina v. Alford*, 400 U.S. 25, 38-39 (1970), in which the Court held that defendants could enter best-interest guilty pleas yet maintain their innocence in exchange for plea bargaining (for Mr. Alford, that meant avoiding the death penalty in exchange for life in prison). *Alford* pleas have been subjected to criticism and controversy in high profile cases, with one legal scholar describing no-contest pleas as clear violations of due process because they "send[] someone to prison who has neither been found guilty nor admitted his guilt." Albert W. Alschuler, *Straining at Gnats and Swallowing Camels: The Selective Morality of Professor Bibas*, 88 CORNELL L. REV. 1412, 1412 (2003); Robert J. Norris, Jennifer N. Weintraub, James R. Acker, Allison D. Redlich, & Catherine L. Bonventre, *The Criminal Costs of Wrongful Convictions: Can We Reduce Crime by Protecting the Innocent?*, 19 CRIMINOLOGY & PUB. POL'Y 367, 367 (2020). Because of the potential consequences, the Supreme Court, in *Brady v. United States*, 397 U.S. 742, 748 (1970), has characterized the plea decision as "grave and solemn," and cautioned that it should be entered "only with care and discernment."

fully conveyed the potential and collateral consequences of pleading to withheld or non-adjudication sentences. Differences are more complicated with job applications and background checks potentially asking about arrests, not just convictions,[103] withheld and other non-adjudication sentences being treated no differently than adjudications for federal sentencing and immigration purposes,[104] and collateral consequences still following non-adjudications that include the potential of being denied public housing and college admission.[105] By downplaying the negative effects of such sentences, the judge encouraged Butter to plead no contest.[106] The oversimplified explanation by an obvious authority-figure likely encouraged Butter to quickly plead, leaving him without information about potential collateral consequences of his decision.

In David, Butter, and Marcus's hearings, judges played the lead actor, holding and exercising power in their institutional role as authority figures. By controlling the structure and performance of the proceedings, discouraging off-script questions, downplaying collateral consequences, and limiting the information communicated to defendants, judges subtly encouraged defendants to plead and resolve their cases without complete understanding of the consequences. The formulaic nature of the proceedings sent the message that even pertinent interruptions were unwelcome, because the explanations given were not specific to each defendant's case and were instead automated and bureaucratic. Both judges and defendants operated within the stilted and highly scripted court setting to perform in ways that aligned with expected role behaviors. A performance that deviated from these roles and responses was rare, and when there was a deviation, the judge guided the discourse through topic control and close-ended questioning that limited the appropriate range of defendant responses.

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103. George E. Tragos & Peter A. Sartes, *Withold of Adjudication: What Everyone Needs to Know*, 82 FLA. BAR J. 48 (2008).

104. U.S. CITIZENSHIP & IMMIGR. SERVS., *Chapter 2 – Adjudicative Factors*, *in* U.S. CITIZENSHIP AND IMMIGRATION SERVICES POLICY MANUAL, PART C1 (2025), https://www.uscis.gov/policy-manual/volume-12-part-f-chapter-2#:~:text=A%20conviction%20for%20immigration%20purposes,a%20finding%20of%20guilt%3B%20and.

105. ACLU FLA. GREATER MIA., MISDEMEANORS. COLLATERAL CONSEQUENCES RESULTING FROM MISDEMEANOR CONVICTIONS AND WITHHOLD-OF-ADJUDICATIONS, https://www.pdmiami.com/resources-pd/documents/misdemeanor-collateral-consequences-october2020.pdf.

106. The differences, or lack thereof, between being adjudicated and not being adjudicated are a bit more complicated. First, if a job application or background check asks whether the applicant has been arrested or has appeared in court as a criminal defendant, Butter, like other defendants, would be required to respond affirmatively. The arrest remains on Butter's record. Also, withheld and other non-adjudication sentences are treated differently for federal sentencing and immigration purposes. Since the judge must find sufficient evidence of guilt before accepting a plea, the federal government treats withheld adjudications as convictions for purposes of federal sentencing and immigration. Finally, some collateral consequences still follow non-adjudication, including the potential of being denied public housing and college admission.

4. Defendants Felt Silenced

The interviews also supported that many defendants felt uncomfortable speaking up in court. Several interviewees felt that court personnel would not listen to their side of the story. The bureaucratic and scripted performance left participants feeling marginalized and sidelined from their hearings. For example, in a post-arraignment interview, John, who appeared in the large county, said, "I didn't really get to explain myself. I feel like maybe if I explained the situation, like what happened before? Like what led up to that, maybe the outcome might have been different, but I mean, it's too late now."

Similarly, in her present and past experiences in court, Natalie, who appeared in the large county before another judge, felt that judges were too quick to pass judgment without listening to the defendant. When asked what she would change about the court experience, Natalie said, "The [defendants] that are going to court [should] have a little more leniency on speaking and talking before [the judges] cut you off or get mad and just bam, slam their gavel down and give you whatever the hell they want."

Another large county participant, Andrew, struggled with the tension between wanting to represent himself but not feeling that he was given a chance to speak. He explained, "Some people don't go with lawyers. Like I had no reason to get an attorney, so you know, I'm speaking for myself. She [the judge] didn't even let me speak. She was just like, "Well, this is what it is . . . Get outta here, basically."

In another case, Dan felt that the small county judge in his case was "somebody that would listen to you, to what you had to say and stuff, instead of not letting you talk or whatever." Despite this positive perception of the judge, Dan cautioned that talking in court had its risks; he asserted that if "you talk too much, you might just hang your own self…So, you know, you just go with the flow, 'Yes ma'am, no ma'am*,'* and be respectful. I don't argue with them . . . I ain't gonna feel comfortable speaking in court." So, whether the judges were off-putting or kind to the defendants, defendants felt that silence was in their best interest during the hearing. For some cases, the judge's demeanor, behavior, and treatment of off-script behaviors may have had a silencing effect, whereas for others, the defendants feared speaking up.

V. DISCUSSION

Before concluding and making recommendations drawn from our findings, it is prudent to review some of our study's limitations. By design, the data was drawn from only two counties and focused on unrepresented defendants who plead guilty or no contest at arraignment hearings, and thus this study is limited in its scope and generalizability. It does offer, however, an in-depth investigation of courtroom discourses that future studies may replicate to study represented and unrepresented defendants from diverse communities for comparison. Additional scholarly research is also needed to complement our findings with

larger quantitative studies of rights awareness and assertion in misdemeanor courts, which is currently under-studied.

Our findings align with other studies of comprehension and consent in legal settings, showing how power disparities shape and reinforce procedural efficiencies that impede comprehension and promote consent.[107] Overall, we found that institutional discourses (textual and contextual) shaped courtroom performances and interactions and encouraged scripted rights waivers. Defendants faced social coercion and a form of Rock's *tick-box* consent,[108] through a variety of staged and scripted pressures: an overbearing police presence, procedural expectations for completing and signing the rights-waiver form, rushed proceedings, and judicial control over speech and behavior. Defendants waiting in the audience and watching other hearings may have felt social pressure to conform to behavioral norms and plead guilty, as demonstrated by Brickey and Miller[109] who found that the first plea in a traffic court had a strong causal effect on how the following defendants pleaded. They found that if the first defendant pleaded guilty, the following were more likely to be guilty as well.[110] Social pressures to plead guilty call into question the voluntary and informed consent of the defendants. Not only was there social pressure from watching other defendants' performances but also exerted through rushed and ritualized procedures such that signing the rights-waiver form was a formality and part of the expected performance that defendants felt pressured to comply with before they had decided how to plead. This finding supports Maynard's characterization of the plea-bargaining process as a type of organizational "coercion . . . for inducing situated compliance."[111]

Additionally, we question our participants' comprehension of the legal language presented in both the rights-waiver form and the judges scripted and perfunctory plea colloquy. Judges either relied on the discursively complex rights-waiver form to communicate rights and the implications of waiving them or simply repeated the rights-waiver language as a clarification strategy. Repetition of complex language reinforces the power disparities between judges and defendants, emphasizing the constrained defendant role. The form itself is linguistically complex and alienating, a commonality it shares with rights-notification after arrest[112] and other legal documents.[113] Like the judges in our study, judges in another study were observed to use six clarification strategies for verbal explanations of constitutional rights to criminal defendants, but those

107. *See* Philips, *supra* note 38; O'Driscoll, *supra* note 39; Brickey & Miller, *supra* note 42; Redlich & Summers, *supra* note 3; Jain, *supra* note 42; Redlich & Bonventre, *supra* note 42.

108. Rock, *supra* note 5, at 94.

109. Brickey & Miller, *supra* note 42, at 688-697.

110. *Id.*

111. Maynard, *supra* note 29, at 249.

112. Rogers & Drogin, *supra* note 3, at 150.

113. Martinez et al., *supra* note 32; SHUY, *supra* note 32, at 175-184; Stygall, *supra* note 32, at 35-53.

elaborations provided little new information that would actually benefit listeners.[114] Through the dramaturgical lens, we uncovered how the textual and contextual features of the scripting, staging, and performing of judge-defendant exchanges produced rights-waivers.[115]

CONCLUSION AND RECOMMENDATIONS

Our research offers rich and detailed descriptions of the text and context (i.e., spoken discourse exchanges, legal documents, and court processes) of arraignment proceedings in two lower criminal courts, the study's methodology, and our participants. Analysis of the staged interactions and scripted dialogue called into question the validity of misdemeanor defendants consents to waive their rights. These findings are transferable to other similarly situated courts, legal proceedings, and judge-defendant exchanges involving equally scripted, staged, and performed textual and contextual factors in erecting discourse barriers to informed legal decisions.[116]

To overcome some barriers, we propose several recommendations for improved staging, scripting, and performing of arraignment and rights-waiver interactive performances. We particularly focus our suggestions on modifying the cattle-call hearings, bailiff presence, and playing of pre-recorded rights videos (staging), rewording the complex rights-waiver document (scripting), and reframing courtroom exchanges in ways that promote defendants' questions, rather than sidelining and silencing defendants' and increasing their anxieties (performing). The findings, recommendations, and implications for proposed changes are summarized in Table 4 and discussed in detail below.

114. Philips, *supra* note 38, at 421-36.

115. *See* Ercan & Hendriks, *supra* note 96, at 329.

116. *See* James W. Drisko, *Transferability and Generalization in Qualitative Research*, 35 RSCH. ON SOC. WORK PRAC. 102, 103 (2025) ("Providing a substantial and varied amount of detailed information about the persons, settings, actions, and era in the original research is necessary to maximize the potential applicability to the later research user's situation and needs. Thick, detailed descriptions are needed in qualitative research reports to allow transfers.").

Table 4. Recommendations

Findings	Recommendations	Implications
Staging:		
Cattle-call hearings	Staggered hearings	Prioritizes defendants' time
Large bailiff presence	Smaller bailiff presence	Reduces defendant anxiety
Distribution of rights-waiver form to all defendants	Public defender advisement of legal rights and arraignment purpose before distributing rights-waiver form	Improves defendant understanding before signing rights-waiver form
Limited use of pre-recorded videos	Individualized rights-waiver instructions by public defenders and the judge	More personalized interactions and assurances of understanding
Scripting:		
Complex rights-waiver form	Plain language guidance	Improves understanding of legal rights
Judges relied on written rights-waiver form	Refine judges' oral plea colloquy	Ensures defendant understanding
Performing:		
Defendant anxiety	Virtual access to lawyers	Increases comprehension and confidence
Inconsistent judicial advice	Standardized guidance	Normalizes judge-defendant exchanges
Confirmation-seeking questions	Open-ended questions and engagement with defendants	Educates defendants and enhances legitimacy of the legal proceedings

A. Staging

In the large county, we found that arraignment hearings were staged in ways that encouraged rights waivers by hosting busy, cattle-call hearings with an outsized bailiff presence who engaged with defendants, provided not only court instructions but legal advice (on pleading), and systematically distributed rights-waiver forms. Defendants were typically ordered to arrive for arraignments up to 30 minutes before the courtroom doors opened, and defendants confronted bailiffs in full police regalia (costumed, like judges' robes) to signify power and authority. The bailiffs presented off-stage information that conflated legal rights

and etiquette. The arraignment proceedings lasted as long as 2 hours with defendants waiting and anticipating their turn at the center-stage podium that typically lasted only 2-3 minutes. We conclude that these courtroom staging features prioritized judges' time over defendants, increased defendants' anxiety, and promoted rights waivers.

Our proposed recommendations focus on improved court productions by treating individual defendants as the main event and adopting many of the small county court practices, except the playing of the pre-recorded rights video. The staging practices that prioritized defendants' time by reducing wait times and staggering hearings would eliminate the cattle-call feel. The less crowded dockets can result in higher quality exchanges if judges spend that extra time with defendants (which was not observed in the small county court), gave defendants more time to review their rights with lawyers and less rushed exchanges with judges, which would implicitly message that defendants were valued, acknowledging the difficulties for defendants in taking time off work to attend court.

Diminishing the overt police presence by installing two bailiffs, like in the small county and having them wear informal uniforms (e.g., regular clothing with a badge) would reduce the intimidating messaging and defendants' anxieties by their presence. Police should not advise defendants of their rights or distribute rights-waiver forms to defendants, nor instruct them on completing the forms before getting legal advice or being called to center stage by the judge. Minimizing the police presence and interactive roles may reduce defendants' feelings and desire to avoid the court proceedings, increasing rights waivers, and uncounseled pleas.

Simultaneously, public defenders should take a more active advising role (like in the small county) by engaging with defendants during off-stage interactions, offering preliminary legal advice, answering questions, and handing out rights-waiver forms only to those defendants who wish to plead guilty. Adding a more prominent role for the off-stage cast of public defenders recalibrates the stage away from authority and law enforcement and toward supporting defendants in understanding their legal rights before appearing at the podium and pleading guilty. Overall, less-rushed and higher-quality experiences and interactions should reduce defendants' anxieties, improve comprehension, and promote rights awareness.

B. Scripting

The complex and dense rights-waiver form was distributed to defendants with little to no legal advice or opportunity to ask questions. In the large county, public defenders did not circulate to assist defendants, and even in the small county, where they did, the conversations were rushed. In the few minutes before the judge took the bench, public defenders spoke quickly with defendants while the pre-recorded rights-advisement video played in the background. When

judges took the bench, they relied on the written rights-waiver form as the primary means of communicating defendants' rights. Confusion and questions were perfunctorily addressed, with judges typically repeating the generic advisements in the same or similarly complex legal language, and then quickly returning to the scripted dialogue and confirmation-seeking questions.

We propose three main changes to the scripts. First, the rights-waiver form should be rewritten using plain language with brochure-like formatting and helpful graphics to make legal information much for accessible. Public defenders should be made available during the pre-show for off-stage interactions with defendants on rights, procedural, and consequences advisements, and the opportunity to ask questions. Finally, the script should be restructured and refined so that judges ensure that defendants understand their rights and the consequences of waiving, rather than just asking if they read and understood the complex form. Ensuring rights comprehension before asking how they would like to plead to their charges is critical. Judges should tailor the questions for individualized defendants, spending more time on their rights and the consequences of pleading guilty, asking open-ended and comprehension-checking questions (rather than confirmation-seeking questions), and encouraging defendants to ask questions and answering them with plain language strategies. The changes offer defendants the opportunity to better understand their rights and the proceedings, and most importantly the consequences of waiving counsel and pleading guilty. The improved scripts, questions, and exchanges prioritize defendants' experiences and emphasize the importance of their legal decisions in resolving their cases.

C. Performing

The performance roles of judges, defendants, and other legal actors are conveyed by dress, space, and language, conveying who has power and authority, and who does not. Defendant anxiety about being in and returning to court is amplified by the staged and controlled exchanges. Since pleading not guilty requires defendants to return to court on another day, asking for counsel exacerbates their stress. Variations in judges' advice, encouraging or discouraging pretrial diversion, and addressing questions increases defendants' uncertainty about what to expect during present and future court performances. Some defendants expected an opportunity to argue their cases to the judge at arraignment and felt disoriented when they were discouraged from making their claims or even speaking in court. The silencing of defendants alienated them from their own performances, encouraging them to get the case done and not have to return for another dissatisfying experience.

We recommend several structural changes that might improve defendants' experiences and arraignment hearing performances. First is to provide access to legal advice early in the proceeding, or virtually before showing up at court, so that defendants might be educated about the proceedings and their expectations

better align with how arraignments are performed and improve an understanding of their legal rights and consequences of guilty pleas. The preliminary advice may reduce anxieties and increase comprehension, resulting in more informed decision-making, and more *not guilty* pleas, rather than accepting a plea bargain just to get the proceedings over with.

Arraignment hearings should result in more simple, slower, and standardized performances where judges are discouraged from ad-libbing their personal views on pretrial diversion, or other case resolutions. Judges should be provided with a plain language guide for the exchanges that encourages defendants' questions and recommends consistent answers to commonly asked questions and concerns. A linguistic suggestions-sheet organized by question-types and framed by more open-ended questions might encourage defendants to obtain legal advice by pleading *not guilty* if they would like their case to be considered in greater depth. The standardized guidance and simplified interactions may result in more equitable environments, assignments of public defenders, and accessible linguistic explanations of complex legal matters and the nuances of case outcomes, like adjudications and pretrial diversion. The off-stage discussions with public defenders and the onstage simplified and standardized performances with judges should improve defendants' perceptions about the legal system, resulting in defendants having an elevated role, greater voice in asking questions, and addressing misunderstandings about arraignment hearings, the potential disadvantages of self-representation, and the long-term consequences of pleading guilty.

Finally, lower criminal courts might consider preliminary and virtual off-stage interactions between defendants and public defenders to address defendants' concerns and convey pre-appearance plea offers that substitute for the rushed in-person arraignment hearings (like private lawyers who file not guilty notices and waive clients' appearances at arraignments). Public defenders would take on a more prominent role in assessing and identifying defendants who want trials from those who prefer guilty or no contest plea resolutions. The off-stage exchanges would streamline court appearances, dividing the cases into separate appearances for those seeking trials and those resolving cases by rights-waivers. This model allows for only one court appearance for defendants, reducing anxieties, and returns to court. Defendants could attend one hearing, fully prepared to argue their cases, calling witnesses, and taking their case to center stage. Alternatively, defendants could attend rights-waiver hearings fully prepared and counseled, aware of the rights they are forfeiting, and the short- and long-term consequences of pleading guilty.

Although our recommendations are broad and untested, they are drawn from varied data and grounded in triangulated findings to address dramaturgical concerns unearthed during our study and create opportunities for further research into whether the proposed changes improve misdemeanor court proceedings and defendants' rights awareness. Additional research in diverse counties and legal

proceedings, experimental studies, and rigorous case studies and quantitative analyses of misdemeanor case processing and outcomes remain understudied and necessary for a comprehensive understanding of legal decision-making. Our study is a start and sheds light on taken-for-granted complexities, rushed proceedings, and linguistic marginalizations of unrepresented misdemeanor defendants.

APPENDIX A: FIELD NOTES PROTOCOL

You are telling the story of the Court; describe it.

Read Three-Minute Justice[117]

Qualitative Research: Rich Descriptive Data

This is a GENERAL guide. Bring Note Pads and Pens to Court – For extensive notes – I will provide!

Pre-Court Activities

Arraignments in xxx County are held in Courtroom xx every xxx at xxx. Arrive 30 minutes early

Pre-Hearing, General Observations: Describe the courtroom. How does it look, note its organization, the process, what happens before the judge takes the bench, the courtroom's feeling, any particular events, comments, conversations among personnel, interactions with defendants, etc.?

(1) Forms?

(2) Audio-recorded recitation of rights

(3) Bailiffs, Clerk Interactions with Audience/Defendants

(4) PD/Prosecutor Interact with Defendant-Audience before Judge Takes Bench? If so, describe.

Court Personnel:

Judge: _____, Male or Female, White or Non-white

Prosecutor: _____, Male or Female, White or Non-white

P.D.: _____, Male or Female, White or Non-white

Bailiff: Male or Female, White or Non-white

Clerk: Male or Female, White or Non-white

Other Personnel: _____

General Interactive observations: Once the judge takes the bench and the court is in session:

1. Note the process,

a. did the court start on time? If not, how late?

b. who calls cases; is there a particular order or pattern?

c. how does the judge interact with personnel, how does personnel behave,

d. describes the events as they unfold,

(1). how does the judge interact with defendants?

(2). Describe these interactions – Identify a few to provide greater detail (cases will move fast, note what happens, and doesn't as best you can).

(3) How generally does the judge run the courtroom?

(4) Are there in-custody defendants? How many? Any observations about who is in custody? How are they treated? Counsel?

(5) Describe how (and how many) cases are resolved at arraignment?

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[117] Smith & Maddan, *supra* note 19.

2. Make a note of counsel:
    a. Who has counsel? PD/PA?
    b. Compare how the cases with counsel proceed?
    c. Note Patterns of interactions.
    d. Particularly note differences for in-custody/out-of-custody (esp. IC: Is counsel being appointed immediately before a time-served sentence?)
3. Document or note the use of gestures, courtroom norms, symbols, etc.
4. Make a note of prosecutor interactions with defendants
5. Describe defendant behavior, treatment, and case outcomes

General Demeanor and examples (talking with the defendant, time with the defendant, use of authority, etc.):

a. Good Natured – courteous, affable, even subservient (used authority to make participants feel welcome, expressed concern or care)
a. Bureaucratic – passive, detached, impersonal, routinized, little empathy
c. Firm/Formal – tone of moral authority, active assertions of authority, courteous, but less supportive or patient, more strict
d. Harsh – nasty, abrasive, intimidating tone, arrogance, punishing
e. Condescending/Patronizing – patronizing, trivializing, judgmental expressions of authority
Demeanor with Unrepresented defendants compared to represented.
Demeanor with Female/Male, White/Non-white:

Identify factors that seemed to relate to the case outcome:

a. Managerial interaction/routine
b. Efficiency
c. Seriousness of charges
d. Defendant attitude
e. Other

Specific Observations of Interactions and Demeanor (Anomalies):

Did the Judge take more time with anyone defendant (or lawyer)? What were the circumstances?

Did the Prosecutor particularly intervene, argue, or make recommendations in a case? Describe.

Did the Public Defender advocate, in particular, in a case? Describe.

Reflections:

Your perceptions, thoughts, and observations:

How did you feel watching the court sessions and process:

Are you an insider/outsider, and in what ways:

APPENDIX B: RIGHTS-WAIVER FORM (EXCERPT)[118]

I have appeared on the below listed date in County Court, XXX County, XXX, have been advised by the Judge of the criminal charge(s) against me, and desire to give up the following rights and plea GUILTY or NO CONTEST to the charge(s) before the Judge. By pleading Guilty or No Contest, I swear under oath before the Judge that I have read and understand the rights and consequences of entering a plea of Guilty or No Contest contained on this form and I wish to give up the below listed rights **and have the Judge** impose **the sentence to which** I **agree to** in **open court:**

I **UNDERSTAND THE FOLLOWING:**

1. The nature of the charge(s);

2. The difference between the pleas of Guilty, No Contest, and Not Guilty, and the effect of each plea;

3. The right to trial before a Judge or a Judge and jury;

4. The right to an attorney and the right to have an attorney appointed if I cannot afford one, and to know if the Judge is considering a jail sentence on this charge;

5. The right to be presumed innocent until proven guilty beyond a reasonable doubt;

6. The right to confront and cross examine the witness and evidence at trial;

7. The right to call witnesses of my own at trial and have those witnesses subpoenaed by the Court;

8. The right to remain silent and not to have that fact considered by the Judge or jury at trial;

9. The right to testify at trial and have my testimony considered by the same standards as the other witnesses;

10. The right to have a court reporter make a complete record of the court proceedings;

11. The right to appeal any harmful error to a higher court; and

12. The maximum and minimum sentences listed on the reverse side of this document or as I have been advised. (A First Degree Misdemeanor is punishable by up to 1 year in jail, 1 year of probation, and $1,000 in fines, and a Second Degree Misdemeanor is punishable by up to 60 days in jail, 6 months of probation and $500 in fines.) (See reverse side for specific DUI Penalties.)

I **ADDITIONALLY UNDERSTAND AND AGREE THAT:**

13. If I am unrepresented by an attorney, I hearby waive my right to consult with an attorney or to have one appointed for the plea and sentencing in this case. I fully understand there are dangers and disadvantages of representing myself and that by not obtaining the assistance of counsel I might be accepting a plea to a

118. The word "hearby" is misspelled in the actual rights waiver form. It is not a typographical error in our paper.

charge that could otherwise have been successfully challenged and I recognize that a lawyer might have helped me obtain a better plea offer.

14. I am not under the influence of any alcohol or drugs at this time and fully understand the Judge's instruction, and what my rights are. I am entering my plea free of any promises or threats other than any plea offers made in open Court.

15. I have thirty (30) days to file a written appeal of the judgement and sentence imposed with the Clerk of the Court. I further understand that I have the right to have an attorney appointed for the appeal if I cannot afford one.

16. By entering this plea of Guilty or No Contest here today, I may be subjected to greater penalties if I am ever convicted again. If the current offense is a traffic offense, I may be declared a Habitual Traffic Offender.

17. If I am not a U.S. citizen, I understand that as a result of entering a plea of Guilty or No Contest here today, I will be subjected to deportation proceedings.

18. If I am on probation in another case, by entering a plea of Guilty or No Contest in the current case, the current plea will be used to prove a violation of probation against me.

19. By entering a plea of Guilty or No Contest prior to trial, I am giving up the opportunity to challenge the admissibility of any evidence against me and any opportunity to have the case dismissed.

20. If the charge to which I am pleading is a sexually violent or sexually motivated offense or if I have been previously convicted of such an offense, my plea may subject me to involuntary civil commitment as a sexually violent predator upon the completion of my sentence.

APPENDIX C: INTERVIEW PROTOCOL

Proceeding without Counsel in the Misdemeanor Courts: Post-Arraignment Interview

After informed consent is read, and the participant agrees to participate: Begin recording, provide a copy of the informed consent to the participant, and test recording device. Then re-ask the following at the beginning of the recorded interview:

Now that you have been read this document and told of the risks and benefits, do you have any questions? Do you voluntarily agree to join the study and know that you can withdraw from the study at any time without penalty? Do you agree to the interview being recorded?

I. Defendant/Participant Interview Protocol/Guide

Topic domain: Perceptions and Understanding of Court Experience

Leadoff question: Think about your court experience; how would you describe what happened today?

Possible follow-up questions:

a. How did your experience in court today measure up against how you thought it might go?

1. Can you describe something that surprised you?

2. Describe what you thought might happen today in court?

b. What were your charges? What was the outcome of your case today?

1. Do you think you were treated fairly? Can you describe in what ways you were treated fairly or not?

2. What do you think happens next, if anything, with the results of your case? Any effect on your life?

3. Did anyone notify you of potential future consequences of resolving your case today?

c. What were the reasons that influenced your decision to proceed without an attorney?

1. What life experiences or interactions prepared you for court today?

2. -- to represent yourself?

3. Can you describe a situation where you might hire an attorney to assist you?

4. -- or use a public defender or free attorney?

d. Have you had any prior experiences with _____. If so, please describe.

1. attorneys

2. courts or judges

II. Follow-Up Interview Request

As I mentioned, we would like you to participate in follow-up and recorded interviews. It would be helpful to our project and understanding legal decision-making. The follow-up interviews are expected to be longer, but no more than one hour. We have funding for those longer interviews, and we will pay people who participate $20 for each follow-up interview. The first follow-up interview would be next week, then in six months, 12 months, and the last one would be 18 months from now. The payments would be given to you in person for in-person interviews, mailed to you, or sent electronically after each interview. The interviews are voluntary, and you may withdraw your consent to participate. Would you be willing to speak with us again next week?

[Recording Concluded, and make sure the participant knows that you are no longer recording them]

Thank you, and if you could please provide me with the information to contact you [and write down this information for our records and to make future contact and payment]:

1. What is your name, and the best way to reach out? (Phone, email, letter)
2. Do you have an alternative way of reaching you? Phone number, or email, address?
3. When is the best time to reach out to you next week for an interview?
4. For this research, we will not use your real name. Do you have a fake name that you would like us to use in future reports and publications?
5. Finally, to pay you for the later interviews, we need: address for mail, email for e-gift card, or we will connect you with NACDL accountants with bank information for electronic payment.

APPENDIX D: SAMPLE ARRAIGNMENT TRANSCRIPT

J4 = Judge; S = Sabrina; P = Prosecutor; C = Clerk

1. J4: [Confidential] is your uh guy. Alright. Are you Sabrina?
2. S: Yes.
3. J4: Alright, Ms. Sabrina, you've been charged with permitting an unauthorized person to
4. drive. Do you understand the accusation?
5. S: Yes sir. (.) Yes.
6. J4: Alright. Uh, do you know how you wish to plead to the charge? State?
7. P: Uh, State's offer is withhold adjudication, court costs, costs of prosecution, one
8. hundred dollar fine.
9. S: Plead guilty.
10. J4: Alright uh- what are the court costs again, please?
11. C: One moment, Your Honor. Is it a withhold?
12. J4: Yes
13. C: It's three oh one already with cost of prosecution.
14. J4: and--
15. C: --Is there a fine?
16. J4: Yes. A one hundred dollar fine.
17. C: Four oh one.
18. J4: (.5) Total.
19. C: Total.
20. J4: Alright, so it's a one hundred dollar fine plus three hundred and one dollars in court
21. costs. (1) Do you wanna accept that?--
22. S: --Yes.
23. J4: Alright. Is that gum good?
24. S: ((Chortle)) Yes.
25. J4: Yeah. You gonna share a piece with me or what? (.) Alright, thank you. ((Clears throat))
26. Alright. Were you sworn to tell the truth earlier?
27. S: Yes.--
28. J4: --Is this your signature?
29. S: Yes.
30. J4:Do you understand the rights you give up when you sign this?
31. S: Yes.
32. J4: Are you doing this voluntarily?
33. S: Yes.
34. J4: Has anybody promised you anything or threatened you? Forced you, tricked you, or

35. made you do this against your will?
36. S: No.
37. J4: Are you under the influence of any drugs, alcohol, or medication now?
38. S: No.
39. J4: Do you suffer from any mental illness?
40. S: No.
41. J4: Do you understand if you are not an American citizen, you subject yourself to the rules
42. and regulations of the Immigration and Naturalization Service of the United States, and --
43. --you could be facing deportation as a result of this case?
44. S: Yes.
45. J4: Alright. I'm gonna accept your plea. There'll be a withhold of adjudication, one
46. hundred dollar fine plus four hundred and one dollars in court costs. Is that right?
47. C: It's a hundred dollar fine, court costs and prosecution which will total to four oh one.
48. J4: Right. Okay. And how much--do you need some time to pay that?
49. S: (1) Umm (1)
50. J4: Can you pay it today?
51. S: No.
52. J4: Alright. So you need some time?
53. S: Yeah.
54. J4: How much time are you gonna need?
55. S: A week.
56. J4: Alright, we'll give you 30 days. How's that?
57. S: Okay.
58. J4: Alright. If you have a seat, we'll get your paperwork to you. Alright?