

The Hidden Arm of the Law: Examining Administrative Justice in Gun Carry Licensing

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Responding to calls to “decenter” American penalty beyond the carceral apparatus, this article ethnographically examines administrative process and dissects how it interlocks with criminal justice. To do so, it draws on an admittedly unusual, but theoretically generative, case: administrative gun boards, charged with issuing, denying, revoking, and suspending licenses to conceal carry a firearm. While scholars have examined gun ownership and gun carrying as a *social* practice, less attention has been paid to gun licensing as a *state* practice. Drawing on observations of over 900 cases from gun board meetings in two counties in Michigan, this paper examines how administrative process *mimics*, *supplements*, and *facilitates* criminal justice through three mechanisms: procedural pains, in which administrative process resembles criminal justice; parallel punishment, in which administrative process supplements criminal justice through withholding of benefits, entitlements or licenses; and valve-turning, in which administrative process funnels, or threatens to funnel, claimants into the criminal justice system. Revealing how administrative process and criminal justice become mutually reinforcing, the findings extend and integrate scholarship that shows the material, symbolic, and psychic implications of criminal justice contact, on the one hand, with the increased tendency of administrative contexts to resemble criminal justice institutions, on the other.

In recent decades, criminologists, sociologists, political scientists, and legal scholars have interrogated the expansive ramifications of the U.S.’s penal apparatus. According to the Bureau of Justice Statistics, by 2015s end, 6.7 million Americans were under correctional supervision, including 2.1 million incarcerated in prisons and jails (Kaeble & Glaze 2016). Though declining in recent years, these staggering figures continue to mark penal

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exceptionalism in the United States. Not only have scholars dissected the carceral state and the impact of incarceration on civic engagement (Lerman & Weaver 2014), family relations (Comfort 2009), and community ties (Rios 2011; Wacquant 2001), but they have also examined post-carceral (Pager 2003; Uggen et al. 2014) and noncarceral punishments such as probation (Phelps 2013) and misdemeanor justice (Kohler-Hausmann 2013).

Alongside a focus on the carceral state, however, punishment scholars have increasingly focused attention on broadening the analytical scope of the contemporary penal complex, characterizing a much larger apparatus of state control as a “shadow carceral state,” a “carceral archipelago,” and even a “penal mobile” (Beckett & Murakawa 2012; Foucault 1977; Velloso 2013). As Zedner (2016: 5) notes, “until we displace the dominance of the prison in our theorizing to recognize financial and non-custodial penalties as core cases of punishment, our ability to conceptualize penalty or chart its boundaries is limited.” I extend these interventions by moving beyond the criminal justice system to ethnographically examine administrative justice as a mechanism of penalty.

Administrative justice involves decision-making processes in administrative contexts, such as welfare hearings (Garland 1981; Gustafson 2011; Lens 2009; Lens et al. 2013), disability hearings (Mashaw 1983), municipal boards (Valverde 2012), driver’s license hearings (Earl 2008), immigration hearings (Bosworth & Kaufman 2011; Gilboy 1988), and gun boards (the present analysis). While administrative justice constitutes a penal field (Page 2012) that complements criminal justice mechanisms (Beckett & Murakawa 2012; Velloso 2013; Zedner 2016), administrative mechanisms are conceptually, practically, and legally distinct. Administrators operate in a realm of “quasi-penal measures” (i.e., welfare benefits, driver’s licenses, or gun licenses lack *de jure* status as penal sanctions but may function as such *de facto*; Zedner 2016: 8). Because administrative procedures fall under less strict due process requirements as compared to criminal procedure (see *Goldberg v. Kelly* [1970] and the due process revolution), administrative justice can be accomplished by means distinct from criminal justice.

While existing scholarship often mobilizes legal and theoretical approaches to unpack the administrative-criminal justice nexus, this article contributes an ethnographic lens in order to clarify the microlevel mechanisms by which this nexus is achieved and sustained. I examine administrative gun boards in Michigan. Staffed largely by officials drawn from public law enforcement, these boards were charged with issuing, denying, revoking, and suspending licenses to conceal carry a firearm, known as Concealed Pistol Licenses (CPLs). In most U.S. states, residents can legally carry firearms under so-called “shall-issue” laws.

According to these laws, licensing officials are required to issue licenses if licensees fulfill statutory requirements. Roughly 13 million Americans are licensed by their state to carry a concealed gun (Burnett 2016). Scholars have explored reasons why Americans own and—by extension—carry firearms, including concerns, often racialized, about crime and police inefficacy (Smith & Uchida 1988; Young 1985; Young et al. 1987); status anxieties, particularly among white working class men, about declining political, economic and social power (Burbick 2006; Melzer 2012); and conservative cultural dispositions toward risk (Kahan & Braman 2003). Gun owners and gun carriers themselves overwhelmingly assert they are motivated by self-defense and personal safety (Carlson 2015; Swift 2013). Finally, the CPL also functions as an employment credential for members of the private security industry. Thus, the stakes for prospective licenses can be wide ranging: an ideological assertion of identity, a desire for protection from crime, and a concrete means of financial security. As my analysis shows, gun board claimants typically voiced concerns regarding crime and employment.

While scholars have examined gun ownership and gun carrying as a *social* practice, less attention has been paid to gun licensing as a *state* practice (see Ewald 2016; Dubber 2001). To that end, I analyze observations of 936 cases from gun board meetings in two counties—one lower-income, predominantly African-American urban county and one middle-to-upper-income, predominantly white suburban county. At the time of my research, gun boards in Michigan provided a public forum dedicated exclusively to hearing complaints regarding CPL decisions. That said, a note about generalizability should be made upfront: While a handful of states maintain similar systems (Rose 2013), most states have no public board dedicated to this purpose; instead, claimants must file a court appeal (as is now the case in Michigan) or submit a written administrative appeal. In this article, therefore, my goal in using gun board observations is not to make a general argument about gun licensing as much as to use gun boards to understand how administrative process and criminal justice reinforce one another.

Drawing on gun licensing procedures, I examine three mechanisms through which administrative justice *mimics*, *supplements*, and *expands* criminal justice. First, I show that administrative justice resembles criminal justice to the extent that it mobilizes the tactics and techniques usually associated with the procedural punitiveness of misdemeanor justice (Feeley 1979; Kohler-Hausmann 2013). I use the term “procedural pains” to capture how administrators mobilize paperwork and bureaucratic hurdles as a penal mechanism as claimants move through the licensing

process. Second, I examine how administrators engage in punitive sanctions in cases where criminal justice remedies are either not available or not pursued, oftentimes because the blemished records of claimants fall short of criminal justice sanctions. I develop the concept of “parallel punishment” to describe administrative forms of punishment (i.e., withholding of privileges and moral shaming) enacted in such cases. Finally, I explore how administrative process can expand the criminal justice system’s reach through the deployment of outstanding warrants, tickets, and unresolved arrests to selectively funnel, or threaten to funnel, individuals into the criminal justice system proper through “valve-turning.” Valve-turning refers to administrative capacity to differentially funnel, or threaten to funnel, claimants into the criminal justice system based on their criminal records.

Acknowledging Michigan’s gun boards as highly unique spaces of administrative justice, this article exploits this uniqueness to bridge two findings within the scholarship on contemporary penalty: first, how contact with the criminal justice system can have material, symbolic, and psychic implications (Brayne 2014; Jacobs 2015; Pager 2003; Lageson 2016; Myrick 2013) far beyond the criminal justice system proper and second, how formally noncriminal arms of the state facilitate criminal justice contact in arenas as distinct as immigration detentions, schools, welfare offices, and Section 8 hearings (Bosworth & Kaufman 2011; Gilboy 1988; Gustafson 2011; Kupchik 2010; Lens 2009; Lens et al. 2013; Lerman & Weaver 2014; Soss et al. 2011). The findings are particularly relevant to administrative contexts that are statutorily reliant on criminal and quasi-criminal records and that are staffed by administrators with formal affiliations with the criminal justice system.

Mass Administrative Justice

Administrative justice refers to the legitimate authority of administrative bodies to regulate the relationship between individuals and the state with regard to privileges (e.g., licenses), entitlements (e.g., welfare), obligations (e.g., taxes), and economic activities (e.g., interstate commerce). This authority is rooted in “those qualities of a decision process that provide arguments for the acceptability of its decisions” (Mashaw 1983: 24–25) with respect to procedural fairness (are client rights respected?), professional treatment (are client needs met?), moral judgment (are clients deserving of provisions?), and bureaucratic efficiency (are provisions administered via efficient and cost-effective means?). Administrative justice is embedded in a long, if

underappreciated, tradition of regulatory law within the U.S. context (Novak 1996; Schwartz 1977), with administrative bodies engaging in a diverse range of decisions (e.g., rate-making, licensing, environmental and safety decisions, auditing, awarding of benefits, and sanctioning; see Verkuil 1978) related to commercial compliance and corporate malfeasance, on the one hand, and the administration of services, provisions, and licensing, on the other. In this article, I examine the latter—what Schwartz (1977) has called “mass administrative justice”—which includes (not exhaustively) “health, welfare, public housing, education, environmental protection, parole and prisoner grievances, occupational safety, land use, equal employment opportunity, and energy control” (Carrow 1974: 1396).

Starting in the 1960s with the welfare rights movement (Katz 2013), a doctrine of individual rights has been extended to administrative justice in what scholars have characterized as a due process revolution. In 1970, the U.S. Supreme Court held in *Goldberg v. Kelly* that administrative hearings must comply with “constitutional due process standards [including] adequate and timely notice, the opportunity to retain counsel, the right to oral presentation, the right to confront and cross-examine adverse witnesses, an impartial hearing officer, and a reasoned decision” (Carrow 1974: 1396). The decision reflected a growing consensus at the time that welfare and other government benefits “have attributes of property rights and are entitled to both procedural and substantive due process protection” (Carrow 1974: 1397).

Promising though these developments may have been, the due process revolution remains limited by the social and legal distinctions between administrative process and criminal justice. With administrative hearings providing a forum for “the interplay of state obligations and individual rights and responsibilities” (Lens 2009: 569), administrative process often involve “procedural side-stepping that allows for the evasion of core criminal process protections, such as the presumption of innocence, the burden of proof on the prosecution, a standard of proof beyond reasonable doubt, rules of evidence, the right to legal defence [rather than ‘opportunity’ for counsel], and a fair trial” (Zedner 2016: 9). Given the milder deprivations of administrative procedure versus criminal justice, the legal protections in administrative process are effectively less strict. Meanwhile, the scope of administrative action is broader than criminal law. Embedded in and amplifying the state’s “police power” (the power to regulate social life; see Dubber 2005 and Valverde 2003), administrative bodies are able to compel kinds of behavior in ways that would be suspect in the context of criminal law (Garland 1981: 29). Garland (1981: 36, 38) contrasts the disciplinary

potential of what he calls “coercive assistance” as compared to criminal sanctions:

As a form of discipline the criminal law too is severely limited. To begin with it functions through the specification and prohibition of definite acts and is thereby limited to the policing of these acts rather than the general inspection/control of individuals themselves.

Regarding gun licensing, Dubber (2001: 923) writes, “the state licensing officer enjoys virtually unlimited discretion in deciding whether the applicant is or is not of ‘good fame.’” This observation reflects the peculiarities of administrative justice: a blend of bureaucratic and adjudicative processes, it is not hampered by the adversarialism or stricter due process standards of the criminal justice context because it involves sanctioning benefits (as well as imposing and enforcing bureaucratic hurdles) rather than formal, carceral punishment.

Although administrative bodies are not technically courts of law but rather “quasi-judicial forums” (Lens et al. 2013: 199), legality—that is, ideas about fairness and justice informed by legal norms—saturates administrative justice from the perspectives of clients (Calavita & Jenness 2014; Cowan 2004; Sarat 1990) and frontline workers (Cooper 1995; Gilboy 1988; Mashaw 1983) alike. Aspects of administrative process (e.g., less strict standards of due process; the administration of *de jure* provisions as *de facto* rights; and vague or unclear guidelines; see Gilboy 1988) open up space for divergent value systems and moral improvisation (Maynard-Moody & Musheno 2003). Nevertheless, the “legal consciousness” of administrators matters in shaping how, and which, decisions are made by administrators. A concept aimed at understanding law *in* society, legal consciousness refers to how law is interpreted, experienced, and deployed in social relations in ways that sustain law as an institution of domination (Ewick & Silbey 1998; Silbey 2005). Rather than referring to a monolithic understanding of law, legal consciousness highlights the uneven and even ambiguous ways in which law can be understood and deployed. For example, studying welfare hearings of claims disputes, Lens (2009: 576) finds that rather than merely applying policy, judges varied as to whether they embraced a moralist approach, “emphasiz[ing] narratives of personal irresponsibility [and] the wrongness or rightness of the appellant’s actions,” or a reformist approach, “focusing on the facts [and] scrutinizing the agency’s actions closely.” Her analysis shows that administrators borrow sensibilities from criminal justice, blending bureaucratic and adjudicative decisionmaking alongside procedural

protections (Lens et al. 2013). Attention to legal consciousness thus highlights that administrative bodies do not simply to carry out administrative process, but rather *improvise* (Maynard-Moody & Musheno 2003) quasi-penal strategies that draw on legal norms, assumptions, and tactics transposed from other institutional contexts and from broader cultural ideas about legality and moral worthiness (e.g., “tough on crime” sensibilities; see Beckett 1997; Simon 2007).

These insights suggest that the administrators—largely drawn from public law enforcement—who sat on Michigan’s gun boards may likewise inflect their administrative duties with sensibilities drawn from other realms of the criminal justice system. Police may emphasize the need for harsh treatment of criminals amid a criminal justice system that is believed to often fail in that task, whether due to caseload burdens, inadequate resources, or the “soft on crime” politics of judges (Herbert 2001; Waddington 1999; Van Maanen 1978). This staunchly punitive stance engenders what some may consider a surprising outcome: if police are ready to enforce gun laws vigorously, especially against *illegal* firearms possession or use, they may likewise sympathize with law-abiding individuals wishing to own or carry guns for protection against criminals (Carlson 2015; Thompson et al. 2006, 2011). As the analysis below shows, administrative process can accommodate these punitive sensibilities by facilitating criminal justice, although it does at times provide openings for administrators to practice leniency and subvert protocol for those deemed worthy of ‘a break’ (Maynard-Moody & Musheno 2003).

Where Administrative Process and Criminal Justice Meet: Criminal Records

The tensions surrounding administrative justice and its distinction from criminal justice are not new (Garland 1981; Novak 1996; Velloso 2013). However, in the contemporary context, these tensions are inflected by the growing significance of criminal records as a means of evaluating eligibility and fitness within administrative bodies (and society more broadly). One example of the expanding reach of the contemporary American criminal justice system is the increased relevance of criminal records as a mechanism to sort, test, and regulate people both within the state and beyond (Jacobs 2015; Kohler-Hausmann 2013; Monahan 2010; Pager 2003; Uggen et al. 2014). Criminal record-keeping has grown dramatically since the 1960s, as a result of both expanded technical capacity and increased social concern over issues of crime and criminality.

Most emphasis has been placed on the role of convictions as a “marking” record (see Pager 2003; Brayne 2014). However, the U.S. Code stimulates that criminal history records may include “information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release.” As of 2007, the FBI maintained at least 18 criminal and “quasi-criminal” databases, “several of which did not depend upon a previous conviction or an arrest” (Jacobs & Crepet 2007: 191). In addition, states compile their own records, which may include arrests for nonserious offenses and juvenile records. Finally, increased integration between criminal justice and other arms of the state (e.g., schools) has expanded the breadth of criminal record-keeping: previously noncriminal infractions (e.g., school violations) may now appear on a person’s “criminal” record for use both within and beyond criminal justice contexts. Thus, the expansion in criminal record-keeping is not merely quantitative; record-keeping has also undergone a *qualitative* net-widening. This net-widening is reflected in how nonconviction records are used for surveillance purposes beyond the context of criminal justice to deny benefits, discipline claimants, and even orchestrate arrests for offenses unrelated to the social provision at stake (Gilliom 2001; Gustafson 2011). As a “negative curriculum vitae” (Jacobs & Crepet 2007: 177), criminal and quasi-criminal records are also used in employment decisions (Pager 2003; Uggen et al. 2014), and some private companies now specialize in making such records, which are often incomplete and erroneous, available for a fee to interested citizens, crime reporters, and potential employers (Jacobs 2015; Lageson 2016).

As facilitators of administrative justice, criminal records help tighten the linkages between administrative boards and the criminal justice apparatus. This article highlights three conceptual linkages: procedural pains, parallel punishment, and valve-turning. First, “procedural pains” captures how the paperwork-heavy process of obtaining benefits, licenses, or support via administrative channels operates as a form of punishment, even as claimants choose, rather than are compelled, to participate. “Parallel punishment” describes administrative forms of punishment (i.e., withholding of privileges and moral shaming) mobilized against claimants with blemished records that fall short of criminal justice sanctions. “Valve-turning” refers to mechanisms within administrative processes that differentially funnel, or threaten to funnel, individuals into the criminal justice system based on criminal records. These linkages may be particularly

Table 1. Three Mechanisms of Administrative Justice

Mechanism	Use of Criminal Records	Relationship to Criminal Justice
Procedural pains	Determine eligibility; engage claimants in procedural harassment	Mimics
Parallel punishment	Discipline claimants; revoke administrative privileges	Supplements
Valve-turning	Evaluate criminal status	Expands

pronounced in administrative contexts (1) that are statutorily reliant on criminal and quasi-criminal records; (2) that are staffed by administrators with strong ties or institutional affiliations with arms of the criminal justice system (and thus embrace a punitive legal consciousness, as discussed above); and (3) where claimants themselves understand entitlements, privileges, and services as rights and approach administrative process accordingly. See Table 1.

Gun Boards as Sites of Administrative Justice

For decades, legal scholars and historians have debated the historical meaning, legal scope, and contemporary relevance of the Second Amendment of the U.S. Constitution, which states that “a well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” In a watershed 2008 decision, the U.S. Supreme Court ruled that the Second Amendment refers to an individual right to own firearms in *Heller v. DC*. The decision was quickly hailed as a landmark win for gun rights proponents. However, the 5-4 majority opinion in *Heller*, penned by conservative Supreme Court Justice Antonin Scalia, neither prohibits restrictions on the possession of “dangerous and unusual” weapons nor addresses the regulation of gun carry. Indeed, historically, gun carry has been heavily regulated by law (Spitzer 2015) and strictly circumvented by custom (Churchill 2007), with “early state governments routinely exercise[ing] their police powers to restrict the time, place and manner in which Americans used their guns” (Churchill 2007: 162). Treated as a “civic right” that “belonged to citizens who exercised it when they acted collectively for public defense” (Cornell 2006: 572), several Southern states banned concealed carry from the 1810s to the 1830s in an effort to suppress dueling (Cramer 1999). In the aftermath of the Civil War, however, Southern states began introducing licensing systems to ensure a white monopoly on lawful access to publicly carried guns, especially under the Jim Crow system that prevailed from the late nineteenth century to the mid-twentieth century

(Cottrol & Diamond 1991; Johnson 2014). In order to obtain a license, an individual had to appear before licensing officials, who were charged with making decisions involving the issuance of concealed carry licenses to eligible Americans. Note that this decision-making authority could reside in one individual (such as a sheriff) or a board of individuals (i.e., a “gun board”). In this period of gun licensing, *any* person who wanted a gun license had to petition officials to demonstrate need for a firearm. Because licenses were issued at the discretion of state administrators, this system became known as “may-issue” licensing.

Today, some form of administrative gun licensing process operates in 49 states (Vermont is the exception, as it lacks an apparatus for issuing licenses but allows residents to carry any gun they legally own without a special license), and an estimated 13 million-plus Americans have successfully obtained gun carry licenses (Burnett 2016). In contrast to the may-issue system that prevailed across American states until the 1970s, today most states operate under a “shall-issue” system that minimizes the discretionary authority of licensing officials in favor of statutory requirements. Instead of requiring claimants to demonstrate need, shall-issue systems require state administrators to demonstrate, within clear statutory guidelines, disqualification. While states have some form of appeal process for contesting licensing decisions (whether administrative appeal or court appeal), a handful of states, including Connecticut, Massachusetts, Michigan, and Utah, have maintained gun boards for this purpose into the 2010s (Rose, 2013). Thus, gun licensing decisions are generally not open to public scrutiny, and records on gun licensing are often unavailable to the public due to exemptions from Freedom of Information Act (FOIA) requests. Even in the context of Michigan’s public gun board meetings, I observed gun board officials refusing to provide case numbers, supplementary paperwork, or other information requested by prospective licensees. Further, by the end of 2015, Michigan gun board meetings closed their doors to the public. Administrative gun licensing decisions are now made by the Michigan State Police, and all appeals are now directed through the county court system, a change that is likely to do more to strengthen, rather than unravel, the links between administrative process and criminal justice. Therefore, the public forums I attended provided a rare look into how administrative decisions are made in the context of gun licensing. In drawing on this unique context, my goal is not to generalize about gun licensing (itself a shifting phenomenon) as much as unpack the links between administrative and criminal justice that gun licensing reveals.

Michigan gun board meetings, which were public at the time of my research, provide an illuminating window into administrative justice for three reasons. First, gun boards provide a place to explicitly trace the incursion of criminal justice onto the administrative process, given the heavy *statutory* reliance of officials on criminal records in licensing decisions. Second, despite their dependence on criminal records, gun board officials do not rely solely on criminal records but marshal other kinds of decision-making approaches, thus revealing the unique—and compounding—attributes that administrative process brings to bear on criminal justice. Third, given the social reformulation of access to guns as a “right” (Carlson 2015; Simon 2003), gun boards are useful for understanding how administrative justice facilitates “quasi-penal measures” (Zedner 2016: 8) at the edge of rights.

Methods and Methodology

I attended gun board meetings for five months in two county-level Michigan gun boards. Wayne County met twice a month for morning and afternoon sessions lasting as long as seven hours; Oakland County met once a month for a morning session lasting as long as three-and-a-half hours. Gun board members included at least one representative appointed by the County Prosecutor; the Michigan State Police; and the County Sheriff. For the most part, these were assigned positions with the same personnel appearing each meeting; Oakland County’s gun board was comprised of the same three white men throughout my observations. However, the Michigan State Police representative for Wayne County rotated over the period of observation, and because of the larger caseload, Wayne County included two representatives from the County Sheriff as well as personnel from the County Controller. Most commonly, Wayne County included one African-American man (who represented the Michigan State Police), two to three white men (who represented the County Sheriff and County Prosecutor), and a Latina woman (who represented the County Controller), although a white woman occasionally represented the Michigan State Police and at times the board included up to two African-American men.

Gun carrying is common in both Wayne County and Oakland County—1 in 23 residents were licensed as of May 2013 (Carlson 2015), but disproportionately, African Americans were called to gun board because of issues with their applications or licenses. Reasons for being called to gun board include: an active personal protection order; an outstanding arrest for assault, homicide or other offenses as far back as the 1940s; an active warrant issued

for unpaid traffic offences; a second offence of driving while license suspended; the possession of a medical marijuana card; excessive police contact; and referral by local police. Most cases were resolved within five to ten minutes or less, depending on the presentation of proper paperwork and the eagerness of administrators to accelerate decisions. Further, many cases were quickly “resolved” within a few minutes because the claimant presented improper paperwork and was quickly ordered to return at a later date with the appropriate forms (see below on “procedural pains”). A handful of cases lasted as long as 30 minutes, depending on the paperwork involved, the ability or willingness of administrators to contact witnesses or police officers involved in the case, the presence of a lawyer, and other complications; this, however, was rare. Perhaps because of the lower volume, Oakland County cases took more time than Wayne County cases.

The two county-level gun boards I studied serve very different populations: an urban, economically depressed area that is disproportionately poor and African American (Wayne) and a wealthier, whiter suburb (Oakland). Wayne County serves Detroit, a city of roughly 700,000 that is almost 80 percent African American, according to 2010 U.S. Census figures. A quarter of Wayne County is below the poverty line, and the median household income is \$41,210. Wayne County is 52.3 percent white and 40.5 percent African American. In contrast, Oakland County is a suburban county with a median income of \$67,465 and a poverty rate of only 9.3 percent, and its population is 77.3 percent white and 14.4 percent African American. Though the population of Wayne County (1.8 million) is about 1.5 times that of Oakland County (1.2 million), nearly *eight times* the number of cases were processed at the Wayne County gun board meetings during my observations. Because people were called to gun board because of contact with the criminal justice system, this suggests Wayne County residents’ greater exposure to the criminal justice system, in line with previous studies of marginalized urban communities (Rios 2011).

As note-taking was not disruptive, I wrote detailed synopses of each case, including the demographics of the claimant (race, gender, age); the initial sanction (denial, suspension, or revocation); the reason he or she was called to gun board (e.g., a disqualifying arrest, conviction, or referral); the conversation between gun board members and the claimant; and the outcome (approval, denial, suspension, revocation, or pending/reschedule). I also took notes on how meetings opened and closed (especially regarding the processing of claimants with outstanding warrants; see below). Note that all denied and revoked applicants are given

the opportunity to appeal these decisions directly to gun board; therefore, with the exception of parallel punishment (which *supplements* criminal sanctions at times in the absence of formal CPL revocation or denial), denials and revocations happen *alongside* the mechanisms I describe in this article. That is, space for these administrative mechanisms is opened up *not* because administrators are unwilling to deny or revoke licenses but rather because claimants are motivated to contest a gun board's decisions to deny or revoke. Administrators had final decision-making authority either *de jure* (revocations, for example, could not be appealed beyond gun board) or *de facto* (denials could be appealed, but only through a separate court appeal; I did not witness such appeals during my observations).

To facilitate analysis, I transcribed my hand-taken notes into narratives; all names are pseudonyms. I organized my notes into a database of 936 cases (106 from Oakland, 830 from Wayne) based on my observations of claimants appearing at gun board, treating each individual called before a gun board as a separate case, and employed ethnographic content analysis (Altheide & Schneider 2012). I had expected to find gun board administrators persistently curtailing the ability of civilians to carry firearms, but my empirical observations did not reflect this expectation. Thus, my coding took a theory abduction approach (Tavory & Timmermans 2014) that emphasized unexpected empirical patterns. Turning to studies documenting the proliferation of criminal justice practices as a generalized mechanism of social control (Simon 2007), on the one hand, and the persistence and proliferation of *administrative* forms of penalty (Beckett & Murakawa 2012; Garland 1981; Velloso 2013; Zedner 2016) on the other, I iteratively analyzed points of similarity between the administrative procedures I observed and existing scholarship. This iterative process led me to identify the three processes of procedural pains, parallel punishment, and valve-turning.

Procedural Pains

Rachel Simpson, an African-American woman in her 40s, appeared at Wayne County gun board because she learned, upon notification by gun board, that she had an outstanding warrant for her arrest issued by Detroit Police in May 2014. Gun board suspended her license on the basis of the warrant. Unsure, Ms. Simpson assumed it was for an incident that occurred in 2001; it was the only time she can remember having a run-in with the police. She brought her paperwork for that charge, which she asserted was dropped. Her paperwork lacked a case number, however, which led gun board members to send her back to

District Court: “There’s no case number, so there’s no way for us to know it is the same case.” Flummoxed, the woman asked for the case number for the warrant that concerned gun board. They refused: “We can’t give you that. We can give you the date.” The woman at this point appeared visibly deflated. In a snap decision, however, a gun board member opted to give her the case number anyway, sending her off to track down—and clear—her record.

Ms. Simpson’s case highlights how gun board functions as a mechanism to compel claimants to not just comply with the law but also confront their records (Myrick 2013) and either clear them (if the records are accurate and charges are outstanding) or clean them (if the records are erroneous). Reflecting net-widening trends (Monahan 2010) in surveillance and record-keeping as well as racialized policing (Epp et al. 2014; Rios 2011), individuals (mostly African Americans) were routinely called to gun board for a wide range of offenses, including unpaid parking tickets, outstanding arrests ranging from disorderly conduct to attempted homicide, unpaid child support, and other offences. The majority of these cases involved records-related issues—low-level “blemishes”—rather than major infractions flagging acute public safety concerns. I found that not unlike misdemeanor justice (Feeley 1979; Kohler-Hausmann 2013), the *process* of obtaining benefits, licenses, or support via administrative channels serves as a form of punishment, facilitated by reliance on records. Records lie at the center of these “procedural pains,” a term that designates how paperwork and bureaucratic hurdles are deployed as a penal mechanism. Records provide a mechanism to delay decisions; a basic premise of decision-making in gun board is that records, however erroneous or incomplete, are the gold standard of the decision-making process. Generally taking a reformist approach (Lens 2009), gun board members placed the onus of addressing “wrongful representation” (Myrick 2013; see also Jacobs 2015; Lageson 2016) on claimants.

Administrators’ deployment of procedural pains was common; roughly 4 out of 10 cases exhibited elements of procedural pains (41 percent in Oakland County; 38 percent in Wayne County). The reliance on paperwork in gun board proceedings certainly reflects a broad shift toward reliance on criminal records as credentializing mechanisms across diverse arenas. As with shall-issue laws in other states, Michigan’s shall-issue statute compels administrators to review criminal records in adjudicating CPL cases. From this perspective, the centrality of criminal records reflects the letter of the law. The more pertinent question, perhaps, is not why administrators rely on *criminal records*

but rather why they deploy *paperwork* as a means of processing cases. In an era of digitization, why is paperwork so central to these boards?

One answer is that administrators are willing to re-examine criminal records if and *only* if claimants produce certified paperwork attesting otherwise. Although they may treat criminal records as the gold standard of decisionmaking, administrators are also well aware that the records they accept through digital databases may be erroneous, sentiments that administrators occasionally explicitly voiced to claimants (see the case of Steve Cobb, below). Administrators are likewise aware that their records are dependent on out-of-jurisdiction actors, potentially rendering these records incomplete either because of different standards of record-keeping or because databases had not yet been integrated (see the case of Frank Swift, below, who had been granted a license then later denied).¹ This contradictory understanding of criminal records is suggestive of a particular brand of legal consciousness: largely drawn from public law enforcement, gun board members appear to carry the legal cynicism associated with police work into the administrative setting of gun board (Van Maanen 1978; Waddington 1999), even as they assert their authority *as* administrators. And given that law-enforcement-cum-administrators may feel alienated as they struggle to balance multiple, even conflicting orientations to administrative work, paperwork may aid them by allocating responsibilities elsewhere (see Lipsky 2010: 76).

However, there is another way of understanding the significance of paperwork that relies less on the legal consciousness of administrators and more on the disciplinary nature of administrative process. Paperwork is a vehicle by which statutory requirements come alive as a disciplinary technique. As a mechanism to ration administrative goods (Lipsky 2010: 83) as well as deliver symbolic services by way of referring clients to other offices (Lipsky 2010: 132), the deployment of paperwork does not simply reflect a set of binding rules but also serves as a game of maneuvers (e.g., “with the law”; Ewick & Silbey 1998; see also Maynard-Moody & Musheno 2003 on moral improvisation). Gun board’s demand for paperwork – combined with the selective withholding of information (Lipsky 2010: 90)—effectively discourages claimants (without official denial or revocation) by devolving responsibility for accurate records from state agents to the claimant. This disciplinary technique thus places the onus on the claimant to

¹ This is a problem that plagues record-keeping not just in resource-poor Detroit; it also represents a larger issue for state and federal databases (Jacobs 2015).

provide a “true” copy rather than on state agents to catch record-keeping errors. Thus, the centrality of paperwork can be explained first, by the motivation of gun board members to conform to the statutory requirements of licensing law, while knowing full well that the records upon which they must rely may be erroneous or incomplete, and second, by the disciplinary function that paperwork serves in downloading responsibility for record-keeping from the state to claimants.

For claimants, the process of addressing records can be a time-consuming, confusing, and cumbersome process. Consider Frank Swift, an African-American man in his late 60s or early 70s who was called to Wayne County gun board. He had previously obtained a CPL years prior, but his renewal application was denied due to “new” arrests. In the time between his first CPL application and his renewal, his file had been “updated” by out-of-state records and now included two arrests (not convictions) from the 1960s and now included two arrests (not convictions) from the 1960s from Birmingham, AL. Gun board instructed him to obtain paperwork on both. He and his wife traveled to Alabama, but police claimed they did not keep records that far back and provided them with no additional documentation. Explaining the situation to gun board administrators, Mr. Swift was told to return to Alabama for additional paperwork to document the nonexistence of the required paperwork.

In another case, a white man who looked to be around 50 years old, Craig Johnson, was called to Oakland County gun board for a 1992 felony theft arrest. At the time of his arrest, he explained, he was told that if he joined the military, he would avoid conviction. Since his honorable discharge from the military, he has, he tells gun board, lived a “productive” life that, incidentally, has depended on his ability to repeatedly clear background checks for employment. Reflecting both an awareness of the ubiquity of records and the impact of records on one’s self-image (Lageson 2016; Myrick 2013), he insisted that this was the first time this arrest had come up in background checks: “This is all new to me. And it’s – frankly – a little scary.” Mr. Johnson came to gun board multiple times to address this decades-old arrest that was never entered into his official record as a conviction. Eventually, he produced paperwork documenting his honorable discharge, which gun board accepted as evidence that he was never convicted.

As Mr. Johnson’s experience attests, cases at gun board are routinely marked for “reschedule,” pending additional paperwork to be amassed prior to another appearance. As part of procedural pains, administrators devolved the responsibility of maintaining accurate records to claimants. One gun board member told a claimant, “It’s your record, your responsibility!”

Furthermore, gun board members frequently spent time explaining the proper procedures for obtaining paperwork and/or clearing records. In Wayne County, residents were referred to a single officer at a specific police precinct; presumably, the officer reliably knew how to issue the proper paperwork and remove outstanding warrants and arrests from the electronic records system, a task that is easily encumbered by bureaucratic mishaps (Jacobs 2015). Gun board members unilaterally demanded the “the yellow paper” from this particular officer and grimaced at other-colored paperwork. For those with nonviolent felony records, gun board sometimes walked claimants through the expungement process in what appeared to be sincere attempts to help applicants clear their records. Other times, however, gun board took “refuge in regulations” (Stivers 2007: 48) and strategically “threw the book” at applicants who asked too many questions by simply referring them to other offices or giving them false hopes, as I observed in a couple of cases, that their records could be cleared or expunged.

Clearing one’s record is easier said than done (Jacobs 2015). One woman, Janet Robertson, an African American in her 40s, was denied a license because of a 2009 conspiracy felony dangerous drug offence. Contrary to the admonishment to obtain the “yellow paper,” the woman appeared with a clearance letter from a police precinct that simply stated the 2009 arrest was not in the system:

Laura [gun board administrator]: The clearance letter doesn’t help.

Ronnie [gun board administrator]: That’s why we gave you *specific* instructions.

Ms. Robertson: But it never even made it to court. I’ve been *everywhere*. I’ve been to four or five police departments, and they told me it doesn’t exist...

Ronnie: Then get a letter that says that!

Ms. Robertson: No one will give me that letter! I got the runaround.

Ronnie: It’s *your* arrest, you have to take care of it!

Jonathan [gun board administrator]: Go back to Central [Processing] and get a letter that the arrest was discharged.

The incident was visibly frustrating to everyone involved; gun board members were often agitated by the meshing of gun rules with criminal records. In one striking Wayne County case involving Steve Cobb, an African-American man in his 40s, a gun board

member argued against the protocol of relying on records and in favor of the claimant's ability to carry a gun. Mr. Cobb was denied a CPL because he had active warrants from 2001 and 2013. As soon as he reached the podium, Brad, a white gun board member, stood up from his chair, visibly unnerved: "They cancelled one of the warrants, but not the other. But they are the *same case*, same name, everything – and he has the dismissal paperwork. It is my recommendation that he is approved." He convinced the other gun board members, but they nonetheless encouraged Mr. Cobb to try to clear the warrant, recognizing Mr. Cobb's legally precarious situation amid a bumbling bureaucracy (Gilliom 2001). Because the case still had not been removed from the electronic records database, the apparent outstanding warrant could endanger him if police, even in a routine traffic stop, became aware he was armed. Bringing his sensibilities as an officer of the law into the administrative setting of gun board, Brad gave him a helpfully stern warning: "You need to keep your paperwork with you at *all times*. Do *not* lose it." The incident revealed that the mobilization of records is not monolithic but nuanced, perhaps reflecting law-enforcement-cum-administrators' legal consciousness, specifically legal cynicism (Van Maanen 1978; Waddington 1999). Regardless, administrators seemed aware of the promises *and* pitfalls of overreliance on records and thus at times counseled claimants accordingly. The incident thus suggests that gun rights—far from "absolute"—are embedded in local understandings and practices. As Ewald (2016: 30) writes of administrative restrictions on firearms ownership, "ultimately, it is not clear that there is a 'black-letter law' answer" to the question of firearms possession; instead, "the legality of firearms possession – that is, the status of an individual's federal constitutional right" (29) revolves around "the practices and shared understandings of local legal interpreters" (30) that themselves reflect "legal ambiguity and uncertainty" (29).

The cases of Ms. Simpson, Mr. Swift, Mr. Johnson, Ms. Robertson and Mr. Cobb illustrate the procedural pains associated with having to account for records that are erroneous or incomplete. But these procedural pains also affected claimants more concretely through the loss of goods, services, and security that claimants and administrators associated with gun licensing. Repeated gun board visits cost claimants time and lost wages (claimants at times protested that they could not afford to take off work to continue coming to gun board), as well as the loss of, or inability to obtain, a gun license. Ben Young was an African-American security guard in his 30s whose employment was tied to his gun license. A veteran who served in Afghanistan, he came to gun board in his military uniform, perhaps to compel

administrators to ask about his service (a tactic that appears to have been successful). He was called because of a civil infraction: “I blew a 0.03 [Blood Alcohol Content] while carrying. . . . I take complete responsibility for this. I’m not trying to say I’m not responsible. But I work security.” Greg, a gun board member, interrupted him to ask, “Where?” Mr. Young continued, “At Guardian Alarm. I’ve lost a ton of money. I went down from \$12 an hour armed to \$8 an hour. It’s putting stress on me and my wife.” Looking at Mr. Young’s military uniform, Greg remarked that because the ticketing officer wrote up the offence as a civil infraction, it was up to the discretion of gun board whether to revoke his license. Pondering the decision, Greg moved the conversation in an unexpected direction: “Why are you a security guard?” Mr. Young replied, “I’m going to school.” Greg offered, “You can get \$18 an hour here [at the Sheriff’s Department]. Go online to [website.gov] – we’re hiring 20 next month. We just hired a bunch.” Another gun board member jumped in, “We need about 60 to 70 people in this city right now. You can make \$42K to \$47K – and we top out at \$62K.” Mr. Young, a little stunned to be given new job leads, muttered, “That’s a good life.” Mr. Young’s financially motivated desire for a CPL revealed that gun licenses do not just *reflect* a person’s record but *constitute part of that record*. Inverting the “mark” of a criminal record (Pager 2003), a gun license credentialized Mr. Young as a skilled employee to security companies—as well as to the very state agents tasked with licensing him to carry a firearm. The board reinstated his CPL.

Mr. Young’s dependence on his CPL for higher income was not uncommon. More commonly, employment needs related to gun carry revolved around jobs viewed as “dangerous.” These included jobs in liquor establishments, delivery jobs, and jobs requiring the handling of large amounts of money, especially at night. Other license seekers tried to demonstrate that their life situations called for heightened security measures. Gun board members at times took an understanding tone toward claimants who had been repeated victims or who lived in areas recognized as crime-ridden. Indeed, those claimants brought in on attempted homicide charges sometimes found a sympathetic ear with gun board, who viewed their entanglements as examples of self-defense and, therefore, as evidence of their exposure to crime. This sympathetic sensibility among gun board officials resonates with the socio-legal sensibilities of the War on Crime in two ways: not only is it in line with the valorization of victims’ rights, especially by members of the law enforcement community (Page 2011), but it also reflects a willingness to treat criminals—

those against whom licensees presumably use their firearms—swiftly and harshly (Simon 2003).

The term “procedural pains” is meant to capture how administrative process resembles criminal justice, especially low-level misdemeanor justice (Feeley 1979; Kohler-Hausmann 1992). On the way to a gun license, claimants may experience not just a deprivation of liberty (described below in terms of valve-turning), but also a record “runaround” that results in spent money, time, and even psychic pain (through being reduced to one’s record; Myrick 2013). However, unlike the “punishment is the process” thesis (Feeley 1979), which suggests that the costs of engaging the justice system increase as individuals move closer to trial, a gun board claimant may well experience procedural harassment (Kohler-Hausmann 2013) but ultimately receive support or benefits in the form of a license (as in the case of Craig Johnson, described above). Furthermore, claimants *elect* to go through the process of obtaining a gun license. Thus, I use the term “procedural pain” to invoke Sykes’s [1958] “pains of imprisonment” (see also Beckett and Herbert 2010), although I acknowledge that “the pains and prohibitions imposed by formally non-penal measures may be burdensome or restrictive of liberty but they are not justifiable as punishment” (Zedner 2016: 9).

Parallel Punishment

Jessica James, an African-American woman in her early 20s, made her way down the staircase at the Wayne County auditorium. The first case of the day, she was accompanied by her lawyer, an African-American man in his 40s. A gun board member explained that Ms. James was ineligible for a CPL for several reasons, including two felony convictions for illegal substance. Her lawyer responded in a matter-of-fact manner:

We were fully expecting a denial. We are working on a case with a previous judge who should have considered her under HYTA [Holmes Youthful Training Status; a mechanism for youth who committed a crime between 17 and 21² years of age to remove the conviction from their records], but she was not given HYTA. She was 19 during that case and turned 20 while the case was still under way. So we are using this as another piece of evidence to show that she’s been affected by the HYTA denial.

A gun board member clarified, “So you are effectively trying to create a record?” The lawyer affirmed, “Yes, that’s right. We

² In 2015, the upper age limit was increased to 24.

are here to create a record.” Even though “she doesn’t want a CPL,” the lawyer encouraged his client apply for and receive a near-certain denial because, he believed, it would help show that Ms. James was undergoing undue hardship as a result of her exclusion from HYTA. The lawyer’s strategy is revealing for two reasons: the goals of this lawyer were, first, to use the gun license to expose an injustice related to Ms. James’s record and second, in doing so, to create a *new* record of that harm based on the shared presumption that being denied a CPL constituted a kind of punishment (Ewald 2016).

I use the term parallel punishment to capture how administrative process provides an outlet for punishment when criminal justice mechanisms are absent. As Zedner (2016: 8) notes, “resort[ing] to administrative offences allows regulatory authorities to impose penalties without recourse to formal court proceedings.” The gist of parallel punishment lies in the understanding that services, entitlements, licenses, and provisions facilitated by the administrative process can be understood and deployed as collateral consequences (Lerman & Weaver 2014). While the denial of gun licenses is formally distinct from an arrest or detention, it carries a message about civic inclusion (Lerman & Weaver 2014; Mettler & Soss 2004). Insofar as the denial of the gun license is treated as a punitive sanction rather than merely an administrative decision, administrative process *supplements* criminal justice. Considering the repercussions for driving under the influence (DUI), Earl explains,

In some cases, administrative legal settings serve as an initial stop in a larger judicial process, while at other times they parallel criminal or civil systems... It is interesting to consider the extent to which these administrative hearings are used to augment the punishment meted out on the criminal side or to ensure that some formal punishment occurs, since these administrative hearings involve different burdens of proof and thus may well lead to the removal of licenses from individuals who are able to avoid conviction on the criminal charge of DUI (2008: 765).

To the extent that administrative process provides a punitive mechanism when criminal justice mechanisms fail (e.g., police may be unable to make a formal arrest but can refer claimant to an administrative board for review), administrative process serves as a form of parallel punishment that supplements criminal justice. In the same way that police work is marked by an ability both to *enforce* law and also to *use* it (i.e., “with the law,” Ewick & Silbey 1998) in ways that fall short of (e.g., everyday harassment;

Stuart 2016) or fall outside the purview of (e.g., street justice; Van Maanen 1978) formal justice, gun law administrators—themselves public law enforcement—deploy punitive *administrative* techniques in the absence of formal criminal justice mechanisms.

Gun boards served as a mechanism for punishing beyond and in place of criminal justice; roughly 1 in 10 cases involved gun board members using denial, or threat of denial, of a gun license as a punishment (16 percent of Oakland County cases and 9 percent of Wayne County cases). At times, I observed cases involving police referrals that either did not involve formal charges or involved charges that had already been dismissed, especially in Oakland County (6 out of 17 instances of parallel punishment in that county). In some of these cases, police failed to make an arrest because of, according to one gun board member, “shoddy police work.” In others, the prosecutor chose not to pursue the case. With criminal justice channels exhausted, cases ended up in gun board for review. In such instances, gun board had two available penal mechanisms: revocation of a claimant’s CPL (as in the case of Jessica James, above, and James Router, below) and shaming (as in the case of Devon Williams, below).

James Router is an African-American man in his 20s who claimed he shot his gun in self-defense; he was charged with attempted homicide. While the case was ultimately dismissed in court, he was referred to gun board by local police. Gun board approached his case with suspicion, with one member saying the shooting “sounds like one of those basketball feud things.” Gun board began by questioning Mr. Router about his employment status; he explained he has two jobs at two separate group homes. Reflecting a moral, rather than legal, partition between those who are deserving and undeserving of gun licenses, one gun board member exclaimed, “He works at a group home – what does he need a gun for? He doesn’t own a liquor store!”

The other gun board member decided to call the detective on the case and learned that the “victims never showed up, and all the witnesses moved to get out [the city where the incident occurred]. Detective says it was a great case for felonious assault, but they were overzealous with charging him with attempted murder.” Illustrating the “tough on crime” sensibility that lead police to selectively embrace lawful gun access, he explained to Mr. Router, “I called the detective in charge. I believe in Second Amendment rights, and if I had it my way, everyone would carry a gun. But my vote is not to reinstate based on the safety of others.” The claimant laughed out and exclaimed, “you believe that?” The gun board member continued, “I’m dead serious. I want *everybody* to have a gun. I believe in the Second Amendment. But with rights come responsibilities.” Mr. Router left

without his license, despite having been convicted of no crime. In this case, the ambiguous status of gun carrying—as, legally speaking, a privilege requiring the licensing of the state rather than a right—created the room for administrative process to supplement criminal justice, and as a result, for gun board to provide a stop-gap for cases that “should” have been prosecuted but were not. To use Zedner’s (2016: 9) phrasing, the board sought “to make good the failings of the criminal justice system” (see also Beckett and Murakawa 2012). Instead of probation or imprisonment, the offender faced indefinite revocation of his gun license.

Not all cases were judged so severely. In the following case, gun board could have (and perhaps should have) but did not revoke a man’s gun license. Twenty-four-year-old African-American Devon Williams was called to Wayne County gun board because of an active personal protection order (PPO), which had expired by the time he appeared at the meeting. In the intervening time, however, he was stopped by a suburban police department, which referred his file to gun board. As he described, his friend’s brother was caught up in a drug deal gone bad. One afternoon, the friend was driving a vehicle full of five men—including Mr. Williams and his gun—in hopes of chasing down another car that allegedly contained the men responsible for the drug deal. As Mr. Williams explained it, “we were in a feud...but we had our guns because we were coming from the shooting range. I was just in the wrong place at the wrong time. I just wanted to go to the shooting range.” The car ran several traffic lights, and eventually police intervened. For over 15 minutes, gun board questioned the man, told him that his story is full of holes, and lectured him on the responsibilities of lawful gun ownership and carry. Ultimately, however, gun board concluded that his file does not warrant revocation: “Well, they didn’t charge, and your PPO is expired.” The outcome of this case is surprising from a public safety perspective; Mr. Williams effectively admitted to gun board that he had intended to commit brandishing (at best) or homicide (at worst). Yet, gun board’s apparent goal was not to revoke but to chastise: shaming was enough punishment in light of the criminal justice system’s decision not to punish him either.

The informal parallel punishment of shaming, either in place of or in conjunction with formal punishment, was a more regular feature of gun board than formal revocation. Shaming and degradation were especially common in Wayne County. African-American men most often received admonitions on responsibility. During one Wayne County gun board session, Phil, a gun board member, gave an impromptu lecture to roughly 40 people about the “responsibility” of a CPL:

There is a big responsibility with a CPL... It's on *you*. You can't get into altercations. You can't get into road rage...Because as soon as someone sees you, and they see the shadow of a gun, or they see a print of a gun through your clothes, or they see you reaching for a gun, they are going to call the police. They are going to say you pulled a gun on them...So you got to put your big boy pants on, put on your big girl pants on, and you have to take the higher ground.

Here, this administrator explicitly called on the everyday dispositions of gun licensees and applicants, asking them to see the short-sightedness of overreacting or associating with criminal activity. While this lecture was the most sustained incantation for responsibility I observed, gun board often chastised individual claimants, especially African-American men, similar to the degradation ceremonies analyzed by Van Cleve (2016). One man brought in for a domestic violence charge, for example, was lectured on his parenting skills and told “a happy wife is a happy life”; another man brought in for unpaid child support was told that “you have kids for life.” A man who was current on his child support payments was threatened with the consequences of nonpayment.

Administrative procedure addresses entitlements, licenses, and privileges rather than formal rights; the unique—and arguably, only—tool at the disposal of administrators is the withholding of said entitlements, licenses, and privileges. But this is a powerful tool depending on the practical and social salience of the entitlement or service at stake (i.e., clients in street-level bureaucracies may effectively be “nonvoluntary” [Lipsky 2010: 54–55]). Because claimants approached the gun license as fulfilling a need (whether for security or employment), administrators could chisel out space to both discipline and punish claimants through the withholding—or threatened withholding—of licenses. Via formal revocation and informal moral chastisement, gun board facilitates “parallel punishment” where criminal justice mechanisms are absent or inadequate. But sometimes, as the next section reveals, gun boards moved beyond *supplementing* criminal justice to *facilitating* it.

Valve-Turning

Midway through the morning session at a Wayne County gun board meeting, Laura, a gun board member, opened a file folder and called for Jerome Brown, an African-American man in his 40s. Mr. Brown arose from his chair and walked down the stairs. Arriving at the podium at the front of the auditorium, he stated his name and then quickly spelled it out. Laura read the details

of his case, “Mr. Brown, you were denied a CPL application because of an active Third Circuit Friend of Court Warrant.” Due to unpaid child support, a warrant for his arrest had been issued. Laura continued, “You appeared in September, at which point you were arrested.” Reviewing my fieldnotes from September, I realized that Mr. Brown must have been one of the two arrests I witnessed that month; Mr. Brown had already appeared before gun board and had already been *arrested* at gun board. Laura queried further, “Then your warrant was cleared. How much did you pay?” He responded, “\$2,500. I paid the full amount after I got arrested.” Paperwork in order, he was approved to carry a gun concealed. His case—a blend of procedural pains and valve-turning—was the only one I observed in which someone arrested at gun board returned with the proper paperwork and a cleared name and was ultimately approved for a CPL.

“Valve-turning” refers to the mechanisms within administrative process that allow administrators to differentially funnel, or threaten to funnel, individuals into the criminal justice system based on their criminal records. While statutorily, administrators *must* deny benefits pending resolution of certain outstanding issues, they have greater discretion when making decisions to arrest, especially for low-level offenses. Despite the towering *potential* of criminal and quasi-criminal records to be mobilized for the purposes of social control (Jacobs 2015), in practice, the use of these records more resembles the bumbling bureaucracy described by Gilliom (2001) than the images of “Big Brother” that often implicitly frame discussions of surveillance. One reason for the selective use of records is resource limitations: gun board administrators must contend with the availability of jail space and the willingness of local jails to take in claimants. This means that while arrests can and do happen at gun board, administrators also use the *threat* of arrest as a means of compelling compliance.

The term valve-turning is thus intended to flag how administrative bodies act less like a steady pipeline and more like a valve that can be opened or closed according to the sensibilities of administrators and their understanding of criminal justice enforcement capacity. The term captures this differential flow of people and emphasizes the turnover of people from one institution to another as administrators decide which records deserve scant resources. But valve-turning is also meant to capture the ontological insecurity that administrators exploit as they remind claimants of their precarious position between criminality and lawfulness. By transposing a technique from street policing (that is, the threat or “warning”), gun board administrators expand the reach of the criminal justice system as claimants are reminded of their precarity vis-à-vis the law. In this way, administrative

process *expands* criminal justice by facilitating the differential flow of people into the criminal justice system *and* by encouraging claimants to internalize the gaze of the state and thus understand themselves as precariously subject to the law. Whereas the pipeline metaphor emphasizes the pervasive penetration of criminal justice into noncriminal justice apparatuses, the valve metaphor brings nuance to the pipeline and highlights how this penetration punishes those deemed criminal as well as disciplines claimants on the edge between lawful and criminal (Foucault 1977).

Not unlike the sting operations orchestrated at welfare offices, where recipients are told they have benefits waiting only to find handcuffs upon their arrival, people could be and were arrested at gun boards. Over five months, I observed 25 instances in which claimants were arrested or directly threatened with arrest; all but one of these cases occurred in Wayne County.³ Furthermore, this numerical figure on direct arrests and threatened arrests must be contextualized within the county-specific execution of gun board: broad threats, directly at no particular individual, were especially common in Wayne County where at least one gun board meeting a month included a session that focused on claimants with outstanding warrants. These claimants, usually numbering between 20 and 30, would typically enter the auditorium en masse and be lectured on their outstanding warrants as a group. Consider Ronnie's opening remarks to claimants with outstanding warrants assembled at the beginning of a morning session in Wayne County:

Ronnie jumps to the front of the auditorium and started pacing. . . He calls four names off first, and tells these African American men to sit in the very front row near the back door. He [then] starts in on the lecture, "Everyone in here has an active warrant, and you are going to take care of it. You can go to jail right now. Now, I probably won't arrest you right now, but I can. So go pay your bond, get rid of the court date, get dismissal paperwork, get something that says 'not guilty.' If you have this paperwork, we can talk to you today. If you don't, you need to go get it."

³ The reliance on arrests and threats of arrests in Wayne County as to compared Oakland County resonates with Van Cleve's (2016) findings in Cook County courts and with scholarship on the "racial empathy gap" more broadly: poor, African American populations tend to be dealt with more harshly and more punitively. Another factor may be that, in wealthier Oakland County, outstanding warrants that may have elicited arrest "downstream" in the context of gun board had already been addressed further upstream by other law enforcement agencies. These factors further suggest the utility of the valve-turning metaphor (as opposed to a "pipeline") insofar as administrators may decide to deploy different kinds of tactics, ranging from symbolic to carceral, depending on their own sociological sensibilities as well as the sociological and material resources at their disposal.

After this lecture, arrests would be made; warrants for unpaid child support and violent felonies almost always resulted in arrest before cases were individually heard. In Wayne County, 12 arrests—all involving African Americans—occurred after these opening lectures.

Other kinds of warrants—for example, for misdemeanors for unpaid parking tickets or for nonviolent felonies such as unemployment fraud—did not necessarily result in arrest. Such cases were determined by the availability of jail space (or perhaps more accurately, administrators' understanding of current jail capacity), on the one hand, and the motivation of gun board members to punish certain kinds of records and particular claimants, on the other. While a threatened arrest did not always open the valve between gun board and jail, such threats served as a panoptic (Foucault 1977) reminder to claimants that this valve could be turned. This allowed administrators to marshal the authority of the police badge in the context of the administrative board; after all, at least one member of gun board every session came in uniform.

Consider the following case in Oakland County involving an African-American man in his 30s. The Oakland County gun board (despite being a public forum) operated out of a small room, allowing for a separation of “backstage” and “frontstage” decisionmaking (Goffman 1959). After chatting briefly with the claimant, one of the gun board members asked him to step outside. He explained to the other two gun board members, “He has two outstanding warrants, both from Dearborn. Traffic warrants. I’m going to go call my buddy in Dearborn to find out if he wants him.” He placed the call, but learned the police did not have space to process the warrants. Calling the man back in, he explained, I have good news and bad news. The bad news is that you have two warrants from Dearborn. They are \$300 each, or \$600 total. One was driving with no insurance, the other was driving while license suspended. The good news is that they don’t want to pick you up today.”

Similarly, Wayne County gun board members also quietly urged one another to “Call the jail to see if they have space”; to claimants, they usually presented their authority to funnel claimants into the criminal justice system in terms of their own discretion, reminding claimants of their legal precarity as they concealed the spatial limitations of the jail. For example, at the beginning of one gun board meeting in Wayne County, an African-American woman in her 30s approached one of the gun board members as the other claimants found their seats. The gun board member insisted that the woman needed to “Go to Macomb County” to address her arrest. She argued that there

was no arrest and no record. The gun board member cut her off: “You need to leave before I arrest you. You have a serious enough warrant that I could arrest you. You need to leave before I change my mind.” He spurted a deadpan laugh as the woman left, saying “She has a 10-year-old daughter waiting out there. I am becoming too nice in my old age!”

This threat of arrest was mobilized even for claimants who had no outstanding warrants, such as in cases in which gun board members “smelled marijuana” or thought an applicant “looked high” as well as in cases in which applicants acted “disorderly” by asking too many questions. One older white man was called to gun board in Wayne County because he managed to obtain a medical marijuana card *and* a concealed pistol license—an illegal combination under Federal law. Flummoxed by gun board’s reasoning, he asked, “Can I get that in writing?” and “Can’t I ask questions?” Exasperated, one gun board member threatened arrest: “You are two seconds from being arrested for disorderly conduct.” Again, such threats often did not materialize; as gun board members revealed in conversations with one another, the criminal justice system lacked capacity to process all but the most serious arrests. Instead, the threat of arrest operated as a tool of discipline; the *specter* (Page 2011) of gun board’s discretionary ability to funnel claimants into the criminal justice system supplemented their inability to do so due to space considerations.

Thus, valve-turning illustrates how administrative process expands criminal justice, but not as the pipeline evoked in metaphors regarding pathways into incarceration (e.g., the school-to-prison “pipeline”). Rather, criminal and quasi-criminal records provide the wrenches with which gun board members could open the valves to criminal mechanisms, or threaten to open them. This link between administrative process and criminal justice is mutually beneficial: valve-turning allows administrative process to act as a handmaiden to criminal justice; likewise, criminal justice enhances the authority of administrators *as administrators* by providing a mechanism (the *threat* of arrest) to compel compliance, quell disputes, and remind claimants of their precarity before the law.

Conclusion

By examining the unique contributions of administrative justice to contemporary penalty, I ethnographically consider the machinations of the “shadow carceral state” (Beckett & Murakawa 2012). My goal in unpacking administrative justice is to understand how state technologies, processes, and procedures formally

distinct from the criminal justice system become interlocked with it. Using Michigan's public gun board as a specific site at a specific historical moment, I identified three mechanisms that illustrate administrative justice: procedural pains, in which administrative process resembles criminal justice (particularly misdemeanor justice; see Kohler-Hausmann 2013) in its punitive processing and paper-chasing; parallel punishment, in which administrative process supplements criminal justice through administrative withholding of licenses; and valve-turning, in which administrative process funnels, or threatens to funnel, people back into the criminal justice system, depending on both the resource capacities of local authorities and the moral judgments of administrators.

Of course, gun boards are not the only place to examine administrative justice as a form of penalty.⁴ It appears in a range of contexts, including poverty management and exclusion surrounding Section 8 and other kinds of collateral consequences (Lerman & Weaver 2014; Soss et al., 2011); the demarcation (and then blurring) of juvenile justice as distinct from criminal justice (Platt 1977); immigration detention hearings (Bosworth & Kaufman 2011; Gilboy 1988); and elsewhere. In each of these contexts, the emergence of strategies that link together administrative and criminal justice mechanisms will depend on a variety of factors:

First, the availability of criminal and quasi-criminal records matters within a specific administrative context. With criminal and quasi-criminal records functioning as a negative curriculum vitae, records provide a widely accepted means of processing claimants in administrative processes as diverse as welfare provision; Section 8 housing; and immigration detention. Indeed, one way to read Gustafson's (2011) findings on how welfare recipients navigate the intractable intricacies of welfare regulations is that this institutional apparatus effectively trains welfare recipients on how to navigate their relationship with the state not just as state dependents (Fraser & Gordon 1994) but also as record-bearing subjects (Lageson 2016; Myrick 2013). Thus, the procedural pains of gun board are likely to be evident in other administrative contexts that are reliant on criminal records. Thanks to expansive collateral consequences attached to criminal and quasi-criminal records (Lerman & Weaver 2014), this includes a wide scope of administrative apparatuses.

⁴ Further, because they delegate the capacity to use lethal force from the state to individuals and thus touch the boundaries of behavior regulated by criminal law (i.e., use of force against others), gun boards perhaps comprise an unlikely space for the manifestation of administrative justice.

Next, the legal consciousness of administrators matters (Lens 2009), especially insofar as administrators transpose sensibilities from one context to another. This analysis suggests that the appointment of police in an administrative capacity allows people with vested interests in “law and order” to exercise power beyond the beat, beyond the jail, and beyond the courthouse. Even without formal linkages, administrative contexts that share personnel with criminal justice agencies are likely to informally enhance the reach of the criminal justice system by virtue of the legal consciousness shared by these personnel, and contexts in which such administrators are motivated to punish but where criminal justice mechanisms are unavailable—either because of resources or statutory provisions—may be especially characterized by the mechanisms of administrative justice outlined here. Further, this point regarding administrators’ legal consciousness may be extended not only to how and which sanctions are justified but also against whom, as scholarship shows that criminal justice personnel process citizens differently according to race, gender, age, and class (Epp et al. 2014; Van Cleve 2016).

Finally, the willingness of claimants to engage in administrative process matters. Legally speaking, a claimant’s engagement is elected: no one is compelled to obtain a driver’s license, go through welfare fair hearings, or gather their paperwork for a gun license. The claimants who appear before gun board are not avoiding “the system” (Brayne 2014) but proactively participating in it. The willingness of claimants to withstand administrative justice will depend on their desire for the benefits that administrative process may bring; the greater the desire or need for benefits, the more that claimants may open themselves up to mechanisms of administrative justice. This means that administrative justice is shaped within particular political cultures, including the extent to which “rights talk” shapes claimants’ own legal consciousness as they petition for privileges, entitlements, and services.

Overall, I have dissected three microlevel mechanisms by which criminal justice and administrative process become linked. By ethnographically examining these mechanisms as moments of administrative justice, this analysis interrogates the microlevel practices of state agents as they engage in, enhance, and extend penalty beyond the boundaries of criminal justice institutions. Mobilizing administrative process to mimic, supplement, and expand criminal justice, administrators are poised to deploy punitive sanctions on claimants who—by virtue of electively seeking entitlements, privileges, services, or licenses—may uneasily acquiesce to the very mechanisms by which they are disciplined and punished.

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