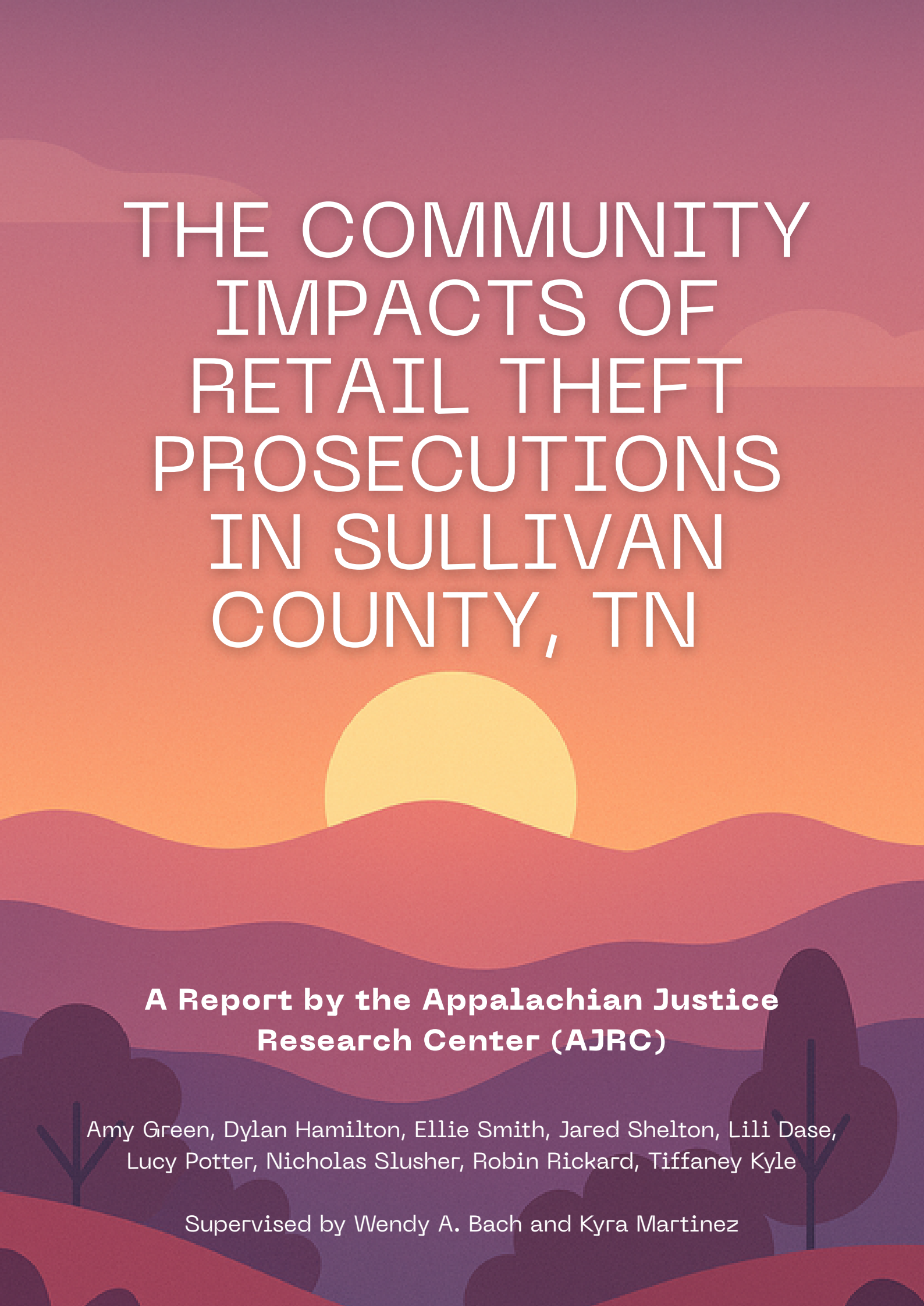




# THE COMMUNITY IMPACTS OF RETAIL THEFT PROSECUTIONS IN SULLIVAN COUNTY, TN

**A Report by the Appalachian Justice  
Research Center (AJRC)**

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# A Community Request for Research

The Appalachian Justice Research Center is a transdisciplinary research and training collaborative co-sponsored by the College of Arts & Sciences and the College of Law at the University of Tennessee. The Center is dedicated to advancing community visions for a more just and equitable Appalachia and the Mountain South. We use a community-driven, non-extractive research model: aka, we're focused on research with and for communities, not research about communities.

The curricular center of the AJRC is the Appalachian Justice Research Lab (AJRL) where students, across colleges and across levels, come together, with community partners and faculty, to answer research questions that are important to our community partners.

In the summer of 2024, Community Defense of Tennessee (CDET) reached out and brought us a set of questions about shoplifting and burglary charges being filed in Sullivan County, Tennessee that involved Walmart. They told us that there were so many charges coming out of Walmart that entire dockets, known locally as "Walmart Wednesdays" were being held in the local court. They wanted to know:

- *How many people are being prosecuted for burglary because of incidents at Walmart?*
- *Who are they?*
- *What are their charges?*
- *What happens in their cases?*
- *And finally, what does it all cost?*

To understand these questions:

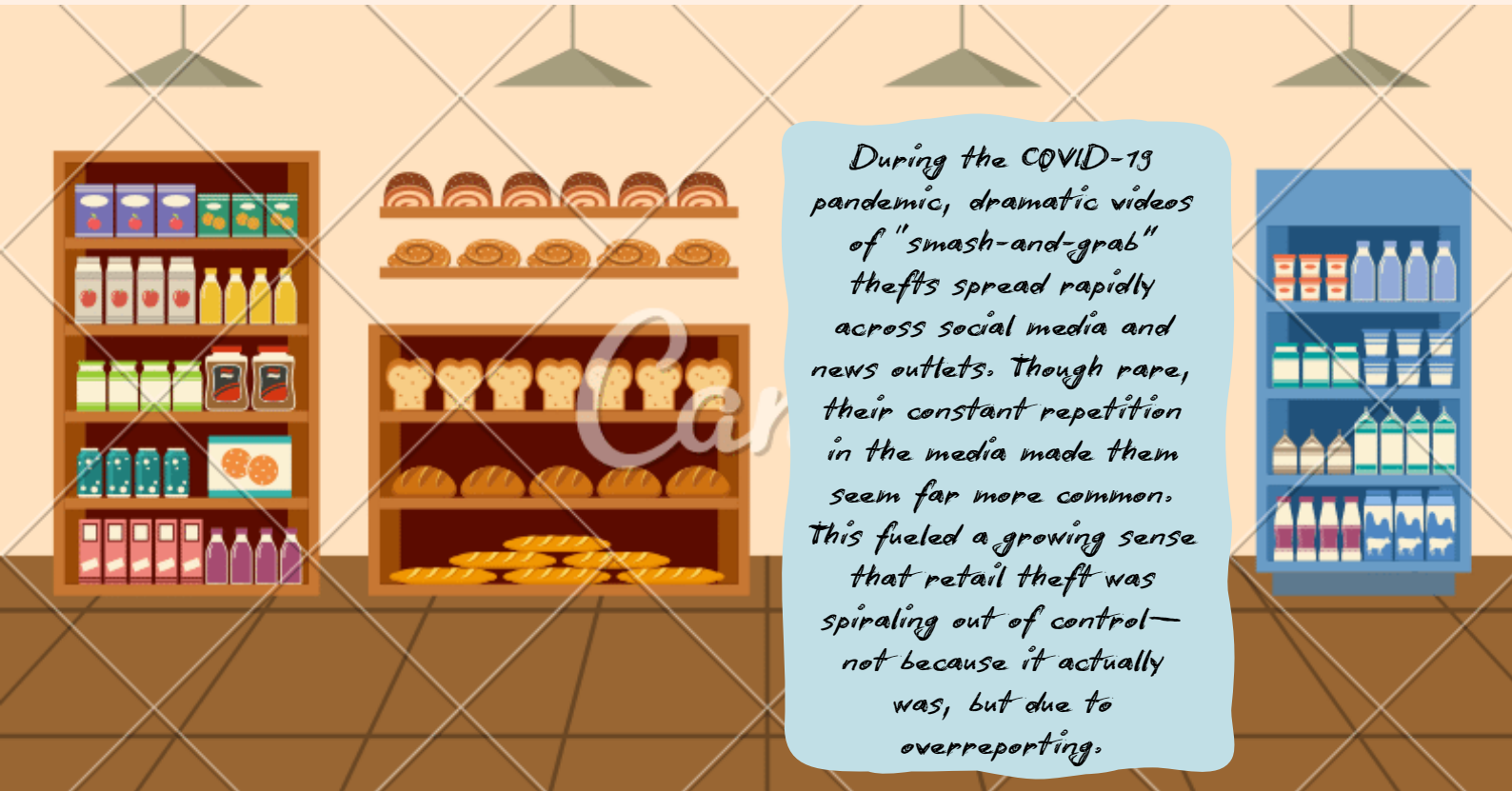
- With help from local clerks, we gathered and analyzed 119 court
- Conducted interviews with police officers, prosecutors, and defense attorneys, and
- Examined the Sullivan County budget to understand how much public money is being spent on prosecuting these cases

To learn more about how we conducted our research and analysis, you can check out [this document](#).

This report summarizes our research findings.



## Manufacturing a "Crime Wave"



*During the COVID-19 pandemic, dramatic videos of "smash-and-grab" thefts spread rapidly across social media and news outlets. Though rare, their constant repetition in the media made them seem far more common. This fueled a growing sense that retail theft was spiraling out of control—not because it actually was, but due to overreporting.*

**From Fear to Policy:** As concern over retail theft grew, politicians and major retailers, including Walmart, played upon public fears to push for tougher laws. The National Retail Federation falsely claimed that organized theft caused nearly half of all retail losses in 2021—then quietly retracted the claim.

**Escalating the Stakes:** In Sullivan County, Tennessee, this narrative has opened the door to the possibility of more severe legal consequences. People caught shoplifting—if they've been previously banned from a store—can now face felony burglary charges.

**Control, Not Just Loss Prevention:** Even when stolen items are recovered, retailers often pursue aggressive charges. This isn't just about loss, it's about asserting control: over space, public perception, and who is allowed to exist there without being treated as a threat.

**Who Gets Hurt:** The result is more people facing jail time, job loss, and permanent records for acts tied to survival.

## How Shoplifting Became Burglary

*You might think shoplifting and burglary are completely different—and usually, they are. Shoplifting brings to mind someone quietly taking something from a store. Burglary sounds more serious, like breaking into a home. Because of that, burglary is punished much more harshly under the law.*



That was the usual distinction in Tennessee—until 2020, when the state's Supreme Court decided a case called *State v. Welch*, changing how shoplifting can be charged.

The court agreed. So now, in Tennessee, if someone shoplifts from a store they've been banned from—even for something small—they can face a felony burglary charge. A low-level theft becomes a high-level crime.

**Imagine a person steals a \$10 shirt from Walmart. If it's the first time, they can be charged with theft. If it's the second, they can be charged with burglary.**

| Crime    | Level           | Maximum Sentence   |
|----------|-----------------|--------------------|
| Theft    | Misdemeanor (A) | 11 months, 29 days |
| Burglary | Felony (D)      | 12 years           |

*Why? Because the law defines burglary as entering a place without permission to commit certain crimes. Once someone is banned, the state argues they no longer have permission to enter at all.*

## Charging Burglary For Petty Theft

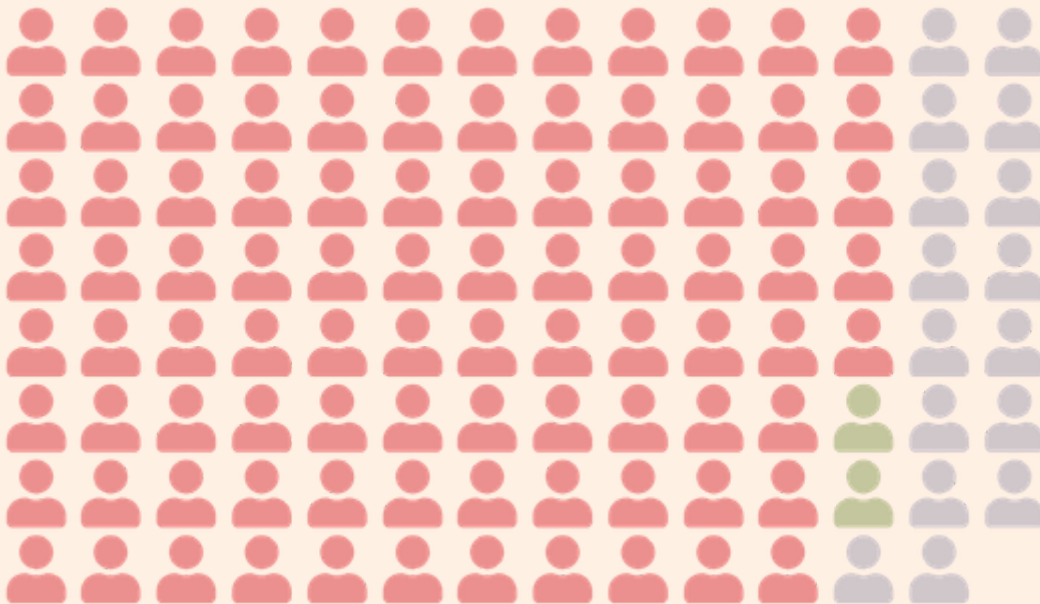
**In 18 cases, prosecutors charged defendants with burglary. Overwhelmingly, they were white, poor women. Their average age was 39.**

- Twelve of the eighteen defendants charged with this felony stole less than \$500 worth of merchandise.
- One stole only \$57 worth of merchandise.
- In every one of these cases, Walmart got the merchandise back.
- But they were all charged with burglary and faced a possible penalty of twelve years in prison.



## Threatening Burglary to Get Pleas to Theft

The majority of individuals were charged with theft or shoplifting, not burglary. But that did not mean that, even in those cases, the possibility of a burglary charge didn't matter. What we learned is that the possibility of a burglary charge added pressure in plea negotiations, pushing defendants to accept deals.



This visual represents the proportions of charged individuals in resolved cases who **pled guilty**, received a **judicial diversion**, and had their **charge dismissed**.

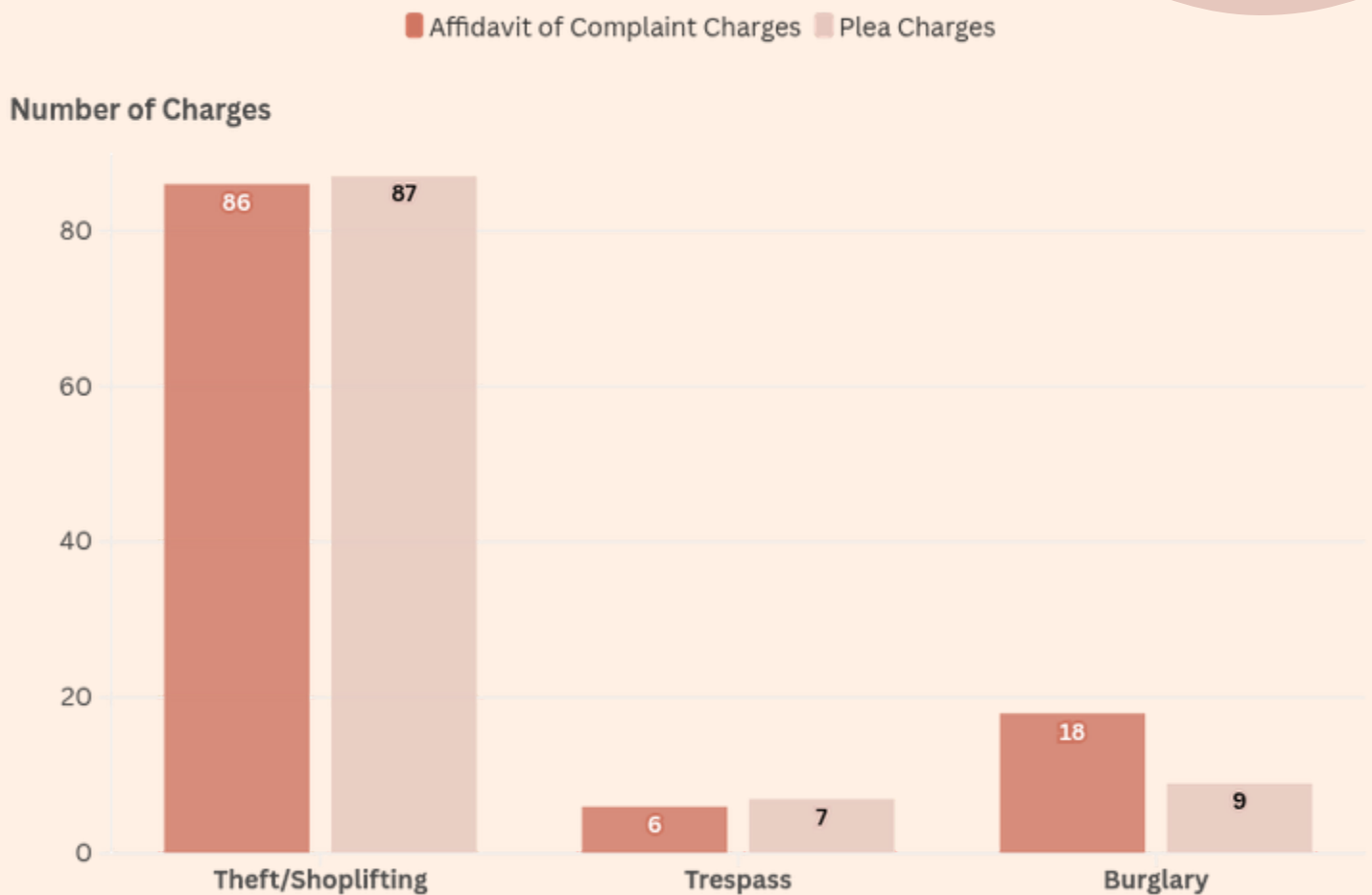
"We have no leverage: . . . if we push too hard, you know [the prosecution] is gonna take the offer off the table and leave it a burglary charge."

-Jennifer Davis, Sullivan County Public Defender



Prosecutors and defense attorneys explained that the possibility of a burglary charge plays a major role in plea negotiations.

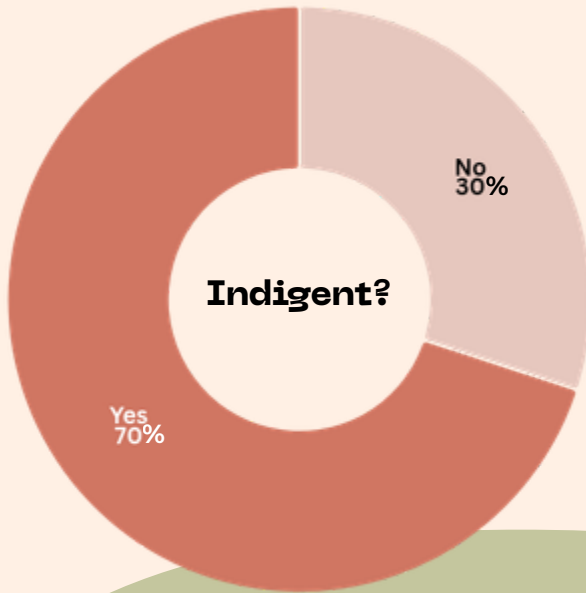
In practice, **prosecutors use the threat of a burglary charge to pressure defendants into pleading guilty to theft and to submitting to the maximum sentence for that offense.** In fact, nearly 84% of charged individuals in our resolved cases took a plea deal.



**This graph reflects the disparities between the offenses originally charged and the offenses which were actually pled to.**

Our review of court files showed burglary charges were relatively rare—only 18 out of the 119 Kingsport cases. However, Welch does have an observable effect on outcomes in theft cases.

## The Criminalization of Local Need?

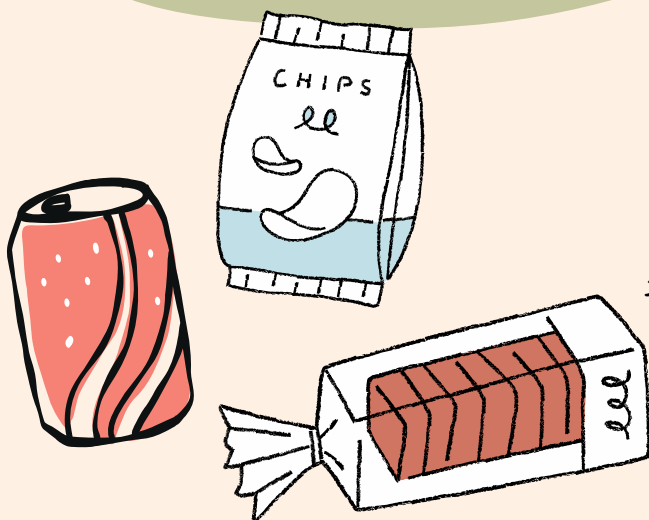


*"They generally steal food or like hygiene items...and I do try to take into account...what was stolen when I make an offer. Like I've had homeless people go in and steal a sandwich and a drink and they file charges against them."*

*-Sullivan County Prosecutor*

70% of charged individuals in this study were deemed indigent by the court. These people are often more susceptible to influences from the prosecutors pushing for plea deals due to uncertainty surrounding their needs.

Being deemed indigent means that the charged person could not afford their own legal representation, but was still required to pay court fees and fines.



*"I mean, I had one [case] last week... they went in, grabbed a thing of bread, a package of turkey, package of cheese, a can of pringles, and a coke. Sat down, started eating. Total theft was \$20, facing a felony charge."*

*-Ben Adams, Sullivan County Public Defender*

## Our Participants Agreed that Addiction Often Played a Role

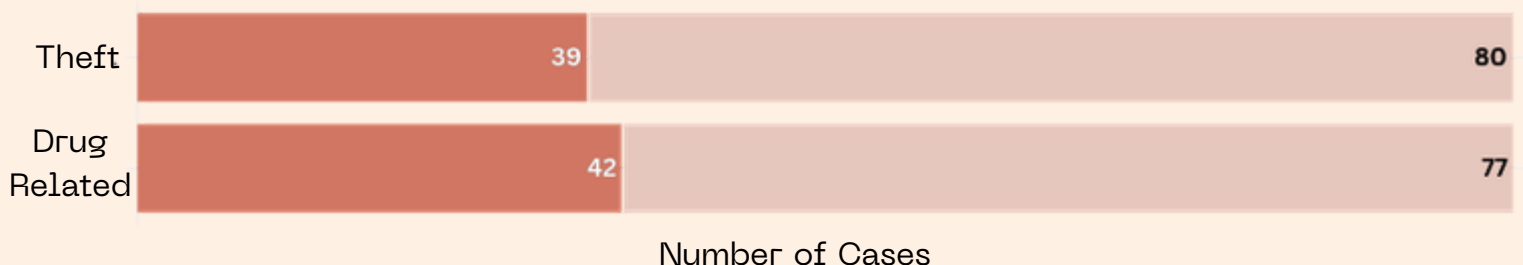
Many of these prosecutions targeted low-income local residents, and many believed that retail theft was often driven by addiction, hunger, poverty, and unmet mental health needs. One prosecutor believed that retail theft defendants often also commit drug crimes.



*"I don't know what the answer is . . . I heard from [a local judge] that the judicial system was not set up to fix the mental health crisis or fix the drug problem . . . but we have become the system by which that is done and so we don't know what the answer is."*

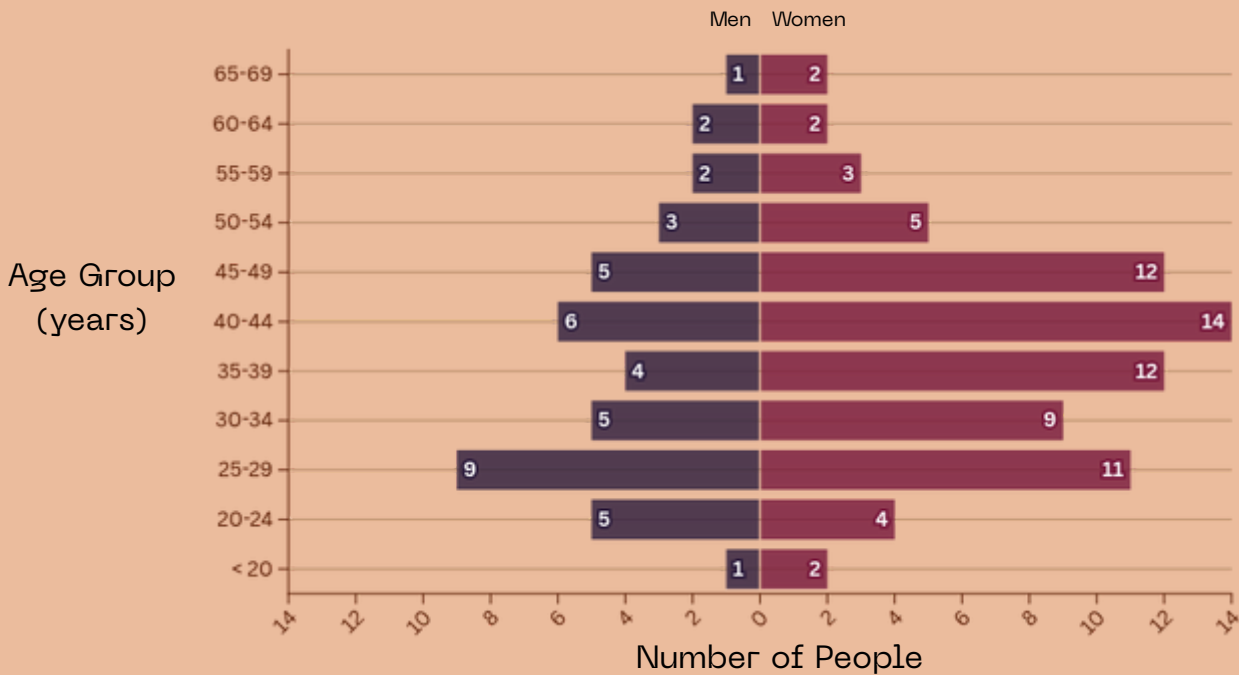
*- Sullivan County Prosecutor*

Interestingly, for the years studied, significantly less than half of all prosecutions had prior or concurrent drug-related charges on their record. Even fewer had prior theft charges.



# Who was charged?

*Low income women between 35-49 were most likely to be charged.*



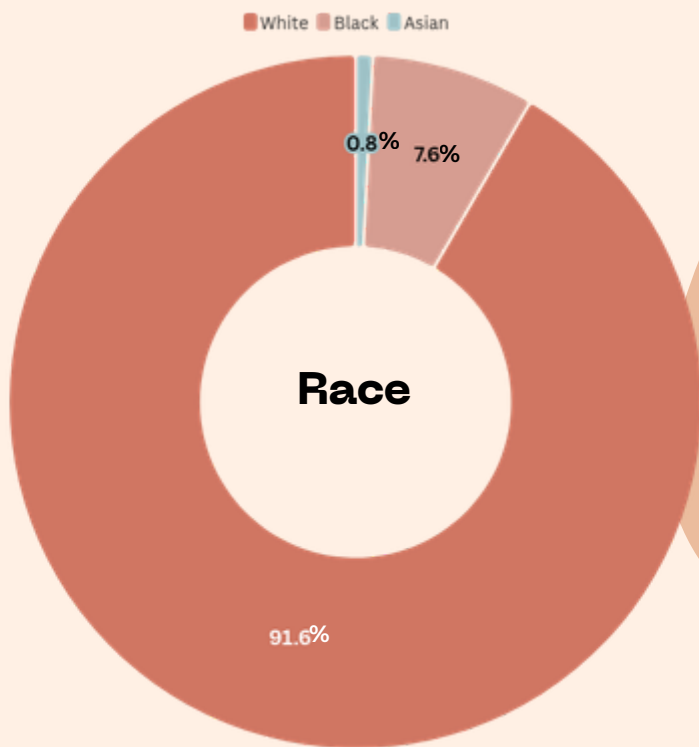
The finding that women aged 35–49 are being charged with theft in Sullivan County is striking. Nationally, shoplifting is most common among teens and young adults between the ages of 12 and 29, and men are more likely to shoplift than women. Compared to these national trends, the pattern in Sullivan County stands out.

It points to the impact of poverty and economic insecurity among middle-aged women, many of whom are navigating caregiving responsibilities, low-wage work, and health challenges with limited support. Their presence in these cases highlights how structural disadvantage, rather than individual moral failures, often drives criminalized behavior.



*"The problem is they [loss prevention officers] treat everyone the same. So whether you're that person who went into the dressing room and swapped tags and put a 99 cent cucumber tag on, you know, a \$50 electronic item, that person is treated exactly the same as the mother with special needs kids that is overwhelmed and trying to check out a \$400 cart."*

- Ben Adams, Sullivan County Public Defender



This chart shows the races of the 119 people charged with theft. About 91.6% of those charged were White, 7.6% were Black, and 0.8% were Asian. In 2019 and 2022, Black or African American (Non-Hispanic) individuals made up only 1.84% and 1.9% of the county's total population, respectively.

(Diversity in Sullivan County, TN, n.d.)



Using burglary charges for repeat shoplifting makes the punishment much harsher than it would be for a regular shoplifting offense. This shows how laws can be applied in ways that have serious, long-term impacts on people's lives, even for relatively minor crimes.

Looking at who gets charged, and what they are charged with, raises important questions about fairness in the justice system. Laws like burglary enhancements give prosecutors a lot of flexibility, which can sometimes lead to decisions that reflect racial bias.

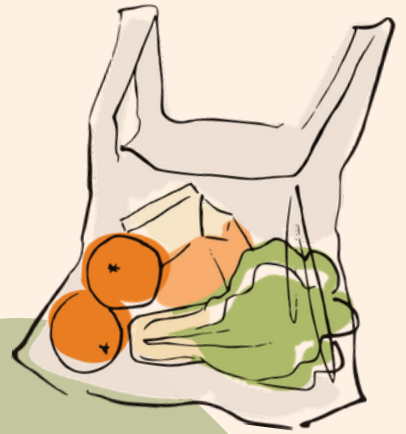
This shows how patterns in law enforcement and charging decisions can reinforce broader systems of inequality.

**Legal decisions don't just reflect the law — they reflect and reproduce the racial inequalities built into housing, education, healthcare, and employment systems.**

*"Just looking at the people I deal with, it's a fair, pretty fair representation of just the the community in general. So, uh, we do have we have some Black people steal. We have Hispanic people steal. We have some, uh, Asian people steal. But we have a pretty small population [of these groups], most of the people we have stealing are white because that that's just what we got."*

*- Bristol Police Department Sgt. Mike Still*

# A Never Ending Cycle



**What starts as a misdemeanor can quickly become something that reshapes a person's future.**

In Sullivan County, Tennessee, many people charged with theft—often for low-cost items—become caught in what's known as the **misdemeanor cycle**. This happens when someone is repeatedly charged with minor offenses.

This cycle often plays out in theft cases, where people return to court again and again because their basic needs continue to go unmet. Instead of addressing the root causes of these issues, like poverty, the system focuses on monitoring and punishing behavior. Over time, people become stuck in a system that watches and penalizes them constantly, without offering much support.

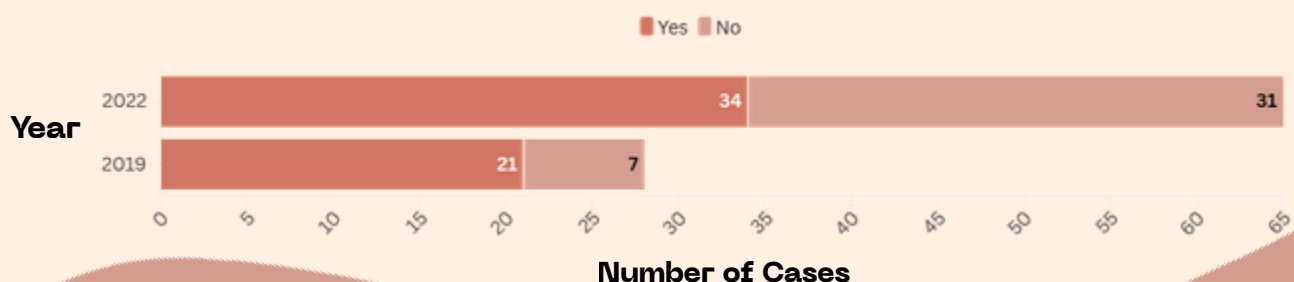
In some cases, this cycle becomes even harder to escape. When people with repeat theft charges are prosecuted under the state's burglary statute, a pattern of minor offenses can turn into a felony case. This shift doesn't break the cycle. A felony charge brings higher stakes, longer consequences, and more barriers to housing, employment, and stability.

## What does it mean to violate probation?

When a person is sentenced to probation, they remain in the community under certain conditions and supervision set by the court. Even after pleading guilty, people in theft cases must follow strict rules like attending court dates, checking in with officers, holding a job, or paying fees.

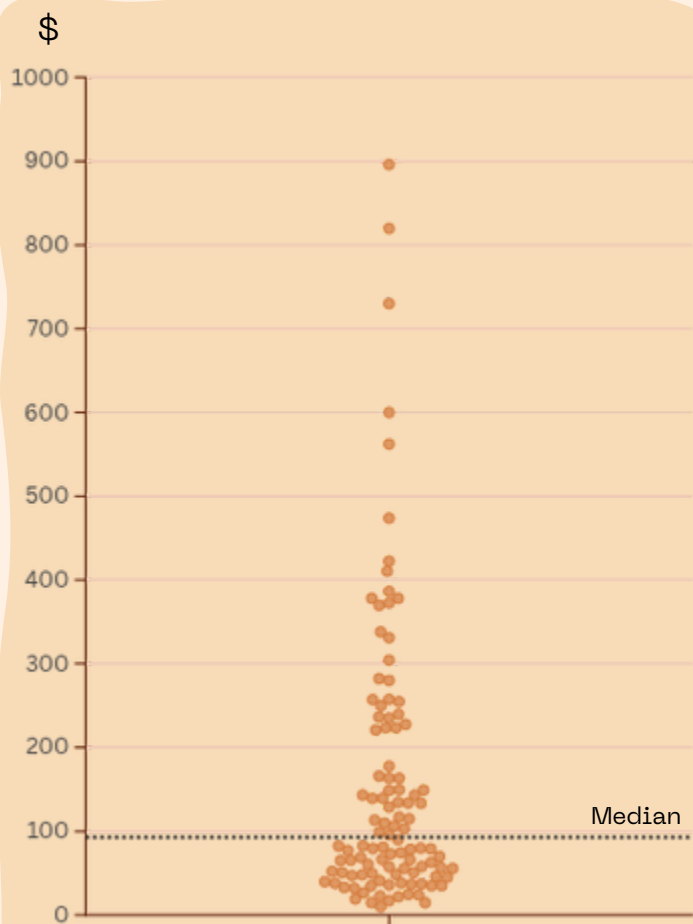
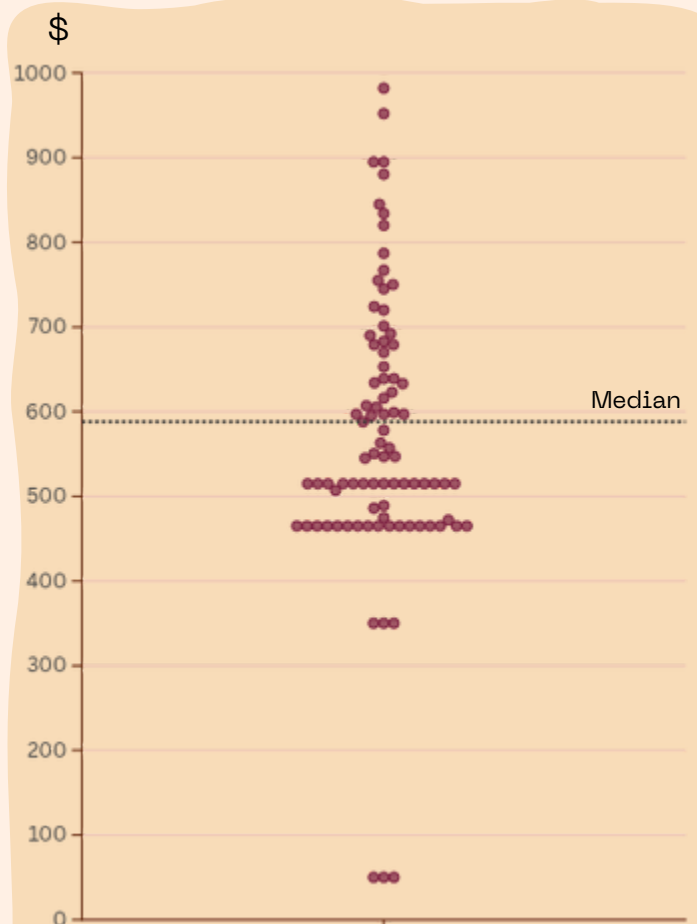
For those dealing with poverty, unstable housing, or addiction, these requirements can be hard to meet, and easily violated.

## Charged Person Violated Probation?



*Probation can become a procedural trap. The rise in violations shows that probation often doesn't help people move on—it pulls them deeper into the system. Although the majority of folks were not initially jailed when charged, the use of the jail escalated after violations of probation.*

**Minor Offenses,  
Major Financial Impact**

**Merchandise Value\*****Total Assessed Fees and Costs\*\***

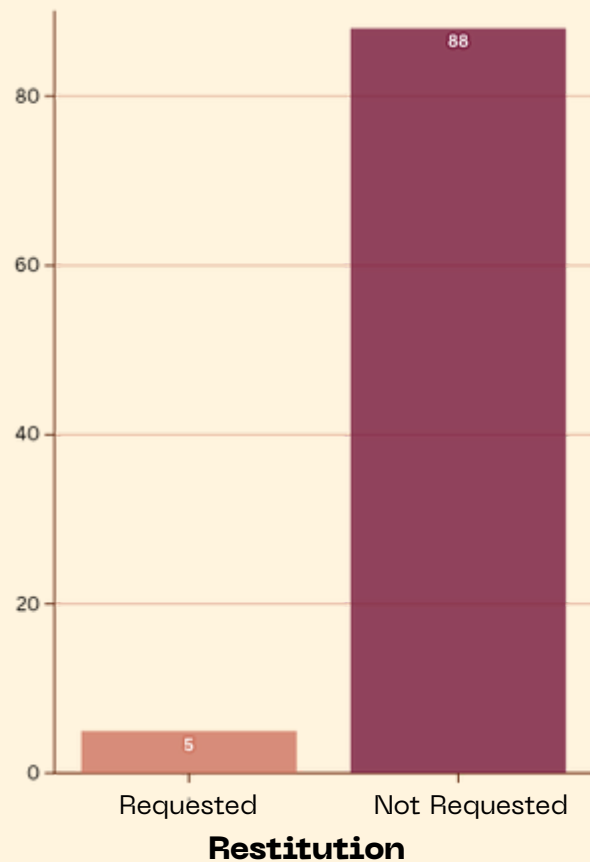
CDET was really interested in understanding the financial impact of retail theft prosecutions in Sullivan County. The findings here are interesting. The median merchandise value in the 119 cases was \$92.84. It is typical in the criminal system for defendants to have to pay "costs" to the court as part of their case. In these cases, those costs were a median of \$588.

\*Visual excludes 3 data points above 1,000.

\*\*Visual excludes 14 data points above 1,000.

## Walmart Almost Always Got Their Property Back

Cases



Courts can order someone charged with a crime to pay the "victim" when the victim of a crime lost property or suffered other kinds monetary damages. In a typical shoplifting case, the merchant will only request a restitution order if they did not get the merchandise back or the merchandise is damaged.

In the project, we carefully tracked whether or not the court ordered restitution. In cases where the merchandise is stolen and is either not recovered or cannot be sold, Walmart can ask for restitution.

Out of all cases, Walmart requested court ordered restitution in only five. This visual represents the cases that were resolved in a guilty plea.

## Why Charge Burglary?

The decision to charge repeat shoplifting as burglary in Sullivan County is part of a broader strategy aimed at discouraging theft, based on deterrence theory—the belief that people are less likely to commit crimes if they fear harsh punishment. Prosecutors also believe that arresting retail theft defendants makes Sullivan County safer.



**But whether this approach actually works is uncertain.**

Although some prosecutors believed there is the potential of a deterrent effect if the penalties associated with shoplifting are harsher, others questioned whether they actually work to prevent future theft.

Attorneys on both sides emphasized that these cases often aren't just about someone deciding to steal. Instead, theft frequently happens in the context of poverty, unstable housing, addiction, and/or untreated mental health needs.

Both prosecutors and defense attorneys described gaps in shelter access, mental health care, and treatment services. As a result, even after someone is arrested and punished, they are often released back into the same difficult conditions that led to the theft in the first place.

This raises a larger question: Are we solving the problem—or just cycling people through a system that offers punishment without support? Many of those we spoke with believe it's time to consider responses that focus more on care and stability than punishment alone.

*"Well they're walking down the road and they can get into traffic and you've got a very busy road and someone is going to have to live with the consequences of hitting someone out there high, walking down the road, or just mentally ill. But there's just nowhere for them to go. I think that's a huge, that would be a huge benefit to our community, to have a long-term mental health and drug location."*

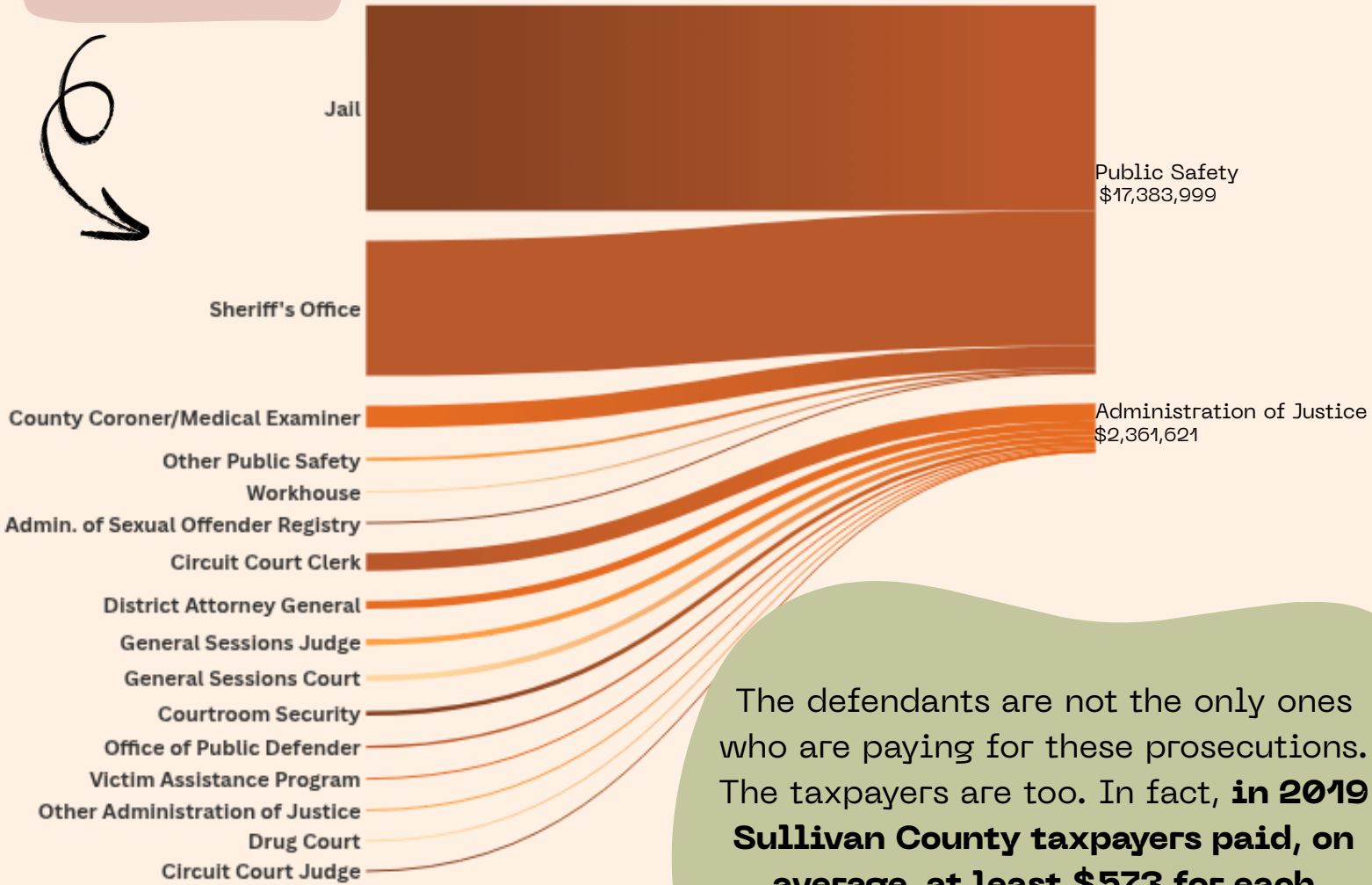
*-Sullivan County Prosecutor*

*"... if somebody's in jail longer rather than shorter, that means that's less shoplifting in the community and then there's the hope, there's just the idea that people need to be punished for stealing."*

*-Barry Staubus, Sullivan County District Attorney*

# The Taxpayers' Burden

## Cost Breakdown



The defendants are not the only ones who are paying for these prosecutions. The taxpayers are too. In fact, **in 2019 Sullivan County taxpayers paid, on average, at least \$573 for each criminal charge brought in the county.** This estimate is low though, because of all the costs it does not include.

## Costs Not Included in Our Estimate

We note that this method represents a substantial undercount of the actual costs to taxpayers as it does not consider the following costs:

Healthcare

Economic Effects on Charged Persons' Communities

Bail

Destabilized Health

Food

Lost Wages

Utilities

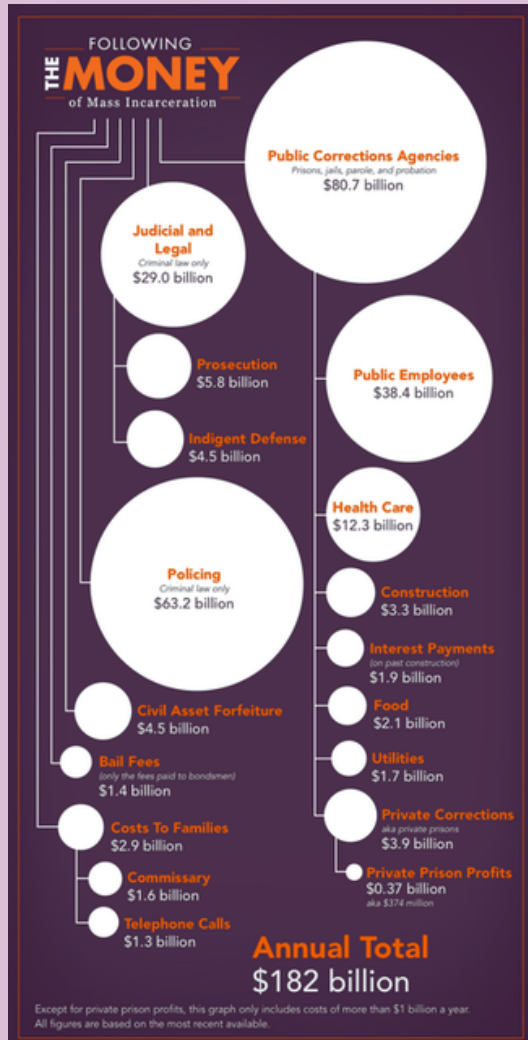
Destabilized Housing

Economic Effects on Charged Persons' Families

Commissary

Telephone Calls

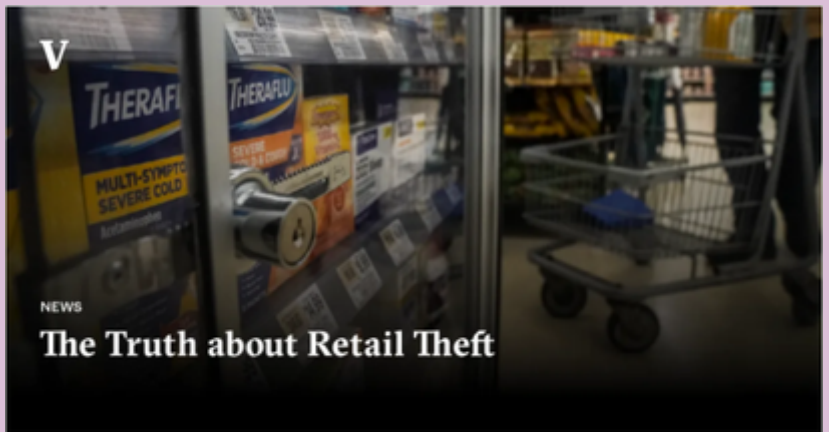
## More Things to Read



### Shoplifting: Corporate Copaganda

A resource on how claims of a "shoplifting surge" by corporations and the media is copaganda, Read about the rise of private...

**IC** Interrupting Criminalization / Mar 6, 2024



### The Truth about Retail Theft

In October, retail lobbyists demanded that Congress expand the prosecution and policing of shoplifting, making it easier to charge theft as a federal...

**V** Vera Institute of Justice

## The Law

Tennessee Burglary Statute:  
Tenn. Code Ann. § 39-13-1002

Tennessee Theft of Property Statute:  
Tenn. Code Ann. § 39-14-146

Penalties for theft charges:  
Tenn. Code Ann. § 39-14-105

State v. Welch





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