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*Racial Bias in Law Enforcement, Criminal Justice,
and Incarceration*

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Special Issue

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Racial Bias in Law Enforcement, Criminal Justice, and Incarceration

Special Issue

CONTENTS

Frontiers of Research on Racial Inequalities
in Criminal Justice **1**
Robert J. Sampson

The Scope of Racial Bias in Policing:
Behavioral Science’s Role in a Systemic
Problem **22**
John F. Dovidio and Phillip Atiba Solomon

Understanding Race Disparities in Criminal
Court Outcomes **86**
*Shawn Bushway, Andrew Jordan, Derek Neal,
and Steven Raphael*

The Rise of the Carceral State: Foundations
and Contours of a Rapidly Changing Criminal
Legal System **136**
Sara Wakefield and Kristin Turney

The Fallout from Criminal Justice System
Contact **174**
*Hedwig Lee, Alexandra Gibbons, Garrett Baker,
and Christopher Wildeman*

The Transition from Prison to
Community **230**
Alia Nahra, David Knight, and Bruce Western

Criminalization of Immigration **282**
*Emily Ryo, Jennifer M. Chacón, and Cecilia
Menjívar*

Frontiers of Research on Racial Inequalities in Criminal Justice



ROBERT J. SAMPSON 

Racial disparities in contact with the criminal justice system remain a pressing concern for both scholars and the public, yet debate persists about how best to explain and reduce them. The articles in this special issue advance our understanding by evaluating research on racial bias in law enforcement, criminal justice processing, and incarceration. I highlight three unifying themes: the significance of time and place, especially how social change shapes racial inequalities; the connection between crime, criminal justice contact, and punishment, emphasizing social processes that influence both criminal behavior and legal outcomes; and structural racial inequalities that extend beyond individual bias and accumulate throughout people's lives. Drawing from this conceptual framework and the issue's comprehensive reviews, I outline a future research agenda to better understand—and potentially reduce—racial inequalities in criminal justice.

Keywords: racial disparity, bias, justice, life course, social change, cohort, structural inequality, community, cumulative disadvantage

Most experts agree that criminal justice in the United States is marked by racial disparities, but few agree as to why. Whether racial animus, implicit stereotypes, structural racism in criminal legal institutions, or differential involvement in criminal behavior, scholars have offered a wide variety of competing explanations for racial inequities in criminal justice outcomes, some of which reach back to slavery. Research on race, crime, and criminal justice not only has a long history but also covers multiple stages of contact with legal authorities, including everyday police encounters with cit-

izens, arrest, bail, conviction, sentencing decisions, incarceration, the imposition of the death penalty, and police killings. It would be impossible in one article to summarize and evaluate this vast body of research, especially the many attempts to distinguish racial disparity from racial bias.

For a quarter century now, the Russell Sage Foundation (RSF) has systematically supported a research program on law enforcement, criminal justice, and incarceration. The decision to fund this research area was both prescient and consequential. The funding started in 2000,

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just before the publication of the special volume of *Punishment and Society*, edited by David Garland (2001), which was influential in putting the idea of mass incarceration on the intellectual map. Recognizing the problem before it became a popular scholarly pursuit, RSF invested considerable resources in independent research projects, the foundation-appointed working groups “Law and Legitimacy” and “Racial Bias in Policing,” and the special initiative “Mass Incarceration.” Each of these initiatives spawned important works, including books that continue to be go-to sources on racial inequities in contacts with legal authorities and criminal punishment (Western 2006; Raphael and Stoll 2013; Tyler and Huo 2002). RSF also helped build a national network of researchers and train a new generation of scholars.

This line of inquiry brings us to the current issue of *RSF: The Russell Sage Foundation Journal of the Social Sciences*, which enables the otherwise impossible task of making sense of the vast research literature on racial bias in law enforcement, criminal justice, and incarceration. In 2024, the foundation took a new approach to its journal by commissioning six literature-review articles on this vital topic from leading scholars funded under their program of research and holding a conference in New York

City to discuss them. The event was something of a watershed moment, revealing the progress that has been made over the years but also surfacing crucial unanswered questions. Like the research it covered, the discussions were intense and sometimes contentious, but the quality was never in doubt, and there was unanimous commitment among all participants to advancing our knowledge.

In this article, I take stock of racial bias—and more generally, racial inequality—in the criminal justice system, drawing on the articles resulting from this conference as well as a burgeoning literature that cuts across multiple disciplines.¹ To make the task manageable, I avoid a detailed review of the individual articles, because each article itself is an in-depth, state-of-the-art review. I also make no claims to duplicate the range of many other comprehensive reviews.² Instead, I identify three themes—around social change, the integration of research on criminal behavior and the criminal justice system, and structural racial inequality rather than individual bias—that help to unify our understanding. On the basis of these themes, I focus on a high-level and forward-looking assessment of theoretically organized questions and areas of research that are motivated by but go beyond the specific issues raised in the issue’s articles, charting the broad

1. A note on terminology: Some scholars now prefer the term criminal legal system to the traditional term criminal justice system, arguing that the latter inaccurately implies justice is unbiased. This critique has merit, yet criminal legal system as a term feels somewhat clinical. Whatever term we use, justice remains—or should remain—the ultimate goal. The gap between this aspiration and reality doesn’t require abandoning references to criminal justice. After all, we don’t call the Department of Public Health the Department of Public Unhealth despite persistent health inequities. I thus use both terms while acknowledging the field’s evolving discourse. For clarity, when I refer to criminal justice in the title and throughout this article, I take that to include law enforcement and incarceration—the core focus of this special issue.

2. There is a large literature on race disparities in criminal justice that spans decades and a much smaller literature on ethnic disparities. Recent reviews of this work, beyond the articles in this issue, include three consensus reports commissioned by what is now the National Academies of Sciences, Engineering, and Medicine (2018, 2023; National Research Council 2014). There are also reviews available in outlets devoted to systematic assessments, such as the *Annual Review of Criminology*, the *Annual Review of Sociology*, the *Annual Review of Law and Social Science*, and *Crime and Justice*. Following the report of the National Academies of Sciences, Engineering, and Medicine on reducing racial inequalities in crime and justice (2023, 22), I conceptualize race as a socially and historically constructed category that has served as a principle of social organization and source of inequality in the US. Although my main focus and that of most of the articles in this issue is on race, and Hispanic is typically considered an ethnic rather than racial category, processes of racialization in the US have historically marked Hispanics or Latinos, especially Mexicans, as non-White (Sampson and Neil 2024; Massey 2014).

contours of a research agenda for the next generation of scholarship.

UNIFYING THEMES

The first theme I highlight is the need to foreground social change and its community contexts of racial inequalities in criminal justice. As Glen H. Elder Jr. and his colleagues write, “The life course of individuals is embedded in and shaped by the historical times and places they experience over their lifetime” (Elder et al. 2003, 12). Like the society in which it operates, the apparatus of criminal justice in the US is not static or monolithic—its many variations over time and place require explanation (Sampson, forthcoming).

To take a leading challenge this issue explores, if racial inequities are seen as inherent to the operation of American punishment, how do we explain the large variations in rates of incarceration of racial groups across regions, states, and communities (National Research Council 2014; National Academies of Sciences 2023) or the substantial declines in overall incarceration and in Black-White disparities in incarceration in the past fifteen years (Robey et al. 2023; Muller and Roehrkaase 2025)? Are we on the road to ending mass incarceration, and if so, how does this bear on accounts that view it as a new slavery or Jim Crow? Or has the form of punishment instead changed, an argument that follows from Sara Wakefield and Kristin Turney’s (2025) review in this issue on the rise of the carceral state, which they define to include other features of the criminal legal system (such as community supervision and legal financial obligations) and surveillance from institutions adjacent to the criminal legal system (such as schools, child welfare agencies, and the health care system).

Either way, we need conceptual and empirical frameworks for understanding contextual variations and sociohistorical change, especially profound cohort inequalities in criminal justice contact and punishment—what Roland Neil and Robert Sampson (2021) term the “birth lottery of history.” Even within relatively short periods, social change reconfigured the incarceration chances of successive birth cohorts in racially disparate ways (Pettit and Western 2004), most recently in surprising directions. A

focus on social change and the contexts that mediate it centers not just cohort differentiation but also changing racial heterogeneity in the collateral consequences of criminal justice contact (Lee et al. 2025, this issue), along with the ways in which definitions of crime and perceptions of criminals have changed. The evolving nature of how immigrant groups in America have been conceptualized and treated in the criminal justice system is a case in point (Muhammad 2011a, 2011b), foreshadowing contemporary concerns with what some call “crimmigration” (Ryo et al. 2025, this issue). Each article in this issue is attuned in its own fashion to the changing nature of criminal justice and its societal context.

But crime has changed dramatically over time too, and hence the second theme that I argue is central to theoretical advancement is uniting the study of crime and criminal justice. Past research has tended to split into two camps, one highlighting the study of criminal behavior and the second the study of criminal legal contact and formal punishment (Laub 2014). Especially during the era of mass incarceration, these two frameworks became increasingly separated, perhaps best captured in Michelle Alexander’s (2012, 215) argument that since “all of us are criminals,” criminal behavior does not much matter, if at all, in understanding punitive crime policies. The crack cocaine legislation that President Ronald Reagan signed into law in the 1980s is a leading example of how behavior can become untethered from punitive policies that are racially discriminatory. Yet as James Forman (2012, 2017) countered, and more recently David Garland (2025), to ignore the reality of changes in crime and violence, especially in poor minority communities, is to miss an important part of the story of when, where, and why incarceration rose as it did. Research has also shown that self-reported criminal behavior and victimization predict official criminal justice indicators, such as arrest, and that there is broad consistency in the social class and race correlates of official and self-reported data for similar offenses (Hindelang et al. 1979; Elliott and Ageton 1980), though these connections may have weakened over time at the individual level as incarceration increased (Weaver et al. 2019).

It follows that a key question, one the articles in this issue may be put in dialogue with, is: under what conditions does crime, including changes in crime, matter for our understanding of racial inequalities in criminal justice contact and beyond, and how? Rather than take an either-or position, this question cuts across time and across levels of analysis to include individuals, communities, and entire societies. Violent victimization in particular is a devastating experience that disproportionately harms Black Americans, undermining entire communities and leading to lifelong consequences for children exposed to violence (National Academies of Sciences, Engineering, and Medicine 2023, chap. 3). Hence the more indirect the collateral consequences of criminal justice contact we start to consider (whether in families, extended families, or communities), the more important it is to simultaneously know how crime and violence matter. Not only does integrating the study of criminal behavior and criminal justice widen our view of racial inequalities (Laub 2014), but it also sharpens debates on what it means to say that the US is a penal outlier. Some have argued that relative to its levels of crime, the US is not as exceptional in its punishment levels as is commonly asserted (Clegg et al. 2024).

A third and interrelated theme is that the articles in this issue focus largely on structural causes of racial disparities, especially in ways that recognize the sequential nature of criminal justice processing and life course dynamics more generally. John Dovidio and Philip Atiba Solomon (2025, this issue), for example, distinguish the implicit bias of individual police officers from more systemic or supra-individual sources of bias like racial segregation, or more generally what some call structural racism in criminal justice institutions (National Academies of Sciences, Engineering, and Medicine 2023, 22; Lee 2024). Shawn Bushway and colleagues (2025, this issue) also stress structural racism, examining the form of punitive laws and practices that create disparate impacts for minority defendants without generating improvements in public safety, identifying a key mechanism that explains racial disparities in prison sentences and that, like Dovidio and Solomon's (2025) assess-

ment, does not require individual bias on the part of criminal justice decision-makers.

Another contribution—by Alia Nahra and colleagues (2025, this issue)—takes a more explicit life course perspective in confronting the challenge of individuals returning to the community after a prison sentence, highlighting the problems of compounded disadvantages that accumulate over time and that disproportionately impact poor Black men in their efforts to reintegrate back into society (Miller 2021; Western 2015). It is not just the criminal justice system that is in play, but also social welfare, health, education, and many other features of racial stratification in America. Relatedly, in their comprehensive survey, Hedwig Lee and colleagues (2025) raise hard questions of causality and selection bias in research on the consequences of contact with legal authorities at different stages of the life course, noting heterogeneous effects by race. They also highlight the role of intergenerational criminal justice contact in fostering racial inequality, emphasizing the concept of linked lives (Elder 1994; Wildeman 2020).

Taken together, this issue's articles stress the importance of structural accounts of racial inequalities that extend well beyond individual-level bias and policies purporting to eliminate individual prejudice by criminal justice agents. Coupled with a focus on the fundamental problem of violence in America (Zimring and Hawkins 1999) and the changing nature of both crime and punishment over the past quarter century, a new generation of research is in order.

THE SOCIAL CHANGE CHALLENGE

Much has been written about incarceration's dramatic rise starting in the mid-1970s and its collateral consequences for racial inequality, as the articles in this issue attest. Less is known about both earlier and more recent points in history, but new research is expanding its reach both back in time and forward to recent developments in penal practices, raising a new set of questions.

One welcome direction is a push for more historically based research that aims to link distal and proximate mechanisms of incarceration (Hinton and Cook 2021). Instead of just focusing on contemporaneous causes of racial

disparities, in other words, scholars have examined the social processes leading up to the penal changes that began in the 1970s. For example, although there was an undeniable and nearly continuous rise in crime and violence in the 1960s, it yielded almost no response in terms of incarceration for about fifteen years. As Forman (2012) and others have discussed, well before the ascent of mass incarceration, Black citizens were vocal in demanding a broad range of societal responses to rising crime and violence, including a greater emphasis on resources such as adequate housing, jobs, education, and more. But the response, as we now know, was lopsided in favor of aggressive policing and, in time, prison. Tracing the “road not taken”—despite explicit warnings, notably by the National Advisory Commission on Civil Disorders (1968), that emphasized the social foundations of racial inequality and the dangers of purely criminal punishment approaches—is a needed corrective (Hinton 2016).

As Nicola Lacey and colleagues (2018, 119) further point out, even though the proximate driver of incarceration lies in the policy choices of legislators, how those choices are shaped by crime rates and perceptions of crime and social order, which evolve over time, is an important question. They argue, for example, that we should expect a significant time lag between changes in crime and imprisonment practices given the reality of how the American criminal justice system works, especially with its long prison sentences. In this case, it is not just the level of crime that matters but also the rate of change in crime and change in imprisonment, which means that researchers need to be more precise about lag effects and long-term processes of mediation, including public attitudes (see also Enns 2016). Taking this sort of temporal perspective invites a series of questions, such as: Why did sentencing policies change when they did? How much is attributable to changes in crime or perceptions of crime, and how long did it take for sentencing practices to react to these changes? We often hear that crime “*per se*” does not matter in explaining punishment, but this merely deflects the question of potential indirect pathways and moderating or exacerbating influences.

A related issue turns on the interaction of

crime and perceptions of threat with demographic and other structural changes in society. From this perspective, some argue that what mediated a penal rather than social welfare response to increasing crime was the changing meaning assigned to Black people accused of crimes after the civil rights movement, the riots of the mid-late 1960s, and the increasing racial diversity of society. Consistent with this view, Scott Duxbury (2023, 561) reports that criminal threat narratives—media discourse that portrays racial minorities as criminally threatening—accounted for about half of homicide’s effect on the overall incarceration rate. Crucially, Duxbury also found that homicide had an indirect effect on racial disparities in prison admissions through the pathway of criminal threat narratives. Black criminality did not register in the same way as, say, White criminality did in earlier eras among Irish or Italian immigrants (Muhammad 2011b). Punishment, rather than mercy, became the dominant force.

A growing empirical literature also looks at racial disparities in imprisonment that existed well before the late twentieth century, vital though that era was to our understanding of mass incarceration. In addition to work on how European immigrant groups were incorporated into the American mainstream, Christopher Muller (2012) examines the late nineteenth and early twentieth century, connecting in part rising racial disparity in incarceration to increasing African American migration from the South to the North between 1880 and 1950. A new line of work goes back even earlier, examining the incarceration of African Americans from the days of slavery to the present (Muller 2021; Duxbury 2024). This research explores how slavery and later forms of racial domination shaped experiences with incarceration in urban versus rural Black communities that produced racial differences in family structure and employment (Jaynes 2023) that in turn bore downstream consequences for criminal justice experiences. Simply put, for Muller (2021) there was exploitation (relatively low incarceration) in the rural areas and exclusion (relatively high incarceration) in the urban ones. As I will discuss further, the study of mechanisms linking historical inequalities, cumulative early-life disadvantages, and later-life contexts of racial dis-

parities in criminal justice contact is ripe for future inquiry. But for now, the main point is that while the rise in mass incarceration may have been novel in its scope, racial disparities are not, and arguably the causal mechanisms producing them have roots that can be traced back decades if not centuries.

At the other end of the historical spectrum, more attention is being paid to social changes in incarceration and other aspects of criminal legal processing that have ensued in the past two decades. Here, a new set of dynamics seem to be occurring, with race and class inequalities raising several intriguing questions. As Lee and colleagues (2025) document, and other evidence confirms (Muller and Roehrkassee 2022), declines in incarceration in the last twenty years are substantial, and increasingly, class inequality in imprisonment is outpacing racial inequality. Unexpectedly, for example, while the prison admission rate among Black people without any college education has fallen since 2000, the prison admission rate among White people without any college education has steadily increased (Muller and Roehrkassee 2025).³ Using cohort data, Jason Robey and colleagues (2023, 977) similarly show large declines in Black male incarceration relative to Whites, and they also find that, in contrast with just ten years earlier, “Black men are more likely to graduate college than go to prison.”⁴ Meanwhile, and rather remarkably, Black and White disparities in federal court sentences for drug offenses, the trigger for leading accounts of mass incarceration, have disappeared altogether (Light 2022).

It is not just incarceration that has been transformed. Arrest is the main gateway into the criminal justice system, and arrest rates have dropped dramatically too (Lee et al. 2025). In one study from Chicago, the odds of being arrested during the peak ages of delinquency

were approximately double for those born in the early to mid-1980s compared to otherwise similar adolescents born just a decade later, in the mid-1990s (Neil and Sampson 2021). Arrests for drugs and disorderly conduct, which are frequently posited as driving mass incarceration, were also substantially lower for the younger cohorts. The authors also show that these changes were not explained by the differences between birth cohorts in demographic composition, family background, economic status, or even early life neighborhood environments (1158). Rather, they found that substantial cohort differences in being arrested in late adolescence and early adulthood arose from the divergent social environments through which each cohort came of age, with Black youth benefitting the most from sharply lower arrest rates in the 2000s.

Given these large declines and changing racial disparities, how much cohort variation in arrest and incarceration is due to changes in penal practices and how much is due to changes in criminal behavior is a question that needs to be addressed. Neil and Sampson (2021) estimate that for arrest, it is about an even split between changes in police practices, such as the collapse of “broken-windows” policing of disorder and drugs, joined with broader societal drops in crime due to behavioral and normative shifts associated with the great American crime decline (Zimring 2006). But the jury is still out on a precise accounting of changes in arrest rates.

Research is also needed to disentangle the policy mechanisms underlying recent changes in incarceration rates. As Bushway and colleagues (2025) argue, policy changes can be decisive independent of variations in criminal behavior. Their analysis suggests that several reforms help explain reductions in incarceration and its associated racial disparities: limit-

3. However, Muller and Alexander Roehrkassee (2022) note that class boundaries among Blacks are more permeable than among Whites, and as a result, the chance of a middle- or even upper-class African American having a family member who has been imprisoned, or of living in a high imprisonment neighborhood, is much greater than among Whites.

4. Divergent race-class trends are also evident for the intergenerational economic mobility of US children born between 1978 and 1992, with improvements at all income levels for Black individuals and declines for low-income White individuals (Chetty et al. 2024).

ing the use of incarceration for technical violations of parole or probation rules (revocations), introducing alternatives to cash bail, and reforming sentencing through measures such as eliminating three-strikes laws. How these and other policy reforms interact with broader structural inequalities to either mitigate or exacerbate racial gaps remains a key question. For example, under what conditions and at what time horizons do crime and policy matter, to what extent, and for which racial groups? Another question is how much the politics of criminal justice reform drove specific policy changes (Beckett and Brydolf-Horwitz 2020), and whether lower crime provided the context in which reform became possible. Such questions align with a research agenda seeking to link distal and proximate causes of racial disparities.

In short, racial disparities in criminal legal processing are highly variable over time, and both arrest and imprisonment rates have declined substantially in directions that were not predicted by the literature on mass incarceration. Crime and victimization rates have changed markedly too in unexpected ways (Baumer et al. 2018; Sharkey and Marsteller 2022), with consequences for racial disparities in criminal justice. This includes the possibility that the large crime declines of recent decades have had direct effects on reducing racial disparities in criminal justice contact independent of policy changes. Along with a growing scrutiny of diverging class and race-specific trends in intergenerational mobility (Chetty et

al. 2024) and what has been termed “deaths of despair” (Case and Deaton 2021), future research will need to resolve important questions on the causes of changing racial inequalities in life chances over the last quarter century.⁵ Cohort is an important analytic category that provides leverage in assessing the nature and mechanisms of these myriad kinds of social changes (Pettit and Western 2004; Shen et al. 2020; Robey et al. 2023; Sampson, forthcoming).⁶

INSTITUTIONAL DIFFUSION AND THE CHANGING CARCERAL STATE?

Although incarceration and arrests have clearly declined in recent decades, it may be that other forms of punishment have taken their place. This issue directly considers this possibility. For Wakefield and Turney (2025), an advantage of the concept of the carceral state is that it emphasizes forms of surveillance and punishment that go beyond incarceration, raising the specter of a changing network of interconnected control institutions. As they note, carceral state scholars argue that the US is more than simply a state with a high crime or punishment rate; rather, it is characterized by an unrelenting commitment to seeking carceral solutions to a vast array of social problems. Their viewpoint encompasses features of the criminal legal system, such as police contact, community supervision, and legal financial obligations, in addition to surveillance from institutions adjacent to the criminal legal system, including schools, child welfare agen-

5. Yet another change that needs deeper examination is racial heterogeneity in the collateral consequences of criminal justice contact. As Lee and colleagues (2025) show, in many cases the effects of such contacts are increasingly larger among Whites than Blacks, either because there are selection differences in the populations studied or because the stigma associated with criminal sanctions like incarceration changes with its prevalence in the population.

6. This framework implies a concerted focus on both cohort-historical and within-cohort life course variations. Although individuals are embedded in age-graded social roles and transitions, these processes are not uniform—social change and social contexts shape them. See Sara Wakefield and Robert Apel (2016) and my book (Sampson, forthcoming) for more on how a life course perspective on crime and criminal justice aids our understanding of racial disparities. A life course framework also suggests the need for complementary research designs and methods focusing on temporal variations, including repeated cross-sectional studies (for an example using the Monitoring the Future Study, see Baumer et al. 2021), difference in difference studies, and panel studies with multiple sources of data on crime that can potentially disentangle policy changes (such as the elimination of cash bail) from shifts in criminal behavior.

cies, the labor market, the health care system, and immigration control.

Despite the conceptual slippage across different definitions of the carceral state (Rubin and Phelps 2017), and the apparent circular reasoning in asserting that punishment (the outcome) fulfills a societal function that, in turn, contributes to the carceral state's stability (defined in terms of punishment), the carceral state concept raises empirical questions about mission creep, or the institutional spillover of "carceral logics." As in classic deviance theory (Cohen 1985), this framing invites us to look beyond incarceration, not just to earlier points in criminal processing like arrest but also to the hypothesized expansion of surveillance and control in adjacent institutions. Kelley Fong (2023) takes this route, studying how child protective services, ostensibly meant to help and protect children in need, may exacerbate inequality through the surveillance and, arguably, punishment of mothers, especially of color. Another conduit is the circulation of people between the health care and criminal justice systems. In *Redistributing the Poor*, Armando Lara-Millán (2021) argues that underinvestment in health and overinvestment in criminal justice reveal a persistent crisis between budgetary limits and new legal rules that further marginalize poor people of color.

In another kind of spillover, Sarah Brayne (2014) argues that criminal legal contact (being arrested, convicted, or incarcerated) leads to a pulling back from involvement in medical, financial, labor market, and educational institutions that have a surveillance function, what she calls "system avoidance," a process that severs already marginalized subpopulations, like African Americans, from institutions that support desistance from crime. In the context of immigration, Asad L. Asad (2023, 24) nuances the system avoidance thesis by suggesting that "undocumented immigrants do not evade institutions wholesale; rather, they avoid specific institutional interactions," a phenomenon he refers to as "selective engagement."

More research of this type is needed, but what also seems needed is a tighter theoretical definition, consistent across authors, of the carceral state, and thus what constitutes a

change in the carceral state. Ex ante predictions are rendered impossible if the scope conditions themselves keep changing or expanding after the fact. In addition, even if we had consistent definitions, the systematic data necessary to assess social change trends and cohort differentiation in racial and ethnic disparities are not widely available in the same way that they are for traditional criminal justice indicators. It seems obvious in retrospect, but we cannot study change or the diffusion of penal control unless we have consistent measures of the phenomenon in question over time and at multiple levels of analysis. Thus, while we may have adequate measures of, say, arrest and incarceration by race over time among individuals, communities, states, and sometimes even countries (Lee et al. 2025), changes in surveillance by institutions beyond the criminal justice system are difficult to address directly given the lack of systematic definitions and long-term data. Filling these theoretical and empirical gaps presents a challenge for the future.

The immigration system in particular is an institution adjacent to the criminal justice system that is in a state of flux, making it a pivotal agenda going forward. Emily Ryo and colleagues (2025) review evidence that the racial and ethnic makeup of local communities shape state and local political decisions on whether and how to engage with federal immigration enforcement efforts. While immigration has long been shown to be unrelated or even negatively related to crime and incarceration (Ousey and Kubrin 2018; Rumbaut and Ewing 2007), perceptions run in the opposite direction and will likely drive even further sentiment for the criminalization of immigrants. Indeed, even as the evidence mounts that immigration is not a major cause of crime (and may even lower it), the evidence that people react punitively to increases in immigration because of perceived crime threats seems to get stronger (Fink and Brady 2019). The externalization of racial threat due to migration flows more globally, along with the heightened visibility that the refugee migrant crisis has played in contemporary politics and policies, suggests that racial disparities in immigration enforcement will be increasingly salient. The disconnect between

research and policy in this area is a major challenge in an era of increasing global migration.⁷

Another challenge that Ryo and colleagues (2025) highlight concerns the changing tools of immigration enforcement. They review the rapid growth of immigration enforcement databases, surveillance technologies, and algorithmic risk assessment tools, including the use of artificial intelligence. They describe the increasing linkage between criminal law enforcement and immigration enforcement using these tools, leading to “cimmigration” (see also Menjívar et al. 2018). The turn to predictive technologies is far-reaching and goes well beyond changes in immigration enforcement.

ALGORITHMIC BIAS AND THE PREDICTION CHALLENGE

Prediction has long been a mainstay of both research and policy in the criminal justice system, but the stakes have been raised with changes in the availability of big data, artificial intelligence, and powerful statistical techniques. Consistent with the carceral state argument, for example, police tactics have expanded to new forms in our digital age. Brayne (2020) argues that data-intensive surveillance practices by the police have deepened longstanding mechanisms of social and racial stratification. The worry is that the use of big data and algorithms by police and other legal authorities widens the reach of the criminal justice system, reinforcing racial stereotypes and discrimination.

Predictive risk-assessment instruments (RAIs) have come under particular scrutiny, especially those using machine learning algorithms on administrative data (see, for example, Berk 2018; Ludwig and Mullainathan 2021; Obermeyer et al. 2019). For present purposes, the relevant concern is the possibility that algorithmic risk assessment instruments typically used in the criminal justice system may exhibit racial bias. There is debate over how extensive the problem is (Angwin et al. 2016; Ludwig and Mullainathan 2021), but the research

base is relatively small and for the most part lacks definitive tests. Moreover, most research to date is concerned with whether algorithms themselves are racially biased, rather than biases in the data that power them.

But as Roland Neil and Michael Zanger-Tishler (2025) observe in their recent review of an expanding literature, a distinct and underappreciated problem is that most research testing for racial bias in RAIs uses arrest data under the assumption that they constitute an acceptable proxy measure of criminal offending. The key issue is that while a risk assessment might predict future arrest, what we care most about is whether the person being evaluated does or does not commit a future crime. The assumption of a one-to-one connection of offending to arrest goes against a long tradition of research in criminology that instead treats this relationship as problematic and one to be assessed rather than assumed, especially with respect to race and social class (Elliott and Ageton 1980). To the extent that bias exists in arrest, which is used as the outcome of interest, then “label bias,” a phrase used in the prediction literature to refer to measurement error in the outcome, becomes a potentially important problem. Because arrest data are frequently plugged into RAIs, racial differences in arrest as a proxy for offending may be a likely pathway through which RAIs become racially biased. This is not a bias of the algorithm itself but a bias of the data typically used to train and implement the RAIs in practice.

Neil and Zanger-Tishler (2025) assemble multiple strands of evidence, including from outside traditional prediction research, to evaluate racial differences in arrest as a measure of racial differences in crime. They conclude that aggregate-level studies cannot reliably estimate the extent of the problem in the use of predictive algorithms. Perhaps surprisingly, better designed studies at a more disaggregated or micro level come to opposite conclusions: crime incident studies using the National Incident-Based Reporting System tend to find bias

7. Immigrant status is relevant for interpreting Hispanic and other racial disparities, including Black-White disparities, in criminal arrest as well (Sampson and Neil 2024). More generally, further research is needed on whether current explanations of Black-White disparities in all forms of criminal justice contact are the same as those of Hispanic-White disparities, and why they might not be identical.

against White people, while individual-level self-report studies tend to find bias against Black people. Either way, the implication from incident and individual-level research is that biased arrest records can lead to label bias, thus producing algorithmic bias. Racial bias can also arise, though less consequentially, from feature bias (measurement error in predictors), and sample (or selection) bias in how and on whom the underlying data were collected. Unfortunately, because of these various data limitations, referred to as “dirty data” by the authors and previous scholars (Richardson et al. 2019), existing research is largely uninformative on just how much racial bias exists in common predictive algorithms.

To advance the field, Neil and Zanger-Tishler (2025) recommend a suite of potential solutions that have yet to be systematically explored and applied, such as sensitivity analyses of hypothetical levels of racialized label bias in arrest records and direct comparisons of models that incorporate more accurate offending data, which touches on a long-standing challenge in criminology. For instance, future work might inform arrest-based prediction methods by investigating alternative data sources such as victimization surveys, self-reported data on criminal behavior, or direct behavioral indicators, such as rideshare data on speeding infractions.⁸ The problem is that measurement error exists in all these sources and thus we will only glean an indirect indication of whether algorithmic bias might be a problem, especially since behavioral studies typically are not designed to be used in predictive risk assessments. Information on the links between behavior and arrest could nonetheless still be useful for sensitivity tests that explore how biased available measures would need to be to significantly alter predictions from RAIs. Be-

cause predictive tools and the use of RAIs on administrative data have exploded in use, this is a frontier area of research, one that again shows the importance of uniting theories and data on both crime (offending) and actions taken in the criminal legal system.⁹

PENAL EXCEPTIONALISM, COMPARED TO WHAT?

Any consideration of race, criminal behavior, and punishment runs headlong into another major debate—the extent of America’s penchant for punitiveness. The US is by most accounts a penal outlier, racked by incarceration rates well above those of European and other common law countries (National Research Council 2014, 36; Tonry 1995). As a result, the rise of mass incarceration and the extent of its racial disproportionality are often thought to be distinctly American.

But two questions may be raised in this regard. One, do we compare incarceration (or other forms of punishment) relative to a country’s population or to its level of crime, and if the latter, what type of crime? Second, what is the right comparison group to the US in cross-national research on racial disparities in criminal punishment? Analogous to assessing individual-level racial bias in criminal justice contacts, the notion of what “similarly situated” means looms large in both cases.¹⁰ Integrating patterns of crime and punishment permits leverage in assessing America’s penal exceptionalism.

On the first question, scholars such as Marc Mauer (2017), Tapio Lappi-Seppälä (2017), John Clegg and colleagues (2024), and Garland (2025) argue that the punitiveness of the US needs to be measured in conjunction with its levels of crime and disorder, especially violence. When we do so, by some measures the US is less an

8. For an interesting study that detects racial bias in police citations and fines for speeding when compared against GPS-recorded driving behaviors among Lyft drivers, see Aggarwal et al. (2025).

9. Neil and Zanger-Tishler (2025) argue that other outcomes like public safety, costs, and racial disparities compared to alternatives should also be considered in evaluating RAIs, rather than just the traditional fairness metrics applied to arrest data (see also Stevenson 2018; Imai et al. 2023). More details on how researchers can systematically test for or quantify these biases would be beneficial.

10. For a discussion of similarly situated cases and the issue of selection bias in making inferences of racial bias in criminal justice contacts generally, see National Academy of Sciences, Engineering, and Medicine (2023, 22 and chapter 2), and in the case of police shootings, Knox et al. 2020.

outlier than is commonly understood in the mass incarceration literature (Wakefield and Turney 2025). In terms of measuring prisoners per homicide, for example, which Clegg and colleagues (2024) argue is a reliable proxy for violence and the type of crime that elicits great social concern, the US looks similar to many European countries, albeit at higher levels of both violence and incarceration. They add that even if we stick to raw rates of imprisonment, the US no longer claims the lead—El Salvador, Rwanda, and Cuba now have the highest rates of imprisonment in the world. Combined with the fact that relative racial disparities in incarceration in the US are similar to those in Canada, Australia, and the UK, Garland (2020, 325) concludes that the US is “not particularly distinctive.”¹¹

The second and related question turns on what the right comparison country is in determining penal exceptionalism. In the existing literature there is heavy reliance on what are typically called most-similar-systems research designs, whereby analysts compare countries with allegedly similar characteristics but different outcomes, in this case punishment (Arruda de Amaral 2024). Here we get the typical Canadian and especially European comparisons to the US. But another approach switches things around by considering countries with similar outcomes, in this case high punishment (and perhaps crime), yet different socioeconomic or political characteristics (most-different-systems design). By this logic, we might look more to the Global South and countries such as Brazil rather than Europe when seeking comparisons for America (Parker and Perez-

Brumer 2024). Lacey and colleagues (2018, 212) likewise argue that we should be looking at “how penal policy is determined in emerging or transitional economies such as those of South America, South Africa, and Eastern Europe, or in the mixed market economies of Southern Europe.” Intriguing historical questions arise from this vantage point. For example, might the legacy of Jim Crow for racial disparity in punishment share a mechanism with that of apartheid in South Africa, or might slavery explain police violence or the disproportionate incarceration of Black people in Brazil in ways that share mechanisms with the US (Arruda de Amaral 2024, 5)? If so, that would call for a broader theory of race, crime, and justice rather than merely viewing the US as singularly punitive.

Ellis Monk (2016) has argued that Brazil is a good comparison case to the US for studying ethnoracial inequality more generally, especially socioeconomic stratification by skin tone. A key reason to compare skin tone across these countries is because Black in one case is not necessarily Black in the other. Consequently, elevating skin tone as an analytic category provides a common basis for comparison across the two countries, and probably others. In other words, cross-national comparisons of race may be misleading when the nominal categories, such as Black, don't mean the same thing across cases, calling for an analytic shift to color.¹²

In short, there may be more similarity than difference in mechanisms connecting racial inequality to punishment when viewed from an alternative lens of global comparison and by

11. There is little disagreement, however, that the US remains an outlier in other aspects of criminal justice, such as the death penalty, lengthy prison sentences, and harsh penal attitudes among citizens (Mauer 2017; Garland 2020).

12. Although there are a limited number of studies compared to categorical racial discrimination, there is evidence of bias in criminal justice by skin tone and racially coded facial features. Jennifer Eberhardt and colleagues (2006), for example, report that in sentencing cases with White victims, the more a defendant was perceived to be Black based on stereotypical qualities, the more likely that defendant was sentenced to death. Ryan King and Brian Johnson (2016) found that Afrocentric facial features and dark skin tone were associated with harsher court sanctions in the US, and Monk (2019) found that dark skin tone among African Americans was associated with arrest and incarceration independent of confounding variables, and that disparities in policing and punishment among Black people were often comparable to or even exceeded disparities between Black and White individuals. Within-racial group inequalities in the criminal legal contacts, both in the US and in cross-national perspectives, constitute another leading-edge research question.

accounting for the differing crime challenges that countries face. Once again, this possibility underscores the need for integrating theories of crime and punishment. Yet the research base is limited, and many questions remain. For example, while homicide may satisfy measurement reliability concerns for some comparative purposes, it is quite rare relative to the overall crime problem, which is heterogeneous in nature and highly variable over time. Sexual violence, hate violence, nonlethal gun victimization, and violence against the state are relevant, as is social disorder and conflict. Gun violence in the US is also distinctive relative to other countries, uniquely contributing to its high homicide rate according to many scholars (Zimring and Hawkins 1999).

Rates of change rather than absolute levels are important as well, and of course other hypothesized causes of country differences in punishment such as racism and legacies of racial subjugation, localized politics, the political economy, and the decline of the welfare state (Lacey et al. 2018; Wakefield and Turney 2025) are ripe for deeper international comparisons, for explaining not just incarceration but all forms of penal control. Garland (2020, 321) argues that these forces are all intertwined and that “we have to consider America’s exceptional levels of punishment together with America’s exceptional levels of violence and disorder, while understanding both of these as outcomes of America’s distinctive political economy.” Few have done so, however, or tested alternative explanations directly when it comes to racial inequalities in crime and punishment. Even fewer studies have examined within-group racial inequalities in punishment by skin tone, especially comparatively.

Largely unanswered too is the question of whether the diffusion of punitive measures of control or surveillance to institutions not formally connected to the criminal legal system is greater or less in the US compared to other countries, again assuming we have answered the question of the right comparison. To assess whether carceral control has spread to adjacent institutions requires comparable measures over time and countries, often precisely involving institutions that typically do not provide the publicly available or reliable data. Although

these measurement and theoretical challenges constitute a hard problem, advances are being made in creating comparable international databases for child welfare (Roehrkasse et al. 2023). In the US, the challenges are notably steep, the reason that Lee and colleagues (2025) call for a new wave of systematic data collection. In the meantime, comparisons of the sort they provide for the US form a template for applying to other countries. The availability of state registry data on entire populations, such as in Denmark and Finland (see, for example, Andersen 2017), may prove a boon for the comparative study of how much forms of punishment have expanded, shrunk, or remained stable in the recent past. The rise of the carceral state, both in the US and globally, is very much a live rather than settled research question.

STRUCTURAL RACIAL INEQUALITY AND LIFE COURSE DISADVANTAGE

According to the National Academy of Sciences, Engineering, and Medicine (2023, 22), structural racism “refers to a system in which historical and (or) contemporary public policies, institutional practices, cultural representations, and other norms work in different, often reinforcing ways to maintain or compound racial inequalities.” The advantage of this definition is that it invites a wider view than traditional work focusing on racial bias by individual agents of the criminal justice system. The disadvantage is that it is potentially too broad and vague (Wacquant 2023, 86), and that other labels, such as structural discrimination or even structural inequality, cover similar ground. As a result, the definition and especially measurement of structural racism is fraught with difficulty (Lee 2024).

A way forward is provided in this issue along with an emerging body of research that is disaggregating the component parts of racial stratification in concrete material conditions of life that influence crime and criminal legal processing, what I call structural racial inequality. Dovidio and Solomon (2025) take a multi-level systemic approach in assessing the considerable evidence of racial disparity and discrimination in the encounters of Black citizens with police, including but not limited to traffic stops and police shootings. In their eval-

uation, the implicit or even explicit racial bias of individual officers is secondary to systemic or supra-individual sources of bias that arise from structural sources like racial segregation. Patrol and policing practices (such as stop and frisk) and the perceptions of both citizens (who frequently call the police) and other criminal justice actors like probation and parole officers are shaped by the structure of how society is spatially produced and racially organized. It is well documented, for example, how bank redlining and restricted zoning housing policies by the government created persistent racial segregation by neighborhoods in America (Rothstein 2017). Decades of research have also shown how racial segregation concentrates both poverty and crime (Massey 1995), which in turn exposes residents to forms of aggressive policing, concentrated incarceration, and neighborhood stigma, creating a mass of correlated disadvantages in life for African Americans (Sampson 2024). Policing and the criminal legal system are embedded in this larger structure of racial stratification.

A related line of place-based research is probing how spatial boundaries shape social conflict and the racialized contact of citizens with the criminal justice system beyond the census-type definitions that researchers have traditionally relied on. Joscha Legewie and Merlin Schaeffer (2016), for example, find that 311 calls in New York City about social problems such as neighbors making noise and drinking in public are most likely to occur in the “fuzzy” transitional spaces located between racially homogeneous communities. Using stop and frisk data for the same city, Neil and Legewie (2024) also show that White neighborhoods along racial boundaries experienced higher rates of police stops independent of crime rates and compositional and socioeconomic characteristics. Further, they found that the police required less suspicion before conducting stops in White neighborhoods along racial boundaries, but only for Black and Hispanic suspects. Whether through neighborhood or spatial boundary effects, there is evidence that racialized social control leads to

higher rates of police contacts with African Americans.

Bushway and colleagues (2025) focus on the criminal legal practices of the courts and legislatures that create disparate impacts for minority defendants without generating improvements in public safety, which is their definition of structural racism. What unifies their approach with Dovidio and Solomon (2025) and other articles in this issue is identifying a mechanism that does not require individual bias on the part of criminal justice decision-makers. In particular, Bushway and colleagues (2025) focus on racial disparities in court practices, including pretrial procedures, plea bargaining, sentencing, and community supervision. Many racial disparities can be explained by differences in case or defendant characteristics, like prior crime, but their theoretical framework and analysis highlight how structural factors like cash bail systems have created racial disparities by linking pretrial release to ability to pay, which has disadvantaged minorities, and how mandatory minimums have targeted drug crimes such as crack cocaine, which has also disadvantaged minorities. Neither of these policies has been shown to reduce crime in a meaningful way. Their key conclusion is that penal practices such as systems of cash bail, unchecked discretion in probation and parole revocation, mandatory minimums, and “three strikes” legislation likely contribute more to racial disparities than direct discrimination. As Bushway and colleagues (2025) note, conditional on being processed in the criminal legal system, racial disparities in case outcomes stem mainly from the punitive nature of numerous practices, regulations, and laws.¹³ This is an important claim with clear and immediate policy relevance—reforming these structures could significantly reduce disparities even without major changes in other aspects of society and without increasing crime. As they reveal, in some cases policy changes have already significantly reduced racial disparities in sentencing.

One can also apply a structural inequality perspective to the life course, both before and

13. Nicole Gonzalez Van Cleve's (2017) ethnographic study of court personnel probes how racism and punitive actions operate as a cultural practice by dehumanizing and degrading defendants.

after criminal legal contacts. Nahra and colleagues (2025) explore life after prison, a venerable research tradition in the field of criminology but one that has been renewed by the reach of mass incarceration. Their move is to conceptualize how to repair the fallout from the rupturing institution of prison that cuts inmates off from the social and material ties that bind. The process of reintegrating back into society is especially troubled for individuals cycling through a series of compounded disadvantages and violence (Miller 2021; Western 2018).

The fraught history of racial inequality in America and its intergenerational transmission mean that African Americans in particular face the greatest burden of reoccurring disadvantageous circumstances (Sharkey 2008). As noted earlier, disadvantages like poverty are concentrated spatially and cluster with many other neighborhood adversities like joblessness, violence, and disinvestment (Sampson 2024; Sharkey 2013), and research on high-imprisonment neighborhoods and high-imprisonment families shows that networks of criminal activity and criminal justice contact are often deeply enmeshed (Western 2015). Further investigation is needed into whether community institutions like churches, schools, and nonprofit organizations mitigate or amplify these more structurally rooted inequalities. Racial inequalities in exposure to correlated disadvantages also cut across multiple individual, family, and neighborhood contexts, creating an assemblage of adversities that cumulate over the life course (Desmond and Western 2018, 308–09).

Nahra and colleagues (2025) provide a way forward for policy and research, not just on reentry back into society from prison, but on the idea of desistance more generally. Traditional research on desisting from crime, one that criminal justice policy has long followed, focuses on official indicators of recidivism, like arrest. But as we have seen, these are problematic indicators due to racial inequalities in policing. The authors provide a road map for efforts to redefine desistance, as does Monica Bell (2021) more generally when it comes to envi-

sioning and defining safety. Equally important, the process of social integration, which rests on supportive social relationships, secure housing, employment, and physical and mental health, needs to be prioritized in measurement analytics and in policy support. As Nahra and colleagues (2025) argue, both criminalization and punishment can weaken one's ties to family and community. The increasing complexity that defines America's families has additional consequences for promoting desistance in the reentry process, both concurrently and intergenerationally (Wildeman and Sampson 2024). Noncrime policies in health, housing, and employment are therefore crucial for supporting life course processes of reintegration in the transition from prison to community.

Taking a structural, life course perspective opens up other lines of inquiry as well, including assessing how cumulative inequalities early in life lead to lifelong disparities in criminal justice contacts and how these vary by race. Sampson and Neil (2024, 183) hypothesize that the differences between racial groups in cumulative exposure to multiple social advantages and disadvantages—at the individual, family, and neighborhood levels—explain racial group inequality in the experience of arrest over the life course. This perspective draws in part on community-level theories of racial differences in crime rates, while simultaneously emphasizing the historical and structural reasons why minority neighborhoods, especially predominantly Black neighborhoods, face elevated rates of concentrated disadvantage (Massey and Denton 1993; Sharkey 2013; Crutchfield 2022, 120; Bellair and McNulty 2005), a perspective that is consistent with theories of structural or systemic racism (Bell 2021).¹⁴

Using multi-cohort longitudinal data on nearly one thousand individuals from Chicago, Sampson and Neil (2024, 177) find that large Black-White disparities in arrests from people ages ten up to forty can be attributed to racial inequalities in exposure to cumulative childhood advantages and disadvantages rather than race-specific effects. Hispanic-White gaps

14. By this logic, what is often called the “racial invariance” thesis (Sampson and Wilson 1995) can be extended beyond neighborhood differences to encompass groups of individuals over their lives and to racial differences in arrest.

in the incidence of arrest, though smaller, follow a similar pattern, and the same patterns hold across different offense types and across birth cohorts who came of age at different times during the period 1995 to 2021. These findings support the argument that racial inequalities in early-life structural factors, which themselves are historically shaped, trigger processes of cumulative advantages and disadvantages that produce racial disparities in arrests over the life course and that persist across different points in contemporary history.¹⁵

To be sure, the cumulative pathways shaping racial disparities in arrests do not necessarily run through criminal behavior. Police officers and parole agents, for example, are responsive not only to criminal behavior but also to perceived race and other cues such as neighborhood poverty and family social class (Kirk 2008; Smith 1986). Persistent exposure to intensive policing practices that target individuals based on perceived race, though ultimately stemming from the history of race and racism, can directly influence arrest. Yet racial inequalities in early-life social conditions can produce racial disparities in arrests over the life course independent of direct racial biases among individual officers, in part through producing differences in criminal behavior and in part through producing differences in exposure to institutionalized policing practices that disproportionately harm Black communities.

It follows that racial inequality shapes disparities in both criminal behavior *and* arrests through a stratified life-course process. As Sampson and Neil (2024, 200–201) argue, historical inequalities and intergenerational linkages produce divergent early-life social contexts by race, which through general processes of cumulative advantage and disadvantage go on to

manifest as long-term inequalities. This conceptualization distinguishes race in the moment of arrest from how race structures the life course leading up to that moment. Processes of cumulative disadvantage begin at birth and involve exposure to an array of disadvantages that are not only spatially concentrated but also cross-cutting across individuals, families, and other settings that have long been subjected to structural racial inequality.¹⁶ The implication, as Robert Crutchfield (2022, 124) argues, is that the comparative life chances of Blacks and Whites are shaped not only by being arrested and imprisoned, but also by the “criminogenic conditions of their lives.”

In combination with the arguments of Bushway and colleagues (2025), Dovidio and Solomon (2025), and Nahra and colleagues (2025), it follows that even if racial bias in policing and criminal justice processing were somehow magically eliminated tomorrow, that would not necessarily portend an elimination of racial disparities in criminal legal contact or its collateral consequences if there remain structured inequalities by race in law, social contexts, and life chances that lead to criminal behaviors subject to punishment. This is an underappreciated point that has important implications for understanding and potentially eliminating racial disparities in criminal justice.

CONCLUSION

Absolute and relative disparities in incarceration by race have declined significantly across the United States in the past fifteen years, a trend that has surprised many observers. In Massachusetts—my home state—the oldest men’s prison recently closed (Lam 2024), and incarceration rates have reached historic lows. Does this signal the end of mass incarceration?

15. Research on criminal behavior has similarly shown that contextual disadvantage, especially at the neighborhood level, explains a significant portion of racial disparities (Bellair et al. 2025; Bellair and McNulty 2005). The consensus report of the National Academy of Sciences, Engineering, and Medicine (2023) on racial inequalities in criminal justice notes that there is a need to move beyond Black-White and even Latino-White comparisons to examine non-Latino racial and ethnic groups that have suffered historical disadvantages and discrimination, such as Native Americans. We also need research on racial and ethnic groups that could be considered relatively advantaged compared to Blacks, such as Asian Americans (Sampson et al. 2018, 26).

16. For a theoretical perspective emphasizing distinct pathways by race leading to crime and criminal justice contacts as a result of structural racism, such as manifested in perceived or direct discrimination, see Unnever and Gabbidon 2011 and Unnever 2018.

Perhaps, but in states like Texas and Louisiana, incarceration rates are still high and have again started climbing.¹⁷ In addition, racial, ethnic, and immigration-related disparities in incarceration persist nationwide and may be worsening.

These varying trends expose the reality of ongoing shifts, sometimes over short periods. Indeed, we have repeatedly witnessed the mark of time imposed by large-scale social changes involving crime and criminal legal processing, which have challenged researchers who attempted to predict them (Sampson, forthcoming). Neither extreme pessimism nor extreme optimism accurately represents recent realities. Although we have grounds for optimism that racial disparities in incarceration and the broader criminal justice system may be receding, there is no guarantee these improvements will last. As this issue demonstrates, racial inequality in the US criminal legal system remains both persistent and dynamic.

A new research agenda emerges from this framework. Foremost, we must develop clear conceptual and empirical criteria for examining changes in criminal justice processes and linking them to broader societal trends, integrate our understanding of the social causes of crime into analyses of formal social control, and explore institutional and structural factors that produce racial inequality, in addition to recognizing individual-level bias in the criminal justice system. Although the next generation of research must address these needs, the evidence supports a dual policy approach in the present that simultaneously reduces structural racial inequality in laws and in life conditions—whether individual, familial, neighborhood-based, organizational, or societal. One approach offers more immediate effects, while the other takes a longer view. We should embrace both.

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The Scope of Racial Bias in Policing: Behavioral Science's Role in a Systemic Problem



JOHN F. DOVIDIO AND PHILLIP ATIBA SOLOMON

There are substantial and persistent racial disparities in policing in the United States. Although disparities do not necessarily indicate discrimination, there is significant evidence that racism, operating in various forms, is a major factor. We adopt a multilevel perspective in our review and analysis of the empirical literature. We consider five levels of processes relating to racial biases in policing and public safety to identify ways of achieving equity. These levels are the nano-level (intrapersonal), the micro-level (interpersonal), the meso-level (organizational), the macro-level (pan-organizational, institutional, or systemic), and the mega-level (cultural, societal, or narrative). We conclude by discussing the theoretical and practical promise of adopting a multilevel perspective and highlighting the pressing need to reconceive policing in the United States to meet the needs of contemporary society.

Keywords: bias, discrimination, disparities, law enforcement, police, race, racism

The mission and limits of policing have been debated since the formal introduction of municipal policing nearly two centuries ago (Rawlings 2002), and those debates are still relevant. Can an armed group of state actors help but become an occupying army? How might abuses of the most vulnerable be prevented? To this end, Robert Peel, the former prime minister of the United Kingdom, allegedly suggested a set of principles that could provide appropriate

constraints, including the principle that the police only hold authority with the consent of the governed (Gash 2011).¹ Yet despite these supposed constraints, police treatment has never been equal across social groups in the United States (Loader 2000). In other words, the question of whether policing can be unbiased has been unresolved since the creation of policing, and there is not sustained evidence in the affirmative. How then should we think about in-

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1. Peel's fifth principle is "The police are the people, and the people are the police." It is worth noting that recent scholarship suggests Peel never wrote these at the time. <https://www.gov.uk/government/publications/policing-by-consent/definition-of-policing-by-consent>.

equity in policing? Is policing a failed experiment? Is it inconsistent with the goal of equity? Or does it simply need long-overdue reforms to realize a vision of equitable public safety?

In this review, we examine these questions in the context of racial and ethnic disparities in policing in the United States. These disparities are systematic differences in the outcomes of law enforcement based on the demographics or social identities of those contacted by police. There is substantial evidence of documented differences in outcomes in policing in the United States related to the race and ethnicity of residents and of the communities assigned to police services. By race we mean a human classification system that is politically constructed but assumed to reflect biological differences to distinguish between groups of people who share phenotypical characteristics or an imagined biological essence. By ethnicity we mean a human classification system meant to connote shared cultural characteristics, histories, and shared fate, but not necessarily reducible to shared biological characteristics.

Racial disparities are not necessarily or exclusively the product of biases or discrimination by police officers. We define bias as a broad term representing inaccurate (usually) negative perceptions, thoughts, feelings, and actions about members of a particular social group. Bias also includes discrimination (sometimes distinguished as discrimination based on belief, preference, or prejudice; Agan 2024; O’Flaherty and Sethi 2019, 2024), which specifically involves unfair behavior, practice, or policies toward members of a social group. It is highly likely that multiple factors contribute to racially disparate outcomes, but there is significant evidence that racially biased officer behavior and racially discriminatory policies and systems that influence officers and residents prior to police contact are significant contributors. In this review, we refer to racism as a set of interwoven systems and behaviors that produce objectionable racial disparities. In the context of policing, racism might manifest as officer attitudes, stereotypes, and behaviors; policing policies that, even if racially neutral, produce systematically negative outcomes based on race; or the accumulation of circumstances that produce racially disparate policing

outcomes. Racial inequities in policing represent disparate outcomes that are caused by discriminatory treatment, by policing practices or policies that unfairly disadvantage members of minoritized racial groups, or by systemic discrimination that creates the conditions for otherwise race-neutral police behaviors to exacerbate objectionable racial disparities (for example, poverty).

In this article, we introduce a multilevel analysis of the literature on race, ethnicity, and policing to provide insight into the complex dynamics of policing and their consequences. We then review evidence of racial and ethnic disparities in policing. Overall, Black people (and members of minoritized ethnic groups) experience more negative contact with police, including experiencing more frequent pedestrian and motorist stops and searches, as well as greater use of force and more likely use of lethal force, than do White people. We then illuminate how biases in policing at each of the five levels within our analytic framework—the nano-, micro-, meso-, macro-, and mega-levels of analysis—produce racially and ethnically inequitable outcomes that contribute to racial and ethnic disparities in policing. We also highlight how the forces at various levels of analyses can operate in complementary ways to determine these inequities. We then propose research and interventions to move toward a fuller understanding of the causes of racial and ethnic disparities in policing and to identify more effective ways to address racial discrimination to help achieve equity in public safety. Critically, these new initiatives would benefit from recognizing confluences among various sources of bias at different levels of analysis and the need for interventions with coordinated impact for reducing bias and discrimination at multiple levels of analysis.

The framework we propose differs from those presented in other articles in this special issue in our particular focus on policing and our more extensive coverage of laboratory research on intrapersonal and interpersonal biases, but our approach is compatible and contributes to a more comprehensive view of racial and ethnic bias in the justice system. Most of the other articles also adopt a multidisciplinary, multilevel perspective tailored to their top-

ics. However, these articles vary in the number of levels considered and the ways the levels are delineated. For instance, Shawn Bushway and colleagues (2025, this issue) distinguish among “taste-based racial discrimination,” which involves individual-level biases (for example, unfair negative attitudes or stereotypes) toward members of a minoritized group; “statistical discrimination,” which does not involve personal animus as a motivator of discrimination and reflects factors that serve as relevant predictors of future behavior (like likelihood of future offense because of influence of violent street gangs in an individual’s neighborhood); and “structural racism,” which can inform the uniform application of laws or systems of resources (for example, access to high-quality legal representation) that produce unfair outcomes across groups. By contrast, we describe five levels of processes situated in different individual-level, institutional-level, or societal-level processes. We view these as complementary rather than competing frameworks. They are designed to offer insights into the dynamics of different facets of the legal system, and understanding the complexity of the influences affecting these elements of the system benefits from analyses reflecting different conceptual and disciplinary perspectives and methodologies.

There are also many similarities between this article and other articles in the special issue. We devote significant attention to intrapersonal and interpersonal psychological processes as contributors to racial inequities in the context of policing, and other articles in the special issue also consider the role of psychological biases with respect to other aspects of the legal system. We also explicitly examine how racial and ethnic inequities in other social systems—for example, in education, labor markets, health care, and housing (see also Lee et al. 2025, this issue)—lead to racial inequities in policing. Moreover, like most of the other articles in this special issue (for example, Wakefield and Turney 2025), we recognize the importance of understanding the history of race and ethnicity in the United States for appreciating the contemporary dynamics racial disparities in the legal system, and specifically in policing. Our similarities in perspective with other articles in this special issue are not surprising

given the interrelationships among processes across the various elements of the criminal legal system and the ripple effects that racially and ethnically discriminatory policing can have for other facets of the justice system (for incarceration rates, see Wakefield and Turney 2025, this issue; for release from prison, see Nahra et al. 2025, this issue) and the role of racially biased policing on other elements of the legal system (Ryo et al. 2025, this issue) and in community impact (Lee et al. 2025, this issue). We thus share the goal, as Sara Wakefield and Kristen Turney (2025) explain, of “broadening the analytical landscape.”

MULTILEVEL ANALYSIS: THE BIOLOGIST, THE BULLY, THE BUREAUCRAT, THE BILLIONAIRE, AND THE GREAT BARD

When we consider levels of sociopolitical organization, it is easy to think in extremes. An interaction between two individuals is clearly micro-level. The global economy is clearly macro-level. But how should we define each level? And what is the utility of those definitions? In this article, we offer a modest proposal for how to distinguish various levels of sociopolitical organization. Because someone’s conflict with another individual is likely caused by different factors than conflict with an institution, and because remedies for interpersonal conflict are likely quite different from remedies for institution-driven harms, it is useful to identify at what level of sociopolitical organization a conflict occurs. In other words, because the ways we suffer from and fight bullies is different from the ways we suffer from and fight bureaucrats, we ought to know our enemies. The purpose of this framing, therefore, is to provide commonsense language for differentiating between levels of sociopolitical organization—to separate the bullies from the bureaucrats.

One way for behavioral scientists to think about these levels is to consider a multilevel statistical model used to predict outcomes. Most behavioral scientists are taught there is great value in specifying, in an analysis of many schools, that each school might exist within a neighborhood. Those neighborhoods exist within a single municipal boundary (such as a

city). And those municipalities exist within a single state. By specifying that schools are nested within these increasingly larger locations, behavioral scientists can more easily disaggregate differences between schools and differences between state education policies. Importantly, not all schools belong to a single neighborhood, draw on students from a single municipality, or are governed by a single state's education policies. Similarly, interactions between state policy and neighborhood culture might be significant drivers in school outcomes for one set of schools and negligible for others. Yet the conceptual framing makes intuitive sense to most who use statistical methods to advance formal tests about school differences.

Conceptually, we argue it is much the same with racism. Table 1 describes the five levels of sociopolitical organization we consider, ranging from the most individual to the most systemic. While recognizing the potential problems of oversimplifying the dynamics underlying racial disparities in policing and acknowledging the complex interrelationships of processes residing at different levels, in table 1 we introduce a representation of multilevel processes that provides the structure for systematizing the extensive multidisciplinary literature for our review of racial disparities in policing, as well as the discrimination that contributes to these disparities, in the United States. The first entry in table 1, the nano-level, is the most individualized level of analysis, but the order is not intended to represent a hierarchy of influences, in the sense that one does

not depend on another; they each can exert independent influences that produce racial disparities that are rooted in discriminatory actions, practices, and policies related to policing.

Social phenomena, when studied from a multilevel perspective, have typically been viewed as operating at three levels: micro, meso, and macro. These levels reflect qualitatively distinct processes. The micro-level of sociopolitical organization involves interactions between individuals or—at most—a small group of people. In the context of racism, the micro-level is best understood as interpersonal discrimination, such as a bigot's behavior. The meso-level of sociopolitical organization relates to how the rules within an institution produce outcomes for individuals or groups. In the context of racism, this level is best understood as institutional or organizational racism, such as when a company refuses to hire individuals who live in majority-Black neighborhoods, artificially depressing job opportunities for Black applicants. The macro-level of sociopolitical organization reflects how the rules across institutions conspire to determine outcomes for individuals or groups. In the context of racism, this level is best understood as structural or systemic racism. An example is how myriad policies and their consequences effectively locked Black families in geographic place—excluding them from opportunities and thrusting additional burdens onto them. Government redlining, for instance, a historical national policy that led to the disproportionate denial of loans to individuals seeking to buy homes in neigh-

Table 1. Levels of Sociopolitical Organization Where Racial Biases May Reside

Level	Description	Personification
Nano	Intrapersonal processes, such as personality, psychophysiological functions, stereotypes, and self-concept	The Biologist
Micro	Interpersonal processes, related to the dynamics of interactions between individuals or small groups of people	The Bully
Meso	Organizational processes associated with policies and practices that produce racially disparate outcomes	The Bureaucrat
Macro	Pan-organizational or institutional processes that determine outcomes for individuals or groups	The Billionaire
Mega	Cultural-level narratives, ideologies, and beliefs that rationalize and/or support existing systems	The Great Bard

Source: Authors' chart.

borhoods where they are not the majority, effectively excluded Black residents of the United States from the historic wealth gains experienced by homeowners of other races during the 1930s through the 1960s. It also prevented Black children from attending better-resourced schools in wealthier school districts, excluded them from neighborhoods with better job opportunities and healthier foods, and locked them into communities with higher rates of street violence. A young family aspiring to create a better life for themselves and their children need not meet with each of these difficulties, but anyone confronting one such hardship is likely to confront several (thus the term systemic).

This analytical perspective gives a tidy summary of the three most common levels of sociopolitical organization and considers them in the context of racism. A bit of reflection, though, suggests two additional levels that are not typically included but are important in both reality and in the study of sociopolitical phenomena, particularly racism. We call these last two the nano-level and the mega-level. Intrapersonal functions reside at the nano-level of sociopolitical organization (for example, personality, psychophysiological functions, stereotypes, self-concept) that tend to predict micro-, meso-, or other higher-order level outcomes. In the context of racism, nano-level processes have received substantial attention within psychological research on social cognition and social neuroscience, two topics that have dominated the psychological study of racism in recent years. One might argue that very little in the study of racism within psychology extends to micro-level analysis of racism; most of it remains at the nano-level.

At the mega-level of sociopolitical organization and analysis, narratives that circulate within and across cultures operate to justify micro-level injustices, as well as inequities at the meso- and macro-levels of organization. In the context of racism, Jim Sidanius and Felicia Pratto (1999) refer to these as hierarchy-enhancing myths and system-justifying ideologies (see also Foels and Pratto 2015; Jost 2020). Essentially, any broadly understood narrative that renders the fact of racial differences good,

moral, natural, or inevitable is what we mean by a mega-level phenomenon. Often these stories are incorrectly conflated with the ways in which systems work together to produce negative outcomes for a group. While a conspiracy of systems surely communicates stories that reinforce these larger narratives, these narratives are also often adjusted, directed, or invented out of whole cloth to suit the purposes of powerful individuals or groups. As such, the stories we tell about our structures and institutions deserve their own category.

Because sociopolitical organization is generally about the exertion of power, we might think of each level as belonging to a different kind of powerful actor. To illustrate, we personify these five levels as the Biologist (nano), the Bully (micro), the Bureaucrat (meso), the Billionaire (macro), and the Great Bard (mega). Each title personifies how power works at particular levels—from individual-level traits as risk factors for outcomes in the world, to an individual treating someone unfairly, to the rule-maker, to the multi-institution-shapers, to the storytellers.

Although the boundaries between levels may not always be sharply delineated, these levels generally involve distinct dynamics and suggest different ways that bias could occur. For each of the five levels, we examine potential contributors to racial bias in policing and then discuss corresponding interventions. We conclude by summarizing key findings, discussing the theoretical and practical promise of adopting a multilevel perspective, considering the need to understand more deeply the reciprocal influences across levels, and highlighting the need to reconceive public safety to meet the needs of contemporary society.

Because of the traditionally central role of Black-White relations in the United States—particularly in the context of state surveillance, control, and violence—we primarily focus on racial disparities in policing that disadvantage Black people relative to White people. We further consider how racism underpins, at least in part, these disparities. Indeed, anti-Black racism has been an influence embedded in much of policing since the origins of policing in the United States. A significant precursor to mod-

ern, professional police forces was slave patrols, which originated in the southern colonies as early as 1704 and spread to all thirteen original American colonies. The objectives of slave patrols were to prevent slave uprisings, ensure that slaves remained on the plantations, and capture runaway slaves. The post–Civil War abolition of slavery ended slave patrols in 1865. However, during Reconstruction, many patrol methods were integrated within Southern police forces and adopted by the Ku Klux Klan. Elizabeth Hinton and DeAnza Cook (2021, 261) further identify “the multifaceted ways in which policymakers and officials at all levels of government have used criminal law, policing, and imprisonment as proxies for exerting social control in predominantly black communities from the colonial era to the present.” Among the legacies of this historical association of racism and policing may be the “long history of discriminatory practices and contemporary proactive policing strategies that are overly aggressive and associated with racial disparities” (Braga et al. 2019, 535).

Although disparities in experiences between White people and Black people, and between White people and other minoritized people, can occur for multiple reasons, discrimination remains a major factor. Racial discrimination in policing not only causes direct harm to non-White people but also has an individual and social impact on vulnerable populations more broadly. These racial disparities are a major reason for the different perceptions Black and White people have of the police. The results of a Pew Research Center Survey (Desilver et al. 2020) reveal that more than 80 percent of Black US residents believe that Black people are treated less fairly by police officers than are White people, and another survey found that 30 percent of Black men in the US reported they have personally been the victim of police violence (Hamel et al. 2020). Black people are also about four times more likely than White people (42 percent versus 11 percent) to report that they are “very afraid” that a police officer will kill them in the next five years (Pickett et al. 2022).

In examining racial disparities in policing and exploring the influence of discrimination

across all five levels, our approach is inherently multidisciplinary. Psychology as a field has traditionally focused somewhat narrowly on intra-personal, nano- and interpersonal, micro-level processes involving how individuals systematically differ on traits that affect their behavior (personality psychology), general processes that shape the ways people think about others (social cognition), and specific types of situations (social psychology) that influence behavior. Psychology has occasionally broadened its aperture to deal with institutional-level phenomena. Systemic-level phenomena have been almost entirely beyond the purview of social psychology, the rare find of cultural psychology is an exception. By contrast, the disciplines of sociology, political science, and economics have placed heavy emphasis on illuminating institutional and structural influences through the lens of social science. Criminology as a field spans all levels of analysis (see, for example, Fyfe 1988). We draw on the literature from all these disciplines in our review and analysis of racial disparities in policing.

RACIAL DISPARITIES IN POLICING

Although researchers generally observe differences in treatment and in policing outcomes between White and non-White group members, the gaps are often starkest between White and Black people. Black people, for instance, experience substantially more contact with police than do White people. Also, the experience of police contact is quite aversive for Black people: in fact, a recent study (Pickett et al. 2022) reports that about half of the Black people who were surveyed preferred to be robbed or burglarized than to have contact with the police.

We next consider why Black people experience police contact as so aversive by examining evidence of racial disparities in various specific policing activities. Then, we consider the longer-term consequences for Black people who experienced police contact, observed it, or subsequently learned about these incidents.

Policing Activities and Incidents

The evidence of racial disparities is robust, with documented differences in outcomes occurring for fatal shootings, other forms of vio-

lence by police officers, and police vehicle and pedestrian stops.

Fatal Shootings and Violence by Police

In the United States, police officers are more likely to use lethal force by firearms against Black people than against White people. An analysis of officer-involved shooting data from 2010 to 2017 indicates that at least 30 percent of Black people shot by the police would not have been shot had they been White (Clark et al. 2023). The rate of fatal shootings of Black people by the police is about two and a half times the rate of fatal shootings of White people (Statista 2024). One in 1,000 Black men and boys will be killed by police over the life course (Edwards et al. 2019). Evidence of these disparities persists when researchers control for a range of relevant factors other than the race of the victim (Goff et al. 2016; Ross 2015; Ross et al. 2021). Among victims of fatal police shootings, Black, compared to White, victims are also less likely to have been armed (Charbonneau et al. 2017; Nix et al. 2017).

Racial disparities in police use of force against unarmed individuals at a nonlethal level also occur (Goff et al. 2016). About a third of Black men report that they have been the victim of police violence (Pickett et al. 2022). A US survey of Black people found that their level of fear about being the target of police violence is five times the level among White people (Graham et al. 2020).

Use of Nonlethal Force

With rare exception, studies investigating racial disparities reveal that police use of force, nonlethal as well as lethal, is significantly more likely in encounters with Black people (and especially Black men) than with White people (Goff et al. 2016; Hollis and Jennings 2018). Police officers are generally more lenient and less likely to use force with White than with Black people (Kovera 2019), even when controlling for the severity of the suspected illegal behavior. An analysis of body-worn camera footage reveals that Black people are 63 percent more likely to experience force in a police encounter than are White people (Willits and Makin 2018). In addition, as both the analysis of the camera

footage and a separate study of case files (Kahn et al. 2017) reveal, Black people are more likely to experience police use of force sooner in the encounter than are White people.

Overall, the effects of the target's race on police use of force typically occur over and above the influence of a range of other factors, including more reported resistance to police officers (Crow and Adrion 2011; Terrill et al. 2008; compare with Paoline et al. 2018) and are observed across the country. Latine people are also targets of police use of force at higher rates than non-Latine White people (Hoekstra and Sloan 2022), particularly with respect to high levels of use of force (such as pointing or using a firearm or taser, or canine; Smith et al. 2023).

The likelihood of police use of force relates not only to the race of the target but also to the neighborhood and cities in which the police encounter occurs. Police officers are more likely to use force in neighborhoods in which non-White people represent a greater percentage of residents (Lee 2016). These effects overlap with the higher use-of-force rates observed in cases of low socioeconomic resources and relatively higher rates of violent crime. In addition, police officers are more likely to engage in use of force in cities with larger percentages of Black and Latine populations, especially when the cities are more residentially segregated (Smith and Holmes 2014).

“Stop and Frisk” Pedestrian Stops and Vehicle Stops

Constitutionally, police officers in the United States can only detain a person if they have reason to believe the person has or is about to commit a crime. However, all fifty states have had some version of stop and frisk laws that permit a police officer to stop and frisk a person without stating a reason. For many of the laws, all that is needed is “reasonable suspicion,” which can mean the person appears suspicious to a police officer.

Stop and frisk laws, as originally proposed, are typically portrayed and frequently seen as a race-neutral way to reduce crime. However, the racial disparities in the actual enforcement of these laws are glaring. Between 2004 and 2012 in New York City, 4.4 million people were

detained under this law. Although the Black and Latine residents of New York City represented slightly over half the city's population, they constituted 83 percent of the people stopped (*New York Times* 2013). Moreover, the likelihood that an investigatory stop by a police officer would escalate to use of force was significantly greater for Black and Latine targets than for White targets (Levchak 2017). Because of successful legal challenges to the stop and frisk policy in New York City, the number of these actions by the police declined dramatically. By 2017, stop and frisk incidents were only a fraction of what they had been earlier, but 90 percent of the people stopped were still Black residents.

With respect to traffic stops, Black and Latine drivers are much more likely to be stopped than are White or Asian drivers (Baumgartner et al. 2017; Lim et al. 2024). The disparity in traffic stops between Black and White drivers was greater in areas in which White residents were more racially biased (Stelter et al. 2022). In addition to where a traffic stop occurs, when a stop occurs is a significant factor relating to this disparity. There is a large racial disparity in traffic stops during the day-time when a driver's race can be easily identified (Pierson et al. 2020); this difference is often reduced at night when it is more difficult to identify the race of a driver (Racial and Identity Profiling Advisory Board 2021). Black drivers are about five times more likely than White drivers (44 percent versus 9 percent) to report that they have been unfairly stopped by the police, and the percentage is almost twice as high for Black men than for Black women (59 percent versus 31 percent; Desilver et al. 2020). Black and Latine drivers are also twice as likely to be searched following a vehicle stop (Pierson et al. 2020). This disparity persists even though police are more likely to find drugs on White than Black targets. Nationwide, while Black drivers are stopped by police and, after they are stopped, searched at a disproportionately higher rate than White drivers, the searches of the vehicles of Black drivers are less likely to discover contraband than those of White drivers (that is, they have a higher "false-alarm rate"; Meyer and Gonzalez 2024).

Extended Consequences of Policing Incidents

Negative contact with police and the nature of the specific incident that occurs in these encounters can have broad and lasting impact not only on those directly involved in the incident but also on members of the broader community associated with the event (for more extensive discussion, see Lee et al. 2025, this issue). Work that tracks the consequences of police contact with residents shows that residents who have more police contact display higher rates of depressive symptoms and psychological distress (Burke et al. 2023; del Toro et al. 2019), higher rates of subsequent criminal activity (del Toro et al. 2019), and worse physical health (Sewell 2017; Sewell and Jefferson 2016). Again, it is not clear what the relationships are between the interactions, individual risk factors, and higher-order shaping of the context. The experience of excessive force and exposure to police violence specifically have immediate and long-term effects on health and well-being. For example, police victimization is associated with psychological distress and depression (DeVylder, Oh, et al. 2017) and with suicide attempts (DeVylder, Frey, et al. 2017).

Particularly in a period of ubiquitous coverage in popular and social media, the impact of fatal shootings and police violence has broad, cascading influences beyond the too-often mortal consequences on the victims (Smith Lee and Robinson 2019). Other contacts with police, particularly if they are invasive and perceived as unjust, have enduring impact not only on those directly targeted but also on other members of the community who observe or subsequently learn about the incidents (Alang et al. 2017).

These broader impacts of policing are elements of the "slow violence" (Ward 2015) that police disproportionately impose on Black people and members of other minoritized racial and ethnic groups. As Rory Kramer and Brianna Remster (2022) explain, slow violence involves harms beyond those associated with law breaking, not only toward individuals suspected of crimes but also toward relevant communities that are "often unseen, by either being mislabeled as unrelated to policing or

unacknowledged because its victims are marginalized people” (44).

Impact of Fatal Shootings and Police Violence

Exposure to police violence through the media can have extended negative consequences, particularly for Black people. A *USA Today*/Ipsos poll (2021) found that in the month after George Floyd’s death, trust in law enforcement declined significantly among US residents in general, to a low of 56 percent. One year later, 69 percent—a significant increase—said they trusted law enforcement. However, the gap between White and Black people was particularly large, 77 percent versus 42 percent. Also, whereas in the month after George Floyd’s death 60 percent of US residents reported that they personally believed that George Floyd was murdered, by the time Derek Chauvin (the Minneapolis police officer who appeared in the viral video of George Floyd’s death) was preparing to stand for trial, that percentage significantly declined to 36 percent. At that later time, the racial divide was substantial: only 28 percent of White people agreed at that time that George Floyd was murdered, compared to 64 percent of Black people. Derek Chauvin was subsequently found guilty of murder.

Police incidents of violence against Black people have an enduring impact on Black communities (Haile et al. 2023). For example, the levels of anxiety and depression among Black people increased substantially following George Floyd’s murder (Fowers and Wan 2020). One study looked at “poor mental health days” among Black people over five years and found that these days were much more likely to occur during weeks when such acts of racial violence received considerable attention in the media. These incidents did not have similar effects on the mental health of White people (Curtis et al. 2021). With respect to physical health, community residents who perceive a greater use of force in their area by police experience higher levels of stress, and this relationship is particularly pronounced for Black residents (Stansfield 2022). Additionally, greater exposure to police killings of Black people adversely affects the cardiovascular health of Black people, increasing the likelihood of stroke for Black men

and hypertension for Black women (Talbert 2023).

In addition, exposure to cases of police violence against unarmed Black men was found to suppress citizen crime reporting among citizens of Cincinnati generally, but particularly among those living in Black and Latine neighborhoods (Pearson and Timberlake 2023), and exposure to police use of fatal force generally suppressed people’s willingness to place 911 calls for assistance in Los Angeles, but that impact was greater in Black and even greater in Latine neighborhoods; the effect was significant in White neighborhoods as well, but the impact occurred to a lesser degree (Sheppard and Stowell 2022).

Impact of Pedestrian and Vehicle and Stops on Community Health and Action

Common encounters between police officers and community members can also have significant negative effects on the health and actions of the residents of areas in which police officers are “protecting and serving.” For instance, adolescents who were personally stopped by police officers (on the street, in a car, at school) or who observed another person stopped by police subsequently experienced more depressive symptoms, and this effect was particularly pronounced for Black adolescents (Turney 2021; see also Burke et al. 2023).

The character of police contacts is a critical element of how people respond to police officers. While the number of stops in an area does not directly relate to negative health among residents, the incidence of stops culminating in invasive action by police (for example, frisking) does relate to poorer health (for example, ratings of overall health and specific conditions such as high blood pressure; Sewell and Jefferson 2016). These effects, particularly those associated with high levels of stress and psychological distress, occur not only for individuals who have personal contact with police but also for those who reside in highly and inequitably policed areas. The negative effects are particularly strong for Black and Latine individuals. In addition, residents living in minority communities with higher incidences of use of force against pedestrians have a higher risk of diabetes and obesity (Sewell 2017).

The greater stress aroused by encounters with law enforcement, such as police stops and arrests, has an additional consequence: adolescents who experience police contact show an increased likelihood of subsequently engaging in delinquent behavior. In a four-wave longitudinal study, contact with law enforcement in the form of pedestrian stops by police predicted increases in Black and Latine adolescents self-reported criminal behaviors across an eighteen-month period, in part because of the psychological distress (for example, anxiety and depression) these adolescents experienced (del Toro et al. 2019).

In terms of the impact on the community, while a greater number of stop and frisk encounters in disadvantaged communities was generally positively related to more calls for service (311 calls) in those neighborhoods, more stop and frisk encounters that involved searches or the use of force, particularly when they did not result in an arrest, reduced the likelihood that community members would seek these services (Lerman and Weaver 2020). In general, involuntary encounters with police reduce willingness to engage with or seek support from police or local government (Brayne 2014). In areas around Philadelphia, greater incidence of pedestrian stops in which police frisked residents predicted lower use of emergency health services (Kerrison and Sewell 2020). As Vesla Weaver, Gwen Prowse, and Spencer Piston (2020, 3) explain, “This is because people tend to engage the state only when they have a basic trust that it will not dominate them, humiliate them, or physically assault them.”

Furthermore, this response is not necessarily one of passive withdrawal; it also often involves “collective autonomy,” in which communities distance themselves strategically from public institutions (for example, police and government) while building community resources to promote racial collective consciousness and self-determination. An analysis by Weaver and colleagues (2020) of conversations between Black residents from highly policed areas in five US cities reveals consistent themes of perceptions of police oppression and consequent efforts to withdraw from engagement with police and government while

developing community cohesiveness, autonomy, and power.

In summary, there is robust evidence of racial and ethnic disparities in policing in the United States. This disparate treatment of Black residents relative to White residents has significant lasting impact on Black people, both individuals who experience direct police contact and those who learn about incidents involving others. Beyond the impact of these events in terms of psychological distress and its consequences for mental and physical health, these occurrences undermine trust in the police, which reduces the likelihood that residents of affected communities will seek police assistance or use other government services, such as emergency medical services.

As noted earlier, racial disparities in policing-related outcomes do not automatically imply racial discrimination. In subsequent sections, we explore the potential role of racial discrimination in policing and how it contributes to racial disparities. The challenge of distinguishing the role of discrimination relative to other potential influences in these disparities is a complex task because of methodological challenges in determining causality, the fact that discriminatory influences operate in different sociopolitical levels, and the very different nature of the activities in which disparities are observed. Bias has many facets, and the circumstances and motivations involved in different police activities (such as use of force and traffic stops) vary widely. The actions of police officers are also shaped by influences at multiple levels of analysis including, for example, officer biases, situational officer discretion, and organizational or institutional guidance (Camp 2024). While acknowledging these complexities, we attempt to triangulate from the diverse evidence to better understand the potential role of racism in racial disparities in policing.

NANO-LEVEL PROCESSES AND BIAS IN POLICING

We personify the nano-level of sociopolitical organization (which involves intrapersonal processes) as the Biologist because it is the most molecular level of analysis within our framework. This level of processes includes brain

structures and functions that shape the social-cognitive processes that influence the ways people think about their social world and respond to it. As we previously noted, much intergroup-relations research in behavioral science, and most of it in psychology, focuses on *intrapersonal* biases as risk factors located within the nano-level for discriminatory behavior (Swencionis and Goff 2017). This includes most of the research in psychology on prejudice (Dovidio 2001), implicit attitudes (Banaji and Heiphetz 2010), stereotyping (Eberhardt et al. 2004), and stereotype threat (Goff et al. 2008). Sometimes referred to as identity traps (Goff 2016), in the context of psychological research, these individual risk factors for discriminatory behavior are often not tested in ecologically robust settings, and the magnitude of their effects in dyadic or small-group contexts under naturalistic conditions is not firmly established. However, a significant literature inside and outside psychology implicates these internal, nano-level risk factors for discriminatory treatment of members of minoritized groups in policing. We review these processes and their relevance to policing next.

Intrapersonal Influences

In this section, we examine how prejudice, stereotypes, and threat may contribute to discriminatory treatment that underlies racial inequities in policing and to racial disparities in policing. Prejudice is a negative attitude toward a group and its members; stereotypes are associations and beliefs relating to the characteristics of a group and its members. Both prejudice and stereotypes can be either explicit or implicit. Explicit prejudice and stereotypes are attitudes and beliefs about a group and its members that individuals know they hold and are willing to express. By contrast, implicit prejudice and stereotypes are activated largely automatically, without intention and frequently without awareness. Implicit biases are assessed through performance on a task that does not appear to be related to prejudice or stereotypes, such as the Implicit Association Test (IAT; Greenwald, Brendl et al. 2022). Threat, which mobilizes fight-or-flight responses, is a negative emotional state aroused by concerns that individuals or a group will cause physical or other

harm to themselves or to members of the group (Vogel and Messner 2024). These processes have received the most empirical attention in psychology, and this research on racial bias in policing has approached the issue in two different ways, as stable individual differences producing cross-situationally consistent behaviors, and as orientations that are moderated by situations in shaping behavior.

Individual Differences

There is evidence of stable individual differences across time in officers' orientations in policing. For instance, one robust predictor of police officers' attitudes toward use of force on the job is their attitudes two years earlier, before they entered the police academy (Oberfield 2012). Building on the idea that police officers differ systematically in the ways they approach policing, one line of research on racial disparities in policing that involves discrimination by police officers has focused on the role of "bad apples," or a limited number of officers whose bias skews the statistics for unjustified disparate outcomes. Indeed, there is evidence of consistent individual differences among officers in racially biased treatment of residents and others in the community (Terrill and Ingram 2016). Felipe Goncalves and Steven Mello (2021) show that the racial disparity in speeding ticket outcomes among Florida Highway Patrol officers can be accounted for by the actions of less than half (about 40 percent) of patrol officers. Allegations by Chicago residents of police misconduct were significant predictors of future allegations against those same officers (Rozema and Schanzenbach 2019), providing additional evidence of stable individual tendencies. However, a simulation found that replacing the top 10 percent of Chicago officers identified as at risk for engaging in misconduct in their duties with ones not at such risk would reduce the overall number of use-of-force incidents by only 4–6 percent across a ten-year period (Chalfin and Kaplan 2021).

Research identifies a specific individual-difference characteristic that has important consequences for policing with respect to discriminatory treatment of members of particular racial and ethnic groups. Policing, as it has been traditionally conceived in the United

States, functions to enforce the existing hierarchical social order. Law enforcement as a profession thus appeals to individuals who value this orientation: policing attracts people who have characteristics (for example, in ideology or personality) that relate to support for maintaining the current social order. Social Dominance Orientation (SDO) is an individual-difference measure that reflects the extent to which a person prefers hierarchical intergroup relations over equality and desires their in-group to dominate outgroups (Ho et al. 2015; Sidanius et al. 2017). Although the SDO scale does not identify specific other groups in its items (for example, “Some groups are just more worthy than other groups”), it predicts biases toward multiple marginalized groups, including Black people. People who score higher in SDO are generally more prejudiced in their attitudes, hold more negative stereotypes of other groups, and behave in more discriminatory ways toward traditionally marginalized social groups (Duckitt and Sibley 2017).

SDO is particularly relevant to policing. White police officers score higher on SDO compared with members of the general public, college students, and public defenders, even controlling for a range of demographic characteristics (Sidanius et al. 1994; see also data provided by Xu et al. 2014). This orientation is further supported by officer experiences while serving. Junior police officers’ perceptions of a high level of SDO among peer officers reinforces their own orientation (Gatto and Damb-run 2012). Also, specific prejudices toward a range of groups increase with training and experience in policing (Gatto et al. 2010). With respect to policing outcomes, Jillian Swencionis, Enrique Pouget, and Phillip Atiba Goff (2021) demonstrate across three different cities that White officers (but not Black officers) with higher levels of SDO have a greater number of use-of-force incidents during “Terry” stops (forcible stops made when an officer suspects a crime). This set of studies, however, does not include data to test whether the use of force is more frequent with Black than with White targets. Overall, the findings about the role of individual differences indicate that “bad apple” police officers do exist and that their discriminatory actions can contribute disproportion-

ately to racial disparities in policing. However, this factor accounts for only a limited amount of variance in racial disparities in policing.

Prejudice and Stereotypes

There is converging evidence of the role of racial prejudice (an attitude or unfair preference) and stereotyping (overgeneralized and frequently inaccurate beliefs) in policing across a range of research paradigms. Analysis of policing statistics implicates the influences of racial prejudice and stereotyping on a range of police activities and outcomes. Economists Brendan O’Flaherty and Rajiv Sethi (2019, 2024) examine the extent to which racial disparities in police stops and searches and police use of deadly force reflect statistically accurate beliefs that justify these disparities (called statistical or strategic discrimination) or represent unjustified, biased attitudes or beliefs based on race (termed preference-, prejudice-, or belief-based discrimination). This distinction is a critical one in the field of economics, determining the sources of racial disparities in policing (Agan 2024). These researchers conclude that while statistical discrimination does contribute to racial disparities in stops and searches, prejudiced discrimination also exerts a significant effect (for example, Goel et al. 2016; Pierson et al. 2020). In making such determinations of disparities as due to unfair discrimination, appropriate benchmarks are critical. Hit rate analysis, which is a widely accepted benchmark (Agan 2024), compares incidences of stops to the finding of contraband in the searches that follow. Unfair discrimination when the frequency of stops is based on race (for example, Black motorists versus White motorists) significantly exceeds the relative hit rates (for example, finding contraband in searches).

O’Flaherty and Sethi (2024) report that compared with their representation in the population, Black people were significantly overrepresented in fatal police shootings from 2015 to 2022. However, the researchers note that incidences of fatal shootings of Black people by police officers were comparable to the incidence of Black people arrested during that period. While this analysis suggests that racial disparities in fatal shootings may primarily reflect statistical discrimination, O’Flaherty and Sethi

further observe that using arrestees as the baseline may obscure the impact of prejudiced discrimination to the extent that arrest rates are themselves a product, at least to some degree, of prejudiced discrimination. The researchers also note that stereotypes Black people hold of police officers may also contribute to their encounters with police, which can escalate into use-of-force incidents and potentially to fatal shootings (see also Agan 2024).

Psychological research has focused on understanding relevant aspects of racial prejudice and stereotypes and how those biases can influence police behavior. That is, this type of research has a strong emphasis on illuminating intrapersonal and interpersonal mechanisms. Goff and colleagues (2008) focus their research on a critical dehumanizing element of stereotypes of Black people: the tendency among White participants in their experiments to automatically associate Black people with gorillas or other kinds of apes. In a series of studies conducted with general samples of participants, these researchers further illuminate the implications of this bias within criminal justice contexts. Specifically, the research demonstrates how this association of Black people with apes alters visual perception and attention and increases endorsement of violence against Black targets. One of their studies, involving analysis of criminal cases, reveals that news articles written about Black people who are convicted of capital crimes are more likely to contain ape-relevant language than news articles written about White convicts. In addition, convicts who are implicitly portrayed as more ape-like in these news articles are more likely to be executed by the state than those who are not. These researchers directly demonstrate the causal impact of this form of dehumanization in the domain of policing. They subliminally primed White male participants with words related to *ape* or *big cat* and then had participants view a video of a Black or White target being beaten by police officers. Participants exposed to the ape-related words were more likely to believe the police officers' violent actions were justified when the victim of the beating was a Black person but not when the victim was a White person.

While this set of studies did not examine the

stereotypes of police officers directly, the researchers report anecdotal evidence. In Los Angeles, police officers referred to the beating of Black targets as “monkey slapping time” and described a Black family they had to visit as “gorillas in the mist.” It was also common among Los Angeles police to report incidents in which a Black person died as “NHI”—no humans involved (Goff et al. 2008). More recently, an analysis of text messages sent between police officers in Berkeley, California, in 2019 and 2020 finds that these officers “engage in vile dehumanization of (Black people) and express views that are openly racist” (Savidge et al. 2022).

Another core aspect of automatically activated (implicit) racial stereotypes directly relevant to policing is the prevalent stereotypic association of Black people with criminality (Pickett et al. 2014). For instance, one set of experiments (Eberhardt et al. 2004) demonstrates that participants more quickly identify obscured photos of crime-related objects (such as guns) after being subliminally primed with Black than with White faces. The speed with which the crime-related objects are recognized is unrelated to participants' level of explicit racial prejudice, suggesting the distinct nature of implicit and explicit biases. Another prominent research paradigm examines race-related bias toward identifying guns (compared with non-gun objects) following brief exposure to Black faces compared with White faces (see Payne and Correll 2020 for a review). Research using this paradigm has consistently shown that participants are more likely to mistakenly identify objects as guns when the objects are paired with images of Black men's faces than when they are paired with images of White men's faces. This effect does not occur at the earliest stages of perceptual recognition of the objects but develops at later stages in ways that suggest racial stereotypes shape how people construe and react to the objects (Stein et al. 2023).

Researchers studying discrimination in policing have often focused on simulations of decisions to shoot armed or unarmed targets, most commonly male targets. In one of the most widely used paradigms, participants engage in a “shoot/don't shoot” computer simulation in which they observe images of White and

Black men in everyday places like parks or city sidewalks (Payne and Correll 2020). Some of the men are armed with guns, while others are unarmed and carrying mundane objects like wallets or cell phones. Participants are instructed to press a button to “shoot” if the man is holding a gun or another button to “don’t shoot” if the man is not holding a gun. In this simulation, participants unaffiliated with law enforcement tend to mistakenly shoot unarmed Black men at higher rates than unarmed White men. These participants also tend to react faster to unarmed Black men than unarmed White men (see Mekawi and Bresin 2015 for a review; compare with James et al. 2016).

Follow-up research on the intersection between race and gender has shown that Black women are not more likely to be mistakenly shot than White women or White men in these simulations, suggesting that Black men are uniquely associated with violence and danger (Plant et al. 2011). The racial bias does not relate to an explicit measure of racial prejudice (Correll et al. 2002, Study 3), but it is greater among participants sampled generally (Correll et al. 2006) and police officers (Peruche and Plant 2006) who more strongly endorse the stereotype of Black people as “dangerous” or as criminals. In studies employing both White and Black participants unaffiliated with law enforcement (Correll et al. 2002, Study 4) and police officers (Plant et al. 2005), the level of shooter bias against Black targets is comparable across participant race, suggesting that shooter bias is perpetuated by knowledge of cultural stereotypes rather than by an explicit propensity to discriminate against Black people. Experimental interventions that weaken the stereotypic association of race and criminality, in turn, reduced racially discriminatory responses on a shoot/don’t shoot task (Plant et al. 2005).

Compared to the results of studies using participants sampled from general populations, results of research using police officer participants in decisions to shoot in this simulation paradigm are more variable. Some research has shown that, at least under some circumstances, police officers are more hesitant to shoot Black targets than White targets on a shoot/don’t shoot task (James et al. 2017). Also,

police officers’ implicit bias, as assessed using the IAT, does not reliably predict racial biases in decisions to shoot in this task (Andersen et al. 2023). However, racial biases in these types of simulated encounters are well documented and depend on the life experiences of the police officers. On average, officers with policing experience do not tend to show a racial bias in decisions to shoot (Correll et al. 2007). However, officers who have less childhood contact with Black people or are assigned to gang and street-crime units that regularly deal with minority gang members tend to show higher levels of racial shooting bias (Sadler et al. 2012; Sim et al. 2013). New police recruits also tend to show evidence of a racial shooting bias, suggesting that certain on-the-job experiences may be important for mitigating racial shooting biases (Ma et al. 2013).

Because the likelihood of activating a stereotype of a group is greater when people are exposed to a more typical member of a group, implicit stereotyping is stronger when people are exposed to a Black individual who is more visually prototypical of their race. Of direct relevance to criminal justice, an analysis by Jennifer Eberhardt and colleagues (2006) demonstrates that when Black defendants found guilty of a capital crime involving a White victim are perceived to have a more stereotypically Black appearance, they are more likely to be sentenced to death (see Kleider-Offutt et al. 2017 for a review). Laboratory research employing the shoot/don’t shoot simulation paradigm (Kahn and Davies 2011) demonstrates that both White and Black participants who are not employed in law enforcement exhibit a greater propensity to shoot more phenotypically stereotypic Black targets (those with darker skin, broader noses, and fuller lips), resulting in a more pronounced racial shooting bias. Phenotypic stereotypicality of White targets also matters. A further analysis of a random sample of booking photos reveals that, controlling for type of arrest, reported level of resistance, and the presence of drugs and alcohol in a target’s system, White targets who are perceived to be more phenotypically White are less likely to be the targets of police use of force and are treated with less force by police (Kahn et al. 2016). However, this study does not find a significant rela-

tionship between the phenotypic stereotypicality of Black targets and police use of force.

Threat

Threat is highly salient in police work (Jamieson et al. 2000) and takes many forms. It often involves a general concern about personal safety, which leads police officers to be highly suspicious and preoccupied with maintaining an edge in police-resident exchanges, particularly in those involving Black targets. For instance, Joscha Legewie (2016) finds that police use of force during stops of Black (but not White) pedestrians significantly increased during the two weeks immediately after two officers were killed by Black targets.

Police may thus develop an “us versus them” orientation toward residents. In general, an orientation of this type makes people concerned about the motives of outgroup members, wary of their actions, and more defensive in interactions with them. In policing, it can often lead to an animosity toward community members generally, but this antipathy may be particularly pronounced toward Black people. Exposure to Black people spontaneously arouses threat, even among Black participants who do not harbor prejudice—either explicit or implicit—against Black people (March 2023).

This threat may be generated through elements of the cultural racial stereotype of Black people. For instance, White people, particularly those higher in implicit racial bias, tend to perceive even neutral facial expressions of Black persons as expressing anger (Hugenberg and Bodenhausen 2003). Other research, using a representative sample of White participants, shows that priming people with the race of a seventeen-year-old male juvenile offender who committed a violent assault affects the level of punishment that they recommend: the juvenile offender is viewed as more blameworthy and more deserving of a sentence of life in prison when he is Black than when he is White (Rattan et al. 2012). These effects are likely attributable to a greater cultural association of Black people with violence. Consistent with this reasoning, when individuals are primed with words associated with Black people, they are more likely to perceive another person’s actions as hostile, even where the person’s race is not known

(Devine 1989). Additional research that extends this work to policing shows that when police officers and juvenile probation officers are subliminally exposed to words related to the Black cultural stereotype (compared to words that were unrelated to racial stereotypes), the officers view a juvenile offender who either shoplifted or assaulted a peer as more hostile and culpable, even though the race of the offender is not directly identified (Graham and Lowery 2004).

The activation of racial stereotypes can additionally affect perceptions of Black juveniles in a particular way that arouses threat, also with direct relevance to policing. Goff and colleagues (2014) conducted a series of studies in which both undergraduate students and police officers judged the age and culpability of youths between ten and seventeen years of age in a criminal justice context. While both undergraduates and police officers estimated the ages of White youths accurately, they perceived Black individuals suspected of committing a misdemeanor as over two years older than they were. Black individuals suspected of committing a felony were seen as more than four years older. Perceptions of the culpability of the youths for the crime showed a similar pattern. These findings suggest that the force typically used by police for adults may be viewed as appropriate for Black youths. Other research reveals that people who see young Black men as threatening are more likely to also perceive their bodies as taller and heavier than comparable young White men of the same height and weight (Wilson et al. 2017). Overall, these results pertaining to race and threat may partially explain why police are more likely to use force with Black than with White targets.

Another form of threat—stereotype (or identity) threat—also contributes to racial bias in policing (Pryor et al. 2020; also see Swencionis and Goff 2017 and Burke 2023). Stereotype threat occurs when a person is in a situation that arouses concern about being judged in accordance with unfavorable stereotypes associated with a social identity that is important and relevant to the context (Steele 2011). Marie Pryor and colleagues (2020) explain how a White officer may experience stereotype threat with respect to being judged in accordance

with a stereotype that White people are racist. Also, a police officer of any race or gender may be concerned that members of the community will stereotype police officers as racist. Research conducted in the southwestern United States finds that both officers and participants unaffiliated with law enforcement feel less positively toward law enforcement when faced with the prospect of enforcing what they feel would be seen as racist, and officers fear for their safety as a result (Epstein and Goff 2011).

In encounters with police, citizens also experience threat (Olivett and March 2023). Because of this experience of threat, they display both greater physiological reactivity and defensive behavioral responses (such as a defensive freeze reaction) in encounters with police officers than with other people. Black people, because of the high level of police surveillance they experience, the threat of physical and psychological abuse by police officers, and the quantity of negative police encounters they have had, are especially apprehensive and defensive (Algrim et al. 2022; see also Henning 2021).

Moreover, like police officers in their interactions with the community, community members experience stereotype threat in these encounters. One study shows that Black people, but not White people, report concern that police officers stereotype them as criminals because of their race (Najdowski et al. 2015). Black men but not White men report they would experience stereotype threat in encounters with police and anticipated anxiety, self-regulatory efforts, and behaviors that are commonly viewed as suspicious by police officers.

Contextual Moderators

Situational factors that heighten the risk of discriminatory police behavior include cognitive demand, salience of crime, officer inexperience, and officer discretion (Swencionis and Goff 2017; Pryor et al. 2020; and Glaser 2024). These risk factors for discriminatory policing reflect the hypothesized influences of implicit prejudice and stereotyping on behavior that have been identified in basic psychological research.

The literature on cognitive demand and racial bias reveals that when the demands of a

situation exceed the processing resources available, the resources that are typically devoted to controlling the expression of racial bias (which tend to be quite effortful) are otherwise occupied and fail to suppress racial biases that are automatically activated (such as implicit biases). Faced with cognitive overload, most people, including police officers, will resort to cognitive shortcuts, such as using the racial stereotypes that associate Black people with crime (Swencionis and Goff 2017).

Police officers have multiple, simultaneous demands on their attention and cognitive processing, and “they have to make life-altering decisions under severe time constraints, often under stressful or dangerous conditions” (Pryor et al. 2020, 350). Moreover, interracial contact can itself act as an additional stressor, especially for individuals, particularly those who score high on measures of implicit bias (Trawalter et al. 2009). This stress can have detrimental effects on subsequent performance (Richeson and Shelton 2003): following interracial interactions, White participants—particularly those who scored higher in implicit racial bias—display impaired performance on subsequent tasks requiring cognitive effort to inhibit inappropriate responses.

Aligning with basic research on prejudice and stereotypes, situational influences systematically moderate the impact of implicit biases on actions relevant to policing. For instance, conditions that interfere with conscious control of behavior both increase the level of police officers’ level of implicit bias and exacerbate the impact of implicit racial biases on behavior. Police officers show higher implicit prejudice, as assessed by the IAT, following nights in which they have less sleep (James 2018), and officers who feel tired (rather than alert) exhibit stronger racial bias in decisions to shoot (Ma et al. 2013).

Time pressure similarly places demands on people’s cognitive resources, increasing the likelihood that racial biases, particularly implicit ones, will be expressed and critically shape behavior. As discussed earlier, White participants typically identify guns faster when they accompany Black (as opposed to White) men’s faces, but time pressure intensifies these effects. When given a short response deadline,

participants are significantly more likely to mistake a tool for a gun when it is paired with a Black man's face. In other words, when participants are faced with a split-second decision, race influences their tendency to perceive a gun that is not actually there (Payne and Correll 2020). The racial biases observed in the shoot/don't shoot paradigm are even greater when participants must make their decision more quickly (Correll et al. 2002).

As discussed earlier, cultural stereotypes associate Black people, and particularly Black men, with criminal activity. A criminal focus, in turn, exacerbates racial biases and their impact. Crime is chronically salient in much of police work and, in addition to concerns about personal safety, other aspects of policing emphasize criminality as a core issue in policing. Police performance is often assessed in terms of its effects on crime rates, which tends to incentivize a focus on crime to the exclusion of other aspects of policing, such as protecting the public safety, providing service to the public, having positive interactions with community members, or being accurate (Swencionis and Goff 2017). This focus on crime control represents a risk factor for discrimination because it heightens the accessibility of pervasive stereotypes associating Black people (in general) and Black men (in particular) with crime-related concepts (Eberhardt et al. 2004). Chronic and transitory factors that make crime salient are likely to increase racially disparate behavior by police officers that harms Black people. For example, when police officers are placed in situations where crime is emphasized, they attend more quickly to faces of Black men than of White men and are more likely to falsely identify Black men in lineups (Eberhardt et al. 2004).

The context of gangs further illustrates this point. Between 11 percent and 27 percent of self-identified gang members are estimated to be White, and White gang members' level of criminal activity is equal to those of their non-White counterparts. However, there is a strong stereotypic association of gang membership with Latine and especially Black youths and adolescents. One likely consequence of this stereotype is that police officers will attend more to Black and Latine people in their activities

relevant to gangs. For example, in Chicago, police officers recorded more than 128,000 adults and 33,000 children and youths in a database of gang members and "gang-affiliated" persons (Sweeney and Fry 2018). Non-White individuals were vastly overrepresented in these databases, with over 95 percent of the entries for adults identified as Black or Latine. These racial and ethnic disparities in the "gang" listings, which likely were rooted in racial biases, had disproportionate negative consequences for Black and Latine people: the database was used for criminal investigations, background checks, immigration enforcement, and criminal sentencing (Dumke 2018).

Inexperience is associated with uncertainty and has a more limited set of policing skills that may normally be acquired over time. Perhaps as a consequence, more inexperienced police officers are generally more inclined to use force in their policing. Younger officers and officers with fewer than five years' experience use more force and are 2.5 times more likely to be investigated for use of force (McElvain and Kposowa 2004; Terrill and Mastrofski 2002). Officers who are twenty-five years old or younger are over three times more likely to be investigated for use of force compared with officers over the age of forty (McElvain and Kposowa 2004).

While the greater tendency to use force, often with insufficient justification, in itself may increase the likelihood of racial disparities in policing, racial stereotypes further increase the likelihood through discriminatory actions. Stereotypes influence behavior more strongly under conditions of uncertainty. Thus, officers who are new to police service or who receive a new assignment are likely to be particularly susceptible to the racialized errors that can arise from uncertainties and consequent reliance on limited cues—such as community members' race, gender, or presence in a high-crime neighborhood—to determine whether to suspect a person of breaking the law (Willis et al. 2010). Also, because of the role of seniority in police assignments, newer officers are more likely to be assigned to rotating or night shifts, which produce sleep disturbances that (as discussed earlier) independently increase the likelihood of racially discriminatory behavior.

The literature on skill acquisition and expertise concludes that individuals with more practice are more likely to perform tasks accurately and are less likely to engage in racial discrimination (see, for example, Kawakami et al. 2005; Plant and Peruche 2005). Thus, people with less training and experience are not only less successful in performing tasks but also more susceptible to racial biases affecting their responses. With respect to policing, practice can increase accuracy in weapon identification tasks and reduce racial biases in shoot/don't shoot tasks. Simulations that more closely mirror real-world deadly force encounters, which provide more detailed information about the situation and the target, generally show less racial bias in decisions to shoot (Andersen et al. 2023; Cox et al. 2014; James et al. 2013). In general, likely because of their greater training in firearm use and procedures for use of force, police officers are still less likely than community members to make these racialized errors on shooting tasks (Correll et al. 2007). Also, in support of the proposed roles of experience, training, and expertise, community members who receive training and practice in the shooter task demonstrate improved accuracy and diminished behavioral effects of racial bias (Correll et al. 2007; Plant et al. 2005; Sim et al. 2013). Even among police officers, practice with the simulated shooting task reduces racialized errors against Black targets (Plant and Peruche 2005).

As basic research has shown, ambiguity is an important factor in the extent to which personal biases are manifested in discriminatory behavior. When decisions or actions are governed by clear-cut rules or strong norms, a person is more likely to behave in a racially unbiased manner. However, when rules are nonexistent, appropriate behavior is not well defined, or norms are ambiguous, White people, including White police officers, are more likely to act in ways that favor White persons and disadvantage non-White individuals. Ambiguity and personal discretion are particularly relevant factors in policing. In their day-to-day work, police officers must contend with high degrees of ambiguity (such as determining who fits a suspect description or who poses a potential threat) and have high discretion (for exam-

ple, deciding whether to search during a traffic stop). Police officers necessarily exercise a great deal of discretion in the course of their work: they must continually make judgments about the meaning of others' behavior and about how to weigh facts, circumstances, and evidence. In the absence of binding directives or established protocols, officers' reliance on discretion or personal judgment can allow their prejudices to influence their decisions.

Furthermore, officers' discretionary exercise of their powers to stop, search, and use force against community members is not meaningfully constrained by the courts. The discretion allowed under stop and frisk laws and in traffic stops is thus a primary reason Black and Latine people are disproportionately targeted by police in these activities (Desilver et al. 2020). Consistent with this proposition, policing records show evidence of biased discretion during traffic stops and police interactions in California. Officers choose to search individuals perceived to be Black at over twice the rates of individuals perceived to be White. However, the probability of finding contraband during the search (the discovery rate) is higher for individuals perceived to be White (Racial and Identity Profiling Advisory Board 2021), indicating evidence of racial discrimination. Although the introduction of body-worn cameras (as we will discuss in more detail) and the ubiquity of cell phone recordings of police encounters may expose officers' behavior to increased public scrutiny, it is not clear that the availability of video recordings has systematically increased accountability for police misconduct.

Nano-Level Interventions

From an individual-level perspective, interventions to combat racial biases that form a foundation for discrimination in policing need to target intrapersonal influences, such as the activation of implicit biases (for example, stereotypes and prejudice), and the application of explicit biases that shape the interpersonal behaviors of police officers in encounters with targets. We consider three types of interventions that could potentially reduce discriminatory behavior by individual police officers through selection procedures, antibias train-

ing, or training that more specifically targets particular aspects of policing.

Screening and Selection

One approach for reducing racial discrimination in policing is to reduce the likelihood that individuals who have biases enter the policing profession. Reflecting this direction, California Assembly Bill 846, which became effective in 2021, requires that candidates for a position as a “peace officer” be screened in the hiring processes in ways to help ensure that they are “free from any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of the powers of a peace officer.” These screening assessments could include measures of candidate racial or ethnic bias. As noted earlier, individuals higher in SDO, which relates to greater prejudice against a range of minoritized groups, are particularly attracted to policing as a profession; police officers, on average, tend to score high in SDO compared to the general public (Sidanius et al. 1994; Xu et al. 2014); and police officers higher in SDO are more likely to use force against targets (Swencionis et al. 2021). However, current measures of explicit prejudice and stereotyping are not well suited to screening for bias because individuals tend to adjust their responses to appear less biased than they are when that is socially desirable. Implicit measures of bias are less amenable to such strategic control and relate significantly to discriminatory behaviors on average (Kurdi et al. 2019), but they do not have sufficient predictive strength for any specific individual to justify use of such measures for employment screening (Greenwald, Dasgupta et al. 2022; Lai and Wilson 2021). An alternative approach is to screen for other individual differences that promote positive relations with members of minoritized groups or that tend to mitigate the potential effects of automatically activated (implicit) bias. These can include high levels of empathy and perspective taking, which attenuate the impact of implicit bias (Todd et al. 2011), or general personality traits associated with more positive behaviors toward people from diverse groups (for example, Agreeableness; see Crawford and Brandt 2019).

Background investigations in screening procedures can also be used for prior candidate activities that would be useful in predicting, in combination with other materials in the review process, the likelihood that an individual would perform their policing duties without bias. Engaging more frequently in positive contact and having close relationships with members of another racial or ethnic group are among the most robust predictors of less bias against minoritized groups, which is supportive of research on contact theory (Pettigrew and Tropp 2013). People who have had more positive intergroup contact with members of another racial or ethnic group or who have a friend who is a member of that group have lower levels of prejudice against the group and other members of the group, and they experience less threat when they encounter members of the group. Conversely, those who have more negative experiences with members of another group are more biased against the group and feel greater anxiety and threat (Paolini et al. 2021). These latter findings suggest a possible reason why, given the generally negative experience of interracial police-resident encounters, police officers with greater prior contact with Black people displayed greater racial bias against Black people in a shoot/don’t shoot task (Sadler et al. 2012).

Because little is known about what exact indicators most reliably predict discriminatory behavior by a police officer, further research is needed to maximize the promise of using selection criteria to reduce police bias. However, the largest and best apples-to-apples comparison of officers by race and gender recently revealed that White male officers engaged in far more use-of-force incidents in Chicago than female or non-White officers and that this behavior was driven disproportionately by White male officers’ use of force toward Black residents (Ba et al. 2021). In other words, there is recent, strong evidence that who is doing the policing matters in terms of equitable policing outcomes.

Antibias Training

While assessment for bias and background reviews can be helpful for identifying individuals at major risk of behaving in a discriminatory

manner, limiting their entry into the profession, other interventions focus on those already serving as police officers. Antibias training is one such approach that has been commonly used across a range of professional domains. However, antibias training programs are likely to be substantially curtailed in many settings, including policing, because of actions by President Donald Trump in his first days in office in 2025. His Executive Order requires all agencies and departments in the federal government to “terminate, to the maximum extent allowed by law, all DEI, DEIA, and ‘environmental justice’ offices and positions (including but not limited to ‘Chief Diversity Officer’ positions); all ‘equity action plans,’ ‘equity’ actions, initiatives, or programs, ‘equity-related’ grants or contracts; and all DEI or DEIA performance requirements for employees, contractors, or grantees.”²

Nevertheless, many forms of antibias training are likely to continue to be available and accessible to police departments. Antibias training is a family of programs “aimed at facilitating positive intergroup interactions, reducing prejudice and discrimination, and enhancing the skills, knowledge, and motivation of participants to interact with diverse others” (Bezrukova et al. 2016, 1228). With respect to policing specifically, the *Final Report of the President’s Task Force on 21st Century Policing* (US Department of Justice 2015) encourages the implementation of implicit bias training for police officers (see also Fridell 2016; Swencionis and Goff 2017). A survey of over a hundred police departments in large metropolitan areas revealed that 96 percent had implemented some form of antibias training program, typically with a focus on implicit bias (CBS News 2019).

While antibias training in recent years has been a booming business that has earned billions of dollars annually, assessments of its effectiveness have yielded mixed results (Devine and Ash 2022; Dobbin and Kalev 2022). However, findings that appear to indicate inconsistent evidence of effectiveness can be reconciled

by considering the different ways effectiveness has been assessed. Determining whether antibias training is effective depends on the criteria applied. The evidence of the impact of antibias training is consistent for specific types of outcomes.

One of the most common outcome measures of the effectiveness of antibias training is evidence of prejudice reduction toward traditionally underrepresented groups. However, there is no existing evidence that raising consciousness about implicit bias can produce significant changes in discriminatory behavior (Swencionis and Goff 2017), and there are not sufficient results to make the case that even more comprehensive antibias training can reduce explicit or implicit bias in an enduring way (Greenwald, Dasgupta et al. 2022; Paluck et al. 2021). Both explicit and implicit racial biases are deeply entrenched, often supported—intentionally and sometimes unintentionally—by images in the media and interconnected within a web of social relationships and political orientations and grounded in long-term socialization experiences. Prejudice and stereotypes appear to be highly resistant to change on the basis of antibias training, which tends to be limited in duration.

Nonetheless, when other outcomes are considered, there is consistent evidence of benefits of antibias training. Antibias training does increase people’s knowledge about concepts such as implicit bias and topics relevant to improving intergroup relations. It often piques interest in learning more about ways to improve relations between members of different social groups and motivates people to behave more equitably toward others (Bezrukova et al. 2016).

Regarding antibias training in the context of policing, there is evidence that learning about the science underlying work on implicit bias can increase police officers’ recognition of the potential negative impact of implicit biases on racially equitable policing and create more positive attitudes toward antibias training (Vitriol et al. 2024). Participation in antibias training

2. Exec. Order No. 14151, *Executive Order: Ending Radical and Wasteful DEI Programs and Preferencing*. <https://www.whitehouse.gov/presidential-actions/2025/01/ending-radical-and-wasteful-government-dei-programs-and-preferencing/>.

can, in turn, further expand police officers' knowledge of implicit biases and increase their intentions to apply antibias strategies to reduce the impact of implicit bias on their professional actions (Kochel and Nouri 2024).

However, the evidence of long-term change in behavior directly caused by antibias training is weak: there is currently not strong or consistent evidence that antibias training can produce an enduring influence on police behaviors (Machado and Lugo 2022; Worden et al. 2024). For example, Calvin Lai and Jaclyn Lisnek (2023) assess the results of a large-scale antibias training—the Managing Bias program, which was developed by the Anti-Defamation League—involving over 3,500 police officers. The main goals of this daylong training were to reduce the influence of bias in interactions and decision-making by police officers, improve police-community relations, and increase officer safety. Participants engaged in activities to increase their awareness and understanding of bias and to build skills (such as perspective taking and individuation) to help reduce bias in policing. The researchers find that the training increased knowledge of bias immediately after the session and one month later. It also increased, relative to the pretraining baseline levels, concerns about holding biases and personally behaving in a discriminatory way, as well as intentions to use the strategies they learned to address bias. However, these effects were fleeting: they were not significantly different from baseline one month later. The researchers therefore conclude that “diversity training[s] as they are currently practiced are unlikely to change police behavior” (Lai and Lisnek 2023, 424). Similarly, a one-day antibias training with over fourteen thousand New York City police officers failed to produce any significant changes in racial disparities in stops, frisks and searches, summonses, arrests, and use of force (Kochel and Nouri 2024).

Rather than dismissing entirely the potential benefits that antibias training (particularly with an emphasis on implicit bias) can have for reducing racial discrimination in policing, Jack Glaser (2024) proposes tailoring such interventions with police officers to focus on actions most vulnerable to the influence of implicit

bias. Specifically, he suggests that, because implicit bias tends to influence highly discretionary behaviors (such as stop-and-search decisions) more strongly, both the training and its assessment might concentrate on these types of policing activities. However, antibias training that emphasizes implicit bias may inadvertently undermine people's motivation to exert the effort needed to overcome the influence of implicit bias on their behavior. Because implicit bias reflects a high degree of automaticity and thus limited controllability, when discrimination is attributable to implicit bias people are perceived to be less accountable for their actions and view their discriminatory behavior as less deserving of punishment (Daumeyer et al. 2019).

When trainings are viewed as a cure-all, therefore, the science is clear that any form of training is likely to be a weak lever for change at best. When viewed as a signal about cultural norms, however, trainings may yet prove valuable. While poorly integrated diversity, equity, and inclusion efforts can send the wrong signals about institutional norms and values (Dover et al. 2020), this same research literature holds out hope that, framed correctly, trainings can be part of an organizational signal that combating discrimination is important. Trainings, therefore, need not be dismissed if they do not provide immediate changes in behaviors. Rather, they must be understood in the context of their broader organizational context.

Focused Training

While attempts to reduce levels of explicit and implicit prejudice through antibias training have had limited success, training that is focused primarily on developing and practicing skills related to specific aspects of policing promises greater success, at least in the laboratory. For instance, research has shown that with practice on the shoot/don't shoot simulation paradigm, police officers, in general, are able to reduce their discrimination against Black (relative to White) targets on this task (Peruche and Plant 2006). This reduction in racially discriminatory responses on this task is particularly strong for officers who have previously had relatively high amounts of positive

personal contact with Black people. Other research (Sim et al. 2013) also has demonstrated that training on a shoot/don't shoot task reduces racially biased errors by police officers when race is unrelated to the presence or absence of a weapon. However, when Black people are experimentally associated or chronically associated with danger (for police officers who routinely deal with minority gang members), training does not reduce racial bias on the task but may exacerbate it. Taken together (while recognizing the existence of boundary conditions), these findings reveal the potential for narrowly tailored training involving activities in which officers have opportunities to practice their skills to reduce police use of lethal force. However, such training requires the use of appropriate scenarios and simulations to facilitate their application to the conditions under which they may be enacted within the duties of police officers (Fridell 2016).

An alternative approach involves training police officers in new skills for effectively interacting with community members to prevent conflict escalation, thereby reducing the perceived need to use force. Currently, police academies in the United States devote over three times more hours to firearms training than to de-escalation techniques (Horton 2021). While there is very limited evidence concerning whether de-escalation training works and reduces racial disparities in policing (Agan 2024; Engel et al. 2020), there are techniques that may help de-escalate conflicts between police officers and community members and reduce racial disparities in policing. George Wood, Tom Tyler, and Andrew Papachristos (2020) tested the impact of a one-day procedural justice training program with the Chicago Police Department. The intervention “emphasized the importance of voice, neutrality, respect, and trustworthiness in policing actions.” Before making a decision, “officers were encouraged to provide opportunities for civilians to state and explain their case.” The officers were also encouraged to “apply consistent and explicable rules-based decision-making, treat civilians with dignity and respect their status as community members, and demonstrate willingness to act in the interests of the community and

with responsiveness to civilians’ concerns” (Wood et al. 2020, 9815). This training provides officers with a broader range of strategies, grounded in a body of empirical evidence, for handling challenging encounters more effectively. It also communicates priorities and norms of the department, which can influence behavior in additional ways beyond the specific knowledge and skills acquired in the training. This training significantly decreased officers’ use of force in the community. Before training, in a police force made up of 7,785 police officers, there were 363 use-of-force incidents per month. After training, according to a conservative estimate, there were 8 fewer use-of-force incidents per month; according to a more aggressive estimate, there were 156 fewer use-of-force incidents per month.

While any officer trainings that yield positive results in the field should be lauded, they would be incapable of correcting for policies or cultural norms that produce unequal outcomes. Consequently, we turn our attention next to micro-level processes.

MICRO-LEVEL PROCESSES AND BIAS IN POLICING

We describe the influence of micro-level processes as the Bully because these effects occur through interpersonal encounters, which potentially inflict harm on an individual with cascading influences on other members of the person’s social group. This literature relies heavily on psychology research and involves samples drawn from the general population to illuminate relevant underlying dynamics that may contribute to racial disparities in policing. Micro-level processes in racial discrimination in policing are more directly implicated in studies testing these effects with police officers in their actions toward and in interaction with community residents that produce discriminatory treatment of members of particular racial or ethnic groups.

Interpersonal Processes

As with nano-level influences involving intrapersonal processes (for example, stereotyping), research across the behavioral sciences—including in psychology, sociology, criminology,

economics, and political science—implicates the role of micro-level (interpersonal) bias in racial disparities in policing. A variety of different methodological approaches are used (National Academy of Sciences, Engineering, and Medicine 2018), but one common way of testing for racial bias is by examining differences in police behavior while controlling for other likely influences. In this respect, the finding that police are more likely to use force against Black or Latine targets than White targets is observed even after controlling for target demographics, such as age or gender; and other characteristics, such as intoxication, mental impairment, or possession of a weapon; officer characteristics, including race or experience; features of the incident, such as time of day, target arguing, target attempting to get away, target directly resisting arrest, number of bystanders, number of officers; geographic area; and community characteristics, such as socioeconomic status, crime rate, or the percent of non-White residents (see, for example, Lee 2016; Paoline et al. 2018). Sometimes these studies employ quasi-experimental designs, such as the “veil of darkness” paradigm, which has been used for studying racial bias in vehicular stops by police. The logic behind this approach is that because darkness tends to mask the physical appearance of a driver, police racial bias is directly implicated if racial disparities in vehicle stops are lower at night than in daylight. An analysis of ninety-five million stops for fifty-six police agencies and departments nationwide reveals higher rates of stops for Black motorists than White motorists during the day, but far more equitable stop rates at night when ambient factors (such as neighborhood crime, poverty, and so forth) are included (Pierson et al. 2020). Moreover, the reduced racial disparity in stops at night is primarily due to a markedly lower likelihood of Black drivers being stopped at night compared to during the day.

The micro-level of analysis is broadly interpersonal. It considers the action of police toward residents, the orientations and behaviors of residents toward police, and the reciprocal relations of police officers and residents in their interactions. The processes have been studied by researchers across multiple behav-

ioral science disciplines drawing on a range of different methodological approaches.

Psychology

The traditional approach in psychology has been laboratory research using designs with experimental manipulations and appropriate controls to form cause-and-effect inferences. Psychological analysis is thus complementary to the types of approaches frequently used in other behavioral science disciplines. With respect to understanding situational-level dynamics of racial bias in policing, the relevant research builds on foundational interpersonal processes identified in psychological research and the application of these dynamics to activities related to policing studied with samples unaffiliated with law enforcement and, less often, directly with police samples.

One example of psychological scholarship that leaves the laboratory to answer questions about micro-level discrimination leverages newly available police body-worn camera footage to examine police behaviors during interactions with residents. Early results provide evidence of racial bias in the ways police speak to citizens in their encounters. During routine traffic stops, an analysis of interactions recorded on police body-worn cameras reveals that police officers speak with less respect to Black than to White community members (Voigt et al. 2017) and display a more negative tone in their communications (Camp et al. 2021). While these studies do not allow us to determine to what degree these officer behaviors are driven by intrapersonal, nano-level and interpersonal, micro-level factors or shaped by meso- (organizational), macro- (pan-organizational, institutional), or mega- (cultural) level factors, this line of research at least casts doubt that mere “suspect resistance and/or non-compliance” is the only factor that escalates police-resident interactions, a common argument made in both popular media and research to account for racial disparities in police violence (Terrill 2005).

The availability of body-worn camera footage also potentially allows for quantitative and time-sequenced analyses of encounter escalations—the process of making interactions more tense and likely to produce violence (Ariel

et al. 2016). However, without the help of artificial intelligence, aggregating and coding this footage is labor intensive. Additionally, the footage is not available at scale, making it difficult to know what results will and will not generalize.

Finally, some research integrates the literature on stereotype threat with concerns of being stereotyped as criminal (Najdowski et al. 2015) or as racist (Trinkner et al. 2019). As noted in the section on nano-level processes, stereotype threat represents people's concern about being judged in accordance with unfavorable stereotypes associated with their social identity. Stereotype threat has interpersonal consequences (micro-level effects) relevant to policing, as well as intrapersonal impact (nano-level effects). As research shows, Black participants report higher levels of concern with being stereotyped as criminals than do White participants. That elevated concern leads to higher regulatory efforts, something previous research has identified as producing racial disparities in behaviors that are judged to be indicators of guilt (Najdowski 2011). In other words, as with other stereotype threat domains, concerns with confirming or being evaluated in terms of a racial stereotype ironically produce behaviors consistent with the stereotype that can have direct consequences for how Black people and police officers interact. This is also an area in which nano-level (intrapersonal) and micro-level (interpersonal) processes operate in tandem. There are individual differences (a nano-level influence) in the concern with being stereotyped that reliably predict differences in behaviors (McCarthy et al. 2021; Trinkner et al. 2019), and these behaviors influence interactions between police officers and community residents. It is further possible that processes at the meso-, macro-, and mega-levels, such as discriminatory policies or regional reputations, can moderate the impact of these nano-level and micro-level processes in influencing racial inequities in policing.

The dynamics of stereotype threat in encounters between police officers and Black residents can produce a reciprocal set of influences mutually increasing threat and escalating the potential for conflict and excessive use of force (Najdowski 2023). Indeed, footage from

police body-worn cameras offers supportive evidence for this process (Rho et al. 2023). A linguistic analysis of footage from 577 stops of Black drivers finds that stops with escalated outcomes (that is, those ending in arrest, handcuffing, or a search) differ systematically from other stops from the initial moments of the interaction—even in the first forty-five words spoken by the officer. For stops that escalated, officers were more likely to begin the interaction with commands, without explaining why they made the stop. Black men who viewed the footage perceived more negative emotion, viewed officers more negatively, worried more about force being used, and predicted worse outcomes after hearing only the officer's initial words in escalated versus non-escalated stops. This escalation was likely the outcome of the reciprocal responses, possibly stimulated by stereotype threat experienced by both parties.

Ethnography

The bulk of research on police-resident interactions belongs to ethnographers. For instance, Nikki Jones's (2014) work on interactions between police and youth in California's Bay Area reveals how Black youth learn the informal sequencing of a police stop, as well as when and how they can voice their objections to abuses. Similarly, Rod Brunson's (2007) work reveals which direct and vicarious interactions lead Black youth to believe that "police don't like Black people" (from the title of Brunson 2007), as well as how those observations create both ideologies about policing and specific tactics to navigate communities where those same police are omnipresent. These findings build on a generation of ethnographic observations about police-resident interactions. However, while work such as Elijah Anderson's (2013) *Streetwise* paints incredibly detailed pictures of how aggregated interactions with police shape neighborhood mindset and praxis, the quantitative tests of how these observations scale beyond the communities in which they are observed have lagged behind considerably.

Criminology, Economics, and Political Science

Other quantitative fields have developed literatures at the micro-level, particularly economics and political science. The (mostly) economics

literature around “hit rates” (the rate at which officer searches yield contraband) is a notable example. Much like the “cover of darkness” methodology, the literature on hit rates (or yield rates) attempts to bypass a common methodological problem with analyzing and determining the causes of racial disparities in police behavior—namely, that the universe of possible outcomes is rarely known. In other words, it is difficult to tell whether there is racial discrimination in police use of force without being able to account for all incidents where force might have been used but was not. Analyses of the rate at which police searches yield contraband (“hits”) sidestep this methodological limitation (at least in part; see Knox et al. 2020) and by testing the outcomes of a conditional action—that is, a search. The result of such tests (Knowles et al. 2001) reveals that, even if we set aside whether a decision to search someone is racially biased, officers are robustly not using the same criteria for searching Black residents as White residents—and the result is less effective policing generally, even beyond the potentially racist consequences. This tendency to “over-search” Black residents could stem from departmental policies or a broader culture in policing (see Ratcliffe 2004), yet there is some evidence of individual differences.

Along these same lines, economists and political scientists have recently provided the best test yet of the importance of micro-level phenomenon. Specifically, an unparalleled matching study in Chicago concluded that police demographics play a major role in police use of force, with White men accounting for significantly higher rates proportional to the number of Black men they target (Ba et al. 2021). While it is not clear if or how these results generalize, this first true apples-to-apples comparison of officers by location, shift time, and department suggests that individual differences may play an underappreciated role in how interactions with police produce community violence—a merging of nano- (intrapersonal), micro- (interpersonal), and meso- (organizational) level processes.

One theme across all these micro-level literatures is that it is difficult to disaggregate micro-level processes from processes at other

levels. Another way to frame that methodological hurdle is this: racial discrimination exists at so many levels and so far before a particular police-resident interaction that it is often difficult to tell when the police are the problem or when the outcome of the interaction is merely a symptom of a larger issue. Dean Knox, Will Lowe, and Jonathan Mummolo (2020) make this point in a highly technical article by demonstrating the many steps one must take to demonstrate racial bias at the level of an individual stop—often preventing scientists, litigators, and policymakers from making appropriate inferences about racism in policing. Importantly, they admit that getting access to all the data necessary to conduct the ideal analysis is impossible in many cases. (The article, notably, does not feature any analyses of police data.)

This theme is worth noting because, ironically, while the first two levels of sociopolitical organization (nano, involving intrapersonal processes, and micro, focusing on interpersonal processes) are the levels at which it is most difficult to tie processes to outcomes, they are also the most commonly invoked in national conversations about racism. In other words, the hardest levels to prove are the most common to be highlighted in discourse, making broad consensus concerning when and where racism is functioning that much harder.

Micro-Level Interventions

Previous research suggests some interventions that can produce reductions in interpersonal, micro-level-driven discrimination. For instance, Lorraine Mazerolle, Emma Antrobus, and colleagues (2013) found that providing officers with scripts can reduce their tendencies to treat people unfairly. This type of research is part of what has led many to speculate that appropriate reductions in officer discretion can reduce situational-level discrimination (Swencionis and Goff 2017). Similarly, there is evidence that trainings that focus on specific behaviors (for example, negative speech acts such as those observed by Voigt et al. 2017 and Camp et al. 2021) can change the desired behaviors (Sim et al. 2013).

Oeindrila Dube, Sandy Jo MacArthur, and Anuj Shah (2025) developed a micro-level inter-

vention that involves reframing the way interactions with community members are perceived by police officers. The training also relies on nano-level principles in the guidance it provides. While the evaluation of the training did not assess differences in responses as a function of the race of those suspected of criminal activity, the intended impacts of the intervention are ones that have the potential to reduce racial inequities in policing outcomes. In this intervention, over two thousand officers from the Chicago Police Department participated in a randomized control trial in which about half of the officers received the training, while the other half were assigned to a control condition. The main objective of the training was to help officers respond effectively to ambiguous situations by “going beyond one’s first impression and develop additional possible explanations for what is occurring” (752–53). Specifically, in this training intervention, officers learn to recognize and regulate their emotional and physiological responses in policing-relevant situations and to develop new skills to help them consider various ways of responding to the situation and their consequences. In this training, officers practice applying the various elements of the intervention in twelve simulation exercises. Police officers assigned to the control condition participated in other types of trainings available to them through the department.

Approximately four months after the intervention was completed, participants in the study completed an assessment involving a series of tasks measuring how they thought about and would respond to several policing situations. Also, one year after the training was completed, the researchers analyzed administrative data to examine potential changes in policing outcomes. Overall, the intervention was effective in training officers to think differently about policing situations by considering a broader range of alternative interpretations of the behavior of others. Officers in the training condition, compared to those in the control condition, were better able to adapt their interpretations and responses as the situation changed (for example, by lowering their experience of threat when the person drops a weapon and identifying a greater variety of ways to respond to the situation). The analysis of admin-

istrative data one year later revealed less use of nonlethal force and fewer discretionary arrests among officers who participated in the training compared to those who did not. As previously noted, the design and evaluation of the intervention did not permit tests of the influence of the race of the person suspected of a crime on the impact of the training, but because the negative and relatively rigid thinking associated with racial prejudice and stereotyping is a significant determinant of discriminatory responses, this intervention represents a promising approach to reducing racial inequities in policing, as well.

Another type of intervention that holds promise for reducing racial inequities in policing relates to the role of peers in interracial interactions. In our multilevel framework, we define the micro-level as involving interpersonal processes related to the interactions between individuals or small groups of people. Policing activities often involve more than one police officer, and thus micro-level influences to reduce racial inequities in policing can involve interventions by police officers to prevent racial discrimination by another officer.

There is a substantial and still growing literature on the effectiveness of “bystander intervention to bias” trainings in general. These trainings aim to increase individuals’ awareness, intentions, skills, and efficacy for taking action to prevent harmful, racially discriminatory acts by others. Although people generally believe they will intervene to prevent or stop racial discrimination from occurring if they have the opportunity, research reveals that when confronted with such situations they are substantially less likely to intervene (Kawakami et al. 2009). The case of George Floyd, who was murdered by Minneapolis police officer Derek Chauvin while three other police officers looked on, is a tragic example of police bystander nonintervention. There is considerable empirical evidence that bystander intervention in bias training can reduce racially discriminatory acts across a wide range of social and organizational contexts (see Goodwin et al., forthcoming, for a review). In addition, while the evidence of the effectiveness of this training on the actual behavior of police officers is still limited, this kind of training has been shown to

increase police officers' stated likelihood in taking actions and their confidence in intervening to address peers' or supervisors' unethical and potentially dangerous behaviors (Taniguchi et al. 2022).

Although an objective of the micro-level interventions we have discussed in this section is to increase police officers' knowledge of a problem, their motivation to address it, and the acquisition of appropriate skills to do so effectively, we acknowledge that major reductions in racial inequities in policing would also benefit from complementary initiatives at other levels. In the case of promoting bystander intervention to bias in the context of policing, while training may help police officers develop skills to intervene effectively, a macro-level policy intervention by the Department of Justice is likely to stimulate the action in which these skills can be applied. Specifically, the US Department of Justice (2025) updated its policy on use of force in July 2022 to include section 1-16.400, Affirmative Duty to Intervene, that states, "Officers will be trained in, and must recognize and act upon, the affirmative duty to intervene to prevent or stop, as appropriate, any officer from engaging in excessive force or any other use of force that violates the Constitution, other federal laws, or Department policies on the reasonable use of force" (US Department of Justice 2025). Coordinated initiatives across different levels of sociopolitical analysis, because they draw on multiple forms of influence, are likely to be more effective at producing racially equitable (and effective policing) than are efforts concentrated in a single level of analysis.

MESO-LEVEL PROCESSES AND BIAS IN POLICING

We personified meso-level processes—which are organizational influences—in our framework as the Bureaucrat because meso-level processes can create and sustain racial disparities in policing through racially discriminatory organizational policies and practices without conscious intention or even awareness of bias among those who execute those policies and procedures. That is, meso-level biases are typically implicated by discriminatory outcomes. Our meso-level analysis of racial disparities in

policing in the United States considers potentially discriminatory organizational or institutional influences that can operate independently of an individual's attitudes or intentions. While many police organizations revised their policies (for example, on the use of choke holds) following the 2020 murder of George Floyd, there has been some backsliding, and there is not consistent evidence that racial disparities in policing generally have substantially declined since then (*PBS News Hour* 2024). Meso-level biases perpetuate discrimination by creating rules that govern interactions. These rules, in turn, inform beliefs, practices, and policies of collectives. It is important to note, here, that we distinguish the policies and practices of a single organization (meso-level) from the policies and practices of an entire industry (macro-level). While these processes are sometimes viewed as passive mechanisms representing vestiges of historical discrimination, they produce "collective, supra-individual entities [that] are indeed capable of exhibiting perspectives, perceptions, and processes, much like individual organisms" (Desai, Laubscher, et al. 2023, 156). Although organizations are often assumed to be race-neutral bureaucratic structures, the perspectives, perceptions, and processes embodied in organizational structures and functions are frequently racialized. Racialized organizations increase the agency of some groups and reduce it for others, legitimize unequal distribution of resources, and may allow inequitable practices that are decoupled from organizational rules (Ray 2019).

Even people who are motivated to be egalitarian may contribute to unfair outcomes because they enact policies that systematically disadvantage one or more groups (Kovera 2019; Yearby et al. 2020). In other words, when the rules of a particular organization or institution produce unequal outcomes, it does not require individual animus for inequities that contribute to disparities to follow.

Culture, which encompasses shared knowledge and beliefs and normatively acceptable social behavior, is a central mechanism for organizing individuals into an entity. The culture of an organization or institution reflects ideals and beliefs that are shared across the organization and passed along to new members and

that provide guidance when addressing new or ongoing problems or situations (Schein 1990). We consider three different aspects of organizational culture and their potential relationships to racial discrimination in policing: police culture and prototypes, culture of justice, and cultural levels in police organizations.

Police Culture and Prototypes

As explained by self-categorization theory (see Reimer et al. 2022), the ideals of group culture are represented by prototypes, which are exemplars that embody attributes central to the definition of the collective. People within an organization are highly motivated to pursue and conform to that ideal, and bias against members of other groups is typically a by-product—not necessarily the explicit objective—of this process. Within policing in the United States, two prominent prototypes are the “warrior” and the “guardian.”

Warrior Prototype

As Amie Schuck (2023, 1) explains, a warrior police prototype prioritizes “the crime-fighting mission, stresses control-focused communication approaches, and characterizes the relationship between the police and the community as detached and guarded” (see also Balko 2021). The warrior prototype valorizes gun-centric, aggressive masculinity. Seth Stoughton (2014; see also Simon 2023) has observed that police culture and training within the United States encourage the development of a warrior mindset and mentality in which police officers “are taught they live in an intensely hostile world, a world that is quite literally gunning for them” (Stoughton 2014, 227). Beginning from their time of training in police academies, officers are encouraged to conceptualize their relationship with the public as a war, identifying their enemy in gendered and racialized ways, primarily as Black and male (Simon 2023). This orientation contributes substantially to a tendency for police officers to perceive a threat from the initiation of an interaction with a resident, particularly a male member of a minoritized groups, and therefore to respond with excessive force, leading to negative outcomes that are more violent than the situation warrants. Indeed, greater officer endorsement of tradi-

tional police culture—which includes distrust of the public, distrust of community members, a crime-fighting orientation, and concerns about danger and bravery (Crank 2014; Paoline 2003)—relates to greater support for use of force and less support for policing that involves treating community members with respect and helping residents in ways that go beyond what is necessary to resolve a situation (that is, procedural justice; Silver et al. 2017). Adopting a warrior mentality can contribute to racial disparities in policing through processes of discrimination. For instance, one study (Mummolo 2018) finds that across departments in Maryland, SWAT teams are disproportionately deployed to Black, compared to White, communities—even when researchers control for crime rates.

Guardian Prototype

In contrast to the warrior prototype, “the guardian orientation prioritizes the service mission of the police, values creating authentic connections with residents and building meaningful partnerships with representatives of the community, and emphasizes using communication approaches grounded in dignity and respect” (Schuck 2023, 1). While there have been frequent calls for law enforcement to move away from the warrior mindset to a guardian mindset to reduce excessive use of force (for example, McLean et al. 2020), this may not be sufficient to achieve racial equity in policing. One reason is that the warrior and guardian orientations are not as antithetical as they might initially appear. They can, in some forms, represent aggressive and violent policing. Indeed, officers who are more supportive of aggressively enforcing the law are also more supportive of the guardian orientation (Clifton et al. 2021). Moreover, both the guardian orientation and the warrior orientation frequently reflect a racialized image that also promotes discriminatory use of force against Black people and members of other minoritized groups. Jennifer Carlson (2020, 399) reports, on the basis of seventy-nine in-depth interviews with police chiefs across the country, “Whereas the ‘warrior’ brand of police masculinity emphasizes aggressive enforcement against (black and brown) perpetrators, the ‘guardian’ brand of

police masculinity emphasizes assertive protection on behalf of (white) victims.”

Racialized aggressive policing guided by either warrior or guardian mentality enforces racial dominance through policing practices. Consequently, both warrior and guardian mentalities can perpetuate racial disparities and discrimination in policing through meso-level mechanisms in combination with individual-level processes. “Over-policing” the public generally, and Black members of the public specifically, increases the frequency of contentious police-resident contact. This contact often escalates into police use of force generally, and especially when officers adapt a “warrior-style” approach “that normalizes the expectation of unquestioned compliance with police directives and authorizes police to use physical force in its absence” (Cobbina-Dungy and Jones-Brown 2023, 3). As discussed in the section on interpersonal, micro-level processes, such practices erode trust between police officers and residents, harm members of the community generally, and reduce community member cooperation with law enforcement—which can increase the crime rate in the community. A higher crime rate, in turn, becomes a justification for further over-policing and use of force by police. A higher crime rate in a locality is a strong predictor of greater use of force by police (Shjarback 2018).

Organizational Culture of Justice

The concept of organizational justice, which is the extent to which a formal entity is perceived to operate in a fair and equitable manner, is important across various types of businesses and groups. The perception of employees of greater organizational justice relates to more favorable attitudes toward the organization, better performance, stronger commitment, and less employee turnover (see, for example, Cropanzano et al. 2007; Masterson 2001). Organizational justice is a particularly important dimension of police culture. Within police agencies and departments, organizational fairness is a central theme in the way police officers think about and describe relationships within their agency and with community groups, as well as in how they act toward community members (Radburn et al. 2022).

One aspect of fair treatment that is especially critical for effective policing is procedural justice, which involves fairness in the ways that decisions are made and disputes are resolved (Tyler and Nobo 2022). Procedural justice involves four aspects of how police agencies function internally and in their relations with communities: participation (providing voice), neutrality (treating people fairly, without bias), treating people with dignity and respect, and conveying trustworthy motives. The perception of procedural justice within a police agency or department, as well as in organizations more generally (Ambrose et al. 2013), is associated with several aspects related to organizational effectiveness. With respect to police agencies and departments, a review of the relevant empirical literature finds that police officers’ perceptions of procedural justice in organizational decision-making “positively influences their views of decision outcomes, trust in the administration, job satisfaction, organizational commitment, desire to stay with the agency, and overall views of the agency” (Donner et al. 2015, 153). A fair and just organizational police culture has a cascading impact on police-community relations.

Greater commitment to procedural justice relates not only to more positive internal relations with other officers in the department but also to more favorable and cooperative external relations with the public (“inside-out” policing; Van Craen 2016). Research on organizations in general has found that “employee perceptions of procedural and distributive fairness were related to (i.e., trickled-down to) customer reactions through their influence on employee commitment and customers’ perceptions of fairness” (Ambrose et al. 2013, 679). Within policing, Rick Trinkner, Tom Tyler, and Phillip Atiba Goff (2016) demonstrate that police officers who perceive their department as more procedurally fair trust and obey their supervisors more, experience greater personal well-being, and endorse democratic forms of policing more strongly. Police officers who view their organization as fairer and more just are also less likely to adhere to “the code of silence,” believe that “noble cause” corruption is justified, and personally engage in misconduct (Wolfe and Piquero 2011). In other research, po-

lice officers across four cities who perceived their department as higher in organizational justice had (internally) greater commitment to their department and (externally) more trust in the public (Carr and Maxwell 2018).

James Carr and Sheila Royo Maxwell (2018) further find that police officers who perceive a higher level of organizational justice (particularly, procedural justice) in their department more strongly endorse community-oriented policing. Community-oriented policing promotes police-community cooperation informally through friendly neighborhood interactions and formally in meetings (such as community advisory boards; see Prowse and Goff 2023). Indeed, even a single positive interaction initiated by a police officer with a community member can improve attitudes toward police and increase perceptions of police legitimacy for both Black residents and White residents (Peyton et al. 2019). A primary goal of community-oriented policing is to produce “partnerships and problem-solving techniques to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime” (Office of Community Oriented Policing Services, n.d., 1).

Levels of Police Culture

Although much of the research on police culture has focused broadly on the shared institutional culture of policing, which Gary Cordero (2017; see also Ingram et al. 2018) describes as occupational culture, police officers belong to many different groups and thus may be aware of and adhere to the norms of multiple subcultures (see Schein 1990). These subcultures can affect officers’ propensities to engage in excessive force against Black people and to tolerate such acts by other police officers (Micucci and Gomme 2005). In addition to institutional culture, there are subcultures within policing at the organizational level (reflecting the distinctive orientation of each specific agency and the community in which it is located) and within an organization at the levels of rank (involving cultural variation based on an officer’s position in the organization’s structure) and unit (such as patrol groups).

Occupational police culture, which is a culture widely shared across police organizations

(a macro-level phenomenon), is extremely resistant to change because it is shaped by traditions and other influences beyond the department or agency and outside the responsibility and influence of police leaders, such as police union influences and community attitudes (Hehman et al. 2018). But reshaping local cultures (which reside in the meso-level), such as those of an agency or department (that is, at an organizational level) or unit, is more possible.

Meso-Level Interventions

Reshaping culture and ultimately police behavior at an organizational level involves changes in beliefs, priorities, practices, and formal policies at an agency or departmental level. While an arduous task, the potential impact is significant. Organizational characteristics are a much stronger predictor of officer endorsement of traditional police culture than are individual characteristics (Silver et al. 2017). Police leaders’ efforts to change the culture at the level of their agency or department are more likely to be successful when they target specific, key aspects of the culture. People are generally resistant to cultural change because they are highly motivated to value cultures in which they have been socialized, and thus they view change as threatening. How changes are pursued is as important as what aspects of culture are being changed. Changes seen as consistent with core values and as benefiting the group and its members are most likely to be successful. A major aspect of organizational change in policing involves treating officers in ways that represent how police officers should treat the community. In this section, we consider initiatives for organizational culture and policy changes.

Leadership and Organizational Culture Changes

Within an organizational context, leaders play a fundamental role, both formally and informally, in group dynamics, and ultimately in the culture, of the groups that they lead (Haslam et al. 2020). This influence is particularly pronounced in formally hierarchical organizations with a clear chain of command, such as in police agencies and departments. In organizations structured hierarchically, authority of the

leader is explicitly acknowledged, and the leader has the responsibility to make certain decisions and enforce compliance with rules and policies.

Beyond the formal bases of influence within a group, leaders also have broad psychological, and ultimately, behavioral impact. Leaders are seen as embodying the values of a group and thus help shape the meaning that individuals within the group attach to group membership. Thus, in addition to their formal influence in making decisions and enforcing compliance with rules and policies, police leaders have broad psychological impact (Ingram et al. 2023). A police leader is a uniquely powerful role model, and the values and motivations the leader professes and the actions the leader exhibits have enduring influence on how members relate to each other and with the outside community (Dubord and Griffiths 2021). As Fei-Lin Chen and colleagues (Chen et al. 2021, 893) note, “One of the plausible mechanisms of promoting fair and accountable policing on the street is that police agencies and supervisors treat rank and file officers fairly and justly.” Thus, sustained cultural change can occur through the exchanges that police leaders model and foster within an agency or department.

As discussed in the section on micro-level interventions, training programs to help police officers develop procedural justice-related skills in their interactions with community members significantly reduce police use of force incidents (Wood et al. 2020). Procedural justice training for police officers also increases the perceived legitimacy of the police among community members and community members’ trust in and willingness to cooperate with the police (Mazerolle, Bennett, et al. 2013). From the perspective of community members, as the *Final Report of the President’s Task Force on 21st Century Policing* (US Department of Justice 2015) emphasizes, the perceptions of the police as fair and policing as legitimate are foundational for effective policing.

Beyond providing the opportunity for officers to acquire specific skills, such interventions also communicate the priorities of police leadership, influencing officers’ perceptions of organizational values and norms. In fact, the

communication of organizational priorities and norms signaled by new training initiatives may have more impact on organizational change than the acquisition of particular skills through training. For instance, Emily Owens and colleagues (2018) developed an intervention to test the influence of the behavior of supervisors that communicated the importance of procedural justice on officers’ actions in the field. In this experimental test, police officers were randomly assigned to a nonintervention control condition or to an intervention condition in which the officer would meet with a supervisor to discuss an incident involving the officer and for which a report had been filed or an arrest had been made. In this meeting, the supervisor explained that procedural justice was a central part of the department’s mission, and then the supervisor modeled and discussed procedural justice in relation to the incident with the officer. The outcome measure of interest was the subsequent behavior of the police officer. Officers who participated in the intervention made fewer discretionary arrests and were less likely to be involved in incidents in which force was used. These effects were particularly pronounced among officers who worked in areas with a modest level of risk, defined as locations where other officers tended to use force, were injured, or received complaints from citizens.

Moreover, the relationship between police agency internal functioning and engagement with the community is reciprocal. Prioritizing procedural justice practices internally and externally in policing increases trust among police officers and community members, and trust is needed to create productive police-community partnerships (O’Brien and Tyler 2019). Collaborations between police and community partners as part of a public safety system that seeks to address factors that contribute to crime in order to prevent it from occurring reduce mutually experienced threat and improve attitudes. Such conditions of more cooperative and trusting police-community relationships, in turn, can facilitate further changes in police organizational culture. In general, groups are more open to adopting supportive orientations toward members of other groups in contexts that are char-

acterized by cooperation rather than conflict (Arendt et al. 2023).

Policy Changes

While attempts to change police culture at an organizational level can have broad and enduring impact if successful, the most direct way to reduce racial disparities and discrimination in policing is through strategic changes in agency or departmental policies (Durán and Shroulote-Durán 2021). The influence of policies restricting officer discretion in the domains of domestic violence (for example, mandatory arrest), high-speed pursuits (do not engage in them), and treatment of juveniles (for example, when and under what circumstances to ask questions) has been well documented in the literature, producing the commonsense consensus that policy was the tool by which policing could be aligned with community values. During the late 1980s and 1990s, criminologists attempted to extend this understanding to the realm of police violence.

Researchers investigating what mechanisms could reduce unnecessary or particularly brutal police use of force coalesced around the notion that strict regulations through policy were the answer—an institutional or organizational response to aggregated individual problems. As noted earlier, allowing greater discretion in action permits people's racial biases to exert more influence on their behavior. This principle is also reflected in policing practices and outcomes (Swencionis and Goff 2017). In general, restrictive policies, which limit officer discretion, have reduced a variety of negative consequences related, for example, to high-speed pursuits (Alpert and Madden 1994) and misidentification of people based on eyewitness evidence (Kovera et al. 2022). There is strong evidence that restrictive rules can reduce police use of force and or killings generally (Fyfe 1988; Geller and Scott 1992; White 2001). Nevertheless, while it is likely that restrictive policies that generally reduce officer use of force may also reduce racial disparities in lethal and non-lethal use of force because they limit officer discretion (Swencionis and Goff 2017), there is a relative dearth of evidence about what kinds of policies particularly reduce racially discriminatory behaviors and outcomes.

When police organizations have policies (such as incentives, sanctions, and required in-service trainings) that attempt to control officers' discretionary decision-making, they reduce the likelihood of misconduct (Eitle et al. 2014). Regular in-service training throughout the year can result in reductions in police misconduct (Eitle et al. 2014). In terms of officer use of force, departments that have adopted more restrictive use-of-force policies demonstrate lower rates of use-of-force incidents (Terrill and Paoline 2017). Even policies that do not directly restrict use of force but mainly monitor it more closely can reduce it. For example, research has shown that having a policy requiring a supervisor to fill out the use-of-force reports is associated with less use of force (Alpert and MacDonald 2001) and that instituting a policy requiring officers to report whether they pulled their firearm and pointed it at someone but did not fire reduces instances of overusing firearms as a control technique (Jennings and Rubado 2017). Given the generally much greater use of lethal force with Black than with White people, the personal and social impact of these policies would likely be greater for Black than for White people. Researchers should, however, be cautious about any benefits observed following discretion-restricting interventions as nearly all police-related outcomes are recorded by police officers. In other words, it is often a methodologically painstaking task to determine if the outcome measure improved or whether officers simply stopped documenting the problem behaviors.

Another intervention that reduces discretion in decision-making and action that has been increasingly implemented across the justice system in the United States is the use of automated decision-making technology to achieve "algorithmic fairness." While a promising application for policing, to the extent that the data used to inform automated decision-making technology incorporate unrecognized cultural biases or inaccurate historical narratives (Ugwudike 2022) or include inappropriate assumptions in their analyses, these algorithms have the potential to reinforce racial inequities in the justice system. Roland Neil and Michael Zanger-Tisher (2025), for instance, caution that racial biases are likely to result when

these procedures treat arrest data as an unbiased measure of criminal offending because evidence shows the role of prejudice-based discrimination in creating racial inequities in arrests.

Officer body-worn cameras are, among other reasons, a frequently used technique for increasing police officer accountability. A study of the Los Angeles Police Department (McClusky et al. 2019), for instance, finds that body-worn cameras increase the extent to which officers exhibit procedural justice (for example, showing interest, behaving respectfully) in their interactions with community members. With respect to use-of-force incidents, a recent review of approximately seventy empirical studies reveals that the use of body-worn cameras significantly decreases police use of force by 9.6 percent (Williams et al. 2021). However, while the overall effect is significant, some researchers have noted that the impact of body-worn cameras on use of force is variable across studies (Lum et al. 2019). One reason is that the policies in some departments allow officers discretion to turn off the cameras (Machado and Lugo 2022). Another reason might be that because the presumed effect of body-worn cameras occurs, at least in part, by increasing officer awareness and thus compliance with rules and norms (Ariel et al. 2017), the effectiveness of body-worn cameras may depend on departmental or agency norms and culture involving the application of use of force. This latter interpretation suggests the importance of considering the impact of culture and policy in combination in examining police use of force generally and particularly toward members of Black people and other minoritized groups. Police culture can significantly blunt the influence of policy (White 2001). For the use of body-worn cameras to have a stronger and more consistent effect for reducing racial inequities in policing, it may thus be valuable to couple the use of the technology with training interventions that help police officers internalize the principles of racially equitable policing (McDonald 2025).

This possibility is supported by results showing that the impact of body-worn cameras on police behavior can be complex and is moderated by factors such as neighborhood char-

acteristics. For example, in a study of the New York Police Department, the implementation of body-worn cameras reduces community complaints against officers by 21 percent but increases police stops of community members by 39 percent (Braga et al. 2022). Other research has found that implementation of body-worn cameras increases police enforcement activity in areas with a high percentage of Black residents and tends to increase these activities in high reported-crime areas—both neighborhood characteristics normatively associated with greater police enforcement activity (Hughes et al. 2020). Taken together, the findings for the effects of body-worn cameras suggest the value of further research to understand how they influence police behavior (particularly with respect to racial disparities) by considering both organizational and structural (for example, neighborhood) factors. Understanding these effects more comprehensively can also help produce a more accurate cost-benefit analysis of body-worn cameras (for example, considering the effects on reducing community complaints versus the cost of the equipment; see Williams et al. 2021).

MACRO-LEVEL PROCESSES AND BIAS IN POLICING

We described macro-level processes as the Billionaire because these influences involve the control and distribution of a vast array of resources in potentially discriminatory ways across organizations. Like meso-level processes, macro-level processes appear most evident through discriminatory outcomes. One way to distinguish meso- and macro-level processes in racial bias in policing is by thinking about the difference between organizational and systemic factors. Here, we differentiate organizational racial bias (a meso-level influence) from systemic racial bias (a macro-level influence) by the scope of their impacts. Organizational bias relates to normative practices and beliefs, as well as formal policies, that are established within a particular organization (in this case, a specific police department). Systemic bias involves the normative practices, beliefs, and formal policies across an industry (such as the industry of policing) or across multiple industries (for example, government

redlining that influenced lending organizations, insurance companies, and real estate agencies and that trapped Black residents in high-poverty neighborhoods and ultimately produced higher vulnerability to street crime and subsequent police contact). Both organizational and systemic bias differ from bias involving purposeful actions by individuals to disadvantage or otherwise harm a group and its members—that is, intrapersonal, nano-level or interpersonal, micro-level biases.

The distinction between organizational and systemic bias is relevant because of a particular aspect of policing. In the United States, while policing as an industry exists across the country, the structure of policing is predominantly local. From its earliest origins, policing in the United States has been the province of local and state governments. The earliest professionally organized police departments began in major US cities: New York City in 1844, New Orleans and Cincinnati in 1852, Boston and Philadelphia in 1854. Other cities subsequently established their own police departments, and within cities the authority for policing was decentralized to units (an organizational level) functioning at the level of political wards and neighborhoods. Federal police agencies also exist, but the roles of these agencies are typically very specified. For example, the United States Secret Services was created in 1865 to prevent counterfeiting, and the Federal Bureau of Investigation was formed in 1908 to investigate antitrust cases, several types of fraud, and certain crimes committed on government property or by government officials. Thus, while policing may share many common elements and regulations across localities (shared institutional factors), agencies differ substantially in their local circumstances, leadership, challenges, and priorities (organizational factors).

In the previous sections, we considered nano-, micro-, and meso-level processes and how these processes can produce racial discrimination in policing. These levels of sociopolitical organization allow for interventions that improve individual behavior or policies. However, they do not allow for considerations of whether the systems are set up justly in the first place. In this section, we examine how so-

cial forces—historical as well as current—produce disparate outcomes for members of various groups through societal beliefs, policies, and practices. We further pursue a macro-level analysis in the final section by considering alternatives to policing, a growing area of policy interest.

Systemic Influences

Macro-level biases in policing have multiple sources. Elizabeth Hinton and DeAnza Cook (2021, 261) discuss, for example, the “multifaceted ways in which policymakers and officials at all levels of government have used criminal law, policing, and imprisonment as proxies for exerting social control in predominantly black communities from the colonial era to the present” and “the inequity entrenched in the administration of criminal justice in the United States from the top down and the ground up.” Rory Kramer and Brianna Remster (2022) further highlight the economic considerations that shape policing. Policing consumes a substantial percentage of municipal budget, but it also generates income for municipalities. As Shannon Graham and Michael Makowsky (2021, 312) observe, “The criminal justice system, over the past thirty years, has become a common means by which local governments balance their budgets, with many municipalities going so far as to become dependent on fine and fee revenue to maintain solvency.”

The financial benefits from policing frequently and disproportionately come at a direct cost to members of minoritized groups (a form of “racial capitalism,” see Pulido 2017). For instance, many city budgets rely on fines generated by policing practices (Fernandes et al. 2019). Cities with larger Black populations tend to focus more on collecting those fines (Sances and You 2018), and the resources devoted to collecting fines can result in fewer resolved investigations of violence (Goldstein et al. 2020). Moreover, prioritizing revenue generation by law enforcement can fuel discrimination against social and financial segments of the population (Graham and Makowsky 2021). One study shows, for instance, that drug-related and DUI arrests increased for Black and Latine residents, but not for White residents, when police were allowed to retain the proceeds from

forfeited property in their budgets (Makowsky et al. 2019). While increasing involvement of law enforcement does not appear to come at the expense of an increase in violent crime (Makowsky et al. 2019), it does undermine the trust in police among members of the communities most affected (Graham and Makowsky 2021). Policing practices can also create municipal income longer term by facilitating gentrification of particular neighborhoods (Beck 2020; Laniyonu 2018).

Systemic processes, often reflective of structural influences, can also contribute more indirectly to racial disparities in policing, potentially attributable, at least in part, to discrimination. We offer an illustrative example that focuses on place—geographic locations in terms of communities and neighborhoods and their associations with racial disparities in policing. Place matters substantially for many key aspects of residents' lives (such as health and healthcare; see Penner et al. 2023), and perhaps because of the local nature of policing, place particularly matters in policing.

One robust finding in the literature on policing outcomes is that police use of force is greater in communities that have residents lower in socioeconomic status, a higher percentage of Black residents, and higher crime rates (Shjarback 2018; see also Braga et al. 2019). In general, policing in communities with these characteristics tends to be aggressive in controlling crime (Boyles 2015). Moreover, the effects of community characteristics on a range of policing outcomes (such as discretionary arrests, mistreatment, use of nonlethal and lethal force) occur independently of individual-level officer characteristics (see, for example, Feldman et al. 2019; Huff 2021; Zhang and Zhang 2021). Also, community socioeconomic standing, racial-ethnic composition, and crime rates often exert influences that are statistically independent of each other (and of additional potentially relevant control factors). For instance, neighborhoods in Boston with 85 percent Black residents experienced fifty-three more street-stop encounters per month relative to neighborhoods with only 15 percent Black residents, when researchers control for crime, police resources, and other factors (Fagan et al.

2016). Community socioeconomic position, racial composition, and crime rates may also have reciprocal causal relationships. Communities with high percentages of Black residents or residents from other minoritized racial and ethnic groups that are also economically disadvantaged and underresourced experience disproportionately high levels of police contact and mistreatment (see Fagan and Davies 2000).

Residential Segregation and Policing

While the associations of community socioeconomic standing, composition, and crime with racial disparities in policing are often statistically separable, these factors are correlated at a societal level and can be traced to similar root causes. They are the legacy of formal and informal policies producing racial residential segregation in the United States (see Penner et al. 2023). A range of structural factors over time have produced high levels of racial residential segregation today, particularly between Black and White people. Racial residential segregation was formally enforced through the institution of slavery, and then subsequently through Jim Crow laws, and through laws and statutes (such as those related to “sundown towns,” which were towns in which Black people had to leave at dark) into the 1960s. Even after the landmark civil rights legislation of the 1960s, restrictive zoning and covenants, federal policies for public housing, redlining for housing loans, and the persistent influence of individual-level racial bias continued to promote residential segregation.

Segregated housing has been and continues to be a major cause of racial inequities in all facets of residents' lives. Policies and individual-level biases that promoted racial segregation in housing also relegated Black neighborhoods to geographic areas that were less desirable, less healthy (because of more exposure to toxins or less access to healthy foods, for example), and more limited in access to essential healthcare services. Clearly, not all majority-Black neighborhoods are under-resourced or have residents who are predominantly of low socioeconomic status. Nevertheless, on average, the residents of most predominantly Black neighborhoods are much more likely to be poor than are residents of pre-

dominantly White neighborhoods. Poor Black people are more than three times as likely as poor White people to live in neighborhoods where the poverty rate is 40 percent or more. Segregation is a major contributor to “racialized concentration of poverty” (Massey 2016).

This economic disadvantage limits social mobility. In 2020, lenders were 80 percent more likely to deny a mortgage to Black applicants than they were to White applicants (Glantz and Martinez 2018); economic factors were the most commonly cited explanation for this disparity. Also, high school students from families lower in socioeconomic status are less likely to attend college, have fewer choices about where to attend college, and when they do attend college, they are more likely to attend less selective institutions (Walpole 2003). Areas higher in poverty also tend to have higher rates of reported crime (Sharkey et al. 2016). One study reveals, for instance, that men who grew up in low-income families are twenty times more likely to be incarcerated than men who grew up in high-income families (Looney and Turner 2018). Additional research has identified a direct causal link between poverty and criminality, over and above other related causes such as unemployment (Imran et al. 2018).

Such neighborhood contexts also promote racial bias among police officers. Police officers working in neighborhoods with higher rates of poverty, greater crime, and a higher percentage of Black residents have more negative attitudes and express more negative stereotypes of adolescents in the community (Fix et al. 2023). As discussed earlier, negative attitudes and stereotypes of police officers are a significant driver of racial disparities in policing, including stops, searches, and use of nonlethal and lethal force. These biases are particularly likely to produce excessive and racially disparate use of force in these areas because police officers tend to behave more aggressively in places that they consider more dangerous (Gaston and Brunson 2020).

Disinvestment in Systems of Support

Disinvestment in systems and resources previously used to respond to substance abuse (public parks, homelessness, schools, in-patient hospital crises, and mental health) has been

accompanied by increased reliance on policing, substituting systems of preventive care with systems of responsive punishment (Hinton 2016; Soss and Weaver 2017). Each produces racial disparities by dint of geography, concentrated disadvantage, and bias across levels. Each is a community crisis that used to have significant dedicated resources devoted to preventing and treating it. Increasingly, policing and the threat of incarceration have been the response of first resort (and sometimes last resort, as well). Much has been written about how police can respond to each of these crises more efficiently, equitably, and humanely. However, given the history of each, the question must be asked: why are police the responders we have decided are best equipped to respond to these crises? The case of mental health may be most instructive, as there is a sizable literature on deinstitutionalization and the corresponding rise in policing (Lamb and Weinberger 2020).

The decline in public spending on mental health has been precipitous since the 1950s and parallels an increase in police contact with individuals navigating mental illness (Lamb and Weinberger 2020). However, this apparent trade-off from care to punishment does not track with public opinion. Rather, the public does not have confidence in police officers’ ability to deliver appropriate care to people navigating mental illness (Milam and McElwee 2021), and the limited research on training officers to improve that care reveals an ineffective standard at best (Compton et al. 2008). Similarly, while officers report believing that individuals with serious mental illness should be treated less harshly than other residents and are less culpable for their wrongdoing than their neighbors, a recent analysis of police use of force toward the same population shows major disparities, with persons with serious mental illness experiencing twelve to thirty times higher rates of police use of force than their representation in the population would predict (Laniyonu and Goff 2021).

Macro-Level Interventions

Understanding the systemic and structural (macro-level) processes related to policing and their potential relationships can inform ways to increase the effectiveness of policing, as a

social institution, in addressing crime and doing so in a more racially equitable way. These interventions have often involved more policing (Mello 2019), but strategies emphasizing new ways of policing hold particular promise. Moreover, initiatives for reducing criminal activity related to structural-level influences may not include policing at all or may involve a substantial reconceptualization of policing.

Problem-Oriented Policing

Anthony Braga and colleagues (2019; see also Petersen et al. 2023) propose, with supporting evidence, that problem-oriented interventions generally produce larger decreases in crime than traditional police actions in hot spots without producing mass arrests or unnecessary stops that undermine police legitimacy and erode police-community relations. According to these researchers (545–46), problem-oriented policing is “a proactive crime prevention strategy that seeks to identify the underlying causes of crime problems and to frame appropriate responses using a wide variety of innovative approaches” using “strategies can help safeguard against the use of overly harsh and indiscriminate enforcement tactics.” Such interventions are most effective when they involve working with the community to establish bi-directional communication, facilitate joint problem-solving, promote procedural justice, and build resilience and collective efficacy with an enduring structure for productive police-community relations (National Academy of Science, Engineering, and Medicine 2018). Braga and colleagues (2019, 547) explain: “Developing close relationships with community members would help the police to gather information about crime and disorder problems, understand the nature of these problems, and solve specific crimes. Community members can also help with key components of strategies tailored to specific problems by making improvements to the physical environment and through informal social control of high-risk people. In this way, police strategies focusing on particular people and places would cease to be a form of profiling and instead become a generator of community engagement projects.”

Such police-community partnerships are also effective at increasing perceptions of po-

lice legitimacy, which contributes to more effective policing. When people see the police as more legitimate, they are more likely to adhere to the law and to cooperate with law enforcement in reporting crime and information that is valuable for addressing crime.

Community Organizations

While police-community partnerships can be valuable for improving public safety, community organizations, made up of neighbors and residents alone, can also be very effective. Patrick Sharkey, Gerard Torrats-Espinoza, and Delaram Takyar (2017) identify numerous nonprofit community organizations, such as Alianza Dominicana and the Community League of West 159th Street in New York City, that have played major roles in reducing crime in their communities. Such nonprofits employ a variety of strategies, including building affordable homes and training and hiring formerly incarcerated residents to maintain neighborhood spaces, but they share a common goal of addressing violence and rebuilding community. Testing the often-overlooked impact of community organizations of this type across a sample of 264 cities and examining effects across a twenty-year period, the researchers conclude that “every 10 additional organizations focusing on crime and community life in a city with 100,000 residents leads to a 9 percent reduction in the murder rate, a 6 percent reduction in the violent crime rate, and a 4 percent reduction in the property crime rate” (Sharkey et al. 2017, 1214). Thus, these organizations can significantly reduce crime in the absence of aggressive policing or expanded police presence.

Neighborhood Investment

To the extent that concentrated poverty relates to high levels of criminal activity in a locality, alternative interventions that do not involve policing may be effective for reducing crime by targeting a root cause. One program intended to do this involved creating “Opportunity Zones” in economically distressed areas by offering special tax incentives to businesses investing in these neighborhoods. Despite the admirable aims of this program, Opportunity Zones have had limited impact on the commu-

nity while providing more substantial benefits to investors (Theodus et al. 2020). However, the Urban Institute recommended changes that would provide a sound basis for any program designed to infuse communities with jobs and investments, such as prioritizing projects that have the most immediate economic impact on the community (such as job creation) over those that generate the most profit for the investors and seeking more support from Community Development Financial Institutions, which are private financial institutions that are dedicated to providing affordable lending to help low-income and socially disadvantaged people and communities improve their economic standing. In addition to bringing capital into poor and underresourced Black neighborhoods, these investments can also ameliorate the conditions that foster criminal activity. Advocates of “placemaking” argue that unless outside investments are directed at the *causes* of a neighborhood’s problems, they will not create any sustainable change (Adebowale-Schwarte 2017).

Beyond the macro-level interventions that we have identified in this section are other fundamental structural interventions that represent alternatives to traditional policing. These alternative approaches may not only better address the problems of equitably policing but also create systems of support to better serve the public.

MEGA-LEVEL PROCESSES AND BIAS IN POLICING

Mega-level processes in our framework are called the Great Bard. We chose this personification because mega-level processes are the stories and narratives that are told within and about a culture that justify and perpetuate inequities across groups. These stories are deeply embedded in the culture, and they influence what is idealized within a society. Beyond the interplay of history and the interwoven forces that work across organizations, there are the stories told about why the systems that a society has built are good, inevitable, or necessary. These stories can, for example, lead to a significant overestimation of the progress that the society is making in achieving racial equality (see Torrez et al. 2024). Such mega-level pro-

cesses can also include the stories and narratives about race and crime that pervade daily life, which serve to justify institutional and cross-institutional treatment of marginalized groups that obscure discriminatory outcomes.

Cultural Influences

The narrative that only police can prevent crime is an oft-repeated bipartisan mythology that perpetuates the dominant role of policing in the lives of people of color (Najdowski and Goff 2022; Prowse and Goff 2023). As Eduardo Bonilla-Silva (2021) illuminated in his influential book *Racism without Racists*, despite frequent rhetoric in support of equality, White people’s actions are substantially determined by practices, beliefs, arguments, and rationalizations that account for and ultimately justify racial inequities. However, individuals, organizations, and institutions may not be aware of the unfair impact of these beliefs, practices, and formal policies because they are normative and perceived as appropriate and effective (for example, system justification; Jost 2020).

At a mega-level, cultural stories and narratives articulate a wide variety of beliefs, ideologies, and rationalizations—many of which may be conflicting (for example, principles of equality, in which outcomes are shared equivalently, versus equity, in which outcomes are determined proportionately based on investment)—for individuals, organizations, and society to adopt. The nature of cultural narratives limits the choices available to individuals and collectives, but the motives and goals of individuals and collectives, which may be explicit or implicit (Desai, Paranamana, et al. 2023), influence which of the beliefs and ideologies are adopted or applied in particular social contexts.

With respect to race, two such available but conflicting principles are multiculturalism, which involves recognizing and respecting the presence of multiple cultures, and colorblindness, which is the belief that it is both possible and desirable to treat people without regard to their race. While colorblindness may sometimes be endorsed out of genuine desire to promote harmony and ultimately achieve equality, in practice it often exacerbates intergroup tensions and generally reinforces group hierarchy as it cloaks subtly biased interpersonal behav-

iors, organizational practices, and societal policies to perpetuate inequity across groups (Neville et al. 2013; Yi et al. 2023). Of direct relevance to policing, an extensive ethnographic study found that while the policies and practices of a police department reflect “racial governance” that produces racially disparate outcomes in policing, there is “widespread denial or racism in officers’ accounts of phenomena ranging from segregation to police shootings. Officers instead offer colorblind interpretations of social problems and narrate their work in relation to geographic and functional subdivisions, policies, and laws” (Gordon 2024, 3377).

There is relatively little quantitative work on the relationship between these societal-level stories and actual policing. A time-series analysis reveals that across the period from 2014 to 2019, there was a systematic, positive relationship between stories in eight major news outlets including violent political rhetoric, defined as “language that defames, dehumanizes, or threatens opponents” (Zeitsoff 2023, 5), and subsequent police violence resulting in the death of a community member (Nugent and Khalil 2024). Although this research did not test for differences related to the race of the victim, given the statistics on racial disparities involving victims of police violence and the impact of such violence on Black community members, it is very likely that the impact of violent political rhetoric has a particularly negative impact through policing on Black people.

Additional evidence linking societal-level stories and policing appears in emerging literature on “copaganda” (for example, Rackstraw 2023) that harkens back to the days of W. E. B. Du Bois (1935). In this literature, the term copaganda refers to the tendency of both news and entertainment media to communicate stories that assume the necessity, virtue, and effectiveness of police and their tactics. This “positive police PR” can make it more difficult to gain political momentum for resisting police expansion—or even challenging the status quo.

While narratives and stories have historical roots and are firmly entrenched in culture through transmission across multiple generations or widespread endorsement of political, economic, and social leaders, work on copaganda

highlights the dynamic and potentially malleable influence of mega-level processes. For example, with respect to policing, mass media, in the form of reality-television shows that portray police officers as protagonists, highlight a particular narrative of police-community relations that can change the nature of that relationship. In particular, police departments featured in these shows demonstrate a significant (20 percent) increase in arrest rates, but mainly for low-level victimless crimes (see Rackstraw 2023). Media influence of this type represents a form of copaganda that could possibly have broader impact on policing and public support for policing in ways that obscure, tolerate, or support discrimination in policing.

Although the body of work, and particularly quantitative research, on mega-level influences on policing is currently more limited than investigations at other levels of analysis, research in political science (for example, Huddy and Khatib 2007) and cultural psychology (for example, Hammack 2008; Markus and Kitayama 2014) does suggest there are fruitful methodologies available to trace the relationships among cultural narratives, institutional norms, and individual behaviors relevant to policing.

Mega-level Interventions

The current scholarship surrounding changing cultural narratives is highly theoretical. While public opinion polling can observe societal-level changes in attitudes (for example, the rapid decline in antigay attitudes in the United States; Kumar et al. 2023), it is theorists like Marx who tend to focus scholarly efforts on how one might intervene on cultural narratives. But this need not be so. Attitudes toward policing changed rapidly in the wake of the murder of George Floyd and, while those changes were transitory, particularly among White people (Williams 2021), there is still a broader awareness of racial disparities and likely discrimination in policing than before 2020. Because attitude change is an area of expertise among psychologists, narrative psychology is an emerging subfield (László 2008), and both political scientists and communications theorists devote significant time to thinking about political narratives. Similarly, the work of political philosophers (for example,

Adorno 2019; Stanley 2015) has long focused on how political language produces cultural changes on the way to group-based domination, with the work of Adorno giving birth to a generation of political psychologists and sociologists interested in the overlap of personality and the endorsement of political systems. The recent rise of moral psychology (for example, Dunlea and Heiphetz 2021; Mosley and Heiphetz 2021) provides a model for formally testing these largely philosophical hypotheses. In other words, it is possible to turn the tools of behavioral science toward the problems of structural racism. In the interim, it is at least important to recognize that this level of sociopolitical organization exists and to identify it as a force that potentially influences racial discrimination in policing.

MOVING FORWARD

The evidence of racial disparities in policing in the treatment of Black people relative to White people is robust and persistent. As we documented earlier, Black people are more than twice as likely as White people to be the victims of fatal shootings and the targets of nonlethal force by police officers; they are also significantly more likely to be stopped and frisked as pedestrians and stopped and searched as drivers. Substantial disparities also exist for members of other minoritized groups (for example, Latine individuals) relative to White people.

However, such disparities, no matter how strong or consistent, are not direct evidence, in themselves, of discrimination in policing. There are multiple factors involved that operate across different levels of sociopolitical organization. In this article, we introduced distinctions across five levels of sociopolitical organization—the nano- (intrapersonal), micro- (interpersonal), meso- (organizational), macro- (institutional, pan-organizational), and mega- (cultural) levels—for understanding the diverse processes that can affect racial bias in policing. We use this framework as a taxonomy for organizing the vast and rapidly expanding multidisciplinary literature in this area and structuring our review of that literature. Our review of the relevant research at each level strongly implicates the roles of nano-, micro-, meso-, macro-, and mega-level processes in

producing racial inequities through discrimination in policing.

The challenge for achieving equity in public safety is that racial bias in policing operates at all these levels. Even if it were possible to make all police officers racially unbiased (nano-level), the existence of organizational (meso-level) biases, systemic (macro-level) biases, and cultural narratives that normalize bias (at the mega-level) that have effects in the absence of animus or even awareness, there would continue to be racially inequitable outcomes in policing that disadvantage Black people. Conversely, if systemic, organizational, and structural biases were eliminated but individual racism permeated policing, Black people would also continue to be targets of discriminatory policing. Efforts to address racial inequities in policing thus need to combat biases at each level in a comprehensive and coordinated way.

Understanding these dynamics more deeply can guide the development of interventions that not only address biases in policing associated with processes at each of the different levels of sociopolitical organization but also have broader impact by targeting unique multilevel dynamics of racial bias in policing. While research at each of the separate levels suggests theoretically grounded interventions that can potentially reduce racial disparities in policing, these efforts often encounter obstacles to implementation. They may also produce backlash. For example, antibias training—an intervention aimed at changing intrapersonal, nano-level processes—reliably increases knowledge and understanding of racial disparities but has not been shown to have an enduring impact on police officer behavior. Antibias training efforts may also produce reactance among participants and encounter political resistance. Increasing the priority and practice of procedural justice with a police agency or department—a meso-level intervention—has been shown to reduce officer use of force and improve police-community relations. However, organizational culture change is difficult to achieve and sustain, particularly when the aim of the change is at odds with traditional (institutional) police culture. Hot-spots policing—a macro-level strategy—can reduce crime within

a specific area, but expanding police activity may cause community backlash and harm to community members who have unnecessary negative encounters with the police. Important questions thus remain about how to best understand and address unfair racial disparities in policing.

In the remainder of this last section, we discuss two potential ways to move forward to address the significant and persistent problem of racial disparities in policing. We first discuss why and how policing, and the problems of policing, need to be understood in the context of all five levels of sociopolitical organization, and the need to adopt an interdisciplinary and multidisciplinary approach. Then, we consider how policing in the United States can be reimagined to be not only more equitable but also more effective.

Multilevel Perspective

We organized our review around the research literatures associated with the processes frequently studied at each of five levels of sociopolitical organization. Although this approach maps the empirical findings in a comprehensive way, pursuing the issue of racial disparities, and potential racial discrimination, in policing separately at each level is limited in illuminating the complex dynamics involved that not only operate within each level but also potentially interact across levels of sociopolitical organization. Thus, moving forward, we recommend a predominantly multilevel analysis of the issue.

A multilevel analysis is also inherently multidisciplinary. We reviewed work conducted by criminologists, economists, legal scholars, political scientists, psychologists, and sociologists with a common interest in racial bias in policing. Multidisciplinarity offers a greater range of resources than work within a single discipline; it draws simultaneously on the knowledge base, methods, and insights from different scholarly disciplines. In fact, as psychologists, we acknowledge that the individual-level approach of psychology is inadequate to fully understand these racial disparities.

Disciplinary boundaries can present barriers, however. Scholars from various disciplines adhere to different methodologies, theories,

disciplinary concepts and language, and publication standards that make integrated research perspectives challenging (Ghamgosar et al. 2023). These obstacles often limit analysis to describing the processes at multiple levels as parallel ones, much as we partitioned the current review. Nevertheless, racial disparities in policing are likely grounded in processes, potentially racially discriminatory ones, at multiple levels *jointly*, for example in complementary or reciprocal fashion. We therefore propose that the five-level framework we presented be further developed to create a conceptual model of how processes at these various levels combine to create, sustain, and justify racial disparities in policing.

As we noted when we introduced this framework, despite the linear organization of these levels of analysis, we do not consider either extreme, the intrapersonal, nano-level (in a bottom-up way) or the cultural, mega-level (in a top down fashion), as distinctively foundational. Instead, each level in the framework can have influences that are sufficient to produce and sustain racial biases. Racial bias can be the result, independently, of individual racial animus expressed in thought or action (nano- or micro-level influences) or through intraorganizational or interinstitutional policies and practices (meso- and macro-level processes) or embedded in cultural narratives (mega-level processes). However, it is likely that processes at these different levels operate jointly in a variety of different ways. For instance, racial stereotyping—generally and in the context of policing—occurs because of the tendency of humans to develop mental shortcuts (heuristics) and to socially categorize individuals to cope with the overwhelming volume of information they must process. Whereas these nano-level processes create a psychological tendency to form stereotypes of salient groups, cultural narratives shaped by historical and contemporary system-justifying narratives (mega-level processes) largely determine the specific content of these stereotypes. Through interpersonal interaction and socialization (a micro-level process) and mass media (a mega-level process), these stereotypes are transmitted and adapted over time as societies evolve.

Indeed, research on policing often does con-

sider how influences at different levels of sociopolitical organization combine to influence racial bias in policing. For example, empirical research that has adopted a multilevel perspective (Farrell 2024) has examined the effects of the race and gender of a person stopped by a police officer (micro-level influences) in conjunction with the characteristics of the neighborhood in which the stop occurs (a macro-level factor) on whether or not the police officer engages in further action (frisking, searching, summoning, or arresting the person). That research showed that the officer was more likely to pursue further action after the stop when the person was a man rather than a woman, the person was Black rather than White, and the stop occurred in a more predominantly Black area. However, a cross-level analysis revealed significant interactive effect. Whereas Black people stopped were generally more likely to be subjected to further action than were White persons, Black persons who were stopped were especially likely to be frisked, searched, summoned, or arrested when they were stopped in neighborhoods that had more White residents, suggesting that they were perceived as more “out of place.” This multilevel analysis thus provides important information beyond and different from the results of testing each predictor separately.

We offer additional concrete examples of the methodological, theoretical, and practical value (with respect to intervention development and assessment) of cross-level analyses of racial disparities in policing.

Methodological Refinement

One of the major methodological challenges for understanding the bases of racial disparities in policing involves the issue of directly establishing the causal effect of race, which is essential for determining the impact of racism in policing (National Academies of Sciences, Engineering, and Medicine 2018). In field studies, typically conducted by behavioral science researchers in disciplines other than psychology, techniques such as benchmarking and time-series analysis are often used to test hypotheses about the role of discrimination in racial disparities in policing. However, depending on how a researcher implements these techniques,

they may not produce valid inferences about the causal role of discrimination (Neil and Winship 2019).

Traditionally, particularly in psychology, the gold standard for establishing causality in research has been an experiment that tests the impact of a manipulated independent variable on the outcome of interest and controls for other influences in the situation. For both ethical and practical reasons, such direct experimental work in the naturalistic context of policing is relatively rare. Much of the experimental evidence in psychology we have described, such as the shooter bias, has involved simulations of police-relevant behaviors using either participants from the general population or police officer participants. While these experiments help identify underlying causal processes (for example, the role of individual-level biases on perceptions of threat based on the race of another person), the external validity (the generalizability) of such findings is limited. Quasi-experimental tests (for example, the veil of darkness paradigm, which shows that racial disparities in police stops of motor vehicles are significantly smaller at night, when it is more difficult for officers to discern the race of the driver, than during daylight) are thus particularly valuable because they complement the findings of laboratory-controlled research on bias and discrimination in critical ways.

Multilevel analysis can also help, methodologically, to distinguish various types of influences that could account for the same policing outcome. For instance, the finding related to structural-level processes that the greater incidence of police stops in neighborhoods that are predominantly Black than in those that are predominantly White (for example, Fagan et al. 2016) could be a consequence of individual-level police bias, greater police racial bias, or officers’ experiences with more crime in the area (Braga et al. 2019). Time-series analyses considering individual-level factors (for example, increases in personal bias or perceptions of threat) and location-related factors (for example, changes in neighborhood composition or crime rate) could help disentangle potential causal influences for such associations. Determining the nature of causality is essential for

designing, implementing, and assessing interventions to reduce racial disparities in policing.

In addition to further refinement of the methodologies used to validly assess the influence of discrimination on racial disparities in policing, the triangulation of findings from less than perfect paradigms across levels of analysis and disciplines with appropriate caution can still contribute positively to theory development and testing, as well as help guide practical interventions.

Theory Development

Considering multiple levels of sociopolitical organization also generates productive theoretical developments. Here we offer one such example. Ryan Hübert and Andrew Little (2023, 2828) describe a model of how police officers “form beliefs using crime statistics but do not properly account for the fact that they will detect crime in more heavily policed communities.” The effect can be understood as an example of the nano-level fundamental attribution error (Ross 1977), in which people tend to overestimate the influence of others’ actions on the personal characteristics of the actor (dispositional attributions) and underestimate the influence of the context in which the action occurs (situational or environmental attributions). These dispositional attributions, in turn, guide the subsequent perceptions of community residents, generating greater suspicion of criminal activity by police officers (a micro-level process) and produce organizational responses, such as intensified policing in specified locations (a meso-level response). This intensified policing can then yield greater evidence of criminal activity, not because of any increase in the individual propensity for such activities by community residence, but because more incidents are detected by greater police surveillance. This process then adds to the body of crime evidence that police officers use to form their beliefs about racial differences in crime. The researchers conclude, “This creates a feedback loop where officers over-police groups that they (incorrectly) believe exhibit high crime rates. This inferential mistake can exacerbate discrimination even among officers with no animus and who sincerely believe that disparities are driven by real

differences in crime rates” (Hübert and Little 2023, 2828).

We propose that explicitly structuring conceptual analyses around the premise that distinct forms of bias reside in different levels of sociopolitical organization and that these influences combine in particular ways can help provide more theoretical coherence to the existing literature and offer new insights for emerging works. Given that processes at one level may combine with processes at any other level (or multiple levels), one priority for the task of developing this conceptual framework would involve empirically identifying which combinations are most influential in practice in a given context—in this case, the context of policing. Understanding these dynamics more deeply can inform the development of interventions that not only address biases in policing associated with processes at different levels but also have broader impact by targeting unique multilevel dynamics of racial bias in policing.

Intervention Development

Both theoretically and practically, not only does simultaneous consideration of different levels of sociopolitical organization promote a more comprehensive understanding of the dynamics underlying racial disparities in policing, but it can also facilitate more expansive consideration of solutions. Our analysis of conditions that tend to increase the likelihood of racially discriminatory policing through individual-level processes (see also Pryor et al. 2020) suggests changes in practice or policy to reduce racially biased misconduct by police officers at the individual level. As Jillian Swencionis and Phillip Atiba Goff (2017) note, limiting officer discretion—for example, by clarifying conditions under which use of force is permissible—would be an important step for reducing racial discrimination in this area. This can be accomplished through more meso-level changes in policies within a specific police department (meso-level) or at a broader, macro-level. As an example, since the murder of George Floyd in 2020, twenty states have modified their use-of-force standards, typically clarifying that deadly force is justified only as a last resort after exhausting all nonviolent options (Subramanian and Arzy 2021).

As we previously discussed, a large body of research indicates that, at the individual level, police officers' stereotypes of Black people (and other minoritized groups) and other explicit or implicit biases systematically contribute to racial disparities in police stops and searches and in nonlethal and lethal use of force. Traditionally, the recommended solutions for these effects have also been individual-level, such as improving selection procedures or having officers participate in various forms of antibias training. However, the scholarly evidence indicates that there is not a specific type of training intervention that can reliably reduce implicit bias and possibly even explicit bias in an enduring way (Greenwald et al. 2022; Paluck et al. 2021). A multilevel approach suggests promising alternatives to reducing discriminatory behavior—an ultimate goal.

We considered the role of norms as a meso-level organizational process. Norms are the informal rules and practices that define how individuals should behave within an organization. Whereas stereotypes and attitudes are well-established habits of mind that are difficult to change because they are connected to multiple aspects of social networks and attempts to change them can create backlash, people readily adapt their behaviors to the norms of various situations they encounter. People automatically activate normative guidelines in these contexts, and these norms reliably shape actions both because people are motivated to behave in accordance with these guidelines as members of the group sharing these norms and because other members of the group will enforce these norms when an individual's behavior deviates from these guidelines.

We acknowledge, though, that there are often conflicting norms in a particular situation. For instance, norms established within particular police agencies or departments for other officers to intervene to prevent unjustified or excessive use of force may be at odds with traditional norms for policing as an institution that emphasizes strong loyalty and mutual support among line officers (Silver et al. 2017). Formal policy changes may therefore be needed to achieve the desired effect (Subramanian and Arzy 2021). For instance, since the murder of George Floyd in 2020 by officer Derek Chauvin

while three officers watched or assisted, twelve states and the District of Columbia have instituted laws declaring that police officers are responsible for intervening when they observe cases of excessive or illegal force or misconduct. Penalties for not abiding by these policies range from decertification of officers to criminal liability. Even in the absence of state-level action, agencies and departments are establishing new policies. In the past three years, twenty-one of the nation's one hundred largest police agencies have adopted "duty to intervene" policies (Subramanian and Arzy 2021).

Intervention Assessment

A multilevel approach offers a more valid cost-benefit analysis for assessing impact of interventions. For example, whereas the impact of increased police stop and frisk activity is frequently assessed in terms of crime rates in a particular location—one goal of such initiatives—the impacts of such actions (for example, on the mental and physical health and perceptions of police legitimacy of community members) are also individual-level outcomes relevant to the longer term and broader effectiveness of policing. The limited impact of stop and frisk interventions for reducing crime may be substantially outweighed by the costs of community health and erosion of perceptions of police integrity (see Petersen et al. 2023). Moreover, if researchers use a broader lens when considering the impact of police interventions, they can stimulate new, important issues to be considered empirically and in application. For instance, Braga and colleagues (2019, 545) observe: "The existing body of scientific evidence on proactive policing programs generally does not consider how these crime reduction and community perception impacts might vary with the racial composition of communities, the police department, and police leadership." Understanding how various factors that have been typically studied within a particular level of analysis operate jointly to impact intervention effectiveness is essential for developing and implementing new strategies for reducing racial discrimination while improving the effectiveness of policing.

A multilevel approach to understanding and addressing racial discrimination in policing in-

volves increasing equity and improving the effectiveness of policing as presently conceived. The model of policing in the United States today is anchored in policing tradition and in its current structure. Therefore, even with a more comprehensive understanding of the factors contributing to racial disparities in policing, change may essentially be only incremental. Institutions and organizations, particularly when conditions of threat are involved, tend to resist change through both informal and formal means (for example, through system-justifying ideologies; Jost 2020). New models of policing may be needed to address the challenges of policing in society now and in the future.

Policing Reconceived

While arguments for fundamental change in policing as an institution (for example, “defund the police”) have generated substantial political debate and conflict, many scholars have proposed ways of re public safety in the United States to address the important issues raised both by police officers and the public. Indeed, police officers have long asked to be relieved from the responsibilities of addressing a range of challenges (for example, handling situations involving substance abuse, mental health, and problem behaviors in schools) they regularly face. Furthermore, given how much training is involved in dealing with any one of them, it seems unreasonable to expect police officers to be adequately trained for *all* of them as well as to be prepared to deal directly with a range of criminal activities, including extreme circumstances such as those involving active shooters. So, if police are ill prepared for the range of responsibilities they are asked to perform, and the public does not trust them to do the job, what can be done?

This quandary is why the explosion of alternatives to policing has continued since 2020 (Center for Policing Equity 2024). Yet, because many of these efforts are so new, it will be some time before the science is settled about which ones provide the highest return on investment, what the minimum necessary dosage of these alternatives is to improve public safety, and what the sequencing of investments might look like to maximize safety and minimize the bur-

dens of our systems of punishment—especially on Black communities.

Tailored Responsibilities

Tom Tyler (2021; see also Kramer and Remster 2022) observes that, traditionally, the focus of policing in the United States has been on controlling reported crime through force and heightened risk of being caught and punished. A major consequence of this approach is that police officers are primarily “trained in one skill set. They learn how to deploy force to compel compliance” (Tyler 2021, 1393). One proposed way to make policing more equitable is to have resources be reallocated to social services and allow police officers to focus more narrowly on controlling serious crime. However, this work acknowledges questions about the feasibility of that approach given the resources needed to create an adequate social service infrastructure to relieve police officers of these responsibilities.

Legitimacy-Based Policing

Tyler (2021, 1398) also proposes an alternative approach: that policing be more fundamentally reimagined around the “question of how people would like the police to deal with social order in their community.” Central to this process would be a shift in policing from a force-based style to gain compliance to a style oriented toward building trust and confidence in the community by establishing legitimacy through procedural justice practices (Chan et al. 2023). When people view the authority of police as legitimate, they more willingly accept and follow police officers’ directives and abide by the laws they enforce. This model of policing promotes the development of police-community partnerships to prevent crime while addressing structural factors that foster crime by establishing “a climate of reassurance within communities that promotes their social, economic, and political vitality” (Tyler 2021, 1388). However, such efforts to improve the legitimacy of policing in the eyes of Black people (and members of other minoritized groups) need to acknowledge that “policing has been seen as racial terrorism in too many communities for too long” (Goff 2021, 678) and that helping communities heal from the harms of polic-

ing (see Prowse and Goff 2023) is a key step in achieving the partnerships and trust Tyler envisions.

Asking the Right Questions About Race and Policing

While Tyler's recommendation for reconceiving policing promises more effective and equitable policing, we offer another perspective. Rather than framing the problem as one of how to change bad police officers into good ones or how to make policing that is limited in effectiveness more effective, it is important to recognize that policing itself is often the problem. Consequently, reforming it is not necessarily the solution. We do not necessarily advocate for the abolition of policing but rather urge a major reimagining of public safety—one in which policing plays a different, less intrusive, and more appropriate role in the lives of citizens.

Gwen Prowse and Phillip Atiba Goff (2023, 528) ask, "Why do police respond to mental health crises rather than healthcare workers? Why does an armed first responder issue traffic violations? What are the consequences of those policy choices?" These questions are basic ones to consider when evaluating policing today. Their answers suggest important ways that policing might be reimagined. For instance, police officers are currently the most common first responders to mental health crises. In some cases, this seems unavoidable, as mental health crises can involve weapons and violence. But in many—perhaps the majority—of cases, behavioral health professionals are more skilled and thus would be more effective at intervening to protect public safety. Also, the argument behind police giving speeding tickets is that unsafe behavior on the roads is a public safety hazard. Why, then, are some jurisdictions able to mail tickets to speeding motorists? And what evidence is there that only police keep our streets safer?

Two traditional elements of policing, crisis intervention (which includes responding to mental health crises) and low-level traffic violations enforcement, have been the focus of interventions for reconceiving policing. Several jurisdictions, including ones in cities like St. Louis and Oakland, have instituted policies that include a range of non-police crisis re-

sponders. In addition, the CAHOOTS (Crisis Assistance Helping Out on the Streets) model is growing in popularity across the United States. CAHOOTS is a mobile crisis intervention program that, in coordination with police departments, sends teams of professionals to respond to calls indicating a need for services related to mental health. The program thus offers an alternative to police officers intervening in noncriminal situations by using appropriately trained personnel. Also, an increasing number of jurisdictions are asking these questions and seeking to limit—or eliminate—police from low-level traffic enforcement (for example, for broken taillights or expired registrations). For example, several major cities (for example, Philadelphia and parts of Los Angeles) have recently ended low-level traffic enforcement by police, and several states (including California, Connecticut, and Washington) are currently considering such legislation.

The intended impacts of these new programs are broad. They reduce the demand on police officers, relieving stress and allowing more efficient and effective deployment of personnel tailored to their professional training. These programs also reduce exposure to the kinds of complex situations that can lead unnecessarily to inappropriate police behavior (such as excessive use of force) or to racial and ethnic discrimination in policing. The intent of legislation that limits police involvement in low-level traffic enforcement in Connecticut, for example, is to reduce racial and ethnic inequities relating to these policing incidents and the escalation of such stops into these incidents (Chacko 2024). However, we are not yet aware of definitive findings concerning the effectiveness of these changes related to supporting policing with additional mental health services (for example, the CAHOOTS program) or relieving police from pursuing low-level traffic violations.

A major consequence of using "police" as the answer to questions about who should respond to a broad range of public safety situations, including those that police officers are not fully equipped to address, is that an intrusive police presence becomes a problem in itself. The core question guiding the future of policing from this perspective thus becomes,

“When is policing the right tool, and when is it the problem?” (Goff 2021, 677). If the rules of policing have always unfairly produced group-based disparities that reinforce social hierarchies, and individual officers are not free of individual risk factors—in fact, they are worse for officers (Pryor et al. 2020; Swencionis and Goff 2017)—and few, if any, trainings are effective in combating individual biases, are there any conditions where police *are* the best response we can imagine for communities in crises? While this approach inevitably leads to a more limited role for police in society—when it is the right and best tool—the objective is not to punish police as an institution but rather to prepare police officers, who are currently overburdened with multiple demands, to be better equipped to meet the challenges facing officers and society, to serve equitably, and to prioritize the skills that police officers need most. Moreover, considering the multilevel impacts of policing in its current form, the answer to the question of whether policing is the right tool requires full consideration of the question, for whom?

While this may seem a radical framing for some, the question of where to solve problems with policing is, again, as old as the profession, and concerns about the likely problems with using an armed force domestically to regulate public safety date back to the first Western police institutions. In other words, questioning whether to use police is no older nor less fundamental to the project of formal policing than the question of how best to prevent their excesses. And perhaps returning to these formational questions will help provide answers that have been missing for the past two centuries of less-than-stellar results of the experiment of providing organized policing without unjust outcomes for those vulnerable communities whose safety is most precarious. More importantly, it forces us to ask the question: if two hundred years have left us without justice in this first stage of the criminal legal system, was it ever designed to do otherwise? We ask this question in good faith, understanding that a failure to ask it may seem to belittle the injustices shouldered on the backs of Black and Brown communities over the past two centuries.

CONCLUSION

This article has explored the role of the behavioral sciences in determining how racial biases—in individual police officer attitudes, stereotypes, and behavior; organizational and institutional policies and practices; and societal and cultural influences—can produce racially and ethnically inequitable outcomes. There are substantial and persistent racial and ethnic disparities in multiple elements of policing, including, for example, pedestrian and motorist stops and searches and the use of nonlethal and lethal force. We note, however, that these disparities, which are differences in frequencies or rates of outcomes, are not necessarily reflective of unfair discrimination. Determining the role of unfair racial or ethnic discrimination is a challenging process given the complex, multidetermined nature of policing outcomes. We have therefore proposed and applied a multilevel analysis framework for understanding the causes of racial and ethnic disparities and for developing interventions to address inequities.

While other articles in this special issue also posit multiple levels of analysis, the framework that we propose delineates five levels: nano, involving intrapersonal processes (for example, stereotyping); micro, relating to interpersonal processes (for example, potentially reciprocal responses between a police officer and a community member); meso, including norms and formal policies within a particular organization); macro, representing pan-organizational or institutional influences that shape outcomes); and mega, reflecting cultural-level narratives or ideologies. Inequities are often the result of the confluence of influences across more than one level. For instance, negative racial stereotyping (a nano-level process) may lead to a higher rate of unjustified pedestrian stops and searches of Black people when department policies (a meso-level influence) permit greater officer discretion or less documentation of activities, particularly in neighborhoods in which residents are lower in socioeconomic status (a mega-level influence). Such multilevel analysis is also inherently multidisciplinary, bridging theoretical perspectives across the behavioral sciences. Methodologically, triangulating effects across different methods (for example,

laboratory research, analyses of administrative data that may be limited, or statistical analyses controlling for variables representing alternative interpretations for disparities) can increase confidence in concluding that a significant amount of disparity represents policing inequities that are the result of racially or ethnically discriminatory policing.

Understanding the complex dynamics that underlie racial and ethnic disparities (and potentially inequities) in policing is also critical for developing appropriate, coordinated, and effective interventions to address the consequences of racial and ethnic biases and unfair discrimination in policing. Inequities in policing will result even if all officers act in unbiased ways, but the policies and practices of institutions, which may appear race-neutral, have inequitable negative impacts on members of minoritized groups or cultural narratives that justify discriminatory treatment. If policies are fair but police officers are biased, the scales of justice will still be unbalanced. Successfully addressing racial and ethnic bias and discrimination in policing is important because of the substantial negative and inequitable psychological, physical, and behavioral impact such discrimination has on its victims, on the communities whose members identify with victims, and, as the response to the murder of George Floyd vividly revealed, on the core values of society endorsed by citizens across all races and ethnicities.

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Understanding Race Disparities in Criminal Court Outcomes



SHAWN BUSHWAY, ANDREW JORDAN, DEREK NEAL, AND
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We construct a framework that defines optimal outcomes in criminal courts, and we use this framework to interpret and organize the existing literature on racial disparities in pretrial detention, sentencing, and community corrections outcomes. Existing research indicates that some actors within courts and within the agencies that implement the sentences that courts impose make decisions that are contaminated by racial animus or racially biased assessments of the recidivism risks posed by some offenders. However, the most important sources of racial disparities in case outcomes are numerous practices, regulations, and laws that are too punitive—that is, their social costs are likely greater than any derived social benefits. Since minorities, especially Blacks, face arrest at much higher rates than Whites, they bear large disparate impacts from such policies.

Keywords: courts, racial disparity, sentencing goals, disparate impact, structural racism, crime control, social costs and benefits

Racial disparities in many criminal justice outcomes are prevalent and pronounced throughout the United States. Black people are more likely than Whites to be stopped by the police (NASEM 2018), to be treated harshly during police stops (Lofstrom et al. 2021), to be arrested (Snyder 2011), to be incarcerated at any given point in time (Carson and Sabol 2015), and to

be under some form of community supervision (Kaeble 2023). Similar results hold for Native Americans, and to a lesser extent for Hispanics (NASEM 2022). In addition, a recent National Academies of Sciences consensus panel documents racial disparities in the most serious forms of criminal victimization as well as disparities in the likelihoods that victims see

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crimes against them cleared by an arrest (NASEM 2022).

These disparities likely reflect the combined effects of many factors. To begin, persons of different races may experience different levels of involvement in criminal activity. Further, among persons engaged in comparable levels of criminal activity, members of different groups may have heterogeneous interactions with police in terms of relative frequency, the nature of interactions, or some combination of the two. Police may be more likely to search or detain persons that belong to certain racial groups, and holding the quality of evidence constant, police may be more likely to file charges against citizens from particular groups.

We analyze racial disparities in case outcomes among the sample of persons who already face criminal charges, and many factors may contribute to these disparities. To begin, distributions of case and defendant characteristics may differ by race. Further, courts may produce different distributions of outcomes for defendants of different races even among sets of defendants who face similar charges and are observationally similar on numerous dimensions. These differential outcomes may reflect racial animus among court actors or various forms of statistical discrimination. Finally, even in settings where courts produce comparable distributions of case outcomes for comparable defendants regardless of the race of defendants, the structure of sentencing rules or guidelines may generate disparate impacts on some racial groups that cannot be justified by reasonable concerns for public safety.¹

Existing work on criminal justice outcomes contains at least two different definitions of racial disparity. As an example, if the incarceration rate among Black males is fifteen hundred per one hundred thousand persons and the incarceration rate among non-Black males is three hundred per one hundred thousand persons, the relative racial disparity in incarceration rates is 5 to 1, but the absolute disparity is twelve hundred persons per one hundred thousand. Suppose that policymakers adopt a sen-

tencing reform plan that improves public safety while reducing both incarceration rates by one half. The relative disparity in incarceration rates would remain 5 to 1 (750 to 150), but the absolute disparity would fall by one half to six hundred.

Analysts who focus on relative disparities may claim that our hypothetical reform did not reduce racial disparities in incarceration since, before and after the reform, incarceration rates among Black males are five times higher than rates among non-Black males. We disagree. Movements in absolute disparity measures capture changes in the impacts of the criminal justice system on different communities. The fifteen hundred and three hundred per one hundred thousand figures in our example are reasonably close to the actual adult imprisonment rates of Blacks versus Whites respectively in 2019.² If the actual rates had been fifteen and three per one hundred thousand, the relative disparity would have still been 5 to 1, but we doubt that we would be writing a paper for a special issue on racial bias in the criminal justice system.

In the next three sections, we provide a framework for thinking about different sources of intergroup disparities in criminal case dispositions. We begin by defining key concepts. We then flesh out the utilitarian framework that we adopt and discuss the social welfare function at the center of the problem that courts solve. Given this objective function, we define several types of discrimination as well as structural racism, and we then discuss the information and empirical methods researchers need to identify discriminatory outcomes. Armed with these tools, we devote several sections to reviews of the research on racial disparities in criminal case processing, pretrial detention decisions, case dispositions, and post-sentence supervision outcomes among those on probation and parole. We conclude by presenting simulation results. We examine the potential impacts of reforms to pretrial detention, sentencing, and community supervision that reduce punitive treatment for offenders in

1. Policies that are too lenient may also create systemic inequalities since victimization rates have historically been higher in minority communities.

2. See table 6 in Carson (2020). The rates are 1,446 and 263 respectively.

ways that are not likely to create significant harms to public safety. The results suggest that such reforms may be effective tools for reducing racial disparities in overall incarceration rates.

DEFINING BIAS

We begin by defining racial bias in the context of court proceedings. The outcome of a criminal case is racially biased if the outcome is not socially optimal and also contributes to racial disparities in case outcomes. We define the socially optimal outcome for a given case as the outcome that equates the marginal costs and marginal benefits of punishment, and we assume that society values these costs and benefits the same way regardless of the racial identities of those who bear punishment costs or benefit from lower victimization rates. The marginal costs of punishment include funds that the government allocates to impose punishment, the psychic and financial costs that an offender pays, and the costs borne by families and friends of the offender. The marginal benefits include reductions in victimization, an improved sense of safety and well-being among local residents, lower crime abatement costs, and so forth.³

These types of costs and benefits are hard to measure, and we recognize that placing social weights on changes in these outcomes requires subjective judgments. However, the vast majority of the conclusions we reach hold given any social welfare function that we or many other scholars would deem reasonable. Our key conclusion is that a number of existing practices, rules, and laws generate punishment costs for many defendants that almost certainly exceed any social benefits derived from incapacitation or deterrence. Further, since minority citizens, especially Blacks, face criminal charges at

much higher than average rates, they bear disparate impacts from these excessively punitive policies.

We will not address how deontological concerns like proportionality inform judgments about racial disparities in court outcomes. If a researcher gave policymakers solid evidence that when courts choose not to incapacitate a robber who physically punches a victim who initially resists, the same robber will almost certainly maim or kill a future victim who fights back after being punched, our utilitarian framework dictates that this evidence is a potential justification for laws that mandate prison time for robbers who assault their victims. We are not interested in arguments about whether a prison sentence is a proportionate punishment for punching someone in the face and taking his phone. We care about how the social costs of punishment compare to the social value of the expected reduction in victimization.

If our framework also incorporated concerns about proportionality or related deontological matters, our analyses would lack discipline. Since Black citizens face criminal charges at much high rates than other groups, we could label almost any punitive law or practice “racist” by making a subjective argument that the practice in question seemed disproportionate to us. In contrast, our utilitarian approach provides a concrete definition of disproportionate or nonoptimal punishment. If the social costs generated by a punishment exceed the expected benefits to society, the punishment is too severe. If the marginal costs are less than the marginal benefits, the punishment is too lenient.⁴ In our framework, there are no trump cards like “fairness” or “proportionality” that take precedence over all other concerns. Optimal policy making always involves balancing marginal costs and benefits.⁵

3. Mark Cohen (2000) notes that, historically, many criminology studies that address the costs and benefits of changes in criminal justice policy did not consider punishment costs incurred by the offender. We do not consider any financial or psychic gains that criminals derive from engaging in crime as benefits to society, but we do consider the losses that criminals suffer from punishment as social costs.

4. We maintain the assumptions that, within the relevant set of policy alternatives, marginal costs of punishment are increasing, and the marginal benefits are decreasing.

5. We realize that other researchers, for example, Kevin Reitz and Cecelia Klingele (2019), blend deontological concerns with approaches that are largely utilitarian. We do not, in part, because the concept of a target outcome

Since our definition of racial bias relies on the concept of an optimal or target outcome for each case, classical statistics offers a useful starting point for understanding our approach. In the nineteenth and early twentieth centuries, researchers developed a formal set of tools for analyzing the outcomes of experiments and testing the hypotheses that motivated these experiments. Thus, all beginning students in probability and statistics learn that random variables are rules that assign numbers to the outcomes of experiments, and estimators are random variables because estimators take data produced by experiments as inputs and return numbers or vectors of numbers.

Consider researchers who seek to estimate the expected value of the impact of an experimental program. If the researchers gather data from a treatment group and a control group and then report the mean outcome difference between the treatment and control group, they are applying a specific estimator to the results of an experiment. Given certain assumptions about the experimental protocol, this estimator is unbiased—that is, if the researchers repeated the experiment hundreds of times and plotted the results of all trials in a histogram, the histogram would be centered on the true expected impact of treatment. On the other hand, if the researchers employ a biased estimator, the histogram will not be properly centered. When an estimator is biased, it produces results that, on average, miss a given target parameter.

If we think of court cases as experiments, we can assign numbers to various case outcomes, such as dismissals, verdicts, and sentences. As a result, we can view courts as random variables that assign numbers to the outcomes of experiments. Given this framework, we say that a court or a court system is biased if, on average, it systematically produces outcomes that are off target. To be clear, we are not saying that unbiased courts never make mistakes. We are saying that, on average, unbiased courts produce socially optimal outcomes—that is, for each type of case and among all types of defendants, unbiased courts produce verdicts that are not too punitive or too lenient on average.

If a court does systematically make mistakes by imposing sentences for certain types of cases that are not socially optimal, and if these mistakes impose greater costs on particular race groups, we say that the court produces racially biased outcomes.

Given this framework, we identify three sets of racially biased outcomes. To begin, consider a set of cases that involve a group of comparable defendants who face the same charge and assume that the socially optimal sentence for each defendant is the same. Further, suppose that the law permits judges to assign this socially optimal sentence to each defendant. In this setting, if researchers observe that the court assigns different average outcomes to defendants of different races, the court's decisions, taken as a whole, cannot be socially optimal. The existence of different average sentences among two groups that should receive the same average sentence implies that at least one group is receiving punishment that is, on average, either excessive or lenient relative to our socially optimal benchmark. Further, in this scenario, the fact that two groups that differ by race receive different average case outcomes implies that this failure to sentence all groups optimally generates racial disparities in case outcomes among comparable defendants.

However, we must also consider cases where the law does not permit socially optimal decisions. The law may require courts to treat two groups of defendants differently even though the socially optimal sentence for both groups is the same. In this second scenario, if defendants of one race are overrepresented in cases where the law requires excessive punishment, court actors produce inefficient racial disparities, even as they treat all defendants equally under the law. These disparities are forms of structural racism, since the structure of the sentencing laws requires different average treatment of defendants by race among sets of defendants who should receive the same expected sentences.

As an example, Michelle Alexander (2011) provides a detailed account of how federal sen-

for each case is central to our approach. In our framework, the optimal or target outcome for a case is unique and well defined because it is the outcome that maximizes a single utilitarian objective.

tencing guidelines in the 1980s required judges to treat defendants convicted of selling crack cocaine much more harshly than those convicted of selling powder cocaine, even though the former can be made from the latter. These guidelines were not optimal. Either the sentencing guidelines for powder cocaine offenses were too lenient or the guidelines for crack offenses were too severe. Further, the resulting racial disparities in sentences were a form of structural racism because Black defendants were much more likely than White defendants to face charges related to crack cocaine.

Finally, among broad categories of cases, the law may require courts to assign outcomes to all defendants that are systematically too lenient or too severe relative to some set of socially optimal target outcomes. Since racial minorities are more likely to appear in court, courts that routinely produce outcomes that are independent of defendant race but too severe produce racially disparate impacts, and the excessive severity built into the system is therefore a form of structural racism.⁶ As we will explain, many of the changes in sentencing laws that drove the prison boom that began in the late 1970s are difficult to justify on efficiency grounds, and while courts appear to have applied these new laws in a color-blind way, Black males bore a large disparate impact from these punitive policies because they face criminal charges at much higher rates than other groups.

In our framework, racial bias in court outcomes is always rooted in departures from social optimality. When comparable defendants of different races do not receive equal treatment under the law, the resulting disparities are rooted in the fact that the treatment assigned to at least one race group departs from our socially optimal benchmark. When the law requires excessive punishment for offenses that are particularly common among one racial group, the application of socially inefficient punishment again creates racial disparity, and

when the law requires excessive punishment for a broad range of offenses, racial groups that face higher overall arrests suffer disproportionate harm.

ANALYTICAL FRAMEWORK

We use the following notation to define outcomes and various key information sets available to policymakers and researchers. Each variable describes a characteristic or outcome of a particular case j that involves a particular defendant i . Yet, for ease of presentation, we suppress the $_{ij}$ subscripts on each variable.:

- D is a vector of outcomes or decisions that apply to a given case that involves a particular defendant, such as verdict, sentence, conditions of supervision, and so forth.
- X^* is the set of case and defendant characteristics that determine the target outcomes for the case—that is, these characteristics determine the expected costs and benefits of various outcomes that a court may produce for a given case.
- X^{law} is the set of case and defendant characteristics that the law requires or encourages the court to consider when deciding the case.
- $\tilde{X}$ is the set of case and defendant characteristics that a researcher observes.
- R is a categorical variable that codes the race of the defendant j in case i .
- $F(D|X^*)$ is the distribution of outcomes produced by a court system conditional on the relevant cases and defendant characteristics.

In our framework, racial bias in the form of structural racism may exist even when comparable defendants facing comparable charges receive similar sentences regardless of race. However, most empirical work on racial bias in courts focuses on the possibility that similar

6. Policies that are color-blind and too lenient may also be a problem. For example, if violent crime victimization rates are higher among minority residents and these residents are victims of intra-race violence, lenient sentencing rules that failed to use incapacitation as a means of creating valuable protection for minority citizens could also represent structural racism. Given current criminal justice policies, this possibility is not our main concern, but as a matter of logic, leniency can also become a form of structural racism.

defendants facing the same charges may receive different sentences depending on their race. Thus, most empirical work on bias in courts focuses on group differences in conditional average case outcomes.

These studies seek to test some form of the following condition:

$$E(D|X^*) = E(D|X^*, R) \quad (1)$$

This condition requires that, given all relevant case and defendant characteristics, X^* , the expected outcome—for example, dismissal, conviction, length of sentence to probation or prison, and so forth—is the same regardless of defendant race. Judges may make mistakes. Courts may make mistakes when processing information. So, we should expect a distribution of case outcomes given any conditioning set, X^* , that determines the optimal outcomes for a case. However, a defendant's race is not an element of X^* , and conditional on X^* , the expected outcomes produced by a socially optimal court system should not depend on defendant race.

Conditioning Sets and Measured Disparities

In the analyses below, we often assume that prosecutors, judges, and other participants in courts have full information—that is, they see all the elements of X^* and X^{law} . Further, in many cases, we assume that $\tilde{X} \in X^* \cup X^{law}$ —that is, researchers see a subset of the information available to court officials. Since researchers can only condition on information they possess, the empirical literature on racial bias in court outcomes focuses on studies that test null hypotheses of the form:

$$H_0 : E(D|\tilde{X}) = E(D|\tilde{X}, R) \quad (2)$$

For now, we proceed under the assumption that $\tilde{X} = X^{law}$, since researchers who attempt to test whether defendants of different races receive equal treatment under the law often construct $\tilde{X}$ with this goal in mind.

Given this assumption, there are at least two reasons that researchers may reject condition 2. First, even if we are willing to assume that conditioning on $\tilde{X}$ is at least approximately equivalent to conditioning on X^* , conditional case outcomes may differ by race because court officials harbor explicit or implicit animus toward minority defendants, and this animus may produce more severe punishments for minority defendants compared to White defendants who pose similar risks to public safety, face comparable prospects for rehabilitation, and face comparable charges.

Second, conditioning on $\tilde{X}$ may not be a good approximation for conditioning on X^* . Here, court officials produce expected outcomes that vary with the race of defendants conditional on $\tilde{X}$, even though these expected outcomes do not vary with race conditional on X^* . For example, consider a judge who learns that a convicted defendant lives in an area controlled by a violent street gang. This information is potentially relevant for sentencing if we assume the judge can use the information to form a better estimate of the likelihood that the defendant will commit future crimes (that is, the information is part of X^*); not measured by researchers (that is, the information is not part of $\tilde{X}$); and correlated with race. If our hypothetical judge weighs the defendant's residence in a violent neighborhood as an aggravating factor when sentencing the defendant, the judge is statistically discriminating against the defendant on the basis of a factor that is both correlated with race and not identified in the law as a mitigating or aggravating factor.

The consequences of this type of statistical discrimination are not obvious. If the judge weighs this factor properly when making decisions, the practice creates racial differences in the treatment of defendants, given $\tilde{X} = X^{law}$, but the judge is behaving optimally with respect to the welfare consequences of the decision. If the judge places improper weight on unmeasured factors that are correlated with race, the judge creates racial disparities in court outcomes that are socially harmful.⁷

7. Here, we assume that factors like the level of violence in the defendant's neighborhood are not factors that the law requires judges to consider. However, we assume that most sentencing statutes grant judges discretion to make subjective judgments about each defendant's propensity to commit future crimes according to a range of

It seems reasonable to expect that judges often possess relevant information that researchers can never recover from datasets. As a result, researchers who discover racial differences in average case outcomes given $\tilde{X}$ often offer conjectures concerning whether such differences would remain if they were able to condition on X^* . Given this reality, some researchers argue that tests for racial bias should involve tests for racial differences in the distribution of future behaviors among defendants who face the same charges and receive the same verdict and sentence. The rationale behind these tests is straightforward. Consider a set of defendants who face the same charge, receive the same verdict, and receive the exact same sentence. If average future criminal justice outcomes among this set of defendants vary with the race of the defendant, then courts are assigning the same sentences to different groups of defendants who differ both by race and by their propensities to commit new crimes. To many, this pattern suggests that courts are making racially biased decisions. However, as we explain in the section “Outcome Tests,” researchers require strong assumptions in order to infer racial bias in judicial decision making from racial differences in post-sentencing outcomes among defendants who receive the same sentence.

Taken as a whole, existing research has shown that it is difficult to conduct compelling tests of the null hypothesis that comparable defendants receive comparable case outcomes regardless of their race. However, as we noted, even courts that treat all citizens equally under the law may produce racially biased outcomes for structural reasons. We have already mentioned Alexander (2011) and her treatment of differences in mandatory sentences for persons convicted of selling crack versus powder cocaine. In the section “Pretrial Custody,” we note that, as an institution, cash bail is likely a form of structural racism. Scant evidence links pretrial release decisions to the capacity and willingness of defendants to post bonds is an effective way to retain high-risk defendants or compel good behavior among released defen-

dants, but linking pretrial release to cash bonds does generate disparate harm for groups who have been harmed economically by past discrimination.

In addition, structural racism exists when the overall structure of court practices, sentencing laws, and rules governing community supervision create environments where courts routinely impose overly punitive sentences on all offenders in many offense categories. Since minority citizens, especially Black citizens, are much more likely to face arrest for a broad range of offenses, they suffer disparate harm from the ubiquitous assignment of excessive punishment to defendants. In the section “Sentencing Rules and Guidelines,” we discuss how a wave of punitive sentencing reforms drove the prison boom that began around 1980, and in the section “Incarceration and Public Safety,” we argue that existing evidence suggests that these reforms likely went too far. At the margin, the social costs of such large prison populations likely exceed any social benefits for the public, and since Black citizens are arrested at much higher rates than other groups, they suffer disparate harm from the sentencing laws that produce large prison populations.

In the section “Community Supervision,” we discuss the common practice of allowing parole officers to initiate the re-incarceration of parolees who violate technical conditions of their supervision, such as moving to a new residence without prior approval. There is little evidence that this practice generates important improvements in public safety, and because minority citizens are much more likely to be under parole supervision, they suffer disparate harm from this practice.

In the section “Simulating the Impacts of Reforms,” we present the results of several simulation exercises that attempt to assess how much policymakers can reduce absolute racial disparities in incarceration rates by making the practices and policies that govern pretrial release, sentencing, and parole supervision more efficient. The results suggest that it may be possible to significantly reduce racial disparities in

factors that the judge observes that are not recorded in court files. As we will note, when the law requires judges to consider irrelevant factors or forces judges to ignore relevant factors, we classify the resulting welfare losses as the result of structural problems.

incarceration rates by simply improving the rules that guide and constrain the decisions of judges, parole boards, and parole officers.

Alternative Taxonomies

Some may point to incomplete information as a potential source of bias in court outcomes. If judges and prosecutors do not observe the full set of defendant and case characteristics that are either socially or legally relevant for filing charges, conducting trials, negotiating plea bargains, and assigning sentences—that is, court officials produce case outcomes without full knowledge of X^* , we expect them to produce nonoptimal decisions, and since rates of criminal justice involvement are much higher in minority communities, these nonoptimal decisions may disparately impact these communities.

We do not disagree, but we note that the justice system in the US is adversarial. The job of defense attorneys is to present information to courts that increases the likelihood that courts will produce more favorable case outcomes for the defendants they represent. Thus, any racial disparities in case outcomes that arise because judges often do not possess relevant exculpatory or mitigating information or because judges are less likely to possess such information when defendants are Black or Hispanic are disparities that arise from structural racism. As an example, low funding levels for public defenders may represent a form structural racism because historic patterns of discrimination against Blacks imply that, on average, Black defendants have less financial capacity to fund their own defense.

We take a similar stance on the topic of implicit bias. A significant literature documents that actors in the judicial system implicitly associate negative personality traits with membership in racial minority groups. Scholars debate the meaning of these associations, but we have found no compelling evidence that implicit bias generates racial bias in actual judicial decisions. Further, if any study were to establish a link between implicit bias and racial bias in judicial outcomes, such a result would simply be evidence that the legal system is structurally flawed. We contend that decisions that are uninformed, ill-considered, or both are more likely to be either too punitive or too lenient relative to socially optimal benchmarks, and therefore legal systems should contain guardrails that prevent rushed and impulsive decisions.⁸

OUR TASK

We seek to understand how courts as well as the probation and parole authorities who enforce the sentences generated by courts contribute to racial disparities in criminal justice outcomes like felony convictions, the incidence of incarceration, and lengths of incarceration spells. Further, we examine the impacts of legislators who determine the laws and rules that govern the operation of courts.

While we focus on racial disparities among criminal defendants, we also note that court outcomes shape racial disparities in criminal victimization. Black citizens are not only more likely to face criminal charges but also more likely to be victims of crime.⁹ If courts are too punitive, they likely create disparate impacts

8. In NASEM (2021), Jennifer Eberhardt recommends “building friction” into police decisions and cites one program that required citizens reporting suspicious behaviors to go through a checklist to reduce the chances that the report was not motivated by racial stereotypes. If implicit bias does impact judicial decisions, researchers and policy analysts may need to consider how to build similar frictions in the process of reviewing charges, generating plea deals, and formulating sentences. See Jeffrey Rachlinski and colleagues (2008) and Bernice Donald and colleagues (2020) for discussions of the difference between harboring implicit associations and acting on them as well as how courtroom norms and procedures may shape this difference.

9. The National Academies of Sciences (NASEM 2022) documents large racial disparities in victimization, especially for violent offenses. In an analysis of data from the National Crime Victimization Survey for the years 2012 through 2019, the study finds property crime victimization rates per 10,000 households of 127 for Black Households and 112 for White households. Violent victimization rates not including homicides are also elevated for Black people, with a rate per 8.9 for Black people versus 6.8 for White people. The largest disparities are observed for homicide victimization. In 2015, the age-adjusted homicide rates (homicides per 100,000) among

on Black defendants. If courts are too lenient, they likely create disparate impacts on Black victims of crime.

However, we are not trying to understand all sources of racial disparity in criminal justice outcomes. Specifically, we take as given the cases filed in court and do not address racial bias in policing. While the National Academies of Sciences (NASEM 2022) documents that the racial composition of perpetrators by offense as described by crime victims is broadly consistent with racial disparities in arrest rates for serious person offenses, there is also evidence that both cross-jurisdiction heterogeneity in police practices and differential treatment of individuals citizens by race within specific agencies contribute to racial disparities in the composition of cases that police bring to courts. Steven Raphael and Sandra Rozo (2019) find that police are more likely to book juvenile arrests involving Black youth in comparison with White and Hispanic youth, and this difference is driven in part by harsher treatment for Black youth within specific jurisdictions as well as harsher average treatment for all youth in jurisdictions with large Black populations. Nonetheless, we will not explore police charging decisions here. Our goal is to examine the contribution of courts to racial disparities given the set of cases that police bring to the courts.

In the following sections, we discuss the screening and charging decisions made by prosecutors, pretrial custody decisions, trial outcomes, and the community corrections agencies that supervise persons on probation or parole. At each stage, we will examine evidence that actors in various court systems make systematically biased decisions, but we also pay close attention to the legal rules and institutions that constrain their choices in ways that create disparate impacts on defendants by race.

CHARGING DECISIONS

When police file charges, prosecutors must determine whether to proceed with a case. Pros-

ecutors quickly drop many charges because they conclude that the police have not presented evidence that supports the charges. Prosecutors also divert many cases to special programs that provide services for defendants and offer some defendants the opportunity to avoid traditional court sanctions by successfully completing program requirements. Finally, preliminary hearing judges dismiss many cases on the grounds that prosecutors have not established probable cause.

Prosecutors have near-absolute discretion in the selection of criminal cases. They have the power to reject new cases or drop existing cases, usually without providing a reason and without the decision being subject to review (Sklansky 2018). This has inspired concern that prosecutors may exercise biases, implicit or explicit, when they screen potential criminal cases.

Andrew Jordan (2022) finds that the screening function of prosecutors is important. Over half of Chicago defendants who are arrested but not convicted have their cases dropped at the felony review screening step. Chicago prosecutors also vary considerably in their apparent ability to identify and reject cases that will not produce convictions. However, there is little evidence that felony review prosecutors contribute to racially biased court outcomes. The set of cases offered by police features more low-quality cases against black suspects, but felony review does not exacerbate this disparity.

Other studies reach similar conclusions. Besiki Kutateladze and colleagues (2014) study multiple decisions made by New York City prosecutors. They find no significant effect of initial case screening because most cases are accepted. Turning their attention to subsequent dismissals, they find that prosecutors were actually more likely to dismiss a case when the defendant was Black or Latino. Alex Chohlas-Wood and colleagues (2021) use an algorithm to remove information from case reports that may signal the race of the suspect. They find that this has little effect on the charging decisions of prosecutors. They attribute

males are 35.4 for Black males and 3.6 for White males. The comparable figures for Black and White females are 4.9 and 1.7.

this to the absence of racial bias prior to their intervention.

The studies considered here all focus on large, urban prosecutors' offices. Prosecutors in less populous areas may make less benign use of their discretion, and if they do, researchers may find it difficult to detect these abuses of discretion. In smaller prosecutors' offices, a single prosecutor often handles each case from beginning to end, and this arrangement does not produce data that researchers can readily use to isolate the impacts of screening decisions.

PRETRIAL CUSTODY

A significant and growing body of research examines racial disparities in pretrial detention rates. In most jurisdictions, persons who are arrested and charged with crimes soon appear before a judge who explains the charges, informs defendants about the date of their next court appearance, and then decides whether and under what conditions the defendants may leave jail while their cases go through the courts. The options available to a bond court judge vary from case to case and by jurisdiction. Judges typically decide whether to release a defendant with no conditions, release a defendant subject to conditions, or deny bail.

The possible conditions vary by jurisdiction. Some courts allow judges to require defendants to post a bond that equals a portion of a nominal bail amount. If the defendant posts the bond and then appears at all future court dates without committing a new crime, the court may return all or a portion of the bond to the defendant. If the defendant fails to appear in court or commits a new crime, the defendant typically forfeits the bond, and the court may try to collect all or a portion of the remaining bail amount. Some courts allow defendants to borrow bond payments from private bail-bond companies. If defendants work with a bail bondsman to gain release from jail, the bondsman is liable for some or all of the financial penalties that arise when defendants fail to appear for court dates or commit new crimes. Some courts also allow judges to require defendants who leave jail to submit to specific monitoring programs or wear electronic bracelets

that allow the sheriff to monitor their movements electronically.

Here, we review findings in recent research on racial disparities in pretrial detention. We then discuss reform proposals that are informed by these results. We highlight proposals that eliminate cash bail because we conclude that, as an institutional practice, cash bail likely creates racial disparities in pretrial release rates that reflect racial differences in financial capacity rather than racial differences in the risks of pretrial violations given release. Thus, it may be possible to reduce the racial disparities in pretrial detention generated by cash bail without harming public safety.

Before we review the existing work on pretrial release decisions, it is important to recall the key elements of our framework. In equation 1, we provide a necessary condition for the absence of racial bias, and we argue that racial bias exists when the expected decisions made by a particular group of court actors, conditional on a set of relevant case and defendant characteristics, depends on the race of the defendants who appear in court. Much of the literature on bond court involves empirical work that tests the following condition

$$E(D|\tilde{X}, R = r) = E(D|\tilde{X}, R = r')$$

Here, $\tilde{X}$ is the set of defendant and case characteristics that researchers measure, and D is an outcome of the bond court proceedings, such as the bail amount set by the judge, an indicator for whether the defendant is released within a week, or a measure of the number of days that a defendant spends in jail while the defendant's case is being resolved. Finally, r and r' are two race groups, for example, Black versus non-Black.

Conditional Disparities in Release Rates

A number of studies find racial disparities in pretrial release rates conditional on various sets of controls for case characteristics and the criminal history of the defendant. Stephen Demuth and Darrell Steffensmeier (2004) examine pretrial release decisions in the seventy-five counties covered by the State Courts Processing Statistics (SCPS) program in its 1990, 1992,

1994, and 1996 surveys. They find that Black and Hispanic defendants are much less likely than comparable White defendants to obtain pretrial release. However, this result appears to be driven by the inability of these defendants to post bail. Black defendants are no more likely to be denied bail than comparable White defendants, and among those not denied bail, bail amounts for Black defendants are comparable to those for White defendants. Hispanic defendants who are not denied bail face slightly higher bail amounts than other comparable defendants, but these differences could never account for the high pretrial detention rates that Demuth and Steffensmeier (2004) document among Hispanics. Whites are detained pretrial in 23.5 percent of cases. The corresponding rates for Blacks and Hispanics are 28.4 and 34.7 percent respectively, and the largest driver of these racial differences is the inability of Black and especially Hispanic defendants to post bail.

Using data from Detroit, Charles Katz and Cassia Spohn (1995) also find that Black defendants are less likely to obtain pretrial release than comparable non-Black defendants, but they find little evidence of racial differences in average bail amounts given case and defendant characteristics. It appears that Blacks in Detroit are more likely to remain in jail pretrial because they have less financial capacity to post bail.

Table 1 presents original results from the main felony bond court in Chicago, Illinois. We examine data from 2011 through the summer of 2017. We highlight racial differences in several bond court dispositions. First, we explore racial differences in the bail amounts set by bond court judges. For these analyses, we create a single bail index that assigns a bail amount to all cases, even those that do not involve bail explicitly. If the bond court judge releases the defendant without requiring the defendant to post bail, we code the bail amount as zero dollars. If the bond court judge denies bail, we code the bail amount as \$500,000.¹⁰

Judges rarely assign bail greater than \$1.5 million dollars, and over this period, judges in this bond court seldom deny bail. It appears that many judges use a \$500,000 bail to signal that they want the defendant to remain in jail.

For male defendants, we run a median regression of bail amount on an indicator for Black, indicators for class of crime, an indicator for a charge involving a violent crime, an indicator for having a prior felony arraignment, and an indicator for time period that captures changes in the administration of bond court. We find a median conditional racial gap in bail of \$5,000. We begin with median regression because these results are robust to the specific bail imputation rules we use for defendants who are either released with no bail or denied bail. When we run ordinary least squares OLS regressions of our bail index on defendant and case characteristics, we find that judges set bail almost \$1,025 dollars higher for Black male defendants.

When we conduct similar analyses for female defendants, we find slightly different results. The conditional median Black versus non-Black gap is \$0, and we find that, on average, Black female defendants face bail amounts that are almost \$1,870 lower than comparable non-Black defendants.¹¹

To place these results in context, \$5,000 is the default increment for bail decisions. Among the most common bail amounts in our data, the next lowest bail amount is \$5,000 less, and the next highest is \$5,000 more. Thus, among both men and women, both the mean and median gaps in conditional bail amounts are within one step on the schedule of the most common bail amounts we observe.

We also examine racial gaps in the likelihood that the court releases a defendant without requiring him to post any bail. Here, we see large Black versus non-Black gaps. In almost 19 percent of cases involving non-Black, male defendants, the court grants release without bail, and regression-adjusted release rates for Black males are almost 6 percentage points lower

10. The use of electronic monitoring is another source of variation in custody conditions in Cook County. In this exercise, we ignore the imposition of electronic monitoring as an additional release condition.

11. The *p*-value on this result is .067. The mean bail is just over \$54,000 among men and just over \$29,000 among women. Both means include our imputations of zero for defendants who left jail without paying any bail.

Table 1. Bond Court Outcomes: Cook County, Illinois

Panel A: Racial Differences in Bond Court Decisions, Men					
	No Conditions OLS (1)	Bail		Bail w/ OLS (4)	Bail > 0 Median Regress. (5)
		OLS (2)	Median Regress. (3)		
Black	-.059 (.002)	1,024 (506)	5,000 (333)	-3,056 (561)	0 (212)
N	111,097	110,524	110,524	96,432	96,432
Panel B: Racial Differences in Bond Court Decisions, Women					
	No Conditions OLS (1)	Bail		OLS (4)	Median Regress. (5)
		OLS (2)	Median Regress. (3)		
Black	-.04 (.008)	-1,868 (1021)	0 (693)	-4,165 (1333)	0 (1246)
N	14,870	14,689	14,689	10,974	10,974

Source: Clerk of Court of Cook County.

Note: This table presents results from five regressions. Each observation is a case in the main felony bond court in Chicago, Illinois. The cases cover 2011 through August of 2017. Each OLS regression contains controls for the year of case assignment, an indicator for a charge involving a violent crime, indicators for the class of the most serious charge, an indicator prior felony charges, and indicators for defendant age. Each median regression contains similar controls, but the controls for year of assignment are collapsed into an indicator for an early and late period. The dependent variable in regression column 1 is an indicator for whether the judge granted the defendant release with no conditions. In column 2 the dependent variable is the actual bail amount set by the judge or an imputed bail amount. We impute zero for persons released with no bail requirement. We impute \$500,000 for defendants denied bail or assigned a bail amount greater than \$500,000. We present median regression results in column 3, since median regression results are robust to the precise imputed values used for extreme cases. Columns 4 and 5 report similar regression results, but here we eliminate persons who were released without any bail requirement. The sample sizes are largest for the regressions in column a because there are records where the judge assigned bail, but the Clerk of Court did not record the bail amount.

than the rates for comparable non-Black defendants. Among females, we see a non-Black release rate of 32 percentage points and regression-adjusted rates that are 4 percentage points lower than rates for comparable Blacks.

This disparity in direct-release rates appears to be a key source of racial inequality in historical data from Chicago's main bond court. Among defendants who are not released without bail, we see no racial gap in conditional median bail amounts among men or women. Fur-

ther, among this sample of defendants, Black men and women face bail amounts that are respectively \$3,056 and \$4,166 lower, on average, than the bail amounts facing comparable non-Black defendants.

Even though Black defendants do not face higher bail amounts than comparable White defendants who are also required to post bond as a condition of release, racial differences in the likelihood that defendants post bail in a timely manner are another key driver of overall

racial differences in pretrial custody outcomes. Here, we examine racial differences in the number of days that defendants spend in jail between their bond court hearings and the dates that their cases are resolved, and we make these comparisons among defendants whom the court requires to post the same bail. The results show that racial differences in the likelihood that defendants post even modest bail amounts contribute significantly to racial differences in jail time served.

Figure 1 presents regression results for male defendants. We regress jail time on the controls in our bail regressions plus a quartic in the bail amount and a separate quartic interacted with an indicator for Black. We do not include cases where defendants were released without bail or denied bail, and we further restrict the sample to defendants facing a bail amount between \$1,000 and \$250,000.¹²

The figure presents two plots of predicted days spent in jail as a function of the bail set in bond court. These plots describe results for two hypothetical defendants. One is Black, and one is not, but they both are less than twenty years old, have no prior convictions, and face a similar charge. We plot results for all bail amounts that appear in our data at least two hundred times for both Black and non-Black males.¹³ The graph starts at \$5,000 bail. Here, the Black versus non-Black gap in predicted jail time is less than four days, but the gap grows with bail. At \$50,000, the gap is just over seventeen days. Among those facing a bail amount of \$250,000 the gap is thirty-nine days.¹⁴

While the racial gaps in expected days spent in jail are small given low bail amounts, racial differences in the likelihood that a defendant

leaves jail quickly are not trivial. When we examine conditional racial gaps in the probability that a defendant leaves jail within ten days of his bond court hearing, we find that, given a bond amount of \$5,000, non-Black males are almost 19 percentage points (72.2 versus 53.5) more likely than comparable Black males to leave jail within ten days of their bond hearings. Note that defendants facing a \$5,000 bail requirement must post only \$500 to gain release. Thus, even modest posting requirements generate significant racial differences in the prevalence of prompt exits from jail.¹⁵

In Chicago, Black defendants are significantly less likely to gain pretrial release with no conditions in bond court than non-Black defendants who are observationally similar. However, in Detroit and SCPS counties, bond court judges typically make similar custody rulings for comparable defendants of different races. Nonetheless, in all three cases, we see that the practice of requiring defendants to post bonds to gain release creates racial disparities in pretrial release rates, even among defendants who receive the same bail disposition. We conjecture that racial disparities in the economic circumstances of defendants drive this pattern.

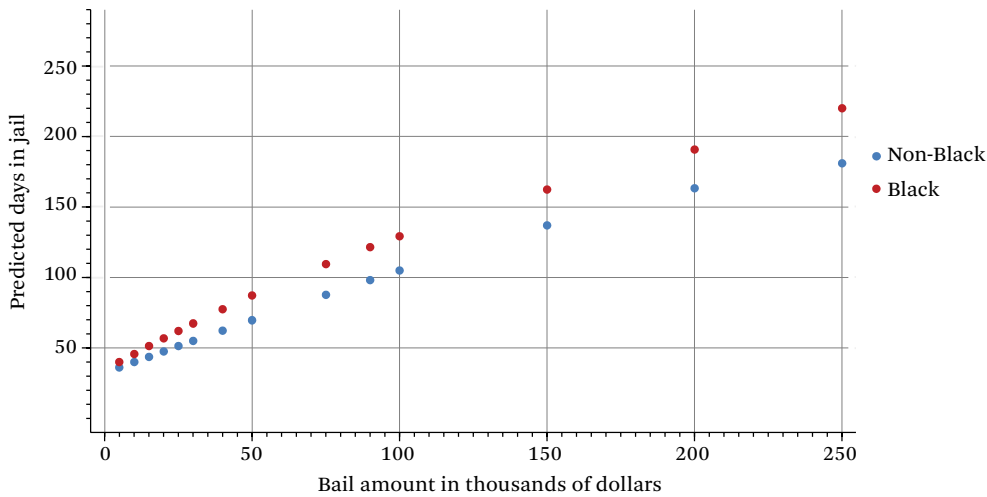
These patterns are consistent with the view that, as an institution, cash bail is a form of structural racism. Aurelie Ouss and Megan Stevenson (2023) examine a 2018 reform in Philadelphia that eliminated cash bail for defendants charged with a specific set of offenses. They compare defendants before and after the reform who are charged with offenses that were or were not affected by the 2018 reform, and they find no evidence that the monetary incentives created by cash bail reduce pretrial mis-

12. Among defendants assigned cash bail, less than 1 percent receive an amount less than \$1,000, and less than 5 percent receive more than \$250,000. By far, the most common dollar amount greater than \$250,000 is \$500,000, and some judges appear to use this as a substitute for bail denied.

13. Even though bail amounts of \$500,000 appear more than two hundred times, we do not include this amount. As we note, this amount seems to signal that judges intend to hold the defendant in jail. Bail amounts between \$250,000 and \$500,000 or in excess of \$500,000 dollars are rare.

14. These gaps follow the same pattern we observe in the raw data if we simply plot average days in jail by race within samples of defendants facing the same bail amount. The raw gaps increase from eight days to forty-six days as we move from \$5,000 to \$250,000.

15. For reasons that we do not fully comprehend, Black versus non-Black gaps in expected time in jail conditional on required bail are much smaller among female defendants.

Figure 1. Days in Jail, Cook County, Men

Source: Clerk of Court of Cook County.

Note: This figure presents two sets of predicted values. Each observation in our data is a case in the main felony bond court in Chicago, Illinois. The cases cover 2011 through August of 2017. We restrict the sample to men who are assigned bail amounts between \$1,000 and \$250,000. We then regress time spent in jail on an indicator for Black, controls for the year of case assignment, an indicator for a charge involving a violent crime, indicators for the class of the most serious charge, an indicator prior felony charges, indicators for defendant age, a quartic in the bail amount set, and a complete set of interactions between this quartic and the indicator for Black. We define time spent in jail as the number of days spent in jail during the interval between the bond court hearing and the date a case is dropped, dismissed, or decided. Here, we plot the race-specific expected days in jail for a Black versus non-Black defendant who is comparable with respect to the controls other than bail amount set.

conduct. Further, the literature contains no evidence that, if case characteristics and defendants' criminal histories are held constant, the financial capacity of defendants is highly correlated with their propensity to avoid pretrial misconduct given release. Finally, in many jurisdictions, there is no reason to expect cash bail to work well as an incentive scheme. Economically disadvantaged defendants are often incapable of paying the court cost charges they already face, and they are also judgment proof. As a result, any bond that they can post may well be applied to their court costs even if they incur no violations, and if they do earn violations, the court may find it hard to collect the resulting financial penalties that the law requires.

In sum, there is little evidence that, if case and defendant characteristics are held constant, defendants with greater financial capacity are less risky. Further, cash bail systems of-

ten provide weak ex post incentives for better defendant behavior while increasing expected jail time among groups that are economically disadvantaged. These facts imply that cash bail systems are inefficient. Further, since many forms of historical discrimination have reduced the current financial capacity of minority defendants, the disparate harm they suffer from the use of cash bail is a form of structural racism.

Consequences of Disparities in Release Rates

If cash bail systems are a form of structural racism, what are the consequences of the racial differences in conditional release rates that cash bail systems generate? The most obvious consequence is that a disproportionate share of the defendants who forfeit their liberty while waiting for their cases to resolve are non-White. In a case where the prosecutor has overwhelming evidence against the defendant and a guilty

verdict triggers a mandatory term of incarceration, this denial of liberty does not typically involve extra time behind bars since the defendant gains credit for time served in jail that is subtracted from the mandatory prison sentence.¹⁶ However, many cases are not open and shut, and a number of studies conclude that gaining pretrial release reduces the likelihood that a defendant will be convicted. Pretrial release makes it easier for defendants to coordinate with counsel concerning their defense, and some researchers claim that holding defendants in jail gives prosecutors more leverage in plea bargain negotiations. As a result, some defendants may plead guilty rather than attempt to prove their innocence at trial just to get out of jail sooner.¹⁷

Outcome Tests

Another literature looks for evidence of racial bias in bond courts by comparing racial differences in pretrial misconduct among those released before their cases are resolved. Ian Ayres and Joel Waldfogel (1993) find that, if bail amounts are held constant, third-party bail bondsmen in New Haven, Connecticut, charge lower co-pay rates to minority defendants, a finding the authors interpret as evidence that released Black defendants are less risky than released White defendants. Using data from Miami and Philadelphia, David Arnold and colleagues (2018) find that, among defendants released pretrial whom they infer to be marginal candidates for release, White defendants are significantly more likely to be rearrested than

Black defendants. They interpret this result as evidence that, on average, judges hold Black defendants to a higher standard when making release decisions.

However, the conclusions that scholars draw from tests for racial discrimination in court decisions based on racial differences in post-adjudication outcomes typically rest on strong assumptions. Researchers have long understood that they cannot draw firm conclusions concerning whether judges set different standards for release depending on the race of defendants solely on the basis of average outcome differences by race among all defendants who are released. Standard models of discrimination make predictions about differences in outcomes among marginal defendants in different groups. Thus, researchers must isolate marginal cases to conduct valid outcome tests.¹⁸ In addition, recent work shows that even in settings where researchers can isolate marginal cases, more robust models of decision-making raise new concerns about the use of outcomes tests as tools for identifying racial bias in judicial decisions.

In a recent article, Ivan Canay and colleagues (2024) invite readers to consider bond court judges who make decisions using the following threshold rule: grant pretrial release if

$$E(\Delta|r, \nu) \leq \tau(z, r, \nu)$$

where

$$\tau(z, r, \nu) = c(z, r, \nu) + \lambda(z, r, \nu) + \beta(z, r, \nu)$$

16. If researchers had a way to measure case strength, it would be interesting to know whether defendants facing strong cases against them and mandatory prison sentences following conviction are less likely to post bonds given the opportunity.

17. While pretrial detention may also make it more difficult to mount a defense, in many instances the urgency associated with being incarcerated as well as the fact that, for less serious offenses, pretrial detention periods may be greater than the actual sanction if convicted create incentives for defendants to accept guilty pleas. See Will Dobbie and colleagues (2018) for estimates of the causal effect of pretrial detention on conviction rates. See Johanna Lacoe and colleagues (2023) for evidence that pre-arraignment legal services reduce both pretrial detention as well as the likelihood of conviction through plea bargains.

18. This challenge is often called the infra-marginality problem. Imagine a world where each defendant i is characterized by a recidivism rate, δ_i , and all judges observe each defendant's rate. Next, assume that all judges follow a simple rule when sentencing all convicted offenders: assign defendant i to probation instead of incarceration if $\delta_i < \bar{\delta}$. Given data from such a court system, we may still observe that the rates of recidivism events among those assigned to probation nonetheless differ by race because the distribution of δ given $\delta < \bar{\delta}$ differs by race.

For simplicity, we assume that all defendants are the same on dimensions that researchers measure—that is, the following results are conditional on $\tilde{X}$.

The left-hand side is the expected cost of releasing the defendant, Δ is the violation cost society incurs from releasing the defendant, r is the race of the defendant, v is a defendant or case characteristic that the judge observes that is not observed by researchers, and z indexes judges.

On the right-hand side, $\tau(z, r, v)$ is judge z 's cost of detaining the defendant. The function $c(z, r, v)$ is judge z 's assessment of the social cost of detaining the defendant. For our purposes, $\lambda(z, r, v)$ represents the mistake that judge z makes when she forecasts Δ , and $\beta(z, r, v)$ represents judge z 's personal distaste for detaining the defendant.

In this framework, judge z makes racially unbiased decisions if $\tau(z, r, v) = \tau(z, v)$ for all r and v , but Canay and colleagues (2024) demonstrate that, even when judges are unbiased, post-verdict data on defendant outcomes may contain significant racial differences in average post-sentencing outcomes among marginal defendants.¹⁹ Further, the logic of their argument holds when we assume that the distribution of v is independent of race.

We use a simple example to illustrate the key insight that drives the reasoning of Canay and colleagues (2024). Consider two defendants. The first defendant faces multiple charges, and if convicted, faces a mandatory two-year prison sentence. Further, the police have a high-quality video that clearly establishes the defendant's guilt. The second defendant faces similar charges, but this defendant has no prior criminal record, and the state's case is so weak that a trial judge will likely dismiss the case in the weeks to come. In the first case, each day that the defendant spends in jail awaiting trial earns him a credit for time served that reduces the time he will almost surely serve in prison. In the second case, each day in jail is likely just a day of lost liberty. Since the social costs of detaining the first defendant, $\tau(z, r, v)$, are

lower, an optimal judge should be more reluctant to release him. Put differently, if detaining the defendant has little impact on the total expected punishment he receives, an optimal judge will only release him if $E(\Delta|r, v)$, the expected violation cost associated with releasing the defendant, is small.

How does this observation impact how we think about the content of marginal outcome tests for racial bias in judicial decisions? Let v be an index of the expected time served for the defendant, and let z be an unbiased judge who makes socially optimal release decisions. Next, consider a set of cases decided by z and assume that the defendants in this set are identical on all traits that z observes except race and v . Next, recall that $\tau(z, v)$ is declining in v and assume that $E(\Delta|r, v)$ is an increasing function of v for all defendants of all races. Further suppose that, for any fixed v , expected violation rates are lower for Black defendants. Since $\tau(z, v)$ is a decreasing function of v , the value v^* that defines expected time served for the marginal defendant, that is, $E(\Delta|r, v^*) = \tau(z, v^*)$, will be greater in the sample of Black defendants, and the expected violation risk, $E(\Delta|r, v^*)$, will therefore be lower for marginal Black defendants than marginal non-Black defendants. In this example, average violation rates differ by race among marginal cases even when a court makes racially unbiased and socially optimal release decisions.

This is not a far-fetched scenario. If past discrimination by police inflates the criminal records of Black defendants relative to non-Black defendants who have engaged in the same illegal activities, it is reasonable to expect that, among defendants facing the same expected time served, Black defendants have lower expected violation rates given release. Further, this is just one of many plausible scenarios that raise concerns about marginal outcomes tests as tests for racial bias in release decisions. Any factor v that causes $\tau(z, v)$ to slope up or down is a potential source of another example.²⁰

Our second concern about the interpretation of outcome tests in this setting is less for-

19. They also demonstrate that biased judges may generate data that do not fail these tests.

20. Suppose that expected violation risk is the sum of a constant that differs by race and a monotonic function of how long the defendant has been without work, v . Here, the constant captures the effect of employment

mal and focused more on the details of bond court operations. The current literature proceeds as if the bond court judge determines the release outcome. However, in many cases, bond court judges do not determine release outcomes. They set release conditions, and defendants either meet or do not meet these conditions by posting required bonds, arranging for housing that satisfies requirements for electronic monitoring, and so forth. If judges can perfectly predict how defendants will respond to the conditions they set, this distinction does not matter. However, if judges have limited information concerning how defendants are likely to respond to different potential release conditions, releases outcomes in bond court are typically not decisions that judges make but decisions that defendants make in response to constraints that judges choose.

Historically, many bond courts have required judges to make decisions on bond and other release conditions in settings that put clear pressure on these judges to make quick rulings without access to formal risk assessments or information about the financial capacity of defendants.²¹ In recent years, some jurisdictions have provided bond court judges with detailed risk assessments of each defendant as well as information about the financial capacity of defendants,²² but much research on pretrial release outcomes comes from bond courts that asked judges to set release conditions with scant information about each defendant's violation risk or financial capacity. It is possible that, given these conditions, bond court judges adopt rules of thumb that assign higher bail amounts to defendants who face

more serious charges and have longer criminal histories. If this is the case, racial differences in violation rates given release may tell us nothing about how racial bias impacts the decisions made by bond court judges. Rather, these differences may arise primarily because the institutional practice of asking bond court judges to set bail without knowing anything about the financial capacity of defendants leaves many defendants who are low risk but poor in jail pretrial, and the prevalence of these defendants may well differ by race.

Fairness Tests

While tests for conditional differences in mean release rates or differential violation rates given release are the most common tests for bias in bond court outcomes, some studies test alternative conditions that, given our framework, do not make sense as tests for racial bias. These studies test what many researchers call fairness conditions. These conditions typically take the following form:

$$\begin{aligned} E(S|\tilde{X}, R = r, Y(1) = 1) \\ = E(S|\tilde{X}, R = r', Y(1) = 1) \end{aligned} \quad (3)$$

$$\begin{aligned} E(D|\tilde{X}, R = r, Y(1) = 1) \\ = E(D|\tilde{X}, R = r', Y(1) = 1) \end{aligned} \quad (4)$$

where S is a risk score or some other metric that the court uses to assess how risky it would be to grant pretrial release to the defendant. D is the release decision, and $Y(1)$ is a potential outcome. $Y(1) = 1$ implies that, if released, the defendant engages in misconduct before his

discrimination by race. If an unbiased judge, z , incorrectly assesses how violation risk varies with nonemployment, v , average outcomes among the defendants that she deems marginal candidates for pretrial release will differ by race, even if these mistakes, $\lambda(z, v)$, are independent of race. Both David Chan and colleagues (2022) and Janet Currie and colleagues (2025) explore related themes in their work on the systematic and frequent diagnosis and treatment mistakes made by many doctors.

21. See Steve Bogira (2006) for a description of the main felony bond court in Chicago, Illinois, prior to reforms that began in the 2010s.

22. See www.psapretrial.org for more on risk assessment tools. In September of 2017, Chief Judge Timothy Evans instructed bond court judges in Cook County, Illinois, to ask questions about the financial capacity of defendants and to set bail amounts after considering each defendant's ability to pay. The wording of the order implicitly asserted that, prior to this order, most bond court judges had been setting bail amounts without much concern for or information about the defendant's economic circumstances.

case is resolved. $Y(1) = 0$ implies that, if released, the defendant does not violate the conditions of his pretrial release. For simplicity, we assume that defendants cannot generate violations while in custody. So, we set $Y(0) = 0$ for all defendants.²³

Conditions 3 and 4 state that, among defendants who share a common $\tilde{X}$ and would also earn violations if released, the expected risk score and the expected release outcome do not vary with race. Some analysts associate the concept of racial fairness with one or both of these conditions, and Arnold and colleagues (2022) construct a test for disparate impact around condition 4.

Tests of these conditions must overcome estimation challenges since $Y(1)$ is never observed for defendants who are not released, ($D = 0$). However, we argue that, even in a hypothetical setting where researchers could magically observe $Y(1)$ for all defendants, researchers should not use these conditions to test for racial bias in pretrial procedures. We use a simple example to illustrate this point.

Generating Data from an Optimal Bond Court

Imagine the following data-generating process for a bond court. When an arrested offender is charged, the offender is examined by a risk-assessment team. Above, we define S as a random variable that is the result of the assessment process. The assessment team observes the complete set of characteristics that determine violation risk—that is, $\tilde{X} = X^*$, and we assume that, conditional on X^* , the probability of misconduct given release is independent of race. We also assume that the assessment team weighs all factors in X^* optimally. As a result, $S(X^*) = P(Y(1) = 1|X^*) = P(Y(1) = 1|X^*, R)$. This means that, for defendants of all races, the score produced by the assessment team equals the true probability that $Y(1) = 1$ given X^* . Finally, we assume that the court uses a cutoff rule to make custody decisions—that is, let x_i^*

denote the relevant characteristics for defendant i , and let $s_i = P(Y(1) = 1|X^* = x_i^*)$. Then, the court releases defendant i iff $s_i < \bar{s}$. For simplicity, we assume that $\bar{s}$ is a socially optimal cutoff rule that does not vary with defendant characteristics.²⁴

Our hypothetical bond court cannot know with certainty whether a given defendant will earn a violation if released pretrial, but the court does make color-blind decisions that are socially efficient. Nonetheless, as long as the distribution of S varies with race, the data that this optimal court produces will always violate the fairness conditions stated in equations 3 and 4 above.

This result is quite general, but we illustrate the result here with a parametric example. To further ease exposition, we suppress explicit conditioning on defendant characteristics. Consider two populations of defendants, r and r' . Among defendants of race r , $S \sim U(p_l, p_h)$, where $0 < p_l < p_h < 1$. Among defendants in r' , $S \sim U(cp_l, cp_h)$, where $c > 1$ is a constant that shifts the distribution of scores to the right and also increases the spread in scores, while maintaining a region of overlap with the distribution of scores for group r .²⁵ We assume that $\bar{s}$ falls in this region of overlap—that is, $cp_l < \bar{s} < p_h$.

If these two populations of defendants appear before our optimal bond court, the court will generate optimal risk scores and optimal release decisions on the basis of these risk scores. Nonetheless, it is straightforward to show that, given these optimal decisions:

$$E(S|R = r', Y(1) = 1) = c * E(S|R = r, Y(1) = 1)$$

The expected risk score among the r' defendants who fail given release, $Y(1) = 1$, is c times greater than the expected score among the parallel group of r defendants. Further, it is straightforward to show that among those with $Y(1) = 1$, the optimal bond court releases a smaller fraction of group r' .

23. See Shira Mitchell and colleagues (2021) for a discussion of fairness concerns versus predictive performance in the context of algorithmic scoring rules.

24. In the section “Outcome Tests,” we point out that such cutoff rules may not be optimal. Here, we adopt this simple rule to ease exposition.

25. We require that $1 < c < \min(\frac{p_h}{p_l}, \frac{1}{p_h})$.

If we start by assuming that it is not possible to perfectly predict defendant behavior given release, then if the distributions of recidivism risks differ by race, optimal scoring rules and optimal release rules that are free of racial bias will always generate data that fail the fairness tests presented in equations 3 and 4. It is also possible to create biased decision rules that produce outcomes that violate fairness conditions, but in any context where distributions of violation risks differ by race, *all* unbiased decision rules always produce outcomes that violate fairness. So, when researchers employ data from the US and conclude that a set of risk-assessment scores or bond court release decisions fail a fairness test, they have learned little about whether the assessment scores or the release decisions were contaminated by racial bias.²⁶

Fairness concerns may loom large in a scenario where health professionals employ a racially unbiased set of diagnostic tools to detect disease (for example, early stage cancers) and recommend early treatment on the basis of these test results. In this setting, an unbiased diagnostic test may generate lower treatment levels among patients in racial groups with below-average disease prevalence.²⁷ Since unbiased diagnostic tests may become more fair if they become more accurate,²⁸ violations of fairness criteria in medical testing motivate efforts to improve the accuracy of diagnostic tests. However, medical testing differs from bond court in one key dimension. Each tumor that a medical team tests is either malignant or benign before it is tested. So, perfect classification is possible in theory. In contrast, defendants who stand before a bond court judge are neither violators nor non-violators. They are human beings, and if released, they will exercise personal agency by responding to the challenges and opportunities that confront them after release. In our framework, optimal bond courts do not attempt to classify defendants as violators or non-violators. Optimal bond courts

try to predict the expected future costs of releasing a defendant and weigh these costs against the social costs of detention.

In an influential recent paper, Arnold and colleagues (2022) propose a sophisticated test for disparate impact in New York City bond courts that is a variation on the fairness test presented in 4 above. In our notation, they define two forms of disparate impact:

$$\Delta_0 = E(D|R = \text{White}, Y(1) = 0) \\ - E(D|R = \text{Black}, Y(1) = 0)$$

$$\Delta_1 = E(D|R = \text{White}, Y(1) = 1) \\ - E(D|R = \text{Black}, Y(1) = 1)$$

and develop tests for disparate impact by estimating weighted sums of these components. However, we have already shown that, even if the New York City bond courts are free of racial bias, we do not expect $\Delta_1 = 0$, and a similar argument holds for Δ_0 .²⁹

In addition, according to our reading of the literature on disparate impact, we contend that, any plaintiff who tried to use the methods of Arnold and colleagues (2022) to convince a court that the New York City bond courts produce a disparate impact on Black defendants would fail. Historically, tests for disparate impact in employment cases have involved comparisons among applicants who, given the information available at the time of application, have the same expected productivity in a specific position. So, we anticipate that disparate impact cases concerning bond court outcomes would hinge on comparisons among defendants with the same expected violation risk and not defendants who share a common potential future outcome, $Y(1) = 1$ or $Y(1) = 0$. Further, the traditional disparate impact standard does not require that a bond court employ optimal methods to calculate expected violation risks. It simply states that the court cannot screen on metrics that do not bear a *demonstrable relationship* to true violation risk.

26. See Kleinberg et al. 2017 and Mitchell et al. 2021.

27. See Paulus and Kent 2020 for a discussion of these issues.

28. Tests that are unbiased and 100 percent accurate are always fair.

29. We know of no results that allow us to determine what the sum these biases should be in different contexts.

The test that Arnold and colleagues (2022) propose is novel and interesting, and other researchers may find fruitful uses for the methods they develop. Our concern is that, as a general rule, the fairness tests presented in equations 3 and 4 do not provide information that is relevant for debates about optimal pretrial procedures. Standard tests for disparate impact do not take this form, and our optimal bond court example demonstrates that researchers should expect the Arnold and colleagues' (2022) method to detect racial differences in release rates given $Y(1) = 1$ or $Y(1) = 0$, even in settings where bond courts are making release decisions that are socially optimal and unbiased.

Recent Reform Efforts

Given the growing evidence that cash bail systems are inefficient and that minority defendants suffer disparate harm from their design flaws, several states, cities, and counties have enacted bail reform measures in the last decade, and many more are considering them. Isabella Jorgensen and Susan Smith (2021) document several bail reforms across the country. They highlight recent comprehensive reforms enacted by New Jersey in 2017 and Illinois in 2023. The New Jersey reform did not eliminate cash bail entirely, but it took substantial steps to establish a presumption of release and reduce reliance on financial conditions. This reform substantially reduced jail populations in New Jersey without an attendant increase in rates of failure to appear or pretrial misconduct (Grant 2019).

The Illinois reform is the first statewide law to flatly eliminate cash bail, though it retains supervised release via electronic monitoring and mechanisms for prosecutors to request that defendants be detained prior to trial. There is not yet sufficient follow-up data to study the effects of this new regime.

Other reforms are more local and hence more tenuous. The district attorney of Philadelphia stopped requesting cash bail in a wide

range of cases beginning in 2018. Ouss and Stevenson (2023) evaluate this policy change and find limited impacts. Bail judges were still able to give cash bail even when the district attorney did not request it. Rates of cash bail did fall, but rates of pretrial detainment remained constant. This suggests that the main effect of the policy was to remove cash bail in cases where defendants would have otherwise still been able to pay. Ouss and Stevenson (2023) do not find any change in misconduct rates among these affected defendants.

On the other hand, both Georgia and Texas recently passed state laws that strengthen cash bail as an institution.³⁰ Further, Jorgensen and Smith (2021) note that all state legislatures have the power to adopt laws that prevent local courts from pursuing reform efforts.

As debates over bail reform proceed, we note that successful reforms may still become unpopular. Imagine a reform that eliminates cash bail, improves risk-scoring procedures, and enhances the quality of pretrial monitoring services. Now, suppose the reform reduces jail populations by one half while fostering a 10 percent increase in the total number of pretrial violations. Even if the social costs associated with this 10 percent increase in violations are small relative to the large reduction in incarceration costs, opponents of the reform can generate headlines in local media that read "bail reform leads to increase in crimes committed by defendants waiting for verdicts." Further, since forty-five of the fifty states allow bail bondsmen to make money by providing loans to persons who do not have the funds required to post bail, there are firms in most states that have a financial interest in preserving cash bail systems.³¹

CASE OUTCOMES

Now, we turn to the outcomes of cases brought by police that survive preliminary review by prosecutors. Here, we focus on the nominal outcomes specified in the verdicts and sentences produced by courts. The influential Na-

30. See McCullough 2021 and Amy 2024.

31. Only Illinois, Kentucky, Massachusetts, Oregon, and Wisconsin do not allow bail bondsmen. See www.ncsl.org for more details.

tional Academies Press volume on sentencing (Blumstein et al. 1983) correctly notes that actors in parole and probation systems make numerous decisions that create variation in the actual punishments experienced by offenders who receive the same nominal sentence. We deal with these issues in the next section.

Charging Decisions and Plea Bargains

In the section “Charging Decision,” we discuss the screening procedures that determine whether charges filed by police evolve into cases that courts decide. Some charges do not withstand basic scrutiny, and some defendants are diverted into programs that offer rehabilitation services or special programs. However, among the cases that remain, prosecutors have considerable discretion over the specific charges they file against defendants and over the terms of plea bargains that they offer.

Charging decisions and plea bargains are intrinsically linked because the charges filed against a defendant determine both the likelihood that prosecutor will be able to secure a conviction if the case goes to trial and the severity of the expected sentence if the prosecutor does secure a conviction. Prosecutors realize that the vast majority of defendants are risk averse and are therefore able to use charges that carry mandatory prison sentences as leverage in negotiations over plea deals.

Since most criminal cases do not go to trial but end when the defendant accepts a plea agreement, researchers have explored the impacts of the practice of settling cases through plea bargains. Many findings support the idea that prosecutors leverage the risk aversion of defendants in plea bargaining negotiations, and in jurisdictions where the same group of prosecutors handle charging decisions and plea negotiations, initial charging decisions are an important component of these efforts.

Within our framework, two questions about plea bargaining are immediate. Do prosecutors file charges and negotiate plea deals in a manner that exhibits bias against minority defen-

dants? Does the practice of settling so many cases through plea bargains rather than a mechanism like bench trials produce inefficient outcomes that create disparate impacts on minority defendants?

Marit Rehani and Sonja Starr (2014) demonstrate how bias may operate through charging decisions. They examine data from federal courts and find noteworthy racial differences in the distribution of time served in prison among comparable defendants in the same initial arrest category. The median Black defendant can expect to receive a sentence that requires him to serve roughly 9 percent more time in prison than a similar White defendant, and Rehani and Starr (2014) show that this result is driven almost entirely by the choices of prosecutors. Holding arrest records and defendant characteristics constant, these researchers find that prosecutors are much more likely to charge Black defendants with crimes linked to mandatory minimum prison sentences. Further, Rehani and Starr (2014) conclude that, if federal prosecutors did not discriminate in this manner, the steady-state population of Black inmates in federal prison would be about 10 percent smaller.

It is logically possible that racial differences in the nature of actual crimes committed exist within the 134 arrest categories that Rehani and Starr (2014) employ, and that these differences justify the resulting racial differences in sentence lengths, but we have no evidence to support this claim, and we do know that, if Rehani and Starr (2014) had introduced controls for the final charges facing each defendant, they would have found insignificant racial disparities in case outcomes. Rehani and Starr (2014) illustrate that including variables in $\tilde{X}$ that are chosen by court officials may produce misleading results concerning the existence of bias in the courts. Rehani and Starr (2014) argue that conditioning on the charges filed by prosecutors is equivalent to conditioning on the mechanism that prosecutors employ to exercise racial bias.³²

32. Similar debates surround the use of controls for the criminal history of the defendant. These controls often shrink racial disparities in sentencing outcomes, but why? Ben Grunwald (2023) provides evidence that Black defendants may have a higher probability of being arrested conditional on criminal activity, and this would imply,

David Mustard (2001) also finds significant racial disparities in the federal sentencing outcomes conditional on a significant set of controls. He concludes that a key driver of more punitive sentencing outcomes for racial minorities is that prosecutors are more willing to ask judges to sentence defendants below the relevant sentencing guidelines as a reward for cooperating with prosecutors when dealing with White defendants. Given the framework we develop in the section “Analytical Framework,” we are reluctant to offer a definitive interpretation of these results. Do Mustard’s findings demonstrate that federal prosecutors have racial animus toward non-White defendants or that they statistically discriminate against non-White defendants because they correctly or incorrectly judge that White defendants are less prone to re-offend than similar non-White defendants? Or do prosecutors find it easier to obtain valuable cooperation from White defendants, and if so, why?³³

Some readers may conclude on the basis of these results that reforms that would eliminate plea bargains and mandate bench trials as the default means of resolving cases may both reduce racial disparities in case outcomes and improve social welfare. However, Jordan (2024) points out that the welfare analysis of plea bargaining as an institution is complex. Plea bargains provide insurance for defendants, and existing evidence suggests that many defendants are quite risk averse and value this insurance. It is logically possible that restrictions on the use of plea bargains could reduce racial disparities in sentencing outcomes while harming defendants of all races.

Sentencing Convicted Offenders

A larger literature adopts a more reduced form approach and examines racial differences in

sentences among either arraigned defendants or those who receive a guilty verdict. Cassia Spohn (2015) notes that, in the early twentieth century, there were well-documented cases where courts dealt with Black defendants in biased ways that almost certainly reflected racial animus on the part of court actors.³⁴ However, she also notes that many early regression studies of racial disparities in sentencing and case outcomes did not find large racial disparities conditional on controls for relevant case and defendant characteristics. Spohn (2015, 225) notes that the 1983 report by the National Research Council’s Panel on sentencing research concluded that racial disparities in sentencing outcomes were “due primarily to factors other than racial discrimination in sentencing.”

Jaeok Kim and André Kiesel (2018) use administrative data from New York City and New York state respectively to examine the relationships between distributions of types of arrests and distributions of sentencing outcomes while including controls for the criminal histories of defendants. They find that racial disparities in the nature of offenses and the extent of criminal histories at the time of arrest account for racial disparities in sentencing outcomes and that courts in New York City may actually produce smaller disparities in sentencing outcomes than researchers would expect given the racial disparities in arrest characteristics.

Greg Ridgeway and colleagues (2020) also study New York sentencing outcomes using data on convicted offenders. They find that Black convicted offenders were about 70 percent more likely to be sentenced to prison than White convicted offenders. However, given controls for criminal history and crime characteristics at the state level, this gap shrinks to roughly 7.5 percent. This study is one of many in the criminology literature that conclude that

among defendants with the same criminal history who face the same current charge, Black defendants may be less risky and deserve more lenient sentences.

33. Jordan (2024) examines plea bargaining in Cook County, Illinois. He finds that prosecutors exploit both Black and non-Black defendants’ aversion to the risk associated with going to trial. However, he finds no evidence that prosecutors bargain harder when dealing with Black defendants who face the same charges and share comparable criminal histories.

34. See chapter 2, “Executions,” in NASEM (2022).

most of the Black-White gap in incarceration sentences given conviction can be attributed to Black-White differences in the distribution of case and defendant characteristics.

However, Ridgeway and colleagues (2020) also find that conditional racial disparities in sentencing varied significantly among counties within New York state. They find that Black defendants in one county faced a 36 percent higher chance of being sentenced to prison than comparable White defendants. Low average rates of racial disparities in sentencing at a state or national level do not rule out the possibility that courts in certain jurisdictions sentence comparable defendants of different races quite differently. On the other hand, the regression methods that researchers employ to measure conditional disparities may be less reliable when applied to data from one jurisdiction. Ridgeway and colleagues (2020) note that, in some counties, Black defendants with long criminal histories who face serious charges have few or no peers among the population of White defendants. In these scenarios, researchers cannot know whether courts treat comparable defendants the same regardless of race because some types of defendants exist only within one race group.

Chad Topaz and colleagues (2023) employ data from federal courts to examine racial disparities in the length of prison sentences. Racial differences in case characteristics account for almost 90 percent of the overall nineteen-month difference in sentence length between Black and White defendants, but once again, the sizes of the conditional racial disparities in sentence length vary significantly among district courts. In some districts, these conditional disparities are small and statistically insignificant. In others, they are quite noteworthy.

Sentencing Rules and Guidelines

Since racial disparities in sentencing outcomes shrink dramatically when researchers add controls for observed case and defendant characteristics, it is possible that, given more complete sets of controls, these disparities would be negligible. However, the key point is the following: given any reasonable conjecture about

the exact magnitude of these disparities given X^* , structural factors likely remain the key drivers of overall racial disparities in criminal justice outcomes. In this section, we discuss the structural role of sentencing laws and guidelines in creating absolute racial disparities in the punishments that convicted offenders receive. In the next section, we consider structural flaws in the design of parole and probation supervision.

We begin with some observations about the history of sentencing policies. Derek Neal and Armin Rick (forthcoming) note that from 1925 to 1975, the US incarceration rate remained roughly constant at around one hundred per one hundred thousand.³⁵ Over this period, criminal law maintained an indeterminate sentencing regime that gave judges considerable discretion when sentencing convicted offenders, and court actors viewed offender rehabilitation as an important goal of the criminal justice system. Just as judges enjoyed great discretion when sentencing offenders, parole boards enjoyed great influence over the time that offenders who received a given sentence actually spent in prison. Parole boards saw their discretion as a tool for encouraging good behavior and rehabilitation. However, rising crimes rates and growing doubts that existing practices worked as tools for promoting rehabilitation sparked a change in the laws that governed sentencing and parole, and over the period 1975 to 2007, the incarceration rate increased by more than a factor of five. The rate fell steadily through the 2010s, but in 2019, it remained more than four times greater than the rate of one hundred per one hundred thousand that prevailed for roughly half of the twentieth century.

Here, we stress several points about the era of mass incarceration that has existed since roughly 1985, when the incarceration rate per one hundred persons first hit two hundred. To begin, using a variety of methods, Steven Raphael and Michael Stoll (2013) and Neal and Rick (2016) demonstrate that broad changes in sentencing laws drove growth in state prison populations. For example, Neal and Rick (2016) employ data from the National Corrections Re-

35. Reliable data on national incarceration levels do not exist prior to 1925.

porting Program (NCRP) to estimate the likelihood that offenders arrested for specific offenses in 1985 would serve prison terms of various lengths. They use the results to simulate what the incarceration rate would have been in 2005 if these probabilities had remained fixed among subsequent cohorts of arrested offenders, and they conclude that the incarceration rate would have grown by roughly 25 to 40 percent. However, the actual incarceration rate grew by almost 145 percent. They conclude that at least 71 percent and as much as 83 percent of the observed increase in incarceration rates between 1985 and 2005 must be attributed to changes in how courts punished persons arrested for particular offenses.

Raphael and Stoll (2013) employ data from 1984 and 2004. They conduct a similar simulation exercise, but they require the prison system to be in steady state in both years. They conclude that 91 percent of the growth in incarceration rates between these two dates must be attributed to changes in how courts deal with arrested offenders.

Both Neal and Rick (2016) and Raphael and Stoll (2013) conclude that a broad-based shift toward more punitive sentencing laws drove these changes in expected time served in prison given arrest. Both review numerous changes in sentencing rules and guidelines at the state level that likely played a role. Further, Neal and Rick (2016) show that increases in the likelihood that an offender arrested for a particular crime would serve prison time are evident in all crime categories. Overall, the likelihood of serving time in prison given arrest increased by 84 percent, and these rates more than doubled for drug crimes and various forms of theft. The likelihood of serving prison time given arrest for a violent crime rose less sharply, but here the expected length of prison spells given incarceration rose sharply. In all violent crime categories, the likelihood of serving at least five years in prison given arrest grew by at least 100 percent.³⁶

Both studies find no evidence that the increase in sentencing severity that drove the state prison boom involved a differential increase in severity within the crime categories where minority defendants are most overrepresented among those arrested. However, data on federal prison incarceration rates over the same period tell quite a different story. Here, rising incarceration rates for drug crimes, weapons offenses, and immigration violations drove federal prison growth between 1980 and 2010, and these trends disproportionately impacted incarceration rates for minorities. Alexander (2011) explains how the Anti-Drug Abuse Act of 1986 contained sentencing rules for offenses involving crack cocaine that were much more severe than the rules for offenses involving powder forms of cocaine. This policy appeared to target Black drug offenders directly, and the population of Black inmates in federal prisons grew much faster than the population of White inmates.

Michael Light (2022) notes that average difference in the length of federal sentences assigned to Black versus White defendants declined sharply between 2009 and 2018, and he discusses several factors that likely contributed to this development. The Fair Sentencing Act of 2010 made it more difficult to apply mandatory minimum sentences in crack cocaine cases. Further, changes in federal law enforcement strategy likely contributed to the large reduction in the annual number of crack cocaine cases filed over this period. However, Light argues that changes in how judges sentenced Black versus White offenders conditional on their criminal history, offense severity, and relevant mandatory minimum sentencing requirements played almost no role in the dramatic decline in the Black-White sentencing gap. Regarding federal incarceration rates among Black citizens, both the disproportionate increase during the prison boom and the subsequent excess decline during the 2010s appear to have been driven by changes in sentenc-

36. John Pfaff (2017) argues that prosecutors drove these trends by pursuing convictions more aggressively. Neal and Rick (forthcoming) reanalyze the data Pfaff (2017) cites and conclude that changes in prosecutor behavior played, at most, a minor role in driving these trends. Piecing together information from different data sources, Neal and Rick (forthcoming) show that expected time served given felony conviction rose sharply during the prison boom period.

ing rules and guidelines and not by changes in the behavior of judges conditional on existing policies.³⁷

Incarceration and Public Safety

We have argued consistently that laws and practices that are excessively punitive are a form of structural racism. Black males are arrested at more than five times the rate that White males are arrested. So, when courts produce approximately color-blind outcomes that are nonetheless too punitive—that is, the social costs of punishing defendants exceed the expected value of any resulting improvements in public order and safety—the laws and practices that govern court operations represent a form of structural racism. Likewise, when courts produce outcomes that are too lenient, Black communities often suffer disparate harm because victimization rates have typically been higher in Black communities, and much crime is within race.³⁸

The prison boom involved a sharp increase in the severity of sentencing rules for both state and federal courts, but to support our contention that this increase was excessive, we need to say something about the public-safety benefits created by this shift in policy. In this section, we review the literature on the links between incarceration policies and public-safety outcomes. The sharp growth of prison populations during the 1980s, 1990s, and 2000s was a catalyst for research on the public-safety benefits of incarceration. Further, in some states, recent efforts to reduce prison populations have produced additional evidence about the relationship between incarceration policies and public safety.

We begin by discussing recent evidence concerning the relationships between incarceration sentences and future offending rates for individual offenders. We then discuss work on the relationships between crime rates and the willingness of society to use incarceration as a

sanction for offenders. Studies that provide detailed information about the impacts of incarceration on the behaviors of individual defendants may tell us little about society-level relationships between incarceration rates and crime rates. Criminals who are not incarcerated may increase their criminal activities when other criminals are incarcerated, or potential criminals may be deterred from starting a criminal career when they see existing criminals sentenced to long spells in prison. Further, the treatment impacts of incarceration among the population of currently incarcerated persons may be quite different than the distribution of impacts that we would observe if courts drastically increased or decreased their use of incarceration sentences.

Individual Treatment Impacts of Incarceration

Over the past decade or more, several studies have produced estimates of the impacts of incarceration on future offending among individuals who are marginal candidates for sentences that require time in prison as opposed to community supervision. These studies do not address replacement effects—that is, the possibility that, when the state incapacitates one offender, different offenders may increase their criminal activity. Further, these studies do not address general deterrence effects—that is, the possibility that harsh punishment of existing defendants serves as a deterrent to future offending by others.

Before reviewing empirical results from these studies, we need to define terms. Here, we follow the framework presented in Jordan and colleagues (2023). When the state incarcerates an offender, two impacts on public safety are immediate. First, the offender cannot commit new offenses while in prison. Second, the offender ages while incarcerated, and much evidence suggests that aging directly lowers rates of offending. The first effect is a direct incapacitation effect. The second is an indirect

37. It is logically possible that throughout this period, federal judges or prosecutors have been biased against minority defendants. However, the initial rise and subsequent decline of racial disparities in federal incarceration rates appear to be driven by changes in policy.

38. See chapter 2 of NASEM (2022). Hispanics and Native Americans also face higher arrest rates and victimization rates than Whites.

but still unavoidable effect of incapacitating an offender. In addition to these two incapacitation effects, the experience of prison may impact the age-specific offending rates of inmates after their release from prison. Whether time in prison increases or decreases these age-specific offending rates may hinge on how prisons operate, for example, the quality of programs that offer skills training, substance abuse counseling, behavioral therapy, and so forth. Thus, the impacts of prison experiences on post-release, age-constant offending rates are not unavoidable effects linked to incapacitation per se but rather impacts linked to the specific experiences of inmates during incarceration. If these experiences increase age-specific offending rates, time served in prison is criminogenic. If these experiences decrease age-specific offending rates, time served deters crime in the future.

To make these ideas more concrete, consider a group of comparable defendants who are all age a when sentenced. Assume that the court randomly assigns half of these defendants to serve $m = \bar{m}$ periods in prison and assigns the other half to probation, $m = 0$. Let τ be a random failure time that denotes the time of the first offense a defendant commits after sentencing, and define $F(t|a, m)$ as the probability that a defendant sentenced at age a to serve m years in prison commits a new offense during the first t periods after sentencing—that is, the probability that $\tau \leq t$ given a defendant sentenced to m periods in prison at age a .

Several things are immediate. To begin, $F(t|a, m) = 0$ for $t \leq m$, since we assume that inmates cannot offend while incarcerated. In addition, if we assume that the experience of prison does not change age-constant rates of recidivism, the full impact of $m = \bar{m}$ of incapacitation at horizon t is an absolute reduction in recidivism rates of periods

$$\text{incap}(t, a, \bar{m}) = F(t|a, 0) - F(t - \bar{m}|a + \bar{m}, 0)$$

Put differently, if the experience of prison impacts post-release offending rates only because prisoners age while incarcerated, then prison reduces recidivism rates by reducing the time that defendants are exposed to recidivism

risk from t to $t - \bar{m}$ and by shifting initial exposure to age $a + \bar{m}$ instead of a . The magnitude of both effects is determined by time-served, $\bar{m}$.

Jordan and colleagues (2023) present estimates of $F(t|a, 0)$ for the complier set—that is, those who may or may not receive an incarceration sentence depending on the severity of the judge assigned to their case, and they find that $F(t|a, 0)$ grows little with t over horizons greater than forty-eight months. They also find small impacts of a year of aging on future recidivism rates. Taken together, these results imply that, over horizons of five years and beyond, the direct impacts of short prison spells on recidivism rates should also be small. Reducing exposure to recidivism risk from five years to four years matters little, and one year of aging has a minor impact on recidivism rates. Since most defendants sentenced to prison serve less than two years and many serve only a few months, there is no reason to expect large direct impacts of incarceration on recidivism at long horizons.

However, both Jordan and colleagues (2023) and Manudeep Bhuller and colleagues (2020) do find lasting impacts of incarceration treatment on recidivism. Bhuller and colleagues (2020) examine data from Norway and find that incarceration treatment reduces recidivism rates by roughly 29 percentage points five years after sentencing. Jordan and colleagues (2023) examine data from Cook County, Illinois. They find that incarceration reduces five-year recidivism rates by just over 29 percentage points among defendants sentenced following their first felony charge. However, when they examine repeat offenders, they find no impact of incarceration on five-year recidivism rates. The Bhuller and colleagues (2020) results for all offenders and the Jordan and colleagues (2023) results for first offenders are difficult to reconcile with the view that prison simply reduces exposure to recidivism risk and shifts recidivism risk to older and less risky ages. These two effects are not large enough to generate large reductions in recidivism rates at long horizons.

Since repeat offenders are former first offenders who were not deterred by the punishment they received in previous cases, no one should be surprised to learn that incarceration impacts recidivism differently among first of-

fenders versus repeat offenders.³⁹ Nonetheless, in the US, most defendants sentenced to prison are repeat offenders.

Further, Bhuller and colleagues (2020) argue that the positive impacts of prison on recidivism rates in Norway are likely the result of effective training programs that may have few parallels in US prisons.

Taken as a whole, the existing literature suggests that, in the US context, most incarceration sentences incapacitate offenders and do little else. Often researchers define recidivism events as new arrests, new convictions, or new incarcerations. However, most crimes do not result in an arrest. So, some researchers have attempted to measure the incapacitation channel through inmate interviews that ask defendants about their history of past offenses. Reviews of this research, much of it conducted during the 1970s, prior to the surge in US incarceration rates, suggest the typical inmate would have committed ten to twenty serious felony offenses in a given calendar year, if he had not been incarcerated and managed to avoid arrest.⁴⁰

These results describe inmates incarcerated during a period when US incarceration rates were quite low, and the stock of prison inmates likely contained a larger fraction of career criminals. Further, Raphael and Stoll (2013) reports that the average age of prison inmates was lower in this earlier period. Both these factors suggest that the benefits of incapacitating the representative inmate fell as prison populations grew during the 1980s, 1990s, and 2000s. In a more recent analysis of the criminal activity of adults convicted of felonies, Emily Owens (2009) finds that the crime-reduction value of incapacitating an additional inmate for one year is roughly one-fifth of the reduction implied by much of the earlier research.

Equilibrium Impacts of Incarceration

So far, we have reviewed the literature that addresses how incarceration impacts individual

recidivism. However, most policymakers are interested in the relationship between the propensity of courts to incarcerate offenders and the overall level of crime in society. As we note earlier, estimates of the individual treatment impacts of incarceration may not tell us much about how policies that drive the use of incarceration sentences impact overall crime rates because spillovers may exist. If society incarcerates one offender, this may create new criminal opportunities for other offenders, or it may deter others by making the prospect of punishment more salient.

Empirical work on this topic is challenging because incarceration rates in a given society may be high precisely because crime rates are high. Yet, a number of papers have exploited large-scale policy experiments to isolate potentially exogenous changes in incarceration rates that may not be correlated with changes in the underlying propensity of citizens to commit crime.

Several studies exploit the unusual Italian practice of periodic, large, and sudden prisoner releases through collective clemencies and collective pardons. Alessandro Barbarino and Giovanni Mastrobuoni (2014) construct a panel dataset of crime and incarceration rates that vary by year and by Italian province and exploit province-level variation in pardon totals for all prisoner releases occurring between 1962 and 1995. The authors find sizable impacts of incarcerating defendants on crime. These impacts are of the same order of magnitude implied by the results of many US inmate surveys in the 1970s.⁴¹

Paolo Buonanno and Steven Raphael (2013) use relatively high-frequency crime and incarceration data at the national level as well as province-level variation to estimate the effects on crime of the August 2006 Italian mass prisoner release. The authors find that incarcerating a felon eliminates thirteen to seventeen serious offenses per year served. However, they also find that, pre-pardon crime rates held con-

39. Bhuller and colleagues (2020) work with smaller samples and do not have the power to precisely estimate separate treatment impacts for first versus repeat offenders. However, point estimates in their appendix results indicate much larger absolute impacts of incarceration on recidivism among first offenders.

40. See Marvell and Moody 1994; Spelman 1993, 2000.

41. See Marvell and Moody 1994; Spelman 1993, 2000.

stant, the reduction in offenses associated with incarcerating an offender for a year is much larger in provinces with smaller pre-pardon incarceration rates.

Ben Vollaard (2013) analyzes the impact of a sentence enhancement in the Netherlands that targeted repeat offenders, defined as those with over ten prior felony convictions. In 2001, the Netherlands enacted an enhanced sentence of two years for such offenders, first allowing a small number of municipalities to experiment with the enhancement before nationwide application in 2004. The author finds that each year of time served prevented between fifty to sixty reported thefts. However, municipalities could only assign enhancements that the central government allocated to them, and the author finds significantly smaller crime reductions per additional prison year served in municipalities that were allocated enhancements for a larger share of their eligible defendants.

The overall crime reduction benefits of incarceration in the Dutch and Italian studies are comparable to estimates derived from the surveys of US prison inmates during the 1970s. However, these studies also find that inmates differ greatly in their propensity to commit crime if not incarcerated, and this heterogeneity implies that, to the extent courts target incarceration sentences to more risky offenders, we should see diminishing returns from sentencing reforms that successively mandate incarceration for larger and larger groups of defendants.

There are several studies of the crime-prison relationship based on US panel data regressions. Using US state panel data from 1972 to 1992, Steven Levitt (1996) exploits the fact that in years when states are under a court order to relieve prisoner overcrowding, state prison populations grow at relatively low rates. Using measures of the status of prisoner overcrowding lawsuits as instruments for changes in state-level incarceration rates, Levitt finds

crime-prison elasticities that are considerably larger than comparable estimates from linear regression models. He reports a property crime-prison elasticity of -0.3 and a violent crime-prison elasticity of -0.4 .

Rucker Johnson and Steven Raphael (2012) construct an instrument for state-level incarceration rates according to the difference between a state's current incarceration rate and the state's steady-state incarceration rate implied by observable admissions and release rates. The authors justify the instrument using a theoretical model that spells out conditions under which the transitory disparity between the actual and steady-state incarceration rate provides a valid instrument for one-year lead changes in the actual incarceration rate. The authors analyze state-level panel data for two time periods: 1978 to 1990 and 1991 to 2004. The former period is characterized by a relatively low incarceration rate (186 per 100,000) while the latter period is characterized by a much a higher incarceration rate (396 per 100,000).

For the early period, an additional prison year served prevents roughly 2.5 felony violent offenses and 11.4 felony property offenses. Note that the sum of these impacts is quite close to the implied impact of the 2006 Italian pardon program on total serious offenses. In 1978, the California incarceration rate was comparable to the rate in Italy prior to the pardon program that Buonanno and Raphael (2013) examine, and while the incarceration rate rose in California during much of the first period, the average rate during this period was less than half of the prevailing rate during the latter period.⁴² Yet, during the 1991–2004 period, the California incarceration rate was often close to five hundred per one hundred thousand,⁴³ and the implied reductions in crime generated by marginal increases in California incarceration rates were much smaller. Here, Johnson and Raphael (2012) estimate that crimes prevented per prison year served were 0.3 for violent felony offenses and 2.7 for felony property offenses.

42. When expressed in terms of elasticities, the results for California during the 1978 to 1990 period are also quite close to the estimates in Levitt (1996), who examined data from several US states in the period 1972 to 1993.

43. See "California's Prison and Jail Incarceration Rates," Prison Policy Initiative, April 2024, https://www.prisonpolicy.org/graphs/jails2024/CA_incarceration_rates_1978-2022.html.

Raphael and Stoll (2013) reproduce this analysis with updated data for three time periods: 1977 through 1988, 1989 through 1999, and 2000 through 2010, with corresponding weighted-average state incarceration rates of 171, 349, and 449. They find small prison-crime effects for the latter two time periods, but much larger effects for the earliest time period. Raymond Liedka and colleagues (2006) provide similar evidence with US panel data.

In sum, results from the Dutch and Italian studies are comparable to those from US panel data studies that take data from time periods when incarceration rates in the US were more comparable to those in the Netherlands and Italy. However, results for US data gathered after the prison boom indicate that marginal increases in incarceration rates produce, at best, small reductions in crime.

The most striking evidence that public-safety gains diminish at the margin as prison populations grow comes from California. California was among the first states to adopt punitive sentencing rules that produced rapid growth in prison populations.⁴⁴ However, an adverse ruling from the US Supreme Court forced them to reduce prison overcrowding, and in April 2011, California adopted reforms that sought to reduce prison populations. The legislation eliminated the practice of returning parolees to state prison custody for technical parole violation for all but a small set of the most serious offenders. The legislation also defined a group of nonserious, nonsexual, non-violent offenders who upon conviction serve their sentences in county jails. The reforms generated almost no change in crime rates even though they caused a sharp drop in the state's prison incarceration rate with a small and far from offsetting increase in the state's jail population. The net effect was a sizable reduction in the incarcerated population that was comparable in magnitude to the reduction generated by the Italian collective clemency of 2006. In fact, on a per capita basis, the shock caused by California realignment was a little larger than

the effect of the 2006 clemency in Italy. The fact that the 2011 reform in California did not impact crime rates in the way that the 2006 program did in Italy is consistent with the hypothesis that the crime-reduction benefits associated with policies that increase incarceration rates are diminishing in the baseline incarceration rate. The key difference between the two scenarios is the much larger baseline incarceration rate in California.

Some readers may conjecture that society benefits long term from establishing policies that make the prospect of incarceration a salient deterrent for most criminals. Further, if policymakers must enforce punitive sentencing rules for many years before potential offenders revise their beliefs about the expected consequences on future convictions, researchers may find it difficult to measure these benefits. Many researchers have examined the importance of such general deterrence effects, and several high-quality literature reviews summarize the evidence from their studies.⁴⁵ There is little evidence that increases in the severity of punishment deter criminal activity. Criminal behavior among potential offenders is more responsive to their beliefs concerning the likelihood that a crime they commit will be detected, prosecuted, and punished in some manner. Increasing the severity of punishment (for example, increasing the length of a potential prison sentence for an offense that already carries a prison sentence) does not appear to increase deterrence. However, factors that increase the likelihood of punishment—for example, higher police staffing levels as demonstrated in Aaron Chalfin and Justin McCrary (2018) or the swiftness of a sanction (see the evaluation of Hawaii's HOPE Pretrial program in Janet Davidson and colleagues (2019)—do create general deterrence. These results make sense if persons who commit offenses serious enough to draw the attention of the police, prosecutors, and courts are also persons who heavily discount the future.⁴⁶

Neal and Rick (forthcoming) provide a more

44. See Raphael and Stoll 2013 and Neal and Rick 2016 for details.

45. See Chalfin and McCrary 2017 and Nagin 2013.

46. See Mastrobuoni and Rivers 2016 for evidence of present orientation among offenders.

detailed treatment of much of the evidence we review here, and they conclude that changes in sentencing policies account for most of the sharp rise in incarceration rates that began in the late 1970s and for the fact that incarceration rates remain far above any level that most scholars or policymakers could have envisioned fifty years ago. These policy changes disparately impacted minority citizens, who face arrest much more often than Whites, and there is considerable evidence that the continued push for ever more punitive sentencing rules during the 1990s and early 2000s generated, at best, marginal improvements to public order and public safety. In the section “Simulating the Impacts of Reforms,” we assess the prospects for reducing racial disparities in incarceration rates by making sentencing laws less punitive for offenders who are neither violent offenders or recent recidivists.

COMMUNITY SUPERVISION

Courts assign sentences to convicted offenders, but parole and probation authorities often make decisions that determine the consequences of these sentences for defendants. The combined populations of persons serving nominal incarceration sentences under either probation or parole supervision are larger than the population of persons in prison. In 2021, roughly 1.8 million people were incarcerated. Most prisoners were in a state or federal prison, but a sizable portion were in jail. At the same time, roughly 3.75 million people were under community supervision. Of these, 803,000 were on parole while approximately three million were under probation supervision.⁴⁷

Further, there are enormous racial disparities in community corrections supervision rates. While Black people constitute 13.6 percent of the US resident population, they account for 30 percent of those on probation and 37 percent of those on parole (Kaeble 2023). Expressed as a rate per 100,000 adults, the community supervision rate is 3,749 per 100,000 for Black adults. Yet, the rates are 1,193 per 100,000 for Hispanic adults and 1,211 per 100,000 for White adults.

For much of US history, most prison sentences were indeterminate. Judges sentenced offenders to a range of possible times served, and *ex post*, parole boards decided when and if (in the case of indeterminate life sentences) to release individual prisoners. Beginning in the 1970s, many states began to add more determinacy to sentencing. This took many forms. Some states abolished parole boards together and introduced determinate sentencing systems where a felony conviction results in a fixed sentence and time served is ultimately determined by the sentence length minus fixed credits for pretrial detention and time off for good behavior. Other states introduced a series of mandatory-minimum sentences, sentence enhancements, and truth-in-sentencing provisions that constrained the release authority of parole boards until mandatory minimums are served.

While there are currently fourteen states that scholars commonly label as determinate sentencing states (Reitz 2019), the actual degree of determinacy in these states is best characterized as being on a continuum, with some states leaving little discretion to parole boards and other states still affording considerable discretion to parole authorities in determining ultimate time served. Despite this heterogeneity, state sentencing is more structured today than in the past, and discretionary release authority has been curtailed.

Whether states grant parole boards much or little control over the time that prisoners serve given their sentence, when prisoners do leave prison, they typically remain under the supervision of parole officers for a period of time. Since prisoners rarely serve their entire sentence before being released, persons under parole supervision are legally inmates who are serving the balance of their incarceration sentence under community supervision. Likewise, the vast majority of convicted felons who do not receive incarceration sentences receive probation sentences, but again, probationers are legally persons who are serving incarceration sentences under community supervision rather than in prison.

⁴⁷ The community correction supervision rate has dropped considerably over the past fifteen years, from a peak of 2,240 per 100,000 US adults in 2007 to the rate of 1,440 per 100,000 in 2021 (Carson and Kluckow 2023).

The fact that, in most cases, persons under parole or probation supervision are legally persons who are serving alternative incarceration sentences is crucial. For this reason, persons under community supervision do not possess many rights that ordinary citizens enjoy, and these lost rights may also contribute to racial disparities in the experiences of defendants who receive the same nominal sentence from a court. For example, persons under community supervision are not protected from warrantless searches by police or parole officers, and there is evidence that, at least in some jurisdictions, law enforcement officers disproportionately ask Black drivers whether they are on probation or parole, and if drivers answer in the affirmative, police are much more likely to conduct a vehicle search (Macdonald and Raphael 2020).

In addition, community corrections officers may impose numerous requirements on the persons under their supervision: for example, avoid people who are criminally active or with known criminal histories, avoid drugs and alcohol, meet regularly with a supervising officer in the field, find and maintain employment, do not leave one's county of residence without permission, wear an electronic monitor, participate in rehabilitative programming, participate in community service, and do not contact crime victims. Further, in many jurisdictions, probation and parole officers have the power to initiate proceedings that result in probation or parole revocation and a new prison admission by simply alleging that a person under their supervision violated one such condition of supervision. Most state prison systems record these events as admissions to prison for technical violations. Data from 2021 and 2022 indicate that, in each year, at least one hundred thousand persons on probation or parole faced revocation of their supervision and admission to a state prison. Further, more than half of these revocations were the result of technical violations rather than new crimes.⁴⁸

In this section, we review the existing literature on parole board hearings, parole supervision, and probation supervision. We note that some studies provide evidence that racial bias impacts the decisions made by parole boards and by community corrections officers, but our main concerns involve the design of community corrections jobs and the delegation of decision-making rights to community corrections officers. We know of no states where community corrections officers face strong incentives to increase the number of parolees or probationers under their supervision who secure stable employment or housing. However, media reporting on the criminal activities of parolees and probationers always creates public pressure to prevent recidivism among those under community supervision.

Given this pressure, community corrections officers face incentives to err on the side of caution when deciding whether to recommend that those who violate supervision rules face revocation.

These incentives matter because, as we noted earlier, many states grant probation and parole officers the power to initiate technical revocation proceedings for persons under their supervision, even if these persons have not committed a new crime. Further, critics argue that parole boards often rubber-stamp the judgments of community corrections officers who recommend technical revocations.⁴⁹ However, there is little evidence that community corrections officers employ technical revocations in ways that incapacitate offenders who pose particularly high risks to public safety, which raises concerns about the efficacy of granting probation and parole officers the power to initiate technical revocations.

Further, technical revocations have a disparate impact on Black citizens because Blacks are at least three times more likely to be under community supervision than Whites or Hispanics. While there is also some evidence that community corrections officers discriminate against Black persons under their supervision

48. See table 8 in Carson and Kluckow (2022) and CSG (2019).

49. See "Prisoners' Rights: Morales v. Monreal," Uptown People's Law Center, 2025, <https://www.uplccchicago.org/what-we-do/prison/morales-v-monreal.html>.

when making revocation recommendations, the key point is that existing policies generate many revocations that are difficult to justify in terms of their expected impacts on public safety, and Black citizens bear far more than their share of the costs created by these revocations. Thus, the laws that grant these powers to community corrections officers are likely a form of structural racism.

Here, we discuss three separate sets of results. We discuss the literature on parole board hearings that govern the initial release of some prisoners, and then we discuss technical revocations of parole that result in readmission to prison. We also discuss probation supervision and revocations of probation that generate new prison admissions.

Parole Boards

Parole supervision usually applies to people released from state prison.⁵⁰ For much of the twentieth century, prison sentences involved indeterminate sentences with minimum and maximum sentences set at trial, and parole boards determined effective time served, but beginning in the 1970s, many states adopted more determinate sentencing laws, and the vast majority adopted Truth in Sentencing statutes in response to the financial incentives provided by the 1994 Violent Crime Control and Law Enforcement Act.⁵¹

Nonetheless, Kevin Reitz and Edward Rhine (2020) note that despite the move toward deter-

minate sentences in sixteen particular states, parole board decisions still impact time served for nearly three quarters of those released from prison. Even when sentences are determinate, parole and prison authorities exercise discretion when awarding time-served credits for good behavior and program participation.⁵²

In a recent annual report, the California Committee on Revision of the Penal Code (CRPC 2021) analyzed the results of parole hearings occurring in the state during calendar years 2019 and 2020.⁵³ The state parole board controls the release date for a small fraction of inmates, but the report found no differences in the likelihood of being granted parole by race. Both the average grant rate and the average grant rate conditional on the number of recent rules violation reports did not vary by race.

There are few independent estimates of the effect of race on parole hearing outcomes. Beth Huebner and Timothy Bynum (2008) analyze parole release decisions by race and ethnicity for serious youthful offenders in an unnamed jurisdiction. The authors find that legally relevant factors, such as a parole guideline score and an indicator of institutional misconduct, predict the release decision. However, they also find that conditional on the controls they include in a hazard analysis, the time to release conditional on being eligible for parole is relatively longer for Black people and shorter for Hispanic people relative to White people. We should note, however, that the vector of con-

50. There is no parole in the federal prison system. Among the states, California adopted a 2011 reform that assigns people released from prison following convictions for less serious crimes to supervision by county probation departments. See Lofstrom and Raphael 2016.

51. See table 1 in Neal and Rick 2016.

52. Reitz and Rhine (2020) also note the enormous heterogeneity in practice across states. In some states, minimum sentences are set at a quarter or a third of the maximum, while in others, judges have the discretion to set both minimum and maximum sentence. In some states, good-time credits apply to the minimum eligible release date, effectively reducing the amount of time that one needs to serve prior to being considered for parole, while in other states, credits only apply to the maximum sentence.

53. California voters expanded the reach of the parole board to some determinate sentences through passage of Proposition 57 in 2016. Specifically, the proposition permits the early release of people convicted of less serious offenses once they have served the sentence for their primary offense. Hence, time associated with consecutive sentences, enhancements, and so forth can be disregarded subject to administrative review by the board. While the number of people eligible for release under Proposition 57 is small, the provision provides an interesting example of a complex source of indeterminacy in supposed determinate sentences, a general issue noted by Reitz and Rhine (2020).

trols used in the study is limited.⁵⁴ More granular controls might yield different findings. Again, the control set in this study may not be the full set of relevant controls. While the evidence pertaining to racial disparities in placement on community supervision is thin, stronger evidence indicates that community corrections supervision is unduly restrictive, revokes many people on probation and parole who would likely not have re-offended, and disparately impacts Black people. We turn to this evidence now.

Parole Supervision

As we have noted, in states where inmates are released from prison to parole supervision, parolees often face significant risk of returning to prison even if they commit no new crimes. In many states, parole officers frequently initiate proceedings that result in former inmates returning to prison because they have violated a rule that governs the conditions of their supervision. In 2021, roughly 27 percent of admissions to state prisons involved people on community supervision, and in many cases, these admissions were punishments for technical violations of supervision conditions.⁵⁵

The oversized impact of technical violations in generating prison admissions is readily observable in data on post-release returns to custody among people released from the Illinois Department of Corrections (IDOC). Persons released from IDOC are subjected to mandatory supervision terms (referred to as Mandatory Supervised Release [MSR]) of one, two, or three years, with lengthier terms associated with more serious offenses.⁵⁶ Like those in other parole systems across the country, people on MSR must check in with their parole officer and obey all predetermined restrictions and orders of

the MSR officer. Failure to comply and a recommendation to revoke by the MSR officer results in a hearing before the Prisoner Review Board that is external to the criminal court system in Illinois.

Figure 2 presents sixty-day moving average estimates of the proportion of people on MSR supervision in Cook County, Illinois, who experience their first return to prison as a function of time since release from prison. The data come from the period 1990–2010. The figure follows releasees for five years and provides separate estimates for persons with terms of one, two, and three years.⁵⁷

The first line in each pair of vertical lines marks one year, two years, and three years from the date of prison release. The second line in each pair is sixty days later. Beyond each of these dates, one of the estimated hazard functions is no longer impacted by supervision-induced revocations.

There are several noteworthy patterns in figure 2. First, while noisy, the hazard rates are similar over much of the first year for those assigned to one versus two years of MSR, and these two categories account for most of the sample. Second, once MSR supervision ends, we see marked declines in the re-incarceration hazard. This occurs at one year for those with a one-year MSR term (circles), at two years for those with two-year MSR terms (diamonds), and at three years for those with three-year terms (squares). Finally, as each group is released from their respective MSR terms, the re-incarceration hazard aligns closely with those of groups whose terms previously expired after shorter periods of supervision.

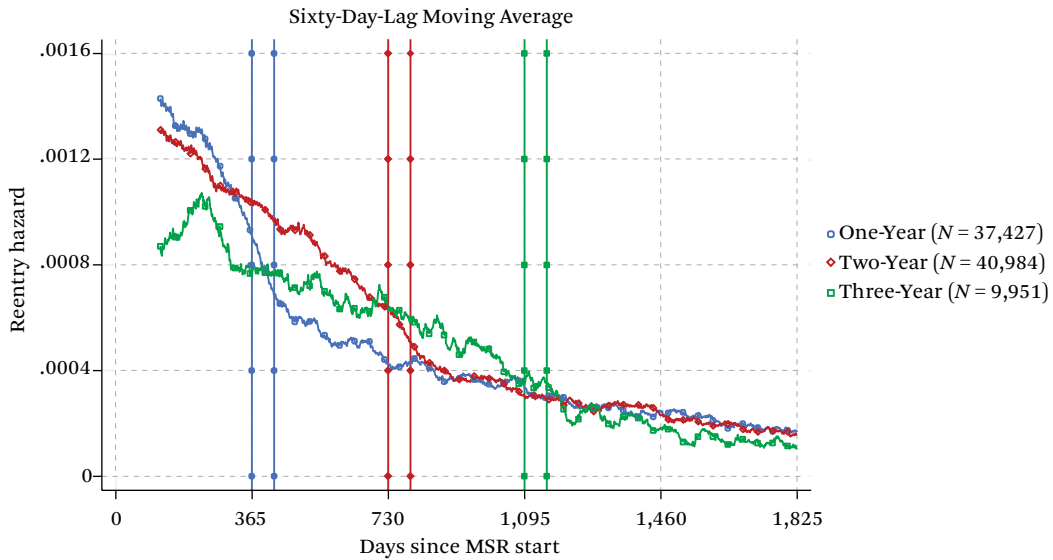
Individuals who commit and are convicted of new felony offenses will be punished for the new offense regardless of whether they are un-

54. The controls are educational attainment, employment status at time of offense, indicator for mental health problems, gang membership, whether the offense was a serious person offense, a drug offense, an institutional misconduct indicator, the parole score, number of prior convictions, and time served.

55. See Carson 2022. Catalina Franco and colleagues (2024) point out that technical parole revocations implicitly increase the expected time served associated with any nominal prison sentence.

56. Recent reforms in Illinois have introduced more than three possible MSR terms, but the data we present come from the pre-reform period.

57. Whether released prisoners serve one, two, or three years on MSR is determined by the class of the offense that generated the conviction.

Figure 2. Empirical Re-incarceration Hazards by Mandatory Supervised Release Spell Length

Source: Clerk of Court of Cook County, Illinois; Illinois Department of Corrections.

Note: Each line presents a sixty-day moving average of the daily re-incarceration hazard for offenders recently released from state prison in Illinois. The individuals in the sample are persons sentenced to prison between 1990 and 2010 in Chicago, Illinois. Circles indicate former inmates given one year of Mandatory Supervised Release (MSR). Diamonds indicate former inmates given two years of MSR. Squares indicate former inmates given three years of MSR. The first vertical line of each type marks the end of the MSR period. The second vertical line marks sixty days after the end of MSR.

der community corrections supervision, and readmissions to prison associated with new criminal charges vary little around these cut-offs. Thus, the patterns in the figure are driven almost entirely by the fact that, when supervision ends, returns to prison for technical violations end.

Luke Brinkman and colleagues (2025) analyze more recent data on parole supervision in Illinois. In December 2022, Illinois reduced the standard MSR term for class 3 and 4 offenders from twelve months to six months. Brinkman and colleagues (2025) employ several different estimation strategies, and they find that reducing supervision terms by six months reduces the one-year rate of return to prison by roughly 7–10 percentage points or roughly one-third to one-half of the pre-reform level. This drop in returns to prison is driven by a drop in technical revocations. One year after release, the reform had no impact on the rate of revocations linked to new charges.

Brinkman and colleagues (2025) find similar results for both Black and non-Black persons who exit prison to MSR. The reform therefore had a disparate impact on Black citizens, who are overrepresented in the Illinois prison system.

Data on parole-revocation-hearing outcomes are not as widely available as data on sentencing outcomes in court cases, and we are unaware of other articles that investigate differential parole revocation rates by race while conditioning on individual case and person characteristics. However, two recent evaluations of reforms to parole practices in California and Kansas provide evidence that, historically, revocations rates have likely been inefficiently high, and Black citizens have been adversely and disparately impacted by the policies that produced these high revocation rates.

As we note earlier, California drastically revamped its community corrections practices in 2011. The reform greatly restricted the use of

technical violations as a tool for returning parolees to prison and transferred authority for people released on nonserious, nonviolent, nonsexual offenses to county probation departments.

Weekly prison admissions in the state fell from approximately 2,100 to 600, and within six months, the size of the state prison populations dropped by roughly 30 percent (Lofstrom and Raphael 2016).⁵⁸ The findings from several studies strongly indicate that, prior to this reform, California was using technical revocations to incapacitate parolees who did not pose significant risks to public safety. First, there is little evidence that the large reduction in the prison population generated by the decline in revocations increased crime rates. Magnus Lofstrom and Steven Raphael (2016) employ synthetic cohort analysis as well as analyses of cross-county variation in the impact of the reform within the state and find no evidence of an impact of the policy change on violent crime. They find evidence of a modest effect on property crime, but this is driven almost entirely by an increase in one crime category, motor vehicle theft.

Second, in an analysis of monthly release cohorts from the state's prison system, Lofstrom and colleagues (2014) show that, even though parolees experienced a 30-percentage-point decline in the likelihood of being returned to prison custody within one year of the implementation of realignment, the re-arrest rate for parolees did not change. Further, the rate of conviction given rearrest rose by only 3.1 percentage points. These findings suggest that, in the pre-alignment period, parole officials were not using technical revocations to reincarcerate parolees who were serious threats to public safety.

These results are important because the decline in the state prison population had a disparate impact on incarceration rates by race. Lofstrom and colleagues (2020) analyze the effects of a constellation of California reforms oc-

curring through 2017 on racial disparities in arrest and incarceration rates in the state. As in all states in the US, Black people in California are much more likely to be stopped by the police, to be arrested, to be under community corrections supervision, and to be incarcerated. Lofstrom and colleagues (2020) use data from the American Community Survey to estimate the proportion of California adults eighteen to fifty-five years of age who are residing in non-institutional group quarters when surveyed. In 2011, the percent of Black, Hispanic, and White men institutionalized in the state was 9.3, 2.4 and 1.5 percent, respectively. By 2014 the comparable figures declined to 7.8, 2.2, and 1.3 percent. Hence, while the percent institutionalized fell among all groups, the decline was greatest among Black men, and the Black-White gap fell from 7.8 to 6.5 percentage points.

Ryan Sakoda (2023) analyzes several reforms to the use of technical revocation for people under supervision in Kansas. In 2000, the state enacted legislation that eliminated supervision for people who were released from prison after entering prison because they violated a technical condition of probation supervision. In Kansas, the new law describes this change as eliminating probation supervision. However, for our purposes, the original Kansas program is a form of parole supervision because it governs the supervision of people after their release from prison.

The new law applied to a subset of offenders convicted of less serious offenses, and Sakoda (2023) treats the new law as a natural experiment that defines a treatment group and a control group convicted of similar crimes not included in the legislation. The author documents a 28.5-percentage-point decline in the rate of returning to custody against a baseline rate of 35 percentage points. Further, among the treated, there is no measurable increase in convictions for new crimes that result in a return to prison. Finally, Sakoda (2023) demonstrates that, among the treated, the change

58. The steady-state decline in the prison population of over 27,000 people was partially offset by an increase in the state's jail population (or roughly 8,000) driven by revocations to jail of former parolees (yet for shorter periods) and an aspect of the reform that made lower level felonies punishable with a jail spell rather than a prison sentence. Regardless, the reform caused a sharp and sustained drop in the combined prison and jail population.

in policy eliminates the 17-percentage-point Black-White disparity in the likelihood of being returned to prison that existed prior to the reform.⁵⁹

Probation Supervision

As we have noted, courts legally sentence many convicted felons to incarceration but do not require them to enter prison. Probation sentences allow convicted offenders to technically serve prison sentences in their communities under the supervision of a probation officer. If they refrain from committing new crimes and comply with all conditions of their supervision, they earn release from community supervision without ever entering prison. However, as in the case of parole supervision, many states grant probation officers the discretion to initiate proceedings that can produce probation revocations and prison admissions simply because a probationer violated a technical condition of supervision. Further, the best evidence available suggests that granting this power to probation officers is just as problematic as granting similar powers to parole officers.

Probation supervision is often applied to people convicted of misdemeanors or less serious felonies. In misdemeanor cases, failure to comply with the conditions of supervision may result in jail time. In felony cases, revocations usually result in time served in a state prison. In some jurisdictions, a period of probation supervision is appended to short jail spells, again with the threat of being returned to custody for failure to comply (Phelps 2020). Many jurisdictions also use systems of graduated sanctions and various forms of swift-and-certain compliance schemes in an attempt to avoid the imposition of lengthy prison terms.⁶⁰

Evan Rose (2021) analyzes a 2011 North Carolina reform that reduced the punishment for certain technical violations of probation, such as failure to pay fees or failing drug tests, from

revocation to prison to short jail stays and other non-incarceration sanctions. Using people on supervised probation as the treatment group and those on unsupervised probation as the control group, Rose first documents a 5.3-percentage-point relative decline in the likelihood of being revoked among those whose supervision conditions were altered by the policy. Among the treated, overall arrests increased by roughly 2 percentage points.

Among Black people on supervised probation, the decline in revocation rates is twice as large, while the increase in rearrest rates is only slightly larger than 2 percent. Thus, the new policy eliminated the Black-White gap in revocation rates while having almost no impact on the Black-White gap in rearrest rates.

Rose notes that under specific, testable assumptions concerning behavioral responses to the law change, it is possible to estimate the expected recidivism rate among persons whom probation officers would have revoked in the pre-reform period but are not allowed to revoke after the reform. Rose calls this rate a measure of probation officer accuracy. If it equals one, then probation officers are using their discretion to revoke persons who are certain to commit a new crime in the near future unless they are returned to prison. If it equals zero, probation officers are revoking persons who pose no threat to public order or safety.

While probation officers initiate technical revocations for persons with higher propensities to offend, probation officers do not possess crystal balls. Further, their accuracy rate is discreetly lower among Black probationers relative to non-Black probationers, roughly .33 versus .55 respectively. In addition, as a tag for recidivists, revocation due to technical violations fails to identify roughly 93 percent of Black and non-Black probationers who re-offend, yet falsely classifies 9 percent of Black compliers and 2.5 percent of non-Black compliers as re-

59. Sakoda's findings are consistent with experimental evidence demonstrating that more intensive supervision for high-risk probationers appears to increase incarceration and the likelihood of absconding without reducing the probability of conviction for a new offense (Hyatt and Barnes 2017). Similar experimental evidence suggests that reduced-intensity supervision among low-risk probationers does not increase the likelihood of a new offense (Barnes et al. 2012).

60. See Davidson and colleagues (2019) for a review of this literature and an application of this model to pretrial supervision.

cidivists. Finally, Rose (2021) also reports that, due to racial differences in revocation accuracy by race, the technical revocations applied to Black offenders in the pre-reform period are much less likely to have generated reductions in crime that justify the resulting increased costs of incarceration.

Rose (2021) also notes that his results do not necessarily imply that probation officers harbor racial animus against Black persons on probation. Probation officers may follow the same rules of thumb for recommending revocations regardless of the race of the person under their supervision, but members of different race groups may find it more costly, on average, to comply with the standard conditions of supervision, such as paying fines in a timely manner. If failure to comply with such conditions is more a signal of economic hardship than criminality, the Rose (2020) results may be expected.⁶¹

A Common Thread

Collectively, the results from reform efforts in Illinois, California, Kansas, and North Carolina indicate that parole and probation supervision are blunt instruments for controlling crime. There is some evidence that technical revocations reduce crime, but the overall correlation between recidivism risk and the incidence of revocation is weak. In all four states, new laws restricted the ability of officials involved in community corrections to incarcerate those under their supervision without going through the courts, and in all four instances, prison populations shrank. Further, in three of four cases, the population of Black prisoners shrank proportionally more than the population of non-Black prisoners.

The Rose (2021) results do provide direct evidence that probation officers are more likely to falsely tag Black probationers. Further, it is hard to imagine a data-generating process that could produce the Sakoda (2023) results that does not involve some form of racial bias dur-

ing the pre-reform period.⁶² Yet, neither study provides direct evidence that community corrections officers treat Black persons under their supervision differently than others. The key point is that policies that require or allow community corrections officers to send persons under their supervision to prison as punishment for violating administrative rules of conduct create hundreds of thousands of incarceration events each year that appear to do little to improve public safety. It is possible that violations of these rules are weak signals of the propensity to commit crime. If so, these bad policies are forms of structural racism, even if they are enforced in a color-blind manner, because Black persons are grossly overrepresented among those under community supervision.

SIMULATING THE IMPACTS OF REFORMS

We have examined sources of racial disparities in court outcomes in the US. In our framework, bias exists when courts systematically produce results that miss target outcomes. These target outcomes balance the social costs of punishing offenders, which include the loss of liberty that defendants suffer as well as the fiscal costs of operating jails, prisons, and community supervision programs, and the public benefits that punishment produces, which include lower rates of violent victimization, lower insurance costs, reduction in crime prevention expenditures, and so forth. Researchers have not developed perfect ways to measure many of these costs and benefits, but within our framework, courts are likely biased if they regularly assign different punishments to offenders of different races even when these defendants are comparable on dimensions that determine socially optimal punishment. If two sets of defendants of different races should be assigned the same punishment, and the court assigns different average punishments to them, at least one group is receiving the wrong average sentence, and the sentences produced by the court are there-

61. Peter Finn and Sarah Kuck (2003) argue that community corrections officers are often stressed by heavy caseloads that make careful supervision of offenders difficult. Some officers may respond by adopting rules of thumb that map violations into revocation recommendations in a mechanical way.

62. The 17-percentage-point change in the Black-White revocation rate gap is striking, and Sakoda (2023) provides no evidence that crime rates jumped among Black probationers.

fore both racially biased and socially inefficient. This scenario may arise because courts assign punishments that vary with race among persons charged with the same offense who pose comparable recidivism risks or because the law requires courts to assign different punishments for distinct types of offenses even though the socially optimal sentencing rules for all the types of offenses in question are the same. In the latter scenario, any correlation between race and the nature of the charges defendants face generates racial differences in average sentencing outcomes that are socially inefficient.

In addition, courts may produce outcomes that are independent of race conditional on relevant defendant characteristics but are systematically too punitive relative to sentencing outcomes that balance the social costs and benefits of punishment. Since Black and Hispanic citizens are arrested and charged at higher-than-average rates, they bear disparate costs when courts are too punitive.⁶³ Neal and Rick (2016) and Raphael and Stoll (2013) present evidence that courts applied the punitive sentencing reforms that drove the prison boom in a race-neutral way. In broad terms, the policies that drove the prison boom did not change relative racial disparities in punishment given arrest but instead created enormous disparate impacts on minority citizens. Black citizens suffered the greatest harms because they have faced much higher arrest rates than Whites for at least half of a century.

Taken as a whole, the studies we review do not provide clear evidence that most court actors assign wildly different average treatment to comparable defendants of different races. The Rose (2021) study of probation reform in North Carolina and the Lofstrom and colleagues (2014) study of parole reform in California provide evidence that Black persons on probation in North Carolina and parole in California faced excessive rates of technical re-

vocations prior to the reforms these articles study. However, neither study pins down the extent to which these results reflect racial bias among community corrections officers or disparate impacts of the rules that govern community supervision. For example, in North Carolina, probation revocations proceedings in the pre-reform period often began because a probationer failed to pay certain fees and fines, and many states impose conditions of supervision that are easier to meet when persons under supervision live in families and communities with more resources. If we assume that access to resources is only weakly correlated with recidivism risk, it is easy to imagine that color-blind enforcement of rules that require persons under community supervision to pay fines, find work, secure housing in low-crime areas, and so forth could have large disparate impacts on Black probationers. Rose (2021) explicitly notes that the patterns he documents may arise because probation officers enforce inefficient rules in a color-blind way.

We also note above that Rehavi and Starr (2014) conclude that eliminating the racial bias in the charging decisions made by federal prosecutors during the period 2006–2008 would have lowered the steady-state population of Black inmates in federal prisons by roughly 10 percent. However, federal prison populations have always been much smaller than the total populations in state prisons, and the federal prison population shrank by roughly one-fourth between 2008 and 2019 and has remained roughly constant since. Finally, federal prisons shrank, in part, because the federal government passed legislation that sought to reduce racial disparities in federal incarceration rates.⁶⁴

If the federal courts adopted a reform tomorrow that created a distinct unit of attorneys tasked with assigning charges but not trying cases, and this reform eliminated the bias that Rehavi and Starr (2014) identify, the stock of

63. See NASEM (2022) and Allen Beck (2021) for information on racial differences in offense and arrest rates.

64. See “Generate Inmate Populations Report,” n.d., https://www.bop.gov/about/statistics/population_statistics.jsp#pop_report_cont; Fair Sentencing Act of 2010, Public Law 111–220, August 3, 2010, <https://www.congress.gov/111/plaws/publ220/PLAW-111publ220.pdf>; and “First Step Act,” Federal Bureau of Prisons, n.d., <https://www.bop.gov/inmates/fsa/>. Rose (2021) identifies potential racial bias among probation officers in North Carolina, but this is not a large driver of overall racial disparities in incarceration rates.

Black prisoners in federal custody would decline by less than ten thousand. However, the simulation results we will present demonstrate that it may be possible to reduce the number of Black citizens in jails and state prisons by well over three hundred thousand if states implement reforms that scale back punitive policies that provide marginal benefits in terms of crime reduction and public safety.

In sum, we contend that implementing the world's most effective antibias training for prosecutors, judges, and community supervision officers would produce, at best, relatively small reductions in observed racial disparities in court outcomes. In contrast, reforms that change the practices, policies, and laws that shape or even constrain the decisions that prosecutors, judges, and community supervision officers make are more powerful tools for reducing racial disparities in court outcomes.

Here, we conduct a simulation exercise that allows us to assess the quantitative significance of three specific reforms: elimination of pretrial detention for nonviolent offenders who are not on probation or parole, elimination of technical revocations of parole that lead to re-incarceration, and reduction of prison admission rates for convictions on nonviolent offenses by one half. We first discuss the motivations for these three simulations. We then discuss the simulation methods and results.

Three Simple Changes

We have argued that policymakers could replace cash bail systems with pretrial detention systems that produce less disparate harm for minority communities while sacrificing little in terms of public safety. Since cash bail rations pretrial release according to a defendant's financial capacity rather than the risk the defendant poses to the community, it should be possible to lower jail populations without harming public safety by tying release decisions more closely to violation risks rather than the financial capacity of defendants.

Here, we provide a rough sense of the potential impacts of such reforms by considering the impacts of a policy that mandates pretrial release for all persons charged with nonviolent crimes who are not on probation or parole at the time of their arrest. Since this ban does not apply to violent offenders or those with recent convictions, this policy experiment provides some insight into the potential gains of linking pretrial detention outcomes to public-safety risks rather than the financial capacity of defendants.

We also simulate the elimination of technical parole revocations. To date, no empirical studies provide evidence that parole officers effectively target offenders who pose relatively high risks to public safety when they initiate technical parole revocations that result in parolees returning to prison. Further, Lofstrom and colleagues (2014) show that the elimination of technical revocations in California reduced prison populations without serious harms to public safety.

Finally, we simulate the impacts of reducing prison admission rates for nonviolent offenders by one-half. Neal and Rick (2016) show that, during the prison boom, the likelihood that persons arrested for nonviolent crimes would serve prison terms of short, medium, and long lengths rose sharply, often by a factor of two or more.⁶⁵ Further, in the section "Case Outcomes," we provide considerable evidence that the crime reduction benefits of increasing incarceration rates diminish with the size of prison populations.⁶⁶

Before presenting the results of these three simulations and a fourth simulation that captures the simultaneous implementation of all three reforms, we note that none of these hypothetical reforms impact how courts respond to violent crime. These reforms address jail time and prison time for nonviolent offenses as well as returns to prison as punishment for behaviors that violate no criminal laws. Our goal is to determine how much policymakers

65. Neal and Rick (forthcoming) provide evidence that these trends were driven largely by changes in the sentences assigned to convicted offenders rather than changes in conviction rates given arrest.

66. Incarceration rates did decline after 2008, but in 2019, the incarceration rate remained roughly four times greater than the rate in 1975. Prison populations shrank somewhat during COVID, but it is too soon to know whether incarceration rates will rebound to pre-pandemic levels.

can shrink prison and jail populations through reforms that may well have limited public safety costs. We conclude that policymakers could likely use such reforms to reduce the number of persons in jail or state prison by more than 40 percent.

Methods

We use steady-state simulation methods to evaluate the potential impacts of our three criminal justice reforms. The appendix details our methodology. Here, we provide an overview.

We define thirty-two states that a person may occupy. Three states involve persons who are neither facing a felony charge nor under a sentence for a felony conviction.⁶⁷ These persons may be under probation supervision, parole supervision, or no supervision. We next define twenty-four types of defendants who are facing felony charges that are being adjudicated. Twelve of these types are detained in jail while courts resolve their cases. The other twelve types are granted release. Each type within each set of twelve types is defined by the interaction of four charge categories and indicators for whether the defendant faces a charge while on probation, on parole, or under no community supervision.⁶⁸ Finally, we define five types of prison inmates: persons in prison as the result of technical violations of parole and persons in prison following convictions on charges specific to one of our four crime categories.⁶⁹

We employ data from the State Court Processing Statistics, the National Corrections Reporting Program, and other sources to calculate transition probabilities between these thirty-two states. We set many of the possible transition probabilities to zero to respect the legal rules that govern these transitions. For example, persons cannot go from the state of no community supervision to prison without first

going through one of the twenty-four states that describes the operation of courts.⁷⁰

Given an estimate of the transition matrix that generates movements among our thirty-two states, we can calculate the steady-state fractions of the population that occupy each state. We then multiply these fractions by the total US population in 2019 to produce baseline estimates of the counts in each state. We calculate four alternative steady states that capture the results of implementing each of our three potential reforms in isolation as well as the results of implementing all three simultaneously. Table 2 presents four key steady-state populations for the four scenarios: those in jail on pretrial detention, on probation, on parole, and in prison. The table also presents five subpopulations of prison inmates defined by our four charge categories and the possibility of entering prison following a technical parole violation.

Results

Table 2 presents our results. Column 2 presents the steady-state stock levels implied by the transition matrix that we construct. These levels are often reasonably close to the actual values for 2019. We chose 2019 because the impacts of COVID likely moved the various stocks in the criminal justice system far away from steady-state values, and our counterfactual exercises involve comparing different steady states.

Column 3 presents the implied steady-state stocks if we set pretrial detention rates to zero for all nonviolent offenders who are not under probation or parole supervision while holding other transition rates constant. This change shrinks the stock of persons on pretrial detention by roughly 58 percent and also shrinks the stock of prisoners and persons under probation supervision by 4 percent and 7 percent re-

67. We do not model events related to misdemeanor charges.

68. The four charge categories are violent, property, drug, and public order.

69. We are implicitly treating persons sent to prison for technical probation violations as persons entering prison for the charge that generated the probation sentence.

70. Some restrictions are more obvious than others. For example, in our model, persons cannot leave prison and directly enter probation supervision. This constraint holds in many states but not all because of variation among states in the definition of probation versus parole supervision.

Table 2. Simulated Steady-State Stocks: Three Possible Reforms

	(1)	(2)	(3)	(4)	(5)	(6)
	2019	2019	No Pre-	No Technical	.5* Admission	All Three
	Actual	Simulated	Detention	Revocations	Rate	Reforms
			Nonviolent,		Nonviolent	
			Non-Sex			
Pretrial Detention	482,235	681,052	291,090	687,102	672,828	287,430
Probation	1,816,308	1,447,432	1,347,577	1,447,431	1,753,427	1,627,374
Parole	878,900	775,168	728,266	850,960	515,134	538,844
Prison Violent	639,899	604,783	601,198	607,165	603,077	601,158
Prison Property	146,037	123,237	112,684	123,864	61,421	56,379
Prison Drug	138,879	121,677	111,910	122,418	60,355	55,749
Prison Public Order	128,708	125,219	114,323	125,848	62,272	57,054
Prison Violation	202,291	155,637	146,220	0	103,428	0
Prison Total	1,255,815	1,130,554	1,086,335	979,296	890,553	770,339

Source: Authors' calculations.

Note: This table presents results from four steady-state policy simulations. Appendix A describes how we calculate steady-state populations. Column 2 is our baseline simulation for 2019. Column 3 calculates a new steady-state under the assumption that all defendants who are not under community supervision and not charged with a violent offense are released pretrial. Column 4 presents results when we eliminate re-incarceration for technical parole violations. Column 5 reports the results of halving the prison admission rate among those convicted of nonviolent offenses. Column 6 reports the results of implementing all three reforms simultaneously. The prison population numbers are estimates of the populations in state prisons. We are not able to run similar simulations for the federal system.

spectively. These latter reductions reflect the fact that recent research indicates that conviction rates are lower when defendants are not detained pretrial.⁷¹

Column 4 presents the implied stocks if we set the rate of technical parole revocations to zero. This change shrinks the prison population by just over 150,000 persons or roughly 13 percent of baseline simulated stock for 2019. This change also increases the number of persons under parole supervision by roughly 75,000.

Column 5 presents the implied stocks if we cut prison admission rates in half for those convicted of nonviolent crimes. The new steady-state population in state prisons is more than 20 percent lower, and the number of persons under probation supervision grows by over 300,000.

In the final column, we implement all three potential reforms at once. While each reform generates modest impacts when implemented alone, the results of implementing all three at once are quite striking. In the simulated 2019 baseline, there are more than 1.8 million persons behind bars: 681 thousand in jail and more than 1.13 million in state prisons. In our final simulation, the total incarcerated population is less than 1.06 million. Put differently, these three reforms, when implemented simultaneously, could reduce the number of persons incarcerated in jails and state prisons by about 40 percent. Further, the total number of persons under community supervision changes little since the increase in probationers is more than offset by a decline in parolees.⁷²

We do not possess the data required to calculate steady-state populations by race, but if

71. See, for example, Dobbie et al. (2018).

72. We take most parameters for these simulations from published reports or research papers. The key parameter that we estimate is the fraction of parole revocations that are the result of technical violations. We reran

these reforms were adopted, there is no reason to believe that Black or Hispanic defendants would see smaller than average reductions in their incarceration rates. Given existing evidence on racial disparities in income and wealth, reducing the number of persons detained pretrial, often because they cannot pay relatively small cash bail amounts, may benefit minority defendants more than White defendants. Further, we know that some prior reforms to the use of technical revocations greatly narrowed racial disparities in prison admissions through this channel.⁷³

We have examined data from the NCRP to assess the impact of curtailing technical parole violations in California on racial disparities in prison admissions. From 2008 through 2011 (the four-year period mostly preceding the reform), we estimate average annual admissions per 100,000 for technical parole violations in California equal to 1,049 for Black people, 191 for Hispanic people, and 174 for White people. For the first four years following the realignment reform implemented in October 2011, the comparable average annual admission rates are 78 for Black people, 17 for Hispanic people, and 10 for White people. Hence, the Black-White differential in annual admissions of this type shrank from 875 per 100,000 to 68 per 100,000 (a 92 percent decrease).

Further, even if these reforms generated the same proportional reductions in incarceration rates for all racial groups, the absolute reductions would be greater for Black and Hispanic citizens than for Whites, and much greater for Black citizens. At the end of 2019, the number of White persons in prison was less than the number of Black inmates. However, the White population was more than five times greater

than the Black population. Our results in column 6 imply that implementing all three reforms at once would reduce state prison populations by 32 percent. Given 2019 prison populations as a starting point, a 32 percent reduction in total incarceration rates for all race groups implies that more than 460 additional adults per 100,000 Black adult citizens would be living outside prison, but among Whites, the comparable figure is less than 85.⁷⁴

The difference between columns 2 and 6 in counts of persons in jail waiting for a verdict is larger than the difference in total state prison populations, even though the baseline pretrial detention population in column 2 is much smaller than the baseline state prison population. We have no reliable data on racial differences in pretrial detention rates, but the overall jail incarceration rate in 2019 among Blacks was more than three times greater than the rate among Whites.⁷⁵ The change in pretrial detention populations between columns 2 and 6 likely implies a drop in jail incarceration rates among Blacks that is more than 200 per 100,000, but the comparable figure among Whites is far less than 100.⁷⁶

CONCLUSION

We have explored the sources of racial disparities in criminal court case outcomes within a utilitarian framework. In this framework, optimal case outcomes do not depend on the race of the defendant, so the existence of studies that report different average outcomes by race among comparable defendants raises the possibility that biased decision-making is a key source of racial disparities in case outcomes. However, we conclude that structural factors that generate socially inefficient punishment

these simulations using an independent and lower estimate of this fraction from the Council of State Governments. The total prison populations in columns 4 and 6 increased by roughly 19,000 and 8,000 respectively. The latter change is just over 1 percent of the corresponding entry in table 2. See the appendix for details.

73. See our earlier discussion of Rose 2021 and Sakoda 2023.

74. See tables 3 and 6 in Carson (2020).

75. See Zeng and Minton 2021, table 2. Jail incarceration rates for Hispanics are actually slightly lower than rates for Whites.

76. The BJS reports that 65 percent of jail inmates are being held pretrial (Zeng and Minton 2021) In 2019, the same report tabulates the average daily jail population in the United States to be 741,900.

for many types of defendants are more consequential as drivers of these racial disparities.

The results in table 2 highlight the potential efficacy of simple structural reforms as tools for reducing racial disparities in incarceration. Nonetheless, large racial differences in steady-state stocks remain even when we simulate the implementation of all three reforms simultaneously, and there is likely no set of reforms to courts or sentencing laws that can completely eliminate these differences without producing significant harms to public safety. Blacks citizens are arrested for homicide and other violent crimes at much higher rates than Whites, and victimization surveys support the hypothesis that these differences in arrest rates are largely driven by differences in offense rates. Further, except for robbery, most violent crime victimization is within race. Thus, reforms that drastically reduce the incarceration of violent offenders would possibly visit harm on the millions of citizens in minority communities who are not engaged in criminal activity.⁷⁷

Our charge does not require that we explore the various reforms to education, social, and economic policies that could mitigate or eliminate racial differences in violent or nonviolent offending rates or arrest rates. The reform ideas we present here offer ways to dramatically reduce absolute racial disparities in court outcomes if we hold constant racial disparities in arrest rates. Further, a common thread ties these ideas together. Policymakers can both improve social welfare and mitigate racial disparities in court outcomes by reducing the use of punitive sanctions that produce limited reductions in crime and small improvements in public safety. Within our framework, steps in this direction are the policy-reform equivalent of picking the low-hanging fruit, and our simulation results suggest that a bountiful harvest is there for the taking.

APPENDIX: SIMULATION DETAILS

We use data from the 2019 NCRP and various BJS publications to calibrate a steady-state model of US correctional populations, with a focus on the populations in pretrial detention, on felony probation, in state prisons, and on

parole. We do not model the federal courts or federal prison populations. We use the NCRP data to model the transition probabilities between thirty-two possible states over the course of a year, simulate the steady state given these empirical transition probabilities, and then simulate the effects of various change in correctional practices.

States and Potential Transitions

The thirty-two states are listed in table A.1. There are three states for people who are not currently in a state prison and who are not felony defendants in an ongoing court case. These states are not on probation or parole, on probation, on parole. We define twenty-four states that characterize types of persons who are in the process of being adjudicated for a felony arrest. The second column lists the twelve types who are detained pretrial. The third column lists the twelve types who are released pretrial. The states in these two columns are defined by all the possible combinations of four offense categories (violent, property, drug, public order), three status categories (not on probation or parole, on probation, on parole), and two pretrial detention categories (detained pretrial, released pretrial). The sum of the populations in the second column gives the number of jail inmates who are being detained pretrial on a felony case. Finally, we define five prison states. These include categories that distinguish prisoners according to why they were admitted to prison. We divide new court commitments into convictions for violent, property, drug, or public-order crimes. The final category is technical parole revocations.

With thirty-two categories, the transition probability matrix that describes the likelihood of transitioning between any two states involves 1,024 probabilities. Many of these are zero by construction or by assumption. For example, among persons who are not felony defendants, not under supervision, and not incarcerated, there are positive transition probabilities to many states that involve facing charges, but no person can transition from freedom to prison or community supervision

77. See chapter 2 of NASEM (2022) for more on racial differences in reported victimization.

Table A.1. Simulation Details

Description of Subpopulation Modelled Using the Steady-State Population Shares Implied by the Empirical Transition Probabilities			
Non-Felony Defendants	Felony Defendants Detained Pretrial ^a	Felony Defendants Released Pretrial	Prison Inmate Populations ^b
(1) Not on probation or parole	(1) not on probation/parole, violent arrest	(1) not on probation/parole, violent arrest	(1) Violent offense
(2) On probation	(2) On probation, violent arrest	(2) On probation, violent arrest	(2) Property offense
(3) On parole	(3) On parole, violent arrest	(3) On parole, violent arrest	(3) Drug offense
	(4) not on probation/parole, property arrest	(4) not on probation/parole, property arrest	(4) Public order offense
	(5) On probation, property arrest	(5) On probation, property arrest	(5) technical parole violation
	(6) On parole, property arrest	(6) On parole, property arrest	
	(7) not on probation/parole, drug arrest	(7) not on probation/parole, drug arrest	
	(8) On probation, drug arrest	(8) On probation, drug arrest	
	(9) On parole, drug arrest	(9) On parole, drug arrest	
	(10) not on probation/parole, public order arrest	(10) not on probation/parole, public order arrest	
	(11) On probation, public order arrest	(11) On probation, public order arrest	
	(12) On parole, public order arrest	(12) On parole, public order arrest	

Source: Authors' compilation.

^a Sum of the subpopulations in this column provides the pretrial felony jail population.

^b Sum of the subpopulations in this column provides the state prison population.

without going through the courts. As another example, those in prison cannot transition directly to court. They may stay in prison, exit prison directly, or transition to parole.

For all arrested defendants, we calculate the probability that they are detained pretrial or released. Then, for each custody state, we calculate the probability of various case outcomes. For felony defendants who are not on probation or parole at the time of arrest, we calculate, for each offense category, the probabilities of being acquitted, convicted and sentenced to probation, and convicted and sent to prison. For defendants on probation or parole at the time of arrest, we estimate the probabilities

that defendants are convicted and admitted, convicted but not admitted, and neither convicted nor admitted to prison. We assume that pretrial defendants under community correction supervision at the time of a new arrest do not successfully exit supervision in the year of a new arrest. They can only transition either to prison or back to their original community corrections status.

Finally, people incarcerated in state prison can transition to being not on probation or parole (an unconditional release) or to being on parole (conditional release), or they can continue in prison. We again calculate these probabilities separately for each offense category.

Transitions into Court

From the BJS analysis of the 2009 SCPS data (Reaves 2013), we observe that among felony defendants in large urban counties, 24.9 percent were arrested for violent offenses, 29.1 percent were arrested for property offense, 32.6 percent were arrested for drug offenses, and 13.4 percent were arrested for public-order offenses. In 2019, there were 495,871 part 1 violent offenses.⁷⁸ Assuming that all part 1 violent arrests are for felony offenses, we use the percentages for 2009 felony defendants to impute total offenses for the other offense categories (that is, for property, drug, and public-order felony arrests).

We use tabulations from Brian Reaves (2013) pertaining to the proportion of arrests within the four offense categories involving persons with no criminal justice status, persons on parole, and persons on probation to apportion arrests across these categories. In addition, we use tabulations from Reaves (2013) pertaining to overall pretrial release rates by offense category and overall release rates by criminal justice status to impute pretrial release rates by offense and criminal justice status. These imputations permit us to generate estimates of the transition probabilities from each of the three states in first column of table A.1 to the twenty-four states listed in the second and third columns.

Transitions out of Court

From Reaves (2013) we also observe overall felony conviction rates by offense group as well as the difference in conviction rates between those detained pretrial and those released pretrial. We generate conviction rates for each of the twenty-four groups listed in the second and third columns of table A.1 assuming that the detained-released conviction ratio is the same within offense groups. We then apply these imputed conviction totals to arrests within groups defined by community correction status, arrests offense, and pretrial detention status. This step yields total convictions within each

offense group. Among those who are not convicted, we assume that defendants transition back to their original state.

We apportion the convicted within each offense group into those transitioning into prison and those transitioning into community corrections in the following manner. Using the 2019 admissions data from the NCRP, we first estimate the distribution of new court commitment prison admission across the four offense categories. We then apply this distribution to total admissions in 2019 to generate new court commitments for violent, property, drug, and public-order offense.⁷⁹ The ratio of total imputed convictions by offense category to admissions by offense category provides the admissions rate conditional on conviction for each of the four offense groups. We use these results to generate prison admissions totals for each of the twenty-four groups listed in the second and third columns of table A.1. We assume that convicted persons who are not admitted to prison either transition to probation (if not on probation-parole at arrest or on probation at arrest) or to parole (if on parole at time of arrest).

Transitions out of Community Supervision

We rely on the BJS analysis provided in Barbara Oudekerk and Danielle Kaebler's (2021) study to calculate values for the total probation population and the number of successful exits from probation. We assume that the remaining probation population (the overall population less the successful exits, less those that we impute being admitted to prison on a new court commitment) continues on probation into the next year.

For the parole population, we pull values for the overall population, the number of successful exits, and the number that are returned to prison from parole (Oudekerk and Kaebler 2021). From the total returned to prison, we subtract the numbers that we impute being admitted to prison on a new court commitment. The balance we treat as being admitted for a

78. See 2019 Crime in the United States, table 29, <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/tables/table-29>, accessed on August 9, 2024.

79. Note that the NCRP 2019 data cover only forty-six states. Hence, rather than using total admissions from the NCRP, we estimate the distribution of court commitments across offense categories and then pull total admissions from the BJS analysis of all fifty states presented in Carson (2021).

technical parole violation. We estimate that roughly 87 percent of admissions to prison from parole are the result of technical parole violations.⁸⁰

Transitions out of Prison

From Ann Carson (2021), we glean that 19.3 percent of people released from prison are released unconditionally, with the remainder presumably released to parole. We use the NCRP to estimate the distribution of releases by the following commitment offense categories: new commitment, violent; new commitment, property; new commitment, drug; new commitment, public order; and technical parole violations. We apply this distribution to total releases from state prison in 2019 to generate an estimate of each flow. We also use the 2019 NCRP to estimate the distribution of the incarcerated population across these same offense categories, and we apply this distribution to the total state prison population for that year to generate stocks. These flows plus the stock estimates provide transition probabilities from each of the five prison incarceration groupings to three possible states: free with no community corrections supervision, on parole, or still incarcerated.

Solving for the Steady-State Populations Shares

The imputations we have discussed generate estimates of the probability of transitioning between each of the thirty-two categories described in table A.1 over the course of year. We array these transition probabilities in a 32×32 matrix, T , where T_{ij} is the probability of transitioning from state i to state j over the course of a year. Note that each element in T is nonnegative and each row of T sums to one. Let T' denote the transpose of T . An eigenvector, v , of T' must satisfy:

$$T'v = \lambda v$$

where λ is the associated eigenvalue. Holder's Inequality guarantees that the largest eigen-

value of T' is always one. Therefore, v^* contains the steady-state population shares of the system defined by the laws of motion coded in T' if

$$T'v^* = v^*$$

and v^* is the eigenvector associated with $\lambda = 1$ that is normalized so that shares sum to one. We multiply the elements v^* by the US population in 2019. The aggregation of the twelve population estimates for the categories in column 2 of table A.1 gives the steady-state pretrial felony jail population. The sum of the estimates for the populations for the five prison groupings in the last column yields the estimated prison population.

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80. A 2019 report from the Council of State Governments (2019), estimates that roughly 63.6 percent of prison admissions for people on parole are for technical parole violations. If we use this rate instead, our simulated total prison population, in the case where we consider all three reforms simultaneously, is 779,478 instead of 770,339. This is an increase of just over 1 percent.

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The Rise of the Carceral State: Foundations and Contours of a Rapidly Changing Criminal Legal System



SARA WAKEFIELD^{ORCID} AND KRISTIN TURNEY^{ORCID}

A “carceral state” represents a critical definitional contrast to the more commonly invoked frames of “mass incarceration” or “mass criminalization.” Mass criminalization scholarship is typically focused on the most proximate causes and consequences of growth in the size of the criminal legal system. In contrast, conceptualizing mass incarceration as merely the most visible feature of a broader carceral state expands the analytical landscape but results in significant tradeoffs. In this article, we engage narratives of the development of carceral states, noting that they resist simple or widely agreed-upon definitions, and vary with respect to how they engage crime, race and racism, politics and the political economy, and the importation of carceral logics to seemingly unrelated institutions. We conclude by reflecting on what can be gained by understanding the United States as a carceral state, rather than simply a nation with persistently high crime and punishment rates.

Keywords: carceral state, penal state, criminal legal system, mass incarceration, racial and ethnic bias, inequality

The political scientist Marie Gottschalk (2008) describes the carceral state as “hiding in plain sight.” In so doing, Gottschalk describes the challenges to fully observing the many contours, causes, and consequences of a massive expansion in the US criminal legal system over the last five decades. The articles in this issue

are generally focused on the proximate causes or consequences of mass criminalization and offer needed insight into the details of these complex relationships for racial and ethnic bias related to criminal legal system contact (for example, see Lee et al. 2025, this issue; Nahra et al. 2025, this issue). This article departs from

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the others insofar as we cast our gaze both more broadly and over a longer time scale. The article reviews the large interdisciplinary literature that contests and attempts to explain the unique features of the United States that render it so dramatically different from other countries with respect to crime and disorder, punishment policy, and social control.

As demonstrated throughout this issue, the US criminal legal system touches more people, with greater severity, for longer periods, and with greater consequence than any other wealthy Western democracy; this remains true even as US incarceration rates have receded from their mass incarceration peak. Particularly as the US prison boom has dragged on, comparisons between the United States and similarly situated nations have become less useful as a description of a global phenomenon but more useful for comparative scholarship identifying critical differences between countries. For many scholars, the central difference is that the United States is a *carceral state* rather than simply a nation with high crime or punishment rates; it is thus principally defined by its unrelenting commitment to finding carceral solutions to all manner of social problems.

We engage this review as two scholars who have primarily contributed to research on the consequences of criminal legal system contact during the mass incarceration era. Our “home” literature provides useful information but sits adjacent to the much broader interdisciplinary debates aimed at understanding the determinants of penal policy, the development of carceral or penal states, and within- and across-country variation in formal social control. Engaging these works through the lens of “adjacent but outsider” scholars was useful for our own scholarship—and we hope that it is for others as well—but we do not arrive at a single or definitive answer as to how the United States came to be a world leader in the use of incarceration. Rather, we detail substantial and unsettled conceptual and analytical challenges of carceral state frames (see also Rubin and

Phelps 2017), concluding that greater integration between contemporary scholarship on carceral (or penal) states¹ and the proximate causes and consequences of the prison boom would move knowledge forward considerably.

By shifting our focus away from mass criminalization or discrete parts of the criminal legal system (particularly prison incarceration) and toward the state, we shed light on the historical, economic, and political origins of contemporary racial and ethnic disparities in the criminal legal system and inform strategies for reducing them. Most importantly, the article reframes the proximate causes and consequences of mass criminalization to understand them as arising from common sources. More broadly, the article highlights how the criminal legal system is relevant for understanding a large set of social problems, including those that seem relatively disconnected from it. The contribution is ultimately a narrative about the very large gap between American rhetoric of a free, fair, and democratic country and the reality of enormously disparate contact with a very large criminal legal apparatus.

The article proceeds as follows. The first section, “Definitional Challenges to Engaging Carceral State Narratives,” broadly describes and distinguishes between research on the causes and consequences of mass incarceration in the United States to provide a foundation for the analysis to follow. The second section, “Describing Visible Features of the Carceral State,” describes the most visible portions of the carceral state by documenting the scope and contours of the American criminal legal system. The third section, “From Mass Incarceration to a Carceral State,” engages the wide variety of conceptualizations of carceral states, distinguishes between carceral state frames and the more commonly invoked mass incarceration and mass criminalization, and outlines a series of conceptual and analytical challenges within the carceral state space. The fourth section, “The Origins of the Carceral State,” outlines core features of carceral states and contrasts how carceral state narratives incorporate his-

1. We primarily use the phrase carceral state throughout this article, but penal state is common as well. The two terms may be viewed as largely interchangeable for our purposes, but see Rubin and Phelps (2017) and table 1 (derived from Rubin and Phelps 2017) for details about important differences between them.

torical and social forces across the following domains: crime, racism and legacies of racial subjugation, the political economy, and the importation of carceral logics to seemingly unrelated institutions and social contexts. We conclude with a discussion of how an understanding of the United States as a carceral state, rather than a nation afflicted with high crime and punishment rates, might inform promising pathways for reducing the carceral footprint.

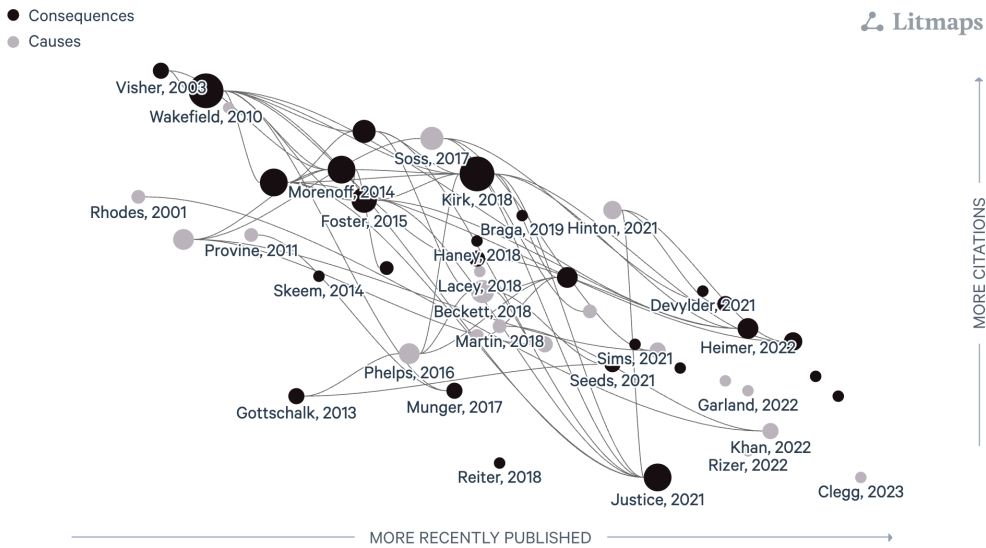
DEFINITIONAL CHALLENGES TO ENGAGING CARCERAL STATE NARRATIVES

Before describing features of the US criminal legal system that gave rise to explanatory narratives of carceral state development, we briefly note the conceptual difficulty in defining what qualifies as an explanatory narrative. We illustrate this first by comparing scholarship on the carceral state relative to that devoted to documenting the consequences of mass incarceration for social life (we delve more deeply into definitions of the carceral state in a later section). Before describing the most visible features of the era that gave rise to carceral state frames, we wish readers to keep several key points in mind as they consider what is to be explained.

First, myriad studies document the so-called collateral consequences of much higher rates of contact with the criminal legal system for all aspects of social life (for reviews, see Kirk and Wakefield 2018; National Research Council 2014). Studies along these lines require great care, rigorous methods, and always elusive high-quality data sources, but it is arguably much easier to document the consequences of such a massive shift in punishment rates than to explain why it happened in the first place, why it happened in the United States when it did (and not to the same extent elsewhere), how racial and ethnic inequalities in punishment became so large, and how to change the underlying dynamics that caused it. While scholars of the collateral consequences of incarceration still struggle to, say, adequately distinguish incarceration effects from earlier experiences that make incarceration more likely, the available potential explanatory factors are largely

well defined, commonly understood, and plagued by fewer moving targets.

The relative ease of each knowledge project is perhaps best demonstrated by the presence of summaries of causes versus consequences in the literature. While admittedly a blunt tool, we reviewed articles published in the *Annual Review of Sociology*, the *Annual Review of Criminology*, the *Annual Review of Law and Social Science*, the *Annual Review of Clinical Psychology*, the *Annual Review of Anthropology*, and the *Annual Review of Political Science* that use the terms “mass incarceration” or “penal/carceral state.” To the extent that *Annual Review* articles indicate the degree of interest in a topic within a field, they offer some sense of the landscape of scholarship produced within and across fields. Figure 1 displays *Annual Review* articles with respect to whether they are focused on the foundational causes of mass criminalization or its consequences, using the literature visualization tool Litmaps. Articles (listed by first author) are arrayed according to when they were published, with earlier articles on the left and moving toward more recent articles, and according to how often they have been cited, with more highly cited articles toward the top of the figure and less cited articles toward the bottom. Each circle represents one review article and is sized according to its degree of reference connections to other articles in the figure; this sizing can be thought of as an indicator of whether or not articles are in conversation with one another and/or are grounded in common sets of background literature. Articles are additionally coded with respect to whether they primarily focus on the consequences of mass criminalization (denoted in black) or advance (or partially advance) a theoretical narrative to explain mass criminalization (denoted in gray). Reviews of the consequences of criminal legal system expansion dominate the space—especially early on—and are more highly cited and more often in conversation with one another, as indicated by their relative sizing in the figure. Despite the dominance of articles on consequences rather than causes, the articles displayed in figure 1 also reflect the degree of interdisciplinary interest in mass criminalization and widening inequality in the United States. The *Annual Review of Criminology*, the

Figure 1. *Annual Review* Articles by Substantive Focus and Citations over Time

Source: Authors' calculations, using Litmaps (Litmaps.com).

Annual Review of Sociology, and the *Annual Review of Law and Social Science* have produced the most articles explaining the causes and consequences of mass criminalization, yet other fields—including political science, public health, anthropology, and clinical psychology—are well represented. Perhaps reflecting their more interdisciplinary origins, reviews that articulate causes, relative to consequences, are less in conversation with one another and grounded in a much broader body of work. Reviews focused on the causes of mass incarceration or the rise of the carceral state demonstrate a distinct uptick in recent years and presumably figure 1 represents an early stage of what may become a more prominent literature.

The scope and focus of *Annual Review* articles mirror how scholarship in the area developed. Early works called attention to the staggeringly disparate rates of crime and incarceration (Hagan and Peterson 1995; Tonry 2022), and increasingly sophisticated demographic estimates documented these disparities and their consequences for economic activity and labor markets (Apel and Sweeten 2010; Holzer et al. 2005; Pager 2003; Pettit 2012; Pettit and Western 2004; Western 2006; Western and Beckett 1999). An explosion of scholar-

ship expanded the domains under consideration, linking mass incarceration to dramatic shifts in the structure and functioning of American families (Geller et al. 2011; Turney 2015; Wakefield and Wildeman 2013) and their communities (Clear 2007; Sampson and Loeffler 2010; Simes 2018). The potential influence of mass incarceration could now be seen everywhere, with direct links to changes in American family life (Lee and Wildeman 2021), the maintenance and reproduction of social inequality (National Research Council 2014; Pettit 2012; Wakefield and Uggen 2010; Western 2006), and all manner of societal disengagement and civic disruption (Brayne 2014; Weaver et al. 2014).

Moving from incarceration to other forms of criminal legal system contact—such as police contact and arrests—brought new insight into the origins of mass incarceration and renewed interest in historical change in systems of social control. Such scholarship shifts attention from the consequences of mass incarceration to questions about its function: Why is the United States so extreme with respect to its commitment to surveillance and punitive policy as a response to social problems? What purposes are served by the massive expansion of the criminal legal system? These questions

shift the focus from describing the contours of mass criminalization to understanding the function of the carceral state and allow for comparison to earlier forms of social control (see, for example, Cohen 1991). The problem, of course, is that this shifts the explanatory burden from measuring the potential effects of identified causes to the identification of potential causes of measured effects.

Consider, for example, the relative uniformity in definitions of mass incarceration. Scholars who study the consequences of mass incarceration explicitly (or implicitly) anchor their work in the definition offered by the sociologist David Garland. Garland rather neatly defined mass imprisonment (and later mass incarceration) as the intersection of “sheer numbers” that result in high imprisonment rates relative to contemporary or historical norms and the “systematic imprisonment of whole groups” such that age, class, race, ethnicity, and sex dramatically influence the likelihood of experiencing imprisonment at some point in the life course (Garland 2001, 5–6). More recently, this conceptualization has expanded to include “mass criminalization,” incorporating other forms of criminal legal system contact and its consequences in the absence of incarceration (for example, police contact, tickets, misdemeanors, non-felony convictions, or community supervision; Hinton and Cook 2021; Kohler-Hausmann 2013; Phelps 2020; Sugie and Turney 2017). Still others might add spillovers to those connected to incarcerated people (Comfort 2007; Lee et al. 2025). Yet, importantly, while there is some conceptual slippage with respect to outcomes, the potential agent of change—mass incarceration or criminalization and the demographic concentration of each—is relatively clear and commonly understood. Finally, there is widespread (though still debated) agreement on when the mass incarceration era began in the United States because imprisonment rates are relatively easy to measure consistently over a long period of time at the national level (but see Campbell 2018; Gottschalk 2006; Murakawa 2014).

Mass incarceration scholarship describes the fallout of such a massive social change (see Lee et al. 2025), but it is arguably limited with

respect to how much it can identify the levers for change. Work in this area is relatively clear with respect to which criminal justice policy changes increased incarceration rates (see Bushway et al. 2025, this issue), for example, but has much less to say about what triggered those policy changes. In contrast, scholarship on the development of carceral states or the determinants of penal policy offers the promise of greater understanding that might potentially be deployed in service of change. At the same time, the great variety of explanations and widespread conceptual disagreement across them preclude neat comparisons (or even better, strict tests) of competing narratives. Indeed, a major complication in reviewing the rise of the carceral state is simply deciding what counts (overarching theoretical perspectives? case studies? empirical tests of portions of broader theories?). Given the wide variation in carceral state narratives, as we call them, we necessarily highlight some over others (and surely omit some perspectives entirely) because the boundaries of the area are relatively unclear and crosscut several disciplines. We will return to these conceptual issues in subsequent sections of the article, but next we describe the contours and recent history of the US criminal legal system to set the stage for an interrogation of whether such a history describes the “rise of the carceral state.”

DESCRIBING VISIBLE FEATURES OF THE CARCERAL STATE

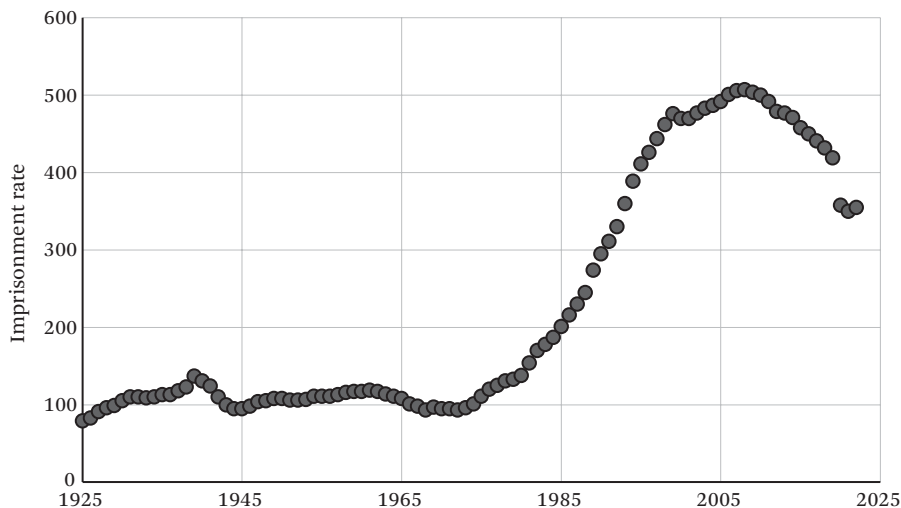
Before engaging the various narratives that explain the rise of the carceral state, we first describe the growth and scope of the criminal legal system over time and provide information on racial and ethnic disparities with respect to criminal legal system contact. It is worth noting, however, that the ability to detail racial and ethnic disparities in contact with the criminal legal system is largely dependent on how government agencies choose to measure race and ethnicity (and the corresponding data that are available). Put simply, scholars of the criminal legal system must often rely on definitions of race and ethnicity that are defined by the Office of Management and Budget and, making matters more challenging, change over time (US

Census Bureau 2024). Likewise, scholars using data from state Departments of Corrections must rely on data collected by these institutions. The measurement of race and ethnicity is not standardized across states, making data harmonization and accurate state-level comparisons challenging (and this is even more challenging when scholars use data collected at the county level, where measurement of race and ethnicity is even more varied). Furthermore, administrative definitions of race and ethnicity may not align with those of scholars of race and ethnicity nor are they error-free (Finlay et al. 2024; Vélez and Peguero 2023). Last, definitions of race and ethnic difference are historically situated and fundamentally local such that the meaning (and subsequent measurement) of racial and ethnic boundaries varies substantially both across regions (Love-man 2014) and within racial and ethnic groups (Monk 2021), further complicating comparisons across time and place. We thus remind readers that substantial challenges of basic measurement of race and ethnicity remain. These challenges are particularly relevant for the arguments we review in this article to the extent that many of them engage long histories of racial and ethnic subjugation where the measurement problems get worse the further back in history one goes.

Prison Incarceration

Dramatic shifts in the incarceration rate beginning in the late 1970s are the most visible feature of a substantial change in American criminal justice practice. Incarceration rates are dramatically higher today than they were five decades ago, as shown in figure 2. Imprisonment rates remained fairly constant between 1925, when rates were 79 per 100,000 (meaning that 79 out of every 100,000 US residents were incarcerated in state or federal prison), and 1972, when rates were 93 per 100,000 US residents (Cahalan 1986). Imprisonment rates grew substantially over the next several decades. These incarceration rates increased even as crime rates throughout the country decreased. Imprisonment rates peaked in about 2009, when they were 502 per 100,000, and have been slowly but steadily declining since then (Carson 2023; West et al. 2011). The imprisonment rate in 2022 was 355 out of 100,000 US residents (a 26 percent decrease from ten years prior; Carson 2023). Though incarceration trends have been steadily declining over the past fifteen years, the contours of a prison sentence have changed. Life sentences (including life without parole, life with parole, and virtual life sentences) have increased, suggesting that the punitiveness of the US criminal legal system remains quite high (Nellis 2023).

Figure 2. State and Federal Imprisonment Rates, 1925–2022



Source: Prison Policy Institute Data Toolbox (Prison Policy Institute., n.d.).

Imprisonment rates have increased for all population groups over the past five decades, but there are stark disparities in rates across demographic characteristics. Figure 3 presents recent trends over time in imprisonment rates by race and ethnicity, with the data suggesting two key points. First, across all years, there are large racial and ethnic disparities in incarceration rates. Black people are more than twice as likely as Hispanic people to be incarcerated (with imprisonment rates of 911 and 426 in 2022, respectively) and about five times as likely as White people to be incarcerated (911 and 188 in 2022, respectively). Imprisonment rates are also quite high for American Indian / Alaska Native people (801 in 2022; Carson 2023). Second, these racial and ethnic disparities have narrowed over time. The percentage decline in imprisonment rates between 2012 and 2022 is largest among Black people (with a 34 percent decrease in rates), followed by Hispanic people (32 percent decrease), Asian people (31 percent decrease), and White people (21 percent). The decreases over time were smallest for American Indian and Alaska Native people (14 percent). Demographic disparities in imprisonment with respect to sex are also notable. For example, men are about fourteen times more likely than women to be

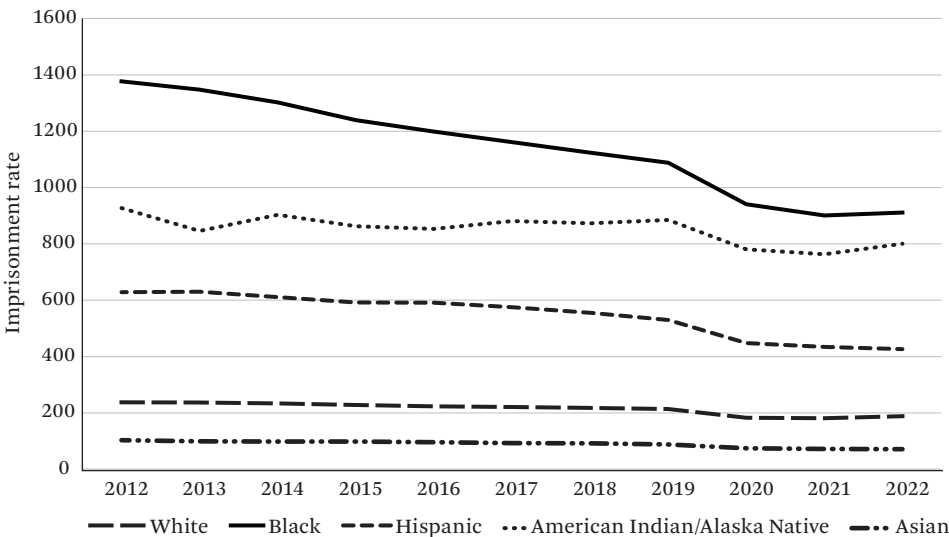
incarcerated, as the imprisonment rate was 666 for men and 49 for women in 2022 (Carson 2023).

Finally, imprisonment rates vary considerably across states, perhaps unsurprisingly given state-level variation in punitive practices and policies. These state-level differences are shown in figure 4. In 2021, the state and federal imprisonment rate was highest in Southern states including Mississippi (575 per 100,000), Louisiana (564 per 100,000), and Arkansas (559 per 100,000). State and federal imprisonment rates were lowest in New England states including Rhode Island (118 per 100,000), Maine (107 per 100,000), and Massachusetts (96 per 100,000; Carson 2023). This suggests that the state context matters considerably for understanding the reach of the carceral system. Importantly for this review and an issue to which we will return in later sections, large state variation in the most visible form of carceral state control (for example, incarceration) presents both challenges and opportunities for narratives that seek to define and explain the American carceral state.

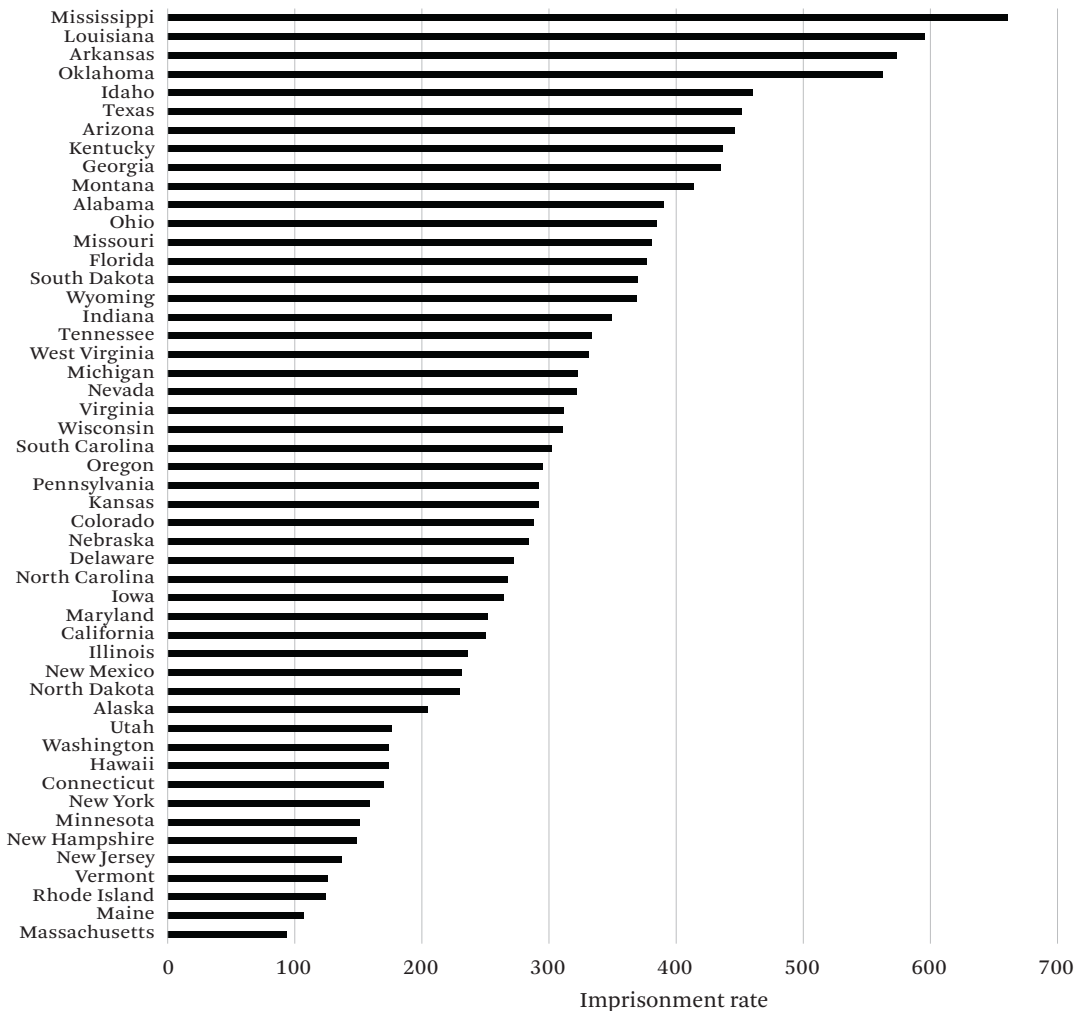
Jail Incarceration

The rates provided above, while stark, omit a common but less visible form of incarceration,

Figure 3. State and Federal Imprisonment Rates by Race and Ethnicity, 2012–2022



Source: Carson 2023.

Figure 4. State-Level Variation in State and Federal Imprisonment Rates, 2022

Source: Carson 2023.

that of confinement in local jails. Most work that examines incarceration trends exclusively considers prison incarceration (Carson 2023; Pettit and Western 2004) or, less commonly, conflates jail and prison incarceration (Sawyer and Wagner 2023), likely an artifact of the data collection techniques and the surveys commonly used to study incarceration. Jail and prison incarceration share some commonalities, as both involve sustained contact with the criminal legal system, confinement, and, usually, eventual reintegration back into families and communities upon release. Jail and prison incarceration, though, share some key differences and more broadly reflect the diffuse na-

ture of criminal legal administration in the United States. Jails are operated at the local (city or county) level, and prisons are operated at the state or federal levels. Jails house people who have not been convicted of a crime (and are awaiting adjudication of their case via a trial or plea deal), people who have been convicted but are awaiting sentencing (and transfer to prison), and people who have been convicted of a crime and have received a short (usually less than one year) sentence. Prisons house people convicted of a crime who have a sentence of at least one year. People housed in jails are generally located closer to their pre-incarceration residence (and, often, their fam-

ily members) than people housed in prisons (Turney and Connor 2019; for an in-depth look at the experience of jail incarceration, see Walker 2022).

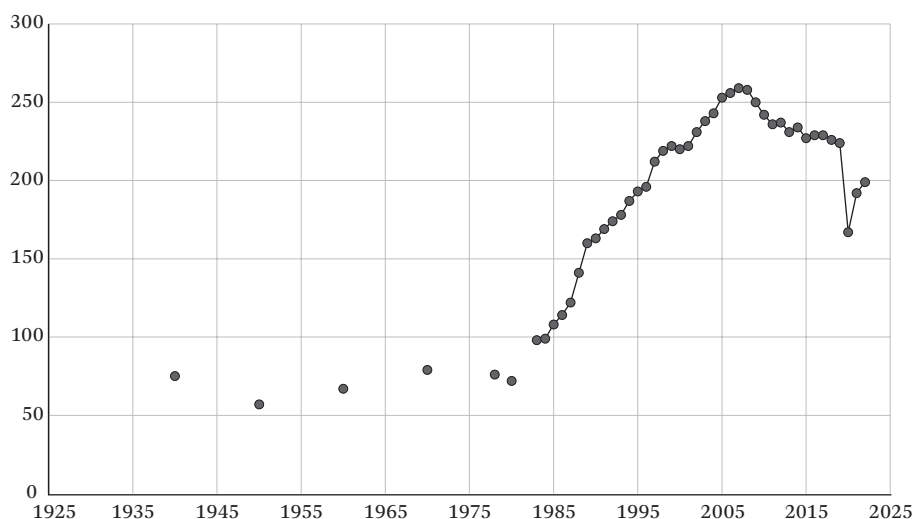
Jail incarceration rates, like prison incarceration rates, have increased dramatically since the 1970s (see figure 5). These increases exist across all counties but are most striking for rural counties. Rural counties had a jail incarceration rate of 55 per 100,000 in 1970, peaked at 362 in 2019, and declined slightly to 351 in 2022. The jail incarceration rate for rural counties is more than twice as high as the jail incarceration rate for urban counties (351 compared to 158 in 2022; Vera Institute of Justice 2023). The jail incarceration rate has decreased for all racial and ethnic groups since 1990, but the declines have been smallest for Black people (declining by 15 percent between 1990 and 2022), followed by Native American people (28 percent decline), Asian American / Pacific Islander people (34 percent decline), Latinx people (47 percent decline), and White people (81 percent decline). Black people are more likely to be incarcerated than White people in rural counties and urban counties alike, but the inequalities are largest in rural counties (Vera Institute of Justice 2023).

Crime

Much as scholarship on the consequences of incarceration in the mass incarceration era is relatively unconcerned with the causes of such high incarceration rates, the influence of crime on the trends described earlier is too often ignored and remains contested. It would seem reasonable, for example, to assume that the rise in incarceration rates would be tightly linked to increases in crime rates. Descriptive analyses suggest weak to moderate (depending on the era) correlations between the crime rate and subsequent incarceration rates; as one example, a consensus report on the causes and consequences of incarceration produced by the National Academy of Sciences minimizes the influence of crime, finding that “the best single proximate explanation of the rise in incarceration is not rising crime rates, but the policy choices made by legislators to greatly increase the use of imprisonment as a response to crime” (National Research Council 2014, 3).

Such a view has more recently been contested by scholars who argue that changes in the measurement of crime and incarceration offer different answers to the question of how much changes in the crime rate produced changes in the incarceration rate. Arguments

Figure 5. Local Jail Incarceration Rates, 1925–2022



Source: Prison Policy Institute Data Toolbox (Prison Policy Institute., n.d.).

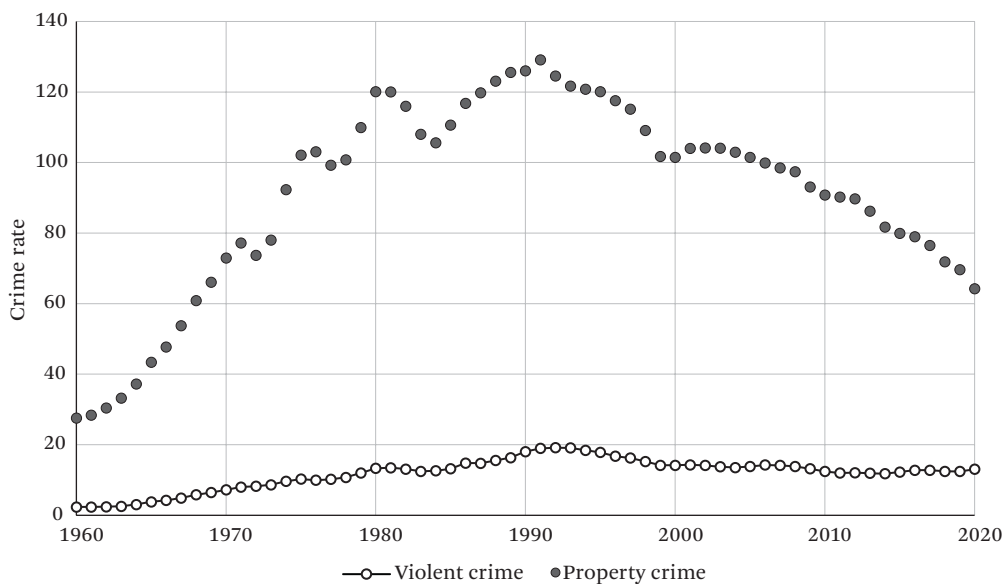
along these lines may be focused on the proximate causes of the incarceration rate and include basic debates about how flows into and out of prisons could be better measured or what features of the crime rate matter most (Enns 2016; Lacey et al. 2018) to more abstract arguments about the indirect and complex relationships between crime, fear of crime, responses from policy makers to both, and subsequent impacts on the incarceration rate (Alexander 2012; Beckett and Francis 2020; Garland 2023; Murakawa 2019; Weaver and Lerman 2010). We return to these questions in our discussion of carceral states but here summarize basic trends in the crime rate during the mass incarceration era to keep in mind.

Understanding trends in crime rates is critical for appreciating the growth of the carceral state in the United States, as the criminal legal system—including incarceration but also policing and supervision via probation and parole—is generally conceptualized as being responsive to crime. We highlight three key points that underlie US crime trends. First, crime rates, including both violent crimes and property crimes, in the United States have declined (even as rates of incar-

ceration increased). Second, the timing of when the decline in crime rates begins (and the corresponding ending of the increase in crime rates) depends on the data being used to make inferences. Third, the decline in crime rates is heterogeneous across demographic characteristics (including race and ethnicity, sex, and especially age) and geographic region. These three key points, as well as the limitations to our existing knowledge, provide opportunities for future research on the contours and complexities of crime rates.

First, it is well known that crime rates in the United States have declined even as incarceration rates have risen (see figure 6). The decline in US crime rates is particularly true for trends in street crime, which includes murder, rape, robbery, burglary, and motor vehicle theft (Baumer et al. 2018). Though the decline in crime depends on the data used (more later), it is generally accepted that street crime began increasing in the 1960s and then peaked in the early 1990s, when it started to decline (Blumstein and Rosenfeld 1998; Zimring 2010). Consider trends in homicides, for example. Data from the Federal Bureau of Investigation's (FBI) Uniform Crime Reporting (UCR) Program shows

Figure 6. Violent and Property Crime Rates, 1960–2020



Source: Uniform Crime Reports (UCR).

that the US homicide rate was 5 per 100,000 people in 1960, peaked at about 10 per 100,000 people in 1980 and 1990, and declined to about 5 per 100,000 people in 2015. Trends in burglaries show similar patterns, with burglary rates increasing until the early 1980s and then steadily declining through 2015 (Baumer et al. 2018).

Second, the timing of the decline in crime rates depends on the data. Research shows that data from the UCR Program (a data source on crimes reported to law enforcement agencies throughout the United States) and the National Crime Victimization Survey (NCVS), an annual and nationally representative sample of US residents ages twelve and older collected by the Bureau of Justice Statistics (BJS), lead to different conclusions about crime trends for certain types of crimes. The patterns shown in the UCR and the NCVS are similar for some types of crime, including robbery, burglary, and motor vehicle theft. However, for other types of crime—including measures of violent crime such as rape and aggravated assault—the trends diverge. The UCR data show increases in violent crime through the early 1990s (and corresponding decreases in violent crime after the early 1990s). The NCVS, though, shows declines in violent crime beginning in the early 1970s (Lauritsen et al. 2016). The correlation between UCR violent crime rates and UCR homicide rates is weaker than the correlations between NCVS violent crime rates and UCR homicide rates. This suggests the reliability of the NCVS violent crime data, as prior research has found the UCR homicide rate data to be highly correlated with other mortality records (Lauritsen et al. 2016; O'Brien 1996). The substantial differences in crime trends across the two data sources likely emerge from differences in the function of the two data sources. UCR data, which are the primary way that crime has been historically measured in the United States, include crimes that have been reported to the police (so changes in crime rates may result from changes in victimization, changes in reporting of victimization, or some combination of the two). NCVS data, which began annually in 1973, include respondents' self-reports of being the victim of criminal activity (including crimes that are and are not reported

to the police), so they may be more inclusive (Baumer et al. 2018).

Third, the decline in crime is unequal, varying across demographic characteristics (race and ethnicity, sex, and especially age) and geographic region. Demographic characteristics—of both people who commit crimes and people who are victims of crimes—can structure US crime trends (Rosenfeld and Weisburd 2016). Age is an especially important predictor of crime trends. Eric Baumer and colleagues (2018) present age-specific homicide rates. They show that for Black people ages thirty to forty-nine and age fifty and older, homicide rates steadily declined between 1981 and 2015. They also show that rates among younger Black people (including those ages fifteen to nineteen and those ages twenty to twenty-nine) steadily increased through about 1995 before beginning to decline. The authors report that these trends across age groups are similar for White people (though the overall rates are lower among White people compared to Black people across all age groups). Additionally, crime rates differ across geographic regions of the country, with the local context mattering especially in recent decades (Baumer et al. 2018). These findings contrast with research on earlier periods, though, which shows overall crime trends are fairly consistent across the United States (with different regions of the country experiencing similar increases and decreases in trends between 1960 and 2004; McDowall and Loftin 2009).

Police, Probation, and Parole

We have thus far reviewed the features of American crime and more serious forms of punishment, in the case of incarceration. These estimates describe the millions of Americans touched by crime and incarcerated in prisons and jails; many more people have contact with the police or are supervised in their communities (in lieu of incarceration in the case of probation or following prison spells via parole supervision). The decline in US crime rates accompanied an expanded carceral state—that is, a criminal legal system that not only incarcerates many people but also involves frequent police stops and supervision via probation and parole. Police contact is perhaps the most

common form of criminal legal contact, with police-initiated stops being heralded by law enforcement agencies as a successful crime-prevention tactic (Petersen et al. 2023). In 2020, more than one-fifth of US residents (ages sixteen and older) reported police contact in the prior year, according to the nationally representative Police-Public Contact Survey (PPCS) from the BJS (Tapp and Davis 2022). This includes contact initiated by the police, such as being stopped while in a motor vehicle or being stopped while on the street (10 percent of those ages sixteen and older in 2020, compared to 11 percent in 2015 and 2018); contact initiated by themselves, including reporting a crime, reporting an emergency that is not a crime (for example, medical emergency), and approaching the police for other reasons (12 percent); and contact related to a traffic accident (3 percent; Tapp and Davis 2022). We describe patterns of both police- and resident-initiated contact because both are important for understanding the true scope of the carceral state.

Demographic characteristics—including age, sex, and race and ethnicity—shape both police- and resident-initiated police contact, according to data from the PPCS. First, age is an important predictor of police-initiated contact. About 17 percent of people ages eighteen to twenty-four report police-initiated contact in the past year, compared to 12 percent of people ages twenty-five to forty-four, 8 percent of people ages forty-five to sixty-four, and 5 percent of people ages sixty-five and older (Tapp and Davis 2022). Age is also an important predictor of resident-initiated contact, with 13 percent of people ages thirty-five to forty-four reporting it in the past year, compared to 12 percent of people ages forty-five to sixty-four, 10 percent of people ages twenty-five to forty-four, and 9 percent of people ages sixty-five and older (Tapp and Davis 2022). Men were more likely than women to experience police-initiated contact (11 percent compared to 9 percent), whereas women were more likely than men to initiate contact themselves (12 percent compared to 11 percent; Tapp and Davis 2022). Finally, these data show that White people are more likely than people of color to experience police-initiated contact (10 percent compared to 9 per-

cent of Black people and 8 percent of Hispanic people) and, similarly, that White people are more likely to experience resident-initiated contact (13 percent compared to 9 percent for both Black and Hispanic people; Tapp and Davis 2022).

These findings from the PPCS about racial and ethnic disparities in police-initiated contact diverge from other research on racial and ethnic disparities in police stops (and in criminal legal contact more generally), perhaps because they do not consider the type of police contact (traffic stops versus street stops) or the invasiveness of the stop. Research that only considers traffic stops, for example, shows racial and ethnic disparities in the prevalence of stops. For example, recent research from the Public Policy Institute of California (PPIC), which relied on data from 3.4 million traffic stops made by large law enforcement agencies in the state (for example, Los Angeles County, San Diego County, San Francisco County), found that Black drivers are overrepresented in traffic stops. Black drivers constitute 16 percent of traffic stops but only 6 percent of the state's population (Lofstrom et al. 2022). The racial disparity in these traffic stops is largest in the evening and early morning hours and, importantly, stops of Black drivers are less likely than stops of White or Latino drivers to lead to the discovery of contraband or evidence (Lofstrom et al. 2022). Another study, which examined one hundred million traffic stops across the United States, also found that police were less likely to discover contraband or evidence when searching Black and Hispanic drivers than White drivers. They also found that Black drivers were less likely to be stopped by police after sunset—or, put another way, more likely to be stopped during daytime hours when skin color is more readily apparent (Pierson et al. 2020).

The inequalities in police contact extend beyond who is stopped by the police. Police contact is not created equally, as police-initiated contact can involve force, threat of force, harsh language, and other violence. In 2020, about 2 percent of people in the United States ages sixteen and older reported police contact that involved a threat or nonfatal use of force. About 4 percent of people reported that their most recent police contact involved shouting, curs-

ing, threat, or nonfatal use of force. This was more common among racial and ethnic minorities, including Black people (7 percent) and Hispanic people (5 percent), than among White people (3 percent) or people of other races (3 percent; Tapp and Davis 2022). Additionally, fatal violence by the police, which increased between 1980 and 2019, is unequal across race and ethnicity (GBD 2019 Police Violence US Subnational Collaborators 2021). Data from three open-source databases (Fatal Encounters, Mapping Police Violence, and The Counted) show that the age-standardized mortality rate for non-Hispanic Black people is about two times higher than for Hispanic people and nearly four times higher than for non-Hispanic White people. There are also large discrepancies across states, with fatal violence by the police being most common in Oklahoma, the District of Columbia, Arizona, Alaska, Nevada, and Wyoming. These three open-source databases (none affiliated with the US government) also report considerably more fatal police encounters than data from the government's National Vital Statistics System (NVSS) (GBD 2019 Police Violence US Subnational Collaborators 2021).

Finally, the national trends in community supervision (including probation and parole) mirror those of incarceration. Community supervision rates rapidly increased from the 1970s until about 2007 and have been declining since then (Kaeble 2021). In 2020, nearly four million US adults were under community supervision, a more than 20 percent decline from the peak in 2007, when more than 5.1 million US adults were under community supervision (Glaze and Bonczar 2011; Kaeble 2021). The decline in the community supervision population is primarily due to a decline in the probation population, as opposed to a decline in the parole population (Kaeble 2021).

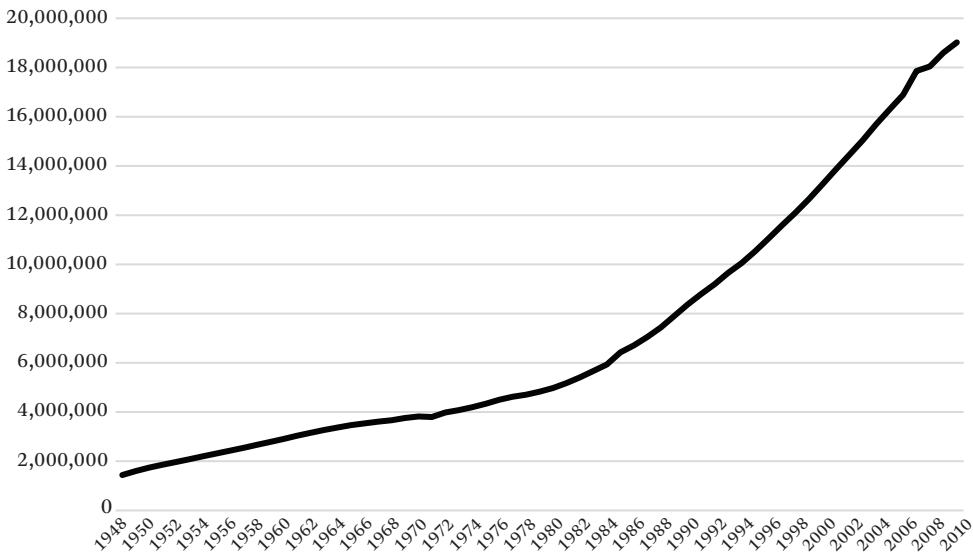
Research also shows that community supervision became more punitive over time (Phelps 2013). Probation, especially, has been seen as a way of widening who comes into contact with the criminal legal system, as probation is often used as an alternative to incarceration and a mechanism for punishing those charged with misdemeanors or lower-level offenses who were never at risk of receiving a prison sentence (Phelps 2020). Both probation and parole facil-

itate cyclical incarceration, with people often being sentenced to prison for violating the conditions of their community supervision, as opposed to being convicted of a new crime (Harding et al. 2022). Indeed, more than one-fourth (29 percent) of state and federal prison admissions are related to community supervision violations (Carson 2020).

Like other trends in the criminal legal system, there is considerable variation in the risk of community supervision by demographic characteristics and by state of residence. First, there is demographic variation in the experience of probation and parole, especially by race and ethnicity, sex, and social class. Research shows that about 15 percent of all adults ages twenty-four to thirty-two have been on probation but that nearly half (46 percent) of all Black men in this age range without a high school diploma have experienced probation. Women are much less likely than men to experience probation, with only 2 percent of White women and 3 percent of Black women ages twenty-four to thirty-two experiencing this form of criminal legal contact (Lerman and Weaver 2014). Additionally, there is state-level variation, with some states having more punitive community supervision than others (and, interestingly, this state-level variation in supervision does not necessarily track onto state-level variation in incarceration (Phelps 2017).

Americans with Felony Convictions

We conclude our description of the footprint of the American criminal legal system by noting that it is tempting to think of these trends in static terms, but the trends we discussed earlier are compounded by a long period of criminal legal expansion, as documented in figure 7. Sarah Shannon and colleagues (2017) provide estimates of the number of Americans who have a felony conviction, after accounting for mortality, recidivism, and cross-state mobility. Figure 7 includes people convicted of a felony who are currently under the supervision of the criminal legal system (in prison or actively supervised in the community via probation or parole terms) as well as so-called ex-felons who are no longer under supervision but remain subject to the myriad restrictions and barriers to social life that accompany such a conviction.

Figure 7. Estimated Number of Americans with a Felony Conviction, 1948–2010

Source: Shannon et al. 2017.

The results are staggering; more than nineteen million people in the United States carry the burden of a felony conviction.

As with the trends reported earlier and displayed in figure 8, people with felony convictions are not evenly distributed throughout the United States. Figure 8 displays the percentage of the voting age population that is carrying a felony conviction in each US state. To the extent that more punitive states have larger populations with a felony conviction and such convictions are tied to things like the ability to vote (Uggen and Manza 2002; Weaver and Lerman 2010) or accessing various forms of government assistance (Mauer and Chesney-Lind 2002), the criminal legal system dramatically structures state-by-state variation across a host of important social domains.

FROM MASS INCARCERATION TO A CARCERAL STATE

The trends outlined earlier detail the core features of the mass criminalization that characterizes the United States. But does such a contemporary history describe a fundamental change in the American state, a new trend in a long-running pattern, or something else entirely? As we hinted at earlier and describe in more detail later, scholars differ (often dramat-

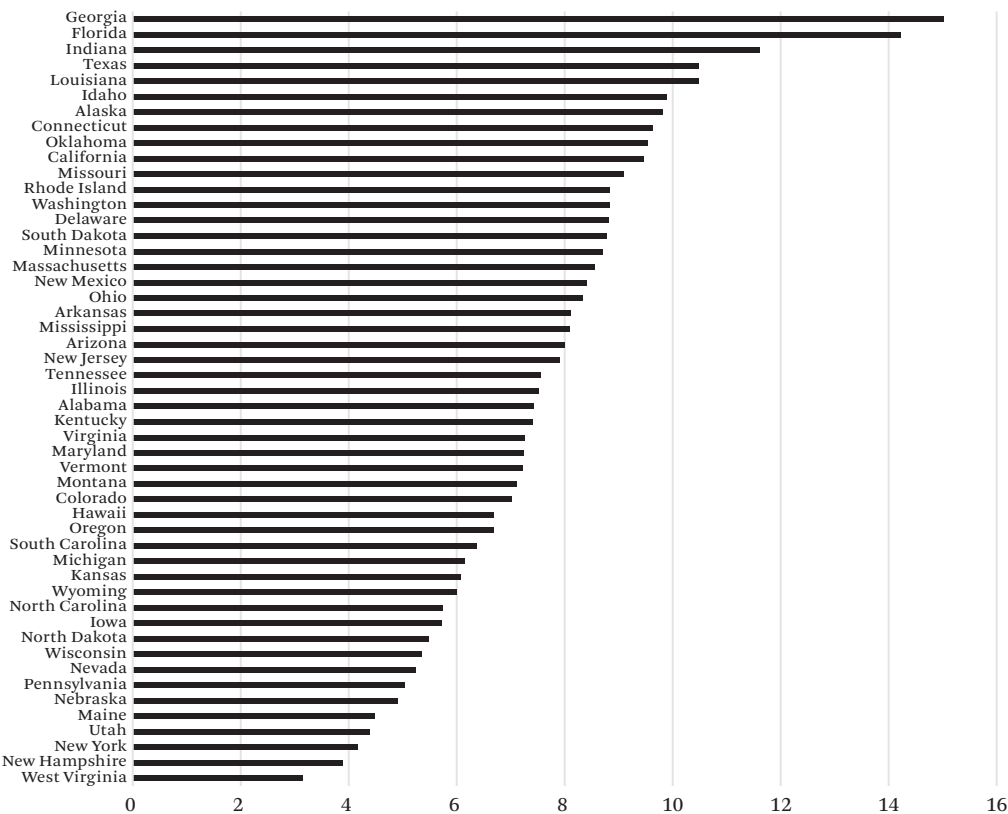
ically) in how they define the penal or, more recently, carceral state.

To better understand these perspectives, we consider what constitutes a carceral state before engaging arguments about how carceral states are created. However, a clear and widely agreed-upon definition of a carceral state does not exist in the literature. There is certainly no definition of a carceral state that approaches the Garland description of mass incarceration discussed earlier and, making matters worse, little agreement on what is included or excluded from the term. Since this article describes the analytical shifts that result from engaging such frames and how they may inform our understanding of racial and ethnic bias in the criminal legal system, we begin by simply reviewing the many ways the term is used in the literature.

Conceptualizing the Carceral State

We first point readers to an excellent and more extensive analysis by scholars Ashley Rubin and Michelle Phelps (2017); we leverage their work here to illustrate the variation in what is meant by the term carceral state or penal state (see also Berger 2019). Rubin and Phelps review definitions of carceral and penal states in the literature and note that the terms are “synonym[s]

Figure 8. Percentage of the Voting Age Population with a Felony Conviction, by State, 2010



Source: Shannon et al. 2017.

for recent penal trends,” “undefined but theoretically motivated,” and “defined” but include “narrow to expansive views of the state” (Rubin and Phelps 2017, 424–25). What makes the problem worse is that, as Rubin and Phelps note, many European scholars prefer the term penal state, presumably because it more accurately reflects the common noncarceral criminal legal interventions there. To illustrate the scope of the conceptual problem, table 1, derived from the Rubin and Phelps (2017) analysis, briefly summarizes the great variety of definitions, actors, and agencies that make up carceral or penal states.

As shown in the table and confirmed in our own review of the literature, there is little agreement on what is included and excluded in the carceral state analytical field, and several definitions include overlapping domains, actors, or organizations. The definitions in the literature include a variety of deviations, but

two are relatively easily discerned and present substantial challenges for scholars in search of tidy and testable explanations for the rise of the carceral state. First, what institutions and agencies make up the field to be explained? The definitions in table 1 range from a narrow focus on agencies that incarcerate—prisons and jails—to a broader set of criminal legal agencies, including parole and probation. Still others move well beyond the criminal legal system field to include adjacent agencies and institutions that aid criminal legal system goals, steer people toward criminal legal system contact, or adopt similar carceral logics. Examples of these include the child welfare system, schools, and hospitals (though note that there is little discussion about the various components of these institutions that specifically constitute a carceral state). Second, definitions of penal or carceral states differ not only with respect to which agencies in the criminal justice core (for exam-

Table 1. Summary of Rubin and Phelps (2017) Survey of Penal State and Carceral State Definitions

Abstract Definition	Agencies/Institutions/Actors Included
Criminal justice agencies that incarcerate	Prisons and jails
Criminal justice agencies that punish people convicted of crimes	Prisons, jails, parole, probation
Parts of the state that create law, direct criminal justice agencies, and develop criminal justice policy	Legislatures and policymakers
Neoliberal systems that govern marginalized populations	Criminal justice and welfare systems that practice social control and surveillance
The state's capacity to punish	Penal infrastructure as reflected in the number of people who touch the criminal legal system
Any institution that engages in the administration of formal social control	Criminal justice agencies (police, courts, corrections), adjacent (often private) organizations that serve surveillance ends (for example, electronic monitoring or the collection of fines and fees related to criminal conviction)
Systems of governance focused on punishment and surveillance	All forms of contact with government entities that possess state power to surveil, intervene, judge, and sanction behavior
All included definitions above as well as adjacent state-based civil and administrative spaces that create a 'shadow carceral state' through extralegal forms of punishment	The penal/carceral state as defined by those above alongside civil and administrative bodies that perform carceral-like functions

Source: Rubin and Phelps 2017, 424–26.

ple, prisons or parole agencies) are included but also with respect to whether the definitions include those who direct such agencies (for example, legislators and policymakers). Given these differences, it is unsurprising that narratives of the rise of the carceral state differ dramatically in emphasis.

In this review, we largely conclude that analyses of the penal state—or the analysis of state capacity vis-à-vis penal policy and practice—are easier to reduce to clear, measurable, and testable concepts. The trade-off, of course, is that such conceptualizations run the risk of missing the proverbial forest for the trees and may be rendered too narrow to be of great use. In contrast, historian Dan Berger (2019) distinguishes more clearly between penal and carceral states by arguing that carceral state is the broader term, encompassing more institutions and a longer timescale than the more narrow term penal state (see also Foucault 1995; Hernández et al. 2015; Simon 2007a). Narratives in the carceral state space, for example, are in

relative agreement that the foundations of mass incarceration are found outside (often far outside) the penal system proper, so the many variants of the penal state frame may prove too narrow.

We adopt the term carceral state for the remainder of this review along the lines of Berger (2019) to cast as broad a gaze as possible in service of locating domains most relevant to understanding racial and ethnic bias in the criminal legal system. Such a choice comes with a trade-off too, however. Broad conceptions in the carceral state vein present the opposing problem: that they are so diffuse as to be untestable and, in the process, obscure considerable variation across time and place, as demonstrated in the section “Describing Visible Features of the Carceral State,” where we document significant state-by-state variation in the use of criminal punishment. A broadened conception of the carceral state runs the risk of seeing it everywhere and rendering the concept meaningless in the process. It is often unclear

what is included and excluded in the carceral part of the carceral state description; as Aisha Khan (2022, 54) explains in the *Annual Review of Anthropology*: “It is crucial to be clear about what the carceral encompasses as well as the punitive characteristics that inform it, given that the military, nursing homes, schools, detention centers, migrant labor camps, extraordinary rendition centers, halfway houses, and gated communities are arguably all carceral.”

Finally, a number of scholars also criticize the carceral state frame for its inability to define the state actors and their actions as a core problem, because it implies a monolithic but undefined “state” operating in the background to create extreme changes (several commentaries refer to this problem as bordering on the conspiratorial; see, for example, Lacey 2010; Rubin and Phelps 2017). Such a view also risks describing carceral states as marching inexorably toward greater formal social control and surveillance when evidence suggests substantial struggle, contestation, and variability over time and across places (Goodman et al. 2017). Readers should be mindful of these tradeoffs, but we suggest that the utility gained from carceral state perspectives outweighs the conceptual ambiguities found within them.

Analytical Challenges from Conceptual Ambiguity

Conceptual ambiguity as described earlier makes it difficult to answer seemingly basic questions. Is the United States a carceral state? If so, is it the only one? The first question is more easily answered than the second; the carceral state literature is largely grounded in the notion that the United States represents an ideal type of a carceral state, though analysts largely differ on what features of it make this so (a point we return to later). Answering the second question—whether the United States stands alone as a carceral state—depends on both theoretical orientation and the complexities imposed by available comparisons.

Regarding the first question, Garland (2013) presents a salient example of the view of US exceptionalism in penal state status by identifying unique features of American crime and punishment that are difficult to square with mass incarceration as a global phenomenon

(see also Garland 2023). In addition to high rates of incarceration and extreme racial and ethnic disproportionality in its use (both are observed elsewhere), Garland notes that the American system is defined by its use of the death penalty long after it was abolished elsewhere, the large populations of US residents under correctional supervision in their communities, and the sheer volume of formal and informal collateral consequences that often accompany a felony conviction. Other scholars might add the extreme conditions in US correctional facilities (Reiter 2016), very long sentences (Seeds 2021), and long-lasting consequences from seemingly low-level contact (Kohler-Hausmann 2013; Sugie and Turney 2017) as additional unique features of the American penal state. This view, though, simply describes the US criminal legal system without reference to penal authority and stops short of adequately describing a carceral state.

In addition, the unique features of the American criminal legal system as described obscure great variation across individual US states, as we documented earlier. While the death penalty is an available penalty at the federal level in the United States, it is more often deployed by a small number of states, and many states have banned it. Similarly, not all states pursue mass incarceration with similar vigor, as documented in figure 4. Sentencing practices and collateral consequences also vary substantially across states. A vision of the United States as a carceral state tends to be the most intellectually satisfying when one makes criminal legal system comparisons at the nation level; in these comparisons, the United States emerges as extreme on many metrics, and other institutions take center stage. This comes at a cost; the conceptual ambiguity with describing the United States as a (monolithic) carceral state is at its most awkward when one accounts for wide state-by-state and temporal variation in criminal legal system policy and practice (Campbell 2018; Goodman et al. 2017). Even here the comparisons depend on one’s benchmark; while it is the case that many US states have low incarceration rates relative to the within-country mean, even the US states with the lowest incarceration rates far exceed those of many other countries.

The answer to what constitutes a carceral state becomes more complex as narratives layer on additional features of the state that lie outside their criminal legal systems. Recall that carceral state scholarship is in broad agreement that the features that produce the sort of criminal legal system represented in the United States are found outside of that system, though narratives differ with respect to what features are considered most important. Compelling candidates are the American political economy and its racial politics (Beckett and Francis 2020), broad retrenchment of the welfare system (Beckett and Western 2001; Wacquant 2001, 2009), and the winner-take-all nature of the American political system (Garland 2023; Lacey 2010).

In general, carceral state narratives focused on extreme features of the criminal legal system would lead one to the position that the United States stands alone with respect to its carceral state status (Lacey 2010). Yet again, however, a tension arises depending on which structural or historical features of the state are considered. Comparisons to other Western democracies make clear that the United States is extreme on criminal legal system interventions while sharing some structural features of capitalist democratic states. While no Western democracy has reached the high levels of criminal legal system interventions of the United States, the pathway pursued in the United States is still found in other places. John Sutton, for example, has documented changes in penal regimes in countries with less regulation than the US, decentralized political systems, and weak protections for workers (Sutton 2013, 2004; see also Beckett and Western 2001 for a similar analysis across US states). Here again, the interpretation depends on one's benchmark; to the degree that the United States is especially unregulated, especially decentralized, and especially unsupportive of labor, we might expect extreme incarceration rates there but observe similar trajectories in other nations that share these characteristics in kind but not necessarily degree.

Perspectives that emphasize historical power relations in the United States with respect to its repressive criminal legal system lend credence to the idea that the US extreme

exists along a broader continuum but serve up an altogether different set of potential peers and explanatory factors. Moving away from comparisons with other Western democracies foregrounds the marginalization (and, in some cases, erasure) of racialized or indigenous groups by highlighting histories of slavery, imperialism, and colonialism. To the degree that explanations for the US criminal legal system are grounded in racial capitalism (Baptist 2017; Beckett and Francis 2020) or histories of racial subjugation (Alexander 2012; Muhammad 2019; Muller 2021) and settler-colonialism (Hernández 2017; Khan 2022; Nichols 2014), the United States becomes yet another nation grounded in the repression of portions of the population. Importantly, these perspectives change the relevant comparison group and depart from the usual "Western democracies," instead finding common ground between the United States and places as diverse as Latin America (Gott 2007; Müller 2012), Canada, New Zealand, and Australia (Cunneen and Tauri 2019), among others.

By outlining substantial conceptual ambiguity in how carceral states are defined and understood, we do not wish to leave readers with the impression that there is no utility in engaging these perspectives. Instead, we suggest that greater integration among the vast community of scholars studying the criminal legal system and its relation to the state would advance knowledge considerably by making contested questions less opaque and, ideally, produce additional empirical tests of competing hypotheses. Despite the conceptual ambiguity of these terms, the accumulated pool of potential explanations for the development of carceral states offers several advantages for understanding racial and ethnic disparities and, ultimately, fruitful pathways for reducing them.

First, carceral state frameworks emphasize the state portion of the term and locate the causes of the prison boom in dynamics outside the criminal legal system. Such explanations may differ widely—locating causes in the political dynamics of the 1970s to as far back as the founding of the country—but they share a common view that mass criminalization is a consequence of broader political and social dynamics, rather than a simple consequence of

shifts in crime or criminal justice policy. This simple premise leads to another shared premise of carceral state narratives: carceral state narratives implicitly distinguish between describing the criminal legal system as a pathological form of social control and better understanding the function of this latest form of pathological social control. Carceral state scholarship emphasizes the latter, and, in so doing, mass incarceration (and, later, mass criminalization) can be understood less as a surprising or inexplicable change in American responses to crime and punishment. Instead, carceral state narratives describe mass incarceration as a new form of social control that serves a much older function and reflects fundamental state dynamics.

THE ORIGINS OF THE CARCERAL STATE

Lacking the ability to clearly define a carceral state and accounting for the lack of clear empirical advance that privileges one form over another (and resisting the urge to choose our favorite), we have inductively arrived at four commonly invoked and contested domains with respect to the development of the United States as a carceral state to highlight in this review. We will now review arguments about the origins of the carceral state across these four topics because they are most closely tied to contemporary issues of racial and ethnic bias in the criminal legal system and present substantial challenges for reform. Explanations for the rise of the carceral state differ in points of emphasis but raise common questions about the unique features of the political, economic, and social structure of life in the United States. While scholars in the carceral state space have disagreements about the importance of, say, crime rates, neoliberalism, or the role of social liberals in the advent of the prison boom, the narratives we will describe are often broadly complementary. As we will discuss, a common theme of carceral state arguments is that they reframe the most proximate causes of mass incarceration as a symptom of earlier events or other underlying causes. We aim to highlight major areas of contestation within each domain to suggest areas for future research. The sections that follow are focused on crime, fear of crime, and changes in the crime rate; racism,

legacies of racial subjugation, and settler colonialism; localized politics, the political economy, and the decline of the welfare state; and the importation of carceral logics and practices to institutions and contexts largely disconnected from the criminal legal system.

Crime, Fear of Crime, and Changes in the Crime Rate

How much of mass incarceration is the result of increases in the crime rate? If the question is focused squarely on incarceration rates and assumed to be direct, the most common answer is not much, as we noted earlier. The relationship between crime rates and incarceration rates is too weak over the course of the prison boom to reasonably argue that mass incarceration is a natural response to crime rates (National Research Council 2014). Higher crime rates in the 1960s and early 1970s are important for understanding the initial rise in incarceration, but this is so because of politicized shifts in policy. Increases in the incarceration rate are fairly transparently linked to sentencing policy changes, and figuring out which policy changes were most consequential is no easy task (Blumstein and Beck 1999; Bushway 2011; National Research Council 2014; Neal and Armin 2023; Raphael and Stoll 2009; Spelman 2009). Understanding the origins of the carceral state requires understanding why policy changed so substantially rather than identifying which policy changes mattered most for increasing the incarceration rate (and decreasing the incarceration rate, albeit on a smaller scale). It also requires explicitly asking why carceral solutions were so doggedly pursued in the United States, relative to similarly situated nations that struggled with high crime rates but pursued solutions within and outside their criminal legal systems.

The role of crime rates—or, more specifically, racial and ethnic disparities in offending and victimization rates—ranges from relatively ignored to centrally important for understanding mass criminalization in carceral state narratives. Carceral state explanations are commonly comparative in nature (why is the United States so extreme relative to other comparators?), and such explanations must grapple with the nature of crime in the United States.

While the incarceration rate may not neatly track the crime rate and while violent crime rates have declined, the United States remains “an exceptionally violent place” (Tonry 2023, 233). If incarceration rates indicate American exceptionalism, so too does its crime rate, especially with respect to violence (Clegg et al. 2024; Garland 2023). Early mass incarceration scholars tend to quickly dismiss crime as an explanatory factor for the prison boom and move on to other features of the criminal legal or political system, but carceral state narratives warn of the folly of this path (Beckett and Francis 2020; Garland 2023; Lacey et al. 2018). Crime takes center stage in most carceral state frames, albeit in complex ways, and is typically focused on why this country’s response to crime has been centrally located within the penal system rather than tackled in conjunction with the many available alternatives outside it.

Ironically, the scholar who defined mass incarceration conceptually—the sociologist David Garland—is one of the more forceful carceral state scholars with respect to the pragmatic and theoretical problems that come from ignoring high rates of violence in the United States. For Garland, to ignore that the United States is a violent place relative to other wealthy Western democracies is both plainly incorrect and renders any explanation of the rise of the carceral state incomplete. In contrast, the narrative focused on poverty, class and race inequality, and neoliberalism developed by Loïc Wacquant (2000, 378), for example, is rather more bluntly dismissive of crime—“Not crime, but the need to shore up an eroding caste cleavage”—and Garland is especially critical of narratives that dispense with crime and violence quickly (Garland 2023; see also Enns 2016; Forman 2017). For Garland (2023, 45), both high crime and mass incarceration share a common source: “America’s exceptional levels of criminal violence and its massive system of penal control are two effects of the same set of structural conditions: deep economic and racial inequality, an inadequate welfare state, and a lack of solidarity in cross-class and interracial social relations.”

Others argue that crime is central to understanding the determinants of penal policy and

mass incarceration, though for different reasons than those Garland raises (Lacey et al. 2018). Nicola Lacey and colleagues point to more recent analyses showing that incarceration rates track violent crime rates more closely than previously recognized (2018, 200) and highlight the work of political scientist Peter K. Enns (2016), who argues that political elites did not impose concerns about crime on ordinary citizens merely to achieve political ends; rather, such concerns were widely shared among the public, including among Black Americans (see also Forman 2017; Fortner 2015). For Lacey and colleagues, Enns (2016), Forman (2017), and others, crime is central to understanding current criminal legal system practice.

Taking crime and, importantly, fear of crime seriously need not rule out the role of politics or structural racism. Perspectives along these lines instead ask when crime matters (Alexander 2012; Beckett 1997; Beckett and Francis 2020; Murakawa 2019). These views can be contrasted with those of Wacquant (2009; 2000) as well as with those of Michelle Alexander (2012), Marie Gottshalk (2006), and Naomi Murakawa (2019), who view crime as less relevant for understanding current carceral practices, highlight how fear of crime rather than actual crime rates drives punitive policy, or worry about how engaging crime—in particular racial and ethnic disparities in criminal victimization and offending—influences support for (or the lack thereof) criminal legal system reform.

As a useful contrast to the tails of the distribution described earlier, crime is central to Katherine Beckett and colleagues’ insightful work on racial capitalism, the politicization of crime, and the development of the carceral state (Beckett 1997; 2018; Beckett and Francis 2020). It also explains why high rates of crime and punishment are so difficult to tackle simultaneously without making racial disparities in punishment worse; this is so because mass incarceration resulted from the racialized politics that developed partially in response to increases in crime (or fear of crime). The importance of crime for understanding the origins of the carceral state in Beckett and colleagues’ analysis is less about the crime rate per se and more about how political actors in the United States used spikes in crime in the run-up to the

prison boom to achieve other political goals (but see Enns 2016). In this view, mass incarceration (and presumably the mass criminalization that followed) is the result of the racialized politics that emerged in response to the civil rights movement. If that is the case, an overfocus on crime is counterproductive for reform and distracts from the core foundations of mass incarceration (Beckett 1997, 2018; Beckett and Francis 2020; Beckett and Murakawa 2012). Katherine Beckett and Megan Ming Francis (2020, 444), for example, begin their review of how racial politics created mass incarceration by noting that “it is clear that changes in policy and practice (rather than rising crime rates) are the proximate drivers of the prison boom.” Beckett and Francis (2020) echo others with concerns about how an overfocus on crime precludes a full understanding of the racialized character of the carceral state: “We also argue that alternative accounts that identify neoliberalism, changing norms and attitudes, trends in violent crime, and/or the role of liberals offer some important insights but generally obscure rather than illuminate the deeper, most fundamental origins of mass incarceration. . . . We maintain that although mass incarceration is the result of many changes and dynamics, it simply cannot be explained without reference to the centrality of racial politics” (436).

Finally, a recent report by the National Academy of Sciences on racial and ethnic disparities in the criminal legal system anchors its analysis on both crime and punishment as central problems for marginalized populations in the United States, underscoring the need to account for and address both (National Academies of Sciences, Engineering, and Medicine 2022). The lesson of the National Academies report, as well as the debates described earlier about the centrality of crime for understanding punishment, is that one need not ignore crime while understanding a criminal legal system that has long been utterly rife with racism. Indeed, a choice between the carceral state as a racist system and crime driving everything represents a dangerous and false dichotomy. Instead, the critical point is that the United States has responded to crime, disorder, poverty, and segregation with more punishment and social control. The responses to crime and punish-

ment in the United States represent an unwillingness to pursue alternative solutions that might redress both; that view, rather than crime and punishment per se, is what forms the foundation of the American carceral state.

The perspectives on crime that we have reviewed represent intriguing theoretical and conceptual distinctions, but few scholars deny that crime is an important social problem to address. For example, Beckett and colleagues’ collective work highlights how crime is “used” to further racialized political ends, while Garland is more focused on why such high crime rates are tolerated in such a wealthy country. Still other perspectives define carceral states as “weak states” that are unable to adequately control crime and thus rely too much on the penal system to solve the problem (Gottschalk 2006; Simon 2007b); additionally, empirical evidence supports the idea that weak connections to institutions and an individualistic culture partially explain both crime and punishment rates at the nation-state level (Messner and Rosenfeld 2012; Weiss et al. 2020).

The core question thus remains: why has the response to crime in this country been so different from that of other places that experience the same problems? The question highlights why ignoring crime is such a problem. For mass incarceration scholars, carceral state narratives offer a lesson in the pitfalls of ignoring crime and fear of crime (see also Sampson 2025, this issue). Recalling that crime rates rose in many wealthy Western democracies in the 1960s and 1970s is of great importance but does not explain why the United States pursued carceral solutions to the exclusion of all others. Ignoring crime within these perspectives is akin to ignoring a major cause of the racial and ethnic biases so observable in the US criminal legal system today. What unites carceral state perspectives is that effective and rational responses to crime are not a core feature of the American carceral state. Instead of asking whether crime matters for understanding the development of a carceral state, it is perhaps more useful to ask when and how crime matters and to more clearly distinguish between crime rates and fear of crime.

These distinctions reflect disagreement about whether crime rates are foundational to

the carceral state but also represent more pragmatic concerns about how to address racial and ethnic bias within the criminal legal system without making them worse. It is surely much easier to politicize crime through fear than to reduce it substantially, and most origin narratives of the carceral state locate part of its cause in the politicization of crime and the rise of “law and order” rhetoric. Engaging crime and punishment—and especially racial and ethnic disparities therein—simultaneously remains a central challenge in pursuit of reform (given the long history of racialized politics that connect Blackness with criminality) and forms the foundations of mass criminalization in the first place (Alexander 2012; Beckett and Francis 2020; Hinton and Cook 2021; Muhammad 2019).

Finally, just as scholars disagree on how much or in what ways to center crime rates in understanding the origins of the carceral state, they also differ about how crime rates influence support for criminal justice reform and inform strategies for reforming the criminal legal system. On the one hand, to deny that crime and disorder are substantial problems in the United States renders significant political and policy change vulnerable to slight upticks in the crime rate (Rizer 2023; Garland 2023). On the other hand, centering crime risks distracting from the essential point that both crime and punishment are generally high for a host of reasons that have little to do with the criminal legal system. The causes of crime are varied and beyond the scope of this review, but Jonathan Simon (2007b), for example, argues that the United States has been unable to tackle critical structural problems and relies on “governing through crime” instead. Moreover, research indicates that the combination of outsized fear of crime and exposure to information on racial and ethnic disparities in the criminal legal system tends to reduce support for criminal legal system reform (Beckett 2018; Gottschalk 2006; M. Lee and Mythen 2017; Murakawa 2019).

Racial Subjugation, the Aftermath of Slavery, Settler Colonialism, and Contemporary Racism

To what extent is the legacy of slavery linked to contemporary patterns of mass criminaliza-

tion? How do the patterns and contours of historical and contemporary racism inform our understanding of the function of the carceral state? Is race a fundamental cause of mass incarceration? The principal distinction across arguments about the origins of the carceral state concerns whether slavery and its aftermath (or racism more broadly) are a fundamental cause of the rise of the carceral state or whether this history is an aggravating factor when combined with other unique features of the American state. That the origins of the carceral state are intimately bound up with a brutal legacy of racial subjugation, segregation, and anti-Black sentiment is common across all origin stories. This history is critical to understanding contemporary racial and ethnic bias, but carceral state explanations differ with respect to how researchers combine this feature of American race relations with other characteristics of the American state to understand contemporary mass criminalization.

Many countries have racial and ethnic disparities in exposure to incarceration (Lacey et al. 2018; Tonry 2007, 2022), reflecting the history of historically marginalized groups in each country. These disparities are often smaller in other places, however, and when coupled with the racialized nature of all forms of social control and surveillance in the United States, exceptionalism in the United States with respect to historical forms of racial subjugation appears clear. Still, as Garland (2023, 50) notes, “If every person of color were to be released from custody and correctional supervision, America’s penal system would still be larger—absolutely and relative to population—than that of any other nation.” For Garland, the American carceral state “operates in a miasma of anti-Black racism. But we should regard racism as an aggravating, compounding factor rather than the fundamental cause of America’s penal state” (50). Similarly, Lacey and colleagues (2018, 209) argue that “race alone is a poor candidate as an independent factor in explaining how penal policy is determined.” Along the same lines, the political scientist Marie Gottschalk notes (2008, 239), “The United States did not end up with the carceral state merely because racial cleavages have been so central to American political development.” Still, that a

carceral system built on the foundations of slavery or arising from a political backlash in response to the civil rights movement might also incarcerate a substantial number of White people does not negate racism as a fundamental cause of the American carceral state (Gottschalk 2008). But what has allowed it to fester to such an extreme? Answering this question necessarily leads to comparative questions about why the United States is so much worse with respect to racial and ethnic disparities than other countries with similarly complex and brutal histories of enslavement and marginalization.

One might contrast, for example, historically grounded works that draw a tight criminalization throughline between colonialism, slavery, reconstruction, Jim Crow, and mass criminalization today (Alexander 2012; Hinton and Cook 2021; Khan 2022; Muhammad 2019; Wacquant 2000) with narratives that center racism but combine it with unique features of the American state and political economy, including the declining welfare state (Beckett and Western 2001; Garland 2023; Simon 2007b; Thompson 2010), the rise of neoliberalism (Wacquant 2009) and unregulated labor markets (Sutton 2013), and (hyper)racialized politics (Beckett 1997; Beckett and Francis 2020). As with crime, the distinctions and disagreements between carceral state origins stories are less about how much legacies of slavery or contemporary racism matter for understanding today's mass criminalization and more about what other features of the United States distinguish it from other wealthy countries across the globe.

The relationship between incarceration rates and the labor market during and after slavery offers a salient example of this complexity. While not a theory of the origins of the carceral state *per se*, the sociologist Christopher Muller's work provides one example of how coupling labor exploitation and exclusion with slavery and its aftermath can explain variation in Black and White incarceration rates across place and over time (Muller 2012, 2021; see also Smith and Simon 2020). Using historical information on incarceration risk within and outside the Cotton Belt, Muller shows that Black incarceration rates were quite low in the South

during and following slavery up through the 1950s because incarceration during slavery would have disrupted the exploitation of Black labor. Following slavery, cotton market collapses in the South and subsequent migration patterns put Black people in competition with White workers in the North. Incarceration during this period served an exclusionary function, and the incarceration rate of Black people subsequently increased. In this work, the relative class positions of Black and White workers, variable demand for labor, exploitation via slavery, and exclusion via racist ideologies and market competition are integrated into a compelling narrative to explain both levels of incarceration and the relative size of racial disparities in them over time. Slavery and its aftermath explain why Black Americans were historically vulnerable to exploitation and exclusion in the labor market—"Black Americans disproportionately occupy subordinate positions within these class relations—a fact that cannot be understood without reference to slavery" (Muller 2021, 282)—and provide a framework for understanding the widening and narrowing of race and class disparities in incarceration rates through Reconstruction and Jim Crow.

Case studies like this offer one example of the utility of combining the long history of racial subjugation in the United States with other features of the American state and political economy. This also has much in common with contemporary research that links incarceration to trends in the unemployment rate and broader labor demands (Sutton 2004; Wacquant 2000; Western and Beckett 1999). Such historical work can also offer insight into contemporary patterns; current research documents declining racial and ethnic disparities in incarceration, largely due to increasing rates among Whites (Robey et al. 2022). It may be that, as Muller (2021, 283) argues, that "many of the economic changes that hit Black Americans first are hitting white Americans, whose rate of incarceration is rising," but the sort of painstaking work it takes to fully describe the contours of the carceral state over time to produce a parsimonious explanation is substantial (Goodman et al. 2015; Lynch 2011; Page 2011; Schoenfeld 2016).

Politics, Political Economy, and the Decline of the Welfare State

What other features of the United States explain why it so consistently chooses carceral solutions to social problems? The overwhelming conclusion of carceral state scholars is that American exceptionalism in crime and punishment rates is matched by its weak welfare state and the degradation of social supports and protections that might serve as alternatives to the penal system (Beckett and Western 2001; Garland 2023; Gottschalk 2008; Sutton 2004; Wacquant 2009). Theories of the rise of the carceral state treat the mass criminalization of today as part of a much longer history of exclusion and exploitation (Alexander 2012; Muller 2021; Thompson 2010; Wacquant 2000) and “anti-black punitive traditions” (Hinton and Cook 2021, 261; see also Beckett and Francis 2020), but the decline of the welfare state and subsequent competition for resources provide the conditions for these dynamics to flourish.

Throughout this article, we have noted that explanations for the development of the carceral state are necessarily comparative. To that end, the United States was not unusual in its experience with higher crime rates and social upheaval during parts of the twentieth century. What sets the United States apart is that most other wealthy democracies pursued paths of shoring up their welfare states, increasing regulation of labor markets, and enhancing rights-based protections in the postwar period, while the United States largely did not (Garland 2023; Gottschalk 2008; Khan 2022; Thompson 2010). Even the much-touted gains of the civil rights movement in the United States produced such a backlash that scholars view the ensuing politicization of crime in service of racialized ends as foundational to the development of the carceral state.

Instead, the United States deregulated markets and hollowed out worker protections and social support for vulnerable citizens. The penal system has long served in relation to market forces, and incarceration rates respond to shifts in labor demand in clear but complex ways (Muller 2021; Wacquant 2009; Western and Beckett 1999). In the United States, these links are tighter due to the relative absence of protections and regulations that might offer al-

ternatives to the penal system. Ironically, the United States, which is so often described as extreme with respect to the control and surveillance practiced within the criminal legal system, can also be contrasted with virtually every other wealthy country in terms of its lack of protection and support for vulnerable residents. The United States is thus fairly characterized as a “weak state” insofar as it is unable to care for many of its citizens, despite its vast wealth. For most carceral state scholars, the disconnect between its criminal legal system—the only “strong” part of the American state according to Gottschalk (2008)—and other sectors is the core problem and unique to the United States in a way little else is.

Carceral state narratives differ with respect to what follows from the decline of the welfare state over the course of the twentieth century, but they align insofar as shifts in the political economy are what allow race and class disparities in the criminal legal system to flourish. The sociologist Loïc Wacquant (2009; see also Gilmore 2007; Khan 2022; Simon 2007b), for example, emphasizes the rise of neoliberalism specifically—that is, the devotion to free market capitalism and limited regulation achieved through technocratic privatization of public services and the politics of austerity (Harvey 2005)—and its relation to the prison boom. Lacking social services, worker protections, or living wages, the carceral system serves as an alternative to low-wage work and props up an economic system primarily based on exploitation. As described in more detail earlier, the relationship between incarceration rates, market conditions, and demand for labor is complex but generally strong (Muller 2021; Sutton 2004; Western and Beckett 1999). Welfare supports (or lack thereof) also condition state variation in punitive policies and incarceration rates within the United States (Beckett and Western 2001). Because the American state has high levels of race and class inequality, extreme segregation, and few alternatives for assistance in a crisis (Raphael and Stoll 2009), it arguably depends on the prison to maintain its current state. Moreover, given these structural conditions, it is unsurprising that prisons are filled with poor people unable to make a living wage in an unregulated labor market or that the

crime rate is relatively high. Historical patterns of racial formation and subjugation further determine relative subordinate class positions and ensure that incarcerated people are often (though not always; see Muller 2021) disproportionately drawn from the ranks of marginalized racial and ethnic groups.

Other carceral state scholars focus more intently on the political apparatus required to maintain an austere free market economy in such a wealthy nation. One of the better-known arguments along these lines is made by Katherine Beckett (1997) in *Making Crime Pay*. She describes the politicization of crime and punishment in the 1970s and the targeting of racial and ethnic groups using coded language and links these factors to the increasingly punitive sentencing policies that drove mass incarceration. Beckett's book and later works (Beckett and Francis 2020; see also Schoenfeld 2018) describe how realignment across political parties after the Civil War and the civil rights movement created a problem for Republicans: how could they make up for having lost the support of Black Americans? Their solution was to implement the so-called Southern strategy, which appealed to Southern Whites specifically because of their racial grievances and to the broader population because of the backlash to the civil rights movement and social upheaval of the 1960s. Core to this strategy was the politicization of crime and demonization of urban settings—a barely veiled reference to Black Americans—through increasingly strident “law and order” rhetoric. The strategy increased support for Republicans in the 1970s and beyond.

Later scholarship has contested and complicated this framing. Murakawa, for example, locates the origins of racialized political appeals related to crime much earlier and places some blame at the feet of civil rights liberalism (Murakawa 2014; see also Gottschalk 2008; Thompson 2010). Similarly, scholarship focused on state variation in crime and punishment or focused on the complex histories of an individual state tends to highlight substantially more contestation and variation regarding whether and how the politics of crime and punishment find purchase (Campbell 2018;

Goodman et al. 2015; Lynch 2011). Whether the racialized politics of crime and punishment are primarily rooted in the Republican Party or are more generally bipartisan in their original form, there is widespread evidence that these political frames are entrenched today. For example, John Eason and colleagues (2024) find that the political economy of prison building is associated with racial and economic disadvantage but is broadly bipartisan, reflecting the expansion of carceral state politics across the political spectrum. The politics of crime and punishment are thus central to understanding both the rise of the carceral state and its maintenance in today. Importantly, to the extent that these political frames are now often bipartisan, they highlight the substantial challenges to rolling back the carceral state and seeking another path.

Finally, the racial and ethnic disparities that result from an American carceral state characterized by a weak welfare state, unregulated economy with few protections, and entrenched racialized politics with respect to crime and punishment are worsened by patterns of residential segregation and a hyperlocal political system. Racial residential segregation diminishes social solidarity, obscures the vastly different role the criminal legal system plays in some lives than in others, and makes it more difficult to reduce high crime and punishment rates. The hyperlocal nature of American policing and political processes compounds the problem; contact with the criminal legal system diminishes engagement with many institutions (Brayne 2014) and has broader consequences for citizenship and participation in the political process (Lerman and Weaver 2014; Remster and Kramer 2018; Sugie 2015; Weaver et al. 2014). As a result, the very people who are most subject to carceral state power have little voice in determining how such power is wielded.

Importation of Carceral Logic to Seemingly Unrelated Institutions

The dynamics we've discussed are relevant to two additional features of the carceral state today. First, the expansion of the criminal legal system was not confined to the core of the sys-

tem (for example, police, courts, or correctional agencies) and has expanded far beyond them. Various works now document the spread of punitive practices to institutions outside of but adjacent to the core of the criminal legal system. As noted earlier, Katherine Beckett and Naomi Murakawa elegantly describe a “shadow carceral state” where the practices and powers common to police, courts, or correctional agencies are now wielded by adjacent institutions (Beckett and Murakawa 2012). They offer examples ranging from punitive family courts, the criminalization of the immigration system (Ryo et al. 2025, this issue), and a rapidly expanding and predatory monetary sanctions administrative regime that produces destabilizing consequences even from relatively minimal contact with the criminal legal system or its adjacent agencies (Friedman and Pattillo 2019; Harris 2016; Harris et al. 2022; Page et al. 2019).

Second, a long line of research has described the importation of carceral logic and practice into institutions that have little to do with the criminal legal system, including contexts where the primary mission arguably stands in direct opposition to the stated goals of the criminal legal system. Significant research attention, for example, is focused on the evolution of schools from relatively open sites for learning to settings that replicate the features of control and surveillance common to the criminal legal system (Hirschfield 2008; Kupchik and Monahan 2006; Rios 2017). The introduction of police in schools, technological advancements to surveil students, and increasingly punitive and racialized school discipline policies mirror the dynamics observed in the criminal legal system and reflect the spread of an overreliance on punitive control policies in response to social problems. Similar dynamics have been documented in the child welfare (Edwards 2016; Fong 2023; Roberts 2022) and health care systems (Lara-Millán 2014), among others.

Work within this tradition, however, represents perhaps the most slippery site for mapping the contours of the carceral state. As one example, how might researchers measure whether an institution adjacent to the criminal legal system is operating under carceral logics? The scholarship on the punitive turn within

schools offers one possible response, as scholars have detailed how schools increasingly use surveillance, zero tolerance policies, and embedded police officers to create conditions that resemble the criminal legal system (Haskins and Jacobsen 2017; Hirschfield and Celinska 2011; Wolf and Kupchik 2017). Yet the so-called pipeline between, say, the school and the prison is at best indirect (Owens 2017), and the relation of all this to the development of a carceral state remains unclear. Child protective services provide yet another example; recent scholarship links contact with the child welfare system to the criminal legal system in direct and indirect ways (Edwards 2016; Fong 2023), describing child protection workers as surveillance agents that pose a threat to families and may steer some toward the criminal legal system. In both instances, the spread of the carceral state is apparent but the connections remain unclear. As a result, a substantial challenge for scholars moving forward is to address how institutions that are neither part of the criminal legal system nor the shadow carceral state reflect a broader carceral state. Such projects present significant conceptual and, as we have noted throughout this article, measurement challenges but offer one fruitful area for future research. Questions along these lines also offer another arena where research could more clearly distinguish between the United States and other similarly situated contexts with respect to their carceral state features.

Summary of the Origins of the Carceral State

Carceral state narratives document how the decline of the welfare state, racism and segregation, class divisions, and the hyperlocal racialized politics that characterize the United States create the conditions for a carceral state. The administrative shadow of the carceral state and a culture increasingly oriented toward social control spread the carceral state still further, creating a “culture of control” (Garland 2002) “governed through crime” (Simon 2007b) that now characterizes contexts and institutions with seemingly little relation to the criminal legal system. The criminal legal system is thus best viewed as one piece of a much larger car-

carceral state that neither begins nor ends with the criminal legal system. The structural and cultural features that created the American carceral state present more substantial difficulties for reducing racial and ethnic disparities in the criminal legal system than are widely acknowledged. This expanded scope of the problem compounds the significant challenges and opportunities for future research that better accounts for the scope and features of the carceral state, as we describe next.

CHALLENGES AND OPPORTUNITIES FOR SOCIAL SCIENCE RESEARCH

Since carceral state scholars describe the United States as primarily defined by its governance through crime, surveillance, and punishment (Alexander 2012; Beckett and Murakawa 2012; Garland 2023; Gottschalk 2008; Lacey et al. 2018; Simon 2007b; Wacquant 2009), most contemporary reviews of mass incarceration, mass criminalization, or the carceral state include an introductory lament regarding disciplinary indifference to the importance of the criminal legal system. The historian Heather Ann Thompson (2010, 703) notes that “historians have largely ignored the mass incarceration of the late twentieth century.” As noted earlier, the political scientist Marie Gottschalk (2008, 235) describes the carceral state as “hiding in plain sight.” The first author of this article, Sara Wakefield (a sociologist), begins a review of mass incarceration and stratification by noting that “twentieth century reviews of social stratification and mobility research scarcely addressed punishment” (Wakefield and Uggen 2010, 388). The second author, Kristin Turney (also a sociologist), pointed out the relative absence of scholarship on jail incarceration—an experience “affecting millions of Americans annually”—as recently as 2019 (Turney and Connor 2019, 265). These reviews were all written at least thirty years after the mass incarceration era began in the United States. Much of the history of scholarship on contact with the criminal legal system—and racial and ethnic disparities in such contact—in the last three decades could be characterized as, in part, an attempt to get scholars of politics, crime, stratification, public health, labor markets, or the family to take more seriously how the rapid expansion

of the criminal legal system informs the study of any number of social problems.

A similar situation is evident in the field with respect to carceral states insofar as the term remains ambiguously undefined and a host of potential explanatory factors remain on the table. The scope of activity to be described and explained has also expanded substantially. More recent scholarship has moved beyond imprisonment rates to include other forms of incarceration such as sentenced jail incarceration (Turney and Connor 2019) or pretrial detention (Williams 2003), police contact (Geller and Fagan 2019), exposure to police violence (Edwards et al. 2019), and criminal legal system contact that may not involve incarceration but remains consequential for social and economic life (Harris 2016; Kohler-Hausmann 2013). Still more updates along the lines suggested by Michel Foucault’s (1995) carceral archipelago describe how carceral logics and practices are imported to seemingly unrelated institutions such as schools (Hirschfield 2008; Rios 2017), the child welfare system (Edwards 2016; Roberts 2022), health care facilities (Lara-Millán 2014), and the immigration system (Fassin 2011). Importing carceral logics to seemingly unrelated institutions alongside what Beckett and Murakawa (2012, 222) call a “shadow carceral state” (broadly speaking, the process by which “institutions [that] are not officially recognized as ‘penal’ . . . nonetheless acquired the capacity to impose punitive sanctions—including detention—even in the absence of criminal conviction”) makes it increasingly difficult to draw clear boundaries around the criminal legal system.

Describing the features of shadow carceral states that are embedded in carceral logics and those that are not is challenging. And we need a better understanding of which aspects of these institutions work in concert with the carceral state and which do not. Beckett and Murakawa’s (2012) work provides the broad contours of a shadow carceral state by anchoring their analysis in “civil and administrative pathways that lead to incarceration” and, broadly, the creation of civil and administrative practices that “enhance carceral power” (221). The authors provide specific examples of the concept, highlighting the expansion of immigra-

tion courts (see also Ryo et al. 2025), civil contempt charges resulting from failure to pay legal financial obligations or child support that increasingly result in incarceration, and the civil commitment of sex offenders. The carceral state is thus simultaneously highly visible with respect to the criminal legal core (policing, courts, and punishment) and obscured and “submerged, serpentine” in the form of a shadow carceral state that increases the risk of incarceration (Beckett and Murakawa 2012, 222).

Mapping the carceral state becomes more challenging when institutions far outside the criminal legal system core import carceral logics and practices while also pursuing non-carceral aims. Schools are one such well-researched example; compulsory schooling of children and adolescents serves many aims (the production of a well-educated citizenry, the inculcation of societal norms and values, and so forth), but a large body of scholarship during the prison boom describes how schools have become “prison-like” through investments in surveillance, the arrival of police officers on campus, and zero tolerance policies that mirror the punitive shift of the criminal legal system (Hirschfield 2008; Rios 2017; Hirschfield and Celinska 2011; Wolf and Kupchik 2017). Thus, a system that, on its face at least, is designed to keep children out of trouble has played a greater role in steering them toward the attention of the criminal legal system (and does so in ways that mirror the racial and ethnic disparities of the criminal legal system). Putting aside questions of whether schools are meant to do the things they claim (Justice 2023), we see that increased school surveillance and punitive policies pair well with Beckett and Murakawa’s conception of a shadow carceral state but stop well short of the “legally liminal authority” that characterizes immigration courts or civil commitment hearings (2012, 222). The interactions between schools and eventual criminal legal system contact are more nebulous and harder to measure. Related scholarship on how hospitals (Lara-Millán 2014) or child welfare systems (Edwards 2016; Fong 2023) work in concert with the criminal legal system presents similar challenges, but emerging scholarship in these areas

highlights multiple pathways toward the growth of the criminal legal system.

Given this context, it is unsurprising that it has taken several decades to adequately—though not fully—describe the contours and consequences of mass incarceration and mass criminalization. The challenges are compounded when the goal is to explain why mass incarceration began in the United States and why it was so much more severe in this context. The proximate causes of the growth in punishment—changes to policing practices, sentencing policy, or correctional operations—remain contested even though they are much more easily measured relative to, say, the unique aspects of the US political economy or its long history of racial subjugation and segregation. Indeed, many explanations for the development of the carceral state are anchored in events that occurred more than one hundred years before a noticeable rise in incarceration rates was observed. The narratives we described earlier, for example, range from carceral state origins in the eighteenth century to the contestations and legitimacy crises of today. They locate the origins of the carceral state in everything from the political economy of the United States and an especially weak state to highly localized political systems and the politicization of crime, slavery, and the Great Migration, among other examples. In short, there is much to explain and many moving parts.

Understanding the full contours of the expansion of the carceral state is theoretically and methodologically challenging. Theoretically, defining the carceral state is not necessarily straightforward. Most scholars would agree that the carceral state includes aspects of the criminal legal system such as police contact, arrests, jail and prison incarceration, and supervision (through probation and parole). Many would also argue that a full understanding of the carceral state involves additional characteristics of the criminal legal system, including legal financial obligations (Harris 2016), solitary confinement (Reiter 2016), length of sentences (Mauer and Nellis 2018), and (often brutal) conditions of confinement (Wildeman et al. 2018). Other institutions employ the logic of the carceral state, as described earlier, so one could also reasonably conclude

that the educational system (Haskins and Jacobsen 2017), the child welfare system (Fong 2023), or the health care system (Lara-Millán 2014), for example, should also be included in any discussion of the expansion of the carceral state.

Methodologically, measuring the scope of the carceral state—and especially measuring change over time—requires consistent and accurate historical data. Some aspects of the carceral state are easier to measure than others. State and federal imprisonment rates have been collected and reported by the BJS annually since 1925 (Bowie 1982). This likely explains why these trends (overall, across states, and by demographic groups) are precise and commonly reported. Other aspects of the carceral state, though, are difficult to measure. Conditions of confinement, and trends in conditions of confinement over time, are difficult to measure rigorously and systematically, in part because of the fragmented nature of local, state, and federal systems (Sakoda and Simes 2021). How many people endure solitary confinement each year in the United States? How does this vary across time and across facilities? Answers to these questions are not available in a consistent manner across states and across time. Furthermore, the goal of measuring institutions adjacent to the criminal legal system—and changes over time in how these institutions criminalize people—is complicated. How can one measure the importation of carceral state logics into the health care system? How can one measure the relationship between the criminal legal system and the child welfare system? To be sure, scholars have done considerable work to make these linkages, but precise measurement of these changes would require considerable data collection efforts.

Additionally, it would be useful to make precise international comparisons to fully understand the scope of the carceral state in the United States. Scholars commonly compare some features of the US carceral state to those features of other countries, but a full accounting of cross-national similarities and differences in the carceral state is difficult to do. It is commonly reported that the United States has the highest incarceration rate in the world (Tonry 1999). This fact sheds light on the reach

of the carceral state in the United States but still provides an incomplete picture. The carceral state goes beyond incarceration rates. How does the United States compare in terms of the duration of incarceration? Or the use of pretrial incarceration? What about the conditions of confinement (for example, the availability and quality of substance use treatment programs or use of solitary confinement)? How does the reach of the carceral state in other institutions—including the educational system, the child welfare system, and the health care system—compare across countries? Information about the carceral experience across countries is not widely or systematically available, leaving the true nature of country-level disparities—and explanations of these disparities—unknown.

Finally, as detailed earlier, the carceral state includes a host of processes and institutions that are often inaccessible to researchers. Even though recent research has shed light on the contours and consequences of lesser-studied aspects of the carceral state—such as legal financial obligations (Harris 2016), bail (Page et al. 2019), or jail incarceration (Turney et al. 2023)—these aspects of the carceral state are often less accessible to researchers. Given data collection challenges, existing research on these topics is often limited to a particular state or locale, often precluding a full national-level accounting of patterns. Similarly, qualitative research is especially valuable for understanding these aspects of the carceral state, since the in-depth and nuanced approach allows for rich narrative information, but this qualitative research does not allow for a national-level accounting of patterns (and an understanding as to whether what occurs in one context is generalizable to other contexts).

OPPORTUNITIES FOR FUTURE RESEARCH

Social scientists have responded to the rise in the carceral state by conducting research on both the trends in this expansion and the consequences of this expansion for individual, family, and community well-being (Adams 2018; Kirk and Wakefield 2018; Massoglia and Pridemore 2015; Turney and Wakefield 2019; Wakefield and Uggen 2010). This research in-

cludes demographic research (for example, life table estimates of the lifetime risk of imprisonment; Pettit and Western 2004), survey research (for example, fixed effects models that estimate the consequences of incarceration for health; Sugie and Turney 2017), experimental research (for example, vignettes to understand stigma stemming from paternal incarceration; Wildeman et al. 2017), and qualitative research (for example, ethnographic research that describes the secondary prisonization endured by romantic partners of incarcerated men; Comfort 2008). It is interdisciplinary in nature, including work by psychologists, economists, and sociologists. It describes trends in the carceral state but, more recently, has begun to investigate previously hidden aspects of the carceral state including pretrial jail incarceration (Turney et al. 2023), legal financial obligations (Harris 2016), and supervision such as probation and parole (Phelps and Ruhland 2022). Despite this considerable body of research on the carceral state in the United States, there are many unanswered research questions that yield opportunities for future research. We see at least two opportunities for expanding research on the expansion of the carceral state.

First, our understanding of the carceral state could be advanced with research that links the various aspects of the carceral state (including those of the criminal legal system and those adjacent to the criminal legal system) to each other. Social scientists often operate in silos. Researchers who study trends in crime, for example, rarely also study trends in incarceration. Researchers who examine the frequency or invasiveness of police contact also rarely examine the consequences of this contact for individual and family well-being. Researchers who study the conditions of confinement rarely consider how these conditions of confinement can differentially shape outcomes for people during their incarceration and after release. Linking these and other aspects of the carceral state can shed light on the true depth of the contours and consequences of the carceral state.

Second, researchers of the carceral state should endeavor to account for the local context (with respect to both trends in the expan-

sion of the carceral state and the consequences of the carceral state), as the case studies we have cited throughout this review do through laborious archival research. Though some aspects of the carceral state (for example, rates of police contact, rates of fatal police stops, rates of incarceration) are often reported at the national level, there is considerable variation in criminal legal contact at the local level. Indeed, policies and practices are often set at the county and state level. Decisions about who is arrested, who receives bail, and who gets sentenced (and for how long), for example, happen at the county level. The 3,143 counties in the United States have different police departments, different prosecutors, different judges and juries, all of which operate under their own unique policy contexts. The fifty states in the United States run different Departments of Corrections that each have different conditions of confinement, parole boards, and levels of structural racism. Understanding variation across counties and states is a critical step toward understanding the full scope of the carceral state. The fragmented and dispersed nature of data on jail incarceration precludes a robust and national accounting of the causes and consequences of this form of criminal legal contact, unfortunate given that jail incarceration is the most common—and unequally distributed—form of incarceration in the United States. Infrastructure to support the collection and dissemination of data on county-level jail incarceration is critical for understanding the broader carceral state and could provide considerable opportunities for future research. Similarly, at the state level, it would be useful to know if variation in state policy explains variation in criminal legal system growth, decarceration efforts, and practice.

CONCLUSION

This article has been devoted to defining and describing the American carceral state in a manner different from those that focus more narrowly on mass incarceration or mass criminalization. As we noted in our introduction, understanding the United States as a carceral state, rather than as a nation that merely has high incarceration rates, expands knowledge by broadening the analytic landscape. The high

incarceration rates in the United States are, to be sure, a defining feature of the country, but the scope and extent of the carceral state go beyond incarceration. Far more people endure other aspects of the carceral state, including other features of the criminal legal system (for example, police contact, community supervision, legal financial obligations) and surveillance from institutions adjacent to the criminal legal system (for example, schools, child welfare, health care). Our review suggests that better integration between carceral state origins and contemporary analyses would advance knowledge considerably, and similarly, better connections between various aspects of the carceral state would be useful. Unfortunately, doing so dramatically escalates our sense of the challenges involved in rolling back the carceral state and reducing its consequences on American society.

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The Fallout from Criminal Justice System Contact



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Twenty-five years ago, Bruce Western and Katherine Beckett (1999) provided the seed of what would come to be a novel area of inquiry: the consequences of the carceral state for inequality. In this article, we review in four stages the last twenty-five years of research on the fallout from criminal justice system contact. In the first stage, we describe the contours of the carceral state to highlight how prevalent each level of criminal justice contact is today relative to earlier historical eras and to each other and how unequally distributed these levels of criminal justice contact are by race, ethnicity, and class. In the second stage, we consider the questions often left unaddressed in prior work, including our own prior work: why might we expect racial differences in the effects of criminal justice contact, and are there racial differences in the effects of criminal justice contact? In the third stage, we provide a discussion of the datasets and methods used to consider these relationships. In the fourth stage, we consider the direct and vicarious effects of contact with the police, experiencing prison or jail incarceration, and being placed on community supervision using evidence spanning several disciplines. By providing a review that is exhaustive in terms of levels of criminal justice contact, limitations of data and methods, and the existence of race-specific effects, we offer a comprehensive description of the state of scientific research on the scope and scale of criminal justice contact and its collateral consequences for inequality in the United States.

Keywords: incarceration, criminal justice system, inequality, race, collateral consequences

Twenty-five years ago, Bruce Western and Katherine Beckett (1999) famously made the argument that the penal system was a core labor market institution in the United States. In crafting their argument, they relied on four empirical facts. First, far more Americans per capita

are in prison or jail on any given day than ever before in the US, and the US imprisons more people than do other developed democracies. Second, far more Black Americans than White Americans per capita are in prison or jail on any given day. Third, counting individuals who

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are incarcerated (who are not included in the household-based surveys used to calculate labor market participation rates) as jobless fundamentally changes the employment rate—and racial disparities in the employment rate—in the US. Indeed, doing so leads to rates of joblessness in the US that more closely align with those of other developed democracies. And, perhaps more alarmingly, doing so shows that much of the progress Black men had appeared to make in the labor market through the 1990s was a function of failing to count incarcerated Black men as jobless rather than of real improvements in the labor market. Fourth, incarceration appears to decrease employment for at least several years after release and does so in similar ways for Black and White men, suggesting that the penal system may also exacerbate long-run earnings disparities.

While there was certainly research on the prevalence and consequences of penal system contact before Western and Beckett's (1999) seminal work, the publication of this study provided what can be considered the key moment in launching the literature on what has come to be called the "collateral consequences" of mass incarceration.¹ In reviewing the now-massive literature that Western and Beckett (1999) spawned, we are attentive to a few key ways in which this literature has evolved. First, while much early research in this area focused on incarceration or on felony convictions (Pager 2003), recent research considers many other forms of entanglement with the system, ranging from being stopped by the police to being placed under community supervision. Second, while much early research in this area focused on direct effects of criminal justice

contact, research has turned to considering the ramifications of indirect criminal justice contact—both familial (such as parent or sibling) and vicarious (such as peer or neighborhood level). And finally, while much early research in this area focused on labor market outcomes, research has now turned to testing for effects in such a vast array of areas that it is, to be blunt, dizzying for many of us working in this area to keep up. Together, these developments have produced a formidable literature expanding beyond "collateral consequences" on what we will here call the fallout from criminal justice contact.²

We proceed in four stages. In the first stage, we describe the contours of mass criminal justice contact—what some have come to call the carceral state (Wakefield and Turney 2025, this issue)—to highlight how prevalent each level of criminal justice contact is today relative to earlier historical eras and to each other and how unequally distributed each level of criminal justice contact is by race, ethnicity, and class. In the second stage, we build on these descriptive findings to consider the questions so often unaddressed or inadequately addressed in prior research—including in our own prior work—in this area: are there racial differences in both the prevalence of criminal justice contact and its effects, and what are the ensuing implications? In the third stage, we provide an extensive discussion of the datasets and suite of methods used to consider these relationships. In the fourth stage, we consider the direct and indirect effects of contact with the police,³ experiencing prison or jail incarceration, and being placed on community supervision on a range of outcomes spanning sci-

1. It should be noted that this is also the year that Hagan and Dinovitzer (1999) provided the first review of some of the effects of incarceration on families and communities that has become core to the field in the last fifteen years.

2. Collateral consequences have traditionally been used to describe "legal and regulatory restrictions that limit or prohibit people convicted of crimes from accessing employment, business and occupational licensing, housing, voting, education, and other rights, benefits, and opportunities" (National Inventory of Collateral Consequences of Criminal Conviction 2023). As such, they tend to focus on more formal legal restrictions rather than broader effects.

3. One key feature of our review is an intensive discussion of what exactly one should consider reasonable evidence in this space, with an emphasis on how one should think about studies that have stronger and weaker designs for detecting causal effects and studies that generalize to a broader swath of the justice-involved population.

entific disciplines. Because there are so many general reviews (Kirk and Wakefield 2018; Pattillo et al. 2004; Travis et al. 2014; Wakefield and Uggen 2010; Western 2006) and specific reviews (Comfort 2007; Foster and Hagan 2015; Hagan and Dinovitzer 1999; Kruttschnitt 2010; Martin et al. 2018; Mears et al. 2015; Turney and Conner 2019; Wakefield and Wildeman 2013; Wildeman 2020; Wildeman et al. 2019; Wildeman, Goldman et al. 2018; Wildeman and Wang 2017) on the fallout from criminal justice contact, in introducing our article, we first provide a discussion on what is new in our review—aside from a small number of articles that have come out since the last comprehensive reviews.

We start by describing the contours of the carceral state. As seminal works in this area have done before (Bonczar 2003; Pettit and Western 2004; Western and Beckett 1999), we are attentive to daily and yearly rates of contact with different criminal justice institutions and to the cumulative prevalence of contact with different criminal justice institutions over the life course. The figures we present in this section repeat many themes that will be familiar to anyone working in this area: rates of incarceration dramatically increased in the mid-1970s and have remained high; rates are especially high for Black individuals, particularly when considered over the life course; and rates of earlier stages of criminal justice contact—especially engaging with the police—are far higher than rates of later stages of criminal justice contact (especially being imprisoned). Yet at the same time, these basic descriptive statistics highlight some information that is new or often overlooked by the field: Native Americans also have very high rates of criminal justice contact, especially considered cumulatively; rates of incarceration for Black people, while still high, have decreased substantially, especially in roughly the last decade; and class inequality within racial and ethnic groups in incarceration, especially for Whites, is rising to a rate that firmly recenters Whites with low levels of education as central to this literature.

The contours of the carceral state lead us to our next section, which considers race-specific

effects of criminal justice system contact,⁴ in our attempt to better understand the consequences of the carceral state for inequality. We start this section by briefly reviewing the limited research on race-specific associations and effects. Our core findings from reviewing this literature are as follows: virtually no research includes separate tests for Native American or Asian populations; there seems to be a growing accumulation of evidence for larger negative effects for White children, especially with regard to parental incarceration; there is generally significant heterogeneity when papers do conduct race-specific tests, which implies a need for this to become a central condition of future research in this area; and some papers that do conduct race-specific tests do not actually test whether across-race differences are significant, or lack statistical power to do so rigorously, leaving questions unanswered regarding the conclusiveness and generalizability of potential cross-group differences. In this section, we also briefly note that existing research has rarely sought to provide evidence of gender-specific or class-specific effects, both of which, according to our review of the demography of criminal justice contact, merit more significant attention. As such, this section provides some evidence that the implications of the carceral state for inequality may in fact be far more uncertain than most prior reviews have concluded. After documenting the relative paucity of research estimating race-specific associations and effects in this area, we provide an overview of theoretical accounts for why race-specific effects may—or may not—exist and how they may be greater for White or Black individuals.

As a brief illustration of the importance of testing for race-specific associations and considering theoretical perspectives that might explain racial differences, consider the case of outcomes related to employment. Western (2002) finds that the wage growth penalty of incarceration is seemingly larger for White people compared to Black people; findings along these lines could be explained by what we refer to as floor effects, in that Black people start at

4. Following Lee (2024, 234) we use the term “criminal justice system” to be consistent throughout, though “criminal legal system” is becoming increasingly popular among advocates and researchers.

a lower point because of structural inequalities in other systems, and thus, setbacks following criminal justice system contact may be hard to detect owing to high baseline levels of disadvantage. Similarly, given that Black people are more likely than White people to face indirect exposure to the criminal justice system at, for instance, the familial or neighborhood levels (Muller and Roehrkasse 2022), the effects of individual-level exposure could be muted. We refer to this idea as multiple levels of treatment (see also Haskins and Lee 2016). On the other hand, in the case of unemployment, David Harding and colleagues (2018) find that while White people with presentence work histories experience a longer-term negative effect of imprisonment on employment, Black people with work histories do not. We see this as being related to racial bias in the form of cumulative disadvantage accrued over the life course (see also Nahra et al. 2025, this issue).

Having established the relative paucity (and clear necessity) of evidence regarding race-specific associations and effects of criminal justice contact, we move to the two sections that form the core of our review article. The first of these considers data and methods, focusing on the datasets most often used to consider the direct and indirect effects of criminal justice contact and the methods most often used to test them. Our review focuses only on quantitative analyses estimating the effects of criminal justice contact on individuals, a decision we discuss more throughout this article. On the data side, we provide an extensive discussion of the main longitudinal datasets used to consider these relationships, the measures that exist in these datasets, and some of the issues associated with trying to tease out these effects in these data; we do the same for administrative data in this area. On the methods side, we focus our attention on the various methods that have been used in this area, and their frequency by subfield, for all methods that are more rigorous than basic covariate adjustment. In this section, we also discuss the relative trade-offs of the methods used in this area including, most notably, the rotational assignment of judges to cases, which, regrettably, now forms what many would consider the core of causal research in this area. As we highlight, the limi-

tations of this methodology are not often well understood or clearly articulated, and we aim to address this directly to provide more context for those of us who consume and produce work using such methods.

The fourth section of this article contains the actual review of the existing literature in this area, with emphasis on more recent works whenever possible. There are several takeaways from this section. First and foremost is that studies contain far more variation in the details regarding the margins of criminal justice system contact and geographic context than is often acknowledged in academic and policy discussions—and that this should become more central to how we interpret and generalize results. Relatedly, the data and methodological strategies used are highly consequential, with the most rigorous studies—which often use administrative data and focus on narrow contexts—providing more mixed evidence regarding the association between criminal justice contact and subsequent outcomes. And there is also burgeoning evidence of substantial heterogeneity in effects by race, as well as a range of studies showing null or even protective effects for some groups in certain domains—such that researchers working in this area must develop theories around why it is that criminal justice contact does occasionally have either positive or null effects, and for whom.

Given the centrality of race and class in this article, we offer definitions from the outset. Following Rashawn Ray and Nicole DeLoatch (2016), we see race as a “classification system that is socially constructed.” Race, and how race is defined, is a product of complex contemporary and historical social processes and is shaped by multiple social factors, including by institutions like the criminal justice system. In the context of this review, race can be seen as a construct assigned by criminal legal entities and actors (Muhammad 2011; Haney López 2006). As we discuss later, the operationalization of race as a social category in related research that draws largely from administrative and survey data sources is as an imprecise—and varying, depending on how data are collected—proxy that reduces complex identities to simplistic categories that may not reflect in-

dividuals' self-identification or ethnic heritage. Furthermore, we lack sufficient data to adequately consider ethnicity, immigrant generation, country of origin, and several other core dimensions that are also likely to be important in the criminal justice system. We also note that while Hispanic identity is commonly defined as an ethnicity that encompasses diverse racial categories, it can also be conceptualized as a racial construct, particularly in the context of recent (and hotly debated) changes to the census response categories and given how administrative data are often collected in the modern era by criminal justice entities (Asad and Clair 2018; Eppler-Epstein et al. 2016; Finlay et al. 2024; Nuñez et al. 2024). Indeed, a growing body of research has shown how Hispanic populations are racialized through processes of social exclusion, withholding of political and social rights, and statistical discrimination (Asad and Clair 2018; Brown et al. 2018). Therefore, we include estimates for Hispanics (and Native Americans), when available from empirical studies, to be as complete as possible, though we focus our discussion throughout on Black and White people.

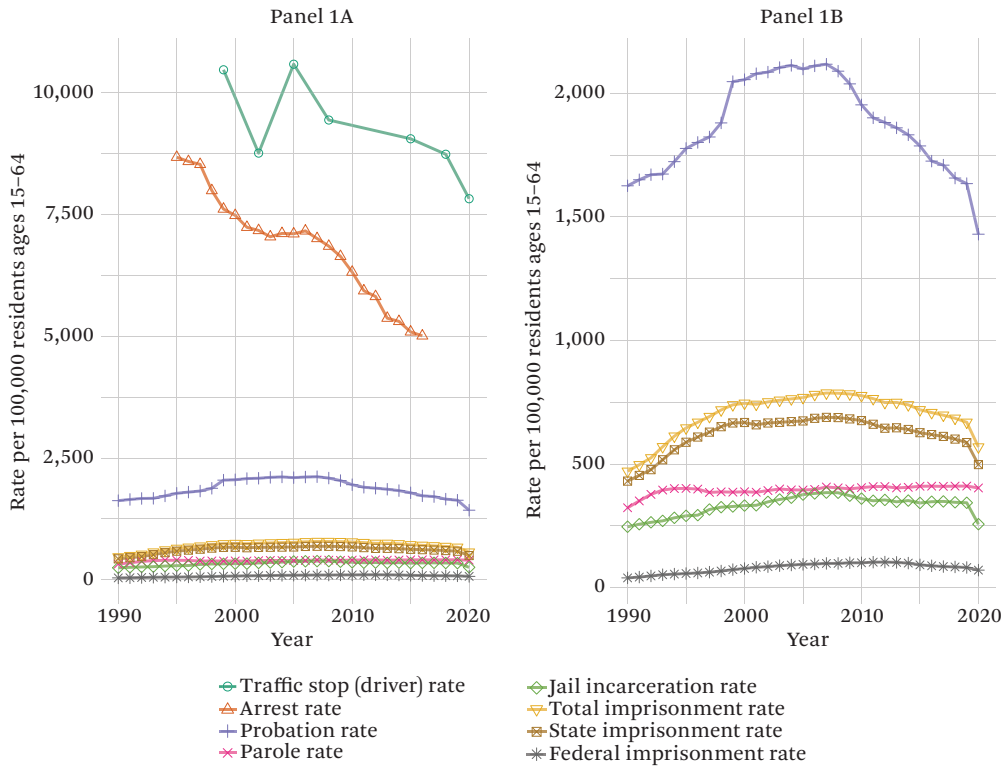
Similarly, we define class primarily using educational attainment as a proxy owing to the dearth of other measures available in criminal justice system administrative data sources that has made this the long-standing conventional measure in research on punishment in the United States (Pettit and Western 2004; Muller and Roehrkasse 2022). As Christopher Muller and Alexander Roehrkasse (2022, 810) note, studying class using educational attainment has become increasingly relevant as the college-no college divide has emerged as a critical factor in life course outcomes in the United States. However, we also acknowledge that other measures of class—including wealth, income, neighborhood poverty rate, and receipt of government assistance—provide a more global assessment of class position yet are unavailable in existing relevant (administrative) data. This means that class, as used in this review, can also be seen as class as assigned by criminal legal entities. This definition, as with race, reflects the practical constraints of available data rather than our theoretical preferences, and this limitation shapes how we, and

others, understand and analyze patterns of criminal justice contact.

In closing, we advance four core arguments. First, as we have stated in at least two other reviews of this literature (Lee and Wildeman 2021; Wildeman 2020), research in this area cannot advance without broad data collection efforts focused on criminal justice contact, criminal activity, and the various personal and familial difficulties and other factors that produce both criminal activity and criminal justice contact. Second, analyses using administrative data should seek to provide tests of the fallout from criminal justice contact that are as close as possible to providing causal estimates of effects and as broadly representative as possible. Third, such tests are also highly attentive to the precise nature and context of system contact as well as to potential heterogeneous effects by race. As a result, we argue not for an ever-increasing number of studies testing these associations using existing data but, instead, for a new wave of research using data that are uniquely positioned to consider these relationships because they were designed to do precisely that. This will require significant funding for studies that rely on both administrative data and the collection of new survey data. Finally, we warn that the research community's ever-increasing focus on producing narrow causal estimates can undermine the immense power of descriptive research in this area. Mass incarceration irreversibly transformed entire communities—and, indeed, even the nation as a whole—in fundamental ways that cannot be quantified using traditional causal methods. We hope to use this article to argue that privileging causality over rich description leaves us less informed about the gravity of society's collective fallout in the wake of mass incarceration.

A DESCRIPTIVE PORTRAIT OF THE CARCERAL STATE

Although the focus of our review is on the fallout from criminal justice contact, we see a description of the carceral state as a core precursor to understanding such effects. As a result, we include a brief overview of the daily, yearly, and lifetime (or cumulative) prevalence of multiple stages of criminal justice contact, on the basis of some new analyses and the best avail-

Figure 1. Rates of Criminal Justice System Contact by Type

Source: Authors' calculations.

Note: The coverage of probation agencies expanded in 1998 and 1999. Therefore, the probation rate may not be comparable to prior years.

able data. Owing to limited data, we do not directly engage with the role of prosecutors in shaping the prevalence of contact with later stages of the criminal justice system (see Bushway et al. 2025, this issue, for a discussion of prosecutorial decisions).

Long-Term Trends in Criminal Justice System Contact

Figure 1 provides the first stage of that description by showing what the arrest, probation, parole, jail incarceration, state imprisonment, federal imprisonment, and total imprisonment rates are over roughly the last thirty years.⁵ The figure is broken into two panels. Panel 1A in-

cludes arrests and traffic stops, while panel 1B excludes them. We have created separate panels because arrests and traffic stops are much more common than all other forms of criminal justice contact. As panel 1A shows, traffic rates and arrests are the most common form of criminal justice system contact, although the arrest rate has declined markedly since the mid-1990s. Probation is the next most common form of criminal justice system contact, though the probation rate has declined since the early twenty-first century. Rates of parole, which typically occurs following prison release, have increased slightly since 1990. Jail incarceration rates also climbed in the late twentieth century

5. For figure 1, we draw on various data sources, including "Arrest Data—Reported Number of Arrests by Crime" from the FBI (2019); "Bridged- Race Population Estimates" from the US Census Bureau and the National Center for Health Statistics (n.d.-b); and "Contacts Between Police and the Public Report Series" and "Estimated Number of Persons Under Correctional Supervision in the United States, 1980–2020," both from the United States Department of Justice, Bureau of Justice Statistics (USDJ, n.d.-c, 2022c).

and early aughts, followed by a slight decline beginning around 2008 (note the COVID pandemic emergency years, which brought about a steeper decline). People in local jails are typically either being held pretrial or serving sentences that are generally under one year, though some jails also rent out beds to state correctional authorities and federal agencies. People in prisons have generally been convicted and are serving longer sentences. State imprisonment rates have always been higher than the federal imprisonment rate (Cantwell 1980). State and total imprisonment rates peaked in 2007, while the federal imprisonment rate peaked in 2012, and all three rates have since trended down. Note that these rates reflect point-in-time counts of contact with the criminal justice system, which is distinct from measures of admission to the criminal justice system.

Daily and Annual Estimates

In 2018, over sixty-one million people ages sixteen and older had contact with the police (Harrell and Davis 2020).⁶ In the same year,

there were over ten million arrests for all offenses (FBI 2019). Arrest rates in the United States have long been the highest for Black Americans,⁷ followed by Native Americans (we refer to this group as AI/AN in figures to be consistent with data sources). Since the mid-1990s, arrest rates for all groups have trended downward, coinciding with the Great Crime Decline (Sharkey 2018); this decrease has been largest among Black Americans and Native Americans, which are the groups that had the highest starting rates (figure 2, panel 2A).⁸ Note that unless otherwise specified in figure 2,⁹ racial and ethnic categories are mutually exclusive, in that all racial groups are non-Hispanic, and Hispanic is its own category. We use the term Hispanic throughout this article because that has historically been the term used by most, if not all, criminal justice agencies.

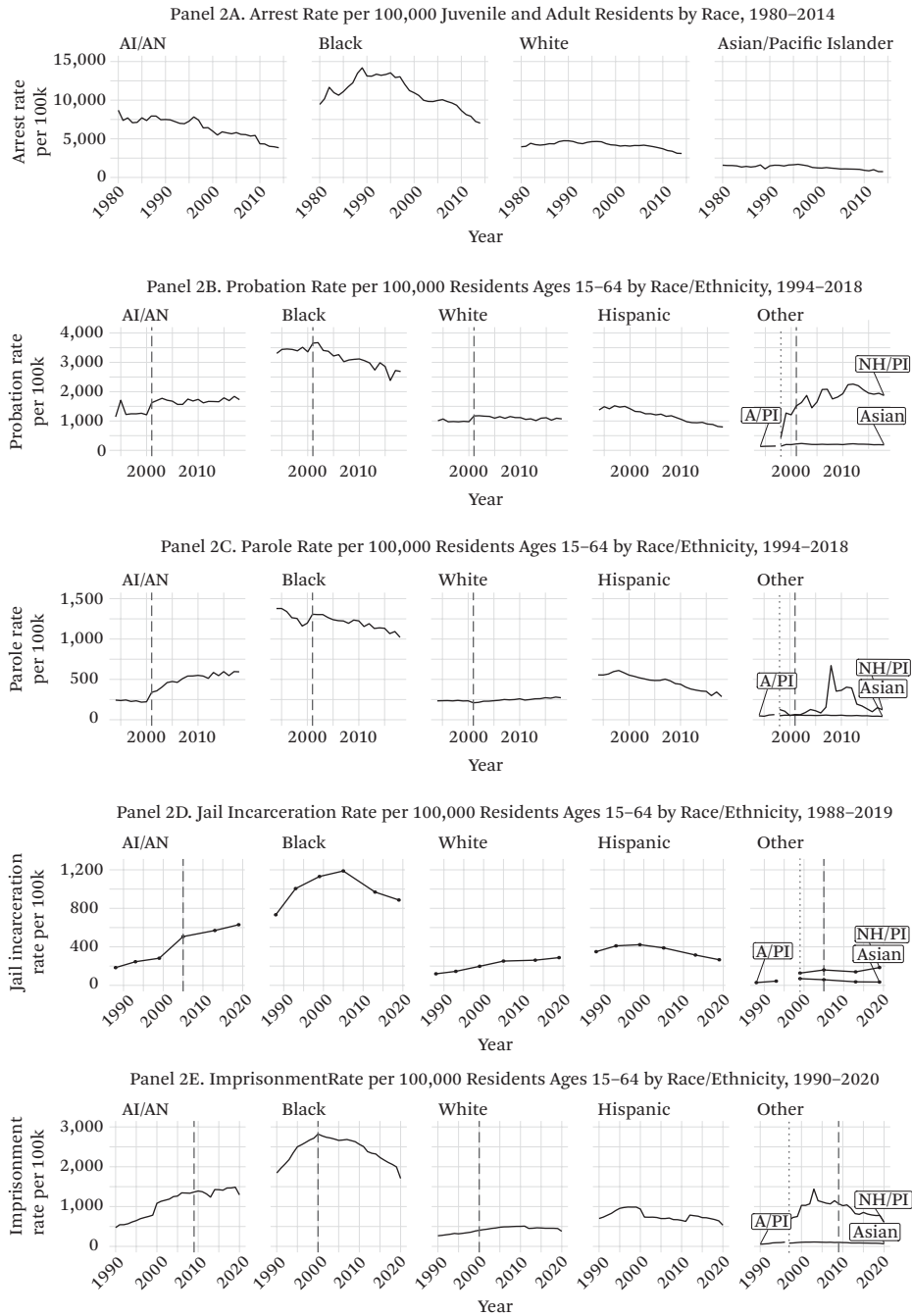
In 2019, the last year before the COVID-19 pandemic, 10.3 million people were admitted to jails, and 734,500 people were held in jails during a point-in-time count (Zeng and Minton 2021). The average length of stay in 2019 was 26.2 days and was longer in larger jail jurisdic-

6. This report is based on data from the US Justice Department's Bureau of Justice Statistics' 2018 Police-Public Contact Survey (PPCS), which is a supplement to the National Crime Victimization Survey (NCVS). In the 2018 PPCS, US residents were asked about instances in which they sought help from police (resident-initiated contacts) and when police approached or stopped them (police-initiated contacts). Resident-initiated contacts with police included reporting a crime, disturbance, or suspicious activity; reporting a noncrime emergency; nonemergency inquiries, such as asking for directions; participating in a block watch or other anticrime program; or approaching or seeking help from police for another reason. Police-initiated contacts included being stopped by police while in a public place or a parked vehicle, being stopped by police while driving a motor vehicle, being arrested, or being stopped or approached by police for some other reason. The PPCS also collected data on contacts from traffic accidents. The study found that 61.5 million residents had at least one contact with police. Twenty-four percent of residents experienced contact with police, up from 21 percent in 2015. The findings include percentages by race or ethnicity, sex, and age on the types of police contacts and whether they experienced threats or use of force.

7. Given persistent levels of Black-White racial residential segregation (Logan and Stults 2021) and racially disparate arrest rates, it should not be a surprise that police stop patterns also differ by neighborhood racial and socioeconomic composition—even after one controls for other factors like neighborhood crime (Fagan et al. 2009).

8. See Stevenson and Mayson (2018) for rates of likely misdemeanor arrests over time by race (Black versus White).

9. Data sources include the "Annual Parole Surveys" for 1994–2018 (USDJ, n.d.-a), "Annual Probation Series" for 1994–2018 (USDJ, n.d.-b), Synder et al. (n.d.), "Censuses of Jails/Jail Inmates" from 1988, 1993, 1999, 2005, 2013, 2019 (USDJ 1996, 2005, 2007, 2009, 2018, 2022a), "National Prisoner Statistics" (USDJ 2022b), "Bridged-Race Population Estimates" from the US Census Bureau and the National Center for Health Statistics (n.d.-b), "Estimates of the Resident Population by Single Year of Age, Sex, Race, and Hispanic Origin for the United States: April 1, 2000 to July 1, 2010" from the US Census Bureau (n.d.-a), and "Single-Race Population Estimates" from the US Census Bureau and the National Center for Health Statistics (n.d.-c).

Figure 2. Point-in-Time Contact Rates by Contact Type and Race/Ethnicity

Source: Authors' calculations.

Note: Vertical dotted lines represent when two separate categories replaced the combined Asian/Pacific Islander category. Vertical dashed lines indicate that in the years following, counts by racial group do not include Hispanics; in the jails plot, White and Black were already specified as non-Hispanic. Jail population data are adjusted for all years using procedures described in Census of Jails, 2005–2019, Statistical Tables, 48.

tions relative to smaller ones (Zeng and Minton 2021). Point-in-time jail incarceration rates have increased slightly since the 1990s, a trend primarily driven by an increase in jail incarceration rates among Native Americans and White Americans, as seen in figure 2, panel 2D. Jail incarceration rates have increased slightly among Native Hawaiian / Pacific Islanders and are consistently higher among the latter than among Asian Americans. Mirroring other stages of contact, jail incarceration rates remain the highest for Black Americans, though they have declined since around 2005. Jail incarceration rates have also declined for Hispanics over the last two decades.

Point-in-time rates are higher for imprisonment than for jail incarceration, but jails impact a larger number of people annually owing to higher churn; still, well over one million people were held in state or federal prisons as of year-end 2021 (Carson 2022).¹⁰ Figure 2, panel 2E shows that imprisonment rates are the highest for Black Americans, though these have declined over the past two decades; among Native Americans, imprisonment rates have increased since 2000. Imprisonment rates for Asians and Native Hawaiian / Pacific Islanders are often combined, but this conceals stark differences in imprisonment rates among the two groups, with Native Hawaiian / Pacific Islanders consistently facing much higher imprisonment rates than Asians.

Increasingly, class inequality in imprisonment exceeds racial inequality. The ratio of no-college/any-college prison admissions was about ten times higher than the ratio of Black-White prison admissions as of 2015 (Muller and Roehrkasse 2022). Figure 3 shows these trends.¹¹ While the prison admission rate among Black people without any college education has fallen since 2000, the prison admission rate among

White people without any college education has steadily increased—though the rate among Black people with no college education remains higher (Muller and Roehrkasse 2022). The prison admission rate for Black people with a college degree peaked in 1990 and has since declined, while the prison admissions rate for White people with college degrees remained low throughout. However, racial disparities in vicarious exposure to imprisonment, whether measured through familial exposure or neighborhood exposure, continues to eclipse class disparities, likely because of racial disparities in class permeability (Muller and Roehrkasse 2022).

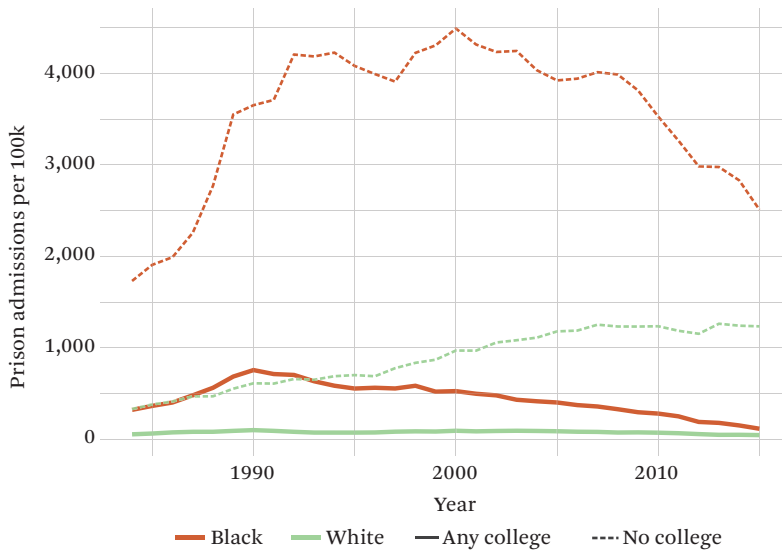
Racial disparity in familial exposure to incarceration mirrors research that finds imprisonment is concentrated in neighborhoods with a larger share of Black, and to a lesser extent Hispanic, residents and with higher levels of concentrated disadvantage, even accounting for crime and other explanatory factors (Sampson and Loeffler 2010; Simes 2021). Although imprisonment is often thought of and studied in urban contexts, Black-White racial disparities in imprisonment are present across the urban-rural spectrum (Eason et al. 2017).

Approximately 3,745,000 Americans were under some form of community supervision as of year-end 2021; 2,963,000 were on probation (the second most common type of contact with the criminal justice system), and 803,200 were on parole. The total count excludes adults on both probation and parole (Kaeble 2023). Over past decades, according to available data,¹² the probation rate has declined among Black and Hispanic Americans, increased among Native Americans and Native Hawaiians / Pacific Islanders, and remained stable among White and Asian populations. Yet, as is clear from figure 2, panel 2B, it remains highest among Black

10. Moreover, in 2016, 684,500 people incarcerated in prisons were parents to almost 1.5 million minor children, and these estimates do not include stepparents or other potential caregivers (Maruschak et al. 2021).

11. Please note that educational attainment is standardized to the distribution of educational attainment in 2015 (Muller and Roehrkasse 2022).

12. Missing data are a problem across all data sources, but especially for probation; data on race and ethnicity are missing for between 23 percent and 39 percent of people on probation depending on the year. See also Sarah Eppler-Epstein and colleagues (2016) on Hispanic ethnicity reporting in administrative criminal justice system data, and Keith Finlay and colleagues (2024) on the misreporting of race and ethnicity in administrative criminal justice system data. Unfortunately, we are unable to correct for such inaccuracies in the data we present in figure 2.

Figure 3. Prison Admissions per 100,000 Residents Ages 20–39 by Race and Educational Attainment

Source: Muller and Roehrkaske 2022. Reprinted with permission.

Note: Rates are adjusted to account for changes in the distribution of educational attainment; see Muller and Roehrkaske 2022.

Americans relative to all other racial groups. Since 1994, the parole rate has also declined the most among Black and Hispanic Americans, while climbing most significantly among Native Americans (figure 2, panel 2C). The parole rate for Native Hawaiian / Pacific Islanders peaked just before 2010, following the peak in imprisonment rates for this group. Black-White racial disparity is smaller in magnitude for probation than for parole, which typically follows imprisonment.

Cumulative Estimates

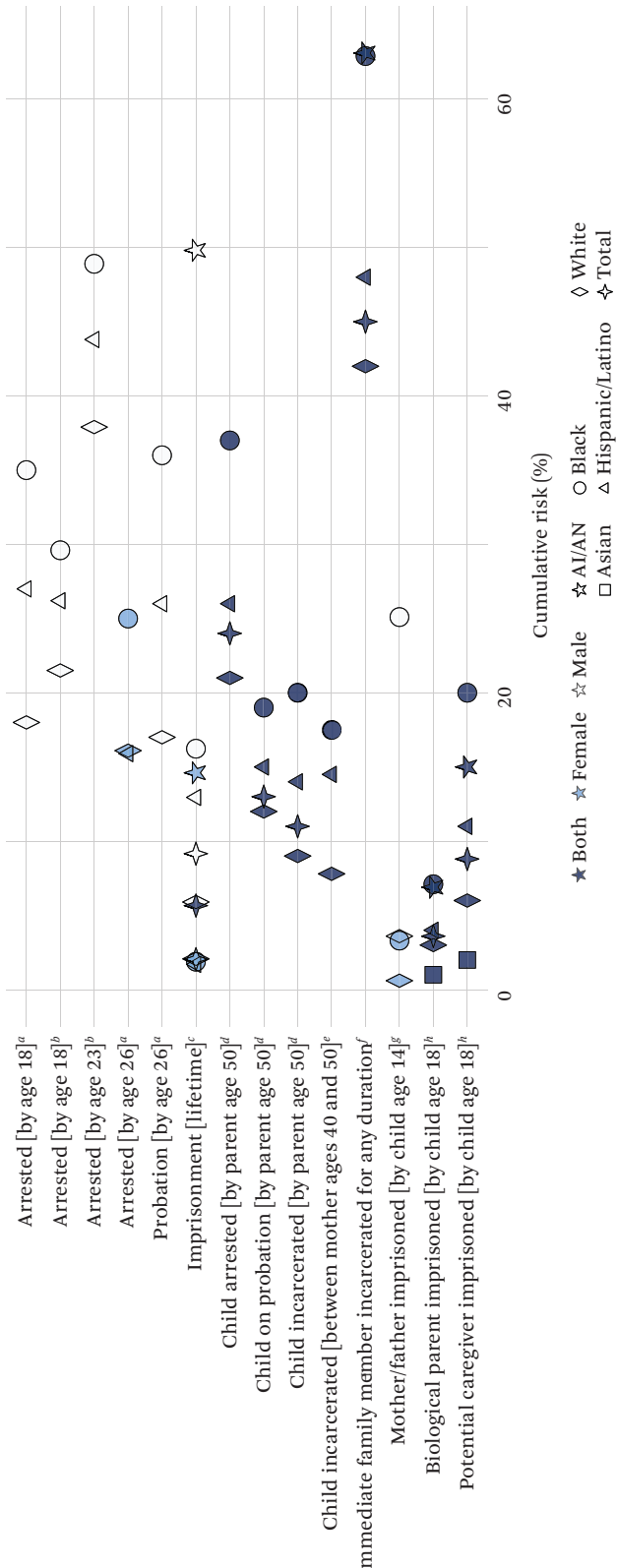
Figure 4 explores racial and ethnic disparities in contact with each part of the criminal justice system over a lifetime—or, in some cases, a distinct stage of a lifetime such as childhood—rather than on any given day or year. Across all parts of the criminal justice system, Black and Native Americans experience the highest cumulative risk of direct and vicarious exposure. Estimates suggest that over 60 percent of Black and Native Americans have ever had an immediate family member incarcerated (in either a jail or a prison) for any amount of time (Enns et al. 2019). Within racial and ethnic groups, the cumulative risk of direct exposure to the criminal justice system is higher for males than

for females (Boen, Graetz, et al. 2022; Roehrkaske and Wildeman 2022).

By age eighteen, 35 percent of Black men will have ever been arrested; by age twenty-six, this risk for Black men increases to almost 60 percent, which is almost double the risk for White men (Boen, Graetz, et al. 2022). The cumulative risk of arrest for women is lower, but still substantial, especially for Black women. Notably, while Hispanic men face a higher cumulative risk of arrest by age twenty-six than do White men, Hispanic and White women face the same risk of arrest by age twenty-six. The risk of experiencing arrest also varies by parental educational background, a proxy for class. Among men whose highest-educated parent has a high school education or less, 60 percent of Black men and 39 percent of White men will be arrested by age twenty-six, compared to 39 percent of Black men and 24 percent of White men who have a college-educated parent. Even if one considers parental background, racial disparity remains stark. Black men with a college-educated parent are just as likely as White men with parents that have at most a high school education to be arrested by age twenty-six (Boen, Graetz, et al. 2022).

Vicarious exposure also varies by race, eth-

Figure 4. Direct and Indirect Cumulative Exposure Risks to Arrest, Probation, and Incarceration



Sources: ^a Boen, Graetz, et al. 2022; ^b Brame et al. 2014; ^c Roehrkasse and Wildeman 2022; ^d Boen, Olson, and Lee 2022; ^e Goldman 2019; ^f Enns et al. 2019; ^g Wildeman 2009; ^h Finlay et al. 2023.

Note: Overlapping estimates are jittered to ensure visibility.

nicity, and education. By age fifty, almost half of Black parents with sons will experience the arrest of a son, compared to 23 percent of White and 31 percent of Hispanic parents (Boen, Olson, and Lee 2022). The cumulative risk of familial arrest is also larger among individuals with less education (Boen, Olson, and Lee 2022). However, among parents with sons, by age fifty White parents with at most a high school education experience comparable risks of child arrest as do Black parents with at least a college education (Boen, Olson, and Lee 2022).

Because of data limitations, there is limited research on the cumulative risk of jail incarceration. Western and colleagues (2021) use data from New York City, where the jail incarceration rate is relatively low, and find that a sixth of Hispanic men and upward of a quarter of Black men have experienced jail incarceration by age thirty-eight. The Black-White racial disparity is extreme. Black men's relative risk is between eight and twenty times higher than that for White men, with the disparity increasing with the number of jail incarcerations. In fact, despite gender differences in the relative risk of criminal justice system contact, Black women experience a higher risk of jail incarceration than do White men (Western et al. 2021). These inequities in jail incarceration risk are spatially concentrated in neighborhoods with high levels of poverty. For Black and Hispanic New Yorkers, the cumulative risks of being jailed were higher by about 50 percent if they resided in a high-poverty neighborhood (Western et al. 2021). However, the geography of jail incarceration is moving away from large urban centers like New York City. According to an analysis of a large sample of US counties, the average jail incarceration rate among non-large urban counties surpassed that of large urban counties in 2003 (Simes 2021).

Vicarious exposure to jail incarceration has not yet been estimated, but some studies estimate vicarious exposure to incarceration without distinguishing between jail incarceration and imprisonment. Boen, Olson, and Lee (2022) used the *Transition into Adulthood Supplement* from the Panel Study of Income Dynamics (PSID) and estimated that Black parents are more than twice as likely to experience the incarceration of a child by the time they are fifty

than are White parents. The cumulative risk of vicarious exposure to incarceration also differs by education level, but the magnitude of these differences is larger for White parents than for Black parents (Boen, Olson, and Lee 2022). Peter Enns and colleagues (2019) estimate that 45 percent of Americans have ever experienced the incarceration of an immediate family member for any duration, capturing both jail and prison stints. The cumulative prevalence of immediate family member incarceration is highest among Black and Native American people at about 63 percent (Enns et al. 2019). Black Americans are also more likely to have had more family members incarcerated and family members from more generations incarcerated (Yi 2023).

Like jail incarceration, cumulative exposure to imprisonment varies by race, ethnicity, and location. Recent research shows that Native American men face an extremely high lifetime risk of imprisonment at almost 50 percent, compared to a total risk of under 6 percent among the general population (Roehrkasse and Wildeman 2022). Black men continue to have a high lifetime risk of imprisonment relative to most other racial groups, though their lifetime risk of imprisonment has declined markedly among more recent birth cohorts (Robey et al. 2023). Racial differences in the cumulative risk of imprisonment also differ geographically; Black men are 60 percent more likely to experience imprisonment in the Midwest than in the West, while Hispanic men face the highest lifetime risk of imprisonment in the West (Muller and Wildeman 2016).

Black and Native American children are more likely to be exposed to parental imprisonment (Finlay et al. 2023; Wildeman 2009). Exposure risks are even higher when all potential caregivers are considered, with about 20 percent of Black children experiencing the imprisonment of a potential caregiver during their childhood, or well over twice the exposure risk faced by White (6 percent) and Asian (2 percent) children (Finlay et al. 2023). The cumulative risk of parental imprisonment is the highest in the Midwest, Northeast, Florida, and Texas for Black children, and in the Northeast and West for Hispanic children (Muller and Wildeman 2016).

Educational levels shape vicarious exposure

to imprisonment, though this relationship varies by racial group. For Whites, the cumulative risk of having a family member incarcerated for more than one year among college-educated people is one-fifth the risk for Whites with less than a high school degree, while this risk ratio is only 1:2 for college-educated Black Americans relative to Black people with less than a high school degree (Enns et al. 2019). Black Americans with a college degree face the same risk of having a family member incarcerated for more than one year (23 percent) as do Whites with less than a high school degree (Enns et al. 2019).

There is limited research on the cumulative risk of community supervision and of vicarious exposure to community supervision. An estimated 36 percent of Black men have experienced probation by age twenty-six, compared to 17 percent of White men and 26 percent of Hispanic men (Boen, Graetz, et al. 2022). Courtney Boen and colleagues (Boen, Olson, and Lee 2022) estimate that by age fifty, about 13 percent of all parents will have experienced having a child on probation. This risk is 26 percent for Black parents with sons, double the risk for White parents with sons. While still significant, the racial disparity in the cumulative risk of familial exposure to probation is smaller than it is for more serious types of contact. Community supervision is, unsurprisingly, spatially concentrated; of individuals paroled from Michigan prisons in 2003, half moved to census tracts representing 12 percent of total tracts in Michigan, all of which were located in just three counties (Morenoff and Harding 2011).

EXISTING PERSPECTIVES ON RACIAL AND ETHNIC HETEROGENEITY

In this section, we provide an overview of existing research on racial and ethnic differences in the associations between criminal justice contact and individual and familial outcomes. We then provide an extended discussion on the different ways in which there might be racially disparate associations between criminal justice contact and individual and familial outcomes.

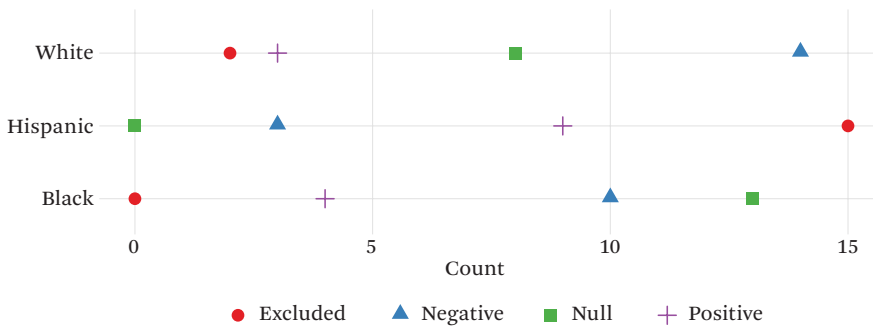
We note that, as the research highlighted in the previous section shows, it is also important to consider class- and gender-specific associations between criminal justice contact and in-

dividual and familial outcomes. Because very little research that we are aware of considers such heterogeneous effects, however, there is simply no literature for us to review in this space. And because there is little existing theoretical discussion motivating such class-specific analyses, there is also little in the way of theoretical perspectives for us to review here. We do, however, point to several recent quantitative studies that emphasize the importance of heterogeneity in effects by gender (Legewie and Fagan 2019; Novak and Gilbreath 2023) and by both cohort and historical period (Neil and Sampson 2021; Neil et al. 2021) in understanding the fallout from criminal justice contact.

Existing Research on Race-Specific Associations

Relatively little research has examined racial heterogeneity in the impacts of contact with the criminal justice system; figure 5 provides counts of the directionality of findings, which are categorized and described in more detail in table 1. What little we know about racial heterogeneity in these impacts thus presents, at best, a murky and incomplete picture. The available empirical evidence, which almost exclusively examines differences between Black and White populations, is limited in a number of ways, which we will discuss in some detail. These issues significantly impede our ability to understand the implications of racial disproportionality in contact for other forms of racial and ethnic inequality that result from this contact.

Research considering the direct impacts of criminal justice contact seems to reliably uncover heterogeneity by race, though some parental incarceration research suggests more consistent average effects (Hagan and Foster 2012; Norris et al. 2021), which would still lead to racial inequalities in youth outcomes given vastly disproportionate contact. But, taken together, the literature is fairly mixed in terms of race-specific consequences. Some work suggests stronger negative impacts for Black populations compared to White populations, which would lead to an amplification of inequalities related to disproportionate contact and impact (Ang 2021; Apel and Powell 2019; Legewie and Fagan 2019; White 2019b). However, other work suggests weaker effects for Black populations

Figure 5. Results from Race-Stratified Models in Existing Literature

Source: Authors' calculations.

compared to White populations, which would lead to a reduction (but not necessarily an elimination) of inequalities (Harding et al. 2018; Haskins 2016; Massoglia et al. 2013; Western 2002; Wildeman et al. 2024). In one case—mortality rates during incarceration—Black populations (but not White populations) may experience a protective or beneficial effect, potentially leading to a reversal in inequalities (Patterson 2010; Spaulding et al. 2011).

Drivers of Race-Specific Associations

There are many reasons to expect variation by race in the impacts of contact with the criminal justice system. However, when considering such differences, we must first decouple race-specific associations from race-specific effects. Most research on racial variation in the impacts of criminal justice contact provides evidence of race-specific associations, not effects. In many cases, this is by design or due to the inability to measure key confounders or account for selection. However, even when we use causal modeling approaches, significant issues complicate how we can interpret racial variation in outcomes. Race, in and of itself, is not a causal factor. For example, there is nothing inherent about self-identifying as Black that would make one more likely to have contact with the criminal justice system or more or less vulnerable to that contact. Instead, the experiences and conditions of being a Black person in a highly racialized society that has historically devalued Blackness create risk and vulnerability. Indeed, structural factors that are a product of historical and contemporary processes of devaluation

(such as racial residential segregation, which determines access to public goods like high quality schools, employment opportunities, and access to health care) can increase the risk of criminal justice contact and the capacities to mitigate the consequences of this contact (Ray 2019; Lee 2024). These underlying factors are harder to disentangle in even the most sophisticated causal modeling approaches. Despite these challenges, we can use theory as a guide to better understand and evaluate prior research and inform future research in this area. Below we summarize key theoretical considerations and conceptual frameworks from the social sciences.

Unobserved Heterogeneity

Racial disproportionately in contact with the criminal justice system means that while a diverse portion of the Black, Hispanic, and Native American population is in contact with the criminal justice system, only a highly select portion of the White population is in contact with this system. The unobserved characteristics of these White populations introduce bias into models that attempt to isolate the impact of criminal justice contact from selection into that contact. While selection is a methodological concern for any racial group, interpretations of racial variation must consider that unobserved heterogeneity may introduce more bias into models for White populations than for Black, Hispanic, or Native American populations. For example, larger negative social, economic, and health consequences of criminal justice contact for White populations com-

Table 1. Results from Race-Stratified Models in Existing Literature

Citation	Dataset	Type of contact	Outcome	AI	AS	B	H	W
Individual (that is, one's own) contact with the criminal legal system								
Ang 2021	Multiple sources	Police	Schooling		x	-	-	x
				43	86	528	57	
Apel and Powell 2019	NLSY97	Incarceration	Employment		-	x	x	x
					2.3	1.9	4.7	
Bovell-Ammon et al. 2021	NLSY79	Incarceration	Mortality		-		x ^a	5
					3			
Harding et al. 2018	Admin records (MI)	Incarceration	Employment 4Q post release (no work history)		+		+	
				17		14		
			Employment 4Q post release (w/ work history)		x		-	
			Employment 12Q post sentence (no work history)		29		46	
			Employment 12Q post sentence (w/ work history)		+		+	
				16		14		
			Employment 12Q post sentence (w/ work history)		x		-	
				28			45	
Legewie and Fagan 2019	Admin records (NYC)	Police in neighborhood	Schooling (boys)		-		x	
			Schooling (girls)		x		x	
Massoglia et al. 2013	NLSY79	Incarceration	Neighborhood residence		x	x	-	
				1.3	0.5	0.8		
Pager 2003	Audit study	Criminal records	Employment		-		-	
				0.2		0.15		
Patterson 2010	Admin data (US)	Incarceration	During-incarceration mortality		+		-	
Spaulding et al. 2011	Admin records (GA)	Incarceration	During-incarceration mortality (men)		+		- ^b	
				16		8		
			During-incarceration mortality (women)		x		x	
			Post-release mortality (men)		-		-	
			Post-release mortality (women)		-		-	

Western 2002	NLSY79	Incarceration (prior only)	Wages	x	-	-
				0.6	0.3	1.2
White 2019b	Admin records (TX)	Incarceration	Voter turnout	-	x	x
				32		78
		<i>Familial contact with the criminal legal system</i>				
			Drug use	-	x	x
Bruns and Lee 2020	FFCWS	Incarceration	Heavy Drinking	1.8	1	0.8
			Heavy Smoking	x	x	- ^c
				x	x	x
			Non-cognitive test scores (male)	-	-	-
			Non-cognitive test scores (female)	0.6		0.3
				x		x
Haskins 2014	FFCWS	Incarceration	Cognitive test scores (male)	0.5		0.3
				x		x
			Cognitive test scores (female)	0.4		0.2
				x		x
				0.4		0.2
Haskins 2016	FFCWS	Incarceration	Cognitive development	x	x	-
Norris et al. 2021	Admin records (OH)	Incarceration	Criminal justice contact	1.1	0.6	0.5
Wildeman and Turney 2014	FFCWS	Incarceration	Behavioral problems (caregiver-reported)	+ ^d		x
				x	-/x ^e	+/x ^e
				1.6	0.85	0.7
Wildeman et al. 2024	PHDCN+	Criminal justice contact	Age of arrest	x	x	-
			Number of arrests	0.2	0.25	0.1
				x	-	-

Source: Authors' compilation.

^a Non-Hispanic/Non-Black.

^b In the abstract, the authors refer to "white" men/women, but in the paper/tables they refer to "nonblack."

^c This coefficient is only shown visually in a coefficient plot and the confidence interval bound visually appears to be right up against 0, so it's unclear if it's technically statistically significant at the $p < .05$ level.

^d Tables 4 (panel E) and A15 show total N but no sample size broken down by race.

^e Indicates that the large number of outcomes vary in terms of being positive/negative/null (as opposed to listing all outcomes as separate rows).

pared to Black, Hispanic, or Native American populations may simply reflect the characteristics of White populations in contact with the system rather than any differences in the magnitude of harms White populations experience relative to other groups.

Floor Effects

Racial inequalities do not exist only in the criminal justice system. Racial inequalities exist across all systems, including education, the labor market, health care, and housing (Lee 2024). Because of histories and contemporary realities of systematic racial bias, minoritized populations face significant structural and social disadvantages prior to and in conjunction with direct and indirect contact with the criminal justice system. Consequently, we might expect to see the negative impacts of criminal justice contact for Black and Native American populations suppressed in empirical models.

For example, extreme levels of racial residential segregation that keep Black populations in the most disadvantaged neighborhoods both increase the risk of contact with the criminal justice system and limit further downward mobility for those Black populations in contact with the criminal justice system (Massoglia et al. 2013). In other words, there is nowhere farther to fall if you are already at “The Bottom”¹³ (Haskins and Lee 2016). The idea that increased adversity due to criminal justice contact in a population with an already-high baseline of adversity can limit the negative consequences of criminal justice contact has been described as floor effects in prior work (Massoglia et al. 2013).¹⁴ This also means that, in some cases, criminal justice contact may be protective for Black populations but not for White populations. For example, research has found incarceration to reduce mortality risk for Black males but not White males (in the short term), suggesting that while prisons, in general, are unhealthy and unsafe environments with flawed health care delivery (Puglisi and Wang 2021; Wildeman, Fitzpatrick, et al. 2018),

they provide safer places and better access to medical care for Black males compared to the environments in which they resided prior to imprisonment (Patterson 2010). Indeed, the fact that a recent study shows that young Black and Hispanic males in parts of major US cities faced greater firearm-related risks of death and injury than did soldiers at war in Afghanistan and Iraq calls for an urgent response (Del Pozo et al. 2022).

Multiple Levels of Treatment

Related to floor effects, racial disproportionality in criminal justice contact also suggests that Black populations are exposed to the criminal justice system at multiple levels of social contact (that is, individual, family, neighborhood, school). For example, owing to racial residential segregation and the concentration of policing and incarceration in predominantly Black neighborhoods and schools, criminal justice contact is both a community-level and an individual-level treatment or exposure. For example, the effects of incarceration at the community level could suppress individual-level estimates of the effect of incarceration for Black populations—but potentially not White populations—when one employs quasi-experimental methods that compare same-race “control” counterparts, since the control group would be indirectly exposed to the treatment in ways that are often difficult or impossible to measure in existing data (Haskins and Lee 2016).

Racial Bias

Racial disproportionality in contact with the criminal justice system does not occur by osmosis and is at least partly due to a long history of racial bias across all points of contact with the criminal justice system (Hinton and Cook 2021; Thompson 2020). For example, a growing body of research shows that police stops and use of force during stops are heavily racialized (Kramer and Remster 2018). In other words, police are more likely to stop and arrest, and use

13. “The Bottom” is a term used to describe segregated Black communities, especially in urban areas (Davis 2018).

14. Although Massoglia and colleagues (Massoglia et al. 2013) do not use the specific phrase floor effects in their article, this article nonetheless provides an excellent example of floor effects in this specific research area.

force against, Black people than White people because police deem Black people more suspicious owing to their being Black (see Dovidio and Solomon 2025, this issue).

Police also use force more often against Black people than White people because police deem Black people to be more violent. Research on unconscious bias provides empirical evidence of systematic biases in perceptions of criminality and violence due to race (Eberhardt et al. 2004). These biases impact risk of contact and risk of violence during contact. A recent study demonstrates that the racial disparity in police stops between Black and White drivers is reduced at night when it is more difficult to discern the race of the driver (Pierson et al. 2020). Similarly, Felipe Goncalves and Steven Mello (2021), using data from the Florida Highway Patrol, find that compared to White drivers, minorities are less likely to get a “discount” on their speeding tickets. Mark Hoekstra and CarlyWill Sloan (2020) found that while Black and White officers exhibit similar patterns of gun force when assigned to majority White neighborhoods, they differ significantly when dispatched to neighborhoods with more than 80 percent Black residents. In those neighborhoods, White officers are roughly five times more likely to use gun force compared to Black officers. This form of selection into contact due to police discrimination combined with racial biases in perceptions of aggression and violence may increase the risk of fatal and nonfatal injury due to police contact for the Black population.¹⁵

These findings are consequential because contact with police is most often the first stage of criminal justice system processing and, thus, shapes who experiences later stages of contact. Yet, as a large body of research indicates, racial bias operates well beyond the criminal justice system in ways that can serve to amplify the negative consequences of criminal justice contact for Black and Native Americans. For example, racial discrimination in hiring practices can be compounded by employment discrimi-

nation if the applicant has a criminal record, further limiting employment opportunities for Black people (Pager 2003; Holzer et al. 2006). In other words, Black Americans and other devalued racial groups are more likely to face cumulative disadvantage both over their life courses and during processing through the criminal justice system (Kurlychek and Johnson 2019; Lee 2024).

Stigma

While racial disproportionately in contact with the criminal justice system can be considered a consequence of racial bias, it is also a source of racial bias and stigma because it racializes criminal or legal categories or statuses such as ex-felon (Asad and Clair 2018). In other words, there are “spillover effects of discredited legal classification among members of racial/ethnic groups who do not hold the legal status” (Asad and Clair 2018, 20) that stigmatize these racial groups in ways that enable statistical discrimination. For example, policies aimed at eliminating hiring discrimination based on a person’s criminal record—such as Ban-the-Box, which restricts employer’s ability to include questions about prior criminal history on job applications—have been shown to increase racial disparities in employment because, in lieu of this information on job applications, employers use Black and Hispanic race as an analog of criminal status (Doleac and Hansen 2016). In this way, race, ethnicity, and legal status become challenging to isolate in a model and can potentially lead to null effects. These issues are made all the more complicated when one considers that there is evidence suggesting both that the stigma attached to incarceration may be greatest for Black people (Braman 2004) and that the stigma attached to incarceration may be greatest for Whites (Brew et al. 2022).

Conclusion

There is limited evidence regarding race-specific associations and effects of criminal jus-

15. At least in part because of racial bias, Black and Native American men and women are far more likely than White men and women to be killed by police; Hispanic men are also more likely than White men to be killed by police (Edwards et al. 2019). Black men face the highest lifetime risk of being killed by the police (Edwards et al. 2019).

tice contact. Likewise, there are myriad and complex theoretical perspectives suggesting, in many instances, competing perspectives in terms of where race-specific effects and associations are likely to be most profound. As we showed in the introduction, even in a single domain like employment, different theoretical perspectives may be relevant for explaining different outcomes. We engage with these issues again in the article's conclusion.

DATA AND METHODS USED

Researchers face many challenges in identifying the consequences of contact with the criminal justice system. In this section, we provide a wide-ranging and detailed overview of the various data sources and empirical methodologies that quantitative scholars use in this area.

We begin by differentiating between survey data and administrative record data and discuss the pros and cons of each. We discuss the data sources in this research area prominently used over the last few decades and display them in table 2. We also discuss several published journal articles that use administrative records and list them in table 3. We then describe the most promising empirical methods used to analyze the fallout from criminal justice contact. While our goal in this section is not necessarily to create a how-to guide or gold standard for the use of these data or methods, we hope to provide enough breadth and depth to offer a starting point for researchers, students, and policymakers who seek to learn more about the empirics of the field.

Data Sources Used

Quantitative social science research in this area has relied on two main sources of data: surveys and administrative records. In the following section, we describe each in turn, along with newer data-related efforts that hold promise for pushing the field forward.

Surveys

Surveys have long been used in the social sciences to collect data directly from individuals

about their life experiences, and many fundamental contributions to the crime and punishment literature have come from longitudinal surveys collected over the last few decades. Surveys have many advantages, not least of which is their accessibility. Survey data are often made publicly available or are accessible through some type of application process that ensures human subjects' protection. This process allows academic and nonacademic researchers, students, practitioners, and others to be able to use these data with relatively few barriers. Surveys are also advantageous in their broad geographic range. Some surveys (such as Add Health, the PSID, and the NLSY) are nationally representative, meaning their coverage spans the entire United States, while others (such as the PHDCN and RYDS) are specific to one locale.¹⁶ Others (such as PROSPER or Pathways to Desistance) encompass multiple places. This range is especially advantageous in thinking about contact with the criminal justice system, given its decentralized nature. On the one hand, results can be compared across surveys located in different city, county, and state demographic and policy contexts, while on the other hand, national-level estimates provide evidence that an empirical phenomenon is not restricted to one locale.

Finally, surveys typically provide users with a broad swath of sociodemographic, familial, and socioenvironmental information, often across multiple age cohorts over a long duration. While the exact range, nature, and detail of these different constructs will vary significantly by survey—especially when a given survey project's aim is focused on a particular focus (such as health)—most surveys will capture many different demographic characteristics and dimensions of an individual's life. Surveys also allow researchers to be attentive to the relevance of age or cohort differences across time (see Neil and Sampson 2021). In sum, surveys often offer researchers rich sources of (often population-representative) data to provide statistically generalizable descriptions of individuals and families that experience contact with the criminal justice system and the conse-

16. Throughout the text, we refer to all surveys using common acronyms or shorthand for the purpose of brevity; a list of full names is in table 2.

Table 2. Survey Data Overview

Source	Year(s)	Locale	Sampling/ Eligibility	CLSC question example(s)
Add Health	1994–present	National	School-based stratified sampling; high school and middle school students were eligible.	1. Have you [child] ever been arrested or taken into custody by the police? (W3/ W4) 2. Have you [child] ever been convicted of or pled guilty to a crime in adult court? (W3/ W4) 3. (Has/did) your [parent] ever (spent/spend) time in jail or prison? (W4)
FFCWS	1998–present	National	Three-stage stratified sample starting with cities of pop >200k, to hospitals, to births within hospitals. Random sample separately taken of marital and non-marital births.	1. Has father ever spent any time in jail/prison? 2. Did you [parent/partner] spend any time in adult correctional facilities? 3. [Child] Ever arrested or taken into custody by police?
NLSY79	1979–present	National	Sample made up of three independent probability samples; representative of entire population of youth 14–21 as of December 31, 1978	1. <i>Respondent resides in correctional facility at time of interview.</i>
NLSY97	1997–present	National	Sample made up of two independent probability samples; representative of youth born January 1, 1980, through December 31, 1984	1. Have you [child] ever been arrested by the police or taken into custody for an illegal or delinquent offense (do not include arrests for minor traffic violations)? 2. In total, how many times have you [child] been arrested? 3. Were you [child] sentenced to spend time in a corrections institution, like a jail, prison or a youth institution like juvenile hall or reform school or training school or to perform community service?
NSAL	2001–2003	National	National probability sample at household level of Blacks, non-Hispanic whites, and Afro-Caribbeans, ages 18 and older.	1. Have you ever been arrested? 2. <i>Family member not in household because in jail or prison</i>
PSID	1968–present	National	Nationally representative sample of 5,000 US households (with oversample of low-income households); follows descendants of original household since 1968	1. In the last 6 months, about how many times have you [child] been arrested by the police? (CDS only) 2. <i>This individual has been in an institution while connected to a responding family for at least one year during the study.</i>

(continued)

Table 2. (continued)

Source	Year(s)	Locale	Sampling/ Eligibility	CLSC question example(s)
Pathways to Desistance	2000–2010ish	Phoenix and Philadelphia	Sample of 14–18 year olds who had been found guilty of a serious offense in Maricopa County, AZ or Philadelphia, PA.	1. Number of times subject has been arrested in lifetime 2. Number of times locked up in a detention center/jail before their most recent arrest/summons
PHDCN	1994-present	Chicago	Three-stage stratified sampling starting with neighborhoods, to block groups, to households. Children within 6 months of birth, ages 3, 6, 9, 12, 15, and 18 were eligible.	1. Has [any family member] had trouble with the police or been arrested? (W1) 2. Has [any family member] been arrested, convicted of a crime, or put in jail? (W2/W3) 3. How old were you [child] the first time in your whole life that you were in trouble with the police? 4. Were you [child] held in jail for some time? 5. Of the contacts you [child] have had with the police over the past 12 months, on how many occasions were you arrested or charged with an offense? 6. W4/W5 question
PROSPER	2001-present	Iowa and Pennsylvania	Sample of 28 rural school districts in IA and PA; middle and high school students eligible	1. During the past 12 months, about how many times did you [child] get picked up or arrested by the police? 2. During the past 12 months, have you ever been arrested and charged with a misdemeanor offense/felony? 3. During the past 12 months, about how many times did you spend time in jail?
RYDS		Rochester	Sample of 7th and 8th grade students from Rochester Public Schools selected to overrepresent youth at high risk for serious delinquency and drug use.	1. Were you [child] picked up for questioning for [delinquency act]? 2. Were you [child] actually arrested for [delinquency act]? 3. “Police knew” as an option for consequences of various forms of delinquency

Source: Authors’ compilation.

Note: Text in italics represents instances where incarceration is inferred based on household, interview, or similar status. PHDCN = Project on Human Development in Chicago Neighborhoods; Add Health = National Longitudinal Study of Adolescent to Adult Health; FFCWS = Future of Families and Child Wellbeing Study; NLSY = National Longitudinal Survey of Youth; PSID = Panel Study of Income Dynamics; PROSPER = PROSPER Peers Project; RYDS = Rochester Youth Development Study; Pathways = Pathways to Desistance Study; NSAL = National Survey of American Life.

quences of this context over time and across the life course.

However, surveys also have drawbacks. First and most prominently for our discussion, most surveys are not designed with the criminal justice system as a focus.¹⁷ Thus, many surveys fail to offer detail about the nature of one's criminal justice system contact. For example, some surveys do not differentiate between jail and prison incarceration or do not differentiate between police contact and arrest. Some surveys, such as the PSID and NLSY79, do not have any recurring system contact questions and instead rely on a flag or designation of an individual respondent (who has been part of the sample) being housed in a facility at the time of data collection.¹⁸ This leads to a second related issue: surveys, by definition, rely on the respondent to report accurately and knowledgeably about their experiences. While this limitation can be a hurdle for any topic, it is particularly salient for criminal justice system contact. Recall bias, or the concern that individuals may make systematic errors in their remembrance and reporting on details from the past, is often mentioned as a problem in surveys. Recall bias can be compounded for individuals who have multiple contacts with the criminal justice system (jail churning, for instance) and because of social desirability bias. Some respondents may underreport behaviors or experiences considered to be undesirable. Beyond recall bias is the fact that individuals may genuinely not know what form of contact they (or their family member) had with the criminal justice system. An individual may not be sure whether they were arrested (or whether their family member was arrested) during a police encounter, or they may misunderstand the difference between jails and prisons. Indeed, jail and prison are often used interchangeably in colloquial language (Burns 2002). In the PSID, respondents are asked if, and at what age, they spent time in jail, but researchers interpret this measure as representing all types of incarceration

(Boen, Graetz et al. 2022; Boen, Olson, and Lee 2022;).

Surveys also suffer from attrition and small sample sizes, and small sample sizes are especially inimical to assessing heterogeneity by race, gender, or other sociodemographic factors. Survey sampling frames also typically leave out incarcerated individuals, thus limiting and obscuring our understandings of various social phenomena (Pettit 2012; Western and Beckett 1999). Given that most surveys are not designed with criminal justice contact in mind, usually only a small number of people in a given survey's sample will have previously experienced system contact, and further breaking that down by group results in an even greater loss of statistical power. This is one reason we still know relatively little about the consequences of system contact for certain sociodemographic groups, such as women (and, more specifically, mothers), Native Americans, and individuals who live in rural counties. Finally, the smaller sample size, combined with less regular data collection (most surveys are not capturing data on a weekly or monthly basis) means that survey data are typically not conducive to most conventional econometric techniques for causal inference. These techniques, which we will describe in a later section, typically rely on precise discontinuities or timing-based shocks that are not identifiable in most surveys.

Administrative Records

The other type of commonly used quantitative data, which has become more frequently used in recent years, is administrative criminal records. Administrative records are prospectively collected and track individual-level information by an official entity—in this area of research, typically a county, city, or state government agency—for the purpose of record-keeping. For example, state prisons maintain records of all incarcerated people in their facilities. In some cases, these data may be linked

17. Also, many surveys designed with the criminal justice system as the focus, like the Family History of Incarceration Survey (FamHIS; Enns et al. 2019), are not longitudinal in nature, making it difficult to ascertain the effects that contact with the criminal justice system could have on individuals.

18. PSID asks about system contact in the *Transition into Adulthood Supplement*; the NLSY79 asks only in the 1980 wave.

to other administrative sources, such as schooling data or voter records. In table 3, we offer a representative overview of administrative data used in studies examining the fallout from criminal justice contact. This table shows that administrative record usage spans several dimensions—locales, years, outcomes, and disciplines. The table also shows that these criminal justice data have been linked to a wide array of other official record sources, which broadens the scope of possible empirical inquiries.

Administrative records have several highly appealing features. In contrast to surveys, administrative records provide an enormous amount of detailed information on the specific nature of a given individual's criminal justice contact that is not subject to the biases of self-reported survey data. Researchers could know, for example, the exact criminal charge, date of entry and exit in and out of a facility, and whether an individual recidivates. This is beneficial from a descriptive standpoint as well as from a causal inference standpoint, since it allows for sufficient sample size and detailed timing and sentencing data that can be leveraged in ways that we will describe in the methodology section.

Administrative records, however, have significant drawbacks. First and foremost, administrative records are justifiably difficult to access. Given their highly sensitive nature, there are many challenges to accessing and using these data. Researchers often need to spend a significant amount of time (sometimes years) building relationships with the government agencies and employees who oversee and provide access to these data, and researchers are subject to myriad administrative and bureaucratic hurdles along the way beyond standard Institutional Review Board (IRB) processes and requirements for human subjects research. The hurdles might include establishing and maintaining relationships with officials who maintain the data, unwillingness of officials to share data, significant bureaucratic restrictions on data sharing, and stipulations on what can be produced with the data. While necessary for protecting the rights and identities of individuals who are in the system, the hurdles make gaining access to these data difficult. Also,

while some administrative data are publicly available, the means for accessing these data is often opaque or insufficiently organized to enable the creation and processing of usable datasets for quantitative analysis (see the Vera Institute's *Police Data Transparency Index* for more information on police data quality).

Another shortcoming is the multiple sources of inaccuracy and inconsistency in the ways race and ethnicity are reported in criminal justice data (McCormack et al. 2023; Finlay et al. 2024). For instance, jurisdictions vary in how their data management systems are set up to classify race and ethnicity, and these systems can change over time. In addition, classification is subject to both conscious and unconscious misreporting and bias on behalf of the bureaucrat responsible for determining and inputting an arrested or incarcerated individual's race (Saperstein and Penner 2012). For example, data on the racial and ethnic identity of people encountering police may be inaccurate. Ayobami Laniyonu and Samuel Donahue (2023) show discordance in police officer racial classification and those same individuals' self-classification. Elizabeth Luh (2020) shows that the average Texas trooper is more likely to falsely report that failed searches of Hispanic people are searches of White people, compared to successful searches of Hispanic people. Thus, aggregate-level exposures of contact by race and ethnicity may misrepresent the true magnitude of disproportionality in contact, thus biasing causal estimates of exposure for all racial and ethnic groups and by race and ethnicity. Laniyonu and Donahue (2023, 295), for instance, point out that in their sample, they "find that officer classification of Hispanics as White may lead analysts to incorrectly conclude that Hispanics are no more likely than Whites to be cited by police." Recent research by Keith Finlay and colleagues (2024) documents the extent of this misreporting and finds that 17 percent of felony or misdemeanor defendants (such court data often informs jail records) and 10 percent of people in prison are listed with a race or ethnicity in administrative data that does not match their Census Bureau composites (which is primarily self- or family-reported). Agency-recorded race and ethnicity are the least accurate for Hispanic, Native

Table 3. Administrative Data Overview

Location	Year(s)	Information	Articles Using
City or County Administrative Records			
Anonymous mid-size city	2015–2017	Arrest data linked with school records	Mark et al. 2022
Cook County (Illinois)	1990–2008	IL imprisonment records linked with Cook County juvenile court records and Chicago Public Schools data	Aizer and Doyle 2015
Cuyahoga, Franklin, and Hamilton Counties (Ohio)	1992–2017	2021 paper linked adult court cases to birth records, school data, voter registry in all 3 counties; juvenile court records only for Cuyahoga 2022 paper linked adult court cases to death records in all 3 counties	Norris et al. 2021, Norris et al. 2022
Harris County (Texas)	2008–2012 1980–2017	Harris County data on misdemeanor case defendants linked with voter records Harris County court and jail records linked with state-wide prison, criminal history, and earnings/employment data	White 2019b; Mueller-Smith and Schnepel 2021
Hillsborough County (Florida)	2012–2020	Hillsborough PD public traffic stop data linked to voter records	Ben-Menachem and Morris 2023
Milwaukee (Wisconsin)	2008–2009	Milwaukee PD data on nuisance property citations linked with 911 calls, and neighborhood-level crime statistics, property code violations, and population estimates	Desmond and Valdez 2013
New York City	2003–2012	NYPD data on geocoded police activity linked with NYC schools student-level data	Legewie and Fagan 2019
Orleans, Jefferson, Plaquemines, St. Bernard, and St. Tammany Parishes (Louisiana)	2001–2006	LA parolee records linked with LA criminal justice system data and parish-level characteristics	Kirk 2009
Suffolk County (Massachusetts)	2000–2020	Suffolk DAO criminal complaint records (court records and non-prosecuted complaints)	Agan et al. 2023
State-Level Administrative Records			
Michigan	2003–2013	Michigan DOC felony records linked with employment information from the Michigan UI Agency	Harding et al. 2018
Florida and California	1987–2002	Linked state prison (FL) and federal judicial system (CA) records to employment records	Kling 2006

Source: Authors' compilation.

American (AI/AN), Asian, and Pacific Islander individuals (Finlay et al. 2024). However, Finlay and colleagues (2024) show that the consequences of this misreporting extend beyond these groups: imprisonment rates based on National Prisoner Statistics (NPS) data are underestimates for Black and White people, though underestimates are most extreme for Native American (AI/AN) people.

Administrative records are also constrained from a geographic standpoint; there is very limited national individual-level data on criminal justice contact. Only one survey collects original data on a national scale: the National Crime Victimization Survey from the Department of Justice, which shifts the reference frame away from contact with the criminal justice system and toward victims of crime, potentially producing more reliable macro-level crime and victimization statistics (Lauritsen et al. 2015). Therefore, researchers are often restricted to conducting their analysis of system contact at the state, county, or city level. This often makes it difficult to compare results across jurisdictions or to generalize to the US at large. The one “national” data source of system contact, the FBI’s Uniform Crime Reporting (UCR) Program, is simply a repository where local police departments and law enforcement agencies provide their own data of crimes reported to the police. Note, however, that UCR reporting is highly uneven, and its data quality has been questioned for decades (see Blackman and Gardiner 1984; Kaplan 2023, Ch. 2.2.). As table 3 shows, the result is that there is a wide range of research across states, cities, and counties across the US, but cross-state and national estimates are sparse.

Finally, administrative data often lack demographic information. Demographic information is also not uniformly collected across agencies when it is collected (for instance, in differentiating between race and ethnicity). It is not always a guarantee that even basic constructs like gender, race, and ethnicity will be reliably recorded,¹⁹ and socioeconomic information (such as employment and income) is typically not included in these records at all. This limits researchers’ ability to provide a

comprehensive descriptive picture of their sample, assess heterogeneity by socioeconomic status (SES) and related measures, or consider how familial and socioenvironmental influences may factor into their analytic framework.

Ongoing Data Efforts

In the introduction, we argue that new, innovative, and robust data efforts were needed in the criminal justice space. Here, we highlight two recent (and ongoing) efforts on which future initiatives can build. The first is the Criminal Justice Administrative Records System (CJARS), which is hosted at the University of Michigan and involves intensive collaboration with the United States Census Bureau. CJARS is conducting an ongoing effort to integrate and harmonize administrative records related to punishment across the US, which is useful given that (as we highlight in our overview of the literature later) most studies using administrative data focus narrowly on just one or two counties. As of January 2024, CJARS contained at least some criminal justice records from most US states and counties. CJARS has produced several recent publications in high-impact journals with their collaborators from the Census Bureau, which provide further description of the initiative and available data (Deshpande and Mueller-Smith 2022; Finlay and Mueller-Smith 2021; Finlay et al. 2023).

The second is the PHDCN+, which is an extension of the PHDCN survey. The original PHDCN began with cohorts of youth and their families in the mid-1990s, and a subsample was followed into adulthood (through 2021). In recent years, these data have been linked to administrative criminal records via the Illinois Criminal History Record Information system (CHRI). Such linkage is particularly impactful and innovative, as it is the only (to our knowledge) large-scale longitudinal survey to be linked to administrative criminal records in the contemporary era—at least in the US context. The PHDCN+ has published several recent pieces in high-impact journals that provide more details about survey structure and data linkage process for the administrative data

19. See Luh (2020) for an example. Also see Durlauf and Heckman (2020).

(Neil and Sampson 2021; Montana et al. 2023; Wildeman et al. 2024).

Methodologies Used

The empirical and methodological landscape is continuously changing and developing. In this section, we provide a breakdown of the most common analytic strategies used to document the fallout from criminal justice contact. Building on the data section, we also highlight how different empirical approaches are better (or worse) suited to distinct types of data, and what implications this has for researchers and our understanding of criminal justice contact. Finally, this section is complemented by table 4, which provides more detail on the data sources and examples of papers across various outcomes, disciplines, and geographic areas that use these different methods. We also present a comprehensive and detailed analysis of Google Scholar data to show how the use of different methodologies varies by outcome.

Matching and weighting strategies—such as propensity score matching or inverse probability of treatment weighting—are frequently used with survey data. These condition-on-observables strategies are beneficial because they are more accessible and easier to implement in the absence of panel data and measures or some exogenous shock but are limited in their ability to account for unobserved variation across treatment and control groups. As one example, to tease out the effects of juvenile arrest on high school completion, David Kirk and Robert Sampson (2013) use propensity score matching with survey data to make youth who experienced juvenile arrest “look” more like those who did not. A large body of literature on parent incarceration (see Wildeman 2020) relies heavily on these matching and weighting approaches.

Longitudinal fixed effects models rely on panel data, where repeated measures are taken from the same individuals over time. These models control away time-invariant effects within individuals but are subject to the oft-inconsistent ways that surveys ask about criminal justice contact across survey waves, as well as variation in the time span between survey waves. Less frequently employed is a “strategic comparison group” strategy, which is also typ-

ically used with survey data and relies on the creativity of the researcher to leverage the timing or some other feature of a survey to produce a control group that is more like the treated group. In the context of parental incarceration, where this approach has mostly been used, Christopher Wildeman (2020) lauds this “ingenious way to isolate effects” with survey data. For example, Garrett Baker (2023), Erin McCauley (2020), and Lauren Porter and Ryan King (2015) use the retrospective age-of-parent incarceration questions in Add Health to compare those who had already experienced parental incarceration when the outcomes were measured to those who would later experience parental incarceration after the outcomes were measured. These two groups, who both experience parental incarceration—just at times that happen to come before or after the outcomes are measured—are more similar than those who do and do not experience incarceration.

Regression discontinuity and difference-in-differences (DiD) models are two central econometric techniques for recovering causal effects. Regression discontinuity modeling relies on some type of cutoff or discontinuity for eligibility or participation in a program, while DiD relies on panel data and some type of exogenous shock that occurs to one group (that is, the treatment group). To take one example, Michael Mueller-Smith and Kevin Schnepel (2021) use a regression discontinuity framework with administrative records from Harris County (Texas) where they leverage two natural experiments—of a new penal code’s enactment and of a failed ballot measure—that significantly and sharply decreased and increased diversion likelihood, respectively, around the two cutoff dates when those changes took place.

Another promising and increasingly used econometric technique uses the random assignment of judges or prosecutors to an individual’s legal case as an instrumental variable (often referred to as a “judge IV” strategy). In this analytic approach, researchers use administrative records to take advantage of the fact that, for instance, judges are widely heterogeneous in their stringency or harshness of sentencing. Given that judges are (often) randomly assigned to cases, researchers can then compare similar cases that vary only in whether

Table 4. Overview of Empirical Methodologies

Method	Description/Objective	Example of Articles Using Method	Datasets Used
Matching/weighting	Match or weight on observable characteristics to make control and treatment groups more similar	1) Wildeman 2010; Haskins 2014 2) Brayne 2014 3) Kirk and Sampson 2013	1) FFCWS 2) Add Health 3) PHDCN
Fixed effects	Group means held fixed; in panel data controls for effects of time-invariant variables	1) Massoglia et al. 2013 2) Testa et al. 2022	1) NLSY79 2) Pathways to Desistance
Strategic comparison group	Leverage different timing of treatment or other sample characteristics to generate a more appropriate comparison	1) Western 2002 2) Baker 2023; Porter and King 2015	1) NLSY 2) Add Health
Regression discontinuity	Leverages a cutoff or other threshold and compares those on either side	1) Mueller-Smith and Schnepel 2021 2) Mitchell et al. 2016	1) TX admin 2) FL admin
Difference-in-differences or event study	Compares changes in outcome over time across groups who are and are not exposed to some exogenous shock or treatment	1) Legewie and Fagan 2019 2) Mark, Geller, and Engberg 2022	1) NYC admin 2) Anonymous city admin
Random assignment of judges/prosecutors/etc.	Uses a 3 rd variable that affects Y only through its effect on X, which allows estimation of part of the variation in the predictor that is uncorrelated with unobservable factors affecting both predictor and outcome	1) Norris et al. 2021; Norris et al. 2022 2) Agan et al. 2023 3) White 2019b 4) Aizer and Doyle 2015 5) Harding et al. 2018	1) Ohio admin 2) Suffolk County (MA) admin 3) Harris County (TX) admin 4) Cook County (ILL) admin 5) Michigan
Experiment/RCT/audit study	Randomize treatment to minimize differences between groups	1) Pager 2003; Pager et al. 2009; Agan and Starr 2018	N/A

Source: Authors' compilation.

they were assigned to a more or less stringent judge. As one example, David Harding and colleagues (2018) use the random assignment of judges to felony cases in Michigan to estimate the impact of being sentenced to prison (compared to probation) on labor market outcomes.

However, we stress that in addition to the generic generalizability issues articulated elsewhere in this paper, judge IV strategies come with two additional issues. The first is the monotonicity assumption, which considers whether judges are uniformly harsh (or lenient) in their sentencing propensity (for more see Frandsen et al. 2023; Mueller-Smith 2015). Second is the fact that these studies are (typically) analyzing individuals who are on the margin of being incarcerated. In extrapolating the meaningfulness of a given result, one must consider, colloquially, the “localness” of the local average treatment effect (LATE) that is being estimated. While this is less frequently acknowledged in articles using this strategy, Harding and colleagues (2018, 83) clearly explain the tradeoff between internal and external validity and ensuing ramifications for both researchers and policymakers:

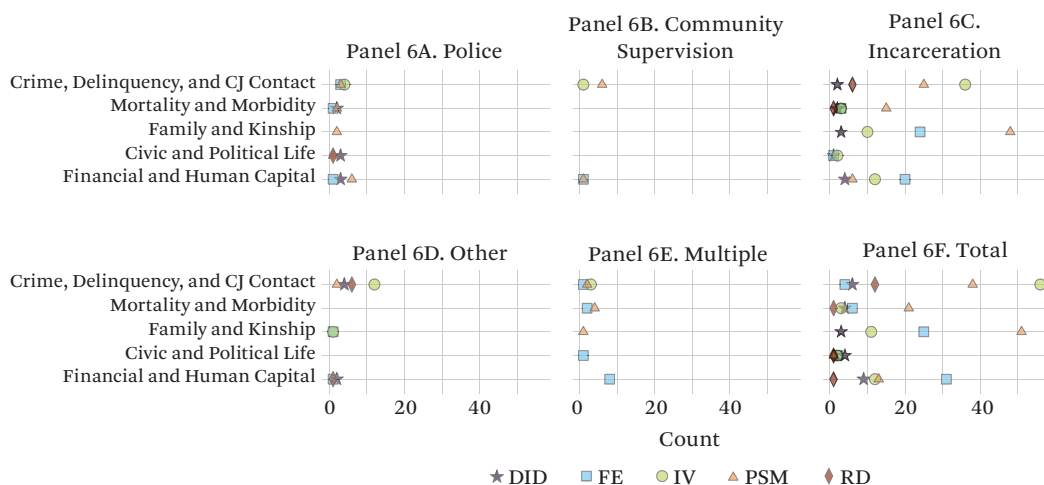
Causal effect estimates from an instrumental variables analysis are LATE. This means we are estimating the effect of incarceration in prison as compared to probation among individuals for whom the judge assigned made the difference between prison and probation. Those are individuals who are on the margin between prison and probation. Our estimates do not provide average treatment effects for all individuals sentenced to prison in Michigan. As a result, they should not be interpreted as informative regarding radical policy changes such as decarceration on a massive scale, which would surely involve individuals who are far from the margin on which the effects in this article are estimated.

While the authors here stress the limitations regarding informing significant policy changes, we note that such limitations are also relevant in comparing results using this analytic approach to others using different methods and data that may use a less narrow sample and

test. Such studies that analyze postincarceration outcomes also inherently rely on exit samples in the sense that they are samples of individuals who are being released from jail or prison (and therefore are oversamples of repeat offenders), thus further reducing their representativeness. Ultimately, we encourage researchers to be transparent about these issues and related tradeoffs by providing context along the lines of what Harding and colleagues (2018) state, instead of relying on readers to be well versed on the intricacies of econometric analyses.

Our discussion about judge-based instrumental variable designs also relates to our prior section on theoretical perspectives on race-specific associations. Recent research on structural racism and more specifically racial disparities in the criminal justice system suggests that Black and White people who are on the margin of incarceration (the margin that judge IV designs leverage) may be quite different in terms of their respective socioeconomic background and criminal history (see also Kurlychek and Johnson 2019; Lee 2024). For instance, Rehavi and Starr (2014) show that in the federal system, Black individuals are subject to harsher sentences and prosecutorial charging decisions than otherwise comparable (that is, similar along many common characteristics such as criminal history and education level) Whites who were arrested for the same crime. Thus, the interpretation of judge IV analyses should also consider that results may be muddled by racial disparities within the distributions from which marginal arrestees (or parolees, defendants, and so forth) are drawn. Furthermore, these studies rely almost exclusively on administrative data, which, as discussed previously, is more likely than self-report data to be biased in terms of race and ethnicity.

Finally, while researchers cannot ethically or practically conduct experiments or randomized controlled trials on whether someone has criminal justice contact, several experiments and audit studies have been conducted in creative ways that help improve our understanding of consequences of criminal justice system contact. In one seminal example, Devah Pager (2003) conducted an audit study where fake job

Figure 6. Statistical Methods Used by Outcome and Treatment Analyzed (1992–August 2023)

Source: Authors' calculations.

applicants approached potential employers, and the only difference between applicants was whether they had a criminal conviction on record. While this user-initiated randomization is a desirable feature, the downside is that such studies may not fully capture the influence of social contexts and interactions that would occur in day-to-day life. For instance, in Pager's audit study, applicants had to convey their (fake) criminal conviction regardless of whether it was solicited by employers. As she notes, in "26% of cases where the application form did not include a question about criminal history, it was necessary to provide an alternate means of conveying this information" (Pager 2003, 951).

Figure 6 shows the count of peer-reviewed publications from 1992 through August 2023 that use common statistical methods to study different outcomes following criminal justice system contact. We also include National Bureau of Economic Research (NBER) working papers given their influence on the field. We break down these counts by the type of criminal justice system contact being examined; for papers comparing multiple stages of contact, we group the papers according to the more serious form of contact for example, a paper comparing prison and probation would be considered a paper on incarceration). Note that we include papers that exploit quasi-experimental variation in the timing of experiencing parental in-

carceration to net out stable but unobserved characteristics under the fixed effects category. We also include Inverse Probability of Treatment Weighting (IPTW) and other similar weighting and matching designs under propensity score matching. Finally, we count only sources that compare a distinct stage of contact to either another stage or no contact; we do not include sources exploring the texture of contact (for instance, differences in outcomes based on prison stay length).

The two takeaways from this analysis are depicted in figure 6. First, there is more research on outcomes related to recidivism and future criminal justice system contact than on other outcomes, and incarceration is the most common treatment to be studied. Second, the statistical methods most often used vary by the outcome being studied. For papers examining recidivism and future justice system contact, IV was used in almost 50 percent of papers; among all other outcomes, IV was used in at most 20 percent of papers. For papers analyzing family and kinship or health outcomes, propensity score matching was by far the most used method, while for outcomes related to financial and human capital, fixed effects was the most common method. DiD was most often used for civic and political outcomes, though this should be interpreted with caution because there were relatively fewer papers match-

ing our criteria that fell into this outcome category.

OVERVIEW OF RESEARCH ON FALLOUT FROM CRIMINAL JUSTICE CONTACT

In the remainder of this article, we present an overview of the literature on the fallout from criminal justice contact. We focus on peer-reviewed articles published since 2000 (emphasizing the most recent articles when possible) using data from the US. While other similar reviews have included discussion of non-US-based samples (often in Nordic or Scandinavian countries, as seen in Loeffler and Nagin 2022; Wildeman 2020), we choose here to focus only on US studies because of the substantive focus of this issue and the fact that the criminal justice system and sociodemographic structure of the US is unique among the developed world. We also pursue breadth and depth across types of contact and outcomes, and restricting to US-based studies provides more leeway to accomplish this goal in a (relatively) concise manner.

The ensuing sections proceed roughly in the same order as the sequencing of the actual criminal justice system in the US: we begin with the fallout from general criminal justice contact (arrest and police contact), then discuss incarceration (with particular attention paid to jail versus prison), and finally end with community supervision (parole and probation). Within each of these sections, we discuss the most prevalent sources of fallout focused on by existing literature. These include financial and human capital formation (employment, income, and education), physical and mental health and mortality, crime and delinquency and system contact, and civic and political engagement.²⁰ Finally, we discuss both direct (an individual's own) and indirect (familial or community-level) contact.²¹ While each section follows these guidelines, the incarceration sec-

tion is especially rigidly structured given its outsized presence in the literature.

In synthesizing the literature across these different outcomes and types of contact, we note that the findings are often quite textured, nuanced, and sometimes at odds with each other. We postulate that this does not automatically mean some papers are “wrong,” or that differences are due solely to the many complex and countervailing dynamics at play in the real world, but that these diverging findings may also be a product of the specifics in many studies differing in oft-underappreciated ways. (The studies may differ, for example, in terms of geographic areas, historical periods, nature of system contact, and, most importantly for judge IV studies, the margin being considered). In thinking about these points, we argue that the field ought to be less dogmatic about particular data sources and methodologies, spend less time debating which studies are “right” or “wrong,” and waste less ink claiming they have uncovered the effect of *X* on *Y*—and, instead, should pay more attention to how the various pieces fit together to help us more thoroughly understand the fallout from mass incarceration (which, as we outline later, is highly complex).

As Margaret Marini and Burton Singer (1988, 350) note in their commentary on causality in the social sciences: “Although statistical tools also play a critical role in the gathering of evidence there is no context-free statistical method or set of methods that defines causality. The process of causal inference usually involves multiple studies, which successively increase the degree of belief attached to a causal hypothesis.” This is not merely a point about external validity and generalizability—which has been made previously, both in this review and by others—but is also one that acknowledges the tension between mass incar-

20. Despite the limited number of articles in this area, we include it in the hopes of spurring future research as well as the fact that, to our knowledge, no review article in this area has thoroughly included these studies.

21. The area of indirect contact has suffered perhaps more than any other from split lines of research along the operationalization of parent criminality versus criminal justice contact broadly versus incarceration specifically. As Christopher Wildeman (2020, 221) points out, “Studies in this area tend to be measuring the same thing but talking about it differently” (also see table 1 in Wildeman 2020).

ceration's vast, ever-changing shadow and the practicalities of observational quantitative research.²² The effects of criminal justice contact may differ by whether someone was arrested, convicted, jailed, imprisoned, or paroled; by city, county, or state; by period and age; and by race, ethnicity, sex, socioeconomic status, and other sociodemographic characteristics. No one study's design, statistical technique, sample, or data source can—or should be expected to—illuminate the entirety of mass incarceration's shadow.

Police Contact and Arrest

While much attention has been paid to incarceration—hence the ubiquitous “mass incarceration” terminology—the nature of the criminal justice system is such that contact with police will (almost) always precede any custodial sanction. In this first literature review section, we present an overview of the literature on this proximate form of contact. As we are careful to discuss throughout the section, this contact can take many forms in the real world and is measured and operationalized rather heterogeneously across data sources and articles. We therefore endeavor to specify whether the type of contact in a given data source is arrest (while specifying formal or officially recorded versus self-reported arrest, see Kirk 2006); general contact with, trouble with, or exposure to the police; or other system contact left undefined.

As in each ensuing section, we discuss four frequently studied consequences of system contact: financial and human capital formation (employment and education); health and mortality; crime, delinquency, and system contact; and civic and political engagement. We are also attentive to direct (one's own) versus indirect (familial, peer, or macro-level) contact. Finally, unlike incarceration and community supervision, which are more pervasive (both in the real world and in data sources available to researchers) for adults relative to adolescents, police contact is highly common and salient for

youth. Robert Brame and colleagues (2014) find that 30 percent of Black males and 22 percent of White males experience an arrest by age eighteen (also see Geller 2021; Puzanzchera and Hockenberry 2021). We therefore delineate consequences for juveniles wherever possible.

Financial and Human Capital Formation

A wealth of research in this area uses survey data to assess the relationship between juvenile or adolescent arrest and human capital formation—in particular, educational outcomes. Across different contexts and data sources, this research generally finds that arrest and other forms of criminal justice contact are deleterious to educational performance and attainment.

Using linked administrative and survey data, Kirk and Sampson (2013) echo Paul Hirschfield (2009) in finding a negative effect on high school dropout. Gary Sweeten (2006) further shows that self-reported criminal justice contact is associated with dropout, independent of delinquent behavior, and also that court appearances may be more influential than arrest. Related work similarly finds a negative association between arrest and college enrollment (Widdowson et al. 2016). Nicholas Mark and colleagues (2022) use linked administrative records to further examine this relationship and find that students miss more school after an arrest, especially because of court appearances and school suspensions. Attendance and school attachment may thus be important mechanisms for future research to consider.

Research on indirect or vicarious contact finds that macro-level police activity is also detrimental to youth education. Using administrative records from New York City, Joscha Legewie and Jeffrey Fagan (2019) show that exposure to higher levels of police activity in a child's neighborhood is detrimental to test scores, particularly for Black boys. Using data from Los Angeles, Desmond Ang (2021) finds a similarly deleterious effect of police violence.

22. While a discussion about the theoretical nature of “causality” is far beyond the scope of this review, see Megan Stevenson (2023) for some thoughtful commentary and empirical evidence in the context of the criminal justice system.

Finally, related work considers other aspects of human capital. This research finds that juvenile police contact and intervention are associated with unemployment and financial hardship in one's twenties (Lopes et al. 2012). Christopher Uggen and colleagues (2014) probe this relationship further, using an audit study to reveal that those who report an arrest that did not lead to conviction had lower rates of job interview callbacks, suggesting the robustness of this core finding.

Health and Mortality

Survey data generally indicate that young people who experience more frequent stops by police are more likely to self-report higher levels of emotional distress and symptoms associated with anxiety and trauma (Geller et al. 2014; Jackson et al. 2019). This relationship is moderated by perceived procedural injustice, with self-reported health outcomes most strongly predicted by stops perceived as intrusive or procedurally unjust (Geller et al. 2014; McFarland et al. 2019). Exposure to vicarious police stops are also associated with worse self-reported health (McFarland et al. 2019). Michael McFarland and colleagues (2019) also find that reports of direct and vicarious police contact were not related to caregiver-reported adolescent health. Arrests may be especially damaging. Naomi Sugie and Kristin Turney (2017) estimate that arrests explain almost half of the association between poor mental health and incarceration.

Spatial patterns of intensive policing are also tied to health. Using data from New York City, Alyasah Sewell and colleagues (2016) find that men in neighborhoods with more frequent police frisks and uses of force report higher levels of psychological distress; Sewell and Kevin Jefferson (2016) also link neighborhood frisk likelihood with a range of physical health outcomes.

Police encounters can also lead to physical harm and even death. In the economics literature, there have been mixed findings regarding how civilian race is related to police use of force. One study, which combined four different data sources, concluded that while there were racial disparities in nonlethal use of force,

there were no racial differences in officer-involved shootings, conditional on police interactions (Fryer 2019). However, this study's conclusions regarding racial disparities in police shootings have been critiqued because of methodological weaknesses in modeling the probability of someone being shot by the police and overreliance on police narratives, which may very well be inaccurate (Durlauf and Heckman 2020; also see Knox et al. 2020). Indeed, other research demonstrates that police systematically misreport demographic characteristics (Luh 2020). A county-level analysis finds that Black Americans are more likely to be shot by the police even after accounting for differences in arrest rates (Ross 2015). Regardless of the exact causal mechanisms driving racial disparities in police use of force (for example, racial residential segregation and other manifestations of systemic racism versus explicit racial profiling), Black and Indigenous Americans are the most likely to experience the deadly outcomes stemming from police contact (Edwards et al. 2019).

Crime, Delinquency, and Recidivism

Using various survey data sources, Bianca Bersani and colleagues (2022), Juan Del Toro and colleagues (2019), and Stephanie Ann Wiley and colleagues (2013) find that juvenile arrest or police contact leads to increased offending and arrest. Elaine Doherty and colleagues (2015) and Akiva Liberman and colleagues (2014) both use different sources of administrative and survey data and similarly find evidence for a criminogenic effect of arrest, though the study by Liberman and colleagues uncovers distinct processes for rearrest versus reoffending.

Evidence of indirect effects primarily focuses on familial and peer contact. As Erin Tinney (2023) shows, also using self-reported survey data, consequences may be "sticky" across friendships. Among a sample of rural youth, she finds that having a friend who is arrested increases one's likelihood of arrest the following year. Wildeman and colleagues (2024) provide evidence of intergenerational transmission of criminal justice contact from parent to child, using self-reported parent po-

lice contact and administrative arrest records for children.

Civic and Political Life

The literature on police contact and political participation has been especially fertile in political science in recent years, though with numerous results that point to contrasting or countervailing empirical relationships. Vesla Weaver and Amy Lerman (2010) find a generally demobilizing effect across different forms of criminal justice contact in national survey data. And using potentially more stringent causal methods and administrative records in one county in Florida, Jonathan Ben-Menachem and Kevin Morris (2023) also uncover a negative relationship between traffic stops and voting.

However, with both national observational data and a survey experiment, other research suggests mobilizing effects of criminal justice contact. For instance, Leah Christiani and Kelsey Shoub (2022) find that experiencing low-level police contact may actually increase political participation, and they further note that these effects are largest for those who hold more favorable opinions of the police (which, they add, is often White individuals). Several studies on indirect police exposure also suggest a countervailing relationship. Using national data, Hannah Walker (2020) finds that vicarious contact with the criminal justice system may spur political participation and may especially do so in the face of perceived injustice, while Kevin Morris and Kelsey Shoub (2023) find that police killings increase electoral participation at a neighborhood level.

Incarceration

The ubiquity of the phrase “mass incarceration” makes clear that the primary form of criminal justice contact discussed in most policy and media conversations is the experience of being held in a jail or prison facility. Unsurprisingly, quantifying how incarceration impacts various outcomes has dominated the “collateral consequences” literature over the last few decades. However, this common representation of incarceration as a monolith belies significant variation. As qualitative work (Walker 2022) makes clear, being held in a jail

versus a prison can be entirely different experiences. In addition, many surveys cannot speak to the length of the incarceration regardless of facility type, whereas in many administrative datasets, length of incarceration is usable (White 2019b; Patterson 2013). While this difference is sometimes pointed out in passing in some previous quantitative articles and reviews (see the section “Collateral Consequences of What?” in Kirk and Wakefield 2018), there are still far too many analyses—and ensuing academic and policy discussions—that involve “incarceration” without being specific about the context. As we show throughout this section, different data sources offer different measures of incarceration and, importantly, may not always provide sufficient detail to distinguish between whether a person was in jail or prison or both. In general, though not as a rule, survey data often do not lend themselves to distinguishing between jail and prison incarceration, while research with administrative records tends to focus on prison sentences.

Other issues, such as how accurately survey respondents distinguish between jail and prison, notwithstanding, we stress that researchers should at least provide more robust discussions around their specific measure of incarceration and implications for interpretation. In reviewing the literature for this section, we were struck by how many articles do not specify the type of incarceration they are measuring, imply one form of incarceration without stating it explicitly (such as by restricting the sample to felonies, which implies prison as opposed to jail incarceration), or even refer to “imprisonment” as shorthand when they cannot parse out the nature of the incarceration. Similarly, and as discussed in previous reviews (Kirk and Wakefield 2018; Wildeman 2020), researchers must be cognizant about the counterfactual to whatever type of incarceration they are analyzing. Are they comparing imprisonment to jail, imprisonment to no incarceration, jail to probation, or even a long prison sentence versus a short one? (See, for instance, Jung 2011.) Thus, in this section we take care to discuss research on the fallout from jail and prison incarceration separately, paying close attention as well to how particular studies are (or

are not) able to distinguish between the two in their data.²³

Financial and Human Capital Formation

In this section, we examine the impact of direct and indirect incarceration on financial and human capital formation.

Direct Incarceration Survey research on incarceration and human capital formation relies heavily on the NLSY79 and NLSY97, which mostly leaves researchers unable to distinguish between jail and prison. Seminal research using the NLSY79 by Western (2002) shows that undefined incarceration reduces wage growth and that incarceration accounts for roughly 8 to 12 percent of the wage gap between White and Black and White and Hispanic adults, respectively. Robert Apel and Gary Sweeten (2010) used the NLSY97 to further uncover that incarcerated individuals dropped out of the labor force (that is, were not searching for employment) at higher numbers, and for longer periods of time, a finding that helps explain employment and wage gaps. These trends are corroborated in other datasets (Geller et al. 2006). However, Apel and Kathleen Powell (2019) find in the NLSY97 that the incarceration wage gap is most pronounced for Black individuals.

Administrative records in this area primarily focus on imprisonment, though one study (Dobbie, Goldin et al., 2018) finds a negative relationship between pretrial detention and employment. Generally, however, extant research specific to imprisonment suggests that employment dips short term but then rapidly returns to pre-prison levels (Kling 2004; 2006; Lyons and Pettit 2011). Similarly, research from Illinois further finds that there is no significant relationship between imprisonment and five-year employment rates (Loeffler 2013).

However, David Harding and colleagues (2018) provide important texture to these find-

ings. Using administrative records from Michigan, they assess heterogeneity in the effects of imprisonment (compared to noncustodial sentencing) by race and pre-imprisonment work history. They find negative post-release effects on employment only among Whites with a prior work history. Black people with a work history experience no downturn, while for both Black people and White people with no formal work history, imprisonment has a short-run positive effect on employment. The authors do find that the positive effect, however, fades over time.

Research on incarceration and educational attainment is relatively scarce, primarily because incarceration's impacts would have to take place early enough in the life course to affect one's education, and it is generally rare—in both the real world and in data sources accessible to researchers—to see adolescents formally incarcerated. However, existing evidence from Anna Aizer and Joseph Doyle (2015) using administrative records in Chicago suggests that juvenile incarceration in a juvenile facility has large deleterious impacts on high school completion. Finally, incarceration is also associated with lower rates of homeownership and delayed homeownership (Bryan 2020), though housing instability among the formerly incarcerated may be driven by felony conviction status (Bryan 2023).

Indirect Incarceration Literature on indirect or familial incarceration and employment is generally scant. The only existing study to our knowledge is by Holly Miller and J. C. Barnes (2015).²⁴ Using survey data, they find a negative association between paternal incarceration and income but not employment. However, multiple studies using survey data suggest that parental incarceration harms families through financial strain or material hardship (Geller et al. 2011; Schwartz-Soicher et al. 2011). Findings for education-related outcomes for children

23. This means when we use the term “incarceration” (“incarceration had an effect on health”), the study being referred to does not distinguish between prison and jail. When a study does specify the type of incarceration, we note it directly. As we explain in our discussion, few studies differentiate prison and jail incarceration.

24. We note that all the studies mentioned in the next section combine or do not delineate between parental jail and prison incarceration, and thus we focus on pointing out the type of data while naming “incarceration” broadly.

who experience parental incarceration are highly mixed. Joseph Murray and colleagues (2012) use survey data to find no association between parental incarceration and school achievement or performance, which Samuel Norris and (2021) and Rosa Minhyo Cho (2009a) corroborate using administrative records from Ohio and Chicago, respectively. Cho (2010), however, does find, using administrative data, a deleterious effect of maternal incarceration on high school graduation, mirroring the work of Holly Foster and John Hagan (2009), who use survey data. In terms of grade retention, Kristin Turney and Anna Haskins (2014), who use survey data, find a negative association for paternal incarceration, while Cho (2009b), using administrative data, finds a positive effect of maternal imprisonment specifically.

Health and Mortality

Next, we turn to reviewing the impacts of direct and indirect incarceration on outcomes related to health and mortality.

Direct Incarceration Multiple studies using various data and types of incarcerations demonstrate among those in jail and prison high rates of chronic conditions and infectious diseases (Hammett et al. 2002; Wilper et al. 2009) as well as vitamin deficiencies (Nwosu et al. 2014). Other surveys show that incarceration is associated with post-release health conditions related to hypertrophy, hepatitis, and tuberculosis (Wang et al. 2009; Massoglia 2008).

However, these studies tend to rely on data sources where individuals are not closely (if at all) followed before incarceration, and thus it is unclear whether incarceration is causing health deficiencies or merely reflecting preexisting health issues. Incarceration may also lead to the diagnosis of health issues. As Wildeman and Emily Wang (2017) point out, correctional facilities may sometimes provide incarcerated adults with their first regular access to medical care. The causality conundrum is fur-

thered by research suggesting that incarceration's effects on health arise only post-release (Schnittker and John 2007), that chronic conditions may be better managed in prison (Meyer et al. 2014), and that infectious diseases are rarely transmitted in prison (Spaulding et al. 2017).

Research on mortality further complicates the empirical picture of how incarceration affects health. While some average estimates show an increase in overall mortality (Sebastian Daza and colleagues (2020) find a loss of life expectancy due to incarceration of about four to five years at age forty-five), particular attention has been paid to heterogeneity by sex and race. Results seem to diverge especially by data source. For instance, using NLSY79 data, which do not distinguish between jail and prison, Michael Massoglia and colleagues (2014) find higher odds of mortality among formerly incarcerated women but not men, while Benjamin Bovell-Ammon and colleagues (2021) find increased mortality post-release for Black individuals but not for non-Black individuals.

However, using various administrative data sources, both Anne Spaulding and colleagues (2011) and Patterson (2010) find that Black males had lower death rates in prison, and White males had higher death rates. Patterson (2010) also finds higher mortality for females during imprisonment compared to males. Other studies using administrative records find that, on average, mortality risk is cut roughly in half during incarceration (Norris et al. 2022). Importantly, however, Norris and colleagues (2022) find no post-release mortality risk (and thus, the net effect in their study is a reduction in long-term mortality) while Spaulding and colleagues (2011) find higher post-release mortality (to the extent that the net effect is an increased risk in long-term mortality).²⁵ Finally, Patterson (2013) finds that length of imprisonment is significant: each additional year spent in prison is associated with a two-year decline

25. To reemphasize our previous discussion on generalizability and the importance of appreciating contextual differences across studies, we note that Norris and colleagues (2022) use data from three counties in Ohio from 1990 to 2017 and do not distinguish between jail and prison, while Spaulding and colleagues (2011) use data from one state prison in Georgia from 1991 to 2006. Thus, it is not necessarily the case that these findings are "conflicting"; it may be the case that the effects and ensuing results genuinely differ across such contexts.

in life expectancy, though this heightened mortality risk fades over time.

Although some previously mentioned studies have found evidence that the length of time spent incarcerated has important implications for key health outcomes such as mortality, even short spells in jail or experiencing jail churn can be damaging for individuals with chronic mental and physical health problems owing to disrupted healthcare. In a survey of people incarcerated in the San Francisco County Jail, for example, Wang and colleagues (2008) show that jailed individuals with chronic diseases are less likely than the general population to have a regular source of care—except for jailed people with HIV, who receive discharge planning.

Indirect Incarceration The literature on indirect and familial consequences of incarceration for health focuses especially on the mental health of incarcerated individuals' partners and children, as well as the physical health and behavioral issues of children. This existing scholarship relies almost exclusively on surveys and thus generally lacks both the ability to distinguish the type of incarceration and stringent causal identification strategies.

Across three different survey datasets, Haskins (2015), Wakefield and Wildeman (2011), and Turney (2014) find that parental incarceration is associated with various mental health, behavioral, and developmental issues. Wildeman and Turney (2014) and Turney and Wildeman (2015), however, find that in the case of maternal incarceration, average associations are mostly null and vary by race and socioeconomic status: behavioral problems are reduced among White children and well-being is harmed most for higher-SES children who are less likely to experience maternal incarceration. Using Add Health data, Michael Roettger and Jason Boardman (2012) find that parental incarceration is associated with increased body mass in children, while Rosalyn Lee and colleagues (2013) find negative associations for various mental health outcomes (such as depression and anxiety) and physical health outcomes (such as cholesterol, asthma, and HIV or AIDS).

Extant research also suggests that married and other romantic partners often experience

disruptions in the wake of incarceration (Apel 2016; Lopoo and Western 2005). Wildeman and colleagues (2012) find that paternal incarceration increases mother's mental health issues. Hedwig Lee and colleagues (2014) reveal that women suffer from a variety of health problems in the wake of familial incarceration.

Finally, a handful of studies consider community or macro-level associations between both prison and jail incarceration rates and mortality. Specifically, Wildeman (2012a) finds that each additional imprisoned individual (per one thousand state residents) is associated with a decline of .09 years of life expectancy, and Sandhya Kajepeta and colleagues (2021) find that a one per one thousand within-county increase in the jail incarceration rate is associated with an increase in various specific mortality causes. Additionally, Wildeman (2012b) uncovers an association between imprisonment and infant mortality at the state level.

Crime, Delinquency, and Recidivism

Here, we discuss research on how direct and indirect incarceration contribute (or don't) to future crime, delinquency, and recidivism.

Direct Incarceration A long tradition of theorizing about the "criminogenic" nature of incarceration underlies the field of criminology in particular (Clemmer 1940, Sykes and Matza 1957), yet just fifteen years ago, Daniel Nagin and colleagues (2009, 115) lamented that "remarkably little is known about the effects of imprisonment on reoffending." While the literature has developed since their review, there is substantial uncertainty about the empirical nature of incarceration's criminogenic potential, especially among estimates using administrative records.

Using similar judge instrumental variable methodologies with administrative data from three geographic areas (Washington, DC; Cook County, Illinois; and six counties in Pennsylvania), numerous studies have found null effects of imprisonment on both short- and long-term rearrest and recidivism (Green and Winik 2010; Loeffler 2013; Nagin and Snodgrass 2013). Evan Rose and Yotam Shem-Tov (2021), however, find that imprisonment in North Carolina reduces recidivism in the short-term (three years post-

sentencing) and long-term (eight years post-sentencing).

Andrew Jordan and colleagues (2024) and Harding, Siegel, and Morenoff (2017) use administrative records from Chicago and Michigan, respectively, to provide some potential additional clarity regarding the effects of imprisonment. Jordan and colleagues (2024) show that incarceration causes a lasting reduction in recidivism only for first-time offenders, but not among repeat offenders. Harding, Siegel, and Morenoff (2017), on the other hand, find no effects on recidivating for new offenses but do find an overall increase in reimprisonment—likely owing to technical violations of parole. As Charles Loeffler and Daniel Nagin (2022, 138) mention in their review of this literature, “This finding illustrates how the commonly used measures of recidivism (rearrest, reconviction, and reimprisonment) are not always interchangeable for the purposes of estimating the effects of correctional interventions” and that more theoretical and empirical attention ought to be given to differences between criminal offending and system contact.

Research on juvenile incarceration and on pretrial (that is, jail) detention is similarly nuanced. While some research suggests that juvenile incarceration is associated with higher risk of longer-term (that is, adult) incarceration (Aizer and Doyle 2015; Walker and Herting 2020), other research suggests a net benefit (that is, a decrease in recidivism) for short-term re-incarceration as a juvenile (Hjalmarsson 2009). For pretrial detention, Dobbie, Goldin, and Yang (2018) estimate null effects on recidivism while Paul Heaton and colleagues (2017) find a positive association. Both areas are ripe for future research.

Indirect Incarceration Despite a long tradition of studying how criminality is transmitted from parent to child (Dugdale 1877; Glueck and Glueck 1950; Goddard 1912), and the fact that a number of studies have pointed out the commonality and disproportionality of experienc-

ing parent incarceration (Wildeman 2009; Enns et al. 2019; Finlay et al. 2023), recent quantitative work on parent incarceration (as opposed to arrest or general criminal justice contact, covered in the earlier section) and children’s crime and delinquency is scant.²⁶

Existing research almost exclusively uses survey data to examine youth outcomes related to delinquency and criminal activity as opposed to formal system contact (that is, arrest or incarceration). Such delinquency outcomes tend to consist of index measures combining reported violence, theft or robbery, and selling drugs. Michael Roettger and Raymond Swisher (2011) find an increase in delinquency (and arrest), and Joseph Murray and colleagues (2012) find an increase in theft. Lauren Aaron and Danielle Dallaire (2010) find no association. Lauren Porter and Ryan King (2015) provide further texture by breaking out types of delinquency and using a potentially more rigorous empirical strategy. In their less rigorous models, they find negative associations for both expressive delinquency (getting into fights, causing property damage) and instrumental delinquency (theft, burglary, selling drugs), but when switching to a more rigorous comparison group, the association for instrumental delinquency is reduced to null.

Finally, the one study that considers parental incarceration using administrative data reveals that parent incarceration is associated with a decrease in children’s likelihood of being incarcerated themselves (Norris et al. 2021). Together, these findings beckon for more research—across various samples and contexts—that attempts to parse these divergent findings across delinquency and actual system involvement for youth.

Some have also suggested that at high enough levels, incarceration may have a criminogenic effect in neighborhoods as the churn of residents to and from prisons and jails disrupts and strains social networks and undermines informal social controls (Rose and Clear 1998; Clear 2007). A few empirical studies have

26. The research is especially thin in the US context; a relatively large number of peer-reviewed (Hjalmarsson and Lindquist 2012; Kinner et al. 2007; Murray and Farrington 2005; Murray et al. 2007) and non-peer-reviewed (Dobbie, Grönqvist et al. 2018; Bhuller et al. 2018) studies have analyzed parent incarceration and children’s crime, system contact, and delinquency using non-US samples.

attempted to test this hypothesis, which is called coercive mobility, but more research is needed (see Travis et al. 2014 for a review).

Civic and Political Life

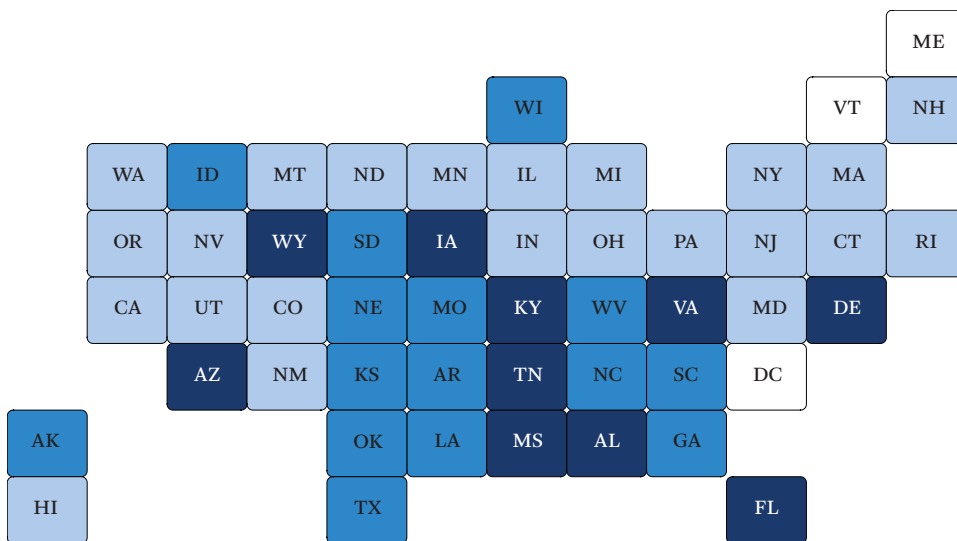
Because of the relative paucity of research on consequences related to civic and political life (itself a shortcoming in the literature), we combine the direct and indirect sections under one umbrella here. Ariel White (2019b) uses administrative records and finds that jail sentences—typically very short in nature—lead to a substantial decrease in voter turnout for Black individuals but not White individuals. This finding builds on seminal work by Weaver and Lerman (2010), who use two national surveys to show that incarceration (jail or prison undefined) is associated with reduced likelihood of voting and being registered to vote.

White (2019a) further extends this line of inquiry by looking at indirect political consequences of incarceration in a jail. Using administrative records, she finds that experiencing a

household member going to jail has a small and short-lived negative effect on voting likelihood, but this effect does not last beyond a couple months. At the neighborhood level, Traci Burch (2014) finds that neighborhoods with larger concentrations of people entangled with the criminal justice system vote at lower rates, while Kevin Morris (2020) shows that neighborhoods with a larger share of disenfranchised, incarcerated voters have lower neighborhood turnout in New York City, and these findings are concentrated in Black neighborhoods.

Finally, there are state laws that prevent incarcerated people, who are disproportionately Black, from voting in all states except for Maine, Vermont, and the District of Columbia. As can be seen in figure 7, many states extend the loss of voting rights past the period of incarceration (as of October 2024). In some cases, voting rights can be lost for life. For more details on the statuses of these laws, see the Restoration of Voting Rights for Felons Brief

Figure 7. Restoration of Voting Rights Following Felony Conviction, as of October 2024



■ Lost Until Completion of Sentence | In Some States a Post-Sentencing Waiting Period | Additional Action Required for Restoration
 ■ Lost Until Completion of Sentence (Parole and/or Probation; Sometimes Fines, Fees and Restitution) | Automatic Restoration After
 ■ Lost Only While Incarcerated | Automatic Restoration After Release
 □ Never Lose Right to Vote

Source: National Conference of State Legislatures 2024.

compiled by the National Conference of State Legislatures (2024).

Community Supervision

Despite media, politicians, and academics focusing primarily on arrest and incarceration, some scholars have begun to argue that we now live in an age of mass supervision (Miller and Stuart 2017; Phelps 2017, 2020; Schiraldi 2023). Community supervision typically refers to probation and parole, which we focus on here. Probation is often used as an alternative to incarceration but also sometimes occurs following incarceration (referred to as a split sentence) and can itself result in incarceration because of technical violations (Olson 2019). Parole, on the other hand, comes after an incarceration stint is over and can carry stringent conditions (Reitz and Rhine 2020; Travis and Stacey 2010). Because the literature on the fallout from these forms of supervision is nascent, we organize this section by delineating probation and parole separately.

Some analyses of probation relative to incarceration have found that probation results in a lower likelihood of future criminal justice system contact post-release (Aizer and Doyle 2015; Harding, Morenoff, et al. 2017). It is difficult to disentangle what drives these results, especially since parole typically follows imprisonment and has stricter conditions than probation and thus related technical violations could be driving future imprisonment (see Harding, Morenoff, et al. 2017). However, others find no difference between recidivism outcomes following probation compared to prison (Loeffler 2013; Eren and Mocan 2021), or even that probation results in worse recidivism outcomes (Hjalmarsson 2009; Rose and Shem-Tov 2021). Diverging findings could reflect the heterogeneous landscape of probation programs or differing measurement and analytic strategies (see Doleac and LaForest 2022 for a review of studies that try to isolate the causal impact of community supervision on reoffending and future criminal justice system contact). Some studies try to isolate the causal effect of varying levels of supervision intensity. For instance, Jordan Hyatt and Geoffrey Barnes (2017) compare the impacts of varying intensities of probation supervision on recidivism and find that

those experiencing more intense supervision do not exhibit differences in offending compared to those receiving standard probation, but they are incarcerated at significantly higher rates as a result of technical violations.

There is limited evidence on the impact of parole on recidivism and future criminal justice system contact (again, see Doleac and LaForest 2022). However, extant work implies that parole may serve as an incentive for people in prisons to complete programming and avoid disciplinary infractions (Kuziemko 2013). Data from Michigan also shed light on parole as a labor market institution. Parole does seem to increase employment; however, parolee employment does not reduce poverty or recidivism odds (Seim and Harding 2020). There are also significant racial differences in the quality of jobs that parolees obtain: White parolees are more likely than Black parolees to secure a stable job in higher-wage industries such as construction, partially owing to the location of these jobs (Rucks-Ahidiana et al. 2021). In addition, short-term incarcerations due to parole violations result in lower earnings, especially for those working in the formal labor market (Harding, Siegel et al. 2017).

Probation and parole typically are accompanied by fines and fees; most states allow supervision fees, and in some states, failure to pay can itself result in incarceration (Brett et al. 2020; Fines and Fees Justice Center and Reform Alliance 2022). Seminal work by Alexes Harris and colleagues (2010) uses both national- and state-level data to show that various financial sanctions are widespread and result in large amounts of legal debt for individuals convicted, which may be especially burdensome as well as relevant for understanding inequality, given that many of these individuals are already poor (also see Harris 2016). In the first US-based randomized controlled trial centered on fines and fees, Pager and colleagues (2022) analyzed a legal debt relief program in one county in Oklahoma. They found no impact of the debt relief program for misdemeanor defendants on ensuing criminal charges or jail-specific recidivism, though they did find that individuals who did not receive the debt relief experienced more new warrants and referrals to a private debt collector—which may keep individuals tied to the

legal system even in the absence of subsequent criminal offending.

CONCLUSION

In this review, we provide the most up-to-date and comprehensive description of the state of research on the scope and scale of criminal justice contact and its collateral consequences for racial and ethnic inequality in the United States. Our goal was to provide a side-by-side overview—at a depth and scale that has not been conducted in previous reviews—of the data sources and methods used in this area alongside empirical results stemming from these data and methodological approaches. We show that the data sources, methodologies, types of contact, and outcomes studied are wide-ranging. We argue that while this literature has grown tremendously over the past twenty-five years and great strides have been made in our understanding of the reach and impact of criminal justice contact across outcomes and populations, the details, oft-overlooked, matter. In other words, results across studies are often more mixed and nuanced by the nature of contact (imprisonment versus jail), data source (survey versus official records), geographic context, and sample composition, among other things, than is typically accounted for by high-level summaries of main findings in this area. In showing this tremendous breadth of toolkits and extant results, therefore, we hope to push future research not toward privileging any particular type of data source, methodological approach, or form of contact or consequence but toward employing more discernment and transparency in who and what are being studied in a given analysis,²⁷ with an eye toward how the implications of these details (within a given study) are grounded in theory and mesh with the broader literature.²⁸

We would be remiss to conclude this article without briefly mentioning the impact of COVID-19 on the criminal justice system. Research consistently finds that the prevalence of COVID-19 in carceral facilities exceeded rates

in the general population and that mortality rates from COVID-19 were also higher (Marquez et al. 2021, see Puglisi et al. 2023 for an extensive review on related work). While average daily jail populations and annual admissions fell during the early pandemic—representing one of the most significance instances of decarceration in recent history—by 2022 these numbers began rebounding toward pre-pandemic levels (Zeng 2024). This era of pandemic-driven changes coincided with widespread protests following George Floyd’s murder by police, which increased public recognition of anti-Black racism (Reny and Newman 2021). However, subsequent White backlash to mainstream recognition of structural racism has since shaped policies and practices across a range of institutions (see, for instance, Ray and Gibbons 2021). These simultaneous crises and social movements highlight the dynamic nature of the criminal justice system, reinforcing the argument that fallout from system contact must be understood within broader frameworks that consider social change (see also Sampson 2025, this issue).

These recent developments also highlight that while our literature review is extensive, it relies on evidence drawn from quantitative data that can provide quantifiable and statistically generalizable evidence of the fallout from criminal justice contact and therefore must be understood alongside evidence drawn from other approaches. As others have argued, the causal effects estimated from this research when examined apart from evidence drawn from other research approaches “often do not provide much causal understanding” (Marini and Singer 1988, 348). Indeed, we can think about fallout in ways outside a traditional cause-effect framework as much of the research that launched this research area did (Western and Beckett 1999; Pettit and Western 2004). For instance, descriptive evidence (such as what was chronicled in earlier in this article) provides striking depictions of the ways that mass incarceration has come to permeate entire communities. In addition, a substantial body of qualitative research examines the ways in

27. As well as when (see Neil and Sampson 2021) and where a population are being studied.

28. Also see Ian Lundberg and colleagues (2021, 532). Their contention is that “much attention is already placed on how to do estimation; a similar degree of care should be given to defining the thing we are estimating.”

which criminal justice contact fundamentally alters the lived experience of individuals, their loved ones, and the communities in which they are embedded (Comfort 2008; Comfort 2016; Clear 2007; Miller 2021; Phelps and Ruhland 2022; Turanovic et al. 2012; Western 2018). This descriptive and qualitative research creates deeper understanding and pushes us to consider the reality that mass incarceration has restructured the social fabric of day-to-day life for many marginalized groups and communities—which itself also presents difficulties for the traditional counterfactual thinking that undergirds conventional causal modeling.

One way to show the utility of this perspective is to consider how incarceration reshapes the lived experiences of individuals even in the face of some null or even positive effects. Quantitative research suggests, for instance, that maternal incarceration's effects on children are, on average, quite muted (Wildeman and Turney 2014). It also finds that incarceration decreases the mortality risks of young Black men through a host of mechanisms that highlight the significant risks that Black men face in their home communities (Patterson 2010). Focusing only on effects in these instances could lead to us fundamentally misunderstand the extent to which mass incarceration has indeed produced extensive fallout. Put differently, the “protective” effects of imprisonment on Black men's mortality risk should in no way, shape, or form undercut the ways in which one in four Black men going to prison by their early thirties has fundamentally transformed American society (Pettit and Western 2004). Likewise, the fact that maternal incarceration appears to have no average effect on children's mental health should not lead us to forget that Black American children are as likely to have a mother imprisoned as Danish children are to have a father imprisoned (Wildeman and Andersen 2015; Wildeman 2009). Fallout from the carceral state has occurred regardless of whether research identifies any causal effects.

Qualitative research has also been instrumental in generating theories and hypotheses about the material and symbolic consequences of criminal justice contact as well as the social

processes and contexts linked to these consequences (Braman 2004; Comfort 2008). Moreover, the theoretical generalizations derived from this work have directly informed quantitative analyses of criminal justice fallout—from the formulation of research questions and research design to interpretation of results. Qualitative research has played a particularly critical role in guiding interpretation of quantitative research results such as ambiguous patterns, anomalous cases, and heterogeneity in impacts across outcomes and population groups (Grigoriopoulou and Small 2022).²⁹ Indeed, qualitative studies, by design, enable researchers to “gather more accurate data and speak to individuals” from hard-to-reach populations (Lamont and White 2008, 12). It also allows for deep interpretation of meaning and lived experience within and across contexts. These insights help researchers to understand and situate complex results from statistical surveys impacted by sample selection, attrition, and predetermined variables (which we allude to in the methodology section). It also provides articulation and insight about the complexities in the experiences, nature, and consequences of criminal justice contact that may be obscured in quantitative work owing to the limitations of survey data and other forms of quantitative data collection. For example, qualitative research can unearth the ways in which criminal justice contact may be both good and bad for the same person or population (Comfort 2008), good for some populations but bad for other populations (Siegel 2011), or good for some persons in a family and bad for others (Turanovic et al. 2012). In these ways, qualitative research is foundational to the evidence base of this research area. Moreover, it is imperative that quantitative research continue to be and, in the case of some disciplines, begin to be, informed by the theoretical insights and innovations derived from qualitative research.

There are also important and underutilized theoretical tools from the humanities that inform empirical research on criminal justice system fallout. For example, if we use a critical race lens to understand racial and ethnic variation in the impacts of criminal justice contact,

29. Also see the section on racial heterogeneity in this article.

it becomes clear that the criminal justice system operates in conjunction with myriad other systems (healthcare, education, labor market, child welfare, and political systems, for instance) that share histories and logics of racial bias, violence, exclusion, and control (Lee 2024; Muller 2012; Roberts 2012). We see evidence of racial and ethnic inequalities in contact and outcomes in each of these systems; they are overlapping, interactive, and mutually reinforcing and operate in ways that complicate our ability to model and interpret variation on the impacts of the criminal justice contact by race or ethnicity (Muller and Roehrkaase 2022). We can use insights from critical race theory to help us to better understand and contextualize research findings. While the examples in table 1 largely focus on differences between Black and White men, these perspectives can be expanded to other racial, ethnic, and gender groups. Additional insights from critical race theory (for example, intersectionality) can also help us to understand potentially significant but largely unexplored differences at the intersection race and ethnicity, social class, and gender (as well as other dimensions of identity such as sexual orientation and immigration status) in the future.

Relatedly, our review indicates that little research in this area considers heterogeneity in effects and consequence outside race (and, sometimes, ethnicity).³⁰ However, existing research and theory indicate that there is likely to be considerable variation by gender, class, geography, and cohort, as well as other key demographic characteristics and their intersections. And this is to say nothing of the ways in which the nature of the criminal justice contact can shape outcomes. From an empirical lens, we also stress that our review focusing on race-specific results implies that significant heterogeneity does indeed exist and that these tests ought to be central to future research in this area. Thus, research in this area would do well to highlight the who, what, when, where, and why of how the fallout from criminal justice contact occurs.

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30. Most work on racial and ethnic variation focuses on differences between Black and White populations. Significantly more analysis is needed for other racial and ethnic groups.

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The Transition from Prison to Community



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High US incarceration rates in the 1990s and early 2000s produced large cohorts of men and women who left prison and returned, disproportionately, to low-income communities of color. Called reentry, the transition from prison to community is a process of social integration where formerly incarcerated people establish, with variable success, a foundation of material security, and connections to major social institutions such as the family and the labor market. This literature review summarizes research on reentry, examining its demographic dimensions, the legal and policy environment, and research on families, housing, health, incomes, and criminal desistance. The review indicates that criminalization and punishment in the reentry process stymie social integration, while support from family and social policy is socially integrative. Research also indicates large racial inequalities where, besides the racial disparity in incarceration, the severity of incarceration and the obstacles to social integration are greater for Black men and women leaving prison.

Keywords: incarceration, reentry, poverty, racial inequality, recidivism

Historically high incarceration rates in the United States in the 1990s and early 2000s transformed the population dynamics of low-income Black and Brown communities. Families and communities contended with the removal of large numbers of mostly prime-age men and their return to free society years later. Parallels are difficult to draw, but mass incarceration created something like a penal version of wartime demobilization. Hundreds of thousands of people would leave prison each year

and return to a small number of communities facing poverty, racial segregation, unemployment, poor health, and crime. What came to be called reentry motivated research and policy that addressed a new reality in the experience of US poverty and racial inequality. Although race and class inequalities in incarceration were longstanding (Muller 2012; Muller and Roehrkasse 2022), the obstacle course that followed prison release—family reconciliation, getting a job, and finding housing—became

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common in low-income Black and Latino neighborhoods. At the most general level, reentry studies formed part of a larger research program that aimed to understand the connections between mass incarceration and social inequality (Lee et al. 2025, this issue; Pager 2007; Wacquant 2009; Wakefield and Uggen 2010; Western 2006; Wildeman and Muller 2012).

This article reviews research on the transition from prison to community through the lens of a conceptual framework with three main parts. First, the fundamental problem for research on reentry is social integration: how do people who have been incarcerated enter communities and establish connections to family, friends, social institutions, and civic life? Social integration has sometimes been described as a process of establishing citizenship, in the sense of becoming a fully fledged member of a community (Miller 2021; Western 2008b). This idea of community belonging shares something with the sociologist T. H. Marshall's (1950) theory of social citizenship in which a foundation of material security allows full participation in social institutions such as the family and labor market. Empirical research on reentry aims to explain variation in community connection for those leaving prison. Crime, rearrest, and re-incarceration form one important set of outcomes but do not exhaust the field, which also includes family well-being, housing, employment, health, and civic engagement (Rosenfeld and Grigg 2022).

Second, processes of criminalization and punishment are key influences on social integration after incarceration. Criminalization is the kind of labeling that confers "the mark of a criminal record" (Pager 2003), a stigma that ascribes dangerousness, unreliability, and moral inferiority to people who have been incarcerated (Miller 2021, 159). Punishment is the state-sanctioned harms imposed as a consequence of criminalization. Criminalization and punishment shape the experience of incarceration and continue after prison release. They are divisive, publicly designating formerly incarcerated people as outsiders and exposing them to penal harm as a result. Criminalization and punishment—through collateral consequences, criminal record discrimination, and the violations

of incarceration—stymie the process of social integration. Because criminalization and punishment have historically been racialized (for example, Muhammad 2011)—associating Blackness, in particular, with criminality and penalty—obstacles to social integration after incarceration have also tended to be greater in Black communities.

Third, the social separation produced by criminalization and punishment is counteracted by institutional sources of trust and support through families and welfare programs. Family support after prison often takes the form of food and shelter but is also expressed through the emotional bonds of caring and love. Welfare programs are key sources of income, housing, and health care. Much of the process of reentry is produced through the interplay of criminalization and punishment on the one hand and the support of trusting institutions on the other. Of course, families and welfare programs can also cause conflict and exclusion, and we examine these cases in our review.

Reentry research is related to, but analytically distinct from, studies of the effects of incarceration that are considered elsewhere in this issue (Lee et al. 2025; Wakefield and Turney 2025, this issue). Research on the effects of incarceration is built around the counterfactual of freedom for people who have been imprisoned. Reentry research shifts the focus from causes to outcomes, seeking to understand variability in the well-being of people who have left prison, the well-being of their communities, and the social process leading to those outcomes.

Our review of research on reentry begins by describing the main demographic dimensions of reentry, the size of reentry cohorts, and their composition. We then review research on the conditions of incarceration and how those conditions may affect reentry experiences. Next, we describe the legal and policy environments of reentry characterized by collateral consequences, community supervision, and recent policy changes arising from the reentry policy movement. Finally, we review research on social integration, focusing on family life, housing, health, economic well-being, and recidivism and desistance.

DEMOGRAPHIC DIMENSIONS OF REENTRY

At its most basic level, reentry is a demographic process involving the movement of people from prison to community. The size and characteristics of reentry cohorts and their impact on community populations have been shaped by trends in penal policy and incarceration rates. The rate of imprisonment in the United States increased from 93 per 100,000 in 1972 to its peak of over 500 in 2008. From 2009 to 2023, the prison population (more than 90 percent male) declined from 1.55 million to 1.21 million, with particularly large declines in 2020 and 2021 because of restrictions on court activity during the COVID-19 pandemic. Despite a decline in the last decade, the imprisonment rate in 2023 (at 359 per 100,000) was about 3.5 times higher than its general level through most of the twentieth century.

The scale of reentry follows the trend in incarceration and can be measured by the annual numbers of prison releases. During the early period of the prison boom, in the late 1970s, around 140,000 people were released from state and federal prisons each year. In the year of peak incarceration, 2008, 734,000 people were released from prison. By 2021, around 444,000 people were released in a year. Figure 1 uses data on state prison releases to estimate the changing racial composition from 1991 to 2020. Since data have been available, from the late nineteenth century, Black imprisonment rates have been at least double the imprisonment rates for Whites, and Black-White disparity in imprisonment increased steadily throughout the twentieth century (Muller 2012). The racial disparity in imprisonment began to decline in the mid-1990s, and although prison release rates are significantly higher in Black communities than White, the size of White release cohorts was about 50 percent larger than Black cohorts by 2020.¹

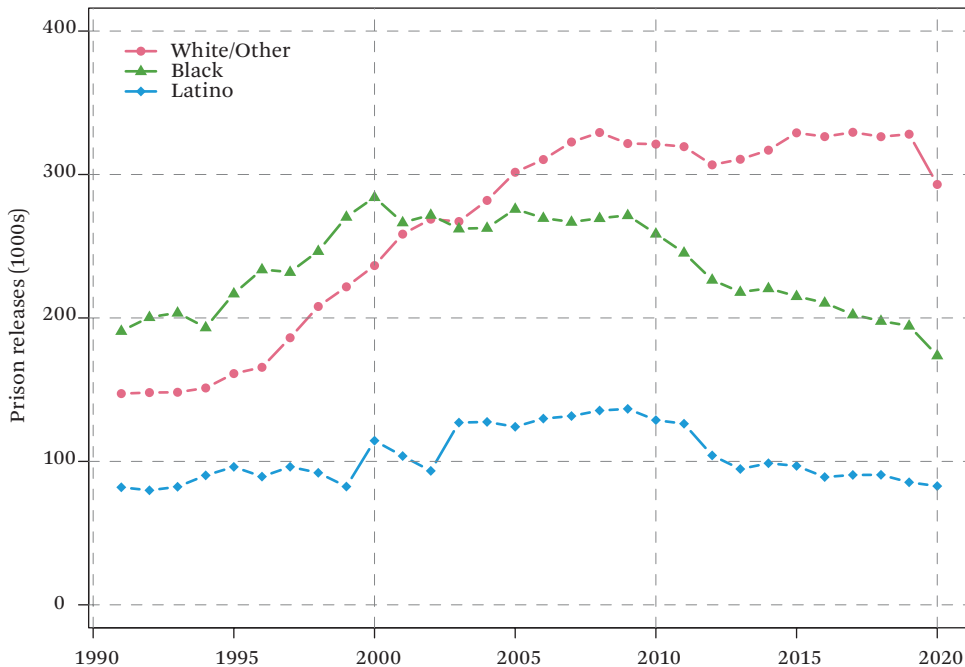
Cohort changes in the period prevalence of imprisonment help describe historical shifts in the frequency of reentry across racial groups. Several studies have estimated the cumulative

risk of prison incarceration for different birth cohorts of men and women with data through the early 2000s (Pettit 2012; Pettit and Western 2004; Western and Wildeman 2009). Because nearly all those who are imprisoned are ultimately released, figures on the prevalence of imprisonment provide a good approximation of the share of the population in different birth cohorts who experience the transition from prison to community.

Jason Robey and colleagues (2023) report estimates of the cumulative risk of imprisonment for synthetic cohorts using data from 1999 and 2019. The synthetic cohort estimate for 1999 calculates the cumulative risk by averaging over all the different birth cohorts represented in data for that year and fixing age-specific probabilities of incarceration at the 1999 level. Changes in cumulative risks thus reflect the effects in changes in the probabilities of incarceration over time, rather than directly across cohorts. Synthetic cohort estimates of the cumulative risk of imprisonment are reported for White, Black, and Latino men in 1999 and 2019 (table 1).

Estimates indicate that in 1999, when the prison population was growing, roughly 10 percent of all US men had been imprisoned and would experience reentry. With the large racial disparity in incarceration, around one out of three Black men and one out of eight Latinos had been to prison, compared to one in twenty White men. By 2019, after a decade of declining incarceration rates, the overall prevalence of imprisonment had fallen from 10 to 8 percent. Consistent with data on the declining size of release cohorts, the decline in incarceration rates was experienced disproportionately by Black men, whose prevalence of imprisonment fell from 36 to 18 percent. Although the experience of reentry has become less common in the 2000s for Black communities, prevalence estimates are six times higher for Black men compared to White and more than twice as high for Latinos. Even after a significant decline in racial disparity, around one in five of all Black men make the transition from prison to com-

1. Racial disparities in incarceration and their implications for larger racial inequalities in American society is a theme that runs through research on reentry and this review. For a discussion of the foundational concepts of race and racism, and a broader review of racial inequality in crime and criminal justice, see Western et al. 2023.

Figure 1. Estimated Size of Prison Release Cohorts by Race and Ethnicity, 1991 to 2020

Source: Authors' calculations based on tabulations by race and ethnicity of the National Corrections Reporting Program, 1991 to 2020, and Bureau of Justice Statistics counts of the prison release population (Carson 2015, 2018, 2020, 2022; Carson and Golinelli 2013).

Table 1. Percentage Cumulative Risk of Imprisonment by Age Thirty-Eight, Synthetic Cohort Estimates, US Men by Race and Ethnicity, 1999 and 2019

	1999	2019
All men	10.1	7.9
White	4.6	3.8
Black	35.8	18.3
Latino	12.7	10.1

Source: Robey et al. 2023.

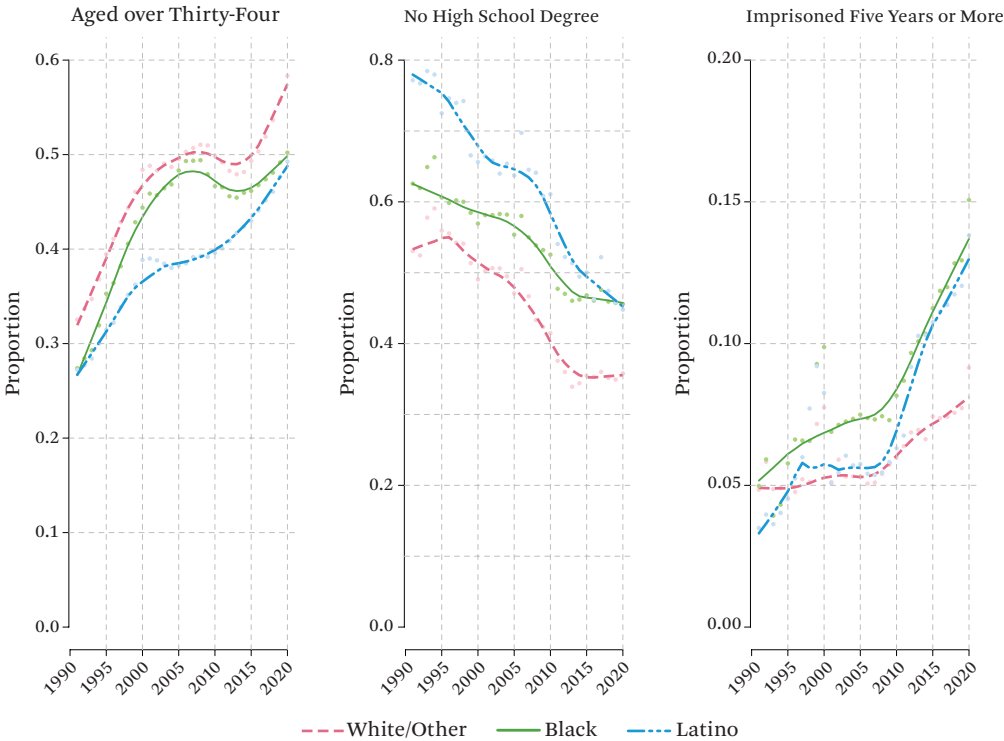
community in the late phase of mass incarceration, and the absolute level of cumulative risk remains very high compared to other life milestones such as marriage or military service (Robey et al. 2023).

In addition to the racial disparity, incarceration is also heavily concentrated in the noncollege fraction of the population. Estimates for 2009, at the height of the prison boom, show that around 70 percent of all Black men born

1965 to 1969 who had not finished high school had been in prison by their mid-thirties (Western and Pettit 2010; Western and Wildeman 2009). Since the 1990s, incarceration has been increasingly concentrated among people with low levels of schooling (Muller and Roehrkasse 2022; Western 2006). Thus, although the prevalence of incarceration and reentry has become more equal for Blacks and Whites over the last two decades, incarceration has become more concentrated among those with no more than a high school education.

A more detailed picture of changes in characteristics of the reentry population is provided by data from the National Corrections Reporting Program (NCRP), whose release files include information on all those leaving prison in reporting states. Figure 2 shows a significant increase in the age of release cohorts across three race-ethnicity groups. In 1990, less than 30 percent of those released from state prison were aged over thirty-four. By 2020, more than half of those leaving state prison were aged

Figure 2. Characteristics of Annual Release Cohorts from State Prison, by Race and Ethnicity



Source: Authors' calculations based on National Corrections Reporting Program release file, 1991–2020.

over thirty-four. More detailed tabulations show that about 10 percent of those leaving prison in 2020 were aged fifty-five or older.

The schooling of people released from prison has also changed significantly. Levels of schooling in prison populations have always been very low, but from 1990 to 2020 educational attainment increased among prison releasees as the share without high school degrees declined from 60 to 40 percent.² By comparison, only 9 percent of the general US population over age twenty-five has no high school degree. Despite the increase in educational attainment in the prison population, recent reentry cohorts have a very low level of schooling. Finally, those leaving prison in 2020 are more likely to have spent significant periods of time in incarceration compared to thirty

years earlier. Race differences in length of stay increased, and by 2020, around 15 percent of Black prison releasees and 13 percent of Latinos had been incarcerated for five years or longer.

In sum, the impact of the prison on local communities through the experience of reentry has changed greatly in the fifty years since the origins of the prison boom in the early 1970s. At peak incarceration, around 2009, among those in their mid-thirties, about 35 percent of all Black men and 13 percent of Latinos had experienced imprisonment and the subsequent transition to community life. Reentry was also concentrated among those with very low levels of schooling. Cohort estimates for Black men born in the late 1960s who dropped out of high school indicate around 70 percent had been to

2. These trends follow increasing high school graduation rates in the general population that accompanied No Child Left Behind (NCLB) school reforms (Harris et al. 2020). Increasing educational attainment in prison release cohorts preceded NCLB, and prison releasees are on average in their mid-thirties, suggesting that rising education levels among the formerly incarcerated are unlikely to be artificially inflated by high stakes testing in schools.

prison. Although incarceration rates and the Black-White disparity in incarceration have declined for more than a decade, imprisonment in communities of color remains highly prevalent. Those leaving prison are also older than in the past, with over half of the reentry cohort in 2020 aged over thirty-four. This partly reflects an increase in the length of stay in prison, with 11 percent having spent at least five years in prison by 2020.

THE EXPERIENCE OF INCARCERATION

Research on the effects of incarceration often focuses on the labeling effect of a criminal record, bracketing the physical and mental impacts of the experience of incarceration. This section reviews how the experience of incarceration itself can influence the transition from prison to community. Alison Liebling and Shadd Maruna (2005) argue that incarceration is not just a “deep freeze,” as some scholars have asserted. Instead, “fear, anxiety, loneliness, trauma, depression, injustice, powerlessness, and violence and uncertainty are all part of the experience of prison life” (Liebling and Maruna 2005, 3). Daniel Mears and Joshua Cochran (2014, 102) write that “incarceration constitutes such a different experience from that in free society that it almost assuredly affects individuals.” A key question for reentry research is whether the deprivations of incarceration impair the adjustment to community life. The main lines of research exploring how the experience of incarceration might influence reentry have focused on rehabilitative programs, prison violence and victimization, health, and prison conditions exemplified in their severity by solitary confinement.

Shifts in the Rehabilitative Project

US prisons were historically intended for two distinct purposes: to punish and to rehabilitate. At their origin in the nineteenth century, penitentiaries in the Northeast were designed for moral improvement, offering a humane alternative to the stocks, flogging, and the wide use of capital punishment (Rothman 2002b; Rotman 1998). By the early twentieth century, rehabilitation through work and education—components of what David Garland (2001) called “penal welfarism”—had become essen-

tial to good correctional practice (Rothman 2002a).

Support for rehabilitation was often unsteady within penal institutions and collapsed in the period of the prison boom. The abandonment of rehabilitation is often dated from the publication of Robert Martinson’s review of correctional programming in the 1970s (Lipton et al. 1975) and his subsequent appearance on *60 Minutes* (Cullen 2013). During the episode, Martinson remarked that the rehabilitation programs “simply have no fundamental effect on the recidivism rate of people who go through . . . the system” (quoted in Cullen 2013, 327). Doubts about the effectiveness of rehabilitation were echoed a few years later in a report by the National Research Council (Martin et al. 1981).

The rejection of correctional programming in the 1970s was followed by another shift in research consensus in favor of rehabilitation two decades later. A modern theory of rehabilitation emerged that emphasized changing opportunities, behavior, and peer groups. Education and work programs—the mainstays of prison programming for a century—gained theoretical support from life course criminology that found that stable jobs provided structure and routine in daily life and diverted workers from peers who themselves may be involved in crime (Laub and Sampson 2003; Sampson and Laub 1993; Uggen 2000). Parallel to academic currents, correctional researchers and practitioners developed a theory of rehabilitation that emphasized principles of risks, needs, and responsivity (MacKenzie 2006, chap. 4). In this framework, treatment was to be focused on those at highest risk of recidivism, tailored to “criminogenic need” addressing the traits most closely connected to crime, and programs should aim to modify characteristics that are responsive to change. Antisocial attitudes and behaviors and criminally involved peers are predictive of crime, and these have emerged as targets for case management and behavioral health programs.

Do modern rehabilitation programs reduce recidivism and improve social integration? Gerald Gaes and his colleagues (2000, 361) summarized the new consensus after Martinson: “Most correctional treatments for adult prison-

ers probably have modest positive effects.” Rehabilitation programs, they say, have larger effects for adolescents rather than adults, and community programs have larger effects than programs in prison. Work and education programs were often found to be associated with reduced recidivism (Bozick et al. 2018; Gaes et al. 2000). For example, a review of correctional program evaluations by the Washington State Institute for Public Policy shows that basic education, GED programs, post-secondary education, and correctional industries all pass a cost-benefit test, and the effects are especially large for post-secondary education (Bitney et al. 2017; on work and vocational programs, see Nur and Nguyen 2023; on prison GED programs, see Tyler and Kling 2007). These results are vividly illustrated in qualitative accounts of model programs, such as the Bard Prison Initiative, that provides post-secondary education in prison (Lagemann 2011).

Although the new consensus rallied behind rehabilitation, the field offers few well-powered randomized trials. In one of the rare randomized experiments that includes educational programming in prison (along with cognitive behavioral therapy, drug and alcohol treatment, case management, and post-incarceration support), one-year rearrest rates were lower (63 versus 72 percent), but employment outcomes were similar for treatment and control subjects (Cook et al. 2015). Behavioral interventions, such as cognitive behavioral therapy or motivational interviewing, are also associated with reduced recidivism. The US Department of Justice’s CrimeSolutions website, for example, classifies both kinds of interventions as “promising,” meaning they are supported by “moderate quality evidence with statistically significant average effect sizes” (National Institute of Justice 2023).

In an area of evaluation that often struggles with program fidelity and research design, the case for rehabilitation has been buttressed by meta-analysis that pools together large numbers of (often imperfectly designed) studies. Whatever the value of meta-analysis, it does consistently find that deterrence is less effective than rehabilitation at reducing recidivism. “Interventions that are punitive—that emphasize deterrence, discipline, or surveillance—

have weak . . . effects on recidivism,” writes Francis Cullen (2017, 248).

Despite evidence of the positive effects of programs, policymakers of the 1980s and 1990s largely rejected rehabilitation and adopted incapacitation and deterrence as the main goals of penal policy. The rejection of rehabilitation is captured in figures on prison program participation from the Survey of Prison Inmates (formerly called the Survey of Inmates of State Correctional Facilities). Survey data from 1991 indicate that only a minority of people in state prison participated in drug, education, or vocational programs (table 2). By 2016, participation rates in all these areas had fallen by 20 to 35 percent. Prison jobs are more widely available than rehabilitative programs and two-thirds of survey respondents were involved in work assignments or employment programs in 1991. Participation in work programs by 2016 had fallen by about 25 percent. Declines in program participation were reported across all racial groups. Similar trends in program participation are reported by Phelps (2011) and Reich (2024).

The decline in prison programming had clear implications for reentry. As Faye Taxman and her colleagues (2014, 51) observe: “It is necessary for correctional programming to be spread throughout the correctional system. . . . A routine regime of treatment and programming is more likely to produce positive outcomes than programming that is rare or offered to few individuals within a prison or correctional setting. Essentially, what happens inside prison will affect what happens in the community; the result being that mass incarceration will have a long-term impact on offenders, their families, and communities.” Declines in program participation and the turn from rehabilitation reflected a deeper shift in the philosophy of correctional policy. Rehabilitation has a symbolic component, signaling society’s commitment to compassion and an individual’s capacity for change. Rehabilitation announces that we are “a civilized nation. . . . We are capable of turning our collective cheek in hopes of effecting redemption” (Cullen 2013, 308). Hopes for redemption dimmed during the prison boom, and many rehabilitative programs were shuttered.

Table 2. Percentage in State Prison Participating in Rehabilitative Programs, by Race and Ethnicity, 1991 and 2016

	All	White/Other	Black	Latino
1991 Survey of Inmates of State Correctional Facilities (N = 9562)				
Drug programs	31.1	29.5	31.8	32.2
Education	38.4	36.4	38.6	41.6
Vocational training	24.3	23.0	24.7	26.0
Work	67.3	68.4	68.3	62.6
2016 National Inmate Survey (N = 9968)				
Drug programs	19.6	25.8	14.1	15.4
Education	29.1	24.7	32.8	32.1
Vocational training	20.5	20.0	23.0	18.0
Work	51.6	55.9	49.2	46.7

Source: Authors' calculations.

Note: Survey questions vary slightly across survey years. For each program area, respondents are asked if they have ever participated in a program since prison admission. To ensure a consistent reference period, we include in the tabulations only respondents admitted within three years of the survey.

In sum, support for the rehabilitative mission of the prison has fluctuated with penal policy. Research evidence suggests that prison programs can have modest effects on reducing rearrest and re-incarceration in the years after prison release. Still, support for rehabilitation declined with the punitive turn in criminal justice policy. Survey data indicate that only a minority of incarcerated people are enrolled in the main categories of rehabilitative programs, and prison program participation declined from 1991 to 2016.

The Warehouse Model and Prison Violence

While US prisons offer little support for rehabilitation, there is evidence that incarceration can be actively harmful. When prison populations were growing rapidly and overcrowding became persistent in many states, researchers described prisons as warehouses, operating chiefly as storage units for prime-age men from poor communities (Lynch 2009; Phelps 2011 discusses commentary on the warehouse prison). The loss of programs and ensuing inactivity, overcrowding, and the influx of new and younger prisoners have all been associated with violence in prison.

Violence, fear of violence, and victimization

have been major concerns of prison researchers. Predatory violence where the strong exploit the weak, gang rivalries, management failures and disorder, and the self-regulation of trade in drugs and other contraband have all featured in discussions of prison violence. The salience of violence in prison life is reflected in the high levels of vigilance among incarcerated people reported in field studies. Gresham Sykes (1958, 78), in his classic study of New Jersey State Prison from the 1950s, describes the loss of security as one of the “pains of imprisonment” that “arouses acute anxiety” in a “tense and fearful existence.” Analyzing interviews with nine hundred respondents incarcerated in New York’s maximum-security prisons, Hans Toch (1977) finds the safety of the prison environment to be a dominant concern. Prison environments that feel dangerous and unpredictable create an “explosive” climate of “tension” (Toch 1977, 38–50). Craig Haney (2006, 172–73) summarizes the behavioral impact in which fear can lead to social withdrawal, hypervigilance, a tough exterior, and flat affect as incarcerated people try to avoid conflict.

Despite the well-documented salience of violence in prison life, accurate measurement is extraordinarily challenging. Estimates of the

levels of violence in prison have relied on official misconduct data, self-reported victimization in survey studies, and reports of injury and death compiled by health officials. Bias in measurement, particularly the underestimation of violence, is deeply rooted in the power relations of incarceration. Although authority is pervasive in prison, custody staff are collectively distrusted, and violence is actively hidden and underreported. Official misconduct data are widely regarded to grossly underestimate true levels of prison violence (Bottoms 1999, 222; Cooley 1993), and where comparison is possible, self-reported victimization can exceed rates of official misconduct by a factor of ten or more (for example, Bottoms 1999). The power structure of the prison also distorts self-reports in surveys. Underreporting is likely where victimization elicits shame or embarrassment, as it may in the congressionally mandated surveys of sexual violence under the Prison Rape Elimination Act (PREA). When the Department of Justice adopted national standards for reporting and investigating sexual violence in prison, self-reported sexual victimization in PREA surveys increased threefold (Rantala 2018). In his fieldwork, Bruce Western (2018) finds that formerly incarcerated survey respondents speak more readily about violence in prison after they are released than while incarcerated. Injury surveillance systems and prison grievances offer alternative data collection strategies that, like self-reports, indicate higher levels of violence than indicated in official misconduct records (Butler and Kariminia 2006; Calavita and Jenness 2015). Butler and colleagues (2024) synthesize data collection methods in their account of a multi-strategy approach that combines information on institutional infractions, incident reports, and interviews with staff and incarcerated people.

Despite obstacles to measurement, and the pressures for downward bias, published rates of prison violence routinely exceed estimates of community violence. Levels of sexual violence self-reported in prison surveys are ten to one hundred times greater than the rates from community surveys (Western 2021, 107). Prison misconduct rates (themselves a significant underestimate) have been found to exceed community-based self-reports of victimization

by a factor of five to ten, and non-firearm homicide victimization rates are twice as high in prison as in free society (Western 2021). In short, to the limited extent that rates of prison violence can be compared to community violence, evidence indicates substantially higher rates of violence in prison.

Does violent victimization affect reentry? Victimization studies find that depression, anxiety, post-traumatic stress, and suicidality are all more common among people with histories of child and adult victimization. Direct injury and disability, gastrointestinal, and cardiopulmonary problems are common physical health problems that follow violent victimization in the general population (Priester et al. 2016). In studies examining prison violence specifically, victimization is associated with post-release drug use, emotional distress, depression, and criminal offending (Hochstetler et al. 2004; Wooldredge 1999; Zweig et al. 2015).

In an institution organized around surveillance and control, whose staff are charged with the enforcement of order, violent victimization and protracted fears of violence are a common and harmful consequence of incarceration. Anxiety about violence is widespread in prison, safety is elusive, and victimization is common. There are relatively few studies on the impact of victimization after prison release, but the larger research literature on exposure to violence points to enduring physical and mental health effects.

Health and Health Care

Health in prison can also be negatively affected by exposure to, and the management of, disease. People at high risk of incarceration are, on average, in poor health. Housing a high-needs population, prisons are responsible for health care on a vast scale and deliver care with “often-dramatic variation” in quality and access to health services (Wildeman and Wang 2017). The impact of incarceration on health can be seen in studies of mortality and infectious disease. Mortality studies find clear evidence of race differences where, unexpectedly perhaps, Black men are at lower risk of death in prison than in the community. On the other hand, prison conditions facilitate the spread of infectious disease, notably including HIV and

tuberculosis (Rich et al. 2016), hepatitis, and most recently COVID-19 (Wang et al. 2020).

The health needs of the prison population are reflected in the high cost of correctional health care. As prisons grappled with escalating populations, the costs of health care in prison were also climbing. Data for the period from 2001 to 2015 show a broad increase in health care costs. California, the leader on correctional health expenditures, spent an average of \$21,848 on medical expenses per person incarcerated in state prison in 2015, compared to \$7,807 in 2001 (2021 dollars; Huh et al. 2017; Schiff et al. 2014). Growth in health care costs is related to a complex combination of factors including growth in the prison population, aging of the prison population, and rising health care costs in the wider community.

Even without population aging, incarcerated people are generally in poor health and have high needs for health care. Epidemiological data indicate three areas in which incarcerated people are in worse health than the general population: chronic conditions, infectious disease, and mental illness. Poor physical and mental health is often traced to persistent poverty over the life course and risky health behaviors such as needle use, heavy alcohol consumption, and smoking (Fazel and Baillargeon 2011). Researchers observe chronic conditions like hypertension, asthma, and arthritis at rates around 50 percent higher in prison than in the community (Binswanger et al. 2009; Fazel and Baillargeon 2011). Tabulations by Raphael and Stoll (2013) also show that the prevalence of serious mental illness such as bipolar disorder and psychotic conditions like schizophrenia are around five times higher in prison than in the general population. Estimates of substance use disorders in prison populations vary between around 10 and 50 percent (Fazel et al. 2017), greatly exceeding the availability of treatment (Belenko and Peugh 2005).

Despite the relatively high burden of disease, mortality rates in prison are not uniformly high. Standardized mortality ratios for White incarcerated men have been estimated at around 1.2, indicating an age-standardized mortality risk in prison about 20 percent higher than in the general population (Patterson 2010; Rosen et al. 2011). But standardized mortality

ratios for Black incarcerated men have been estimated at around 0.5, indicating a death rate for Black men in prison that is about half the death rate for those in the general population (see also Wildeman et al. 2016). Evelyn Patterson (2010) examines the contribution of violence to prison and community mortality rates and finds that the low prison homicide rate of Black men cannot explain the mortality gap between prison and community. Analysis of cause-specific mortality data for men incarcerated in North Carolina finds that the excess risk is associated with cardiovascular disease, cancer, and infectious disease (Rosen et al. 2011). Researchers speculate that access to health services during incarceration improves the everyday treatment of chronic conditions as compared to the quality of health care in free society (Patterson 2010; Rosen et al. 2011). Other characteristics of prison life such as regular meals and consistent housing may also help the management of chronic conditions.

Against evidence of reduced mortality, research shows that prisons have clearly harmed health through the transmission of infectious disease. High rates of HIV and hepatitis B and C have been widely documented in US prisons. Recent estimates indicate that HIV prevalence in prison exceeds community rates by a factor of three to five, and hepatitis B and C prevalence exceeds community rates by five to ten times (Bick 2007; Gough et al. 2010). Screening at prison intake suggests around 80 to 90 percent of cases were present before incarceration, with the remainder transmitted in prison, mostly through sexual activity and needle use. A related line of research examines outbreaks of infectious disease, focusing on the spread of tuberculosis, influenza, and varicella (Beaudry et al. 2020). Each of these infections is airborne and spread through aerosol transmission (droplets) and contact with surfaces. The congregate living areas, dining halls, and recreation areas that make up the physical plant of prisons facilitate the spread of airborne pathogens, particularly in overcrowded conditions. Population turnover raises the risk of both bringing infections in from surrounding communities and transmitting disease back to the communities from which the incarcerated population is drawn.

The significance of correctional facilities for the transmission of infectious disease was strikingly illustrated by the novel coronavirus pandemic. One of the best case studies of COVID-19 dynamics estimates the reproduction number, called in epidemiological models, in an unnamed county jail (Puglisi et al. 2021). The reproduction number quantifies the new infections associated with a single infected case. An indicates an outbreak where the prevalence of infection increases at an increasing rate. At baseline before an outbreak, the reproduction number is written, R_0 , and describes the speed at which an infection spreads. Testing for the novel coronavirus in the study jail continued for eighty-three days in 2020, providing daily measures of new infections. At the onset of the outbreak in the jail, was estimated at 8.23, meaning that a single person with the novel coronavirus infected eight others. At this reproduction rate, the spread of infection in the jail population was explosive (Puglisi et al. 2021).

Explosive COVID-19 outbreaks assailed prisons and jails throughout 2020 (Wang et al. 2020). According to the COVID Prison Project, one in five prisoners contracted COVID-19 during the first year of the pandemic (COVID Prison Project 2020; Schwartzapfel et al. 2020). Facilities such as Rikers Island jail, in New York City; Cook County Jail, in Chicago; and Marion Correctional Institution, in Ohio, suffered ferocious outbreaks that resulted in dozens of fatalities among staff and incarcerated people. The outbreaks also contributed to wider community spread. For example, one study finds that one in six of all COVID-19 cases in Chicago were linked to people who were detained and released from Cook County Jail (Reinhart and Chen 2020).

Like exposure to violence, the transmission of disease underscores the influence of an institutional environment that creates significant obstacles to social integration. We will see later how poor health, including substance use disorders, is associated with extreme health risks immediately after incarceration. While the prison delivers health care at great scale and cost—with evidence of success for at least fractions of the population—it contends with an unhealthy ecology that readily facilitates the spread of disease.

Solitary Confinement

Research on outcomes like prison violence and health suggests how prison conditions influence well-being. Prison conditions themselves have been a focus of study, exemplified by research on solitary confinement that provides the limiting case of penal severity and isolation (C. Haney 2018; National Institute of Justice 2016; Smith 2006). Solitary confinement is “a mainstay of prison management and control” (Shames et al. 2015, 28) and is widely used in its official purposes to punish misconduct, to control conflicts such as gang rivalries, and to protect those who are unsafe in the general prison population because of, say, youth or gender identity (Kapoor and Trestman 2016, 200). Solitary confinement typically involves incarceration in a cell for twenty-two or twenty-three hours each day with a brief time out for recreation or showers. Usually, people incarcerated in solitary confinements are restricted from having visits, making and receiving phone calls, or participating in programs. David Cloud and his coauthors (2015, 19) describe the physical space of a solitary confinement unit: “The typical cell is 60 to 80 square feet, with a cot, a toilet, a sink, a narrow slit for a window, and sometimes a small, molded desk bolted to the wall. In many facilities, cells have a steel door with a small slot for delivering meals. . . . Some solitary confinement units are nearly silent except for sudden outbursts; others subject prisoners to incessant cacophony of clanking metal doors, jingling keys, booted footsteps, and distressed voices reverberating off thick walls.”

The census of prison facilities, conducted by the Bureau of Justice Statistics, shows that the population incarcerated in solitary confinement increased from 3.0 percent of the total prison population in 1979 to 5.7 percent in 2005. In the 1980s and 1990s, the use of solitary confinement expanded with the proliferation of super-maximum security prisons that hold their entire populations under twenty-three-hour lockdown (Reiter 2016). A 2011–2012 survey of a national sample of the US prison population showed that 18 percent of respondents had been held in solitary confinement in the past year, and of those, about half were in isolation for thirty days or longer (Beck 2015). In

2015, the United Nations adopted minimum standards for the treatment of prisoners that prohibited “prolonged solitary confinement,” defined as a period greater than fifteen consecutive days. Solitary confinement in the United States regularly fails the international standard. In Pennsylvania, for example, the median period of solitary confinement is about twenty-eight days (Western 2021, 114). The use of solitary confinement is marked by disparities of race, age, and the recency of prison admission (Beck 2015; Simes et al. 2022). Racial disparity in solitary confinement and racial disparity in imprisonment combine to create high levels of penal isolation among Black men in the general population. Period prevalence estimates using state prison data from 2007 to 2018 show that around one in ten of all Black men in Pennsylvania have been held in solitary confinement by age thirty-two (Pullen-Blasnik et al. 2021).

Mental illness and solitary confinement are closely connected with evidence of causality flowing in both directions. Prisons hold people—many with significant physical, mental, and behavioral health problems—in a physical space that is often overcrowded, rule-bound, and managed by staff with broad discretion. People with mental illness may fail to respond to orders or have difficulty following prison rules. In some cases, they may act violently toward other incarcerated people or staff. Prison officials then respond to prisoners with mental illness “as they do to other prisoners who break the rules. When lesser sanctions do not curb the behavior, they isolate the prisoners in the segregation units, despite the likely mental health impact” (Metzner and Fellner 2013, 317). Several leading Eighth Amendment cases thus describe how solitary confinement becomes used for incarcerated people with high needs for mental health care.³

While mental illness is a risk factor for solitary confinement, psychologists also find evidence of psychological damage caused by solitary confinement (Arrigo and Bullock 2008; Kapoor and Trestman 2016). Clinical assessments of people in solitary confinement report prisoners’ being in a mental fog and having ob-

sessive thoughts, perceptual distortions, hallucinations, and other forms of distress (Grasian 2006; C. Haney 2018). Evidence for the negative effects of solitary confinement on mental health is especially strong for those who are in strict isolation for long periods and for those with prior mental illness (Arrigo and Bullock 2008).

A few observational studies, focused on recidivism, have investigated the relationship between solitary confinement and postprison outcomes. David Lovell and his colleagues (2007), analyzing data from Washington state, find significantly higher rates of subsequent felony conviction for those released directly from supermax confinement compared to state prisoners matched on demographic characteristics and criminal history. Daniel Mears and William Bales (2009) find similar results for supermax confinement in Florida. These findings are consistent with studies exploiting natural experiments that find that assignment to higher levels of prison security is associated with high rates of recidivism (Chen and Shapiro 2007; Gaes and Camp 2009). Few studies analyze broader measures of social integration, although mortality rates have been found to be significantly higher for former state prisoners who have been held in solitary confinement (Brinkley-Rubinstein et al. 2019).

In sum, research on rehabilitation programs, prison violence, health, and solitary confinement points to the harms of incarceration that create obstacles to integration after release. Correctional programs can be modestly effective, but relatively few incarcerated people are involved in programs, and program participation has been declining at least since the early 1990s. The weak rehabilitative environment accompanies a high risk of violent victimization, and trauma during incarceration may be a source of ongoing post-traumatic stress. Prisons also expose incarcerated people to high risks of infectious disease that create greater needs for health care after release. Finally, solitary confinement and other harsh prison conditions are common causes of psychological distress, especially for people with preexisting mental health problems.

3. *Madrid v. Gomez*, 889 F. Supp. 1146 (N.D. Cal. 1995); *Jones ‘El v. Berge*, 164 F. Supp. 2d 1096 (W.D. Wis. 2001).

THE LEGAL AND POLICY ENVIRONMENT

Beyond the prison, the pathway back to community is shaped by both the legal and policy environment and the social conditions of community life. Criminalization after prison release continues in a legal environment that imposes collateral consequences, and punishment continues through parole and probation supervision. More recently, the emergence of a reentry policy movement has aimed to reverse the negative effects of incarceration and assist community integration.

Collateral Consequences

Community return after prison is shaped by a legal environment that imposes restrictions on people with criminal records. These restrictions, known as “collateral consequences,” are typically established by state statutes and govern rights in a wide range of areas including employment, housing, health care access, social services, and voting. Collateral consequences are defined by the American Bar Association (ABA) as “a penalty, disability, or disadvantage, however denominated, that is imposed by law as a result of an individual’s conviction for a felony, misdemeanor, or other offense, but not as part of the judgment of the court” (American Bar Association 2018 citing the Court Security Improvement Act of 2007). Collateral consequences are sometimes applied to specific offense categories, such as convictions for violence or drug crimes, but they are typically attached to conviction status without reference to the facts of any specific case and are undecided by any judicial process. Instead, collateral consequences effectively institutionalize criminal stigma by designating those with convictions as undeserving of legal rights. Although collateral consequences are linked to a criminal record and not imprisonment, all formerly incarcerated people carry the burden of collateral consequences into the reentry process.

A large legal literature documents the variety and harms of collateral consequences that accompany release from incarceration (Chin 2011; O’Hear 2019; Olivares et al. 1996; Pinard 2010). Research on collateral consequences has focused on legal barriers that impair social inte-

gration by, for example, reducing employment opportunities, access to health care, or welfare benefits. We document collateral consequences and related statutory provisions that influence the reentry environment in seven main areas: an overall count of collateral consequences, employment restrictions including Ban-the-Box laws, health insurance coverage, eligibility for welfare benefits, identification documents at prison release, driver’s license suspension rules, and voting rights. Beyond the scope of this review, there are also other kinds of legal entanglement—for example, court-ordered child support or outstanding court fees—that create additional obstacles to social integration (L. Haney 2018; Harris et al. 2010).

State and federal collateral consequences have been documented in the National Inventory of Collateral Consequences. The inventory records roughly 44,000 collateral consequences. Most of these are in the areas of employment (19,334 collateral consequences) and occupational licensing (13,791). About half of all collateral consequences are mandatory—for example, by prohibiting business licenses for people with criminal records. Most of the remainder are discretionary or require criminal background checks. About three-quarters of collateral consequences are imposed permanently (US Commission on Civil Rights 2019). Most of these consequences are triggered by a felony conviction and nearly a quarter apply to a felony conviction of any kind (Umez and Gaines 2021, 4). The number of laws and regulations requiring criminal background checks increased through the 1990s and 2000s. The adoption of background check laws was unrelated to violent crime or incarceration rates but was regionally patterned: the laws were adopted at relatively high rates in the South and the West (McElhattan 2022).

Collateral consequences regulate employment by preventing employers from hiring or retaining workers with criminal convictions, by barring access to occupational licenses, and by restricting self-employment by prohibiting business licenses. Most restrictions apply to work in health care, the public sector, and education. Most employment-related collateral consequences apply broadly to “any felony” or

“any crime.” In thirty-three states, occupational licenses can be denied for an arrest, even if it did not lead to a criminal conviction (Sibilla 2020). Five states —Alabama, Alaska, Nevada, South Dakota, and Vermont—have wide bans on licenses that apply to all arrest records, without time limits or mitigation through programs or employment history, and without opportunities for appeal (Sibilla 2020, 1).

Since 2015, thirty-three states have either removed or limited licensing barriers for people with conviction histories, and fifteen states have blocked their licensing boards from denying licenses solely on the basis of moral turpitude provisions (Sibilla 2020). (Most states still use vague character criteria to deny licensing to the formerly incarcerated.) Even when explicit bans are dropped, formerly incarcerated people often struggle to pay fees for licenses or preparatory coursework (Umez and Pirius 2018). Touted as a model for other states, Indiana has implemented an overarching ban on denying a license based solely or partially on a criminal record. Indiana also bans consideration of arrest records and expunged records, prohibits discretionary character standards, and implements a five-year time limit on the consideration of any criminal history except for violent or sexual crime convictions (Sibilla 2020, 40). Applicants in Indiana can also appeal a license denial, placing the burden of proof on the state to provide clear and convincing evidence supporting its decision to deny a license.

In addition to statutory limitations on employment, employers have been found to widely use criminal background checks in hiring (Holzer et al. 2006). In response to the use of background checks, a civil rights organization called All of Us or None, led by formerly incarcerated advocates, launched a Ban-the-Box (BTB) campaign in Oakland, California, in March 2003. The campaign gave rise to a nationwide movement that successfully lobbied thirty-seven states and over 1,250 cities and counties to “provide applicants a chance at employment by removing conviction and arrest history questions from job applications and delaying background checks until later in the hir-

ing process” (Craigie 2020; Avery and Lu 2021, 2). By 2023, sixteen states had adopted statewide bans on criminal background checks at the initial job application, and many other jurisdictions had passed county or municipal bans or bans for public sector hiring. In 2016, United States Office of Personnel Management adopted Ban-the-Box rules for the federal government. The rules went into effect in March 2017 and delayed the point at which federal agencies could ask job applicants to provide criminal record information (Office of Personnel Management 2016). This rule was superseded in December 2021, when the Fair Chance to Compete for Jobs Act went into effect. The Fair Chance Act prohibits (with some exceptions) federal agencies and contractors from requesting the disclosure of criminal history record information before a conditional offer of employment.⁴ Like the federal legislation, state and municipal regulations do not completely prohibit criminal background checks in hiring but just delay the use of criminal record information beyond the first stages of the hiring process.

Several studies have assessed the effects of Ban-the-Box legislation but the empirical results are mixed (see Raphael 2021 for a review). Terry-Ann Craigie (2020), analyzing data from the 1997 cohort of the National Longitudinal Survey of Youth, reports difference-in-difference estimates showing increased public sector employment among workers with criminal convictions in counties with Ban-the-Box regulations. Showing similar results, Daniel Shoag and Stan Veuger (2021) report difference-in-difference estimates of the impact of Ban-the-Box laws in high-crime census tracts. Analyzing nationwide data, they find a 3 to 4 percent increase in employment and wages following the adoption of Ban-the-Box laws. Employment gains are particularly large in the public sector. Several studies report spillover effects where employers respond to restrictions on background checks by discriminating against minority job seekers in general (Agan and Starr 2018; Doleac and Hansen 2020), although several articles find no evidence of

4. Fair Chance Act, Pub. L. No. 116-92.

spillovers (Burton and Wasser 2024; Flake 2018; Rose 2021a).

Like the legislative activity around criminal background checks in employment, health care insurance coverage through Medicaid after incarceration has also been a leading area of policy reform. Under the “inmate exclusion policy” of the Social Security Act, federal Medicaid funds cannot be used for health services for adults and children in “public institutions,” including prisons.⁵ During incarceration, states can choose to either suspend or terminate Medicaid payments. From the point of view of reentry, Medicaid enrollment can be reactivated more quickly under suspension rather than termination, although even suspension can delay coverage for several months after prison release (Wang et al. 2020, 66–69). Policy consensus federally and across the states appears to be moving toward Medicaid suspension and facilitating Medicaid enrollment just prior to or at the point of prison release. In 2020, the National Academy of Sciences reported that just nine states terminated Medicaid during incarceration (Wang et al. 2020, 68). The 2018 SUPPORT for Patients and Communities Act prohibited Medicaid termination for young adults under age twenty-one and required eligibility redeterminations prior to release. California has received a waiver for the Medicaid coverage of incarcerated youth, and by 2022 fourteen other states had applied. In that same year, the Medicaid Reentry Act was introduced in the US Congress. The bill would extend Medicaid coverage to all incarcerated adults within ninety days from release. By 2022, twelve states had applied for demonstration waivers to drop the inmate exclusion policy and extend Medicaid coverage prior to prison release (Roach and Baseman 2022).

Eligibility for safety net transfer programs has also expanded for people with criminal records. The 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) imposed a lifetime ban on Supplemental Nutrition Assistance Program (SNAP) and Temporary Assistance for Needy Families (TANF) participation for anyone with a felony drug conviction. States could opt out of the ban, and

most states have modified or removed the prohibitions. By 2023, twenty-five states and the District of Columbia had opted out of bans on SNAP and TANF eligibility, and another four states had opted out of the SNAP ban and modified the conditions for TANF receipt. Another twenty states have modified the bans for both federal programs or just modified the ban for SNAP. Only South Carolina continues its full SNAP and TANF drug felony conviction ban (Love and Sibilla 2023).

The Government Accountability Office (2005) assessed the impact of the welfare bans finding that among those with felony drug convictions released from prison in 2001, about a quarter would otherwise have been eligible for SNAP and about 15 percent would have been eligible for TANF. Gustafson (2008, 672) reports that about 92,000 recipients were removed from the welfare rolls for drug convictions from 1997 to 2002.

To apply for jobs and housing and enroll in government programs, applicants often need to provide government identification. Most states are supposed to collect incarcerated people’s identification records (or at least ascertain where these records are held), such as Social Security cards, birth certificates, and drivers’ licenses. However, many people enter prison without access to these records or with expired documentation. Release procedures in some states provide identification documents before prison release. These state governments recognize that “access to official documentation, such as Social Security Cards, birth certificates and photo identification is critical to successful reentry” (New York Department of Corrections and Community Supervision 2022). Even with this acknowledgment, identification services during reentry vary widely across states, with only twenty states helping people obtain identification either at release or immediately after. Only four states—Mississippi, North Carolina, Nevada, and Wisconsin—specify the provision of drivers’ licenses, allowing people to immediately drive.

Drivers’ licenses are doubly important for the reentry process, by providing state identification and conferring a legal right to drive.

5. Social Security Act, 42 U.S.C. § 1905(a)(3)(A).

Formerly incarcerated people are at high risk of drivers' license suspension or revocation because of unpaid fines and court fees or prior arrests and convictions. In 2017, forty-three states and the District of Columbia suspended drivers' licenses because of unpaid court debt. In nineteen jurisdictions, suspensions were mandatory. Since then, twenty-four states and the District of Columbia have passed reforms to curb drivers' license suspension in response to advocacy efforts and investigative reporting into the effects of suspension practices (Hirsch and Jones 2021). Table A.6 describes these trends in more detail. Finally, legal restrictions on the right to vote represent a domain of collateral consequences that is closely connected to civic engagement after incarceration and has been an area of intense advocacy and contest in the political system (Manza and Uggen 2006). In most states, imprisoned US citizens have no right to vote, and a patchwork of felon disenfranchisement laws across the states variably restricts voting rights for those under community supervision or with prior convictions. A 2022 analysis estimates that 4.6 million Americans, or 2 percent of the voting age population, are ineligible to vote because of a felony conviction (Uggen et al. 2022). Laws restricting voting rights for criminal convictions originated in colonial times, although many contemporary voting bans date from the passage of the Fifteenth Amendment, ratified in 1870, that extended voting rights to Black citizens. Felon disenfranchisement laws passed after Reconstruction were specifically intended to suppress the voting rights of Black Southerners. The goal of racial exclusion was often touted in political debates about disenfranchisement in the post-Reconstruction period (Behrens et al. 2003). In 1901, for example, John B. Knox, president of the Alabama Constitutional Convention asked: "What is it that we want to do? . . . Why it is within the limits imposed by the Federal Constitution to establish white supremacy in this State. . . . The justification for whatever manipulation of the ballot that has occurred in this State has been the menace of negro domination" (quoted in Behrens et al. 2003, 571). In the modern era, perceptions of racial threat continue to drive support for felon disenfranchisement. Supporting the theory of racial

threat, analysis of the period 1950 to 2002 shows that the adoption of felon disenfranchisement law is closely related to the size of the non-White prison population.

Advocacy campaigns and ballot initiatives have generally expanded voting rights for people with criminal records over the last two decades. In 2023, New Mexico and Minnesota restored voting rights to citizens on parole while Virginia instead reverted to requiring people to apply for rights restoration on an individual basis (National Conference of State Legislatures 2023). In Florida, voters passed a 2018 ballot measure that was intended to restore the voting rights of roughly 1.4 million formerly incarcerated citizens in the state, an estimated one of every four Black men in Florida (data tabulation from The Sentencing Project 2022). However, the legislature severely restricted re-enfranchisement just months later by requiring full payment of court debts before rights restoration (Sanchez 2022). Florida Governor Ron DeSantis also established an election police unit, specifically targeting formerly incarcerated people for allegedly committing fraud by trying to vote (Rozsa 2023).

Voting rights today remain widely withheld from incarcerated and formerly incarcerated citizens. In twenty-one states, voting rights are revoked upon incarceration and at release citizens can reregister to vote. In another fourteen states, disenfranchisement extends at least throughout the period of probation or parole. States that disenfranchise during community supervision often require the payment of outstanding fines, fees, or restitution before voting rights are restored. Another eleven states impose an indefinite period of disenfranchisement or require some other additional action before someone with a felony conviction history can once again exercise their right to vote. In only three jurisdictions—Maine, Vermont, and the District of Columbia—is a right to vote sustained during incarceration. In the District of Columbia, this right was restored in 2020. Because sentencing in the district results in Federal Bureau of Prisons incarceration, voter registration information and ballots must be disseminated and collected in facilities across the country for incarcerated DC residents.

The landscape of collateral consequences

across fifty states shows strong regional variation (table 3; see tables A.1–A.7 for more detail). Ban-the-Box measures are concentrated in the Northeast. Western states widely allow motorists to keep drivers' licenses despite nonpayment of court fees. Northeastern and Western states commonly provide state identification at discharge from prison. Northeastern states are most likely to reinstate Medicaid and retain SNAP eligibility after prison release. Southern

states are more likely to deny voting rights to people with criminal convictions, as they have historically. Table 3 does not reflect a gradual movement to the liberalization of collateral consequences, particularly beginning in the 2000s. Medicaid and safety net programs have become more widely available, penalties for outstanding court financial obligations have been relaxed, and efforts to extend voting rights have been at least partially successful.

Table 3. The Policy Environment for Reentry, Fifty US States, 2023

	Statewide Ban-the-Box (1)	Keep Driver's License (2)	ID at Discharge (3)	Medicaid at Discharge (4)	Full SNAP Eligibility (5)	Full Voting Rights After Incarceration (6)	Reentry Score (7)
Northeast (mean reentry score = 3.4)							
Connecticut	Yes	No	Yes	Yes	No	No	3
Maine	Yes	No	Yes	No	Yes	Yes	4
Massachusetts	Yes	No	Yes	No	Yes	Yes	4
New Hampshire	No	No	No	Yes	Yes	Yes	3
New Jersey	Yes	No	Yes	Yes	Yes	Yes	5
New York	No	Yes	No	Yes	Yes	No	3
Pennsylvania	No	No	Yes	Yes	Yes	Yes	4
Rhode Island	No	No	Yes	Yes	Yes	No	3
Vermont	Yes	No	No	No	Yes	No	2
South (mean reentry score = 2.4)							
Alabama	No	No	Yes	No	No	No	1
Arkansas	No	No	No	Yes	Yes	Yes	3
Delaware	No	Yes	Yes	No	Yes	Yes	4
District of Columbia	Yes	Yes	Yes	-	Yes	No	-
Florida	No	No	No	Yes	No	No	1
Georgia	No	Yes	No	Yes	No	Yes	3
Kentucky	No	Yes	Yes	No	Yes	No	3
Louisiana	No	No	No	Yes	Yes	Yes	3
Maryland	Yes	No	Yes	-	No	Yes	-
Mississippi	No	Yes	No	Yes	Yes	No	3
North Carolina	No	No	Yes	Yes	No	Yes	3
Oklahoma	No	No	Yes	No	Yes	Yes	3
South Carolina	No	No	No	No	No	No	0
Tennessee	No	No	No	Yes	No	No	1
Texas	No	No	No	No	No	Yes	1
Virginia	No	Yes	Yes	Yes	Yes	Yes	5
West Virginia	No	Yes	No	No	Yes	No	2
Midwest (mean reentry score = 2.4)							
Illinois	Yes	Yes	Yes	Yes	Yes	Yes	6
Indiana	No	No	Yes	No	No	No	1
Iowa	No	No	No	Yes	Yes	No	2

Table 3. (continued)

	Statewide Ban-the-Box (1)	Keep Driver's License (2)	ID at Discharge (3)	Medicaid at Discharge (4)	Full SNAP Eligibility (5)	Full Voting Rights After Incarceration (6)	Reentry Score (7)
Kansas	No	No	No	No	No	No	0
Michigan	No	Yes	Yes	Yes	Yes	Yes	5
Minnesota	Yes	Yes	Yes	No	No	No	3
Missouri	No	No	Yes	No	No	Yes	2
Nebraska	No	No	Yes	No	No	Yes	2
North Dakota	No	No	No	No	Yes	Yes	2
Ohio	No	No	No	Yes	Yes	No	2
South Dakota	No	No	No	-	Yes	No	-
Wisconsin	No	No	Yes	No	No	No	1
West (mean reentry score = 3.2)							
Alaska	No	No	No	No	No	No	0
Arizona	No	No	Yes	Yes	No	No	2
California	Yes	Yes	No	No	Yes	Yes	4
Colorado	Yes	Yes	Yes	No	No	Yes	4
Hawaii	Yes	Yes	Yes	Yes	No	No	4
Idaho	No	Yes	Yes	No	No	Yes	3
Montana	No	Yes	Yes	Yes	No	No	3
Nevada	No	Yes	Yes	No	Yes	Yes	4
New Mexico	Yes	Yes	No	Yes	Yes	Yes	5
Oregon	Yes	Yes	Yes	No	Yes	Yes	5
Utah	No	Yes	No	No	Yes	Yes	3
Washington	No	No	No	Yes	Yes	No	2
Wyoming	No	No	Yes	No	Yes	No	2

Source: Avery and Lu 2021; Free to Drive Coalition 2024; National Conference of State Legislatures 2024b; research by authors.

Note: (1) includes public and private sector hiring; (2) retain driver's license despite fee nonpayment; (3) birth certificate, SSN, and state ID at release; (4) Medicaid reinstated after release; (5) SNAP eligibility despite drug conviction; (6) voting rights after incarceration while under sentence; (7) sum of yes responses.

Probation and Parole

Supervision, control, and an elevated risk of reincarceration continue after prison for those on probation or parole. The scale of community supervision has increased alongside the scale of incarceration, creating a secondary, community-based, system of penal control (Phelps 2020). Around 70 to 80 percent of all those leaving prison are released to the oversight of a probation or parole officer and remain at risk of returning to prison, not only for new crimes but also for violations of the conditions of release.

Probation and parole began as Progressive

Era reforms of the late nineteenth century that aimed to provide community-based support for people with criminal convictions (Rothman 2002a). Probation is a judicial function, assigned by a court at sentencing, while parole is an executive function determined by prison authorities during incarceration. In practice, probation and parole operate in similar ways, involving a period of community supervision managed by a probation or parole officer. Historically, community supervision was conceived as a kind of individualized case management where probation and parole staff would help with employment, housing, and other

supports needed for reintegration into society. Coinciding with the punitive turn in sentencing policy, probation and parole too became more punitive starting in the 1970s. Joan Petersilia (2003) describes a transformation in parole from social work to law enforcement in which the job of community supervision shifted from supporting reintegration to monitoring the compliance with conditions. Vincent Schiraldi (2023, 40) describes a similar “death of rehabilitation,” unfolding from the 1970s through the 1990s, in which “the rehabilitative ethic that probation and parole embodied ran headlong into this punitive shift, ushering in an era of rising caseloads and diminishing resources. Supervision agencies became either overtly punitive or, to a large extent, actuarial risk managers.”

The legal vulnerability of people on probation and parole is rooted in the legal conditions of release. Periodic surveys of standard parole conditions show a steady increase in new conditions from the early 1980s to the 2000s (Travis and Stacey 2010; Wiggins et al. 2022). Among the most common conditions are compliance with the law, reporting residence changes, restrictions on firearms, maintaining employment or programming, and regular reporting. Supervision has become more intrusive as drug testing, home visits and searches, and fee payment have become common since the 1980s (Travis and Stacey 2010; Wiggins et al. 2022).

The constraining force of conditions of release is amplified by case law that reduces the scope of Fourth Amendment protections against intrusions by police. Privacy protections conferred by the Fourth Amendment against searches and property seizures are denied to parolees, just as they are to incarcerated people.⁶ The Supreme Court has held that people on probation and parole are not extended privacy protections as other citizens would be, because “probation, like incarceration is a form of criminal sanction” and “parolees have [even] fewer expectations of privacy than probationers” (Congressional Research Service 2012 citing 483 U.S. 868 [1987]; *Samson v. California*, 547 U.S. 843, 850 [2006]). In these decisions, the Court treated probation and parole as more

akin to incarceration than freedom, rendering Fourth Amendment protections largely inapplicable to people on community supervision.

While there is little systematic evidence of the crime-reducing effect of probation or parole, several studies show how community supervision operates as a kind of recidivism trap, returning people to incarceration not for new offenses but for “technical violations,” noncriminal violations of the conditions of release. In 2022, 469,000 individuals were admitted to state or federal prison and about a quarter of those admissions, 112,000, were for violations of conditional release. A number of studies document the relatively high risk of reincarceration among parolees, where analysis aims to adjust for criminal history and involvement in crime (Harding et al. 2017; Rose 2021b).

The discretion involved in parole revocation raises the possibility of additional racial disparity and bias that exacerbate the large racial disparity in incarceration. Black probationers have been found to have relatively high rates of revocation but were less likely to be discharged early or to successfully complete the probation sentence, net of demographic characteristics, a risk score, and offense type (see also Olson and Lurigio 2000; Steinmetz and Henderson 2016; Vito et al. 2012). A detailed analysis of revocation in North Carolina by Evan Rose (2021b), found relatively high revocation rates among Black parolees who were unlikely to commit new crimes but were unable to pay supervision fees. An analysis of racial differences in probation revocation in Texas, Iowa, Oregon, and New York City from 2007 to 2010 found Black probationers experienced relatively high revocation rates in all jurisdictions, being 18 to 36 percent more likely to be placed in custody compared to White probationers (Jannetta et al. 2014). Between 20 and 49 percent of the observed racial disparity remained unexplained after researchers controlled for demographics, offense type, criminal history and other covariates. Similar results were obtained in the analysis of probation revocation from a large Southwestern state.

Conceived as a rehabilitative measure to provide community-based support for people

6. *Hudson v. Palmer*, 468 U.S. 517, 526 (1984).

with criminal convictions, community supervision became focused on monitoring compliance with a growing list of release conditions. The punitive character of parole is most clearly indicated by the increased risk of incarceration that also contributes to racial disparity in prison admissions.

The Reentry Policy Movement

In reviewing research on collateral consequences and community supervision, we find significant obstacles to social integration created by the process of criminalization and punishment, but we also see a liberalization of the reentry environment in the 2000s. These more recent policy shifts were part of a larger movement for reform that focused on the transition from prison to community to reduce the harms and perhaps the scale of incarceration.

By the early 2000s, support for rehabilitative programming had regained some momentum among policymakers and correctional practitioners. Programs for transition from prison to community became a focus of policy. Policymakers and scholars described the emergence of a “reentry movement” supported by government agencies, professional associations, and advocacy groups (Jonson and Cullen 2015; Travis 2007). Political opportunity for the proliferation of reentry programs at the state and local levels opened with a variety of federal initiatives that spanned Democratic and Republican presidential administrations. Under Bill Clinton, Attorney General Janet Reno urged the National Institute of Justice (NIJ) director, Jeremy Travis, to develop research and policy initiatives for people coming home from prison. NIJ subsequently sponsored the development of eight “reentry courts” and another five “reentry partnerships” between correctional agencies and community organizations.

Federal support for reentry policy went further under George W. Bush. In 2003, the federal government allocated \$110 million, across eighty-nine separate programs, in the Serious and Violent Offender Reentry Initiative (SVORI). SVORI programs were intended to reduce recidivism and improve employment, health, and housing. In his 2004 State of the Union address Bush spoke to the plight of peo-

ple leaving prison and proposed a new federal program:

In the past, we've worked together to bring mentors to the children of prisoners and provide treatment for the addicted and help for the homeless. Tonight, I ask you to consider another group of Americans in need of help. This year, some 600,000 inmates will be released from prison back into society. We know from long experience that if they can't find work or a home or help, they are much more likely to commit crime and return to prison. So tonight, I propose a four-year, \$300 million Prisoner Re-Entry Initiative to expand job training and placement services, to provide transitional housing and to help newly released prisoners get mentoring, including from faith-based groups. America is the land of second chances, and when the gates of the prison open, the path ahead should lead to a better life. (Quoted in Jonson and Cullen 2015, 533)

In 2007, Congress passed the Second Chance Act to provide federal funding for reentry programs. Since 2010, annual Second Chance funding has varied between \$60 million and \$100 million, supplementing state and local support for social services for formerly incarcerated people.

The breadth of community-based reentry programs was cataloged by the encyclopedic *Report of the Re-Entry Policy Council*, which listed thirty-five separate policy areas along with recommendations for best practices and a long list of exemplary programs around the country (Re-entry Policy Council 2005). Policy recommendations and programming spanned the areas of health care, housing, continuity of care, employment opportunities, identification and program enrollment, and dozens of other topics. By 2011, the Obama administration had convened a Federal Interagency Reentry Council that was charged with coordinating the work of twenty federal agencies in support of the federal reentry effort and funding at the state and local levels. Bipartisan support for reentry policy was matched by public opinion data showing large majorities in support of social services for people coming home from prison

(Jonson and Cullen 2015, 535–36). In the words of Joan Petersilia (2009, 255), reentry policy has had “staying power,” becoming institutionalized in correctional practice.

The reentry policy movement shifted the policy conversation around incarceration and provided new funding for reentry programs. Although public spending on incarceration still vastly exceeded the funding of reentry programs, support for reentry policy among elected officials softened the harsh rhetoric of the earlier tough-on-crime era. New programs and policies dulled the sharp edge of punitive excess in which incarceration was often intended to be severe and humiliating.

How much did the reentry policy movement change conditions on the ground for people who were leaving prison? Was recidivism reduced and social integration increased? It is difficult to answer this question in the aggregate. By the peak of mass incarceration in 2008, there was no national reentry policy but a vast piecemeal collection of public and private programs, some long-standing, some springing up with the influx of government funding. Some programs were mandated by courts or parole boards and imposed fees that were often paid to private vendors. Other programs were voluntary, offering support to those who asked. One window into the effects of large-scale reentry efforts is provided by three high-profile federally funded initiatives: SVORI, the Justice Reinvestment Initiative (JRI) supported by the Department of Justice’s Bureau of Justice Assistance (BJA), and the Project HOPE initiative that replicated a promising probation reform program from Hawaii.

Although fielded under the banner of a single policy initiative, SVORI consisted of eighty-nine separate reentry programs for people under age thirty-five who were convicted of serious violent crimes or who had long histories of repeated incarceration. Local programs received between \$500,000 and \$2 million in support of community-based social services for formerly incarcerated people who met the eligibility criteria. In many ways, SVORI represented the state of reentry efforts nationwide: highly decentralized and minimally funded. The aggregate effects of SVORI were assessed through an evaluation of thirteen sites. Pro-

gram participants were contrasted with a randomized comparison group in two sites and a matched group of program-eligible respondents in the remaining eleven. SVORI participants received relatively high levels of social services support in the areas of employment, education, skills training, transitional services, and service coordination. Evaluation results indicated small program effects, and in general no substantial differences were found between treatments and controls in the areas of housing, drug use, self-reported recidivism, or reincarceration (Lattimore and Steffey 2009).

The idea of justice reinvestment was originally motivated by research on the spatial concentration of incarceration and the identification of “million-dollar blocks.” Million-dollar blocks were small localities with high incarceration rates that accounted for millions of dollars in state prison budgets. Policy advocates Susan Tucker and Eric Cadora (2003) argued that crime and incarceration could be reduced by redirecting spending from incarceration to community investment in education, jobs, housing, and health care. The idea of redirecting savings from incarceration to communities was adopted by the JRI. Although not a traditional reentry program, JRI was part of a wave of reform that aimed to reduce the social costs of incarceration and perhaps reduce incarceration by increasing public spending on social programs. From 2007 to 2017, BJA in partnership with Pew Charitable Trusts and the Council of State Governments disbursed \$160 million and provided technical assistance in thirty-five states to support the justice reinvestment model. The federal implementation of JRI departed significantly from its conceptual origins as a strategy for community investment. William Sabol and Miranda Baumann (2020) write that the evolution of JRI “represented a marked shift in the emphasis of reinvestment away from place- and community-based offender management to a state-level strategy that emphasized improving corrections departments’ practices through expanded use of evidence-based programming.” Their review of the impact of JRI found no evidence for reduced incarceration. Indeed, non-JRI comparison states experienced slightly greater declines in incarceration than JRI states. Sabol

and Baumann (2020) also report that there were no systematic evaluations of the impact of JRI on crime or recidivism.

Project HOPE, or Hawaii's Opportunity Probation with Enforcement, was a court-based anti-recidivism program that emphasized deterrence for people on felony probation. First developed in Honolulu in 2004, HOPE focused on "swift and certain sanctions." HOPE probationers received random drug tests, and any violations resulted in immediate, but relatively short periods, of incarceration. HOPE was evaluated in a randomized trial, and probationers subject to swift and certain sanctions were found to have significantly fewer violations of their community supervision, fewer new arrests, and fewer days sentenced to incarceration (Hawken and Kleiman 2009).

Swift and certain principles caught the imagination of analysts and policymakers and have been influential for the correctional role in reentry policy. By 2014, these principles had been adopted in at least forty jurisdictions, and the conservative American Legislative Exchange Council developed model legislation for a "Swift and Certain Sanctions Act" (Duriez et al. 2014). One seasoned policy analyst wrote, "There aren't any magic bullets that can end America's continuing battle with crime and addiction. But HOPE comes closer than anything we've seen in a long time" (Adam Gelb quoted in Duriez et al. 2014, 57). In 2014, NIJ funded a replication study of HOPE in four other sites, in Arkansas, Massachusetts, Oregon, and Texas. Evaluation of the replication pooled samples across the sites and found that HOPE probationers were more likely to have violations and twice as likely to have drug violations despite a fivefold increase in drug testing. On recidivism outcomes, results were similar between treatments and controls. The evaluation team concluded "that there is little to support a conclusion that HOPE or HOPE-like programs will produce substantial improvements over PAU [probation as usual]" (Lattimore et al. 2018).

Although SVORI, JRI, and HOPE represent a small fraction of reentry policy efforts, their evaluations suggest the challenges faced by criminal justice policy in improving social integration after incarceration. SVORI, JRI, and

HOPE all struggled to fundamentally reorient the work of prison, parole, and related agencies or to develop programs that consistently reduced new arrests or incarcerations.

SOCIAL INTEGRATION AFTER INCARCERATION

The research we have reviewed so far examined the demography of reentry, conditions of imprisonment, and the legal and policy environment for community return. We now turn to research on several dimensions of social life that are both indicators and influences on social integration after incarceration. Social integration after prison has been defined as establishing community belonging by strengthening social ties and achieving material security (Western et al. 2015). Basic markers of well-being and social connection include family relationships, housing, employment and income, health, neighborhood conditions, and crime and recidivism. Research on reentry has examined each of these domains providing a rich picture of social life after incarceration.

Family

Family members have been found to provide the most immediate and substantial social support after incarceration (Berg and Huebner 2011; Harding et al. 2019; McKay et al. 2019; Western 2018). Families help their relatives who are coming home after incarceration by providing emotional support, material security, and network connections to employment and other opportunities. Family support is often foundational, promoting other kinds of social integration including employment (Sullivan 1989), stable housing (Sirois 2019), and desistance from crime (Sampson and Laub 1993). Although research focuses on the positive role of families in the reentry process, reuniting with family can nevertheless be marked by stress and conflict.

Many studies emphasize the temporal quality of reentry in which the first days and weeks after prison release are accompanied by feelings of anxiety, stress, and isolation among people leaving prison (Irwin 1970; Western et al. 2015). Called "the stress of transition" (Travis 2005) this period has been found to be associated with poor social integration months

after release. Emotional support from families counteracts the stress of transition. Emotional support describes the warm and affectionate interactions that can provide a sense of connectedness, affirmation, and safety that make a person feel valued and loved (Sugie and Augustine 2020; Cobb 1976). Research on stress and coping argues that emotional support contributes to esteem, well-being, and overall health (Cobb 1976; House et al. 1988). Positive emotional connection is often expressed in intimate household relationships for relatives who return to a family home after incarceration. Shared meals, everyday conversation, and ritual events, such as welcome parties, can commemorate the transition from prison to community as a return “home,” a place where one is valued and belongs (Western 2018).

Families also make important contributions to material well-being by providing housing and financial assistance after incarceration. For example, in a major study of reentry among Michigan parolees, conducted by David Harding and colleagues (2014), about 60 percent of the sample first resided with family after leaving prison. Most of the family members who provided housing were a generation older than their formerly incarcerated relatives. Typically, formerly incarcerated men and women (with a median age around thirty-four) lived with their parents and grandparents straight after prison. Another reentry study, the Boston Reentry Study, interviewed men and women in the year after prison release in Massachusetts and found that study respondents were similarly supported, mostly by mothers, older sisters, and grandmothers. Living in a private household with older family members conferred not just shelter but also meals, clothing, sociability, and safety that was generally unmatched by the institutional alternatives provided by shelters and transitional housing programs (Sirois 2019; Western et al. 2015). The intergenerational and gendered character of family support after incarceration suggests how the costs of reentry are unevenly distributed through family networks.

Although older family members are a staple of emotional and material support, research on family relationships after incarceration often focuses on children and romantic partners

(Braman 2004; Comfort 2008; Nurse 2002). This research has examined not the support received by formerly incarcerated parents but the levels of contact and support they provide to their coparents and children (Kane et al. 2015; Western and Smith 2018). Relationships between formerly incarcerated parents, children, and partners can be fraught or contentious (McKay et al. 2019). In the case of formerly incarcerated fathers, mothers can act as gatekeepers determining if and when fathers can have contact with their children (Edin and Nelson 2013). In the Boston Reentry Study, two-thirds of respondents reported having biological children, and about 40 percent reported being social parents, feeling like a mother or father figure to other children. Two main factors in the Boston study were closely correlated with contact between children and formerly incarcerated parents: multiple-partner fertility and stable housing. Where parents had children with several different partners, they likely had contact with children of just one partner. Where formerly incarcerated parents lived in shelters or rooming houses, they were also in less regular contact with their children. Parents who lived in private households—typically with mothers, aunts, grandmothers, and older sisters—were more likely to receive visits from their children, and contact with children was generally more consistent (Western and Smith 2018).

Relationships with children and the obstacles to reunification have been a significant theme in research on women’s reentry (Richie 2001). Family and intimate relationships have often been sources of serious violence in the lives of incarcerated and formerly incarcerated women, and life histories of victimization are often related to drug use and involvement in drug distribution (Chesney-Lind 2002; Haney 2010; Sered and Norton-Hawk 2014). The close relationships between domestic violence and criminal justice involvement have been observed particularly for Black women (Gross 2015; Jones 2004; Richie 2012). Researchers also describe the tenuous connections of incarcerated mothers to their children. In many cases, mothers had lost custody of their children prior to incarceration, and reestablishing relationships with children and a positive sense of oneself as a parent were a significant focus of reen-

try (Leverentz 2014). The limited availability of stable housing, treatment services, and the scrutiny of child protective services, however, all present obstacles to safely taking custody of children. As Beth Richie (2001, 379) writes in her study of reentry among mothers: “Most women note that their children’s suffering continues after their mother is released, and the issues related to custody of children, repairing relationships, parenting, and family reunification and stabilization are urgent and stressful. . . . Often the legal, practical, and emotional challenges are so overwhelming, that women and their children never resolve the damage caused by the ruptured relationships.”

Family support after incarceration varies with age. Reentry studies find that family support is more common for younger people in their twenties and early thirties. Isolation, time alone, and friendlessness is more common for those who are older, in their forties and fifties (Crawley and Sparks 2006; Sirois 2019; Western et al. 2015; Wyse 2018). For older men and women, qualitative research suggests that long histories of incarceration, substance use, and mental illness fray family ties and contribute to social isolation.

Findings of the supportive role of older relatives and uneven involvement with children underline the complex character of family connection after incarceration. Family relationships are at once a resource and a brittle social tie that is easily broken and difficult to restore. The complex structure of kin relations, housing insecurity, the vulnerabilities of poor health or addiction, and recidivism all present obstacles to nourishing the family relationships that indicate social integration. Despite these challenges, intergenerational family support remains a key source of material security and emotional reassurance immediately after incarceration.

Housing

Housing insecurity and criminal justice involvement are intimately connected. People without housing often conduct their private lives in public space and become subject to police scrutiny, risking arrest. Housing insecurity and homelessness are common after incarceration. Stephen Metraux and Dennis Culhane

(2004) followed a large cohort leaving prison in New York state for New York City from 1995 to 1998. Over a two-year follow-up period, 11 percent of the sample of 48,000 prison releasees stayed in the New York City shelter system. Consistent with the temporal character of reentry and the initial period of vulnerability, the likelihood of shelter use was highest in the first month after prison release. Housing insecurity, like family support, was age-graded, with men over age forty having the highest likelihood of shelter use. The rate of shelter use was also about 20 percent higher for Black men and women, compared to Whites and Latinos. Other studies also find a close relationship between shelter use, mental illness, and substance use disorders (Geller and Curtis 2011; Remster 2019). In this context, the shelter is not just an indicator of housing insecurity but also a marker of isolation for older men whose family relationships have often eroded owing to long struggles with addiction and illness.

Consistent with research on shelter use, both the Michigan and Boston reentry studies reported extreme levels of housing insecurity and residential mobility. In Michigan, parolees changed addresses 2.6 times a year. In Boston, only a fifth of the sample remained in the same residence through the first year after prison release, and half the sample moved three times or more (Sirois 2019). Amanda Geller and Mariah Curtis (2011), analyzing data on a disproportionately low-income sample of poor fathers with young children in the Fragile Families survey, report that the formerly incarcerated experience about twice as much housing instability as those who have never been incarcerated, controlling for age, race, and measures of human capital.

Rates of shelter use among formerly incarcerated people are much higher than in the general population, but only a relatively small fraction of people released from prison are in shelters on any given day. Around 70 to 75 percent of Michigan parolees were living in private households in the first six months after prison (Harding et al. 2013). Similarly, the Boston Reentry Study respondents were mostly living in private households with family and friends in the first year after prison release (Western et al. 2015).

Although formerly incarcerated men and women often live in private households, few live in their own independent households. In the Boston Reentry Study, in a sample of 122 men and women leaving state prison, none lived in their own independent housing in the year after prison. Besides the economic resources needed for independent living, landlords are reluctant to rent to tenants with criminal records (Leasure and Martin 2017). Discrimination based on a criminal record is not prohibited by the Fair Housing Act (FHA), but the Department of Housing and Urban Development (HUD) has recognized the adverse effects of this discrimination for people of color, which then does violate the FHA in cases of racially disparate impact (Department of Housing and Urban Development 2016).

Employment, Income, and Economic Well-Being

The first months after prison release are characterized by extreme economic hardship. Formerly incarcerated men and women experience high rates of unemployment and poverty and rely heavily on family support and safety net programs. Economic hardship after prison is closely correlated with a variety of other socioeconomic disadvantages. We have seen that incarceration is concentrated in highly disadvantaged communities, educational attainment in the prison population is very low, chronic health problems are common, incarcerated people often have little work experience, and many have histories of institutionalization prior to prison. Extreme socioeconomic disadvantage prior to incarceration helps explain extreme poverty and economic insecurity found by reentry studies in the first year or so after prison release. In considering economic well-being after prison, employment is often a major focus of research, but in social contexts of deep correlated disadvantage, employment is just one specific survival strategy among many.

The Michigan study of parolees offers a detailed picture of the patchwork of financial support and poverty-level incomes pieced together from families, social programs, and employment (Harding et al. 2014). Qualitative interviews with twenty-two respondents over a

three-year period from prison release showed that “over one-quarter experienced a trajectory of persistent desperation and struggle, experiencing frequent periods of homelessness and housing instability, relying on short-term measures such as social support and social services to meet their most basic needs, and never attaining the stability of resources needed to make ends meet on a day-to-day basis. About a third attained some degree of stability but intermittently experienced periods of desperation and struggle for survival” (Harding et al. 2014, 461).

Similar results indicating the importance of welfare payments and family support were found in the Boston Reentry Study, where employment earnings accounted for less than half of all incomes earned after prison. In Boston, the “analysis shows that most prisoners leave incarceration for poverty in which housing is often insecure and incomes are supplemented by government programs. In the struggle to obtain community membership, former prisoners rely on mothers, grandmothers, and sisters to play a caring role to feed, provide for, and house their kin, now in their twenties and thirties. For those in their forties and older, family ties have deteriorated, and the state becomes the supporter of last resort” (Western et al. 2015, 1540–41).

The Boston and Michigan reentry studies indicate the importance of public assistance for economic security, but few studies systematically examine social program participation at a national level. One analysis, by Brielle Bryan (2023), analyzes welfare benefit receipt among formerly incarcerated respondents in the 1979 cohort of the National Longitudinal Survey of Youth. Safety net programs can be divided into contributory social insurance programs, like Social Security Disability Insurance (SSDI) and unemployment insurance (UI), and means-tested benefits, like Supplemental Security Income (SSI) or the Supplemental Nutrition Assistance Program (SNAP), for recipients living at or near the poverty line. Benefits from social insurance programs require a history of earnings and program contributions. Because many formerly incarcerated respondents in the NLSY had little employment history, they received relatively higher total payments from the

anti-poverty programs, SSI and SNAP, but received less from social insurance programs like SSDI and UI whose payments are more generous.

While safety net programs provide a rudimentary level of economic stability, rising out of poverty after prison often depends on employment (Western 2018). Employment and its unequal distribution across the reentry population has been a major topic for research. Here researchers have focused on racial inequality and the impact of discrimination and social support (Lyons and Pettit 2011; Pager 2003; Western and Sirois 2019; Yang 2017). Much of the research in this area focuses on young men, whose labor market participation rates are highest upon reentry.

Employment has been a research focus, not only for its economic benefits, but for its wider social effects. Improved material well-being that comes with employment also offers pride and self-sufficiency (Leverentz 2014, 155–56; Western 2018, 83–90). The regular routines of a steady job and supervision in the workplace are sources of informal social control that reduce opportunities for crime. Thus, employment is also associated with reduced recidivism. In part because a stable job is associated with desistance from crime (Sampson and Laub 1993), steady employment has been viewed as “a critical dimension of successful prisoner reentry” (Baer et al. 2004).

Formerly incarcerated job seekers face at least three challenges to finding work (Western et al. 2001). First, there are significant deficits of human capital, health, and work experience that place formerly incarcerated job seekers at a disadvantage to those who have never been to prison. Second, incarceration can erode social network connections to job opportunities that are often important for access to skilled or stable employment. Third, the stigma of a criminal record, often discovered through background checks, can deter employers from hiring. A criminal record can signal dangerousness, dishonesty, and unreliability in the workplace and may expose prospective employers to liability for negligent hiring. These mechanisms help explain high levels of unemployment after incarceration and the low level of earnings when job seeking is successful (Apel

and Sweeten 2010; Grogger 1995; Kling 2006; Lyons and Pettit 2011).

Much of the research on earnings and employment after prison aims to estimate the effect of incarceration on the labor market. Reentry research aims to explain variability in labor market experiences among those who have been incarcerated. Here, a variety of studies find that the mechanisms for poor labor market outcomes can work differently across racial groups. The labor market disadvantage of formerly incarcerated people of color has been traced to intensified criminal stigma and weak network connections to employment. Devah Pager’s (2007a; Pager, Western, and Bonikowski 2009) audit studies in Milwaukee and New York City find that callback rates for White job seekers with criminal records are two to three times higher than for Black job seekers who present equivalent résumés. Pager (2007, 115) argues that a criminal record reinforces racial stereotypes and Black job seekers with criminal records face “an intensification of stigma.” The audit studies shows that personal interaction with employers in a job interview can moderate the negative effects of a criminal record, but White applicants are given greater opportunities for personal interaction than Black (Pager, Western, and Sugie 2009, 201–2). For the audit research, a criminal record compounds the disadvantages of race in the labor market.

While the audit method examines an anonymized labor market in which employer and job seeker are unknown to each other, qualitative field studies emphasize personal connections. Mercer Sullivan’s (1989) field research with criminally involved White, Black, and Latino youth in New York City finds steadier employment and higher pay among Whites by the time they reach their early twenties. Although Sullivan’s three study groups all had similar levels of education, and all had trouble at school, the White subsample came from families and neighborhoods that were more affluent and in which employment was abundant. Family connections to jobs were decisive for the young White men. Young men in the Black subsample had few social ties to employment. Latinos found work more easily than Black youth but were largely confined to low-wage manual jobs (see also Black 2010). Sullivan (1989, 103)

concludes that “personal networks, not human capital in the form of either education or work experience, accounted for most of the disparities between the neighborhood groups.” Sandra Smith (2007) similarly finds that network ties also shape employment opportunities after incarceration. In her analysis, Black men and women with prison records are more likely to seek work by themselves, and their family and friends are reluctant to recommend them. In the low-wage labor market where employers often rely on referrals, low-income Black job seekers with criminal records are disadvantaged by social networks that are uncooperative and distrustful.

Racial inequalities in employment for formerly incarcerated workers emerge in contexts in which discrimination and network effects have been observed more broadly in urban low-wage labor markets. Thus, William Julius Wilson (1996) describes the reluctance of employers to hire young Black men because of concerns about their reliability and honesty. Deirdre Royster (2003) in her study of young Black and White job seekers finds that Whites are more likely to be connected by teachers and older White men to steady, blue-collar jobs.

Economic life after incarceration is embedded in this larger racially differentiated structure of opportunities that confronts low-skill workers. The stigma and social network accounts of the economic disadvantage of Black and Latino workers after incarceration suggest a theory of compounded disadvantage in which racial inequalities in incarceration are amplified in the labor market after release (Lyons and Pettit 2011).

Evidence of this compounded disadvantage, or “racialized reentry,” was found in the Boston Reentry Study (Western and Sirois 2019). In the Boston study, half the sample were jobless in any given month and average earnings are well below the poverty level. Jointly modeling employment and earnings, Black and Latino respondents were found to have lower total earnings than Whites even after accounting for health, human capital, and criminal involvement. Indeed, White respondents had worse health and higher rates of drug addiction, so accounting for covariates increased the regression-adjusted race gap in earnings. In a

striking illustration of the effects of social support, nearly all the non-poverty employment was concentrated among a small number of White men who were employed in union jobs in the construction industry. In these cases, the men had union cards before incarceration and in many cases family members paid union dues while their relatives were incarcerated.

In sum, acute economic hardship typically follows incarceration, and researchers report high levels of poverty and joblessness in the years after prison release. Much of this appears related to disadvantages of schooling, health, criminal involvement, and institutionalization. Those leaving prison are thus reliant on family support and government programs. Employment also offers economic support, and here, race differences in social connections and criminal stigma tend to result in weaker employment outcomes for formerly incarcerated Black and Latino workers.

Health

Research on health status in prison showed a population burdened by high rates of chronic health conditions, exposure to infectious disease, and high levels of substance use disorders and serious mental illnesses. Health problems at the point of prison release create significant obstacles to social integration. Chronic pain and disability may prevent employment and contribute to family conflict, and serious mental illness may be associated with homelessness. Drug and alcohol use and long histories of addiction have been prominent obstacles to life stability in qualitative studies (Black 2010; Harding et al. 2014; Kirk 2020; Miller 2021; Richie 2001; Sampson and Laub 1993; Western 2018). Addiction is associated with chronic conditions (such as liver disease and arthritis), unemployment and homelessness, social isolation, and new criminal justice system contact.

Evidence of physical health problems and failures of health care after prison release are provided by studies showing high rates of hospitalization and mortality in reentry populations. Emily Wang and her colleagues (2013) analyzed a large sample of Medicaid administrative records including a subsample who were released from correctional facilities. Compared to all Medicaid recipients, those released from

prison were younger, more likely to be Black, and more likely to be eligible for Medicare because of physical disability. Formerly incarcerated Medicaid recipients were compared to unincarcerated recipients matched on age, other demographics, zip code, and disability status. The key outcome was hospitalization for an “ambulatory-care sensitive condition.” Such conditions tend to be chronic, preventable with primary care, and include, for example, diabetes, hypertension, asthma, bacterial pneumonia, and angina. In the formerly incarcerated sample, 1.4 percent were hospitalized in the first week after prison release compared to 0.6 percent in the comparison group. After ninety days, 8.3 percent of the incarcerated group had been hospitalized compared to 4.8 percent in the comparison group.

Acute health risks immediately after release from incarceration are also indicated in mortality studies. Ingrid Binswanger and colleagues (2009) analyzed data on a cohort released from prison in Washington state between 1999 and 2009. Linking prison data to death records from the National Death Index, 3.2 percent of the formerly incarcerated sample died at some point within an average 4.4-year follow-up period. Death rates were strikingly high in the first weeks after prison release. In the first week after release, the overall annual death rate was about 2,500 per 100,000, with about two-thirds of the fatalities due to drug overdose related to the use of pharmaceutical opioids. By the third week after prison release the overdose death rate had dropped to about 250 per 100,000. Very high rates of overdose mortality after prison release were also found in North Carolina data. Those data also showed relatively high mortality rates in the first year after prison release among those in solitary confinement (Brinkley-Rubinstein et al. 2019).

Physical and mental health problems are often analyzed separately, but studies of prison and reentry populations find that chronic conditions, chronic pain, and mental illness, including substance use disorders, often cluster together (Jahn et al. 2022; Link et al. 2019; Western and Simes 2019). Untreated comorbidities have been found to be associated with recidivism (Fahmy and Mitchell 2022; Link et al. 2019), suggesting the importance of primary

care and mental health services particularly in the period of acute risk immediately upon community return. Acute health risks immediately upon community return and clustering of health problems have led medical researchers to describe reentry as a significant health event that can have serious effects on the well-being of people leaving prison (Wang et al. 2013, 2017). The timing of severe health problems so soon after prison release also underlines the utility of Medicaid reforms that would provide health care coverage prior to release from incarceration.

Recidivism and Desistance

Renewed contact with the criminal justice system, measured by arrest or re-incarceration, has been a key focus of reentry research and policy. While repeat offending and criminal involvement over the life course have been longstanding interests of criminology, the emergence of reentry as a field of study raises the question of whether the circumstances of community return may themselves contribute to renewed involvement in crime. From this perspective, desistance from crime is just one of several interrelated indicators of social integration after incarceration (Rosenfeld and Grigg 2022). In this section, we briefly introduce statistics on rates of arrest and incarceration following release from prison. We then examine evidence linking the social context of reentry to recidivism.

National statistics on recidivism after release from state prison have been compiled in a series of studies conducted by the Bureau of Justice Statistics. The most recent study provided a ten-year follow-up analysis of a sample of state prisoners released in 2008 (Antenangeli and Durose 2021). Ten years after release from prison, 82 percent of the sample had been rearrested at least once. The highest rates of rearrest were recorded by younger people (89.5 percent for those under twenty-four compared to 74.5 percent for those aged forty and older). The data also indicate a racial disparity where Black and Native prison releasees were rearrested at somewhat higher rates (85.6 and 84.7 percent) than Whites and Latinos (80.2 and 78.9 percent). Patterns of re-incarceration are simi-

lar, and about 61 percent of the those in the recidivism study sample returned to prison within ten years. Notably, statistics on re-incarceration include those who returned to prison on probation and parole violations, and not just those who were convicted for new offenses. Re-incarceration for violations underscores a basic limitation of research on recidivism: while arrest and incarceration statistics are interpreted to indicate new criminal activity, they also reflect the work of surveilling and sanctioning by police and parole officers.

A major challenge for research on recidivism involves distinguishing crime from criminalization. Although researchers often treat arrest and incarceration as measures of criminal behavior, criminal activity is rarely directly observed, and few studies examine the relationship between crime and post-incarceration police contact. The distinction between crime and criminalization raises methodological challenges for the measurement of crime that have been examined extensively in criminology (Huizinga and Elliott 1986; Junger-Tas and Marshall 1999). Official records as a source of information on offending face several limitations in the study of reentry. Formerly incarcerated people often return to disadvantaged communities where policing tactics can be intensive, creating frequent contact with local residents (Stuart 2016; Travis et al. 2012). A few articles on “system avoidance” show that formerly incarcerated people are strongly concerned by the possibility of police contact; this concern leads to avoiding institutional settings like schools and hospitals where police may be encountered (Brayne 2014; Haskins and Jacobsen 2017; for a discussion of policing and reentry see Travis et al. 2012). Some direct evidence on crimeless criminalization is provided by parole research on technical violations that find that around a third of revocations are for rule violations without a related arrest (Rosenfeld and Grigg 2022, 21). Police stops, searches, and parole revocations are also high-discretion decisions that may be affected by racial bias or statistical discrimination (Western et al. 2023, 66–75, 182–84). Criminalization, as distinct from crime, may be a relatively larger component of measured recidivism statistics for Black and Latino men and women, although there is

little research directly on this question. Even if arrest and incarceration are, at best, noisy measures of new criminal activity, they have been found to be systematically related to several key conditions of reentry. Stable employment and family relationships have been associated with low rates of recidivism. Steady jobs and stable marriages are also seen as major steps along the life course in theories of criminal desistance.

The links between employment and reduced recidivism have been observed with a wide variety of research designs. Perhaps the leading study that integrates a theory of criminal desistance with empirical evidence on employment is provided by Robert Sampson and John Laub (Laub and Sampson 2003; Sampson and Laub 1993). Sampson and Laub reexamined case records on juvenile delinquency originally collected by Sheldon Glueck and Eleanor Glueck from a sample of White working-class boys living in the Boston area in the 1930s. The Gluecks’ data consisted of two independently drawn samples, one from a population of “persistent delinquents,” aged ten to seventeen incarcerated in the Massachusetts juvenile correctional system. The second sample of nondelinquents, also White males aged ten to seventeen, were drawn from Boston public schools where the respondents were matched by age, race, neighborhood, and measured intelligence. Interview and administrative record data was collected up to age thirty-two, and additional follow-up efforts culminated in interviews with surviving respondents at age seventy. With this long follow-up period, criminal desistance could be studied over the entire life course in a sample with substantial involvement in the adult penal institutions. Stable employment was argued to provide informal social control that monitored conduct, routinized social life, and invested community roles and values in men with histories of institutionalization (Sampson and Laub 1993, 140–43). Incarceration entered the analysis as a sample restriction, limiting analysis only on reform school respondents, and as a control variable, indicating adult incarceration. Regressions at ages seventeen to twenty-five, and twenty-five to thirty-two showed that respondents with stable jobs were less likely to be arrested.

Later observational studies have replicated the finding in formerly incarcerated samples of the association between stable employment and relatively low rates of rearrest and reincarceration (Berg and Huebner 2011; Lockwood et al. 2012; e.g., Tripodi et al. 2010). Researchers have also studied the impact of local labor market conditions on recidivism, finding that employment and wage growth are associated with reductions in recidivism (Agan and Makowsky 2023; Schnepel 2020; Yang 2017). A limitation of the observational research, however, is that criminal involvement may undermine a steady attachment to the labor market. More generally there may be other factors, such as untreated addiction or propensity to antisocial behavior, that cause both unemployment and arrest. Employment and recidivism may be correlated, but the relationship may be spurious, resulting from the influence of unobserved behaviors.

The relationship between employment and recidivism has also been studied through the evaluation of reentry employment programs. Where people coming out of prison are randomly assigned to jobs or employment services, we can assess the causal effect of employment on recidivism, controlling for the influence of confounding variables (for a review of program evaluations, see Western 2008a). Rigorous randomized evaluations offer some support for the effect of transitional jobs on reducing recidivism, but results are often mixed or apply only to experimental subgroups (Bloom 2010; Visher et al. 2006). From 1975 to 1979, the National Supported Work Demonstration provided low-wage manual jobs in construction, light manufacturing, and public works for twelve months, and participants in the experiment were followed for three years. Among parolees in the sample, rearrest was significantly reduced by transitional employment, but this effect was found only among parolees over the age of twenty-six (Uggen 2000). In another randomized trial, the Center for Employment Opportunities (CEO) provided low-wage transitional jobs and job readiness training to men and women released from prison and living in New York City. Participation in CEO was associated with a reduction in arrest rates over a three-year follow-up period. These effects

were largest for those who entered the program within three months of prison release (Redcross et al. 2012). A common result running through all evaluations of employment-based programs is the generally weak employment effects and the very low wages of formerly incarcerated men and women, regardless of whether they were employed in subsidized jobs (Cook et al. 2015). Jennifer Doleac's (2023) comprehensive literature review concludes that mixed results for employment and related income-support programs may reflect the low economic value of program wages and the possibly negative effects of peer influence.

Observational studies find a stronger relationship between employment and desistance than the experimental program evaluations, but employment in observational studies is often quite different from employment in transitional jobs programs. Sampson and Laub (1993) emphasize that desistance is not the result of employment by itself but the informal social control of job stability that often accompanies long-term employment in skilled work. Qualitative studies have also emphasized the importance of access to skilled jobs obtained through referrals from family members (Black 2010; Sullivan 1989; Western 2018). These kinds of jobs, and the social control they provide, is very different from short periods of minimum-wage unskilled work that is typical of transitional jobs programs. In short, it is not employment by itself but the kind of employment and the larger social context in which it is embedded that may be most important for desistance. From this perspective, reentry research finds that employment is common after prison release, but it is more common in low-wage, secondary labor market jobs (Harding et al. 2019, 178–88) that provide little informal social control and do relatively little to provide and affirm a full and positive social role in one's community.

The second major life course milestone associated with criminal desistance is a stable marriage. Like research on employment, evidence for the recidivism-reducing effect of marriage is provided by a large body of observational research. Laub and Sampson's (2003) interviews with formerly incarcerated elderly men point to marriage as a turning point in the

life course that promotes criminal desistance. Prospective studies also report a strong association between marriage and desistance (Kendler et al. 2017; King et al. 2007; Sampson et al. 2006; Warr 1998). The relationship between marriage and desistance is stronger for formerly incarcerated men than women. Deeper explorations of the association suggest it is not marriage by itself but the quality of social bonds that draw people out of criminally involved networks that are important. The challenges of causal inference are also substantial in observational studies of marriage, and researchers have examined within-person changes and selection on observables through matching designs (Sampson et al. 2006).

Marriage has been a focal point for research on desistance, yet, as we saw in the discussion of family support, reentry research indicates that social support and the strongest social bonds after incarceration are provided not by romantic partners but by older female relatives. A few studies have examined how broader family networks are associated with recidivism. The Urban Institute's Returning Home study reported a positive relationship between family support and reduced re in the Chicago site, but this was not replicated in Baltimore (La Vigne et al. 2004; Visser et al. 2004). Mark Berg and Beth Heubner (2011), analyzing state parole data, find lower rates of rearrest among those with family support. The relationship is largely explained by higher rates of employment in the group with supportive families. A few studies suggest that family support, and emotional support in particular, works in gendered ways with the largest recidivism-reducing effects for women (Taylor 2015).

Like employment and family ties, neighborhood environments are closely connected to the transition from prison to community and are important sources of informal social control that can contribute to criminal desistance. Prison admissions and releases are highly spatially concentrated in a small number of neighborhoods characterized by high rates of poverty, crime, and racial segregation (Sampson 2012; Simes 2021). Spatially concentrated poverty, unemployment, and racial segregation, along with other markers of disadvantage, have been found to weaken informal monitoring of

public spaces, undermine daily routines, and erode helping behaviors for people in trouble. These neighborhood environments also provide a criminogenic context to which people return from prison (Morenoff and Harding 2014).

Several studies have tried to assess the impact of neighborhood environment on reentry and recidivism (see the review by Morenoff and Harding 2014). Analyses at the census tract and county level have found higher rates of rearrest, parole violation, and re-incarceration in localities with higher levels of poverty, unemployment, and other measures of disadvantage (Hipp et al. 2010; Kubrin and Stewart 2006; Mears et al. 2008; Yang 2017). In one of the few studies to exploit quasi-experimental variation in neighborhood conditions, David Kirk (2020) followed parolees from New Orleans whose reentry was relocated because of the destruction of housing by Hurricane Katrina. Those who were relocated were significantly less likely to return to prison after eight years than those who remained in their old New Orleans neighborhood. Kirk (2020, 71) attributes part of the difference in outcomes to improvements in local economic conditions. The remainder he attributes to a break with a "criminogenic past" that includes social networks and opportunities for crime in the old neighborhood.

Recent research on safety net policies also suggests that the social policy environment likely influences recidivism. We saw that following the 1996 welfare reform, states varied significantly in extending SNAP and TANF eligibility to applicants with drug convictions. Medicaid coverage also varies across states for people released from prison. A burgeoning body of research shows that safety net programs reduce crime and arrest rates. For example, Jessica Simes and Jaquelyn Jahn (2022) exploit state variation in Medicaid coverage in their study of arrest trends in expansion and non-expansion counties. They find that Medicaid expansion through the Affordable Care Act is associated with a 20 to 30 percent reduction in the violent arrest rate, and a 25 to 40 percent lower rate of drug arrests. Similar findings are reported in other studies focused on state and longitudinal variation, and additional evidence suggests that expanded treatment for substance use disorders is one channel connecting

health care coverage to reductions in crime and arrests (He and Barkowski 2020; Vogler 2020; Wen et al. 2017). Manasi Deshpande and Michael Mueller-Smith (2022) studied the criminal involvement of young people who lost eligibility for Supplemental Security Income (SSI) at age eighteen following the 1996 welfare reform. They found that continuing SSI payments reduced the number of criminal charges by 20 percent over the following two decades. Similar results have been reported for SNAP, where recidivism increased following the loss of eligibility as a result of the 1996 welfare reform (Jácome 2022; Tuttle 2019). Although these studies do not specifically examine the effects of social programs on reentry, they are suggestive of how alleviating poverty and poor health can prevent crime and arrest.

In sum, the reentry process—involving unemployment and economic insecurity, contentious relations with former partners, and returns to old neighborhoods—carries many of the risks of new criminal involvement, rearrest, and re-incarceration. Conversely, stable employment, family relationships, and supportive neighborhood and policy environments are associated with reduced rates of arrest and criminal involvement.

CONCLUSION

Research on the transition from prison to community highlights the kernel significance of incarceration as a social policy intervention: it is segregative, severing the social bonds of community life. The segregative character of incarceration forms the foundation of a three-part conceptual framework for studying reentry. First, the core problem for reentry research is social integration—understanding how community belonging is established after incarceration. In part, community belonging depends on basic material security. The challenge of material security is formidable. Extreme poverty, housing insecurity, and poor health are well-documented for those returning to communities after incarceration. Social integration also depends on establishing strong social relationships to family and community institutions. Families provide significant support, but family relationships—particularly with partners and children—can be conflictual. Steady em-

ployment creates community connection, but unemployment rates are typically high in the first year after incarceration. Negative indicators of social integration—renewed involvement in crime, police contact, and re-incarceration—are also prevalent.

Second, family relationships and government safety net programs are key sources of social integration. Intergenerational kin networks, often based in family homes and buttressed by income transfers and health care, have provided a platform that over time has helped establish connections to employment and civic life. Means-tested programs like Medicaid, SNAP, and SSI have made significant contributions to social stability. Reentry research thus provides an account of resilience of individuals and families in the face of adversity. Still, the larger social context of socioeconomic disadvantage creates obstacles to successful reentry. Projects of social integration often unfold in perilous contexts of neighborhood poverty and racial exclusion.

Third, social integration is undermined by criminalization and punishment. Criminalization is a kind of official labelling in which criminal records, as Reuben Miller (2021, 159) writes, “announce shame and danger and one’s propensity for violence and grift. . . . They declare risk.” Punishment describes the pains imposed through incarceration and community supervision as a consequence of criminalization. Criminalization and punishment are disintegrative, straining the social bonds of family and community life. Criminal records confer a stigma of moral inferiority and dangerousness. Incarceration is a banishment whose impact is intensified by harmful prison conditions.

Punishment and criminalization do not end with a prison term but instead continue into the community and run through the process of reentry. Reentry begins with imprisonment. The overwhelming demographic reality of imprisonment is its concentration in poor communities, particularly low-income Black and Latino communities. In the mass incarceration period, 20 to 30 percent of Black men had been to prison and returned to their communities. At peak incarceration, around two-thirds of Black men without a high school diploma experienced imprisonment and reentry. Punish-

ment in the form of incarceration regularly went beyond the deprivation of liberty to include dangerous prison conditions, ripe with risks of sexual assault and other violent victimization, infectious disease, and severe isolation in solitary confinement.

After prison release, a legal and policy environment often institutionalized criminal stigma by limiting access to licensed occupations, social programs, and voting rights. For most people leaving prison, supervision continued under the management of probation and parole officers. Regular drug testing, supervision fees, supervision appointments, and home visits continued under a regime of oversight that elevated risks of re-incarceration.

Beyond this three-part conceptual framework, similar findings across many domains suggest four empirical generalizations about the reentry process. First, in the temporality of returning home, the first days and weeks after incarceration are a period of severe social instability and vulnerability. Housing insecurity is acute, poverty is extreme, health care needs are often unmet, and the risks of drug overdose and mortality are highest. Social integration grows over time, underscoring the period immediately after release as a key time for policy intervention.

Second, reentry is age-graded, and social integration is weakest particularly for older men and women who are released in their forties or later. Older people experience the greatest social isolation and receive the least family support. Many are entirely reliant on institutional housing in transitional housing and shelter and rely on government programs for income. Given the aging of prison release cohorts, the problem of social isolation is significantly greater than two decades ago.

Third, the reentry process is historically variable. In the 1990s and early 2000s, prison conditions became more severe, and the post-prison policy environment was stigmatizing and punishing. In the last two decades since the early 2000s, changes in sentencing policy and low levels of crime have helped reduce incarceration and racial disparities. By 2022, the imprisonment rate had retreated from its 2008 peak by 30 percent. In roughly this same period, the cumulative risk of imprisonment for

Black men fell from 36 to 18 percent. Tough-on-crime policy was restrained by policy change propelled by advocacy groups, reform-minded administrators, and bipartisan coalitions of elected officials. The reentry policy movement helped bring about a “change in tone” in crime policy discourse that was less punitive and dehumanizing (Travis 2007). Collateral consequences were reduced, social program eligibility expanded, and a reentry policy movement began to create a consensus around supporting the health and material security of people leaving prison. Some changes, such as mandated behavioral programming, may be unlikely to greatly moderate the criminalization and punishment at the core of mass incarceration. But other changes, such as the expansion of health care coverage, could significantly reduce hardship. Prison populations grew continuously for over three decades to reach peak incarceration. Incarceration decline has lasted little more than a decade, so the prevalence and harms of incarceration remain extensive, and the future of penal policy is uncertain.

Finally, and significantly, research indicates the clear importance of incarceration and reentry for racial inequality. Despite declines in the racial disparity in incarceration, length of stay in prison and rates of solitary confinement are higher for Black men and women compared to White men and women. Incarceration is less rehabilitative and the policy environment of community return is more punitive in Southern states where Black incarcerated populations are largest. Black parolees face higher risks of revocation and the penalties of criminal stigma on the labor market appear larger for Black men. The neighborhood conditions of community return are also more challenging for Black men and women coming home from prison. In short, the connection of reentry to racial inequality goes beyond the racial disparity in incarceration; Black men and women experience a more punishing version of incarceration and supervision, and reentry is embedded in a wider social context of racial inequality that creates larger barriers to social integration after prison in Black communities. Racial inequality in reentry is a type of compounded disadvantage where preexisting socioeconomic disadvantages are magnified

through the process of incarceration and release.

We see several directions for future research to better understand the links between reentry, poverty, and racial inequality. First, research on prison conditions—violence and victimization in particular—rarely examines post-incarceration experiences. With prison violence so prevalent, trauma and physical injury seem likely influences on social integration. Compare studies of military demobilization where combat experiences, post-traumatic stress, disability, and moral injury are central to explaining community return. A parallel project on reentry would also help contribute to a sociology of trauma, investigating how exposure to violence and other harm is shaped by social context. Second, reentry research indicates age differences in social integration, yet there is no systematic life course account of community return. Indeed, survival analysis of recidivism, employment, and other outcomes essentially sets the clock to zero at prison release. A more systematic perspective on the life course would help distinguish the experiences of younger people, who often retain family connections, present better health, and actively seek employment. Older people are more socially isolated after prison and bring long his-

tories of institutionalization to the reentry process. As the prison population ages, a life course perspective can help correct a youthful bias in research on reentry cohorts that are increasingly middle-aged. Variation in prison experiences and age of reentry suggests two key explanations of variation in reentry experiences. These avenues for future research underscore the large importance—for social science understanding and policy—of explaining pathways out of socioeconomic disadvantage following prison release.

A fundamental paradox of mass incarceration is that imprisonment on a vast scale eroded the social bonds of family and community on which safety ultimately depends. In the era of mass incarceration, the social experience of poverty and racial inequality wended its way through the prison yard, parole offices, and the collateral consequences of felony conviction. Reentry research documents the many ways in which the intimate connections of kin, neighborhood, and civic life get torn apart by criminalization and punishment. Safety in the aftermath of incarceration involves repairing the disintegrative effects of criminalization and punishment and establishing, for those who have been punished, the web of social connections and support that hold social life together.

Table A.1. 2023 Collateral Consequences of a Criminal Conviction, by State

State	Consequences	State	Consequences
Alabama	830	Montana	527
Alaska	610	Nebraska	633
Arizona	800	Nevada	784
Arkansas	987	New Hampshire	955
California	1620	New Jersey	1068
Colorado	659	New Mexico	579
Connecticut	605	New York	1261
Delaware	755	North Carolina	965
District of Columbia	601	North Dakota	533
Florida	1057	Ohio	1630
Georgia	970	Oklahoma	1108
Hawaii	414	Oregon	987
Idaho	566	Pennsylvania	879
Illinois	1416	Rhode Island	500
Indiana	757	South Carolina	708
Iowa	611	South Dakota	448
Kansas	577	Tennessee	902
Kentucky	729	Texas	1450
Louisiana	1279	Utah	639
Maine	489	Vermont	314
Maryland	990	Virginia	825
Massachusetts	797	Washington	986
Michigan	905	West Virginia	800
Minnesota	584	Wisconsin	651
Mississippi	864	Wyoming	465
Missouri	643		

Source: Justice Center 2023.

Table A.2. 2023 Employer Ban-the-Box Policies, by State

State	Public Ban	Private Ban
Alabama	Select jurisdictions	
Alaska		
Arizona	Statewide	
Arkansas	Select jurisdictions	
California	Statewide	Statewide
Colorado	Statewide	Statewide
Connecticut	Statewide	Statewide
Delaware	Statewide	
District of Columbia	Statewide	Statewide
Florida	Select jurisdictions	
Georgia	Statewide	
Hawaii	Statewide	Statewide
Idaho		
Illinois	Statewide	Statewide
Indiana	Statewide	
Iowa	Select jurisdictions	Select jurisdictions
Kansas	Statewide	
Kentucky	Statewide	
Louisiana	Statewide	
Maine	Statewide	Statewide
Maryland	Statewide	Statewide
Massachusetts	Statewide	Statewide
Michigan	Statewide	
Minnesota	Statewide	Statewide
Mississippi		
Missouri	Statewide	Select jurisdictions
Montana		
Nebraska	Statewide	
Nevada	Statewide	
New Hampshire	Statewide	
New Jersey	Statewide	Statewide
New Mexico	Statewide	Statewide
New York	Statewide	Select jurisdictions
North Carolina	Select jurisdictions	
North Dakota	Statewide	
Ohio	Statewide	
Oklahoma	Statewide	
Oregon	Statewide	Statewide
Pennsylvania	Statewide	Select jurisdictions
Rhode Island	Statewide	Statewide
South Carolina	Select jurisdictions	
South Dakota		
Tennessee	Statewide	
Texas	Select jurisdictions	Select jurisdictions
Utah	Statewide	
Vermont	Statewide	Statewide
Virginia	Statewide	
Washington	Statewide	Statewide
West Virginia		
Wisconsin	Statewide	
Wyoming		

Source: Avery and Lu 2021.

Table A.3. 2023 Status of Medical Service Eligibility for Incarcerated People, by State

State	ACA Expansion	Medicaid Suspension— Jails	Medicaid Suspension— Prisons	Automatic Reinstatement	Waiver of Exclusion
Alabama	No	Yes	No	No	No
Alaska	Yes	Yes	Yes	No	No
Arizona	Yes	Yes	Yes	Yes	Pending
Arkansas	Yes	Yes	Yes	Yes	No
California	Yes	Yes	Yes	No	Yes
Colorado	Yes	Yes	Yes	No	No
Connecticut	Yes	Yes	Yes	Yes	No
Delaware	Yes	Yes	Yes	No	No
District of Columbia	Yes	Yes	Yes	N/A ^a	No
Florida	No	Yes	Yes	Yes	No
Georgia	No	Yes	Yes	Yes	No
Hawaii	Yes	Yes	Yes	Yes	No
Idaho	Yes	No	No	No	No
Illinois	Yes	No	Yes	Yes	No
Indiana	Yes	Yes	Yes	No	No
Iowa	Yes	Yes	Yes	Yes	No
Kansas	No	No	No	No	No
Kentucky	Yes	Yes	Yes	No	Pending
Louisiana	Yes	Yes	Yes	Yes	No
Maine	Yes	Yes	Yes	No	No
Maryland	Yes	Yes	Yes	Not reported	No
Massachusetts	Yes	Yes	Yes	No	Pending
Michigan	Yes	Yes	Yes	Yes	No
Minnesota	Yes	Yes	Yes	No	No
Mississippi	No	Yes	Yes	Yes	No
Missouri	Yes	No	No	No	No
Montana	Yes	Yes	Yes	Yes	Pending
Nebraska	Yes	Yes	Yes	No	No
Nevada	Yes	No	No	No	No
New Hampshire	Yes	Yes	Yes	Yes	Pending
New Jersey	Yes	Yes	Yes	Yes	Pending
New Mexico	Yes	Yes	Yes	Yes	Pending
New York	Yes	Yes	Yes	Yes	Pending
North Carolina	Yes	No	Yes	Yes	No
North Dakota	Yes	Yes	Yes	No	No
Ohio	Yes	Yes	Yes	Yes	No
Oklahoma	Yes	No	No	No	No
Oregon	Yes	Yes	Yes	No	Pending
Pennsylvania	Yes	Yes	Yes	Yes	No
Rhode Island	Yes	Yes	Yes	Yes	Pending
South Carolina	No	Yes	Yes	No	No
South Dakota	Yes	Yes	Yes	Not reported	No
Tennessee	No	Yes	Yes	Yes	No
Texas	No	Yes	Yes	No	No
Utah	Yes	No	No	No	Pending
Vermont	Yes	Yes	Yes	No	Pending
Virginia	Yes	Yes	Yes	Yes	No
Washington	Yes	Yes	Yes	Yes	Pending
West Virginia	Yes	Yes	Yes	No	Pending
Wisconsin	No	No	No	No	No
Wyoming	No	Yes	Yes	No	No

Source: Authors' research.

Note: N/A: Washington, DC, has a jail but no prisons. Automatic reinstatement policies only apply to people in state prisons.

Table A.4. 2023 Social Service Eligibility for People with Conviction Histories, by State

State	SNAP	TANF
Alabama	Modified ban	No ban
Alaska	Modified ban	Modified ban
Arizona	Modified ban	Original ban in place
Arkansas	No ban	No ban
California	No ban	No ban
Colorado	Modified ban	Modified ban
Connecticut	Modified ban	Modified ban
Delaware	No ban	No ban
District of Columbia	No ban	No ban
Florida	Modified ban	Modified ban
Georgia	Modified ban	Original ban in place
Hawaii	Modified ban	Modified ban
Idaho	Modified ban	Modified ban
Illinois	No ban	No ban
Indiana	Modified ban	Modified ban
Iowa	No ban	Modified ban
Kansas	Modified ban	Modified ban
Kentucky	No ban	No ban
Louisiana	No ban	No ban
Maine	No ban	No ban
Maryland	Modified ban	Modified ban
Massachusetts	No ban	Modified ban
Michigan	No ban	Modified ban
Minnesota	Modified ban	Modified ban
Mississippi	No ban	No ban
Missouri	Modified ban	Original ban in place
Montana	Modified ban	Modified ban
Nebraska	Modified ban	Original ban in place
Nevada	No ban	No ban
New Hampshire	No ban	No ban
New Jersey	No ban	No ban
New Mexico	No ban	No ban
New York	No ban	No ban
North Carolina	Modified ban	Modified ban
North Dakota	No ban	No ban
Ohio	No ban	No ban
Oklahoma	No ban	No ban
Oregon	No ban	No ban
Pennsylvania	No ban	Modified ban
Rhode Island	No ban	No ban
South Carolina	Original ban in place	Original ban in place
South Dakota	No ban	No ban
Tennessee	Modified ban	Modified ban
Texas	Modified ban	Original ban in place
Utah	No ban	Modified ban
Vermont	No ban	No ban
Virginia	No ban	No ban
Washington	No ban	No ban
West Virginia	No ban	Original ban in place
Wisconsin	Modified ban	No ban
Wyoming	No ban	No ban

Source: Authors' research.

Table A.5. 2023 Release Document Policies, by State

State	Birth Certificate	Social Security Card	State ID
Alabama	Yes	Yes	Document Assistance
Alaska	No	No	State ID
Arizona	Yes	Yes	Temporary ID
Arkansas	No	No	No
California	No	Yes	ID Card
Colorado	Yes	Yes	ID Card
Connecticut	Yes	Yes	Document Assistance
Delaware	Yes	Yes	Document Assistance
District of Columbia	Document Assistance	Document Assistance	Document Assistance
Florida	Yes	No	ID Card
Georgia	No	No	ID Card
Hawaii	Yes	Yes	Document Assistance
Idaho	Yes	Yes	Document Assistance
Illinois	Yes	Yes	ID Card
Indiana	Yes	Yes	Document Assistance
Iowa	No	No	No
Kansas	No	No	Temporary ID
Kentucky	Document Assistance	Document Assistance	State ID
Louisiana	No	No	No
Maine	Yes	Yes	ID Card
Maryland	Document Assistance	Document Assistance	Temporary ID
Massachusetts	Yes	Yes	ID Assistance
Michigan	Yes	Yes	Prison ID
Minnesota	Yes	Yes	ID Card
Mississippi	No	No	ID Card
Missouri	Yes	Yes	Document Assistance
Montana	Yes	Yes	Prison ID
Nebraska	Yes	Yes	ID Card Opportunity
Nevada	Yes	Yes	ID Card
New Hampshire	No	No	No
New Jersey	Document Assistance	Document Assistance	Temporary ID
New Mexico	No	No	No
New York	Yes	No	Temporary ID
North Carolina	Yes	Yes	ID Card
North Dakota	No	No	No
Ohio	No	No	No
Oklahoma	Yes	Yes	ID Card
Oregon	Document Assistance	Document Assistance	Document Assistance
Pennsylvania	Document Assistance	Document Assistance	Document Assistance
Rhode Island	Document Assistance	Document Assistance	Document Assistance
South Carolina	No	No	No
South Dakota	Document Assistance	Document Assistance	No
Tennessee	No	No	ID Card
Texas	No	No	ID Card
Utah	No	No	Temporary ID
Vermont	No	No	No
Virginia	Document Assistance	Document Assistance	Prison ID
Washington	No	Document Assistance	ID Card
West Virginia	No	No	No
Wisconsin	Document Assistance	Document Assistance	ID Card
Wyoming	Document Assistance	Document Assistance	Document Assistance

Source: National Conference of State Legislatures 2024a.

Table A.6. Suspension, Revocation, or Prohibition of Renewal of Drivers' Licenses for Failure to Pay, by State

State	Drivers' Licenses
Alabama	Suspends license for failure to pay
Alaska	Suspends license for failure to pay
Arizona	Partial/temporary reform
Arkansas	Partial/temporary reform
California	Does not suspend, revoke, or prohibit renewal for failure to pay
Colorado	Does not suspend, revoke, or prohibit renewal for failure to pay
Connecticut	Suspends license for failure to pay
Delaware	Does not suspend, revoke, or prohibit renewal for failure to pay
District of Columbia	Does not suspend, revoke, or prohibit renewal for failure to pay
Florida	Suspends license for failure to pay
Georgia	Does not suspend, with exceptions
Hawaii	Does not suspend, revoke, or prohibit renewal for failure to pay
Idaho	Does not suspend, revoke, or prohibit renewal for failure to pay
Illinois	Does not suspend, revoke, or prohibit renewal for failure to pay
Indiana	Partial/temporary reform
Iowa	Suspends license for failure to pay
Kansas	Suspends license for failure to pay
Kentucky	Does not suspend, revoke, or prohibit renewal for failure to pay
Louisiana	Suspends license for failure to pay
Maine	Partial/temporary reform
Maryland	Partial/temporary reform
Massachusetts	Suspends license for failure to pay
Michigan	Does not suspend, with exceptions
Minnesota	Does not suspend, revoke, or prohibit renewal for failure to pay
Mississippi	Does not suspend, revoke, or prohibit renewal for failure to pay
Missouri	Suspends license for failure to pay
Montana	Does not suspend, revoke, or prohibit renewal for failure to pay
Nebraska	Suspends license for failure to pay
Nevada	Does not suspend, revoke, or prohibit renewal for failure to pay
New Hampshire	Suspends license for failure to pay
New Jersey	Suspends license for failure to pay
New Mexico	Does not suspend, revoke, or prohibit renewal for failure to pay
New York	Does not suspend, with exceptions
North Carolina	Suspends license for failure to pay
North Dakota	Suspends license for failure to pay
Ohio	Suspends license for failure to pay
Oklahoma	Suspends license for failure to pay
Oregon	Does not suspend, revoke, or prohibit renewal for failure to pay
Pennsylvania	Suspends license for failure to pay
Rhode Island	Suspends license for failure to pay
South Carolina	Suspends license for failure to pay
South Dakota	Suspends license for failure to pay
Tennessee	Suspends license for failure to pay
Texas	Partial/temporary reform
Utah	Does not suspend, revoke, or prohibit renewal for failure to pay
Vermont	Partial/temporary reform
Virginia	Does not suspend, revoke, or prohibit renewal for failure to pay
Washington	Partial/temporary reform
West Virginia	Does not suspend, revoke, or prohibit renewal for failure to pay
Wisconsin	Suspends license for failure to pay
Wyoming	Partial/temporary reform

Source: Free to Drive Coalition 2024.

Table A.7. Restoration of Voting Rights for Felony Convictions, by State, 2023

Never Lose Right to Vote	Lost Only While Incarcerated	Lost Until Completion of Parole/Probation; Sometimes Fines, Fees, and Restitution	Lost Indefinitely or Requiring Additional Action
District of Columbia	California	Alaska	Alabama
Maine	Colorado	Arkansas	Arizona
Vermont	Connecticut	Georgia	Delaware
	Hawaii	Idaho	Florida
	Illinois	Kansas	Iowa
	Indiana	Louisiana	Kentucky
	Maryland	Missouri	Mississippi
	Massachusetts	North Carolina	Nebraska
	Michigan	Oklahoma	Tennessee
	Minnesota	South Carolina	Virginia
	Montana	South Dakota	Wyoming
	Nevada	Texas	
	New Hampshire	West Virginia	
	New Jersey	Wisconsin	
	New York		
	New Mexico		
	North Dakota		
	Ohio		
	Oregon		
	Pennsylvania		
	Rhode Island		
	Utah		
	Washington		

Source: National Conference of State Legislatures 2024b.

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Criminalization of Immigration



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This article presents a critical analysis of social scientific research from the past fifteen years on the criminalization of immigration in the United States. Our review reveals three central themes. First, although immigration law is considered federal civil law, immigration enforcement has become substantially intertwined with criminal law enforcement in ways that have broad-ranging and radiating effects on immigrant communities of color. Second, race plays an important bidirectional role in the increasing criminalization of immigration. Specifically, criminalizing immigration results in the racialization of certain immigrant groups as dangerous outsiders, and such racialization has the effect of sustaining and promoting the policies and practices that target or have a disproportionate impact on certain immigrant groups. Third, given the increased externalization of US immigration enforcement programs, the effects of the criminalization of immigration are not limited to the United States. Each of these dynamics operates across multiple sites and in various components of the immigration enforcement system to disproportionately affect immigrants racialized as non-White in the United States. We discuss the important gaps in research and policy implications that follow from our review.

Keywords: immigration enforcement, crimmigration, racialization, detention, deportation

This article presents a critical review and analysis of social scientific research from the past fifteen years on the criminalization of immigration in the United States. The criminalization of immigration broadly refers to the proliferating intersections of criminal law and immigra-

tion law, including the increasing role of criminal legal system actors in immigration enforcement and the expanded reliance on purportedly civil systems and structures that are deployed and experienced as punitive (Chacón 2021a; García Hernández 2021; Stumpf 2006).

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This development has resulted in a dramatic rise in federal criminal prosecution of immigration violations and a significant expansion of the type of criminal offenses that can trigger detention, deportation, and bars to reentry. Our review and analysis focus on the immigration scholarship that illuminates the direct and indirect ways that race shapes and sustains current US detention and deportation policies and practices. This scholarship also explores various ways that these policies and practices have generated and reproduced racial disparities and inequalities across time and space. An important insight from this body of research is the bidirectional role that race plays in the increasing criminalization of immigration. By bidirectional role, we mean that criminalizing immigration results in the racialization of certain immigrant groups as dangerous outsiders, and such racialization has the effect of sustaining and promoting the policies and practices that target or have a disproportionate impact on certain immigrant groups, particularly those from Mexico and Central America.

Understanding the criminalization of immigration and its impacts on communities of color is essential when studying the nature and consequences of the operation of the contemporary criminal justice system. As Sara Wakefield and Kristin Turney (2025, this issue) emphasize in their discussion of the rise of the carceral state in the United States, one defining feature of the modern criminal legal system is the spread of its carceral logic and practices into institutions that appear seemingly unrelated to the criminal justice system. Katherine Beckett and Naomi Murakawa (2012) have described the policy and institutional innovations that underlie this phenomenon as the “shadow carceral state.” The contemporary immigration enforcement system, including the asylum system, which relies on and perpetuates the criminalization of immigration, is a paradigmatic example of the shadow carceral state (see Ryo 2024). Therefore, a more complete and expansive understanding of racial disparities in criminal case processing and dispositions (see Bushway et al. 2025, this issue), policing (Dovidio and Solomon 2025, this issue), collateral consequences of contacts with the criminal justice system (Lee et al. 2025, this

issue), and reentry post-incarceration (Nahra et al. 2025, this issue) requires attending to complex issues related to the criminalization of immigration.

Our focus on research from the past fifteen years is timely and important for at least two reasons. First, the past decade and a half are a critical period of study for our understanding of the role of race in shaping the experiences and outcomes for immigrants in our criminal justice and immigration enforcement systems. Immigration law and policy in the United States have long histories of discrimination and exclusion based on race (Chacón 2022a; Chin 1998; Molina 2014; Ngai 1999). Yet, legal scholars and social scientists have critiqued migration scholarship as failing to grapple adequately with the influence of race on immigration law (Johnson 2000). In response, recent scholarship across multiple disciplines has examined how contemporary US immigration laws and policies continue to subjugate immigrants of color—particularly Latinos—even as these laws and policies have become facially race-neutral or “color-blind” (Aranda and Vaquera 2015; Douglas et al. 2015; Kibria et al. 2013; Vazquez 2015).

Another reason for our focus on the past decade and half is that it represents a unique moment in US enforcement policies and practices. This time period is defined by three key trends that have become the focus of a growing body of empirical scholarship. The first is the rise of immigration federalism, which refers to the devolution of decision-making authority from federal to state and local governments in the construction and enforcement of immigration law (Chacón 2019; Gulasekaram and Ramakrishnan 2015; Rodriguez 2017). Under this system, state and local law enforcement actors and institutions have come to play a central and ever-expanding role in policing and incarcerating immigrants in service of federal detention and deportation policies (Ryo and Peacock 2020). This development has raised important questions about the potential for bias and discrimination in interactions between the police and immigrants. For example, some studies find that federal-local law enforcement partnerships such as the 287(g) program promoted the rise of anti-immigrant ideology among local law enforcement officers (Donato and Rodrí-

guez 2014). Other studies explore the difficulty of proving racial profiling in this context and suggest that scholars focus on the problem of “racially discrepant” policing (Coleman and Kocher 2019).

The second important trend defining the past fifteen years is the increasing externalization of the US border. By externalization of the border, we mean the outsourcing of border enforcement to “sending and in transit countries at the request of the (more powerful) receiving states (e.g., the United States or the European Union) for the purpose of controlling the movement of potential migrants” (Menjívar 2014, 357). Although Mexico has been the key country through which the United States has expanded its border enforcement strategies beyond its territorial border (FitzGerald 2020; Frelick et al. 2016), in more recent years, US externalization policies and practices have extended into Guatemala, El Salvador, and farther south (Álvarez Velasco 2020; McGuire and Coutin 2013). These policies and practices have focused largely, and until quite recently almost exclusively, on deterring Central American migration, and the empirical studies that we review illuminate how US border externalization strategies shape, and are shaped by, the racialization of Central American migrants. By racialization, we mean the social process of attributing racial identities to a given group to exploit, exclude, and exert power over that group; this social process also entails efforts to construct racial categories to mobilize political responses to this exploitation and exclusion (see Gans 2017; Mora 2014; Omi and Winant 2014).

The third significant trend that characterizes this time period is the proliferation of immigration enforcement technologies that enable new forms of governmental surveillance, discipline, and control of immigrants. As Anil Kalhan (2014, 1) has noted, immigration control has rapidly become an “information-centered and technology-driven enterprise.” The type of technologies that have transformed the regime of immigration control in the past decade and a half include algorithmic risk assessment tools used in immigration custody determinations (Frankel 2023); electronic monitoring devices such as ankle bracelets that track immigrants released from immigration

detention (Marouf 2017); the Enforcement Integrated Database (EID), a case management system shared by several agencies within the Department of Homeland Security (DHS) (Muñiz 2020); and E-Verify, a biometric system that identifies whether an immigrant is eligible to work legally in the United States (Goldstein and Alonso-Bejarano 2017). Studies of technological advances that facilitate immigration enforcement show that they are often an invisible but powerful form of racialized control that intensifies the social and economic precarity of immigrant communities.

This article will begin with a background section that provides a historical overview of the criminalization of immigration in the United States. We will then briefly contextualize the US case by outlining parallel trends and developments in other parts of the world, including Canada, Australia, and the European Union. Next, the article will proceed with our critical analysis of the existing empirical research on the criminalization of immigration by focusing on five key areas. The first three sections will review and analyze social scientific studies that investigate the origin and operation of each of the three key trends we have noted: immigration federalism, externalization of the border, and immigration enforcement technologies. Taken together, these trends have generated a dramatic rise in the criminal prosecution of immigration crimes in criminal courts, as well as the civil prosecution of immigration law violations in immigration courts. Both phenomena are characterized by significant racial disparities. Thus, the fourth section examines empirical scholarship that investigates racial disparities in criminal and immigration court processes and outcomes. In addition, the impact of these trends on families—particularly families in Latino communities—has been devastating. Accordingly, the fifth section considers empirical studies that examine the effects of immigration enforcement on families. We conclude each of these five sections by highlighting the key policy implications that follow from our review of empirical studies in each of these bodies of research. Although our discussion of the literature is organized into five distinct sections, we hasten to note that

there are many intersections across these areas of research given that each relates to various dimensions of the broader enforcement landscape.

A few notes on terminology are in order before we proceed. First, we recognize that scholars use different terms, such as Latino/a, Latinx, and Hispanic, to describe individuals of Latin American origin. These terms have varying historical origins associated with shifts in the US government classification system, changes in self-identification preferences, and the rise of political activism by different groups (for a recent review, see Martínez and Gonzalez 2021). For consistency, we use the term *Latinos* throughout this article, except when we are discussing specific studies; in the latter instances, we follow the convention that the study authors use. For the purposes of discussing racial disparities and racial biases in this article, we treat *Latinos* as a non-White racialized minority.¹ We hasten to note, however, the continuing debate about whether *Latinos* constitute an ethnic category or a racial category and the analytical implications of deploying these terms in research. Some scholars construe *Latinos* as a racial category to draw attention to the racialization process that results in their subordinated status in the US racial hierarchy (see, for example, Vélez and Peguero 2023). Other scholars argue that treating *Latinos* as a racial category can render groups such as *Afro-Latinos* invisible (see, for example, Katerí Hernández 2021) and obscure the continuing salience of skin tone stratification within *Latino* communities (see, for example, Monk 2021). Throughout this article, we underscore the importance of understanding both the racialization process and the ways that racial labels can homogenize diverse popula-

tions and further subordinate marginalized subgroups.

Second, we are mindful that individuals working in media, government, and academia, as well as members of the public, have used different terms with varying degrees of frequency to describe individuals without legal documentation in the United States. These terms have generated debate and controversy (see, for example, De Genova 2002; King 2021; Kopan 2018; Guskina 2013; Núñez 2013), as well as scholarship on how the use of these terms might shape people's attitudes toward immigrants and immigration (see, for example, Callister et al. 2021; Hoops and Braitman 2019; Merolla et al. 2013; Nelson and Davis-Wiley 2018). For the purposes of this article, we generally refer to non-US citizens lacking legal authorization to be in the United States as *undocumented immigrants*.²

Finally, we underscore the importance of recognizing the power of classification systems that generate and naturalize certain group labels. A growing number of scholars have highlighted the centrality of state-created categories in producing and reproducing inequality and stratification, and the ways that inequality and stratification in turn normalize and legitimate the existence of those same state-created categories (see, for example, Massey 2007; Menjívar 2023). Likewise, there can be a cyclical and mutually reinforcing dynamic between state-created categories and social-scientific inquiries. As Cecilia Menjívar (2024, 935) has argued, "Using state categories at face value to make our work legible to others, especially as we collect data, amplifies the power of state classifications. When we use state-created categories to collect and organize our data and then compare the profiles of the people the state classi-

1. The racial category of "White" (as with all other racial categories) has always been "contingent, changeable, partial, inconstant, and ultimately social" (Haney López 2006). The US Office of Management and Budget (OMB) used to define "White" as "a person having origins in any of the original peoples of Europe, the Middle East, or North Africa" (US Census Bureau 2022). However, in March 2024, the OMB published a new definition of "White" as "individuals with origins in any of the original peoples of Europe, including, for example, English, German, Irish, Italian, Polish, and Scottish" (US Census Bureau 2024). According to the OMB, "people who identify their origin as Hispanic, Latino, or Spanish may be of any race" (US Census Bureau 2022, 2024). Reflecting the fluidity of *Latino* identity, the self-identification of the Hispanic or *Latino* population as "White" alone decreased from 47.4 in the 2010 Census to 17.6 in the 2020 Census (US Census Bureau 2023).

2. Although under the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15), "immigrant" is a term of art that has a specific narrow legal meaning, we use this term more broadly in this article to refer to non-US citizens.

fies as undocumented, refugee, or ‘regular’ immigrants, we provide scientific evidence that the individuals the state sorts into those categories are, in fact, inherently different.” Thus, we emphasize the need to adopt a critical perspective on not only the group labels themselves but also the state-created categories that give rise to those group labels and how those categories might be shaping the scholarship that we review in this article.

BACKGROUND

To set the broader context for our review of empirical scholarship on the criminalization of immigration, we begin by briefly tracing the historical developments and contemporary trends relating to the increasing intersection of criminal law and immigration law that some scholars have labeled “crimmigration” (see, for example, Beckett and Evans 2015; Fan 2013; Mathis and Androff 2021; Stumpf 2006). The racialization of certain groups as “illegal” immigrants and criminal threats has been central to this process (Brown et al. 2018; Menjívar 2021). As Ruben Rumbaut and colleagues (2019, 476) note more generally, the criminalization of immigration is “rooted in a long history of racialized immigrant exclusion, containment, and disposal.” In particular, the racialization of Latinos, which has a long history in the United States (Baca Zinn and Wells 2023; Massey 2013), underpins the US government’s growing reliance on the criminal law apparatus to achieve its immigration-enforcement aims.

As mentioned earlier, one of the core substantive features of the criminalization of immigration is the shift to criminal prosecution of immigration law violations that used to be classified and addressed as civil violations. While unauthorized entry and unauthorized reentry have been classified as federal crimes since 1929 (García Hernández 2018), Congress significantly expanded the list of immigration-related violations that constituted federal crimes in the 1980s (Chacón 2021a; Medina 1997; Stumpf 2006). Among others, these violations included the hiring of undocumented immigrant workers and committing various acts of fraud in the immigration process. Congressional expansion of federal immigration crimes

coincided with the dedication of significant federal resources toward the criminal prosecution of unauthorized entry and reentry, and procedural innovations designed to expand and streamline these prosecutions (Chacón 2009; Eagly 2010). These combined developments led to a dramatic rise in the number of cases involving immigration offenses in criminal court dockets across the United States. For example, the number of suspects prosecuted in a US district court with an immigration offense as the lead charge more than tripled from 1998 to 2018 (Motivans 2021). Between fiscal years 2018 and 2020, prosecution of immigration crimes constituted the largest share of all federal criminal prosecutions (Schmitt and Russell 2021).

The second core substantive feature of the criminalization of immigration is the expansion of the array of criminal offenses that triggers immigration detention and deportation. Scholars have traced this legal development to the late 1980s. The Anti-Drug Abuse Act of 1988 established a new category of federal crimes called “aggravated felonies” that could trigger immigration detention and deportation (Miller 2003). Beginning in 1990, Congress broadened the definition of aggravated felonies (Stumpf 2006). Over time, the list of “aggravated felonies” expanded so much that these offenses now need not even be “aggravated” nor “felonies” under criminal law (Morawetz 2000). The other key category of offenses for which an immigrant may be deported is “crimes involving moral turpitude” (CIMT). Prior to 1996, an immigrant was deportable for a single CIMT committed if, among other things, one year or more of confinement was actually imposed; this was changed in 1996 so that the mere possibility of a sentence of one year or more could render an immigrant deportable (Lerner 2021; Miller 2003). In sum, US immigration law and enforcement have become heavily focused on detaining and deporting immigrants with criminal records. In fiscal year 2008, immigrants without past criminal convictions accounted for 69 percent of those removed after an arrest by US Immigration and Customs Enforcement (ICE); by fiscal year 2020, immigrants with past criminal convictions or pending criminal charges accounted for 92 percent of removals resulting

from ICE arrests (Hausman 2022; US ICE 2016, 2020).

The criminalization of immigration has culminated in the development of what some scholars refer to as an “immigration industrial complex” (see, for example, Díaz 2012; Golash-Boza 2009). There are varying definitions of the immigration industrial complex, but the central idea is that the modern US immigration enforcement system is a massive carceral infrastructure driven by profit motive and capital accumulation through social control and the economic exploitation of racially subordinated groups (see, for example, Chacón 2022b; Doty and Wheatley 2013; Douglas and Sáenz 2013; Trujillo-Pagán 2014). Building on this theoretical framework, Emily Ryo and Chris Levesque (2025) argue that the US immigration detention system functions as a racialized wealth extraction process. They explain that the word racialized draws attention to how the costs of immigration detention are borne disproportionately by communities of color (particularly Latinos) that have been socially constructed as dangerous and undeserving; the word wealth highlights how the harms of immigration detention are multiplicative and compound over time across generations; and the word extraction underscores the violent and predatory nature of immigration detention. In this and other ways, race and racialization have played a central role in giving rise to, and shaping the consequences of, the criminalization of immigration.

Finally, although this article focuses on the US context, the criminalization of immigration is a global phenomenon that has taken hold in other key receiving countries as well, including members of the European Union, Canada, and Australia (Bosworth et al. 2018; FitzGerald 2020; Frelick et al. 2016). As in the United States, popular and state discourses in other receiving countries often connect immigration to “fears . . . based on racialized moral panics” and construct immigrants as criminals or security threats (Menjívar 2014, 356). For instance, although European research “tends to tie immigration enforcement and exclusion to a lack of formal citizenship rather than racism” (Armenta 2017, 83), other scholars contend that discussions of migration “crises” in Europe are inextricably tied up with a European racial proj-

ect wherein race-neutral immigration policies hinge on racialized logics (De Genova 2016). For example, David FitzGerald and colleagues (2018, 356) note that “Muslims in Europe are increasingly treated as a quasi-ethnic group subject to widespread discrimination.” This and related issues in other parts of the world beyond the United States are outside the scope of our review, but they underscore the importance of conceptualizing the criminalization of immigration as a widespread social process that impacts the lives of millions of individuals on the move around the globe (see, for example, Menjívar 2014; Parmar 2018).

REVIEW OF EMPIRICAL SCHOLARSHIP

In this section, we offer a critical analysis of the existing empirical research on the criminalization of immigration. Our discussion is organized around the following five key themes: immigration federalism, externalization of the border, immigration enforcement technologies, racial disparities in criminal and immigration court processes and outcomes, and the effects of immigration enforcement on families.

Federalism, Interior Enforcement, and Policing

Although immigration law as codified in the Immigration and Nationality Act is federal law and within the exclusive purview of the federal government, in the past couple decades cities, counties, and states increasingly have become involved in regulating immigration and the lives of immigrants (Chacón 2019; Gulasekaram and Ramakrishnan 2015; Reich and Scott 2023). Scholars describe this sharing of responsibility over immigration-related matters by multiple tiers of government as immigration federalism (Motomura 1999; Varsanyi et al. 2012). Broadly defined, immigration federalism refers to “the engagement by national, state, and local governmental actors in immigration regulation” (Elias 2013, 707). Immigration federalism includes a diverse array of exclusionary and inclusionary rulemaking by state and local governments that seeks to govern immigrants’ ability to work and live in their jurisdictions. For example, many state and local jurisdictions across the United States have enacted laws and regulations that restrict or facilitate immi-

grants' access to public benefits and services, education, housing, and employment (see Chavez and Provine 2009; Perreira and Pedroza 2019). These types of rulemaking aimed at immigrants' social and economic integration (or exclusion) are an important aspect of immigration federalism, but they are beyond the scope of this section.³

This section focuses more narrowly on one specific dimension of immigration federalism that we refer to as immigration enforcement federalism. A defining feature of immigration enforcement federalism is that it relies on local criminal justice agencies and systems to facilitate and expand the arrest and removal of immigrants from the interior of the United States. The nature and extent of these types of partnerships vary. For example, some jurisdictions allow ICE access to their local jails to arrest immigrants, while others receive payment from the federal government to allow ICE to use their facilities to detain immigrants (Ryo and Peacock 2020). Our review examines two main categories of studies in the research on immigration enforcement federalism. The first category of studies seeks to uncover local jurisdictions' motivations for participating in immigration enforcement or to identify the predictors of such participation. The second category of studies in this body of research evaluates the consequences of immigration enforcement federalism on policing and interactions with the police.

Some scholars have used the terms sanctuary and anti-sanctuary to describe subfederal jurisdictions' engagement in immigration regulation, including immigration enforcement. Excluded from our review are studies that examine sanctuary policies or practices without a comparative analysis of cooperative subfederal policies or practices that enforce federal immigration law (see, for example, Amuedo-Dorantes et al. 2022; Lasch et al. 2018).⁴ The decision to limit our discussion in this way is in-

formed by several considerations. The term sanctuary has different meanings and connotations, and its usage has been contested on various grounds (see Su 2024). This makes it difficult for us to establish a consistent standard for identifying and evaluating these studies. For example, some studies define sanctuary jurisdictions as those that have enacted a specific sanctuary legislation, while others define them as those that decline immigration detainers (Ascherio 2022). Furthermore, sanctuary policies and practices are not necessarily the flip side of our focus in this section—namely, cooperative subfederal policies and practices that seek to enforce federal immigration law. As Daniel Martínez and colleagues (2018, 2) have explained: “Although local communities adopt ‘sanctuary’ policies to limit cooperation with the federal government, the implementation of these policies does not imply that noncitizens are protected from federal immigration enforcement action. . . . In fact, many ‘sanctuary’ jurisdictions allow for local assistance and cooperation in the enforcement of federal immigration laws when individuals have been convicted of violent or serious felony offenses.”

Legal Context

We begin by providing a brief description of two policy initiatives illustrative of immigration enforcement federalism that have received a great deal of scholarly attention: the 287(g) program and Secure Communities. The 287(g) program has its basis in section 287(g) of the Immigration and Nationality Act, which Congress enacted to allow federal immigration enforcement agencies to directly delegate certain immigration enforcement functions to state and local government agencies (Kolker 2021). Currently, the three 287(g) models in operation are the jail enforcement model, the warrant service officer model, and the task force model.⁵ The jail enforcement model allows deputized officers to interrogate suspected noncitizens

3. We do, however, take up some of these studies in the section on the effects of immigration enforcement on immigrant families.

4. For a review of the empirical literature that considers both subfederal enforcement and sanctuary policies, see Boyke and Horner 2024.

5. For an analysis of the evolution of the 287(g) Program over time, see American Immigration Council 2021a.

about their immigration status when they have been arrested on state or local charges and to place immigration detainers on those thought to be subject to removal.⁶ An immigration detainer is a request from ICE to a state or local law enforcement agency to notify ICE as to when a noncitizen will be released from criminal custody and to maintain custody of the noncitizen for an additional period of up to forty-eight hours to allow ICE to assume custody for removal purposes (US DHS 2022). The warrant service officer model allows ICE to train, certify, and authorize state and local law enforcement officers to execute ICE administrative warrants on noncitizens in their agency's jail. Finally, the task force model allows local law enforcement officers "to enforce limited immigration authority with ICE oversight during their routine police duties" (US ICE 2025).

Secure Communities is another key cooperative immigration enforcement initiative. It was rolled out in 2008 during President George W. Bush's administration as an information-sharing partnership that links an immigration background check to the standard criminal background check process. When state or local law enforcement agencies arrest or take individuals into custody, those agencies traditionally have shared the individual's fingerprints with the Federal Bureau of Investigation (FBI) for the purposes of a criminal background check (US DHS 2022). Under Secure Communities, the FBI then automatically sends the fingerprints to DHS, allowing that agency to check against its immigration databases and issue immigration detainer requests to the relevant state or local agency (US DHS 2022). President Barack Obama's administration replaced Secure Communities with Priorities Enforcement Program (PEP)—in part to address the growing concern that Secure Communities was eroding trust between local law enforcement and immigrant communities. In brief, PEP maintained the same data-sharing infrastructure as Secure Communities but established enforcement priorities that focused on noncitizens "convicted of significant criminal offenses or

who otherwise pose a threat to public safety," purportedly taking into account local enforcement priorities (US DHS 2015). President Donald Trump, however, reinstituted Secure Communities through Executive Order 13768 and re-expanded enforcement priorities to include all undocumented immigrants (Chavez et al. 2023). In January 2021, President Joe Biden revoked Executive Order 13768, but the practice of local law enforcement sharing biometric data on arrested individuals with DHS continues (Chavez et al. 2023).

Motivations for Participating in Immigration Enforcement

Why do some jurisdictions participate in immigration enforcement? Government officials have justified federal-local immigration enforcement partnerships as a public safety measure aimed at reducing crime by targeting "criminal aliens" (see Kandel 2016). Scholars have reasoned that if this public-safety rationale were, indeed, the motivation for these partnerships, then crime rates should be a significant predictor of where, when, and to what extent these partnerships are established. However, studies have not found empirical evidence in support of this expectation (see, for example, Chand and Schreckhise 2015; Cox and Miles 2013; Wong 2012). Thus, scholars have proposed and tested other possible motivations. There are two sets of hypotheses implicating racial bias and racial disparities that are of particular relevance for our discussion. The first is the racial threat hypothesis, and the second is what we refer to as the racial diversity hypothesis. In the rest of this section, we examine in turn empirical research testing each of these hypotheses.

Racial Threat Hypothesis The racial threat hypothesis posits that as racial minority groups in a given community grow in size, the White majority will view them as an economic, social, political, or criminal threat and subject them to increased discrimination and social control (Feldmeyer and Cochran 2018). Given the racial

6. As of April 2025, 86 law enforcement agencies in 25 states operate under the jail enforcement model, 180 law enforcement agencies in 27 states operate under the warrant service officer model, and 190 law enforcement agencies in 23 states operate under the task force model (US ICE 2025).

threat hypothesis's focus on social control, a long-standing body of research in criminology has examined whether racial composition as a proxy for racial threat is linked to wide-ranging criminal justice outcomes, such as the size of police force and expenditures, minority arrests, convictions, incarceration, sentence length, and death penalty decisions (see Feldmeyer and Cochran 2018). More recently, scholars have applied racial threat hypothesis to understand immigration enforcement federalism by conceptualizing federal-local partnerships on immigration enforcement as a form of social control of immigrants—in particular, of Latinos. Felicia Arriaga (2017, 420) goes even further to argue that federal-local immigration enforcement partnerships are “a form of racialized social control meant to affect *all* Latinos, regardless of immigration status, age, or gender” (emphasis added).

Overall, empirical findings of quantitative studies are mixed—and conflicting at times—as to whether, and in what ways, racial threat might be associated with subfederal jurisdictions' participation in immigration enforcement. These diverging findings are difficult to square because the studies use different measures of racial threat to examine varying types of participation in immigration enforcement. For example, Emily Farris and Mirya Holman (2017) find that the percentage of Latino residents in a county is not a significant predictor of the number of immigration-status checks conducted by police officers in the county, nor of whether the county has a formal policy allowing police officers to conduct immigration-status checks in certain situations (see also Chavez and Provine 2009). On the other hand, Adam Cox and Thomas Miles (2013) find that percent Hispanic in a given county is a significant predictor of early activation of Secure Communities in that county. Similarly, Daniel Chand and William Schreckhise (2015) find that percent Hispanic is positively related to the number of deportations under Secure Communities. It is worth noting, however, the findings in Chand and Schreckhise (2015) are sensitive to different modeling strategies, as Jillian Jaeger (2016) has shown.

Other studies find that, contrary to the expectations of the racial threat hypothesis, pol-

icy and demographic composition are negatively related. For example, Tom Wong (2012) finds that an increase in the share of the Hispanic/Latino population reduces the likelihood that a county will enter into a 287(g) agreement. Likewise, Heather Creek and Stephen Yoder (2012) examine predictors of state decisions to enter into 287(g) agreements and find that the greater the changes in percent Hispanic, the lower the likelihood of a 287(g) agreement. This result leads Creek and Yoder to speculate that political elites are reluctant to antagonize a growing electorate of Hispanics.

What might explain these divergent findings on the racial threat hypothesis? Alexandra Filindra (2019) offers explanations that relate to both theoretical and methodological problems in this body of research. For example, Filindra (2019, 534) identifies one of the key issues as “ad hoc” theorizing: “In a context of polysematic indicators, researchers may be tempted to adapt their theory to fit their findings.” Juan Manuel Pedroza (2019) suggests that part of the explanation may relate to the faulty assumption that the relationship between policy and demographic composition is linear rather than curvilinear. According to Pedroza (2019, 627), an important part of the racial threat hypothesis is that “once minorities comprise a formidable enough presence, their influence over legislative priorities translates into less restrictionist or welcoming policies.” This idea finds support in a study by Emily Ryo and Ian Peacock (2020) that investigates why local jurisdictions enter into Inter-Governmental Service Agreements (IGSAs) with the federal government to receive payment for the use of their facilities to detain immigrants for ICE. Ryo and Peacock find that percent Latino is positively associated with the likelihood of counties entering into IGSAs but that this relationship attenuates as percent Latino continues to increase after a certain threshold point. At the end of this section, we suggest several other possible explanations for the divergent findings in this body of research and discuss the importance of investigating those possibilities from a policy standpoint.

Racial Diversity Hypothesis The racial diversity hypothesis proposes another way in which race

might influence subfederal jurisdictions' involvement with immigration enforcement. Unlike the racial threat hypothesis, which focuses on the racial composition of immigrants residing in a given community, the racial diversity hypothesis focuses on the racial composition of authorities in power in government agencies engaged in decision-making about immigration enforcement. The racial diversity hypothesis emerges from research on representative democracy, which suggests that minority administrators in office or bureaucracies are more likely to implement practices or use procedures that benefit minority groups (Bishu and Kennedy 2020; Sowa and Selden 2003). A later wave of research on representative democracy has suggested that for this dynamic to be triggered or become detectable, there must be "a critical mass" of the relevant personnel within an organization that embody the characteristics of the minority group (Bishu and Kennedy 2020).

Empirical applications and tests of the racial diversity hypothesis to understand federal-local immigration enforcement are scarce. However, the few studies that exist do provide some empirical support for this hypothesis.⁷ Paul Lewis and colleagues (2013) analyze data from a national survey of police chiefs, and they find that the presence of a Hispanic police chief is associated with significantly less aggressive immigration enforcement by local police. Emily Farris and Mirya Holman (2017) find in their survey of over 550 sheriffs that the presence of a Latino sheriff is not associated with the county's immigration enforcement practices and policies but that the percentage of Asian or Hispanic deputies is associated with a lower likelihood of counties adopting a policy that advises policy officers on conducting immigration-status checks. Similarly, Daniel Chand (2020) analyzes survey data from over 610 county sheriff offices and finds that offices with larger percentages of Hispanic officers—and to a lesser degree, percentages of Black of-

ficers—produce fewer removals and fewer submissions to ICE for immigration background checks. Notably, each of these studies controls for the size of the Hispanic population in estimating the effect of the racial identity of policy chiefs and police officers, which provides assurance that these race measures are not mere proxies for the strength of the minority electorate.

Effects of Federal-Local Partnerships

What are the consequences of immigration enforcement federalism on policing and interactions with the police? We start by highlighting the key study findings on the "intended" consequences. Briefly summarized, studies that have evaluated whether and to what extent federal-local partnerships have achieved, or failed to achieve, their goal of reducing crime and enhancing public safety generally find either no relationship or only a limited one. For example, Elina Treyger and colleagues (2014) find in their city-level analysis of crime rates that the activation of Secure Communities did not result in significant changes in crime rates. Songman Kang and B. K. Song (2021) show that the activation of Secure Communities resulted in a reduction in local crime only when neighboring jurisdictions also activated it. Kang and Song theorize that whereas the activation of Secure Communities in one county may cause some of the local crime to be merely displaced to nonactivated counties nearby, joint activation by neighboring counties may result in reductions in the overall crime in the region by triggering immigrants who are at high risk of offending to leave the region altogether.

In terms of the "unintended consequences" of immigration enforcement federalism, empirical evidence is more consistent and robust. As used by scholars in this area of research, the term unintended does not imply that the effects were unforeseen or unforeseeable; instead, the term simply refers to consequences that are beyond the stated policy goals. The rest

7. A study by Bianca Wirth and Eric Baumer (2024) is a notable exception. They find in their study of factors associated with 287(g) Program adoption between 2007 and 2009 that racial diversity among police forces is not a significant predictor. However, Wirth and Baumer (2024, 371) note that this result may be merely a reflection of the limited racial diversity found in the police agencies sampled. As they note, "Very few of the law enforcement agencies sampled reach a critical mass of officers from racial-ethnic minority groups."

of this section focuses on two types of unintended consequences that relate to policing: racially discrepant policing and racial disparities in crime reporting and victimization. By racially discrepant policing, we mean contacts between law enforcement and civilians that have disproportionate impacts on racial minorities. Following Mat Coleman and Austin Kocher (2019), we use this term to distinguish it from racial profiling, another term that is sometimes used in this literature but with varied meanings. The use of the term racial profiling can create confusion insofar as racial profiling implies or requires the existence of discriminatory intent or racial animus, but most studies are not designed to—and do not claim to—identify or measure such intent or animus. Racial profiling, as defined in this narrow way, fails to capture complex dynamics of racialized policing on the ground (see, for example, Armenta 2017; Chacón and Coutin 2018; Taylor et al. 2014).

Racially Discrepant Policing In her qualitative study of policing of Latinos in Nashville, Tennessee, Amada Armenta (2017, 82) concludes that “most [law enforcement officers] do not see themselves as active participants in immigrant removal and they explain their behavior through a colorblind ideology.” Yet, investigations by government agencies and nongovernmental organizations, as well as lawsuits filed by immigrant rights organization and Latino advocacy groups have documented the rise of racially biased policing that subjects immigrants—particularly Latinos (both immigrant and U.S.-born) to heightened surveillance, stops, and arrests (Chacón and Coutin 2018; Provine and Sanchez 2011; Provine et al. 2016). An emerging body of scholarship and journalistic accounts (see Russakoff and Sontag 2018) also suggests that federal-local partnerships in immigration enforcement can lead to racially discrepant policing, especially given the wide discretion that police officers have in making stops and arrests. We focus our discussion on research concerning two related, but distinct, inquiries on racially discrepant policing of immigrant communities. The first line of inquiry centers on perceptions and experiences of Latinos concerning racially biased policing in

light of local law enforcement’s involvement in immigration enforcement. The second line of inquiry focuses on changes in the behavior of police officers considering their increasing involvement in immigration enforcement. Prominent in this line of inquiry are questions about whether Latinos are targeted by the police for stops and arrests, and whether policing practices have a racially disparate negative impact on Latinos.

First, we begin by considering empirical research that centers on perceptions of racialized policing. Empirical studies show that Latinos—both immigrant and U.S.-born groups—report that they are targeted by the police or that they feel they are stopped more frequently by the police in different contexts. For example, Guadalupe Vidales and colleagues (2009) examine the impact of a highly publicized controversy in Costa Mesa, California, about whether and how to involve Costa Mesa police in enforcing immigration law. They use a survey design that captured the residents’ views of, and interactions with, the police both before and after the public controversy. In this study, Latinos reported being stopped by the police at a significantly higher rate after the public controversy compared to before the controversy, whereas no such increase was reported by non-Latinos. Using a cross-sectional survey design, Renee Rocha and colleagues (2015) find similar results. Their analysis of a national study of Latinos shows that a quarter of the respondents reported knowing someone who was detained or deported and that this report is more common in areas where the Secure Communities removal rate is high. Qualitative studies based on interviews with Latinos also highlight their firsthand accounts of how federal-local partnerships in immigration enforcement have promoted racially biased stops and arrests (see, for example, Aranda and Vaquera 2015; Lemon et al. 2024).

Next, turning to research on the behavior of police officers given their increasing involvement in immigration enforcement, we find that the study results are more complex. A study by Katharine Donato and Leslie Rodríguez (2014, 1697) is unique in that they analyze data on how police officers justify arrests. The study examines changes in how police officers in Nash-

ville, Tennessee, reported reasons given for arrests of immigrants and nonimmigrants after the implementation of 287(g) agreements, and it finds that markers of foreignness (for example, country of origin, language use, and legal status) have taken on new salience in these arrest reports. In brief, Donato and Rodríguez (2014) conclude that the implementation of 287(g) agreements fostered “an ideology of anti-foreignness” among local law enforcement officers.

In addition to exploring law enforcement officers’ use of language to describe their actions in the wake of federal-local partnerships in immigration enforcement, scholars have also examined how such partnerships impact patterns of stops and arrests at the aggregate level. For example, Ashley Muchow (2024) finds that intergovernmental service agreements (IGSAs) that counties adopt to lease ICE jail space for immigration detention increased rates of Hispanic arrests but not those of White or Black residents. Muchow also examined whether post-IGSA increase in Hispanic arrest rates might be conditional on police officers’ perceptions of minority threat, as measured by shares of Hispanic population shares. Her analysis shows that the post-IGSA increase in Hispanic arrest rates is more pronounced in counties with moderate shares of Hispanic population (as compared to counties with lower shares of Hispanic population), and that this relationship becomes attenuated for counties with the highest Hispanic shares. According to Muchow (2024, 1–2), this curvilinear relationship suggests that IGSAs may “trigger minority threat concerns that increase arrests” of Hispanics.

Two additional studies are worth highlighting, in part to underscore the complexity of disentangling changes in the behavior of immigrants at risk of stops and arrests, and changes in the behavior of the police. Michael Coon (2017) investigates the effects of the implementation of the 287(g) agreement in Frederick County, Maryland, on the arrests of Hispanics. Examining changes in arrests made by both the Frederick County Police Department and the Frederick County Sheriff’s Office, Coon (2017) finds that Hispanic arrests fell, whereas no changes occurred in the arrests of Whites, and the arrests of Blacks increased. Coon suggests

that the drop in Hispanic arrests is likely due to the “chill effect,” whereby the Hispanic community avoided interactions with law enforcement. Coon (2017), however, also finds that the implementation of a 287(g) agreement led to a significantly higher number of arrests of Hispanics by the Sheriff’s Office than would have occurred otherwise in its absence. Likewise, Britte van Tiem (2023) explores the impact of 287(g) agreements on traffic stops and arrests in North Carolina. Similar to Coon (2017), van Tiem finds that stops of Hispanic drivers fell in the wake of 287(g) agreements and shows that the most likely explanation for this decline is the decreased road use by Hispanics. Unlike Coon (2017), however, van Tiem finds no evidence that police officers increased pretextual stops and arrests of Hispanic drivers.

Racial Disparities in Crime Reporting and Victimization

To detect and sanction criminal behavior, law enforcement officials must rely on community members’ willingness to report crime and to cooperate with their investigations. Heightened fears of deportation and distrust in the police can erode this willingness to report crime and cooperate with the police (Becerra et al. 2017; Messing et al. 2015). A growing body of empirical research indicates that federal-local partnerships in immigration enforcement have both types of attitudinal and behavioral impacts, especially in Latino communities. These changes, in turn, render Latinos more vulnerable to victimization. Thus, studies have concluded that, despite the partnerships’ aims of promoting community safety, their net effect is to make communities less safe, particularly Latino communities.

Some studies have focused exclusively on Latino communities. Mai Nguyen and Hannah Gill (2016), in a qualitative study that relied in part on interviews with Hispanic residents in two communities in North Carolina, examine the impact of the implementation of 287(g) agreements. They find that these federal-local partnerships led to an increased fear and distrust of law enforcement among the Latino immigrants that compromised public safety and security. Nik Theodore and Robert Habans (2016) conducted a survey of over two thousand Latinos in four US counties regarding their per-

ceptions of, and interactions with, the police. The survey respondents included Latino residents with varying legal status: authorized immigrants, undocumented immigrants, and nonimmigrants. The study finds that both authorized and undocumented Latino immigrants are less likely than Latinos who are not immigrants to report crime and more likely to experience social isolation in light of the increasing police involvement in immigration enforcement; and the effects are greater for undocumented immigrants than for authorized immigrants. However, these results vary by context (Menjívar et al. 2018) and social position, such as gender (Simmons et al. 2021). A recent study by Tom Wong and colleagues (2021) is notable for its experimental design. In a survey experiment using a probability-based sample of undocumented immigrants in San Diego County, the investigators find that when the respondents were exposed to a prompt that made the federal-local partnership salient, there was a significant reduction in the respondents' level of trust in the police.

The studies reviewed above are informative of how federal-local partnerships might affect Latino immigrants, but are the effects more pronounced for Latino immigrants than other racial minorities? Renee Rocha and colleagues (2015) address this question by analyzing survey data that included both Latino and Anglo (defined as non-Hispanic Whites) residents in Texas. Rocha and colleagues (2015) find that high-enforcement communities, as measured by the prevalence of removals carried out under Secure Communities, are associated with lower levels of trust in government and of political efficacy among both native-born and foreign-born Latinos, whereas the reverse is true for non-Hispanic Whites. They also find that these results are more pronounced when it comes to noncriminal removals. Rocha and colleagues (2015, 901) thus conclude: "immigration policy enforcement redistributes trust in government from resource-deprived immigrants to Anglos," which perpetuates existing political inequalities.

Eric Baumer and Min Xie (2023) use longitudinal data from the National Crime Victimization Survey to show that the activation of Secure Communities and the adoption of 287(g)

agreements had racially disparate impacts on victimization. Specifically, Baumer and Xie find these federal-local partnerships significantly increased the risk of violent victimization (including rape, sexual assault, robbery, and assault) among Latinos, but not among non-Latino Whites and Blacks. Reva Dhingra and colleagues (2021) reach similar conclusions in their study of crime reporting. They show that total reported crime fell in counties with higher shares of Hispanics and where local law enforcement had more cooperation with ICE. Conversely, Elisa Jácome (2022) examines PEP, the Obama-era policy initiative that we briefly described earlier, which modified Secure Communities to rebuild trust between law enforcement and immigrant communities by focusing immigration enforcement action only against individuals convicted of serious criminal offenses. Jácome (2022) analyzes data on police incidents from the Dallas Police Department to demonstrate that the number of violent and property crimes reported to the police by Hispanics increased significantly after the introduction of PEP compared to those reported by non-Hispanics.

Policy Implications and Directions for Future Research

Immigration enforcement federalism is a core feature of the contemporary immigration enforcement system. Contacts with state or local law enforcement can lead to federal immigration detention and deportation for immigrants. In this context, the role that race might play in shaping the expansion or curtailment of local law enforcement agencies' powers demands special scrutiny by policymakers and scholars alike. Considering the existing studies' mixed findings on the racial threat hypothesis, an important task for future research is to more systematically theorize the nature of racial threat and how it might change over time, as well as explore new ways of measuring racial threat. For example, demographic characteristics like the size of the minority population (whether measured in absolute or relative terms) may not be a good proxy for racial threat, which after all, is about the perceptions of threat by dominant group members (see Feldmeyer and Cochran 2018). In addition, the growth in the

size of a minority population under certain circumstances can give rise to a social dynamic that is quite different than what is expected under the racial threat hypothesis. Specifically, the “contact hypothesis” suggests that the racial attitudes of White Americans tend to moderate or soften over time from increased contacts with racial minorities (Lewis et al. 2013).

There are also important policy implications to the findings that indicate that racial diversity of local law enforcement personnel is a significant predictor of whether a local jurisdiction will become involved in immigration enforcement.⁸ These findings suggest that the diversification of local law enforcement agencies might be a policy tool that can counter the negative impacts of immigration enforcement federalism. However, these findings also give rise to several important questions that warrant future investigation, including: What type and level of diversity is needed? If racial minority groups generally tend to have greater sympathy for other marginalized populations, including immigrants (see Fussell 2014), direct racial concordance between the law enforcement personnel and the targeted immigrant group would not be necessary to achieve the desired policy goal. What are the mechanisms through which the racial identity of the law enforcement personnel operates to counter or curb the involvement of local law enforcement agencies in immigration enforcement? Is the diversity of leadership within local law enforcement agencies relatively more or less important than the diversity of frontline police officers? Addressing these and related questions promise to generate policy-relevant insights.

There are also wide-ranging policy implications that follow from research on the impacts of immigration enforcement federalism. Understanding racial minorities’ perceptions of, and experiences with, racialized policing is important because they have wide-ranging down-

stream effects on immigrant’s health, their trust in the police and views about police legitimacy, and their willingness to report crime and cooperate with the police (Morales and Curry 2021; Nichols et al. 2018). Thus, more research is needed to better understand how and why racial minorities perceive and experience local immigration enforcement policies and practices as racially discriminatory and biased. Finally, future research on racially discrepant policing should go beyond a narrow focus on stops and arrests to uncover the many other ways that other ostensibly race-neutral policing practices can produce racially disparate outcomes when local criminal justice institutions become involved in immigration enforcement. As Amada Armenta and Isabela Alvarez (2017, 7) have argued, there are “numerous, and sometimes hidden, ways that law enforcement agencies contribute to immigration control.”

Externalization of US Border Enforcement

In this section, we review the scholarship on the externalization or expansion of US border enforcement strategies beyond the physical southern US border as these strategies intersect with racialization practices in the migration corridor. Externalization policies have been implemented throughout Mexico (Basok et al. 2015; FitzGerald 2019; Frelick et al. 2016) and have extended into Guatemala and El Salvador (McGuire and Coutin 2013) in efforts to stop asylum seekers from reaching the southern US border. Today US externalization has expanded farther south through Costa Rica, Panama, and Ecuador, where visas were reintroduced for citizens of China, Afghanistan, Bangladesh, Eritrea, Kenya, Nepal, Nigeria, Pakistan, and Somalia with the stated justifications of combatting smuggling networks and preventing migrants from using Ecuador as a stepping-stone to journey by land to the United States (Álvarez Velasco 2020).⁹ However, in this review,

8. Qualitative research on the everyday lives of Latino border enforcement agents presents a complex picture in which even as these agents are “inclined toward a more humane approach to immigration control than their white counterparts” (Vega 2018, 2558), they also “function as both enforcers and targets of racial power” (Correa and Thomas 2015, 242; see also Heyman 2002).

9. Before 2008, Ecuador used to extend multi-entry visas to practically all countries, including the Global South. In 2018, all visa requirements were eliminated by a presidential decree, but this was short lived. In 2010, little by little and in selective fashion, visa requirements were reintroduced. Since then, visa requirements have been

we focus on US externalization strategies in Mexico, where they have a longer history and thus the scholarly research on their evolution and effects is more robust.

We identify two main areas of empirical research. First, we review works that reveal the expansion of US externalization policies through Mexico; these works draw attention to how key US policies have evolved over decades. Second, we focus on research on the effects of externalization policies on the ground, with attention to how such US policies have transformed the migration corridor in Mexico as a transit country. A key aspect of both strands of research is a nearly universal focus on Central American migration through Mexico, which reflects policy efforts that until recently have been mostly aimed at containing Central American migration. This body of work exposes how US border externalization strategies shape, and are shaped by, the racialization of Central American migrants. This literature illustrates the ways that US policies beyond the border operate to both racialize and criminalize individuals before they even come to the United States, and it also illuminates how policies beyond the US border ultimately contribute to racially discrepant policing practices and racial discrimination within US criminal legal systems. We begin with a brief overview of the historical context, followed by discussions of the existing empirical research on the expansion of externalization programs and their effects.

Historical Context

US border externalization is not a new phenomenon; it is a process that has been unfolding over the past several decades (Rojas-Wiesner 2022) in Mexico,¹⁰ with marked acceleration in the last two decades (Shull 2021). Externalization has rested on an increased emphasis on pre-border surveillance and interception, including immigration checkpoints along the mi-

gration route in Mexico since at least the 1980s (Menjívar 2000; Minian 2020). These surveillance and interception practices became widespread with the significant rise in Guatemalan and Salvadoran migration that resulted from the civil wars in Central America (Menjívar 2000; Rojas-Weisner 2022). Border controls along the migration corridor since the 1980s were, therefore, a response to increasing numbers of Central American migrants seeking to enter the United States, and the goal was to prevent them from reaching the US border (Minian 2020; Rojas-Wiesner 2022).¹¹

As foreign policy goals and political concerns in the United States have changed over time, externalization measures have been subsumed under national security and international crime control strategies aimed at combatting human smuggling, drug trafficking, and terrorist threats (Frelick et al. 2016). However, the focus of US externalization measures continues to be on stopping, delaying, returning, and deterring asylum seekers and migrants as they journey to the United States (FitzGerald 2019). Although historically these efforts have focused almost exclusively on Central Americans, lately these efforts have been expanded to also target Cubans, Haitians, Nicaraguans, and Venezuelans as well (American Immigration Council 2023).

Over time, and in collaboration with the United States, Mexico has progressively instituted an increasingly broad array of legislative and enforcement programs, including visa requirements that have become gradually more stringent (especially for Central Americans), funneling migrants through certain paths, implementing policies of interdiction, and requiring temporary permits in transit (Hurrell 2006). Externalization schemes have expanded so deeply into Mexico that scholars have argued that Mexico has become a “vertical border” (Torre Cantalapiedra 2021; FitzGerald 2019).

in place for 37 countries, almost all in the Global South. The reintroduction of visas occurred in the context of externalization, as a strategy of containment of migratory flows through Ecuador.

10. Using a wide array of government data, Martha Rojas-Wiesner (2022) provides a chronology of various periods of externalization history in migration through Mexico.

11. Precedent may be found in offshoring policies to intercept, detain, and deport seafaring migrants, especially Haitians and Cubans, in the post-Mariel period (Lloyd and Mountz 2018; Shull 2021).

Major US Externalization Programs

Existing empirical research suggests that US externalization programs have played a key role in the racialization and criminalization of Central Americans. Migrant detention in Mexico, which has grown significantly in the last twenty years (Castillo 2022), is an important case in point. In a three-year ethnography of detention facilities in Tapachula, Alethia Fernández de la Reguera Ahedo (2020) shows that despite promoting themselves as civil institutions of temporary confinement, detention in Mexico has followed the US pattern; thus, facilities in Mexico also operate as punitive mechanisms punctuated by protracted waits where due process and basic rights are denied (Fernández de la Reguera Ahedo 2020). Fernández de la Reguera Ahedo observes an othering of Central American migrants in detention, as Central Americans in Mexico (like in the United States) are racialized as gang members, dangerous, and associated with dirty work and criminality (see also Vogt 2020). She explains that conditions of filth inside detention facilities create an image of these migrants as dirty, which contributes to their othering.¹²

In addition, existing empirical research on externalization shows that externalization programs work unevenly and are implemented dissimilarly on the ground across different migrant groups. Studies show that race and racialization practices are central to understanding these disparities. As we will discuss in greater detail, the US Border Patrol focuses interdiction activities overwhelmingly on the southern US border to stop Mexican and Central American migrants who travel by land (Heyman 1999).¹³

Empirical studies have examined how Mexico and the United States have established multiple interdiction and deterrence collaborations, backed by significant US investment in military and security forces, such as the Smart Borders initiatives that provide technological infrastructure to control US-bound migratory

flows through Mexico (Fernández De La Reguera Ahedo 2020; FitzGerald 2019; Minian 2020; Muñiz 2022). The multiple programs and initiatives have contributed to a significant expansion of enforcement along the border and interior migration routes (Solano and Massey 2022). For instance, the Border Partnership Agreement of 2002, which was aimed at disrupting human and drug-smuggling networks operating in Mexico and the United States, led to a marked increase in detention and deportation of migrants from Mexico (Solano and Massey 2022).

The two countries, along with Canada, also signed the Partnership for Prosperity, which became the Security and Prosperity Partnership of North America in 2005. The Partnership for Prosperity is aimed at promoting greater economic cooperation in the region (Delano 2012), but signatory states present the Partnership as a means of addressing security concerns and enhance border security through information sharing (Villarreal and Lake 2009). Plan Mérida, created in 2008, was a security-focused partnership that included Central American countries, and was intended to combat drug trafficking and human smuggling along the main migration routes. Plan Frontera Sur / the South Border Plan, which was implemented in 2014, was formed in response to increasing numbers of unaccompanied migrant youth from Central America (Castillo 2022). As part of these collaborations, Mexico created a National Guard in 2019 and deployed it to its southern border to break apart the “caravans” arriving from Central America.

Externalization also comprises bureaucratic measures that screen potential migrants, such as visa requirements before migrants leave the sending countries. Visa requirements for migrants in transit contribute to further narrowing the migratory flow. Mirroring US temporary protection programs, Mexican immigration law since 2011 has granted temporary stays for victims of crimes and other categories of vulner-

12. The racialization of Central American migrants in Mexico as dangerous is not new, however, as historically they were associated with Central American guerrillas and civil turmoil across the continent (Minian 2020; Shull 2021).

13. It is also worth noting that the US Coast Guard focuses its activities largely to stop Haitians, Cubans, Dominicans, and Chinese nationals who travel across the Caribbean to reach the United States (Ryan 2010).

able migrants. However, Mexico's bureaucratic agencies often discourage migrants from applying for these permits (Basok and Rojas-Wiesner 2018). Externalization also includes strategies such as the Dangers Awareness Campaigns that are funded by Mexico and the United States and are aimed at warning Central Americans of the dangers of the trip as a way of deterring migration (Vogt 2017).

Externalization policies are also implemented at the US-Mexico border to prevent migrants (primarily Central American asylum seekers and increasingly asylum seekers from Venezuela, Nicaragua, and Haiti) from approaching the border. In recent years, these policies have included a metering policy (or "queue management"), implemented at US ports of entry in 2016, whereby US Customs and Border Protection (CBP) limited the number of migrants permitted to access the asylum process each day (American Immigration Council 2021b). They also included the Migration Protection Protocols (MPP), in effect between 2019 and 2022, which designated Mexico as a safe third country to which migrants and asylum seekers could be returned for the duration of their immigration proceedings (Smith 2023). During the COVID-19 pandemic, the Trump administration also invoked Title 42, a rarely used law that was enacted in 1944, to allow officials to categorically refuse entry to migrants at the US-Mexico border, including asylum-seeking migrants, on the stated grounds of preventing the spread of contagious disease (Gramlich 2022).

Effects of Externalization

Existing research has identified several important consequences of externalization. First, externalization strategies have transformed patterns of Central American migration to and through Mexican territory (Basok et al. 2015). Using census and nongovernmental organization data from Mexico, Jasso Vargas (2021) examines the effects of the geography of Plan Frontera Sur in 2014 and finds that after its implementation, Central American migrants spent longer waiting times in southern and northern border states of Mexico. Scholars have noted that Mexico is no longer simply a transit area but, instead, a space where mi-

grants linger for uncertain periods (Anguiano-Téllez 2008) or simply end up settling (Rivas Castillo 2012). Indeed, "transit," scholars argue, may obscure the circularity, unpredictability, and instability of the journey for Central Americans in the context of externalization programs in Mexico (Basok et al. 2015). With the roadblocks that containment programs have created, research now points to a back-and-forth movement (rather than a linear step-by-step process) as migrants consider their options and opportunities, a kind of mobility shaped by race, class, and gender (Arriola Vega 2021).

Externalization has also contributed to transforming "transit countries," such as Mexico, into countries of emigration, transit, and destination simultaneously (Caso Raphael et al. 2006). Extended and uncertain periods in Mexico have transformed migrants' intentions and migratory flows through Mexico. Scholars find that as migrants face more obstacles to journey through Mexico, they have been "stuck in place" (Frank-Vitale 2020). Thus, many migrants have sought and found employment in Mexico, mostly in low-paying jobs, either to earn cash to continue the journey or as a strategy of settlement. This has meant that many migrants are increasingly channeled to new destinations in urban areas such Mexico City (Nájera Aguirre 2022). Demographic data support these findings, showing that Central American migrants are spending increasing amounts of time in Mexican territory, trekking to places far from the traditional migrant route (Jasso Vargas 2021). Jéssica Nájera Aguirre (2022) finds that Mexico City's informal economy has become an important entry point for Central American migrants to adapt to the country and navigate the increasing precarity resulting from enforcement measures (see also Castillo 2022; Jasso Vargas 2021). However, the racialization of Central Americans persists in the workplace in Mexico; Central American workers are often seen as inferior and become targets of mistreatment (Doering-White 2021; Jasso Vargas 2021).

Second, research shows that to respond to these transformations, Mexico has implemented laws and policies that extend legal status to those who stay there (Basok and Rojas-

Wiesner 2018), but such laws and policies do not always protect migrants (Galemba et al. 2019; Nájera 2022). In addition, as border externalization has pushed migration flows to dangerous terrain and criminal networks, there has been an increased need among migrants to hire smugglers to traverse more perilous routes (see also Frank-Vitale 2020, 2023). To address this need, the “migration industry” (Hernández-León 2013) has flourished, with a wider array of actors who now participate in facilitating migration. This literature reveals how externalization policies actually fuel the creation of the very kinds of criminalized smuggling networks and organizations that they purport to address.

Finally, scholars show that increased externalization has contributed to the rise of overtly nativist discourse in Mexico that characterizes Central American migrants, especially those who are part of migrant “caravans,” as invaders. These views contribute to growing rates of violence against asylum seekers in Mexico (Ortega Velázquez 2020). The scholarship on migrant experiences in Mexico points to various forms of violence that externalization has made possible. Relying on oral histories with (mostly Indigenous) Guatemalans, Ana Raquel Minian (2020) compares their experiences on the migrant trail through Mexico before and after externalization programs were put in place. This study finds that after the mid-1980s, migrants were more likely to be exposed to violence while traveling through Mexico owing to the need to evade government agents and as they were pushed to ever-more treacherous routes. Through ethnographic and archival research, Rebecca Galemba and colleagues (2019) analyze complaints from Central American migrants in shelters to examine the violence these migrants experience in transit. These researchers observe that most of the reports involve violence at the hands of state actors, including those who act in concert with non-state actors like taxi drivers (see also Basok and Rojas-Wiesner 2018; Brigden 2018; Doering-White 2018; Frank-Vitale 2020; Vogt 2017).

However, existing research also notes the complex social dynamics in these spaces of transit that defy portraying transit experiences solely as violent. As migrants cross more difficult and dangerous terrain, state and non-state

actors become increasingly involved either in rescuing migrants or in enforcing the various strategies of border externalization. Through in-depth participant observation in Mexico’s Central American migrant trail, John Doering-White (2018, 2021) and Amelia Frank-Vitale (2020, 2023) illustrate the development of Central American community and mobility along the Mexican migrant trail. These authors map the various social dynamics and the actors involved in facilitating or restricting the migrants’ mobility within the constraints that US externalization strategies create. Through ethnographic analysis, Doering-White (2018) observes that even migrant shelters are caught between their humanitarian goals of protecting migrants from smugglers and the need to acknowledge migrants’ reliance on smugglers to safely pass through the increasingly dangerous transit corridors in Mexico. This mirrors Mexican policy in general, as Mexico has attempted to reconcile the dual goals of migrant protection and legal enforcement, creating opportunities for violence along the routes (Galemba et al. 2019).

Although Central Americans in the research we review here experience abuses and violence in transit, some obtain assistance and support, including from state agencies. Using interview data, Amalia Campos-Delgado and Karine Côté-Boucher (2024) examine the control arrangements that characterize detention facilities in Mexico, where they sometimes observed empathic encounters between detained Central Americans and the officers in charge of containing their movement. More broadly, as conditions in the transit corridor have worsened, civil society organizations in Mexico have become key sources of direct aid, legal knowledge, and logistical advice to the migrants (Torre Cantalapiedra and Mariscal Nava 2020). As well, individuals acting independently have provided food and shelter to Central American migrants, such as the women who stand by the railroad tracks throwing bags of food for the migrants on the train (Montes and Paris Pombo 2019).

Policy Implications and Future Research

The scholarship on transit migration through Mexico we review here has focused on the experiences of Central Americans, as these mi-

grants have been racialized as dangerous and criminals and thus have borne the brunt of the enforcement and administrative policies at the core of US border externalization. These studies illuminate racialization practices in institutions and in informal interactions that shape migration in the context of externalization. However, as migrants from around the globe now cross Mexico en route to the United States, there is a clear need for comparative analysis that examines whether and how racialization and the distinct forms of racism endemic to sending, transit, and receiving countries inform the expansion and implementation of externalization programs. This research would refine current understandings of how race works in externalization strategies that unevenly affect different migrant groups on the ground.

The literature on Central American transit in Mexico has paid insufficient attention to informal institutions, as most of this literature focuses on nongovernmental organizations (such as shelters), “third spaces” (such as churches), or governmental agencies and detention in Mexico (Doering-White 2021). As Central Americans and many other migrants today wait longer periods in Mexico, they form relationships with nonmigrants and come in contact with informal institutions as they enter precarious labor and housing markets (Vogt 2020). For example, migrants develop social relations with locals who might regard them with solidarity at times, but most commonly see them through the stigma of criminality. More research is needed on these informal spaces and social relations between migrants and non-migrant Mexican nationals, with attention to intersections of race, gender, and social class. Research on informal relations where racialization processes play a central role would contribute theoretically to understandings of complex social dynamics in new enforcement contexts. This is necessary for developing sound policies to address the challenges migrants experience in transit. Finally, given the longer and more uncertain times that migrants experience in Mexico, more research is needed to better understand migrants’ social and economic lives in the places where they live and work, even if only temporarily.

Technologies of Enforcement

Over the past fifteen years, federal executive agencies have greatly expanded their use of technology in the service of immigration enforcement (Meissner et al. 2013). This is true both at the border and in the interior of the United States (Meissner et al. 2013). Technology has also facilitated a renewed focus on the workplace as a site of immigration enforcement (Stumpf 2012). Our review examines empirical studies of immigration enforcement technologies across these three broad categories: border enforcement technologies, interior enforcement technologies, and workplace enforcement technologies.

A growing body of legal scholarship on technological shifts in enforcement raises legal and policy concerns about these developments (Hu 2015; Kalhan 2013, 2014; Kritzman-Amir 2021; Stumpf 2012). And a large and growing body of theoretical work is dedicated to the problems raised by these technological developments, including the rapid growth of immigration enforcement databases, surveillance technologies, algorithmic risk assessment tools, and related privatization trends (Chacón 2022b; Skinner 2018). However, there are fewer empirical studies of these developments, perhaps in part because the government agencies and private contractors who design, operate, and maintain these systems share very little information about them with researchers or the public (Muñiz 2022). Of these studies, only a handful directly focus on how racial bias is reflected in the design of, or reproduced by, these technologies. Nevertheless, in the final subsection, we discuss policy implications drawn from existing studies.

Historical Context

Over the past two decades, Congress has authorized significant spending for technological tools that are purportedly designed to facilitate the policing of the US-Mexico border by US Customs and Border Protection (CBP) and other enforcement agents. This rise in spending has been part of a general expansion of CBP, which had a budget of \$16.9 billion in fiscal year 2020 (Heyman 2022, 126). Much of this spending has been geared toward enforcement initiatives along the US-Mexico border. Of the

nearly twenty thousand agents employed by CBP in fiscal year 2019, close to seventeen thousand were stationed at the US-Mexico border region (Heyman 2022). CBP agents and other federal law enforcement agents rely on a wide array of technologies in policing the border. At border checkpoints and other ports of entry, technological surveillance tools used to police migration include the use of cameras for license plate scans, facial recognition scans, scans of biometric data on travel documents, X-ray and gamma ray scans of some border crossers and their vehicles, and scans of pre-clearance passes that also rely on stored data and that facilitate cross-border movement in discriminatory ways (Heyman 2022).¹⁴ On the land border, between border checkpoints (where agents are scarce), immigration enforcement agencies rely on surface or near-surface sensors and cameras, balloons, drones, and satellites to monitor movement at the border. These devices often operate alongside physical fencing. (Heyman 2022).

This proliferation of technological tools used for immigration enforcement purposes at the border has been accompanied by similar developments within the interior of the country. Since 2001, the federal government has significantly expanded funding for immigration enforcement in the interior of the United States. The federal government has allocated these funds to increase not only federal immigration enforcement personnel dedicated to policing immigration within the United States but also the enforcement technologies—often developed and managed by private entities—that can be used to accomplish enforcement goals (Kalhan 2014; McCarroll 2020; Meissner et al. 2013). For many individuals, this surveil-

lance begins even before border crossing, extends throughout the border-crossing process, and is ubiquitous within the interior of the country (Kalhan 2014). Indeed, some scholars have argued that the distinction between border and interior enforcement has become increasingly artificial, as many of the technologies used to identify, investigate, track, and monitor the targets of immigration enforcement efforts have produced a digital border that follows people wherever they go, irrespective of the locations of physical borders or of the citizenship of the monitored individual (Kalhan 2014; Muñiz 2022). Moreover, the intensification of enforcement and the proliferation of enforcement technologies in areas as far as one hundred miles from the border increasingly have blurred the categorical distinctions between interior and border enforcement (Boyce 2023).

Finally, and relatedly, the government has developed a database designed to facilitate the enforcement of federal laws that prohibit the employment of unauthorized workers.¹⁵ Since the passage of the Immigration Reform and Control Act of 1986 (IRCA), US law has required US employers to complete administrative procedures to confirm that their workers are authorized by the US government to work. The law imposes civil penalties on employers who fail to comply with these administrative procedures, and criminal penalties on employers who knowingly engage in a pattern or practice of hiring unauthorized immigrant workers (Wishnie 2007). In 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) to facilitate more effective compliance with IRCA by refining relevant databases and creating the E-Verify

14. All of these practices supplement, rather than replace, physical inspection by humans and canines.

15. The term authorized workers refers specifically to individuals who are authorized to work under the federal Immigration Reform and Control Act. This population includes citizens, lawful permanent residents, other individuals in the United States on visas that authorize their employment, and individuals legally authorized to work by the DHS secretary even though they lack legal immigration status (such as some individuals who have been paroled into the US for humanitarian purposes). Not all immigrants who are authorized to be present in the US are authorized to work in the United States, and not all immigrants who are authorized to work in the United States are “documented” immigrants. Nevertheless, because most empirical studies fail to acknowledge this distinction—perhaps because there is substantial overlap between the categories of unauthorized workers and undocumented immigrants—we will continue to refer to the population of unauthorized workers as “undocumented immigrants,” with the caveat that the term in this context is both over- and under-inclusive.

program. Congress intended the E-Verify program (originally called the Basic Pilot program) to facilitate employers' investigation of potential employees' work-authorization status by allowing employers to use worker information compiled by the Social Security Administration (SSA) to check the workers' identification information against a centralized database maintained by DHS (Stumpf 2012). The system became available to employers in November 2007 (Bruno 2018). Employer participation is voluntary under federal law, though some employers, such as federal contractors, are required to use E-Verify (Bruno 2018).

Border Technologies

In the context of border enforcement, a very limited body of empirical studies has focused on several specific technologies, including cell phones and mobile applications, DNA testing, technologies like drones and sensors that monitor physical border entry, and the screening of individuals (and their documents) at points of entry, including airports. Studies of these border surveillance practices suggest that while, historically, border surveillance technologies targeted racialized Chinese and Mexican migrants, the proliferating systems aimed at the detection and surveillance of border crossers increasingly target Latinos broadly, as well as migrants identified as Muslim (Chaar López 2024). In turn, these technologies themselves become “racializing assemblages” that actively produce racialized targets of enforcement (Chaar López 2024). Exemplifying this phenomenon, one qualitative study found that the US-born adult children of Mexican immigrants living in the US-Mexico border region were collateral subjects of border enforcement technologies and policing who, during periods of increased border enforcement, experienced declines in emotional well-being that White residents did not experience (Flores-Gonzalez et al. 2024).

Cell Phones and Mobile Applications Cell phones are an increasingly important tool of border surveillance and management. Migrants and

the US government rely on cell phones as means of navigating and controlling border crossings, respectively. At the most basic level, cell phones provide location data that can be used by both enforcement agents and organizations seeking to provide humanitarian assistance to migrants (Walsh 2010). In October 2022, CBP introduced a mobile application for cell phones called CBP One (US CBP 2023; American Immigration Council 2021c).¹⁶ Immigrants without entry documents were instructed to use it to schedule appointments for interviews—including preliminary asylum screening (US CBP 2023)—prior to arrival at US ports of entry (US CBP 2023). One study analyzes the media and advocacy reports of the “glitches” that migrants encountered when trying to use CBP One (Kocher 2023). Among other things, the reported glitches suggest that the required use of CBP One created new barriers for migrants who were darker skinned or Black, as they reported experiencing greater difficulties than other migrants in uploading their photos to the application (Kocher 2023). But the study did not purport to be a systematic study of the CBP One app, or its racial impacts, and to our knowledge, no such study currently exists. The same can be said of cell phone tracking technologies.

DNA Testing DNA testing is another important technological development used in policing international borders. Both globally, and within the United States, DNA testing is becoming an increasingly common feature of border inspection and admissions processes. Beginning in 2000, the Immigration and Naturalization Service (INS) provided agency guidance to its officers concerning the use of voluntary DNA testing by immigrants seeking to establish familial relationships for immigration purposes (Cronin 2000). Under President George W. Bush, the US government began mandating the DNA testing of certain overseas refugees seeking to unite with family members in the United States to confirm the “legitimacy” of the intending immigrant’s claim of familial ties (Dove 2013). Those efforts were not universal, instead focus-

16. On January 20, 2025, the Trump administration ended the use of CBP One and cancelled all asylum interviews that had been scheduled using that application (Aleaziz and Villegas 2025).

ing on refugees from Somalia and Ethiopia, and based on official assertions that this population had high rates of fraud (Dove 2013). After a hiatus in this testing, in 2012, US Citizenship and Immigration Services (USCIS) announced the resumption of DNA testing of refugees seeking family reunification in the United States (Dove 2013). By focusing on some nations and not others, these testing programs have been implemented in racially discrepant ways that predominantly affect Black migrants.

More recently, the Trump administration promulgated regulations for routine DNA testing of immigrant detainees (Makhlouf 2020). During the enforcement of a widely criticized “zero tolerance” policy aimed primarily at immigrants from Central America, children were separated from the adult caretakers with whom they had entered the United States, while many of those adult caretakers were criminally prosecuted and deported. Subsequently, the Office of Refugee Resettlement (ORR) under President Trump relied on DNA testing in efforts to reunify children with their family members (Makhlouf 2020). A federal court eventually ordered ORR to rely on DNA testing only when necessary, and under strict guidelines (Makhlouf 2020). Because access to mobility is itself differentiated along racialized national origin lines (Achieme 2022), Tally Kritzman-Amir hypothesizes that “there is at least a correlation between race and the chances of being required to take a DNA test” (Kritzman-Amir 2021, 104). The descriptive accounts of when and how DNA data are used in immigration enforcement at the border seem consistent with this hypothesis and suggest the need for empirical studies of racial disparities in, or racial biases stemming from or reinforced by, DNA testing in US border-enforcement processes.

“Virtual Border” Sensors A third category of border enforcement technologies constitutes a “virtual border.” In addition to the controversial physical border wall promoted loudly by President Trump and constructed by his prede-

cessors and his successor (Gulasekaram 2012; Mendoza 2023), the US government has adopted the use of several technologies that reinforce the border virtually, albeit quite imperfectly. These government efforts have involved a mix of radars, sensors, and cameras in various sectors of the US-Mexico border (US GAO 2017). Even the government agency charged with patrolling the border has not been able to accurately assess the efficacy of these technologies (US GAO 2017).

A small but growing number of empirical studies assess these physical surveillance technologies. One study applies geospatial analysis of landscape and human variables in a corridor of the US-Mexico border in Arizona-Sonora heavily traveled by undocumented immigrants to test whether the expansion of the border surveillance infrastructure, Secure Border Initiative Network (SBInet), shifted their routes toward areas that are more remote and difficult to traverse (Chambers et al. 2021). The authors find “a statistically meaningful difference in the distribution of human remains pre- and post-SBInet” (Chambers et al. 2021, 462), indicating that US border surveillance technologies worked in conjunction with the difficult desert terrain to increase migrant suffering and death. The impacted populations are most likely to be Latino immigrants, given the geographic siting of these surveillance tools (Heyman, 2022).

Screening Technologies Finally, in addition to technologies designed to detect individuals entering without inspection, the US government has increasingly employed new technologies to screen the bodies and the documents of individuals crossing the border, whether by land, sea, or air (Hu 2015; NIF 2022; US GAO 2020). While theoretical accounts of these technologies attend to their likely racial impacts (Hu 2015; Skinner 2018), largely missing are systematic empirical studies of these technologies.¹⁷

One reason that the racial impacts of these border screening technologies are difficult to study is because of the classified or semi-

17. A growing literature examines the subjective experiences of land border crossers, including cross-border commuters, along the US-Mexico border (Castañeda Perez 2020; Chávez 2016). These studies might fruitfully be compared with and explored alongside the literature exploring how different populations experience and respond to negative domestic street policing incidents.

classified status of many of the relevant technological tools, analytical methods, algorithms, and databases (Hu 2015). This may explain why there is so little empirical study of how the government constructs surveillance and enforcement tools like its “No-Fly list” (Hu 2015). One small-scale, qualitative account focused on the experience of Muslim women in hijabs at US airports, observing how these racialized travelers are excluded from the frictionless “trusted traveler” status purportedly made possible using databases in border management (Hegde 2019).¹⁸ Our review suggests a need for additional empirical studies of biometric border screening and its racial impacts.

Interior Enforcement

Several scholars have helped to map the proliferating technological tools used for immigration enforcement efforts in the interior of the United States. These studies use publicly available information to document the growth in border and interior enforcement technologies, strategies, and funding (Kalhan 2014; McCarroll 2020; Meissner et al. 2013). The technologies that they identify can be broadly divided into four categories: DHS databases used for retaining and accessing information about individuals, artificial intelligence tools that facilitate the integration of massive amounts of individual data obtained by data scraping and biometric recognition tools, surveillance tools, and risk assessment tools used in immigration enforcement efforts. There are virtually no empirical studies on the first two categories of interior enforcement technologies, but there are a handful of studies on surveillance and risk assessment tools, with some attention to the question of their racial impacts.

DHS Databases DHS maintains several databases with information used for immigration and other law enforcement purposes. Earlier, we discussed the operation and effects of the Secure Communities program, which relies on the fingerprint screening of arrestees through DHS’s Automated Biometric Identification System (IDENT). But this is only one of the data-

bases that DHS uses to manage enforcement efforts. The Enforcement Integrated Database (EID) also plays an important role in immigration enforcement efforts (Muñiz 2022). The EID stores and maintains information related to investigations, arrests, bookings, detention, and removal of noncitizens encountered during immigration and criminal law enforcement investigations and operations conducted by ICE, USCIS, and CBP. Ana Muñiz (2022) uses official government documents to trace the thirty-three-year evolution of EID as it evolved from a case management system to a “mass interior surveillance system.” She documents the ways that ICE agents and other immigration authorities have relied on the secondary information collected by DHS and other agencies and stored in EID in ways that have expanded both the number of people under DHS surveillance and the ability of DHS agencies to classify individuals as criminal or dangerous for enforcement purposes (Muñiz 2022). She also finds that “nonwhite immigrants may be particularly vulnerable” to the secondary ensnarement produced by long-lived dangerousness designations in the system (Muñiz 2022).

DHS also uses the data aggregating Immigration Case Management system (ICM) as the “core law enforcement case management tool for ICE Homeland Security Investigations” (US DHS 2023). The ICM is based on a system designed by the private company Palantir for police departments, modified for DHS’s immigration enforcement purposes (Woodman 2017). Users of ICM can access both government-owned databases and private databases and biometric data (Woodman 2017). The data of US citizens subject to criminal prosecutions are also available through ICM (Woodman 2017). Emma Knight and Alex Gekker (2020) reviewed documents concerning ICM and identified twenty-one different databases with individuals’ data, which are aggregated and centralized by ICM. They hypothesize that the ability of government agents to access a broad array of personal, location, and telecommunications information in the ICM system has enabled ICE to successfully target more immigrants for

18. Racially discriminatory treatment of travelers predates current technological screening tools (Carbado 2023, 140–43).

immigration enforcement efforts when those immigrants lack a criminal record (Knight and Gekker 2020). But they do not document this effect empirically, nor do they study the direct impacts of ICM's operations on individuals or racial groups.

Artificial Intelligence in Immigration Enforcement DHS also relies on artificial intelligence (AI) tools to scan and analyze patterns in the data that it maintains in its own databases and that it can access through other agencies and private entities. The data to which DHS has access include individuals' biographical and biometric data, criminal and immigration histories, social media accounts, vehicle registration and insurance, tax records, professional licenses, health care records, and credit records (Nalbandian 2022). Lucia Nalbandian (2022) identifies seven companies that are pivotal to the use of AI in migration management in the United States: Northrop Grumman, Palantir Technologies, Giant Oak, NEC Corporation, Gemalto, Thomson Reuters, and Amazon.

Several empirical studies trace the effects of these mass dataveillance systems on immigrants. These studies are uniformly qualitative in nature, relying on publicly available or leaked governmental documents concerning surveillance technologies, secondary sources like media accounts, and interviews with individuals targeted by these surveillance systems or navigating their effects as advocates and activists (Guberek et al. 2018; Muñiz 2022; Villa-Nicholas 2023). One investigation found that study respondents—all Latino immigrants—are less vigilant in avoiding online surveillance than they are about avoiding surveillance in the physical world (Guberek et al. 2018). Another, which involved interviews with Latinx residents on the US side of the border near the San Ysidro port of entry, concluded that these dataveillance technologies commodify the data of Latinx people of varying citizenship status (Villa-Nicholas 2023). The most wide-ranging study relied on ethnography, interviews, and analysis of government documents to explore information-sharing partnerships between local police, state and federal law enforcement and foreign partners (Muñiz 2022). Among other things, Muñiz's study shows how racial-

ized designations of dangerousness (including gang labeling) and criminal labeling in various law enforcement databases are shared with immigration enforcement and immigration benefits agencies to spur deportations and block immigration relief, including eligibility for the Deferred Action for Childhood Arrival program (DACA) (Muñiz 2022). She finds that these designations disproportionately attach to, and operate to the disadvantage of, Black and Latino residents of all immigration statuses, with severe immigration consequences for noncitizens.

These studies suggest that Latino immigrants are disproportionately subject to the mass dataveillance efforts associated with immigration enforcement. They also suggest that Black and Latino immigrants may be uniquely harmed when immigration enforcement agents rely on artificial intelligence tools and data in interoperable databases tainted by racial biases inherent in policing, economic, and health care systems to identify appropriate targets for immigration enforcement. Additional empirical inquiries into these questions could usefully supplement the limited existing data.

Technological Surveillance Tools Many of the same private companies that contract with the US government to operate immigration detention facilities also create and maintain technological systems, such as electronic ankle bracelets, designed to track and monitor non-detained immigrants subject to official monitoring (Chacón 2022b). Individuals subject to electronic monitoring (EM) are also visited by the enforcement agents who monitor those systems.

A growing body of legal scholarship describes EM and assesses the constitutional and human rights questions that these systems raise (Marouf 2017), but there are fewer empirical studies of the operation and effects of EM. One study, based on twenty-one months of ethnographic observations and semi-structured interviews, follow-up interviews, and informal conversations with thirty immigrants subject to EM found that it was experienced as stigmatizing and burdensome across racial groups (Martinez-Aranda 2022). Although EM devices are for the purposes of civil immigration pro-

ceedings, not criminal proceedings, the visual stigma of the devices reinforced immigrants' subordinated status and distanced them from community-support networks (Martinez-Aranda 2022). ICE visits to the wearers of these devices also "triggered anxiety" among other members of the community whenever a monitor came to check up on the individual (Martinez-Aranda 2022). Consequently, individuals subject to EM also "became isolated from supportive networks because of EM's capabilities to attract ICE" (Martinez-Aranda 2022). EM also has an adverse effect on the children of immigrants subjected to it because EM increases parental stress and contracts their children's social networks (Martinez-Aranda 2023). Cecilia Menjivar and Andrea Gómez Cervantes (2025) reach similar conclusions in their ethnographic study of the criminalization of Maya Guatemalan asylum seekers in rural Kansas, showing how EMs keep asylum seekers indebted and embedded in the system in the same way as other system-impacted groups in contact with the criminal legal system.

We did not identify any other empirical studies concerning the effects of immigration-enforcement-related EM on individuals' health or economic well-being, or on the health and well-being of family members. Nor did we identify any published studies of racial disparities in the use of electronic monitoring in immigration enforcement.¹⁹

Risk-Assessment Technologies In managing the US immigration detention system, which is the world's largest immigration detention system, ICE uses the Risk Classification Assessment (RCA) system. The RCA is used to determine whether it is appropriate to release a person from immigration detention during the pendency of their immigration proceedings. There are several empirical evaluations of the RCA.

One study analyzes 485 risk assessment results from ICE databases from Baltimore in spring 2013 and concludes that the RCA lacked transparency, was manipulable, did not reduce

overall detention rates, and may have increased them (Noferi and Koulish 2014). Later studies analyze documents obtained from ICE through litigation in 2018 that explained the RCA's algorithms for flight risk, vulnerability, and several other detention-related factors. The authors find that the RCA fails to standardize immigration detention decisions, fails to align detention decisions with risk, and has been manipulated by ICE officers and supervisors to favor detention and to amplify the biases of its human operators (Evans and Koulish 2020; Koulish and Calvo 2021). These earlier studies do not discuss either racial or national origin discrimination, though Kate Evans and Robert Koulish (2020) suggest that the manipulability of the RCA underscored the need for studies of the racial impacts of RCA manipulation. In a more recent study, Koulish and Evans (2021, 67–68) find that the RCA replicated systemic racism through its combination of punitive bias in the algorithm and racial bias in policing, a combination that "imposed double punishment on migrants of color" in the form of unnecessary and constitutionally suspect preventative detention.

The policy implications of these findings are contested. Evans and Koulish (2020) conclude that the most appropriate response to these technological failings is to eliminate immigration detention as a method of immigration control. In contrast, Richard Frankel (2023) acknowledges the problems with the RCA identified in earlier studies, but he nevertheless advocates for the use of a "well-designed" and "transparent" risk assessment system. He posits that RCA could serve an important purpose given that immigration judges are also prone to racial bias, make nontransparent bond decisions, and do not necessarily focus on the appropriate factors in their own bond determinations. Robert Koulish and Ernesto Calvo (2021), however, demonstrate that as a practical matter, human operators to date have manipulated the existing risk assessment tools in ways that magnify, rather than mitigate, racial biases.

19. A report based on a review of a limited body of public records finds that Black immigrants were subjected to electronic monitoring at significantly higher rates than the members of other racial groups (Giustini et al. 2021), but empirical study could enhance our understanding of the costs, benefits, and discriminatory applications of EM.

Workplace Enforcement: E-Verify

The E-Verify program is a federal program under which employers check the identity documents of potential employees against a federal database to determine whether those employees are “authorized workers.” Although all employers must comply with IRCA’s worker verification process, employer use of the E-Verify system is optional (with some limited exceptions). Over the past fifteen years, however, state-level E-Verify mandates have been introduced in several states, sometimes as part of a larger bundle of state law measures aimed at restricting immigration. Because some states have enacted E-Verify mandates and others have not,²⁰ researchers have used the variations in the enforcement landscape to examine the effects of the program, including its effects on undocumented immigration, work opportunities and wages, health, and crime rates.

Effects on Undocumented Immigration The stated legislative goal of IRCA’s employer sanctions provisions, and the related E-Verify program, is to reduce unauthorized migration. Since IRCA’s passage, however, the number of undocumented immigrants in the US has increased substantially, leading some critics to declare employer sanctions a failure (Wishnie 2007). On the other hand, one recent study that focuses on the annual percentage change in undocumented immigrants by state and year, drawing on multiple statewide data sources, has found that E-Verify mandates may be more effective than other forms of state-level immigration restrictions at deterring undocumented immigration into enacting states (Gonzalez-Gorman 2022; see also Ellis et al. 2014). The passage of the Legal Arizona Workers Act in 2007, which mandated the use of E-Verify in Arizona, also appears to have reduced the share of Hispanic noncitizens (who comprised a substantial majority of undocumented immigrant residents of Arizona at that time) residing and working in the state, at least in the short term (Chalfin and Deza 2020; Lofstrum et al. 2011).

Effects on Work Opportunities and Wages When the US Congress debated the enactment of employer sanctions provisions in the 1980s, some civil rights and Latino advocacy organizations raised concerns employers would be likely to respond to any sanctions program by discriminating against Latino applicants (Wishnie 2007). As a result, Congress required uniform document-check practices and prohibited citizenship, immigration status, and national-origin discrimination in hiring, firing, and recruiting (Perotti 1992).²¹ However, a national survey of 4.6 million employers in 1990 by the Government Accountability Office “determined that a startling 19 percent [of surveyed employers] had engaged in discriminatory behavior” against non-US citizens or those with “‘foreign’ appearance or accents” (Wishnie 2007).

The more recent, selective rollout of E-Verify programs across different states presented scholars with an opportunity to assess whether the 1986 federal employer sanctions provisions of IRCA—coupled with state-mandated use of an automated, federally maintained verification system (accompanied by state law penalties for employers)—might also lead to discrimination in employment. Perhaps unsurprisingly, early study of Mexican workers’ responses to E-Verify mandates suggests that, at least in the short term, these mandates raise deportation fears, reduce interstate mobility, and curb deportees’ desire to return to the United States (Amuedo-Dorantes et al. 2013). Ethnographic research also suggests that the expanded use of E-Verify (along with other immigration enforcement-oriented programs) produces an “extra vulnerable immigrant labor force” in the United States, with less bargaining power and greater susceptibility to exploitation, and that labor leaders expend significant energy attempting to mitigate these effects (Gomberg-Munoz and Nussbaum-Barberena 2011).

Relying on ten years of survey data, a study of naturalized Mexicans (who are authorized workers by virtue of their citizenship) finds that

20. Even in states that mandate E-Verify, fewer than 50 percent of employers in those states are actually enrolled in the program (Orrenius et al. 2020).

21. The Department of Justice’s Civil Rights Division, Immigrant and Employee Rights Section, enforces these provisions (Perotti 1992).

they themselves perceived less employment discrimination after E-Verify mandates were imposed, but they were also more likely to perceive that discrimination was impeding the success of Latino residents than were their counterparts in states that did not enact E-Verify mandates (Amuedo-Dorantes and Pozo 2019). One study used a synthetic control method to select a group of states without E-Verify mandates against which the labor market trends of Arizona could be compared (Bohn, Lofstrum, and Raphael 2015). The authors conclude that not only did Arizona's E-Verify mandate fail to improve labor market conditions for authorized workers who compete with unauthorized workers but actually increased unemployment among authorized low-skilled workers in Arizona (Bohn, Lofstrum, and Raphael 2015).

The long-term effects of E-Verify mandates on wages remain uncertain. One recent study finds that E-Verify mandates have a negative effect on the wages of likely undocumented immigrant men, but positive wage effects for likely undocumented immigrant women (Orrenius and Zavodny 2021). Any negative wage effects of E-Verify mandates on undocumented immigrants do not obviously redound to the benefit of authorized workers. Recent studies find that E-Verify mandates produce no notable effects on farm wages (Luo and Kostadini 2022) or on the wages of US-born, non-Hispanic Whites (Orrenius and Zavodny 2021). The impact of E-Verify on Latino workers may also depend, to some extent, on where they live within a state with a mandate. Irene Browne and colleagues (2022) find that the mandates have no impact on wage-employed workers. However, self-employed Latinx residents in this study experienced significant earnings losses when living outside predominantly Latinx counties but significant earnings gains when living within such counties.

Undocumented immigrants appear to suffer a wage penalty as compared to authorized workers, one which increases over the lifetime (Borjas and Cassidy 2019). And immigration policies affect the size of that penalty, which increases when immigration restrictions tighten (as through mandatory E-Verify laws) and decreases when immigration restrictions

loosen (as through DACA) (Borjas and Cassidy 2019). But additional study could help further disaggregate the effects of race and immigration status, and of employer sanctions laws and other forms of restrictive immigration policies.

Effects on Health Two studies evaluate the effects of employer sanctions and E-Verify mandates on health and health care access. One study shows that E-Verify mandates are associated with undocumented immigrants' decreased access to health insurance in the period immediately after implementation—the logical result of employers declining to hire wage workers who are not authorized to work (Churchill 2021). Another study finds that E-Verify mandates are associated with a decline in birth weight and gestational age for infants born to immigrant mothers with demographic profiles matching the undocumented population, as well as for infants of native-born mothers (Strully et al. 2020). These authors suggest that the economic and political climate that gives rise to E-Verify mandates poses risks to infant health among those groups associated with undocumented status (usually, but not always Latinos), regardless of actual immigration status.

Effects on Crime Proponents of greater immigration restrictions, including E-Verify mandates, often justify their support for these initiatives on the grounds that greater immigration enforcement increases public safety. Efforts to understand the relationship between governmental employer sanctions and crime predate E-Verify. One study focusing on Bexar County, Texas, found an increase in felony drug charges in the heavily Latino Bexar County, Texas, after the enactment of IRCA, and theorized that this was a result of reduced labor market opportunities for unauthorized residents (Freedman et al. 2018). An earlier study suggested that changes in police behavior in Hispanic neighborhoods following the enactment of IRCA could confound estimates of the effects of IRCA on criminal activity (Bohn, Freedman, and Owens 2015). Freedman and colleagues controlled for this effect in their 2018 study. Another study uses data from the National Incident Based Reporting System to conclude that the enactment

of E-Verify mandates is associated with a 7 percent reduction in property crime incidents involving Hispanic arrestees but no reduction in “violent criminal incidents” among Hispanic arrestees (Churchill et al. 2021). This study, however, does not fully explore the possible confounding effect of changes in police behavior.

Policy Implications and Future Research

There is a dearth of empirical studies on how DHS maintains enforcement databases, employs dataveillance, and uses artificial intelligence, perhaps because the opacity of these systems and processes impedes direct research. However, the existing studies of these systems consistently suggest that within the United States, Latinos are the primary targets of DHS’s immigration enforcement-related dataveillance (Cox and Miles 2013; Heyman 2022; Muñoz 2022). Studies documenting the effects of proliferating immigration enforcement should be understood as operating in a context of racialized implementation, even when the studies do not directly focus on racial effects of the program.

Studies also document racially disproportionate enforcement practices in database labeling and in the uses of electronic monitoring technologies, with Black and Latino residents more likely to experience their negative effects (Muñoz 2022). Qualitative studies exploring the impact of mass surveillance and electronic monitoring highlight the social and emotional harms of such monitoring. Additional empirical work could further document and specify the degree to which these technologies engender racial discrepancies in immigration enforcement. More research is also needed to add specificity to our understanding of how particular enforcement tools and policies contribute to racialization and affect different racialized populations, including subpopulations within large pan-ethnic groups.

In the area of worksite enforcement, which has a more robust set of related empirical studies, significant gaps and ambiguities exist. Studies suggest that E-Verify mandates tend to be adopted in states with higher levels of anti-immigrant sentiment, and such sentiment tends to be enacted (both in policy and in daily

practice) in ways that target individuals according to race, with race perhaps standing in for perceived immigration status. But studies on the effects of employer sanctions and E-Verify mandates on immigrant health and crime rates are still relatively scarce. There is no scholarly consensus regarding the effects of the increased use of E-Verify on the wages of authorized and unauthorized workers, let alone the racial impacts of E-Verify use. Finally, to our knowledge, no study has focused specifically on the employers who are the purported target of both IRCA’s employer sanctions provisions and state-level E-Verify mandates. Given that the relevant criminal sanctions are aimed at employers, it might be worth exploring whether patterns of sanctions or criminal prosecutions for IRCA violations themselves reflect racial bias.

On the whole, existing studies of DHS enforcement databases, dataveillance, and uses of artificial intelligence in enforcement suggest a troubling lack of transparency in systems that shape immigration enforcement and have significant consequences in the lives of residents of the US, regardless of citizenship status. These studies also suggest that DHS’s enforcement technologies overwhelmingly target Latinos, and consequently, that any errors, misinterpretations of data, problematic exercises of discretion, and even technological glitches, in implementing the system on the ground disproportionately affect Latinos. Finally, the available data suggest that these systems not only reproduce racial disparities of criminal enforcement systems automatically but also may exacerbate them by amplifying the effects of law enforcement biases through algorithmic manipulation. Overall, these studies point to the urgent need not only for more study but also for greater transparency in immigration enforcement technologies, greater legislative oversight of the uses of these technologies in enforcement, and more robust legal protections against discriminatory law enforcement practices.

From Immigration Enforcement to Court Proceedings

In this section, we consider scholarly empirical studies that have examined what happens to

immigrants who enter the US court system after being charged with immigration-related violations. Before proceeding with our review, it is important to make clear which bodies of research are excluded from our review. Studies that examine whether and to what extent criminal defendants' citizenship status affects criminal court outcomes for all types of criminal charges are beyond the scope of our review (see, for example, Koo et al. 2022; Light et al. 2014). Research on immigration adjudication by service agencies within the Department of Homeland Security, such as the US Citizenship and Immigration Services (USCIS), is also outside the scope of our review (Ryo and Humphrey 2022; Schoenholtz et al. 2014). Finally, we do not examine studies of immigration cases decided by US Courts of Appeals and the US Supreme Court (see, for example, Law 2010; Vogler 2019).

Our review focuses on the following two sets of research. First, we focus on research on criminal prosecution of immigration crimes in criminal courts. By immigration crimes, we mean violations of immigration law that are sanctionable through criminal punishment. Immigration crimes generally include improper entry and reentry, smuggling, transporting, and harboring aliens, and immigration-related fraud (Santamaria 2023). Second, we focus on research on civil prosecution of immigration law violations in immigration courts. Specifically, we review the growing body of research on removal proceedings.²² Removal proceedings constitute the vast majority of proceedings conducted by immigration judges (Executive Office for Immigration Review 2022, 103). We begin our discussion of each of these bodies of research with a brief overview of the relevant legal background that contextualizes our subsequent discussions.

Research on Immigration-Crime Cases in Criminal Courts

Certain features of federal cases involving immigration crimes set them apart from other federal criminal cases. The most common

types of immigration crimes are smuggling offenses, illegal-entry offenses, and fraudulent document offenses (US District Courts 2020a, table D-2). Most of these cases are brought in southwestern border districts (US District Courts 2020b, table D-3). The defendants in these cases are predominantly male, Hispanic and non-US citizens (Schmitt and Jeralds 2022, 18). Between fiscal years 2018 and 2020, prosecutions of immigration crimes constituted the largest share of all federal criminal prosecutions (Schmitt and Jeralds 2022, 5). To lighten these cases' burden on the court system, some districts place these cases in fast-track programs, which allow prosecutors to offer reduced sentences to those who waive certain procedural rights, enter a prompt guilty plea, and agree to be sentenced immediately (Hartley and Tillyer 2012, 79–80).

Although legal scholars have written extensively about the nature and operation of federal prosecution of immigration crimes (see, for example, Chacón 2021b; Eagly 2010; Lee 2013), including the racist origins of laws that gave rise to these prosecutions in criminal courts (Fish 2022), empirical research on the prosecution of these immigration crimes remains relatively scarce. The small number of existing empirical studies relies exclusively on quantitative methods, and the outcome of interest in these studies is limited to sentencing decisions. To understand the determinants of these sentencing decisions, empirical studies have examined the following set of predictors: defendant characteristics (such as their race and gender), characteristics of the communities in which the courts are located, and offense types (such as trafficking, illegal entry, and document-related).

Hartley and Tillyer (2012) use the US Sentencing Commission (USSC) data from fiscal year 2008 to investigate the effect of legal, extra-legal, and case-processing variables on sentence lengths of immigration-crime cases. This study finds that racial disparities in sentencing outcomes in these cases vary by type of offense and district in which the cases are adjudicated.

22. In 1996, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), replaced “deportation” proceedings and “exclusion” proceedings with “removal” proceedings (Executive Office for Immigration Review 2022, 61).

Specifically, their results show that Hispanic defendants, compared to White defendants, received shorter sentences in illegal-entry cases, though not in trafficking nor documented-related cases (Hartley and Tillyer 2012, 98). However, Hispanic defendants received significantly longer sentences than White defendants in two of the five southwestern border districts examined (Hartley and Tillyer 2012). In addition, Hartley and Tillyer (2012, 99) find that in southwest border districts, Black defendants received significantly longer sentences compared to White defendants.

In a subsequent study, Tillyer and Hartley (2016) analyzed the same USSC data but narrowed their research focus to sentencing outcomes in illegal-entry cases in fast-track eligible districts. Their results indicate that the use of fast-track programs, the amount of sentence reduction applied in fast-track cases, and the overall sentence length are differentially impacted by various legal, extralegal, case-processing, and district-level variables. Of most relevance to our review, this study finds that male and Hispanic offenders received relatively longer sentences, leading Tillyer and Hartley (2016, 1638) to conclude that judges may be using sentence length to attempt to deter Hispanic immigrants, who constitute the majority of undocumented immigrants, from entering the United States.

Finally, Melanie Holland (2020) analyzed USSC data on sentences imposed on criminal defendants convicted of immigration offenses between 2006 to 2017. One of this study's main foci was on the significance of gender on the likelihood that a judge will engage in a downward departure from sentencing guidelines under the fast-track program. She finds that although the odds of receiving a downward departure under the fast-track program did not differ significantly between male and female defendants in the study sample, gender disparities did exist across racial groups and countries of origin. For example, Holland (2020, 142) finds that Black and Hispanic women were less likely to receive downward sentence departures than White women. However, controlling for Hispanicity, Mexican women were more likely to receive this departure than women from other countries. In terms of the magnitude of

the sentence length reduction among defendants who received a downward departure, women received larger sentence reductions than their male counterparts, but Hispanic women received significantly shorter reductions than White women.

A qualitative study of federal drug crime prosecutions along the southern border by Mona Lynch (2017) complicates these findings by suggesting that immigration sentencing data need to be understood in relation to drug prosecutions, at least along the southwestern border. Lynch's study focuses on the criminal prosecution of immigrants—most commonly undocumented—who were apprehended by US Border Patrol while transporting drugs in backpacks as part of their payment to a coyote to make it across the increasingly difficult-to-cross US-Mexico border. Drawing on her observations of criminal proceedings, court documents, and interviews with attorneys and judges, Lynch (2017, 113) concludes that in sharp contrast to the drug prosecutions that she studied in other regions of the country, drug cases along the southwestern border are “immigration cases, and the prevailing adjudicatory logic is concerned with defendants’ status as unauthorized outsiders” This means that “the imperative driving their criminal adjudication is swift and efficient resolution to get them out of the system and out of the country” (Lynch 2017, 121). Thus, these immigrant defendants typically were mass processed whereby in exchange for a guilty plea, felony illegal reentry charges were dropped to misdemeanor illegal entry charges, and felony drug-trafficking charges were reduced to misdemeanor drug possession charges. These guilty pleas result in more lenient sentences compared to those in non-border districts, but this system also generates what Lynch characterizes as a unique form of over-criminalization of immigrants.

Taken together, the findings of these empirical studies show that the effect of defendants’ race on sentencing outcomes in cases involving immigration crimes are complex and conditional. These studies suggest that the effects of race on sentencing outcomes can vary by gender and national origin. They also suggest that a full understanding of the effects of race on

sentencing outcomes requires considering geography and offense types, particularly courts' proximity to the US-Mexico border, and the distinction between illegal-entry offenses and other types of immigration and criminal offenses.

Research on Immigration Court Process and Outcomes

Not all immigrants who are apprehended by US immigration authorities are placed in formal removal proceedings decided by immigration judges. Many immigrants who are encountered at the border are summarily expelled by front-line immigration officials without an opportunity to appear in immigration court (Leong 2022).²³ However, immigrants placed in a removal proceeding must appear before an immigration judge. The two main types of hearings in removal proceedings are master calendar hearings and merits hearings.²⁴ Because some immigrants in removal proceedings are detained during the pendency of their proceedings, immigration courts also hold bond hearings—also known as custody determination or redetermination hearings (Executive Office for Immigration Review 2022, 124). Roughly six hundred immigration judges preside over these types of hearings across approximately seventy locations throughout the United States (Executive Office for Immigration Review 2023). Immigration courts are located within the US Department of Justice—the department of the executive branch tasked with law enforcement—rather than the judicial branch.

A growing body of research examines immigration court process and adjudication. These studies use diverse methodologies (both qualitative and quantitative) to investigate wide-ranging topics. The following sampling of topics from recent studies of immigration court is

illustrative: the use of interpreters and technology in immigration courtrooms (Barak 2021; Eagly 2015), the justifications that immigration judges provide for their decisions (Asad 2019), the role of legal representatives and their advocacy strategies (Levesque et al. 2023; Miller et al. 2015; Ryo 2018), how immigrant respondents view immigration judges and the court system (Barak 2023; Ryo 2017), and the importance of continuances granted by immigration judges (Hausman and Srikantiah 2016). The influence of legal and extralegal factors on immigration judges' decisions has been of enduring interest to empirical researchers working in this area. In brief, studies have found that personal characteristics of immigration judges matter (Keith et al. 2013; Ramji-Nogales et al. 2009; Ryo and Peacock 2021). So do state and local contexts in which immigration courts are located (see, for example, Blue et al. 2021; Chand et al. 2017; Miller et al. 2014), and outside influences and pressures on immigration judges (Hausman et al. 2022; Heyes and Saberian 2019; Kim and Semet 2020a, 2020b).

Inequalities in the immigration court process and outcomes have been of core concern to scholars. However, empirical research that systematically examines racial bias or disparities in immigration court process or outcomes is relatively scarce. Instead, the dominant scholarly focus has been on disparities by national origin. For example, in a national study of access to counsel among immigrants in removal proceedings decided between 2007 and 2012, Ingrid Eagly and Steven Shafer (2015) investigated disparities in representation rates by immigrants' nationality. They found that Mexicans, who constitute the largest nationality group in removal proceedings, were the least likely to be represented by counsel, with a representation rate of 21 percent (Eagly and Shafer 2015, 92). The next three nationality groups

23. The key types of nonjudicial removals are expedited removal and reinstatement of prior removal orders. In fiscal year 2021, about 42 percent of removals from the United States were expedited removals, and 35 percent were based on the reinstatement of prior removal orders (Leong 2022).

24. The master calendar hearing is the first hearing that an immigration judge holds during the removal process. These hearings are held for pleadings, scheduling, and other similar matters (Executive Office for Immigration Review 2022, 69). During merits hearings, also known as individual calendar hearings, immigration judges decide challenges to removability and applications for relief from removal (Executive Office for Immigration Review 2022, 78).

with low representation rates were also from Latin America: Honduras, Guatemala, and Nicaragua. In sharp contrast, Eagly and Shafer found that most Chinese nationals in removal proceedings—92 percent—were legally represented.

Research on immigration bond hearings by Ryo (2019) is another study that investigates disparities by national origin. This study examines immigration judges' determination that certain immigrant detainees pose a danger to the community by analyzing audio recordings of 350 immigration bond hearings decided between 2013 and 2014 in the Central District of California. Controlling for a variety of detainee background characteristics and criminal-conviction-related measures, the study shows that immigration judges are more likely to find Central Americans as a danger to the public than non-Central Americans (Ryo 2019, 245). This study offers two possible explanations for this finding that warrant future empirical investigation: One possible explanation is that the sudden surge in Central American removal cases during the study period triggered in immigration judges a heightened sense of criminal threat from this group. The second possible explanation is that in a decisional environment characterized by time pressure and incomplete information, social stereotypes of Central Americans as criminals and gang members might have become highly salient.

Finally, two recent studies show that events that threaten national security or public health can stigmatize certain nationality groups, which can lead to judicial bias against those groups in immigration court. Abel Brodeur and Taylor Wright (2019) examined the effect of the 9-11 attacks on asylum decisions made by immigration judges. The study's difference-in-differences analysis showed that the attacks significantly reduced the likelihood that applicants from Muslim-majority countries were granted asylum. Moreover, this estimated effect was even more pronounced among immigrants who shared the same nationality (Egypt, Lebanon, Saudi Arabia, and United Arab Emirates) as the 9-11 attackers (Brodeur and Wright 2019, 130). In another study, Peacock and Ryo (2022) investigated the effect of the COVID-19 pandemic on immigration judges' removal deci-

sions. They found that Chinese nationals, the group that was widely blamed for the pandemic, became significantly more likely than other groups to be ordered removed during the early pandemic period compared to the pre-pandemic period. Moreover, East and Southeast Asian nationals, the groups perceived to be most closely associated with, or belonging to the same ethnoracial category, as Chinese nationals, also experienced a significantly higher removal rate during the early pandemic period (Peacock and Ryo 2022, 581–83).

As the foregoing discussion indicates, much of the focus in this body of research has been on national origin, but two recent exceptions are worth noting. In a study of crime-based removal proceedings, Ryo and colleagues (2025) find that Hispanic immigrants with drug-related charges and Black immigrants with domestic violence or firearms charges obtain worse case outcomes than their counterparts. They also find that non-White immigrants fare better when their presiding judges are of the same, rather than different, race. In another recent study, Ryo and colleagues (forthcoming) find that race and criminal record are key predictors of whether an individual in removal proceedings obtains legal representation and the effect of that representation on case outcomes. Immigrants are much less likely to be represented if they have criminal charges, and Hispanic immigrants (whether or not they have criminal charges) have substantially lower rates of representation than any other immigrant group. Moreover, the positive effect of representation on case outcomes varies by criminal record and race. The representation effect is substantially greater for immigrants with criminal charges than for those without criminal charges. In addition, the representation effect is the greatest for White immigrants with criminal charges and the smallest for Black immigrants without criminal charges. Finally, this study finds that White immigrants with White lawyers obtain more favorable outcomes than White immigrants with non-White lawyers, but non-White immigrants (particularly Black immigrants) face less favorable outcomes when they are represented by same-race lawyers.

In sum, there is a growing body of empirical studies on immigration court adjudication that

have focused on disparities in case outcomes by national origin. More research, however, is needed to identify the mechanisms that generate such disparities. In addition, there is a continuing need for scholarship that systematically examines the complex nature and sources of racial disparities in immigration court process and outcome, as well as the interaction between race and criminal record that might be shaping case outcomes. Finally, recent research highlights the importance of examining not only the racial identities of immigrants but also those of lawyers representing them and of judges presiding over their cases.

Policy Implications and Directions for Future Research

Whether and to what extent racial minorities experience harsher treatment or face worse outcomes are questions of fundamental importance for any court system. Empirical research suggests that race and nationality may be important axes of inequality in the adjudication of immigration crimes and removal proceedings, respectively. The policy implications of these study findings are potentially wide-ranging. For example, insofar as the source of such disparities is the activation of pernicious stereotypes, there is a need to develop effective antibias training for judges and provide them with expanded resources to create decisional environments (such as those characterized by less time pressure and more complete case information) that reduce the risk of reliance on mental shortcuts and categorical thinking. On the other hand, to the extent that the source of disparities is structural—for example, unequal access to legal resources, language assistance, or information networks—policy solutions must include community-based and court-based programs that address those specific structural barriers.

The foregoing discussion suggests that an important direction for future research in this area is identifying the specific mechanisms

that generate disparities along racial lines or nationality. In addition, with respect to adjudication of immigration crimes, empirical research is needed to understand the effects of race on court outcomes beyond sentencing. For example, future research on immigration crimes should seek to address basic questions such as whether and to what extent racial disparities exist in decisions to prosecute and decisions to offer plea bargains. With respect to removal proceedings, expanding the research focus beyond national-origin disparities is an urgent task. As we noted earlier, conspicuously missing in the existing empirical literature are systematic examinations of racial disparities in immigration court process and outcomes. Filling this gap in empirical knowledge is critical to obtaining a more holistic view of how racial disparities across multiple legal institutions (from criminal justice to immigration enforcement systems) might have mutually reinforcing effects that might compound over time to generate cumulative disadvantages for immigrants of color.

Impact on Families

Scholarship over the past fifteen years has significantly expanded our understanding of the effects of immigration enforcement on families.²⁵ Despite the US government's putative support for keeping families together, US immigration law "contains many provisions that keep families apart and uncertain of when or if family reunification will take place" (Enchautegui and Menjívar 2015, 32). Using data from the American Community Survey and interviews with immigrants in Phoenix, Arizona, María Enchautegui and Cecilia Menjívar (2015) identify four key mechanisms through which immigration law engenders family separation: setting restrictions on who gains legal admission to the United States, mandating that immigrants in the United States maintain a certain level of income before sponsoring a family member, prohibiting legal

25. Our review and analysis of the existing literature primarily focuses on the effects of immigration enforcement on families in the United States; however, there is an emerging body of research that examines impact on family members, such as US citizen children, who are deported or experience forced relocation and are residing in countries of origin at the time of their research participation (see, for example, Fuentes-Balderrama et al. 2024; Hamilton et al. 2023).

entry to those who already crossed the US border without documentation, and regulating the lives of immigrants without legal status.²⁶ While family separation through removal remains one of the most severe outcomes of immigration enforcement, the looming threat of separation also plays a critical role in shaping the contours and composition of families, as well as the meanings, relations, and practices that constitute family life.

This section focuses on empirical scholarship that explores the ways that immigration enforcement shapes life outcomes for, and relations between, parents, intimate partners, children, and other family members. Many of these family-impact studies show that immigration enforcement has a long arm that extends beyond the purported target of enforcement (that is, unauthorized immigrants) to reach even those who have legal status or are US citizens.²⁷ For example, scholars find that US citizen partners of unauthorized immigrants live the social experience of noncitizenship (López 2015) and that immigrant families experience “collective liminality” that threatens their financial security and emotional well-being when a family member is detained (Martinez-Aranda 2020). Nina Rabin (2018, 1) emphasizes the importance of studying “secondary immigration enforcement” to capture how “young people, regardless of their own immigration status, are harmed by immigration enforcement aimed at their parents.” In addition, as we will detail at length, family-impact studies suggest that the effects of immigration enforcement often reverberate throughout entire communities in which immigrant families are embedded.²⁸

Nearly all family-impact studies of immigrant life in the United States examine the experiences of Latinos. This research strategy is unsurprising; as we explained earlier, Latinos—and specifically Mexicans and Central Americans—remain the primary targets of immigration enforcement in the United States. As a result, this literature does not directly address disparities in treatment or outcomes across different racial groups. In the conclusion of this section, however, we revisit this issue by highlighting the urgent need for studies that systematically analyze the role of race in shaping how immigrant families are treated and impacted by immigration enforcement.

Approaches to Family-Impact Research

We begin by discussing the two main approaches that researchers have adopted to analyze the effects of immigration enforcement on immigrant families. The first approach focuses on the effects of specific enforcement policies or practices versus the overall enforcement climate.²⁹ The second approach focuses on the “direct” versus “indirect” effects of enforcement policies and practices.

Specific Laws and Policies Versus the Overall Enforcement Climate

Some studies seek to evaluate the effects of specific laws and policies, while others aim to unveil the effects of the overall enforcement climate. Many of the studies that evaluate the effects of specific laws and policies have focused on those adopted by state and local governments (for an overview, see the section on immigration enforcement federalism in this article). For example, Scott Rhodes

26. Other scholarship examines how individual characteristics such as sexuality, nationality, age, and socioeconomic status interact with these mechanisms to keep immigrant families apart (Jones 2023; Rodriguez 2019).

27. As Carlos Santos and Cecilia Menjivar (2013, 8) have observed, “the undocumented population is not a separate group easily classifiable and isolated from the documented (or U.S. citizens). Undocumented immigrants live, work, go to school, pray and play with documented immigrants as well as U.S. citizens, and in the context of the family and schools, they are often found under the same roof.”

28. For helpful reviews of studies on the broader question of how immigration shapes families, see Glick 2010; Van Hook and Glick 2020.

29. This is an important distinction, as Amy Johnson and colleagues (2024, 1) show in their recent study comparing the effects of “discrete dramatic societal events that independently signal a change to the country’s approach to deportation” versus “more gradual changes to the country’s everyday institutional . . . and social . . . environment of deportation threat.”

and colleagues (2015) analyze the relationship between 287(g) agreements and health care among Hispanic/Latino and non-Hispanic/Latino groups in North Carolina. The authors find that delaying and receiving poor-quality prenatal care was relatively common among Hispanic/Latina women, although the adoption of a 287(g) agreement did not significantly change care use or quality (Rhodes et al. 2015). This and other family-impact studies thus highlight immigration policy as a “de facto family policy,” if not a de facto family separation policy (Rangel and Peck 2022, 189).

A second group of studies examines how the more diffuse enforcement environment shapes immigrant families. Scholars measure the overall enforcement climate in various ways. To assess how the enforcement environment generates parent-child separations among Central American immigrants, Catalina Amuedo-Dorantes and colleagues (2015) consider the joint effect of the 287(g) program, Secure Communities, and state omnibus bills. Their study results show that these initiatives collectively increase the rate of separations and that “deportees with children left in the United States are more likely to report the intention to remigrate compared with deportees with no children and deportees who did not leave young children back in the United States” (Amuedo-Dorantes et al. 2015, 1845). Other studies examine immigration enforcement climate at a broader level than formal laws and policies. For instance, Ashley Walsdorf and colleagues (2022) explore how Latinx immigrant parents in the greater Washington, DC, area view the overall exclusionary environment—defined as threats to programs such as temporary protection, the tightening of border enforcement, and nativist sentiment in the media. In examining how this environment affects the health and well-being of their adolescent children, the study finds that parents “holding a more precarious status . . . describe their adolescent children as being more adversely impacted by immigration changes than do parents who have greater security by virtue of being permanent residents or citizens” (Walsdorf et al. 2022, 59).

Finally, some family-impact studies track changes in the enforcement climate over time

or analyze specific waves of enforcement action that have punctuated different time periods. Catalina Amuedo-Dorantes and Esther Arenas-Arroyo (2018) interrogate how an evolving sociopolitical context affects Hispanic immigrant families with an index that accounts for the “intensity” of overall enforcement policies between 2001 and 2015. This study finds that the higher the index score, the greater the proportion of Hispanic youth in foster care (Amuedo-Dorantes and Arenas-Arroyo 2018, 372). In a rare study that compares the experiences of Latino and non-Latino families, Sandra Candel and Shahla Fayazpour (2019) explore how Mexicans and Iranians navigated the post 9-11 and Trump-era “zero-tolerance” policies regulating immigration. This study shows that whereas Mexican immigrant families were most strongly affected by the fear of or actual deportation, their Iranian counterparts were more preoccupied with US travel bans from Muslim countries and their children’s uncertain socioeconomic prospects.

“Direct” Versus “Indirect” Effects Individual immigrants and their family members experience enforcement action with varying degrees of contact with the enforcement system. Thus, the second key approach in family-impact studies attends to the “direct” versus “indirect” effects of enforcement on (mostly Latino) families. There is no uniform definition of “direct” and “indirect” effects that scholars have adopted, but one useful conceptualization is Joanna Dreby’s (2012) classification system. Drawing on a four-year-long ethnography of Mexican immigrant households and the effects of enforcement on Mexican children, Dreby (2012) proposes what she refers to as a “deportation pyramid.” The deportation of a parent is situated at the apex of the pyramid, representing the most acute, permanent, and arguably “direct” form of immigration enforcement. The bottom of the pyramid reflects less conspicuous experiences of enforcement shared across a larger population of immigrant families that can be viewed as an “indirect” effect (for example, the threat of deportation, and fears about family stability). Under this conceptualization, actual arrest, detention, or deportation can be considered a “direct” effect, whereas the fear

or threat of enforcement action can be considered an “indirect” effect.

While distinguishing between “direct” and “indirect” effects can be a helpful heuristic device, this distinction comes with limitations. Though most family-impact studies tend to address direct or indirect effects independently, these effects are closely intertwined and can interact in ways that compound experiences of insecurity and precarity among immigrant families. Indeed, different forms of enforcement “often blur and build on each other, either because they remain unresolved or because they prompt a second or third episode” (Dreby and Macias 2023, 119). As Mirian Martinez-Aranda (2020, 757) writes, “Damage to families emerges when the looming, ever-present threat of deportation becomes more intense and tangible at the moment a loved one is detained . . . and their relatives increasingly fear deportation.” Moreover, direct and indirect effects are not static categories defined by a uniform set of consequences. For example, the same type of enforcement action may influence a child differently depending on its intensity, duration, and when and where it took place in terms of the child’s development. One study of immigrant families finds that, for younger children, a lack of comprehension and awareness may mitigate some of the harmful repercussions of parental deportation even as the effects of parental separation linger in the long term (Dreby et al. 2022). Another study finds that, within Mexican mixed-status families, caretaking responsibilities often fall on older siblings after parental detention or deportation (Londoño et al. 2022).

Effects on Four Main Domains of Family Life

In this section, we discuss studies that evaluate the direct and indirect impact of specific policies and programs or the overall immigration climate. These studies examine how immigration enforcement shapes family and household dynamics, meanings, roles, and practices across four key domains (see Menjívar et al. 2016): familial relationships, economic and material conditions, health and health care, and education. These categories are overlapping, and some studies assess the effects of enforcement across multiple domains. For example, in

their study of Mexican families with a father deported from the United States, Victoria Ojeda and colleagues (2020) note that deportation generates insecurities that compromise mental and physical health, academic performance, financial stability, employment, social networks, and family life. Moreover, as we will highlight, effects in one domain of life can initiate a cascading effect that influences life in other arenas. For example, an analysis of Latino adolescents in Southern California by Kristina Lovato (2019) shows that the deportation of a parent erodes children’s psychological health, which subsequently impedes their academic performance.

Family Dynamics and Relationships Family separation—both potential and actual—remains a prominent theme in family-impact studies. Some research helps illuminate the consequences of family separation from the perspective of family members who are arrested, detained, or deported. For example, Abigail Andrews and Fátima Khayar-Cámara (2022) study evolving fathering practices following men’s deportation to Tijuana, Mexico. They find that “men deported directly tended to remain undeterred, while those who faced complex deportations began to acquiesce to the barriers to parenting, and those deported from jail or prison resigned themselves to the institutional obstacles to fatherhood” (Andrews and Khayar-Cámara 2022, 706). More common, however, are studies that focus on the experiences of left-behind family members. Much of this work traces how family separation damages family relations and stability. For instance, Kristina Lovato and Laura Abrams (2021, 39) find in their study of Latinx students in Southern California that after a parent is deported, families “(a) modified family structures and relied upon extended familial support, (b) experienced familial tensions, (c) experienced financial difficulties and housing instability, and (d) retreated from social life, including drastically shrinking social networks.” Because deportees tend to skew male, family separations often create new or deepened preexisting strains between “suddenly single mothers” and their children. For example, one fifteen-year-old interviewee in Lovato and Abrams’ study

was left to shoulder the responsibility of caring for her younger brother after her father's deportation forced her mother to find paid employment.

While actual family separation destabilizes family life and relationships, many scholars contend that private and public discourse in Latino communities are so saturated with discussions about immigration enforcement, legal status, and the like, that the risk of family separation is also a significant source of pervasive insecurity and anxiety for many Latino families. Studies show that deportability can play a powerful role in shaping parenting practices and household dynamics. To take one example, Fernanda Lima Cross and colleagues' (2022, 569; see also Lykes et al. 2013) Michigan-based study finds that the fear of deportation has the potential to recalibrate how unauthorized Latinx mothers engage with their children; whereas some women chose to withhold information about, or abstained from discussing, the topic of deportation with their children, others felt obliged to "prepare their children for possible family separation and the necessary steps to reunification." In Shannon Gleeson's (2015) study of workplace exploitation among Latinos in California, she notes that the pressure to provide for one's family and retain paid employment suppresses the extent to which Latino workers advocate for their labor rights, as well as how openly they discuss mistreatment in the workplace with family members. Deisy Del Real (2019) shows how the environment of fear and uncertainty create conditions for the abuse and exploitation of undocumented immigrants by their relatives, intimate partners, and friends who have legal status.

Finally, an important strand of family-impact studies highlights how families can serve as sites of resilience, strategic decision-making, security, and affection. Blanca Ramirez (2024) discusses how Latinx mixed-status families engage in "anchoring work," a family maintenance strategy that aims not only to prevent the deportation of a relative but also to mitigate the repercussions associated with their potential removal. For example, families employed "strategic secrecy," withholding details about the criminal record of a parent at

risk of deportation from their children to shield them from additional anguish (Ramirez 2024). In line with these studies that emphasize the protective role of families, Alan Dettlaff and colleagues (2009, 781) show that Latino "immigrant families are significantly less likely to experience high family stress, actively use drugs, or exhibit poor parenting skills than their native-born peers." However, even supportive family relationships can be fraught with complications for immigrants. When children engage in "legal brokering" to help older, undocumented family members make sense of immigration law and advocate for their rights (Delgado 2020), "this burden can be disruptive to family dynamics and challenge normative power relations between parents and children" (Gleeson 2015, 32). Likewise, Jennifer Kam and colleagues (2024) find that while undocumented college students' communications with their families about their legal rights as immigrants are associated with higher levels of felt safety, some types of knowledge gained through these communications are also indirectly associated with increased levels of anxiety.

Economic and Material Conditions A major strand of the family-impact literature examines immigration enforcement's material consequences, which are often severe and long term in nature. Families face numerous economic disadvantages after a relative is detained or deported. As William Lopez and colleagues (2022, 63) find, "the most immediate repercussion of worksite raids is the loss of employment" previously held by the affected family member. Ajay Chaudry and colleagues' (2010) study of communities that experienced raids in six sites across Arkansas, California, Florida, Iowa, Massachusetts, and Nebraska reports that the incomes of (mostly Latino) immigrant families contracted by half or more on average in the months following a relative's deportation and that some families still had trouble purchasing food twelve months later. Many families also incur thousands of dollars in legal fees and other costs related to attempts at family reunification, which swiftly deplete their savings (Boyce and Launius 2020; Chaudry et al. 2010). Further disruptions to household finances oc-

cur when deportation removes the former breadwinner, leading their (usually female) spouse to “[work] more hours or [take] additional jobs, limiting time with their children. . . to compensate for lost income” (Lopez et al. 2022, 63).

Studies find that immigration enforcement has detrimental financial and material repercussions for Latino families even when family members are not detained or deported. Subfederal immigration enforcement programs are notable in this regard. Stephanie Potochnik and colleagues’ (2017, 1047) study finds that “Mexican non-citizen households residing in a metro-area that adopted 287(g) were 10 percentage points more likely to experience food insecurity than their peers in metro-areas without 287(g)—an association that did not extend to the Hispanic US citizen population. Likewise, Jacob Rugh and Matthew Hall (2016, 1068) show that counties with 287(g) agreements were more likely to see substantial housing foreclosures among Latinos compared to White and Black residents, especially in places “where more immigrants are identified for deportation and where a higher share of the undocumented population resides in owner-occupied homes.” Cecilia Ayón’s (2018) study of Latino immigrants in Arizona highlights the barriers created by the Legal Arizona Workers Act, which obliged employers to verify a job candidate’s immigration status before hiring them. This requirement not only exacerbated immigrants’ ability to find employment, especially when undocumented, but also effectively relegated workers to lower-wage and more exploitative jobs.

A smaller body of research illuminates how financial insecurity resulting from immigration enforcement affects family relations. Lopez and colleagues (2022) explain how deportations can disrupt the relationship between immigrants in the United States who send remittances to family members in their countries of origin and receivers of those remittances: to pay for an attorney for a relative apprehended in a workplace raid, some respondents in their

study requested that family members in their home country return some of the money they had previously received in the form of remittances, while other respondents had to stop sending remittances altogether. In addition, the inability to locate gainful employment in the United States because of immigration enforcement policies can itself spur family separation, compelling immigrant parents in the United States to return to their country of origin to work while their children remain in the United States (Rabin 2018).

Contributing to this body of research, Ajay Chaudry and colleagues (2010) point to how religious, nonprofit, and other community groups stepped in following a workplace raid to collectively initiate “disaster-relief operations.” In Postville, Iowa, these groups raised approximately \$1 million to assist affected Latino families (Chaudry et al. 2010). Still, the authors note that such grassroots efforts were inherently limited—not only because of the challenges in addressing a series of disparate needs but also because of difficulties tied to organizing and sustaining the humanitarian response for as long as these needs persisted (Chaudry et al. 2010). Ironically, Chaudry and colleagues’ (2010) account also suggests that community assistance is contingent on the scale and publicity of workplace raids themselves; as a result, families living in places where fewer immigrants were impacted by a raid received less support despite facing similar challenges.

Health and Health Care While immigration enforcement has relatively immediate effects on financial security and the material conditions of immigrant households, health effects generally unfold more gradually over time. Applying an “embodiment of racism” approach to “examine how racial and ethnic social hierarchies shape people’s biology, or ‘gets under their skin,’” Airín Martínez and colleagues (2018, 189) show that for Mexican mixed-status family members living in Arizona after the passage of SB 1070,³⁰ fear of deportation produces

30. Passed in 2010 in Arizona, Senate Bill 1070 (“Support Our Law Enforcement and Safe Neighborhoods Act”) instituted a series anti-immigration policies targeting undocumented persons; while some measures were overturned following a 2012 US Supreme Court decision, the measure requiring state and local law enforcement to

oral inflammation—“an indicator and predictor of oral health, immune function, and chronic disease.” Among Latino parents, even simply knowing someone who has been deported increases the odds that “their child has been referred or diagnosed with a developmental disorder,” regardless of that parent’s immigration status (Vargas and Benitez 2019, 1164).

The effects of immigration enforcement—both actual and potential—on mental health is a particularly robust line of inquiry in the family-impact literature. Family separation can spark a range of mental health issues—both for the deportee and for their family members who continue to reside in the United States (for a review, see Naseh et al. 2024). Victoria Ojeda et al. and colleagues (2020, 10) observe this dual impact in their investigation of Mexican immigrant fathers’ deportations, which not only generated lasting “sadness and depression . . . chronic crying, anger and resentment, and even a suicide attempt” among their children, but also feelings of inadequacy among deportees who could no longer perform their parenting role. Another important insight from this literature is that the mental health of immigrants often suffers because of anxieties about the safety, security, and well-being of other family members—for example, children concerned about parental deportation (Gulbas et al. 2016; Lieberman et al. 2020) or parents distressed about the discrimination that their children face at school owing to their race or Spanish-language use (Barajas-Gonzalez et al. 2022b). For example, Kathleen M. Roche and colleagues (2018, 527) surveyed Latino parents living in a large city in the mid-Atlantic and found that concerns about family separation and the overall anti-immigrant climate, as well as interactions with immigration authorities, significantly increased the likelihood that respondents developed “high psychological distress”—measured as “depression, anxiety, and somatization.”

Family-impact studies show that parental health can shape not only the cognitive and behavioral development but also the psychological and physical health of their children (see,

for example, Barajas-Gonzalez et al. 2022a; Koball et al. 2015). For instance, Florencia Torche and Catherine Sirois (2019, 30) indicate that the mere prospect of a tougher immigration reform can harm children in utero. Employing data on live births, the authors find that exposure to the adoption of Arizona’s 2010 immigration enforcement bill, SB 1070, during pregnancy (measured by references to the bill in newspapers and Google searches in the state) “had a negative effect on birth weight among Latina immigrant women” whereas their Black, White, or non-immigrant Latina counterparts remained unaffected. Nicole Novak and colleagues (2017) find in their study of a major immigration raids in Postville, Iowa, similar effects for infants born to not only Latina immigrant mothers but also US-born Latina mothers. Not surprisingly, health effects on children vary by their age and stage in the life course (Chaudry et al. 2010; Lieberman et al. 2020; Lovato 2019; Roche et al. 2018). For example, Joanna Dreby and colleagues (2022) draw on interview data with young adults raised in both Latinx and non-Latinx immigrant families in New York to find that children ages six to fourteen experienced the most severe mental health effects following an enforcement interaction. Dreby and colleagues (2022, 726) explain that whereas younger children lacked awareness of enforcement and older children could more easily manage these interactions, those in the middle age range “were old enough to remember them and for parents to request [the children’s] help, but children felt bewildered and confused and unsure of what to do.”

Finally, research suggests that legal precarity obstructs health care access. In particular, fear of immigration enforcement leads immigrants to avoid interactions with medical professionals. For example, Edward Vargas (2015, 88) finds that, all other variables held constant, Medicaid use is higher among Mexican mixed-status families compared to US-born White families; however, once deportation risk is incorporated into the model, Medicaid use among Mexican mixed-status families declines, suggesting a “chilling effect” for undocu-

request identification documents and confirm legal status during stops or arrests (that is, the “show me your papers” provision) was upheld.

mented immigrants. In some cases, Latino immigrants, such as Indigenous Guatemalans in rural Kansas, avoid contact with medical professionals to treat the health conditions that fear of immigration enforcement often triggers (Gómez Cervantes and Menjívar 2020). As with other enforcement effects, scholars also locate spillover health effects that extend beyond the unauthorized population. Investigating how the wider enforcement environment influences the psychological health of Latino immigrants with adolescent children, Kathleen Roche and colleagues (2018, 529) find that, “[although] parental worries and behavior modifications tied to immigration actions and news were least prevalent among US citizens, pernicious immigration-related consequences were by no means limited to the undocumented”; even non-US citizen parents with legal status evaded health care and expressed concern for their families, fearing for their more legally vulnerable members.

Education Studies suggest that immigration enforcement has detrimental effects on immigrant children’s academic performance and attainment, which have potentially long-term implications given the association between educational achievement and health, as well as employability. Carolyn Heinrich and colleagues (2023) found higher rates of school absences among Hispanic students in the aftermath of a 2018 workplace raid in Morrison, Tennessee, as these students grew unwilling to attend classes owing to the fear of family separation. For those who did return to school, interviews with school administrators revealed that “meeting children’s educational needs took a backseat to addressing their emotional and basic care (food, safety) needs” in the wake of the raid (Heinrich et al. 2023, 366). Likewise, J. Jacob Kirksey and colleagues (2020) examined the effect of deportations on achievement among Latino, Asian, Black, and White elementary and secondary school students in all public school districts in the United States. They found that the higher the number of deportations within a twenty-five-mile radius of the school, the larger the White-Latino gaps in math achievement and number of school absences.

Studies also suggest that even in the absence of actual immigration enforcement, both specific policies and the overall immigration climate cultivate the fear of deportation or deportability and intensify anti-immigrant sentiment, which in turn can undermine children’s schooling. For example, during and after the 2016 election of Donald Trump, R. Gabriela Barajas-Gonzalez and colleagues (2022b, 8) found that Latinx children of undocumented immigrants in New York City “felt unsafe and had difficulties focusing in school [and] experienced a range of separation anxiety symptoms including worry about being separated from loved ones and fear of being away from home.” Latina immigrant mothers also reported that children suffered from heightened anti-immigrant (and especially anti-Mexican) discrimination and bullying at school (Barajas-Gonzalez et al. 2022b). In a rare study comparing how the adoption of the Secure Communities program affected children’s educational development across different racial groups, Laura Bellows (2019) find that Hispanic students struggled in English Language Arts, whereas non-Hispanic Black students struggled in English Language Arts and math. However, the study finds no change in White students’ performance.

Though most research on children’s education in immigrant families captures the effects of immigration enforcement on young children, some scholars spotlight the distinct challenges that high schoolers or college applicants face. For instance, Cassaundra Rodriguez argues that Latino citizen college applicants in Los Angeles County experienced “legal violence” (Menjívar and Abrego 2012) and “multi-generational punishment” (Enriquez 2015) when filing for financial aid; Rodriguez (2019, 714) explains that during the application process, parental undocumented status becomes particularly salient, as “illegality enters the lives of citizen young adults in mixed-status families.” Providing insight into the (limited) potential of inclusionary immigration policies, Daniel Corral (2021) compared Hispanic undocumented students with their US-born peers to measure the impact of sanctuary policies on educational attainment across the two groups. Though as of 2017, 128 US counties had adopted

sanctuary policies, Corral (2021) did not find that these policies significantly affect the likelihood of graduating high school or pursuing a college degree. Corral (2021, 10) concluded that “although sanctuary policies counteract immigration enforcement, for the most part, they have minimal associations with educational attainment.”

In a related vein, an emerging body of research suggests that schools can serve as a critical locus of community support for immigrant families against the backdrop of a hostile immigration environment. During a workplace raid in one community in Tennessee, for example, Heinrich and colleagues (2023) describe how schools worked to support affected students and their families in a variety of ways. At the same time, this study also emphasizes the degree to which schools and their staff remained ill-equipped to address the large-scale repercussions of workplace raids. Interviews revealed not only that staff lacked the training and capacity to adequately assist all students and families but that they were unable to counter “the chilling effects of immigration enforcement activities [that] deterred children and families from attending healthcare appointments and seeking other services and supports” (Heinrich et al. 2023, 366).

Policy Implications and Directions for Future Research

Family-impact studies make several significant advances in the study of immigration enforcement and extend the existing body of research on collateral consequences of contacts with the criminal justice system (see, for example, Kirk and Wakefield 2018). This literature makes strides in illuminating how immigration enforcement shapes the lives and opportunities of immigrant families in the United States and how these effects reach far beyond the individuals directly targeted by immigration enforcement. As we noted, family-impact studies are predominantly focused on Latino communities. Some of these studies challenge the understanding of Latino populations as a homogeneous group, raising questions about the “potential differences that may exist between immigrant and native-born families,” as well as immigrants with and without legal status

(Dettlaff et al. 2009, 776). Further, recent studies highlight heightened vulnerabilities among Indigenous vis-à-vis mestizo Mexican and Central American immigrants (Gómez Cervantes and Menjívar 2020).

Yet, much work remains to be done in this area of research, especially as it relates to questions of racial disparities and bias. More research is needed to disentangle the effects of immigration enforcement within the Latino population, as Latinos who are racialized as Indigenous or Afro-descendent may experience the same system quite differently than those who are racialized as White (Adler 2006; Gómez Cervantes, forthcoming). In addition, scholars must broaden their target of inquiry beyond Latinos. For example, while some studies analyze Latino groups versus non-Latino groups (see, for example, Rhodes et al. 2015), analyses of the experiences of Black, Asian, or Middle Eastern immigrant families with US immigration enforcement (for example, Candel and Fayazpour 2019; Twersky 2019) might reveal that racialization processes or racial bias against those groups manifest or operate differently than against Latinos.

Similarly, the effects of immigration enforcement on families might vary across different racial groups even when they are subjected to the same facially race-neutral enforcement policies and practices. This might be the case for several reasons. First, perceptions of racial bias are likely to vary across racial groups given their varying history of migration and context of reception. These differences in perceptions of racial bias, in turn, can shape the coping strategies of individual immigrants and their family members (see, for example, Ayón 2018; Cardoso et al. 2021; Cavanagh and Cauffman 2015). Second, immigrant communities’ resources and mobilization capacities, as well as origin-country responses to their treatment in the United States, vary across different racial groups (see Benavides et al. 2021; Ramirez 2024); these differences mean that the same set of facially race-neutral enforcement policies and practices can have varying effects on families from different racial groups.

Another important line of inquiry for future research concerns whether and to what extent race might intersect with other demographic

characteristics to shape how immigration enforcement impacts family life and family relationships. For example, Rachel Adler (2006) finds in her study of a neighborhood in New Jersey a “Latino ethnic hierarchy” based on national origin, race, social class, and legal status, pointing to the intra-Latino racialization of Indigenous immigrants (Gómez Cervantes, forthcoming; Menjívar 2021). An emerging body of scholarship also suggests that gender and age are important axes that generate variations in the effects of immigration enforcement across different family members within Latino communities (see, for example, Dreby 2015; Dreby et al. 2022; Menjívar and Gómez Cervantes 2025; Rodríguez 2019). Thus, a fruitful avenue of research in this area is to explore whether these and other demographic characteristics might operate in the same or different ways for family members of various racial groups. Geography and context matter as well (Roubenoff et al. 2023), as research has found variation in how the same facially neutral enforcement policies have dissimilar gender effects on Latino immigrants (Simmons et al. 2021) across states. When researchers examine these types of complex interactions between race and other demographic characteristics, leveraging such research methods as experimental lab or field study designs (which are less commonly used methods in this area of research) may prove to be especially valuable. These methods can generate not only new insights about the nature and extent of racial disparities but also the mechanisms that produce such disparities.

Finally, while many studies have examined how immigration enforcement negatively affects the lives of immigrant families, few studies address the extent to which progressive reforms to the immigration enforcement system may help to neutralize or mitigate these consequences (see Corral 2021 for an exception). In addition, no study to our knowledge considers how such initiatives may potentially improve the conditions for different groups of immigrant families other than Latinos. Similarly, while several studies examine how nonprofit and nongovernment organizations and community groups provide a partial social safety net for Latino communities affected by immigration enforcement (Dettlaff et al. 2009; Hagan

et al. 2010; Koball et al. 2015), we lack a systematic understanding of the limitations and constraints that these support networks face, and whether and to what extent such networks might exist for non-Latino families. Investigating these issues remains an urgent task that will inform efforts to develop reform measures and support networks that can advance family unity and well-being across different immigrant communities.

CONCLUSION

Our review of the existing literature on the criminalization of immigration reveals three key themes. Across these themes, research shows that race and racialization play an important role at multiple layers and in various components of the immigration enforcement system to disproportionately affect immigrants racialized as non-White in the United States. Thus, it is unsurprising that a great deal of the existing scholarship that we have reviewed focuses on Latino communities, individuals, and families. For example, the growing body of research on the collateral consequences of immigration enforcement uncovers a multitude of negative effects on various aspects of family life in Latino communities.

The first important theme that emerges from our review of the literature on criminalization of immigration is that, although immigration enforcement is generally a matter of federal civil law, immigration enforcement has become substantially intertwined with criminal law enforcement in ways that have broad-ranging and radiating effects on immigrant communities of color. State and local law enforcement agents participate in immigration enforcement efforts, both at the request of federal officers and under their own authority and subfederal initiatives. Databases that store, link, and disseminate information about individuals for law enforcement purposes (whether criminal or immigration) are interconnected or simply combined. State and local prisons and jails hold civil immigration detainees. Companies that provide alternatives to detention in the criminal context do the same for individuals in civil removal proceedings, and risk-assessment tools designed for release determinations in the criminal context have been

adapted to manage similar determinations in the context of civil immigration detention. The federal government increasingly relies on federal criminal law prosecutions to enforce immigration laws, and these prosecutions contribute to making criminal subjects out of immigrants.

Second, race and racialization play an important and bidirectional role in the increasing criminalization of immigration. As we explained earlier, criminalizing immigration fosters the racialization of certain immigrant groups as the dangerous other, and such racialization in turn legitimates the policies and practices that target or disproportionately impact those immigrant groups. Studies suggest that the racial makeup of a location may affect state and local political decisions as to whether and how to cooperate with (or even amplify) federal immigration enforcement efforts. The increasing role of state and local law enforcement in immigration enforcement may lead to more racially discrepant policing against Latinos. In addition, the expanding role of state and local law enforcement may decrease the trust that local immigrant communities have in policing agencies, which in turn increases the rate of crime victimization in those communities. Moreover, because of the data sharing between law enforcement agencies and immigration enforcement agencies, racialization in ordinary criminal policing—including the gang designations or surveillance and monitoring that disproportionately target Black and Latino residents—ultimately affects (and is affected by) immigration policing. Although the evidence concerning the effects of race on sentencing outcomes are mixed, it is clear that federal criminal prosecutions are overwhelmingly of Latinos. Racial bias also appears to play a role in the use of algorithmic risk-assessment tools in immigration detention bond determinations, as well as in individualized release determination by immigration judges.

Finally, the effects of the criminalization of migration in the United States are not limited to the United States. Immigration enforcement programs have been externalized, and at the same time, data sharing and status determinations about migrants (including the affixing of gang labels or communications con-

cerning criminal records) are both exported to, and received from, foreign governments. This externalization has racializing effects, as certain migrant populations (here, our review of the scholarship has focused on those moving through Mexico) are racialized in these processes and subjected to violence (in this context, racialized violence) during their migration journeys. This externalization of migration control follows the United States' exportation of certain highly punitive features of its criminal legal systems (McLeod 2010). Externalization adds a distinct new layer to this phenomenon, enabling the United States to use other legal systems and enforcement actors as a primary means of effectuating its own migration control goals. The result is an intersecting regime of crime and migration control where individuals' records and identity markers can serve as the basis for their exclusion and punishment by a wide array of transnational actors.

Significant gaps and open questions require additional research. First, as we noted earlier, the targeting of Latino immigrants and communities for immigration enforcement has produced specific harms on this population; as a result, empirical work has focused on capturing the effects of immigration enforcement or restrictionist policies on Latino communities. There is some work on other racial groups in specific contexts. However, on the basis of this review, we argue that much more scholarly work is needed to substantiate racial disparities in enforcement (or even to document “racially discrepant enforcement”) and to understand the differential effects of immigration enforcement policies—and the criminalization of immigration—across racial groups.

Second, we note that in the extant scholarship that we have reviewed, “Latinos” are mostly treated and understood as a homogenous racial group (with some, but not a lot of, attention to gender or national-origin differences within this heterogeneous group). More careful attention to racial and other differences under the umbrella term Latino is needed in empirical studies of immigration enforcement policies and studies concerning the criminalization of immigration. The incipient scholarship that examines differences within the La-

tino population points to important differences in experiences with immigration enforcement between Indigenous and Latinos racialized as White (Gómez Cervantes 2021).

Third, further study could also enhance our understanding of why and how state and local agencies implement immigration enforcement initiatives, how those choices are shaped by racial bias, and how racial dynamics shape both these initiatives and the experience of these initiatives in communities. Although concepts like racial threat are useful in understanding how perceptions and racial biases are seen by the nonimmigrant local population, more research is needed to better theorize this concept and to better understand whether and how racial threat shapes immigration enforcement policies. Similarly, studies need to attend to refining theories concerning the benefits of diversification of law enforcement agents, particularly as it pertains to trust among, and treatment of, racialized immigrant communities. Relatedly, more work is needed to understand how and why racial minorities perceive and experience local immigration enforcement policies and practices as racially discriminatory and biased.

Our review of the scholarship on the criminalization of immigration suggests the urgent need for policy and regulatory changes in the governance of migration. When evaluating the benefits of immigration-enforcement initiatives, including cooperative policies with state and local governments, policymakers should take into account the costs of enforcement policies on broader populations, including citizen and lawfully present immigrant residents, who experience many of the negative consequences of increased enforcement efforts. Second, policymakers should attend to, and seek to interrupt, the ways that racial bias and racialization practices can shape immigration enforcement choices, whether that is through uncritical acceptance of “gang” designations made by individual officers or through reliance on the dangerousness designations made by governments abroad.

Finally, our review underscores the critical importance of improving government transparency across all levels of immigration enforcement and adjudication agencies. For ex-

ample, empirical studies of immigration surveillance, dataveillance, electronic monitoring, and risk-assessment policies have been impeded by the opacity of these systems and data inaccessibility to researchers and the public. Likewise, little empirical research attends to racial disparities in immigration court proceedings and outcomes owing to data scarcity, which the government is in a unique position to address. In brief, greater governmental transparency is needed not only to allow for systematic investigations of the efficacy and effects (including racially disparate impacts) of these surveillance and adjudication systems but also to ensure democratic accountability.

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