

UNIVERSITY OF OKLAHOMA
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INCARCERATION AS CARCERAL SYSTEM SPACE OF NATIVE RACIALIZED
(IN)EQUALITY
*COMPARING SENTENCING OUTCOMES BETWEEN NATIVE AND WHITE PEOPLE
INCARCERATED IN US FEDERAL AND STATE PRISONS*

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INCARCERATION AS CARCERAL SYSTEM SPACE OF NATIVE RACIALIZED
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A DISSERTATION APPROVED FOR THE DEPARTMENT OF SOCIOLOGY
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ABSTRACT

Overincarceration of Indigenous peoples across North America is a critical and deep-rooted social issue. Racialized structural inequality are theorized to underpin racialized inequalities in carceral system outcomes including sentence length, monetary penalties, and supervision. Settler colonialism is theorized to underpin these inequalities per Native people. Taking structural settler colonialism for granted and applying the intertwined frameworks of carceral capitalism and necrocapitalism, my research answers three interrelated questions: How do economic precarity and Native visibility influence racialized differences in: 1) sentence length, 2) the likelihood of being assessed legal financial obligations in addition to incarceration, and 3) the likelihood of expecting post-release supervision? My research relies primarily on data from the Bureau of Justice Statistics *Survey of Prisoners*. My research utilizes linear regression to examine the outcome of sentence length and binary logistic regression to examine the outcomes of the likelihood of fines or fees and expecting supervision, applying the same models to two separate subsamples for the Native and white incarcerated people surveyed. My research findings indicate a limited influence per Native visibility and no influence per individual-level economic precarity on the outcomes for the Native subsample. Though individual-level measures of economic precarity did have some influence on the outcomes for the white subsample. Further, the group-level measures of white economic precarity influenced these outcomes across subsamples and Native economic precarity had a limited influence for both subsamples. My research contributes to the literatures examining both racialized carceral system inequality and Native structural inequalities by investigating patterns of inequality across states,

demonstrating at least limited applicability of critical theories of carceral system inequalities to Native experiences, and, most significantly, illuminating directions that future research in the area of Native racialized carceral system inequalities must take to unpack this complex structural issue.

Keywords: Indigenous Incarceration, Indigenous Inequality, Racial Inequality, Carceral System

Table of Contents

CHAPTERS

Chapter 1: Introduction – p. 1-11

Chapter 2: Literature Review – p. 13-43

Chapter 3: Data, Methods, and Analysis – p. 44-76

Chapter 4: Economic Marginalization and Racialized Group Visibility on Disparities in Sentence Length – p. 77-114

Chapter 5: Economic Marginalization and Racialized Group Visibility on Disparities in Likelihood of Fines and Fees (Legal Financial Obligations) in Addition to Incarceration – p. 115-147

Chapter 6: Economic Marginalization and Racialized Group Visibility on Disparities in Likelihood of Expecting Post-Release Supervision – p. 148-175

Chapter 7: Conclusion – p. 176-209

References – p. 210-229

TABLES

Figure 1. Racial Disparities in Incarceration 2021 – p. 14

Figure 2. Native Disparate Incarceration – p. 15

Table 1. US Census Regions – p. 73

Table 2. Full Descriptives for Native and White Incarcerated Peoples Subsamples –
p. 75-76

Table 3a. Economic Deprivation and Native Racialized Group Visibility on Sentence
Length – p. 92-93

Table 3b. Simplified Results Table: Economic Deprivation and Native Visibility on
Sentence Length: Statistically Significant Results – p. 94

Table 4a. Economic Deprivation and Native Racialized Group Visibility on Monetary
Penalties – p. 133-134

Table 4b. Simplified Results Table: Economic Deprivation and Native Visibility on
Monetary Penalties: Statistically Significant Results – p. 131

Table 5a. Economic Deprivation and Native Racialized Group Visibility on Expectation
of Post-Release Supervision – p. 164-165

Table 5b. Simplified Results Table: Economic Deprivation and Native Visibility on
Expectation of Post-Release Supervision: Statistically Significant Results – p. 166

Table 6. Statistically Significant Results Across Models – p. 179-180

1. INTRODUCTION

Native people in the United States are disproportionately involved in the carceral system when compared to white citizens (Lamphere and Hassett 2023; Prison Policy Initiative 2023). In the US, Native people are also more likely to live in poverty than white people (Kaiser Family Foundation 2016; Around Him and Gordon 2022; Census Bureau 2022). These unequal economic circumstances and this economic precarity are tied to structural discrimination across social institutions including education attainment (Garcia and Weiss 2017; National Center for Educational Statistics 2019), housing access (National Low Income Housing Coalition 2024), labor market participation, whereas, Native people more often face relegation to menial, low wage, and unstable employment (Siddique 2023) and, most importantly for my research, in carceral (or “criminal justice”) system involvement (Western 2002; Gilmore 2007; Harris 2016; Wang 2018; Schenwar and Law 2020; Friedman 2021).

In this way, the carceral system is theorized as a key mechanism in creating and perpetuating what has been referred to as the “lumpenization” (Wang 2018) of those ensnared within it. The lumpenproletariat consists of citizens who have been relegated to the furthest margins of capitalist society; the unsheltered, unemployed/unemployable, those labeled “criminal.” The lumpenproletariat are restricted in their access to full participation in social institutions, such as the free labor market, and experience institutionally sanctioned limitations on their social, civil, and/or political rights (Wang 2018). Lumpenization is the process of creating or maintaining a lumpen class or the positioning of individuals or groups within that class (Wang 2018). This process is carried out and perpetuated through several structural mechanisms, not the least

powerful of which is the criminal marking that accompanies carceral system involvement (Wang 2018).

My research builds on the work of the numerous scholars who have examined the economic impacts and capitalist dimensions of carceral system involvement (primarily Wang 2018; Friedman 2021; Friedman et al. 2022). In my research, I use individual and state-level measures of racial/ethnic visibility and economic precarity to assess their influence on three sentencing outcomes related to persistent economic disadvantage post-release: sentence length, accompanying fees and fines and prospects of post-release supervision for Native and white incarcerated people. I also assess whether these predictors differ and in which ways, for predicting Native vs. White incarcerated people's sentencing outcomes. My research is an assessment of the stage of the incarceration experience that is related to sentencing outcomes. As such, my research takes for granted the established inequalities in the next stage of post-incarceration experiences that tie sentencing outcomes (sentence length, fines and fees, and post-release supervision) to disproportionately poor economic outcomes for Native people and other racial and ethnic minorities.

My research tackles the following questions. First, to what extent, net of traditional factors associated with sentencing outcomes, does Native visibility and economic marginality at both the individual and state levels increase sentence length for Native people when compared to incarcerated white people? Second, to what extent, net of traditional factors associated with sentencing outcomes, does Native visibility and economic marginality at both the individual and state levels increase the application of fees and fines for Native people when compared to incarcerated white people? Third, to

what extent, net of traditional factors associated with sentencing outcomes, does Native visibility and economic marginality at both the individual and state levels increase the expectation of post-release supervision for Native people when compared to incarcerated white people? I now turn to an analysis of prior research related to the three sentencing outcomes in this dissertation.

FACTORS LINKED TO SENTENCING THAT INCREASE ECONOMIC PRECARITY

Sentence Length, Fines and Fees, and Supervision as Lumpenization

Removal from the free labor market (sentence length)

Incarceration by itself, whether for a day or a decade, carries with it a web of outcomes related to “criminal” marking and barriers to free labor market participation, compounding debts, and challenges of repayment that can, and often do, interact and reinforce each other well beyond the incarceration term (Western 2006; Gilmore 2007; Harris 2016; Wang 2018; Alexander 2020; Schenwar and Law 2020; Friedman 2021; Garcia and Abukhadra 2021; Friedman et al. 2022). The act of incarceration is the removal from society; from community, from family, from the free labor market, from the citizenry (Western 2006; Gilmore 2007; Harris 2016; Wang 2018; Alexander 2020; Schenwar and Law 2020; Friedman 2021; Garcia and Abukhadra 2021; Friedman et al. 2022). This removal from free labor market participation in particular is a disruption of one’s life trajectories and exacerbates the economic precarity that already faced the majority of those incarcerated, their families, and their communities before incarceration (Western 2006; Gilmore 2007; Harris 2016; Wang 2018; Alexander 2020; Schenwar and Law 2020; Friedman 2021; Garcia and Abukhadra 2021; Friedman et al. 2022).

Incarceration (and carceral system involvement broadly) results in marking as “criminal” which, beyond magnifying the impacts of this disruption of free labor market access during incarceration, creates barriers to employment due to employer and institutional stigmatization (Western 2002; Western 2006; Pager 2007; Raphael 2014; Harris 2016; Wang 2018; Schenwar and Law 2020; Friedman 2021; Garcia and Abukhadra 2021; Freidman, et al. 2022; Smith 2022). Incarceration, including pre-trial detention, creates disruptions in current employment arising from missing scheduled work due to incarceration (Schenwar and Law 2020; Smith 2022). Creating sometimes long gaps in employment, periods of absence from the free (non-carceral) labor market which are perceived as illegitimate (Western 2002; Raphael 2014). These absences and gaps threaten re-entry into the free labor market upon release (Western 2002; Raphael 2014; Schenwar and Law 2020; Smith 2022). The longer one is incarcerated, the greater the disruption to their lives, and their families and communities, and the deeper their carceral system ensnarement. This is especially true in terms of the accrual of carceral debts where the longer one remains removed from the free labor market, the harder it is for them to pay off and recover from these legal financial obligations.

Inability to pay and compounding debts (fines and fees)

The relationship between accruing carceral system fines and fees (legal financial obligations) and having debt, particularly for those already in a state of economic precarity, is obvious: these fines and fees *are* debt. All of the negative experiences associated with a high debt to income load for consumer debt: diminished credit score, decreased expendable income, increased interest accrual, and non-payment financial penalties, hold true for carceral debts (Harris 2016; Wang 2018; Friedman 2021).

However, unlike consumer debt, legal financial obligations are not forgivable via bankruptcy, cannot be consolidated, and nonpayment oftentimes results in rearrest, and potentially, jail time. The challenges wrought by carceral system monetary obligations and penalties (legal financial obligations or “fines and fees”) is compounded for those in a state of economic precarity.

“Direct” sources of carceral debt refer to those costs accrued from involvement in the criminal justice system. Direct sources of carceral debt include court fees (e.g., lawyer and other court fees), bail, citations, restitution or other forms of monetary penalties (or “punitive fines and fees”), pay-to-stay fees, and the costs of necessities while incarcerated including communications (e.g., phone calls and emails) and necessities like hygiene products (Harris 2016; Wang 2018; Alexander 2020; Kirk et al. 2020; Schenwar and Law 2020; Friedman 2021). These carceral costs and the debt they entail compounds and is compounded by growing interest and the economic precarity incarcerated individuals face upon release (Western 2002; Harris 2016; Wang 2018; Alexander 2020; Schenwar and Law 2020; Friedman 2021; Garcia and Abukhadra 2021; Friedman et al. 2022).

“Indirect” sources of carceral debt are factors contributing to all formerly incarcerated individuals’ economic precarity and resultant challenges in paying carceral debts upon release (or throughout their carceral system ensnarement) (Harris 2016; Wang 2018; Alexander 2020; Schenwar and Law 2020; Friedman 2021; Garcia and Abukhadra 2021; Friedman et al. 2022). Which would necessarily also impact formerly incarcerated Native people. This is particularly true for Native communities as they tend to face the highest poverty rates. These indirect impacts largely revolve around free labor market

participation, or rather, the limitations on, or outright lack of, access to the free labor market.¹

Being released from prison, particularly in the case of those who served years-long sentences, frequently means (re-)entering already precarious financial circumstances with a significant gap in non-carceral employment, a gap in housing history, minimal if any cash assets from prison labor or pre-incarceration, and likely an array of legal financial obligations that must be paid. All of this creates significant barriers to gaining employment and housing, since both felony status and credit scores are often assessed in determining eligibility for access to these social rights (Western 2006; Garcia and Abukhadra 2007; Harris 2016; Wang 2018; Schenwar and Law 2020; Friedman 2021; Augustine and Kushel 2022; Friedman et al. 2022). This financial precarity is exacerbated by the burden of high carceral system debt loads which must be prioritized as lack of payment can lead to re-incarceration (Harris 2016; Schenwar and Law 2020). In short, for those who enter prison from financially precarious circumstances (the majority of those entering prisons), incarceration, along with the “criminal” mark it leaves, further diminish one’s socioeconomic status, thus performing its lumpenization function. Ultimately, carceral debt carried into post-release represents the post-release continuation of carceral system ensnarement.² While indebted to the carceral system individuals are at risk of reincarceration for failure to pay their debts. Also, in many cases, they cannot regain the citizenship rights lost during incarceration,

¹ *Free* is added to labor market to acknowledge both the near-ubiquity of participation in the prison labor market among incarcerated people and the fact that prison labor is in effect both coerced labor and near-zero wage labor.

² Not to mention the financial burden this often places on their families who help pay either debt or living expenses.

such as voting, until they have paid their carceral debts (in some cases felony record, regardless of carceral system ensnarement, means permanent loss of this citizenship rights such as voting, serving on a jury, or taking public office) (Restoration of Rights Project 2020).

Debts on debts and the precarity of re-entry (post-release supervision)

The stated purpose of post-release supervision to facilitate re-entry by attempting to prevent recidivism, through restrictions on movement, placement, and interaction, and assist with housing and job-placement cannot be dismissed. However, there are numerous challenges that also accompany the post-release supervision structure which cannot be discounted either. Namely, the issue of carceral system obligations which accompany this post-release service. The precarity of re-entry is made that much more daunting with the addition of supervision (parole or probation) requirements which entail a host of fees for services (e.g., monthly service fees, drug testing fees) and products (e.g., ankle monitors and breathalyzers) (Kohler-Hausman 2018; Harris 2016; Wang 2018; Schenwar and Law 2020; Friedman 2021; Friedman et al. 2022).

Further, being under post-release supervision in itself, as well as many of the conditions of post-release supervision; where one can live, where one can work, who one can associate with, curfews, driving restrictions, and regular appointments with supervising officers, all create challenges not only to movement but also to finding – and maintaining – housing and employment, the lack of either of which diminishes the chances of securing the other (Kohler-Hausman 2018; Schenwar and Law 2020; Garcia and Abukhadra 2021; Augustine and Kushel 2022). As with incarceration and carceral system indebtedness, the longer one stays under supervision, the longer they remain

ensnared in the carceral system and the more difficult it is for them to recover from the experience. Post-release supervision carries sometimes very onerous restrictions, the violation of which, called “technical violations,” bring the risk of revocation of release (that is, reincarceration).

Finally, free labor market participation is also often limited by post-release supervision stipulations such as curfews, driving restrictions, restrictions on movement and location, and mandatory appointments (Schenwar and Law 2020; Prison Policy Initiative 2023; Weisburd 2023). Additionally, previously held licenses may be revoked upon incarceration for violent or drug crimes, and upon release individuals may be barred from, or face significant hurdles in obtaining access to some types of vocational certification or certain industries (Nerbovig 2018; Elder and Swinney 2019). Each of the three sentencing outcomes that I analyze have clear connections to post-release economic precarity which is exacerbated for racial and ethnic minority citizens. To explain why racialized sentencing (and incarceration) outcomes are predicted on and result in racialized economic precarity, I utilize the critical carceral system theories of carceral capitalism (Wang 2018) and necrocapitalism (Friedman 2021).

CARCERAL CAPITALISM AND ITS MECHANISMS OF RACIALIZED INEQUALITY

While there is a notable and growing body of research that examines the racially disparate carceral system involvement experienced by Native people, there is still a great deal of room for growth, namely in the US context. The majority of research and theorizing of racially disparate carceral system involvement in the US has focused, understandably, on Black overrepresentation in carceral system involvement and related structural inequalities as experienced by Black individuals, families, and

communities. These theories, particularly those that weave carceral and economic inequalities are particularly valuable. As incarceration and carceral system involvement not only disproportionately impact those who are racially marginalized, but also those facing economic precarity.

Across the dominant critical theories of racialized incarceration within the US there exists divergence on whether and how racialized mass incarceration functions within the intertwined structural racism and capitalism logics (Gilmore 2018; Wang 2018; Alexander 2020; Friedman 2021). Among these theories there is resounding agreement that incarceration, particularly modern mass incarceration, functions as a key mechanism for perpetuating structural racialized subjugation via marginalization (Glenn 2015; Gilmore 2018; Wang 2018; Alexander 2020; Friedman 2021; Go 2021; Koshy et al. 2022). That is, racialized mass incarceration is functional for structural racism.

This racialized structural inequality is evident in the patterns of racially disparate carceral system involvement as over surveilling (policing and supervision) and overincarceration of economically marginalized Black and brown (including Native) communities demonstrated by scholars like Western (2006), Harris (2016) and Schenwar and Law (2020). Further, as scholars have demonstrated, not only do racially and economically marginalized individuals and communities face disparate rates of carceral system involvement, but the outcomes of that involvement also tend racially unequal (Western 2006; Harris 2016; Schenwar and Law 2020). This inequality of outcomes occurs along the dimensions of arrest, incidence and amount of legal financial obligations (including bail), supervision, in/out incarceration decisions, length of

sentence, and use of capital punishment (Western 2006; Harris 2016; Schenwar and Law 2020).

Capitalist Logic of Racialized Mass Incarceration as Oppressive Dispossession

In Wang's conception of the relationship between structural racism, racialized mass incarceration, and capitalism, as with Friedman's, racialized mass incarceration serves to maintain the super-subordinated, and thus superexploitable, position of Black (and brown) racialized communities through "parasitic" governance that "loots" the marginalized (Wang 2018; Friedman 2021). This parasitic governance simultaneously: a) alienates carceral system actors from the public through rationalization and automation of law enforcement processes, b) lumpenizes economically and racially marginalized communities by marking their members as criminal, marginalizing them from society and positioning them as superexploitable, and c) uses extreme physical and psychic violence to carry out the mechanisms that maintain this super-subordinated position (Wang, 2018). This supersubordination criminalized positioning marks these populations as targets for dispossession from their wealth, individual autonomy, and personhood, with this "loot" being used to fund those mechanisms that subjugate them, namely within the carceral system (Wang, 2018).

The key point of departure in Wang's theory, compared to other critical theorists, is the argument that while mass incarceration does provide some government (and private) revenue and employment for rural white America, the financial costs for the state of long-term mass incarceration is ultimately economically self-destructive (Wang, 2018). In this way, it is *dysfunctional* for the capitalist structure. Thus, Wang argues that the phenomenon of racialized mass incarceration must be understood apart from other

governmental or even law enforcement functions as uniquely economically illogical (Wang, 2018). Yet, this phenomenon persists – even expands, indicating that racialized mass incarceration and disparately harsh sentencing are not derived from a capitalist logic but rather from racist logic – a racist structure so dogged that it occurs at the expense of capitalism’s functioning (Wang, 2018).

THIS RESEARCH

The limitations of this research mentioned near the beginning of this chapter point to the pressing need for more data, both quantitative and qualitative, on Native experiences of inequality within the carceral system and the outcomes of these experiences specific to Native individuals and communities. This research cannot demonstrate a *direct* connection between sentencing contexts and lumpenization. However, by taking for granted the connection between economic and racialized marginalization and overpolicing and overincarceration of Native people and examining inequalities in sentencing factors and outcomes among incarcerated Native people, this research can *indirectly* examine the process of carceral system-induced Native lumpenization.

I do this by analyzing the effects at both the individual and state levels of both native citizen visibility and native and white citizen economic precarity on the three sentencing outcomes described earlier. Thus, this research is a valuable examination of the nature of economic and racialized carceral system inequality experienced by incarcerated Native people per sentencing outcomes, outcomes which have been linked to post-release economic precarity and superexploitation. Further, this research is valuable in its uniqueness as a rare study utilizing national-level data, and data

collected while individuals were in the throes of incarceration, to examine the inequalities experienced by Native people within the carceral system.

In this dissertation, I examine potential differences in the penalties experienced by Native and white individuals who are incarcerated, namely sentence length, legal financial obligations (“fines and fees”), and the expectation of post-release supervision. This research examines whether and what racialized disparities exist between Native and white people who are (at the point of data collection) incarcerated. I hypothesize that individual and state level measures of Native visibility and economic precarity will be significantly associated with increased sentence length, the imposition of fines and fees at sentencing and the prospect of post-release supervision for Native incarcerated people when compared to white incarcerated people. Future research, an extension of this current project, should focus on qualitative research and should include interviewing a sample of formerly incarcerated Native people to learn about their economic conditions and challenges after release. The next stage of research will need to flesh out the understanding of the relationship between Native carceral and economic inequality begun with this research project by examining the post-release impacts of incarceration and its relationship to racialized and economic marginalization.

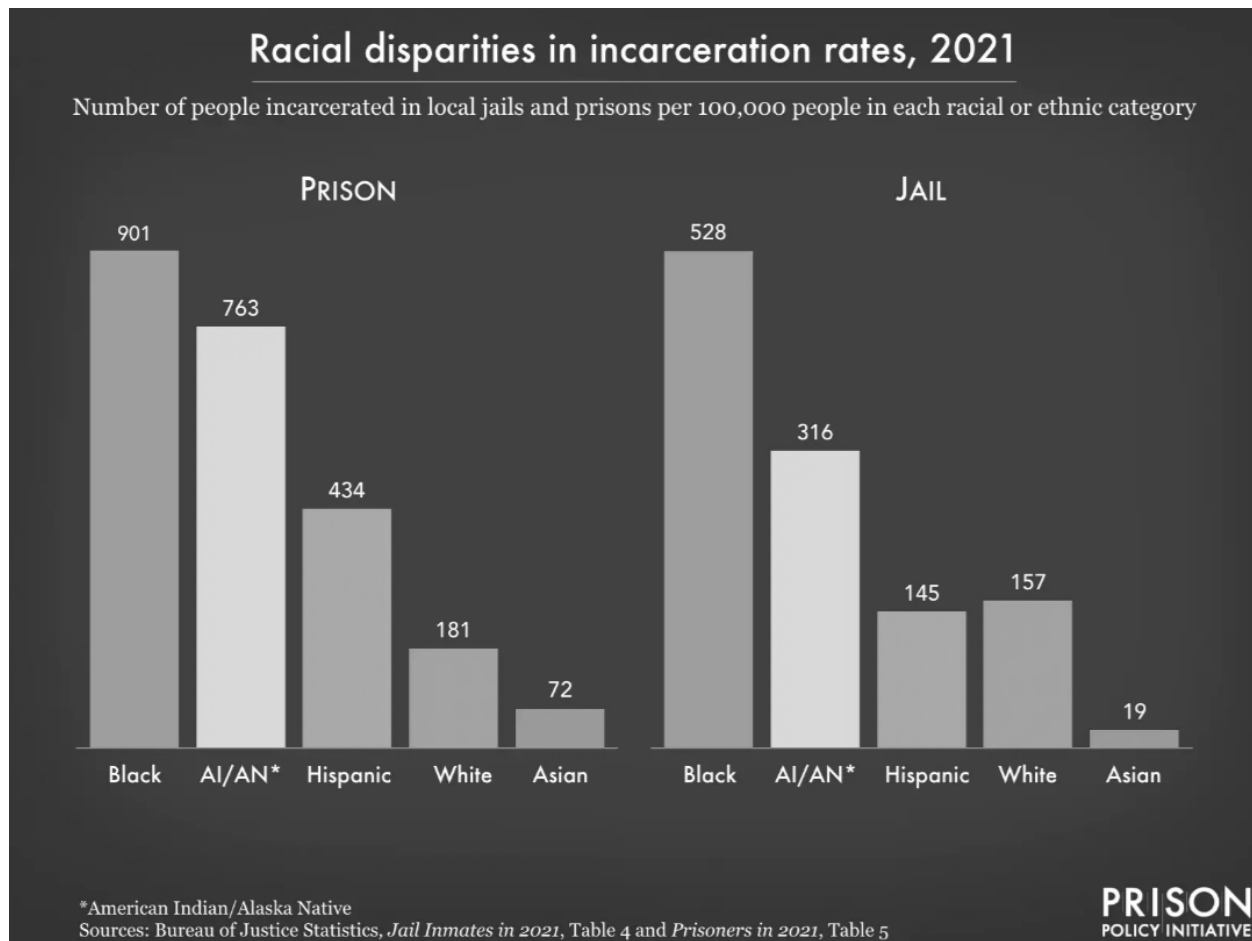
2. LITERATURE REVIEW

EVIDENCE OF THE EXISTENCE OF STRUCTURAL RACIALIZED CARCERAL INEQUALITY

Native Racialized Carceral System Inequality

The experiences of inequality in carceral system contact and outcomes is not unique to Native individuals, families, and communities. In fact, the vast majority of research and theorizing on racialized carceral system disparities has focused on the experiences of Black individuals, families, and communities (for example: Gilmore 2007; Wang 2018; Alexander 2020; Friedman 2021). There has also been a more recent inclusion of Latine experiences of racialized carceral system inequalities within this research area (Stewart, Watters, Horowitz, Larson, Sargent, and Uggen 2022; Lantz and Ward 2023). Various research – and a quick glance at the composition of US prisons and the general US population by race (see below image) – reveal the starkly disproportionate nature of Native (and, generally, Black and brown peoples’) incarceration in the US (Akbari 2023; Wang 2021; Janisch 2014; Jeffries and Bond 2011; Prison Policy Initiative 2023). Racially disproportionate incarceration of Indigenous peoples is not unique to the United States, in fact, it is a common feature of all of the “CANZUS” states (Canada, New Zealand, Australia, and the United States) – that is, it is common to those nations that are former British colonies which have a racialized structure in which those categorized as white predominate numerically and experience structural privilege (Jeffries and Bond 2011; Akbari 2023; Stanley 2018; Stanley and Mihaere 2018; Blagg and Anthony 2018).

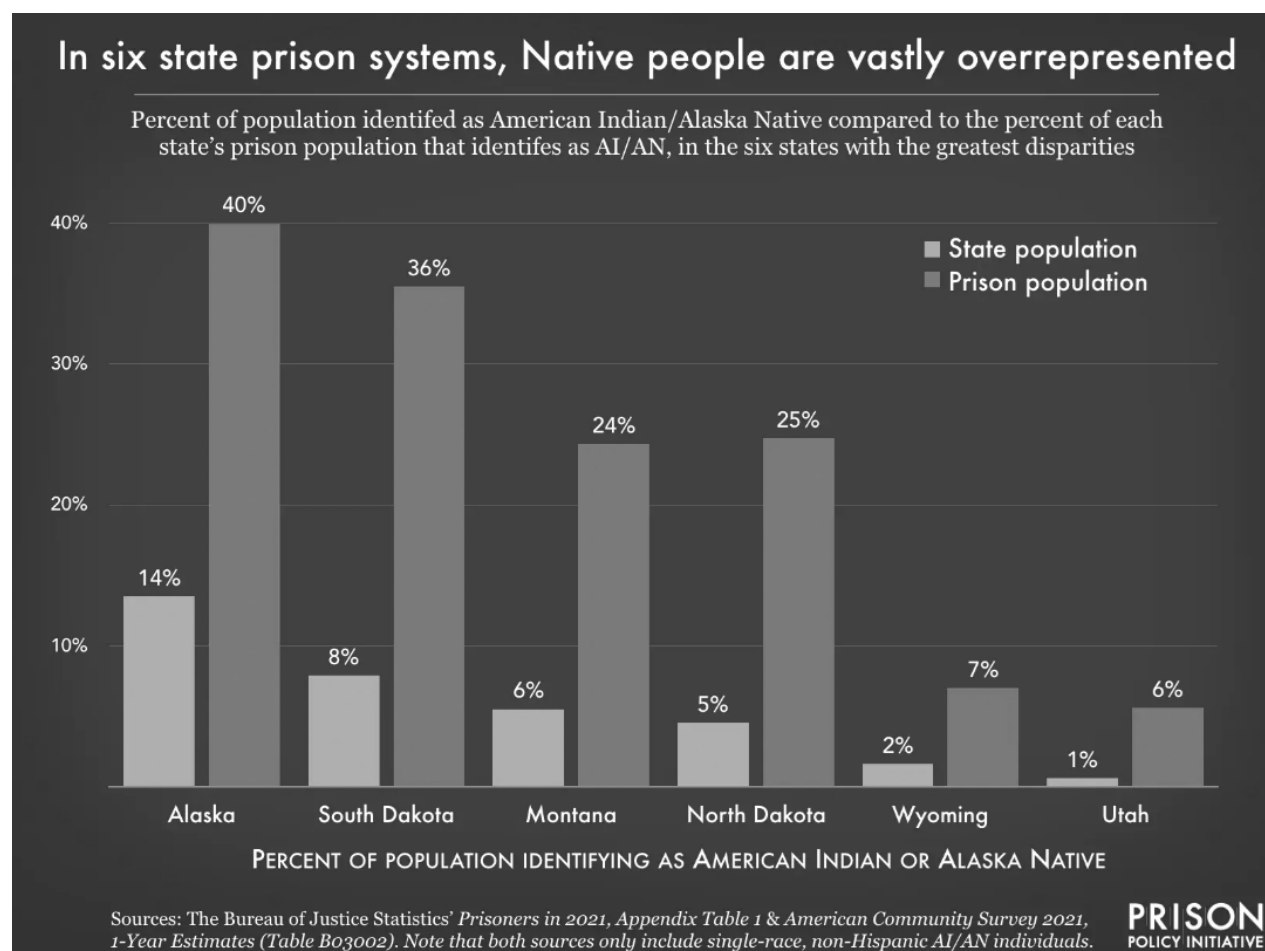
Figure 1. Racial Disparities in Incarceration Rates 2021



In the United States, Indigenous (Native) people are incarcerated at about 2.5 times their population rate, making up less than 1% of the general population but over 2% of those incarcerated in federal prisons (Akbari 2023; Prison Policy Initiative 2023). In Canada Indigenous people makeup just over 4% of the general population but close to one-third of the incarcerated population (Canadian Broadcasting Corporation 2022; Canada Department of Justice 2023). In New Zealand, Indigenous people represent about 15% of the general population and 52% of the incarcerated population (New Zealand Ministry of Justice 2023). In Australia, Indigenous people represent about 3% of the overall population and 33% of the incarcerated population (The Australia Institute

2023). Within the US, the greatest degree of disproportionate incarceration seems to be found most often in those states with the highest proportions of Native people (see image below) – particularly where they represent the numerically dominant racially marginalized group – and in those counties containing or bordering areas of Indian Country (Akbari, 2023). For example, in Montana, Native people comprise nearly 6% of the general population but represent 20% of incarcerated men and 34% of incarcerated women, in North Dakota the respective population proportions are about 5% of the general population and 25% of the total incarcerated population (men and women) (Akbari 2023; Prison Policy Initiative 2023). This pattern appears to hold for all CANZUS

Figure 2. Native Disparate Incarceration



nations, where Indigenous people comprise both larger proportions of the general population and larger disproportions of the incarcerated population, compared to the US (Canadian Broadcasting Corporation 2022; Canada Department of Justice 2023; New Zealand Ministry of Justice 2023; Prison Policy Initiative 2023; The Australia Institute 2023).

Disproportionate carceral system involvement and unequal treatment of Native people is not limited to the sentencing and incarceration stages. Research indicates that Native people face inequality at all stages of criminal justice system involvement: policing and arrest (Perry 2006; Perry 2009), incarceration and sentencing decisions (Franklin 2011; Jeffries and Bond 2012; Saperstein et al. 2014; Mebane-Cruz 2015; Wang 2021; Pro et al. 2022; Lamphere and Hassett 2023; Akbari 2023), assessment of fines and fees (monetary penalties and legal financial obligations) (Stewart et al. 2022), and carceral system supervision (Prison Policy Initiative 2023).

Given the topic of my research, I will focus my discussion on the latter three stages of carceral system involvement and decision-making including consideration of how the other stages influence outcomes related to sentence length, the assignment of fines and fees, and post-release supervision. While the catalogue of research on Native carceral inequalities is still growing, there are a significant (and growing) number of studies demonstrating the racialized disparities in carceral system involvement and its outcomes as faced by Native people (Munoz and McMorris 2002; Perry 2006; Perry 2009; Jeffries and Bond 2012; Janisch 2014; Saperstein, Penner, and Kizer 2014; Tighe 2014; Mebane-Cruz 2015; Cunneen and Tauri 2016; Wang 2021; Pro, et al. 2022; Stewart et al. 2022; Akbari 2023; Lamphere and Hassett 2023). It is important to note

that much research on Native carceral system inequalities has been conducted within limited geopolitical contexts (that is, particular US states and/or regions) (for example: Tighe 2014; Stewart et al. 2022; Perry 2006; Perry 2009; Munoz and McMorris 2022). Given the widely varying rates of Native incarceration across the US, the generalizability of findings taken from only one location in the US is at least uncertain. Further, there is reason to think that the experiences of Native people in Indian Country (areas of the US held by or for Native Nations, including the reservation systems), and its rural border towns, would differ in meaningful ways from the contexts and experiences of Native people in urban areas. Nonetheless, the findings of these studies demonstrate the existence of inequalities and implicate overarching US settler colonial capitalist mechanisms which enable, if not entail, these carceral system inequalities as part-and-parcel to maintaining settler colonial structure (Munoz and McMorris 2002; Perry 2006; Perry 2009; Jeffries and Bond 2012; Janisch 2014; Saperstein, Penner, and Kizer 2014; Tighe 2014; Mebane-Cruz 2015; Cunneen and Tauri 2016; Wang 2021; Pro, et al. 2022; Stewart et al. 2022; Akbari 2023; Lamphere and Hassett 2023).

Much of this research on Native carceral system inequalities, like much of the research on racialized carceral system inequalities more generally, has focused on either disparities in policing, arrest, or decisions to detain. However, there have also been a few studies examining Native experiences of inequality in the sentencing outcomes of interest to this research: sentence length, post-release supervision, and the assessment of legal financial obligations (“fines and fees”). The work by Wodahl and Freng (2015) represents one of these studies in its discussion of the challenges faced by Native people under carceral system supervision. Their qualitative research,

conducted by interviewing supervision officers and social workers working with recently release Native people, indicated that many of the challenges formerly incarcerated Native people face upon re-entry derive from lack of support services proximal to where they live and difficulties in meeting supervision requirements requiring travel to appointments, as well as inability to shoulder the costs of required supervision services (Wodahl and Freng 2015). Further, it is reasonable to believe that the post-incarceration supervision challenges related to racialized and economic marginalization and rurality would all be applicable to Native people living in the rural setting of Indian Country and its border towns.

Sentence Length

The findings of previous research examining racialized disparities in sentencing as experienced by Native people have had mixed conclusions. Showing either harsher, equivalent, or, in some cases, even more lenient sentencing outcomes for Native people (Munoz and McMorris 2002; Stewart et al. 2022; Lance and Ward 2023). Some of these differences are perhaps attributable to regional variations, as much research on Native experiences within the US carceral system has been restricted to a particular state or region (Munoz and McMorris 2002; Stewart et al. 2022; Lance and Ward 2023). Further, across multiple studies, findings have indicated that the racialized disproportionality in sentence length experienced by convicted Native people varies according to offense type (Munoz and McMorris 2002; Stewart et al. 2022; Lance and Ward 2023). For example, Stewart et al. found that Native people were sentenced more harshly than white people for property crimes like burglary and less severely for violent offenses like assault, rape, and murder (2022). The authors theorized that this variation

in disproportionality of sentencing severity arose from the racial-relational aspects of these crime types (Stewart et al. 2022). The authors argued that these differences arose because property crimes are more often committed by Native people against white people and violent crimes are more often committed by Native people against other Native people (Stewart et al. 2022). Thus, in line with the research on Native disproportionate victimization documenting the underpolicing of violence against Native people, namely white violence against Native people, stood alongside the findings of overpolicing of Native people (Perry 2006; Perry 2009; Nielson and Jarratt-Snider 2018; Stewart et al. 2022). It becomes evident that it is the *interracial* nature of certain crimes committed by Native people (those impacting white people), rather than the offense type itself, that bring disproportionately severe penalties for Native offenders (Stewart et al. 2022).

Yet other research has found evidence of general disproportionality in sentence lengths for Native people (longer than sentences for white and Latine people, but shorter than those for Black people) (Smith 2020; Franklin 2011). Further, the research finding that those sentenced in federal courts (and thus sent to federal prisons) face longer sentences is also relevant (Ulmer and Bradley 2017). Due to the structure of criminal jurisdiction in Indian Country, Native people are largely subject to federal jurisdiction for serious crimes that would otherwise be handled by state or county police, courts, and prisons (Ulmer and Bradley 2017). Thus, because Native people disproportionately face federal courts, they are disproportionately exposed to the increased likelihood of harsher sentencing. Further, research has found that, controlling for prior criminal record, contextual factors related to the offense (e.g., weapon present,

under the influence of alcohol or drugs), and offense type, greatly diminished the racial group disparities in sentence length (Stewart et al. 2022; McMorris and Munoz 2002; Franklin 2011). However, this finding must be contextualized in light of the evidence of overpolicing of Native people (Perry 2006; Perry 2009; Lance and Ward 2023), which itself greatly increases the likelihood of carceral system involvement.

Fines and Fees

A significant body of research exists on the disparate assessment and impacts of legal financial obligations experienced by those Black and Latine people simultaneously facing racialized and economic marginalization (see Western 2006; Gilmore 2007; Harris 2016; Kohler-Hausman 2018; Story 2019; Alexander 2020; Schenwar and Law 2020; Friedman 2021; Friedman, et al. 2022). There is far less research on disparities in the assignment of legal financial obligations experienced by Native people. However, two studies stand out in this otherwise understudied research area. Both studies indicate that Native individuals face the same intersectional oppressive factors of racialized and economic marginalization and that these significantly shape their experiences of disproportionately harsh carceral system financial obligations (Munoz and McMorris 2002; Stewart et al. 2022). With many Native people also facing the added challenge of rurality (about one-third of Native people live in Indian Country and about another third live in rural towns bordering that area) (Stewart et al. 2022).

Munoz and McMorris's examination of Native racialized disparities in the assessment of monetary penalties for misdemeanor offenses in a set of North Dakota counties proximate to Native reservations found that Native people consistently faced higher fines than their white counterparts (2002). Much of this variation was explained

by differences in the severity of the misdemeanor charges, as well as the total number of charges involved in the sentence (Munoz and McMorris 2002). Though the authors also found that, other factors aside, the disparities in financial obligations were more severe where Native people made up a larger proportion of the population (Munoz and McMorris 2002). This finding is in line with the statistics showing that those US states and other nation states where Indigenous people make up larger proportions of the national population see larger disproportionality in Indigenous incarceration rates. Munoz and McMorris explain this variation using the “racial threat” hypothesis (2002). This perspective posits that racially marginalized individuals and communities who are more populous, and thus more prominent, are perceived by white community members as threatening encroachment into white spaces and thus face increased targeting for containment and oppression (Munoz and McMorris 2002). For the case of Native people, greater population proportions in otherwise largely white rural areas is accompanied by racial stereotypes centered on the perception of Native people as inherently hostile, violent, and prone to alcohol abuse (Munoz and McMorris 2002). These stereotypes thus likely play a role in the disparate charging of Native people where they are more likely to face more charges and more serious charges (Munoz and McMorris 2002).

The findings of Stewart et al.’s study of Native racial group disparity in the assessment of carceral system fines and fees in Minnesota were similar to Munoz and McMorris (2022). Stewart et al. found that there were notable disparities in the amount of outstanding legal debt faced by Native people and that Native people in Indian Country and adjacent rural border towns faced both higher initial monetary obligation

orders and higher outstanding debt balances (2022). Thus, similar to the findings of Munoz and McMorris (2002), Stewart et al. show a Native population visibility penalty for those living in on or near Indian Country (2022). Stewart et al. note that part of the issue of accrued legal financial obligations is due to the downstream impacts of higher arrest and incarceration rates of Native people who then face greater likelihood of costs related to probation services and pay-to-stay jail stints in addition to offense-specific monetary penalties (Munoz and McMorris 2002; Stewart et al. 2022). Further, the rurality and poverty of Native individuals (and communities) on or near Indian Country, marked by lack of access to work and welfare resources, compounds the impact of financial obligations and the challenge of meeting these obligations (2022).

Post-Release Supervision

The last carceral outcome of interest to my research, related to continued carceral supervision after release, is the outcome for which there is the least previous research. In fact, no studies have examined racialized disparities in the likelihood of Native individuals facing the stipulation of continued carceral supervision (compared to release without supervision). A number of studies have demonstrated the challenges associated with meeting the stipulations of post-release supervision for those facing economic precarity (Caputo-Levine and Guitar-Judd 2023; Schenwar and Law 2020; Western 2006; Harris 2016). Though very few studies have specifically examined the post-release, and post-release supervision, challenges faced by formerly incarcerated Native individuals and their communities (again, see Wodahl and Freng (2015) for a rare example of research in this area). In their study, Wodahl and Freng examined the challenges facing Native individuals upon re-entry, challenges related to both individual

and community economic marginality and rurality-related lack of access to resources and reliable long-distance transportation (2015). Authors focusing on Native individuals and communities place these economic precarity and rurality-related issues within the context of the long-lasting and far-reaching impacts of colonial dispossession and policies diminishing Native communities' sovereignty, efficacy, and social institutions (Munoz and McMorris 2002; Stewart et al. 2022; to a lesser explanatory extent, Wodahl and Freng, 2015).

NATIVE PEOPLE'S INVOLVEMENT IN THE CRIMINAL JUSTICE SYSTEM: HISTORIES OF COLONIALISM AND TRAUMA

Native people face inequality in policing (Perry 2006; Perry 2009), sentencing (Franklin 2011; Jeffries and Bond 2012; Saperstein et al. 2014; Mebane-Cruz 2015; Wang 2021; Pro et al. 2022; Lamphere and Hassett 2023; Akbari 2023), fines and fees (Stewart et al. 2022), and supervision (Prison Policy Initiative 2023). Though, these inequalities have thus far ultimately been linked to impositions of settler colonialism and resultant intergenerational and cultural trauma. For Native people specifically, the imposition of US (federal, state, and local) law and the US carceral system upon Native people is both a legacy of historical diminishment of Native sovereignty and a present reminder of colonized status (Perry 2006; Perry 2009).

Ensnarement in the US carceral system is symbolically and literally an ensnarement within settler colonial society and governance. The experiences of racial profiling, racist interactions, racialized overpolicing of Native suspects and offenders, and the underprotection of Native victims (and their treatment with suspicion by law enforcement) are felt as settler colonial oppression (Perry 2006; Perry 2009). The

literature demonstrating the negative psychological, emotional, and physical impacts of settler colonialism past and present should be taken alongside the literature explaining the settler colonial roots of Native carceral system inequality. With that perspective, we should understand the impacts of Native racially disparate carceral system involvement as causing and/or reinforcing these traumas of historical and current settler colonialism.

In their work discussing the multi-level health determinants related to and arising from Indigenous individuals' and communities' experiences with overincarceration, Bleau, Dhanoa, and Ignace argue for a public health crisis approach to Indigenous overincarceration (and crime) that sees settler colonialism as deeply implicated in the determinants of Indigenous incarceration (2022). This perspective is useful for three reasons. First, it draws a throughline connecting the historical and contemporary traumas of settler colonial structure to the trauma of modern racialized carceral inequality (Bleau et al. 2022). Second, it illustrates the complex nature of Indigenous overrepresentation among the incarcerated as being related to both disproportionate experiences of crime in Indigenous communities *and* the structural racism that defines mass incarceration, showing the interconnection between these two factors as mechanisms of racialized overincarceration (Bleau et al. 2022). Third, it provides a language to speak about these complex relationships as both creating and deriving from structural challenges to individual and community well-being (Bleau et al. 2022)..

Crime and Criminal Justice in Indian Country

The carceral system inequality faced by Native people has deep historical roots. This inequality has been traced to settler colonial structure and linked to the legacy of colonial laws criminalizing Nativeness (Ross 1998; Nielson and Silverman 2007; Bracey

2016; Nielson and Jarratt-Snider 2018). Throughout US settler colonial history there have been numerous ethnocidal laws targeting core aspects of Native cultures for criminalization (Ross 1998; Nielson and Silverman 2007; Bracey 2016; Nielson and Jarratt-Snider 2018). In the 1800's laws were enacted to criminalize Native forms of dancing, arguing that it fomented rebellious and war-like behaviors (Ross 1998; Nielson and Silverman 2007; Bracey 2016; Nielson and Jarratt-Snider 2018). The most sweeping criminalization of Native culture came during the Assimilation Era of the late 19th to early 20th centuries which saw an attack on Native communities, families, and culture in the form of the forced removal of Native children to government boarding schools for cultural reprogramming designed to proletarianize Native students, training them for low-wage labor in factories or domestic work (Ross 1998; Nielson and Silverman 2007; Bracey 2016; Nielson and Jarratt-Snider 2018).

These destructive laws were based in and justified by broad and demeaning stereotypes of Native people vacillating between the tropes of the “heathen savage” inherently violent, pagan, and intemperate and the “noble savage” inherently undisciplined, naïve, and anachronistic (Deloria, Jr. and Lytle 1983; Deloria, Jr. 1985; Ross 1998; Nielson and Silverman 2007; Bracey 2016). These stereotypes portraying Native people as violent and intemperate or (sometimes simultaneously) naïve and in need of guardianship persist in the US cultural consciousness (Munoz and McMorris 2002; Perry 2006; Perry 2009; Stewart et al. 2022; Lance and Ward 2023). They perpetuate Native experiences of increased scrutiny and punitiveness at all stages of the carceral system and justify the diminishment of Native Nation sovereign capacities

and powers, including in the realm of law enforcement (Munoz and McMorris 2002; Perry 2006; Perry 2009; Stewart et al. 2022; Lance and Ward 2023).

Federal carceral system powers over Indian Country, namely, the complex maze of jurisdictional authority it created within Indian Country, are cited across research as key factors contributing to the disparate carceral system experiences of Native individuals (disparate in the case of both those committing *and* those victimized by crime) (Munoz and McMorris 2002; Perry 2006; Perry 2009; Jeffries and Bond 2012; Janisch 2014; Saperstein, Penner, and Kizer 2014; Tighe 2014; Mebane-Cruz 2015; Cunneen and Tauri 2016; Wang 2021; Pro, et al. 2022; Stewart et al. 2022; Akbari 2023; Lamphere and Hassett 2023). Further, racial profiling (Perry 2006; Perry 2009), over-policing of some crimes and under-policing of other crimes (Perry 2006; Nielson and Silverman 2007; Perry 2009; Deer 2015; Lantz and Ward 2023), and macro-level criminogenic factors impacting Indian Country (Nielson and Silverman 2007; Deer 2015; Ross and Gould 2016; Wodahl and Freng 2017; Nielson and Jarratt-Snider 2018) are all pointed to as contributing to Native racialized carceral system inequality.

These tensions and the alienation they induce are exacerbated by the experiences of over policing among Native individuals and communities (Perry 2006; Perry 2009; Koshy et al. 2022). Over policing of marginalized communities has the general effect of restricting movement within communities, even reinforcing residential segregation by treating with suspicion those who are “not where they should be,” those seen where they are not expected to be based upon the racial and class makeup of the community. For Native people, this can mean being policed when exiting their Native Nations, their reservation communities (Perry 2006; Perry 2009). This spatial policing is

felt and functions as a type of enforced segregation (Perry 2006; Perry 2009; Koshy et al. 2022).

Further, on the flipside of underpolicing of crimes against Native people (including those committed by Native people (Munoz and McMorris 2002)), there exist many experiences of disproportionately harsh policing, overpolicing, of crimes by Native people against white people (Perry 2006; Perry 2009; Koshy et al. 2022). With Native people facing greater scrutiny and harsher penalties for property and person crimes against white people than the reverse as well as harsher penalties compared to crimes against other Native people (Munoz and McMorris, 2002; Stewart et al., 2022; Lance and Ward, 2023). Overall, Native individuals in Indian Country have expressed facing a general sense of suspicion and hostility from settler law enforcement (Perry 2006; Perry 2009; Koshy et al. 2022). This creates the expectation of suspicion and hostility which contributes to the lack of desire for law enforcement involvement, even where necessary, within many Native communities (Perry 2006; Perry 2009; Koshy et al. 2022).

Factors Related to Crime and Victimization Impacting Indian Country

Across criminological theories there is a lengthy list of factors that have been shown as correlated with an increased likelihood of experiencing crime, both as the perpetrator and victim. The factors related to increased propensity for committing crimes, or “criminogenic” factors, are both human ecological (social-environmental) and interpersonal in nature. Many of these are individual-level (micro) factors related to tendencies toward self-control or impulsivity, or toward adaptive or maladaptive coping mechanisms (for example, Hirschi and Gottfredson 1990; Agnew 1992). Others are

community-level (meso) factors such as concentrated poverty and access to material and symbolic resources, exposure to crime, lack of community cohesion, and lack of collective capacity to manage community circumstances (efficacy) (Agnew 1992; Akers 2003; Sampson 2004). As well, others are society-level (macro) factors. These are largely those creating and perpetuating structural inequalities and lack of sufficient infrastructure providing pathways for impoverished communities to access necessary resources and have meaningful power over their own circumstances (Sampson 2004; Nielson and Jarratt-Snider 2018; Murch 2017; Schenwar and Law 2020).

When examining racial, or racialized group, disproportionality of carceral system exposure and ensnarement, more than differences in individual criminal propensity, it is necessary to focus on those community- and society-level (meso and macro) factors. For Native people, these community- and society-level factors are deeply intertwined and deeply rooted in, and a continuation of, the historical arc of settler colonialism (and structural racism generally) toward Native cultural (and physical) erasure and dispossession (Perry 2006; Perry 2009; Janisch 2014; Nielson and Jarratt-Snider 2018; Lance and Ward 2023). Experiences of racism, whether at the individual-, community-, or society-level, cause psychological strain – and physical manifestations of this strain, implicate structural barriers to resources, harken the memory of the violence of settler colonialism and structural racism, and compel alienation (Perry 2006; Perry 2009; Janisch 2014; Nielson and Jarratt-Snider 2018; Lance and Ward 2023). All of which explain experiences of racism as a criminogenic factor (Burt, Lei, and Simons 2017; Bernard, Calhoun, Banks, Halliday, Hughes-Halbert, and Danielson 2020).

Racism experienced at the interpersonal-level is often understood as a manifestation of structural racism (Perry 2006; Perry 2009; Janisch 2014; Burt et al. 2017; Nielson and Jarratt-Snider 2018; Bernard et al. 2020; Lance and Ward 2023). Thus, experiences of racism perpetrated by actors representing the carceral system (e.g., law enforcement officers, judicial actors), through acts of overt prejudice or discrimination, or culturally inappropriate responses, themselves contribute to the disproportionate crime experienced in Indian Country. Both by creating criminogenic racism and by compelling alienation from and contempt for the carceral system (Perry 2006; Perry 2009; Janisch 2014; and Jarratt-Snider 2018; Lance and Ward 2023). These outright racist and otherwise inappropriate responses and the alienation from and distrust for the carceral system that they instill also exacerbates the issue of crime victimization – an issue disproportionately afflicting Indian Country (Perry, 2006; Perry 2009; Janisch, 2014; Burt et al., 2017; Nielson and Jarratt-Snider, 2018; Lance and Ward, 2023; Bernard et al., 2020). Thus this structural racism, which causes psychological harm, sometimes includes infliction of physical harm, and diminishes community cohesion, itself functions as a criminogenic factor (Perry 2006; Perry 2009; Janisch 2014; Burt et al. 2017; Nielson and Jarratt-Snider 2018; Lance and Ward 2023; Bernard et al. 2020).

Experiences of everyday racism and the structural inequalities and historical arc that they implicate contribute to the collective and intergenerational trauma epidemic among Native communities (Stevens, Andrade, Korchmaros, and Sharron 2015; Pember 2016; Nielson and Jarratt-Snider 2018; Wiechelt, Gryczynski, and Lessard 2019). This collective and intergenerational trauma contributes to the individual-level

and family (meso-level) experiences of trauma deriving from adverse childhood experiences (ACEs) (Nielson and Jarratt-Snider 2018; Wiechelt, et al. 2019; Radford, et al. 2022). These ACEs include experiencing child abuse and/or neglect, witnessing domestic violence, parental psycho-emotional trauma and struggles, parental substance abuse, and parental arrest and incarceration as well as adverse adult experiences implicated in this list (Nielson and Jarratt-Snider 2018; Wiechelt, et al. 2019; Radford, et al. 2022). Taken together these adverse experiences and the traumas they induce contribute to the disproportionately high instances of substance abuse, particularly alcohol abuse, in Native communities, as well as contributing to domestic violence perpetration and victimization (Nielson and Jarratt-Snider 2018; Wiechelt, et al. 2019). All of these adverse experiences, traumas, and substance abuse itself, share a significant correlation with the likelihood of committing and being victimized by crime (Ports, Ford, and Merrick 2016; Nielson and Jarratt-Snider 2018; Qualkenbush 2020).

Other factors increasing the risk of crime and victimization in Indian Country are related to the impact of intergenerational concentrated poverty and lack of access to resources. Native people as a group experience the highest levels of poverty in the United States (Around Him and Gordon 2022). Many parts of Indian Country have been commonly referred to as the “fourth world,” referring to “third world” conditions existing within the “first world” country of the United States. These structural community challenges include issues such as dilapidated housing, overcrowding in housing, and limited access to indoor plumbing (Pindus, Kingsley, Biess, Levy, Simington, Hayes 2017). Native people, especially those in the often extremely rural locations within Indian Country also face the highest unemployment rates and among the lowest

educational attainments (National Center for Education Statistics 2019; Bureau of Labor Statistics 2022). The mere fact of residing in such rural (and impoverished) areas means many in Indian Country lack reasonable access to basic institutions and services like health care and social services (Wodahl and Freng 2015; Nielson and Jarratt-Snider 2018; Hill, Anderson, and King 2022).

Adverse experiences, whether in child- or adulthood, are a constellation of traumas that disempower by diminishing one's sense of physical and emotional security and create challenges to forming healthy attachments, a sense of self, and emotional balance (Qualkenbush 2020; Radford et al. 2022). Histories of multiple adverse experiences are disproportionately distributed among those who are or have been incarcerated – and among many who have been victimized (Qualkenbush 2020; Radford et al. 2022). In fact, there is a connection between experiencing victimization and committing crime (Qualkenbush 2020). As mentioned, adverse childhood experiences include exposure to domestic violence and parental substance abuse, both of which are more prevalent in Indian Country than other communities (Qualkenbush 2020; Radford et al. 2022). Further domestic violence, and other forms of physical victimization like sexual assault – also more common among Native people (women in particular), are adult adverse experiences (Deer 2015; Nielson and Jarratt-Snider 2018; Radford et al. 2022). Incarceration, which disproportionately impacts Native individuals and communities, in itself is a traumatic experience both for the individual and for their family and community, representing an adverse adult experience, and an adverse childhood experience for those whose parents are incarcerated (Qualkenbush 2020; Radford et al. 2022).

Beyond these intragenerational experiences, Native people also face unique intergenerational traumas related to historical and contemporary experiences of settler colonialism (Stevens, et al. 2015; Pember 2016; Nielson and Jarratt-Snider 2018; Wiechelt, et al. 2019). Over the centuries settler colonialism has subjected Native people to genocidal and ethnocidal experiences ranging from military campaigns aimed at physical extermination to religious and political campaigns aimed at cultural erasure (Stevens, et al. 2015; Pember 2016; Nielson and Jarratt-Snider 2018; Wiechelt, et al. 2019). Notably, both for its impact and its recency, the US policy of forcibly removing Native children from their homes and placing them in sometimes very distal boarding schools for cultural reprogramming (forced assimilation into US culture) proved to be very damaging not only to the individuals removed but also the well-being of their succeeding generations (Stevens, et al. 2015; Pember 2016; Nielson and Jarratt-Snider 2018; Wiechelt, et al. 2019). Native childhood experiences of parental substance abuse, domestic violence, and neglect have been linked to parents' experiences of removal and abuse within boarding schools (Stevens, et al. 2015; Pember 2016; Nielson and Jarratt-Snider 2018; Wiechelt, et al. 2019).

THEORETICAL EXPLANATIONS FOR THE EXISTENCE OF RACIALIZED CARCERAL INEQUALITY

The Sprawling Reach of the Carceral System

Similar to the value of epidemiological language when discussing the impacts of settler colonial structure and its relationship with the crime and incarceration plaguing Indian Country. The idea of the carceral system, which extends far beyond jails or prisons in both space and time, is a framework for comprehending the myriad and

diffuse mechanisms of control over individuals via the legal system (Story 2019; Schenwar and Law 2020; Khan 2022). Incarceration serves as the final destination and the overarching threat imposed to maintain adherence to laws, this threat infuses and reinforces all stages of legal system interaction with individuals, particularly those racially and economically marginalized, hence the title “carceral” system. The mechanisms of carceral capture and control are carried out both within the formal legal system institutions of law enforcement (cops), courts, and corrections (incarceration) as well as outside of these institutions in homes and neighborhoods (Story 2019; Schenwar and Law 2020; Khan 2022).

Thus, I use the terminology of “carceral system” to denote that larger institutional web of both formal and informal structures and mechanisms pushing individuals into the more formal institutions of the carceral system. These mechanisms are based on surveillance, documentation, restrictions, and containment (Story 2019; Schenwar and Law 2020; Khan 2022). Surveillance to monitor individuals’ behavior; documentation to keep track of individuals’ life history, behaviors, and movements; restrictions on behavior, movement, and social interactions; containment within a particular area (home, neighborhood, jail or prison) to facilitate surveillance and documentation and ensure adherence to restrictions (Story 2019; Schenwar and Law 2020; Khan 2022). These carceral mechanisms are carried out by legal system institutions and actors through policing, citations, arrest, conviction, probation, incarceration, and parole – and the use and consequences of these mechanisms are not evenly distributed: they target the economically and racially marginalized (Story 2019; Schenwar and Law 2020; Khan 2022). The sprawling reach of the carceral system extends out not only across space,

but also time: it follows individuals and groups wherever they are throughout their life and imparts stigma and targeting on neighborhoods that usually persists with changes in residents (Story 2019; Schenwar and Law 2020; Khan 2022).

The View from the Longue-Durée: Critical Theoretical Explanations

The issue of Indigenous overincarceration is complicated. It is deeply intertwined with numerous structural, community, and individual-level factors related to crime, victimization, and carceral system involvement. The issue of Indigenous overincarceration is certainly a matter of structural racism and the perpetual settler colonial project. It is, however, certainly not unrelated to the higher instance of crime within Native communities. And both of those factors are themselves interrelated. To borrow from theorists of Indigenous overincarceration in the Canadian context a statement that is equally applicable to the US context, “settler colonial violence and historical implementation of [settler colonial] policy are responsible for the creation of the current determinants... that have created a pipeline to prison and mass incarceration [for Indigenous people]” (Bleau, et al. 2022).

Colonialism, Capitalism, Carceralism

Critical theories of racialized mass incarceration converge upon the premise that racialized exploitation through removal, containment, and economic dispossession is integral to the functioning of capitalism and the carceral system is a primary mechanism to carry out these processes (Harris 1993; Gilmore 2007; Roediger 2007; Toews 2018; Wang 2018; Robinson 2019; Alexander 2020; Burden-Stelly 2020; Itzigsohn and Brown 2020; Friedman 2021; Go 2021; Prasad 2021; Koshy, Cacho, Byrd, and Jefferson

2022). Some theorists argue that racialization as a social structural process predates and was merely adapted into capitalism (Robinson 2019; Burden-Stelly 2020; Go 2021; Prasad 2021; Koshy et al. 2022). Others argue that racialization and structural racialized inequality was mapped onto capitalist structure as a scheme to justify the deleterious and uneven impacts occurring from capitalist technologies, namely the institution of African slavery and genocidal colonialism in the Americas (Roediger 2007; Toews 2018; Go 2021).

Regardless of which preceded the other, the fact stands that from the moment that both structural racialization and capitalism co-existed, they have been interdependent (Fenelon 2016; Toews 2018; Robinson 2019; Itzigsohn and Brown 2020; Koshy et al. 2022). Further, the technologies of capitalism have simultaneously included racialized African slavery (and colonization) and (racialized) colonization of Indigenous peoples in the “New World” (Fenelon 2016; Toews 2018; Koshy et al. 2022). More than simultaneous, these technologies of capitalism founded in, dependent on, and perpetuating racialized stratification are fundamentally interdependent (Fenelon 2016; Toews 2018; Koshy et al. 2022). The dispossession of Indigenous people from land (and body and character) through genocide, removal, and legal mechanisms of forced assimilation negating Indigenous sovereign rights was the condition of possibility for the installation of Black captive slave laborers, also removed from their land and dispossessed of their bodies via commodification, captivity, and labor superexploitation (Toews 2018; Koshy et al. 2022).

Racist Logics, Capitalist (II)Logics

Michelle Alexander has dubbed modern racialized mass incarceration “the new Jim Crow” (2020). Many theorists argue that this system of racialized subjugation is specifically targeted at and structured around the positioning of Black individuals on the margins of society (Muhammad 2010; Wang 2018; Alexander 2020; Go 2021). Others hold that the system is structured to maintain the power dynamics inherent to the US settler colonial society which were founded in the dual processes of Indigenous colonization and Black slavery (Glenn 2015; Fenelon 2016; Koshy et al. 2022). Glenn, for example, explains the interconnection between the unique but intertwined structures of Native and Black racialized subjugation as functioning diametrically to make Native people invisible through physical and cultural erasure and to make Black people hypervisible by constructing this racialized group as the perpetual threatening other (2015). Native invisibility serves to free the land for settler occupation and resource exploitation, via physical removal or negation of Native sovereignty and territorial claims, and Black hypervisibility-as-threat works to create an enduring underclass available for labor superexploitation via forced labor-as-control and punishment to enhance the settler economy without losing profit to wages.

Capitalist Logic of Racialized Mass Incarceration as Dislocation of Surplus

Gilmore, on the other hand, focuses on how racialized mass incarceration targets marginalized racialized groups for displacement in times of economic crisis (2018). In this way, racialized mass incarceration removes the most marginalized members from society, accomplishing three interrelated and mutually supporting goals. First, it provides contained removal of unemployed/unemployable marginalized racialized

populations, thus artificially deflating unemployment rates and containing (lumpenized) populations perceived as “volatile” due to their alienation from mainstream society (Gilmore 2018). Meanwhile, it distracts from social crises indicative of social-structural issues such as the widening wealth gap and highlights (and exaggerates) issues of crime, framing this as solely a matter of individual (and group) malfeasance to be dealt with through “tough on crime” incarceration policies (Gilmore 2018). Finally, this garners political support for these “tough on crime” policies as the only viable means to maintain well-functioning governance and buttress key social institutions (Gilmore 2018). As such, Gilmore’s racial capitalist theory of carceral system inequality also sees racialized mass incarceration as functional for both structural racism and capitalism, albeit via somewhat different mechanisms than in Alexander’s theory.

COLONIALISM, CAPITALISM, AND CARCERAL DEBT

Debt, Dispossession, and Lumpenization

The lumpenproletariat are those outcast from society, relegated to the margins with limited or no access to participation in the free labor market, which in a capitalist society translates to limited or no access to necessary material and symbolic resources ranging from necessities of life like shelter, nourishment, clean water, and health care, to necessities of healthy development like education, to sources of meaningful participatory citizenship like political rights such as voting and peaceful protesting. The lumpen class includes the unsheltered, the unemployed or unemployable, and those marked “criminal” (Hilliard and Weise 2002; Cowling 2008; Wang 2018). In short, the lumpenproletariat are marked and denied access to full involvement and membership in society. Lumpenization then is the process of entrapping people within the status of

“lumpen,” a process which is carried out through many societal mechanisms and institutions, not the least of which is carceral system involvement, entailing “criminal” marking, and in the case of incarceration removal from the *free* labor market, and carceral monetary obligations (debts).

Carceral debt is money owed to carceral system institutions (e.g., courts, corrections) or private companies working as proxies for the carceral system (e.g., debt collectors, technology and service providers). Carceral debt encompasses a wide variety of fees including those for legal representation, bail, and other court fees, as well as pay-to-stay fees for time spent in jail or prison, and supervision – probation and parole – service fees (see Western 2006; Gilmore 2007; Harris 2016; Kohler-Hausman 2018; Story 2019; Alexander 2020; Schenwar and Law 2020; Friedman 2021). As well as fines including citations, restitution, and monetary penalties for failure to pay such as accrued interest and late payment penalties (see Western 2006; Gilmore 2007; Harris 2016; Kohler-Hausman 2018; Story 2019; Alexander 2020; Schenwar and Law 2020; Friedman 2021; Friedman, et al. 2022).

Carceral debts always entail dispossession but, for the lumpenized, they also entail superexploitation (Western 2006; Harris 2016; Kohler-Hausman 2018; Wang 2018; Alexander 2020; Friedman 2021; Friedman et al. 2022). Carceral ensnarement and debt can mean dispossession of property; it certainly means dispossession of money. It also leads to long term effects like poor credit and persisting poverty both of which make individuals susceptible to dependence on high interest and unstable predatory lending which further impoverishes and creates barriers to getting out of debt (Wang 2018; Friedman 2021). For those imposing it, carceral debt is a source of

financial accumulation in the form of revenue for governments and profit for businesses (as government service providers) (Wang 2018). Not only do the fees and fines themselves fund governments and private industry (as government proxies), but interest and late payment penalties provide further revenue for governments or profit for private companies (e.g., collections agencies) (Wang 2018; Friedman et al. 2022). Carceral debt is thus both result and exacerbation of the impacts of lumpenization in its function as a mechanism of siphoning revenue (or profit) – that is, financial exploitation – from those lumpenized and unable to participate in the capitalist economy through *free* labor participation (wage exploitation) (Western 2006; Harris 2016; Kohler-Hausman 2018; Wang 2018; Alexander 2020; Friedman 2021; Friedman et al. 2022).

In *Carceral Capitalism*, author Jackie Wang (2018) pushes back against the classical Marxist conception of capitalist society defined by a two-class system of capitalists (owners) who wrench profit through the labor exploitation of the proletariat (workers) which is born from but then supersedes the event of origination marked by “primitive accumulation,” or the violent dispossession of land and self-determination from those who are then resituated as the proletariat (Wang 2018). Wang pushes back not on the idea that violent dispossession is necessary to capitalism, but rather that violent dispossession ends when capitalism becomes fully formed (Wang 2018). She illustrates this point using, among others, the example of Native people in the United States, who even as the United States was a fully-fledged capitalist society still faced – and still face – violent dispossession of land and natural resources by settlers and the US government (Wang 2018). In this way, Wang demonstrates the integral part that the initiating event and perpetual project of settler colonialism and Native (racialized)

dispossession play in the functioning of US (settler colonial racial) capitalism. Wang implicates the value of a carceral capitalist research agenda that incorporates the experiences of Native people in her rejection of the either/or dichotomization of the condition of necessity for capitalist racialized inequality as Native genocide, removal, and dispossession or Black institutionalized slavery (Wang 2018). Wang harkens to the work of Wolfe (2006) and Glenn (2015) explicating settler colonialism as structure rather than event (2015) in asserting that both of the processes of Native dispossession and Black superexploitation are deeply intertwined, if not interdependent (Wang 2018). Thus ultimately implicating a statement of the value and a call for the application of carceral capitalism to the issue of Native overincarceration (a call stated explicitly in a personal correspondence (Wang 2024)).

Native Dispossession, Exploitation, Debt, and Lumpenization

Native peoples' history is marked by settler colonialist dispossession. Dispossession of life (genocide), dispossession of culture (ethnocide), and, of course, most visibly dispossession of land and natural resources. This history is also marked, though far less visibly, with dispossession of labor, or superexploitation, through enslavement in North America and captivity and deportation for enslavement in the Caribbean (though to a lesser magnitude and level of institutionalization than Black African slavery in the US) (Hixson 2013). Dispossession from land and resources took many forms throughout history, beginning with genocide and forcible removal up to the end of organized Native military resistance in the late 1800's (Deloria, Jr. and Lytle 1983; Deloria, Jr. 1985; Prucha 1985; Fixico 1990; Wolfe 2006; Hixson 2013; Glenn 2015; Saito 2020). It shifted in the later eras to dispossession via debt from taxes and

agricultural machinery and other means of subsistence (debt often paid by selling land) (Deloria, Jr. and Lytle 1983; Deloria, Jr. 1985; Prucha 1985; Fixico 1990; Hixson 2013).

In the recent era, this history has been marked by an effort at proletarianization that often resulted in lumpenization. The US settler colonial assimilationist policy eras of “Assimilation” and “Termination” both sought to assimilate Native people into the US society and economic system as members of the proletariat (Deloria, Jr. and Lytle 1983; Deloria, Jr. 1985; Prucha 1985; Fixico 1990). Indian Boarding Schools trained Native children, teenagers, and young adults for domestic labor (for girls and women) and low-skill manual labor (for boys and men) (Deloria, Jr. and Lytle 1983; Deloria, Jr. 1985; Prucha 1985; Fixico 1990). The job training programs of the termination era similarly trained Native people for placement in low status, low wage work (Deloria, Jr. and Lytle 1983; Deloria, Jr. 1985; Prucha 1985; Fixico 1990). However, for many, the Termination policy relocation program that transferred thousands of Native people to urban centers far from their homes in Indian Country placed them in urban slums (not the suburbs pictured in the program advertisements) (Deloria, Jr. and Lytle 1983; Deloria, Jr. 1985; Prucha 1985; Fixico 1990). Further, many were placed in low wage seasonal (unstable) employment such as agricultural work (not the professional jobs pictured in the program advertisements) (Deloria, Jr. and Lytle 1983; Deloria, Jr. 1985; Prucha 1985; Fixico 1990). Many Native people who relocated to urban centers ended up jobless, unsheltered, and destitute, without the means to return to Indian Country (Deloria, Jr. and Lytle 1983; Deloria, Jr. 1985; Prucha 1985; Fixico 1990).

Further, as expanded upon previously, the criminalization of Nativeness is the other side of lumpenization, serving as a type of status relocation to the margins of

society due to destitution and criminalization (Ross 1998; Nielson and Silverman 2007; Bracey 2016; Nielson and Jarratt-Snider 2018). This criminalization, ascribing of the “criminal” label, still disproportionately impacts Native people, evidenced by overpolicing in Indian Country, disparately harsh sentencing of Native people, and the overall disproportionate incarceration of Native people (Ross 1998; Nielson and Silverman 2007; Bracey 2016; Nielson and Jarratt-Snider 2018).

I argue in this dissertation that racially unequal outcomes regarding the sentencing outcomes of Native People are predicated on the functions of settler colonialism, racial capitalism and carceral capitalism. Settler colonialism is an ongoing project. Racial capitalism is structurally intertwined with this colonial project. Racial capitalism is perpetuated through the system of racial removal-containment and exploitation. Within the carceral system, this colonial racial capitalism manifests as carceral capitalism via racially disproportionate arrest, monetary penalization, and incarceration. Thus, the perpetuation of the racial carceral capitalist project dually perpetuates the settler colonial project of removal-containment and that of superexploitation. Carceral capitalism’s explanation of racially disproportionate incarceration explains incarceration as a means of dislocation (societal extraction) and superexploitation (through labor exploitation and wealth dispossession) for racially and economically marginalized people, including Native people.

Carceral capitalism, as a theoretical framework, and necrocapitalism as an integral aspect of this structure, similarly understand the role of racially disproportionate incarceration. They both see this capitalist structure as maintaining structural racialized inequality via lumpenization, the process of securing a supermarginalized and

superexploitable (racialized) underclass, which allows for superexploiting those captured in the carceral system through labor and dispossession. That is, incarceration provides a legal mechanism for the superexploitation of economically and racially marginalized groups. One of the clearest ways that this exploitation plays out is through incarceration, post-release supervision and related monetary penalties that follow individuals and entrap them within the carceral system even beyond incarceration. I use these theories to construct variables related to individual and state-level measures of racial/ethnic racialized visibility and individual and state-level measures of economic precarity to assess differential sentencing outcomes of Native people when compared to white incarcerated people. I now describe the data that I use, the measures that I include and the models predicting three sentencing outcomes related to economic precarity post-incarceration.

3. DATA, METHODS, AND ANALYSIS

My research concerns the overarching question: how do the sentences of Native and white incarcerated people differ? Specifically: Do incarcerated Native people experience racially disparate sentence lengths, likelihoods of fines and fees (legal financial obligations), and likelihoods of expecting post-release supervision (that is, expectations of the extension of carceral system involvement after release)? Each of these aspects of sentencing and carceral system mechanisms feeds into the economic precarity and lumpenization of Native people in the United States by creating a feedback loop of carceral system involvement, removal from the *free* labor market, and perpetuated ensnarement in both financial and physical carceral system surveillance post-release.

I hypothesize that the disparate outcomes facing Native incarcerated people are dependent on both the economic deprivation and relative visibility of Native people at the time and place of their sentencing, which both make them targets of carceral capitalist exploitation and racially discriminatory carceral system practices. The research area of Native carceral experiences and inequalities is relatively new. As such, my research seeks to examine the landscape of Native carceral system inequality. My research will also lay the foundation for a much larger research agenda examining the relationship between Native carceral system involvement, Native lumpenization, and the carceral system as an integral aspect perpetuating the US capitalist system. The nature of this project is such that it is intended to analyze the outcomes of Native carceral system involvement through the lens of carceral capitalism theory. It is focused on

examining one aspect of the carceral capitalist system, one node in the web that is the carceral system and carceral capitalist process: incarceration.

DATA

Data on People Held in State and Federal Prisons

This research answers the research question of how the relative economic deprivation and salience of Native populations within each state correlates to sentencing outcomes such as sentence length, fines or fees in addition to incarceration, and post-release surveillance as experienced by Native people incarcerated in the US. To answer these questions, I used quantitative data from the Bureau of Justice Statistics (BJS) 2016 *Survey of Prison Inmates, United States* (Bureau of Justice Statistics 2016). This data was accessed through the Inter-University Consortium for Political and Social Research (ICPSR) based out of the University of Michigan. This data set provides individual-level survey data on people 18 and older who were incarcerated in federal and state prisons across the US during 2016. The survey was conducted using stratified two-stage sampling with the first stage determining the sample of prisons and the second determining the sample of incarcerated people.

The prison sample included 385 prisons: 324 state facilities (17.9% of the universe of state facilities) and 61 federal facilities (31.6% of the universe of federal facilities). The sample of incarcerated people included 24,848 individuals (a 67.1% response rate): 20,064 held at state facilities and 4,784 held at federal facilities. There were 1,506,800 incarcerated people held in state and federal prisons at year-end in

2016 (Bureau of Justice Statistics 2016). The sample of prisoners in the survey thus represents 0.16% of prisoners counted at year-end in 2016.

General Population Data

Addressing the effect of economic marginalization and Native racialized group visibility on sentencing outcomes required data not available in the BJS survey. To access that general population data, I looked to the US Census Bureau 2016 *American Community Survey* (ACS) (US Census Bureau 2016), the Kaiser Family Foundation (KFF) study of *Poverty Rates by Race/Ethnicity* in 2016 (Kaiser Family Foundation 2016), and the Bureau of Indian Affairs (BIA) *Native Land Information System* (NLIS) database containing information on Native lands in each state (Bureau of Indian Affairs 2019).

American Community Survey

To provide additional necessary independent substantive variables to these analyses, I included items from the Census Bureau's *American Community Survey* for 2016. The ACS data collection for 2016 was assembled from surveys completed by a representative sample of 318,558,162 respondents across the US (Census Bureau 2016). This included 197,362,672 respondents who identified as non-Hispanic white only (62% of the sample) and 5,399,769 respondents who identified as Native only or in combination with another racialized identity (1.4% of the sample) (Census Bureau 2016). Data included from this source relates to various demographic, educational, occupational, and residence related information (Census Bureau 2016). Data drawn

from this source for primary variables included statistics for state-level white unemployment rates and Native population proportions (discussed below).

Poverty rates by race/ethnicity

The KFF *Poverty Rates by Race/Ethnicity* for 2016 were compiled using estimates of state-level racialized group poverty rates calculated using the *American Community Survey* 1-year estimates for 2016 (Kaiser Family Foundation 2023). The KFF report provided state-level poverty rate information for white and Native people (Kaiser Family Foundation 2016). It should be noted that the racialized categories used in the KFF dataset are simplified compared to the Census dataset (Kaiser Family Foundation 2016). Racialized categories in the KFF dataset do not differentiate between members of each racialized group who identify as one race alone or multiple racialized identities, both groups are combined in the KFF dataset (Kaiser Family Foundation 2016). Therefore, it is not possible to determine if “white” or “Native” state-level poverty rates from the KFF dataset represent those who are categorized as white or Native alone or in combination with other racialized identities (e.g., it would include those who identify as both white and Native within each the “white” and the “Native” categories).

In all other instances, the white subsample and related data includes only those who identify as non-Hispanic (non-Latine) white only and the Native subsample includes those who identify as Native alone and in combination with other racialized identities. Data from the Census, KFF, and the BIA – that is, state-level data concerning unemployment, poverty rates, population proportions, and Native land proportions – has been merged with the variables from the BJS survey. This non-BJS data was constructed as individual-level data representing the state-level structural context of

each incarcerated person represented in the BJS subsamples used for this survey. In other words, each respondent in the BJS survey sample was assigned a value based on the state-level rates of unemployment and poverty where he/she/they were sentenced.

Native Land Information System

The BIA NLIS dataset provided state-level information on land held by or for Native Nations within each state (Bureau of Indian Affairs 2019). The BIA dataset provides information on the amount of acres in each state held by and for Native individuals and communities including fee simple land (individual holdings) and trust and restricted use land (communal holdings) (Bureau of Indian Affairs 2019). To determine the proportion of state land that was held by Native communities, the acreage of land held by or for Native people in each state was divided by the total state acreage – provided by the US Department of Agriculture (USDA) data on “Inventoried Roadless Area Acreage” (US Department of Agriculture 1996).

Subsamples

My research involves two discrete subsamples of individuals held in federal and state prisons in 2016. The subsample of focus for my research was the Native subsample, which included individuals identified as belonging to the racialized category of Native, whether they were Native only or in combination with other racialized identities or ancestries. The subsample used in my analyses included 706 incarcerated Native individuals (“cases”). The comparison subsample, the white subsample, included those identified as non-Latine (“non-Hispanic”) white only, that is, they did not have any

other racialized identity or ancestry outside of “white.” The comparison subsample for my analyses included 2,219 incarcerated non-Latine white individuals (“cases”). Data deriving from state-level variables (such as Native and white poverty rates by state) were transposed onto the individual level “state of residence at time of arrest” variable (recoded as “state”) to create a set of variables capturing the individualized social context within which each individual experienced carceral system ensnarement. The following sections provide more detailed descriptions of all dependent and independent variables and a discussion of the descriptive statistics for each variable. (Descriptive statistics for all variables can also be found in Table 2 at the end of this chapter.)

VARIABLES

Dependent Variables

Sentence Length. The total number of years sentenced to prison (not disaggregated by charge). This variable was labeled by BJS as “Years sentenced to prison.” The original structure as a continuous variable was retained. Responses greater than 500 years, missing responses and responses of “don’t know” were dropped via listwise deletion. The range of this variable for the Native subsample was 0 to 468 years. The range for the white subsample was 0 to 240 years. The median for the Native subsample was 5.0 years. The median for the white subsample was 5.0 years. The mean for the Native subsample was 10 years. The mean for the white subsample was 8.9 years.

Fines and/or Fees. Whether legal financial obligations were assessed in addition to incarceration. The data was described in Bureau of Justice Statistics (BJS) survey codebook as: “Does sentence include court costs/felony fees?” The binary categorical

structure of this variable was retained. This variable was recoded such that 0 indicated “Not Assigned Fines and/or Fees” and 1 indicated “Assigned Fines and/or Fees .”

Missing responses and responses of “don’t know” were dropped via listwise deletion.

Within the Native subsample, 71.1% (502) responded “Assigned Fines and/or Fees ,” within the white subsample, 72.7% (1,614) responded “Assigned Fines and/or Fees .”

Expect Post-Release Supervision. Whether a respondent had the expectation that their sentence would be continued beyond release from incarceration through post-release supervision (probation or parole). This data was described by BJS as: “Expect supervision on parole/probation.” The binary categorical structure of this variable was retained. This variable was recoded such that 0 indicated “Not Expecting Post-Release Supervision” and 1 indicated “Expecting Post-Release Supervision.” Missing responses and responses of “don’t know” were dropped via listwise deletion. Within the Native subsample, 81.3% (574) responded “Expecting Post-Release Supervision,” within the white subsample, 84.3% (1870) responded “Expecting Post-Release Supervision.”

Relative economic deprivation

Unsheltered. This is a proxy measure of individual-level economic deprivation indicating the individual had experienced being unsheltered in the year prior to incarceration. This data was described by BJS as: “Homeless in 12 months before arrest.” The binary categorical structure of this variable was retained. This variable was recoded such that 0 indicated “Not Unsheltered” and 1 indicated “Unsheltered.” Missing responses and responses of “don’t know” were dropped via listwise deletion. Within the Native subsample, 12.2% (86) responded “Unsheltered,” within the white subsample, 11.0% (244) responded “Unsheltered.”

Welfare. This is a measure of individual-level economic deprivation indicating the individual had received welfare in the month prior to incarceration. This data was described by BJS as: “Received public assistance/welfare in 30 days before arrest.” The binary categorical structure of this variable was retained. This variable was recoded such that 0 indicated “Didn’t Receive Welfare” and 1 indicated “Received Welfare.” Missing responses and responses of “don’t know” were dropped via listwise deletion. Within the Native subsample, 14.4% (102) responded “Received Welfare,” within the white subsample, 12.2% (271) responded “Received Welfare.”

Unemployed. This is a proxy measure of individual-level economic deprivation indicating the individual had been unemployed in the month before arrest. This data was described by BJS as: “Any jobs worked in 30 days before arrest.” The binary categorical structure of this variable was retained. This variable was recoded such that 0 indicated “Employed” and 1 indicated “Unemployed.” Missing responses and responses of “don’t know” were dropped via listwise deletion. Within the Native subsample, 30.6% (216) responded “Unemployed,” within the white subsample, 34.0% (754) responded “Unemployed.”

White Poverty. A measure of state-level racialized group economic deprivation indicating the percent of the white population in each state living at or below the poverty line. Poverty rate data was gathered from the KFF *Poverty Rates by Race/Ethnicity* database and transposed onto the BJS variable indicating state of residence labeled “State of residence at time of arrest.” This new variable was constructed as continuous with values for state-level white poverty percent transposed onto the state name categories within the original BJS variable. White population state-level poverty rate

data was available for all 50 states. The range for this variable, for both the Native and white subsamples, ran from 6.4% (New Jersey) to 13.8% (Arkansas). The median for the Native subsample was 9.6%. The median for the white subsample was 10.6%. The mean for the Native subsample was 10.0%. The mean for the white subsample was 10.2%. Below is a list of the values for each category:

Alaska 6.8%; Alabama 12%; Arkansas 13.8%; Arizona 11.0%; California 9.6%; Colorado 8.1%; Connecticut 5.8%; Florida 10.6%; Georgia 10.7%; Hawai'i 8.2%; Iowa 9.6%; Idaho 12.7%; Illinois 8.9%; Indiana 11.1%; Kansas 10.0%; Louisiana 12.6%; Massachusetts 6.7%; Maryland 6.9%; Maine 12%; Michigan 11.4%; Minnesota 7.1%; Missouri 11.8%; Mississippi 12.9%; Montana 11.9%; North Carolina 11%; North Dakota 8.5%; Nebraska 8.7%; New Hampshire 6.3%; New Jersey 6.4%; New Mexico 12.4%; Nevada 9.5%; New York 9.6%; Ohio 11%; Oklahoma 12.2%; Oregon 11.1%; Pennsylvania 9.3%; Rhode Island 9.5%; South Carolina 10.1%; South Dakota 8.1%; Tennessee 12.5%; Texas 8.9%; Utah 8.2%; Virginia 8.6%; Vermont 11.1%; Washington 9.2%; Wisconsin 9.2%; West Virginia 17.6%; Wyoming 10.5%.

Native Poverty Rate. A measure of state-level racialized group economic deprivation indicating the percent of the Native ("Native American or Alaska Native") population within each state living at or below the poverty line. Poverty rate data was gathered from Kaiser Family Foundation *Poverty Rates by Race/Ethnicity* database and transposed onto the BJS variable indicating state of residence labeled "State of residence at time of arrest." This new variable was constructed as continuous with values for state-level Native poverty percent transposed onto the state name categories within the original BJS variable. For the variable 40 states were included in this categorical variable, with

no state-level Native poverty proportion available for 10 states (Connecticut, Delaware, Kentucky, Maryland, New Hampshire, Rhode Island, South Carolina, Tennessee, Vermont, and West Virginia). Values for states without Native poverty rate data were labeled as missing. Cases with missing data were dropped using listwise deletion. The range for this variable, for both the Native and white subsamples, ran from 9.9% (Virginia) to 55.5% (South Dakota). The median for the Native subsample was 22.8%. The median for the white subsample was 22.6%. The mean for the Native subsample was 24.5%. The mean for the white subsample was 23.2%. Below is a list of the values for each category:

Alaska 27.4%; Alabama 12.6%; Arkansas 26.3%; Arizona 36.0%; California 22.6%; Colorado 22.3%; Florida 22.5%; Georgia 26.2%; Hawai'i 10.0%; Iowa 32.9%; Idaho 24.3%; Illinois 13.2%; Indiana 20.3%; Kansas 15.0%; Louisiana 30.2%; Massachusetts 21.3%; Maine 30.3%; Michigan 19.3%; Minnesota 28.4%; Missouri 21.2%; Mississippi 44.8%; Montana 24.1%; North Carolina 23.6%; North Dakota 38.3%; Nebraska 32%; New Jersey 27.3%; New Mexico 32.5%; Nevada 31.0%; New York 23.4%; Ohio 30.3%; Oklahoma 22.8%; Oregon 24.2%; Pennsylvania 34.5%; South Dakota 55.5%; Texas 12.9%; Utah 36.3%; Virginia 9.9%; Washington 24.2%; Wisconsin 27.1%; Wyoming 21.6%.

White Unemployment Rate. A measure of state-level racialized group economic deprivation indicating the percent of the white population in each state that was unemployed in 2016. Unemployment rate data was gathered from the Census Bureau's *American Community Survey 5-Year Data Profile: ACS Demographic and Housing Estimates (by State)* database and transposed onto the BJS variable indicating state of

residence labeled “State of residence at time of arrest.” This new variable was constructed as continuous with values for state-level white unemployment percent transposed onto the state name categories within the original BJS variable. White state-level unemployment rate data was available for all 50 states. The range for this variable, for both the Native and white subsamples, ran from 1.5% (South Dakota) to 5.0% (New Mexico). The median for the Native subsample was 3.9%. The median for the white subsample was 3.9%. The mean for the Native subsample was 3.8%. The mean for the white subsample was 3.9%. Below is a list of the values for each category:

Alaska 4.9%; Alabama 4.7%; Arkansas 3.5%; Arizona 3.8%; California 4.4%; Colorado 2.9%; Connecticut 3.4%; Delaware 3.6%; Florida 4.4%; Georgia 3.9%; Hawai'i 1.8%; Iowa 3.1%; Idaho 3.6%; Illinois 4.5%; Indiana 3.6%; Kansas 3.2%; Kentucky 4.4%; Louisiana 4.3%; Massachusetts 2.7%; Maryland 3.1%; Maine 3.2%; Michigan 4.1%; Minnesota 2.7%; Missouri 3.4%; Mississippi 4.2%; Montana 3.6%; North Carolina 4.0%; North Dakota 2.1%; Nebraska 2.4%; New Hampshire 2.8%; New Jersey 4.0%; New Mexico 5.0%; Nevada 3.3%; New York 4.2%; Ohio 3.9%; Oklahoma 4.4%; Oregon 4.8%; Pennsylvania 4.5%; Rhode Island 4.3%; South Carolina 3.4%; South Dakota 1.5%; Tennessee 4.1%; Texas 3.5%; Utah 3.0%; Virginia 3.2%; Vermont 3.2%; Washington 4.6%; Wisconsin 3.5%; West Virginia 5.3%; Wyoming 4.3%

Group-level Native visibility

Native Land. This was a proxy measure of state-level Native racialized group visibility indicated by the proportion (in square acres) of state land held by or for Native Nations whether as communal holdings or individual fee simple land. Because the proportion was often very small, the raw values were increased by a factor of 10. (For example, if

the proportion of land held by or for Native Nations was 0.5%, the value entered was 5.) Native land data was gathered from the Bureau of Indian Affairs *Native Land Information System*, along with information from the US Department of Agriculture on the total acreage of land within each state. This data was transposed onto the BJS variable indicating state of residence labeled “State of residence at time of arrest.” This new variable was constructed as continuous with values for state-level Native land proportion transposed onto the state name categories within the original BJS variable. The following descriptive statistics will be stated as the actual (not inflated) value. The range for this variable, for both the Native and white subsamples, ran from 0% (18 states) to 30.4% (Arizona). The median for the Native subsample was 0.05%. The median for the white subsample was 1.4%. The mean for the Native subsample was 2.8%. The mean for the white subsample was 0.01%. Below is a list of the values for each category (listed as raw, or actual, values):

Alaska 0.31%; Alabama 0%; Arkansas 0%; Arizona 30.39%; California 0.63%; Colorado 1.68%; Connecticut 0.05%; Delaware 0%; Florida 0.44%; Georgia 0%; Hawai'i 0%; Iowa 0%; Idaho 2.34%; Illinois 0%; Indiana 0%; Kansas 0.09%; Kentucky 0%; Louisiana 0.01%; Massachusetts 0.01%; Maryland 0%; Maine 1.00%; Michigan 0.11%; Minnesota 1.56%; Missouri 0%; Mississippi 0.10%; Montana 9.50%; North Carolina 0.05%; North Dakota 4.16%; Nebraska 0.18%; New Hampshire 0%; New Jersey 0%; New Mexico 11.01%; Nevada 2.06%; New York 1.6%; Ohio 0%; Oklahoma 5.78%; Oregon 1.37%; Pennsylvania 0%; Rhode Island 0.25%; South Carolina 0.01%; South Dakota 14.53%; Tennessee 0.62%; Texas 0.01%; Utah 6.55%; Virginia 0%; Vermont 0%; Washington 6.40%; Wisconsin 1.33%; West Virginia 0%; Wyoming 3.50%.

Native Population. This was a measure of state-level Native racialized group visibility indicated by the proportion of the state population identified as Native (“Native American or Alaska Native”) alone and in combination with other racialized identities. The only exception is Hawai’i, where, due to the minute Native American and Alaska Native population relative to Native Hawai’ian, and the fact that those considered “Indigenous” in Hawai’i are Indigenous *to* Hawai’i, the Native (Indigenous) population for this state indicates the proportion of Native Hawai’ians and Pacific Islanders (inseparable groupings in the Census). Native population proportion was gathered from the US Census and transposed onto the BJS variable indicating state of residence labeled “State of residence at time of arrest.” This new variable was constructed as continuous with values for state-level Native population proportion transposed onto the state name categories within the original BJS variable. The range for this variable, for both the Native and white subsamples, ran from 0.7% (Illinois, Kentucky, Massachusetts, New Jersey, and Pennsylvania) to 19.5% (Alaska). The median for the Native and white subsamples was 1.2%. The mean for the Native subsample was 2.9%. The mean for the white subsample was 2.0%. Below is a list of the values for each category:

Alaska 19.5%; Alabama 1.2%; Arkansas 1.7%; Arizona 5.3%; California 1.9%; Colorado 2%; Connecticut 1%; Delaware 1%; Florida 0.8%; Georgia 0.8%; Hawai’i 26.2% (Native Hawai’ian); Iowa 0.8%; Idaho 2.4%; Illinois 0.7%; Indiana 0.8%; Kansas 2.1%; Kentucky 0.7%; Louisiana 1.3%; Massachusetts 0.7%; Maryland 1%; Maine 1.7%; Michigan 1.5%; Minnesota 1.9%; Missouri 1.3%; Mississippi 0.8%; Montana 8.2%; North Carolina 2%; North Dakota 6.5%; Nebraska 1.6%; New Hampshire 0.8%; New Jersey 0.7%; New Mexico 10.5%; Nevada 2%; New York 1%; Ohio 0.9%; Oklahoma 13.3%; Oregon 3.1%;

Pennsylvania 0.7%; Rhode Island 1.3%; South Carolina 0.9%; South Dakota 10.3%; Tennessee 1%; Texas 1.2%; Utah 1.7%; Virginia 1%; Vermont 1.3%; Washington 3%; Wisconsin 1.6%; West Virginia 1%; Wyoming 3.6%.

Individual-level Native visibility

Perceived as White. This control variable capturing whether the individual believed that other people perceived them as white. This was a proxy measure for the likelihood of having experienced interpersonal or structural racism while involved in the carceral system. This data was described by BJS as: “Others describe offender’s race as white.” The binary categorical structure of this variable was retained. This variable was recoded such that 0 indicated “Not Perceived as White” and 1 indicated “Perceived as White.” Missing responses and responses of “don’t know” were dropped via listwise deletion. Within the Native subsample, 52.0% (367) responded “Perceived as White,” within the white subsample, 98.3% (2,181) responded “Perceived as White.”

Perceived as Native. This control variable capturing whether the individual believed that other people perceived them as Native. This was a proxy measure for the likelihood of having experienced interpersonal or structural racism while involved in the carceral system. This data was described by BJS as: “Others describe offender’s race as American Indian/Alaska Native.” The binary categorical structure of this variable was retained. This variable was recoded such that 0 indicated “Not Perceived as Native” and 1 indicated “Perceived as Native.” Missing responses and responses of “don’t know” were dropped via listwise deletion. Within the Native subsample, 49.1% (347) responded “Perceived as Native,” within the white subsample, 3.0% (66) responded “Perceived as Native.”

Perceived as Black. This control variable capturing whether the individual believed that other people perceived them as Black. This was a proxy measure for the likelihood of having experienced interpersonal or structural racism while involved in the carceral system. This data was described by BJS as: “Others describe offender’s race as Black.” The binary categorical structure of this variable was retained. This variable was recoded such that 0 indicated “Not Perceived as Black” and 1 indicated “Perceived as Black.” Missing responses and responses of “don’t know” were dropped via listwise deletion. Within the Native subsample, 29.6% (209) responded “Perceived as Black,” within the white subsample, 1.4% (31) responded “Perceived as Black.”

Prior criminal justice system involvement

Prison Record. This was a measure of previous adult carceral system involvement indicated by whether an individual had previously served any amount of time in prison – prior to their current incarceration. This data was described by BJS as: “Number of times sentenced/served in state/federal prison.” Since the question phrasing is such that the individual could include their current incarceration, responses of “1” were coded as zero to indicate no incarceration prior to the current sentence. This variable was restructured as a binary categorical variable. This variable was recoded such that 0 indicated “Never Previously Incarcerated” and 1 indicated “Previously Incarcerated” (any amount of times). Missing responses and responses of “don’t know” were dropped via listwise deletion. Within the Native subsample, 47.9% (338) responded “Previously Incarcerated,” within the white subsample, 42.1% (935) responded “Previously Incarcerated.”

Juvenile Record. This was a measure of previous juvenile carceral system involvement indicated by whether the individual had served any amount of time in juvenile detention. This data was described by BJS as: “Number of times sentenced/served in juvenile facility.” This variable was restructured as a binary categorical variable. This variable was recoded such that 0 indicated “Never Detained in Juvenile Detention” and 1 indicated “Had Been Detained in Juvenile Detention” (any amount of times). Missing responses and responses of “don’t know” were dropped via listwise deletion. Within the Native subsample, 29.7% (210) responded “Had Been Detained in Juvenile Detention,” within the white subsample, 19.7% (437) responded “Had Been Detained in Juvenile Detention.”

Aspects of offense(s) for which currently incarceration

Controlling Offense Type. This was a measure of the context of the current sentence indicated by the type of controlling offense for which the individual was convicted. This data was described by BJS as: “Controlling offense type.” The polytomous categorical structure of this variable was retained. This variable was recoded such that 0 indicated “Violent Offense,” 1 indicated “Drug Offense,” 2 indicated “Property Offense,” 3 indicated “Public Order Offense,” and 4 indicated “Other Type of Offense.” Missing responses and responses of “don’t know” were dropped via listwise deletion. The frequencies for each category for the Native subsample were violent 40.8% (288), drug 28.6% (202), property 14.7% (104), public order 15.3% (108), and other 0.6% (4). The frequencies for the white subsample were violent 29.1% (645), drug 28.6% (635), property 21.1% (468), public order 20.6% (456), and other 0.7% (15). The median for

the Native and white subsamples was 1 (drug offense). The mean for the Native subsample was 1.1. The mean for the white subsample was 1.4.

Already Serving at Arrest. This was a measure of the context of the current sentence indicated by whether the individual was already serving out a sentence at the time of their most recent arrest, that is, whether they were on probation or parole when arrested or charged. This data was described by BJS as: “On parole/probation/escape when arrested/charged.” Neither of the subsamples used for analyses included individuals who were escaped when arrested or charged. The binary categorical structure of this variable was retained. This variable was recoded such that 0 indicated “Not on Probation/Parole at Arrest” and 1 indicated “On Probation/Parole at Arrest.” Missing responses and responses of “don’t know” were dropped via listwise deletion. Within the Native subsample, 36.5% (258) responded “On Probation/Parole at Arrest,” within the white subsample, 36.3% (806) responded “On Probation/Parole at Arrest.”

Year of Incarceration. The year of incarceration for the most recent sentence. This variable was labeled by BJS as “Admission Date - Year.” The original structure as a continuous variable was retained. Missing responses and responses of “don’t know” were dropped via listwise deletion. The range of this variable for the Native subsample was 1976 to 2016. The range for the white subsample was 1985 to 2016. The median for the Native subsample was 2014. The median for the white subsample was between 2015. The mean for both the Native and white subsamples was 2013.

Weapon. This was a measure of the context of the current sentence indicated by whether the individual was in possession of a weapon at the time of committing the offense for which they were incarcerated. This data was described by BJS as: “Carried

a weapon during offense.” The binary categorical structure of this variable was retained. This variable was recoded such that 0 indicated “Not in Possession of a Weapon During the Offense” and 1 indicated “In Possession of a Weapon During the Offense.” Missing responses and responses of “don’t know” were dropped via listwise deletion. Within the Native subsample, 17.0% (120) responded “In Possession of a Weapon During the Offense,” within the white subsample, 11.5% (256) responded “In Possession of a Weapon During the Offense.”

Alcohol. This was a measure of the context of the current sentence indicated by whether the individual was under the influence of alcohol at the time of committing the offense for which they were incarcerated. This data was described by BJS as: “Drinking alcohol at time of offense.” The binary categorical structure of this variable was retained. This variable was recoded such that 0 indicated “Not Under the Influence of Alcohol During the Offense” and 1 indicated “Under the Influence of Alcohol During the Offense.” Missing responses and responses of “don’t know” were dropped via listwise deletion. Within the Native subsample, 35.4% (250) responded “Under the Influence of Alcohol During the Offense,” within the white subsample, 31.3% (694) responded “Under the Influence of Alcohol During the Offense.”

Drugs. This was a measure of the context of the current sentence indicated by whether the individual was under the influence of any type of illegal drugs at the time of committing the offense for which they were incarcerated. This data was described by BJS as: “Under the influence of drugs at time of offense.” The binary categorical structure of this variable was retained. This variable was recoded such that 0 indicated “Not Under the Influence of Drugs During the Offense” and 1 indicated “Under the

Influence of Drugs During the Offense.” Missing responses and responses of “don’t know” were dropped via listwise deletion. Within the Native subsample, 47.0% (332) responded “Under the Influence of Drugs During the Offense,” within the white subsample, 53.4% (1186) responded “Under the Influence of Drugs During the Offense.”

Sentence Length. See above description.

Expect Post-Release Supervision. See above description.

Fees. See above description.

General Demographic

Region. This was a measure of region-level context and variations captured by the region within which each individual’s state of residence is located. The polytomous categorical structure of this variable was retained. To construct this variable, the BJS categories for the BJS variable described as “State of residence at time of arrest” were grouped according to the nine US Census regional subdivisions of West South Central (coded as 0), East South Central(1), South Atlantic (2), Pacific (3), Mountain (4), West North Central (5), East North Central (6), Mid-Atlantic (7), and New England (8) (Table 1 also lists the Census region subcategories and the set of states contained in each).

Missing responses and responses of “don’t know” were dropped via listwise deletion.

The frequencies for each category for the Native subsample were West South Central 18.6% (131), East South Central 4.7% (33), South Atlantic 18.0% (127), Pacific 9.9% (70), Mountain 8.1% (57), West North Central 15.0% (106), East North Central 18.1% (128), Mid-Atlantic 6.7% (47), New England 1.0 (7). The frequencies for the white

subsample were West South Central 19.4% (431), East South Central 6.0% (134), South Atlantic 15.9% (353), Pacific 10.1% (225), Mountain 6.9% (153), West North Central 11.9% (265), East North Central 23.1% (512), Mid-Atlantic 5.1% (114), New England 1.4% (32). The median for the Native and white subsamples was 3 (Pacific region). The mean for the Native and white subsamples was 3.4.

Educational attainment. This demographic control variable captured the highest level of education and individual had attained. This data was described by BJS as: “Highest year of education completed.” The polytomous categorical structure of this variable was retained. This variable was recoded such that 0 indicated “Didn’t Complete High School,” 1 indicated “High School Graduate,” 3 indicated “Completed Some College,” and 4 indicated “College Graduate.” Missing responses were dropped via listwise deletion. The frequencies for each category for the Native subsample were “Didn’t Complete High School” 56.0% (395), “High School Graduate,” 25.1% (177), “Completed Some College” 14.3% (101), “College Graduate” 4.7% (33). The frequencies for the white subsample were “Didn’t Complete High School” 46.4% (1030), “High School Graduate,” 24.7% (548), “Completed Some College” 20.7% (460), “College Graduate” 8.2% (181). The median for the Native subsample was 0 (no high school diploma). The median for the and white subsample was 1 (high school diploma). The mean for the Native subsample was 0.7. The mean for the white subsample was 0.9.

Age group. This demographic control variable captured age at time of interview (2016). This data was described by BJS as: “Current age.” The polytomous categorical structure of this variable was retained. The original age ranges for each category were retained. This variable was recoded such that 0 indicated “18-24,” 1 indicated “25-34,” 2

indicated “35-44,” 3 indicated “45-54,” 4 indicated “55-64,” and 5 indicated “65 or older.”

Missing responses and responses of “don’t know” were dropped via listwise deletion.

The frequencies for each category for the Native subsample were 18-24 7.9% (56), 25-34 32.9% (232), 35-44 27.3% (193), 45-54 21.1% (149), 55-64 9.8% (69), 65 and older 1.0% (7). The frequencies for the white subsample were 18-24 6.5% (145), 25-34 32.0% (710), 35-44 30.0% (665), 45-54 20.2% (449), 55-64 9.2% (204), 65 and older 2.1% (46). The median for the Native and white subsamples was 2 (35-44). The mean for the Native subsample was 1.9. The mean for the white subsample was 2.0.

Assigned female at birth. This demographic control variable captured the individual’s sex as assigned at birth.³ This data was described by BJS as: “Sex assigned at birth.” The binary categorical structure of this variable was retained. This variable was recoded such that indicated “Male” and 1 indicated “Female.” Missing responses were dropped via listwise deletion. Within the Native subsample, 32.7% (231) responded “Yes” (were assigned female at birth), within the white subsample, 38.2% (847) responded “Yes.

³ This variable cannot faithfully capture gender for all sampled since it was designed as an indication of “sex assigned at birth.” Since most incarcerated individuals are placed in either men’s or women’s facilities based upon their sex as assigned at birth (National Public Radio 2022), this variable is indicative of whether the individual is being held in a men’s or women’s facility. However, this policy is such that trans individuals are most often assigned a gendered facility that does not match their gender identity. As such, this variable undoubtedly captures some individuals whose assigned sex does not match their gender identity. However, the trans population is very small – about 5%, therefore the proportion of individuals in this sample who are misidentified per gender is likely very small (Pew Research Center 2022). Further, since this is a binary variable, it does not capture intersex individuals.

METHODS OF ANALYSIS

Separate Models

Following from Zuberi's argument that using race as a control variable treats the outcomes of interest as if they derive from race rather than the structural and individual reactions to race (e.g., structural racism) (Zuberi 2008), each question was answered using separate subsamples each including only members of the racialized groups of interest: Native (AI/AN) and white incarcerated people. Each regression model was run for each set, resulting in two models of each analysis. Each model used the same set of variables, though differed by the racialized subsample used for the analysis. Further, the models are differentiated by their use of the outcomes of the other models as the dependent variables. That is, fees and expectation of post-release supervision served as independent variables for model examining sentence length; sentence length and the expectation of post-release supervision served as independent variables for model examining the likelihood of fees in addition to incarceration; and sentence length and fees in addition to incarceration served as independent variables for model examining the likelihood of expecting of post-release supervision. Thus, the outcomes of interest were not only the correlations for each racialized group subsample, but also – and mainly – the between-racialized group differences in results. Examining each isolated subsample of incarcerated people allows for a more clear and comprehensive illumination of the ways in which racialization impacts each factor associated with incarceration.

Controlling for Clustering within States

Given both the particularities in legal codes and law enforcement and judicial policies and practices, as well as demographic composition differences between states it was necessary to control for systemic patterns of difference within states. In order to do this, I had to employ a method of relaxing the assumption of independence between cases and control for clustering of cases based on state of residence at time of arrest. To do this I used the STATA command [robust cluster(state)] in my models to implement robust standard errors to control for clustering of variable influences around states. In this way, I account for systemic patterns of variable influences that occur within states and sets of states.

Sentence Length

Linear regression (Ordinary Least Squares)

My statistical analysis for the question of how economic marginalization and Native racialized group visibility influence sentence length was conducted using the STATA statistical software program. My research question was answered using ordinary least squares (OLS) regression models. My analysis examined the relationship between economic marginalization and Native population visibility and the sentence length while controlling for prior criminal justice system involvement, factors related to the offense for which the individual was currently serving time, perceived racialized identity, and demographic variables including age, educational attainment, and sex assigned at birth. Since my research question is about racialized *differences* in

outcomes, the outcomes of interest are the differences in magnitude *between* the two racialized groups.

Fines and Fees

Binomial logistic regression

My statistical analysis for the question of how economic marginalization and Native racialized group visibility influence the likelihood of being assessed fines and/or fees in addition to incarceration was conducted using the STATA statistical software program. My research question was answered using binomial logistic regression models. My analyses examined the relationship between economic marginalization and Native population visibility and the likelihood of being assessed fines and/or fees while controlling for prior criminal justice system involvement, factors related to the offense for which the individual was currently serving time, perceived racialized identity, and demographic variables including age, educational attainment, and sex assigned at birth. Since my research question is about racialized *differences* in outcomes, the outcomes of particular interest are the differences in likelihood *between* the two racialized groups.

Post-Release Supervision

Binomial logistic regression

My statistical analysis for the question of how economic marginalization and Native racialized group visibility influence the likelihood of expecting post-release supervision was conducted using the STATA statistical software program. My research question was answered using binomial logistic regression models. My analyses examined the relationship between economic marginalization and Native population

visibility and the likelihood of expecting post-release supervision while controlling for prior criminal justice system involvement, factors related to the offense for which the individual is currently serving time, perceived racialized identity, and demographic variables including age, educational attainment, and sex assigned at birth. Since my research question is about racialized *differences* in outcomes, the outcomes of interest are the differences in likelihood *between* the two racialized groups.

DESCRIPTIVE STATISTICS

Dependent Variable Distribution between Racialized Group Subsamples

Table 2 (pages 85-86) presents the descriptive statistics for all variables used in my analyses for each racialized subsamples represented in my analyses. The full sample of people incarcerated in state and federal prisons in 2016 who were surveyed by the Bureau of Justice Statistics included 2,974 people identified as Native alone or in combination with another race (12.0% of the full sample) and 8389 people identified as non-Hispanic white (33.8% of the full sample). After listwise deletion of those surveyed who did not provide answers to all survey questions of interest for my research, the final subsamples used for all analyses consisted of one subsample of 706 Native incarcerated people (23.7% of the full sample population who were Native) and a comparison subsample including 2219 non-Hispanic white incarcerated people (26.5% of the full sample population who were non-Hispanic white). Those in the subsample of Native incarcerated people tended to have longer sentence (mean of 10.0 years) than those in the white subsample (mean of 8.9 years).

Age and Sex Distribution

The largest age group represented in both racialized group subsamples was those aged 25-34 (32.9% of the Native subsample and 32.0% of the white subsample). The least populous age group for both subsamples was those 65 and older (1.0% of the Native subsample and 2.1% of the white subsample). For both the Native and white subsamples, those 18-24 hovered around 7 percent (7.9% and 6.5%, respectively), those 35-44 made up 27.3% of the Native subsample and 30.0% of the white subsample. For the Native and white subsamples, those between 45 and 54 hovered around 20% (21.1% and 20.2%, respectively) and those between 55 and 64 hovered around 9% (9.8% and 9.2%, respectively). There was a greater proportion of individuals who were assigned female at birth in the white subsample than in the Native subsample. Among the Native subsample, 32.7% of the population was assigned female at birth (identified for carceral placement purposes as “women”) and 38.2% of the subsample of white incarcerated people were assigned female at birth.

Economic Deprivation Measures

Compared to the subsample of white incarcerated people, the subsample of Native incarcerated people tended more toward having experienced being unsheltered in the year preceding arrest (12.2% versus 11.0%). The Native subsample tended more toward having received welfare assistance in the month prior to being arrested compared to the white subsample (14.4% versus 12.2%). However, the white subsample tended more toward having not worked in the month before arrest compared to the Native subsample (34.0% versus 30.6%). Compared to the Native subsample, the subsample of white incarcerated people tended to have lived in states with smaller

proportions of the white population living below the poverty line (mean white poverty proportions of 10.0% versus 10.2%). However, those in the Native subsample tended to have lived in states with larger proportions of the Native population living in poverty (mean Native poverty proportion of 24.5% versus 23.2%). Both the Native and white subsamples had similar tendencies in terms of white poverty rates in their states of residence (3.8% and 3.9%, respectively).

Native Visibility Measures

Compared to those in the subsample of white incarcerated people, those in the Native subsample tended to live in states with larger proportions of state land being held by or for Native Nations. (the raw values were 2.8% versus 1.4%). Those in the subsample of Native incarcerated people more often lived in states with larger proportions of the population identified as Native (2.9% versus 2.0%). Among the subsample of white incarcerated people, the vast majority (94.9%) reported that other people perceived them as white. A small proportion indicated that other people perceived them as Native (3.5%). A yet smaller proportion reported being perceived by others as Black (1.4%). Among those in the subsample of Native incarcerated people, over half (51.6%) indicated that others perceived them as white. Just under half (49.2%) of those in the Native subsample indicated that they were perceived by others as Native. Finally, about a third (30.0%) of the subsample of Native incarcerated people indicated that others had perceived them as Black.⁴

⁴ Note the overlap in these proportions indicating that individuals had reported being perceived as various racialized identities by others. Each category of perceived identity was constructed as a discrete dummy variable; thus individuals could choose more than one option. This overlap makes sense given the relatively higher rate of interracial marriage historically and contemporarily among Native individuals. According to the US Census, the proportion of the population that identifies as Native alone is 1.3% (US

Prior Record

Those in the subsample of Native incarcerated people tended more toward having previously been incarcerated in federal or state prisons compared to those in the subsample of white incarcerated people (47.9% versus 42.1%). Further, within the subsample of Native incarcerated people there was a greater tendency toward having served at least one sentence in a juvenile detention facility compared to those in the subsample of white incarcerated people (29.7% versus 19.7%).

Controlling Offense Type Distribution

Those in the subsample of Native incarcerated people tended more toward being incarcerated for violent controlling offenses compared to those in the white subsample (40.8% versus 29.1%). There was an equal tendency between the two subsamples toward being incarcerated for drug controlling offenses (28.6% for both)⁵. The subsample of white incarcerated people tended more toward being incarcerated for property controlling offenses compared to the Native incarcerated people subsample (21.1% versus 14.7%). Those in the white subsample also tended more toward being incarcerated for public order controlling offenses compared to the Native subsample – about three-quarters as large (20.6% versus 15.3%). Finally, both the Native and white

Census 2020). However, the proportion of the population that identifies as Native alone and in combination with another racial identity is 2.9% (Office of Minority Health 2020), indicating that more than half of those who are Native also identify/are identified as holding another simultaneous racialized identity. Another explanatory factor may be the historical practice of hyperdescent wherein Native racialized categorization was determined based upon a preponderance of Native ancestry (a “many drop” rule as opposed to the “one drop” hypodescent rule historically applied to racialized categorization as Black).

⁵ The Bureau of Justice Statistics survey of prisoners in US federal and state prisons in 2016 data set used for this analysis utilized purposive sampling that oversampled on non-drug related offense. Thus, those with drug controlling offenses are underrepresented in this sample and non-drug controlling offenses are overrepresented.

subsamples had a near equal tendency toward being incarcerated for a controlling offense categorized as “other” (0.6% and 0.7%, respectively).

Other Factors Related to Current Sentence

Compared to those in the subsample of white incarcerated people, those in the subsample of Native incarcerated people tended more toward having been in possession of a weapon at the time of the offense (17.0% versus 11.5%). Similarly, those in the subsample of Native incarcerated people tended more toward having been under the influence of alcohol at the time of offense compared to those in the subsample of white incarcerated people (35.4% versus 31.3%). However, those in the white subsample tended more toward having been under the influence of illegal drugs during the offense compared to those in the Native subsample (53.4% versus 47.0%). The subsample of white incarcerated people tended more toward having been assessed legal financial obligations in addition to incarceration compared to those in the Native subsample (72.7% versus 71.1%). The subsample of white incarcerated people tended more toward having expected supervision (parole or probation) after release than those in the subsample of Native incarcerated people (84.3% versus 81.3%).

Region

Table 1 on page 77 provides the list of states contained in each US region. Those in the subsample of Native incarcerated people tended most toward having lived in the West South Central region at the time of arrest over other regions (18.6%). The subsample of white incarcerated people tended most toward having lived in the East North Central region at the time of arrest over other regions (23.1%). The next greatest

tendencies among the subsample of Native incarcerated people were in toward having lived in the East North Central and South Atlantic regions (18.1% and 18.0%, respectively). Those in the white subsample had the second greatest tendencies toward living in the West South Central and South Atlantic regions (19.4% and 15.9%, respectively).

Both the subsamples of Native and white incarcerated people tended least toward having lived in the New England region at the time of their arrest (1.0% and 1.4%, respectively). In descending order, the rest of those in the Native subsample were distributed across the West North Central (15.0%), Pacific (9.9%), Mountain (8.1%), Mid-Atlantic (6.7%), and East South Central (4.7%) regions. The rest of the white incarcerated people subsample was distributed, again in descending order, across the Pacific (10.1%), West North Central (11.9%), Mountain (6.9%), East South Central (6.0%), and Mid-Atlantic (5.1%) regions.

Table 1. US Census Regions	
<u>Census Region (category label)</u>	<u>States Included</u>
<i>South:</i> West South Central (0 - reference)	Texas, Oklahoma, Arkansas, and Louisiana
<i>South:</i> East South Central (1)	Kentucky, Tennessee, Mississippi, and Alabama
<i>South:</i> South Atlantic (2)	Florida, Georgia, North and South Carolina, Virginia, West Virginia, Maryland, and Delaware
<i>West:</i> Pacific (3)	California, Oregon, Washington, Hawai'i, and Alaska
<i>West:</i> Mountain (4)	Montana, Idaho, Wyoming, Nevada, Utah, Colorado, Arizona, and New Mexico
<i>Midwest:</i> West North Central (5)	North and South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri
<i>Midwest:</i> East North Central (6)	Wisconsin, Michigan, Illinois, Indiana, Ohio
<i>Northeast:</i> Mid-Atlantic (7)	New York, Pennsylvania, and New Jersey
<i>Northeast:</i> New England (8)	Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island

Education

Both the subsamples of Native and white incarcerated people tended most toward not having completed high school (56.0% and 46.4%, respectively). Both the Native and white subsamples tended least toward holding a college degree (4.7% versus 8.2%) 5% of Native incarcerated people subsample had received a college degree (4.6%), and about one and a half times larger proportion of the white incarcerated people subsample held a college degree (7.7%). Both the Native and white subsamples had increasingly lower tendencies with each additional level of educational attainment for the other two levels: high school diploma (25.1% and 24.7%, respectively) and some college (14.3% and 20.7%, respectively).

DESCRIPTIVE STATISTICS FOR CONTINUOUS CATEGORICAL VARIABLES								
	NATIVE INCARCERATED PEOPLE (n=706)				WHITE INCARCERATED PEOPLE (n=2219)			
	Mean	Median	Range	Std Dev	Mean	Median	Range	Std Dev
State-level white poverty	10.0%	9.6%	6.4-13.8%	1.6	10.2%	10.6%	6.4-13.8%	1.6
State-level Native poverty	24.5%	22.8%	9.9-55.5%	10.3	23.2%	22.6%	9.9-55.5%	8.4
State-level white unemployment	3.8%	3.9%	1.5-5.0%	0.8%	3.9%	3.9%	1.5-5.0%	0.6
State-level Native land proportion	2.8%	0.05%	0.0-30.4%	6.8	1.4%	0.01%	0.0-30.4%	4.7
State-level Native population proportion	2.9%	1.2%	0.7-19.5%	4.1	2.0%	1.2%	0.7-19.5%	3.0
Year of incarceration	2013	2014	1976-2016	4.4	2013	2015	1985-2016	4.0
Sentence length	10.0	5.0	0-468	19.3	8.9	5.0	0-240	13.1
DESCRIPTIVE STATISTICS FOR POLYTOMOUS CATEGORICAL VARIABLES								
Controlling offense type	1.1	1	0-4	1.1	1.4	1	0-4	1.1
Region of residence at time of arrest	3.4	3	0-8	2.3	3.4	3	0-8	2.4
Highest level of education achieved	0.7	0	0-3	0.9	0.9	1	0-3	1.0
Age group	1.9	2	0-5	1.2	2.0	2	0-5	1.16
DESCRIPTIVE STATISTICS FOR DICHOTOMOUS CATEGORICAL VARIABLES								
	NATIVE INCARCERATED PEOPLE (n=706)				WHITE INCARCERATED PEOPLE (n=2219)			
	% Yes				% Yes			
Perceived by others as white	52.0% (367)				98.3% (2181)			
Perceived by others as Native	49.1% (347)				3.0% (66)			
Perceived by others as Black	29.6% (209)				1.4% (31)			
TABLE 2. DESCRIPTIVES STATISTICS FOR NATIVE AND WHITE INCARCERATED PEOPLE SUBSAMPLES USED IN ANALYSES cont'd								

DESCRIPTIVE STATISTICS FOR CATEGORICAL VARIABLES		
	NATIVE INCARCERATED PEOPLE (n=706)	WHITE INCARCERATED PEOPLE (n=2219)
	% Yes	% Yes
Fees in addition to incarceration	71.1% (502)	72.7% (1614)
Expects post-release supervision	81.3% (574)	84.3% (1870)
Homeless in year before arrest	12.2% (86)	11.0% (244)
Receive welfare in month before arrest	14.4% (102)	12.2% (271)
Didn't work in month before arrest	30.6% (216)	34.0% (754)
Has previously served time as an adult	47.9% (338)	42.1% (935)
Has previously served time as a juvenile	29.7% (210)	19.7% (437)
Already serving at time of arrest	36.5% (258)	36.3% (806)
Weapon present at time of offense	17.0% (120)	11.5% (256)
Consumed alcohol at time of offense	35.4% (250)	31.3% (694)
Consumed drugs at time of offense	47.0% (332)	53.4% (1186)
Assigned female at birth	32.7% (231)	38.2% (847)

4. ECONOMIC MARGINALIZATION AND RACIALIZED GROUP VISIBILITY ON RACIALIZED DISPARITIES IN SENTENCE LENGTH

Sentence Length's Impacts on Carceral Debt and Economic Precarity

Sentence length has a significant but indirect impact on carceral debt accrual and thus carceral system involvement-induced economic precarity (carceral lumpenization). Sentence length is associated with carceral system debt, namely legal financial obligations related to one's sentence such as restitution, pay-to-stay fees, and court fees (Western 2002; Harris 2016; Wang 2018; Alexander 2020; Schenwar and Law 2020; Friedman 2021; Friedman et al. 2022). However, sentence length in and of itself does not represent a direct financial "cost," in the sense of *adding* financial obligations. Rather, it represents an indirect cost in the sense of creating a barrier to paying debts, setting those incarcerated up for a cycle of poverty and indebtedness exacerbated by their being marking as "criminal" (Western 2002; Alexander 2020; Schenwar and Law 2020; Friedman 2021; Friedman et al. 2022). As such, it contributes indirectly to the accrual of carceral debts and the positioning, due to carceral system involvement, in a state of economic precarity.

Sentence Length as Mechanism of Carceral Capitalism-Necrocapitalism

Carceral system capture ensnares individuals in a cycle of indebtedness exacerbated by disenfranchisement and marginalization from society and, more notably, from the free labor market (Western 2002; Western 2006; Pager 2007; Wang 2018; Alexander 2020; Friedman 2021; Garcia and Abukhadra 2021; Friedman et al., 2022). Incarceration is the most obvious mechanism and most encompassing and impactful

form of carceral system capture. Carceral capitalist, and to an extent necrocapitalist, literature has focused on “fines and fees” or legal financial obligations related to arrest, pre-trial detention, incarceration, and supervision and the role they play in the process of positioning within the lowest economic strata, that is, in extreme economic precarity, which is core to the process of “lumpenization” (Wang 2018; Friedman 2021; Friedman et al. 2022). Lumpenization is the process of positioning individuals as marginalized from the free labor market and thus subject to both labor and financial super-exploitation as these individuals are more likely to have access only to very low wage and unstable employment and, relatedly, are likely to rely on high-interest predatory loans for subsistence (Wang 2018). Further, due both to their positioning within the lowest socioeconomic strata and their “criminal” marking, those ensnared in the carceral system experience a “civic death” marked by disenfranchisement (political and social disempowerment) (Friedman 2021).

This lumpenization, or positioning in extreme economic precarity, is exacerbated by and exacerbates the impacts of carceral system debts, which are more difficult for the economically deprived to pay (Wang 2018; Alexander 2020; Friedman 2021; Friedman et al., 2022). Further, the inability to pay these debts upon release – or prior to incarceration – increase the likelihood of (re-)incarceration (Schenwar and Law 2020). While carceral capitalism as a theory focuses primarily on the ways in which the financial super-exploitation of the economically precarious serves municipalities and private companies, the condition of possibility for this municipal and private sector “looting” of the economically marginalized is carceral lumpenization (Wang 2018).

Economic Marginalization, Racialized Group Visibility, and Sentence Length Disparity

Like incarceration, “criminal” marking, and economic precarity, lumpenization is not in itself racialized (Wang 2018). Therefore, individuals of any race can occupy the lowest socioeconomic strata or become ensnared in the carceral system. It is the racially disproportionate distribution of incarceration, carceral indebtedness, economic precarity, and social and political disenfranchisement experienced by Black, Indigenous, and people of color that racialize these lumpenization experiences (Wang 2018; Alexander 2020; Schenwar and Law 2020; Friedman 2021; Around Him and Gordon 2022; Friedman et al., 2022; Lamphere and Hassett 2023; Lantz and Ward 2023). As previously noted, Native people, as a group, experience the highest rates of poverty and among the highest rates of incarceration in the US. Further, research on disparate carceral system penalties – and the varying rates of Native incarceration by state, with the highest rates concentrated in those states with the largest Native populations – demonstrates the positive relationship between Native population proportion (racialized group visibility) and racially disproportionate Native carceral system involvement.

Analyzing the Relationship between Sentence Length and Economic Precarity

This portion of my research is focused on the relationship between economic marginalization, racialized group visibility, and racialized disparities in sentence length, after accounting for the influence of criminal history, current charges, and demographic factors. The outcome of interest for my research in this section is not the simply the impact of economic precarity and Native racialized group visibility on sentence length among Native incarcerated people. But rather, whether they are predictors for both

Native and white incarcerated people's sentence length and how they contribute to Native racialized carceral system disparities. Native individuals, namely those living on reservation, have an increased likelihood of to be sentenced in federal court for serious crimes (as dictated by Federal Indian Law), and thus a greater chance of incurring lengthier sentences. Thus, knowing how these variables might differentially impact Native and white sentencing outcomes is important. In order to answer this question, separate linear (Ordinary Least Squares) analyses were conducted for the subsample of Native incarcerated people and the subsample of non-Hispanic white incarcerated people. Because of state-level particularities in laws, policing, and sentencing policies and differences in demographic composition variables were expected to cluster at the state-level. Robust standard errors were used to control for clustering of influences within states. The results discussed below thus focus on the comparisons made between the outcomes for each of these models in terms of economic precarity, Native visibility, criminal history, current charges, and demographic controls in order to determine the existence and understand the nature of any racialized disparities in sentence length, between Native and white incarcerated people.

RESULTS

Primary Independent Variables

Economic precarity

Table 3a shows the results of the linear regression of the influence of the independent variables described previously on the outcome of sentence length. (Table 3b presents a simplified results table showing only statistically significant variables). In

terms of the first set of substantive variables measuring the influence of economic precarity, having been unsheltered (having been “homeless”) in the year preceding arrest was associated with a very small increase (almost 7 weeks more) in sentence length for the subsample of Native incarcerated people, but a much larger decrease (almost 1 year less), in sentence length for the white subsample. Though the influence of this variable was only statistically significant for the white subsample, and only marginally so (p-value less than or equal to 0.10). Having received welfare support (public assistance) in the month before arrest was associated with a small increase in sentence length for the Native subsample (almost 5 months more) but a very small decrease for the white subsample (about 1 week less). The influence of this variable was not statistically significant for either subsample. Having been without work in the month before arrest was associated with a small increase in sentence length for both the subsamples of Native and white incarcerated people, though the magnitude of this influence was nearly twice as large for the white subsample (almost 3 months more versus almost 6 months more). However, again, the influence of this variable was not statistically significant for either subsample.

A 1% increase in the state-level proportion of the white population in poverty had a small and positive influence on sentence length for Native incarcerated people (about 8 weeks more) but a decrease, of almost twice the magnitude, for the white subsample (about 15 weeks less). Though the influence of this variable was not statistically significant for either subsample. A 1% increase in the state-level proportion of Native people in poverty had a small and negative influence on sentence length for both subsamples, with magnitude of influence more than twice as large for subsample of

Native incarcerated people (about 7 weeks less versus about 3 weeks less). Though the influence of this variable was also not statistically significant for either subsample. A 1% increase in the state-level white unemployment percent was had a moderate, negative, and marginally statistically significant (at the 0.10 level) influence on sentence length for both the subsamples of Native and white incarcerated people, with a slightly larger magnitude for the Native subsample (2 years and almost 11 months less versus 2 years and almost 1 week less).

Native visibility: Land, population, and perceived racialized identity

The next set of substantive variables measured native group visibility at the state level. Among this variable set, an increase of 10% on the current percent of state land being held by or for Native Nations – for example, growing from 0.1% to 0.11% -- had a very small and negative influence on sentence length for both subsamples, with a magnitude of influence more than 7 times larger for the white subsample (nearly zero, less than one day less versus almost one week less) This variable was not statistically significant for either subsample. A 10% increase on the current state-level Native population proportion – for example, growing from 1% to 1.1% -- had a large and positive influence for both the subsamples of Native and white incarcerated people, with a magnitude of influence about 1 and a half times larger for the white subsample (3 years and about 10 months more versus 5 years and about 8 months more). This variable was statistically significant for both the Native subsample (at the 0.01 level) and the white subsample (at the 0.05 level).

Reporting that others perceived them as white had a moderate and positive influence on sentence length for both the Native and white subsamples of incarcerated people, with a larger magnitude of influence for the Native subsample (1 year and almost 9 months more versus 1 year and almost 3 months more). Though the influence of being perceived as white was only statistically significant for the Native subsample (p-value less than or equal to 0.05). For the Native subsample, being perceived by others as Native had a moderate and negative influence on sentence length for both subsamples, with a larger magnitude of influence for the white subsample (1 year and about 1 week less versus 1 year and about 7 months less. However, the influence of being perceived as Native was not statistically significant for either subsample. Finally, the influence of being perceived as Black on sentence length was moderate and positive – and nearly equal – for both the Native and white subsamples (1 year and about 8 months for both subsamples). Though the influence of being perceived as Black was only statistically significant for the Native subsample, and only marginally so (p-value equal to or less than 0.10).

Secondary Independent Variables

Prior record

The next set of variables to be discussed, among the set of secondary independent variables, provide controls for the influence of carceral system history and factors related to the current charges. Having been previously incarcerated in a federal or state prison had a small and positive influence on sentence length for both the subsamples of Native and white incarcerated people, with the magnitude of influence

being nearly twice as large for the Native subsample (about 7 months more versus almost 4 months more). Though the influence of this variable was not statistically significant for either subsample. Having been detained in a juvenile detention facility at least one time had a small and negative influence on sentence length for the subsample of Native incarcerated people (almost one week less), but a small and positive influence, of nearly 7 times the magnitude, for the white subsample (almost 6 weeks less). Though the influence of this variable was not statistically significant for either subsample.

Context of current charges

Next, I will discuss the influence of factors related to the charges for which the individual was incarcerated. For the variable capturing the influence of controlling offense type, the reference category was violent controlling offense, so the influences on sentence length for all other categories of offense type reflect the changes in sentence length relative to those incarcerated for a violent controlling offense. Being sentenced for all other (that is, any non-violent) controlling offense types had a large and negative influence on sentence length. There was also strong statistical significance (at the 0.0001 level) for all non-violent categories of controlling offense, excepting the “other” category, which was marginally statistically significant (p-value less than or equal to 0.10). In all cases the magnitude of the influence of the offense category on sentence length were 1 to more than 1.5 years larger for the subsample of Native incarcerated people, with a much larger magnitude in the case of the “other” offense category. For the subsample of Native incarcerated people, the longest

sentences, after those for violent controlling offenses, were for public order controlling offenses (4 years and about 10 weeks less than for violent offenses). For the white subsample, the longest sentences after those for violent offenses, were for property controlling offenses (3 years and about 4 weeks less than for violent offenses). For the Native subsample, the shortest sentences were for “other” controlling offenses (7 years and almost 8 months less than for violent offenses). Similarly, the white subsample also saw the shortest sentences for the “other” offense category (4 years and almost 5 months less than for violent offenses). The second shortest sentences for the Native subsample were for property controlling offenses (4 years and about 9 months less than for violent offenses). The second shortest sentences for the white subsample were for public order controlling offenses (3 years and about 9 months less than for violent offenses). The sentence lengths for drug controlling offenses fell in the middle of the range for both the Native and white subsamples (4 years and 4 months less than for violent offenses and 3 years and almost 5 months less, respectively).

Having been under supervision (on probation or parole) at the time of arrest had a small and positive influence on sentence length for the subsample of Native incarcerated people (almost 7 months more), but a small and negative influence for the white subsample (about 8 months less). Though the influence of this variable was only statistically significant for the Native subsample (p-value less than or equal to 0.05). For the Native subsample, the years of incarceration ran from 1972 to 2016. For the white subsample, the years of entry ran from 1982 to 2016. The influence of a one-year increase in year of incarceration (e.g., 1973 versus 1972) was moderate and negative for both the Native and white subsamples, with a larger magnitude of influence for the

white subsample (1 year and about 6 months less versus 1 year and about 7 months less). The influence of year of incarceration was strongly statistically significant for both subsamples (at the 0.0001 level). Expecting post-release supervision (parole or probation) had a moderate and positive influence on sentence length for both the Native and white subsamples of incarcerated people, with a larger magnitude of influence for the white subsample (1 year and about 5 months more versus 2 years and almost 3 months more). Though the influence of this variable was only statistically significant for the white subsample (p-value equal to or less than 0.05). Having incurred legal financial obligations (fines or fees) in addition to incarceration had a small and negative influence on sentence length for both subsamples, with a magnitude of influence 10 times larger for the white subsample (about 5 weeks less versus almost 1 year less). However, this result was only statistically significant for the white subsample, and only marginally so (p-value less than or equal to 0.10).

Being in possession of a weapon at the time of the offense had a near-zero positive influence on sentence length for the Native subsample (almost 3 days more) and a small and positive influence, though about 20 times larger than for the Native sample, for the subsample of white incarcerated people (almost 2 months more). Though the influence of this variable was not statistically significant for either subsample. Being under the influence of alcohol at the time of the offense had a small and negative influence on sentence length for both Native and white incarcerated people, with a magnitude of influence about twice as large for the white subsample (about 6 months less versus about 1 year less). However, the influence of this variable was only statistically significant for the white subsample (p-value equal to or less than

0.05). Being under the influence of illegal drugs at the time of the offense had a small and negative influence on sentence length the subsample of Native incarcerated people (about 7 months less), but a small and positive influence for the white subsample, with a magnitude of influence about twice as large as that for the Native subsample (about 5 months less). However, the influence of this variable was not statistically significant for either subsample.

Control Variables

Region

For the categorical variable capturing region of residence at time of arrest, the influence of living in the regions discussed on sentence length will be in comparison to those living in the West South Central region. (See Table 1 above, also found on page 77 in Chapter 3, for the list of states represented in each region.) For the Native subsample, three of the eight regions had a statistically significant influence on sentence length: the Pacific region (marginally significant at a 0.10 level), the West North Central region (significant at a 0.05 level), and the New England region (at a 0.0001 level). For the white subsample half of the regions were statistically significant: the West South Central region (at the 0.05 level), the Mountain region (at the 0.01 level), the West North Central region (at the 0.01 level), and the New England region (at the 0.0001 level). For both subsamples, the shortest sentences – the largest decrease in sentence length compared to the West South Central region – was seen for residing in the New England region (5 years and almost 7 months less for the Native subsample and 6 years and about 6 months less for the white subsample). For both subsamples,

the longest sentence lengths, and the only region that saw an increase compared to the reference region for both subsamples, was the East South Central region (2 years and about 6 months more for the Native subsample and 3 years and about 2 months more for the white subsample).

Living in the South Atlantic region was associated with a very small and positive influence on sentence length for the Native subsample (almost one week more) but a moderate and negative influence for the white subsample (1 year and about 6 weeks less). Living in the Pacific region was associated with large and negative influences on sentence length for both subsamples, with a magnitude of influence about 25% larger for the Native subsample (4 years and almost 4 months less versus 3 years and almost 2 months less). Living in the Mountain region had a large and negative influence on sentence length compared to living in the West South Central region for both subsamples, with a slightly larger magnitude of influence for the white subsample (3 years and almost 1 week less versus 3 years and almost 6 months less). Living in the West North Central region, compared to the West South Central region, also had a strong and negative influence on sentence length, of similar magnitude of influence to that of living in the Mountain region, again with a slightly larger magnitude for the white subsample (2 years and almost 11 months less versus 3 years and about 8 months less). Living in the East North Central region, compared to the West South Central region, had moderate and negative influence on sentence length and the second smallest magnitude of influence (next to the South Atlantic) for both subsamples, with a magnitude of influence about 80% larger for the Native subsample (2 years and about 3 months less versus 1 year and about 3 months less). Finally, living in the Mid-Atlantic

region, compared to living in the West South Central region, had a moderate and negative influence on sentence length, of similar magnitude to the East North Central region, for both subsamples, again, with a larger magnitude for the Native subsample (2 years and about 3 months less versus 1 year and about 10 months less).

Other demographic factors

Lastly, I will present the results for the demographic control variables. Being assigned female at birth (being categorized as a woman for correctional placement purposes) had a small and positive influence on sentence length for the subsample of Native incarcerated people (about 3 months more), but a small and negative influence, and of a larger magnitude, for the white subsample (about 10 months less). However, the influence of being assigned female at birth on sentence length was not statistically significant for either subsample. For both subsamples, all levels of educational attainment from high school diploma on had a negative influence on sentence length, compared to not having a high school diploma. For the Native subsample, each increase in educational attainment was associated with increasingly large magnitudes of influence, meaning increasingly larger decreases in sentence length from having a high school diploma (about 9 months less) to having completed some college but not obtaining a degree (1 year and almost 3 weeks less), to having a college degree (2 years and almost 4 months less). For the white subsample, there was no such pattern, instead sentence length decreased with having a high school diploma (1 year and almost 8 months less), but then increased from that level for having completed some college (1 year and almost 4 months less), and then reached its largest decrease for

those with a college degree (1 year and almost 10 months less). The magnitude of influence was larger for the white subsample in all cases except having a college degree, which was larger for the Native subsample. No levels of educational attainment were statistically significant for the Native subsample. For the white subsample, having a high school diploma was the most statistically significant (at a 0.0001 level) but having completed some college and having a college degree were also statistically significant (at the 0.05 level).

All age categories were compared to the 18-24 age group (the reference category). For the Native subsample, all age categories had large and positive influences on sentence length compared to those aged 18-24, except those 55-64 years old. For the Native subsample, the age categories, compared to those 18-24, saw increasingly large magnitudes of influence for those 25-34 (1 year and about 2 months more), those 35-44 (1 year and about 5 months more), and those 45-54 (2 years and about 2 months more). However, for the Native subsample, the smallest increase in sentence length, compared to those 18-24, was seen with those aged 55-64 (about 4 months more) and then a large increase in the next age group, those 65 and older (1 year and almost 3 months more). None of the age categories had statistically significant influences for the Native subsample. For the white subsample, all of the age categories had a statistically significant influence on sentence length except for the case of those aged 65 and older. For the white subsample there was a steady increase in magnitude of influence with each increase in age, compared to those 18-24, from 25-34 (1 year and about 4 months more at a 0.01 level), to 35-44 (1 year and almost 6 months more at a 0.05 level), to 45-54 (2 years and almost 2 months more at a 0.01 level), to 55-64

(2 years and almost 11 months more at a 0.05 level). However, for the white subsample, there was a decrease in magnitude of influence from 55-64 years old to 65 and older (associated with 1 year and 9 months more).

TABLE 3a. ECONOMIC DEPRIVATION AND NATIVE RACIALIZED GROUP VISIBILITY ON SENTENCE LENGTH				
	NATIVE SUBSAMPLE		NH WHITE SUBSAMPLE	
	<i>b</i>	<i>t</i>	<i>b</i>	<i>t</i>
<i>Economic Deprivation</i>				
Homeless in year before arrest	0.127	0.09	-0.986+	-1.88
Welfare month before arrest	0.398	0.50	-0.020	-0.03
Didn't work in month before arrest	0.229	0.33	0.474	0.82
1% increase White poverty in state	0.160	0.39	-0.289	-0.78
1% increase Native poverty in state	-0.140	-1.46	-0.062	-1.02
1% increase White unemployment in state	-2.896+	-1.80	-2.020+	-1.82
<i>Native Visibility</i>				
10% increase Native land in state of residence	-0.002	-0.23	-0.015	-1.44
10% increase Native population in state	3.87**	3.34	5.64*	2.62
Others perceive them as white	1.744*	2.13	1.236	0.98
Others perceive them as Native	-1.026	-1.24	-1.610	-1.67
Others perceive them as Black	1.667+	1.90	-1.680	-1.43
<i>Prior Record</i>				
Previously sentenced to prison	0.586	0.77	0.305	0.70
Ever detained in juvenile facility	-0.015	-0.02	0.106	0.20
<i>Factors of Current Offense</i>				
Violent controlling offense (ref.)				
Drug controlling offense	-4.333****	-5.07	-3.385****	-5.01
Property controlling offense	-4.725****	-4.49	-3.072****	-4.67
Public order controlling offense	-4.196****	-4.50	-3.773****	-6.56
Other type of controlling offense	-7.627+	-1.84	-4.377*	-2.50
Already serving at time of arrest	0.567*	2.63	-0.690	-1.33
Year of incarceration	-1.493****	-8.57	-1.621****	-10.50
Expect post-release supervision	1.453	0.73	2.224*	2.15
LFOs in addition to incarceration	-0.096	-0.14	-0.958+	-1.84
Weapon present at time of offense	0.007	0.01	0.142	0.17
Under the influence of alcohol	-0.468	-0.60	-1.009*	-2.53
Under the influence of drugs	-0.567	-0.97	0.398	0.76

TABLE 3a. ECONOMIC DEPRIVATION AND NATIVE RACIALIZED GROUP VISIBILITY ON SENTENCE LENGTH cont'd				
	NATIVE SUBSAMPLE		NH WHITE SUBSAMPLE	
	<i>b</i>	<i>t</i>	<i>b</i>	<i>t</i>
<i>Demographic Factors</i>				
<i>Region</i>				
West South Central (TX, OK, AR, LA, ref.)				
East South Central (KY, TN, MS, AL)	2.521	1.01	3.202*	2.10
South Atlantic (FL, GA, NC, SC, MD, DE, WV, VA)	0.015	0.01	-1.118	-1.33
Pacific (CA, OR, WA, HI, AK)	-4.312+	-1.93	-3.157	-1.68
Mountain (MT, ID, WY, NV, UT, CO, AR, NM)	-3.013	-1.04	-3.487**	-2.76
West North Central (ND, SD, NE, KS, MN, IA, MO)	-2.896*	-2.29	-3.665**	-2.84
East North Central (WI, MI, IL, IN, OH)	-2.284	-1.30	-1.261	-0.77
<i>Education</i>				
Didn't complete high school (ref.)				
High school degree	-0.747	-0.90	-1.638****	-4.65
Some college	-1.053	-1.17	-1.298*	-2.32
College degree	-2.320	-1.60	-1.845*	-2.31
<i>Age</i>				
18-24 years old (ref.)				
25-34 years old	1.193	1.13	1.348**	3.07
35-44 years old	1.435	1.03	1.485*	2.25
45-54 years old	2.197	1.66	2.146**	3.06
55-64 years old	0.358	0.27	2.900*	2.24
65 years or older	1.213	0.44	1.813	0.96
<i>Sex assigned at birth</i>				
Female	0.286	0.26	-0.840	-1.49
Observations	706		2219	
+ p</=0.10, * p</=0.05, ** p</=0.01, *** p</=0.001, **** p</=0.0001				
Sources: Bureau of Justice Statistics; Bureau of Indian Affairs; Census; Kaiser Family Foundation				

TABLE 3b. SIMPLIFIED RESULTS TABLE: ECONOMIC DEPRIVATION AND NATIVE VISIBILITY ON SENTENCE LENGTH – STATISTICALLY SIGNIFICANT RESULTS ONLY		
	NATIVE SAMPLE	WHITE SAMPLE
<i>Economic Deprivation</i>		
Homeless in year before arrest	NS	(-)+
White unemployment % in state of residence	(-)+	(-)+
<i>Native Racialized Group Visibility</i>		
Native population % in state of residence	(+)**	(+)*
<i>Current Offense Factors</i>		
Drug controlling offense v. violent	(-)**	(-)**
Property controlling offense v. violent	(-)**	(-)**
Public order controlling offense v. violent	(-)**	(-)**
Other controlling offense v. violent	(-)+	(-)*
Already serving sentence at time of arrest	(+)*	NS
1 year increase in year incarcerated	(-)**	(-)**
Expect post-release supervision	NS	(+)*
LFOs in addition to incarceration	NS	(-)+
Under the influence of alcohol	NS	(-)*
<i>Perceived Racialized Identity</i>		
Others perceive as white	(+)*	NS
Others perceive as Black	(+)+	NS
<i>Region</i>		
East South Central v. West South Central	NS	(+)*
Pacific v. West South Central	(-)+	NS
Mountain v. West South Central	NS	(-)**
West North Central v. West South Central	(-)*	(-)**
New England v. West South Central	(-)**	(-)**
<i>Education</i>		
High school degree v. no high school degree	NS	(-)**
Some college v. no high school degree	NS	(-)*
College degree v. no high school degree	NS	(-)*
<i>Age</i>		
25-34 v. 18-24	NS	(+)**
35-44 v. 18-24	NS	(+)*
45-54 v. 18-24	NS	(+)**
55-64 v. 18-24	NS	(+)*
+ p=/ 0.10 , * p=/ 0.05 , ** p=/ 0.01 , *** p=/ 0.001 , **** p=/ 0.0001 NS : variable not statistically significant for white subsample (+) : direction of influence is positive (-) : direction of influence is negative = : magnitudes of influence are effectively equal between subgroups (<5% difference)		

CONCLUSION

Discussion

My research on the influence of economic precarity and Native racialized group visibility on sentence length not only accounted for the influence of prior record, current charges, and common demographic factors. Further, clustering of patterns at the state level are expected as each state, and often sets of adjacent states, has to some extent a unique set of laws concerning what is illegal (e.g., is marijuana legal or illegal?) and what the standard penalties (fines, citations, and how much or incarceration, and for how long?). Further, the rates of incarceration, average sentence lengths in general and those for each type of crime, and the rates of racial disproportionality in incarceration or sentencing severity varies widely between states and sets of adjacent states. As such, this research also accounted for clustering of the influences of variables within states, or geographically concentrated, systemic patterns at the state-level as well as controlling for the influence of which region one resided in at the time of arrest.

Economic precarity: being unsheltered and white unemployment

Once the aforementioned factors were controlled for, no individual-level economic precarity measure mattered among the Native subsample. The only individual-level economic precarity measure that mattered among the white subsample was having been unsheltered in the year before arrest, which was associated with a small decrease in sentence length (just under a year less). The only group-level economic precarity measure that mattered for either subsample – and which mattered for both subsamples – was white unemployment in the state, which was associated with

a moderate increase in sentence length for both the Native and white subsamples (close to 3 years more for the Native subsample and about 2 years more for the white subsample). Having received welfare or being out of work in the month before arrest and state-level white and Native poverty didn't matter for either subsample.

That any individual-level measures of economic precarity, here, having been unsheltered, should be associated with decreases in sentence length seems to indicate a treatment of individual economic precarity as a mitigating circumstance. Though, again, this circumstance only influenced sentence length for the white subsample. That any measure of economic precarity should translate to decreased sentencing severity for Native individuals does seem to run counter to the expectations from carceral capitalism. That individual-level economic challenges may not have the expected, or any impact on carceral system experiences, namely among the Native subsample, is not necessarily counter to expectations from a carceral capitalist perspective, in fact it speaks to the structurally racialized – rather than individualized – nature of carceral system experiences. However, according to critical theories of the carceral system, such as carceral capitalism and necrocapitalism, and prior research on Native carceral inequality, it was expected that Native experiences of economic precarity would *increase* the punitiveness of judicial decision making. Since according to these theories, this aspect of economic precarity is core to carceral system targeting of racially and economically marginalized is core to racialized lumpenization via positioning for super-exploitation, producing a cycle of increasing marginalization.

As such, it was unexpected that state-level Native poverty should not have been statistically significant for the Native subsample. However, white unemployment was significant. This may indicate that, per judicial decision-making, poverty matters but only in the case of white poverty. Perhaps this is reflective of the perception of white poverty as exceptional and Native poverty as mundane. Further, the fact that white unemployment (a measure of white economic precarity) should have been statistically significant and should mitigate Native sentencing severity (decreasing sentence length) seems counterintuitive. Perhaps where white unemployment is higher, because it is seen as exceptional, it is more readily seen as indicative of structural economic challenges. It should also be kept in mind that white poverty and unemployment are consistently lower than Native, Black, and Latine poverty and unemployment, and therefore stands as a conservative proxy for general state and national economic robustness (or stagnation).

However, per critical theories of racialized carceral system inequality, and theories of settler colonial logic, it was expected that Native populations would be targeted for containment and exploitation as a source of profit for the white (settler) population (and/or government). It is possible that where sentence length, the assessment of legal financial obligations, and perhaps also carceral system supervision, have a zero-sum-type relationship such that where sentence lengths are lower, legal financial obligations and/or supervision are higher. As such, this decreased sentence length associated with white unemployment could indicate a larger reliance on monetary penalties, which would serve as capital for governments and their private company proxies, systems which support the status quo of racialized wealth inequality. More

research is needed to verify the relationship between sentence length and monetary obligations in the case of Native incarceration and between changes in white unemployment rates and Native overincarceration.

Native visibility: land, population, and perceived racialized identity

State-level proportions of land being held by or for Native communities had no statistically significant influence on sentence length for either subsample. However, state-level Native population proportions influenced sentence length for both the subsamples of Native and white incarcerated people, being associated with a moderate to large increase in sentence length for every 10% increase (for example, an increase from 1% of the population to 1.1%) in Native population proportion (almost 4 years more for the Native subsample and just over 5 and a half years more for the white subsample). Settler colonial theoretical explanations understand the existence of Native lands as a symbolic (and real) representation of Native sovereignty (power and presence) and thus a threat to settler colonial power and an impetus for the oppression of Native people through containment and increased punitiveness.

However, counter to this explanation, the proportion of land in each state that is held by or for Native people (e.g., trust land, reservations) did not have any significant influence on sentence length. Unfortunately, this research cannot answer how Native population proportion and/or Native land holdings impact Native incarceration rates themselves – which may be a key missing element to explain this finding. Perhaps Native lands are just not as visible or salient of a symbol of Native presence and (sovereign) power in the modern US, where Native armed struggles against settler

colonial usurpation and domination are no longer deemed a threat, or likely even a possibility (save for the occupation at Wounded Knee in the 1970's). Perhaps the trust relationship, which places ultimate ownership powers in the US government and is accompanied by the plenary power of the US government to abrogate treaties and usurp land "for the public good" at will is deemed as nullifying the Native sovereignty via Native land threat.

The threat from Native visibility as population proportion also follows from settler colonial theory, akin to racial threat theory which sees the existence of Native people, especially where they are a notable portion of the population, as a threat to white dominance (settler colonial power). Thus, Native visibility would be expected to be met with increased oppression and efforts toward containment (such as higher rates of incarceration and longer sentences). This expectation was met to the extent that Native population proportion increases were associated with increased sentence length for the Native subsample. However, it is confounding that sentence lengths in this circumstance should also increase, and more drastically, for the white subsample. Perhaps this is a matter of the fact that most Native people live on or near (in the rural borderlands of) Native lands, which are rural and are surrounded by rural spaces. So, this "Native population proportion influence" may in fact be a rural area influence, indicating greater sentencing severity per sentence length in rural areas.

Also, tribal members living on reservations (Native people enrolled in – having officially recognized ancestry from a particular Native Nation – and living within the territory of that Native Nation or "tribe") can be incarcerated by Bureau of Prison

facilities (Bureau of Prisons, 2024). It should be noted that per current US Indian Law, tribal courts are limited to handing down maximum sentences of 3 years per offense, while they can “stack” offenses and hand down longer sentences, they are unable to try more serious offenses which require sentences longer than three years per offense. As such, yet another explanatory factor, for the fact that the Native subsample saw smaller increases in sentence length compared to the white subsample could be reflective of the influence of differences in tribal court and state or federal court sentencing, the first of which would by definition apply largely to Native people and only to those living on reservations.

In short, the larger lessening influence of Native population proportion on Native incarcerated people could possibly reflect Native people who have been sentenced by tribal courts handing down shorter sentences relative to US state or federal courts. Further, tribal members may be detained by US state, county, or federal law enforcement and then rendered to tribal law enforcement where the latter are determined to have jurisdiction. As such, while the nature of Native overincarceration has been shown to be a matter of targeting by non-tribal law enforcement, because of greater scrutiny by non-tribal law enforcement, Native people are more likely to be detained by law enforcement in general. Therefore, if tribal law enforcement and courts are less likely to arrest or incarcerate (or at least for shorter periods of time), this does not necessarily translate to lower arrests for Native people, even where they live on Native lands. However, more research is needed to test this hypothesis.

First, it should be noted that only a very small proportions of the white subsample said they were perceived as a race other than white (about 3% perceived as Native and about 1.4% perceived as Black). Further, the nature of colorism, or phenotype as the primary indication of racialized identity and key determinant of interpersonal and structural experiences of racism, in a white dominant society are such that phenotypical whiteness, alongside indications of whiteness via name, accent, demeanor, or dress, are considered the “norm” and thus rendered invisible. That is to say, whiteness is what all else is compared and deemed “other.” That being said, it was expected that neither would many in the white subsample believe they were perceived as a racialized identity other than white nor, because of this, would this variable be statistically significant for the white subsample, and it was not.

However, for the Native subsample, being perceived as white or Black was statistically significant. Given the racialized nature of disparities in carceral system involvement and sentencing severity, it confirmed expectations that being perceived as Black was associated with longer sentences. What is a bit puzzling is that being perceived as white was also associated with longer sentence lengths. It is also possible that the order of effect is actually reversed. Prior research has examined how incarceration impacts self-perception of racialized (or what they believe is their apparent racialized) identity. In short, because carceral system involvement, and specifically incarceration is so racially disproportionate, it is associated with non-whiteness. As such, being carceral system involved or incarcerated can actually shift one’s perception of their own race and/or how other’s perceive them toward a perception of them as someone of color.

Following from this hypothesis, it may be the case that it is not being perceived as Black that leads to longer sentences, but rather having a longer sentence that leads to the self-perception and perception by others as Black. However, this does not explain the finding that being perceived by others as white was also associated with longer sentences. This is first, likely a reflection of the fact that more than 50% of the Native subsample also identified as white and perhaps simply are in fact phenotypically identified as white and happen to have longer sentences, perhaps due to having more serious controlling offenses. Further, given the racially disproportionate nature of carceral system involvement and punishments, it is more likely that individuals who are or are perceived as white who become carceral system involved, specifically those who are incarcerated, have committed more serious offenses, since lesser offenses are less likely to lead to carceral system involvement or incarceration for white people.

Carceral context: Controlling offense and alcohol

For many, it may seem like a good sign that the only factors that seemed to have a statistically significant and large magnitude of influence on sentence length were those related to the current offense, that is, that prior record had no statistically significant influence for either subsample. However, yet many others would deride judicial decision making that doesn't take account of prior record of detention in either adult or juvenile facilities. Common understanding of the nature of judicial decision-making, namely the deterrent purpose of punishments like incarceration to deter and respond to recidivism, would lead one to expect prior detainment to influence sentencing decisions. Prior research has indicated that the perception of inherent

criminality is disproportionately lobbed against those who are racially and economically marginalized such that Native (and Black and Latine) people are more likely to be seen as irredeemably criminal. As such, it is likely that the influence of prior record is solely determined by the current circumstances of the controlling offense (and perhaps other mitigating circumstances), such that prior record only matters where it can be used to accentuate these perceptions of inherent criminality. In which case, what appeared to be the influence of prior record would in fact be the influence context, representation, and perception of the individual and their crimes being sentenced.

As expected, and as stands to reason, controlling offense type had statistically significant and large magnitudes of influence on sentence length for both Native and white incarcerated people. Again unsurprisingly, violent offenses were associated with the longest sentences for both Native and white incarcerated people (all other categories for both subsamples saw decreased sentence length compared to the reference, violent crimes). The literature on racialized disproportionate policing, incarceration, and punitiveness, points to the War on Drugs as the origin point for modern racialized mass incarceration and drug criminalization as a key mechanism of carceral capture (Hinton 2016; Wang 2018; Alexander 2020). As such, it was expected that drug controlling offenses would also carry severe sentences, especially for racially (and economically) marginalized communities, such as Native people. However, this expectation did not bear out in the findings which showed that, after violent offenses, public order controlling offenses carried the longest sentences for the subsample of Native incarcerated individuals and property controlling offenses carried the longest sentences for the white subsample.

That drug offenses would not be so severely punished in the case of white incarcerated people does follow expectations, as research has indicated that white people consistently face disproportionately low rates of arrest and incarceration for drug offenses, and where they are incarcerated they see shorter sentences than those who are racially marginalized. It is confounding, based on the literature on the racialized nature of drug enforcement law, that the Native subsample should have seen shorter sentences for drug crimes relative to other types of crime, and that they should see shorter sentences for drug crimes relative to the white subsample. This, particularly the finding of shorter sentences among the Native subsample across controlling offense categories, may again reflect the nature of Indian law and tribal and non-tribal law enforcement and US and tribal courts discussed in the previous section.

Public order offenses, while including some behaviors that are inarguably detrimental to public safety and well-being, largely encompasses “moral” crimes, or behaviors that are reflective of behaviors that are considered deviant, but which may be “victimless,” acts which may not pose a real threat to public safety. The list of common public order offenses include prostitution, unlawful assembly, vagrancy, unlawful occupation of private or public space (think of encampments for the unsheltered), public intoxication, and disorderly conduct. As such, it seems quite telling that the Native subsample should seem to be targeted, via harsher sentencing for public order crimes. (Though the Native subsample saw shorter sentences than the white subsample for public order crimes. However, the Native subsample saw harsher penalties for public order crimes (just over 4 years less) compared to all other types save violent crimes, while, for the white subsample, public order offenses were associated with the shortest

sentences (3 years and 9 months less) after those for controlling offenses categorized as “other.”) The fact that public order offenses should be the second most harshly punished crime type, after violent crimes, in the case of the Native subsample (but not the white subsample) points to the perpetuation of the historical legacy of perceiving and criminalizing Native people and “Nativity” as inherently outside of the norms and mores of “civilized” white settler society. And, further, as standing as a threat to that “civilized” white settler society.

Relatedly, in terms of public order offenses, and counter to expectation, being under the influence of alcohol during the offense was only statistically significant for the white subsample. This is surprising given the long history and persistence of the stereotype of Native people being inherently prone to alcohol abuse. However, lack of significance may simply function similarly to the lack of significance of Native poverty on sentence length in that it may simply be expected. Further, being under the influence of alcohol was associated with a decrease in sentence length for the white subsample indicating that this is a mitigating contextual factor that only seems to be utilized for the benefit of white people.

Prior research has found evidence that Native people are punished less harshly than white people for violent crimes but more harshly for property crimes. The hypothesis offered explains this trend as reflecting the racialized nature of these types of crimes where violent crimes are more often intraracial and property crimes are more often interracial. Thus, Native violent crimes more often victimize Native people, whose victimization is epidemically disregarded by (non-Native) society and carceral systems,

and thus pose less of a threat to public (white/settler) safety. Whereas property crimes more often victimize non-Native, specifically white, people and is therefore more of a concern. As such, it is confounding that property crimes should be associated with the shortest sentences (after “other” controlling offense) for the Native subsample. More research is needed to examine trends in the nature of property offenses among Native people, perhaps the majority of these property offenses are committed within Native communities (reservation or urban) and therefore fall into the intraracial-and-therefore-non-threatening (to white settler society) category. Or perhaps property crimes are simply overshadowed by public order, drug, and violent crimes.

Carceral context: Supervision, year of incarceration, LFOs, and alcohol

That having been on probation or parole at the time of the offense should have been associated with an increase in sentence length stands to reason. First, this indicates recidivism. Second, not only would the behavior for which they were arrested be criminalized in and of itself, but it would likely also be a parole or probation violation. (Note: treating a crime as a parole or probation violation can act as a sentence enhancement since supervision stipulation violations are punishable by incarceration whereas some behaviors under those stipulations may not necessarily be serious offenses in and of themselves.) What is unexpected is that being under supervision should only be statistically significant for the Native subsample. Perhaps being under supervision during arrest works similarly to prior record, discussed above, such that it only comes into play where it serves to accentuate the perception of inherent criminality

– a designation that is disproportionately applied to racially and economically marginalized groups and individuals.

That year of incarceration should matter was expected, even logical. Laws change. Acts that weren't criminalized become illegal; things that were legal become criminalized. Felonies become misdemeanors; misdemeanors become felonies. Public opinion and state and federal policy shift for and against "law and order," "tough on crime" approaches. Courts appoint new judges and prosecutors. Structural and cultural changes shift and marginalized groups gain new levels of collective efficacy and equality. Economic, political, and cultural shifts occur, and groups are marginalized anew, now with a different vocabulary and reconfigured structural barriers. That the relationship between year incarcerated and sentence length is negative may be an artifact of attrition. That is, if one was incarcerated 30 years ago and is still incarcerated, they necessarily had a longer sentence and if one was incarcerated 30 years ago and was no longer incarcerated, they were not included in the sample. That is, only those with earlier years of incarceration and longer sentences would remain in the system to be part of the sample. Beyond this, the negative relationship between year of incarceration and sentence length could also reflect increasing incarceration for lesser crimes. Where the rates of incarceration have steadily (and rapidly) increased between the 1970's and 2000's (and is still rising but less rapidly), and rates of violent and other serious crime have not risen so sharply (in fact declining at points), this indicates increased arrest and incarceration for less serious crimes, which, outside of the application of "three strikes" laws, carry shorter sentences. Further, as more people are

incarcerated and prisons become overcrowded, shorter sentences, alongside early release, can serve to mitigate this overcrowding issue.

Incarceration, monetary penalties, and carceral system supervision (probation or parole) are three types, or options, of punishment. While these are often applied in tandem, utilizing multiple methods of punishment should be a means of spreading the punishment out across different methods – though it can also serve as a means of enhancing the punishment. In this sense, it was expected that where an individual had been assessed monetary penalties, and/or where they expected post-release supervision, this would indicate the dispersion of punishment across types such that sentence length would be diminished. This was the outcome seen for the white subsample in the case of legal financial obligations which was associated with a decrease in sentence length. However, the expectation of post-release supervision was associated with longer sentence lengths.

While this stands counter to the “spreading the punishment out” hypothesis, it does make sense in light of the stated purpose of supervision to assist in reintegration upon release, which would become more necessary with longer sentences, that is, greater lengths of time removed from society and community. Further, this makes sense if longer sentences represent more serious crimes which create a greater threat to public safety and thus indicate a greater need for the watchful eye of the carceral system upon release to prevent recidivism. Finally, the positive relationship between sentence length and expectation of post-release supervision may also indicate an individual who has been targeted by the carceral system for prolonged ensnarement via

post-release supervision. Since prior research has shown that Native people face higher rates of monetary penalties and face greater challenges upon reentry, that neither LFOs nor expectation of post-release supervision had a statistically significant influence on sentence length for the Native subsample could indicate the use of these mechanisms of punishment as enhancements rather than diffusions.

Demographic controls: Sex assigned at birth, age, and education

Neither sex assigned at birth, nor age, nor education had statistically significant influences on sentence length for the Native subsample. On the one hand Native women are disproportionately represented among the incarcerated population in comparison to other racialized categories of those held in women's prisons and they are more disproportionately represented than Native men. In this sense it was expected that being a Native person assigned female at birth would have a significant and positive influence on sentence length. Of course, being overrepresented among those who are incarcerated need not translate to longer terms of incarceration. The broadly accepted trend is toward those who are assigned female or identify as women committing less and less serious crimes. Therefore, it would be expected that being identified as a woman by the carceral system would be significantly associated with shorter sentences in general – though longer sentences for those who are Native compared to those who are white. That being assigned female at birth was statistically significant for the white subsample, and associated with decreased sentence length bears out this last hypothesis. Women of color have long been portrayed and perceived by mainstream society as embodying fewer qualities associated with the hegemonic representation of

womanness (associated with white, educated, middle class, women who match standards of beauty based on the dominant white phenotype). Perhaps for Native people identified as women by the carceral system the mitigating aspect of their ascribed gender is overshadowed by the exacerbating effect of their racialized identity.

Among the white subsample, each increase in age category was associated with an increasingly longer sentence length, compared to those who were 18-25. This may reflect an increase in severity of crimes with age. Or, given the age-crime curve wherein criminality tends to drop off in one's early to mid-20's, this may be an artifact of those who are older having been given longer sentences and thus simply still being incarcerated. That age was not statistically significant for the Native subsample is a bit confounding, again given the widely accepted age-crime curve and the previously mentioned context. This could indicate more persistent criminality throughout the life-course, or it could indicate racially disproportionate carceral system targeting regardless of age. More research into the age-crime relationship for Native people is needed to assess this result.

Among the white subsample, having an educational attainment of high school diploma, some college, or a college degree were all associated with shorter sentence lengths compared to those who did not finish high school. This follows expectations of trends in the relationship between educational attainment and carceral system involvement and sentencing severity laid out across the literature. Lower educational attainment is positively associated with greater economic precarity including unemployment and lower-wage, less stable work as well as lower levels of normative

institutional involvement and lower levels of self-efficacy, all of which increase the likelihood of committing illegal acts and being carceral system involved. Given this expectation, it was surprising that educational attainment did not have a statistically significant influence on sentence length for the Native subsample. This is likely an artifact of the fact that the Native subsample was relatively small, due to the relatively small proportion of the general and prison population held by Native people. Though the representation within this sample: 56% of the Native subsample did not complete high school and only about 18% had completed some college or had a college degree, approximates the representation within the white subsample. This could also reflect educational attainment as functioning similarly to prior record and being under supervision such that it has no effect in and of itself, for the Native subsample, but rather serves to accentuate the representation of the individual being sentenced.

Demographic controls: Region

My analyses controlled for geographic region. This factor has been shown to be associated with racialized disparities in carceral state capture and differences in punitiveness and thus was expected to have a significant impact on sentencing outcomes. Namely, previous research has theorized and shown evidence of (at least at the state-level) a positive relationship between Native population proportion and increased targeting for containment and severity of punishment (here as sentence length). Thus, it was expected that living in those regions with relatively higher concentrations of Native populations: the West South Central (reference), Pacific, Mountain, and West North Central regions would, for Native people, be associated with

longer sentence lengths. However, this expectation did not bear out in my research. While the Pacific and West North Central regions were statistically significant influences on sentence length, these regions were associated with *decreases* in sentence length, compared to the West South Central region. The only other region of statistical significance was the New England region, which was associated with the shortest sentence lengths of any region for both subsamples, though slightly longer sentence lengths for the Native subsample compared to the white subsample (compared to the West South Central region, the Native subsample saw 5 and a half years less, but the white subsample saw 6 and a half years less).

That New England should be associated with the shortest sentence lengths is to be expected for two reasons. First, New England is culturally associated with progressiveness which tends away from the “tough on crime” mentality. Second, New England has among the largest proportion of white residents of any region. Thus, given the racialized disparities in carceral system involvement and severity of punishment, it follows that a region that is so predominately white might on average also see lower levels of carceral system involvement and lesser sentences. The Pacific region saw the second shortest sentence lengths. This is surprising for two reasons. First, California, part of the Pacific region, has among the highest incarceration rates, and highest rates of racially disproportionate incarceration, in the country. Second, Alaska (again, part of the Pacific) has a very high Native population proportion, over 20%. While the decrease in sentence length for the West North Central region, which includes South Dakota, which has a relatively high Native population proportion (over 8%), is less drastic, it is still relatively large (almost 3 years less) nonetheless unexpected.

However, it is key here to remember what the reference region is: the West South Central region, which contains Texas, Oklahoma, Arkansas, and Louisiana. The reference region was expected to be significant and associated with longer sentences, per critical theories of the carceral system and settler colonial theory, largely because it contains Oklahoma which has a large (over 9%) Native population proportion. Given that all other regions with statistically significant influences on sentence length for the Native subsample were associated with decreases in sentence length compared to the West South Central region, clearly this region is associated with the longest sentence lengths. The relative reductions in sentence length may reflect differences in sentencing policy and rates of incarceration. That is, Texas, Oklahoma, and Louisiana are widely known to have among the highest incarceration rates and harshest sentencing policies in the US. As such, sentencing in the Pacific and West North Central may only seem lenient compared to the harsh penalties in the West South Central. Much more research is necessary to unpack the between-region (and between-state) disparities in sentencing severity relative to Native population proportion.

Limitations

The main limitations specific to this portion of my research project have to do with both limitations of the structure, the question asked, and the resources available to answer that question (the data available). Both of which, of course, inform each other. Significant but yet unanswered questions related to racialized disparities in sentence length that could not be addressed by this data set or my specific research focus include examining racialized disparities in “in/out” decisions (who is and is not

sentenced to incarceration). Because my research question here and the data available to answer it concerned only the experiences of those who were currently incarcerated, it cannot address aspects related to likelihood of incarceration among the general population.

Nor can it address questions about pre- or post-incarceration experiences. Relatedly, this research cannot address whether early release was granted to individuals, including parole, and therefore cannot examine racialized disparities in that sentencing outcome. Per pre-incarceration decisions, my research here does not address whether racialized disparities existed in decisions to commute or split sentences (e.g., part served through incarceration and part served on probation). Further, my research here did not address other important contextual factors shaping sentencing decisions such as whether the sentence outcome was the result of a plea bargain or a trial, or the quality of legal representation for the incarcerated individual, such as whether they had a public defender or a private (for example, a “high-powered”) attorney, or whether there were any amici submitted on their behalf.

5. ECONOMIC MARGINALIZATION AND RACIALIZED GROUP VISIBILITY ON RACIALIZED DISPARITIES IN LIKELIHOOD OF FINES AND FEES (LEGAL FINANCIAL OBLIGATIONS) IN ADDITION TO INCARCERATION

Legal Financial Obligations' Impacts on Carceral Debt and Economic Precarity

The description of monetary penalties, or legal financial obligations, as “non-punitive” masks the significant role they play in ensnaring individuals within the carceral system, often for extended periods (Western 2002; Harris 2016; Wang 2018; Schenwar and Law 2020; Friedman 2021; Friedman et al. 2022). “Fines and fees,” or legal financial obligations associated with incarceration include court fees, incarceration (“pay-to-stay”) fees, punitive fees (e.g., citations or restitution), and supervision fees for monitoring devices, drug testing, or other supervision services (Harris 2016; Wang 2018; Alexander 2020; Kirk et al. 2020; Schenwar and Law 2020; Friedman 2021). These financial obligations are debts, carceral debts, and have a direct relationship with economic precarity and carceral lumpenization (Harris 2016; Wang 2018; Schenwar and Law 2020; Friedman 2021; Friedman et al. 2022).

The relationship between legal financial obligations and economic precarity is one of exacerbation. Those who are already economically disadvantaged are more likely to receive LFOs, and, because they already face economic hardship, they are less likely to be able to meet those financial obligations which, in turn, puts them in a position of even greater economic precarity due to unpaid debts (Harris 2016; Wang 2018; Friedman 2021). Coupled with, and further aggravating this situation is, the free labor market marginalization faced by those who are carceral system involved (whether

formerly incarcerated or on supervision) (Western 2002; Pager 2007; Wang 2018; Alexander 2020; Schenwar and Law 2020; Garcia and Abukhadra 2021). Which perpetuates and exacerbates their economic precarity and inability to pay these LFOs (Wang 2018; Schenwar and Law 2020). As a result of this exacerbation of economic precarity, individuals who are carceral system involved face greater susceptibility to predatory loans, due to poor credit derived from low incomes and outstanding debts, sometimes in order to pay for necessities like housing or sustenance (Wang 2018; Friedman 2021).

Monetary penalties are often thought of as a means of punishment that exists outside of the traditional carceral system – being in and of itself neither *incarceration* nor non-*incarceral* forms of punitive limitations on freedoms such as conditions of probation or parole. However, LFOs represent ensnarement in the carceral system – even where holding these debts are the only involvement one has with that system (Harris 2016; Wang 2018; Schenwar and Law 2020; Friedman 2021). The relationship between LFOs and incarceration is two-fold. On the one hand, as discussed in the previous chapter, incarceration removes individuals from the free labor market during incarceration and marginalizes them from the free labor market after release (Western 2002; Pager 2007; Wang 2018; Schenwar and Law 2020; Friedman 2021). On the other hand, the inability to meet legal financial obligations puts one at risk of (re)incarceration (e.g., revocation of parole or warrants and jailing from unpaid fines) (Harris 2016; Wang 2018; Schenwar and Law 2020). Further, even beyond the threat of reincarceration, the inability to meet legal financial obligations means the continuation of loss of rights, such as voting, as these rights are not restored until all LFOs (and supervision requirements) have been

met (Wang 2018; Schenwar and Law 2020; Friedman 2021). Legal debt also affects credit scores which then influence housing and employment options (Wang 2018; Schenwar and Law 2020; Garcia and Abukhadra 2021; Friedman 2021).

Legal Financial Obligations as Mechanism of Carceral Capitalism-Necrocapitalism

Legal financial obligations have been the central concern of the carceral capitalism literature and a main interest of the necrocapitalist literature (Wang 2018; Friedman 2021; Friedman et al. 2022). LFOs – as debts, and thus money lost, represent not only a direct influence on economic well-being, but also provide direct income (revenue) for governments, and help fund the carceral system which, through privatization of prisons and prison and supervision services, provides income (profit) for private companies (Wang 2018; Schenwar and Law 2020; Friedman 2021; Friedman et al. 2022). Thus, the carceral capitalist connection is direct for LFOs. Further, for the reasons discussed previously in this chapter and previous chapters, LFOs are directly linked to lumpenization, or extreme free labor market marginalization (or exclusion), labor market exploitation (both within and outside of incarceration), and the general loss of civic rights, disenfranchisement and other forms of social-political marginalization. For this reason, necrocapitalist literature has referred to the concentration of LFOs within economically and racially marginalized communities, as a process causing “civic death” and involving “looting the [civically] dead” (Friedman 2021).

Economic Marginalization, Racialized Group Visibility, and LFO Disparity

The loss of freedoms associated with ensnarement in the carceral system such as disenfranchisement remain in force so long as an individual owes monetary penalties

(Schenwar and Law 2020; Friedman 2021). Thus, the label of “criminal” as an active identity remains so long as the individual is still paying off their carceral system fines and fees. As such, fines and fees extend capture in the carceral system far beyond the prison walls. In order to understand the long arm of the carceral system and how it differentially impacts individuals based on structural racialized inequalities and economic circumstances, it is absolutely necessary to consider differences in the assignment of monetary penalties, as these can – and for the economically deprived nearly always do – bring significant obstacles that exacerbate poverty and lack of access to fundamental resources like work, housing, and education (Western 2002; Pager 2007; Wang 2018; Schenwar and Law 2020; Friedman 2021; Augustine and Kushel 2022).

Not only has the carceral capitalist and necrocapitalist literature focused primarily on LFOs (Wang 2018; Friedman 2021; Friedman et al. 2022), but much research on racialized disparities, including some research on disparities faced specifically by Native individuals, has made legal financial obligations their main focus (Harris 2016; Friedman and Patillo 2019; Schenwar and Law 2020; Henricks and Ortiz 2022; O’Neill et al. 2022; Stewart et al. 2022). The carceral capitalist literature has explained how, in municipalities such as Ferguson, Missouri, which are predominantly made up of citizens of color (mainly Black) *and* which experiences high levels of poverty and unemployment, LFOs are utilized as a primary source of municipal funding (Wang 2018; Friedman 2021; Friedman et al. 2022). Much if not most of this municipal funding from fines and fees pays to perpetuate the carceral system (Wang 2018; Story 2019; Schenwar and Law 2020; Friedman 2021). It is in these cases that we see the most

direct connection between economic marginalization, “looting” of residents, and carceral system involvement.

The literature examining disparities in legal financial obligation experienced by Native individuals has not been extended to draw the same theoretical connections to capitalism as the literature focused on disparities experienced by other people of color. However, the literature on Native experiences has nonetheless found evidence of similar racialized (and economic marginalization-related) disparities (Ross 1998; Munoz and McMorris 2002; Perry 2006; Perry 2009; Franklin 2011; Janisch 2014; Tighe 2014; Bracey 2016; Ross and Gould 2016; Wang 2021; Pro et al. 2022; Stewart et al. 2022; Lamphere and Hassett 2023; Lantz and Ward 2023; Prison Policy Initiative 2023). Though previous research has not tried to demonstrate this capitalism link (taken for granted in my research) but it has shown evidence that greater Native racialized group visibility translates to greater susceptibility to legal financial obligations. Specifically showing that greater proximity to Indian Country (Native Nations or reservations) is associated with more and higher fines and fees for Native residents compared to white residents (Munoz and McMorris 2002; Stewart et al. 2022). Further, the link to economic marginalization goes hand-in-hand, since – as is the case in many predominately Black and brown urban areas – most of Indian Country (large proportion Native rural areas) faces severe economic deprivation (Around Him and Gordon 2022).

Analyzing the Relationship between LFOs and Economic Precarity

This portion of my research is focused on the relationship between economic marginalization, racialized group visibility, and racialized disparities in “fines and fees”

(legal financial obligations) in *addition* to incarceration, after accounting for the influence of criminal history, current charges, and demographic controls. The outcome of interest here is not the impact of economic precarity and Native racialized group visibility on LFOs among Native incarcerated people per se, but rather their impact on racialized differences between Native incarcerated people as compared to white incarcerated people. In order to answer this question, since the outcome of interest is binary (did or did not receive LFOs), I conducted separate binary logistic regressions for the subsample of Native incarcerated people and the subsample of non-Hispanic white incarcerated people. Due to state-level differences in population demographics and laws, policing, and sentencing policies, the influences of variables were expected to cluster at the state-level. Robust standard errors were used to control for clustering of influences within states. The results discussed below thus focus on the comparisons made between the outcomes for each of these models in terms of economic precarity, Native visibility, criminal history, current charges, and demographic controls in order to determine the existence and understand the nature of any racialized disparities in the assessment of fines and fees in addition to incarceration.

RESULTS

Primary Independent Variables

Economic deprivation

I present the results of my logistic regressions for the models capturing the relationship between economic marginalization and Native racialized group visibility on the likelihood of having incurred legal financial obligations (fees and fines) in addition to

incarceration in Table 4a. (Table 4b presents a simplified results table showing only the statistically significant results.) Having experienced being unsheltered (“homeless”) in the year before arrest was associated with a moderate (20.8%) decrease in the likelihood of having incurred fines or fees in addition to incarceration for the Native subsample of incarcerated people. However, for the white subsample, having been unsheltered was associated with a small (3.6%) increase in the likelihood of having incurred fines or fees. Having been unsheltered did not have a statistically significant influence on the likelihood of fines or fees for either subsample. Having received welfare assistance (public assistance) in the month before arrest was associated with a moderate increase in the likelihood of having incurred monetary penalties for both Native and white incarcerated people, with similar magnitudes of influence (32.4% and 33.8% increases, respectively). However, this result was only statistically significant for Native incarcerated people and was only marginally statistically significant for the subsample of white incarcerated people (p-value less than or equal to 0.05). Having been unemployed in the month before arrest was associated with a very small decrease in the likelihood of incurring fines or fees for both the Native (1.5% decrease) and white (2.4% decrease) subsamples. However, this result was not statistically significant for either group.

A 1% increase in the state-level white poverty percent was associated with a moderate (28.4%) increase in the likelihood the subsample of Native incarcerated people having incurred monetary penalties in addition to incarceration but a very small (2.2%) decrease in likelihood for the white subsample. However, this result was only statistically significant for the Native subsample (p-value less than or equal to 0.05). A

1% increase in state-level Native poverty percent was associated with a small decrease in the likelihood of having incurred fines and fees in addition to incarceration for both the Native and white subsamples, with a magnitude of effect almost three times larger for the Native subsample (5.7% decrease versus 2.0% decrease). The influence of Native poverty percent was also far more strongly statistically significant (p-value less than or equal to 0.0001 versus 0.10). A 1% increase in the state-level white unemployment percent was associated with a large (71.3%) decrease in the likelihood of receiving fines or fees for the Native subsample but a moderate, nearly half as large (32.6%) decrease for the white subsample. However, the influence of white unemployment percent on likelihood of fines or fees was only statistically significant for the Native subsample (p-value equal to or less than 0.0001).

Native visibility: Land, population, and perceived racialized identity

A 10% increase in the percent of land held by or for Native Nations, for example from 1% to 1.1%, was associated with a near-zero increase (0.1%) in the likelihood of incurring monetary penalties for the Native subsample and a near-zero (0.2%) decrease in likelihood for the white subsample. However, Native land did not have a statistically significant influence for either subsample. A 10% increase in the state-level Native population proportion was associated with a very large (216.2%) increase in the likelihood of having incurred fines or fees for the Native subsample and an increase nearly 150% larger (341.1%) for the white subsample. Native population proportion was statistically significant for the Native subsample (at the 0.05 level) and marginally statistically significant for the white subsample (at the 0.10 level).

Reporting that others perceived them as white was associated with a moderate decrease in the likelihood of having incurred monetary penalties in addition to incarceration, and the lowest likelihood for any perceived racialized identity, for both the Native and white subsample, with a slightly larger magnitude of influence for the white subsample (39.2% decrease versus 54.7% decrease). Reporting being perceived by others as white had a statistically significant influence (at the 0.05 level) for both subsamples. Reporting that others perceived them as Native was associated with a moderate (30.5%) decrease in the likelihood of having incurred monetary penalties for the Native subsample and a small (8.9%) increase in the likelihood for the white subsample. Reporting being perceived by others as Native was associated with the lowest highest likelihood of having incurred fines or fees for the white subsample. Though the influence of being perceived as Native was only statistically significant (at the 0.0001 level) for the Native subsample. Reporting that others perceived them as Black was associated with a moderate decrease in the likelihood of having incurred monetary penalties in addition to incarceration for both the Native (27.9% decrease) and white (49.5% decrease) subsamples.

Secondary Independent Variables

Prior record

Having previously been incarcerated in prison was associated with a very small (5.6%) decrease in the likelihood of having incurred fines or fees for the Native subsample but a small (4.0%) increase in the likelihood for the white subsample. However, having previously served a sentence in prison was not statistically significant

for either subsample. Having ever been detained in a juvenile facility was associated with a near-zero (1.7%) increase in the likelihood of having incurred fines or fees for the subsample of Native incarcerated people and a small, but more than three times larger (5.5%) decrease for the white subsample. Though again, this effect was not statistically significant for either group.

Controlling offense type

The controlling offense type of violent offense served as the reference category for the controlling offense type variable. Therefore, the influence of all non-violent controlling offenses are compared to the likelihood of having incurred fines and fees with a violent controlling offense. For the Native subsample, the greatest likelihood of having incurred fines or fees, compared to the likelihood with having a violent controlling offense, was associated with having a public order controlling offense (179.8% increase in likelihood). The influence of public order controlling offense on fines and fees was statistically significant for the Native subsample (at the 0.01 level). For the white subsample, the greatest likelihood of having incurred fines or fees, compared to the likelihood with having a violent controlling offense, was associated with a controlling offense categorized as “other” (302.6% increase in likelihood). The influence of a controlling offense categorized as “other” on fines and fees was statistically significant for the white subsample (at the 0.05 level). For the Native subsample, the lowest likelihood of having incurred fines or fees, compared to the likelihood with having a violent controlling offense, was associated with having a controlling offense categorized as “other” (51.2% decrease in likelihood). Though the influence of a controlling offense

categorized as “other” on fines and fees was not statistically significant for the Native subsample. For the white subsample, the lowest likelihood of having incurred fines or fees, compared to the likelihood with having a violent controlling offense, was associated with having a property controlling offense (42.6% decrease in likelihood). The influence of a property controlling offense on fines and fees was statistically significant for the white subsample (at the 0.05 level).

For the Native subsample, the second greatest likelihood of having incurred fines or fees, compared to that for a violent controlling offense, was associated with having a drug controlling offense (51.2% increase in likelihood). The influence of having a drug controlling offense was marginally statistically significant for the Native subsample (at the 0.10 level). For the white subsample, the second greatest likelihood of having incurred fines or fees was associated with having a public order controlling offense (142.5% increase in likelihood). The influence of having a public order controlling offense marginally statistically significant for the white subsample (at the 0.0001 level). For the Native subsample, the second lowest likelihood of having incurred fines or fees, compared to that for a violent controlling offense, was associated with having a property controlling offense (39.2% increase in likelihood). The influence of having a property controlling offense was not statistically significant for the Native subsample. For the white subsample, the second greatest likelihood of having incurred fines or fees was associated with having a drug controlling offense (121.2% increase in likelihood). The influence of having a public order controlling offense marginally statistically significant for the white subsample (at the 0.0001 level).

Other factors related to current charges

Having already been serving out a sentence under supervision on probation or parole at the time of arrest was associated with a small (11.2%) increase in the likelihood of having incurred fines or fees for the subsample of Native incarcerated people. The influence of being on supervision at arrest was statistically significant for the Native subsample (at the 0.05 level). However, being on supervision at the time of arrest was associated with a small (6.3%) decrease in the likelihood of having incurred fines or fees for the subsample of white incarcerated people. Though the influence of being on supervision at arrest was not statistically significant for the white subsample. For the Native subsample, the years of entry ran from 1972 to 2016. For the white subsample, the years of entry ran from 1982 to 2016. A one-year increase in year of incarceration (e.g., 1973 versus 1972) was associated with a small (2.7%) increase in the likelihood of having incurred fines or fees for the subsample of Native incarcerated people. Though the influence of year of incarceration was not statistically significant for the Native subsample. A one-year increase in year of incarceration was also associated with a small, about half as large as that for the Native subsample (1.2%), increase in the likelihood of having incurred fines or fees for the subsample of white incarcerated people. Though the influence of year of incarceration was also not statistically significant for the white subsample. A one-year increase in sentence length was associated with a near-zero decrease in the likelihood of having incurred legal financial obligations in addition to incarceration for both the Native subsample (0.01% decrease) and the white subsample (0.08% decrease). Though the influence of sentence length was only statistically significant for the white subsample, and only marginally so (at the

0.10 level). Expecting post-release supervision was associated with a moderate (23.8%) increase in the likelihood of having incurred monetary penalties for the Native subsample and a large (66.3%) increase for the white subsamples of incarcerated people. However, the influence of expecting post-release supervision was only statistically significant for the white subsample (p-value equal to or less than 0.01).

Being in possession of a weapon at the time of the offense was associated with a small increase in the likelihood of having incurred fines or fees for both the subsamples of Native and white incarcerated people (9.9% and 13.7% increase, respectively). Though this effect was not statistically significant for either subsample. Having been under the influence of alcohol at the time of offense was associated with a moderate (20.7%) increase in the likelihood of having incurred monetary penalties for the subsample of Native incarcerated people but a small (3.2%) decrease in the likelihood for the subsample of white incarcerated people. However, being under the influence of alcohol during the offense was not statistically significant for either subsample. Being under the influence of illegal drugs at the time of the offense was associated with a small (5.0%) decrease in the likelihood of having incurred legal financial obligations for the Native subsample, but a small (11.5%) increase in the likelihood for the subsample of white incarcerated people. However, the influence of being under the influence of illegal drugs during the offense was not statistically significant for either subsample.

Demographic controls: Region

For the categorical variable capturing region of residence at time of arrest, the influence of living in the regions discussed on sentence length will be in comparison to

those living in the West South Central region. (See Table 1 below, also found on page 77 in Chapter 3, for the list of states represented in each region.) Living in the Mid-Atlantic region was associated with the greatest increase in likelihood of having incurred legal financial obligation in addition to incarceration for both subsamples, being associated with a very large increase in likelihood for both subsamples, but having a magnitude of influence more than three times larger for the Native subsample (1922.9% increase versus 593.8% increase). The influence of living in the Mid-Atlantic region on the likelihood of having incurred fines or fees was statistically significant (at the 0.0001 level) for both subsamples. Living in the New England region was associated with the lowest likelihood of having incurred fines or fees for both the Native and white subsamples, being associated with a moderate decrease in likelihood for both subsamples, with a slightly larger magnitude of influence for the Native subsample (71.3% decrease versus 55.6% decrease). The influence of living in the New England region was statistically significant for the Native subsample (at the 0.01 level) and marginally statistically significant for the white subsample (at the 0.10 level).

Compared to living in the West South Central region, living in the East South Central region was associated with a very large increase in the likelihood of incurring monetary penalties in addition to incarceration, at similar magnitudes, for both the subsamples of Native and white incarcerated people (432.2% increase and 422.8% increase, respectively). Living in the East South Central region had a statistically significant influence for both the Native and white subsamples (at the 0.01 and 0.0001 level, respectively). Living in the South Atlantic region was also associated with a very large increase in the likelihood of incurring monetary penalties in addition to

incarceration, at similar magnitudes, though smaller than the East South Central region, for both the Native and white subsamples (227.4% increase and 221.0% increase, respectively). Living in the South Atlantic region had a statistically significant influence for both the Native and white subsamples (at the 0.05 and 0.01 level, respectively).

Living in the Pacific region was associated with a very large (568.2%) increase in the likelihood of incurring monetary penalties in addition to incarceration for the Native subsample and a much smaller, but still of large magnitude (166.2%) increase for the white subsample. Living in the Pacific region had a statistically significant influence for both the Native and white subsamples (at the 0.05 and 0.01 level, respectively). Living in the Mountain region was associated with a moderate (35.3%) increase in the likelihood of incurring monetary penalties in addition to incarceration for the Native subsample and more than twice as large (84.4%) increase for the white subsample. Living in the Mountain region was only statistically significant, and only marginally so, for the white subsample (at the 0.10 level). Living in the West North Central region was associated with a moderate (30.6%) increase in the likelihood of incurring monetary penalties in addition to incarceration for the Native subsample and almost twice as large (57.0%) increase for the white subsample. Living in the West North Central region was only statistically significant, and only marginally so, for the white subsample (at the 0.10 level). Living in the East North Central region was associated with a large increase in the likelihood of incurring monetary penalties in addition to incarceration, at similar magnitudes, for both the subsamples of Native and white incarcerated people (108.4%% increase and 108.3% increase, respectively). Living in the East North Central

region had a statistically significant influence for both the Native and white subsamples (at the 0.05 and 0.0001 level, respectively).

Demographic controls: education, age, and sex assigned at birth

For the categorical variable capturing the influence of level of educational attainment, not completing high school was the reference category, to which the influence of all other categories is compared. For both the Native and white subsamples of incarcerated people, each increase in educational attainment was associated with an increase in the likelihood of having incurred fines or fees from the last level of attainment. Excepting the case of having a high school diploma for the Native subsample which was associated with a slightly smaller likelihood compared to not having completed high school. However, only the influence of having completed some college or having a college degree was statistically significant, and only for the subsample of white incarcerated people (at the 0.01 level). Compared to those who did not complete high school, having received a high school diploma was associated with a very small (2.0%) decrease in the likelihood of having incurred monetary penalties for the subsample of Native incarcerated people, but a small increase (19.4%) in the likelihood for the white subsample. Having completed some college (but not having graduated) was associated with a moderate increase in the likelihood of having incurred monetary penalties for both the Native and white subsamples, having a larger magnitude of influence for the white subsample (35.9% increase versus 55.3% increase). Having a college degree was associated with a large increase in the

likelihood of having incurred monetary penalties for both the subsamples of Native (140.4%) and white (86.9%) subsamples.

For the categorical demographic variable capturing age, the 18-24 group served as the reference category, so the influences for all other age group categories are in comparison to those aged 18-24. For the subsample of Native incarcerated people, the first three age group categories saw decreasing likelihoods with each additional level and then a reverse in this pattern for the last two categories, this trend was reversed for the white subsample, who saw an increase in likelihood between the first two age categories and then consistently decreasing likelihoods for the last three age categories. For all age categories the Native subsample saw much larger likelihoods of having incurred legal financial obligations. For the Native subsample, only the age category of 25-34 was statistically significant (at the 0.05 level). For the white subsample, only the age category of 65 and older was statistically significant, and only marginally so (at the 0.10 level). Being between 25 and 34 years old was associated with a large (81.9%) increase in the likelihood of incurring monetary penalties for the subsample of Native incarcerated people but a very small, near-zero (0.08%) increase in likelihood for the white subsample. Being between 35 and 44 was also associated with a large (55.0%) increase in the likelihood of incurring monetary penalties for the subsample of Native incarcerated people but, again, a very small (4.4%) increase in likelihood for the white subsample. Similarly, being between 45 and 54 was associated with a moderate (46.8%) increase in the likelihood of incurring monetary penalties for the subsample of Native incarcerated people but, a very small, near-zero (0.3%) increase in likelihood for the white subsample. Being between 55 and 64 was also

associated with a moderate (24.6%) increase in the likelihood of incurring monetary penalties for the subsample of Native incarcerated people but a small (13.7%) decrease in likelihood for the white subsample. Being 65 and older was associated with a moderate (26.6%) increase in the likelihood of incurring monetary penalties for the subsample of Native incarcerated people but, a moderate (45.4%) decrease in likelihood for the white subsample.

Being assigned female at birth (being categorized as a woman for correctional placement purposes) was associated with a small (7.5%) increase in the likelihood of having incurred legal financial obligations for the Native subsample but a moderate (25.6%) decrease in the likelihood for the white subsample. However, the influence of being assigned female at birth was only statistically significant for the white subsample (at the 0.05 level).

TABLE 4a. ECONOMIC DEPRIVATION AND NATIVE RACIALIZED GROUP VISIBILITY ON MONETARY PENALTIES						
	NATIVE SUBSAMPLE			WHITE SUBSAMPLE		
	OR	likelihood	z	OR	likelihood	z
Economic Deprivation						
Homeless year before arrest	0.792	-20.8%	-0.84	1.036	+3.6%	0.18
Public assist. month before arrest	1.324	+32.4%	0.89	1.338*	+33.8%	2.14
Didn't work in month before arrest	0.985	-1.5%	-0.07	0.976	-2.4%	-0.19
1% increase White poverty in state	1.284*	+28.4%	2.03	0.978	-2.2%	-0.35
1% increase Native poverty in state	0.943****	-5.7%	-4.11	0.980+	-2.0%	-1.85
1% increase White unemployment in state	0.287****	-71.3%	-3.86	0.674	-32.6%	-1.60
Native Visibility						
10% increase Native land in state of residence	1.001	+0.1%	0.29	0.998	-0.2%	-0.75
10% increase Native population in state	3.162*	+216.2%	1.99	4.411+	341.1%	1.90
Others perceive them as white	0.608*	-39.2%	-2.04	0.453*	-54.7%	-2.39
Others perceive them as Native	0.695****	-30.5%	-2.63	1.089	+8.9%	0.24
Others perceive them as Black	0.721	-27.9%	-1.25	0.505	-49.5%	-1.57
Prior Record						
Previously sentenced to prison	0.944	-5.6%	-0.33	1.040	+4.0%	0.37
Ever detained in juvenile facility	0.983	-1.7%	-0.07	0.945	-5.5%	-0.41
Factors of Current Offense						
Violent controlling offense (ref.)						
Drug controlling offense v. violent	1.512+	+51.2%	1.90	2.212****	+121.2%	6.42
Property controlling offense v. violent	1.392	+39.2%	1.45	1.426*	+42.6%	2.51
Public order controlling offense v. violent	2.798***	+179.8%	3.39	2.425*****	+142.5%	6.42
Other type of controlling offense v. violent	0.488	-51.2%	-0.89	4.026*	+302.6%	2.06
Already serving sentence at arrest	1.112*	+11.2%	2.49	0.937	-6.3%	-0.53
Year of incarceration	1.027	+2.7%	1.18	1.012	+1.2%	0.62
Sentence length	0.999	-0.01%	-0.13	0.992+	-0.8%	-1.80
Expect post-release supervision	1.238	+23.8%	1.04	1.663**	+66.3%	3.11
Weapon present at time of offense	1.099	+9.9%	0.42	1.137	+13.7%	0.81
Under the influence of alcohol	1.207	+20.7%	0.98	0.968	-3.2%	-0.25
Under the influence of drugs	0.950	-5.0%	-0.22	1.115	+11.5%	1.03

TABLE 4a. ECONOMIC DEPRIVATION AND NATIVE RACIALIZED GROUP VISIBILITY ON MONETARY PENALTIES cont'd						
	NATIVE SUBSAMPLE			WHITE SUBSAMPLE		
	OR	likelihood	z	OR	likelihood	z
Demographic Factors						
Region						
West South Central (TX, OK, AR, LA, ref.)						
East South Central (KY, TN, MS, AL)	5.322**	+432.2%	3.14	5.228****	+422.8%	5.79
South Atlantic (FL, GA, NC, SC, MD, DE, WV, VA)	3.274*	+227.4%	2.24	3.210**	+221.0%	2.86
Pacific (CA, OR, WA, HI, AK)	6.682*	+568.2%	2.35	2.662**	+166.2%	2.85
Mountain (MT, ID, WY, NV, UT, CO, AR, NM)	1.353	+35.3%	0.43	1.844+	+84.4%	1.81
West North Central (ND, SD, NE, KS, MN, IA, MO)	1.306	+30.6%	0.69	1.570+	+57.0%	1.68
East North Central (WI, MI, IL, IN, OH)	2.084*	+108.4%	2.08	2.083****	+108.3%	4.13
Mid-Atlantic (NY, NJ, PA)	19.229****	+1822.9%	6.27	6.938****	+593.8%	4.28
New England (ME, VT, NH, MA, CT, RI)	0.287**	-71.3%	-2.95	0.440+	-55.6%	-1.73
Some college v. no HS diploma	1.351	+35.9%	1.11	1.553**	+55.3%	2.90
College degree v. no HS diploma	2.404	+140.4%	1.49	1.869**	+86.9%	3.04
Education						
Didn't complete high school (ref.)						
High school degree v. no HS diploma	0.980	-2.0%	-0.11	1.194	+19.4%	1.13
Some college v. no HS diploma	1.351	+35.9%	1.11	1.553**	+55.3%	2.90
College degree v. no HS diploma	2.404	+140.4%	1.49	1.869**	+86.9%	3.04
Age						
18-24 years old (ref.)						
25-34 years old v. 18-24	1.819*	+81.9%	2.38	1.008	+0.8%	0.03
35-44 years old v. 18-24	1.550	+55.0%	1.46	1.044	+4.4%	0.19
45-54 years old v. 18-24	1.468	+46.8%	1.37	1.003	+0.3%	0.01
55-64 years old v. 18-24	1.246	+24.6%	0.56	0.863	-13.7%	-0.52
65 years or older v. 18-24	1.266	+26.6%	0.30	0.546+	-45.4%	-1.67
Sex assigned at birth						
Female	1.075	+7.5%	0.658	0.744*	-25.6%	-2.01
Observations	706			2219		
+ p</=0.10, * p</=0.05, ** p</=0.01, *** p</=0.001, **** p</=0.0001						
Sources: Bureau of Justice Statistics; Bureau of Indian Affairs; Census Bureau; Kaiser Family Foundation						

TABLE 4b. SIMPLIFIED RESULTS TABLE: ECONOMIC DEPRIVATION AND NATIVE VISIBILITY ON LIKELIHOOD OF FEES/FINES – STATISTICALLY SIGNIFICANT RESULTS ONLY		
	NATIVE SAMPLE	WHITE SAMPLE
<i>Economic Deprivation</i>		
Homeless in year before arrest	NS	(+)+
Public assist. month before arrest	NS	(+)*
1% increase white poverty in state	(+)*	NS
1% increase Native poverty in state	(-)*	NS
1% increase white unemployment % in state	(-)*	NS
<i>Native Racialized Group Visibility</i>		
10% increase in Native population % in state	(+)*	(+)+
<i>Current Offense Factors</i>		
Drug controlling offense v. violent	(+)+	(+)*
Property controlling offense v. violent	NS	(+)*
Public order controlling offense v. violent	(+)*	(+)*
Other controlling offense v. violent	NS	(-)*
Already serving sentence at time of arrest	(+)*	NS
1 year increase in sentence length	NS	(-)+
Expect post-release supervision	NS	(+)*
<i>Perceived Racialized Identity</i>		
Others perceive as white	(-)*	(-)*
Others perceive as Native	(-)*	NS
<i>Sex Assigned at Birth</i>		
Female	NS	(-)*
<i>Region</i>		
East South Central v. West South Central	(+)*	(+)*
South Atlantic v. West South Central	(+)*	(+)*
Pacific v. West South Central	(+)*	(+)*
Mountain v. West South Central	NS	(+)+
West North Central v. West South Central	NS	(+)+
East North Central v. West South Central	(+)*	(+)*
Mid-Atlantic v. West South Central	(+)*	(+)*
New England v. West South Central	(-)*	(-)+
<i>Education</i>		
Some college v. no high school degree	NS	(+)*
College degree v. no high school degree	NS	(+)*
<i>Age</i>		
25-34 v. 18-24	(+)*	NS
65 and older	NS	(-)+
+ $p \leq 0.10$, * $p \leq 0.05$, ** $p \leq 0.01$, *** $p \leq 0.001$, **** $p \leq 0.0001$ NS : variable not statistically significant for white subsample (+) : direction of influence is positive (-) : direction of influence is negative = : magnitudes of influence are effectively equal between subgroups (<5% difference)		

CONCLUSION

As with my research the factors influencing sentence length, my research on the influence of economic precarity and Native racialized group visibility on the likelihood of having incurred fines and/or fees in addition to incarceration accounted for the influences of prior record, current charges, and common demographic factors as well as clustering at the state level. As with the research on sentence length, clustering at the state-level is expected as each state, and often sets of adjacent states, has particularities within their legal codes, sentencing policies, and law enforcement and judicial practices, as well as sometimes large variations in what fees are assessed for and when and for how much (e.g., citations, court fees, or pay-to-stay incarceration fees). Further, as with the variations in incarceration rates and average sentence lengths across states, there is also a great deal of variation in the assessment of fines and concerning when they are assessed and for what amount. As well as variations in the rates of racial disproportionality related to the assessment of legal financial obligations. The following discussion will focus on those variables that were statistically significant for the subsample of Native incarcerated people represented in my analysis and any notable differences observed between the influences of these variables between the subsamples of Native and white incarcerated people.

Discussion

Economic precarity: Individual-level doesn't matter, group-level does

Research and theories on the relationship between racialized mass incarceration and economic precarity explain the former as both preying upon and exacerbating the

latter. In the case of legal financial obligations, or “fines and fees,” this translates to the communities facing the greatest levels of economic precarity also being those experiencing the highest rates of incurring legal financial obligations. Further, carceral capitalist and necrocapitalist literature has examined and explained how carceral system mechanisms like fines and fees are disproportionately levied against people of color (who face disproportionate rates of poverty) and the function of these mechanisms in maintaining structural racialized inequalities. Thus, at first thought we might expect that individuals, particularly people of color, who are economically marginalized would have a greater likelihood of harsher carceral outcomes. However, this expectation did not bear out in my research.

Overall, my research indicated that among Native and white incarcerated people no individual-level indicator of economic precarity (having been unsheltered, having received public assistance, and/or having experienced unemployment prior to arrest) had any statistically significant effect for the subsample of Native incarcerated people. Though being unsheltered and having received welfare were statistically significant for the white subsample. On the other hand, all racialized group-level measures of economic precarity (percent white and Native in poverty and percent unemployment) did have an impact. However, the direction of effect for these variables was counterintuitive. More specifically, my research findings show higher white poverty rates being associated with increased likelihood of Native incarcerated people being assessed legal financial obligations in addition to incarceration. But higher Native poverty rates were associated with a decreased likelihood. Higher white unemployment rates were also associated with decreased likelihood of having incurred fines or fees for the Native

subsample. Further, none in the set of racialized group economic precarity measures were statistically significant for the subsample of white incarcerated people.

As stated, considering the carceral capitalist and necrocapitalist literature and other research on the relationship between economic marginalization and carceral system involvement, the aforementioned findings that individual economic precarity did not matter were, upon first glance, surprising. However, this surprise may be the product of an ecological fallacy. Upon further consideration of carceral capitalist and necrocapitalist theory, it is not in fact the individual-level experiences of economic precarity, but rather economic precarity at the racialized group-level, that connect economic marginality, carceral system involvement, and structural racialized inequality. Where certain groups experience higher levels of poverty, then of course disproportionate numbers of individual members within those groups also experience poverty. However, the carceral system mechanisms that function to create and maintain racialized group lumpenization, function at the *group*-level. For example, according to research and theorizing, while individuals experiencing poverty are more likely to struggle with LFOs, the distribution of LFOs are also concentrated among those *communities* that experience disparate poverty levels, specifically communities of color.

Further, along the same line of interpretation, the fact that Native (and white) poverty percent decreased the likelihood of Native incarcerated people being assessed LFOs in addition to incarceration is perhaps not as puzzling as it appears. It is not necessarily an indication that higher concentrations of poverty among Native communities (e.g., reservations, neighborhoods) are not associated with greater

likelihood of LFOs (the expected outcome). This is because the state-level poverty percentage does not indicate if there are particular locations within the state (for example, on or near reservations) where this poverty is concentrated. Further, white poverty rates tend to be the lowest among racialized groups and thus can serve as a conservative proxy for poverty rates among Native, Black, and Latine communities.

However, this result is still puzzling in the sense that, following from the literature, it would be expected that Native people, and people of color in general, would become the targets of revenue via LFOs in areas (such as states) that were experiencing greater overall poverty. However, as previously mentioned, those communities hardest hit with carceral system targeting and legal financial obligations tend to be not simply those facing greater economic precarity, but, and more to the point, those that are disproportionately made up of residents of color *and* who experience disproportionate economic precarity. Thus, it is possible that many communities with high white poverty rates, such as rural areas, are also those areas that are disproportionately made up of white residents. Thus, perhaps these communities experience a type of white privilege at the community-level.

Native visibility: Native population and perceived race matter, Native land doesn't

As explained in the previous chapter, following from theories of the structure of settler colonialism, as well as racial threat theory, and the tendency of carceral system involvement to be concentrated among communities of color, higher proportions of Native population were expected to correlate to higher levels of carceral system involvement for Native people, here namely great frequency of assessing fines and/or

fees – and a higher racialized disparity in this involvement. This understanding can be extended to include the expectation that higher proportions of Native people would translate to a higher likelihood of Native incarcerated people experiencing fines and fees in addition to incarceration relative to white incarcerated people. In one way, this was in fact the case per the findings of my research: higher state-level Native population proportions were correlated with a slightly higher likelihood of Native incarcerated people having incurred fines or fees.

While higher Native population proportions was correlated with an increased likelihood of having incurred fines and fees, it is confounding that this was true among both the subsample of Native and white incarcerated people and with a notably lower likelihood among the Native subsample (216.2% greater likelihood compared to 341.1% likelihood). These results may reflect an overall level of increased punitiveness in rural areas. As mentioned, Native land is a symbolic and real representation of Native sovereignty and thus a threat to settler colonial state power. As such, it was expected that higher proportions of Native land would be statistically significant and would be associated with higher likelihood of Native people being carceral system involved, including increased likelihood of having incurred fines and fees. Perhaps this “rural effect,” if that is what is indicated here, is an indication of the greater reliance on fines and fees among the local governments of, often impoverished, rural areas – and perhaps Native Nations as well. More research is needed to examine the frequency of assessing fines and fees and the level of racialized disproportionality in this assessment among rural communities in the US and Native Nations (reservations). The proportion of state land held by or for Native communities, however, had no statistically significant

effect on the likelihood of incurring fines or fees for the subsample of Native incarcerated people. As previously stated in the discussion of the results related to sentence length, this may indicate that Native land either does not hold the same symbolic significance in the modern era or that federal powers over Native land (and the power to abrogate treaties) may diminish or nullify that symbolic power.

As previously discussed in the US whiteness holds the position of racial dominance and white racialized identity is dependent on hyperdescent and hegemonic white phenotype is deemed the “norm” against which all else is “other.” Further, racialization and racism is tied to phenotype. As such, it stand to reason that individuals identified as white only (not in combination with any other racialized identity) are unlikely to perceive themselves or be perceived as a racialized identity other than white. This follows with the fact that only a very small proportions of the white subsample said they were perceived as a race other than white (about 3% perceived as Native and about 1.4% perceived as Black). Native people on the other hand, while also experiencing racialization based on hyperdescent, have higher rates of racial exogamy compared to other racialized groups. This is evidenced by the low proportion of individuals within the subsample who identified as Native alone (not in combination with another racialized identity) and is further shown in the fact that the proportion of Native people in the US doubles when it includes those who identify as Native and other racialized identities. As such, particularly given the high rate of dual racialized ancestries/identities among the Native population that perceived racialized identity would be statistically significant for the Native subsample (and not for the white subsample). (The only perceived racialized identity that was statistically significant for the white subsample was being perceived as

white.) That being perceived as white was associated with the lowest likelihood, and being perceived as Native was associated with a comparatively higher likelihood, of having incurred LFOs was expected given the racialized nature of disproportionalities in carceral system involvement and severity of penalties.

Carceral context: Offense type matters, prior record doesn't

It is surprising and perhaps troubling, or perhaps a good sign that prior record shouldn't have an influence on the likelihood of having incurred LFOs. Perhaps troubling in the sense that it might indicate a disregard for recidivism. Though perhaps a good sign possibly indicating working against the compounding effects of carceral system involvement. Common sense and common understanding of the factors that influence judicial decisions lead one to expect that prior record – as illustrating recidivism – should impact the degree of punitiveness one experiences in the carceral system. However, as stated, this was not the case per the findings of my research. However, as would be expected, the current offense type, did have a statistically significant and notably large magnitude of impact on the likelihood of being assessed LFOs in addition to incarceration.

Considering the role that drug illegalization and the “War on Drugs” has played in modern racialized mass incarceration (being its point of origin) (Hinton 2016; Wang 2018; Alexander 2020), it is reasonable to expect that having a drug controlling offense would have a statistically significant and large magnitude of influence on the likelihood of having incurred LFOs in addition to incarceration. This expectation did bear out to a degree in my research. In fact, having a drug controlling offense was associated with a

moderately higher likelihood of having incurred monetary penalties compared to those with violent controlling offenses for both Native and white incarcerated people. Though, counterintuitively, considering the role the War on Drugs has had on racialized disparities in carceral system involvement and sentencing severity (Hinton 2016; Wang 2018; Alexander 2020), and the racially targeted policing of drug use and sales, the magnitude of influence for this variable was actually notably smaller for Native incarcerated people compared to white incarcerated people (51.2% versus 121.2%). This may reflect the fact that more than half of the subsample of Native incarcerated people also identified as white who may not have lived within Native communities whether on a reservation or in rural or urban areas and therefore not experiencing racially targeted policing. It may also reflect a large proportion of the Native subsample living within Native Nations (on reservations – this information was not available in this data set) and being subject to tribal laws, policing, and prosecution, and thus perhaps, again, not being subject to racially targeted policing. More research is needed to examine the differences in drug law enforcement policing on and near reservations, tribal and non-tribal jurisdictions, and differences in the assessment of fines and fees for drug violations within and outside of Native communities.

Similarly, though with a much larger magnitude of influence, public order offenses, compared to violent offenses, were associated with a higher likelihood of LFOs – higher than the likelihood for drug offenses for the Native subsample. However, in this case, the likelihood was somewhat larger for Native incarcerated people compared to white incarcerated people (179.8% versus 142.5%). In general, that public order offenses should be associated with monetary penalties follows logic considering

that the nature of public order offenses are more likely to involve damages that could be addressed primarily if not solely through monetary restitution as they are less likely to be considered threats to public safety. On the other hand, that public order offenses should be associated with fines and fees *in addition to* incarceration is a bit puzzling. As was posited in the discussion of sentence length, it could be hypothesized that perhaps those with fines and fees as part of their sentence have shorter sentences because the punitiveness is split between types of punishment. Under this hypothesis we would expect that the higher likelihood of LFOs for drug and public order offenses would be paired with reduced sentence length for drug and public order offense.

This could be the case for drug offenses, as my research on sentence length did find drug offenses to carry shorter sentences than violent or property crimes for the subsample of Native incarcerated people. However, this hypothesis does not hold for public order offenses which my research shows to be associated with both the longest sentences (after violent crimes) *and* the highest likelihood of having incurred LFOs. Perhaps, as discussed in the previous chapter in relation to sentence length for public order crimes, this is a reflection of Native people being targeted and more harshly punished for public order offenses compared to other types of offenses. Further, since a greater proportion of Native people live in rural areas (both compared to Native people in urban areas and compared to the proportion of the white population in the US that lives in rural areas) geographic factors may have a larger impact on Native (incarcerated) people. Thus, these results, indicating greater punitiveness via higher likelihood of fines and fees may also indicate that carceral system institutions in rural

areas are more poorly funded and depend more upon monetary penalties and service fees to continue operating.

Demographic controls: Region

Following from the same logic that led to the expectation that Native population proportion should matter (and the finding that it does) and given the disproportionate concentration of Native populations in the West, particularly the Central and Southwest regions, it was expected that region should matter. Region of residence at time of arrest did matter, for about half the regions – though not the regions one would expect, that is, not the central and southern western regions. Compared to the reference region (West South Central), all other regions, except New England, were associated with a greater likelihood of having incurred fines and/or fees for both Native and white incarcerated people. For both subsamples living in the New England region was associated with the lowest likelihood of having incurred fines or fees compared to all other regions, including the reference region. As discussed in the previous chapter, lower rates of carceral system involvement and more lenient punishments is expected in the New England region not only because of the predominance of progressive political leanings, but also, given the racially disproportionate nature of incarceration and other punishments, like fines and fees, because of the very high proportion of white individuals within the region.

Residing in the Mid-Atlantic region at the time of arrest was associated with the highest likelihood of LFOs by far for Native and white incarcerated people, though with a considerably higher likelihood for Native incarcerated people (1922.9% higher likelihood versus 593.8% higher likelihood). This was expected given the fact that the Mid-Atlantic

region includes New York which is infamous for its “stop and frisk” proactive policing policies and heavy-handed penalties, including citations, for even minor offense. Living in the East North Central region was the statistically significant category associated with the lowest likelihood of incurring monetary penalties (compared to all other regions except the reference region) and had equal effect sizes for both Native and white incarcerated people (108.4% increase and 108.3% increase in likelihood).

As previously mentioned in this chapter and the last, there are some cases which would seem to validate the hypothesis that assessing monetary penalties is a way to disperse a punishment across different mechanisms. The influence of living in the Mid-Atlantic would seem to fit this hypothesis: it is associated with (drastically) higher likelihood of fines and fees but relatively moderate-low sentence lengths. However, on the other hand is the case of the influence of living in the East North Central region which sees both relatively low likelihoods of fines and fees and lower sentence lengths. Further, the Mid-Atlantic region has a smaller Native population compared to the East North Central region, making these findings further confounding in light of theory. Clearly more research is necessary to unpack where, when, and for who the hypothesis of punishment mechanisms-as-means of diffusion plays out and how this relates to Native population visibility.

Limitations

The Bureau of Justice Statistics data on people incarcerated in state and federal prisons in the US is a unique and valuable data set. However, there are a number of limitations associated with this particular data set, and this type of data in general.

Resultantly, there are also a number of limitations of my research and its findings related to these data limitation. One major limitation of the data set used is that it did not disaggregate fines and fees into particular types of legal financial obligations: restitution to a victim, court fees, fines payable to the state or carceral system, pay-to-stay, and so on. Also, because this data set only captured fines and fees among those who were incarcerated and thus those fines and fees associated with what was their current carceral penalty, this data set missed those instances of fines and fees that occurred without the addition of a carceral sentence. Further, because this data was limited to the time during incarceration, it did not capture those fines and fees – the carceral debts – that followed individuals beyond the prison walls, or fees associated with post-release supervision costs.

Further, the data used for my research only reflected information about where the incarcerated person lived at the time of arrest at the state level. Thus, this data did not – and thus my current research could not – distinguish racialized disparities in sentencing severity between sub-state-level areas like municipalities or counties or other make other differentiations such as urban versus rural areas or reservations and reservation border towns. Thus, this data and research was unable to examine distinctions between the experiences of Native people living in urban areas versus those on reservations or in other rural areas. It also was not able to distinguish between those living in wealthier and more impoverished cities, towns, or counties.

6. ECONOMIC MARGINALIZATION AND RACIALIZED GROUP VISIBILITY ON RACIALIZED DISPARITIES IN LIKELIHOOD OF EXPECTING POST- RELEASE SUPERVISION

Incarceration – and post-release supervision – results in being marked as “criminal,” which magnifies the impacts of the disruption of free labor market access created by incarceration and in turn creates barriers to future employment upon release (Western 2002; Pager 2007; Wang 2018; Schenwar and Law 2020; Garcia and Abukhadra 2021; Friedman 2021). Further, the nature of the common conditions of carceral supervision can create barriers to movement (where one can go and when) and interpersonal associations (who they can be around) as well as obligations (e.g., meetings with parole officers and drug testing appointments) that can act create obstacles to gaining and maintaining employment (Schenwar and Law 2020; Weisburd 2023). Thus, it stands to reason that the longer one is incarcerated the greater the disruption to their lives, and those of their families and communities, and the deeper their carceral system ensnarement, especially in terms of the accrual of unpaid carceral debts, and the harder it is for them to reintegrate upon release.

It is important not to completely dismiss the official purpose of post-release supervision is to facilitate re-entry and reintegration by attempting to prevent recidivism and assist in building stable circumstances, like assisting with housing and job-placement (National Institute of Corrections, 2011; Wodahl and Freng 2017). However, it is equally important to recognize that there are also numerous challenges that come along with and derive from the structure of post-release supervision. Namely, the issue

of carceral system obligations (stipulations) which accompany this post-release service (Wang 2018; Schenwar and Law 2020; Friedman 2021; Weisburd 2023). As such, the precarity of re-entry is made that much more daunting with the addition of supervision (parole and probation) requirements which entail a host of obligations and, more to the point, fees for services (e.g., monthly service fees, drug testing fees) and products (e.g., ankle monitors and breathalyzers) (Wang 2018; Friedman 2021; Friedman et al. 2022). Being under post-release supervision and the “criminal” marking it carries is in itself is a barrier to participation the free labor market. Further, as mentioned, many of the conditions of post-release supervision; where one can live, where one can work, who one can associate with, curfews, driving restrictions, and regular appointments with supervising officers and clinics for drug testing, all create challenges not only to movement (Schenwar and Law 2020; Weisburd 2023) but also to finding – and maintaining – housing and employment. The lack of either of which diminishes the chances of securing the other (Wang 2018; Friedman 2021; Garcia and Abukhadra 2021; Friedman 2022). As with incarceration and carceral indebtedness, the longer one stays under supervision, the longer they remain ensnared in the carceral system, and the more difficult it becomes to recover from the experience of carceral system involvement. Beyond this, violation of the sometimes very onerous restrictions that post-release supervision carries (“technical violations”) bring the risk of revocation of release: that is, reincarceration (National Institute of Corrections 2011).

Being released from prison, particularly in the case of those who have served longer sentences, frequently means (re-)entering already precarious financial circumstances (Wang and Bertram 2022) with a significant gap in non-carceral

employment (the period during incarceration plus high instances of pre-incarceration unemployment), a gap in housing history (Justice Policy Center 2006; Richards et al. 2012) minimal if any funds from prison labor (Turner et al. 2022; Eastern State Penitentiary 2024) (and often minimal if any funds from before incarceration (Wang and Bertram 2022)). All in addition to what could be a large carceral debt load coupled with supervision service fees, and thus the possibility of a high debt to income burden. All of which create barriers to securing and retaining gainful employment and stable housing (Wang 2018; Schenwar and Law 2020; Friedman 2021; Garcia and Abukhadra 2021). This precarity exacerbates and is exacerbated by the burden of high carceral system debt loads and the fact that they must be prioritized, as lack of payment can lead to re-incarceration (Wang 2018; Schenwar and Law 2020). Further, post-release supervision costs continue to add to this overall carceral system debt burden. Thus, post-release supervision simultaneously creates barriers to employment, and thus debt repayment, while increasing the carceral debt burden. In summary, for those who enter prison from financially precarious circumstances (the majority entering prisons (Justice Policy Center 2006; Wang and Bertram 2022)), incarceration and post-release supervision, along with the “criminal” mark they ascribes, (further) diminish socioeconomic status, thus serving as a key mechanism of carceral system induced lumpenization. Further, carceral debt carried into post-release represents the extension of carceral system ensnarement. While indebted to the carceral system individuals are at risk of reincarceration for failure to make required payments on their debts (Wang 2018; Schenwar and Law 2020; Friedman 2021). Also, in many cases, they cannot regain

rights lost with incarceration, such as voting rights, until they have paid their carceral debts in full (Schenwar and Law 2020; Weisburd 2023).

This portion of my research focuses on the relationship between economic marginalization, Native racialized group visibility, and racialized disparities in the expectation of post-release supervision, after accounting for the influence of criminal history, current charges, and demographic controls. As with the previous research questions, the outcome of interest here is not the impact of economic precarity and Native racialized group visibility on the expectation of post-release supervision among Native incarcerated people, but rather the impact of these factors on racialized disparities in the expectation of post-release supervision between Native and white incarcerated people. In order to answer this question, since the outcome of interest is binary (did or did not expect post-release supervision), I conducted separate binary logistic regressions for the subsample of Native incarcerated people and the subsample of non-Hispanic white incarcerated people. State-level differences in laws, policing, and sentencing policies as well as differences in demographic composition, the influences of variables were expected to cluster at the state-level. Robust standard errors were used to control for clustering of influences within states. The results discussed below thus focus on the comparisons made between the outcomes for each of these models in terms of economic precarity, Native visibility, criminal history, current charges, and demographic controls in order to determine the existence and understand the nature of any racialized disparities in the expectation of post-release supervision between Native and white incarcerated people.

RESULTS

Primary Independent Variables

Economic deprivation

I present the results of my logistic regressions for the models capturing the relationship between economic marginalization and Native racialized group visibility on the likelihood of expecting post-release supervision in Table 5a. (Table 5b presents a simplified results table showing only the statistically significant results.) The only variable with any statistically significant influence on the likelihood of expecting post-release supervision was state-level white unemployment percent, and only for the Native subsample, and only marginally so (at the 0.10 level). Having experienced being unsheltered (“homeless”) in the year before arrest was associated with a small (10.8%) increase in the likelihood of expecting post-release supervision for the Native subsample of incarcerated people. However, for the white subsample, having been unsheltered was associated with a small (18.7%) decrease in the likelihood of expecting post-release supervision. Having been unsheltered did not have a statistically significant influence on the likelihood of expecting post-release supervision for either subsample. Having received welfare assistance (public assistance) in the month before arrest was associated with a very small, near-zero (0.08%) decrease in the likelihood of expecting post-release supervision for the Native subsample of incarcerated people but a small (7.8%) increase in the likelihood of expecting post-release supervision for the white subsample. However, having received welfare also did not have a statistically significant influence for either subsample. Having been unemployed in the month before arrest

was associated with a moderate (47.8%) increase in the likelihood of expecting post-release supervision for the Native subsample, but a small (10.8%) decrease for the white subsample. However, the influence of being unemployed was also not statistically significant for either group.

A 1% increase in the state-level white poverty percent was associated with a small (7.3%) increase in the likelihood of the subsample of Native incarcerated people expecting post-release supervision but a small (18.1%) increase in likelihood for the white subsample. However, again, this result was not statistically significant for the either subsample. A 1% increase in state-level Native poverty percent was associated with a small decrease in the likelihood of expecting post-release supervision for both the Native and white subsamples (1.0% decrease and 1.7% decrease, respectively). Yet again, the influence of Native poverty percent was not statistically significant for either subsample. A 1% increase in the state-level white unemployment percent was associated with a large decrease in the likelihood of expecting post-release supervision for both the Native (69.7%) and white (48.0%) subsamples. However, the influence of white unemployment percent on likelihood of expecting post-release supervision was only statistically significant for the Native subsample, and only marginally so (p-value equal to or less than 0.10).

Native visibility

A 10% increase in the percent of land held by or for Native Nations, for example from 1% to 1.1%, was associated with a near-zero increase in the likelihood of expecting post-release supervision for both the Native (0.4%) and white (0.2%)

subsamples. However, Native land did not have a statistically significant influence for either subsample. A 10% increase in the state-level Native population proportion was associated with a large (75.7%) increase in the likelihood of expecting post-release supervision for the Native subsample but only a very small (2.0%) increase in likelihood for the white subsample. Though, Native population proportion was also not statistically significant for either subsample.

Reporting that others perceived them as white was associated with a small (10.4%) increase in the likelihood of expecting post-release supervision for the Native subsample and a moderate (27.3%) increase for the white subsample. However, reporting being perceived by others as white did not have a statistically significant influence for either subsample. Reporting that others perceived them as Native was associated with a large (59.7%) increase in the likelihood of expecting supervision for the Native subsample, but a moderate (30.1%) decrease in the likelihood for the white subsample. Though reporting being perceived by others as Native was only statistically significant (at the 0.05 level) for the Native subsample. Reporting that others perceived them as Black was associated with a small (5.0%) increase in the likelihood of expecting post-release supervision for the subsample of Native incarcerated people but a moderate (23.4%) decrease in likelihood for the white subsample. Though the influence of reporting that others perceived them as Black did not have a statistically significant influence for either subsample.

Secondary Independent Variables

Prior record

Having previously been incarcerated in prison was associated with a moderate (17.8%) increase in the likelihood of expecting post-release supervision for the Native subsample but a moderate (25.3%) decrease in the likelihood for the white subsample. However, having previously served a sentence in prison was only statistically significant for the white subsample (p-value equal to or less than 0.05). Having ever been detained in a juvenile facility was associated with a small (11.2%) decrease in the likelihood of expecting post-release supervision for the subsample of Native incarcerated people but a small (5.9%) increase for the white subsample. Though, this effect was not statistically significant for either group.

Controlling offense type

The controlling offense type of violent offense served as the reference category for the controlling offense type variable. Therefore, the influence of all non-violent controlling offenses are compared to the likelihood of expecting post-release supervision with a violent controlling offense. Among those in the Native subsample, all individuals with a controlling offense categorized as “other” expected post-release supervision (that is, “other” controlling offense predicted success of expecting supervision perfectly), therefore, those cases were omitted from the model and so will not be discussed here. For the white subsample, having a controlling offense categorized as “other,” compared to having a violent controlling offense, was associated with the lowest likelihood of expecting post-release supervision (55.5% decrease in

likelihood). Though “other” controlling offense was not statistically significant for the white subsample.

For the Native subsample, the lowest likelihood of expecting post-release supervision, compared to the likelihood with a violent controlling offense, was seen with property controlling offenses (21.4% decrease in likelihood). Though having a property controlling offense did not have a statistically significant influence for the Native subsample. For the white subsample, having a property controlling offense was associated with the second lowest likelihood of expecting supervision (28.3% decrease in likelihood). The influence of a property controlling offense was marginally statistically significant for the white subsample (at the 0.10 level). For the Native subsample, the second highest likelihood of expecting post-release supervision was associated with having a public order controlling offense (12.7% increase in likelihood). Though the influence of a public order controlling offense was not statistically significant for the Native subsample. For the white subsample, the second highest likelihood of expecting post-release supervision, compared to the likelihood with having a violent controlling offense, was associated with having a drug controlling offense (7.5% increase in likelihood). However, the influence of a drug controlling offense on the expectation of supervision was not statistically significant for the white subsample.

For the Native subsample, the greatest likelihood of expecting post-release supervision, compared to that for a violent controlling offense, was associated with having a drug controlling offense (28.1% increase in likelihood). Though the influence of having a drug controlling offense was not statistically significant for the Native

subsample. For the white subsample, the greatest likelihood of expecting post-release supervision was associated with having a public order controlling offense (34.9% increase in likelihood). Though the influence of having a public order controlling offense was not statistically significant for the white subsample.

Other factors related to current charges

Having already been serving out a sentence under supervision on probation or parole at the time of arrest was associated with a small (6.2%) decrease in the likelihood of expecting post-release supervision for the subsample of Native incarcerated people but a small (13.5%) increase for the white subsample. However, the influence of being on supervision at arrest was not statistically significant for either subsample. For the Native subsample, the years of entry ran from 1972 to 2016. For the white subsample, the years of entry ran from 1982 to 2016. A one-year increase in year of incarceration (e.g., 1973 versus 1972) was associated with a small (3.2%) decrease in the likelihood of expecting supervision for the subsample of Native incarcerated people but a small (5.2%) increase in likelihood for the white subsample. Though the influence of year of incarceration was only statistically significant for the white subsample (p-value equal to or less than 0.05). A one-year increase in sentence length was associated with a small increase in the likelihood of expecting post-release supervision for both the Native subsample (1.9% increase) and the white subsample (2.9% increase). Though the influence of sentence length was only statistically significant for the white subsample, and only marginally so (at the 0.10 level). Having incurred legal financial obligations (fines or fees) in addition to incarceration was

associated with a moderate (20.9%) increase in the likelihood of expecting supervision for the Native subsample and a large (64.8%) increase for the white subsample. However, the influence of expecting post-release supervision was only statistically significant for the white subsample (p-value equal to or less than 0.01).

Being in possession of a weapon at the time of the offense was associated with a large (56.0%) increase in the likelihood of expecting post-release supervision for the Native subsample and a small (16.9%) increase in likelihood for white incarcerated people. Though the influence of being in possession of a weapon at the time of the offense was not statistically significant for either subsample. Similarly, having been under the influence of alcohol at the time of the offense was associated with a large (80.4%) increase in the likelihood of expecting post-release supervision for the subsample of Native incarcerated people but a small (12.2%) increase in the likelihood for the subsample of white incarcerated people. However, being under the influence of alcohol during the offense was only statistically significant for the Native subsample (at the 0.05 level). Being under the influence of illegal drugs at the time of the offense was associated with a very small, near-zero (0.6%) decrease in the likelihood of expecting supervision for the Native subsample and a small (8.9%) increase in the likelihood for the subsample of white incarcerated people. However, the influence of being under the influence of illegal drugs during the offense was not statistically significant for either subsample.

Demographic controls: Region

For the categorical variable capturing region of residence at time of arrest, the influence of living in the regions discussed on sentence length will be in comparison to those living in the West South Central region. (See Table 1 below, also found on page 77 in Chapter 3, for the list of states represented in each region.) Living in the Mid-Atlantic region, compared to living in the West South Central region, was associated with the greatest increase in likelihood of expecting post-release supervision for the subsample of Native incarcerated people (840.5% increase in likelihood). Living in the Mid-Atlantic region had a statistically significant influence on the expectation of post-release supervision for the Native subsample (at the 0.01 level). Living in the Mid-Atlantic region was associated with a very large (520.5%) increase in the likelihood of expecting supervision for the white subsample. The influence of living in the Mid-Atlantic region was also statistically significant for the white subsample (at the 0.05 level). For the white subsample, living in the Pacific region, compared to living in the West South Central region, was associated with the greatest increase in likelihood of expecting post-release supervision (728.3% increase in likelihood). Living in the Pacific region had a statistically significant influence on the expectation of post-release supervision for the white subsample (at the 0.0001 level). For the Native subsample, living in the Pacific region was associated with a very large (278.2%) increase in the likelihood of expecting post-release supervision. However, living in the Pacific region did not have a statistically significant influence on the expectation of post-release supervision for the Native subsample. Living in the New England region was associated with the lowest likelihood of expecting post-release supervision for both the subsamples of Native (70.6%

decrease) and white (33.7% decrease) incarcerated people. However, the influence of living in the New England region was only statistically significant for the Native subsample (at the 0.05 level).

Compared to living in the West South Central region, living in the East South Central region was associated with a very large (177.3%) increase in the likelihood of expecting supervision for the subsample of Native incarcerated people and a moderate (33.3%) increase in likelihood for the white subsample. Though the influence of living in the East South Central region did not have a statistically significant influence for either subsample. Living in the South Atlantic region was also associated with a very large increase in the likelihood of expecting supervision for the Native subsample (178.9%) and a small (7.1%) increase in the likelihood for the white subsample. Though living in the South Atlantic region only had a statistically significant influence for the Native subsample (at the 0.05 level). Living in the Mountain region was associated with a large increase in the likelihood of expecting post-release supervision, at similar magnitudes, for both the subsamples of Native (119.1% increase) and white (113.5% increase) subsamples. However, living in the Mountain region was not statistically significant for either subsample. Living in the West North Central region was associated with a large (99.4%) increase in the likelihood of expecting supervision for the Native subsample and a very large (269.4%) increase for the white subsample. Though living in the West North Central region was only statistically significant for the white subsample (at the 0.01 level). Living in the East North Central region was associated with a very large (519.1%) increase in the likelihood of expecting post-release supervision for the subsample of Native incarcerated people and a large (158.2%) increase for the

subsample of white incarcerated people. Living in the East North Central region had a statistically significant influence for the Native subsample (at the 0.05 level) and a marginally statistically significant influence for the white subsample (at the 0.10 level).

Demographic controls: education, age, and sex at birth

For the categorical variable capturing the influence of level of educational attainment, not completing high school was the reference category, to which the influence of all other categories is compared. The influence of educational attainment on the likelihood of expecting post-release supervision was not statistically significant for either subsample at any level of attainment. Compared to those who did not complete high school, having received a high school diploma was associated with a moderate (31.3%) increase in the likelihood of expecting supervision for the subsample of Native incarcerated people, but a small (16.2%) increase in likelihood for the white subsample. Having completed some college (but not having graduated) was associated with a small increase in the likelihood of expecting supervision for both the subsamples of Native (14.4% increase) and white (18.9% increase) subsamples. Having a college degree was associated with a large (98.9%) increase in the likelihood of expecting supervision for the Native subsample and a moderate (21.0%) increase in likelihood for the white subsample.

For the categorical demographic variable capturing age, the 18-24 group served as the reference category, so the influences for all other age group categories are in comparison to those aged 18-24. For the Native subsample all age categories were associated with a decrease in likelihood of expecting post-release supervision,

excepting the case of those 65 and older, all of whom expected post-release supervision. For the white subsample all age categories were associated with an increase in likelihood. The only statistically significant age category was 35-44, and only for the subsample of Native incarcerated people (at the 0.05 level). Being between 25 and 34 years old, compared to being between 18 and 24, was associated with a large (52.5%) decrease in the likelihood of expecting supervision for the subsample of Native incarcerated people but a small (7.4%) increase in likelihood for the white subsample. Being between 35 and 44 was also associated with a large (57.8%) decrease in the likelihood of expecting post-release supervision for the subsample of Native incarcerated people but a moderate (34.8%) increase in likelihood for the white subsample. Being between 45 and 54 was associated with a moderate (47.8%) decrease in the likelihood of expecting supervision for the subsample of Native incarcerated people but a moderate (24.9%) increase in likelihood for the white subsample. Being between 55 and 64 was associated with a large (57.6%) decrease in the likelihood of expecting supervision for the Native subsample but a moderate (35.2%) increase in likelihood for the white subsample. Finally, as mentioned, for the Native subsample, being 65 and older perfectly predicted expecting supervision, that is all members of this subsample in this age category expected post-release supervision (so it was omitted from the model). For the white subsample, being 65 and older was associated with a moderate (31.5%) increase in the likelihood of expecting post-release supervision. Being assigned female at birth (being categorized as a woman for correctional placement purposes) was associated with a large (74.4%) increase in the likelihood of expecting supervision for the Native subsample and a moderate (21.2%)

increase in likelihood for the white subsample. However, the influence of being assigned female at birth was not statistically significant for either subsample.

TABLE 5a. ECONOMIC DEPRIVATION AND NATIVE RACIALIZED GROUP VISIBILITY ON EXPECTATION OF SUPERVISION						
	NATIVE SUBSAMPLE			WHITE SUBSAMPLE		
	OR	likelihood	z	OR	likelihood	z
Economic Deprivation						
Homeless year before arrest	1.108	+10.8%	0.43	0.813	-18.7%	-1.08
Public assist. month before arrest	0.992	-0.08%	-0.02	1.078	+7.8%	0.41
Didn't work in month before arrest	1.478	+47.8%	1.55	0.892	-10.8%	-0.98
1% increase White poverty in state	1.073	+7.3%	0.45	1.181	+18.1%	1.62
1% increase Native poverty in state	0.990	-1.0%	-0.40	0.983	-1.7%	-1.13
1% increase White unemployment in state	0.303+	-69.7%	-1.79	0.520	-48.0%	-1.28
Native Visibility						
10% increase Native land in state of residence	1.004	+0.4%	1.18	1.002	+0.2%	0.77
10% increase Native population in state	1.757	+75.7%	1.43	1.020	+2.0%	0.04
Others perceive them as white	1.104	+10.4%	0.52	1.273	+27.3%	0.44
Others perceive them as Native	1.597*	+59.7%	2.14	0.699	-30.1%	-0.96
Others perceive them as Black	1.050	+5.0%	0.16	0.766	-23.4%	-0.45
Prior Record						
Previously sentenced to prison	1.178	+17.8%	1.12	0.747*	-25.3%	-2.45
Ever detained in juvenile facility	0.888	-11.2%	-0.54	1.059	+5.9%	0.35
Factors of Current Offense						
Violent controlling offense (ref.)						
Drug controlling offense v. violent	1.281	+28.1%	0.86	1.075	+7.5%	0.39
Property controlling offense v. violent	0.786	-21.4%	-0.74	0.717+	-28.3%	-1.91
Public order controlling offense v. violent	1.127	+12.7%	0.32	1.349	+34.9%	0.94
Other type of controlling offense v. violent	omitted: all cases "yes" on outcome			0.445	-55.5%	-1.09
Already serving sentence at arrest	0.938	-6.2%	-1.21	1.135	+13.5%	0.66
Year of incarceration	0.968	-3.2%	-0.78	1.052*	+5.2%	2.21
Sentence length	1.019	+1.9%	0.75	1.029+	+2.9%	1.83
Expect post-release supervision	1.209	+20.9%	0.94	1.648**	+64.8%	2.98
Weapon present at time of offense	1.560	+56.0%	1.51	1.169	+16.9%	0.65
Under the influence of alcohol	1.804*	+80.4%	2.47	1.122	+12.2%	0.68
Under the influence of drugs	0.994	-0.6%	-0.02	1.089	+8.9%	0.74

TABLE 5a. ECONOMIC DEPRIVATION AND NATIVE RACIALIZED GROUP VISIBILITY ON EXPECTATION OF SUP. (cont'd)						
	NATIVE SUBSAMPLE			WHITE SUBSAMPLE		
	OR	likelihood	z	OR	likelihood	z
Demographic Factors						
Region						
West South Central (TX, OK, AR, LA, ref.)						
East South Central (KY, TN, MS, AL)	2.773	+177.3%	1.47	1.333	+33.3%	0.52
S Atlantic (FL, GA, NC, SC, MD, DE, WV, VA)	2.789*	+178.9%	2.11	1.071	+7.1%	0.15
Pacific (CA, OR, WA, HI, AK)	3.782	+278.2%	1.62	8.283****	+728.3%	3.52
Mountain (MT, ID, WY, NV, UT, CO, AR, NM)	2.191	+119.1%	0.91	2.135	+113.5%	1.00
West North Central (ND, SD, NE, KS, MN, IA, MO)	1.994	+99.4%	1.28	3.694**	+269.4%	2.81
East North Central (WI, MI, IL, IN, OH)	6.191*	+519.1%	2.54	2.582+	+158.2%	1.94
Mid-Atlantic (NY, NJ, PA)	9.405**	+840.5%	2.75	6.205*	+520.5%	2.48
New England (ME, VT, NH, MA, CT, RI)	0.294*	-70.6%	-2.36	0.667	-33.7%	-0.86
Some college v. no HS diploma	2.773	+177.3%	1.47	1.333	+33.3%	0.52
College degree v. no HS diploma	2.789*	+178.9%	2.11	1.071	+7.1%	0.15
Education						
Didn't complete high school (ref.)						
High school degree v. no HS diploma	1.313	+31.3%	1.07	1.162	+16.2%	1.01
Some college v. no HS diploma	1.144	+14.4%	0.39	1.189	+18.9%	1.11
College degree v. no HS diploma	1.989	+98.9%	1.19	1.210	+21.0%	0.86
Age						
18-24 years old (ref.)						
25-34 years old v. 18-24	0.478	-52.2%	-1.39	1.074	+7.4%	0.37
35-44 years old v. 18-24	0.422*	-57.8%	-1.98	1.348	+34.8%	1.42
45-54 years old v. 18-24	0.522	-47.8%	-1.21	1.249	+24.9%	0.93
55-64 years old v. 18-24	0.424	-57.6%	-1.55	1.352	+35.2%	0.89
65 years or older v. 18-24	omitted: all cases “yes” on outcome			1.315	+31.5%	0.58
Sex assigned at birth						
Female	1.744	+74.4%	1.47	1.212	+21.2%	1.26
Observations	706			2219		
+ p</=0.10, * p</=0.05, ** p</=0.01, *** p</=0.001, **** p</=0.0001						
Sources: Bureau of Justice Statistics; Bureau of Indian Affairs; Census Bureau; Kaiser Family Foundation						

TABLE 5b. SIMPLIFIED RESULTS TABLE: ECONOMIC DEPRIVATION AND NATIVE VISIBILITY ON LIKELIHOOD OF EXPECTING POST-RELEASE SUPERVISION – STATISTICALLY SIGNIFICANT RESULTS ONLY		
	NATIVE SAMPLE	WHITE SAMPLE
<i>Economic Deprivation</i>		
1% increase white unemployment % in state	(-)+	NS
<i>Prior Record</i>		
Previously sentenced to prison	NS	(+)*
<i>Current Offense Factors</i>		
Property controlling offense v. violent	NS	(-)+
Year of incarceration	NS	(+)*
Sentence length	NS	(+)+
LFOs in addition to incarceration	NS	(+)**
Under the influence of alcohol	(+)*	NS
<i>Perceived Racialized Identity</i>		
Others perceive as Native	(+)*	NS
<i>Region</i>		
South Atlantic v. West South Central	(+)*	NS
Pacific v. West South Central	NS	(+)**
West North Central v. West South Central	NS	(+)**
East North Central v. West South Central	(+)*	(+)+
Mid-Atlantic v. West South Central	(+)**	(+)*
New England v. West South Central	(-)*	NS
<i>Age</i>		
35-44 v. 18-24	(-)*	NS
+ $p \leq 0.10$, * $p \leq 0.05$, ** $p \leq 0.01$, *** $p \leq 0.001$, **** $p \leq 0.0001$ NS : variable not statistically significant for white subsample (+) : direction of influence is positive (-) : direction of influence is negative = : magnitudes of influence are effectively equal between subgroups (<5% difference)		

CONCLUSION

As with my research on sentence length and fines and fees, my research on the influence of economic precarity and Native racialized group visibility on the likelihood of expecting post-release supervision accounted for the influences of prior record, current charges, and common demographic factors as well as clustering at the state level. Here, as with the other analyses in my research, the influences of variables are expected to cluster at the state level given the state-level particularities in their laws and policing and sentencing policies and trends as well as state-level differences in

demographic composition. As with the previous chapter, the discussion that follows focuses only on those variables that were statistically significant for the subsample of Native incarcerated people represented in my analysis and any notable differences observed between the influences of these variables between the subsamples of Native and white incarcerated people.

Discussion

Individual-level poverty doesn't matter, (some) visibility and white unemployment does

According to critical theories of the carceral system, such as carceral capitalism and necrocapitalism, and prior research on Native carceral inequality, it was expected that Native poverty rates would increase the likelihood and extent of carceral system involvement, as, according to these theories, this economic precarity is core to racialized placement in the lumpen class and thus positioning for superexploitation. This carceral system involvement is not limited to incarceration but also includes LFOs and carceral system supervision (e.g., probation and parole) either in lieu of or in addition to incarceration. The economic exploitation and marginalization that accompanies carceral system involvement includes both direct monetary aspects such as service and technology (e.g., ankle monitor) fees as well as the indirect impacts of supervision on participation in the free labor market that hamper the ability to fully participate.

Within this process, individuals and communities of color are both made susceptible to carceral system involvement because of the economic precarity they face. They are also structurally marginalized via economic marginalization and exploitation, and socially marginalized via marginalization within the free labor market

people, as more often economically marginalized people of color. A pattern which may not hold in the case of Native individuals and communities for any number of reasons.

Perhaps it is a matter of the structure of Native racialized structural inequalities that seek ultimately to make Native people invisible more than hypervisible. Perhaps it is as simple as a matter of rural versus urban settings. Further, it is confounding that the negative influence of white unemployment on the expectation of supervision, the expectation of extended carceral system ensnarement and continuing accrual of legal financial obligation, as well as sentence length and fines and fees, should be stronger (have a greater diminishing influence) for the Native subsample. Clearly more research is needed to understand the relationship between unemployment, specifically white unemployment, and Native carceral system ensnarement, specifically with a focus on rural versus urban differences.

Theories of the structure of settler colonialism, as well as racial threat theory, and the tendency of carceral involvement to be concentrated in economically precarious communities of color, higher proportions of Native population are expected to correlate to higher levels of carceral system involvement for Native people – and a higher racialized disparity in this involvement. Further, settler colonial theoretical explanations would assume the existence of Native lands to be a sign of Native sovereignty (power and presence) and thus a threat to settler colonial power and an impetus for the oppression of Native people through containment and increased punitiveness. In other words, it was expected that larger Native population proportion and Native land base would both be correlated with higher likelihood of carceral system involvement including

incarceration, LFOs, and post-release supervision. Further, given the long history and perpetuation of the representation of Native people as in need of US governmental guardianship. As well as the stereotypes of Native substance abuse proclivity and the fact of often severe poverty and very high unemployment rates in Indian County, it would be expected that Native people would be more often subject to continued carceral system oversight (and ensnarement) via supervision. However, while the individual-level measure of Native visibility: being perceived by others as Native, had a statistically significant and positive influence, neither of the variables capturing the influence of group-level Native visibility (presence) on the likelihood of expecting post-release supervision: Native population proportion and Native land proportion, were shown to have a statistically significant relationship to the expectation of post-release supervision.

Prior record and controlling offense don't matter, only alcohol use at offense matters

Common sense and the popular representation of the factors that influence judicial decisions lead one to expect that prior record – an indication of recidivism – should impact the degree of punitiveness one experiences in the carceral system. Thus, it is expected that having a prior adult or juvenile record, which would indicate recidivism, should be correlated with greater likelihood of both carceral system involvement and harsher carceral system penalties. Beyond prior record the factors of the current offense would impact judicial decisions and carceral system outcomes. It should be expected that more violent or otherwise serious controlling offense type and

the use or even just presence of a weapon during the offense or arrest should intensify the carceral system (judicial) response.

On the other hand, being under the influence of drugs or alcohol could function either to intensify the response (taken as indicating impulsivity or multiple illegal behaviors) or mitigate the response (as an extenuating circumstance). Particularly in the case of post-release supervision, it is expected that more serious crimes or alcohol or drug use should indicate greater need for extended supervision upon release. Either way, it is expected and reasonable that these factors should influence carceral system outcomes. However, this research found that neither prior record, nor controlling offense type, nor the presence of a weapon, nor being under the influence of drugs at the time of offense had a statistically significant relationship to the expectation of post-release supervision. However, and only for the subsample of Native incarcerated people, having been under the influence of alcohol at the time of the offense had a statistically significant and positive influence on the likelihood of expecting post-release supervision.

As mentioned previously in the preceding section and in previous chapters, the stereotype of and inherent proclivity toward alcohol abuse among Native people (and the fact of high rates of substance abuse among Native people) coupled with the positioning of Native people as “wards” of the US government (as “guardian”), was expected to correlate to greater likelihood of carceral system supervision, perpetuated ensnarement and oversight, after release. Further, substance abuse would indicate an individual’s need for rehabilitation services, which could be required as a stipulation of supervision. This is another reason post-release supervision would be expected. Either

way, the expectation of a positive relationship between alcohol abuse and increased likelihood of (expecting) post-release supervision appears to bear out in my research.

Region matters

Following from the expected positive relationship between Native population proportion and severity of punishment (here as post-release supervision), and previous research, it was expected that living in those regions with higher concentrations of Native populations (such as the Southwest) would, for Native people, be associated with greater likelihood of carceral system involvement and more severe and extended involvement. Region of residence at time of arrest did have a statistically significant influence on the likelihood of expecting post-release supervision among the Native subsample, but only for half of the regions, and not for any of the regions one would expect, that is, not for any of the regions with relatively high Native population proportions.

Compared to the reference region, the West South Central region, all other regions that were statistically significant for the Native subsample: the South Atlantic, East North Central, Mid-Atlantic, and New England regions, were associated with large to very large increase in the likelihood of expecting post-release supervision for the subsample of Native incarcerated people. Though only two of these regions: the East North Central and Mid-Atlantic regions, were also statistically significant for the white subsample. For Native and white incarcerated people, the region of residence at time of arrest associated with the highest likelihood of expecting post-release supervision was the Mid-Atlantic region (840.5% greater likelihood for the Native subsample and 520.5%

larger for the white subsample). The influence of living in the Mid-Atlantic (New York, New Jersey, and Pennsylvania) on both the likelihood of fines and/or fees, and the expectation of post-release supervision was positive and by far the largest across regions. Further, in both cases, the magnitude of influence was much larger for the Native subsample (by a factor of 3 for fines or fees and a factor of more than 1.5 for supervision). As previously mentioned, it is hypothesized that New York is largely driving this regional trend, given the state's notoriously aggressive, and racially disproportionate, "stop and frisk" proactive policing and how this translates to aggressive citing (and arresting) for even minor violations. This same trend that is hypothesized to drive the drastically higher likelihoods in fines and fees in general, and specifically among the Native subsample, within the Mid-Atlantic region may also be driving the increased expectation of supervision in that region.

Living in the South Atlantic region at the time of arrest did have a statistically significant influence on the expectation of supervision, and in and of itself a large magnitude of influence (178.9% greater likelihood). However, in comparison to all other regions with positive influences, that of living in the South Atlantic fell in the middle of the range. Living in the East North Central region on the other hand was associated with the second highest likelihood of expecting post-release supervision for the Native subsample, and a likelihood that was more than 200% larger than that for the white subsample (519.1% versus 158.2% greater likelihood). Interestingly, the East North Central region was not statistically significant for sentence length and had an influence on the likelihood of fines and fees that fell in the middle of the range and was equivalent to the influence for the Native subsample. It would appear that the East North Central

region trends heavily toward supervision but not necessarily toward either long sentences or monetary penalties (at least not in addition to incarceration).

As expected, and as follows from the trend across sentencing outcomes examined in my research, the lowest likelihoods of expecting post-release supervision for both the Native and white subsamples was seen among those living in the New England region. As previously discussed in relation to sentence length and fines and fees, the New England region is well-known as a liberal, progressive bastion within the US, and therefore is expected to have lower incarceration rates and less severe punishments relative to other areas, especially the reference region which contains Texas, Oklahoma, and Louisiana who are equally well-known for their very high rates of arrest and (over)incarceration and notably severe punishments. Further, the expectation from the critical and carceral capitalist-necrocapitalist, and settler colonial, literature is that higher proportions of people of color would correlate to heavier policing, higher incarceration, and harsher penalties. This appears to be seen when comparing New England where the white population is heavily overrepresented and the West South Central region which has relatively high population proportions of Black, Native, and Latine residents. There are a couple of clear regional trends, namely within the Mid-Atlantic region. Though there are even more inconsistencies both across the mechanisms of carceral system ensnarement and between regions that should be examined and unpacked in future research.

Limitations

As mentioned in the preceding chapters, the major limitations of this research have both to do with the scope of the research questions and the nature of the data used to answer those questions. The data set used, the *BJS Survey of Prisons in Federal and State Prisons*, while being a unique and valuable data set providing information on incarcerated people – that is, providing a snapshot of circumstances *while* incarcerated – and including a laundry list of unique, interesting, and valuable variables, is limited by nature. This data set cannot provide information on the likelihood or disparities in carceral system involvement or severity of punishments across the general population (as it only surveyed those incarcerated). This data set cannot provide information on the post-release outcomes or circumstances (as it only surveyed individuals while incarcerated).

Following from these limitations, per post-release outcomes, this data can only treat post-release supervision in a theoretical way – the survey captured the *expectation* held by those incarcerated that they would be subject to supervision upon release. Thus, it does not capture the actual post-release supervision decisions. Nor does it capture the reasons why individuals expect post-release supervision or don't or the reasons why post-release supervision decisions are made by judicial or carceral system actors. Further, as it does not follow individuals beyond incarceration or collect post-release data of any kind, this data set does not provide information on the impacts of incarceration or post-release supervision *after release* for either the individual or the communities that they enter or return to upon release. Finally, this research does not

capture the relationship of post-release supervision and sentence length. In other words, it does not answer to what extent post-release supervision, namely parole, serves to decrease time inside by allowing incarcerated people to complete their sentence outside, and what types of racialized disparities exist in that relationship.

7. CONCLUSION AND DISCUSION

My research was an examination of outcomes at one stage in a process, one node in the carceral system web. The process is ensnarement in the carceral capitalist system. The node or stage is incarceration. My research takes as its foundation the work previous work examining the economic impacts, and theorizing about the capitalist dimensions, of carceral system ensnarement. Unfortunately, there are notable limitations to my research, largely derived from the limitations of the data available. Namely, my research can neither directly show the connection between sentencing outcomes (experienced by those incarcerated) and Native people's experiences of post-incarceration lumpenization. Also, it cannot show the relationship between Native overincarceration and the financial mechanisms and processes sustaining municipal economies – and private businesses. Nonetheless, my research is a starting point to expand upon the literature on Native racialized carceral system inequalities and carceral capitalist processes. My research takes as its foundation and starting point the inequalities in carceral system involvement and the relationships between sentence length, fines and fees, and post-release supervision, economic marginalization after release, and economic exploitation, or “lumpenization.”

Incarceration for any period of time, whether in jail or prison carries with it a web of outcomes related to “criminal” marking that create barriers to free labor market participation and challenges of repayment that can, and often do, interact and reinforce each other and carry the impacts of incarceration long into the future (Western 2006; Gilmore 2007; Harris 2016; Wang 2018; Alexander 2020 ; Schenwar and Law 2020;

Friedman 2021; Garcia and Abukhadra 2021; Friedman et al. 2022 The impacts of removal from community, and general society, via incarceration are necessarily more deeply entrenched and magnified the longer one remains incarcerated. This disruption, for the purposes of this research, specifically the disruption of access to the free labor market, creates and exacerbates the economic challenges faced by individuals caught in the carceral system both during and beyond incarceration (Western 2006; Gilmore 2007; Harris 2016; Wang 2018; Alexander 2020 ; Schenwar and Law 2020; Friedman 2021; Garcia and Abukhadra 2021; Friedman et al. 2022).

Beyond this disruption to life, community, family, and removal from society and the free labor market associated with incarceration, general carceral system involvement including and beyond incarceration also often includes the assessment of monetary penalties (Harris 2016; Wang 2018; Alexander 2020; Schenwar and Law 2020; Friedman 2021; Friedman et al. 2022). As well as fees associated with bail, trials, and carceral system supervision (Harris 2016; Wang 2018; Alexander 2020; Schenwar and Law 2020; Friedman 2021; Friedman et al. 2022). As evidenced in this research, fees and fines often accompany incarceration. These legal financial obligations are thus exacerbated by incarceration, during which individuals are removed from the free labor market and what labor they do perform within (prison labor) or outside (work release) the prison walls does little to alleviate this debt (Alexander 2020; Turner et al. 2022; Eastern State Penitentiary 2024). Further, the pre-incarceration economic precarity facing most who are or will be incarcerated (Justice Policy Center 2006) in their life set these individuals up for failure to pay carceral system debts during and beyond incarceration. Thus, legal financial obligations, coupled with incarceration, set

individuals up for lumpenization (or the continuation of hyper-marginalized status) upon release.

Beyond incarceration, carceral supervision can result in marking as “criminal” which magnifies the impacts of the disruption to free labor market access experienced during incarceration. This marking creates barriers to employment upon release (Western 2002; Western 2006; Pager, 2007; Raphael, 2014; Harris 2016; Wang 2018; Schenwar and Law 2020; Friedman 2021; Garcia and Abukhadra 2021; Freidman, et al. 2022; Smith 2022), exacerbating the disruptions or gaps in employment during (and often before) incarceration (Raphael, 2014; Schenwar and Law 2020; Smith 2022). Further, the stipulations, or conditions, of post-release supervision are often stringent restrictions on movement (where one can spend time or live and curfews) and who one can associate with, as well as required appointments such as drug testing, which often pose challenges to many aspects of life including employment (and housing) (Schenwar and Law 2020; Garcia and Abukhadra 2021; Augustine and Kushel 2022; Weisburd 2023). The longer one remains removed from full access to the free labor market and greater society, the harder it is for them to pay off and recover from those debts – if they are ever able to.

TABLE 6. STATISTICALLY SIGNIFICANT RESULTS ACROSS MODELS						
	NATIVE SUBSAMPLE			NH WHITE SUBSAMPLE		
	SENTENCE	FEES/FINES	SUPERVISION	SENTENCE	FEES/FINES	SUPERVISION
<i>Economic Deprivation</i>						
Homeless in year before arrest				(-)+	(+)+	
Welfare month before arrest					(+)*	
Didn't work in month before arrest	(-)+					
white poverty in state		(+)*				
Native poverty in state		(-)*				
white unemployment		(-)*	(-)+			
<i>Racialized Group Visibility</i>						
<i>Native Visibility</i>						
10% increase Native population	(+)**	(+)*		(+)*	(+)+	
<i>Perceived Racialized Identity</i>						
Others perceive them as white	(+)*	(-)*			(-)*	
Others perceive them as Native		(-)*	(+)*			
Others perceive them as Black	(+)+					
<i>Prior Record</i>						
Previously sentenced to prison			(+)*			
<i>Factors of Current Offense</i>						
<i>Controlling Offense Type</i>						
Violent controlling offense (ref.)						
Drug controlling offense	(-)*	(+)+		(-)*	(+)*	
Property controlling offense	(-)*			(-)*	(+)*	(-)+
Public order controlling offense	(-)*	(+)*		(-)*	(+)*	
Other type of controlling offense	(-)+			(-)*	(-)*	
<i>Other Factors Related to Offense</i>						
Already serving sentence	(+)*	(+)*				
Year of incarceration	(-)*			(-)*		(+)*
Sentence length						(+)+
Expect post-release supervision				(+)*	(+)**	
LFOs in addition to incarceration				(-)+		(+)**
Under the influence of alcohol			(+)*	(-)*		

TABLE 6. STATISTICALLY SIGNIFICANT RESULTS ACROSS MODELS cont'd						
	NATIVE SUBSAMPLE			NH WHITE SUBSAMPLE		
	SENTENCE	FEES/FINES	SUPERVISION	SENTENCE	FEES/FINES	SUPERVISION
Demographic Factors						
<i>Region</i>						
West South Central (ref.)						
East South Central		(+)**		(+)*	(+)**	
South Atlantic		(+)*	(+)*		(+)**	
Pacific	(-)+	(+)*			(+)**	(+)**
Mountain				(-)**	(+)+	
West North Central	(-)*			(-)**	(+)+	(+)**
East North Central		(+)*	(+)*		(+)**	(+)+
Mid-Atlantic		(+)**	(+)**		(+)**	(+)*
New England	(-)**	(-)**	(-)*	(-)**	(-)+	
<i>Education</i>						
Didn't complete high school (ref.)						
High school degree				(-)**		
Some college				(-)*	(+)**	
College degree				(-)*	(+)**	
<i>Age</i>						
18-24 years old (ref.)						
25-34 years old		(+)*		(+)**		
35-44 years old			(-)*	(+)*		
45-54 years old				(+)**		
55-64 years old				(+)*		
65 years or older					(-)+	
<i>Sex assigned at birth</i>						
Female					(-)*	

CONCLUSION

Over-incarceration Indigenous people across North America is a critical, deep-rooted, diffusely influential, and divisive social issue. Settler colonialism and racialized structural inequality are theorized to underpin carceral inequality. Previous research has examined Indigenous disproportionate incarceration and consistently made connections to settler colonialism. However, this research is still nascent and has yet to draw connections to the much larger and more developed research on the connections between carceral system involvement and economic and racialized marginalization. Through the lenses of carceral capitalism, necrocapitalism, and settler colonialism, this research utilized statistical analyses drawing on publicly available data to analyze structural racialized carceral system inequality experienced by Native people who are incarcerated. As such, my research not only contributes to the research on Native people's experiences in the carceral system and racialized carceral inequalities experienced therein, but it also contributes to the large but growing body of literature on racialized and economic marginalization and carceral system inequality more broadly.

Specifically, my research examined the severity of punishments experienced by Native and white people incarcerated in federal and state prisons to uncover any instances of racialized inequality via sentencing outcomes. Namely, my research examines the experiences of Native and white incarcerated people regarding sentence length, fines and fees (legal financial obligations) in addition to incarceration, and the expectation of post-release supervision in order to examine whether and where patterns of racialized inequality may exist. In order to link these outcomes to carceral capitalist

and necrocapitalist theories of structural racialized inequality as perpetuated by the carceral system via economic marginalization, these analyses included measures of economic precarity at both the individual and racialized group level. In this way, these analyses sought to show whether and where inequalities in carceral system outcomes may point to targeting of those who are economically marginalized – a state disproportionately experienced by Native people in the US. In order to link my research to the structure of settler colonialism that underpins the US governmental structure, following from processes theorized to function akin to a type of racial threat as colonial threat, these analyses included measures of Native population and sovereignty visibility. In this way, these analyses sought to show whether and where inequalities in carceral system outcomes may indicate attempts to diminish Native self-determination and absorb Native individuals into the US state structure.

Settler Colonialism, Carceral Capitalism, and Carceral Capture

If settler colonialism is predicated on erasure of Native communities and individuals through dispossession and dislocation, and settler colonial racial capitalism centers racially targeted economic dispossession and dislocation to the margins of the labor market, the working of these systems through the mechanism of the carceral system *should* take the form of increased likelihood of incurring monetary sanctions, particularly in those locations where the Native population and culture is most visible. Those most vulnerable to this form of dispossessive carceral capture should be those who are racially marginalized and economically vulnerable. In a similar vein, according to the dual structures of settler colonialism and carceral capitalism, it would be expected

that the likelihood of Native incarcerated people would be racially targeted for monetary penalties (dispossession) and longer sentences (removal) would be greatest in those regions with larger Native populations such as the Mountain (which includes the Southwest), West South Central (which includes Oklahoma), West North Central (which includes the Northern Plains), and Pacific (which includes Alaska) regions.

Finally, according to carceral capitalist theory, and the (carceral capitalist) concept of necrocapitalism, the carceral system – particularly monetary penalties, function to feed parasitic governance, providing revenue to pay municipal debt and provide funding for the carceral system apparatuses (e.g., police, courts, jails and prisons). More to the point, racially marginalized and economically vulnerable (that is, social-structurally disempowered) individuals and communities are targeted as the primary source to feed this parasitic governance. Thus, according to these theories, we should expect that Native people, individuals experiencing economic deprivation, and individuals living in states or regions experiencing higher rates of economic vulnerability should see a greater likelihood of incurring monetary penalties in addition to incarceration. Results discussed below are found in Tables 6a, 7a, and 8a before the Conclusion section of this chapter.

Overarching Patterns and Possible Meanings

Economic precarity

Across three sets of models, my research analyzed the relationship between economic deprivation and racialized group visibility and the outcomes of sentence length, the likelihood of legal financial obligations having been assessed in addition to

incarceration, and the likelihood of expecting of post-release supervision. Across these models, the only individual-level measure of economic precarity that had a statistically significant influence on the Native subsample was having been out of work in the month before arrest, which was associated with a decrease in sentence length. While, among the white subsample, having been homeless in the year before arrest was associated with a decrease in sentence length and an increase in the likelihood of having incurred fines or fees in addition to incarceration. As well, having received public assistance in the month before arrest was, for the white subsample, associated with an increase in the likelihood of expecting post-release supervision.

Overall, among the Native subsample of incarcerated people, group-level indicators of economic precarity more often had a statistically significant influence on the outcomes of interest than did individual-level indicators. While no group-level measures of economic precarity influenced sentence length for the Native subsample, white poverty rate was associated with an increase in the likelihood of fines or fees and Native poverty rate and white unemployment rate were both associated with a decrease in the likelihood of fines or fees. Further, white unemployment rate was also associated with a decrease in the likelihood of expecting post-release supervision for the Native subsample. While no group-level measures of economic precarity had any statistically significant influence on any of the outcomes for the white subsample. Notably, there was no overlap in statistical significance for any economic precarity measure between the Native and white subsamples of incarcerated people.

The overarching story of the relationship between economic precarity and sentencing outcomes is that effectively only group-level factors mattered for the Native subsample and only individual-level factors mattered for the white subsample. This indicates the possibility of a trend wherein individual-level contextual factors are not accounted for in sentencing decisions for Native individuals, serving neither to mitigate nor exacerbate sentences, but these are considered in sentencing decisions for white individuals. Further, this finding would appear to support the foundational theory per carceral capitalism-necrocapitalism, and settler colonialism that racially disparate carceral system targeting works the community (or racialized group) and not that of the individual. That is to say, while economically marginalized communities will necessarily include a larger proportion of individuals experiencing economic precarity, carceral system targeting for ensnarement and economic exploitation is concentrated at the community-level rather than the individual-level. The factors theorized by critical scholars of carceral system inequality to influence racialized disparities in policing, citations, arrest, incarceration, and supervision are structural in nature such as racialized group-level unemployment and poverty rates.

It seems at face value to contradict expectations that individual level indicators of economic marginalization should not have been significant in sentencing outcomes (sentence length, fines or fees, post-release supervision). However, further consideration leads to the realization that this is not so unexpected, as the process of racialized carceral lumpenization – and structural racial inequalities in general – occur at the *group* level. This of course implicates impacts on individuals, but these structural inequalities are a matter of averages across racialized groups. Therefore, it makes

sense that the patterns of structural trends in the distribution of economic challenges would have more impact than individual instances of it. Further, per American neoliberal capitalist cultural standards, it is common to see personal economic challenges as personal failings (failing to “pick yourself up by your bootstraps”) which may explain why this factor is discounted in carceral system outcome decision-making.

Also, it runs counter to expectations per critical theories of structural racialized carceral system inequality that any of these group-level measures of economic precarity should influence *decreases* in the severity of punishment, namely the likelihood of incurring fines and fees. Particularly in the case of the relationship between Native poverty, which according to carceral capitalist theory, would position Native communities as lumpenized and thus more easily ensnared and super-exploited by the carceral system. It may be the case that carceral capitalism does not function, or function the same way, in the case of Native people, either due to the roots and nature of structural racialized inequality imposed on Native people under settler colonialism, and/or because of differences in rural and urban contexts. Also, it could be the case that the missing explanatory piece of this puzzle is the role of Native Nations and tribal governments (including law enforcement and courts). The data set used in my research did not allow for determining whether one lived in a rural or urban area at the time of arrest, let alone if they lived in or near Indian Country. But considering the sovereignty (albeit limited) of Native Nations to self-govern, including through law enforcement, it is possible, even likely, that many Native individuals’ experiences with the US carceral system is influenced by the particularities the particularities of the US-Native Nations relationship per laws, jurisdiction, and punishment.

Racialized group visibility

Across the models, the only group-level measure of Native visibility that was statistically significant for either the white or the Native subsample was the state-level Native population proportion. The proportion of state land held by or for Native Nations or communities was not statistically significant for either subsample for any of the outcomes. For both the Native and white subsamples of incarcerated people increases in the state-level Native population proportion was associated with increased sentence length and likelihood of fines and fees. Though Native population proportion had no statistically significant influence on the likelihood of expecting post-release supervision for either subsample.

It was counter to the expectations from settler colonialism theoretical perspectives that Native land proportion should have no statistically significant influence on the severity of punishments, and by extension the degree of carceral system ensnarement. Reservations mainly, but also other trust land (land held by the federal government for Native Nations) is a symbol of Native sovereignty. Therefore, per settler colonial theory, and its racial threat-type theory concerning the settler colonial structural impetus to erase Native people and consume Native land, the existence of Native land was expected to be associated with greater structural mechanisms for disempowering, dispossessing, and removing Native people. However, Native land did not have a significant effect for any of the outcomes. Perhaps the visibility of populations is that much more salient than Native lands. It may be that Native land such as reservations (Native Nations), in the modern post-armed anti-colonial struggles era, no longer

function as a salient symbol of Native sovereignty in settler colonial society (outside of Indian Country). It could also be the case that the results were confounded by the large proportion of states without any, or without any sizeable, Native land and the concentration of Native lands in the West South Central and Pacific regions. Further, this positive relationship between Native land and sentencing severity was also expected based on previous research indicating increased punitiveness (per monetary penalties) with increased proximity to Native reservations. However, that finding may in fact be a matter of Native *population* rather than land.

It was expected that the Native visibility measure of Native population percent should have a positive influence, increasing sentence length and the likelihood of fines and fees on the Native subsample. It was a bit surprising that this effect should carry over to the white subsample. Perhaps the fact that this effect was the same for the white subsample is an outcome of the nature of laws as “universalized” (though of course police and judicial actor discretion creates opportunities for bias). Perhaps there are harsher carceral responses in general where the Native population proportion is higher. Alternatively, it may be a “rural effect,” since Native Nations are located in rural areas and the greater majority of the Native population lives on reservations and (more often) in rural areas surrounding reservations, this finding could also be a result of longer sentence lengths in rural areas.

Carceral capitalism theorizes and demonstrates that the communities with high proportions of residents of color, specifically Black residents, *and* high concentrations of poverty are those that are targeted for carceral system ensnarement and exploitation.

This fundamental aspect of how carceral capitalism works may not translate directly onto the case of Indian Country and adjacent areas, and thus a large proportion of the Native population, for two reasons. First, the context within which carceral capitalism is shown to play out is urban and Indian Country and border towns are (often very) rural. Second, the highest proportions of Native populations are most likely to be found in Indian Country, whose residents are subject to the self-governing powers of each Native Nation within Indian Country. That is, local, state, county, even federal law enforcement, US law enforcement, has limitations on their jurisdiction and law enforcement powers in many parts of Indian Country and thus may be constrained in their ability to impose structural racialized carceral system inequalities upon those populations under tribal jurisdiction. (Though, as other research has indicated, this does not inhibit the ability of non-tribal law enforcement to target and ensnare Native individuals as soon as they step outside of Indian Country.)

As for the individual-level measures of Native racialized visibility, Native individuals being perceived by others as either white, Native, or Black all had statistically significant influences, though there was not consistency in this influence per outcome or direction. The only outcome for which perceived race, what race the individual believed others perceived them as, was only statistically significant for the white sample in the case of being perceived as white, in which case it was associated with a decrease in the likelihood of incurring legal financial obligations in addition to incarceration. For the Native subsample, reporting being perceived by others as white was associated with increased sentence length, but decreased likelihood of being assessed fines or fees. Among the Native subsample, being perceived as Native was

also associated with decreased likelihood of incurring fines or fees as well as decreased likelihood of expecting post-release supervision. Being perceived as Black, for the Native subsample, was also associated with increased sentence length.

That perceived racialized identity should not have been statistically significant for the white subsample (outside of being perceived as white) was expected given the minute proportion of the white subsample who reported being perceived as a race other than white. That being perceived as Black should be associated with harsher punishment, here increased sentence length, follows from the vast literature theorizing and documenting structural anti-Black racism, specifically racialized disparities in carceral system involvement and outcomes experienced by Black individuals. Though that this influence of increased punitiveness among those perceived as Black should only hold for the case of sentence length was unexpected. Within the same perspective, but from an opposite direction, it follows expectations that being perceived as white should be associated with more lenient sentencing, in the case of my findings, that being decreased likelihood of incurring fines or fees in addition to incarceration.

That being perceived as Native should be associated with increased likelihood of expecting post-release supervision follows logically both from the settler colonial positioning of Native people as “wards” in need of US governmental “guardianship,” as well as deep-rooted stereotypes of Native people as inherently inclined toward substance abuse and unproductiveness (per Euro-American standards of accumulation-focused productivity). Following the aforementioned logics, that being perceived as Native should be associated with a decreased likelihood of being assessed fines and

fees, and that being perceived as white should be associated with longer sentences ran counter to expectations.

Current offense and prior record

For both the Native and the white subsamples, neither a prior adult nor juvenile record had a statistically significant influence on the outcomes of sentence length or likelihood of having incurred legal financial obligations. Prior record only had a statistically significant influence on the likelihood of expecting post-release supervision, and only for the subsample of Native incarcerated people. Common sense and popular representation of what influences sentencing outcomes lead to the expectation that prior record, as an indication of recidivism real and possible, should consistently impact carceral system punitiveness. Thus, it was unexpected that having a prior adult or juvenile record, which would indicate recidivism, should not have had a statistically significant impact on the outcomes for either subsample, outside of the expectation of post-release supervision for the Native subsample.

On the other hand, the fact that already being under a sentence (on probation or parole) when arrested did have a statistically significant influence and was associated with increased sentence length and likelihood of having incurred fines or fees could indicate that recidivism is taken into account. Or, it could simply indicate, as would be expected, that committing an offense while on supervision enhanced sentencing and thus led to harsher penalties. This is likely considering that on top of the illegality of the act for which the individual was arrested in and of itself, it could also likely be a technical violation of the stipulations of supervision. However, that this relationship between being

under a sentence at arrest and increased severity of penalties only held for the Native subsample. This could indicate that the influence of prior record or indications of recidivism (or likelihood of recidivism) informs sentencing outcomes only selectively and is perhaps applied in a racially disparate manner.

For the Native and white subsamples, compared to violent controlling offenses, all controlling offense types (drug, property, public order, other) statistically significantly associated with decreased sentence length. For the white subsample, all categories of controlling offenses, when compared to violent controlling offenses, were statistically significantly associated with an increase in the likelihood of having incurred legal financial obligations, aside from the “other” offense category which was associated with a decreased likelihood of having incurred fines or fees. For the Native subsample, only drug controlling offenses and public order controlling offenses had a statistically significant influence, increasing the likelihood of legal financial obligations in comparison to violent controlling offenses. For the white subsample, only property offenses were statistically significant and were associated with a decreased likelihood of expecting post-release supervision compared to violent controlling offenses. However, for the Native subsample, no controlling offense category had a statistically significant influence on the likelihood of expecting post-release supervision.

If incarceration is a method of ensuring public safety by removing those who threaten it, it stands to reason that violent offenses would be associated with longer sentences. Therefore, it makes sense that all other controlling offense types would be associated with decreased sentence lengths compared to violent controlling offenses –

a pattern which holds across subsamples. That drug offenses are associated with higher likelihood of having incurred fines or fees could indicate that monetary penalties serve to diffuse punishments across mechanisms (e.g., fines plus a shorter sentence instead of a longer sentence). However, given that, LFOs were not statistically significantly associated with sentence length, this could indicate that fines or fees function as enhancements to drug offense sentencing. That public order offenses would be associated with fines or fees seems logical, if these fees are restitutive penalties to address damages caused by these offenses. Further, public order offenses, like public intoxication or unlawful assembly, seem more suitably citable or possibly jailable offenses, rather than those leading to prison sentences. However, this perception is confounded because in the case of my research I am examining those having incurred LFOs in *addition* to incarceration.

Among the other factors related to the current sentence, only year of incarceration and being under the influence of alcohol at the time of the offense were the only factors with statistically significant influences on any of the outcomes for the subsample of Native incarcerated people. A one year increase in year of incarceration (e.g., incarcerated in 2015 versus 2014) was associated with a decrease in sentence length and being under the influence of alcohol at the time of the offense was associated with an increase in the likelihood of expecting post-release supervision. Among the white subsample, all other factors related to the offense or current sentence had a statistically significant influence on one or more outcome. For the white subsample, the statistically significant factors associated with increases in the outcomes were expecting post-release supervision, associated with sentence length and the

likelihood of being assessed fines or fees, and year of incarceration, sentence length, and fines or fees, all associated with the likelihood of expecting post-release supervision. Among the white sample, those statistically significant factors associated with decreases in the outcomes were year of incarceration, fines or fees, and being under the influence of alcohol, which were all associated with sentence length.

That being under the influence of alcohol during the offense would be associated with greater likelihood of expecting post-release supervision seems to make sense, if it is, or is taken (or argued) as indicative of a substance abuse issue. Further, that being under the influence of alcohol at the time of the offense only had an increasing influence for the Native subsample, but a decreasing influence for the white subsample, may indicate the influence of historically persistent stereotypes of Native people as inherently prone to alcoholism. Given the steadily and exponentially rising rates of overincarceration since the 1970's, it seems curious that year of incarceration, that is, as a measure of the date of incarceration (e.g., incarcerated in 1995), would be associated with a decrease in sentence length for every year increase on that measure. Of course, there is a potentially tautological relationship between year of incarceration and sentence length, such that those who have earlier incarceration dates may necessarily have longer sentences (that someone is still incarcerated in 2016 when originally sent to prison in 1983 would indicate a long sentence). On the other hand, there are of course cases in which individuals who have entered the system at a later date are also serving long sentences. This finding could indicate trends in more recent years (closer to 2016, the year the survey data I am using was collected) toward

decreasingly punitive approaches, that is, shifts away from “tough on crime” policy in the last couple of decades.

Demographic controls

Across outcomes and subsamples, each region, when compared to the West South Central region, except the Mountain region among the Native subsample, had some statistical significance on one or more outcome. Living in the East South Central region at the time of arrest was associated with an increase in the likelihood of fines or fees for both subsamples and an increase in sentence length for the white subsample. Living in the South Atlantic region was associated with an increase in the likelihood of having incurred LFOs for both samples, and an increase in the likelihood of expecting post-release supervision for the Native subsample. Living in the Mountain region had no statistically significant influence for the Native subsample but was associated with a decrease in sentence length and increase in the likelihood of having incurred legal financial obligations for the white subsample. Living in the Pacific region was associated with a decrease in sentence length for the Native subsample, and increase in the likelihood of fines or fees for both subsamples, and an increase in the likelihood of expecting post-release supervision for the white subsample. Living in the West North Central region was associated with a decrease in sentence length for both subsamples, and an increase in the likelihood of both having been assessed fines or fees and expecting post-release supervision for the white subsample.

Living in the East North Central and Mid-Atlantic regions were associated with increases in the likelihood of both fines or fees and expecting post-release supervision

for the both subsamples. However, living in the New England region was associated with *decreases* across all outcomes, save expectation of post-release supervision for the white subsample, in which case it had no statistically significant influence. Notably, the Mid-Atlantic region was associated with the largest likelihoods of having incurred LFOs and expecting post-release supervision for both subsamples, having a far larger magnitude of influence for the Native subsample. Whereas the New England region was associated with the least punitive outcomes: shortest sentences and lowest likelihoods of LFOs and expectation of supervision across subsamples and outcomes, again having notably larger magnitudes of influence among the Native subsample, except in this case, toward more leniency.

Following from the theoretical perspective that communities with both high proportion residents of color and high concentrations of poverty would be subjected to disproportionate carceral system ensnarement, it was expected that Native individuals and communities would see the greatest increases on the outcomes in those regions with the highest concentrations of Native populations (and concurrently, Native lands). Further, the theory from settler colonialism reinforces this expectation for increased exercise of US settler colonial-governmental dominance via containment and exploitation in these regions where Native populations are concentrated. As a result of genocide and Westward Expansion, both mechanisms of the systematic forced removal of Native people from what is now the Eastern US, and their relocation to the what is now the Western US, concentrated in the Central and Southwestern portions of the US, these areas of the US, along with Alaska (having a population that is almost 1/5 Native), hold the majority of the Native population and Native territory (e.g., reservations, “Indian

Country”). As such, it was expected that the Native individuals in the regions in these sections of the US: the West South Central (which includes Oklahoma), West North Central (which includes South Dakota), Pacific (which includes Alaska), and the Mountain (which includes New Mexico and Arizona) would see statistical significance and the highest rates of incidence on the outcomes.

This expectation did not exactly bear out. The longest sentence lengths for the Native subsample were associated with the West South Central region, but among the shortest sentences, after those associated with New England, associated with the Pacific and West North Central regions. As for the influence of region of residence on the likelihood of fines and fees, those regions that were associated with higher likelihoods of fines for Native people were also associated with higher likelihoods for the white subsample, and most often rates that were nearly equivalent between the two subsamples. The only notable exceptions were the Mid-Atlantic region, as mentioned above, and the Pacific region which saw a far greater (about 4 times larger) tendency toward fines or fees for the Native subsample compared to the white subsample. In terms of the expectation of post-release supervision, there were again no consistent patterns of larger likelihoods for the Native subsample compared to the white subsample. After the Mid-Atlantic region, the East North Central region was associated with both the highest likelihood of those in the Native subsample expecting post-release supervision, and the a much larger tendency toward that likelihood for the Native subsample than the white subsample. In all, these findings could indicate two things. First, it may (likely) reinforce the general focus of critical and carceral capitalist-necrocapitalist research on communities at the sub state (e.g., city) or sub-city (e.g.,

neighborhood) level as the scale at which group-level racial inequality is seen. There can be and often is drastic differences within states between cities and towns and neighborhoods in terms of racial composition, wealth, and carceral system involvement. These differences are masked when looking at the regional level. Second, it could indicate that the carceral system inequalities Native people face are at least in part, possibly predominately, are the result of a type of spill-over originating from structures of racialized carceral system inequality targeting other populations, namely Black individuals and communities.

For the Native subsample of incarcerated people, neither sex assigned at birth, nor any level of educational attainment, nor belonging to any age group, had a statistically significant influence on any of the outcomes. Being assigned female at birth was only statistically significant for the white subsample, in which case it was associated with a decrease in likelihood of being assessed fines and fees in addition to incarceration for the white subsample. Among the white subsample, all levels of educational attainment, compared to not having finished high school, had a statistically significant influence and were associated with a decrease in sentence length. Further, for the white subsample both levels of college education (some and degree obtained) were statistically significant and associated with an increase in the likelihood of having incurred legal financial obligations. Lastly, for the white subsample, all age categories, except those 65 and older, were statistically significant and associated with an increase in sentence length while being 65 and older was statistically significant only in the case of being assessed fines or fees, in which case it was associated with a decrease in likelihood. That these demographic factors had no statistically significant influence on

any of the outcomes for the Native subsample could indicate a type of relative equality within the population of Native people in terms of carceral system outcomes. It could be that racialization predominates and all other sources of group-level categorizations are rendered invisible or at least ineffectual as sources of privilege. My research found that, overall, individual-level factors of economic precarity and carceral system involvement history (e.g., prior record) did not have statistically significant influences on the outcomes for the Native subsample (but did for the white subsample). Similarly, the lack of influence of individual-level demographic factors could be an indication of the perception and treatment of Native individuals as monolithic, that is, a type of de-individualization accompanying racialized marginalization and othering wherein prejudices per the racialized group predominate in decision making.

DISCUSSION

Previous research on carceral system inequality experienced by Native people has focused on specific geographic areas, most often particular states, with larger concentrations of Native populations. Prior research utilizing nationally representative data has rarely included Native individuals in their analyses. Where they have included Native individuals (distinguished as such rather than combined with other races into an “other race” category), this population has been ancillary to the primary research, most often focusing on Black and sometimes Latine populations. Thus, my research contributes to the bodies of research on Native racialized structural inequality and racialized carceral inequality by adding research to those bodies that uses nationally representative data and focuses specifically on the experiences of Native individuals. In

this way, my research takes a step toward understanding the nature of the broader – cross-state- and country-level – structural inequalities experienced by Native people and perpetuated via the carceral system.

While my research was not able to *test* carceral capitalist or necrocapitalist theories, it was *informed* by these theories. The variables chosen, the relationships examined between these variables were drawn from this literature and previous research based on it. Previous carceral capitalist and necrocapitalist theorizing and research has focused predominately on structural racialized inequality via the carceral system as experienced by Black folks in the US, sometimes including that experienced by Latine folks. With none focusing on the experiences of Native folks. As such, my research contributes to this body of literature, if in a modest way, by representing a first attempt at bringing Native experiences into the discussion of the functioning of the carceral capitalist system and its relationship to racialized and economic marginalization. Further, while not *testing* these theories, my research lays the foundation for future research which can assess the applicability of these theories to the context of Native people more thoroughly.

Previous theorizing and research on settler colonialism as it functions through and informs US government, politics, economics, ideology, and culture from the past to the present has focused on various topics from genocide and westward removal, to assimilation and termination of Native sovereignty. Though previous research has rarely focused on the role that criminalization and incarceration played and continues to play in containing, disempowering, and absorbing Native people into the US state and

culture. While my research, as with carceral capitalist and necrocapitalist theories, does not *test* settler colonial theory, it does take a step toward coordinating the settler colonial and carceral studies theories and research. My research was informed by settler colonial theory in its inclusion and examination of the influence of Native population and sovereignty visibility – population proportion and proportion of Native land (as symbol of Native sovereignty). Thus, ultimately, my research lays the foundation for future research which can test the application of settler colonialism theory to the context of racialized structural inequalities via the carceral system experienced by Native people. In other words, it is a step toward understanding the role that the carceral system plays in perpetuating Native structural racialized inequality and the settler colonial structure this derives from.

Previous research, and various sources of statistics on incarceration, have established the existence of notable racialized disparity in the instance of incarceration per Native people. Prior research has demonstrated the existence of racialized disparities in terms of sentence length showing that Native people face longer sentences for often interracial property crimes compared to their white counterparts but shorter sentences for often intraracial violent crimes. Previous research has also demonstrated the existence of racialized disparities in the assessment of monetary obligations, namely in the amounts assessed, and the ability to resolve these fines, per Native people. Prominent theories of racialized carceral system inequalities point to the capitalist structure, and the capitalist logic of criminalization and the carceral system, as the logic informing these racialized disparities. A logic that requires the existence of stably superexploitable populations to serve as a source of capital (via profit from labor,

fines, or interest from debts), which per carceral capitalism and necrocapitalism are established via carceral system ensnarement and criminal marking targeted at those already disempowered via structural racialized and economic marginalization.

That Native population proportion and being perceived as Native tended to be associated with higher likelihoods of being assessed fines or fees for the Native subsample seems to indicate the applicability of these critical theories of racialized carceral system disparities as manifestations of structural racism, perhaps also an indication of settler colonialism enacted through the carceral system. That is, that measures of Native visibility should translate to harsher penalties seems to indicate that theories of racialized targeting for increased carceral system ensnarement applies to Native people. However, that Native poverty rates should tend to be associated with a lower likelihood of LFOs for the Native subsample points to the possible inapplicability of carceral capitalist frameworks to Native people's experiences, at least across states or at the state-level. Likely, it points to the need to examine Native carceral system disparities, and apply carceral capitalist and necrocapitalist frameworks, at the sub-state: county, city/town, or preferably, neighborhood (or census tract) level.

My research finding that indicators of economic precarity at the individual-level had no statistically significant influence on Native sentencing outcomes points to a deindividualized, perhaps monolithic, treatment of Native people in the carceral system. That this deindividualized treatment may be racialized is indicated by my finding that measures of individual-level economic precarity did matter for the white subsample, for the outcomes of sentence length and the assessment of LFOs. Thus, my research

moves the fields and subfields examining racialized carceral system inequality (carceral studies) and Native experiences of inequality (race and racism, Indigenous, and settler colonialism studies) forward by investigating the existence and nature of patterns seen across states of Native carceral system inequalities which have previously been demonstrated only within particular states – often at the sub-state-level, specifically among those already carceral system ensnared via incarceration.

Previous research has not examined the existence of racialized disparities in the application of the sentencing outcome of carceral system supervision (probation or parole), among Native individuals and communities. Nor has it examined the use of legal financial obligations, specifically monetary penalties or fines, *in addition to incarceration* as a means of increasing the severity of carceral system punishment. Finally, previous research has not examined the existence of across-states patterns of racialized carceral system inequalities beyond instances of incarceration. Thus, my research moves the fields and subfields researching this topic area forward by investigating the existence and nature of Native racialized inequalities in the outcomes of legal financial obligations in addition to incarceration and (the expectation of) post-release supervision.

Further, and perhaps more consequentially, my research moves these fields and subfields forward by illuminating the necessity of further research and where that research should be focused. Again, previous research has supported a pattern of longer sentences and larger monetary obligations for Native people compared to white people. My research found that, across states, white poverty and unemployment rates (a

conservative proxy for overall economic precarity) more often moderated sentence length and legal financial obligations for the Native subsample, and tended to be associated with larger reductions in these outcomes versus the white subsample. This finding runs counter to expectations and illustrates the need for further contextualization of Native experiences of carceral system inequality. Specifically, my findings indicate the need to examine the role of three key aspects related to sentencing outcomes that uniquely structure Native experiences in the US carceral system. First, the role and influence of tribal law enforcement and judicial actors on the actions and limitations of non-tribal carceral system actors. Second, the role of Native Nation (“tribe”)-specific differences in access to resources and institutions. Third, the differences in carceral system involvement outcomes per rural versus urban communities, specifically those near Indian Country (Native reservations).

LIMITATIONS

The major limitations of this analysis arise from the nature of the data set utilized and the dearth of economic information for Native individuals and communities. The most glaring limitation of my research derives from the fact that the core dataset utilized represents only those who were incarcerated and who were incarcerated in US federal and state prisons. Therefore, my research cannot answer questions about the differential likelihood of being arrested, charged, and incarcerated (there is no comparison between those who are and are not incarcerated). It also cannot answer questions related to differences in the experiences of individuals held in US jails (a larger number of individuals than are held in prisons) or those held in tribal jails. Further,

the variable capturing whether an individual expected post-release supervision did not indicate which type of supervision (parole or probation). Relatedly, it did not indicate whether they expected to be released early on condition of serving out their remaining sentence under supervised release or whether they were initially given a split sentence that included some time in prison and the rest on supervised release. Nor does it indicate how long they expect to be required to remain on supervised release.

Other limitations directly related to the core dataset derive from the sampling techniques and response patterns (or, more accurately, *non-response* patterns). The Bureau of Justice statistics survey sample was compiled using a purposive technique that oversampled for non-drug related offenses, meaning that those incarcerated for violent, property, public order, and other types of non-drug offenses were overrepresented. Those incarcerated for drug offenses represent the largest proportion of incarcerated people (hence undersampling on this variable, to create a sample that was more evenly distributed across offense types). Further, according to theories of racially disproportionate incarceration, drug charges are a key mechanism for carrying out racially disproportionate carceral capture (and structural inequality). Thus, this oversampling on non-drug offenses likely dilutes the racialized inequalities perpetuated through carceral system involvement. As well, many of the questions targeting direct indicators of economic deprivation, namely income prior to arrest, likely mask the influence of economic marginality. Beyond this, there does not appear to be a database containing state-by-state unemployment rates specific to Native people. Though homelessness, welfare receipt, and labor market participation were used as proxy indicators or economic means (or lack of).

Other important limitations have to do with racialized representation, or perhaps, classification. The category of “white” has historically been (and still is) a category defined by exclusion where “biracial” identity where white is one aspect of that identity translates to non-whiteness. Stated another way, particularly since interracial relationships have historically been (and still are) relatively more common among Native people, a large proportion of those who identify or are identified as Native also identify as holding other simultaneous racialized identities. In fact, because the proportion of Native individuals who are “only” racially categorized as Native (“Native alone”) is so small, it was necessary to include in the subsample of Native incarcerated people everyone who identifies as Native only and in combination with another racialized identity. Unfortunately, this necessity may likely have obscured the impact of racialized carceral targeting specific to Native people, either by diluting it for those identified as Native and Black, or exaggerating it for those identified as Native and white. However, the inclusion of the “other people perceive me as” perceived racialized identity variable attempted to address this. Notably, over half of those in the Native subsample indicated that others perceived them as white. Since, in US culture, it is most common to understand racialized identity through the lens of phenotype, appearing white to others likely mitigates the racialized inequality or racist abuses that individual may face.

FUTURE DIRECTIONS

My research represents the foundation for a larger research agenda seeking to understand whether and how Native racially disproportionate carceral system capture connects to labor and financial super-exploitation, and capitalist (and governmental)

profit (or revenue). That is, the overarching research agenda seeks to examine whether and how the carceral capitalist-necrocapitalist theoretical frame maps on to and explains Native disparate incarceration. Further, my research takes as its contextual foundation the existence of both carceral capitalism and settler colonialism – as distinct but intertwined structures.

However, it would be both significant and fruitful to examine Native overincarceration alongside Black overincarceration to understand the complex structure of US racialized structural inequality more fully. A structure founded in the dispossession and erasure of Native people and the abduction, enslavement, and labor super-exploitation of Black individuals. I believe this kind of research could add valuable insight into the ways that criminalization and overincarceration function to simultaneously erase and exploit and the ways in which these functions have changed (and persisted) over time. Thus, future research should seek to achieve three main goals: 1) demonstrate the connections between incarceration and economic precarity from the pre-, during-, and post-incarceration experiences, 2) connect carceral system involvement, economic precarity, social-political disempowerment, and labor and financial capitalist super-exploitation, and 3) examine whether and how the Native experience is unique from that of other people of color, namely Black individuals, and what this may tell us about the workings of settler colonialism in conjunction with carceral capitalism.

Further, my future research goals also include extending this project by researching the nature of and connections between colonialism and racialized carceral

inequalities across US colonies both within the US (the contiguous states plus Alaska and Hawaii) and abroad (e.g., Puerto Rico, Guam, American Samoa). My research will seek to expand upon my dissertation work, broadening the understanding of the functioning of systems of racialized inequalities across colonialisms and the role of the carceral system as a mechanism of simultaneous erasure and hypervisibility as a stigmatized, threatening “other”, and as a mechanism of displacement, containment, control, and exploitation. This aspect of future research would entail both quantitative and qualitative research methods similar to those utilized in this current project and proposed for other future research.

It would need to examine Indigenous experiences of racialized carceral system inequality in policing, arrest, incarceration, sentencing, and carceral system supervision. However, in order to compare US colonialisms across contexts, this future research would also have to account for similarities and differences in the cultural representations and ideologies around colonialist structure and Indigenous peoples and their sovereign rights as evidenced in the language of policy and perhaps media. It should also examine policy and judicial decisions relevant to Indigenous collective rights or rules related to Indigenous law enforcement, jurisdiction, and any criminal laws or procedures specific to Indigenous peoples (akin to the Major Crimes Act or Public Law 280 in the US) to analyze the institutional structures of colonialism at work within these contexts. Finally, in order to seek to understand the interconnections between colonial structures and capitalist accumulation and carceral system inequality, future research should examine the capitalist (accumulation) dimensions of Indigenous incarceration in these

contexts such as the use of fines or fees as municipal revenue or privatization of carceral institutions and services.

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