

The Rise of the Carceral State: Foundations and Contours of a Rapidly Changing Criminal Legal System



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A “carceral state” represents a critical definitional contrast to the more commonly invoked frames of “mass incarceration” or “mass criminalization.” Mass criminalization scholarship is typically focused on the most proximate causes and consequences of growth in the size of the criminal legal system. In contrast, conceptualizing mass incarceration as merely the most visible feature of a broader carceral state expands the analytical landscape but results in significant tradeoffs. In this article, we engage narratives of the development of carceral states, noting that they resist simple or widely agreed-upon definitions, and vary with respect to how they engage crime, race and racism, politics and the political economy, and the importation of carceral logics to seemingly unrelated institutions. We conclude by reflecting on what can be gained by understanding the United States as a carceral state, rather than simply a nation with persistently high crime and punishment rates.

Keywords: carceral state, penal state, criminal legal system, mass incarceration, racial and ethnic bias, inequality

The political scientist Marie Gottschalk (2008) describes the carceral state as “hiding in plain sight.” In so doing, Gottschalk describes the challenges to fully observing the many contours, causes, and consequences of a massive expansion in the US criminal legal system over the last five decades. The articles in this issue

are generally focused on the proximate causes or consequences of mass criminalization and offer needed insight into the details of these complex relationships for racial and ethnic bias related to criminal legal system contact (for example, see Lee et al. 2025, this issue; Nahra et al. 2025, this issue). This article departs from

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the others insofar as we cast our gaze both more broadly and over a longer time scale. The article reviews the large interdisciplinary literature that contests and attempts to explain the unique features of the United States that render it so dramatically different from other countries with respect to crime and disorder, punishment policy, and social control.

As demonstrated throughout this issue, the US criminal legal system touches more people, with greater severity, for longer periods, and with greater consequence than any other wealthy Western democracy; this remains true even as US incarceration rates have receded from their mass incarceration peak. Particularly as the US prison boom has dragged on, comparisons between the United States and similarly situated nations have become less useful as a description of a global phenomenon but more useful for comparative scholarship identifying critical differences between countries. For many scholars, the central difference is that the United States is a *carceral state* rather than simply a nation with high crime or punishment rates; it is thus principally defined by its unrelenting commitment to finding carceral solutions to all manner of social problems.

We engage this review as two scholars who have primarily contributed to research on the consequences of criminal legal system contact during the mass incarceration era. Our “home” literature provides useful information but sits adjacent to the much broader interdisciplinary debates aimed at understanding the determinants of penal policy, the development of carceral or penal states, and within- and across-country variation in formal social control. Engaging these works through the lens of “adjacent but outsider” scholars was useful for our own scholarship—and we hope that it is for others as well—but we do not arrive at a single or definitive answer as to how the United States came to be a world leader in the use of incarceration. Rather, we detail substantial and unsettled conceptual and analytical challenges of carceral state frames (see also Rubin and

Phelps 2017), concluding that greater integration between contemporary scholarship on carceral (or penal) states¹ and the proximate causes and consequences of the prison boom would move knowledge forward considerably.

By shifting our focus away from mass criminalization or discrete parts of the criminal legal system (particularly prison incarceration) and toward the state, we shed light on the historical, economic, and political origins of contemporary racial and ethnic disparities in the criminal legal system and inform strategies for reducing them. Most importantly, the article reframes the proximate causes and consequences of mass criminalization to understand them as arising from common sources. More broadly, the article highlights how the criminal legal system is relevant for understanding a large set of social problems, including those that seem relatively disconnected from it. The contribution is ultimately a narrative about the very large gap between American rhetoric of a free, fair, and democratic country and the reality of enormously disparate contact with a very large criminal legal apparatus.

The article proceeds as follows. The first section, “Definitional Challenges to Engaging Carceral State Narratives,” broadly describes and distinguishes between research on the causes and consequences of mass incarceration in the United States to provide a foundation for the analysis to follow. The second section, “Describing Visible Features of the Carceral State,” describes the most visible portions of the carceral state by documenting the scope and contours of the American criminal legal system. The third section, “From Mass Incarceration to a Carceral State,” engages the wide variety of conceptualizations of carceral states, distinguishes between carceral state frames and the more commonly invoked mass incarceration and mass criminalization, and outlines a series of conceptual and analytical challenges within the carceral state space. The fourth section, “The Origins of the Carceral State,” outlines core features of carceral states and contrasts how carceral state narratives incorporate his-

1. We primarily use the phrase carceral state throughout this article, but penal state is common as well. The two terms may be viewed as largely interchangeable for our purposes, but see Rubin and Phelps (2017) and table 1 (derived from Rubin and Phelps 2017) for details about important differences between them.

torical and social forces across the following domains: crime, racism and legacies of racial subjugation, the political economy, and the importation of carceral logics to seemingly unrelated institutions and social contexts. We conclude with a discussion of how an understanding of the United States as a carceral state, rather than a nation afflicted with high crime and punishment rates, might inform promising pathways for reducing the carceral footprint.

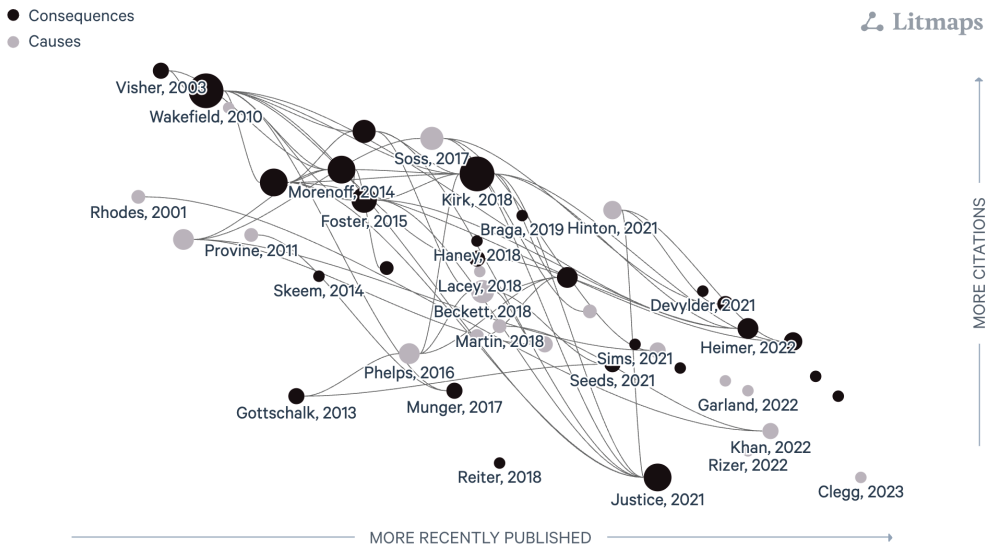
DEFINITIONAL CHALLENGES TO ENGAGING CARCERAL STATE NARRATIVES

Before describing features of the US criminal legal system that gave rise to explanatory narratives of carceral state development, we briefly note the conceptual difficulty in defining what qualifies as an explanatory narrative. We illustrate this first by comparing scholarship on the carceral state relative to that devoted to documenting the consequences of mass incarceration for social life (we delve more deeply into definitions of the carceral state in a later section). Before describing the most visible features of the era that gave rise to carceral state frames, we wish readers to keep several key points in mind as they consider what is to be explained.

First, myriad studies document the so-called collateral consequences of much higher rates of contact with the criminal legal system for all aspects of social life (for reviews, see Kirk and Wakefield 2018; National Research Council 2014). Studies along these lines require great care, rigorous methods, and always elusive high-quality data sources, but it is arguably much easier to document the consequences of such a massive shift in punishment rates than to explain why it happened in the first place, why it happened in the United States when it did (and not to the same extent elsewhere), how racial and ethnic inequalities in punishment became so large, and how to change the underlying dynamics that caused it. While scholars of the collateral consequences of incarceration still struggle to, say, adequately distinguish incarceration effects from earlier experiences that make incarceration more likely, the available potential explanatory factors are largely

well defined, commonly understood, and plagued by fewer moving targets.

The relative ease of each knowledge project is perhaps best demonstrated by the presence of summaries of causes versus consequences in the literature. While admittedly a blunt tool, we reviewed articles published in the *Annual Review of Sociology*, the *Annual Review of Criminology*, the *Annual Review of Law and Social Science*, the *Annual Review of Clinical Psychology*, the *Annual Review of Anthropology*, and the *Annual Review of Political Science* that use the terms “mass incarceration” or “penal/carceral state.” To the extent that *Annual Review* articles indicate the degree of interest in a topic within a field, they offer some sense of the landscape of scholarship produced within and across fields. Figure 1 displays *Annual Review* articles with respect to whether they are focused on the foundational causes of mass criminalization or its consequences, using the literature visualization tool Litmaps. Articles (listed by first author) are arrayed according to when they were published, with earlier articles on the left and moving toward more recent articles, and according to how often they have been cited, with more highly cited articles toward the top of the figure and less cited articles toward the bottom. Each circle represents one review article and is sized according to its degree of reference connections to other articles in the figure; this sizing can be thought of as an indicator of whether or not articles are in conversation with one another and/or are grounded in common sets of background literature. Articles are additionally coded with respect to whether they primarily focus on the consequences of mass criminalization (denoted in black) or advance (or partially advance) a theoretical narrative to explain mass criminalization (denoted in gray). Reviews of the consequences of criminal legal system expansion dominate the space—especially early on—and are more highly cited and more often in conversation with one another, as indicated by their relative sizing in the figure. Despite the dominance of articles on consequences rather than causes, the articles displayed in figure 1 also reflect the degree of interdisciplinary interest in mass criminalization and widening inequality in the United States. The *Annual Review of Criminology*, the

Figure 1. *Annual Review* Articles by Substantive Focus and Citations over Time

Source: Authors' calculations, using Litmaps (Litmaps.com).

Annual Review of Sociology, and the *Annual Review of Law and Social Science* have produced the most articles explaining the causes and consequences of mass criminalization, yet other fields—including political science, public health, anthropology, and clinical psychology—are well represented. Perhaps reflecting their more interdisciplinary origins, reviews that articulate causes, relative to consequences, are less in conversation with one another and grounded in a much broader body of work. Reviews focused on the causes of mass incarceration or the rise of the carceral state demonstrate a distinct uptick in recent years and presumably figure 1 represents an early stage of what may become a more prominent literature.

The scope and focus of *Annual Review* articles mirror how scholarship in the area developed. Early works called attention to the staggeringly disparate rates of crime and incarceration (Hagan and Peterson 1995; Tonry 2022), and increasingly sophisticated demographic estimates documented these disparities and their consequences for economic activity and labor markets (Apel and Sweeten 2010; Holzer et al. 2005; Pager 2003; Pettit 2012; Pettit and Western 2004; Western 2006; Western and Beckett 1999). An explosion of scholar-

ship expanded the domains under consideration, linking mass incarceration to dramatic shifts in the structure and functioning of American families (Geller et al. 2011; Turney 2015; Wakefield and Wildeman 2013) and their communities (Clear 2007; Sampson and Loeffler 2010; Simes 2018). The potential influence of mass incarceration could now be seen everywhere, with direct links to changes in American family life (Lee and Wildeman 2021), the maintenance and reproduction of social inequality (National Research Council 2014; Pettit 2012; Wakefield and Uggen 2010; Western 2006), and all manner of societal disengagement and civic disruption (Brayne 2014; Weaver et al. 2014).

Moving from incarceration to other forms of criminal legal system contact—such as police contact and arrests—brought new insight into the origins of mass incarceration and renewed interest in historical change in systems of social control. Such scholarship shifts attention from the consequences of mass incarceration to questions about its function: Why is the United States so extreme with respect to its commitment to surveillance and punitive policy as a response to social problems? What purposes are served by the massive expansion of the criminal legal system? These questions

shift the focus from describing the contours of mass criminalization to understanding the function of the carceral state and allow for comparison to earlier forms of social control (see, for example, Cohen 1991). The problem, of course, is that this shifts the explanatory burden from measuring the potential effects of identified causes to the identification of potential causes of measured effects.

Consider, for example, the relative uniformity in definitions of mass incarceration. Scholars who study the consequences of mass incarceration explicitly (or implicitly) anchor their work in the definition offered by the sociologist David Garland. Garland rather neatly defined mass imprisonment (and later mass incarceration) as the intersection of “sheer numbers” that result in high imprisonment rates relative to contemporary or historical norms and the “systematic imprisonment of whole groups” such that age, class, race, ethnicity, and sex dramatically influence the likelihood of experiencing imprisonment at some point in the life course (Garland 2001, 5–6). More recently, this conceptualization has expanded to include “mass criminalization,” incorporating other forms of criminal legal system contact and its consequences in the absence of incarceration (for example, police contact, tickets, misdemeanors, non-felony convictions, or community supervision; Hinton and Cook 2021; Kohler-Hausmann 2013; Phelps 2020; Sugie and Turney 2017). Still others might add spillovers to those connected to incarcerated people (Comfort 2007; Lee et al. 2025). Yet, importantly, while there is some conceptual slippage with respect to outcomes, the potential agent of change—mass incarceration or criminalization and the demographic concentration of each—is relatively clear and commonly understood. Finally, there is widespread (though still debated) agreement on when the mass incarceration era began in the United States because imprisonment rates are relatively easy to measure consistently over a long period of time at the national level (but see Campbell 2018; Gottschalk 2006; Murakawa 2014).

Mass incarceration scholarship describes the fallout of such a massive social change (see Lee et al. 2025), but it is arguably limited with

respect to how much it can identify the levers for change. Work in this area is relatively clear with respect to which criminal justice policy changes increased incarceration rates (see Bushway et al. 2025, this issue), for example, but has much less to say about what triggered those policy changes. In contrast, scholarship on the development of carceral states or the determinants of penal policy offers the promise of greater understanding that might potentially be deployed in service of change. At the same time, the great variety of explanations and widespread conceptual disagreement across them preclude neat comparisons (or even better, strict tests) of competing narratives. Indeed, a major complication in reviewing the rise of the carceral state is simply deciding what counts (overarching theoretical perspectives? case studies? empirical tests of portions of broader theories?). Given the wide variation in carceral state narratives, as we call them, we necessarily highlight some over others (and surely omit some perspectives entirely) because the boundaries of the area are relatively unclear and crosscut several disciplines. We will return to these conceptual issues in subsequent sections of the article, but next we describe the contours and recent history of the US criminal legal system to set the stage for an interrogation of whether such a history describes the “rise of the carceral state.”

DESCRIBING VISIBLE FEATURES OF THE CARCERAL STATE

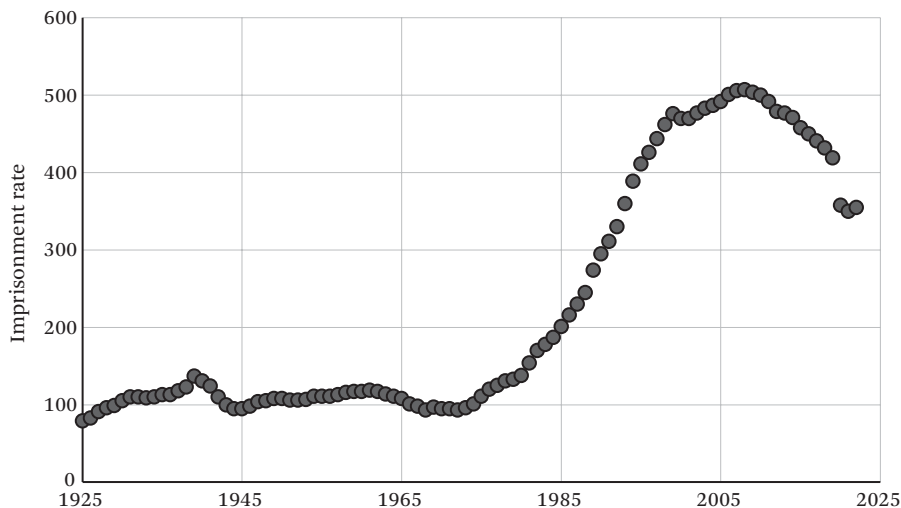
Before engaging the various narratives that explain the rise of the carceral state, we first describe the growth and scope of the criminal legal system over time and provide information on racial and ethnic disparities with respect to criminal legal system contact. It is worth noting, however, that the ability to detail racial and ethnic disparities in contact with the criminal legal system is largely dependent on how government agencies choose to measure race and ethnicity (and the corresponding data that are available). Put simply, scholars of the criminal legal system must often rely on definitions of race and ethnicity that are defined by the Office of Management and Budget and, making matters more challenging, change over time (US

Census Bureau 2024). Likewise, scholars using data from state Departments of Corrections must rely on data collected by these institutions. The measurement of race and ethnicity is not standardized across states, making data harmonization and accurate state-level comparisons challenging (and this is even more challenging when scholars use data collected at the county level, where measurement of race and ethnicity is even more varied). Furthermore, administrative definitions of race and ethnicity may not align with those of scholars of race and ethnicity nor are they error-free (Finlay et al. 2024; Vélez and Peguero 2023). Last, definitions of race and ethnic difference are historically situated and fundamentally local such that the meaning (and subsequent measurement) of racial and ethnic boundaries varies substantially both across regions (Love-man 2014) and within racial and ethnic groups (Monk 2021), further complicating comparisons across time and place. We thus remind readers that substantial challenges of basic measurement of race and ethnicity remain. These challenges are particularly relevant for the arguments we review in this article to the extent that many of them engage long histories of racial and ethnic subjugation where the measurement problems get worse the further back in history one goes.

Prison Incarceration

Dramatic shifts in the incarceration rate beginning in the late 1970s are the most visible feature of a substantial change in American criminal justice practice. Incarceration rates are dramatically higher today than they were five decades ago, as shown in figure 2. Imprisonment rates remained fairly constant between 1925, when rates were 79 per 100,000 (meaning that 79 out of every 100,000 US residents were incarcerated in state or federal prison), and 1972, when rates were 93 per 100,000 US residents (Cahalan 1986). Imprisonment rates grew substantially over the next several decades. These incarceration rates increased even as crime rates throughout the country decreased. Imprisonment rates peaked in about 2009, when they were 502 per 100,000, and have been slowly but steadily declining since then (Carson 2023; West et al. 2011). The imprisonment rate in 2022 was 355 out of 100,000 US residents (a 26 percent decrease from ten years prior; Carson 2023). Though incarceration trends have been steadily declining over the past fifteen years, the contours of a prison sentence have changed. Life sentences (including life without parole, life with parole, and virtual life sentences) have increased, suggesting that the punitiveness of the US criminal legal system remains quite high (Nellis 2023).

Figure 2. State and Federal Imprisonment Rates, 1925–2022



Source: Prison Policy Institute Data Toolbox (Prison Policy Institute., n.d.).

Imprisonment rates have increased for all population groups over the past five decades, but there are stark disparities in rates across demographic characteristics. Figure 3 presents recent trends over time in imprisonment rates by race and ethnicity, with the data suggesting two key points. First, across all years, there are large racial and ethnic disparities in incarceration rates. Black people are more than twice as likely as Hispanic people to be incarcerated (with imprisonment rates of 911 and 426 in 2022, respectively) and about five times as likely as White people to be incarcerated (911 and 188 in 2022, respectively). Imprisonment rates are also quite high for American Indian / Alaska Native people (801 in 2022; Carson 2023). Second, these racial and ethnic disparities have narrowed over time. The percentage decline in imprisonment rates between 2012 and 2022 is largest among Black people (with a 34 percent decrease in rates), followed by Hispanic people (32 percent decrease), Asian people (31 percent decrease), and White people (21 percent). The decreases over time were smallest for American Indian and Alaska Native people (14 percent). Demographic disparities in imprisonment with respect to sex are also notable. For example, men are about fourteen times more likely than women to be

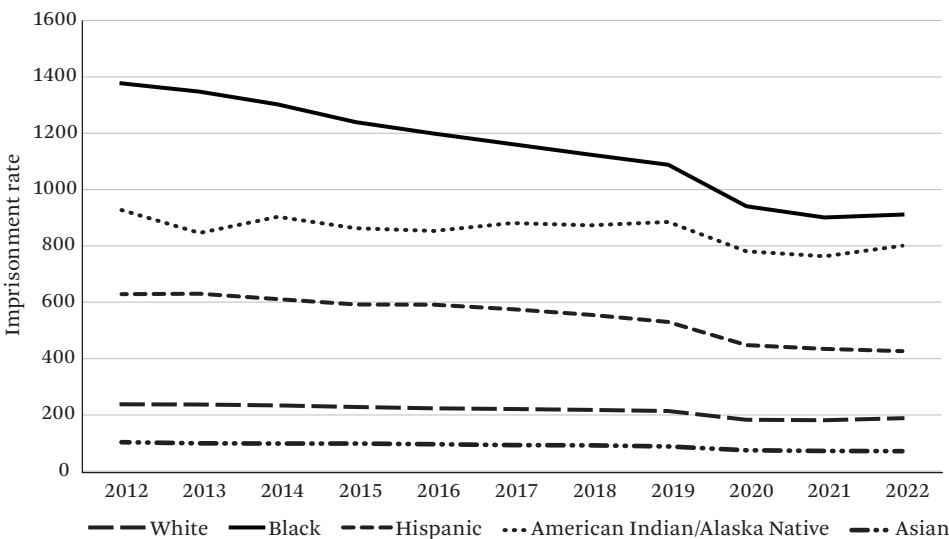
incarcerated, as the imprisonment rate was 666 for men and 49 for women in 2022 (Carson 2023).

Finally, imprisonment rates vary considerably across states, perhaps unsurprisingly given state-level variation in punitive practices and policies. These state-level differences are shown in figure 4. In 2021, the state and federal imprisonment rate was highest in Southern states including Mississippi (575 per 100,000), Louisiana (564 per 100,000), and Arkansas (559 per 100,000). State and federal imprisonment rates were lowest in New England states including Rhode Island (118 per 100,000), Maine (107 per 100,000), and Massachusetts (96 per 100,000; Carson 2023). This suggests that the state context matters considerably for understanding the reach of the carceral system. Importantly for this review and an issue to which we will return in later sections, large state variation in the most visible form of carceral state control (for example, incarceration) presents both challenges and opportunities for narratives that seek to define and explain the American carceral state.

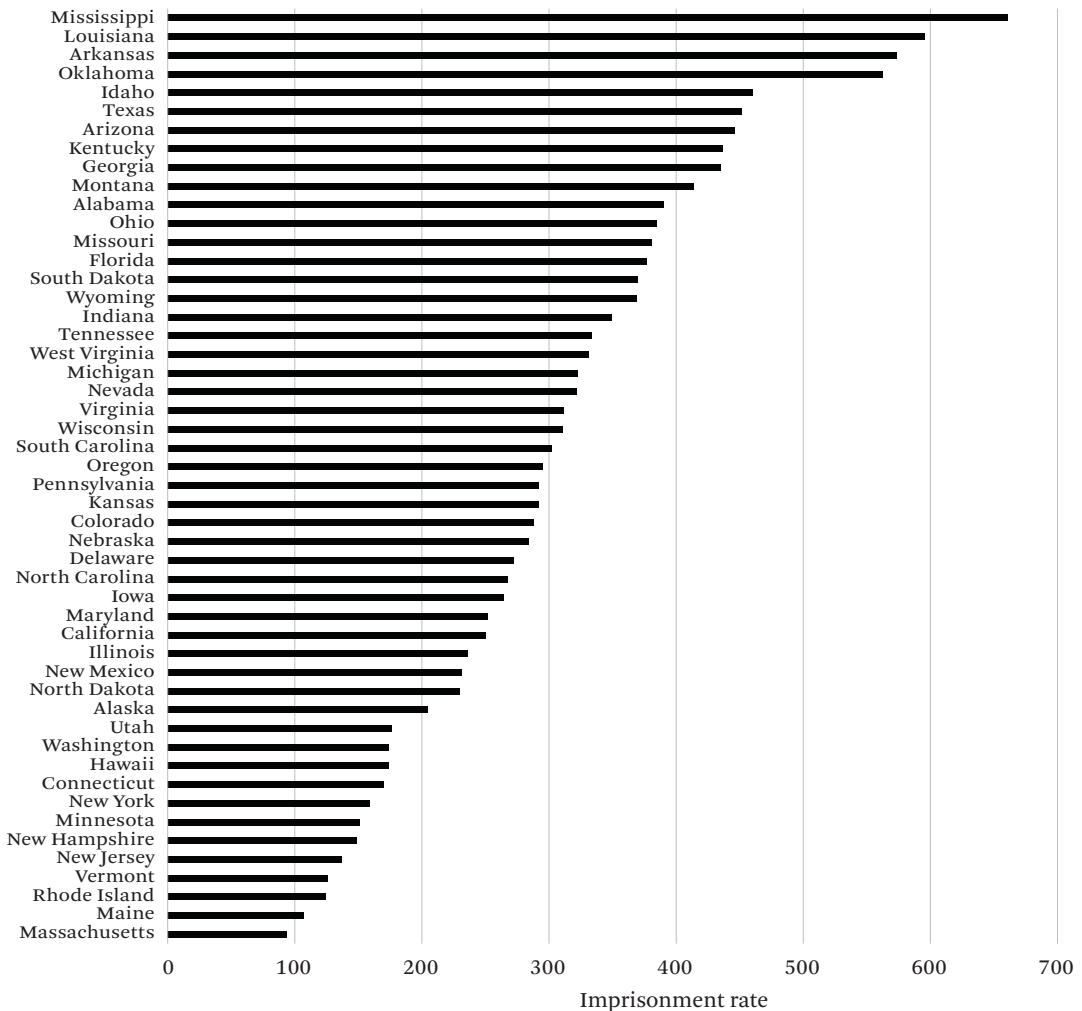
Jail Incarceration

The rates provided above, while stark, omit a common but less visible form of incarceration,

Figure 3. State and Federal Imprisonment Rates by Race and Ethnicity, 2012–2022



Source: Carson 2023.

Figure 4. State-Level Variation in State and Federal Imprisonment Rates, 2022

Source: Carson 2023.

that of confinement in local jails. Most work that examines incarceration trends exclusively considers prison incarceration (Carson 2023; Pettit and Western 2004) or, less commonly, conflates jail and prison incarceration (Sawyer and Wagner 2023), likely an artifact of the data collection techniques and the surveys commonly used to study incarceration. Jail and prison incarceration share some commonalities, as both involve sustained contact with the criminal legal system, confinement, and, usually, eventual reintegration back into families and communities upon release. Jail and prison incarceration, though, share some key differences and more broadly reflect the diffuse na-

ture of criminal legal administration in the United States. Jails are operated at the local (city or county) level, and prisons are operated at the state or federal levels. Jails house people who have not been convicted of a crime (and are awaiting adjudication of their case via a trial or plea deal), people who have been convicted but are awaiting sentencing (and transfer to prison), and people who have been convicted of a crime and have received a short (usually less than one year) sentence. Prisons house people convicted of a crime who have a sentence of at least one year. People housed in jails are generally located closer to their pre-incarceration residence (and, often, their fam-

ily members) than people housed in prisons (Turney and Connor 2019; for an in-depth look at the experience of jail incarceration, see Walker 2022).

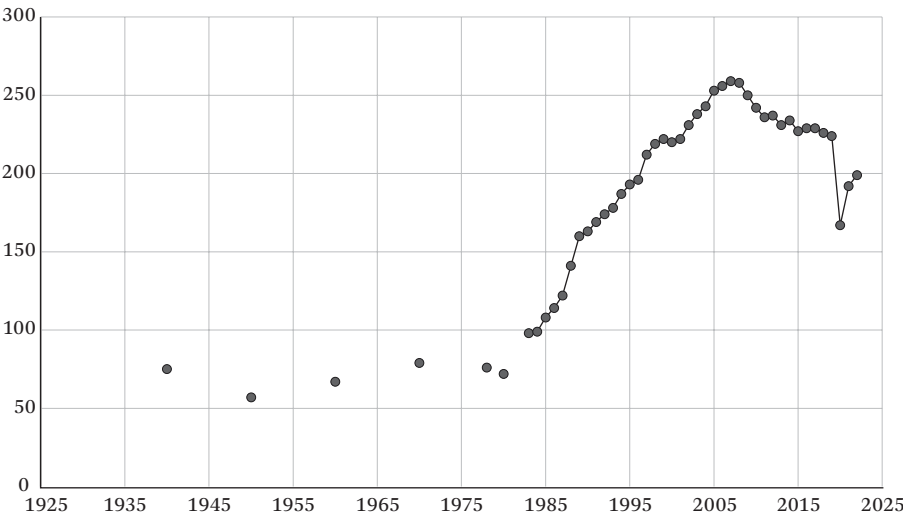
Jail incarceration rates, like prison incarceration rates, have increased dramatically since the 1970s (see figure 5). These increases exist across all counties but are most striking for rural counties. Rural counties had a jail incarceration rate of 55 per 100,000 in 1970, peaked at 362 in 2019, and declined slightly to 351 in 2022. The jail incarceration rate for rural counties is more than twice as high as the jail incarceration rate for urban counties (351 compared to 158 in 2022; Vera Institute of Justice 2023). The jail incarceration rate has decreased for all racial and ethnic groups since 1990, but the declines have been smallest for Black people (declining by 15 percent between 1990 and 2022), followed by Native American people (28 percent decline), Asian American / Pacific Islander people (34 percent decline), Latinx people (47 percent decline), and White people (81 percent decline). Black people are more likely to be incarcerated than White people in rural counties and urban counties alike, but the inequalities are largest in rural counties (Vera Institute of Justice 2023).

Crime

Much as scholarship on the consequences of incarceration in the mass incarceration era is relatively unconcerned with the causes of such high incarceration rates, the influence of crime on the trends described earlier is too often ignored and remains contested. It would seem reasonable, for example, to assume that the rise in incarceration rates would be tightly linked to increases in crime rates. Descriptive analyses suggest weak to moderate (depending on the era) correlations between the crime rate and subsequent incarceration rates; as one example, a consensus report on the causes and consequences of incarceration produced by the National Academy of Sciences minimizes the influence of crime, finding that “the best single proximate explanation of the rise in incarceration is not rising crime rates, but the policy choices made by legislators to greatly increase the use of imprisonment as a response to crime” (National Research Council 2014, 3).

Such a view has more recently been contested by scholars who argue that changes in the measurement of crime and incarceration offer different answers to the question of how much changes in the crime rate produced changes in the incarceration rate. Arguments

Figure 5. Local Jail Incarceration Rates, 1925–2022



Source: Prison Policy Institute Data Toolbox (Prison Policy Institute., n.d.).

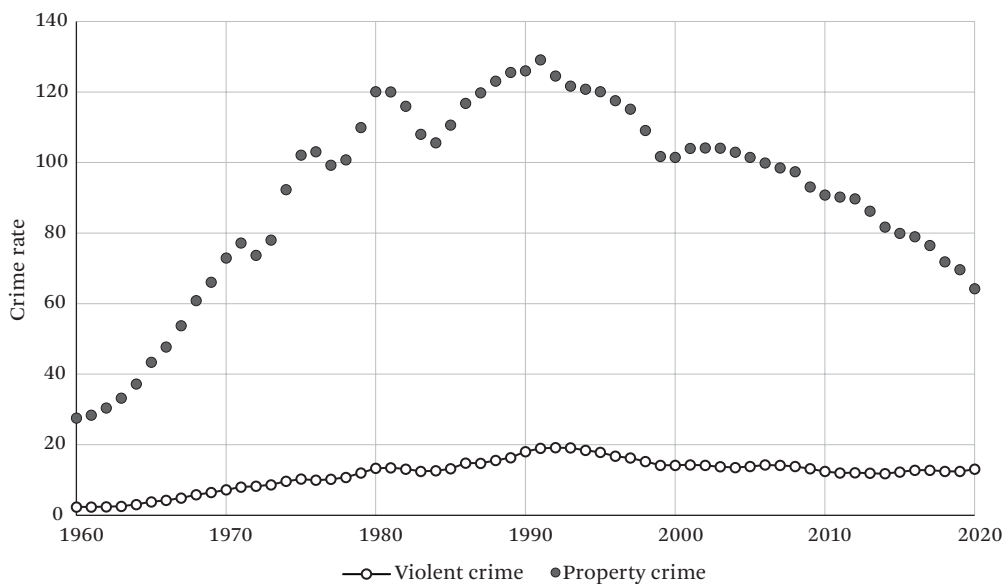
along these lines may be focused on the proximate causes of the incarceration rate and include basic debates about how flows into and out of prisons could be better measured or what features of the crime rate matter most (Enns 2016; Lacey et al. 2018) to more abstract arguments about the indirect and complex relationships between crime, fear of crime, responses from policy makers to both, and subsequent impacts on the incarceration rate (Alexander 2012; Beckett and Francis 2020; Garland 2023; Murakawa 2019; Weaver and Lerman 2010). We return to these questions in our discussion of carceral states but here summarize basic trends in the crime rate during the mass incarceration era to keep in mind.

Understanding trends in crime rates is critical for appreciating the growth of the carceral state in the United States, as the criminal legal system—including incarceration but also policing and supervision via probation and parole—is generally conceptualized as being responsive to crime. We highlight three key points that underlie US crime trends. First, crime rates, including both violent crimes and property crimes, in the United States have declined (even as rates of incar-

ceration increased). Second, the timing of when the decline in crime rates begins (and the corresponding ending of the increase in crime rates) depends on the data being used to make inferences. Third, the decline in crime rates is heterogeneous across demographic characteristics (including race and ethnicity, sex, and especially age) and geographic region. These three key points, as well as the limitations to our existing knowledge, provide opportunities for future research on the contours and complexities of crime rates.

First, it is well known that crime rates in the United States have declined even as incarceration rates have risen (see figure 6). The decline in US crime rates is particularly true for trends in street crime, which includes murder, rape, robbery, burglary, and motor vehicle theft (Baumer et al. 2018). Though the decline in crime depends on the data used (more later), it is generally accepted that street crime began increasing in the 1960s and then peaked in the early 1990s, when it started to decline (Blumstein and Rosenfeld 1998; Zimring 2010). Consider trends in homicides, for example. Data from the Federal Bureau of Investigation's (FBI) Uniform Crime Reporting (UCR) Program shows

Figure 6. Violent and Property Crime Rates, 1960–2020



Source: Uniform Crime Reports (UCR).

that the US homicide rate was 5 per 100,000 people in 1960, peaked at about 10 per 100,000 people in 1980 and 1990, and declined to about 5 per 100,000 people in 2015. Trends in burglaries show similar patterns, with burglary rates increasing until the early 1980s and then steadily declining through 2015 (Baumer et al. 2018).

Second, the timing of the decline in crime rates depends on the data. Research shows that data from the UCR Program (a data source on crimes reported to law enforcement agencies throughout the United States) and the National Crime Victimization Survey (NCVS), an annual and nationally representative sample of US residents ages twelve and older collected by the Bureau of Justice Statistics (BJS), lead to different conclusions about crime trends for certain types of crimes. The patterns shown in the UCR and the NCVS are similar for some types of crime, including robbery, burglary, and motor vehicle theft. However, for other types of crime—including measures of violent crime such as rape and aggravated assault—the trends diverge. The UCR data show increases in violent crime through the early 1990s (and corresponding decreases in violent crime after the early 1990s). The NCVS, though, shows declines in violent crime beginning in the early 1970s (Lauritsen et al. 2016). The correlation between UCR violent crime rates and UCR homicide rates is weaker than the correlations between NCVS violent crime rates and UCR homicide rates. This suggests the reliability of the NCVS violent crime data, as prior research has found the UCR homicide rate data to be highly correlated with other mortality records (Lauritsen et al. 2016; O'Brien 1996). The substantial differences in crime trends across the two data sources likely emerge from differences in the function of the two data sources. UCR data, which are the primary way that crime has been historically measured in the United States, include crimes that have been reported to the police (so changes in crime rates may result from changes in victimization, changes in reporting of victimization, or some combination of the two). NCVS data, which began annually in 1973, include respondents' self-reports of being the victim of criminal activity (including crimes that are and are not reported

to the police), so they may be more inclusive (Baumer et al. 2018).

Third, the decline in crime is unequal, varying across demographic characteristics (race and ethnicity, sex, and especially age) and geographic region. Demographic characteristics—of both people who commit crimes and people who are victims of crimes—can structure US crime trends (Rosenfeld and Weisburd 2016). Age is an especially important predictor of crime trends. Eric Baumer and colleagues (2018) present age-specific homicide rates. They show that for Black people ages thirty to forty-nine and age fifty and older, homicide rates steadily declined between 1981 and 2015. They also show that rates among younger Black people (including those ages fifteen to nineteen and those ages twenty to twenty-nine) steadily increased through about 1995 before beginning to decline. The authors report that these trends across age groups are similar for White people (though the overall rates are lower among White people compared to Black people across all age groups). Additionally, crime rates differ across geographic regions of the country, with the local context mattering especially in recent decades (Baumer et al. 2018). These findings contrast with research on earlier periods, though, which shows overall crime trends are fairly consistent across the United States (with different regions of the country experiencing similar increases and decreases in trends between 1960 and 2004; McDowall and Loftin 2009).

Police, Probation, and Parole

We have thus far reviewed the features of American crime and more serious forms of punishment, in the case of incarceration. These estimates describe the millions of Americans touched by crime and incarcerated in prisons and jails; many more people have contact with the police or are supervised in their communities (in lieu of incarceration in the case of probation or following prison spells via parole supervision). The decline in US crime rates accompanied an expanded carceral state—that is, a criminal legal system that not only incarcerates many people but also involves frequent police stops and supervision via probation and parole. Police contact is perhaps the most

common form of criminal legal contact, with police-initiated stops being heralded by law enforcement agencies as a successful crime-prevention tactic (Petersen et al. 2023). In 2020, more than one-fifth of US residents (ages sixteen and older) reported police contact in the prior year, according to the nationally representative Police-Public Contact Survey (PPCS) from the BJS (Tapp and Davis 2022). This includes contact initiated by the police, such as being stopped while in a motor vehicle or being stopped while on the street (10 percent of those ages sixteen and older in 2020, compared to 11 percent in 2015 and 2018); contact initiated by themselves, including reporting a crime, reporting an emergency that is not a crime (for example, medical emergency), and approaching the police for other reasons (12 percent); and contact related to a traffic accident (3 percent; Tapp and Davis 2022). We describe patterns of both police- and resident-initiated contact because both are important for understanding the true scope of the carceral state.

Demographic characteristics—including age, sex, and race and ethnicity—shape both police- and resident-initiated police contact, according to data from the PPCS. First, age is an important predictor of police-initiated contact. About 17 percent of people ages eighteen to twenty-four report police-initiated contact in the past year, compared to 12 percent of people ages twenty-five to forty-four, 8 percent of people ages forty-five to sixty-four, and 5 percent of people ages sixty-five and older (Tapp and Davis 2022). Age is also an important predictor of resident-initiated contact, with 13 percent of people ages thirty-five to forty-four reporting it in the past year, compared to 12 percent of people ages forty-five to sixty-four, 10 percent of people ages twenty-five to forty-four, and 9 percent of people ages sixty-five and older (Tapp and Davis 2022). Men were more likely than women to experience police-initiated contact (11 percent compared to 9 percent), whereas women were more likely than men to initiate contact themselves (12 percent compared to 11 percent; Tapp and Davis 2022). Finally, these data show that White people are more likely than people of color to experience police-initiated contact (10 percent compared to 9 per-

cent of Black people and 8 percent of Hispanic people) and, similarly, that White people are more likely to experience resident-initiated contact (13 percent compared to 9 percent for both Black and Hispanic people; Tapp and Davis 2022).

These findings from the PPCS about racial and ethnic disparities in police-initiated contact diverge from other research on racial and ethnic disparities in police stops (and in criminal legal contact more generally), perhaps because they do not consider the type of police contact (traffic stops versus street stops) or the invasiveness of the stop. Research that only considers traffic stops, for example, shows racial and ethnic disparities in the prevalence of stops. For example, recent research from the Public Policy Institute of California (PPIC), which relied on data from 3.4 million traffic stops made by large law enforcement agencies in the state (for example, Los Angeles County, San Diego County, San Francisco County), found that Black drivers are overrepresented in traffic stops. Black drivers constitute 16 percent of traffic stops but only 6 percent of the state's population (Lofstrom et al. 2022). The racial disparity in these traffic stops is largest in the evening and early morning hours and, importantly, stops of Black drivers are less likely than stops of White or Latino drivers to lead to the discovery of contraband or evidence (Lofstrom et al. 2022). Another study, which examined one hundred million traffic stops across the United States, also found that police were less likely to discover contraband or evidence when searching Black and Hispanic drivers than White drivers. They also found that Black drivers were less likely to be stopped by police after sunset—or, put another way, more likely to be stopped during daytime hours when skin color is more readily apparent (Pierson et al. 2020).

The inequalities in police contact extend beyond who is stopped by the police. Police contact is not created equally, as police-initiated contact can involve force, threat of force, harsh language, and other violence. In 2020, about 2 percent of people in the United States ages sixteen and older reported police contact that involved a threat or nonfatal use of force. About 4 percent of people reported that their most recent police contact involved shouting, curs-

ing, threat, or nonfatal use of force. This was more common among racial and ethnic minorities, including Black people (7 percent) and Hispanic people (5 percent), than among White people (3 percent) or people of other races (3 percent; Tapp and Davis 2022). Additionally, fatal violence by the police, which increased between 1980 and 2019, is unequal across race and ethnicity (GBD 2019 Police Violence US Subnational Collaborators 2021). Data from three open-source databases (Fatal Encounters, Mapping Police Violence, and The Counted) show that the age-standardized mortality rate for non-Hispanic Black people is about two times higher than for Hispanic people and nearly four times higher than for non-Hispanic White people. There are also large discrepancies across states, with fatal violence by the police being most common in Oklahoma, the District of Columbia, Arizona, Alaska, Nevada, and Wyoming. These three open-source databases (none affiliated with the US government) also report considerably more fatal police encounters than data from the government's National Vital Statistics System (NVSS) (GBD 2019 Police Violence US Subnational Collaborators 2021).

Finally, the national trends in community supervision (including probation and parole) mirror those of incarceration. Community supervision rates rapidly increased from the 1970s until about 2007 and have been declining since then (Kaeble 2021). In 2020, nearly four million US adults were under community supervision, a more than 20 percent decline from the peak in 2007, when more than 5.1 million US adults were under community supervision (Glaze and Bonczar 2011; Kaeble 2021). The decline in the community supervision population is primarily due to a decline in the probation population, as opposed to a decline in the parole population (Kaeble 2021).

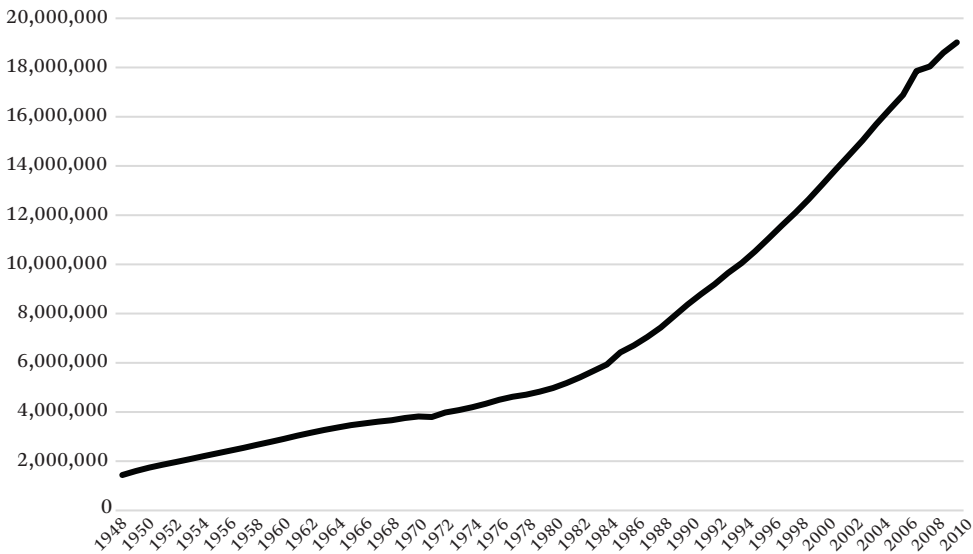
Research also shows that community supervision became more punitive over time (Phelps 2013). Probation, especially, has been seen as a way of widening who comes into contact with the criminal legal system, as probation is often used as an alternative to incarceration and a mechanism for punishing those charged with misdemeanors or lower-level offenses who were never at risk of receiving a prison sentence (Phelps 2020). Both probation and parole facil-

itate cyclical incarceration, with people often being sentenced to prison for violating the conditions of their community supervision, as opposed to being convicted of a new crime (Harding et al. 2022). Indeed, more than one-fourth (29 percent) of state and federal prison admissions are related to community supervision violations (Carson 2020).

Like other trends in the criminal legal system, there is considerable variation in the risk of community supervision by demographic characteristics and by state of residence. First, there is demographic variation in the experience of probation and parole, especially by race and ethnicity, sex, and social class. Research shows that about 15 percent of all adults ages twenty-four to thirty-two have been on probation but that nearly half (46 percent) of all Black men in this age range without a high school diploma have experienced probation. Women are much less likely than men to experience probation, with only 2 percent of White women and 3 percent of Black women ages twenty-four to thirty-two experiencing this form of criminal legal contact (Lerman and Weaver 2014). Additionally, there is state-level variation, with some states having more punitive community supervision than others (and, interestingly, this state-level variation in supervision does not necessarily track onto state-level variation in incarceration (Phelps 2017).

Americans with Felony Convictions

We conclude our description of the footprint of the American criminal legal system by noting that it is tempting to think of these trends in static terms, but the trends we discussed earlier are compounded by a long period of criminal legal expansion, as documented in figure 7. Sarah Shannon and colleagues (2017) provide estimates of the number of Americans who have a felony conviction, after accounting for mortality, recidivism, and cross-state mobility. Figure 7 includes people convicted of a felony who are currently under the supervision of the criminal legal system (in prison or actively supervised in the community via probation or parole terms) as well as so-called ex-felons who are no longer under supervision but remain subject to the myriad restrictions and barriers to social life that accompany such a conviction.

Figure 7. Estimated Number of Americans with a Felony Conviction, 1948–2010

Source: Shannon et al. 2017.

The results are staggering; more than nineteen million people in the United States carry the burden of a felony conviction.

As with the trends reported earlier and displayed in figure 8, people with felony convictions are not evenly distributed throughout the United States. Figure 8 displays the percentage of the voting age population that is carrying a felony conviction in each US state. To the extent that more punitive states have larger populations with a felony conviction and such convictions are tied to things like the ability to vote (Uggen and Manza 2002; Weaver and Lerman 2010) or accessing various forms of government assistance (Mauer and Chesney-Lind 2002), the criminal legal system dramatically structures state-by-state variation across a host of important social domains.

FROM MASS INCARCERATION TO A CARCERAL STATE

The trends outlined earlier detail the core features of the mass criminalization that characterizes the United States. But does such a contemporary history describe a fundamental change in the American state, a new trend in a long-running pattern, or something else entirely? As we hinted at earlier and describe in more detail later, scholars differ (often dramat-

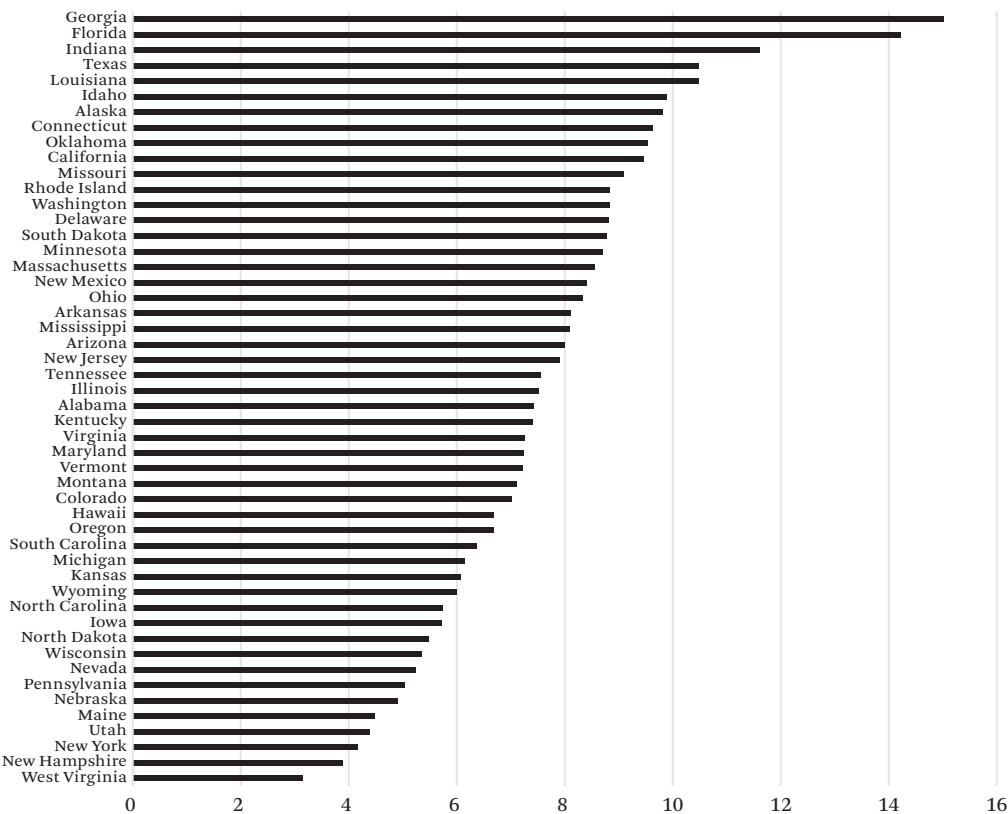
ically) in how they define the penal or, more recently, carceral state.

To better understand these perspectives, we consider what constitutes a carceral state before engaging arguments about how carceral states are created. However, a clear and widely agreed-upon definition of a carceral state does not exist in the literature. There is certainly no definition of a carceral state that approaches the Garland description of mass incarceration discussed earlier and, making matters worse, little agreement on what is included or excluded from the term. Since this article describes the analytical shifts that result from engaging such frames and how they may inform our understanding of racial and ethnic bias in the criminal legal system, we begin by simply reviewing the many ways the term is used in the literature.

Conceptualizing the Carceral State

We first point readers to an excellent and more extensive analysis by scholars Ashley Rubin and Michelle Phelps (2017); we leverage their work here to illustrate the variation in what is meant by the term carceral state or penal state (see also Berger 2019). Rubin and Phelps review definitions of carceral and penal states in the literature and note that the terms are “synonym[s]

Figure 8. Percentage of the Voting Age Population with a Felony Conviction, by State, 2010



Source: Shannon et al. 2017.

for recent penal trends,” “undefined but theoretically motivated,” and “defined” but include “narrow to expansive views of the state” (Rubin and Phelps 2017, 424–25). What makes the problem worse is that, as Rubin and Phelps note, many European scholars prefer the term penal state, presumably because it more accurately reflects the common noncarceral criminal legal interventions there. To illustrate the scope of the conceptual problem, table 1, derived from the Rubin and Phelps (2017) analysis, briefly summarizes the great variety of definitions, actors, and agencies that make up carceral or penal states.

As shown in the table and confirmed in our own review of the literature, there is little agreement on what is included and excluded in the carceral state analytical field, and several definitions include overlapping domains, actors, or organizations. The definitions in the literature include a variety of deviations, but

two are relatively easily discerned and present substantial challenges for scholars in search of tidy and testable explanations for the rise of the carceral state. First, what institutions and agencies make up the field to be explained? The definitions in table 1 range from a narrow focus on agencies that incarcerate—prisons and jails—to a broader set of criminal legal agencies, including parole and probation. Still others move well beyond the criminal legal system field to include adjacent agencies and institutions that aid criminal legal system goals, steer people toward criminal legal system contact, or adopt similar carceral logics. Examples of these include the child welfare system, schools, and hospitals (though note that there is little discussion about the various components of these institutions that specifically constitute a carceral state). Second, definitions of penal or carceral states differ not only with respect to which agencies in the criminal justice core (for exam-

Table 1. Summary of Rubin and Phelps (2017) Survey of Penal State and Carceral State Definitions

Abstract Definition	Agencies/Institutions/Actors Included
Criminal justice agencies that incarcerate	Prisons and jails
Criminal justice agencies that punish people convicted of crimes	Prisons, jails, parole, probation
Parts of the state that create law, direct criminal justice agencies, and develop criminal justice policy	Legislatures and policymakers
Neoliberal systems that govern marginalized populations	Criminal justice and welfare systems that practice social control and surveillance
The state's capacity to punish	Penal infrastructure as reflected in the number of people who touch the criminal legal system
Any institution that engages in the administration of formal social control	Criminal justice agencies (police, courts, corrections), adjacent (often private) organizations that serve surveillance ends (for example, electronic monitoring or the collection of fines and fees related to criminal conviction)
Systems of governance focused on punishment and surveillance	All forms of contact with government entities that possess state power to surveil, intervene, judge, and sanction behavior
All included definitions above as well as adjacent state-based civil and administrative spaces that create a 'shadow carceral state' through extralegal forms of punishment	The penal/carceral state as defined by those above alongside civil and administrative bodies that perform carceral-like functions

Source: Rubin and Phelps 2017, 424–26.

ple, prisons or parole agencies) are included but also with respect to whether the definitions include those who direct such agencies (for example, legislators and policymakers). Given these differences, it is unsurprising that narratives of the rise of the carceral state differ dramatically in emphasis.

In this review, we largely conclude that analyses of the penal state—or the analysis of state capacity vis-à-vis penal policy and practice—are easier to reduce to clear, measurable, and testable concepts. The trade-off, of course, is that such conceptualizations run the risk of missing the proverbial forest for the trees and may be rendered too narrow to be of great use. In contrast, historian Dan Berger (2019) distinguishes more clearly between penal and carceral states by arguing that carceral state is the broader term, encompassing more institutions and a longer timescale than the more narrow term penal state (see also Foucault 1995; Hernández et al. 2015; Simon 2007a). Narratives in the carceral state space, for example, are in

relative agreement that the foundations of mass incarceration are found outside (often far outside) the penal system proper, so the many variants of the penal state frame may prove too narrow.

We adopt the term carceral state for the remainder of this review along the lines of Berger (2019) to cast as broad a gaze as possible in service of locating domains most relevant to understanding racial and ethnic bias in the criminal legal system. Such a choice comes with a trade-off too, however. Broad conceptions in the carceral state vein present the opposing problem: that they are so diffuse as to be untestable and, in the process, obscure considerable variation across time and place, as demonstrated in the section “Describing Visible Features of the Carceral State,” where we document significant state-by-state variation in the use of criminal punishment. A broadened conception of the carceral state runs the risk of seeing it everywhere and rendering the concept meaningless in the process. It is often unclear

what is included and excluded in the carceral part of the carceral state description; as Aisha Khan (2022, 54) explains in the *Annual Review of Anthropology*: “It is crucial to be clear about what the carceral encompasses as well as the punitive characteristics that inform it, given that the military, nursing homes, schools, detention centers, migrant labor camps, extraordinary rendition centers, halfway houses, and gated communities are arguably all carceral.”

Finally, a number of scholars also criticize the carceral state frame for its inability to define the state actors and their actions as a core problem, because it implies a monolithic but undefined “state” operating in the background to create extreme changes (several commentaries refer to this problem as bordering on the conspiratorial; see, for example, Lacey 2010; Rubin and Phelps 2017). Such a view also risks describing carceral states as marching inexorably toward greater formal social control and surveillance when evidence suggests substantial struggle, contestation, and variability over time and across places (Goodman et al. 2017). Readers should be mindful of these tradeoffs, but we suggest that the utility gained from carceral state perspectives outweighs the conceptual ambiguities found within them.

Analytical Challenges from Conceptual Ambiguity

Conceptual ambiguity as described earlier makes it difficult to answer seemingly basic questions. Is the United States a carceral state? If so, is it the only one? The first question is more easily answered than the second; the carceral state literature is largely grounded in the notion that the United States represents an ideal type of a carceral state, though analysts largely differ on what features of it make this so (a point we return to later). Answering the second question—whether the United States stands alone as a carceral state—depends on both theoretical orientation and the complexities imposed by available comparisons.

Regarding the first question, Garland (2013) presents a salient example of the view of US exceptionalism in penal state status by identifying unique features of American crime and punishment that are difficult to square with mass incarceration as a global phenomenon

(see also Garland 2023). In addition to high rates of incarceration and extreme racial and ethnic disproportionality in its use (both are observed elsewhere), Garland notes that the American system is defined by its use of the death penalty long after it was abolished elsewhere, the large populations of US residents under correctional supervision in their communities, and the sheer volume of formal and informal collateral consequences that often accompany a felony conviction. Other scholars might add the extreme conditions in US correctional facilities (Reiter 2016), very long sentences (Seeds 2021), and long-lasting consequences from seemingly low-level contact (Kohler-Hausmann 2013; Sugie and Turney 2017) as additional unique features of the American penal state. This view, though, simply describes the US criminal legal system without reference to penal authority and stops short of adequately describing a carceral state.

In addition, the unique features of the American criminal legal system as described obscure great variation across individual US states, as we documented earlier. While the death penalty is an available penalty at the federal level in the United States, it is more often deployed by a small number of states, and many states have banned it. Similarly, not all states pursue mass incarceration with similar vigor, as documented in figure 4. Sentencing practices and collateral consequences also vary substantially across states. A vision of the United States as a carceral state tends to be the most intellectually satisfying when one makes criminal legal system comparisons at the nation level; in these comparisons, the United States emerges as extreme on many metrics, and other institutions take center stage. This comes at a cost; the conceptual ambiguity with describing the United States as a (monolithic) carceral state is at its most awkward when one accounts for wide state-by-state and temporal variation in criminal legal system policy and practice (Campbell 2018; Goodman et al. 2017). Even here the comparisons depend on one’s benchmark; while it is the case that many US states have low incarceration rates relative to the within-country mean, even the US states with the lowest incarceration rates far exceed those of many other countries.

The answer to what constitutes a carceral state becomes more complex as narratives layer on additional features of the state that lie outside their criminal legal systems. Recall that carceral state scholarship is in broad agreement that the features that produce the sort of criminal legal system represented in the United States are found outside of that system, though narratives differ with respect to what features are considered most important. Compelling candidates are the American political economy and its racial politics (Beckett and Francis 2020), broad retrenchment of the welfare system (Beckett and Western 2001; Wacquant 2001, 2009), and the winner-take-all nature of the American political system (Garland 2023; Lacey 2010).

In general, carceral state narratives focused on extreme features of the criminal legal system would lead one to the position that the United States stands alone with respect to its carceral state status (Lacey 2010). Yet again, however, a tension arises depending on which structural or historical features of the state are considered. Comparisons to other Western democracies make clear that the United States is extreme on criminal legal system interventions while sharing some structural features of capitalist democratic states. While no Western democracy has reached the high levels of criminal legal system interventions of the United States, the pathway pursued in the United States is still found in other places. John Sutton, for example, has documented changes in penal regimes in countries with less regulation than the US, decentralized political systems, and weak protections for workers (Sutton 2013, 2004; see also Beckett and Western 2001 for a similar analysis across US states). Here again, the interpretation depends on one's benchmark; to the degree that the United States is especially unregulated, especially decentralized, and especially unsupportive of labor, we might expect extreme incarceration rates there but observe similar trajectories in other nations that share these characteristics in kind but not necessarily degree.

Perspectives that emphasize historical power relations in the United States with respect to its repressive criminal legal system lend credence to the idea that the US extreme

exists along a broader continuum but serve up an altogether different set of potential peers and explanatory factors. Moving away from comparisons with other Western democracies foregrounds the marginalization (and, in some cases, erasure) of racialized or indigenous groups by highlighting histories of slavery, imperialism, and colonialism. To the degree that explanations for the US criminal legal system are grounded in racial capitalism (Baptist 2017; Beckett and Francis 2020) or histories of racial subjugation (Alexander 2012; Muhammad 2019; Muller 2021) and settler-colonialism (Hernández 2017; Khan 2022; Nichols 2014), the United States becomes yet another nation grounded in the repression of portions of the population. Importantly, these perspectives change the relevant comparison group and depart from the usual "Western democracies," instead finding common ground between the United States and places as diverse as Latin America (Gott 2007; Müller 2012), Canada, New Zealand, and Australia (Cunneen and Tauri 2019), among others.

By outlining substantial conceptual ambiguity in how carceral states are defined and understood, we do not wish to leave readers with the impression that there is no utility in engaging these perspectives. Instead, we suggest that greater integration among the vast community of scholars studying the criminal legal system and its relation to the state would advance knowledge considerably by making contested questions less opaque and, ideally, produce additional empirical tests of competing hypotheses. Despite the conceptual ambiguity of these terms, the accumulated pool of potential explanations for the development of carceral states offers several advantages for understanding racial and ethnic disparities and, ultimately, fruitful pathways for reducing them.

First, carceral state frameworks emphasize the state portion of the term and locate the causes of the prison boom in dynamics outside the criminal legal system. Such explanations may differ widely—locating causes in the political dynamics of the 1970s to as far back as the founding of the country—but they share a common view that mass criminalization is a consequence of broader political and social dynamics, rather than a simple consequence of

shifts in crime or criminal justice policy. This simple premise leads to another shared premise of carceral state narratives: carceral state narratives implicitly distinguish between describing the criminal legal system as a pathological form of social control and better understanding the function of this latest form of pathological social control. Carceral state scholarship emphasizes the latter, and, in so doing, mass incarceration (and, later, mass criminalization) can be understood less as a surprising or inexplicable change in American responses to crime and punishment. Instead, carceral state narratives describe mass incarceration as a new form of social control that serves a much older function and reflects fundamental state dynamics.

THE ORIGINS OF THE CARCERAL STATE

Lacking the ability to clearly define a carceral state and accounting for the lack of clear empirical advance that privileges one form over another (and resisting the urge to choose our favorite), we have inductively arrived at four commonly invoked and contested domains with respect to the development of the United States as a carceral state to highlight in this review. We will now review arguments about the origins of the carceral state across these four topics because they are most closely tied to contemporary issues of racial and ethnic bias in the criminal legal system and present substantial challenges for reform. Explanations for the rise of the carceral state differ in points of emphasis but raise common questions about the unique features of the political, economic, and social structure of life in the United States. While scholars in the carceral state space have disagreements about the importance of, say, crime rates, neoliberalism, or the role of social liberals in the advent of the prison boom, the narratives we will describe are often broadly complementary. As we will discuss, a common theme of carceral state arguments is that they reframe the most proximate causes of mass incarceration as a symptom of earlier events or other underlying causes. We aim to highlight major areas of contestation within each domain to suggest areas for future research. The sections that follow are focused on crime, fear of crime, and changes in the crime rate; racism,

legacies of racial subjugation, and settler colonialism; localized politics, the political economy, and the decline of the welfare state; and the importation of carceral logics and practices to institutions and contexts largely disconnected from the criminal legal system.

Crime, Fear of Crime, and Changes in the Crime Rate

How much of mass incarceration is the result of increases in the crime rate? If the question is focused squarely on incarceration rates and assumed to be direct, the most common answer is not much, as we noted earlier. The relationship between crime rates and incarceration rates is too weak over the course of the prison boom to reasonably argue that mass incarceration is a natural response to crime rates (National Research Council 2014). Higher crime rates in the 1960s and early 1970s are important for understanding the initial rise in incarceration, but this is so because of politicized shifts in policy. Increases in the incarceration rate are fairly transparently linked to sentencing policy changes, and figuring out which policy changes were most consequential is no easy task (Blumstein and Beck 1999; Bushway 2011; National Research Council 2014; Neal and Armin 2023; Raphael and Stoll 2009; Spelman 2009). Understanding the origins of the carceral state requires understanding why policy changed so substantially rather than identifying which policy changes mattered most for increasing the incarceration rate (and decreasing the incarceration rate, albeit on a smaller scale). It also requires explicitly asking why carceral solutions were so doggedly pursued in the United States, relative to similarly situated nations that struggled with high crime rates but pursued solutions within and outside their criminal legal systems.

The role of crime rates—or, more specifically, racial and ethnic disparities in offending and victimization rates—ranges from relatively ignored to centrally important for understanding mass criminalization in carceral state narratives. Carceral state explanations are commonly comparative in nature (why is the United States so extreme relative to other comparators?), and such explanations must grapple with the nature of crime in the United States.

While the incarceration rate may not neatly track the crime rate and while violent crime rates have declined, the United States remains “an exceptionally violent place” (Tonry 2023, 233). If incarceration rates indicate American exceptionalism, so too does its crime rate, especially with respect to violence (Clegg et al. 2024; Garland 2023). Early mass incarceration scholars tend to quickly dismiss crime as an explanatory factor for the prison boom and move on to other features of the criminal legal or political system, but carceral state narratives warn of the folly of this path (Beckett and Francis 2020; Garland 2023; Lacey et al. 2018). Crime takes center stage in most carceral state frames, albeit in complex ways, and is typically focused on why this country’s response to crime has been centrally located within the penal system rather than tackled in conjunction with the many available alternatives outside it.

Ironically, the scholar who defined mass incarceration conceptually—the sociologist David Garland—is one of the more forceful carceral state scholars with respect to the pragmatic and theoretical problems that come from ignoring high rates of violence in the United States. For Garland, to ignore that the United States is a violent place relative to other wealthy Western democracies is both plainly incorrect and renders any explanation of the rise of the carceral state incomplete. In contrast, the narrative focused on poverty, class and race inequality, and neoliberalism developed by Loïc Wacquant (2000, 378), for example, is rather more bluntly dismissive of crime—“Not crime, but the need to shore up an eroding caste cleavage”—and Garland is especially critical of narratives that dispense with crime and violence quickly (Garland 2023; see also Enns 2016; Forman 2017). For Garland (2023, 45), both high crime and mass incarceration share a common source: “America’s exceptional levels of criminal violence and its massive system of penal control are two effects of the same set of structural conditions: deep economic and racial inequality, an inadequate welfare state, and a lack of solidarity in cross-class and interracial social relations.”

Others argue that crime is central to understanding the determinants of penal policy and

mass incarceration, though for different reasons than those Garland raises (Lacey et al. 2018). Nicola Lacey and colleagues point to more recent analyses showing that incarceration rates track violent crime rates more closely than previously recognized (2018, 200) and highlight the work of political scientist Peter K. Enns (2016), who argues that political elites did not impose concerns about crime on ordinary citizens merely to achieve political ends; rather, such concerns were widely shared among the public, including among Black Americans (see also Forman 2017; Fortner 2015). For Lacey and colleagues, Enns (2016), Forman (2017), and others, crime is central to understanding current criminal legal system practice.

Taking crime and, importantly, fear of crime seriously need not rule out the role of politics or structural racism. Perspectives along these lines instead ask when crime matters (Alexander 2012; Beckett 1997; Beckett and Francis 2020; Murakawa 2019). These views can be contrasted with those of Wacquant (2009; 2000) as well as with those of Michelle Alexander (2012), Marie Gottshalk (2006), and Naomi Murakawa (2019), who view crime as less relevant for understanding current carceral practices, highlight how fear of crime rather than actual crime rates drives punitive policy, or worry about how engaging crime—in particular racial and ethnic disparities in criminal victimization and offending—influences support for (or the lack thereof) criminal legal system reform.

As a useful contrast to the tails of the distribution described earlier, crime is central to Katherine Beckett and colleagues’ insightful work on racial capitalism, the politicization of crime, and the development of the carceral state (Beckett 1997; 2018; Beckett and Francis 2020). It also explains why high rates of crime and punishment are so difficult to tackle simultaneously without making racial disparities in punishment worse; this is so because mass incarceration resulted from the racialized politics that developed partially in response to increases in crime (or fear of crime). The importance of crime for understanding the origins of the carceral state in Beckett and colleagues’ analysis is less about the crime rate per se and more about how political actors in the United States used spikes in crime in the run-up to the

prison boom to achieve other political goals (but see Enns 2016). In this view, mass incarceration (and presumably the mass criminalization that followed) is the result of the racialized politics that emerged in response to the civil rights movement. If that is the case, an overfocus on crime is counterproductive for reform and distracts from the core foundations of mass incarceration (Beckett 1997, 2018; Beckett and Francis 2020; Beckett and Murakawa 2012). Katherine Beckett and Megan Ming Francis (2020, 444), for example, begin their review of how racial politics created mass incarceration by noting that “it is clear that changes in policy and practice (rather than rising crime rates) are the proximate drivers of the prison boom.” Beckett and Francis (2020) echo others with concerns about how an overfocus on crime precludes a full understanding of the racialized character of the carceral state: “We also argue that alternative accounts that identify neoliberalism, changing norms and attitudes, trends in violent crime, and/or the role of liberals offer some important insights but generally obscure rather than illuminate the deeper, most fundamental origins of mass incarceration. . . . We maintain that although mass incarceration is the result of many changes and dynamics, it simply cannot be explained without reference to the centrality of racial politics” (436).

Finally, a recent report by the National Academy of Sciences on racial and ethnic disparities in the criminal legal system anchors its analysis on both crime and punishment as central problems for marginalized populations in the United States, underscoring the need to account for and address both (National Academies of Sciences, Engineering, and Medicine 2022). The lesson of the National Academies report, as well as the debates described earlier about the centrality of crime for understanding punishment, is that one need not ignore crime while understanding a criminal legal system that has long been utterly rife with racism. Indeed, a choice between the carceral state as a racist system and crime driving everything represents a dangerous and false dichotomy. Instead, the critical point is that the United States has responded to crime, disorder, poverty, and segregation with more punishment and social control. The responses to crime and punish-

ment in the United States represent an unwillingness to pursue alternative solutions that might redress both; that view, rather than crime and punishment per se, is what forms the foundation of the American carceral state.

The perspectives on crime that we have reviewed represent intriguing theoretical and conceptual distinctions, but few scholars deny that crime is an important social problem to address. For example, Beckett and colleagues’ collective work highlights how crime is “used” to further racialized political ends, while Garland is more focused on why such high crime rates are tolerated in such a wealthy country. Still other perspectives define carceral states as “weak states” that are unable to adequately control crime and thus rely too much on the penal system to solve the problem (Gottschalk 2006; Simon 2007b); additionally, empirical evidence supports the idea that weak connections to institutions and an individualistic culture partially explain both crime and punishment rates at the nation-state level (Messner and Rosenfeld 2012; Weiss et al. 2020).

The core question thus remains: why has the response to crime in this country been so different from that of other places that experience the same problems? The question highlights why ignoring crime is such a problem. For mass incarceration scholars, carceral state narratives offer a lesson in the pitfalls of ignoring crime and fear of crime (see also Sampson 2025, this issue). Recalling that crime rates rose in many wealthy Western democracies in the 1960s and 1970s is of great importance but does not explain why the United States pursued carceral solutions to the exclusion of all others. Ignoring crime within these perspectives is akin to ignoring a major cause of the racial and ethnic biases so observable in the US criminal legal system today. What unites carceral state perspectives is that effective and rational responses to crime are not a core feature of the American carceral state. Instead of asking whether crime matters for understanding the development of a carceral state, it is perhaps more useful to ask when and how crime matters and to more clearly distinguish between crime rates and fear of crime.

These distinctions reflect disagreement about whether crime rates are foundational to

the carceral state but also represent more pragmatic concerns about how to address racial and ethnic bias within the criminal legal system without making them worse. It is surely much easier to politicize crime through fear than to reduce it substantially, and most origin narratives of the carceral state locate part of its cause in the politicization of crime and the rise of “law and order” rhetoric. Engaging crime and punishment—and especially racial and ethnic disparities therein—simultaneously remains a central challenge in pursuit of reform (given the long history of racialized politics that connect Blackness with criminality) and forms the foundations of mass criminalization in the first place (Alexander 2012; Beckett and Francis 2020; Hinton and Cook 2021; Muhammad 2019).

Finally, just as scholars disagree on how much or in what ways to center crime rates in understanding the origins of the carceral state, they also differ about how crime rates influence support for criminal justice reform and inform strategies for reforming the criminal legal system. On the one hand, to deny that crime and disorder are substantial problems in the United States renders significant political and policy change vulnerable to slight upticks in the crime rate (Rizer 2023; Garland 2023). On the other hand, centering crime risks distracting from the essential point that both crime and punishment are generally high for a host of reasons that have little to do with the criminal legal system. The causes of crime are varied and beyond the scope of this review, but Jonathan Simon (2007b), for example, argues that the United States has been unable to tackle critical structural problems and relies on “governing through crime” instead. Moreover, research indicates that the combination of outsized fear of crime and exposure to information on racial and ethnic disparities in the criminal legal system tends to reduce support for criminal legal system reform (Beckett 2018; Gottschalk 2006; M. Lee and Mythen 2017; Murakawa 2019).

Racial Subjugation, the Aftermath of Slavery, Settler Colonialism, and Contemporary Racism

To what extent is the legacy of slavery linked to contemporary patterns of mass criminaliza-

tion? How do the patterns and contours of historical and contemporary racism inform our understanding of the function of the carceral state? Is race a fundamental cause of mass incarceration? The principal distinction across arguments about the origins of the carceral state concerns whether slavery and its aftermath (or racism more broadly) are a fundamental cause of the rise of the carceral state or whether this history is an aggravating factor when combined with other unique features of the American state. That the origins of the carceral state are intimately bound up with a brutal legacy of racial subjugation, segregation, and anti-Black sentiment is common across all origin stories. This history is critical to understanding contemporary racial and ethnic bias, but carceral state explanations differ with respect to how researchers combine this feature of American race relations with other characteristics of the American state to understand contemporary mass criminalization.

Many countries have racial and ethnic disparities in exposure to incarceration (Lacey et al. 2018; Tonry 2007, 2022), reflecting the history of historically marginalized groups in each country. These disparities are often smaller in other places, however, and when coupled with the racialized nature of all forms of social control and surveillance in the United States, exceptionalism in the United States with respect to historical forms of racial subjugation appears clear. Still, as Garland (2023, 50) notes, “If every person of color were to be released from custody and correctional supervision, America’s penal system would still be larger—absolutely and relative to population—than that of any other nation.” For Garland, the American carceral state “operates in a miasma of anti-Black racism. But we should regard racism as an aggravating, compounding factor rather than the fundamental cause of America’s penal state” (50). Similarly, Lacey and colleagues (2018, 209) argue that “race alone is a poor candidate as an independent factor in explaining how penal policy is determined.” Along the same lines, the political scientist Marie Gottschalk notes (2008, 239), “The United States did not end up with the carceral state merely because racial cleavages have been so central to American political development.” Still, that a

carceral system built on the foundations of slavery or arising from a political backlash in response to the civil rights movement might also incarcerate a substantial number of White people does not negate racism as a fundamental cause of the American carceral state (Gottschalk 2008). But what has allowed it to fester to such an extreme? Answering this question necessarily leads to comparative questions about why the United States is so much worse with respect to racial and ethnic disparities than other countries with similarly complex and brutal histories of enslavement and marginalization.

One might contrast, for example, historically grounded works that draw a tight criminalization throughline between colonialism, slavery, reconstruction, Jim Crow, and mass criminalization today (Alexander 2012; Hinton and Cook 2021; Khan 2022; Muhammad 2019; Wacquant 2000) with narratives that center racism but combine it with unique features of the American state and political economy, including the declining welfare state (Beckett and Western 2001; Garland 2023; Simon 2007b; Thompson 2010), the rise of neoliberalism (Wacquant 2009) and unregulated labor markets (Sutton 2013), and (hyper)racialized politics (Beckett 1997; Beckett and Francis 2020). As with crime, the distinctions and disagreements between carceral state origins stories are less about how much legacies of slavery or contemporary racism matter for understanding today's mass criminalization and more about what other features of the United States distinguish it from other wealthy countries across the globe.

The relationship between incarceration rates and the labor market during and after slavery offers a salient example of this complexity. While not a theory of the origins of the carceral state *per se*, the sociologist Christopher Muller's work provides one example of how coupling labor exploitation and exclusion with slavery and its aftermath can explain variation in Black and White incarceration rates across place and over time (Muller 2012, 2021; see also Smith and Simon 2020). Using historical information on incarceration risk within and outside the Cotton Belt, Muller shows that Black incarceration rates were quite low in the South

during and following slavery up through the 1950s because incarceration during slavery would have disrupted the exploitation of Black labor. Following slavery, cotton market collapses in the South and subsequent migration patterns put Black people in competition with White workers in the North. Incarceration during this period served an exclusionary function, and the incarceration rate of Black people subsequently increased. In this work, the relative class positions of Black and White workers, variable demand for labor, exploitation via slavery, and exclusion via racist ideologies and market competition are integrated into a compelling narrative to explain both levels of incarceration and the relative size of racial disparities in them over time. Slavery and its aftermath explain why Black Americans were historically vulnerable to exploitation and exclusion in the labor market—"Black Americans disproportionately occupy subordinate positions within these class relations—a fact that cannot be understood without reference to slavery" (Muller 2021, 282)—and provide a framework for understanding the widening and narrowing of race and class disparities in incarceration rates through Reconstruction and Jim Crow.

Case studies like this offer one example of the utility of combining the long history of racial subjugation in the United States with other features of the American state and political economy. This also has much in common with contemporary research that links incarceration to trends in the unemployment rate and broader labor demands (Sutton 2004; Wacquant 2000; Western and Beckett 1999). Such historical work can also offer insight into contemporary patterns; current research documents declining racial and ethnic disparities in incarceration, largely due to increasing rates among Whites (Robey et al. 2022). It may be that, as Muller (2021, 283) argues, that "many of the economic changes that hit Black Americans first are hitting white Americans, whose rate of incarceration is rising," but the sort of painstaking work it takes to fully describe the contours of the carceral state over time to produce a parsimonious explanation is substantial (Goodman et al. 2015; Lynch 2011; Page 2011; Schoenfeld 2016).

Politics, Political Economy, and the Decline of the Welfare State

What other features of the United States explain why it so consistently chooses carceral solutions to social problems? The overwhelming conclusion of carceral state scholars is that American exceptionalism in crime and punishment rates is matched by its weak welfare state and the degradation of social supports and protections that might serve as alternatives to the penal system (Beckett and Western 2001; Garland 2023; Gottschalk 2008; Sutton 2004; Wacquant 2009). Theories of the rise of the carceral state treat the mass criminalization of today as part of a much longer history of exclusion and exploitation (Alexander 2012; Muller 2021; Thompson 2010; Wacquant 2000) and “anti-black punitive traditions” (Hinton and Cook 2021, 261; see also Beckett and Francis 2020), but the decline of the welfare state and subsequent competition for resources provide the conditions for these dynamics to flourish.

Throughout this article, we have noted that explanations for the development of the carceral state are necessarily comparative. To that end, the United States was not unusual in its experience with higher crime rates and social upheaval during parts of the twentieth century. What sets the United States apart is that most other wealthy democracies pursued paths of shoring up their welfare states, increasing regulation of labor markets, and enhancing rights-based protections in the postwar period, while the United States largely did not (Garland 2023; Gottschalk 2008; Khan 2022; Thompson 2010). Even the much-touted gains of the civil rights movement in the United States produced such a backlash that scholars view the ensuing politicization of crime in service of racialized ends as foundational to the development of the carceral state.

Instead, the United States deregulated markets and hollowed out worker protections and social support for vulnerable citizens. The penal system has long served in relation to market forces, and incarceration rates respond to shifts in labor demand in clear but complex ways (Muller 2021; Wacquant 2009; Western and Beckett 1999). In the United States, these links are tighter due to the relative absence of protections and regulations that might offer al-

ternatives to the penal system. Ironically, the United States, which is so often described as extreme with respect to the control and surveillance practiced within the criminal legal system, can also be contrasted with virtually every other wealthy country in terms of its lack of protection and support for vulnerable residents. The United States is thus fairly characterized as a “weak state” insofar as it is unable to care for many of its citizens, despite its vast wealth. For most carceral state scholars, the disconnect between its criminal legal system—the only “strong” part of the American state according to Gottschalk (2008)—and other sectors is the core problem and unique to the United States in a way little else is.

Carceral state narratives differ with respect to what follows from the decline of the welfare state over the course of the twentieth century, but they align insofar as shifts in the political economy are what allow race and class disparities in the criminal legal system to flourish. The sociologist Loïc Wacquant (2009; see also Gilmore 2007; Khan 2022; Simon 2007b), for example, emphasizes the rise of neoliberalism specifically—that is, the devotion to free market capitalism and limited regulation achieved through technocratic privatization of public services and the politics of austerity (Harvey 2005)—and its relation to the prison boom. Lacking social services, worker protections, or living wages, the carceral system serves as an alternative to low-wage work and props up an economic system primarily based on exploitation. As described in more detail earlier, the relationship between incarceration rates, market conditions, and demand for labor is complex but generally strong (Muller 2021; Sutton 2004; Western and Beckett 1999). Welfare supports (or lack thereof) also condition state variation in punitive policies and incarceration rates within the United States (Beckett and Western 2001). Because the American state has high levels of race and class inequality, extreme segregation, and few alternatives for assistance in a crisis (Raphael and Stoll 2009), it arguably depends on the prison to maintain its current state. Moreover, given these structural conditions, it is unsurprising that prisons are filled with poor people unable to make a living wage in an unregulated labor market or that the

crime rate is relatively high. Historical patterns of racial formation and subjugation further determine relative subordinate class positions and ensure that incarcerated people are often (though not always; see Muller 2021) disproportionately drawn from the ranks of marginalized racial and ethnic groups.

Other carceral state scholars focus more intensely on the political apparatus required to maintain an austere free market economy in such a wealthy nation. One of the better-known arguments along these lines is made by Katherine Beckett (1997) in *Making Crime Pay*. She describes the politicization of crime and punishment in the 1970s and the targeting of racial and ethnic groups using coded language and links these factors to the increasingly punitive sentencing policies that drove mass incarceration. Beckett's book and later works (Beckett and Francis 2020; see also Schoenfeld 2018) describe how realignment across political parties after the Civil War and the civil rights movement created a problem for Republicans: how could they make up for having lost the support of Black Americans? Their solution was to implement the so-called Southern strategy, which appealed to Southern Whites specifically because of their racial grievances and to the broader population because of the backlash to the civil rights movement and social upheaval of the 1960s. Core to this strategy was the politicization of crime and demonization of urban settings—a barely veiled reference to Black Americans—through increasingly strident “law and order” rhetoric. The strategy increased support for Republicans in the 1970s and beyond.

Later scholarship has contested and complicated this framing. Murakawa, for example, locates the origins of racialized political appeals related to crime much earlier and places some blame at the feet of civil rights liberalism (Murakawa 2014; see also Gottschalk 2008; Thompson 2010). Similarly, scholarship focused on state variation in crime and punishment or focused on the complex histories of an individual state tends to highlight substantially more contestation and variation regarding whether and how the politics of crime and punishment find purchase (Campbell 2018;

Goodman et al. 2015; Lynch 2011). Whether the racialized politics of crime and punishment are primarily rooted in the Republican Party or are more generally bipartisan in their original form, there is widespread evidence that these political frames are entrenched today. For example, John Eason and colleagues (2024) find that the political economy of prison building is associated with racial and economic disadvantage but is broadly bipartisan, reflecting the expansion of carceral state politics across the political spectrum. The politics of crime and punishment are thus central to understanding both the rise of the carceral state and its maintenance in today. Importantly, to the extent that these political frames are now often bipartisan, they highlight the substantial challenges to rolling back the carceral state and seeking another path.

Finally, the racial and ethnic disparities that result from an American carceral state characterized by a weak welfare state, unregulated economy with few protections, and entrenched racialized politics with respect to crime and punishment are worsened by patterns of residential segregation and a hyperlocal political system. Racial residential segregation diminishes social solidarity, obscures the vastly different role the criminal legal system plays in some lives than in others, and makes it more difficult to reduce high crime and punishment rates. The hyperlocal nature of American policing and political processes compounds the problem; contact with the criminal legal system diminishes engagement with many institutions (Brayne 2014) and has broader consequences for citizenship and participation in the political process (Lerman and Weaver 2014; Remster and Kramer 2018; Sugie 2015; Weaver et al. 2014). As a result, the very people who are most subject to carceral state power have little voice in determining how such power is wielded.

Importation of Carceral Logic to Seemingly Unrelated Institutions

The dynamics we've discussed are relevant to two additional features of the carceral state today. First, the expansion of the criminal legal system was not confined to the core of the sys-

tem (for example, police, courts, or correctional agencies) and has expanded far beyond them. Various works now document the spread of punitive practices to institutions outside of but adjacent to the core of the criminal legal system. As noted earlier, Katherine Beckett and Naomi Murakawa elegantly describe a “shadow carceral state” where the practices and powers common to police, courts, or correctional agencies are now wielded by adjacent institutions (Beckett and Murakawa 2012). They offer examples ranging from punitive family courts, the criminalization of the immigration system (Ryo et al. 2025, this issue), and a rapidly expanding and predatory monetary sanctions administrative regime that produces destabilizing consequences even from relatively minimal contact with the criminal legal system or its adjacent agencies (Friedman and Pattillo 2019; Harris 2016; Harris et al. 2022; Page et al. 2019).

Second, a long line of research has described the importation of carceral logic and practice into institutions that have little to do with the criminal legal system, including contexts where the primary mission arguably stands in direct opposition to the stated goals of the criminal legal system. Significant research attention, for example, is focused on the evolution of schools from relatively open sites for learning to settings that replicate the features of control and surveillance common to the criminal legal system (Hirschfield 2008; Kupchik and Monahan 2006; Rios 2017). The introduction of police in schools, technological advancements to surveil students, and increasingly punitive and racialized school discipline policies mirror the dynamics observed in the criminal legal system and reflect the spread of an overreliance on punitive control policies in response to social problems. Similar dynamics have been documented in the child welfare (Edwards 2016; Fong 2023; Roberts 2022) and health care systems (Lara-Millán 2014), among others.

Work within this tradition, however, represents perhaps the most slippery site for mapping the contours of the carceral state. As one example, how might researchers measure whether an institution adjacent to the criminal legal system is operating under carceral logics? The scholarship on the punitive turn within

schools offers one possible response, as scholars have detailed how schools increasingly use surveillance, zero tolerance policies, and embedded police officers to create conditions that resemble the criminal legal system (Haskins and Jacobsen 2017; Hirschfield and Celinska 2011; Wolf and Kupchik 2017). Yet the so-called pipeline between, say, the school and the prison is at best indirect (Owens 2017), and the relation of all this to the development of a carceral state remains unclear. Child protective services provide yet another example; recent scholarship links contact with the child welfare system to the criminal legal system in direct and indirect ways (Edwards 2016; Fong 2023), describing child protection workers as surveillance agents that pose a threat to families and may steer some toward the criminal legal system. In both instances, the spread of the carceral state is apparent but the connections remain unclear. As a result, a substantial challenge for scholars moving forward is to address how institutions that are neither part of the criminal legal system nor the shadow carceral state reflect a broader carceral state. Such projects present significant conceptual and, as we have noted throughout this article, measurement challenges but offer one fruitful area for future research. Questions along these lines also offer another arena where research could more clearly distinguish between the United States and other similarly situated contexts with respect to their carceral state features.

Summary of the Origins of the Carceral State

Carceral state narratives document how the decline of the welfare state, racism and segregation, class divisions, and the hyperlocal racialized politics that characterize the United States create the conditions for a carceral state. The administrative shadow of the carceral state and a culture increasingly oriented toward social control spread the carceral state still further, creating a “culture of control” (Garland 2002) “governed through crime” (Simon 2007b) that now characterizes contexts and institutions with seemingly little relation to the criminal legal system. The criminal legal system is thus best viewed as one piece of a much larger car-

carceral state that neither begins nor ends with the criminal legal system. The structural and cultural features that created the American carceral state present more substantial difficulties for reducing racial and ethnic disparities in the criminal legal system than are widely acknowledged. This expanded scope of the problem compounds the significant challenges and opportunities for future research that better accounts for the scope and features of the carceral state, as we describe next.

CHALLENGES AND OPPORTUNITIES FOR SOCIAL SCIENCE RESEARCH

Since carceral state scholars describe the United States as primarily defined by its governance through crime, surveillance, and punishment (Alexander 2012; Beckett and Murakawa 2012; Garland 2023; Gottschalk 2008; Lacey et al. 2018; Simon 2007b; Wacquant 2009), most contemporary reviews of mass incarceration, mass criminalization, or the carceral state include an introductory lament regarding disciplinary indifference to the importance of the criminal legal system. The historian Heather Ann Thompson (2010, 703) notes that “historians have largely ignored the mass incarceration of the late twentieth century.” As noted earlier, the political scientist Marie Gottschalk (2008, 235) describes the carceral state as “hiding in plain sight.” The first author of this article, Sara Wakefield (a sociologist), begins a review of mass incarceration and stratification by noting that “twentieth century reviews of social stratification and mobility research scarcely addressed punishment” (Wakefield and Uggen 2010, 388). The second author, Kristin Turney (also a sociologist), pointed out the relative absence of scholarship on jail incarceration—an experience “affecting millions of Americans annually”—as recently as 2019 (Turney and Connor 2019, 265). These reviews were all written at least thirty years after the mass incarceration era began in the United States. Much of the history of scholarship on contact with the criminal legal system—and racial and ethnic disparities in such contact—in the last three decades could be characterized as, in part, an attempt to get scholars of politics, crime, stratification, public health, labor markets, or the family to take more seriously how the rapid expansion

of the criminal legal system informs the study of any number of social problems.

A similar situation is evident in the field with respect to carceral states insofar as the term remains ambiguously undefined and a host of potential explanatory factors remain on the table. The scope of activity to be described and explained has also expanded substantially. More recent scholarship has moved beyond imprisonment rates to include other forms of incarceration such as sentenced jail incarceration (Turney and Connor 2019) or pretrial detention (Williams 2003), police contact (Geller and Fagan 2019), exposure to police violence (Edwards et al. 2019), and criminal legal system contact that may not involve incarceration but remains consequential for social and economic life (Harris 2016; Kohler-Hausmann 2013). Still more updates along the lines suggested by Michel Foucault’s (1995) carceral archipelago describe how carceral logics and practices are imported to seemingly unrelated institutions such as schools (Hirschfield 2008; Rios 2017), the child welfare system (Edwards 2016; Roberts 2022), health care facilities (Lara-Millán 2014), and the immigration system (Fassin 2011). Importing carceral logics to seemingly unrelated institutions alongside what Beckett and Murakawa (2012, 222) call a “shadow carceral state” (broadly speaking, the process by which “institutions [that] are not officially recognized as ‘penal’ . . . nonetheless acquired the capacity to impose punitive sanctions—including detention—even in the absence of criminal conviction”) makes it increasingly difficult to draw clear boundaries around the criminal legal system.

Describing the features of shadow carceral states that are embedded in carceral logics and those that are not is challenging. And we need a better understanding of which aspects of these institutions work in concert with the carceral state and which do not. Beckett and Murakawa’s (2012) work provides the broad contours of a shadow carceral state by anchoring their analysis in “civil and administrative pathways that lead to incarceration” and, broadly, the creation of civil and administrative practices that “enhance carceral power” (221). The authors provide specific examples of the concept, highlighting the expansion of immigra-

tion courts (see also Ryo et al. 2025), civil contempt charges resulting from failure to pay legal financial obligations or child support that increasingly result in incarceration, and the civil commitment of sex offenders. The carceral state is thus simultaneously highly visible with respect to the criminal legal core (policing, courts, and punishment) and obscured and “submerged, serpentine” in the form of a shadow carceral state that increases the risk of incarceration (Beckett and Murakawa 2012, 222).

Mapping the carceral state becomes more challenging when institutions far outside the criminal legal system core import carceral logics and practices while also pursuing non-carceral aims. Schools are one such well-researched example; compulsory schooling of children and adolescents serves many aims (the production of a well-educated citizenry, the inculcation of societal norms and values, and so forth), but a large body of scholarship during the prison boom describes how schools have become “prison-like” through investments in surveillance, the arrival of police officers on campus, and zero tolerance policies that mirror the punitive shift of the criminal legal system (Hirschfield 2008; Rios 2017; Hirschfield and Celinska 2011; Wolf and Kupchik 2017). Thus, a system that, on its face at least, is designed to keep children out of trouble has played a greater role in steering them toward the attention of the criminal legal system (and does so in ways that mirror the racial and ethnic disparities of the criminal legal system). Putting aside questions of whether schools are meant to do the things they claim (Justice 2023), we see that increased school surveillance and punitive policies pair well with Beckett and Murakawa’s conception of a shadow carceral state but stop well short of the “legally liminal authority” that characterizes immigration courts or civil commitment hearings (2012, 222). The interactions between schools and eventual criminal legal system contact are more nebulous and harder to measure. Related scholarship on how hospitals (Lara-Millán 2014) or child welfare systems (Edwards 2016; Fong 2023) work in concert with the criminal legal system presents similar challenges, but emerging scholarship in these areas

highlights multiple pathways toward the growth of the criminal legal system.

Given this context, it is unsurprising that it has taken several decades to adequately—though not fully—describe the contours and consequences of mass incarceration and mass criminalization. The challenges are compounded when the goal is to explain why mass incarceration began in the United States and why it was so much more severe in this context. The proximate causes of the growth in punishment—changes to policing practices, sentencing policy, or correctional operations—remain contested even though they are much more easily measured relative to, say, the unique aspects of the US political economy or its long history of racial subjugation and segregation. Indeed, many explanations for the development of the carceral state are anchored in events that occurred more than one hundred years before a noticeable rise in incarceration rates was observed. The narratives we described earlier, for example, range from carceral state origins in the eighteenth century to the contestations and legitimacy crises of today. They locate the origins of the carceral state in everything from the political economy of the United States and an especially weak state to highly localized political systems and the politicization of crime, slavery, and the Great Migration, among other examples. In short, there is much to explain and many moving parts.

Understanding the full contours of the expansion of the carceral state is theoretically and methodologically challenging. Theoretically, defining the carceral state is not necessarily straightforward. Most scholars would agree that the carceral state includes aspects of the criminal legal system such as police contact, arrests, jail and prison incarceration, and supervision (through probation and parole). Many would also argue that a full understanding of the carceral state involves additional characteristics of the criminal legal system, including legal financial obligations (Harris 2016), solitary confinement (Reiter 2016), length of sentences (Mauer and Nellis 2018), and (often brutal) conditions of confinement (Wildeman et al. 2018). Other institutions employ the logic of the carceral state, as described earlier, so one could also reasonably conclude

that the educational system (Haskins and Jacobsen 2017), the child welfare system (Fong 2023), or the health care system (Lara-Millán 2014), for example, should also be included in any discussion of the expansion of the carceral state.

Methodologically, measuring the scope of the carceral state—and especially measuring change over time—requires consistent and accurate historical data. Some aspects of the carceral state are easier to measure than others. State and federal imprisonment rates have been collected and reported by the BJS annually since 1925 (Bowie 1982). This likely explains why these trends (overall, across states, and by demographic groups) are precise and commonly reported. Other aspects of the carceral state, though, are difficult to measure. Conditions of confinement, and trends in conditions of confinement over time, are difficult to measure rigorously and systematically, in part because of the fragmented nature of local, state, and federal systems (Sakoda and Simes 2021). How many people endure solitary confinement each year in the United States? How does this vary across time and across facilities? Answers to these questions are not available in a consistent manner across states and across time. Furthermore, the goal of measuring institutions adjacent to the criminal legal system—and changes over time in how these institutions criminalize people—is complicated. How can one measure the importation of carceral state logics into the health care system? How can one measure the relationship between the criminal legal system and the child welfare system? To be sure, scholars have done considerable work to make these linkages, but precise measurement of these changes would require considerable data collection efforts.

Additionally, it would be useful to make precise international comparisons to fully understand the scope of the carceral state in the United States. Scholars commonly compare some features of the US carceral state to those features of other countries, but a full accounting of cross-national similarities and differences in the carceral state is difficult to do. It is commonly reported that the United States has the highest incarceration rate in the world (Tonry 1999). This fact sheds light on the reach

of the carceral state in the United States but still provides an incomplete picture. The carceral state goes beyond incarceration rates. How does the United States compare in terms of the duration of incarceration? Or the use of pretrial incarceration? What about the conditions of confinement (for example, the availability and quality of substance use treatment programs or use of solitary confinement)? How does the reach of the carceral state in other institutions—including the educational system, the child welfare system, and the health care system—compare across countries? Information about the carceral experience across countries is not widely or systematically available, leaving the true nature of country-level disparities—and explanations of these disparities—unknown.

Finally, as detailed earlier, the carceral state includes a host of processes and institutions that are often inaccessible to researchers. Even though recent research has shed light on the contours and consequences of lesser-studied aspects of the carceral state—such as legal financial obligations (Harris 2016), bail (Page et al. 2019), or jail incarceration (Turney et al. 2023)—these aspects of the carceral state are often less accessible to researchers. Given data collection challenges, existing research on these topics is often limited to a particular state or locale, often precluding a full national-level accounting of patterns. Similarly, qualitative research is especially valuable for understanding these aspects of the carceral state, since the in-depth and nuanced approach allows for rich narrative information, but this qualitative research does not allow for a national-level accounting of patterns (and an understanding as to whether what occurs in one context is generalizable to other contexts).

OPPORTUNITIES FOR FUTURE RESEARCH

Social scientists have responded to the rise in the carceral state by conducting research on both the trends in this expansion and the consequences of this expansion for individual, family, and community well-being (Adams 2018; Kirk and Wakefield 2018; Massoglia and Pridemore 2015; Turney and Wakefield 2019; Wakefield and Uggen 2010). This research in-

cludes demographic research (for example, life table estimates of the lifetime risk of imprisonment; Pettit and Western 2004), survey research (for example, fixed effects models that estimate the consequences of incarceration for health; Sugie and Turney 2017), experimental research (for example, vignettes to understand stigma stemming from paternal incarceration; Wildeman et al. 2017), and qualitative research (for example, ethnographic research that describes the secondary prisonization endured by romantic partners of incarcerated men; Comfort 2008). It is interdisciplinary in nature, including work by psychologists, economists, and sociologists. It describes trends in the carceral state but, more recently, has begun to investigate previously hidden aspects of the carceral state including pretrial jail incarceration (Turney et al. 2023), legal financial obligations (Harris 2016), and supervision such as probation and parole (Phelps and Ruhland 2022). Despite this considerable body of research on the carceral state in the United States, there are many unanswered research questions that yield opportunities for future research. We see at least two opportunities for expanding research on the expansion of the carceral state.

First, our understanding of the carceral state could be advanced with research that links the various aspects of the carceral state (including those of the criminal legal system and those adjacent to the criminal legal system) to each other. Social scientists often operate in silos. Researchers who study trends in crime, for example, rarely also study trends in incarceration. Researchers who examine the frequency or invasiveness of police contact also rarely examine the consequences of this contact for individual and family well-being. Researchers who study the conditions of confinement rarely consider how these conditions of confinement can differentially shape outcomes for people during their incarceration and after release. Linking these and other aspects of the carceral state can shed light on the true depth of the contours and consequences of the carceral state.

Second, researchers of the carceral state should endeavor to account for the local context (with respect to both trends in the expan-

sion of the carceral state and the consequences of the carceral state), as the case studies we have cited throughout this review do through laborious archival research. Though some aspects of the carceral state (for example, rates of police contact, rates of fatal police stops, rates of incarceration) are often reported at the national level, there is considerable variation in criminal legal contact at the local level. Indeed, policies and practices are often set at the county and state level. Decisions about who is arrested, who receives bail, and who gets sentenced (and for how long), for example, happen at the county level. The 3,143 counties in the United States have different police departments, different prosecutors, different judges and juries, all of which operate under their own unique policy contexts. The fifty states in the United States run different Departments of Corrections that each have different conditions of confinement, parole boards, and levels of structural racism. Understanding variation across counties and states is a critical step toward understanding the full scope of the carceral state. The fragmented and dispersed nature of data on jail incarceration precludes a robust and national accounting of the causes and consequences of this form of criminal legal contact, unfortunate given that jail incarceration is the most common—and unequally distributed—form of incarceration in the United States. Infrastructure to support the collection and dissemination of data on county-level jail incarceration is critical for understanding the broader carceral state and could provide considerable opportunities for future research. Similarly, at the state level, it would be useful to know if variation in state policy explains variation in criminal legal system growth, decarceration efforts, and practice.

CONCLUSION

This article has been devoted to defining and describing the American carceral state in a manner different from those that focus more narrowly on mass incarceration or mass criminalization. As we noted in our introduction, understanding the United States as a carceral state, rather than as a nation that merely has high incarceration rates, expands knowledge by broadening the analytic landscape. The high

incarceration rates in the United States are, to be sure, a defining feature of the country, but the scope and extent of the carceral state go beyond incarceration. Far more people endure other aspects of the carceral state, including other features of the criminal legal system (for example, police contact, community supervision, legal financial obligations) and surveillance from institutions adjacent to the criminal legal system (for example, schools, child welfare, health care). Our review suggests that better integration between carceral state origins and contemporary analyses would advance knowledge considerably, and similarly, better connections between various aspects of the carceral state would be useful. Unfortunately, doing so dramatically escalates our sense of the challenges involved in rolling back the carceral state and reducing its consequences on American society.

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