MEASURING PUNITIVENESS: EXPLORING STATE VARIATION IN PENAL CONTROLS

by

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ABSTRACT

Punishment research focuses heavily on mass incarceration and the "punitive turn" in the United States. However, most individuals involved in the criminal legal system never spend time in prison. Building from Garland's (2020) theory of American penal exceptionalism, the current study uses a measurement of punitiveness focusing on state variation in penal controls. First, I develop a state-level typology of punitiveness that includes two dimensions: court-ordered punishments and collateral sanctions policies. Second, I investigate how states' placement in this typology is associated with known social correlates of punitiveness, such as conservative political ideology and racial/ethnic composition from 2010 through 2016. My analysis in study one highlights that focusing on mass incarceration obscures the full story of state variation in punitiveness (Frost 2006,2008; Hamilton 2014; Kutateladze, 2009). First, by using standardized scores (Z-scores) rather than rankings, my analysis shows states are more alike across measures of penal controls than previously presented. Second, by creating a Court-Ordered Punishments Scale using measures that capture the sentencing outcomes (rather than rates) of states to use prison and probation combined with a scale of collateral sanctions policies, my typology is a better operationalization of how people are being sentenced for a felony-level conviction in each state. Study two further contextualizes the state-level variation in punitiveness by examining how each category in my typology is associated with state characteristics that have been found to be

correlated with harsh punishment. This study adds to the ongoing conversation regarding U.S. exceptionalism in penal control, providing some support for Garland’s (2020) theory. I find that states with less generous welfare benefits are more likely to be in the category with high levels of both forms of punishment in comparison to all other categories of punitiveness. I also find mixed support for claims made in previous empirical and theoretical research regarding the relationship between punitiveness and a state’s racial and ethnic composition as well as conservative political ideology. This study's findings have significant implications for understanding variation in the use of penal controls across states. For example, even if mass incarceration were eliminated, there would still be significant issues with excessive use of other penal controls such as mass supervision, exclusion, and disqualifications that researchers and policymakers must address. In addition, findings from study two are inconsistent with predictions from traditional theories often used to explain state variation in punitiveness, this suggests that new theoretical approaches may be needed.

INDEX WORDS: Punitiveness, Penal Controls, Criminal Punishment, Felony Convictions, Court-Ordered Punishments, Collateral Sanctions, Imprisonment, Probation

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DEDICATION

I dedicate this dissertation to my husband, whose love and support were endless throughout my time in graduate school. And to my son, who was my strength throughout the pandemic to complete my degree.

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CHAPTER ONE

INTRODUCTION

Traditionally, research exploring how states vary in punitiveness solely utilizes incarceration rates or mass incarceration measures, such as prison overcrowding and three-strikes policies, to identify which U.S. states are more punitive. I argue that this approach is flawed, because it excludes other important indicators of punitive punishment, including probation and collateral sanctions. In this dissertation, I provide a more comprehensive operationalization of punitiveness than previously used in punishment research by combining three types of harsh punishment. This new measurement of state punitiveness includes two forms of court-ordered punishments (incarceration and probation) as well as collateral sanction policies for felony convictions. It focuses on the punitive nature of punishment rather than just the scale of punishment, to better inform our understanding of state variation in punitiveness.

The United States is often characterized as exceptional when it comes to criminal legal punishment in comparative studies using incarceration rates as the dependent variable (Garland, 2020; Reitz, 2017), with a few studies that find similar trends of American exceptionalism in punishment beyond incarceration (Corda, 2016; Demleitner, 2018; Garland, 2020; Gottschalk, 2017; Harris, 2016; Jacobs, 2015; Rhine and Taxman, 2018; Reitz, 2017; Tonry, 2012). It is important to look beyond incarceration because as Garland (2020) argues, punishments such as criminal justice charges (court-ordered punishments) and exclusions of felons from receiving welfare benefits are similarly "vengeful and degrading" (Whitman, 2003), as well as "cheap-and mean" (Lynch, 2009) penal practices.

Garland discusses four modes of penal action: penal afflictions, penal levies, penal controls, and penal assistance (2020). He argues that the American criminal legal system has overwhelmingly relied on only one of these modes of penal action - penal control - and that the penal economy in America ensures that individuals' working within the U.S. government are less able to implement social measures to reduce crime (Garland, 2020). This is particularly salient where poor and racially and ethnically marginalized populations are concerned in the United States (Currie, 2013; Garland, 2020). Garland (2020) calls for future research to extend his theoretical assertions regarding penal controls beyond the single case of the United States as a whole and to analyze variation in penal controls across American states. The studies in this dissertation answer Garland's call.

Punishment research posits mass incarceration as the greatest challenge of the U.S. criminal justice system. Yet, the lack of an integrated focus on multiple penal controls leads to an inaccurate representation of severity in punishment within the United States. Additionally, when research explores state variation in punishment, the focus rarely moves beyond imprisonment (Campbell, 2015; Neill, Yusuf, and Morris, 2014). However, most individuals involved in the criminal legal system never spend time in prison. A more realistic depiction of the criminal legal system would focus on how the United States' widespread use of incarceration works alongside community supervision (Frost and Clear, 2012; Garland, 2013) and collateral sanction policies. Further, when discussing the harshness or severity of criminal punishment in the United States, scholars tend to use the term punitiveness without a comprehensive conceptualization of its meaning (Frost, 2006). Almost all research discussing the punitiveness of the United States or differences in punitiveness among U.S. states defines the term as more imprisonment rather than more punishment (Frost, 2006, 2008; Neill et al., 2015).

Empirical studies that examine predictors and theoretical explanations for state variation in punitiveness consistently show associations between harsh criminal punishment and political conservativism, racial heterogeneity, and less generous welfare policies (Beckett and Western, 2001; Ewald, 2012; Martin and Shannon, 2020; Neill et al., 2015; Soss, Fording, and Schram, 2011). These studies provide support for theories of social control like class conflict theory and racial threat, which argue that states use punitive policies to govern socially marginalized groups, including racially and ethnically marginalized populations (Beckett and Western, 2001; Ewald, 2012; Martin and Shannon, 2020; Neill et al., 2015; Soss et al., 2011).

Two additional categories of predictors used to explain state variation in punitiveness are political partisanship and economic conditions. Studies link conservative political control (e.g., legislative composition) and ideology, both government and citizenry, to punitive crime control policies (Beckett and Western, 2001; Ewald, 2012; Jacobs and Carmichael, 2001; Martin and Shannon, 2020; Neill et al., 2015; Soss et al., 2011, Yates and Fording, 2005). Studies also show associations between state poverty rates and more punitive policies (Beckett and Western, 2001; Neill et al., 2015; Yates and Fording, 2005). Study two in this dissertation examines the associations between the categories of punitiveness developed in study one and racial/ethnic demographics, state economics, and political ideology.

The Current Research Studies

In this dissertation, I examine variation in formal social controls at the state level. I argue that state punitiveness can best be conceptualized as the imposition of excessive formal social controls over the lives of individuals with criminal convictions. I operationalize formal social control using court-ordered punishments and collateral sanctions policies, both of which are measures of penal controls (Garland, 2020). I focus my attention on felony convictions because

they carry the most severe penal controls (both court-ordered punishments and collateral sanctions) within the United States, so much so that even an arrest for a felony can be damaging due to stigma. Doing so also ensures that my operationalization of punitiveness is parsimonious and specific, which addresses several methodological shortcomings of previous typologies.

In the next chapter, I review the relevant literature including previous operationalizations of punitiveness and known social correlates of state punitiveness, identifying gaps in the literature that my dissertation will address. In Chapter Three, I present an overview of the current studies and outline my predictions. In Chapter Four, I present my data sources and measures of state punitiveness, which include court-ordered punishments and collateral sanctions policies, and an overview of my analytic strategy for creating the punitiveness typology. Then, I explain the data sources, measures, and descriptive statistics for traditional social correlates of punishment. Last, I describe my analytic strategy for examining how these social correlates of punishment are associated with the categories of my new punitiveness typology. In Chapter Five, I present my typology of state punitiveness. In Chapter Six, I show the results of multi-level multinomial models that examine how previously identified social correlates of punitiveness relate to my new typology. In Chapter Seven, I provide a discussion of my findings, policy implications of this research, limitations, future directions for research, and conclusion.

CHAPTER TWO

LITERATURE REVIEW

Punishment research has focused heavily on the “punitive turn” in criminal punishment. However, the conceptualization of punitiveness has varied considerably. According to Frost (2006), the concept of punitiveness is inadequately defined in most research and generally used interchangeably with punishment. Under this definition, greater punitiveness would mean more punishment (Frost, 2006). Other scholars describe the term punitiveness as excessive punishment or punishment above what is appropriate (Matthews, 2005), harshness or severity of punishment (Lynch, 1988; Tonry, 1999, 2004), cruel/vengeful punishment (Simon, 2001), and penal harm (Clear, 1994). Although the field lacks a consensus definition of punitiveness, scholars agree that to understand what state punitiveness is, researchers must consider the different ways that states punish (Frost, 2008, Neill et al., 2015; Tonry, 2007).

Many scholars agree that punitiveness is a multidimensional concept (Hamilton 2014, Kutateldze, 2009, 2011; Neill, et al., 2015; Pease, 1994; Tonry, 2007; Whitman, 2003). However, there is a lack of connection between the conceptualizations of punitiveness in the literature and how scholars measure punitiveness empirically. For example, Frost (2008) conceptualizes punitiveness beyond solely incarceration rates to focus on the character of punishment rather than the scale, citing Rockefeller Drug Laws as an example of a punitive policy. However, when measuring state variation in punitiveness, Frost (2006, 2008) included only variables related to incarceration in the analysis: imprisonment rates, imprisonment lengths, and imprisonment risk (Frost 2006, 2008). These differences call into question the validity and

reliability of research focusing on state variation in punitiveness for a couple of reasons. First, inconsistency between the conceptualization and operationalization of a concept in research leads to lower measurement validity and raises doubt about whether researchers measure what they intend to measure (Carr et al., 2018). Second, when measures of the same concept vary as drastically as the measures of punitiveness do across the empirical literature, it is difficult to compare findings across studies.

The most common variable used to measure state variation in punitiveness is imprisonment rates (Neill et al., 2015). Scholars have also used the length of imprisonment (Frost, 2008), correctional expenditures (Stucky, Heimer, and Lang 2007), adoption of criminal justice policies such as three-strikes laws (Tonry 2007), and collateral sanction policies such as felon disenfranchisement (Ewald 2012) as measures of punitiveness (Neill et al., 2015). Over time and currently, U.S. states vary significantly in penal controls, including length of prison terms and risk of incarceration (Frost, 2008), revocation rates for both parole and probation (Jacobson, 2005; Phelps, 2016), and additional punitive policies such as three-strikes (Lerman and Page, 2012; Zimring et al., 2001). Similarly, between the 1980s and 1990s, the United States saw an increase in the use of intensive community supervision, house arrest, day reporting centers, and community service (Robinson, McNeill, and Maruna, 2012; Tonry and Lynch, 1996).

There are two bodies of literature focusing on the term punitiveness. One body of literature looks at criminal justice punishment policies and practices at the state and national levels, while the other explores public support for those harsh or excessive policies. In this dissertation study, I focus on punitiveness at the state level, creating an operationalization of punitiveness that encompasses a wide range of criminal justice punishment policies and practices to advance our understanding of penal policy. Once researchers use this new operationalization

of punitiveness, scholars will be able to decide whether or not “more is better” (Hamilton, 2014) when exploring variation in punishment.

There are four primary operationalizations of state punitiveness used in prior research. The first and most often utilized measure of punitiveness is incarceration rates. Secondly, scholars also measure punitiveness through various characteristics of imprisonment like the length of time incarcerated (Frost, 2006, 2008) and prison overcrowding (Kutateladze, 2009; Neill et al., 2015). Third, measures of other formal social controls are also used in research exploring state punitiveness. For example, there is some literature on American exceptionalism in community supervision, exploring the excessive use and detrimental impacts of probation and parole across U.S. states (Lin, Grattet, and Petersilia, 2010; Phelps, 2013, 2017, 2018, 2020; Petersilia, 1999; Rhine and Taxman, 2018; Vîlcică, 2018; Werth, 2013). The fourth commonly used measure of state variation in punitiveness is invisible punishments or collateral sanction policies. More specifically, some scholars use measures of punitiveness such as felon disenfranchisement policies (Manza and Uggen, 2006) and the drug felony lifetime ban on Temporary Assistance for Needy Families (Martin and Shannon, 2020).

Punitiveness Operationalized as Incarceration Rates

Cross-national studies of punitiveness have highlighted the United States as the world’s leader in incarceration rates, far outpacing all other industrialized nations (Garland, 2001, 2013, 2020; Reitz, 2017; Rhine and Taxman, 2018). The incarceration rate grew rapidly in the United States between the 1980s and 2000s. After over 30 years of steady increase, the U.S. incarceration rate reached a peak between 2007 and 2008 at 760 per 100,000 general population (Kaeble, Glaze, Tsoutis, and Minton, 2015; Reitz, 2017). As of 2018, the number of individuals incarcerated in state and federal prisons and local jails was about 2.2 million, about 650 per

100,000 residents (Maruschak and Minton, 2020). Comparing cross-nationally, in 2016, the United States prison incarceration rate was 639 per 100,000 residents, with the next closest country being El Salvador with 562 per 100,000 residents incarcerated (Walmsley, 2018). Research has frequently compared the United States to industrialized nations in Europe(Garland, 2001; Hamilton, 2014; Tonry, 2007). In 2016, England and Wales incarcerated 130 per 100,000 residents in prison, far lower than the rate in the United States (Walmsley, 2018).

Much of the current research on punishment has focused on the phenomenon of mass incarceration. Many scholars suggest that the current goal of penal policies is to incarcerate and/or manage criminal offenders (Campbell and Schoenfeld, 2013; Feeley and Simon, 1992). Although penal policies are decentralized within the United States, all states had high incarceration rates well into the early 2000s. Between 1980 and 2006, most state incarceration rates increased between 200 percent and 600 percent (Campbell and Schoenfeld, 2013; Zimring, 2010). Most sunbelt U.S. states had increasing incarceration rates for a decade prior to other regions of the country (Campbell, 2018).

The most common way to measure state-level punitiveness has been imprisonment rates (Frost, 2006, 2008; Hamilton, 2014, Kutateldze, 2009, 2011; Neill, Tusuf, and Morris, 2015; Pease, 1994; Tonry, 2007). While scholars often conceptualize punitiveness more broadly than incarceration, a common trend across research in this vein is to use incarceration as a proxy for state punitiveness (Brayne, 2013; Frost, 2006, 2008; Jacobs and Carmichael, 2001; Zimring, 2001). Much of the research that uses incarceration rates as the indicator of punitiveness has identified the sunbelt states as the most punitive and states in the northeast as the least punitive (Campbell et al., 2015; Travis, Western, and Redburn, 2014; Zimring et al., 2001). Scholars discuss how using only incarceration rates to describe state variation in punitiveness misses out

on many different factors. However, incarceration rates are the easiest to measure empirically, which lends itself well to comparisons within and across countries (Matthews, 2005; Neill et al., 2015).

In addition to missing factors that may be important for understanding how states vary in punitiveness, there is also the issue of using incarceration rates as the sole measure of punitiveness. Although the Bureau of Justice Statistics (BJS) data are the best state and national correctional data available, there are limitations. More specifically, each jurisdiction reports its data separately, which may lead to a difference in reporting and final estimates. For example, state departments of corrections vary in how they define and measure ethnicity, which makes it difficult to make cross-state comparisons. After each year of data is published, BJS statisticians also present jurisdictional notes that describe issues in the reporting strategies of individual states that may prevent valid comparisons across years for states and between states in the year of focus (Carson, 2020). For example, the 2019 jurisdiction notes (Carson, 2020) indicate that California used a new method to determine the counts for that year. As a result, the new data are not comparable to the previous year of data (2018). In addition, Oregon did not report any data through the National Prisoner Statistics program, so BJS statisticians imputed the data for those years (Carson, 2020). Like the discussion by Pease (1994) regarding the differences in reporting across nations when it comes to incarceration rates, there are between- and within-state differences in the BJS data. The current studies combat these issues in two distinct ways. The first is by using smoothed variables to measure court-ordered punishments instead of relying on one year of data for each measure per state. The second is including collateral sanctions policies in the measure of punitiveness. Policies are not impacted by the state reporting issues discussed above.

Punitiveness Operationalized as Imprisonment

Research on state variation in punitiveness has also examined different characteristics of imprisonment. Incarceration rates capture the full scale of incarceration at a given point in time, but they do not depict other facets of punitiveness, such as sentence length or the likelihood of being incarcerated for a given offense. In one attempt to move beyond incarceration rates, Frost (2006, 2008) operationalized punitiveness as three separate comparative measures - state incarceration rates, propensity to imprison, and imprisonment sentence lengths - to uncover "mismeasurement" in research on mass incarceration. Using the additional measures of punitiveness - length of sentence and certainty in sentencing – also known as the dual determinants of incarceration rates, Frost showed that states had differing levels of punitiveness than when using incarceration rates alone. The dual determinants also complicate findings from previous literature on state variation in punitiveness when incarceration rates are the sole indicator of punitiveness (Frost, 2006, 2008). States may imprison people at a similar overall rate. However, how the rates got to the level they did may be through very different processes. For example, Maryland and Virginia are ranked 17th and 18th respectively for incarceration rates at 429 per 100,000 residents incarcerated and 422 per 100,000 residents incarcerated (Frost, 2006, 2008). When you take a closer look, these two states are quite different in their scores for propensity to imprison (Maryland .096; Virginia .135) and sentence length (Maryland 40.42; Virginia 27.76). Disaggregating this information is essential for specificity in measurement and understanding the "how" behind incarceration rates.

Disaggregating the elements that go into punitiveness measures can also lead to more fruitful policy discussions. Taking the example of Maryland, a potential avenue for lowering the incarceration rate would be to change policies that increase sentence severity like mandatory

minimum sentencing. In Virginia, meanwhile, policy makers could explore adjusting how crimes are codified in the law and curtail the types of felony convictions that lead to incarceration. In addition, case-level analyses exploring mass incarceration in an individual state have also identified "key engines of mass incarceration" (Gottschalk, 2011) and in turn how states become punitive. For example, Lynch (2010, 2011) identifies "tough and cheap" penal policies in Arizona as main contributors to the above-average incarceration rate.

Other scholars examine the punitiveness of criminal justice policies that lead to imprisonment. For example, Tonry developed a comprehensive measure of punitiveness, focusing on punishment policies, such as mandatory minimum sentencing and increased sentence lengths, prison rates, and juvenile prison rates (2007), all of which are directly related to imprisonment. Even when a measure of punitiveness includes alternatives to imprisonment, the indicator solely measures whether alternatives exist, not if the policies are utilized and if they are, how frequently. Other policies that have been the focus of research on punitiveness include second and third-strike habitual offender legislation, truth-in-sentencing, and drug offense laws (Frost, 2006, 2008; Garland, 2001; Lynch, 2011; Tonry, 1996, 1999, 2006, 2007; Zimring et al., 2001).

Punitiveness Operationalized as Community Supervision

Probation is often discussed as an alternative to imprisonment, which implies that imprisonment should decline as probation increases (Anderson, 1998; Cavanaugh and Kleiman, 1990; Reitz, 2017; Sigler and Lamb, 1997). Probation is a combination of rehabilitative and punitive practices, making it an intricate form of correctional control (Phelps, 2013). Additionally, even though probation is not as limiting on an individual's liberty as incarceration, probation involves an extensive number of specific obligations, such as drug testing, electronic

monitoring, attending required programs or classes, avoiding additional arrests, finding employment, and/or abiding by specific curfews or banishment.

In fact, Phelps' (2013; 2017; 2018) research demonstrates how net widening via probation can lead to higher incarceration rates in some states due to revocation hearings and the strict rules associated with supervision, such as drug tests and weekly check-ins with officers (Corda and Phelps, 2017; Phelps and Pager, 2016). Tracing probation policies and rates over time from 1981 through 2007, she found that the U.S. probation population increased by 250%, which connects the expansion of probation in the United States to increases in criminalization (Phelps, 2017). As of 2018, 1 in 72 U.S. adult residents were under probation supervision. This is a rate of 1,389 per 100,000 residents (Kaeble and Alper, 2020). Phelps' research demonstrates that specific conditions of probation and the use of probation as a net-widening tool in certain states is punitive rather than a focused rehabilitative alternative to incarceration.

Probation research primarily focuses on the changes in community supervision, utilizing publicly available data from the Bureau of Justice Statistics, "*Probation and Parole in the United States*" (Phelps 2015). Utilizing these data, Phelps (2017) identified state control regime typologies based on both the felony incarceration and felony probation rates. Phelps places each state within one of the four quadrants created by her two-category typology. The first quadrant is the ''punitive control'' regime, which according to Phelps represents the carceral state ideal because states in this quadrant have high rates of incarceration and probation; the second is the ''sparing control'' regime where neither form of punishment is applied expansively; the third is "managerial control" where states have high probation rates and low incarceration rates; and the fourth is "incapacitative control" where states have high incarceration rates and low probation rates (Phelps, 2017).

While this is an important first step, such typologies are incomplete due to the already discussed limitations of BJS data, and because these data do not include additional factors that may influence punitiveness such as fines, electronic monitoring, and mandatory treatment programs, (Phelps, 2013; Rhine and Taxman, 2018). Although these data provide an indication of patterns in probation supervision at the national and state level, the data are limited to information regarding caseloads, the racial demographic breakdown at the national but not state level, information regarding exits from supervision, and changes in the questions asked and/or reported.

Similar to probation, parole is often discussed in the literature as an alternative to imprisonment. In the law, it is considered a "privilege" or "act of mercy" when an individual serves the remainder of their prison sentence in the community rather than behind bars (Reitz, 2017; 442 U.S. 1, 1979). As with probation and imprisonment, a much larger population of people serve post-sentence parole in the United States than in other industrialized nations (Reitz, 2017). In 2018, 1 in 290 U.S. adult residents were under parole supervision (Kaeble and Alper, 2020).

Parole in the United States criminal justice system is either determinant or indeterminant surveillance placed on individual's post-incarceration. Like probation, the conditions of parole may lead to additional sanctioning and reincarceration. The use of reimprisonment for individuals placed on parole is often described as back-end sentencing (Lin, Grattet, and Petersilia, 2010; Petersilia, 1999), another facet of punitive formal social control. A study by Werth (2013) finds that parole agents in California take a "punitive control-oriented" approach to manage the people placed on parole under their supervision. Werth (2013) describes parole in California as punitive because parole officers "prioritize regulatory surveillance (encompassing

supervision, enforcement of conditions, and assessment of commitment and sincerity), sanctioning misconduct, and utilizing the threat of reimprisonment" (pg. 237). Additionally, researchers have concluded that the parole process itself is punitive. A study conducted by Vîlcică (2018) finds that when an individual is up for parole in Pennsylvania, to increase the chance for release, they must be denied parole at least once before they are eligible.

American exceptionalism in punishment is evident in community supervision revocation rates because of how they contribute to mass imprisonment at the state and national level (Corda and Phelps, 2017; Phelps and Curry, 2017). In 2016, 12% of unsuccessful exits from probation and 27% of unsuccessful exits from parole ended in imprisonment in the United States (Kaeble, 2018). Further, in 2020, the Human Rights Watch and ACLU partnered to produce a report titled, "*Revoked: How Probation and Parole Feed Mass Incarceration in the United States*." Revocations are categorized as *overly punitive* responses to violations (Frankel and Fellow, 2020). In addition, research from the Council of State Governments Justice Center finds significant variation between states on revocations to imprisonment in 2015. In Georgia, 55% of prison admissions are due to probation violations, whereas in Arkansas 54% are due to parole violations. Thus, community supervision is a significant contributor to state variation in punitiveness as both a front-end and back-end punishment.

Punitiveness Operationalized as Invisible Punishment/ Collateral Sanctions

As Jeremy Travis (2002) notes, not all criminal punishments are visible. There are many less "viewable" sanctions known in most of the literature as collateral consequences. Collateral sanction policies are found in state legislative statutes and are not enforced by the courts like imprisonment and probation sentences. Although the focus has been on reducing rights for individuals convicted of felony offenses as collateral, much of the research exposing the impact

of these penal policies concludes that they are anything but supplementary and in many ways are just as harsh and excessive as court-ordered sanctions. Within the United States, as visible punishment such as imprisonment and probation expanded, so did the policies that exclude people convicted of felonies from numerous aspects of social life (Travis, 2002). Ultimately, these laws created "a large population of felons, concentrated in poor, minority communities, who are marked and monitored and cut off from the supports of modern society" (Travis, 2002, p. 33).

The current research exploring these invisible punishments generally uses the term "collateral consequences" to describe them (Ewald, 2012; Whittle and Parker, 2014), with a heavy focus on the sanctions being contingent upon release from incarceration or resulting from mass incarceration (Mauer and Chesney Lind, 2002). In each case, these are additional sanctions imposed on people with felony-level convictions, regardless of whether they were incarcerated. Although the term "collateral consequences" seems to place these policies on the periphery of formal criminal justice sanctions, the findings from multiple studies taken together provide support for considering collateral consequences on the same level of punitiveness as direct sentencing for criminal convictions. Whether focused on court-ordered punishments or collateral sanctions, research finds similar associations between punishment and social correlates including state racial composition, political partisanship, and welfare policies.

According to Whittle and Parker (2014), collateral consequences vary across and within states over time. Studies investigating the relationship between collateral sanctions policies and known social correlates of state punitiveness use a range of policies as dependent variables, such as employment, voting, and public benefits (Ewald, 2012; Plassmeyer and Sliva, 2018; Whittle and Parker, 2014). The term "punitive" is frequently used to describe these policies, yet there is

rarely a definition or conceptualization provided in such studies. For example, in a recent law review of collateral consequences of criminal punishment, Jones (2015) examines whether these policies are "purely punitive." This term is used often in the text, but it is never explained.

Empirical research on state variation in collateral sanctions policies ranges from examining one specific policy to constructing a composite measure of all collateral sanctions policies (Chesney-Lind and Mauer, 2003; Ewald, 2012; Fellows and Rowe, 2004; Martin and Shannon, 2020; Owens and Smith, 2012; Soss et al., 2001; Uggen and Stewart, 2015). Frequently, research has categorized only the most restrictive policy options as punitive. For example, the full ban on welfare benefits due to a drug felony conviction is often discussed in the literature as the more punitive option, whereas the modified ban or opting out of the ban is viewed as more reformative (Gustafson, 2009, 2011; Owens and Smith, 2012). More recent research complicated this categorization of different policy options by treating each possible policy as unique (Martin and Shannon, 2020). In doing so, Martin and Shannon (2020) assert that the monitoring and sanctioning of recipient behavior through the modified version of the ban on TANF is arguably a punitive policy.

Studies that construct composite scales of collateral sanctions policies have not used a consistent or empirically validated set of collateral sanction policies. Only one previous study used factor analysis to identify which combination of collateral sanctions policies create a valid measure (Ewald, 2012). However, no factors presented large enough eigenvalues to provide statistical support for any underlying factors connecting collateral sanction policy implementation by states. Thus Ewald's (2012) Collateral Sanctions Policy Scores includes eight different policies (jury service, office holding, voting rights, gun rights, driver's licenses, TANF eligibility, public records, and employment restrictions) together in one scale. A similar strategy

was employed by Whittle and Parker (2014) and Plassmeyer and Sliva (2018), without statistical analysis provided to support the combining of each policy and severity of the policies into one scale.

As discussed in previous literature, collateral sanctions "pile on" to court-ordered punishments and lead to a burden that lives far beyond imprisonment (Pinard, 2010; Uggen and Stewart, 2015; Wheelock, 2005). This burden makes it increasingly difficult for individuals with criminal records, specifically felony conviction records, to reintegrate (Pinard, 2010). Collateral sanction policies negatively impact individuals for the rest of their lives post-release from prison and community supervision (Ewald, 2012; Pinard, 2010; Plassmeyer and Sliva, 2018; Uggen and Stewart, 2015; Whittle and Parker, 2014). Due to the lasting impact of these policies, collateral sanctions policies must be included in the conversation about state variation in punitiveness.

Combination Operationalization of Punitiveness

Few empirical studies utilize a combination of court-ordered punishments and collateral sanctions policies when operationalizing punitiveness (Hamilton, 2014; Kutateldze, 2009; Neill et al., 2015). According to Hamilton (2014), a new conceptualization of punitiveness incorporates "experiences across the criminal justice system as a whole… beyond the notion of excessive or disproportionate punishment at the point of sentencing" (pg. 326). However, the discussion of reconceptualization is limited to a new operationalization of the concept instead of providing a true definition of punitiveness. Hamilton (2014) develops a multidimensional test incorporating indices of punitiveness that include measures from policing strategies to expungement of criminal records.

Although there is limited exploration of collateral sanctions, the work of Kutateldze (2009) expands the conceptualization and measurement of punitiveness far beyond the research

discussed previously. According to Kutateldze, there are three types of punitiveness: state, public, and individual. Most pertinent to my study, Kutateldze operationalizes state punitiveness as:

> A combination of an official political state's ideologies, policies, and programs of dealing with "objects" of the criminal justice system… understand the state practices from the moment of identifying a suspect to the point of this person's death and even afterwards. This is because once a person is an "object" of the criminal justice system, she never really stops being one, i.e., an individual detected by the police radar will by no means enjoy her rights and freedoms to the extent that non-offenders or non-detected offenders do. (Kutateldze 2009, pg. 13).

Kutateldze's measure of punitiveness focuses on how governments respond to crime by exploring five dimensions of punitiveness: political and symbolic punishment, incarceration, punishing immorality, conditions of confinement, and juvenile justice. Across the five dimensions, Kutateldze (2009) uses 44 indicators to operationalize punitiveness (2009). The first dimension, political and symbolic punishment, includes measures, such as life without parole sentencing, three-strikes laws, the use of the death penalty, and felon disenfranchisement laws. The second dimension focuses on different aspects of incarceration, such as rates, admissions, the average time served, and the use of imprisonment compared to probation. The third dimension includes punishing immorality paying close attention to arrest rates for public order offenses (prostitution, drugs, etc.) and the age of consent in each state. The fourth examines conditions of confinement, such as overcrowding, cost of medical care, and sexual violence. Lastly, the fifth dimension includes the juvenile justice systems in each state by incorporating transfer laws, age of jurisdiction, and juvenile incarceration rates. For each indicator, states were placed in five categories by ranking states from lowest to highest: non-punitive, low-punitive, moderate-punitive, high-punitive, and extreme punitive. This study exposes the multi-dimensionality of state variation in punitiveness. Across all five dimensions of punitiveness,

states are not consistent in their levels of punitiveness. For example, Florida is highly punitive for punishing immorality, but conditions of confinement have a low level of punitiveness.

The operationalization of punitiveness used in Kutateldze's study is not exhaustive, as it does not cover all the facets of punitiveness included in Kutateldze's conceptualization discussed above. More specifically, only one indicator addresses what happens to "objects" of the criminal justice system after formal punishment, felon disenfranchisement. Additionally, there is a lack of focus on arrest data for crimes other than public order offenses, which is curious given that the conceptualization of punitiveness encompasses all the policies, practices, and ideologies of state governments from the moment of identifying a suspect. Other than the lack of focus on arrests for other crimes, the crimes deemed public order crimes are generally misdemeanor offenses that carry less severe sentences upon conviction, up to a year in jail, and do not include the same stigma and social control over the lives of those convicted. Lastly, there is a significant emphasis placed on incarceration and imprisonment with a lack of indicators for other forms of court-ordered punishment such as probation and parole.

Using the same conceptualization and operationalization of punitiveness as Kutateldze (2009), Neill and colleagues (2015) test which social factors explain state variation in punitiveness. They argue that various theoretical arguments such as racial threat, economic threat, and criminalization of poverty account for the variation we see in state variation in punitiveness and can provide criminologists with a better understanding of mass incarceration and other penal policies (Neill et al., 2015). From the multivariate regression analysis, four of the five different dimensions of punitiveness provided by Kutateldze (2009) are significantly related to at least one of the primary independent variables.

However, upon closer examination of their analysis, some issues become apparent. First, Neill and colleagues (2015) argue that the significant relationship between higher poverty rates and less "punitive" political and symbolic punishments goes against a criminalization of poverty argument. This finding may be due to the political and symbolic dimension indicators, which range from the most extreme form of punishment (the death penalty) to the size of the disenfranchised population in a state, which can include people who have never been incarcerated. Additionally, the researchers state that the "five dimensions included in this study are not exhaustive. However, the dimensions serve as a starting point to explore varying types of punitiveness" (pg. 755).

Building off Kutateldze's work, Hamilton's study conceptualizes punitiveness as punishment "beyond imprisonment rates to other manifestations of 'tolerance/intolerance' at critical points throughout the criminal justice system" (Hamilton, 2014, p. 326) and as "a mix of attitudes, enactments, motivations, policies, practices, and ways of thinking that taken together express intolerance of deviance and deviants and greater support for harsher policies and severe punishments" (pg. 326). This study also provides a more comprehensive look at punitiveness through a 34-item indicator of seven different dimensions (policing, procedural protections, use of imprisonment, juvenile justice, prison conditions, post-release control, and the death penalty), combining the work of scholars such as Kutateldze (2009), Hinds (2005), Tonry (2004), and Frost (2008), focusing on differences between Ireland, New Zealand, and Scotland. The study finds a very small difference in overall punitiveness between the three countries, however, there are distinct differences when taking a closer look at each index of punitiveness. For example, Ireland has the highest score for use of imprisonment and harsh prison conditions compared to New Zealand and Scotland, while New Zealand has the highest score for policing. Similar to the

discussion above regarding state differences between imprisonment measures, findings from Hamilton's study (2014) indicates that researchers can better assess variation in punitiveness across nations by investigating multiple indicators of punitiveness.

In summary, researchers frequently rely on measures of incarceration without considering other indicators of punitiveness. Reliance on only incarceration rates is problematic because a much more significant portion of individuals in the United States deal with the consequences of a felony-level conviction than solely those who are incarcerated (Shannon, Uggen, Schnittker, Thompson, Wakefield, and Massoglia, 2017). In addition, even when scholars integrate different measures of punitiveness there are problems in how measures have been combined and validated. Although some researchers who examine state variation in punitiveness utilize measures of multiple penal controls (Garland, 2020) like imprisonment, community supervision, and collateral sanctions, these studies have issues with specificity. Many of the measures used incorporate the most extreme and least extreme outcomes for criminal convictions as well as only one collateral sanctions policy, felon disenfranchisement.

State Characteristics and Punitiveness

Current research studies on state characteristics and incarceration rates find that states with less generous welfare spending, larger racially marginalized populations, and more conservative political ideology are more likely to have higher incarceration rates (Beckett and Western, 2001; Campbell, Vogel, and Williams, 2011). According to the work of Beckett and Western (2001) on governing social marginality, states with higher poverty and unemployment rates have more punitive imprisonment policies, and states with higher welfare spending have more lenient imprisonment policies. They also find that states with larger Black populations in the 1980s and 1990s incarcerated people at much higher levels than did other states (Beckett and

Western, 2001). Additionally, research by Campbell, Vogel, and Williams (2011) found similar patterns related to race, political partisanship, and mass incarceration in the 1980s and 1990s. However, they found that the power of political partisanship diminished over time, whereas the size of the Black population had greater explanatory power over time (Campbell, et al., 2011).

Much of the research on state characteristics and collateral sanction policies support similar empirical patterns in state variation in imprisonment. Ewald (2012) found that states with larger Black populations had significantly more collateral sanction policies. In addition, states with more liberal citizen ideology scores had significantly fewer collateral sanction policies (Ewald, 2012). In another study that explored the relationship between state characteristics and collateral sanction policies, Whittle and Parker (2014) found that states with a larger conservative population had higher collateral sanctions rates. The researchers also found that as the Black population reached a sizable proportion of the state population, there was a positive relationship between the Black population and collateral sanctions (Whittle and Parker, 2014). In addition to the focus on race and political ideology, researchers also examined how the percentage of women in state legislatures influences welfare policy reforms that include the drug felony lifetime bans on Temporary Assistance for Needy Families and Supplemental Nutrition Assistance Program (Carroll, 2002; Payne, 2013). In a study investigating the relationship between female legislators and welfare reform, the researcher found that as the percentage of female legislators increases a state's predicted probability for implementing the drug felony lifetime ban decreases by 18 percent (Payne, 2013).

As Phelps has shown (2013, 2017, 2020), there is significant variation in probation and incarceration rates across U.S. states. More specifically, in studies published in 2013 and 2017, Phelp's finds a positive relationship between incarceration and probation in states where

probation is used as supervision for people convicted of misdemeanor offenses and a negative relationship in states where probation is used as supervision for people convicted of felony offenses, concluding that mass probation somewhat overlapped but was also distinct from mass incarceration. This finding indicates that in states that emphasize the use of probation for misdemeanor offenses, there was more reliance on imprisonment for felony convictions, whereas states that utilized probation supervision for people convicted of felony offenses did not rely primarily on imprisonment as a sentencing outcome for people with felony convictions. However, to date, there has not been research connecting these patterns to the traditional social correlates of harsh punishment found in the literature on mass incarceration and collateral sanctions. Phelps (2020) explains that this is primarily due to data issues with the collection of probation rates by the Bureau of Justice Statistics. However, Phelps states, "if probation's expansion mostly followed the path of imprisonment, then much of what we know about the state-level determinants of imprisonment (e.g., political, social, and economic drivers) might also apply to mass probation. But if these trajectories diverge, it suggests probation represents a unique face of punishment." (2020, pg. 264).

To date, there has been limited research utilizing a measure of punitiveness that includes both court-ordered punishments and collateral sanctions policies to test the social correlates of state variation in punitiveness. Kutateladze (2009) uses the 44-item indicator of five different dimensions (policing, procedural protections, use of imprisonment, juvenile justice, prison conditions, post-release control, and the death penalty) to test the relationship between state punitiveness and multiple state characteristics. States with a more significant percentage of the population voting for a Republican in the 2004 election had a significantly higher punitiveness score, and states with a large percent of the population identifying as white had a significantly

lower punitiveness score (Kutateladze, 2009). Lastly, Neill and colleagues (2015) use Kutateladze's measures of punitiveness and find that the relationship between social correlates is not uniform across multiple dimensions of punitiveness. For example, a larger Black population is a significant positive predictor of the incarceration dimension of punitiveness, whereas welfare payments are not. The researchers also find that the punitiveness dimension that includes disenfranchisement (political and symbolic punishment) is significantly associated with less generous welfare payments.

CHAPTER THREE

THE CURRENT RESEARCH

The two main areas of literature presented above, which discuss the operationalization of punitiveness and social correlates of punishment, lay the groundwork for my research. In my research, I develop a new comprehensive typology of punitiveness and examine how known social correlates of punishment associate with the new punitiveness typology. Across punishment research there is a lack of consensus in the conceptualization and operationalization of punitiveness (Ewald, 2012; Frost, 2006, 2008; Kutateladze, 2011; Neill et al., 2015; Phelps, 2017, 2020). This dissertation builds upon the research on criminal punishment and punitiveness by drawing from Garland's (2020) scholarship on modes of penal action to create a detailed measure of state punitiveness that explicitly accounts for excessive penal control for felony convictions, including incarceration, probation, and collateral sanctions. Further, I draw from prior empirical studies to investigate how a more comprehensive measure of state punitiveness associates with traditional social correlates of punishment, including state politics, demographic composition, and economic factors (Beckett and Western, 2001; Campbell et al., 2011; Ewald, 2012; Whittle and Parker, 2014).

This project has two central research questions. The first research question is, "how does a punitiveness typology based on court-ordered punishments and collateral sanction policies for felony convictions better inform our understanding of state variation in punitiveness?" The second research question is "how are traditional social correlates of punishment associated with state variation in punitiveness as measured by this new typology?" In this chapter, I will expand

my discussion of the gaps in the literature, discuss how the dissertation contributes to the literature, and outline the predictions for both studies.

GAPS IN THE LITERATURE AND PREDICTIONS

Study One

In Study 1, I produce a new typology that builds and improves upon prior efforts to measure state punitiveness. I use Garland's (2020) theory of American exceptionalism in penal controls to motivate my assessment of state punitiveness and to guide the development of a new punitiveness typology. According to Garland (2020), penal controls can include imprisonment, community supervision, disqualification, and exclusion, with the "stress on control—and not just the quantity of punishment—" that "sets America apart from other nations" (pg. 22). Using Garland's concept of penal control as a framework, I build on previous research exploring state variation in punitiveness (Ewald, 2012; Frost, 2006,2008; Phelps, 2017, 2020) to generate a more comprehensive measure of punitiveness. I do so by constructing two scales that include the predominant penal controls (court-ordered punishments and collateral sanction policies) for felony-level convictions in U.S. states.

Research on state variation in punitiveness has generally focused on only one or two forms of excessive punishment, despite U.S. exceptionalism in all forms of penal control (Garland, 2020). Much of this research has focused on mass incarceration (Frost, 2006, 2008; Garland, 2001; Lynch, 2011; Tonry, 1996, 1999, 2006, 2007; Zimring et al., 2001). However, research has also established that community supervision and probation, in particular, should be included when examining state variation in punitiveness (Corda and Phelps, 2017; Phelps, 2013, 2017, 2020; Phelps and Pager, 2016). Likewise, there is a well-established literature on state variation in collateral sanction policies, with many scholars examining the implementation of

one policy (Martin and Shannon, 2020; Owens and Smith, 2012; Soss et al., 2001) and a few scholars creating scales to explore multiple policies within one analysis (Ewald, 2012; Plassmeyer and Sliva, 2018; Whittle and Parker, 2014). Only one study utilized statistical techniques to identify which collateral sanctions policies should be included together in one scale (Ewald, 2012).

A few studies attempt to provide more comprehensive measures of punitiveness by combining multiple forms of penal control (Hamilton, 2014; Kutateladze, 2009, 2011; Neill et al., 2015). Yet even studies that seek to combine more than one indicator of punitiveness face problems related to specificity and parsimony, whether due to limited measures, use of extreme measures (e.g., the death penalty), or mixing measures between levels or systems (e.g., misdemeanor and felony or adult and juvenile justice). For example, Kutateladze (2011) provides a great first step in combining court-ordered punishments and collateral sanctions policies but includes a wide range of policies and practices that introduce problems. Kutateladze (2011) includes measures ranging from state use of the death penalty to arrests for public drunkenness. The first measure is the most severe form of court-ordered punishment, whereas when an individual is arrested for a misdemeanor like public drunkenness, the maximum sentence could be a year in jail in most cases. In addition, an arrest is not guaranteed to lead to any form of court-ordered punishment, and so it is a better assessment of police activity in a state than what occurs at the court level. As a result, these two indicators are not measuring punitiveness of the same system. Due to these differences, it does not make sense to combine these two indicators of punitiveness and give them equal weight.

In this dissertation, I argue that while comprehensive measures of state punitiveness are needed, existing models have methodological weaknesses. I improve on prior typologies in

several ways. The first is the inclusion of multiple penal control outcomes for felony convictions that keeps the measures of punitiveness consistent across level of conviction. Because there are millions of people with felony convictions in the United States that have not necessarily been incarcerated (Shannon et al. 2017), it is important to include multiple outcomes for felony convictions to capture the variability in the use of penal controls at the state level.

Second, I use a combination of court-ordered punishments (incarceration and probation) as one dimension of punitiveness since people convicted of felonies are often sentenced to probation (Phelps 2013; 2017; 2020). To develop my comprehensive measure of punitiveness, I combine the methodological approaches of Frost (2006, 2008) and Phelps (2017; 2020) to form the court-ordered punishment scale. Specifically, I calculate state propensity to sentence individuals to correctional control (probation or imprisonment) after an arrest for a felony offense.

Third, I utilize statistical methods to combine several collateral sanction policies into a single scale. The second dimension of my new typology builds from Ewald (2012) and measures the severity of state-level collateral sanctions. Although multiple collateral sanctions policies impact people with felony convictions, these policies range dramatically in which aspects of social life they affect and for whom (i.e., all people with felonies, specific crimes). I use exploratory factor analysis to determine which policies should be combined in a scale of collateral sanctions.

And fourth, I use z-scores to standardize these measures of state punitiveness rather than ranking states using raw scores (Frost, 2006, 2008; Phelps, 2017, 2020). The existing research on state variation in punitiveness has utilized rankings to compare states. Rankings, however, may misrepresent the differences between states. When using rank order, the differences between

states collapse such that pairs of states that are one ranking apart are treated as if they are equally different, which is not necessarily the case. For example, in Frost's analysis of state propensity to imprison (2006, 2008), Oklahoma and Iowa are ranked third and fourth respectively, and Maryland and Washington are ranked 26th and 27th respectively. However, for propensity to imprison, Oklahoma imprisons about 19 out of 100 people arrested for index crimes. Iowa imprisons about 17 out of 100 people arrested for index crimes, and Maryland and Washington both imprison about 10 out of 100 people arrested for index crimes. Thus, using rankings or these states are problematic because it looks like Oklahoma and Iowa are equally as different from one another as Maryland and Washington. In addition, it looks like Washington is less punitive than Maryland for imprisoning people, however both states imprison the same amount of people per 100 people arrested for index crimes. In order to avoid this problem, I standardize state scores for both dimensions of punitiveness (the Court-Ordered Punishments Scale and the collateral sanction policies scale) to account for this issue. Z-scores place state values across both scales on the same metric, limit outliers, and provide a more straightforward method for comparing states.

Study Two

In Study 2, I use statistical modeling to examine whether and how known social correlates of punishment are associated with state's placement within the categories in my new punitiveness typology. While the empirical literature has established associations between specific forms of punishment (e.g., incarceration) and state-level measures of political ideology, racial/ethnic composition, welfare spending, and unemployment rates (Beckett and Western, 2001; Campbell, Vogel, and Williams, 2011; Ewald, 2012; Martin and Shannon, 2012; Whittle and Parker, 2014), few studies have examined whether these same factors predict more

comprehensive measures of punitiveness. This study expands on previous research by examining the relationships between my new comprehensive measure of punitiveness (court-ordered punishments and collateral sanctions policies) and state characteristics.

I investigate the association between punitiveness and political ideology, racial/ethnic composition, and economic variables. In line with the existing research on the relationship between punitiveness and political ideology (Beckett and Western, 2001; Ewald, 2012; Garland, 2020; Phelps, 2013, 2017, 2020; Whittle and Parker, 2014), I expect to find that conservative political ideology (government and citizen) is associated with higher levels of court-ordered punishments and collateral sanctions policies, while liberal political ideology (government and citizen) is associated with lower levels of court-ordered punishments and collateral sanctions policies.

Current research on the relationship between punitiveness and state racial/ethnic demographics shows an association between state punitiveness and larger racially and ethnically marginalized populations (Beckett and Western, 2001; Ewald, 2012; Garland, 2020; Phelps, 2013, 2017, 2020; Whittle and Parker, 2014). Based on previous empirical studies, I expect that states with larger racially and ethnically marginalized populations will have higher levels of court-ordered punishments and collateral sanctions policies, while states with smaller racially and ethnically marginalized populations will have lower levels of court-ordered punishments and collateral sanctions policies.

Last, research in this area has also found significant relationships between state economics and punitiveness. Studies have highlighted the connection between generous welfare spending, lower unemployment rates, and less harsh punishment policies (Beckett and Western, 2001; Neill et al., 2015; Yates and Fording, 2005). I anticipate a negative relationship between

welfare benefits and levels of court-ordered punishments and collateral sanctions policies. I also expect to find a positive relationship between unemployment rates and levels of court-ordered punishments and collateral sanctions policies.

In the following chapter, I present information about data sources, measures of state punitiveness, and the analytic strategy for study one. Then, I provide this information for study two.

CHAPTER FOUR

DATA AND METHODS

The purpose of this chapter is to explain the methods I will use to construct a new punitiveness typology and to examine how state-level social factors are associated with state variation in punitiveness. First, I discuss my conceptualization and operationalization of punitiveness. Then, I discuss my chosen measures of punitiveness and outline the analytic strategy I use to develop the typology. Finally, I discuss my measures of state characteristics and outline the analytic strategy I use to examine associations between these state characteristics and punitiveness.

STUDY ONE- PUNITIVENESS TYPOLOGY

I conceptualize punitiveness in the context of criminal justice as the imposition of excessive formal social control on individuals with criminal convictions. Like previous scholars, I operationalize formal social control using measures of state-imposed punishment. As elaborated in the next section, I measure punitiveness at the felony level due to the availability of appropriate data. Equivalent data for misdemeanor criminal convictions are not available uniformly nationwide.

My typology has two dimensions. The first is court-ordered punishments, which include sentencing outcomes for people convicted of felony levels offenses. The Court-Ordered Punishments Scale captures states' propensity to impose formal sanctions for felony convictions, including incarceration and probation supervision. The scale calculates how many people out of 100 who are arrested for a felony offense are sentenced to imprisonment or probation for each

state. The second dimension of punitiveness is collateral sanctions policies. In my typology, I include measures of four collateral sanction policies that affect people with felony level convictions. The collateral sanctions scale captures the variation in state-level policies that affects people with felony convictions beyond their court-imposed punishments as required by state statutes.

MEASURES

Court-Ordered Punishment Scale

There are two components of the court-ordered punishment scale: 1) propensity to sentence persons arrested for index or felony drug crimes to prison, and 2) propensity to sentence persons arrested for index or felony drug crimes to probation. To calculate state propensity to imprison, I divide the number of persons sentenced to prison in a given year by the sum of people arrested for index violent, index property, and felony drug crimes in the previous year (Frost, 2008). I further apply this same equation to people sentenced to felony probation. I then add the two measures (propensity to sentence to prison and propensity to sentence to probation) into a full scale that I call the court-ordered punishment scale, capturing each state's propensity to sentence people arrested for these felony-level crimes to correctional control.

For all of these measures, I use secondary data from federal reporting sources: the Bureau of Justice Statistics and the FBI Uniform Crime Report (UCR) available from the Inter-university Consortium for Political and Social Research. For the numerator of the propensity to imprison component, I use the total number of individuals who entered prison due to a new conviction as reported in the Bureau of Justice Statistics' "*Prisoners*" series reports for 2014 through 2016. For the numerator of the propensity to sentence to felony probation component of my scale, I use data from the Bureau of Justice Statistics report series, "*Probation and Parole in the United*

States, 2014, 2015, and 2016." Because there are no data on the number of individuals entering probation per state for a felony-level conviction only, I obtained the total number of individuals entering probation for 2014, 2015, and 2016. Following Shannon et al. (2017), I then multiplied the number of probation entries for each state by the percentage of people currently on felony probation in each state (i.e., the number of people on felony probation divided by the total probation population). For both components, I create a "smoothed" variable by averaging the measures over three years (2014, 2015, 2016) to account for differences in judicial efficiency by state and the amount of time it takes to go from arrest to conviction.

For both propensity measures, the denominator is comprised of the sum of the total arrests per state for index crimes (violent and property offenses) and drug crimes from 2013, 2014, and 2015 from the UCR. Calculating the denominator in this manner allows for a one-year lag between arrest and imposition of court-ordered punishment. I used the equation below to calculate, separately, the *propensity to imprison* for 2014, 2015, and 2016 and then averaged across the three years to create the smoothed variable.

$$\text{Propensity to Imprison}_{YEAR} = \text{prisonadmissions}_{YEAR} / (\text{violentcrimearrests}_{YEAR-1} + \text{propertycrimearrest}_{YEAR-1} + \text{drugcrimearrests}_{YEAR-1})$$

For the propensity to sentence to felony probation measure, there were several states missing one year within this timeframe. To address these missing data, I averaged data for states missing one year of probation data across the two years available. I did not include states missing two years of data in my analysis (Alaska and Massachusetts). I use the equation below to calculate, separately, the *propensity to sentence to felony probation* for 2014, 2015, and 2016 and then averaged across the three years to create the smoothed variable.

$$\text{Propensity to Sentence to Felony Probation}_{YEAR} = \text{felonyprobationadmissions}_{YEAR} / (\text{violentcrimearrests}_{YEAR-1} + \text{propertycrimearrest}_{YEAR-1} + \text{drugcrimearrests}_{YEAR-1})$$

I added the two smoothed variables, *Propensity to Sentence to Prison* and *Propensity to Sentence to Felony Probation,* to create the *Court-Ordered Punishment Scale.* I then standardized this scale using Z-scores to create the measure of court-ordered punishment I use in my new punitiveness typology.

Collateral Sanctions Policies Scale

As discussed in Chapter Two, collateral sanctions are embedded in many facets of everyday American life (e.g., civic engagement, employment, welfare receipt), but states do not implement these restrictions in a uniform way. Each collateral sanction can be implemented to varying degrees, from having no restriction to being totally exclusionary. To date, no typology of state punitiveness has incorporated collateral sanction policies beyond disenfranchisement laws (Kutateladze, 2009). To create the scale for collateral sanctions in my study, I ran an Exploratory Factor Analysis in STATA 14 to see which policies should be placed together in a scale to represent state use of collateral sanctions. The Collateral Sanctions Policies Scale includes measures for disenfranchisement laws, the drug felony lifetime ban on TANF, the drug felony lifetime ban on SNAP, and employment laws.

The primary source of data on collateral sanction measures for disenfranchisement and employment policies was the National Inventory of Collateral Consequences of Conviction. The data from this source are all state and federal laws related to collateral consequences from 2018. Because the year of analysis for the collateral sanction measures is 2015, I cross-checked my coding in Justia Law for each state policy from 2015 and recoded state policies where legal changes occurred between 2016 and 2018. I also used the Sentencing Projects report "*A Lifetime*

of Punishment: The Impact of the Felony Drug Ban on Welfare Benefits" (Mauer, 2015) and the Urban Institute Welfare Rules Database to collect data on TANF and SNAP Bans.

I used similar policies as Ewald's (2012, p. 214) State Collateral Sanctions Policy Scores and incorporated the same coding strategy. For each policy, states are coded on an interval from 0 to 1, with zero being the least restrictive policy and one being the most restrictive. By coding all policies on the same scale, each collateral sanction carries the same weight (Ewald, 2012). For each of the policies in the scale, I used proportional coding for parsimony and to capture the core variations between each possible policy implemented at the state level. The value for each policy was added and then standardized using Z-scores to create the Collateral Sanctions Scale for the new punitiveness typology.

Felon Disenfranchisement (*disenfranchisement laws*) is one of the collateral sanction policies included in the current study. These policies prevent individuals with felony-level convictions from voting in national, state, and local elections, depending on the state they inhabit. Disenfranchisement policies range from no restrictions to ineligibility to vote even after serving their full sentence. There are five options for disenfranchisement policies, and I coded these policies as 0, .25, .50, .75, and 1. No restriction for voting with a felony record (even for people currently incarcerated) coded as 0; only disqualified if incarcerated is coded as .25; disqualified if incarcerated or on parole is coded as .50; disqualified if incarcerated, on parole, or probation is coded as .75; and disqualified after serving the full sentence is coded as 1. For example, in 2015, Vermont is coded as 0 because it allowed people with felony convictions to vote while serving prison sentences. Mississippi is coded as 1 because the state disenfranchised people with felony-level convictions for life.

The drug felony lifetime ban on Temporary Assistance for Needy Families (*TANF Ban*) and Supplemental Nutrition Assistance Program (*SNAP Ban*) are separate policies enacted as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). Through this overarching welfare reform act, states can decide between three options to provide benefits to people convicted of drug felonies after 1996. States may also pass different policies for each type of benefit. There are three choices that states can make: opt-out of the policy and allow people with drug felony convictions to receive benefits, enact a modified ban where the state provides specific guidelines for people with drug felony convictions to receive benefits from the state, or enact a full ban, where all people convicted of drug felonies are unable to receive benefits. Because these policies have 3 possible options -- full, modified, or opt-out -- I coded each law as 0, .5, or 1. For the *TANF ban* and *SNAP ban*, I coded states that opt-out as 0, states with a modified version of the ban coded as .5, and states with full bans as 1. For example, in 2015, Delaware is coded as 0 for *SNAP ban* because the state had opted out of the SNAP ban and coded as 1 for *TANF ban* because it had a full ban for TANF.

The last collateral sanction policy included in my scale is state *employment policies*. These policies are protective for people with felony-level convictions. States implement *employment policies* that prevent employers from asking about felony-level convictions in the application process. States adopt these laws to prevents employers (public and private) from using past felony convictions as a reason not to hire people for a position. Additionally, state law can prevent licensing boards from not providing licenses to individuals due to a past felony conviction. Each state policy can include only licensing or a combination of multiple forms of employment. There are four policies enacted in states, I code *employment policies* (Ban the Box) as 0, .33, .66, and 1. States restricting how public employers, licensing agencies, and private

employers consider convictions in making hiring and licensure decisions are coded as 0. States that establish some protection against making public hiring and licensure decisions solely based on a former conviction but do not restrict private employers from making those decisions are coded as .33. States that regulate licensure decisions but leave public and private hiring decisions entirely uncontrolled are coded as .66, and states that do not restrict any questions employers can ask, and the reasons employers or licensing agencies can give for rejecting an applicant are coded as 1. For example, in 2015, Alabama did not restrict any questions employers can ask and the reasons employers or licensing agencies can reject an applicant and is coded as 1, while New York only regulated public employers and is coded as .66.

ANALYTIC STRATEGY NEW PUNITIVENESS TYPOLOGY

In constructing my state punitiveness typology, I combine the approaches of Phelps' (2017) control regime typology and Frost's (2008) measures of punitiveness. I establish four categories of punitiveness, based on high and low levels of the Court Ordered Punishments Scale as well as the Collateral Sanction Policy Scale. The measures used to calculate each scale are not on the same metric, which makes it difficult to compare scores across each scale. Thus, I create Z-scores for each states' value on the Court-Ordered Punishments Scale and the collateral sanctions scale. This reduced the effect of outliers and allowed for comparison between scales. In the following chapter, I provide tables with descriptive statistics for the components I used to create my typology, provide a scatter plot of the new punitiveness typology, and discuss how this typology compares to previous typologies.

STUDY TWO - SOCIAL CORRELATES OF STATE PUNITIVENESS

In Chapter Six- Social Correlates of State Punitiveness, I use the new punitiveness typology as a categorical dependent variable and identify how known social correlates of

punishment are associated with state variation in punitiveness. Specifically, I examine how punitiveness category is associated with state-level political characteristics, race/ethnic composition, and economic conditions from 2010 through 2016.

Dependent Variable – Punitiveness

The dependent variable in this analysis is a categorical variable comprised of the four categories of my punitiveness typology. By generating z-scores, I can place states in four categories based on where they fall above/below the mean on each scale for each year of data. To calculate state placement in the punitiveness typology I first calculate each state's values for the Court-Ordered Punishments Scale for each year in the analysis. As described in the previous section, I added the state *Propensity to Sentence to Prison* and *Propensity to Sentence to Felony Probation* for each individual year and then standardized these values using Z-scores. Next, I coded collateral sanctions policy data for each year (2010-2016) using the same coding strategy discussed above and standardized these values using Z-scores to create the Collateral Sanctions Policies scale. Due to missing data from the BJS, Massachusetts is not included in this analysis. There is also missing data for individual states across the study period, but there is no identifiable pattern. The four categories of punitiveness are Low Court-Ordered/Low Collateral Sanctions, High Court-Ordered/Low Collateral Sanctions, Low Court-Ordered/High Collateral Sanctions, and High Court-Ordered/High Collateral Sanctions. Table 1 shows how many states are in each category across the study period.

Table 1. State Punitiveness Category Placement Over Time (2010 through 2016)

Punitiveness Category	2010	2011	2012	2013	2014	2015	2016
Low Court-Ordered Punishment/Low Collateral Sanctions Policies	5	6	4	8	16	12	13
High Court-Ordered Punishment/Low Collateral Sanctions Policies	14	11	17	11	7	5	6
Low Court-Ordered Punishment/High Collateral Sanctions Policies	9	7	9	4	10	15	16
High Court-Ordered Punishment/High Collateral Sanctions Policies	13	15	12	17	12	13	10
Total	41	39	42	40	45	45	45

Independent Variables – Politics, Race/Ethnicity, State Economics, and Time

To investigate the relationship between state characteristics and the new punitiveness typology developed in study one, I use two levels of data. Level one is state-years and level two is time (year). By doing so, I am able to test within year variation to identify which state characteristics are related to states' likelihood of being in a particular category of punitiveness. I am also able to test between year variation to identify if there a greater or less likelihood for states being in a particular category of punitiveness over time.

Level one (state-years). I investigate the relationship between state punitiveness and politics using the following variables: citizen ideology, government ideology, and the percentage of women in state legislatures. Data at level one represents the value for each state characteristic in each year, from 2010 to 2016.

Citizen ideology is a measure of citizen ideology on a conservative-liberal scale gathered from the "Revised 1960-2013 citizen ideology series," in "Measuring Citizen and Government Ideology in the American States, 1960-93." (Berry, Ringquist, Fording and Hanson., 1998, pp.

327-48). I gathered these data from an updated version of the state ideology scores publicly available on Richard C. Fording's online website (https://rcfording.com/state-ideology-data/). The citizen ideology scale includes measures of "ideological position of members of congress, ideological position of each district's incumbent and challenger, and election results that reflect the ideological division in each district" (Berry, Ringquist, Fording and Hanson., 1998, pp. 331). The scale ranges from 0 to 100, with lower scores indicating more conservative ideology and higher scores indicating more liberal ideology.

Government ideology is a measure of government ideology on a conservative-liberal scale. I gathered these data from an updated version of the state ideology scores publicly available on Richard C. Fording's online website (https://rcfording.com/state-ideology-data/). The government ideology scale includes the "political ideology of 5 major political actors in each state, including the governor as well as all the major party delegations from each house in the state legislature" (Berry, Ringquist, Fording and Hanson., 1998, pp.332). The scale ranges from 0 to 100, with lower scores meaning more conservative ideology and higher scores indicating more liberal ideology. In this dissertation study period, states range from 13.48 (more conservative) to 97.00 (more liberal) on the government ideology scale and from 17.51 (more conservative) to 93.62 (more liberal) on the citizen ideology scale.

Percentage of state legislature positions (Senate and House) *occupied by women* was taken from Women in Elective Office: State Legislatures – Center for American Women and Politics (CAWP) at Rutgers University. States range from .31 percent to 42 percent of the legislature positions occupied by women over the study period.

I examine the relationship between race/ethnicity and state punitiveness using the following variables: percent of the population identifying as Black and percent of the population

identifying as Hispanic/Latino. The variable Percent Black is the percentage of a state's Black population, as reported by the Census Bureau from the American Community Survey 5-Year Estimates (2010-2014; 2014-2018). As shown in Table 2, the percentage of state residents identifying as Black ranges from .3 to about 37.9 over the study time-period.

Percent Latino¸ is the percentage of a state's population identifying as Hispanic or Latino (of any race) as reported in the American Community Survey 5-Year Estimates (2010-2014; 2014-2018). As shown in Table 2, the percentage of state residents identifying as Latino ranges from 1.1 to 48.5.

The economic measures I use are TANF maximum monthly benefit levels for a three-person family and state unemployment rates. I gathered the TANF Benefit level data from the University of Kentucky Center for Poverty Research's National Welfare Data. As shown in Table 1, the average TANF maximum monthly benefit for a three-person family over the study period is about $437.51, ranging from $170 to $923. I also gathered the data for unemployment rates from the University of Kentucky Center for Poverty Research's National Welfare Data, which collates Bureau of Labor statistics over time. Unemployment rates over this time period ranged from 2.7 percent and 13.5 percent of the civilian population over age 16 per state-year.

Level two (Time). Time is measured in years, with seven years included in the study period from 2010 through 2016.

Table 2. Descriptive Statistics of Social Correlates of State Punitiveness

Variables	N	Mean	SD	Min	Max
Level one (State-Year)					
State Punitiveness	297	1.64	1.13	.00	3.00
Percent Latino	297	10.98	10.03	1.10	48.50
Percent Black	297	10.16	9.43	.30	37.90
Government Ideology	297	48.89	15.49	13.48	97.00
Citizen Ideology	297	42.92	17.64	17.51	73.62
Percent Female Legislators	297	24.08	6.93	.31	42.00
TANF Benefit Level	297	437.51	166.71	170.00	923.00
Unemployment	297	6.62	2.11	2.70	13.50
Level two (Time)					
Year	7	2013	2.16	2010	2016

ANALYTIC STRATEGY FOR SOCIAL CORRELATES OF STATE PUNITIVENESS

I use a series of multilevel multinomial models and cross-level interactions using HLM8 software to test the relationship between various state characteristics and states' categorization in my new punitiveness typology. I use mixed models, with fixed effects at level one and random effects at level two. I employ this methodological strategy for several reasons. First, we can assume that observations within states, at level one, are independent of one another (Primo, Jacobsmeier, and Milyo, 2007). As a result, I utilize fixed effects at level one, which accounts for autocorrelation due to clustering within states (Raudenbush and Bryk, 2002). In addition, random effects are used at level two to account for random variability between years. Level one of the model has an *N* of 297, and level two has an *N* of seven. To handle missing data, I use full maximum likelihood estimation because of this methods estimation consistency and efficiency (Raudenbush and Bryk, 2002). All variables within this dissertation study do not include a zero within the range. So, they are mean-centered to provide a clear meaning for statistical results consistent across all variables (Raudenbush and Bryk, 2002). State characteristic variables at level one are group-mean centered and *Year* is grand-mean centered at level two.

The primary multilevel multinomial model is unconditional and used to estimate how much variation in state punitiveness exists at each level. As shown in the equation in Appendix C, level one indicates the within-year variation of the punitiveness categories, while level two examines between-year variation for each punitiveness category. There are no predictors on either level in the unconditional models. Due to the multiple contrasts in this study (six), there are six Intraclass Correlation Coefficients (ICC) calculated to account for between and within year variation. The ICC is useful in identifying how much variation in state placement in punitiveness categories is due to state characteristics within a time point and how much of the variation in state placement in punitiveness categories is due to time (years).

The first ICC, comparing Low Court-Ordered Punishment/Low Collateral Sanctions Policies to High Court-Ordered Punishment/High Collateral Sanctions Policies is .058, meaning that 5.8 percent of the total variance is between-year variation, and 94.2 percent of the total variation is due to within-year variation ($p<.10$). The second ICC, comparing High Court-Ordered Punishment/Low Collateral Sanctions Policies to High Court-Ordered Punishment/High Collateral Sanctions Policies is .022, meaning that 2.2 percent of the total variance is between-year variation and 97.8 percent of the total variation is due to within-year variation ($p>.10$). The third ICC, comparing Low Court-Ordered Punishment/High Collateral Sanctions Policies to High Court-Ordered Punishment/High Collateral Sanctions Policies is .035, meaning that 3.5 percent of the total variance is between-year variation and 96.5 percent of the total variation is due to within-year variation ($p<.10$).

The fourth ICC, comparing Low Court-Ordered Punishment/High Collateral Sanctions Policies to Low Court-Ordered Punishment/Low Collateral Sanctions Policies is .004, meaning that .4 percent of the total variance is between-year variation and 99.6 percent of the total

variation is due to within-year variation (*p*<.10). The fifth ICC, comparing High Court-Ordered Punishment/Low Collateral Sanctions Policies to Low Court-Ordered Punishment/Low Collateral Sanctions Policies is .031, meaning that 3.1 percent of the total variance is between-year variation and 96.9 percent of the total variation is due to within-year variation (*p*>.10). The sixth and final ICC, comparing Low Court-Ordered Punishment/High Collateral Sanctions Policies to High Court-Ordered Punishment/Low Collateral Sanctions Policies is .102, meaning that 10.2 percent of the total variance is between-year variation and 89.8 percent of the total variation is due to within-year variation (*p*<.10). The small percent of variation between years for these contrasts may be due to the relatively short seven-year study period.

CHAPTER FIVE

NEW PUNITIVENESS TYPOLOGY

This chapter presents data on the court-ordered punishment and collateral sanction policy scales I use to create my punitiveness typology, including raw and standardized measures. I illustrate how states are distributed across four categories within my new typology through a scatterplot graph of the court-ordered and collateral sanctions scales (figure one). I conclude with a brief discussion of my findings.

PUNITIVENESS TYPOLOGY

Court-Ordered Punishment Scale

Table 3 presents descriptive statistics of my court-ordered punishment measures (smoothed variables from 2014 to 2016), including the *propensity to imprison*, the *propensity to sentence to felony probation*, and a combined measure of the two, the *propensity to sentence to correctional control*. This last variable is the indicator that I use to measure court-ordered punishment in the new punitiveness typology. Table 3 shows these three measures by state. The mean state *propensity to imprison* is .06, which means that on average, states sentence six out of every 100 people arrested for a felony offense to prison. States ranged from .02 to .15 for state propensity to imprison. In Maine, two out of 100 people arrested for a felony offense are sentenced to prison. In Kentucky and Vermont, 15 out of 100 people arrested for a felony offense are sentenced to prison.

The mean *state propensity to sentence to felony probation* is .09, which means that on average, states sentence nine out of every 100 people arrested for a felony offense to probation.

States ranged from .01, which means that one out of every 100 people arrested for a felony offense is sentenced to probation to .28, which means that 28 out of every 100 people arrested for a felony offense is sentenced to probation. West Virginia has the lowest propensity, sentencing 1 out of every 100 people arrested for a felony offense to probation. Georgia has the highest propensity, sentencing 28 out of every 100 people arrested for a felony offense to probation.

Table 3. Descriptive Statistics of Court-Ordered Punishment Measures for Smoothed Variables from 2014 to 2016

Court-Ordered Punishments	N	Minimum	Maximum	Mean	Std. Deviation
Propensity to Incarcerate	48	.02	.15	.06	.028
Propensity to Sentence to Felony Probation	48	.01	.28	.09	.048
Propensity to Sentence to Correctional Control	48	.07	.32	.15	.059

The mean *propensity to sentence an individual to correctional control* for a felony offense is .13. This means that, on average, states sentence 13 out of every 100 people arrested for a felony offense to either prison or probation. States ranged from .07, which means seven out of every 100 people arrested for a felony offense are sentenced to either prison or probation, to .32, which means that 32 out of every 100 people arrested for a felony offense are sentenced to either prison or probation. The state with the highest propensity to sentence individuals arrested for felony offenses to correctional control is Georgia at .32 (32 out of 100), sentencing 28 people out of every 100 people arrested for felony offenses to probation (.28) and sentencing four out of every 100 people arrested for felony offenses to imprisonment (.04). New York, South Carolina, and Utah have the lowest propensity to sentence individuals arrested for felony offenses to correctional control at .07, sentencing seven out of every 100 people arrested for felony offenses to prison or probation.

Table 4 shows each state's individual and total scores for court-ordered punishments. Consistent with Phelps's research on mass probation (2013, 2017, 2020), I find that there are different patterns in state propensities to sentence individuals to imprisonment or probation. States like Florida, Georgia, Michigan, and North Dakota fit this narrative, as they each have above average propensities to sentence individuals to probation for felony offenses and below average propensities to sentence individuals to imprisonment for felony offenses. In comparison, Kentucky has almost identical scores for propensity to sentence individuals arrested for felony offenses to probation and imprisonment (14 out of 100 and 15 out of a 100), and West Virginia sentences a much larger proportion of the people arrested for felony offenses to imprisonment compared to probation (7 out of 100 versus 1 out of 100).

Table 4. Court-Ordered Punishment Measures by State (Average 2014 to 2016)

State	Imprisonment	Probation	Total	Z-Scores
AL	.06	.09	.15	-.05
AZ	.05	.07	.12	-.55
AR	.08	.08	.16	.12
CA	.03	.09	.12	-.55
CO	.06	.08	.14	-.22
CT	.06	.14	.20	.79
DE	.08	.08	.16	.12
FL	.04	.12	.16	.12
GA	.04	.28	.32	2.81
HI	.03	.05	.08	-1.23
ID	.12	.14	.26	1.80
IL	.08	.09	.17	.29
IN	.07	.16	.23	1.30
IA	.07	.07	.14	-.22
KS	.06	.06	.12	-.55
KY	.15	.14	.29	2.31
LA	.08	.06	.14	-.22
ME	.02	.07	.09	-1.06
MD	.05	.06	.11	-.72

MI	.05	.14	.19	.62
MN	.05	.14	.19	.62
MS	.07	.10	.17	.29
MO	.08	.10	.18	.46
MT	.08	.13	.21	.96
NE	.04	.05	.09	-1.06
NV	.06	.04	.10	-.89
NH	.05	.05	.10	-.89
NJ	.04	.06	.10	-.89
NM	.04	.07	.11	-.72
NY	.04	.03	.07	-1.4
NC	.05	.06	.11	-.72
ND	.07	.19	.26	1.80
OH	.06	.07	.13	-.39
OK	.06	.07	.13	-.39
OR	.04	.11	.15	-.05
PA	.06	.10	.16	.12
RI	.03	.14	.17	.29
SC	.03	.04	.07	-1.40
SD	.11	.12	.23	1.30
TN	.05	.08	.13	-.39
TX	.07	.08	.15	-.05
UT	.03	.04	.07	-1.40
VT	.15	.10	.25	1.64
VA	.05	.15	.20	.79
WA	.08	.02	.10	-.89
WV	.07	.01	.08	-1.23
WI	.04	.08	.12	-.55
WY	.06	.10	.16	.12

*States missing one year of probation data were averaged across the years available, states missing two years, or more were not included in the analysis (AK and MA)
*States missing one year of probation data: AL(2016), GA(2016), IL(2014), MI(2016), OR(2014), RI(2015), WV(2015), WI(2015)

Collateral Sanction Policies Scale

Table 5 displays descriptive statistics for the collateral sanction policies scale and each policy I include in the full scale. The mean score for all states on the collateral sanction policy scale is 2.21 out of 4.00, with states ranging from .25 (Rhode Island) to 4.00 (Alabama, Arizona,

and Mississippi). This collateral sanction policy score is the sum of the scores for the four collateral sanction policies that I identified in Appendix A via EFA: *disenfranchisement laws*, the *TANF ban*, the *SNAP ban*, and *employment policies*. Table 6 displays the mean scores for each policy and the value of the scale by state.

Table 5. Descriptive Statistics for Collateral Sanction Policies and Final Scale Across States in 2015

Measures	N	Minimum	Maximum	Mean	Std. Deviation
Policies					
Disenfranchisement	48	0	1.00	.64	.31
TANF	48	0	1.00	.52	.36
SNAP	48	0	1.00	.41	.39
Employment	48	0	1.00	.64	.39
Final Scale					
Collateral Sanctions	48	.25	4.00	2.21	1.07

Alaska and Massachusetts were removed from the analysis because they have missing data in the Court Ordered Punishment Scale

To illustrate what these scores mean in terms of state-level policies, Illinois scores a .75 overall because state law enacted a modified ban on TANF receipt for people convicted of drug felonies where individuals convicted of Class 1 or Class X drug felonies are ineligible. Individuals convicted of all other drug felonies are ineligible for two years if they are not in treatment. For this policy, Illinois scores .5. The state also disqualifies people convicted of felony offenses from voting if they are incarcerated. For this policy, Illinois scores .25. The state does not have any ban on people convicted of felony offenses receiving SNAP benefits and restricts how public employers, licensing agencies, and private employers consider convictions in making hiring and licensure decisions for people with felony records. For both of these policies, Illinois scores 0.

An example of a state with a high score on the Collateral Sanctions Policies Scale is Georgia, with a score of 3.08. Georgia disqualifies people if they are incarcerated, on parole, or

on probation, which translates into a score of .75. The state also has full bans on both TANF and SNAP benefits. This indicates that in Georgia all people convicted of drug felonies are unable to receive benefits, a score of 1 for each policy. Last, Georgia regulates licensure decisions for people with felony convictions but leaves public and private hiring decisions entirely unrestricted. For this policy, Georgia scores .33.

Table 6. Collateral Sanction Policies by State (2015)

State	Disenfranchisement	TANF	SNAP	Employment	Total	Z-Scores
Alabama	1	1	1	1	4	1.66
Arizona	1	1	1	1	4	1.66
Arkansas	.75	1	.5	1	3.25	.97
California	.50	.5	0	.33	1.33	-.80
Colorado	.50	.5	.5	.33	1.83	-.34
Connecticut	.50	.5	.5	.33	1.83	-.34
Delaware	1	1	0	.33	2.33	.12
Florida	1	1	1	1	4	1.66
Georgia	.75	1	1	.33	3.08	.82
Hawaii	.25	.5	.5	0	1.25	-.87
Idaho	.75	.5	.5	1	2.75	.51
Illinois	.25	.5	0	0	.75	-1.33
Indiana	.25	.5	1	1	2.75	.51
Iowa	1	.5	0	1	2.5	.28
Kansas	.75	.5	.5	1	2.75	.51
Kentucky	1	.5	.5	.66	2.66	.43
Louisiana	.75	.5	.5	.66	2.41	.20
Maine	0	0	0	.33	.33	-1.72
Maryland	.75	.5	.5	.33	2.08	-.11
Michigan	.25	.5	.5	.66	1.91	-.26
Minnesota	.75	.5	.5	0	1.75	-.41
Mississippi	1	1	1	1	4	1.66
Missouri	.75	1	.5	1	3.25	.97
Montana	.25	.5	.5	1	2.25	.05
Nebraska	1	1	1	.33	3.33	1.05
Nevada	1	.5	.5	1	3	.74
New Hampshire	.25	0	0	1	1.25	-.87
New Jersey	.75	0	0	0	.75	-1.33
New Mexico	.75	0	0	.33	1.08	-1.03
New York	.5	0	0	.33	.83	-1.26

North Carolina	.75	.5	.5	1	2.75	.51
North Dakota	.25	.5	.5	1	2.25	.05
Ohio	.25	0	0	.33	.58	-1.49
Oklahoma	.75	0	0	1	1.75	-.41
Oregon	.25	0	.5	0	.75	-1.80
Pennsylvania	.25	.5	0	.33	1.08	-1.03
Rhode Island	.25	0	0	0	.25	-1.80
South Carolina	.75	1	1	1	3.75	1.43
South Dakota	.75	1	0	1	2.75	.51
Tennessee	1	.5	.5	1	3	.74
Texas	.75	1	0	1	2.75	.51
Utah	.25	.5	0	1	1.75	-.41
Vermont	0	.5	0	.33	0.83	-1.26
Virginia	1	.5	1	.33	2.83	.58
Washington	.75	0	0	.33	1.08	-1.03
West Virginia	.75	1	1	1	3.75	1.43
Wisconsin	.75	.5	.5	1	2.75	.51
Wyoming	1	0	0	1	2	-.18

After creating these raw scales for court-ordered punishment and collateral sanctions, I standardize each using z-scores. Table 7 shows the resulting z-scores for the Court-Ordered Punishments Scale and the collateral sanction policy scale by state. Negative scores on the scale of the Court-Ordered Punishment indicate that a state has a below-average propensity to imprison and sentence individuals to probation for felony convictions. Similarly, negative scores on the Collateral Sanctions Policies Scale indicate that a state has a below-average score for policies restricting the rights of people with felony convictions. A state with a score of zero for each scale would sentence 15 out of 100 people convicted of a felony to imprisonment or probation and have a score of 2.21 out of 4 for Collateral Sanction Policies. A state with a score of 1 for each scale would sentence 21 out of 100 people convicted of a felony to imprisonment or probation and have a score of 3.28 out of 4 for Collateral Sanction Policies. These scores are each one standard deviation above the average state scores for Court-Ordered Punishments and

Collateral Sanctions Policies. A state with a score of negative one for each scale would sentence about 10 out of 100 people convicted of a felony to imprisonment or probation and have a score of 1.14 out of 4 for collateral sanction policies. These scores are each one standard deviation below the average state scores for Court-Ordered Punishments and Collateral Sanctions Policies.

Table 7. Standardized Scales by State, 2015

State	Z-Scores Court Ordered Punishments	Z-Scores Collateral Sanctions
Alabama	-.05	1.66
Arizona	-.55	1.66
Arkansas	.12	.97
California	-.55	-.80
Colorado	-.22	-.34
Connecticut	.79	-.34
Delaware	.12	.12
Florida	.12	1.66
Georgia	2.81	.82
Hawaii	-1.23	-.87
Idaho	1.80	.51
Illinois	.29	-1.33
Indiana	1.30	.51
Iowa	-.22	.28
Kansas	-.55	.51
Kentucky	2.31	.43
Louisiana	-.22	.20
Maine	-1.06	-1.72
Maryland	-.72	-.11
Michigan	.62	-.26
Minnesota	.62	-.41
Mississippi	.29	1.66
Missouri	.46	.97
Montana	.96	.05
Nebraska	-1.06	1.05
Nevada	-.89	.74
New Hampshire	-.89	-.87
New Jersey	-.89	-1.33
New Mexico	-.72	-1.03

New York	-1.4	-1.26
North Carolina	-.72	.51
North Dakota	1.80	.05
Ohio	-.39	-1.49
Oklahoma	-.39	-.41
Oregon	-.05	-1.80
Pennsylvania	.12	-1.03
Rhode Island	.29	-1.80
South Carolina	-1.40	1.43
South Dakota	1.30	.51
Tennessee	-.39	.74
Texas	-.05	.51
Utah	-1.40	-.41
Vermont	1.64	-1.26
Virginia	.79	.58
Washington	-.89	-1.03
West Virginia	-1.23	1.43
Wisconsin	-.55	.51
Wyoming	.12	-.18

Visualizing the Typology

Figure 1 displays a scatterplot to visualize how states fall within my typology. The x-axis represents the collateral sanction policy scale, and the y-axis represents the court-ordered punishment scale. Each quadrant is separated at the mean (standardized score of 0) for each axis, visualizing how states fall across the four state punitiveness categories of my typology.

States with below-average scores on court-ordered and collateral sanctions fall in the scatterplot's lower left quadrant. In contrast, states with higher-than-average scores for both court-ordered and collateral sanctions cluster in the scatter plot's upper right corner. States with a higher-than-average score on court-ordered punishment and lower than average score for collateral sanctions cluster in the upper left quadrant of the scatter plot. States with a lower-than-

average score on court-ordered punishment and a higher than average score for collateral sanctions fall in the lower right quadrant.

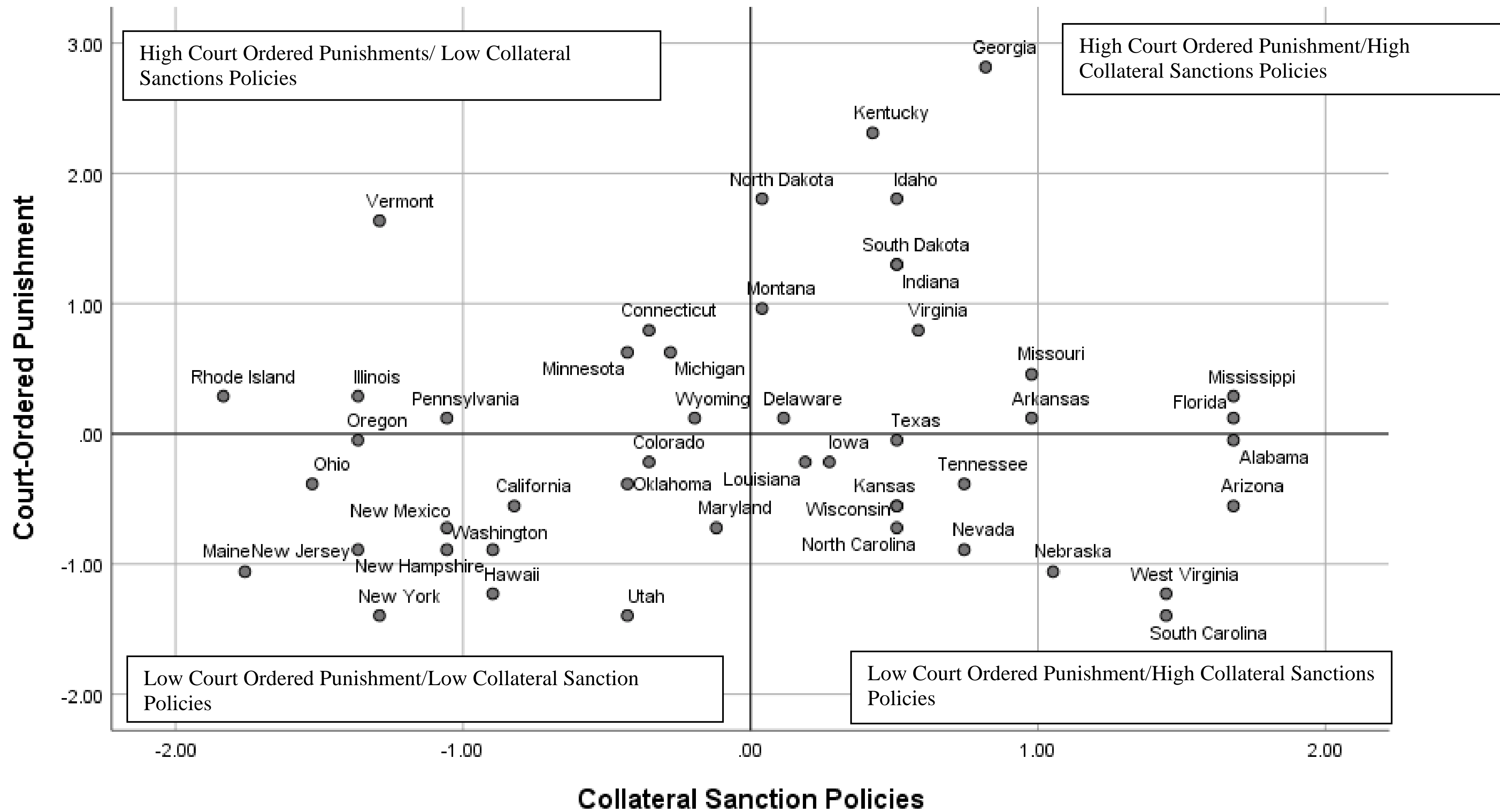

Figure 1- Punitiveness Typology

SUMMARY

Although there is no perfect measure of a complex concept like state punitiveness (Frost, 2006, 2008), my analysis in this chapter is a first step in creating a comprehensive measure of punitiveness with a specific focus on felony convictions. Previous studies differ in how punitiveness is measured, as discussed in Chapter Two and Chapter Three. My analysis adds to the literature on punishment and American exceptionalism by further highlighting that the use of incarceration rates and a focus on mass incarceration does not convey the full story of state variation in punitiveness (Frost, 2006,2008; Hamilton, 2014; Kutateladze, 2009). First, because I typologize states using standardized scores for each scale (court-ordered and collateral sanctions), my analysis shows states are more alike across measures of criminal punishment than previously presented. Second, by using propensity scores for court-ordered punishment rather than rates of current populations under supervision, my typology is a better operationalization of the character of criminal sentences and punishments at the state level since it captures how people are being sentenced for a felony-level conviction in each state in the present year. Rates are complicated by decisions made to sentence individuals to these forms of punishment in previous years, sometimes even decades ago. This makes my measure more parsimonious, without being clouded by long sentences imposed many years in the past.

Due to the different measures used, prior studies each find somewhat different rankings of states, confirming the need for specificity in how researchers measure punitiveness and discuss their findings. For example, Phelps' (2017) typology places Kansas, Nebraska, North Carolina, and West Virginia in the sparing control regime with low incarceration rates and low probation rates. However, all of these states have harsh collateral sanction policies, which moves

them into a more punitive category according to my typology. In addition, Ewald's State Collateral-Sanctions Policy Scores (2012) describes many states as not punitive, like Connecticut, Rhode Island, and Vermont, though they have above-average scores on court-ordered punishments according to my scale. Moreover, only including collateral consequences without court-ordered punishments misrepresents punitiveness. While many states may have invisible punishment policies on the books, they may not be utilized if few people are sentenced to the felony level sentences that prompt these punishments.

The next chapter, Chapter Six, will present details of the key variables depicting state-level factors that distinguish states within categories of the new punitiveness typology. I will also summarize the relationship between the principal variables, present the results, and briefly discuss my findings.

CHAPTER SIX

SOCIAL CORRELATES OF STATE PUNITIVENESS

To contextualize state-level variation in punitiveness, I examine how each category in my typology is associated with state characteristics that prior research has found to be correlated with harsh punishment (Beckett and Western, 2001; Ewald, 2012; Martin and Shannon, 2020; Neill et al., 2015; Soss et al., 2011). I examine how state characteristics such as racial composition, political ideology, and state welfare support are associated with the four categories of state punitiveness from the typology I created in study one.

Table 8 displays results from the full multilevel multinomial models. State characteristics (percent Latino, percent Black, government and citizen ideology, percent female legislators, TANF benefit level, unemployment rates, and violent crime arrest rates) are located at level one in my analysis, with each observation representing state values per variable per year. The unit of analysis for level one is state year (N=297). The unit of analysis for level two is time, which is represented by year (N=7). In this model, I examine the association between race/ethnicity, political ideology, and state economics in each contrast while controlling for violent crime arrest rates.

Each contrast shows results comparing two possible outcomes of my categorical dependent variable. Contrast 1 compares states with Low Court-Ordered Punishment/Low Collateral Sanctions Policies to states with High Court-Ordered Punishment/High Collateral Sanctions Policies. Contrast 2 compares states with High Court-Ordered Punishment/Low

Collateral Sanctions Policies, and High Court-Ordered Punishment/High Collateral Sanctions Policies. Contrast 3 compares states with Low Court-Ordered Punishment/High Collateral Sanctions Policies and High Court-Ordered Punishment/High Collateral Sanctions Policies. Contrast 4 compares states with High Court-Ordered Punishment/Low Collateral Sanctions Policies, and Low Court-Ordered Punishment/Low Collateral Sanctions Policies. Contrast 5 compares states with Low Court-Ordered Punishment/High Collateral Sanctions Policies, and Low Court-Ordered Punishment/Low Collateral Sanctions Policies. And finally, Contrast 6 compares states with Low Court-Ordered Punishment/High Collateral Sanctions Policies, and High Court-Ordered Punishment/Low Collateral Sanctions Policies.

Beginning with Contrast 1, I find that states with high levels of TANF Benefits are more likely to be in the Low Court-Ordered Punishment/Low Collateral Sanctions Policies category of punitiveness as compared to the High Court-Ordered Punishment/High Collateral Sanctions Policies category. Results indicate that for every dollar increase in the TANF Benefit level for a three-person family in a state, the state is about 1 percent more likely to be in the Low Court-Ordered Punishments/Low Collateral Sanction Policies category of punitiveness than the High Court-Ordered Punishments/High Collateral Sanction Policies category (O.R. = 1.009, $p<.001$). This finding is consistent with previous research indicating that more generous welfare provision is associated with less punitive punishment in states (Beckett and Western, 2001; Neill et al., 2015). I also find that for every one percent increase in the percentage of state population identifying as Black, the state is nine percent less likely to be in the Low Court-Ordered Punishments/Low Collateral Sanction Policies category of punitiveness than the High Court-Ordered Punishments/High Collateral Sanction Policies category (O.R. = .919, $p<.01$). This

finding connects to the theory of racial threat as states with a larger percentage of the population identifying as Black are more likely to have high levels of both forms are punishment (Beckett and Western, 2001; Ewald, 2012; Garland, 2020; Neill et al., 2015; Phelps, 2013, 2017, 2020; Whittle and Parker, 2015).

In Contrast 2, I find that states with more liberal government ideology and high TANF benefit levels are more likely to be in the High Court-Ordered Punishment/Low Collateral Sanctions Policies category of punitiveness than the High Court-Ordered Punishment/High Collateral Sanctions Policies category. This finding indicates that as a state's government ideology becomes more liberal and a state is more generous in TANF benefit levels, that state is more likely to be in the High Court-Ordered Punishments/Low Collateral Sanction Policies category of punitiveness than the High Court-Ordered Punishments/High Collateral Sanction Policies category of punitiveness. These findings are consistent with previous research indicating that the most punitive states will have conservative government ideology and less generous welfare benefits (Beckett and Western, 2001; Ewald, 2012; Garland, 2020; Neill et al., 2015; Phelps, 2013, 2017, 2020; Whittle and Parker, 2015). However, it seems as though the relationship between political conservativism at the government level may have more to do with collateral sanctions policies. Both categories of punitiveness, in this contrast, have high levels of court-ordered punishment. I also find that the percent of the state population who identify as Black is less likely to be in the High Court-Ordered Punishment/Low Collateral Sanctions Policies category of punitiveness than the High Court-Ordered Punishment/High Collateral Sanctions Policies category. This finding also connects to the theory of racial threat (Beckett and

Western, 2001; Ewald, 2012; Garland, 2020; Neill et al., 2015; Phelps, 2013, 2017, 2020; Whittle and Parker, 2015).

Table 8: Multinominal Logistic Regression Model Predicting Effects of State Characteristics on Punitiveness Typology Placement from 2010 to 2016

	Contrast 1	*Contrast 2*	*Contrast 3*	*Contrast 4*	*Contrast 5*	*Contrast 6*
	Low Court-Ordered Punishment/Low Collateral Sanctions Policies vs. High Court-Ordered Punishment/High Collateral Sanctions Policies	High Court-Ordered Punishment/Low Collateral Sanctions Policies vs. High Court-Ordered Punishment/High Collateral Sanctions Policies	Low Court-Ordered Punishment/High Collateral Sanctions Policies vs. High Court-Ordered Punishment/High Collateral Sanctions Policies	High Court-Ordered, Low Collateral Sanctions vs. Low Court-Ordered Punishment/Low Collateral Sanctions Policies	Low Court-Ordered Punishment/High Collateral Sanctions Policies vs. Low Court-Ordered Punishment/Low Collateral Sanctions Policies	Low Court-Ordered Punishment/High Collateral Sanctions Policies vs. High Court-Ordered Punishment/Low Collateral Sanctions Policies
	O.R. (S.E.)	O.R. (S.E.)	O.R. (S.E.)	O.R. (S.E.)	O.R. (S.E.)	O.R. (S.E.)
Level One: (State-Years)						
Percent Latino	1.023 (.024)	1.010 (.024)	1.009 (.022)	.987 (.021)	.986 (.024)	.999 (.024)
Percent Black	.919** (.030)	.896*** (.031)	1.006 (.023)	.975 (.032)	1.095** (.031)	1.123*** (.033)
Government Ideology	1.028 (.023)	1.060* (.023)	1.017 (.024)	1.031t (.018)	.989 (.025)	.960t (.025)
Citizen Ideology	1.024 (.019)	.998 (.018)	.952** (.017)	.975 (.018)	.930*** (.020)	.954* (.019)
% Female Legislators	.971 (.038)	.984 (.039)	.968 (.038)	1.013 (.033)	.997 (.040)	.984 (.041)
TANF Benefit Level	1.009*** (.002)	1.007** (.002)	1.006** (.002)	.998 (.002)	.998 (.017)	.999 (.002)
Unemployment	1.208 (.162)	1.047 (.143)	1.323t (.149)	.867 (.153)	1.095 (.167)	1.263 (.155)
Level Two: (Time)						
Year	1.267t (.103)	.871 (.100)	1.207 (.094)	.687* (.102)	.953 (.111)	1.387* (.110)
X^2	3.12950	3.59431	7.94916	6.81678	6.17681	6.79157

*** $p < .001$, ** $p < .01$, * $p < .05$, t $p < .10$; level one N=297; level two N=7

Results from this contrast also indicate that for every one-point increase in the government ideology scale, towards more liberal, a state is about six percent more likely to be in the High Court-Ordered Punishments/Low Collateral Sanction Policies category of punitiveness than the High Court-Ordered Punishments/High Collateral Sanction Policies category of punitiveness (O.R. = 1.060, $p<.05$). For every dollar increase in the TANF Benefit level for a three-person family in a state, that state is about one percent more likely to be in the High Court-Ordered Punishments/Low Collateral Sanction Policies category of punitiveness than the High Court-Ordered Punishments/High Collateral Sanction Policies category of punitiveness (O.R. = 1.007, $p<.01$). In addition, every one-percent increase in the state population who identify as Black leads to about a 10 percent lower likelihood that a state will be in the High Court-Ordered Punishments/Low Collateral Sanction Policies category of punitiveness compared to the High Court-Ordered Punishments/High Collateral Sanction Policies category of punitiveness (O.R. = .896, $p<.001$).

Findings in Contrast 3 comparing Low Court-Ordered Punishment/High Collateral Sanctions Policies, and High Court-Ordered Punishment/High Collateral Sanctions Policies show that states with higher TANF Benefit levels are more likely to be in the Low Court-Ordered Punishments/High Collateral Sanction Policies category of punitiveness than in the High Court-Ordered Punishments/High Collateral Sanction Policies category. Results indicate that for every dollar increase in the TANF Benefit level for a three-person family in a state, that state is about one percent more likely to be in the High Court-Ordered Punishments/Low Collateral Sanction Policies category of punitiveness than the High Court-Ordered Punishments/High Collateral Sanction Policies category of punitiveness (O.R. = 1.006, $p<.01$). Again, this finding connects to

previous literature that finds an association between states with less generous welfare benefits having more punitive criminal legal policies (Beckett and Western, 2001; Neill et al., 2015). This finding is consistent across all contrasts where states in the other categories of punitiveness are compared to states with high levels of both forms of punishment.

I also find that states with more liberal citizen ideology are less likely to be in the Low Court-Ordered Punishment/High Collateral Sanctions Policies category of punitiveness than in the High Court-Ordered Punishment/High Collateral Sanctions Policies category of punitiveness. As the state's citizen ideology score increases by one point, towards more liberal, a state is about five percent less likely to be in the Low Court-Ordered Punishment/High Collateral Sanctions Policies category of punitiveness than the High Court-Ordered Punishment/High Collateral Sanctions Policies category of punitiveness (O.R. = .952, $p<.01$).

For contrast 4 I find that as the years progress from 2010 through 2016, states are less likely to be in the High Court-Ordered Punishment/Low Collateral Sanctions Policies category of punitiveness than the Low Court-Ordered Punishment/Low Collateral Sanctions Policies category of punitiveness. This finding indicates that for every year increase, states are 31 percent less likely to be in the High Court-Ordered Punishment/Low Collateral Sanctions Policies category of punitiveness than the Low Court-Ordered Punishment/Low Collateral Sanctions Policies category (0.R. = .687, $p<.05$).

In Contrast 5, I find that states with more liberal citizen ideology are less likely to be in the Low Court-Ordered/High Collateral Sanctions Policies category of punitiveness than the Low Court-Ordered/Low Collateral Sanctions Policies category of punitiveness. The findings for citizen ideology support previous empirical research on political conservativism and punitive

policy implementation (Beckett and Western, 2001; Garland, 2020; Neill et al., 2015; Whittle and Parker, 2015). I find that as the state's citizen ideology score increases by one point, towards more liberal, a state is about seven percent less likely to be in the Low Court-Ordered Punishment/High Collateral Sanctions Policies category of punitiveness than the Low Court-Ordered Punishment/Low Collateral Sanctions Policies category of punitiveness (O.R. = .930, p<.001). In addition, I find that for every one percent increase in the percentage of state population identifying as Black, the state is about 10 percent more likely to be in the Low Court-Ordered Punishment/High Collateral Sanctions Policies category of punitiveness as opposed to the Low Court-Ordered Punishment/Low Collateral Sanctions Policies category of punitiveness (O.R. = 1.095, p<.01). At level two, there is also not a significant relationship between time and punitiveness.

The final contrast (Contrast 6) shows that the percent of the state population who identify as Black is positively associated with a state's likelihood of being in the Low Court-Ordered Punishment/High Collateral Sanctions Policies category of punitiveness than the High Court-Ordered Punishment/Low Collateral Sanctions Policies . For every one percent increase in the state population who identify as Black leads to an about 12 percent greater likelihood that a state will be in the Low Court-Ordered Punishment/High Collateral Sanctions Policies category of punitiveness compared to the High Court-Ordered Punishment/Low Collateral Sanctions Policies category of punitiveness (O.R. = 1.123, p<.001).

In this contrast, I also find that citizen ideology is significantly associated with a state's likelihood of being in the Low Court-Ordered Punishment/High Collateral Sanctions Policies category of punitiveness as opposed to the High Court-Ordered Punishment/Low Collateral

Sanctions Policies category of punitiveness. As the state's citizen ideology score increases by one point, towards more liberal, a state is about five percent less likely to be in the Low Court-Ordered Punishment/High Collateral Sanctions Policies category of punitiveness than the High Court-Ordered Punishment/Low Collateral Sanctions Policies category of punitiveness (O.R. = .954, $p<.05$). The significant finding in this contrast indicates that there is more to the relationship between political ideology, the racial composition of states, and punitiveness than initially discussed in the literature. At level two, results indicate that for every one-year increase, states are about 39 percent more likely to be in the Low Court-Ordered Punishment/High Collateral Sanctions Policies category of punitiveness than the High Court-Ordered Punishment/Low Collateral Sanctions Policies category (0.R. = 1.389, $p<.05$).

Table 9: Multinominal Logistic Regression Model Predicting Effects of State Characteristics on Punitiveness Typology Placement s from 2010 to 2016 with Cross Level Interactions

	Contrast 1	*Contrast 2*	*Contrast 3*	*Contrast 4*	*Contrast 5*
	Low Court-Ordered Punishment/Low Collateral Sanctions Policies vs. High Court-Ordered Punishment/High Collateral Sanctions Policies	High Court-Ordered Punishment/Low Collateral Sanctions Policies vs. High Court-Ordered Punishment/High Collateral Sanctions Policies	Low Court-Ordered Punishment/High Collateral Sanctions Policies vs. High Court-Ordered Punishment/High Collateral Sanctions Policies	Low Court-Ordered Punishment/High Collateral Sanctions Policies vs. Low Court-Ordered Punishment/Low Collateral Sanctions Policies	Low Court-Ordered Punishment/High Collateral Sanctions Policies vs. High Court-Ordered Punishment/Low Collateral Sanctions Policies
	O.R. (S.E.)	O.R. (S.E.)	O.R. (S.E.)	O.R. (S.E.)	O.R. (S.E.)
Level one: (State-Years)					
Percent Latino	1.050 (.026)	1.014 (.026)	.979 (.025)	.925 (.030)	.962 (.027)
Percent Black	.909** (.033)	.898*** (.032)	.988 (.028)	1.091** (.032)	1.121*** (.034)
Government Ideology	1.023 (.026)	1.065** (.023)	.991 (.028)	.973 (.030)	.956 (.028)
Citizen Ideology	1.016 (.020)	.993 (.019)	.947** (.017)	.927*** (.020)	.945** (.020)
% Female Legislators	.974 (.039)	.988 (.039)	.990 (.043)	1.026 (.047)	.997 (.044)
TANF Benefit Level	1.012*** (.003)	1.010*** (.003)	1.010*** (.002)	.997 (.002)	.998 (.002)
Unemployment	1.521 (.191)	1.231 (.161)	1.231* (.161)	.865 (.192)	.983 (.161)
Level two: (Time)					
Year	1.117t (.132)	.648* (.134)	.847 (.144)	.880 (.136)	1.220 (.126)
Cross-Level Interactions					
Year x Government Ideology		1.012* (.006)			
Year x Citizen Ideology			.984** (.006)	.981** (.006)	.981** (.006)
Year x TANF Benefit Level	.997** (.0009)	.998* (.0009)	.996*** (.0008)		

*** $p < .001$, ** $p < .01$, * $p < .05$, t $p < .10$; level one N=297; level two N=7

Cross-Level Interactions

Table 9 depicts the full multinomial multilevel model, including cross-level interactions with the same observations and levels of data as shown in Table 8. Cross-level interactions investigate the association between state characteristics at level one and time (level two). A significant cross-level interaction would indicate that the association between a given characteristic and the likelihood of a state's placement in a particular punitiveness category is either amplified or diminished over time. I run cross-level interactions separately for each state characteristic. Because there were no significant relationships between variables at level one and punitiveness between the High Court-Ordered Punishment/Low Collateral Sanctions Policies and Low Court-Ordered Punishment/Low Collateral Sanctions Policies categories for the original model (Contrast 4, Table 6), that contrast is not included in Table 9. In the following summary of findings, I focus my attention on significant cross-level interactions.

Beginning with Contrast 1, I find a significant cross-level interaction between Year and TANF Benefit Level (O.R. = .997, $p<.01$). This finding indicates that as TANF Benefit levels increase in a state, that state is more likely to be in the Low Court-Ordered Punishment/Low Collateral Sanctions Policies category than in the High Court-Ordered Punishment/High Collateral Sanctions Policies, but this effect diminishes over time from 2010 through 2016.

In Contrast 2, there is also a significant cross-level interaction between year and TANF benefit level (O.R. = .998, $p<.05$). This finding indicates that as TANF Benefit levels increase in a state, that state is more likely to be in the High Court-Ordered Punishment/Low Collateral Sanctions Policies category than in the High Court-Ordered Punishment/High Collateral Sanctions Policies but this effect diminishes over time from 2010 through 2016. Contrast 2 also has a significant cross-level interaction between year and government ideology (0.R. = 1.012,

p<.05). This finding indicates that for every one-point increase in the government ideology scale, towards more liberal, a state is more likely to be in the High Court-Ordered Punishment/Low Collateral Sanctions Policies category of punitiveness than in the High Court-Ordered Punishment/High Collateral Sanctions Policies category of punitiveness, and this effect is amplified over time from 2010 through 2016. This finding highlights the need for further investigation into whether each penal control is influenced by state politics at the government level in similar ways or are court-ordered punishments and collateral sanctions policies influenced differently by state governmental politics.

Like in Contrasts 1 and 2, there is also a significant cross-level interaction between Year and TANF Benefit Level (O.R. = .996, *p*<.001). This finding indicates that as TANF Benefit levels increase in a state, that state is more likely to be in the Low Court-Ordered Punishment/High Collateral Sanctions Policies category than in the High Court-Ordered Punishment/High Collateral Sanctions Policies, but this effect diminishes over time from 2010 through 2016. Last, there is a significant cross-level interaction between year and citizen ideology (0.R. = .984, *p*<.01), and the main effects are still significant and negative. This indicates that for every one-point increase in the citizen ideology scale, towards more liberal, a state is less likely to be in the Low Court-Ordered Punishment/High Collateral Sanctions Policies category of punitiveness than the High Court-Ordered Punishment/High Collateral Sanctions Policies category of punitiveness. This effect diminishes over time from 2010 through 2016. Further research is needed to understand why the relationship between citizen political ideology and states' differing levels of Court-Ordered punishments decreases over time.

In Contrast 4, there is a significant cross-level interaction between year and citizen ideology (0.R. = .981, *p*<.01). This indicates that for every one-point increase in the citizen

ideology scale, towards more liberal, a state is less likely to be in the Low Court-Ordered Punishment/High Collateral Sanctions Policies category of punitiveness than in the Low Court-Ordered Punishment/Low Collateral Sanctions Policies category of punitiveness. This effect diminishes over time from 2010 through 2016. As discussed above, further research is needed to understand why the relationship between citizen political ideology and states' differing levels of punitiveness decrease over time. One potential explanation for the diminishing effect from 2010 through 2016 for this contrast could be reforms such as "Ban the Box" and re-enfranchisement across the U.S., signaling greater public acceptance to lessen collateral sanctions.

The final contrast (Contrast 5) has a significant cross-level interaction between citizen ideology and time (O.R. = .981, $p<.01$). This significant cross-level interaction indicates that for every one-point increase in the citizen ideology scale, towards more liberal, a state is less likely to be in the Low Court-Ordered Punishment/High Collateral Sanctions Policies category of punitiveness than the High Court-Ordered Punishment/Low Collateral Sanctions Policies category of punitiveness. This effect diminishes over time from 2010 through 2016.

The cross-level interactions provide context for how state characteristics associate with punitiveness categories over time. More specifically, models in Table 9 show that although TANF benefit levels and citizen ideology are salient factors in state placement within different punitiveness categories, the association lessens over time. As discussed above, there may be more public support for lessening collateral sanctions policies at the end of the study period. In addition, the amplified effect of liberal government ideology on state placement in the High Court-Ordered Punishment/Low Collateral Sanctions Policies category of punitiveness compared to the High Court-Ordered Punishment/High Collateral Sanctions Policies category of punitiveness over time may indicate a continued reliance on court-ordered punishments as crime

control in states deemed "more progressive" rather than collateral sanctions policies. A potential explanation for this phenomenon may be that many states with liberal government ideology utilize managerial control (Phelps, 2017, 2020), with high levels of community supervision sentencing.

SUMMARY

To summarize, state characteristics are associated with categories of punitiveness in different ways. I find that states with less generous welfare benefits are more likely to be in the category with high levels of both forms of punishments in comparison to all other categories of punitiveness. I also find that states with more generous welfare benefits are less likely to be in the category with Low Court-Ordered Punishments, High Collateral Sanction Policies category than in the Low Court-Ordered Punishments, Low Collateral Sanction Policies category. These findings connect to research on governing marginality, indicating that there is an association between the penal and welfare systems across states (Beckett and Western, 2001; Martin and Shannon, 2020; Owens and Smith, 2012; Soss et al., 2001).

I find mixed support for claims made in previous research regarding the relationship between punitiveness and a state's racial and ethnic composition. States with a larger percentage of the population identifying as Black are significantly more likely to be in the High Court-Ordered Punishments/ High Collateral Sanction Policies category than in the Low Court-Ordered Punishments/ Low Collateral Sanction Policies and High Court-Ordered Punishments/ Low Collateral Sanction Policies categories. I also find that states with a larger percentage of the population identifying as Black are significantly more likely to be in the Low Court-Ordered Punishments/High Collateral Sanction Policies category than the Low Court-Ordered Punishments/ Low Collateral Sanction Policies and High Court-Ordered Punishments/Low

Collateral Sanction Policies categories of punitiveness. These findings lead to additional questions regarding the utility of theories of racial threat when state variation in punitiveness is measured beyond one type of penal control. More specifically, the findings from this analysis point to larger Black populations in states associating with harsher collateral sanctions policies even in states with low levels of court-ordered punishments signaling that racial threat may be a stronger theoretical argument for harsh collateral sanctions policy implementation than court-ordered punishments.

Last, I find some support for political conservativism leading to more punitive punishment. However, there is a distinct difference between the association of government ideology and punitiveness and the association of citizen ideology and punitiveness. States with more liberal government ideology are more likely to be in all other punitiveness categories than the High Court-Ordered Punishment/High Collateral Sanctions Policies category. In contrast, states with more liberal citizen ideology are more likely to be in all other punitiveness categories than the Low Court-Ordered Punishment/High Collateral Sanctions Policies category. This finding suggests that there may be divergence between state government and the citizens that reside in the state. One possible explanation for this is that there may be a move towards lessening court-ordered punishments due to financial issues whereas there is no financial incentive to make changes to collateral sanctions policies in certain states. The financial motivations to change these policies could also be supported by citizens within the state, even those who believe in “Law and Order” politics because the money would be reinvested into other institutions used by citizens in each state.

In Chapter Seven, I will summarize the similarities and differences between my punitiveness typology and previous typologies. In addition, I will discuss the importance of

bringing incarceration and probation sentences together with collateral sanctions in a typology to advance our understanding of the harshness of punishment at the state level. Lastly, I will discuss the policy implications of my findings, limitations of the current studies, and areas for future research.

CHAPTER SEVEN

DISCUSSION, POLICY IMPLICATIONS, AND CONCLUSION

While much academic attention has focused on mass incarceration, the expansion of "mass punishment" deserves equal consideration. This dissertation develops a more comprehensive measurement of "the punitive state" by blending the work of Ewald (2012), Frost (2006, 2008), Kutateldze (2009, 2011), Neill, Tusuf, and Morris (2015), Phelps (2013; 2017; 2018) and Tonry (2007). I first briefly review each empirical study and then discuss policy implications and directions for future research.

Chapter Five answers the question, how does a punitiveness typology based on court-ordered punishments and collateral sanction policies for felony convictions better inform our understanding of state variation in punitiveness? To answer this question, I developed a measure of state punitiveness that incorporates various forms of court-ordered punishment and collateral sanctions policies for felony convictions. Using state-level quantitative data to create scales of court-ordered punishment and collateral sanctions policies, results from this analysis suggest that including measures of imprisonment, probation, and collateral sanctions in one typology changes our understanding of state variation in punitiveness. In addition, the study contributes to the ongoing discussion regarding American exceptionalism in penal control, providing some support for Garland's (2020) theory arguing that U.S. states have distinct patterns in the uses of penal controls to combat crime.

This new typology of punitiveness also leads me to conclude that reductions in all forms of punishment beyond incarceration are necessary. As shown by the work of Shannon and

colleagues (2017), far more individuals with felony convictions never experience incarceration, yet they still endure harsh court-ordered punishments like probation. In addition, individuals with felony convictions experience multiple collateral sanctions regardless of the judge's court-ordered punishment. To understand how punitive states are, penologists must look beyond incarceration rates.

Although many states seem to be on a trajectory to lessen the extensive use of court-ordered punishment, many states still maintain harsh collateral sanction policies for those convicted of felonies. For example, South Carolina and West Virginia are two states with below average scores on the court-ordered punishments scale. However, they each significantly limit the rights of people with felony convictions, piling on harsh punishment. For South Carolina, much of the change in court-ordered punishments can be attributed to the financial cost of a large correctional population, which led to Senate Bill 1154, the Omnibus Crime Reduction and Sentencing Reform Act, passed in 2010, as part of the Justice Reinvestment Initiative. This bill restructured court-ordered punishments for all types of crime (violent, drug, and property). However, there are no changes to collateral sanctions policies in this bill. This highlights how collateral sanction policies are an important piece of state variation in punitiveness.

Ultimately, my punitiveness typology provides a more comprehensive measure of state-level punitiveness than used in previous research by accounting for multiple penal controls, measuring court-ordered punishment, and collateral sanctions policies. First, by standardizing scores for each scale (court-ordered punishments and collateral sanctions), my analysis shows states are more alike across measures of criminal punishment than previously presented in typologies using state rankings. Second, by using the formal punishment sentencing rather than rates, my typology is a better operationalization of the character of punishments at the state level.

I am able to capture *how* people are sentenced for a felony-level conviction in each state instead of using a measure that conflates how people are sentenced with how long they spend under correctional control. Michigan and Pennsylvania are vital examples depicting why felony probation should be included in measures of punitiveness because they no longer have low levels of court-ordered punishments with the inclusion of felony probation as compared to Frost's typology (2006; 2008). Michigan was also in the less than moderately punitive state in Kutateladze's (2011) punitiveness typology. Georgia also becomes one of the most punitive states rather than categorized as average in Frost's typology (2006; 2008).

Third, the addition of collateral sanction policy measures in my analysis strengthens the validity of my measures and scales by connecting the operationalization of punitiveness closer to the conceptualization that punitiveness is the imposition of excessive formal social controls over the lives of individuals with felony convictions. Literature within the field of penology has established that punitive policies do not stop once individuals have a court-ordered sentence. There are further punishments individuals with felony-level convictions endure post-sentence that are decided and enforced at the state level. This study's findings are significant in understanding variation in the use of penal controls across states. To understand fully the carceral state, each form of punishment must be considered (Phelps, 2017).

Chapter Six identifies how state characteristics that are thought to be related to punishment associate with state variation in punitiveness across time. The study contributes to the ongoing discussion regarding American exceptionalism in penal control, providing some support for Garland's (2020) theory. Garland (2020) theorizes that the over reliance on penal controls in the United States is due to weakness in non-penal social controls such as welfare provisions. I find that states with the highest level of penal controls have the lowest welfare benefit levels. Still, I

also find that traditional theories often used to explain state variation in punitiveness do not entirely explain the variation shown in the new punitiveness typology, as states with conservative ideology and large Black populations have an increased likelihood of being in the High Court-Ordered Punishments/High Collateral Sanction Policies category and the Low Court-Ordered Punishments/High Collateral Sanction Policies category. In addition, states with liberal political ideology have an increased likelihood of being in the High Court-Ordered Punishments/Low Collateral Sanction Policies category of punitiveness.

In evaluating theories of racial threat, my analysis shows that states with high levels of both forms of punishment and states with high levels of collateral sanctions policies (regardless of levels of court-ordered punishments) have a larger percentage of state populations identifying as Black than do states in other punitiveness categories. This finding provides support for Phelps's (2013, 2017) assertion that the relationship between state characteristics and levels of harsh punishment may not be the same between different forms of punishment.

Various forms of criminal punishment can be harsh and excessive (Ewald, 2012; Frost, 2006, 2008; Garland, 2020; Phelps, 2017; Tonry, 2007). Yet, many researchers studying state variation in punitiveness have relied on harshness of only one form of punishment to measure punitiveness. The current study explains the variation in punitiveness across states using a more comprehensive measure of punishment for felony convictions (court-ordered punishments and collateral sanctions for felony convictions). I argue that my punitiveness typology more fully represents the multidimensional system of penal controls used to contain, label, surveil, and stigmatize individuals with felony convictions.

The results from my analysis in Chapter Five suggests that assumptions regarding the connection between certain state characteristics and punitiveness may be incorrect. First,

findings from this analysis indicate that politics are associated with different types of penal control in different ways. I find partial support for some of the traditional assumptions in punishment research, as states with conservative government ideologies have the most punitive punishment policies, with high levels of both forms of punishment (Beckett and Western, 2001; Martin and Shannon, 2020; Soss et al., 2011; Stucky et al., 2005). But I also find that states with liberal government ideologies have above-average levels of court-ordered punishments. One possible explanation for this pattern is found in Campbell and colleagues' (2020) argument that penal reform at the state level does not mean that legislators do not focus on crime control. Instead, states continue to participate in what Campbell et al. call "crime control theater," where politicians in states viewed as “more progressive” display support for the excessive use of probation other than incarceration. An example of this is the increased reliance on probation as a sentencing outcome for felony offenses. Although probation is sometimes referred to as an alternative to incarceration, it can also be a harsh and excessive form of punishment acting as a "net-widener" (Phelps, 2017). In addition, states with low levels of court-ordered punishments and high levels of collateral sanctions have the most conservative citizen ideology, while states with low levels of both forms of penal control have the most liberal citizen ideology.

POLICY IMPLICATIONS

Focusing attention on mass punishment, not solely mass incarceration, calls for new policies related to harsh punishment. It can lead to changes in America’s exceptionalism in punishment that will impact many people involved in the justice system and their families and communities at large. By pushing the conversation beyond mass incarceration, the current study identifies limitations in calls to end mass incarceration without attending to the full range of punitive policies. Even if mass incarceration were eliminated, there would still be significant

issues with mass supervision, reintegration, recidivism, and stigma that researchers, policymakers, and advocates must address. For example, calls for the "Ban the Box" policy and Felon re-enfranchisement at the state and national level are good starting points to lessen the burden and harshness of punishment associated with felony-level convictions.

Findings from this dissertation further complicate the sole focus on mass incarceration for policymakers and activists. For example, although positive changes have been made through the Justice Reinvestment Initiative, the initiative has primarily focused on alleviating the financial burden of mass incarceration for state governments rather than the burden of the felony label and all harsh punishments on individuals. A 2016 Urban Institute report highlights the significant policy changes in Georgia signed into law in 2012 in HB 1176, which created a more "cost-effective" way to handle corrections across the state. However, this report fails to discuss how people convicted of felony-level offenses are also sentenced to probation at alarming rates in the state. In addition, the Georgia Prisoner Reentry Initiative was signed into law in 2014 to help lessen recidivism, however, this policy did not include any legislative changes to collateral sanctions within the state that lessen the rights of individuals post felony conviction.

LIMITATIONS

Despite significant findings and methodological strengths, this dissertation study has limitations. First, due to data limitations, I could not include all forms of punishment in my punitiveness typology, even those for felony convictions. Research shows that other forms of punishment such as monetary sanctions (Harris, 2016) and community supervision revocations (Lin, 2010; Phelps, 2016) can be severe punishments and are experienced by a large portion of the individuals convicted of felony offenses in the United States. Thus, future research should include measures of these forms of punishment when exploring state variation in punitiveness.

Second, I do not include sentence length in my analysis. I could not find a reliable measure of the average felony probation sentence length per state to use in this study. The measures depicting court-ordered punishments in this dissertation can only show how many people are convicted of felony-level offenses and sentenced to probation and imprisonment. Still, this measure cannot show the length of sentence for those convicted, which may also be vital in understanding the overarching goals of criminal legal systems in certain states. For example, Arizona has stringent sentencing guidelines for both the length of sentence and the type of punishment associated with felony convictions. Based on this finding, it may seem odd for the state of Arizona to have a low court-ordered punishment score. However, the rigid sentencing guidelines may lead to fewer people being convicted of felony offenses than others due to pushes for criminal legal and financial reform in the state.

Third, the measures used in the Court-Ordered Punishments Scale in the current studies are limited in the information provided. There is no information regarding the racial demographic breakdown per state for either imprisonment or felony probation and whether or not there were changes in the questions asked and/or reported over the study period. In addition, for felony probation, the current studies are missing information regarding exits from supervision.

Fourth, the longitudinal analysis includes data from 2010 through 2016, focusing on the “late mass incarceration” period. Although this is not an outright limitation of the study, future research should include different time points where data is available to see state variation in other relevant study periods such as the reconstruction period from 1992 to 2001 and the period of stabilization and contraction from 2001 to 2010 (Campbell et al., 2015).

DIRECTIONS FOR FUTURE RESEARCH

There are several opportunities for future research based on the findings from this dissertation study. First, more research is needed to estimate the number of people excluded from certain rights due to a felony conviction in each state. Researchers such as Uggen, Larson, Shannon, and Pulido-Nava (2020) and James Binnall (2021) report how many people are excluded from voting and jury service in states. However, there is less information available for other collateral sanctions. In addition, it would be beneficial for researchers, activists, and policy makers to know how many individuals are impacted by all collateral sanction policies in states where there is no eligibility for people with felony convictions.

Second, future research might also utilize the new punitiveness typology developed in this dissertation study to explore the connection between mass punishment and policy changes. Researchers can conduct this research through a historical analysis of individual states within each punitiveness category to uncover the unique historical penal trajectories that lead states to continuity and or change in punitiveness categories. More specifically, future research should explore the connection between levels of court-ordered punishments and collateral sanction policies and state penal strategy, as discussed by Frost (2006). Do all states, regardless of the level of punishments, utilize a similar penal strategy? Does state penal reform lead to using different forms of harsh punishment to incapacitate and/or manage groups of people convicted of specific types of felony offenses in late mass incarceration?

Third, because of judicial and prosecutorial discretion in the criminal legal system, additional research is needed to explore how aligned local jurisdictions are in their court-ordered punishments compared to the state. In addition, variation in court-ordered punishments between

jurisdictions may be impacted by state variation in their court systems, correctional and community supervision systems, and the funding sources for each system.

Last, future research is needed to investigate the impact of court-ordered punishments and collateral sanctions on re-entry and recidivism for justice-involved people at the individual level. We have begun to understand the multitude of negative impacts mass incarceration and imprisonment have on individuals within the United States. Researchers have also started to explore the impact of community supervision and collateral sanction policies on their own for people experiencing them. However, less is known about the experience of mass punishment for people who simultaneously experience multiple forms of punishment.

CONCLUSION

This dissertation study shows that including imprisonment, probation, and collateral sanction policies for felony offenses changes state categorizations regarding harshness in criminal legal punishment as compared to Phelps's "control regime typology" (2017) and Frost's measures of punitiveness (2006, 2008). Like Phelps (2017), I generate a two-by-two typology. However, my typology outlines four categories of punitiveness based on court-ordered punishments and collateral sanction policies. In addition, quantitative analysis of state-level factors that differentiate states grouped by punitiveness category suggest that government and citizen political ideology is significantly related to punitiveness categories in different ways. More specifically, this analysis adds nuance to previous findings in punishment research that conservative states are more punitive (Beckett and Western, 2001; Martin and Shannon, 2020; Soss et al., 2011; Stucky et al., 2005). Rather, my analysis shows that once probation and collateral sanctions are included in a comprehensive measure of punitiveness, political conservativism is associated with lower-than-average levels of court-ordered punishment and higher than average levels of collateral sanctions, while liberal political ideology is

associated with higher-than-average levels of court-ordered punishments and lower levels of collateral sanctions.

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APPENDIX A

All Collateral Sanction Policies and Coding

1. *TANF ban*, coded states that opt-out as 0, states with a modified version of the ban coded as .5, and states with full bans as 1.
2. *SNAP ban*, coded states that opt-out as 0, states with a modified version of the ban coded as .5, and states with full bans as 1.
3. *Public housing policies* are coded as 0,.5, and 1 as well with 0 as no restrictions, .5 for restrictions based on offense type (i.e. drug offenses), and 1 for people with any felony level conviction being restricted from residing in public housing.
4. *Disenfranchisement* is coded as 0 for no restriction for voting with a felony record (even for people currently incarcerated), only disqualified if incarcerated coded as .25, disqualified if incarcerated or on parole coded as .50, disqualified if incarcerated, on parole, or probation coded as .75, and for individuals who are disqualified after serving their full sentence coded as 1.
5. *Jury Disqualification* is coded as 0 when there are no restrictions, .33 when states restrict jury service during sentence and/or parole or probation supervision, .66 when some individuals with felony conviction are restricted for a specified period of time after completion of sentence, and 1 when people convicted of felony offenses are excluded for life from serving on a jury.
6. *Employment policies* (Ban the Box), states restricting how public employers, licensing agencies, and private employers consider convictions in making hiring and licensure decisions are coded as 0, states that establish some protection against making public hiring and licensure decisions solely on the basis of a former conviction, but do not restrict private employers from making those decisions are coded as .33. States that regulate licensure decisions but leave public and private hiring decisions entirely uncontrolled are coded as .66 and states that do not restriction any questions employers can ask, and the reasons employers or licensing agencies can give for rejecting an applicant are coded as 1.
7. *Firearm restrictions,* states with no firearm restrictions for people with felony convictions are coded as 0, states with temporary restrictions are coded as .25, .states that restrict individuals with violent felony conviction are coded as .5, states where all individuals with felony convictions are ineligible indefinitely are coded as .75, and states where all individuals with felony convictions are ineligible and some misdemeanor convictions and juvenile convictions are ineligible as well are coded as 1.
8. *Adoption and fostering laws*, states with no restrictions are coded as 0, states that disqualified individuals with felony convictions for either fostering or adoption based on specific conviction (EX: controlled substances) are coded as .25, states that disqualified individuals for both adoption and fostering based on specific conviction (EX: controlled substances) was coded as .5, states that disqualified individuals for either adoption or

fostering for all felony convictions are coded as .75, and states that ban all individuals with a felony conviction from adopting and fostering children are coded as 1.

This analysis identified three distinct factors with only one factor (including *disenfranchisement laws*, *SNAP ban*, *TANF ban*, and *employment policies*) meets the Kaiser criteria with an eigenvalue over 1(Kaiser 1960), passes the scree test where the data point for factor one is above the natural bend (Osborne 2014) and reaches an acceptable alpha level at .74. The factor loadings for each policy are .65 for *disenfranchisement laws*, .86 for *TANF ban*, .80 for *SNAP ban*, and .65 for *employment policies*.

Exploratory Factor Analysis

```
Factor analysis/correlation                        Number of obs    =        47
    Method: principal-component factors            Retained factors =         3
    Rotation: orthogonal varimax (Kaiser off)      Number of params =        21
```

Factor	Variance	Difference	Proportion	Cumulative
Factor1	2.29707	0.89209	0.2871	0.2871
Factor2	1.40498	0.03918	0.1756	0.4628
Factor3	1.36579	.	0.1707	0.6335

LR test: independent vs. saturated: chi2(28) = 68.93 Prob>chi2 = 0.0000

Rotated factor loadings (pattern matrix) and unique variances

Variable	Factor1	Factor2	Factor3	Uniqueness
Disenfranc~t	0.6511		0.5072	0.2867
TANF	0.8591			0.2614
SNAP	0.7990			0.3605
Employment	0.6543			0.4897
jury		0.6312		0.4484
firearms			0.8138	0.2960
housing		0.8580		0.2601
adoptfoster			-0.5380	0.5295

(blanks represent abs(loading)<.5)

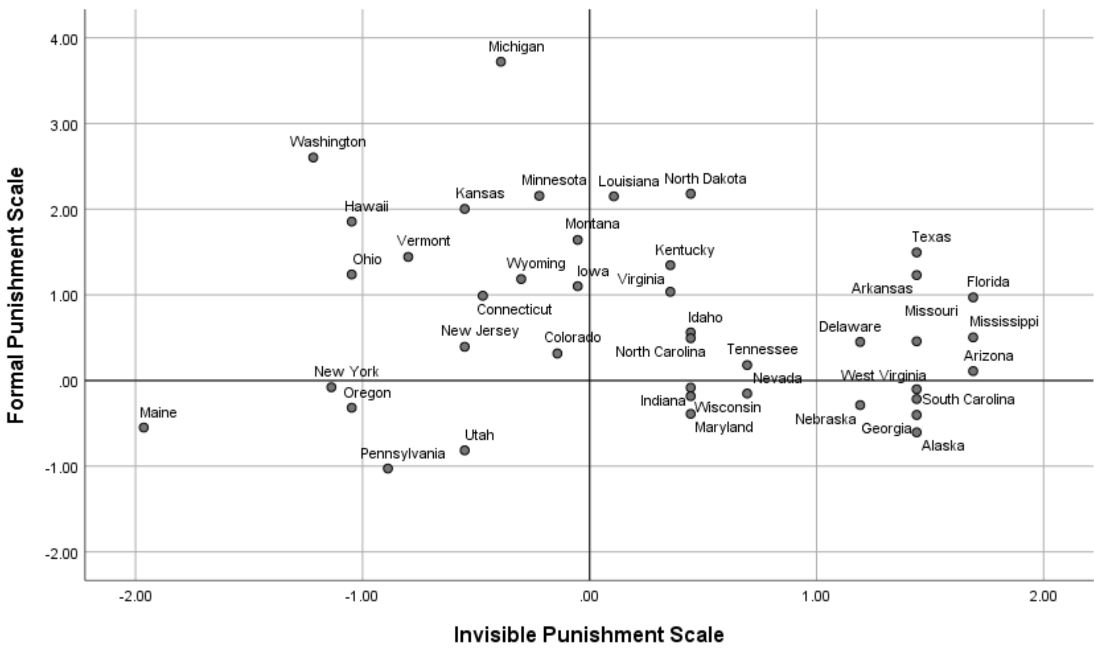
```
Test scale = mean(unstandardized items)

Average interitem covariance:     .0545209
Number of items in the scale:            4
Scale reliability coefficient:      0.7426
```

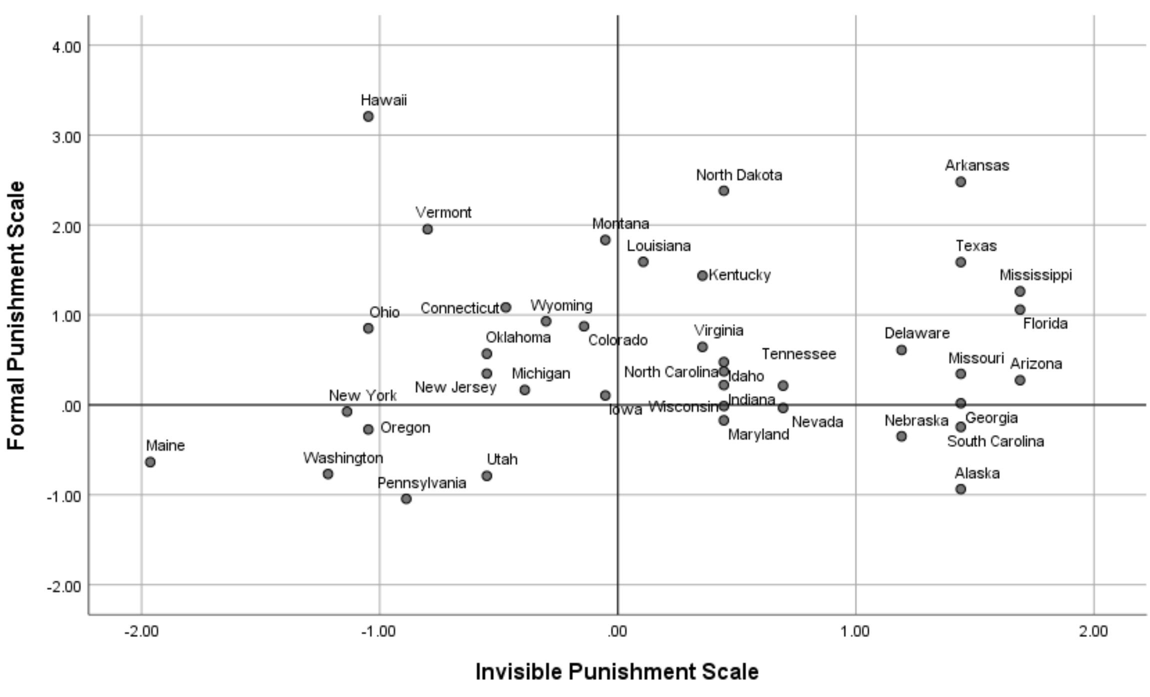
APPENDEX B

Scatterplots Over Time (2010 through 2016)

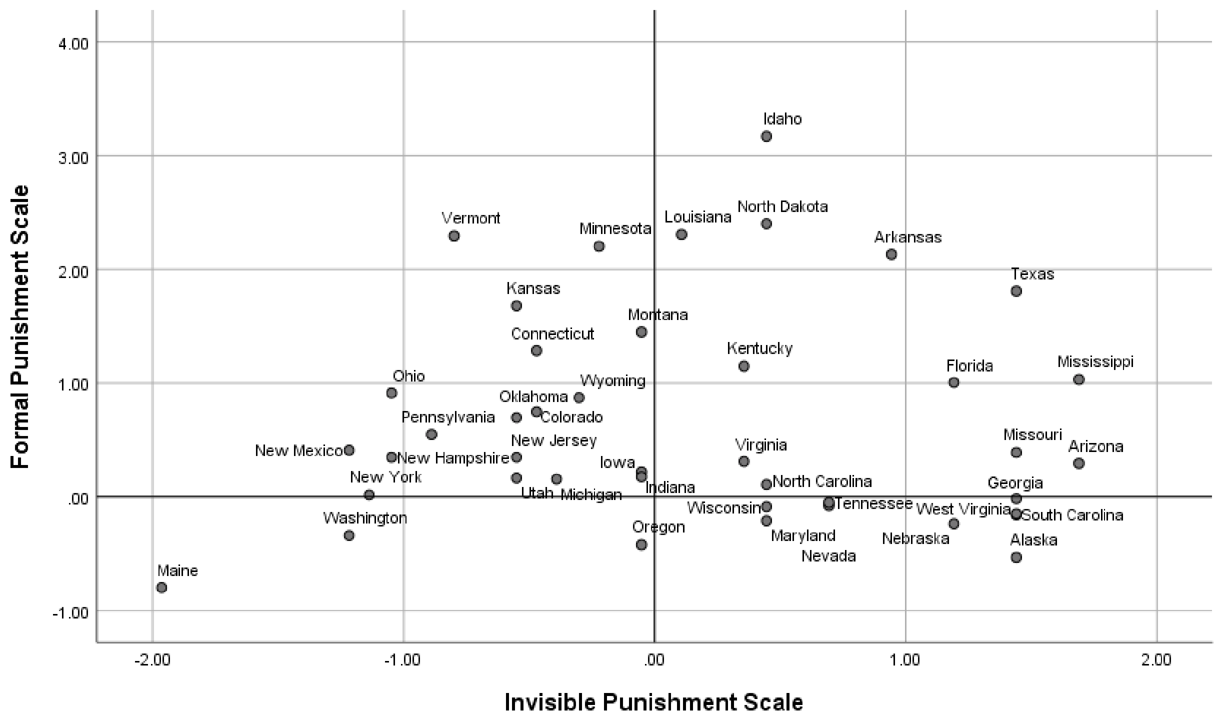
2010



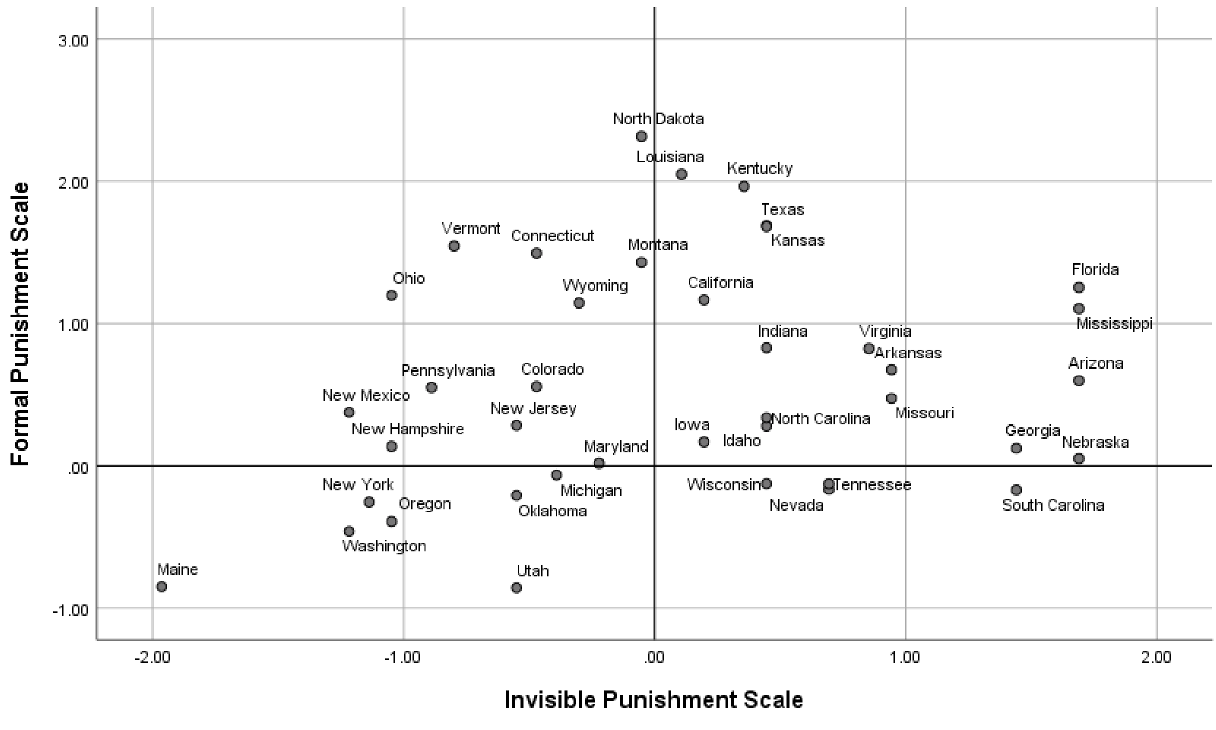
2011



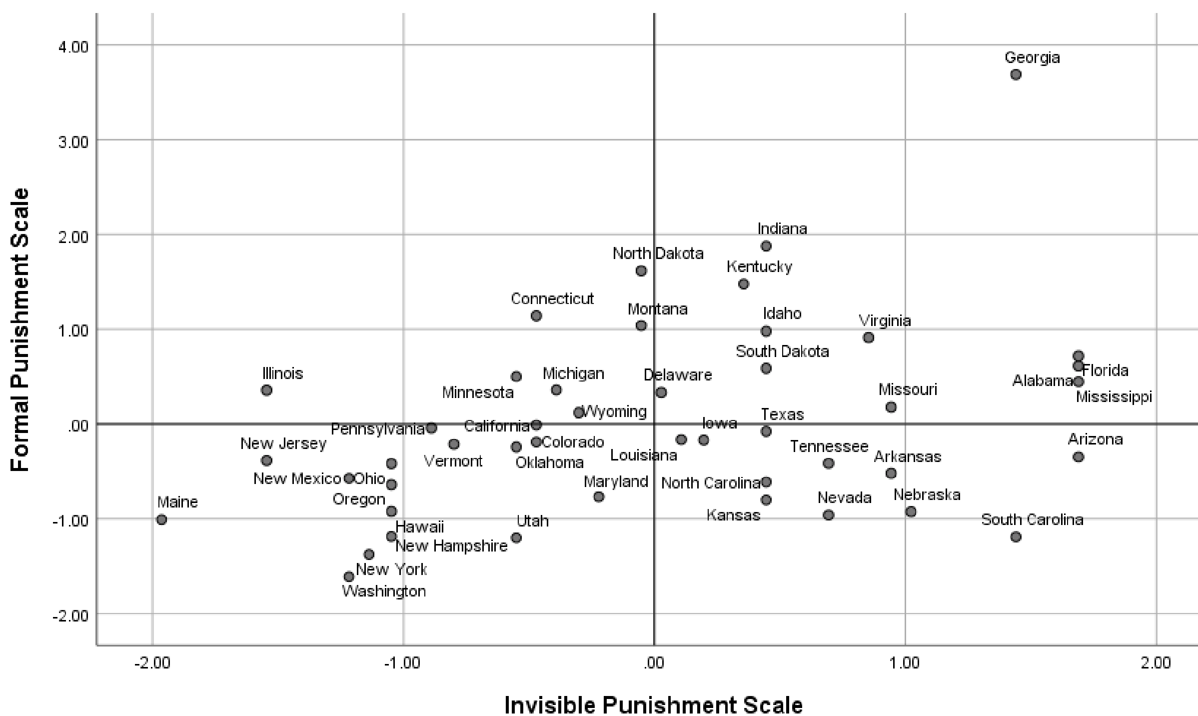
2012



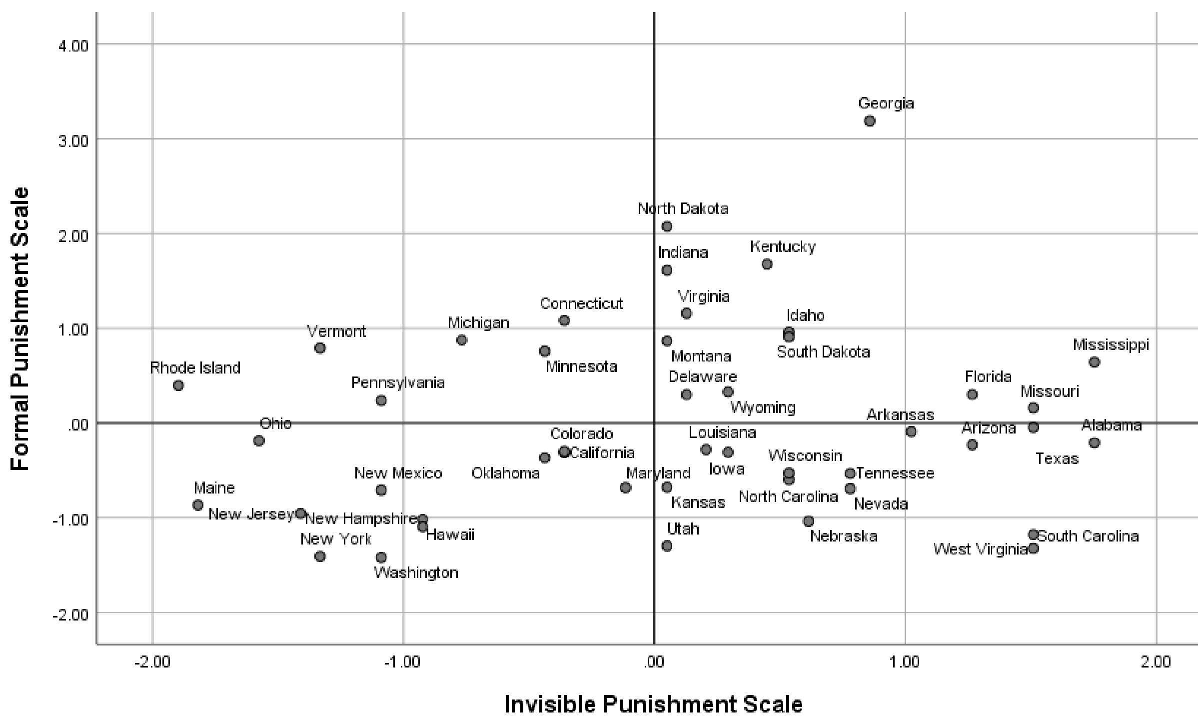
2013



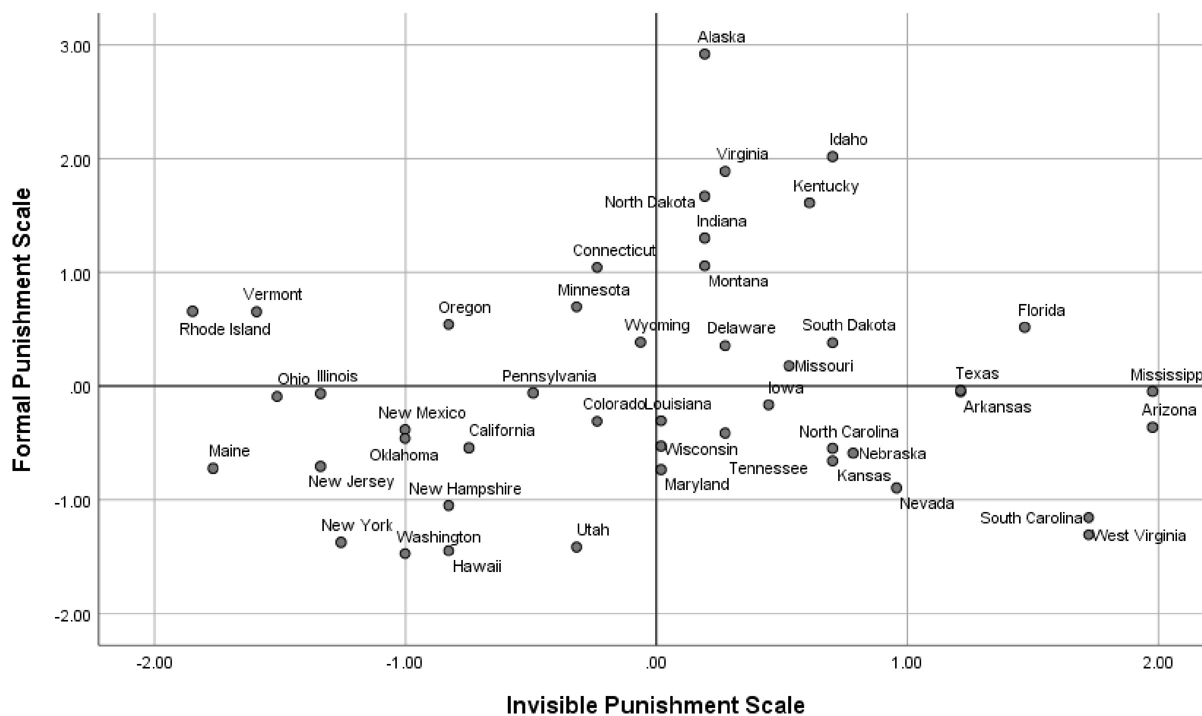
2014



2015



2016



APPENDEX C

Multinomial Multilevel Model Equation:

Level one:

$P\ [Y_i\ (0) = 1|\beta] = P(0)$
$P\ [Y_i\ (1) = 1|\beta] = P(1)$
$P\ [Y_i\ (2) = 1|\beta] = P(2)$
$P\ [Y_i\ (3) = 1|\beta] = P(3) = 1 - P(0) - P(1) - P(2)$
$\text{Log}[P(0)/P(3)= \beta_{1(0)}$
$\text{Log}[P(1)/P(3)= \beta_{2(0)}$
$\text{Log}[P(2)/P(3)= \beta_{3(0)}$

Level two:
$\beta_{0(1)} = \gamma_{00(1)} + \mu_{c(1)}$
$\beta_{0(2)} = \gamma_{00(2)} + \mu_{c(2)}$
$\beta_{0(3)} = \gamma_{00(3)} + \mu_{c(3)}$

Example Multinomial Multilevel Model with Cross-Level Interactions Equation:

Level one:

$P\ [Y_i\ (0) = 1|\beta] = P(0)$
$P\ [Y_i\ (1) = 1|\beta] = P(1)$
$P\ [Y_i\ (2) = 1|\beta] = P(2)$
$P\ [Y_i\ (3) = 1|\beta] = P(3) = 1 - P(0) - P(1) - P(2)$
$\text{Log}[P(0)/P(3)= \beta_{0(0)} + \beta_{1(0)} + \beta_{2(0)} + \beta_{3(0)} + \beta_{4(0)} + \beta_{5(0)} + \beta_{6(0)} + \beta_{7(0)} + \beta_{8(0)}$
$\text{Log}[P(1)/P(3)= \beta_{2(0)} + \beta_{1(1)} + \beta_{2(1)} + \beta_{3(1)} + \beta_{4(1)} + \beta_{5(1)} + \beta_{6(1)} + \beta_{7(1)} + \beta_{8(1)}$
$\text{Log}[P(2)/P(3)= \beta_{3(0)} + \beta_{1(2)} + \beta_{2(2)} + \beta_{3(2)} + \beta_{4(2)} + \beta_{5(2)} + \beta_{6(2)} + \beta_{7(2)} + \beta_{8(2)}$

Level two:
$\beta_{0(0)} = \gamma_{00(0)} + \gamma_{00(1)*}(\text{YEAR}_i) + \mu_{c(1)}$
$\beta_{1(0)} = \gamma_{00(10)}$
$\beta_{2(0)} = \gamma_{00(20)}$
$\beta_{3(0)} = \gamma_{00(30)}$
$\beta_{4(0)} = \gamma_{00(40)}$
$\beta_{5(0)} = \gamma_{00(50)}$
$\beta_{6(0)} = \gamma_{00(60)}$
$\beta_{7(0)} = \gamma_{00(70)}$
$\beta_{8(0)} = \gamma_{00(80)} + \gamma_{00(81)*}(\text{YEAR}_i)$

$\beta_{0(1)} = \gamma_{00(2)} + \mu_{c(2)}$
$\beta_{1(1)} = \gamma_{00(10)} + \gamma_{00(11)*}(\text{YEAR}_i)$

$\beta_{2(1)} = \gamma_{00(20)}$
$\beta_{3(1)} = \gamma_{00(30)}$
$\beta_{4(1)} = \gamma_{00(40)}$
$\beta_{5(1)} = \gamma_{00(50)} + \gamma_{00(51)*}(\mathrm{YEAR}_i)$
$\beta_{6(1)} = \gamma_{00(60)}$
$\beta_{7(1)} = \gamma_{00(70)}$
$\beta_{8(1)} = \gamma_{00(80)} + \gamma_{00(81)*}(\mathrm{YEAR}_i)$

$\beta_{0(2)} = \gamma_{00(3)} + \mu_{c(3)}$
$\beta_{1(2)} = \gamma_{00(10)} + \gamma_{00(11)*}(\mathrm{YEAR}_i)$
$\beta_{2(2)} = \gamma_{00(20)} + \gamma_{00(21)*}(\mathrm{YEAR}_i)$
$\beta_{3(2)} = \gamma_{00(30)}$
$\beta_{4(2)} = \gamma_{00(40)}$
$\beta_{5(2)} = \gamma_{00(50)}$
$\beta_{6(2)} = \gamma_{00(60)}$
$\beta_{7(2)} = \gamma_{00(70)} + \gamma_{00(71)*}(\mathrm{YEAR}_i)$
$\beta_{8(2)} = \gamma_{00(80)} + \gamma_{00(81)*}(\mathrm{YEAR}_i)$