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Racial Differences in Perceptions of Sanction Severity

by

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A thesis submitted in partial fulfillment
of the requirements for the degree of
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TABLE OF CONTENTS

List of Tables	ii
Abstract.....	iii
Chapter One: Introduction	1
Chapter Two: Theoretical Background	4
Perceptions of Sanction Severity	4
Racial Differences in Severity Perceptions	5
Racial Differences in Additional Demographics Factors	7
Racial Differences in Criminal System Experiences.....	9
Racial Differences in Perceptions of Legitimacy	9
Racial Differences in Attitudes Towards Sanctions	13
Chapter Three: Present Study	16
Data Source	16
Measures	17
Dependent Variable	17
Key Independent Variable	18
Confounding Variables.....	18
Control Variables.....	23
Analytical Strategy	24
Chapter Four: Results	25
Descriptive Information.....	25
Regression Analysis	28
Supplemental Analysis	32
Chapter Five: Discussion and Conclusion.....	34
References	41
Appendix A: Scale Items.....	50
Appendix B: Preferences for Probation Question	53

LIST OF TABLES

Table 1: Descriptive Statistics	17
Table 2: Preference for Probation Distribution	26
Table 3: Descriptive Statistics: By Race	28
Table 4: OLS Regression Analysis of Incarceration Severity Perceptions	29
Table 5: Itemized Comparison of Probation Attitudes: By Race	33

ABSTRACT

Research has consistently found an association between race and relative perceptions of incarceration severity. Black people view incarceration as less severe than an equivalent period of probation. However, few studies have examined why this relationship exists. The present study surveys a large sample of young adults to examine whether the observed relationship between race and incarceration severity can be replicated. In doing so, the study then considers whether constructs related to socioeconomic status, criminal system experiences, perceptions of legitimacy, and sanction attitudes explain the racial divide. Results indicate a significant relationship between race and incarceration severity, such that Black people, do indeed, view incarceration as less severe than probation compared to Non-Black people. Socioeconomic status, perceptions of legitimacy and sanction attitudes confound the relationship. Specifically, the ability to obtain a loan, legal antipathy, rationales for avoiding probation, and rationales for participating in probation confounded the observed association between race and perceptions of incarceration severity. Prior criminal system experiences did not confound the relationship. The present study's findings have implications for understanding perceptions of severity and incarceration's ability to deter people from committing crime.

CHAPTER 1: INTRODUCTION

One of the key tenets of deterrence theory is *severity*, which refers to the magnitude of a punishment (Paternoster, 2010). Increases in severity are often used by legislators to create policies that, in theory, reduce the likelihood that someone will commit a crime (Paternoster, 2010). This policy lever was increasingly invoked during the “Tough-on-Crime” era. For example, mandatory minimum sentencing, the “three strikes law,” and enhanced penalties for gun use were created to increase the severity of sanctions for committing certain crimes and justified because of their expected deterrent effect (Kleck, Sever, & Gertz, 2005). Not only is there evidence that perceptions of sanction severity can influence one’s likelihood of committing a crime (Barati, 2019), but also that they can influence a defendant’s behavior within the criminal legal system through altering one’s willingness to plead guilty (Lee, Jaynes, & Ropp, 2020; Tor, Gazal-Ayal, & Garcia, 2010). Therefore, perceptions of sanction severity have important implications for the criminal legal system.

For policies that rely on perceptions of severity to deter crime, public perceptions must increase in correspondence with an objective increase in sanction severity (Apel, Pogarsky, & Bates, 2009). However, research shows that individuals are not aware of the objective reality of sanction severity (Anderson, 2002; Paternoster, 2010); that is, their subjective perceptions do not match the objective levels. For example, those who commit a crime are often not aware of the punishment for that criminal offense and when they are aware, their perception does not reflect the objective reality (Anderson, 2002). This lack of association between objective sanction levels and perceptions has been referred to as deterrence theory’s “dirty little secret” (Paternoster,

2010, p. 804) and has led scholars to a critical question; Where do perceptions of severity come from if they are not strongly associated with objective sanction levels?

One answer is that perceptions of severity may be influenced by one's race. Wood and May's (2003) research suggests, for instance, that Black men view alternative sanctions as more punitive than imprisonment compared to white men, where alternative sanctions refer to punishments that are *in theory* less punitive than incarceration, such as probation, community service, or a fine. However, to date, this study has not been replicated leaving an open question as to whether Black individuals do indeed perceive sanctions differently than white individuals. In addition, Wood and May (2003) were not able to explain *why* they observed racial differences in perceptions of severity. Is there something about being Black that influences these perceptions? Maybe, for instance, Black and white people have different perceptions of *court legitimacy* such that Black people trust the court system and its sanctions less than white people (Cochran & Chamlin, 2006; Buckler & Unnever, 2008). Or perhaps Black people's perceptions are influenced by their more frequent *prior experiences* with the criminal legal system. This is especially plausible given that compared to white people, Black people are more likely to be arrested, incarcerated, and given the death penalty (Rocque, 2011). However, prior research has not yet considered the many potential factors that could help explain Wood and May's (2003) observed association between race and severity perceptions.

The present study seeks to gain further understanding of the relationship between race and perceptions of sanction severity. Using a large sample of young adults, the study will replicate and expand upon Wood and May's (2003) prior research to answer two key questions:

1. Is there a relationship between race and incarceration severity?
2. If there is a relationship, why does it exist?

To this end, the study will begin by providing a theoretical overview surrounding perceptions of sanction severity. Then it will examine literature concerning racial differences in perceptions of sanction severity and outline potential confounders. The final sections will then give a description of the current study's sample, methodology, and results.

CHAPTER 2:

THEORETICAL BACKGROUND

Perceptions of Sanction Severity

Perceptions of severity are typically thought to be derived from objective levels of severity, but research shows otherwise. Anderson (2002) interviewed incarcerated male inmates and found that 53% of the participants did not know what the punishment they would get if caught committing a crime and 87% assumed there was a low risk of conviction despite high clearance rates (objective certainty). Since then, other researchers have consistently demonstrated that there is not a strong relationship between severity perceptions and the objective sanction reality (Apel et al., 2009; Kleck et al., 2005; Paternoster, 2010). For instance, Kleck et al. (2005) interviewed respondents on their perceptions of sanction certainty and severity and compared it to county-level official crime and arrest data finding that there was no relationship between perceptions of severity levels and actual levels. Generally, Kleck et al.'s (2005) study showed that those with criminal system experience are not more aware of objective levels of severity compared to those without experience.

Perceptions of severity may also be derived from people's experiences. Years ago, researchers highlighted "the experiential effect" which refers to the process through which individuals base their perceptions of being arrested, avoiding detection, or the severity of sanctions on their own experiences with offending (Saltzman et al., 1982). Apospori and Alpert (1993) tested the relationship between differential criminal legal experiences and perceived severity of punishment and found that after being incarcerated or serving a probation term, their perceptions of severity increased. This process has since been termed as the Bayesian updating, with the consistent conclusion that experiences with the criminal legal system can influence

sanction perceptions (Anwar & Loughran, 2011). People could also base their perceptions of sanction severity on the experiences of people they know. Wilson, Paternoster, and Loughran (2017) focused on sanction risk perceptions and found that people use both their experiences *and* their family members experiences with the criminal system to update their perceptions. In addition, even if people are wrong in their perceptions, they are not coming up with these perceptions on the fly and are basing them on contextual information (Barnum, Nagin, & Pogarsky, 2021).

Racial Differences in Severity Perceptions

One of the most frequently noted correlates of severity perceptions is race (Applegate, 2014; Crouch, 1993; May et al., 2005; Payne, DeMichele, & Okafo, 2009). Crouch (1993, p. 67) looked at how various demographics influenced perceptions of severity by interviewing newly incarcerated males in Texas, finding that the “strongest predictor of a preference of prison” over probation was being a Black person. A decade later, Wood and May (2003) also explored the relationship between race and perceptions of severity. They administered a survey to new probationers in Indiana and found that Black people (relative to white people) were more likely to prefer prison relative to alternative sanctions such as community service, probation, electronic monitoring, day fines, and boot camp. Not only were white people more likely to prefer the alternatives but they were also more willing to serve a longer duration of alternative sanctions to avoid incarceration, showing that there were differences in perceptions of severity by race. However, these findings raised a question as to *why* these differences in perceptions of severity exist in the first place.

To begin to answer this, Wood and May (2003) asked their participants several follow-up questions. Participants rated the importance of rationales for choosing alternative sanctions over

incarceration, finding that Black participants were more likely to rate three items as important rationales for avoiding alternative sanctions. The three reasons were: (1) “program rules are too hard to follow,” (2) “officers are too hard on the program participants,” and (3) “inmates are abused by parole and probation officers who oversee the programs” (Wood & May, 2003, p. 624). This suggests that Black people saw probation as more of a challenge to complete than prison and may explain why they felt that prison was not the most severe form of punishment. It is unclear, however, whether these rationales were empirically related to the sanction severity ratings, which the participants answered earlier in the study, highlighting a limitation in Wood and May’s (2003) study. Their research points to an important notion that Black individuals may not trust sanctioning, and the criminal legal system more broadly, to the same degree as white people.

May et al. (2005) attempted to replicate Wood and May’s (2003) findings by administering the same survey instrument to people on probation and parole in Kentucky. May et al. (2005) found that for each alternative sanction (county jail, boot camp, electronic monitoring, regular probation, community service, day reporting, intermittent incarceration, halfway house placement, and day fine) Black people would endure fewer months of that sanction than white people to avoid 12 months in a medium-security prison. Wodahl et al. (2013) examined the relationship between incarceration and graduated sanctions finding that perceptions were influenced by characteristics such as gender, age, and education level. When examining race, they did not find a significant relationship. However, that could be due to having a small sample as they surveyed 107 people, with 3.7% of them being African American. Later, Applegate (2014) examined the relationship between race and sanction severity and was able to find a racial disparity between perceptions. However, they took it a step further and examined whether there

was anything that could explain the racial gap. Applegate (2014) tested eight explanations: (1) alternative sanctions are a gamble, (2) alternative sanctions are a hassle, (3) vicarious experiences, (4) stigma of prison, (5) neighborhood quality, (6) helpfulness of community-based sanctions, (7) community ties, and (8) prior sanction experience. The two explanations that were significantly related to the relationship were vicarious experiences and the perception that alternative sanctions are a hassle. Overall, the explanations were only able to account for 15% of the racial divide in the perceptions of sanction severity.

Racial Differences in Additional Demographics Factors

Racial differences in severity perceptions of severity may also be explained by other demographics that are associated with both being a member of a minority group (e.g., low marriage rates or low socioeconomic status) and preferring an intermediate sanction (May & Wood, 2005; Wodahl, Garland, & Schweitzer, 2020). For instance, May and Wood (2005) found that those who were married were more likely to agree to serve a probation term than be imprisoned. May and Wood (2005) were unable to evaluate a race effect due to removing the race item from their survey instrument after the Oklahoma Department of Corrections asked them to delete it. However, there are still statistics that demonstrate a relationship between Black people and marriage rates. In 2020, 62% of white people were married and only 37% of Black people were (Carlson, 2020). Not only is being married correlated with a preference for intermediate sanctions (May & Wood, 2005), but also, being in a marriage provides someone with a support system that could make probation a more appealing option. Someone who is married may not want to spend time incarcerated because it would put a strain on their relationship (Siennick, Stewart, & Staff, 2014).

Black people are also more likely to experience socioeconomic disadvantages (Wilson, 1987) that have been associated with severity perceptions. For example, people with lower levels of education are more likely to agree to be imprisoned than serve a probation term (May & Wood, 2005). In 2019, the percentage of Black people aged 16 to 24 years old who were not enrolled in school or earned a high school credential (i.e., diploma or GED certificate) was 5.6% compared to the 4.1% of white people (Irwin et al., 2021). Additionally, in 2019, only 26.1% of Black people aged 25 or older had a bachelor's degree or higher compared to the 40.1% of white people (United States Census Bureau, 2021). Another indicator of low socioeconomic status is the unemployment rate, where in 2020, the unemployment rate was the highest for Black individuals (U.S. Bureau of Labor Statistics, 2021). If Black individuals are more likely to be unemployed or have lower-level jobs, they may be less concerned with the possibility of losing their job or suffering career repercussions if they are imprisoned.

Another socioeconomic disadvantage among Black people is that they are more likely to be impoverished which has also been associated with a preference for incarceration over probation (Wodahl et al., 2020). The median income in 2019 for Black people was \$45,438, relative to \$76,057 for white people (Semega et al., 2020). As for the poverty rate in 2019, it was 18.8% for Black people and 9.1% for White people (Semega et al., 2020). It is hard for impoverished individuals to successfully complete probation considering many conditions include hidden costs. For example, if the probation requires additional drug testing, then it is up to the sanctioned individual to pay for it (Wodahl et al., 2020). Disadvantaged individuals may also not be able to afford reliable transportation to take them to community service or repeated meetings with their probation officer. One indicator of living in an impoverished community is the level of crime in the neighborhood (Western & Wildeman, 2009). Since Black people are

more likely to be impoverished, they are more likely to live in dangerous neighborhoods where incarceration may be normalized. Cumulatively, demographic factors like marriage, education, and poverty may make it more likely for Black people to struggle with alternative sanctions which may influence their relative sanction severity preferences.

Racial Differences in Criminal System Experiences

Differences in prior criminal system experiences could explain racial differences in perceived severity. As mentioned above, there is consistent literature demonstrating that experiences with the criminal system can influence perceptions. There are known racial disparities in the criminal system as Black men make up approximately only 13% of the population but represent 35% of those incarcerated (Hinton, Henderson, & Reed, 2018). Black people are more likely to be sentenced to federal prison for drug offenses than white people (Bobo & Thompson; 2010; Hinton et al., 2018). In fact, Black men have a 1/3 chance of being incarcerated within their lifetime (Mauer & King, 2007). With Black people facing an increased likelihood of being incarcerated, they may have more experience with sanctions thus giving them a more informed opinion and updated perceptions (Rocque, 2011). If they are not basing their opinions on their own experiences, they may base them on others' (Davila, et al., 2011; Wilson et al., 2017). In general, around 45% of Americans have had an immediate family member who was incarcerated (Enns et al., 2019). This figure is higher for minorities, as 63% of Black people have an immediate family member that was incarcerated, relative to only 42% of white people (Enns et al., 2019). These statistics demonstrate that Black people are more likely to have close vicarious experiences with sanctioning that may inform their opinion on various sanctions.

Racial Differences in Perceptions of Legitimacy

If there are racial differences in perceptions of severity, these differences may be the result of racial differences in perceptions of legitimacy. Research has shown that there are racial differences in perceptions regarding the legitimacy of the criminal legal system (Hagan & Albonetti, 1982; Sun & Wu, 2006; Buckler & Unnever, 2008; Unnever, Gabbidon, & Higgins, 2011; Willis Esqueda, et al., 2019). Buckler and Unnever (2008) surveyed New York City citizens about their feelings regarding the practices of the New York Police Department and found that Black and Hispanic people were significantly more likely than white people to perceive the police department as unjust. In fact, 40% of Black people claimed that they were stopped by the police *because of their race* (Weitzer & Tuch, 2002). In addition, 70% of Black people thought police officers treat Black people less fairly than white people in traffic stops (e.g., traffic accidents) compared to the 33% of white people who felt similarly (Weitzer & Tuch, 2002). Research consistently demonstrates that compared to white people, Black people are more likely to view the police as less legitimate (Weitzer & Tuch, 2002; Lundman & Kaufman, 2003; Henry & Franklin, 2019). These perceptions of illegitimacy can lead to Black people having antipathy (i.e., dislike) towards the criminal legal system more generally (Wheelock, Strohline, & O'Hear, 2019). Especially, when the interactions that Black people have with police officers involve minor crimes (Carr, Napolitano, & Keating, 2007). This literature suggests that feelings of antipathy emerge among minorities because they are more likely to have negative encounters with the criminal legal system.

These racial differences in perceptions of legitimacy apply to all aspects of the criminal legal system (e.g., the courts), not just policing (Sun & Wu, 2006; Woolard, Harvell, & Graham, 2008; Higgins et al., 2009). For instance, Sun and Wu (2006) analyzed survey responses of a

nationally representative U.S. sample and observed that compared to white people, Black and Latino people were more likely to think that socially disadvantaged groups are treated worse by the court system. Also, Woolard et al. (2008) found that compared to white people, Black people were more likely to perceive that they would be treated unfairly in the legal system. More specifically, Black people were more likely to expect to be “treated less fairly, receive less help from a lawyer, be more likely to be found guilty, and receive more punishment if found guilty” (Woolard et al., 2008, p. 216). Additionally, 80% of Black people thought that Black people were more likely to receive the death penalty compared to white people (Henderson et al., 1997). These studies demonstrate that Black people are less trusting of the criminal legal system as they feel they are unfairly treated in the court system.

These racial differences in perceptions of legitimacy can influence perceptions of sanction severity. This can then cause incarceration to be viewed as more straight forward than alternative sanctions, given that minorities may not trust that those responsible for determining probation conditions and making violation decision are trustworthy (Wood & May, 2003). Once a judge has sentenced someone to probation, they have complete discretion over what conditions they assign to the defendant (Kimchi, 2019). One person may have to meet regularly with a probation officer and refrain from getting arrested, while another person must meet those same conditions and maintain a job, get drug tested regularly, and abide by a curfew. The list of conditions required for probation can be quite restrictive, making probation a less appealing option. Black people might instead prefer to remove the uncertainty associated with probation and go straight to prison as they know that violating the terms of their probation would ultimately result in a prison sentence anyway.

This idea is further supported by recent work in Maryland finding that Black people *are* more likely to receive more restrictive probation conditions (Kimchi, 2019). Through analyzing court documents, Kimchi (2019) found that race was a significant predictor of the probation package that someone received, with Black people more likely to receive one of the least lenient packages that included five to nine requirements and a long-expected sentence. It is objectively more difficult for someone to successfully complete a probation sentence when they are given more restrictive probation packages, making it understandable why Black people may prefer to skip the increased likelihood of violating probation and prefer to go directly to incarceration. Additionally, being Black is one of the strongest predictors for negative probation outcomes (Steinmetz & Henderson, 2016). Steinmetz and Henderson (2016) examined a repository of probation data and found that being Black was associated with revocation and adjudication. Also, they found that Black people were less likely to be released from probation early compared to white people.

Black people may also differ in their perceptions of inequality in the application of sanctions compared to white people. Payne et al. (2009) found that being in a minority racial group was a significant predictor for perceiving there to be a high level of inequality in the application of electronic monitoring. For example, in their sample of college students, Black people were more likely to agree that electronic monitoring discriminates against the poor, is more likely to be given to wealthy people, and is unfair because wealthy people have nicer arrangements to be confined to. Also, Black people were “twice as likely to agree that electronic monitoring perpetuates a racist system” (Payne et al., 2009, p. 159). Since Black people are more likely to be impoverished, they may see sanctions like electronic monitoring as illegitimate because it keeps them stuck below the poverty line. With the lack of trust that Black people have

within the criminal legal system and its legitimacy, their preference for incarceration is understandable.

Racial Differences in Attitudes Towards Sanctions

Another possible explanation for the racial differences is because Black people may agree more with general reasons to avoid and/or participate in sanctions compared to white people. Williams, May, and Wood (2008) conducted a qualitative study of probationers and parolees and asked them why someone would choose incarceration over probation and why someone would choose probation over incarceration. They found that there was some consensus on the most important reasons for choosing either probation or incarceration. The most notable reasons that they thought would make someone want to choose incarceration is because (1) prison is easier than probation, (2) time goes by quicker in prison or a prisoner is released sooner, (3) probation is harder than prison, and (4) people fear being sent back to prison if they fail probation (Williams et al., 2008). Since Black people are more likely to receive more restrictive probation conditions and have negative probation outcomes (Kimchi, 2019; Steinmetz & Henderson, 2016), they may agree with these rationales more than a white person would.

The most notable reasons that the respondents thought someone would choose probation is because (1) offenders choose probation for freedom on the streets, (2) offenders want to maintain social ties, (3) offenders are afraid to go to prison, and (4) offenders want to maintain employment (Williams et al., 2008). As mentioned above, Black people are more likely to receive restrictive probation conditions (Kimchi, 2019), so even if they can stay in the streets their movements may be limited because of the conditions of their probation. As for the other factors, there is a 63% chance that a Black person has a formally incarcerated immediate family member so they may have experience dealing with maintaining relationships with people who are

incarcerated. Additionally, they may be less scared, if at all, of incarceration because they have vicarious experiences to learn from. Lastly, Black people are more likely to be unemployed (U.S. Bureau of Labor Statistics, 2021), so maintaining employment may not be a priority for them.

Another concern for white people that may not be a concern for Black people in deciding between incarceration and probation is the stigma of prison. Once people are released from jail or prison, they may be subjected to negative stigmas (Moore, Stuewig, & Tangney, 2013). The literature has consistently shown that society thinks more negatively of people who have been incarcerated (Madriz, 1997; O'Connor, 1984). This stigma leads to previously incarcerated people having a hard time reentering society due to limitations on their voting rights, financial aid, employment and more (Pogorzelski et al., 2005). However, there are racial disparities in how previously incarcerated people handle the stigma upon reentering the world (Moore et al., 2013, 2016). For instance, Moore et al. (2013) found that among Black people, perceived stigma was positively related to hours employed after release but for white people it was negatively related to hours employed. One explanation is that Black people may be less impacted by public stigma because they are used to facing racial stigma (Moore et al., 2013, 2016). Black people are more motivated to work harder to overcome stigma because they do so daily. This same idea can be applied to perceptions of sanction severity. If Black people have a more positive outlook about finding employment after incarceration, then they are going to be less concerned about losing a job if they are convicted in the first place.

Additionally, there may be racial disparities in the treatment of Black and white people when they are incarcerated. For example, there may be differences in the amount of victimization while incarcerated (Wolff, Shi, & Blitz, 2008; Wolff, Shi, Siegel, 2009; Wooldredge & Steiner, 2012). Wolff et al. (2008) examined racial disparities in victimization inside of prisons and found

that Black people were less likely to report being victimized by inmates compared to white people. Wooldredge and Steiner (2012) found similar findings when they examined prison victimization experiences. They saw that compared to Black people, white people were more likely to be victimized by physical assault and by theft. With Black people having a lower likelihood of being victimized in prison, they may not have to consider victimization while incarcerated despite prison being known as a violent place (Wolff et al., 2007). Black people may be more likely to have knowledge of their risk of victimization as they are more likely to be incarcerated in the first place.

CHAPTER 3:

PRESENT STUDY

As stated above, the May and Wood (2003) and May et al. (2005) studies showed evidence that Black and white people view the severity of imprisonment differently. Although, there have been very few studies, to my knowledge, that have attempted to replicate this finding or answer *why* these differences are observed. The present study seeks to contribute to this literature by evaluating the following hypotheses:

Hypothesis 1: There is a relationship between race and incarceration severity, such that Black people will view incarceration (relative to probation) as less severe than white people.

Hypothesis 2: Socioeconomic status, criminal system experience, perceptions of legitimacy and/or sanction attitudes will partially confound the relationship between race and incarceration severity.

Data Source

The web-based self-administered questionnaire was administered to 753 undergraduate students at a large public university in the state of Florida who were taking a course within the Criminology department and other departments. Students were compensated with course extra credit points for completing the questionnaire. To be included in the final sample, students had to answer every question, resulting in an analytic sample of 689 respondents.¹

¹ On average 17.57 participants did not answer a given question. Around 60 participants did not answer the question inquiring about their race and the question inquiring about whether they served a jail and/or prison term. For all other questions, 20 or less participants did not answer the question.

Table 1 provides descriptive statistics for the study’s analytic sample. A table detailing the descriptive statistics by race will be provided later. Demographically, the sample consists largely of non-Black (87.52 percent) females (64.14 percent) from aged 18 to 65.

Table 1: Descriptive Statistics (N=689)

Variable	Mean	SD	Min	Max
<i>Dependent Variable</i>				
Incarceration Severity	21.87	11.83	0	40
<i>Independent Variable</i>				
Black	0.13	0.34	0	1
<i>SES factors</i>				
Employment	0.63	0.48	0	1
Welfare	0.08	0.27	0	1
Loan	3.74	1.12	1	5
Private Lawyer	0.72	0.45	0	1
Vehicle	0.83	0.38	0	1
Neighborhood Characteristics	3.54	0.95	1	5
<i>Criminal System Experiences</i>				
CS Employment	0.51	0.50	0	1
Personal CS Experience	0.04	0.19	0	1
Vicarious CS Experience	0.45	0.50	0	1
Probation Experience	0.01	0.12	0	1
Incarceration Experience	0.01	0.11	0	1
<i>Legal Factors</i>				
Legal Fairness	2.88	0.84	1	5
Legal Antipathy	1.84	0.77	1	5
Law Legitimacy	3.35	0.82	1	5
<i>Sanction Attitudes</i>				
Probation Avoidance	2.49	0.92	1	5
Probation Participation	3.88	0.80	1	5
Community Bonds	4.04	0.93	1	5
Relationship Status	0.34	0.47	0	1
Social Stigma	3.81	0.68	1.20	5
Personal Stigma	3.60	0.49	1	4
Risk of Victimization	2.95	0.37	1.80	4.50
<i>Controls</i>				
Male	0.32	--	0	1
Age	21.47	5.02	18	65
GPA	3.43	0.45	1.10	4.00
Hispanic	0.27	--	0	1
Number of Criminology Courses	2.68	1.10	1	4
Self-control	3.62	0.58	1.62	5
Media Consumption	1.81	0.59	1	5

Notes: SD: Standard Deviation; Min: Minimum; Max: Maximum

Measures

Dependent Variable

Incarceration Severity was measured by presenting respondents with a description of probation and then asking them “how many months of probation are you willing to serve to

avoid 12 months of imprisonment in a medium-security correctional center” (continuous variable). If the respondent indicated they would serve more than 12 months of probation to avoid imprisonment, then I conclude that they view imprisonment as *more* severe than the alternative. If the respondent indicated they would serve less than 12 months of probation to avoid imprisonment, then I conclude that they view imprisonment to be *less* severe than the alternative. Relative severity can be assessed by the absolute difference between 12 months of imprisonment and the amount of time the respondent indicates they will serve. Appendix B provides an example of the format of this question.

Key Independent Variable

Race was self-reported by respondents (*Black*=1, *Non-Black*=0). The options given to the respondents were white, Black or African American, American Indian or Alaska Native, Asian, Native American or Pacific Islander, and other. Respondents were able to choose all that apply to them.

Confounding Variables

There are six socioeconomic-related measures considered within this study. Respondents were asked if they were not employed, employed part-time, or employed full-time (*Employment*: Employed part-time or full-time=1; Not employed=0), if they received *Welfare* assistance within the past year (Yes=1; No=0), the likelihood of finding someone who could *Loan* them \$500 (No chance=1; Not likely=2; Somewhat likely=3; Very likely=4; Almost certain=5), if they would be able to hire a *Private Lawyer* or have one appointed to them if charged with a crime (I or my family could afford to hire a private lawyer=1; I could not afford to hire a private lawyer and one would be appointed to me by the court=0), and if they own a *Vehicle* (Yes=1; No=0).

Neighborhood Characteristics were measured using a modified version of Mujahid et al.'s (2008) 5-item scale. The scale operationalized neighborhood characteristics by asking respondents how strongly they agree with statements such as "I feel safe walking in my neighborhood during the daytime" and "I hear gunshots or sirens in my neighborhood often" on a scale of strongly disagree to strongly agree (Strongly disagree=1; Somewhat disagree=2; Neither agree nor disagree=3; Somewhat agree=4; Strongly agree=5). Items were reverse coded as needed, and a summated average of the scale was created, with the scale demonstrating high internal validity ($\alpha=0.82$). Higher scale values on the scale indicate that the respondent lives in a safer neighborhood.

Criminal system (CS) experience was measured by asking respondents if they have ever been employed within the criminal legal system or have a member of their family or close friend who was (*CS Employment*: Yes=1; No=0), if they have ever been arrested or convicted of a crime (*Personal CS Experience*: Yes=1; No=0), and if a member of their family or close friend has ever been arrested or convicted of a crime (*Vicarious CS Experience*: Yes=1; No=0). I also considered experience with probation (*Probation Experience*: Yes=1; No=0) and prison and/or jail (*Incarceration Experience*: Yes=1; No=0).

Legal factors were measured using modified versions of 3 different scales. The first scale is a version of Tankebe's (2013) *Legal Fairness* scale and asked respondents to rate how strongly they agreed with 7 statements such as "Actors in the criminal legal system use rules and procedures that are fair to everyone" and "People often receive fair outcomes from the criminal legal system" on a scale of strongly disagree to strongly agree (Strongly disagree=1; Somewhat disagree=2; Neither agree nor disagree=3; Somewhat agree=4; Strongly agree=5). A summated average of the scale was created, with the scale demonstrating high internal validity ($\alpha=0.87$).

Higher values on this scale indicate that the respondent believes the criminal system has more procedural and distributive fairness. Appendix A provides a complete list of all items included in this scale and all scales hereafter.

The second scale operationalizes *Legal Antipathy* using a scale from Gifford and Reisig (2019). Respondents were asked how strongly they agree with 7 statements such as “People who always follow the law are suckers,” “It is fun to break the law and get away with it,” and “Sometimes you need to ignore the law and do what you want” on a scale of strongly disagree to strongly agree (Strongly disagree=1; Somewhat disagree=2; Neither agree nor disagree=3; Somewhat agree=4; Strongly agree=5). A summated average of the scale was created, with the scale demonstrating high internal validity ($\alpha=0.88$). Higher values on the scale indicate that the respondent has a higher level of legal antipathy.

The third scale operationalized *Law Legitimacy* by asking respondents how strongly they agree with 6 statements such as “Nearly all laws deserve our respect,” “There is never an excuse for breaking the law,” and “People should always obey the law even if it interferes with their personal ambition” on a scale of strongly disagree to strongly agree (Strongly disagree=1; Somewhat disagree=2; Neither agree nor disagree=3; Somewhat agree=4; Strongly agree=5) (Gifford & Reisig, 2019). A summated average scale was created, with the scale demonstrating high internal validity ($\alpha=0.81$). Higher values on the scale indicate higher levels of law legitimacy.

Sanction attitudes were measured using 7 different measures. First, a modified version of Wood and May’s (2003) *Probation Avoidance* scale was used where respondents were asked to rate the importance of 8 rationales for avoiding probation. The respondents rated statements such as “Probation is too hard to complete,” “Probation has rules that are too hard to follow,” and

“Parole and program officers will be too hard on me, they will try to catch me and send me back to prison” on their importance (Not at all important=1; Slightly important=2; Moderately important=3; Very important=4; Extremely important=5). A summated average of these items was created, with the scale demonstrating high internal validity ($\alpha=0.85$). Higher values on the scale indicating that the respondent has greater agreement with rationales for probation avoidance.

Second, a modified version of May and Wood’s (2005) *Probation Participation* scale was implemented to assess the importance of reasons for participating in probation. The respondents rated six statements such as “Probation offers a better lifestyle than prison,” “Probation allows me to live outside prison,” and “Probation has a good reputation among people” regarding their importance (Not at all important=1; Slightly important=2; Moderately important=3; Very important=4; Extremely important=5). A summated average of these items was created, with the scale demonstrating high internal validity ($\alpha=0.85$). Higher values on the scale indicate that the respondent has greater agreement with reasons to participate in probation.

Third, a modified version of May and Wood’s (2005) *Community Bonds* scale was used to assess the importance of community bond in their preference to participate in an alternative sanction. The respondents rated 4 statements such as “I have a job outside of prison” on their importance (Not at all important=1; Slightly important=2; Moderately important=3; Very important=4; Extremely important=5). A summated average of these items was created, with the scale demonstrating high internal validity ($\alpha=0.78$). Higher values on the scale indicate that the respondent has greater agreement that such community bonds are important reasons to participate in probation.

Fourth, to further assess community bonds respondents were asked about their relationship status. *Relationship Status* was measured by asking respondents if they were single or in a committed relationship (Married or in a committed relationship=1; Single=0).

Fifth, to assess the respondent's perceptions of the *Social Stigma* associated with incarceration, a version of Link et al.'s (1989) stigma scale was used. The scale operationalizes social stigma by asking respondents how strongly they agree with statements such as "Most employers will hire a formerly incarcerated person," "Most people believe that a formerly incarcerated person is just as trustworthy as the average citizen," and "Most colleges will admit a formerly incarcerated person" on a scale of strongly disagree to strongly agree (Strongly disagree=1; Somewhat disagree=2; Neither agree nor disagree=3; Somewhat agree=4; Strongly agree=5). A summated average scale was created, and items were reverse coded as needed, with the scale demonstrating high internal validity ($\alpha=0.79$). Higher values on the scale indicate that the respondent believes that there is more of a social stigma around being incarcerated.

Sixth, to further assess the *Personal Stigma* related to incarceration, a scale was created using modified versions of stakes in conformity measures for a student population (Nagin & Paternoster, 1993; Sherman et al., 1992; Spohn, 2007; Toby, 1957). The scale operationalized personal stigma by asking respondents to imagine that they were arrested or convicted of a crime and to indicate how much of a problem it would be in their lives. They rated statements such as "How much of a problem would it be if your parents found out?" and "How much of a problem would it be to keep your job?" on a scale from none to a lot (None=1; A little=2; More than a little=3; A lot=4). A summated average scale was created, with the scale demonstrating high internal validity ($\alpha=0.73$). Higher values on the scale indicate that the respondent believes that there would be more costs associated with arrest or conviction.

Seventh, the perceived *Risk of Victimization* while incarcerated was measured using a modified version of Miller, Tweksbury, and Hensley's (2004) 5-item scale. The scale operationalizes the perceived risk of victimization by asking respondents how often they think statements such as "Incarcerated people get in fights with other incarcerated people" and "Correctional officers are killed by incarcerated people" occur on a scale of never to always (Never=1; Rarely=2; Occasionally=3; Frequently=4; Always=5). A summated average of the scale was created, and items were reverse coded as needed, with the scale demonstrating high internal validity ($\alpha=0.73$). Higher values on the scale indicate that the respondent believes that the risk of victimization in prison is high.

Control Variables

I also controlled for a number of background characteristics that are typically considered within the extant literature, including sex (*Male*=1; *Female*=0), *Age* (continuous variable), *Grade Point Average (GPA)* (continuous variable), ethnicity (*Hispanic*: Spanish, Hispanic, Latino/Latina=1; Non-Hispanic=0), and the *Number of Criminology Courses* they have taken (Zero=1; One or two=2; Three to five=3; Six or more=4). I also control for *Self-Control* using Jaynes and Loughran's (2019) adaptation of Spinella's (2007) 13-item scale. Respondents were asked to indicate how often statements such as "I plan things carefully," "I do things without thinking," and "I don't pay attention," described them (Never=1; Sometimes=2; About half the time=3; Most of the time=4; Always=5). A summated average of these items was created, and items were reverse coded as needed, with the scale demonstrating high internal validity ($\alpha=0.83$). Higher values indicate that the respondent has higher levels of self-control.

I also control for *Media Consumption* using a 4-item scale. Respondents were asked to indicate how often in a week they engaged in behaviors such as "Watching national television

news broadcasts (such as CNN or Fox News)” and “Watching crime-related media (such as Law and Order, Criminal Minds, or NCIS)” on a scale of less than 1 hour to 16 or more hours (Less than 1 hour=1; 1 to 5 hours=2; 6 to 10 hours=3; 11 to 15 hours=4; 16 or more hours=5). A summated average of the scale was created, with the scale demonstrating acceptable internal validity ($\alpha=0.53$). Higher values indicate more exposure to media that discusses the criminal system.

Analytic Strategy

Consistent with Wood and May (2003) I will closely evaluate bivariate differences between in perceptions and sociodemographic characteristics between 1) Black and 2) Non-Black respondents. In doing this, I will perform independent sample t-tests or chi-squared tests as appropriate. Wood and May (2003), describe a key limitation of their study is that they “did not present multivariate analyses” (p. 628). This is a limitation in their prior research that I seek to improve upon. In doing so, I will perform an ordinary least squares (OLS) regression to determine the relationship between incarceration severity and race. Before performing this analysis, I assessed whether the data violated the homoscedasticity and multicollinearity assumptions of OLS, and these assumptions were not violated.²

I will then perform iterative OLS models to examine whether socioeconomic status, criminal legal experiences, perceptions of legitimacy, and sanction attitudes confound the relationship between incarceration severity and race. Within this analysis, a reduction in the effect of race on severity perceptions will indicate that the respective variable is a confounding factor or partial explanation for the race effect.

² All correlations are below 0.53 and VIFs are below 2.00.

CHAPTER 4:

RESULTS

Descriptive Information

Table 1 provides descriptive statistics of all study variables for the aggregate sample. With respect to perceptions of incarceration severity, on average, individuals would rather serve 21.94 months of probation than be incarcerated in a medium-level security correctional center for 12 months. This indicates that indeed, on average, individuals perceived probation to be less severe than incarceration.

Table 2 illustrates the distribution of the severity scale where participants indicated how many months, they were willing to serve of probation to avoid 12 months of incarceration. The first column shows the aggregate sample which suggests that about 17% of participants would serve 12 months of probation to avoid 12 months of incarceration. This shaded row indicates that participants view incarceration as *equivalent* to probation in terms of severity. The rows below the shaded row (months 13 to 40) indicate that about 68% of participants view prison as *more* severe than probation – consistent with traditional sanction severity perceptions. The rows above the shaded row (months 0 to 11), however, indicate that more than 15% of participants view prison as *less* severe than probation.

The following columns then look at the severity distribution by race. Column 3 demonstrates that 21.74% of Black individuals view incarceration as equivalent to probation in terms of severity, with 22.83% thinking incarceration is less severe than probation and 55.43% thinking incarceration is more severe than probation. Relatively, only 16.25% of Non-Black individuals think incarceration is equal to probation in terms of severity, with 14.24% thinking incarceration is less severe than probation and 69.51% thinking incarceration is more severe than

Table 2: Preference for Probation Distribution (N=689)

Time of Probation Willing to Serve (months)	Percentage of Participants	Cum. Percentage	Percentage of Black Participants	Cum. Percentage of Black Participants	Percentage of Non-Black Participants	Cum. Percentage of Non-Black Participants
0	0.58	0.58	2.17	2.17	0.34	0.34
1	0.87	1.45	2.17	4.35	0.67	1.01
2	0.73	2.18	2.17	6.52	0.50	1.51
3	1.16	3.34	2.17	8.70	1.01	2.51
4	1.74	5.08	4.35	13.04	1.34	3.85
5	1.31	6.39	--	--	1.51	5.36
6	3.48	9.87	4.35	17.39	3.35	8.71
7	0.87	10.74	1.09	18.43	0.84	9.55
8	2.03	12.77	2.17	20.65	2.01	11.56
9	0.73	13.50	1.09	21.74	0.67	12.23
10	1.31	14.80	1.09	22.83	1.34	13.57
11	0.58	15.38	--	--	0.67	14.24
12	16.98	32.37	21.74	44.57	16.25	30.49
13	0.73	33.09	--	--	0.84	31.32
14	1.45	34.54	2.17	46.74	1.34	32.66
15	1.31	35.85	1.09	47.83	1.34	34.00
16	4.35	40.20	6.52	54.35	4.02	38.02
17	0.58	40.78	1.09	55.43	0.50	38.53
18	4.21	44.99	3.26	58.70	4.36	42.88
19	0.44	45.43	1.09	59.78	0.34	43.22
20	4.93	50.36	3.26	63.04	5.19	48.41
21	0.87	51.23	2.17	65.22	0.67	49.08
22	0.44	51.67	--	--	0.50	49.58
23	0.15	51.81	--	--	0.17	49.75
24	17.85	69.67	7.61	72.83	19.43	69.18
25	1.31	70.97	2.17	75.00	1.17	70.35
26	0.44	71.41	--	--	0.50	70.85
27	0.44	71.84	1.09	76.09	0.34	71.19
28	1.02	72.86	--	--	1.17	72.36
29	0.44	73.29	--	--	0.50	72.86
30	1.16	74.46	2.17	78.26	1.01	73.87
31	0.15	74.60	--	--	0.17	74.04
32	1.31	75.91	2.17	80.43	1.17	75.21
33	0.58	76.49	--	--	0.67	75.88
34	--	--	--	--	--	--
35	0.44	76.92	--	--	0.50	76.38
36	2.76	79.68	3.26	83.70	2.68	79.06
37	0.15	79.83	--	--	0.17	79.23
38	--	--	--	--	--	--
39	0.29	80.12	--	--	0.34	79.56
40	19.88	100.00	16.30	100.00	20.44	100.00

Notes: Cum: Cumulative; Response to question: “How many months of probation are you willing to serve to avoid 12 months of imprisonment in a medium-security correctional center?”

probation. Cumulatively, this begins to illustrate that there are racial differences in the perceptions of probation severity relative to incarceration.

Table 3 then provides descriptive statistics by race and shows the results of the sample independent t-tests and chi-squared tests evaluating whether there are differences in study variables by race. As hypothesized, there is a significant relationship between preferences for probation and race such that Black people view incarceration as less severe than probation ($p \leq 0.01$). There are eight confounding variables that indicate some significance. There is a significant difference between the number of Black and Non-Black participants' who receive welfare such that Black participants are more likely to receive welfare assistance ($p \leq 0.001$). There is a significant difference between Black and Non-Black participants' perceived ability to obtain a loan such that Black participants were less likely to be able to obtain a loan ($p \leq 0.01$). There is a significant difference between Black and Non-Black participants' ability to hire a private lawyer such that Black participants are less likely to be able to hire a private lawyer ($p \leq 0.001$). There is a significant difference between Black and Non-Black participants' vehicle ownership such that Black participants are less likely to own a vehicle ($p \leq 0.001$). There is a significant difference between Black and Non-Black participants' personal criminal system experience ($p \leq 0.05$) and vicarious criminal system experience ($p \leq 0.01$) such that Black people are more likely to have personal and vicarious criminal system experiences. There is a significant difference between Black and Non-Black participants perceived legal fairness ($p \leq 0.01$) and legal legitimacy where Black participants perceived there to be less legal fairness and legitimacy ($p \leq 0.05$). There are no significant differences between Black and Non-Black participants in employment, neighborhood characteristics, CS employment, probation experiences, incarceration experiences, perceptions of legal antipathy, and any of the sanction attitudes factors. As for the control variables, there three variables with some significance. There is a significant difference between Black and Non-Black participants gender ($p \leq 0.10$), GPA

Table 3: Descriptive Statistics: By Race (N=689)

Variable	Black (N=92)		Non-Black (N=597)		t-test	Chi-square
	Mean	SD	Mean	SD		
<i>Dependent Variable</i>	--	--	--	--	--	--
Incarceration Severity	18.93	12.44	22.32	11.68	2.57**	--
<i>SES Factors</i>	--	--	--	--	--	--
Employment	0.67	0.47	0.62	0.49	--	0.99
Welfare	0.20	0.40	0.06	0.24	--	20.22***
Loan	3.32	1.19	3.81	1.09	3.98***	--
Private Lawyer	0.53	0.50	0.75	0.44	--	18.12***
Vehicle	0.66	0.48	0.85	0.36	--	19.56***
Neighborhood Characteristics	3.63	0.93	3.53	0.95	-0.98	--
<i>CS Experiences</i>	--	--	--	--	--	--
CS Employment	0.53	0.50	0.50	0.50	--	0.28
Personal CS Experiences	0.08	0.27	0.03	0.17	--	4.81*
Vicarious CS Experiences	0.59	0.50	0.43	0.50	--	7.88**
Probation Experience	0.03	0.18	0.01	0.11	--	2.43
Incarceration Experience	0.02	0.15	0.01	0.10	--	0.95
<i>Legal Factors</i>	--	--	--	--	--	--
Legal Fairness	2.61	0.83	2.93	0.83	3.43***	--
Legal Antipathy	1.93	0.77	1.83	0.77	-1.20	--
Law Legitimacy	3.15	0.84	3.38	0.81	2.53*	--
<i>Sanction Attitudes</i>	--	--	--	--	--	--
Probation Avoidance	2.54	0.87	2.48	0.93	-0.59	--
Probation Participation	3.79	0.78	3.89	0.81	1.19	--
Community Bonds	3.99	0.97	4.05	0.92	0.52	--
Relationship Status	0.28	0.45	0.35	0.48	--	1.54
Social Stigma	3.78	0.72	3.81	0.68	0.35	--
Personal Stigma	3.62	0.48	3.59	0.49	-0.54	--
Risk of Victimization	2.97	0.40	2.94	0.37	-0.77	--
<i>Control Variables</i>	--	--	--	--	--	--
Male	0.24	0.43	0.33	0.47	--	3.03 †
Age	21.87	4.58	21.41	5.08	-0.82	--
GPA	3.28	0.53	3.45	0.43	3.39***	--
Hispanic	0.23	0.42	0.28	0.45	--	1.00
Number of Criminology Courses	2.86	1.06	2.65	1.10	-1.69†	--
Self-control	3.70	0.60	3.61	0.57	-1.31	--
Media Consumption	1.82	0.62	1.81	0.58	-0.11	--

Notes: † $p \leq 0.10$; * $p \leq 0.05$; ** $p \leq 0.01$; *** $p \leq 0.001$; SD: Standard Deviation; The hypothesis tests are two-tailed.

($p \leq 0.001$) and a marginally significant difference in the number of criminology courses they have taken ($p \leq 0.10$). There are no significant differences between Black and Non-Black participants in sex, age, ethnicity, self-control, and media consumption.

Regression Analysis

Table 4 then provides the results from the OLS regressions. Model 1 evaluates the initial association between incarceration severity and race, keeping control variables constant. When only the controls are included, there is a significant negative relationship between race and

Table 4. OLS Regression Analysis of Incarceration Severity Perceptions (N=689)

Variable	Model 1 Race + Controls		Model 2 + SES Factors		Model 3 + CJS Experiences		Model 4 + Legal Factors		Model 5 + Sanction Attitudes	
	b	SE	b	SE	b	SE	b	SE	b	SE
<i>Independent Variable</i>	--	--	--	--	--	--	--	--	--	--
Black	-3.39*	1.33	-3.03*	1.38	-3.16*	1.39	-2.56 [†]	1.40	-1.70	1.36
<i>SES Factors</i>	--	--	--	--	--	--	--	--	--	--
Employment	--	--	0.18	0.95	0.20	0.96	0.03	0.96	-0.16	0.93
Welfare	--	--	-0.85	1.72	-1.02	1.74	-0.77	1.73	-1.07	1.67
Loan	--	--	1.17**	0.44	1.16**	0.45	1.27**	0.45	0.81 [†]	0.44
Private Lawyer	--	--	-0.87	1.12	-0.75	1.13	-1.00	1.13	-0.79	1.09
Vehicle	--	--	0.07	1.23	-0.04	1.24	0.20	1.24	0.41	1.20
Neighborhood Char.	--	--	0.89 [†]	0.50	0.95 [†]	0.51	0.62	0.52	0.19	0.51
<i>CS Experiences</i>	--	--	--	--	--	--	--	--	--	--
CS Employment	--	--	--	--	-0.39	0.91	-0.61	0.91	-0.79	0.88
Personal CS Exper.	--	--	--	--	1.08	3.28	1.07	3.27	-2.21	3.19
Vicarious CS Exper.	--	--	--	--	0.85	0.93	1.04	0.93	0.86	0.90
Probation Exper.	--	--	--	--	-3.41	4.61	-2.79	4.61	-0.95	4.45
Incarceration Exper.	--	--	--	--	3.97	5.12	4.34	5.10	4.47	4.94
<i>Legal Factors</i>	--	--	--	--	--	--	--	--	--	--
Legal Fairness	--	--	--	--	--	--	0.11	0.61	0.30	0.60
Legal Antipathy	--	--	--	--	--	--	-1.52*	0.68	-1.05	0.68
Law Legitimacy	--	--	--	--	--	--	1.02	0.66	0.63	0.65
<i>Sanction Attitudes</i>	--	--	--	--	--	--	--	--	--	--
Probation	--	--	--	--	--	--	--	--	2.99**	0.48
Avoidance	--	--	--	--	--	--	--	--	*	
Probation	--	--	--	--	--	--	--	--	2.25**	
Participation	--	--	--	--	--	--	--	--	*	0.67
Community Bonds	--	--	--	--	--	--	--	--	0.65	0.57
Relationship Status	--	--	--	--	--	--	--	--	0.07	0.94
Social Stigma	--	--	--	--	--	--	--	--	0.43	0.67
Personal Stigma	--	--	--	--	--	--	--	--	-0.05	0.96
Risk of Victim.	--	--	--	--	--	--	--	--	1.00	1.20
<i>Controls</i>	--	--	--	--	--	--	--	--	--	--
Male	-0.44	0.98	-0.84	1.02	-0.89	1.03	-0.30	1.05	0.39	1.02
Age	0.20*	0.09	0.15	0.09	0.14	0.10	0.08	0.10	0.10	0.09
GPA	1.67	1.03	1.27	1.03	1.33	1.04	1.22	1.04	1.63	1.02
Hispanic	-1.40	1.01	-1.52	1.02	-1.52	1.02	-1.56	1.02	-1.55	0.99
Num. of Crim. Courses	-0.38	0.41	-0.40	0.41	-0.42	0.42	-0.52	0.42	-0.26	0.41
Self-control	1.86*	0.81	1.62*	0.81	1.68*	0.82	0.74	0.87	0.09	0.85
Media Consumption	0.24	0.77	0.46	0.77	0.47	0.78	0.78	0.78	1.07	0.78
R-squared	0.04		0.05		0.06		0.07		0.15	

Notes: [†] $p \leq 0.10$; * $p \leq 0.05$; ** $p \leq 0.01$; *** $p \leq 0.001$; b= Coefficient; SE: Standard Error; Char: Characteristics; Exper: Experience; Victim: Victimization

incarceration severity (b=-3.39, $p \leq 0.01$) indicating that Black participants view incarceration as less severe than Non-Black participants. Regarding the control variables, two demonstrate some significance. Age is positively associated with incarceration severity such that those who are older view incarceration as more severe than probation ($p \leq 0.05$). Self-control is positively associated with incarceration severity such that those who have more self-control view incarceration as more severe ($p \leq 0.05$). Sex, GPA, ethnicity, number of CLS courses taken, and

media consumption were not associated with incarceration severity. The effect of those control variables is largely consistent throughout future models and thus will not be discussed again.

Model 2, Table 4 then provides the results from the OLS regression when socioeconomic-related constructs are incorporated. As expected, adding in SES-related constructs weakens the relationship between race and incarceration severity, reducing the race coefficient by 11 percent from $b=-3.39$ to $b=-3.03$. There is evidence that one's ability to obtain a loan has a significant negative association with incarceration severity, such that those who can readily obtain a loan view prison as more severe than probation ($b=1.17, p\leq 0.01$). Neighborhood characteristics are marginally positively associated with incarceration severity as well, indicating that those who live in a safer neighborhood view incarceration as more severe than those who do not ($b=0.89, p\leq 0.10$). There are, however, no significant associations between race and employment status, welfare assistance, ability to obtain a private lawyer, or owning a vehicle ($p>0.05$). In addition, within this model, race remains statistically significant ($p\leq 0.05$), indicating that while SES-related constructs, namely one's ability to obtain a loan and neighborhood characteristics do confound some of the association between race and incarceration severity, some of the association remains unexplained.

Model 3 then provides the results from the OLS regression when measures associated with one's criminal system experiences are included. Adding in criminal system related constructs actually *increases* the coefficient by 4 percent (from $b=-3.03$ to $b=-3.16$), while race remains statistically significant ($b=-3.16, p\leq 0.05$). This provides no evidence of confounding. In addition, neither CS employment, personal CS experiences, vicarious CS experiences, probation experience nor incarceration experience have a significant association with one's perceptions of

sanction severity. Although, one's ability to obtain a loan still has a significant positive association with severity perceptions ($b=1.16, p\leq 0.01$).

Next, Model 4 provides the results from the OLS regression when legal-related perceptions are included. Adding in legal factors decreases the coefficient by 19 percent from $b=-3.16$ to $b=-2.56$ indicating evidence of confounding. Here, legal antipathy has a significant negative association with perceptions of sanction severity such that those who have a high level of legal antipathy view incarceration as less severe than probation ($b=-1.52, p\leq 0.05$). Neither legal fairness nor law legitimacy, have a significant association with one's perceptions of sanction severity. In addition, race becomes only marginally statistically significant ($b=-2.56, p\leq 0.10$), indicating that law perceptions, most notably legal antipathy, confound the association between race and sanction severity. In addition, one's ability to obtain a loan continues to have a significant positive association with severity perceptions ($b=1.27, p\leq 0.01$).

Model 5 provides the results from the full model when specific sanction attitudes are included. Adding in these attitudinal measures decreases the coefficient by 34 percent from $b=-2.56$ to $b=-1.70$ indicating evidence of confounding. Here, two measures of sanction attitudes indicate significance: probation avoidance and probation participation. Probation avoidance has a significant negative association with perceptions of sanction severity such that those who identify with rationales to avoid probation view probation as more severe than incarceration ($b=-2.99, p\leq 0.001$). Probation participation has a significant positive relationship with perceptions of sanction severity such that those who agree with rationales for preferring probation view probation as less severe than incarceration ($b=2.25, p\leq 0.001$). Community bonds, relationship status, social stigma, personal stigma, and risk of victimization do not have a significant association with one's perceptions of relative sanction severity ($p>0.05$). In addition, race is no

longer, even marginally, significant, indicating that these sanction attitudes, namely probation avoidance and probation participation, along with the other factors included in the model such as SES, can confound the association between race and incarceration severity.

Supplemental Analysis

Given that probation avoidance and probation participation emerged as sanction attitudes that had a significant association with severity perceptions, ultimately confounding much of the observed race association, I sought further evaluation. Table 5 compares the mean value of each item within these scales to evaluate what specifically within these perceptions could be confounding the relationship between race and severity. Here, findings suggest there is not a significant difference in responses for Black and Non-Black participants for any of the items within the probation avoidance scale ($p > 0.05$). However, there is at least a marginally significant difference in responses for Black and Non-Black participants for two items within the probation and avoidance scale. There is a statistically significant difference in responses for item “Probation has a good reputation among people” ($p \leq 0.05$) such that Non-Black people agree with this statement more relative to Black people. There is a marginally significant difference in responses for item “Probation successfully rehabilitates people” ($p \leq 0.10$) such that Non-Black people agree with this statement more relative to Black people.

Table 5: Itemized Comparison of Probation Attitudes: By Race

Variable	Black (N=92)		Non-Black (N=597)		t-test
	Mean	SD	Mean	SD	
<i>Probation Avoidance</i>	--	--	--	--	--
Probation is too hard to complete.	2.49	1.24	2.43	1.22	-0.43
Probation has rules that are too hard to follow.	2.54	1.29	2.46	1.23	-0.59
Parole and program officers will be too hard on me, they will try to catch me and send me back to prison.	2.71	1.28	2.61	1.25	-0.69
Serving time in prison is easier than probation.	2.40	1.23	2.29	1.26	-0.82
In general, living in prison is easier than living outside prison.	2.15	1.19	2.23	1.32	0.52
I will be abused by parole and probation officers who oversee probation.	3.23	1.32	2.99	1.37	-1.58
Serving time in prison is less hassle because probation has too many responsibilities.	2.27	1.21	2.36	1.27	0.63
<i>Probation Participation</i>	--	--	--	--	--
Probation offers a better lifestyle than prison.	4.07	0.96	4.10	1.00	0.29
Probation allows me to live outside prison.	4.30	0.90	4.32	0.90	0.14
Probation has a good reputation among people.	3.15	1.19	3.38	1.17	1.73*
Probation successfully rehabilitates people.	3.47	1.16	3.66	1.18	1.44 [†]
Probation is easier to complete than a prison term.	3.82	0.99	3.86	1.08	0.40
Probation will help me get out of prison sooner.	3.91	1.13	4.04	1.02	1.13

Notes: [†] $p \leq 0.10$; * $p \leq 0.05$; ** $p \leq 0.01$; *** $p \leq 0.001$; SD: Standard Deviation; The hypothesis tests are one tailed.

CHAPTER 5:

DISCUSSION AND CONCLUSION

Scholars have found an association between race and perceptions of incarceration severity, such that relative to white people, Black people view incarceration as more severe than probation (Applegate, 2014; Crouch, 1993; Wood and May, 2003; May et al., 2005). However, very few studies have been able to explain the association between race and these severity perceptions. The present study adds to the literature by seeking to replicate the relationship between race and incarceration severity, and determine whether constructs related to socioeconomic status, criminal system experience, perceptions of legitimacy and/or sanction attitudes confound the relationship. To accomplish this, the study surveyed 689 young adults at a large public southern university and conducted iterative OLS regressions.

While the majority of study respondents viewed incarceration as more severe than probation (67.63%), consistent with traditional deterrence-based expectations, a non-trivial portion of study respondents (15.38%) perceived *incarceration as less severe than probation*. Consistent with Wood and May's (2003) findings, there were also differences in perceptions of incarceration severity by race. Almost 70% of Non-Black participants viewed incarceration as more severe than probation compared to only 55% of Black participants. Consistently, about 23% of Black respondents viewed probation as more severe than prison relative to 14.24% of Non-Black respondents. Further, within regression analysis (Table 4, Model 1), after holding sex, age, GPA, ethnicity, number of criminology courses taken, self-control, and media consumption constant, race was significantly associated with perceptions of incarceration severity. Therefore, the present study was able to replicate prior research (Applegate, 2014; Crouch, 1993; May et al., 2005; Wood & May, 2003) in finding evidence that not everyone has

the same perceptions of relative sanction severity and incarceration is not always viewed as the most severe form of punishment by everyone, especially among Black people. This replication is important as it demonstrates the robustness of the race-severity relationship, as it was observed in a relatively privileged (obtaining a college education) sample with very little criminal justice system involvement.

Together, the theoretical constructs within my final model (Table 4, Model 5) accounted for 50% of the initial association between race and incarceration severity perceptions, rendering the association insignificant ($p > 0.05$). Of the possible explanations for the relationship between race and incarceration severity, three categories were able to significantly confound the observed relationship. These were constructs related to socioeconomic status, perceptions of legitimacy, and sanction attitudes. Most notably, ability to obtain a loan, legal antipathy, probation avoidance, and probation participation had a statistically significant relationship with incarceration severity; demonstrating they confound the observed relationship. These findings add to the literature as socioeconomic status and perceptions of legitimacy, to my knowledge, have not been tested as potential confounders for the race-severity relationship. In addition, while prior literature has examined the relationship between perceptions of severity and socioeconomic status, no previous studies have examined this within the context of confounding the racial divide in severity perceptions (May & Wood, 2005; Wodahl et al., 2020).

The significance of the relationship between one's ability to obtain a loan and incarceration severity brings awareness to the hidden costs of probation and its disparate impact on racial minorities. A common condition of probation is being responsible for drug testing costs or court fees (Wodahl et al., 2020). My findings (Table 3) indicate that Black people within this sample were significantly more less likely to believe that they could obtain a loan of \$500 in an

emergency. This is consistent with the known concentrated disadvantage among racial minorities (Wilson, 1987). This suggests that financial disadvantages among Black people confound some of the preference for incarceration, which does not require the payment of fees to successfully complete.

The significance of the relationship between legal antipathy and incarceration severity also draws attention to the strained relationship between Black people and the criminal legal system. My findings (Table 3) indicate that relative to white respondents, Black respondents were significantly more likely to hold legal antipathy. Prior literature has consistently found race to be one of the main predictors of negative attitudes towards the criminal legal system (Wheelock et al., 2019; Woolard et al., 2008). It is up to the judge's discretion to determine someone's probation conditions (Kimchi, 2019). However, if Black people have antipathy towards the system, and laws more broadly, they may feel apathetic towards completing probation which requires following a restrictive set of rules. Therefore, Black people may prefer incarceration because it is less dependent on a system of rules and laws which they are more likely to disdain.

A more common explanation for the relationship between race and perceived incarceration severity is differences in sanction attitudes (Applegate, 2014; Wood & May, 2003). My findings further this research by demonstrating that sanction attitudes can confound some of the association between race and incarceration severity, specifically probation avoidance and probation participation. When looking more closely at the probation avoidance and probation participation's impact on the relationship (Table 5), I saw that two specific statements emerged as at least marginally distinguishable, on average, across racial groups. Black people were less likely to agree with these two statements compared to Non-Black people. The first statement was

that “probation has a good reputation among people.” Since Black people are more likely to receive restrictive probation conditions (Kimchi, 2019), probation may have a bad reputation among the Black community. The second statement was that “probation successfully rehabilitates people.” Since Black people are more likely to receive negative probation outcomes (Steinmetz & Henderson, 2016), it makes sense that they would not see (and perceive) the positive rehabilitation outcomes of probation that Non-Black people may be exposed to. However, when examining Table 5 in detail, it is also notable that there are not many mean differences in sanction attitudes between Black and Non-Black respondents. There are also not mean differences in the aggregate scales by race (Table 3). It is unclear why sanction attitudes as aggregate scales confound the relationship between race and incarceration of severity but there are not many significant mean differences in these perceptions across groups. Future research should examine these sanction attitudes more in depth.

Unexpectedly, criminal system experiences (CSEs) did not confound the relationship between race and incarceration severity. This finding is inconsistent with previous literature (Applegate, 2014) and may be explained by the lack of CSEs within the undergraduate student sample. For instance, on average, only 0.04 of the sample have been arrested and/or convicted of a crime, and only 0.01 had probation or incarceration experience. However, this is an important finding for the literature as it demonstrates the general public’s personal or vicarious experiences (or lack thereof) with the criminal legal system may not be as strongly associated with severity of incarceration perceptions as those who have more experiences.

Additionally, there were multiple constructs that did not have an association with severity perceptions outside of criminal system related constructs. Those were: employment, welfare, ability to hire a private lawyer, vehicle ownership, legal fairness, law legitimacy, community

bonds, relationship status, social stigma, personal stigma, and risk of victimization. While I was able to get rid of the significance of the association between race and incarceration severity, the study constructs did not account for much of the variation in severity perceptions. In fact, the study constructs only explained 0.15 of the variation in incarceration severity perceptions. It is possible that variation is due to coherent arbitrariness in participants responses (Thomas, Hamilton, & Loughran, 2018). Additionally, there are some factors that were not explored in the present study such as benchmarks in someone's life, relationship with family, and knowledge of sanction conditions. Various events in one's life could impact their sanction perceptions (e.g., the birth of a child) and change how they evaluate the costs of incarceration (Jaynes & Wilson, 2021). Given that the study sample consists of college students who may not have a family of their own, their relationship with their parents and siblings could be an important determinant of whether they would risk a prison term. Lastly, the participants may have a skewed understanding of what incarceration and/or probation looks like. While the perceptions were not associated with general media consumption, it may be associated with media genre (Dowler, 2003). Future research should strive to understand the additional factors associated with severity perceptions to provide a deeper understanding of sanction perceptions and their deterrence potential.

Probation is intended to be seen as one of the least severe forms of punishment. However, these results demonstrate that this is not the case for a non-trivial proportion of Black people, which is especially problematic given the mass incarceration of Black individuals (Mauer & King, 2007). Disproportionate incarceration may be more likely to continue if the primary alternative to incarceration is less preferred among minorities. It is possible that probation terms need to be reformed to better accommodate Black people, especially because of their socioeconomic disadvantage. Additionally, my findings raise questions regarding the deterrent

effect of incarceration. Various sanctions are applied because their severity is intended to deter crime (Kleck, et al., 2005). However, prior literature and the present study demonstrate that incarceration is not perceived as relatively more severe than probation, which ultimately could minimize the sanction's intended effectiveness. Understanding these perceptions among Black people should inform how the criminal system moves forward in trying to deter offending.

There are some limitations of the present study. For example, the study consists of undergraduate students at a single large southeastern university. Additionally, majority of participants were taking at least one criminology course during the administration of the survey. Because of this, the results may not be generalizable outside of this sample. Another limitation is the inability of this cross-sectional study to establish a causal relationship. Also, due to the nature of the questions that were asked, it is possible that students were not completely honest while answering some of the questions. Specifically, some of the questions asked the respondents to self-report if they had committed a crime. Although all responses were anonymous and students were informed of this, students could still have felt uncomfortable answering some questions. Another limitation within the questions being asked is the participants understanding of what constitutes probation. Although, I provide the participants with a definition of a probation, there are various levels of probation. It is possible that the participants were answering the questions with different types of probation in mind.

Despite these limitations, the study makes important contributions to the literature. Not only did the study replicate prior research (Wood & May, 2003), but it was also able to add to the literature providing potential explanations for observed racial differences in perceptions. Additionally, it was one of the first studies to examine a university student sample, finding that incarceration is not only perceived as less severe than probation by criminal justice-involved

individuals, but among a group with few criminal system experiences – highlighting the robustness of this finding. This study also helped to confound the association between severity perceptions and race while bringing attention to important factors (e.g., socioeconomic status, perceptions of legitimacy, and sanction attitudes) that can confound the observed association. This study highlights the importance of recognizing that not everyone shares the same relative severity perceptions, especially racial minorities, and it is especially pertinent to continue to further discuss the factors which may drive minority individuals to select into a “more severe” sanction that society otherwise intended.

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APPENDIX A. SCALE ITEMS

Neighborhood Characteristics

(Strongly disagree=1; Somewhat disagree=2; Neither agree nor disagree=3; Somewhat agree=4; Strongly agree=5)

- (1) I feel safe walking in my neighborhood during the daytime.
- (2) I feel safe walking in my neighborhood during the nighttime.
- (3) Violence is not a problem in my neighborhood.
- (4) My neighborhood is safe from crime.
- (5) I hear gunshots or sirens in my neighborhood often. *³

Legal Fairness scale

(Strongly disagree=1; Somewhat disagree=2; Neither agree nor disagree=3; Somewhat agree=4; Strongly agree=5)

- (1) Actors in the criminal legal system use rules and procedures that are fair to everyone.
- (2) Actors in the criminal legal system provide opportunities for unfair decisions to be corrected.
- (3) Actors in the criminal legal system make decisions based on facts, rather than their own personal opinion.
- (4) Actors in the criminal legal system would treat you with respect if you had contact with them for any reason.
- (5) Actors in the criminal legal system clearly explains the reasons for their actions to people they deal with.
- (6) People often receive fair outcomes from the criminal justice system.
- (7) People usually receive the outcomes they deserve under the law.

Legal Antipathy scale

(Strongly disagree=1; Somewhat disagree=2; Neither agree nor disagree=3; Somewhat agree=4; Strongly agree=5)

- (1) People who always follow the law are suckers.
- (2) It is fun to break the law and get away with it.
- (3) Sometimes you need to ignore the law and do what you want.
- (4) It's alright to break the law if you don't get caught.
- (5) To get ahead, you have to do some things which are not right.
- (6) It is alright to get around the law if you can get away with it.
- (7) Suckers deserve to be taken advantage of.

Legal Legitimacy scale

(Strongly disagree=1; Somewhat disagree=2; Neither agree nor disagree=3; Somewhat agree=4; Strongly agree=5)

- (1) Nearly all laws deserve our respect.
- (2) There is never an excuse for breaking the law.
- (3) People should always obey the law even if it interferes with their personal ambition.
- (4) Society would be a better place if all laws were enforced.

³ A * means that the scale item was reverse coded.

- (5) I try to obey the law, even if it goes against what I think is right.
- (6) People should obey the law even when they disagree with it.

Probation Avoidance

(Not at all important=1; Slightly important=2; Moderately important=3; Very important=4; Extremely important=5)

- (1) Probation is too hard to complete.
- (2) Probation has rules that are too hard to follow.
- (3) Parole and program officers will be too hard on me, they will try to catch me and send me back to prison.
- (4) Serving time in prison is easier than probation.
- (5) In general, living in prison is easier than living outside prison.
- (6) I will be abused by parole and probation officers who oversee probation.
- (7) Serving time in prison is less hassle because probation has too many responsibilities.

Probation Participation

(Not at all important=1; Slightly important=2; Moderately important=3; Very important=4; Extremely important=5)

- (1) Probation offers a better lifestyle than prison.
- (2) Probation allows me to live outside prison.
- (3) Probation has a good reputation among people.
- (4) Probation successfully rehabilitates people.
- (5) Probation is easier to complete than a prison term.
- (6) Probation will help me get out of prison sooner.

Community Bonds scale

(Not at all important=1; Slightly important=2; Moderately important=3; Very important=4; Extremely important=5)

- (1) I have a job outside of prison.
- (2) I have a spouse/partner outside of prison.
- (3) I have children outside of prison.
- (4) I have school outside of prison.

Society Stigma scale

(Strongly disagree=1; Somewhat disagree=2; Neither agree nor disagree=3; Somewhat agree=4; Strongly agree=5)

- (1) Most employers will hire a formerly incarcerated person. *
- (2) Most people believe that a formerly incarcerated person is just as trustworthy as the average citizen. *
- (3) Most colleges will admit a formerly incarcerated person. *
- (4) Most people would willingly accept a formerly incarcerated person as a close friend. *
- (5) Most people would treat a formerly incarcerated person just as they would anyone else. *

Personal Stigma scale

(None=1; A little=2; More than a little=3; A lot=4)

- (1) How much of a problem would it be if your parents found out?

- (2) How much of a problem would it be to keep your job?
- (3) How much of a problem would it be to maintain enrollment at your university?
- (4) How much of a problem would it be to obtain future employment?
- (5) How much of a problem would this cause in your relationships with your friends, family, and romantic partners?

Risk of Victimization

(Never=1; Rarely=2; Occasionally=3; Frequently=4; Always=5)

- (1) Incarcerated people get in fights with other incarcerated people.
- (2) Incarcerated people are killed by other incarcerated people.
- (3) Correctional officers are killed by incarcerated people.
- (4) Incarcerated people engage in consensual sexual activities with other people who are incarcerated. *
- (5) Incarcerated people are sexually assaulted.

Self-control scale

(Never=1; Sometimes=2; About half the time=3; Most of the time=4; Always=5)

- (1) I plan things carefully.
- (2) I do things without thinking. *
- (3) I don't pay attention. *
- (4) I concentrate easily.
- (5) I am a careful thinker.
- (6) I plan for job security.
- (7) I say things without thinking. *
- (8) I act on impulse. *
- (9) I get easily bored when solving thought problems. *
- (10) I act on the spur of the moment. *
- (11) I am more interested in the present than the future. *
- (12) I plan for the future.
- (13) I save money on a regular basis.

Media Consumption scale

(Less than 1 hour=1; 1 to 5 hours=2; 6 to 10 hours=3; 11 to 15 hours=4; 16 or more hours=4=5)

- (1) Watching national television news broadcasts (such as CNN or Fox News)
- (2) Reading the news on social media sites (such as Facebook, Twitter, or Instagram)
- (3) Reading news online (such as CNN.com or NYtimes.com)
- (4) Watching crime-related media (such as Law and Order, Criminal Minds, or NCIS)

APPENDIX B. PREFERENCES FOR PROBATION QUESTION

Perceptions of Probation Severity

Probation is when someone is subject to examination and evaluation by the court. Probationers are placed under the supervision of a probation officer and must fulfill certain conditions. If they violate a condition of probation, they may have additional restrictions placed on them or have to serve a term of imprisonment.

Some examples of probation conditions that they would be expected to follow are: meet with a probation officer regularly, refrain from violating the law, maintain reliable employment, and submit to random drug and alcohol testing.

Think about 12 months of actual time in a in a medium-security correctional center.

What is the maximum number of months of probation you would take to avoid serving 12 months of actual time in prison?