

THESIS

“THE INDIAN PROBLEM”: A STUDY OF RACIAL THREAT, NATIVE AMERICANS, AND
ARREST RATES

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ABSTRACT

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Scholarly work surrounding discrepancies within arrest practices is a highly debated area of criminological work, and includes a broad range of explanations. Of said arguments that exist, racial threat theory has continued to arise as an explanation, but there is a lack of consensus and a mixed level of evidence supporting it. Additionally, of the work that has been done on racial threat theory, most literature remains focused on the larger minority populations, such as the Black and Hispanic population, leaving out other important minorities, such as Native Americans. To help address the incomplete literature on racial threat theory and the Native American community, this research project attempted to uncover how the increase in the Native American population from 1990 to 2000 affects the total, violent, property, and drug arrest rates in counties with varying levels of Indian Reservation land. The regressions that were completed showed that the increase in the Native American population had a negative effect on the overall arrest rates, and this effect increased as reservation land decreased. Additionally, the results also showed mixed effects from the change in the Native American population and the amount of reservation land on the total, violent, property, and drug arrest rates. These findings directly opposed the racial threat theoretical framework, and suggests that an increase in diversity leads to a decrease in racism, racial bias, and stereotyping. Though this research was limited to a relatively small population, these findings bring into question our current understanding of the application of the racial threat theory to arrest practices, and whether or not this theoretical framework is a credible explanation of arrest discrepancies.

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Introduction

Over the last several decades, research into the relevance of race within the criminal justice system has gained a great deal of popularity. A plethora of research has emerged that focuses on the theoretical, as well as the foundational reasons as to why race is such a crucial factor within the criminal justice system. Others have researched how race plays an active and real-time role in the enforcement of laws, judicial outcomes, and practical aspects of this intersection. Out of this research comes many differing conceptualizations of the impact of race on all aspects of the criminal justice system. Of those perspectives, racial threat theory has emerged as a mainstay in terms of theoretical explanations of the importance of race. In sum, racial threat theory posits that as minority populations grow and gain social power, the majority population, or white population, may perceive said minority groups as a threat. In response, there will be an increase in formal social control measures, which therefore consequently results in a stronger and more pronounced criminal justice presence within minority populations, causing discrepancies in arrests, prosecution, and punishment of minorities.

Although racial threat is a heavily utilized theory and explanation as to why discrepancies exist within the criminal justice system, there is an uncertain understanding of the practical application of this theory. For instance, many previous studies have found that racial threat helps to explain some of the race-based prosecutorial and punishment related discrepancies in the criminal justice system, but in terms of the impact on arrests, the evidence is mixed, and often contradictory. The evidence that comes from previous literature on the effects of race and arrests actually found that as minorities increase, arrests decrease across all groups. Although the evidence against racial threat is mixed, these studies are also limited to only certain minority populations. More specifically, historically, much of the previous literature has focused solely on the relationship between the Black and White populations, and how this affects arrests. It wasn't until somewhat recently that researchers have expanded to include other minority populations, but in most cases, this expansion included only the effects of the Black and Hispanic population.

Due to this hyper focus on the Black and Hispanic population, other significant populations have been neglected and understudied. Previous literature, overall, has failed to include minorities such as the Native American population, and therefore, our understanding of the full effect of minorities on the criminal justice system has been left in the dark. Although the Native American population is one of the smallest minorities in the US, this population still may add a layer to the racial threat theory. Additionally, previous literature has focused primarily on the sentencing and punishment sides of the criminal justice system, often leaving out how race impacts other aspects, such as arrests. Though this research no doubt adds to our understanding of racial threat, to fully understand the application of this theory, research must begin to examine how other races influence all portions of the criminal justice system.

In an attempt to help further our understanding of racial threat, the Native American population, and the effect they have on arrests, this research project will focus on the direct threat that may come from a growing Native American population. Particularly, this research will investigate how the change in the Native American population affects arrest rates and practices, and test to what extent can racial threat theory can explain this influence.

Literature Review

Historical and Current Social Position of Native Americans

Brief History of White and Native American Relations

It has long been recognized that the history of the Whites and Native Americans relationship has been full of turmoil, broken and unfilled treaties, land grabs and forced removal and eradication, exploitation, and overall white supremacy (Ostler 2004). This experience, although in ways was similar to the White relations with other racial minorities, is unique to Native Americans, and their twisted encounters with the White population acted as a foundation for all future White and Native American conditions, policy, and practices. At the beginning of the White's conquest of what is now considered the US, there was a shared understanding that if the White population could acquire enough land to fulfill the

wants of White settlers, both Whites and Natives could live their distinct lives on separate lands (Ostler 2004). However, the White's original goal to simply expand and grow the land they controlled quickly turned into a movement of clear and powerful colonialism (Ostler 2004). This would eventually lead the White population, who viewed themselves as the superior race, to use their intense dominance to physically, socially, economically, and culturally isolate the Natives from both the Native's original land as well as the social hierarchy of the US (Ulmer & Bradley 2019). The racial separation between the Whites and the Natives soon became a central feature of the expansion and desires of the White population, which they would eventually use to further control, suppress, (Bass 2001) and in some expansionists' and colonialists' minds, eradicate and erase Natives completely (Ostler 2004). Therefore, race became a significant factor in the construction of the US as a whole (Dollar 2014), which also played a role specifically in the foundation that would structure both the physical landscape of the US, as well as the governmental organizations and actions against the Native population (Bass 2001)

Current Social Position of Native Americans

In terms of practicality, the tensions between the White and Native populations and the exercise of the false ideal of White superiority was, and still is, accomplished using both informal and formal social control measures (Raufu 2020). Speaking to the current day conditions of social control, the main utilization of informal social control comes through the use of negative and harmful stereotypes of the Native American community, which often casts them in a dark light compared to how society views the White population (Ulmer & Bradley 2019). Native Americans are often seen not only as being unpleasant, lazy, and dangerous (Finkeldey & Demuth 2021), but also hold the characterization of being the “‘drunken Indian’ who is genetically predisposed to alcohol abuse and likely to engage in criminality as a result of intoxication,” (Ulmer & Bradley 2019:344, Franklin 2013). The use of these negative and untrue stereotypes cast upon the Native population leads to two different types of harm: on the individual level this can lead to poor personal interactions between the Whites and the Natives, but in terms of structural

harm, negative stereotypes have a direct link to the overall oppression of the Native American population (Ulmer & Bradley 2019).

The other way the Whites exercise their majority power and control over the Natives is through the use of formal control measures. This is completed using two separate but intertwined systems: the federal government and its structures, and the policies and practices of the criminal justice system. Although Native Americans are US citizens, which subjects them to the formal control measures that most people in the US experience, they are also tribal nationals, meaning that not only are they subject to tribal doctrine and order, but they also deal with governmental agencies that are unique to the Natives and that do not affect the non-Native population, such as the Bureau of Indian Affairs (Ulmer & Bradley 2019). This creates a peculiar, unique, and often conflicting intersection between the two that interlock and influence the entire social order system for the Native population (Ulmer & Bradley 2019). The other main source of formal social control that affects the Native population is the criminal justice system and its policies, practices, and utilizations. Although all people within the US are subject to the criminal justice system, minorities, especially the Native Americans, face a different challenge than do most White people. According to (Raufu 2020:130), “[t]he US legal system in its form and character is structured to protect white privilege,” and the ideals of freedom, liberty, and justice for all are ideals that “appear to be meant for white people.” Because the idea of a fair and impartial criminal justice system is suppressed and often fought against, the Native population often faces disparities in not only the outcomes of sentencing and incarceration, but through the exercise of specific law enforcement practices and the entirety of the criminal justice system. As a result of these issues laden within the formal social control measures, Native Americans face distinctive structural barriers and complications from both specific governmental bodies as well as the entire criminal justice system (Raufu 2020).

Disparities within the Criminal Justice System

Over the last several decades, it has been argued by a great majority of actors involved with the criminal justice system, whether that be researchers and scholars, prosecutors and lawyers, judges, or civil

rights groups, that there are large disparities within all phases of the criminal justice system. In terms of scholarly research, there is a plethora of information that states that those who have a marginalized social status leads to more severe criminal justice treatment, judicial processes, and outcomes (Ulmer & Bradley 2019). Although the legitimacy of law enforcement rests largely upon the ideals of fair and just treatment for all, racial bias has become a staple in common law enforcement activity (Holmes 2018). This is so clear in research that almost all findings point to minorities, such as the African American, Hispanic, and Native populations, being racially profiled, and that race is a contributing factor of the criminal justice process (Finkeldey & Demuth 2021). More specifically to this project, previous literature states that of all the minority populations, Native Americans experience one of the biggest disparities in both rates and outcomes for the enforcement of laws as well as the punishment of crimes (Williams, Chadwick, & Bahr, 1979). Although disparities occur throughout the entire criminal justice process, when it comes to arrests, the biggest influential factor on the decisions made by law enforcement come from the discretion of said law enforcement personnel. In the US, the current criminal justice system is designed to give officers discretion over who, and when, they decide to invoke legal sanctions over offenders (Leinfelt 2006), but as research has shown, many of these decisions are racially biased and charged (Redbird & Albrecht 2020). Additionally, recent literature has found that in many cases, police are less likely to arrest a White offender who commits a violent crime than any other racial group, and if the victim is a person of color, this likelihood decreases even more so (Stolzenberg, D'Alessio & Eitle 2004). In other words, police often see that crimes perpetuated against people of color are not only less deserving of official sanctions, but that the conflict is rooted in personal and family problems instead of attributing the issue to the offender (Stolzenberg et. al. 2004).

In terms of racial disparities and law enforcement, the Native population experiences greater disparities, both in terms of overall numbers and outcomes, but also in the way that crime is handled. Of those incarcerated, the Native American population is one of the fastest growing populations, with an increase of 3.6% from 2015 to 2019 (Essex & Hartman 2022). Although some of these disparities can be

attributed to the overall racially based issues plaguing the criminal justice system, Native Americans experience this issue in exclusive, and historically, rooted ways. One of the most powerful influencers in regards to the overall experiences of the Native American community relate back to how society, specifically the White population, views and stereotypes the Natives. In previous research, it has been found that these stereotypes have a direct link to the encouraged, and often promoted, racial disparity in both arrests and punishment of crimes committed by Natives (Ulmer & Bradley 2019). Because of this, not only are Natives at a higher risk of arrests for lesser offenses, they are also at risk of receiving higher sentences for similar crimes committed by their White counterparts (Ulmer & Bradley 2019).

Jurisdictional differences, especially speaking to what court handles certain crimes, is another reason why the disparities and experiences of the Native American community is specialized to them. Because of laws and doctrines such as the General Crimes Act and the Major Crimes Act, violent crimes committed by Native Americans are handled on the federal level through agencies such as the Federal Bureau of Investigations, the Bureau of Indian Affairs, and other federal entities, while other crimes are handled by either tribal or state/local police (Butler & Jones 2018). Many critics of law enforcement agencies support these jurisdictional differences, as federal agencies usually have more resources than tribal agencies and are therefore better suited to handle violent crimes (Ulmer & Bradley 2019). This does, however, leave the punishment of these individuals at the mercy of the US Federal Sentencing Guidelines, which in many cases carry heavier punishments than what state or tribal courts are mandated and/or allowed to give (Ulmer & Bradley 2019). In other words, Native Americans face more severe punishments than their white counterparts simply because various jurisdictions approach punishment with different goals and requirements (Ulmer & Bradley 2019).

Racial Threat Theory

History of Racial Threat Theory

In the vast body of criminological theory, much time has been spent theorizing on the offender and/or victims of crime, but an emerging field of work has attempted to explain and understand the practices of the entire criminal justice system. Though many theories have been used, one of the most predominant group of theories has to do with the threat minorities pose to the greater White population. More specifically, racial threat theory, first proposed by Blalock in 1967, is rooted within the conflict perspective, and claims that Whites may feel threatened by minority races (Ousey & Lee 2008), especially when the minority population is growing (Smith 2021). Because of this threat, it was theorized that the dominant group needs to utilize various forms of social control to counteract and restrain said threats (Raufu 2020). Other theorists, such as Blumer (Stults & Swagar 2018:150), also stated that in addition to simply feeling threatened, the majority population actually “harbor[s] feelings of hostility and competition toward out-group members partly due to the belief that the out-group is inferior and inherently different.” Within the Racial Threat Theory, Blalock explains further that threat can come in the form of three specific types: economic, political, and symbolic (Dollar 2014). Economic threat occurs when the White population sees minority populations as a threat to not only their jobs, but their entire financial health, and political threat is supported by the belief that growing minority populations gain more social power and, therefore, may achieve a higher social or political position (Dollar 2014). The last of the types of threat, symbolic, is arguably one of the most racially charged threats and states that minorities are a threat to the overall social beings of a certain community, and therefore they need to be controlled to preserve and protect the White cultural superiority (McCarthy 1991).

Criminal Justice Applications of the Racial Threat Theory

Blalock’s racial threat theory has been widely used to examine how and why disparities occur within the criminal justice system, focusing mainly on how the formal social control tactics used by law enforcement agencies check and control the power of minorities (Dollar 2014). Much of the support for this application has a direct link to the history of race relations within the US, and is fueled mainly by the informal forms of social control, such as through the use of negative and untrue stereotypes placed upon

minority populations (Holmes 2018). In recent studies on how racial threat theory impacts the exercise of power from the overall criminal justice system, there has been overwhelming evidence supporting the assertion that as racial demographics change, particularly when minority populations increase, all criminal justice practices change, resulting in an increase in the formal social control used against racial minorities (Ousey & Lee 2008). In other words, although law enforcement agencies are supposed to represent the interest of all citizens in their crime controlling measures (Holmes 2018), they have been observed as being racially biased, and therefore act as “agencies of government that the dominant race in the society use[s] to put in check and suppress its minority group from threatening the vantage position of the majority,” (Raufu 2020:126).

When speaking specifically to how arrests are used to maintain minority populations, there is also extensive literature supporting the fact that law enforcement personnel selectively arrest suspects in order to control the minority population (Holmes 2018). Because of the perceived heightened level of threat in certain areas, researchers have investigated the correlation between the threat and resources allocated to these areas, and found that there is a positive correlation between the increase in threat and not only fiscal expenditures given the law enforcement agencies (Holmes 2018), but the amount of law enforcement personnel stationed in a given area (McCarthy 1991). The unequal distribution of resources in favor of controlling minority populations has resulted in racial minorities bearing the weight of all law enforcement intervention, and therefore experience higher levels of coercive control by the police (Holmes 2018).

Arrests

Up until this point, although each topic was spoken about in broad terms, there was also a specific focus on the arrest aspect of the criminal justice system. The following sections will give in-depth explanation as to why arrests are such a crucial aspect of the criminal justice system.

Arrests as Social Control

In terms of all stages of the criminal justice system, every day police interactions are the most common confrontation the public faces (Essex & Hartman 2022). It must be stated that not all interactions with police end up in arrests. However, the fact that arrests are always an option for law enforcement personnel make it a substantial threat, and therefore, act as a powerful source of formal social control (Harmon 2016). In many cases, arrests occur when law enforcement responds to individuals who are in some way disturbing others, whether that be a crime that was already committed, or a crime currently in progress (Harmon 2016). With that said, police officers often view arrests as a resolution “to threats to order rather than a way to enforce criminal law,” (Harmon 2016:343). In these cases, police use arrests to solve a problem, and therefore exercise a socially controlled “solution upon emergent problems [which can] brook or defer [an] opposition of any kind,” (Harmon 2016:343, Bittner 1974). Additionally, what also makes arrests a constant threat is because arrests are, in a majority of cases, made by “ordinary patrol officer[s] in the course of his or her everyday work on the streets,” (Kochel, Wilson & Mastrofski 2011:475). Because of this, even though arrests are a relatively uncommon aspect of policing, they are still viewed as “[a] paradigmatic police activity,” (Harmon 2016:308). Because of all of this, the power of arrest is a crucial and fundamental component of formal social control, and is a key part of the duty of law enforcement (Holmes 2018).

Why Arrests Instead of Incarceration

As stated above, although not all police interactions result in arrests, they are still a crucial aspect of the criminal justice practice. Arrests are the most utilized formal disposition, besides traffic violations and tickets, used by law enforcement; therefore, arrests affect “a broader segment of the population than prosecution, conviction, and sentencing,” (McCarthy 1991:19). Arrests act as the checkpoint in the pipeline to the harshest form of deprivation of liberty, “mark[ing] the initial point of coercive state intervention to control members of the population,” (McCarthy 1991:19, Williams & Drake 1980). This makes arrests not only an essential component of social control studies, but one of the most powerful (McCarthy 1991). However, the thing that truly makes arrests such a fundamental topic in law

enforcement and the overall criminal justice system is that it is the least regulated stage of the criminal justice pipeline (McCarthy 1991). In many cases, although police officer discretion and activity around arrests and interactions with the public may have to be reviewed by the agency that officer works for, this usually only happens when an arrest creates a social problem, and there is substantial outcry from the public. In terms of the prosecutorial aspect, there are safe guards and laws that are in place to protect and conserve the integrity of this process. For punishment, whether a jurisdiction uses determinate or indeterminate sentencing, there are still guidelines, suggestions, and considerations, as well as prosecutors and defense attorneys, that act as a way to keep judges in check so that they remain honest and their punishments are true to the crime committed (Tonry 2016). Even after an individual is incarcerated in jail or prison, there are not only rules and regulations to keep the inmates safe (FindLaw 2017), but there are guides and steps that one must follow before they can be placed on parole (Caplan 2007). Although it is crucial to have all of these safeguards in place for the protection of the individual offender, the safeguards and the laws that police officers must follow are vague, loose, and often left up to the individual officer's discretion to follow (Leinfelt 2006).

In addition to the sheer importance of arrests and the officer's role in them, arrests are also incredibly socially meaningful for both the individual, as well as society, and often reflect a larger societal impact than incarceration. One reason is because for all individuals involved in the criminal justice system, arrests are the first step in the overall criminal justice pipeline, and therefore is the only aspect that everyone faces when going through said pipeline (Redbird & Albrecht 2020). Second, arrests act as one of the most consequential ways that law enforcement restricts liberty (Kochel at. al. 2011). The reason why this carries so much importance is that even though punishing and incarcerating a person is the strongest loss of liberty for individuals, unlike said punishments, individuals who are arrested are often done without a trial, with the exception of those with warrants issued for them (Kochel at. al. 2011). Because of this, there is often little due process involved when making an arrest (McCarthy 1991), and therefore these decisions are left solely up to the individual law enforcement personnel and are mostly

based on discretion and what is known at the time of arrest (Holmes 2018). Lastly, arrest records are often used to determine whether an individual is eligible for a job, and in many cases, a record of arrests disqualifies an individual from obtaining the desired job (Barnes et. al. 2015). The use of individual arrest records may also affirm and further the negative stereotypes placed upon certain race populations, especially if this type of social control is used differently for various races (Ulmer & Bradley 2019).

On the other side of things, arrests are also socially meaningful when looking at the societal impact (Barnes, Jorgensen, Beaver, Boutwell & Wright 2015). First, the disparities in arrests are not only common in many jurisdictions, but often are expected and promoted. Studies have repeatedly shown that African Americans and Native Americans are disproportionately more likely to be arrested (Finkeldey & Demuth 2021), and in extreme cases, Native Americans come in at the highest rates of arrests (Barnes et. al. 2015). In addition to race, there are two other considerations that police officers use when making arrests, which include legal and extralegal (Kochel at. al. 2011). Legal considerations include those set forth by law related to evidence, availability, cooperation, seriousness of the offense, and mandatory arrest policies (Kochel at. al. 2011). Extralegal considerations are those police officers use when making discretionary decisions, and although they are often either frowned upon or implicitly authorized, are still used nonetheless. These include sex, age, religion, and social and socioeconomic status, and each plays an important, but illegal, impact on law enforcement decisions (Kochel at. al. 2011).

The second reason why arrests are socially meaningful can be seen when looking at how arrests can impact both the view of an individual as well as a group. For example, since the 1990s, the overall crime rates in the US have been on the decline, which should therefore show a decrease in arrests, but as recent data shows, this is not necessarily the case in a great portion of jurisdictions (Barnes et. al. 2015). Therefore, arrest rates in a given area are not only impacted by the jurisdiction or demographics in a population, but it is also heavily influenced by each jurisdiction's interpretations, understandings, willingness to uncover and collect information, and a lack of investigation (Treiger 2019).

The last reason why arrests are socially meaningful has to do with both the resources and strategies used for making arrests. In terms of financial resources, jurisdictions with a higher number of arrests have not only most likely previously been awarded more financial support, but also may receive an increased level of financial aid in the future (Barnes et. al. 2015). Strategies used by law enforcement personnel are also a socially meaningful topic that has to be considered when researching and working with arrests. Jurisdictions that exercise aggressive policing strategies “maximize the number of observations and interventions in the community [and therefore] arrest suspicious and disorderly persons at a high rate,” (Sampson 1986:281). More specifically, studies have shown that in certain areas, the size of the non-white population is positively correlated with the total number of arrests rates (Stults & Swagar 2018). This is socially meaningful because not only are these aggressive strategies put in place due to the negative stereotypes that claim that certain races are more crime prone, but doing this also further affirms these beliefs (Sampson 1986).

Why Place and Space Matter

Within the realm of research on policing there is a consensus that, overall, police agencies more or less function in the same way. However, recent research has shown that there are many influential factors that go into policing practices, strategies, and methods, and that these vary across location (Decker 1979). For example, it has been found that although the nature of law enforcement remains the same across all jurisdictions, not only do the specifics of the job vary by community, but even in areas with comparable crime and arrest rates, policing across these areas varies greatly (Decker 1979). One of the main reasons for these variations in responses to crime is due to the differing social contexts that officers and offenders find themselves in (Stolzenberg et. al. 2004). Throughout the US, the social construction of space has greatly influenced the development of policing (Bass 2001), and this developmental strategy was composed of both structural disadvantages as well as cultural differences (Redbird & Albrecht 2020). Structural disadvantages include unemployment, poverty, income, and inequality, while cultural differences stem from the creation of different values systems based on differing historical experiences

(Redbird & Albrecht 2020). In other words, local social arrangements are one of the driving factors that shape and regulate both informal, and formal, social control measures (Ulmer & Bradley 2019).

Therefore, both the physical location of the offender and/or victims (Stolzenberg et. al. 2004), as well as the manner that police conceptualize differences in territory are crucial to our understanding of how law enforcement agencies function (Bass 2001).

When looking more specifically into the topic of research for this project, the concept of place and space easily become apparent. First, the relative size of the minority or threatening population has been argued is not enough to explain the levels of threat experienced by the White population (Holmes 2018). As shown in previous research, spatial characteristics, specifically racial segregation, also heavily influence the threat from minorities (Holmes 2018). This is important to the current research because in counties where there is Indian Reservation Land, the population is not only segregated by artificial boundaries often found where segregation exists, but the White and Native American segregation is also imposed by physical and hardline boundaries that split reservation land from non-reservation land.

Also of importance is the uniqueness of rural vs. urban settings. Unlike urban areas that are highly populated and where there are many moving factors that influence the social setting, rural areas contain fewer actors within a larger area of land, which impact how law enforcement engages with community members (Decker 1979). This is another important point in regards to the current research, as many of the counties with no reservation land have urban areas, whereas counties with a high amount of Indian Reservation Land are primarily made up of rural areas. What is also of importance here, in terms of the social context, is the organization of social institutions within a given area. It has been noted that “the organization and arrangement of families, schools, and neighborhood associations may influence the attempts of communities to achieve desired goals. Macro-level social control thus stems from many different forms of social organization, both legal and nonlegal,” (Sampson 1986:277). This becomes crucial and must be considered because the social organizations of reservation land are drastically different than non-reservation land.

Reservations Characteristics

In addition to the reasons listed above, the location of a jurisdiction is also important, especially for reservation land, in other ways too. The social contexts and the overall social standing of those living on reservations is dramatically different than those who live outside of reservation land. There are some common social characteristics that can be seen when looking specifically at reservations, including poverty, bad housing, unemployment, educational constraints and limited opportunity, and geographical isolation (Butler & Jones 2018). Although many areas throughout the US struggle with some of these issues, it seems that they are even more exaggerated on reservation land. For example, around 50% of the people living on reservation land are unemployed, but this can vary dramatically from reservation to reservation (Butler & Jones 2018). Additionally, recent studies have found that 18 of the 36 largest reservations have a poverty rate of 40%, and, when looking at Native Americans as a whole, 23% of Native families earn below the poverty line, which is double the national average (Butler & Jones 2018). There are also other relatively common social-psychological risks that can be found on reservations, which include dysfunctional families, domestic violence, child abuse, substance abuse, alcoholism, lower self-concept, health issues, hopelessness, and the appearance of anti-social behavior (Butler & Jones 2018).

Common Crimes on Reservations

Due to the common characteristics found with reservation land, the crimes committed on reservation land are specific to the region and reflect the broader social issues stated above. Overall, crime rates are higher on reservation land than many areas within the US (Treiger 2019), and both violent and property crimes are on the rise (Butler & Jones 2018). In addition to the fact that violent crimes occur at a high rate, they also make up the majority of federally prosecuted crimes that occur on reservation land, with roughly 75% of federal prosecutions of Natives involving murder, physical or sexual abuse of a child, violent felony assaults, and rape (Butler & Jones 2018). Domestic violence and sexual assault are also high on reservations and drug and alcohol-based crime, especially DWIs and DUIs, occur at an

unusually high rate (Butler & Jones 2018). The biggest problem, though, can be found when drugs and/or alcohol are involved in the commission of violent crimes, which has long been a problem on reservations (Ulmer & Bradley 2019). Recent studies have found that 62% of violent crimes committed on reservation land involved alcohol, compared to the national average of 42% of crimes (Butler & Jones 2018). So, in these cases, there seems to be a compounding effect that comes from the social attributes found on reservations.

Victimization on Reservation Land

The majority of minorities in the US suffer from an increased rate of victimization compared to White victimization. However, rates of Native American victimization, for both males and females, are higher than any other racial group (Butler & Jones 2018), and is more than twice the national average of victimization rates (Ulmer & Bradley 2019). For example, in a recent survey, four out of five respondents reported having experienced violence in their lives (Treiger 2019). Although both Native American men and women experience higher rates of victimization, Native women suffer the greatest. Native American women are three times more likely than any other racial group to experience rape and sexual assault (Butler & Jones 2018), and the murder rate of Native women is roughly ten times the national average (Treiger 2019). Other common crimes also affect the Native American community, both on and off reservations, and can include harassment, hate speech, assault, and arson (Butler & Jones 2018). With all of that said, what is of most importance, in terms of victimization, is the offender and victim identities. Though some crimes on reservations can be attributed to Native American offenders, non-Natives are largely to blame for violent crimes (Treiger 2019). Recent analysis of data from the Department of Justice has discovered that of all the rapes and sexual assaults experienced by Native women, 86% were perpetrated by non-Native men (Treiger 2019). Additionally, as discovered in a 2016 survey, researchers found that “of those who had experienced violence in their lifetime, 97% of [Native] women and 90% of [Native] men reported having been victimized by a non-[Native]. In contrast, only 35% of female victims and 33% of male victims reported having been victimized by [a Native],” (Treiger 2019:176). This is an

incredibly important finding because most of these violent crimes are committed by the White population (Treiger 2019), and is yet another viscous way to suppress, diminish, and belittle the Native population. Therefore, although very implicitly used, these crimes show how the White majority is utilizing informal social control on the Native population. With that being said, the true extent of crimes on reservation land and the actual crime rates against Native Americans cannot possibly be known, as neither national victimization surveys, nor the Uniform Crime Report, offer complete and comprehensive coverage or collection of data on reservation land (Butler & Jones 2018).

Policing on Indian Reservation Land

To properly investigate and analyze the relationship between racial threat, White's believed superiority, formal social control, and the Native American experience, a comprehensive understanding of how both the historical foundation, as well as current practices, work within the criminal justice system. Although a complete historical review of the social control processes and evolution of the Native and White interactions would add additional information and context, this is not within the scope of this project, and therefore the following narrative will cover only the historically important information that relates directly to the formation of the criminal justice system.

Historical Foundation of Policing on Reservation Land

In the early years of the Native and White relations, much of both the formal and informal social control against the Natives was implemented using treaties, many of which were upheld and honored by the military (Butler & Jones 2018). With the treaty system, many issues arose, which mainly stemmed from the White's realization that they could exploit the vulnerabilities of the Natives (Ostler 2004). This exploitation came at every stage of the treaty making process, and was key to the maintenance of White superiority (Ostler 2004). In many cases, while treaties were being drafted and negotiated, the Whites used the lack of English understanding by the Natives to sneakily add in parts of the treaties that were not agreed to by the Natives (Ostler 2004). Because of this, the White population and the military were often

able to get away with a lot more social control than what was agreed upon, and therefore used their power to secretly, or in severe cases, explicitly, enhance the White's goals (Ostler 2004). The other issue that occurred during the treaty process was the federal government's constant disregard and lack of respect for many of the treaties made, which led to the breaking of a majority of all treaties that were agreed upon by the Natives (Ostler 2004). However, an important ideal came from the creation and existence of these treaties, such as distinguishing White and Native land, which eventually led to the separation of White land, and "Indian Country" (Ulmer & Bradley 2019). This separation would become a crucial aspect of Native American sovereignty, and has allowed the Native population to police themselves and to operate their own form of the criminal justice system (Treiger 2019). However, the tensions between the Native and White populations grew, which was mostly due to the horrendous exercises of power, removal, and the eventual goal of the extermination of the Native population (Ostler 2004). As a result of this, in an attempt to right the wrongs that plagued the Native Americans, they began to fight back, both metaphorically and through literal warfare (Ostler 2004). As the Native resistance gained momentum, it also gained the support of many White citizens, which pressured the federal government to take action against the unjust treaty system (Ostler 2004). This eventually led to the creation of many laws, acts and court rulings that began the jurisdictional separation of the Native Americans from the White criminal justice system.

The Formation and Current Function of Federal Criminal Justice Oversight

The first action that was taken to create the separation in jurisdictions occurred in 1817 with the passage of the General Crimes Act (Butler & Jones 2018). This act stated that the federal courts had jurisdiction over all interracial crimes, but intra-racial Native American crimes were still handled by tribal jurisdiction (Butler & Jones 2018). Including the limitation of intra-racial crimes, there were two other limitations within the General Crimes Act; federal jurisdiction did not cover Natives who had already been punished by tribal law enforcement, and the federal government could not prosecute any crime that did not include a Native American as either the offender or the victim (Treiger 2019). Soon after the

passage of the General Crimes Act came a series of court cases that occurred between 1823 and 1832, which would eventually be known as The Marshall Trilogy (Ulmer & Bradley 2019). These court cases were the first to establish Native American “crime jurisdictional contours,” which established tribes as domestic dependent nations, and therefore states could not exercise their jurisdiction over crimes on tribal land (Ulmer & Bradley 2019). After the passage of the General Crimes Act and the Marshall Trilogy, federal law stayed stagnant until the Major Crimes Act passed in 1885 (Butler & Jones 2018). Similar to the General Crimes Act, the Major Crimes Act was the key source to determine jurisdiction, and attempted to further clarify and refine which agency had jurisdiction over crimes committed in “Indian Country,” (Ulmer & Bradley 2019). However, unlike the General Crimes Act, the Major Crimes Act gave jurisdiction to federal agencies for certain crimes that were committed by Native offenders, regardless of the identity of the victim (Treiger 2019). The crimes that were within the federal jurisdiction included murder, manslaughter, assault with intent to kill and other assaults, arson, burglary, and robbery (Butler & Jones 2018).

With the passage of the Major Crimes Act came the involvement of the Bureau of Indian Affairs in criminal prosecution. Although the BIA was created in 1824 (National Archives Federal Registry), it wasn't until the late 1800s that the BIA became involved in tribal or federal law enforcement (Butler & Jones 2018). With the takeover of some crimes by the BIA, this brought many peculiar facets to tribal law enforcement. Unlike other federal agencies, the BIA often assigned either an individual agent, or a small collection of agents, that controlled various areas of reservation land (Ulmer & Bradley 2019). Due to the lack of cohesion within the BIA, agents were semiautonomous in their enforcement and production of policy who often had differing influences over their territory (Ulmer & Bradley 2019). In other words, “federal [Native] policy regarding many dimensions was whatever field agent decided it was,” (Ulmer & Bradley 2019:340, Steinman 2012). This not only greatly impacted the discretion of the federal agents and their practices and policies, it also led to discrepancies when it came to tribal law (Ulmer & Bradley 2019). The Major Crimes Act and the role of the BIA and/or other federal agencies continued to rule the

jurisdictional realm of the criminal justice system and remained unchanged until the mid-20th century. However, in 1949, the list covered under the Major Crimes Act was changed to include crimes such as kidnapping, sexual abuse, felony assault, assault on a person less than 16, and felony child abuse or neglect (Butler & Jones 2018). These additions were the last formal amendment to the Major Crimes Act.

Although the Major Crimes Act served to better clarify jurisdictional difference on reservation land, there were still uncertainties, especially when it came to crimes committed by non-Natives and the role of the state and their jurisdiction. To better address this confusion and lacking aspect, the federal government passed Public Law 280 in 1953, which in essence gave more power to the state's jurisdiction and helped to fill in gaps in prosecution (Ulmer & Bradley 2019). More specifically, for minor crimes committed by Natives, which would normally be prosecuted by tribal courts, it gave criminal jurisdiction to state agencies, which were designated as mandatory states, to six states, which included Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin (Ulmer & Bradley 2019). As another part of Public Law 280, it also extended its reach into ten states where state agencies could assume full or partial jurisdiction over the previously mentioned crimes (U.S. Department of the Interior 2017). These states, designated as optional states, included Arizona, Florida, Idaho, Iowa, Montana, Nevada, North Dakota, South Dakota, Utah, and Washington (U.S. Department of the Interior 2017). To further confuse things in the optional states, in certain states, such as Idaho and North Dakota, in order for the states to assume jurisdiction over a crime, tribal consent had to be given (U.S. Department of the Interior 2017). Not only did this change and reshape how crimes were responded to by various law enforcement agencies, it began what would turn out to be one of the biggest problems that law enforcement faced when policing in, and around, reservation land (Treiger 2019).

Current Day Policing: Jurisdictions and Attributes

Jurisdictional Contours

Due to the previously mentioned legal aspects of how the criminal justice system separates jurisdiction, there are additional contours that are specific to tribal and Native law enforcement. In terms of federal agencies, although there are crimes that are covered by federal jurisdiction, the actual agency that exercises its control can be complicated to determine. Although the Federal Bureau of Investigations and the Bureau of Indian Affairs has jurisdiction over many crimes, there are other agencies that also play a role in criminal justice practices on reservation land, such as the Drug Enforcement Administration, National Park Service, Bureau of Land Management, Bureau of Alcohol, Tobacco, Firearms, and Explosives, and the US Marshals (Butler & Jones 2018). In addition to the confusion over which federal agencies have jurisdiction, there are also strong limitations that tribal police have to consider when policing. Generally speaking, tribal police have jurisdiction over all Natives on reservation land, because the Supreme Court has long recognized tribal nations as sovereign entities (Treiger 2019). However, because tribes are considered sovereign nations, or domestic dependent nations, their jurisdictional and law enforcement practices are limited when it comes to offenders who are not Native Americans (Treiger 2019). Because only tribal members can participate in tribal government decisions, elections, and affairs, tribal law enforcement is unable to police and enforce crimes on offenders who are non-Natives (Treiger 2019). However, there is a loophole in this jurisdictional restriction that allows tribal law enforcement to exercise their powers. In the case where a non-Native individual poses an active or passive threat to the safety and security of a community, tribal police do have the power to restrain or otherwise eject said individual from reservation land (Treiger 2019).

Jurisdictional Confusion and Complications

Beyond just the confusion that is generated by the lawful and direct separation of jurisdiction, the everyday practices and the application of jurisdictional separation in real time is even more complicated. In general, Supreme Court cases have provided some guidance for police officers, whether that be tribal, state/local, or federal; however, the entire situation has been “described by [Native] law scholars as a ‘maze’, ‘web’ and ‘crazy quilt’, [so] the current scheme of criminal jurisdiction scatters the prosecutorial

authority,” (Treiger 2019:166, Vollmann 1974). Others have described that determining jurisdiction is like “solving a Rubik’s cube while blindfolded and underwater,” (Harper 2018). Similar to the discussion on tribal sovereignty noted above, this ideal can also greatly impact, and further confuse, the policing practices found on reservation land. Native American’s status as both tribal members and US citizens places them in a unique situation when it comes to jurisdictional power. Unlike all other members of US society, who even if they commit a crime on reservation land are only subject to either state/local and federal agencies, Native Americans, however, are subject to “interlocking forms of institutional power,” which further confuses law enforcement when Natives are the offender, because they may be jurisdictionally under three different entities: tribal, state/local, and federal (Ulmer & Bradley 2019).

In addition, there are other jurisdictional issues, such as determining the boundaries of what does, and does not, constitute reservation land. As is required by law, one aspect in determining who has jurisdiction over an offender is figuring out whether the crime happened on reservation land (Treiger 2019). Although in many cases this is clear, the area where reservation borders meet non-reservation land can complicate things. For instance, the division between them can be blurry, as tribal land is neither static, nor clearly delineated, and in many cases, disputed by tribal and state agencies (Treiger 2019). However, even within reservation land this can become complicated, such as the case with highways running through reservation land. Even if a highway lays across a reservation, the actual owner of this land is not always clear (Treiger 2019). For example, highways that are in reservation land, but are paid for and maintained by that state, lay within state jurisdiction, and even though it is on tribal land, tribes cannot assert power or landowner’s rights to them (Treiger 2019). Another place where tribal and state law enforcement might clash is when reservations occupy land in multiple states. In addition to the previously mentioned complications, there is also the fact that states may define certain crimes differently, or some may have laws that other states do not (Redbird & Albrecht 2020). This may not be problematic for crimes that fall under tribal jurisdiction, but this can become a nightmare when the jurisdiction falls to

the state police because tribal police now have to not only know about these differences, they also have to be mindful that their jurisdictions are impacted by these laws.

The last common issue that law enforcement runs into in the actual practice of determining jurisdiction while they are in the field and on active duty concerns who the offender was, and who the victim was. In terms of who has jurisdiction, there are key determinations that have to be made quickly and, in many cases, without clear evidence (Stolzenberg et. al. 2004). The biggest of these determinations is the racial identity of both the offender and the victim (Stolzenberg et. al. 2004). Although this concept is more or less defined by federal and case law, applying this concept is substantially harder in the field and during active policing (Treiger 2019). For example, when making the decision to arrest someone, determining the race of both parties can be extremely difficult given the many aspects that go into determining one's race (Treiger 2019). Because this determination can be based on both facts, such as known tribal status, or implicit characteristic, such as skin color (Finkeldey & Demuth 2021), this process can be extremely labor intensive, and in many cases, take days to determine (Treiger 2019). In addition to this process being labor intensive, there are also subsequent consequences of the need to make these decisions. One such case is when law enforcement is not completely sure about the race of the offender or the victim. In cases like these, “[t]ribal police may be reluctant to investigate or pursue a suspect unless it is clear that the tribe has prosecutorial jurisdiction for fear that their action will dissuade federal or state involvement,” (Treiger 2019:177). What's more is that although there has been an outcry expressing concerns to the reluctance of police officers, little action has been made to aid tribal law enforcement (Treiger 2019). Additionally, in an effort to protect tribal police, federal agencies such as the Bureau of Indian Affairs, have specifically told tribal law enforcement to avoid making any/all contact with anyone that wasn't clearly within their jurisdiction (Treiger 2019). Because of these actions, and the confusion as to who has jurisdiction, the complexities on reservation land has arguably not only caused a public safety crises on reservations, it has turned reservation land into “a safe haven for non-[Native] criminals...and

[has bred] distrust among Native Americans toward federal and state law enforcement,” (Treiger 2019:193).

Resource Constraints of Tribal Police

As if the previously mentioned issues were not enough of a trouble for tribal law enforcement, they also run into the issue of constantly being underfunded, understaffed, and overall underprepared to handle crimes on reservation land (Ulmer & Bradley 2019) This, in turn, limits their ability to maintain public safety at the levels that non-tribal police do (Treiger 2019). Although many tribal law enforcement agencies utilize similar policing practices of non-tribal law enforcement, there are still dramatic differences that restrain tribal police (Ulmer & Bradley 2019). One such example is the difference in funding that tribal law enforcement receives; “[t]raditionally, tribal authorities have described having extremely limited criminal justice resources,” (Ulmer & Bradley 2019:341), and recent studies have found that tribal police receive roughly 60 cents on the dollar in the overall US (Butler & Jones 2018). Another issue that plagues tribal law enforcement is the sheer size of the agencies. In certain areas, tribal police agencies range from 2-3 officers to over 300 officers, and on average, 1.3 officers serve every 1,000 people in reservations as opposed to the national average of 2.9 officers per 1,000 people (Butler & Jones 2018). The last major constraint that hinders law enforcement on reservation land is the physical make-up of the land they patrol. Not only do a small number of officers have to patrol large areas of land, much of which is off-road, they often go without effective communication which can create isolation and complications if an officer needs additional help or medical aid (Butler & Jones 2018).

Recent Positives from the Native American Community

As a result of the historical turmoil between the White and Native communities, Native Americans have attempted, and succeeded, to take back some control over the law enforcement on, and around, reservations. In recent years, there has been considerable social protest by the Native American community to make their presence more well known to the rest of the population, and end their struggle

as being the often overlooked, neglected, and invisible minority of the population (Williams, et. al. 1979). Part of this action includes giving more power to the Native and tribal law enforcement when it comes to all criminal justice practices, which can alleviate some of the jurisdictional confusion, allowing tribal courts to attain more law and order on reservations and “provide more equitable treatment for [Natives] than is available from white institutions,” (Williams, et. al. 1979:243).

Out of this recent movement from the Native Americans, one of the major positives is the jurisdictional cooperation between tribal and state/local/federal law enforcement. Jurisdictional cooperation has always existed between the federal government and tribal police, but in recent years, and with the help of Public Law 280, in addition to gaining this help from the state, the relations between all law enforcement agencies has improved to benefit the agencies involved (Ulmer & Bradley 2019). Known as “jurisdictional coupling”, this allows one jurisdiction to not only aid another jurisdiction if requested, but it also allows for resources to be better allocated to law enforcement agencies (Butler & Jones 2018). This can appear through several differing practices and policies, such as granting some state powers to tribal law enforcement, by which tribal law enforcement personnel also become certified state police, or allowing state/local police to have more jurisdiction over crimes on tribal and reservation land, compliments of Public Law 280 (Ulmer & Bradley 2019).

Literature Gaps and My Research

Literature Gaps in Current Literature

There has no doubt been a great deal of research into the disparities within the criminal justice system, but some researchers argue that there is still more work to be done. For example, although the relationship between race and criminal justice practices and outcomes has been heavily studied, Finkeldey and Demuth (2021) state that in the broader construct, race disparities are better understood while looking at the larger social context, structural disadvantages, and the systematically enforced discrepancies within society. Furthermore, as stated by Bass (2001:163), “despite the centrality of race in the historical

development of the police, as well as in the contemporary criminal justice policies and police practices, there are few scholarly attempts to develop a construct for understanding this relationship.”

Another area within the current literature that seems to have holes in the overall narrative is within the racial threat theory literature. Speaking broadly to the studies of racial threat theory, there seems to be an unclear consensus in the results found while researching the specific effect of racial threat and criminal justice outcomes. As one researcher argues, “the results of the analyses offer very little support to hypotheses drawn from the conventional racial threat framework,” (Ousey & Lee 2008:347). With that said, when digging deeper into the racial threat framework, it appears that one main reason that these findings are unclear is due to both the methodological flaws and the level at which threat is analyzed (Smith 2021). In other words, is it believed that because there is a lack of community-level measures, the true impact of racial based threats cannot be seen or understood (Smith 2021). This is an area of study that is crucial because in order to understand the foundation of how threat and disparities impact criminal justice outcomes, the broader social context needs to be considered and used during analyses (Finkeldey & Demuth 2021). Another area that shows a lack of research relates to how the threat from racial minorities is operationalized; prior studies have typically used only the overall percentage of a certain minority populations to indicate threat (Ousey & Lee 2008). Although simply having a larger minority population can indicate threat, previous research has found that a growing population can better indicate that there is a perceived threat from minorities, and is therefore what needs to be used as a better measure of threat (Smith 2021). With regards to the overall focus of this research, there are also missing pieces when it comes to our understanding of how the Native American threat persuades and impacts criminal justice policies and practices. According to (Ulmer & Bradley 2019:345), “the racial/ethnic group threat perspective, and the lenses of race and ethnicity more generally, are at best incomplete in capturing the Native American experiences with the US criminal justice [system].”

The literature on how formal social control is processed through the use of arrests also contains incomplete literature. One example of this can be seen by what is used to determine criminal justice

outcomes. More specifically, most of the research done on arrests has focused primarily on the individual decision making of the police officers who utilize them (McCarthy 1991), and relatively few studies have examined how aggregate-level factors affect arrest rates (Ousey & Lee 2008). The previous research mentioned has no doubt added valuable knowledge to our understanding of threat based criminal justice practices, but if the community-level factors that may influence law enforcement practices are left understudied, the true political, economic, and social threat perceived by the White population cannot be analyzed.

Each of the previous areas of missing literature offer evidence that a broader investigation has to be completed. However, the biggest incomplete aspect of the previous literature is the often over looked and neglected Native American community. Historically, much of the focus of all criminal justice research has been on the experiences of African Americans, with a recent interest in the experiences of Hispanic individuals (Ulmer & Bradley 2019). Although research has begun to include other races, such as Native Americans, researchers also argue that “examinations of the Native American experience in the US criminal justice system are still relatively sparse despite several previous calls for increased attention to Native American crime and justice issues,” (Ulmer & Bradley 2019:338). Part of this has been because of the limited information that was collected on other races (Holmes 2018), but it is also because of the locations included in prior research (Decker 1979). More specifically, prior research has historically maintained a not only urban focus, but researchers have primarily used urban areas to explain the development of criminal justice policies and practices (Decker 1979).

With all of that said, it must be acknowledged that in addition to the lack of interest in the Native American community, there are also other hurdles when it comes to doing research on the Native community, including the access to raw data, the over politicization of research, methodological issues with collecting data from Native Americans, and the diversity of tribal interactions and experiences on reservation land (Butler & Jones 2018). The main reasons for these issues has to do with the historical relations researchers have had with Native Americans. More specifically, “a sad history of inappropriate

or misleading research conducted within tribal communities...complicates matters for serious researchers. The result is a mistrust of researchers and institutional motives, and a reluctance of Native Americans to participate in research,” (Butler & Jones 2018:120). Because of the mistrust and complexities found within the research of Native Americans, the entire Native American research base has delivered a limited understanding of their lives.

Filling in the Literature Gaps with this Research

Through the process of completing this research, this project hopes to help bolster some of the literature that is incomplete. One of the biggest ways this will be done will be with the inclusion of community and aggregate-level factors. Not only will the demographics included help to offer a bigger social context, but through the theorization aspect, this will help address the missing information on how structural disadvantages and systematically enforced disparities accompany criminal jurisdictional discrepancies. With the overall focus on the Native American community, this project also aims to fill in many of the gaps surrounding them and their experiences. To address the operationalization issues found within prior research, this research will use not only the overall demographics of a given area, but it will also utilize the change in the Native American community and population. By doing this, this research will better measure, analyze, and account for the threat that the Native American community is posing to the White population.

Regarding the arrest literature, because there is such a heavy focus on the individual decision making of police officers, through the use of more aggregate-level variables, this research will better address the systematic and institutional practices that lead to the discrepancies in arrests. In addition, this project will also move the focus away from the heavy interest in urban areas, and open up the analysis to both urban and rural areas, with a particular focus on rural areas. This project also addresses some of the general issues researchers face when conducting research on, and around, reservation land. By using quantitative data, the data collection step avoids issues with the collection of data often associated with qualitative studies. Additionally, by removing the personal and close interaction with the Native American

community, this research project will be able to bypass some of the larger social issues and problems researchers face when conducting research on the Native American experience.

Research Questions and Hypotheses

As a way to help expand the current base of literature, this research project hopes to focus primarily on the specific interaction between the Native American community and law enforcement, with a specific focus on how perceived threat may impact arrest rates. The following research question has been created to accomplish this feat.

If we accept the racial threat theory as an explanation for law enforcement discrepancies, how does this theory explain the overall arrest rates of counties by the amount of reservation land and the impact of the change in the Native American population from 1990 to 2000?

Hypothesis 1:

I hypothesize that there will be a positive effect between the change in the Native American community and the overall arrest rate.

Explanation and Justification for Hypothesis 1:

The change in the Native American population could present as a threat to the White population, and therefore the White population will increase the efforts and practices of formal social control against the threatening racial groups (Dollar 2014). Although the increased attention to the Native American community could also partially be attributed to the threat of other races, due to the smaller population of the African American and Hispanic populations, the largest threat to the White population would be the Native American population.

Hypothesis 2:

As the amount of land designated as Indian Reservation land increases, so will the effect from the change in the Native American population.

Explanation and Justification for Hypothesis 2:

As the amount of land designated as Indian Reservation Land increases, so does the threat to the White population, which will result in a greater emphasis placed on the formal social controls to contain and maintain the Native American population and preserve the power of the White population (Dollar 2014). In other words, as the threat increases, so will the impact of the formal social control measures.

Hypothesis 3:

When separating the counties into groups based on reservation land and types of crime, for the total, property, and drug arrests, the rates will increase as reservation land increases, meanwhile, the violent arrest rate will decrease as reservation land increases.

Explanation and Justification for Hypothesis 3:

Given the characteristics and types of crime that are apparent on reservation land vs. non-reservation land, the drug crimes will be the most prevalent on reservation land (Butler et. al. 2018). As for property crimes, although this is on the rise, it is not as prevalent as drug crimes, nor are they taken as serious (Butler et. al. 2018), and therefore will make up a smaller proportion of the overall number of arrests. Lastly, for violent crimes, even though reservation land has historically been plagued with violent crime, and Native Americans are the most likely to be the victims of violent crime (Treiger 2019), the jurisdictional difference will interfere with the overall process of making arrests for violent crimes. More specifically, because jurisdictional authority is based on the type of crime and the offender/victim relationship, confusion surrounding which agency (state/local, federal, or tribal) has jurisdiction for a given crime will hinder the ability of law enforcement to make an arrest (Treiger 2019). There is also a lack of interest, competency of jurisdictions to process violent crimes on reservation land, and several other issues when it comes to investigations of violent crimes, so this can also greatly hinder the arrest rates for violent crimes (Treiger 2019).

Methods

To best fill in the missing research that currently exists around law enforcement practices, racial threat theory, and the Native American experience, this research project will focus on and combine all three. Through the use of unique and understudied variables, this research will expand not only our understanding of said topics, but will attempt to connect all three components.

Data

All of the data used was collected from the Uniform Crime Report (arrest rates, compiled by the FBI), and the census (all other variables, collected from the American Community Survey). The year chosen for the data collection was the year 2000. This was done for a plethora of reasons. First, in terms of the UCR data, I wanted to use a year that lined up with a Census year, and I knew that because of COVID, I didn't want to utilize the data collected from 2020, but wanted the data to be somewhat recent, so it was either going to be from 2000, or 2010. Second, regarding the Census data, for all other variables, the most useable form of these data collected was from the year 2000. Third, and the most important determining factor for choosing the year the data came from was the data I could collect in terms of Indian Reservation Land. Although there are current reports of what land is considered Indian Reservation land (as recent as 2024), many of these data were conflicting once they were checked across multiple data sources for similar years. However, for the year 2000, I was able to utilize at least three different sources (USGS, Census, and a number of independent sources) to collect and compile this information, so I was able to triangulate this data to get the most accurate account for what land was considered Indian Reservation Land.

In terms of the counties that were used in this study, I decided not to use information from all 50 states, as not only did this create issues with data collection, but not all states included Indian Reservation Land, which therefore removed the threat of Native Americans. The sixteen states included are Arizona, California, Colorado, Idaho, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. These states were selected because each state contained at least one county that contained Indian Reservation Land that was of usable size

(the lowest number of counties per state was two) and were all in the Western half of the United States. The latter requirement was important, as states in the West have relatively similar social contexts and often share many socially important variables (such as the populations by race). Within these states, there was a total of 797 counties. Each of these counties was then split up into three smaller groups (No Rez, Lo Rez, and Hi Rez), based on the amount of land that was designated as Indian Reservation Land. In terms of determining which county belonged to which group, Hi Rez counties were majority Indian Reservation Land, or were counties with two separate reservations within them, regardless of the sizes of the reservations. These counties were grouped together because each posed the heaviest Native American threat to the White population (Holmes 2018). The Lo Rez group consists of counties that contained any amount of land designated as Indian Reservation Land, regardless of how small, and the No Rez group is made up of all other counties within in the sixteen states previously listed. After all counties were grouped, the Hi Rez group totaled 46 counties, the Lo Rez group totaled 98 counties, and the No Rez group totaled 653 counties.

Variables

Dependent Variable

The dependent variable used in this research project will be the overall arrest rates for each county, as measured by the total arrest rate for violent, property, and drug arrests, as well as a breakdown of rates for each type of arrests. In terms of how arrests are grouped together, this was decided by the Uniform Crime Report and how they categorize and measure crimes and arrests. Violent arrests are made up of arrests for murder, rape, robberies, and aggravated assault. Property arrests include those for burglaries, larcenies, motor vehicle theft, and arson. Lastly, drug arrests are comprised of drug sale and possession for opium, cocaine, marijuana, synthetic drugs, and other non-narcotics.

Independent Variables

For this project, there will be two independent variables used. The first group of analyses, which will inspect the total arrest rates for all counties, as well as the total arrest rates for each county group, will utilize the change in the Native American population from 1990 to 2000 as the independent variable. The second group of analyses, which will examine the effect of this change on each of the types of arrests, will utilize both the change in the Native American population, as well as the difference in arrests rates from both the Lo Rez and the No Rez county groups and the Hi Rez and No Rez county groups. For all analyses, the change in the Native American population will not be the percent change from 1990 to 2000, but rather the difference in the fraction of the population that identifies as Native American.

Control Variables

All of the control variables have been chosen because they are commonly used control variables in criminal justice studies, and all are specifically mentioned by Redbird and Albrecht (2020). More specifically, this research will include the total population of each county, as measured by how many individuals are living with the given county, and the race variables, which include Black, Native American (AIAN), other, and Hispanic, and are measured by the percent of individuals who identify as a certain race. Median income is measured in thousands of dollars, employment is the percent of the total population that is employed, and the poverty variable is measured by the percent of the population that lives at or under the poverty line. Household structure, which includes single mother, other family, and non-family, the married variable, and the high school variables are measured by the percent of individuals identifying with each variable.

Analyses

Linear regressions will be utilized for all analyses done for this research project. There will be several regression analyses completed based on both the organization of the counties as well as the type of arrests. In particular, there will be a regression done for the overall number of arrests for all counties,

along with a regression that separates arrest by type. In total, there will be eight linear regression models completed and used for the final analyses.

Results

Descriptives

Descriptive statistics of the data can be found in tables 1-4, which contain the descriptives of all of the counties included, as well as a breakdown of the descriptives for the Hi, Lo, and No Rez county groups. When looking at the key independent variable, the change in the AIAN population from 1990-2000, it can be seen that for all counties, the change ranges from a decline of 6.4% to an increase of 12.3%, with a range of 18.7%. The Hi Rez county group's change in the AIAN population is smaller and spans from a decrease of 4.3% to an increase of 12.3%, with a total range of 16.6%. This range for the change in the AIAN population is the largest of the three county groups, as the Lo Rez county group range is 15.5% and the No Rez county group range is 16%. Another variable that should be mentioned is the percent of the population that identifies as Native Americans. Although the range of this percentage is large for all county groups, as the amount of reservation land decreases, so does the Native population. More specifically, the average percent of Natives in the Hi Rez county group is 32.6%, which decreases to 7.4% for the Lo Rez county group, then decreases further to 1.2% in the No Rez county group. The percent of the population that identifies as white is another interesting variable. Unlike the Native population, not only does the percent increase as reservation land decreases, the change in this population is dramatically higher. For the Hi Rez county group, the average white population is 61.4%, increasing to 83.3% for the Lo Rez county group, while the No Rez county group has the highest average of 91.2%

Unlike the descriptives found with the race categories and variables, the arrest rate variables tell a different story than was unexpected, and is of the utmost interest. As the descriptive tables show for both the total arrest rates and all of the three types of arrests, although all county groups have a minimum arrest rate of 0, the maximum arrest rate for each type of arrests is found within the No Rez county group.

Table 1 – All Counties Descriptives

	Min	Max	Mean	Median	SD
Total Population	444	9,519,338	88,248.65	12,409	416,382.30
Race					
White	.045	.997	.886	.939	.139
Black	0	.283	.009	.003	.022
AIAN	0	.942	.037	.009	.110
Change since 1990	-.064	.123	.003	0	.014
Other	.001	.447	.067	.032	.824
Hispanic	0	.816	.085	.028	.132
Median Income	12,692	82,929	35,550.26	33,876	8,241.15
Employed	.670	1.00	.946	.952	.033
Poverty	.021	.569	.132	.121	.061
Households					
Married Family	.238	.740	.514	.517	.064
Single Mother	.023	.244	.072	.068	.026
Other Family	.041	.329	.105	.099	.033
Non-family	.104	.498	.276	.280	.048
Marital Status					
Never Married	.123	.500	.223	.209	.056
Married	.303	.740	.601	.610	.056
Other	.067	.303	.176	.176	.030
Education					
Less than HS	.030	.412	.174	.176	.030
High School	.359	.810	.638	.653	.063
Bachelors	.042	.400	.132	.120	.049
More College	.009	.360	.056	.048	.033
Total Arrest Rate	0	3,392.86	871.99	787.06	588.12
Violent Arrest Rate	0	892.86	120.38	84.78	124.10
Property Arrest Rate	0	1,823.17	408.22	345.68	306.67
Drug Arrest Rate	0	2,059.73	343.39	282.90	294.44

n = 816

Table 2 – Hi Rez Counties Descriptives

	Min	Max	Mean	Median	SD
Total Population	2032	843,746	50,704.84	14371	127,848.6
Race					
White	.045	.956	.614	.683	.272
Black	0	.030	.004	.002	.006
AIAN	.004	.942	.326	.204	.288
Change since 1990	-.043	.123	.023	.008	.036
Other	.010	.289	.055	.033	.056
Hispanic	.004	.359	.066	.021	0.89
Median Income	12,692	49,612	30,252.4	30,388	6,952.13
Employed	.670	.966	.886	.903	.061
Poverty	.052	.569	.239	.190	.127
Households					
Married Family	.238	.642	.446	.457	.087
Single Mother	.059	.244	.118	.102	.046
Other Family	.089	.329	.165	.149	.060
Non-family	.104	.329	.225	.231	.060
Marital Status					
Never Married	.173	.500	.284	.269	.080
Married	.303	.653	.533	.547	.083
Other	.122	.243	.183	.179	.023
Education					
Less than HS	.086	.364	.212	.202	.066
High School	.523	.723	.625	.625	.048
Bachelors	.042	.243	.112	.100	.040
More College	.012	.121	.052	.046	.024
Total Arrest Rate	0	2,207.66	851.28	716.67	637.16
Violent Arrest Rate	0	305.83	111.56	88.27	80.82
Property Arrest Rate	0	1,440.40	426.36	285.21	381.72
Drug Arrest Rate	0	1,190.52	313.35	279.45	262.63

n = 45

Table 3 – Lo Rez Counties Descriptives

	Min	Max	Mean	Median	SD
Total Population	1,671	3,072,149	157,141.2	19,085	488,178.1
Race					
White	.251	.986	.833	.885	.143
Black	0	.091	.009	.003	.017
AIAN	.002	.730	.074	.033	.120
Change since 1990	-.048	.107	.007	.002	.024
Other	.007	.447	.083	.037	.093
Hispanic	.003	.729	.113	.036	.164
Median Income	23,439	52,080	34,788.55	34,213.5	5,871.88
Employed	.849	.986	.932	.935	.028
Poverty	.066	.317	.146	.135	.055
Households					
Married Family	.338	.641	.493	.495	.059
Single Mother	.036	.174	.083	.080	.023
Other Family	.070	.230	.121	.167	.030
Non-family	.160	.355	.266	.269	.046
Marital Status					
Never Married	.153	.357	.229	.219	.045
Married	.452	.674	.587	.597	.049
Other	.130	.244	.183	.183	.027
Education					
Less than HS	.084	.410	.190	.184	.027
High School	.476	.712	.634	.646	.050
Bachelors	.055	.241	.123	.116	.037
More College	.018	.166	.053	.046	.025
Total Arrest Rate	0	2,489.53	1,071.17	1,040.41	594.44
Violent Arrest Rate	0	763.44	149.34	112.66	140.27
Property Arrest Rate	0	1,278.03	508.49	492.88	302.90
Drug Arrest Rate	0	1,670.32	413.34	329.98	345.60

n = 98

Table 4 – No Rez Counties Descriptives

	Min	Max	Mean	Median	SD
Total Population	444	9,519,338	80,727.1	11,461	417,078.4
Race					
White	.447	.997	.912	.950	.098
Black	0	.283	.010	.003	.023
AIAN	0	.524	.012	.008	.025
Change since 1990	-.023	.137	.004	.002	.009
Other	.001	.434	.065	.030	.009
Hispanic	.001	.816	.082	.029	.129
Median Income	18,063	82,929	36,015.42	34,087	8,488.04
Employed	.829	1	.952	.957	.026
Poverty	.021	.358	.123	.117	.046
Households					
Married Family	.281	.740	.521	.524	.059
Single Mother	.023	.144	.067	.065	.025
Other Family	.041	.200	.099	.096	.025
Non-family	.120	.498	.281	.283	.046
Marital Status					
Never Married	.123	.500	.218	.204	.054
Married	.387	.740	.607	.616	.051
Other	.067	.303	.175	.174	.031
Education					
Less than HS	.030	.412	.169	.159	.062
High School	.036	.811	.640	.656	.066
Bachelors	.048	.400	.134	.122	.050
More College	0.009	.360	.057	.048	.034
Total Arrest Rate	0	3,392.86	844.37	750.90	579.07
Violent Arrest Rate	0	892.86	116.76	82.70	123.57
Property Arrest Rate	0	1,823.17	392.41	340.24	299.22
Drug Arrest Rate	0	2,059.73	335.21	277.07	287.31

n = 673

For the total arrest rate, the violent arrest rate, and the drug arrest rate, the maximum for each county group actually increases as reservation land decreases, with the highest maximum being found within the No Rez county group. However, the property maximum rate trend differs from this slightly, but the No Rez county group still has the largest maximum. The other major aspect of interest of the descriptives are the trends that can be seen in the average arrests rates by type and by county group. For the average total arrest rate, the No Rez county group has a rate of 844 arrests per 100,000 people, increases to 851 for the Hi Rez county group, and lastly climbs to 1,071 for the Lo Rez county group. The property arrest rates follow a similar trend: the No Rez county group has the lowest average of 392, followed by the Hi Rez county group at 426, with the Lo Rez county group at the highest average of 508 arrests per 100,000 people. A slightly different trend can be seen with the average violent and drug arrest rates. For the violent arrest rate, the Hi Rez county group actually has the lowest rate of 112 arrests per 100,000 people, followed closely by the No Rez rate, at 117, with the Lo Rez county group has the highest at 149. This same trend can be seen when looking at the average drug arrest rates: the lowest average is found within the Hi Rez county group (313 per 100,000), followed by the No Rez county group (335), and once again, with the highest average coming from the Lo Rez county group (413). Overall, although the lowest average arrest rate for all types of arrests switch between the Hi Rez and No Rez county groups, the Lo Rez county group has the highest average arrest rate for all types of arrest.

Models and Regressions

Table 5, which includes the regressions done for the total arrest rate and the change in the AIAN population by county group, and table 6, which includes the regressions done for the total, violent, property, and drug arrest rates by county group and the change in the AIAN population, will attempt to either support, or counter, the hypotheses for this research project. In review, hypothesis one states that as the change in the Native American population since 1990 to 2000 increases, so will the total arrest rate, and hypothesis two states that as the amount of reservation land increases, so will the effect from the change in the Native American population. Both of these will be addressed by the results in table 5. The

results in table 6 will speak to hypothesis three, which states that for the total, property, and drug arrests, there will be a higher number of arrests as reservation land increases, and for violent crimes, there will be a lower number of arrests as reservation land increases. For all models, the reference race variable is the white percent, the household variables will be compared to the married family population, the married variable is in comparison with the never married population, and the high school variable will be compared to the less than high school population.

Regressions of Total Arrest Rates by County Group

Table 5 shows the regressions done for the total arrest rate for all counties, as well as the Hi, Lo, and No Rez county groups. When looking at the model of all counties, in terms of race variables, all are significant, but not in the way that was expected. More precisely, the all counties model shows that in opposition to hypothesis one, as the change in the AIAN population increased, the arrest rate actually decreased by 66 ($p < 0.001$). Similarly, there was a decrease of 23.8 arrests ($p < 0.001$) as the AIAN population increased. The other race variables also play an important role in the total arrest rates. For example, as the Black population percentage increased, the total arrest rate decreased by 33.3 arrests ($p < 0.001$), and as the Hispanic population increased, the arrest rate decreased by 13.7 arrests ($p < 0.001$). Combating those results, the other race variable showed an increase of 28.9 arrests ($p < 0.001$) as this population percentage increased. Despite the fact that all of the race variables were significant, many of the other control variables were not. In terms of the economic variables, the only significant variable was employment, and as table 5 shows, for each percentage increase in employment, the arrest rate decreased by 37.5 arrests ($p < 0.001$). On top of that, although all of the households showed an increase in the arrest rate as compared to a married household, only one was significant: as the percentage of single mother households increased, so did the arrest rate by 116.8 ($p < 0.01$). For both the married and high school variables, both showed an increase in the arrest rate as the percentages increased, though neither were significant. All variables accounted for, this model explains 44% of the variation in the total arrest rate.

Table 5 – Regressions of Total Arrest Rates by County Group

	All	Hi	Lo	No
Percent Black population	-33.295 *** (9.230)	31.970 (243.073)	-18.491 (33.391)	-29.674 ** (9.424)
Percent AIAN population	-23.796 *** (3.514)	-17.486 (12.416)	-40.272 *** (8.983)	14.495 (8.624)
Change in AIAN from 1990-2000	-66.034 *** (14.788)	-41.528 (39.840)	-64.552 * (24.910)	-190.169 *** (33.791)
Percent Other Race population	28.949 *** (5.806)	-20.365 (50.874)	25.630 (22.373)	23.764 *** (5.975)
Percent Hispanic population	-13.690 *** (3.255)	37.878 (33.991)	-24.573 * (10.131)	-9.103 ** (3.508)
Income in thousands	0.045 (0.037)	-0.495 (0.476)	0.174 (0.169)	0.032 (0.038)
Percent of employed individuals	-37.514 *** (8.299)	6.379 (29.259)	-18.770 (27.010)	-38.975 *** (9.256)
Percent of population in poverty	-9.346 (6.184)	-22.024 (28.885)	36.812 (24.561)	-14.855 * (6.726)
Percent of single mother households	116.820 ** (37.705)	120.689 (230.872)	221.661 * (100.170)	123.227 ** (42.216)
Percent of other family households	16.495 (33.281)	-138.990 (213.128)	-56.363 (91.111)	3.401 (37.129)
Percent of non-family households	4.227 (7.302)	-20.314 (59.023)	-12.657 (20.167)	3.258 (7.705)
Percent of married population	-6.761 (7.333)	-61.067 (64.487)	-13.336 (23.680)	-9.282 (7.634)
Percent with high school	4.698 (3.966)	-16.711 (26.644)	-4.152 (14.175)	4.764 (4.181)
N	816	45	98	673
R2	0.440	0.593	0.625	0.455

*** p < 0.001; ** p < 0.01; * p < 0.05

Whilst looking at the results from the Hi Rez model, it can be seen that as the percentage of the change in the AIAN population increased, the arrest rate decreased by 41.5 arrests, which was not significant. This finding is in direct opposition to hypothesis one, and shows an early sign of contradiction to hypothesis two. Unlike the model concerning all counties, the Hi Rez groups had no significant race variables, and there were mixed results in terms of the direction of the effect. With that said, the effects from the other race variables are of interest: although the arrest rate decreased as the percentage of the AIAN and other race variables increased, the opposite was true for the Black and the Hispanic variables, as they showed an increase in arrests rates that these percentages increased. Similarly, none of the remaining variables had a significant effect on the total arrest rate, and all variables except the single mother variable had a negative effect. As a result, this model explains 59.3% of the variation in the total arrest rate.

The Lo Rez model results illustrate that as the percentage of the change in the AIAN population increased, the total arrest rate decreased by 64.6 arrests, and was significant to $p < 0.05$. This result not only opposes hypothesis one, but also contradicts hypothesis two because the effect of the change in the AIAN population is greater in this model than it was in the Hi Rez model. For all other races except the other race variable, there appears to be a negative effect from an increase in the percentage of said variables. For instance, as the AIAN population increased, the total arrest rate decreased by 40.3 arrests ($p < 0.001$), the increase in the Hispanic population decreased the arrest rate by 24.6 arrests ($p < 0.05$), and as the Black population increased, the arrest rate decreased 18.5 arrests, but this effect was not significant. In opposition, the other race variable showed the only positive effect as this population percentage increased, and led to a non-significant increase in the arrest rate by 25.6 arrests. Similar to the economic variables in the Hi Rez model, all three effects were mixed, and none of them were significant. All of the remaining variables in this model mirror the results found in the Hi Rez model in both direction of the effect and the lack of significance, with the exception of the single mother variable. As the single mother

variable increased in percentage, the arrest rate increased by 221.7 ($p < 0.05$). In total, 62.5 % of the variation in the total arrest rate was explained with this model.

The last model included in table 5 was the results of the regression done on the total arrest rate for the No Rez counties. Within this model, as the percentage of the change in the AIAN population increased, the total arrest rate decreased by 190.2 ($p < 0.001$). Not only does this further oppose hypothesis one, it shows that hypothesis two was also incorrect. More precisely, instead of seeing an increase in the effect on arrest rates as reservation land increased, the results showed the opposite: as reservation land increased, the effect decreased. With reference to the other race variables, the increase in the percentage of the Black and Hispanic population led to a decrease in the total arrest by 29.7 and 9.1, respectively, to a significance of $p < 0.01$. Contrasting this, as the percentage of the AIAN and other race variables increased, so did the arrest rate, but only the other race variable was significant, leading to an increase of 23.8 ($p < 0.001$). With respect to the economic variables, the effects were mixed; the increase in income increased the arrest rate, but the employed and poverty decreased the arrest rate by 39 ($p < 0.001$) and 14.9 ($p < 0.05$). The married and high school variable had a negative effect on the total arrest rate, though neither was significant. Including all variables, this model explains 45.5% of the variation in the total arrest rate.

Regressions of Arrest Rates by Type and County Group

Table 6 includes models of the regressions run on the total, violent, property, and drug arrest rates by county group. The total arrest rate model illustrates that both the Lo Rez and the Hi Rez county groups had a positive effect on the arrest rate as compared to the No Rez county group, but only the Lo Rez county group effect was significant ($p < 0.01$). These results show partial support to hypothesis three: both county groups experienced a higher arrest rate than the No Rez group, which supports hypothesis three. Countering this hypothesis, the difference between the Lo and No Rez was larger than the difference between the Hi and No Rez. Concerning the race variables, the effect from the increase in the percentage of the AIAN population mirrors the effect found in the total arrest rate model in table 5,

Table 6 – Regressions of Arrest Rates by Type and County Group

	Total	Violent	Property	Drug
Lo Rez Counties	1.605 ** (0.503)	0.055 (0.106)	1.017 *** (0.282)	0.534 (0.289)
Hi Rez Counties	1.442 (0.915)	-0.173 (0.193)	1.607 ** (0.513)	0.008 (0.526)
Percent Black population	-31.729 *** (9.192)	0.398 (1.935)	-28.304 *** (5.152)	-3.823 (5.289)
Percent AIAN population	-25.870 *** (3.733)	-2.006 * (0.786)	-18.888 *** (2.093)	-4.976 * (2.148)
Change in AIAN from 1990-2000	-66.870 *** (14.750)	-8.471 ** (3.105)	-29.156 *** (8.267)	-29.243 *** (8.486)
Percent Other Race population	28.577 *** (5.778)	7.541 *** (1.216)	5.538 (3.239)	15.498 *** (3.324)
Percent Hispanic population	-13.646 *** (3.238)	-1.376 * (0.682)	-5.774 ** (1.815)	-6.497 *** (1.863)
Income in thousands	0.053 (0.037)	0.028 *** (0.008)	-0.005 (0.021)	0.030 (0.021)
Percent of employed individuals	-35.424 *** (8.285)	-7.647 *** (1.744)	-10.785 * (4.644)	-16.991 *** (4.767)
Percent of population in poverty	-7.391 (6.181)	3.701 ** (1.301)	-5.732 (3.464)	-5.360 (3.556)
Percent of single mother households	126.531 *** (37.627)	-7.726 (7.921)	105.058 *** (21.089)	29.198 (21.648)
Percent of other family households	4.971 (33.327)	18.533 ** (7.015)	2.144 (18.679)	-15.707 (19.174)
Percent of non-family households	3.930 (7.279)	4.649 ** (1.532)	8.170 * (4.080)	-8.889 * (4.188)
Percent of married population	-7.434 (7.302)	4.780 ** (1.537)	-2.346 (4.093)	-9.868 * (4.201)
Percent with high school	4.457 (3.949)	1.319 (0.831)	1.287 (2.213)	1.851 (2.272)

N	816	816	816	816
R2	0.447	0.450	0.361	0.270

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$

showing that this effect led to a decrease in the arrest rate by 66.9 ($p < 0.001$). All other variables included in this model match the findings of the total arrest model in table 5 in both direction of the effects and the significance of said effects. This model accounts for 44.7% of the variation in the total arrest rate.

The results for the model on the violent arrest rate illustrate that hypothesis three is partially supported. More specifically, this model shows that the Lo Rez county group experiences a higher arrest rate than the No Rez county group, which is not significant, and opposes hypothesis three. However, the Hi Rez experiences a lower arrest rate than the No Rez group, but is not significant. Both of these findings offer only partial support for hypothesis three. Regarding the effect from the change in the AIAN population, as the percentage of change increased, the violent arrest rate decreased by 8.5 ($p < 0.01$). In addition, the increase in the percentage of the AIAN and Hispanic variables also led to a significant decrease in the violent arrest rate by 2 and 1.4 ($p < 0.05$), respectively. In contrast, as the percentage of the Black and the other race variables increased, so did the arrest rate, but only the other race variable was significant, and increased the arrest rate by 7.5 ($p < 0.001$). Unlike all of the previously mentioned models, all three of the economic variables had significant effects, but were mixed in terms of the direction of the effect. More precisely, the increase in income led to an increase in the arrest rate ($p < 0.001$), and the increase in the percentage of those in poverty increased the arrest rate by 3.7 ($p < 0.01$). On the other hand, as the percentage of the employed variable increased, the arrest rate decreased by 7.6 ($p < 0.001$). What is also peculiar to this model are the effects from the household variables. The other family and non-family variables both led to an increase in arrests of 18.5 and 4.7, and both were significant to $p < 0.01$. However, unlike all other models in both table 5 and table 6, for the violent arrest rate, as the percentage of single mother households increase, the arrest rate decreased by 7.7, though this was not significant. With respect to the married and high school variables, both had a positive effect, but

only the married variable was significant, and as this percentage increased, the arrest rate increased 4.8 ($p < 0.01$). In total, this model explains 45% of the variation on the violent arrest rate.

The third model in table 6 addresses the property arrest rate by county group. As illustrated, both county groups experienced a higher property arrest rate, with the difference in the Lo Rez group being significant to $p < 0.01$, and the difference in the Hi Rez group being significant to $p < 0.001$. Furthermore, the difference between the Hi and the No Rez county groups was larger than the difference between the Lo and No Rez county group. Both of these findings directly support hypothesis three. Concerning the change in the AIAN population, the model shows that an increase in the percentage in the change leads to a decrease in the arrest rate by 29.2 ($p < 0.001$). The effects found within the remaining race variables align closely with the effects found in the model of county groups to the total arrest rate of table 6. As the percentage of the AIAN, Hispanic, and Black population increased, the arrest rate decreased by 5 ($p < 0.05$), 6.5 ($p < 0.001$), and 3.8 (not significant), respectively. In contrast, as the percentage of the other race variable increased, the arrest rate also increased by 5.5, but this was not significant. Concerning the economic variables, all three had a negative effect on the arrest rate, but only the employed variable was significant, increasing the arrest rate by 10.8 ($p < 0.05$). Furthermore, the household variables all increased the arrest rate as these percentages increased; as single mother households increased, the arrest rate increased by 105.1 ($p < 0.001$), the other family increased the arrest rate by 2.1 (not significant), and as the non-family households increased, the arrest rate increased by 8.2 ($p < 0.05$). Neither of the married or high school variable were significant, and these variables had mixed effects. In total, this model accounts for 37.4% of the variation in the property arrest rate.

The last model in table 6 illustrates the results from the regression done on the drug arrest rate by county group. In partial support for hypothesis three, both the Lo and Hi Rez county groups experienced a higher arrest rate than the No Rez group. Despite that, these finding also counter this hypothesis: the Lo Rez difference is greater than the Hi Rez difference, and neither are significant. When examining the effect from the change in the AIAN population, similar to all other models in both tables, as this

percentage increased, so did the arrest rate by 29.2 ($p < 0.001$). With respect to the other race variables, these once again mirror many of the previously mentioned models. For instance, as the percentage of the AIAN, Hispanic, and Black population increased, it decreased the arrest rate by 5 ($p < 0.05$), 6.5 ($p < 0.001$), and 3.8 (not significant), respectively. Moreover, in alignment to the previous models, an increase in the percentage of the other race variable led to an increase in the arrest rate by 15.5 ($p < 0.001$). With reference to the economic variables, these too are similar to the results of the total arrest regression: as income increased, the arrest rate decreased, but as the percentage of the employed variable increased, the arrest rate decreased by 17 ($p < 0.001$), and the percentage increase in the poverty variable led to a decrease of 5.4, but this was not significant. Though the variables thus far have followed patterns found in previous models, the household variables did not. More specifically, there were mixed effects from the single mother and other family variables, and the only significant came from the non-family variable, which shows that as this percentage increased, the arrest rate decreased by 8.9 ($p < 0.05$). The married variable also appears to be significant, and illustrates that as this percentage increased, the arrest rate decreased by 9.9 ($p < 0.05$). Lastly, as the percentage of the high school variable increased, so did the arrest rate, but, in accordance to all other models in tables 5 and 6, this effect was not significant. After considering all variables, this model explains 27% of the variation in the drug arrest rate.

Table 7 – Summary of Hypotheses

	Hypothesis	Result
H ₁	As the change in the AIAN population increases, so will the total arrest rate.	Not supported
H ₂	As Indian Reservation Land increases, so will the effect from the change in the AIAN population on the total arrest rate.	Not supported
H _{3a}	The total arrest rate will increase as Indian Reservation Land increases	Partially supported

H _{3b}	The violent arrest rate will decrease as Indian Reservation Land Increases.	Partially supported
H _{3c}	The property arrest rate will increase as Indian Reservation Land increases.	Supported
H _{3d}	The drug arrest rate will increase as Indian Reservation Land increases.	Partially supported

Discussion

The purpose of this study was to examine what impact the Native American community had on the arrest rates in counties that contained varying levels of Indian Reservation Land. In particular, this study focused on whether or not a change in the Native American population posed a level of threat that would be countered by an increase in arrest rates. To accomplish this investigation, I posed the following research question: how does the racial threat theory explain the total, violent, property, and drug arrest rates of counties to the change in the Native American population from 1990 to 2000? To better understand this relationship, I also investigated how the amount of reservation land of each county impacted said arrest rates. Three hypotheses were used and tested to attempt to answer my research question. More specifically, regarding the effect of the change in the Native population, I hypothesized that 1) as the change in the Native population increases, so will the total arrest rate, and 2) as the amount of land designated as Indian Reservation Land increases, so will the effect from the change in the Native population. For my last hypothesis, I stated that, when separating the counties into groups and types of crime, the total, property, and drug arrest rates will increase as the amount of reservation land increases, but the violent arrest rate would decrease as reservation land increases.

When looking at the results of the regressions, it can be seen that the support for the hypotheses is mixed. As illustrated in table 5, in opposition to hypothesis one, as the change in the Native population increased, the total arrest rate decreased. Additionally, the results in table 5 also counter hypothesis two; not only did the change in the Native population decrease the total arrest rate for all three county groups,

but the effect from the change increased as reservation land decreased. Further, as the results in table 6 show, although there is at least partial support for hypothesis three, this varies between types of arrest rates. In support of hypothesis three, both the Hi and Lo Rez county groups had a higher total arrest rate, but in contrast to hypothesis three, the Lo Rez county group had the highest total arrest rate. Similarly, the drug arrest rate was higher in both the Hi and Lo Rez county groups, but, once again, the Lo Rez county group had the highest drug arrest rate. For the violent arrest rate, the differences between the Hi and No Rez county groups and the Lo and No Rez county group were in opposition to each other. To be specific, although the Hi Rez county group had a lower violent arrest rate than the No Rez group, the opposite was true for the Lo and No Rez county groups, showing that the Lo Rez had a higher violent arrest rate than the No Rez county group. Despite the findings for the total, violent, and drug arrest rate, the property arrest rate results showed full support for hypothesis three; not only were the arrest rates higher in the Lo and Hi Rez county groups, but the Hi Rez county group experienced the highest property arrest rate. In summary, the results from this study showed no support for hypotheses one and two, and partial to full support of the components of hypothesis three.

As illustrated, this research, in general, failed to find support for the racial threat framework. According to previous literature, a growing minority population may induce the feelings of threat in the majority, or White, population (Raufu 2020), but as the results show, the opposite is true. This research, however, is not unique in its findings. Many previous studies into racial threat theory have found that neither a larger minority or growing minority population leads to an increase in formal social control measures (Leinfelt 2006; Dollar 2014; Smith 2021). Additionally, my findings also agree with previous studies that state that the relative size of minority populations actually has a negative effect on arrest rates (Stolzenberg et. al. 2004; Kochel et. al. 2011). In terms of racial threat as a theory, though it seems both appealing and logically sound as an explanation for the criminal justice experiences of minorities, especially arrests, both my research, as well as previous research, counters this application. One reason why this might be the case is because of methodological flaws. Although threat may indeed come from

large or growing minorities, using the population composition merely acts as a proxy for threat, and not an actual measure of threat (Smith 2021). Therefore, although there has been a link between Whites' perception of threat and minority populations, researchers are still making very strong assumptions of what threat actually is and how it impacts the White population (Ousey and Lee 2008).

Another reason why this research did not find a support of racial threat may have to do with the overall racial composition of each county. For example, though threat is usually measured by the minority populations, the White population is also an important value to keep in mind. Following the racial threat theory, a larger minority population will pose a greater threat to the White population, but at the same time, a larger minority population means a smaller White population. This is important to consider because as the White population decreases, there is a smaller population to feel threatened. In other words, in opposition to racial threat theory, a larger minority population, or smaller white population, may actually result in a decrease in threat because there is simply a smaller percent of the population to feel threatened. Other studies on racism and racial bias may also help to understand the intersection between race, social context, and formal social control. Though there is a large literature base supporting racial threat, there is an equally large literature base that directly counters this theoretical standpoint. Of said literature, research has shown that as diversity increases, racism, racial bias, and stereotyping decreases (Stier, Sajjadi, Karimi, Bettencourt and Berman 2024). What this means is that for counties with a more diverse racial composition, there is actually an increase of understanding and commonality between races (Stier et. al. 2024), and therefore may lead to a more equalized law enforcement approach. With that said, although this line of thinking is heavily researched in other fields, little research on this topic exists in the criminological world, and therefore we cannot definitively state whether this actually has an impact on criminal justice practices. Therefore, before one can use either standpoint to understand formal social control and criminal justice practices, much more research is needed to explain and examine this relationship, and how diversity, race, and formal social control measures interlock.

In addition to conflicting theoretical explanations for criminal justice activities and how they respond to minorities, there is one other major conflict that exists in current criminal justice practices: jurisdictional issues. Although this research project was constrained in terms of understanding what law enforcement agencies had jurisdiction over arrests and how that may impact arrest rates, the results still highlight how these issues may affect said arrest rates. Particularly, the jurisdictional effects can readily be seen when examining the results of arrest rates when dividing them by type. Research has shown that, in general, on reservation land, crime occurs at a higher rate than the surrounding areas, and violent victimization is often at rates 10 times the national average (Treiger 2019). If jurisdiction confusion was not an issue, logically, as reservation land increased, so would the arrest rate, but this was not so. As illustrated in table 6, the results indicate that although the Lo Rez county group experienced a higher violent arrest rate than the No Rez county group, the Hi Rez county group experienced the lowest violent arrest rates. Though this research is limited by the lack of knowledge of who was making arrests for violent crimes, this information still brings into question some of the issues when it comes to jurisdiction. For instance, because jurisdiction may fall into three conflicting jurisdictions when it comes to arrests for violent crimes, such as tribal, state/local, or federal, the confusion over who actually has jurisdiction may lead to apprehension to arrest suspected offenders, and therefore may lead to a lower arrest rate than counties where jurisdiction is clear and concise (Treiger 2019). On top of that, previous research has shown that many criminal investigations into violent crimes on reservation land are also hindered by things such as a lack of interest in the crime, (especially if the victim was Native American) and issues with the collection of evidence and witnesses (Treiger 2019). Therefore, when looking at the practices exercised by federal and/or state/local law enforcement, the results illustrate that arrests for violent crimes suffer as compared to other types of crime, and although this data does not definitely support this, the results offer evidence that this may be true.

As the results illustrate, this research project did not find support for the racial threat explanation of discrepancies in the criminal justice system, and although the racial threat framework appears to be

compelling, in practice, it does not hold up. In addition to the reasons stated above, this may also be due to the origins of the racial threat theory. Unlike many criminological theories, the racial threat theory started outside of the criminology realm, and was later molded to fit within this field of study. Due to this, some of the assumptions made regarding the threat to the White population were changed to fit in to a criminological understanding. In other words, though there is a great deal of support that shows that there is a social threat from minorities, this does not mean that the White population has evolved or mobilized law enforcement enough to act according to this threat. Considering the theoretical implications, it appears that the racial threat framework is not an adequate explanation for discrepancies in the criminal justice system, at least regarding arrests. However, this is not a true critique of the racial threat theory, but rather its application to the criminal justice system. I agree that in a societal context, minorities may pose a threat to the White population, but in a criminological sense, the current application is unfit for criminological understanding.

I do also think that this research highlights some of the policy and practical implications of law enforcement, especially on reservation land. As stated above, although this research cannot definitely show jurisdictional issues, the results show some of the general issues found within law enforcement on reservation land. For example, it seems that law enforcement activity is not equal across jurisdictions, regardless of outside influences. More specifically, although federal law enforcement agencies often have more man power and resources, the rate at which arrests are made suffer on reservation land due to a hesitation and lack of interest. From a policy standpoint, I do think the findings from this research could better inform how investigations and law enforcement practices are utilized. For instance, I think that better clarifying who has jurisdiction, or the creation of a clearer delineation of jurisdiction, may help remove some of the confusion over what agency has the power to make an arrest. This could allow all agencies to take more action because actions against offenders would be quicker, and allow investigations to occur at a quicker pace. I also think that a change in laws protecting various agencies could empower all levels of law enforcement by allowing agencies to maintain order regardless of who the

offender/victim was, and what the crime was. Currently, many law enforcement agencies are hesitant to take action or make arrests because of the fall-out that could come from improper jurisdictional separation, but I think that if officers had more protection, such as forgiving an arrest made by the wrong agencies, could allow for safer practices for both law enforcement and the communities they serve. Here, I am not arguing that the policies be changed to allow for behaviors that are currently deemed unacceptable, but rather protections for law enforcement who make an improper judgement of jurisdictional authority. I also think that more jurisdictional cooperation could lead to an increase in public safety by allowing officers to be able to enforce laws across jurisdictional boundaries while still being able to conform to all laws and court rulings.

Limitations

The results from this research are definitely telling of current law enforcement issues and discrepancies, but I acknowledge that there are several limitations regarding both my data as well as my analyses. Despite my attempt to determine how race impacts arrests, the data that was used could not differentiate between arrests by race, and because of this, I had to assume that all races were arrested at an equal rate, though there is extensive literature proving this to be false. This may be one reason why there was a lack of support for racial threat theory, as it was assumed that all races were arrested in a similar fashion. If I had been able to delineate arrests by race, this may have better highlighted the differences and relationships between races and arrest rates. Another limitation with this research has to do with the sample of counties used. As stated in my methods section, only counties from 16 states were included, which was due to the fact that at least one of the counties in each state had reservation land. Besides the limitation to the size of the sample, this also led to a decreased sample of population characteristics. For example, in most counties, there was a relatively small Black population, and many counties had a somewhat equally small Hispanic population. Though this was by design to try to eliminate the threat from the Black and the Hispanic population, this may have also impacted the effect each population had on the arrest rate. Additionally, the states included were all in the Western half of the country, and

therefore removed many of the other differing political and social characteristic differences between states and counties.

In addition to the limitations of the population and county characteristics, my research also faced limitations in the way and time it was collected. The data used for this research was 25 years old, so although it gave a somewhat accurate view of the arrest data at the time, this is not generalizable to current times. Additionally, there have been many major social, political, and economic changes to the states, counties, and the US as a whole since 2000 that may greatly impact the findings in terms of threat and the White's response to it. The other major limitation to this research corresponds to the collection of the arrest data. Although the Uniform Crime Report is arguably the most representative collection of criminal justice practices and arrests, there are still methodological issues with the way they collect data. One such issue has to do with what agencies report to the UCR: though there are many reporting law enforcement agencies, the UCR does not require that every agency and jurisdiction report to it, so there may be missing data from unresponsive law enforcement agencies. On top of that, data collection within tribal law enforcement has historically been troubled by resource constraints, confusion over which agency reports which arrests, and an overall lack of comprehensive data collection. To better address this, data that was collected directly from all participating individual agencies across the country could have provided a more accurate account of all arrests and law enforcement activity.

Future Research

Given the results and the limitations of this study, I think there is a lot of promise and direction for future research. For instance, I think that expanding the sample to a larger and more diverse population could better account for the difference in population characteristics, and therefore get a better picture of a generalized threat. I also think that having the arrests separated by race could allow for a better account of law enforcement practices, as it would remove the assumption that all races are arrested at equal rates. Looking at racial threat as a theory, I still think a lot of work needs to be done to better understand how this may impact criminal justice outcomes. More specifically, I think that in order to

better support racial threat within criminology, it will require a tighter fitting and slightly altered theory that better suits how the criminal justice system works in response to a perceived threat. As our current knowledge goes, researchers have had to assume that the White population has had an impact on formal social control, but there has been little attempt or evidence to support a change in the law enforcement practices in response to said threat. To better understand this, I think a qualitative study into the pressures felt by law enforcement from the general public, and how practices have changed as a result, may be able to better illuminate this missing connection between threat and criminal justice outcomes.

Conclusion

Racial threat theory is one of the leading explanations for why discrepancies exist within the criminal justice system, but the evidence and support for this theory is complicated and suffers from shortcomings. For instance, findings from previous studies are mixed, and most often contradict the premise of racial threat, showing that as minority populations increase, criminal justice actions decrease. Additionally, previous studies have been bound by a focus primarily on the Black population, and only recently expanded to include the Hispanic population as a source for threat. Though this research is critical to our understanding of threat, there is a missing population that must be considered. Although Native Americans may pose a threat to the White population, they have often been left out of research. Furthermore, regarding specific criminal justice practices, there seems to be a lack in our understanding of how arrests may be affected by threats posed by minorities. To help bolster our understanding of racial threat in terms of a larger population composition and by including arrests, this research aimed to focus on how the change in the Native American population affected arrests in counties with varying levels of Indian Reservation land. As the results illustrate, this research found contradictory evidence, showing that as the Native population increased, arrest rates actually decreased. The results also show that counties with a larger amount of reservation land have mixed effects on arrest rates by type. Though no concrete conclusions can be drawn from this research in terms of jurisdictional issues, the results do highlight that there may be more to the story when it comes to how various law enforcement agencies engage with, and

utilize, arrests as a form of social control. Despite the lack of support found for racial threat theory, this research has nonetheless added to our understanding of how race and law enforcement interact, and the possible complications that appear when law enforcement functions on, and around, reservation land.

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