



Correctional shorthands: Focal concerns and the decision to administer solitary confinement

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ARTICLE INFO

Keywords:

Incarceration
Solitary confinement
Racial disparities
Focal concerns

ABSTRACT

Purpose: Prior studies of policing and sentencing often find racial disparities in criminal justice decision-making. However, there is limited research on the existence of racial disparities within correctional facilities.

Methods: Using a nationally representative survey of federal and state institutions, the impact of race and ethnicity on the use of solitary confinement is examined through logistic regression and multilevel logistic regression.

Results: Initially, black inmates are 20% more likely to report being punished with solitary confinement than whites, but this effect is completely mediated once social and criminal histories, as well as various forms of prison misbehavior are taken into account. Conversely, inmates of other racial groups (primarily Asian) were less likely than whites to be punished with solitary confinement. Hispanic ethnicity may be associated with 25% increase in the risk of being punished with solitary confinement than non-Hispanic whites, but the pattern is not consistent across models.

Conclusions: These findings suggest that assaultive behavior against staff and other inmates along with drug and alcohol violations are paramount in correctional officer decision-making. Future research should consider these infractions, institutional context, and inmate history when examining the potential indirect effect of race in prison.

1. Introduction

The existence of racial disparities in the criminal justice system is well-established in the criminological literature, although the nature and extent of these disparities remains a point of contention (Chiricos, Welch, & Gertz, 2004; Johnson, 2003; Petersilia, 1983). Of particular concern is the substantial amount of discretion used throughout the criminal justice process, and it has been argued that a lack of uniformity challenges the fair and impartial application of law to minority groups (Gottfredson & Gottfredson, 1987; Smith, Visher, & Davidson, 1984). From police contact (Engel & Calnon, 2004; Johnson & Kuhns, 2009), to plea bargaining and sentencing (Johnson, 2003; Kutateladze, Andiloro, & Johnson, 2016; Wooldredge, 2009, 2010), to parole grants (Huebner & Bynum, 2006), to the application of capital punishment (Phillips, 2008), various actors are responsible for making important legal decisions—the outcomes of which carry serious consequences for

all parties involved, including disadvantaged or marginalized populations (Wilson, 1987). Thus, the extent to which decision-making processes negatively affect various groups is an ever-present concern for both researchers and policy makers alike.

Research devoted to the study of racial disparities primarily focuses on a host of legal and demographic characteristics thought to influence the likelihood of experiencing various outcomes throughout the criminal justice process (Gottfredson & Gottfredson, 1987). Legal factors include, among others, measures of offense severity (such as the use of a weapon) and prior criminal record, while demographic or extra-legal factors include measures of race, age, sex, social standing, and demeanor (Albonetti, 1991, 1997; Worden & Shepard, 1996). Much of the existing literature, however, emphasizes legal and extra-legal disparities occurring throughout the initial and intermediate phases of the criminal justice process. That is, the majority of research examines racial disparities regarding: (1) the decision to search, arrest, and use

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<http://dx.doi.org/10.1016/j.jcrimjus.2017.08.007>

Received 28 April 2017; Received in revised form 15 August 2017; Accepted 16 August 2017
0047-2352/ Published by Elsevier Ltd.

force against suspects; (2) sentencing dispositions; and (3) backend sentencing. Conversely, a paucity of research exists with respect to racial disparities occurring *within* correctional facilities.

This is problematic for several reasons. First, the administration of solitary confinement is seen by many as having harmful or deleterious effects on the mental and emotional state of inmates who are punished with its use (Arrigo & Bullock, 2008; Grassian & Friedman, 1986; Shaylor, 1998; Smith, 2006). Second, correctional facilities house a significant proportion of minority offenders. For example, African-Americans comprise over 40% of incarcerated inmates, while representing only 13% of the general population, and some research indicates that a higher proportion of minorities in the criminal justice system facilitates outcomes that reinforce racial discrimination (Bureau of Justice Statistics, 2010; Parker, Stults, & Rice, 2005). Third, like other areas of the criminal justice system, clearly demarcated power differentials exist between correctional staff and inmates, making the prospect for conflict and racial disparities an ever-present concern within the prison system. Fourth, prisons are closed-systems, or what Goffman (1968) referred to as total institutions, where decisions are made in the context of low visibility. Unlike the interactions between police officers and citizens, for example, which often occur in communities or neighborhoods, interactions between prison staff and inmates are less transparent to the general public and occur within the confines of correctional facilities.

The quality of the relationship between prison officials and inmates is also unique, relative to other areas of the criminal justice system. For instance, guards and inmates may interact with one another on a daily basis over a long period of time, whereas the interactions between officers and citizens or judges and defendants may be less frequent. It is therefore possible that the nature and extent of racial disparities within correctional facilities could be qualitatively different than what is observed in other areas of the criminal justice system. Lastly, over the past four decades, the United States' prison population has dramatically increased, and it is more likely now than ever before that people will experience prison at some point during their lives (Bureau of Justice Statistics, 2013). Understanding the extent to which prison staff and inmates interact, and their reasons for doing so, may be useful in developing prison protocol (e.g., actuarial risk assessments) and creating a safer environment in general.

The goal of this paper is to identify and understand the correlates associated with the decisions of staff and the subsequent outcomes for inmates, with a focus on racial disparities in the prison context. We specifically examine the possible mechanisms that facilitate the decision made by prison authorities to administer solitary confinement to different inmate groups. We begin with an overview of decision-making processes and racial disparities in other areas of the criminal justice system, emphasizing the roles of the police and “courtroom workgroups,” as well as the theoretical foundation upon which our study is based—focal concerns theory (Albonetti, 1991; Steffensmeier, Ulmer, & Kramer, 1998).

2. Literature review

2.1. Racial disparities and the criminal justice system

Before individuals are incarcerated, they are subjected to a multi-stage process that involves contact with various agents of the criminal justice system, including police officers and the courtroom workgroup, which may parallel their experience in the correctional setting. For example, research regarding the decision-making processes of police officers indicates patterns of racial disparity in police stops (Harris, 1997; Norris, Fielding, Kemp, & Fielding, 1992; Withrow, 2004), searches (Engel & Johnson, 2006; Gould & Mastrofski, 2004), decisions to cite or arrest (Engel & Calnon, 2004), and the use of force or coercion (Bolger, 2015; Johnson & Kuhns, 2009). Research by Engel and Calnon (2004), for example, suggests that young black and Hispanic males are

more likely to be cited, searched, arrested, and have force used against them during traffic stops, relative to their white counterparts. Differences in the likelihood of experiencing these outcomes are important because they can significantly affect an individual's experience during later stages of the criminal justice process. Indeed, police are often viewed as the “gatekeepers” of the criminal justice system (Brown & Frank, 2005), and any discretion on their part may exert cumulative and detrimental effects that extend to later decisions made by other criminal justice actors, such as prosecutors and judges (Bishop & Frazier, 1996).

Racial disparities have also been observed in sentencing outcomes. After an individual has been arrested, decisions are bestowed on the “courtroom workgroup”—namely, the prosecution, the defense, and judiciary—who are often required to work together to make important assessments about offenders based on limited information. Judges, in particular, may rely on patterned responses to make their decisions, based on both legal and extra-legal factors, such as the defendant's prior record and the severity of the offense in question, while extra-legal factors may include the defendant's race, sex, age, and demeanor—all of which have been linked to racial disparities in sentencing outcomes (Johnson, 2003). Regarding the decision by judicial officials to grant or deny bail, for example, Lizotte (1978) reported that non-whites were twice as likely to stay incarcerated between arrest and final disposition, compared to their white counterparts.

Alternatively, some empirical research suggests that the mechanisms through which racial disparities and criminal justice outcomes operate can be primarily explained by legal variables, including criminal history and offense severity (Beaver et al., 2013; Wright, Morgan, Coyne, Beaver, & Barnes, 2014). Tillyer and Engel (2012), for instance, found that disproportionate minority contact during traffic stops was partially attributable to differential behavior prior to the encounter—including driving behavior, such as speeding—suggesting that understanding officer decision-making processes requires consideration of other variables above and beyond race. Similarly, Wright et al.'s (2014) examination of school discipline among a nationally representative youth sample found that the odds differentials in rates of suspension between black and white students was mediated by “prior problem behaviors,” including parent, student, and teacher reports of verbal and physical aggression.

2.2. Racial disparities and the focal concerns of criminal justice actors

The above decisions can be largely understood in the context of focal concerns theory, which identifies three primary considerations made by criminal justice actors: (1) the offenders' blameworthiness and culpability; (2) the desire to protect the community; and (3) the practical constraints and consequences of administering a particular disposition (Albonetti, 1991; Steffensmeier et al., 1998). Previous research has examined the focal concerns of criminal justice actors, such as judges, with respect to several groups, including female offenders (Rodriguez, Curry, & Lee, 2006; Steffensmeier, 1993), sex and drug offenders (Freiburger, 2009; Huebner & Bynum, 2006), and juvenile offenders (Harris, 2009), among others. We argue that these considerations are applicable to correctional officers and prison staff in deciding whether and how inmates are sanctioned for institutional misconduct, including the administration of solitary confinement.

2.2.1. Offender blameworthiness and culpability

The extent to which an offender is considered blameworthy by criminal justice actors is rooted in the traditional philosophies of punishment regarding retributive justice and achieving proportionality in sentencing (Beccaria, 1764/2009), and is based on the notion that punishments meted out to offenders should be congruent with the severity of the crime committed (Steffensmeier et al., 1998). Research suggests that offense severity (or harm caused) is among the strongest predictors in sentencing decisions (Pratt, 1998). However, there is

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