

Methodological Challenges to the Study and Understanding of Solitary Confinement

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ON ANY GIVEN DAY as many as 80,000 inmates are in isolated confinement in state and federal prisons. This figure does not include those isolated in local jails and detention centers or juvenile facilities (Shames, Wilcox, & Subramanian, 2015). The frequency and length of the isolation experienced by inmates has been criticized by many (Lovett, 2013; Baker & Goode, 2015; Goode, 2015) and has been the topic of special interest groups (Baker & Goode, 2015). In the summer of 2013, inmates in the California prison system embarked on a hunger strike in hopes of drawing attention to and potentially reforming the state's use of solitary confinement. At its peak, over 33,000 inmates throughout the California system were refusing meals (Lovett, 2013). Such action has drawn national and international attention to the use of solitary confinement as a strategy for prison management in the United States. Despite the widespread use of isolation, empirical examinations about its use are limited. Those studies that have examined the practice have focused primarily on supermax units (Haney, 2003; Haney & Lynch, 1997; King, 2005; Mears & Reisig, 2006; Mears & Watson, 2006; Toch, 2001).

Despite this increased awareness and criticism of the use of solitary confinement, little research has been done examining the phenomenon. What research has been conducted has generally focused on the effects of extreme isolation on individuals (Haney, 2003; Haney, 2008; Haney & Lynch, 1997; King, 2005). Despite this research there remains a void in the quantitative examination of inmate isolation. Shames, Wilcox, and Subramanian (2015) note that less than one-third of inmates that are isolated are in a supermax setting. This

points to an important need for an empirical examination of the more day-to-day use of isolation as a strategy for managing inmates.

One explanation for the absence of such research may be the methodological challenges inherent in attempting to examine the use of isolation in prisons. This article defines some of the methodological challenges that may contribute to the research void. By identifying such challenges, researchers and prison administrators may have a mutual understanding of these challenges and collaborate in the future. Collaborative research outcomes may influence correctional policy and offer guidance to "best practices" and evidence-based inmate management strategies.

Defining solitary confinement, on its face, appears rather basic. Adult correctional facilities rely primarily on three different types of solitary confinement. These types are commonly called temporary segregation, disciplinary segregation, and administrative segregation. Each of these carries with it varying restrictions on inmate movement and inmate privileges. Browne, Cambier, and Agah (2011) and Shalev (2008) describe the types of solitary confinement used by adult correctional facilities. I summarize them below.

Temporary Segregation

Temporary Segregation is the immediate isolation of an inmate from the general prison population. Most often the decision to do so is made by supervisory personnel using limited information. Often these decisions are made as a result of a crisis (Browne, Cambier, & Agah, 2011; Shalev, 2008), such as a physical altercation, possession of major contraband, behavior that is thought to disrupt the general

order of the institution, or information that, if true, would threaten the safety and security of the institution. Temporary Segregation can be used during the investigation of rule infractions or verification of information of potential threats to order by individual inmates. Temporary Segregation generally precedes the other forms of segregation and is usually for a brief time (72 hours or less). Extensions often occur following administrative review and approval. Such extensions are generally tied to pending classification decisions or due process hearings. Because Temporary Segregation is not punitive in nature, limitations on inmate privileges should be based on a "least restrictive" approach. The restrictive nature of Temporary Segregation often excludes these inmates from participation in prison programs and work details.

Disciplinary Segregation

Disciplinary Segregation is the punitive isolation of an inmate for the violation of prison rules. Disciplinary Segregation follows a due process hearing consistent with conditions prescribed in *Wolff v. McDonnell* (1974). Disciplinary Segregation is determinate in nature and does not require further administrative review for release from Disciplinary Segregation to the general prison population. Disciplinary Segregation generally carries with it a broad set of restrictions on inmate movement and privileges that are applied to all inmates in that status regardless of the severity of the rule violation, length of disciplinary term, or the threat to institutional order. Moreover, these restrictions are not necessarily related to the rule violation(s) that resulted in the punishment. The limits on the length of disciplinary

segregation vary with the jurisdiction and the severity of the rule infraction.

Administrative Segregation

Administrative Segregation is for the purpose of isolating individual inmates who present a continued threat to the safety and security of the prison staff and visitors, as well as other inmates (Browne, Cambier, & Agah, 2011), or the orderly operation of the prison (Toch, 2001; Irwin, 2005). The justification for the isolation of these inmates is based on staff perceptions, anonymous tips from other inmates, or prior activities outside of prison, including past gang affiliation. Inmates have a limited ability to challenge these decisions and are generally unable to confront the accusations directly. Administrative segregation decisions generally follow a period of Temporary Segregation or Disciplinary Segregation. Decisions to employ Administrative Segregation most often come from classification committees or a review and order from higher administration. Inmates in Administrative Segregation have severely restricted movement and limited access to prison programs and services. Additional privileges, including property possession, are made based on individual criteria and the threat the inmate presents. Administrative Segregation is an indefinite term of isolation and the criteria for release are often vague, general in nature, and often unknown to the inmate (Toch, 2001; Irwin, 2005). The lack of clearly articulated release criteria and the subjective nature of the rationale have been criticized for their lack of due process (Toch, 2001; Irwin, 2005).

These forms of isolation, by these or similar names, are utilized in most adult prisons in the United States. In addition to these three, most prison systems practice additional types of isolation in a variety of forms. Two of the more popular forms are protective custody and Supermax confinement.

Protective Custody

Protective Custody is the separation and often isolation of inmates whose presence in the general prison population poses a risk to their safety and security. Examples of these types of risks include inmates who are thought to have informed correctional staff of violations by other inmates ("snitching"), inmates who have a high profile such as incarcerated police officers, those who committed crimes that were covered extensively by the media, transgender inmates, and other inmates seen as vulnerable to exploitation in the general

prison population (Browne, Cambier, & Agah, 2011; Shalev, 2008). Additionally, Protective Custody can come in two forms: voluntary and involuntary.

Voluntary Protective Custody occurs when an inmate self-initiates or requests protective placement. The response by prison officials varies upon the jurisdiction but traditionally involves placement in temporary segregation while the threat is investigated to verify its legitimacy. In these cases inmates are more likely to challenge a denial of Protective Custody rather than the placement in protective custody. On the other hand, involuntary Protective Custody is a classification decision that is similar in practice to decisions for placement in Administrative Segregation. Inmates who are involuntarily placed in Protective Segregation may challenge such placement for a variety of reasons. Chief among such challenges would be an avoidance of the "snitch" label that is placed on protective custody inmates irrespective of the accuracy of such a label.

Protective Custody is a non-punitive form of isolation and is indeterminate in length. The conditions of protective custody are often based on the institution's or correctional system's ability to house these inmates safely from the general prison population. Those operations able to operate separate units of protective custody inmates can manage these inmates with less reliance on total isolation. This management may include congregate work, institutional programs, dayroom privileges, and meals, thus limiting the total isolation often experienced by those in other forms of isolation. Those institutions that do not have the operational capacity to offer opportunities for protective custody inmates to congregate are more likely to rely on isolation to accomplish their protective goal. Regardless of voluntariness and institutional capacity to mitigate isolation, inmates in protective custody have fewer program opportunities and stricter limitations on privileges to protect them from potential harm in the general population.

Supermax Custody

Supermax Custody can essentially hold all types of isolated inmates. Supermax prisons are intended to isolate inmates for longer periods of time than traditional prisons do. The Supermax regime often intensifies the isolation of inmates through advanced architectural strategies intended to more thoroughly eliminate contact between inmates and prison staff.

Supermax prisons generally come in two forms. The first is what has been termed a stand-alone facility. Stand-alone Supermax prisons operate solely for the purpose of isolating inmates for long periods of time. Stand-alone operations do not have a general prison population, have limited programming opportunities, highly restricted privileges, and a higher staff to inmate ratio. The second form of Supermax segregation is co-located facilities. Co-located facilities are segregation units within a prison. Depending on the size of the prison and its operational mission, co-located Supermax prisons may be separate from segregation units that isolate inmates for shorter periods of time.

Challenges to the Empirical Study of Isolation

The methodological examination of solitary confinement poses several issues. The first challenge is the nature of prison records. In this case, prison records refers to an individual record of an inmate that contains pertinent information about the reason and length of the inmate's confinement, classification information, incident reports, and various other documents necessary both legally and operationally when managing inmates. Prisons traditionally operate out of the public eye and tend to avoid publicity. In keeping with this, prison officials are traditionally protective of records and often reluctant to permit outsiders from examining these records. Under such conditions, the objective examination of solitary confinement (or any other prison phenomenon) is nearly impossible. The protection of prison records and the bureaucratic hurdles that are often necessary to access these records permit prison officials to define the research agenda of most prison phenomena.

When access to prison records is permitted, the challenge of accessibility becomes one of locating and tracking them down. The initial challenge to locating prison records is based on the record-keeping system and whether it is centralized or decentralized. Decentralized record keeping would require researchers to access multiple areas where records are stored and may be faced with multiple instances of bureaucratic hurdles, located at each individual site, before accessing the records. Also, many prison systems keep multiple files on individual inmates. There may be a "master" file that contains all certified original document and records from prior incarcerations. Most systems also maintain a "confinement" file that contains all

information relevant to the current incarceration. Depending on the nature of the inquiry, if access to medical or treatment files is necessary, this adds additional layers to locating and sifting through files.

Prison records are also maintained in a variety of forms. Most systems now operate with a computerized database of general inmate information that may include information of discipline, use of isolation, inmate location, and classification information. However, legal requirements may also require a redundant paper copy of such records. For example, the *Wolff v. McDonnell* (1974) decision requires that inmates receive written copies of charges, evidence, and decision justification for prison disciplinary actions. Moreover, inmate complaints, requests, and appeals are in a handwritten format and are unable to be completely merged with digital records. The complete reliance on computerized records is impractical when balancing inmate rights and the practical application of prison operations.

The definitions of solitary confinement suggest categorical exclusivity. In reality, such a suggestion may be illusory. To elaborate, an inmate may be in more than one segregation category simultaneously. It would not be uncommon for example for an inmate in administrative segregation to violate prison rules and as a consequence receive a determinate consequence in disciplinary segregation. Which status, administrative or disciplinary, should be considered primary, and how is the status recorded by prison officials?

Similar to exclusivity is the process of giving credit for time served in one status to another status. For example, inmates are frequently confined in temporary segregation for being suspected of violating prison rules. At the conclusion of the investigation and disciplinary process, the inmate is given a determinate consequence in disciplinary segregation but is given credit for the time

served prior to the adjudication. As a result, prison records may reflect that the inmate served time in temporary segregation but in actuality it was time served in disciplinary segregation. Such a discrepancy may appear trivial to some, but the accuracy of the actual status is important to the true understanding of inmate isolation. Moreover, such accuracy is necessary when developing evidence-based practices with the isolation of inmates.

Finally, when furthering our understanding of inmate isolation through quantitative analysis, the issue of generalizability will always be present. The definitions of the types of isolation may differ across jurisdictions. Such a difference is present in the understanding of Supermax confinement. Whether in stand-alone or co-located facilities, the conditions of long-term isolation may be the same, but the understanding of the isolation may be convoluted with the logistical aspects of managing inmates in an isolated environment. Additionally, the confinement conditions experienced in the various forms of isolation vary across jurisdictions. The degree of isolation and deprivation, the privileges afforded to inmates in isolation, and the process for determining release, will vary greatly. Any comparisons made will most likely be general and should be interpreted with caution.

Despite these challenges, further quantitative examinations of the use of inmate isolation are necessary. The lack of current research encourages a misunderstanding of isolation by scholars, media, and the general public. Without further research we limit our understanding of isolation to the highly publicized and controversial use of Supermax confinement. Such a limitation will trivialize the more common use of isolation in the prison systems throughout the United States. Furthermore, such research is needed to properly develop evidence-based and best practices for the use of isolation in jails and prisons.

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