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The racial composition of prisons and the conditions of confinement

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THE RACIAL COMPOSITION OF PRISONS
AND THE CONDITIONS OF
CONFINEMENT

by

Shannan Michelle Catalano

Bachelor of Arts
Northern Arizona University, Flagstaff Arizona
1998

A thesis submitted in partial fulfillment
of the requirement for the

**Master of Arts Degree
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Greenspun College of Urban Affairs**

**Graduate College
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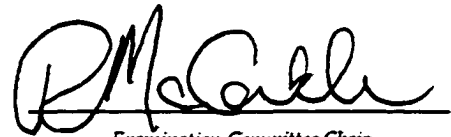
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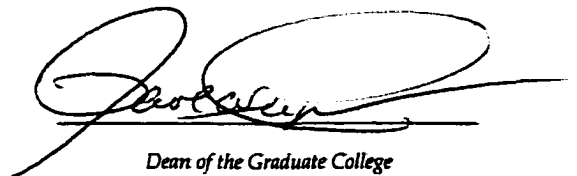
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is approved in partial fulfillment of the requirements for the degree of

Master of Arts in Criminal Justice



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ABSTRACT

The Racial Composition of Prisons and the Conditions of Confinement

by

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Historically, Blacks have been subjected to both capricious and extreme methods of social control. Despite a generation of criminal justice reform, many argue that the social inequities of our past are too deeply interwoven in the social fabric to be extricated, resulting in discrimination which has become institutionalized. Of sociological interest is the manner in which differential outcomes in the criminal justice system may be a manifestation of differential treatment on the basis of race. Equally important are the possible determinants, such as race, of differing reactions to certain inmate populations.

In recent years, many studies have addressed the question of racial discrimination in the criminal justice system. Specifically,

research has focused on discretionary aspects of criminal case processing. The question of differential treatment in correctional settings, however, has received less attention. The current study questions whether empirical evidence of differential treatment exists in the prison setting. In this study, data from a national survey of correctional facilities is used to examine the relationship between the racial composition of a prison and the availability and nature of rehabilitative programming offered in the facility.

Using the prison as the unit of analysis, the study incorporates national census data from correctional facilities in the determination of whether decreased program opportunities are evident in prisons with larger populations of Blacks. Findings from the present study indicate that the overall level of programming does not appear to be impacted by larger populations of Blacks; however, facilities with larger populations of Blacks are less likely to offer certain types of work and educational programs. The implications of these findings are discussed, as are suggestions for future research.

TABLE OF CONTENTS

ABSTRACT.....	iii
ACKNOWLEDGMENTS.....	vii
CHAPTER 1 INTRODUCTION.....	1
Statement of the Problem.....	5
The Research Question.....	6
Significance of the Study.....	7
Definition of Terms.....	8
CHAPTER 2 RACIAL BIAS IN THE CRIMINAL JUSTICE SYSTEM.....	11
Blacks and Prisons in the 19 th Century.....	11
The Discrimination Debate.....	13
The 'No Discrimination Thesis'.....	15
The Discrimination Thesis.....	16
Case Processing Research.....	17
CHAPTER 3 THE PRISON AND DISCRIMINATION.....	23
Discrimination in the Contemporary Prison.....	23
Discretionary Decision Making in the Prison.....	24
The 'Not-So-Total' Institution.....	27
Research on Discrimination in the Prison.....	28
Cell and Wing Allocation.....	31
Disciplinary Proceedings.....	32
Programs and Work Assignments.....	33
Programs in the Prison.....	35
CHAPTER 4 METHODS.....	40
Data Source and Study Procedures.....	40
Research Hypothesis.....	41
The Sample.....	42
Variables.....	43
Dependent.....	43
Independent.....	46

CHAPTER 5 RESULTS.....	51
The Level of Programming.....	51
The Nature of Programming.....	53
Work Programs.....	54
Educational Programs.....	59
Counseling and Self-Help Programs.....	62
Summary of Results.....	66
CHAPTER 6 SUMMARY.....	69
Limitations of the Study.....	70
Discussion.....	71
Conclusions.....	75
APPENDICES.....	78
REFERENCES.....	80
VITA.....	88

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CHAPTER 1

INTRODUCTION

The connection between race and differential treatment within the justice system has long been a topic of debate among both the public and social scientists. The issues of race and discrimination lay very close beneath the surface of the American social life, and perceptions of criminal threat by Blacks have long been a central theme in the criminal justice system. Indeed, the impetus for policy implementation has often been based upon public perceptions of crime, criminals, equity, and just desserts. Thus, the public is often party to the formulation of measures designed to confront, curtail, and deal with deviant behavior. Likewise, justice practices often reflect an awareness on the part of policy makers as to what the public both demands and will tolerate in the pursuit of justice.

As a society, we acknowledge that discrimination and differential treatment have existed in the past. Perhaps it is the distance afforded by hindsight, but there is relatively little dispute regarding the deplorable exploitation and violence which characterized the treatment

of Blacks in the past in this country. For example, public perceptions of Blacks in the 19th century created an environment where they were vulnerable to various forms of violence and extralegal punishment. Public response was often characterized by rationalization and tolerance because these forms of punishment occurred in the pursuit of justice. Blacks were viewed as atavistic and criminally prone. Therefore, laws applied to whites were not viewed as an adequate deterrent to the behaviors of Blacks. As a result, existing laws were unequally applied to Blacks and extralegal sanctions such as lynchings were often imposed upon them.

Such motivations for differential treatment, and accompanying perceptions by the public and lawmakers, contributed to the tolerance of differential treatment of Blacks during this era. On the basis of these perceptions, Blacks were subjected to differential forms of punishment, unequal application of the law, and unequal protection from enforcement agencies (Christianson 1981; Kennedy 1996). Historically, Blacks have been singled out for harsher, more frequent punishments than their white counterparts (Adamson 1983; Christianson 1981). Blacks not only received punishment within the parameters of a blatantly discriminatory legal system, but were simultaneously the victims of extra legal violence under the auspices of justice (Beck and Tolnay 1995).

Discriminatory application of criminal law and disparate

treatment of Blacks eventually prompted two variations of reform: (1) federal limits on state criminalization of conduct, and (2) the guarantee of due process for all individuals (Kennedy 1996). The cases of *Moore v. Dempsey* (1923) and *Brown v. Mississippi* (1936) ultimately increased federal intervention efforts for the protection of Blacks. The impact of these cases was not immediate and abuses of justice still occurred. However, the potential power of these two cases lay in the fact that they challenged the traditional administration of justice as applied toward Blacks. These two cases typified the treatment that Blacks received: a mob atmosphere surrounding the trials and lynchings of accused Blacks, tenuous evidence used to secure convictions, and confessions routinely extracted through various methods of torture. These two rulings signified that such practices were no longer acceptable.

As a country, we acknowledge this history of pervasive discrimination and racist mentality which so often affected Blacks. The reality of this is not in dispute. Yet, despite these rulings, and the subsequent Civil Rights movement of the 1960's, there are many that believe that the overt racism and discrimination characteristic of our country's past have become institutionalized and that differential treatment remains endemic in the justice system. Not surprisingly, the idea that contemporary justice practices remain discriminatory toward Blacks is a contentious point of debate. As a society, we do not so readily accept the notion of a pervasive, insistent discrimination at work

in our justice system. This would represent not only a repeating pattern of differential treatment toward a segment of the population, but also a practice that is wholly anathematic to the American ideals of fair play, equality of opportunity, and justice.

Regardless, some do indeed contend that, despite meritorious strides toward the amelioration of discriminatory practices in the last fifty years, full equality in the justice system remains unrealized (Cole 1993; Mann 1993; MacLean and Milovanovic 1990). Blacks comprise roughly 10 percent of the United States population yet constitute more than 50 percent of all people brought into jail or prison on any given day (Miller 1996). Nearly one-third of black men between the ages of twenty and twenty-nine are under the supervision of the criminal justice system (Irwin and Austin 1997).

Similar statistics are a recurring component in research on race and crime. Although this does not necessarily impart empirical evidence of continuing discrimination against Blacks, it suggests that as a group they continue to experience disparate treatment within the criminal justice system. Unfortunately, in contemporary society Blacks continue to occupy a central position in the criminal justice system just as they did 100 years ago.

Statement of the Problem

The nature and extent of possible discrimination in the contemporary justice system is the focus of an ongoing debate in academia, the political arena, and the public sphere. Though always a possible explanation for observed disparities in the justice system, a formulated thesis addressing the issue of discrimination has fully emerged within the last thirteen years. This thesis states that discrimination has undergone a transformation.

Previously, discretionary decisions in the criminal justice system were overtly biased against Blacks. The discrimination thesis states that overt bias has been replaced by subtle bias veiled by the legitimacy of discretionary power. The current study questions whether support for the discrimination thesis may be found in the prison environment. Though the systematic differential treatment is no longer socially permissible, discretionary decisions still have the power to profoundly impact Blacks in a number of ways. The expectation is that these decisions negatively impacting Blacks will now be of a more subtle nature. Differential treatment manifesting in the availability of prison programs is one example of this discretionary decision making. The purpose of this study is to examine whether evidence of differential treatment on the basis of race exists in the prison environment.

The Research Question

Differential treatment may no longer manifest itself as in the past. Indeed, it may also be the case that race is no longer the sole determinant of differential treatment. Yet, if race does continue to impact criminal justice decision making, one place this may occur is in discretionary decision making. For example, research on case processing has indicated that discretion occurs in many of the less visible decisions made by criminal justice agents (Goodstein and Hepburn 1985; Swigert and Farrell 1977; Unnever and Hembroff 1988). If discrimination against Blacks has indeed gone underground and persists in this manner, then one would expect differential treatment to be similarly manifested in the discretionary implementation of certain types of prison programming, such as work, education, and treatment programs.

Therefore, discretionary decisions may not only impact the availability of programs *per se*, but also the specific types of programs which are made available to inmate populations. The import of this should be emphasized. Whether a facility extends program opportunities may not simply be a function of issues such as funding and basic rehabilitative overtures. When a facility offers certain programs, this may imply an unspoken acknowledgment of the potential value or need inherent in the inmate population. Both the

level and nature of programs offered are of importance in the current study.

The current research question hinges on this contradistinction between not only the availability but the type of program opportunities which are present in the prison environment. This study questions whether evidence supporting the discrimination thesis is present in the availability of prison programs and the type of programs offered. Specifically, if discrimination results in the differential treatment of Blacks, then evidence of this may be found in the presence or absence of discretionary prison programs. If differential treatment on the basis of race persists in the prison setting, then facilities with a higher percentage of Blacks may be less likely to offer not only programs, but specific types of programs.

The discretion exercised by decision makers may continue to be influenced by subtle, undetectable biases emanating from individual, agency, and community standards of acceptability. If this is the case, the more discretionary a program is, (i.e college courses, work training) the less likely it may be that the program will be implemented.

Significance of the Study

Whether Blacks experience differential outcomes as a result of their skin color and enduring public perceptions, may never be

confirmed. But, questioning the existence of differential treatment, where, when and how it may occur, acknowledges the continuing disparities evident in the justice system. Suggestions for change and policy implementation are often the outcome of such debate and dialogue. Each subsequent study further defines the parameters of the problem. Whenever such a large portion of society experiences overwhelming disparate treatment, it requires attention. The integrity of the justice system is threatened by the implication of differential treatment, and so too are the very ideals on which the system prides itself.

Definition of Terms

Several recurring terms in the current study must be addressed for the purposes of clarification. The present study focuses on the impact of race in the prison setting. The use of 'African Americans', 'Black Americans', and 'Blacks' have all been employed at various times to designate a specific racial sub-group of the American population. The current study uses the term 'Black' for three reasons. First, the designation 'African Americans' implies that the group in question is of African descent. This is not always the case as there are Black Jamaicans and Haitians. Second, the term 'Black Americans' may be acceptable in another context; however, the sample used in this study

may partly consist of Blacks who are not Americans. This may be the case in federal prisons where citizens of other countries are serving time for various charges. Last, the present study questions the impact of program availability on the basis of race which is best captured by the racial group 'Black' as opposed to a term designating nationality or ethnicity. In consideration of these three caveats, it was decided that 'Black' best represented the population in question and the theoretical orientation of the study.

Differential treatment implies that particular groups of offenders are treated differently on the basis of an intrinsic characteristic. Differential treatment may occur in two ways. Systematic discrimination implies that discrimination occurs at all stages of the criminal justice system (Walker, Spohn and DeLone 1996). For example, justice processes were systematically biased toward Blacks in the 19th century. Differential treatment may also occur as the result of institutionalized discrimination. Discrimination is said to be institutionalized when differential outcomes result from patterned responses and policies which appear racially neutral (Walker, Spohn and DeLone 1996). An example of this type of disparity is the 100 to 1 rule for crack versus powder cocaine. The majority of crack cocaine users are Black while the majority of powder cocaine users are White. Though chemically identical, harsher penalties are associated with the use of crack cocaine. Policies such as this may appear racially neutral,

yet negatively impact certain groups (Walker, Spohn and DeLone 1996; Zatz 1987). Discrimination may not necessarily be an overt action on the part of a single individual (Zatz 1990). Similarly, “racism does not have to be ‘designed’ into the system before we can say it is racist” (Lynch 1990). In this context, discrimination derives from the manner in which the system operates.

Differential outcomes refers to the observed disparities and inequities which manifest themselves throughout the justice process. Differential outcomes may not be an artifact of discrimination solely on the basis of race. Several other factors may similarly produce evidence of differential outcomes. Differential outcomes for various groups call into question the presence of differential treatment within the criminal justice system. For the purpose of this study, a differential outcome refers to the appearance of differential opportunities in the availability of prison programs.

The presence of discrimination is questioned when differential outcomes are evident for different groups. Discrimination has been defined as a “difference based on differential treatment of groups without reference to an individual’s behavior or qualifications” (Walker, Spohn, DeLone 1996). Discrimination refers to an active behavior. For purposes of the current study, differential treatment is viewed as the result of discrimination. However, differential outcomes and observed disparities are not necessarily the result of discrimination.

CHAPTER 2

RACIAL BIAS IN THE CRIMINAL JUSTICE SYSTEM

Blacks And Prisons in the 19th Century

Historically, prisons in the United States have been characterized by both racial discrimination and segregation (Jacobs 1983). Charges of differential treatment and discrimination in the prison environment are linked to the historical treatment Blacks have received in other segments of society. Indeed, Jacobs (1983:63) has stated that “prisons in every section of the United States have long been characterized by racial segregation and discrimination.”

Rothman (1971) has examined the rise of institutions in America. During the early 19th century, facilities for reform and rehabilitation were introduced into the American system partially as a reaction to increasingly heterogenous or troublesome populations. Jails and prisons were now used as the primary method for dealing with criminal populations. However, until 1865 Blacks were noticeably absent in institutional America (Ayers 1984; Rothman 1971). This is not to imply

complete absence from penitentiaries for the commission of crimes, but merely that alternative methods of control were in place for Blacks.

Prior to the Civil War, the majority of Blacks were kept as slaves in the South. By sheer numbers alone, this removed a large portion of the population from the pool of potential inmates. With such a large proportion of the Black population removed from sight, and away from mainstream society, there was little threat or need to control this population.

Until the latter half of the 19th century, prisons were comprised mostly of whites, primarily recent European immigrants (Ayers 1984). Between the years of 1830-1850, Irish immigrants comprised roughly 50 percent of those incarcerated in New York (Rothman 1971); in 1845, Sing Sing prison housed only 195 Blacks (Ayers 1984). But the racial composition of penitentiaries was to change dramatically as imprisonment became a more frequently applied form of punishment for Blacks (Christianson 1981). The absence of Blacks in early 19th century prisons is most directly attributable to the alternative methods of justice and social control applied to them.

Following the Civil War, Blacks were thrust into direct competition with poor Whites for scarce resources (Beck and Tolany 1995; Olzak 1990; Soule 1992). The result was disastrous for Blacks. Violence, disenfranchisement, and other methods of social control were systematically used against Blacks (Beck and Tolany 1995; Massey and

Meyers 1989). This historical legacy of differential treatment is the cornerstone of enduring stereotypes and connotations of Blacks. Contemporary research suggests that this legacy of discrimination is an important component to the persistence of differential outcomes in the contemporary criminal justice system. Thus, historically based perceptions of Blacks remain, and “society and its agents define and stereotype [them], or apply symbolic connotations” which may affect Blacks in the criminal justice system (Mann 1993:210).

The Discrimination Debate

Social scientists have discussed at great length the implications of race and public perceptions of crime. Of specific interest is how these two factors may influence the experiences of Blacks in the criminal justice system. Though overt discrimination is no longer socially acceptable in the contemporary justice system, it is possible that at various points in the process, individual discretionary decisions continue to be made which negatively impact Blacks.

The concept of discretionary decision making plays an important role in the ongoing debate as to whether or not the criminal justice system remains discriminatory. Blatantly biased decision making based upon the color of one's skin is no longer the threat to Blacks that it once was. A myriad of social factors (e.g. socio-economic status) are now deeply inter-twined with race, and in this manner, race plays an

indirect yet fundamental role in the treatment Blacks receive.

Unfortunately, the complexities of the criminal justice system make it difficult to draw inferences regarding the causality of race in observed disparities. At question are a variety of methodological and interpretive issues which produce contradictory findings, dividing academics and the public alike.

Put simply, there are several, sometimes complex, approaches to study the phenomenon of racial inequality. These include a variety of complex statistical methods and research focusing on different aspects of case processing. Contemporary research in the last twenty years has often focused on the implications of discretionary decision making occurring during case processing (Miethe and Moore 1986; Petersilia 1983; Radelet and Pierce 1985; Walker, Spohn and DeLone 1996; Zatz 1985, 1987).

In this context, Blacks experience differential outcomes at various points in the justice system, including arrest, (Chambliss 1995; Goldstein 1975; Radelet 1985), pre-trial release, (Lizotte 1978; Unnever 1982; Zatz 1987), assignment of counsel, (Chiricos and Bales 1991; Miller 1996; Reiman 1980), and sentencing (Pruitt and Wilson 1983; Zatz 1984, 1987). A large literature examining the effects of racial bias has accumulated over the past 30 years; the findings, however, are contradictory. Most research has focused on the discretionary decision

making which occurs during case processing. Two divergent camps have emerged.

The 'No Discrimination Thesis'

Wilbanks (1987) is perhaps most often associated with the perspective that "prejudice and discrimination are not systematic" in the criminal justice system, and refers to the idea of a discriminatory system as a 'myth' (Wilbanks 1987). For example, Wilbanks (1987) finds that evidence for discrimination during case processing is "sparse, inconsistent, or even contradictory" (Wilbanks 1987:99). Wilbanks concedes "that there is racial prejudice and discrimination within the criminal justice system, in that there are individuals, both [W]hite and [B]lack [making] decisions...on the basis of race" but he does "not believe that the system is characterized by racial prejudice or discrimination against [B]lacks" (Wilbanks 1987:5).

Similarly, Hindelang (1978) suggests that three serious methodological errors are present in studies finding evidence of discrimination. First, findings providing evidence of racial bias are regionally dependent. Data used from Northern areas showed no evidence of differential treatment. Second, findings revealing a link between race and differential treatment lack adequate controls for key variables (e.g. seriousness of offense). Last, studies supporting the hypothesis of racial inequities in the justice system are based upon

older data which are reflective of previously discriminatory policies which have since been changed.

The Discrimination Thesis

Still, other scholars find it difficult to defend the neutrality of race in a system where Blacks comprise the population majority (Georges-Abeyie 1990; Headley 1990). Race may no longer be the primary predictor of differential treatment, but indirectly influences outcomes at various stages of the criminal justice process. Indeed, there are several intervening factors which may adversely affect Blacks as they move through the criminal justice system. The discrimination thesis states that it is precisely in this manner that prejudice and discrimination toward Blacks persists in contemporary society. To this end, the discrimination thesis has been forwarded as an explanation for continuing disparities in the criminal justice system.

Similarly, the specific characteristics of crime may not necessarily dictate how justice is administered. The contention among those in this opposing camp, rests on the belief that discrimination on the basis of race has evolved into more subtle forms which differentiate it from the overt and blatant discrimination of the past (Zatz 1987, 1990).

“Differential processing and treatment [are] now veiled by legitimacy...a legitimacy where biases have become rationalized and institutionalized” (Zatz 1987:87). Systematic discrimination and differential treatment in

the criminal justice system is no longer legal or socially permissible, but some contend “that since racial discrimination is endemic to the United States, it [also] permeates the criminal justice system...and results in the unjust treatment of...minorities” (Mann 1993:ix).

Evidence of differential outcomes is evident in some research (Petersilia 1983; Spohn, Gruhl and Welch 1981-1982). Hence, these findings are consistent with the discrimination thesis which posits that differential treatment on the basis of race continues in the justice system. However, the subtle nature of the interaction between race and decision making makes discrimination more difficult to detect with regularity. The impact of race may now be buried beneath a myriad of other intervening factors such as bail status (LaFree 1985), specifics of the case (Spohn 1991), selective policing tactics (Chambliss 1995), or dependent on appropriate modeling techniques (Miethe and Moore 1986).

Case Processing Research

Contemporary research on discrimination in criminal case processing has been aggressive and exhaustive. The need to contextualize the findings, from these studies, as well as the methodological implications of research conducted in a given time period, should not be underestimated (Zatz 1987). An example will illustrate. Public perceptions regarding appropriate punishment of

criminal offenders has changed over time depending on the historical context. Though the form of punishment has changed, Blacks continue to occupy a central role in the criminal justice process. Likewise, the manner in which research is conducted, the findings interpreted and the results disseminated similarly changes within the historical context.

Zatz (1987) has identified different '*waves*' of research that have occurred over periods of time. Waves of research occurring during specific time periods are impacted by historical context. For example, research conducted during the late 1960's and 1970's is categorized as *Wave II* research which was characterized by limited data sources and unsophisticated analytic techniques (Zatz 1987). Findings from this period of research suggested that discrimination was no longer present in the criminal justice system (Zatz 1987). Subsequent interpretations reflected the support for the no discrimination thesis.

Wave III research is characterized as a re-examination of *Wave II* research data. This research was conducted in the 1970's and 1980's. With the improvement in data sources and analytic techniques, two previous methodological flaws were realized. First, samples for previous research were affected by selection bias resulting in a sample that was not reflective of the population (Zatz 1987). Second, specification error resulted in the omission of important variables in the models (Zatz 1987).

Historical context, therefore, has far reaching implications not only for research design, but also interpretation of the findings. This may contribute to the inconclusive findings, and lend support for the complex manner in which race now affects the disposition of justice (Walker, Spohn and DeLone 1996; Zatz 1987). Thus, later '*waves*' of research are characterized by increasingly complex analyses capable of teasing out from the data evidence supporting the premise of differential treatment (Miethe and Moore 1986; Zatz 1987).

More recent research suggests that differential treatment continues to exist in some areas of criminal case processing. These findings are also consistent with the hypothesis that differential treatment has evolved into a more subtle form, making the discernment of discrimination a more daunting task. The dispensation of justice continues to reflect a pattern of differential outcomes toward Blacks; however, weeding out the specific intervening variables has become more complex. Thus, these disparities may be a highly stylized form of discrimination which is now veiled by legitimacy and legality (Zatz 1987).

Though differential treatment no longer manifests as blatant discrimination, it is widely accepted that a complex range of factors, both legal and extra-legal, interact with race and affect Blacks as they move through the justice system (Jendrik 1984; Lizotte 1978; Spohn 1991; Unnever 1982; Walker, Spohn and DeLone 1996; Zatz 1984).

Previously, differential treatment of Blacks has been based on ideological perceptions of Black inferiority. It has been suggested that this form of past discrimination has been replaced by 'class' discrimination (Reiman 1984). In support of this distinction, the most influential endogenous variable affecting Blacks in contemporary justice system appears to be socio-economic status. Because most Blacks entering the justice system come from lower socio-economic classes, they are immediately at a disadvantage (Walker, Spohn, DeLone 1996).

These intervening variables may not be significantly noticeable at any stage of the process, but the minor differentials accrue throughout case processing from policing to sentencing, resulting in substantial differentials as Blacks are processed through the system. 'Cumulative disadvantage' (Zatz 1987) represents the accumulation of these intervening legal and extralegal factors that negatively impact Blacks. Some studies find that differential treatment and bias in disposition begins early in the system (Unnever 1980; Zatz 1987), but as Blacks pass through the system, the cumulative 'disadvantage' of being Black and poor adds up, resulting in differential outcomes and the over representation of Blacks in the justice system (Zatz 1987).

A multitude of factors converge at any given time from the decision of the police to arrest throughout case processing. These factors include three types of intervening variables: (1) defendant status variables (e.g. race and class), (2) extra-legal process factors (e.g. court

decisions, plea bargaining), and (3) legal factors (e.g. seriousness of the offense, prior convictions)(Jendrik 1984).

Race alone may no longer be the defining and initial qualifier in the dispensation of justice (Miethe and Moore 1986; Unnever 1998), but now combines with a variety of other factors which most often characterize the social status of Blacks (Jendrik 1984; Mann 1993; Unnever 1988; Walker, Spohn and DeLone 1996). Although the relationships are complex, in many instances, as in the past the color of one's skin continues to be a strong determinant of who receives harsher sanctions. Therefore, a 'caste-like' distinction no longer exerts dominance in the decision making process (Miethe and Moore 1986). The implications of race are now linked to a fundamentally more legitimized basis for differential treatment.

The same argument regarding legitimation and rationalization of differential treatment has been made in regards to determinate sentencing which legitimizes differential treatment under the guise of 'equality of all before the law' (Zatz 1984,1987). As many have pointed out, equality under the law means little when parties enter the system under unequal contexts (Miller 1996; Milovanovic 1994; Reiman 1984). These disparities manifest themselves and are most evident during case processing, and much of the current research focuses on illuminating the contextual disparities individuals encounter as they move through the system (Myers 1987; Spohn 1991).

Though the legal protections extended and afforded to Blacks have changed *prima facie*, some contend that 'justice' should be scrutinized for the results produced, not legalities enacted (Georges-Abeyie 1990; Mann 1993; Miller 1996; Reiman 1998; Zatz 1987). According to Georges-Abeyie (1990) "*de facto* practices codified by *de jure* mechanisms" must be examined, and "the key issue is result, not intent" (p. 28).

Previous research on discrimination has focused on case processing in the justice system. In contrast, relatively little treatment has focused on discrimination within the prison (Goetting and Lowsen 1983; Goetting 1985; Genders and Player 1989; McDonald and Weisburd 1992). Research of this nature has generally looked at disparities in disciplinary actions and the allocation of work and jobs in the prison environment. Considering the proposal that discrimination now assumes a more subtle discretionary form, what may be of interest is whether variations in the prison environment exist across facilities with differing population levels of Black inmates.

CHAPTER 3

THE PRISON AND DISCRIMINATION

Discrimination in the Contemporary Prison

Some scholars contend that racism and differential treatment continue to permeate all aspects of the justice system (Mann 1993; MacLean and Milovanovic 1990; Miller 1996). Surprisingly, discrimination in the contemporary prison has received relatively little treatment. This is largely because the prison is a 'low visibility' area of the justice system (Weitzer 1996). As such, access is limited not only to the prison itself, but also to records maintained in the prison. Hence, researchers are often restricted by demands of the administration and a researcher's inability to freely move about and observe the prison dynamic. By their very nature prisons are regimental and restrictive environments.

These restrictions may not necessarily be obfuscation on the part of administration, but a need to observe safety concerns and adherence to management procedures. Unlike the plethora of case processing

research, studies of discrimination and differential treatment in the prison environment are constrained by these restrictions and therefore remain scarce by comparison.

Discretionary Decision Making in the Prison

The rehabilitative experiences of inmates are often extensions of discretionary decision making on the part of administrators. These decisions may be impacted by racial stereotypes and individual bias (Klepper 1990). In this manner “bias may manifest...in disciplinary actions, preferential treatment, and opportunities to partake of rehabilitative programs” (Weitzer 1996:317).

As we have seen, various discretionary decisions impact Blacks as they are processed through the justice system. At several junctures in case processing factors ranging from offense type to socio-economic factors influence outcomes for Blacks. This ‘cumulative disadvantage’ (Zatz 1987) may continue beyond the point of incarceration. As such, it has been suggested that although legal institutions have rid themselves of overt manifestations of inequality, this has not ended racial discrimination (Goetting 1985). If discrimination persists in the prison setting, then it is likely to occur in areas where discretionary decisions are made by individuals.

Discrimination in the prison setting may now manifest itself in the discretionary aspects of prison administration that “[persist as]

informal and more subtle forms of segregation and, more importantly... discrimination in various areas of administrative decision making and prison activity" (Goetting 1985:11). Work assignments, living arrangements, accessibility to programs, and disciplinary proceedings all lie under the purview of administrative discretion (Genders and Player 1989; Weitzer 1996). These decisions need not be the work of a single decision maker either. As previously mentioned, institutional discrimination is a patterned set of responses and actions, not necessarily a conscious and intentional action perpetrated by a single individual (Zatz 1990).

Consequently, decisions are more likely to be based on factors such as funding, security, and allocation of resources. Outwardly, these mitigating factors neither appear discriminatory nor linked to race. However, just as some laws may not appear discriminatory, neither may the rationale for discretionary decisions in prisons. In this case, differential treatment may manifest itself in the form of missed opportunities and exclusion from resources. "[P]erhaps Blacks are placed in different and possibly less desirable training programs than are [W]hite counterparts" (Goetting 1983:29). The criminal justice system need not be systematically discriminatory for differential treatment to occur. One way differential treatment may manifest itself is in inmate access to prison program opportunities and treatment.

For instance, one study found significant differences between

Whites and Blacks in the diagnosis of psychiatric disorders (Paradis et al. 1999). In the study, Whites were more often diagnosed with affective disorders while Blacks were more often diagnosed with psychotic disorders (Paradis et al. 1999). Roughly 43.5 percent of Blacks in the study were diagnosed with a psychotic disorder compared to 28.9 percent of the Whites in the sample, and only 8.1 percent of Blacks were diagnosed with affective disorder compared to 21.6 percent of Whites (Paradis et al. 1999). The reasons for these findings may vary from actual differences in diagnosis to ethnic differences in how inmates seek psychiatric help (Paradis et al. 1999). However, it is noteworthy that affective disorders are viewed with less apprehension than the psychotic disorder which connotes dangerousness and a potential threat to society.

Institutionalized discrimination is a set of patterned responses which negatively impact Blacks. If inequities persist in the criminal justice system, then these inequities may manifest as fewer resources and opportunities in the prison environment. Differential opportunities for Blacks may then be viewed as a normal by-product of legitimate processes and policies within the system. As with differential outcomes in case processing, differential opportunities in the prison may not be interpreted as the result of outright discrimination on the basis of race. Yet, if Blacks are the recipients of biased decision making, then the allocation of resources for their rehabilitation may not be a top priority

among administrators. Similarly, if decreased opportunities for Blacks occur in the prison environment as the result of institutionalized discrimination, then fewer opportunities may not be viewed as out of the ordinary.

Likewise, community opinion may not be supportive of increased spending for programs if it is perceived the money will simply be wasted on inmates with little potential to be integrated back into society. Thus, the availability of programs is part of a broader social recognition of how to spend precious and limited resources. Certain programs, such as adult basic education (ABE) and general education diploma (GED), are institutional minimums. Virtually all prisons also have some form of drug treatment programs. In contrast programs such as college courses, life skills, employment programs and vocational training programs may be harder to justify for a population deemed dangerous and unreceptive to rehabilitation.

The 'Not-So-Total' Institution

The idea that prison administration may be influenced by external forces is linked to the 'Not-So-Total' institutions perspective (Farrington 1992). The 'Not-So-Total' perspective argues that "prisons are connected to communities and society" (Farrington 1992:23). Similarly, it has been suggested that factors such as economic opportunities in the community may affect stability within the prison (McCorkle, Miethe and

Drass 1995). If inmates react to external factors in the community, so too may administrators be influenced, not only by possible individual bias in the performance of their job, but also by the prevailing social and community standards, beliefs, cultural stereotypes, and biases.

Research has addressed the effect of lingering stereotypes in the decision making processes (Zatz 1987; Mann 1993; Milovanovic and MacLean 1990; Miller 1996). For instance, public policy is not necessarily guided strictly by factual evidence of what works and what does not work (Currie 1996). Effective public policy is sometimes affected by the political climate. Consequently, public policy continues to be shaped by public perceptions. Historical perceptions of Blacks continue to affect decision making through 'symbolic connotations' (Zatz 1987) and a distorted image of criminality (Reiman 1980). Whether policy makers and the general society care to admit it, decisions are often based upon perceptions and visceral reactions to inmate populations.

Research on Discrimination in the Prison

Previous research has generally examined differential treatment in a specific individual prison. Most followed the prisoner's rights movement and the uprising at Attica Correctional Facility in 1971. The New York State Special Commission on Attica was convened to investigate the prison disruption. The official report stated that "[a]bove

all, for both inmates and officers, 'correction' meant an atmosphere charged with racism. Racism was manifested in job assignments, discipline, self-segregation in the inmate mess halls, and in the daily interaction of inmate and officer and among the inmates themselves" (New York State Special Commission on Attica 1972:4).

Subsequent studies examined the presence of discrimination in a variety of prison environment characteristics. Perhaps the greatest obstacle to researching differential treatment in the prison setting is identifying and proving the presence of discrimination (Genders and Player 1989). That is, disparity does not necessarily follow from discrimination. An example of disparity in prison programs will illustrate this point. Previous research has suggested that inmate participation in prison programs may be influenced by discrimination (Goetting 1985). Therefore, it has been argued that "within the criminal justice system...racial minority offenders receive substantially different treatment than majority offenders" (McNeely and Pope 1981:17). Differential treatment may occur in work, educational, or treatment programs.

Petersilia (1983) conducted a study of racial disparities in the California criminal justice system, and concluded that "all in all, evidence [showed] no significant racial differences in allocating treatment services to inmates" (Petersilia 1983:68). Further, Petersilia (1983) concluded that differential participation in prison programs was

the result of individual decisions made by inmates who chose not to participate, not as a result of discrimination. Differential participation in prison programs may be evidence of discrimination, however-disparities may also be the result of other factors such as inmate personal preference and interest in offered opportunities. “[I]t is not known whether differential participation in prison programs reflects inmate preference or differential access to or recruitment into, certain programs” (Knepper 1990:110).

Institutional bias may take the subtle forms referred to by Zatz (1987) in case processing. These subtle forms are then reflected in the discretionary decision making of guards and administrators (Goetting 1985). Of equal importance are the contextual factors such as state, regional and local unemployment rates which may influence how a prison is operated (Weitzer 1996). According to Jacobs (1983), “[i]t is a mistake to speak of prisons...as if only a single type existed. The distinctive features of each region’s social structure and culture are found in prisons as well as in other political institutions “ (p. 63).

Discussions of discrimination in the prison setting have focused on several specific forms of potential discrimination, such as cell and wing allocations (Genders and Player 1989), disciplinary write-ups (Goetting 1985; Genders and Player 1989), the allocation of work assignments (Goetting 1985; Genders and Player 1989), and

opportunities to participate in educational and rehabilitation programs (Knepper 1990; Petersilia 1983).

Cell and Wing Allocation

The decisions of prison administrators are guided by the need for security. This is especially true in today's prison climate where ethnic divisions and rivalry are a stark contrast to past prison communities (Clemmer [1940] 1958; Sykes 1958). Placing certain ethnic and racial groups in close proximity presents a security risk that demands certain policies and procedures. There are other concerns as well: inmates coming into prison are increasingly violent, the threat of contraband is constant, and levels of crowding have increased dramatically as a result of the war on drugs.

The difficulty in maintaining order in an adult correctional facility should not be underestimated. However, sometimes the decisions made in this context are based on a process that favors some inmates over other (Gaes 1998). Although prison administrators have no control over the composition of offenders sentenced to incarceration, they do have considerable control over how to distribute these populations throughout the prison in cells, wings and landings (Genders and Player 1989).

Whether this is indicative of discrimination remains dubious. Certainly, segregation of sex offenders is justified under similar

auspices, yet it may be argued that such segregation of the population does much to cement racial stereotyping and the negative 'symbolic connotations' (Zatz 1987) held by criminal justice practitioners. That is, cell allocation in the pursuit of maintenance, order, and discipline may reaffirm or reflect already present racial antagonisms in the prison. Michaelowski (1985) has compared the prison structure to free society stating that "[t]he racial tensions which exist in American society generally are similarly magnified in American prisons" (p. 241).

Disciplinary Proceedings

Discrimination has been defined as the use of power by a social agent to the detriment of a less powerful minority (Mann 1993). One area of prison life where this may occur is in the disciplinary write-up. A write-up is a disciplinary procedure used by corrections officers and administration for the violation of rules or undesirable behavior on the part of an inmate. Rules infractions and write-ups have negative implications for inmates. Write-ups may preclude inmates from certain work details, affect release dates, and be cause for removal from the general population for extended periods of time. Previous research into discrimination of this type has produced contradictory findings (see Goetting 1985 for a review).

Programs and Work Assignments

The benefits of prison programs are twofold. First, they offer an opportunity for rehabilitation of offenders. Second, prison programs ease the pains of confinement (Bartollas 1985). Thus, discrimination of this nature may be the most harmful in a broad social sense. Prison programs may be work oriented, educational, or designed to promote self-growth.

Discrimination in programing is based on two assumptions. First, placement in less desirable jobs or programs is the result of discrimination (Goetting and Howsen 1983). Second, that inmates may be discouraged from or denied access to participating in educational and treatment programs by administrators and corrections officers (Mann 1993; Knepper 1990). Thus, following these two assumptions, job allocation and accessibility to programs are monitored in a discriminatory fashion.

Goetting (1983) states that Blacks are most often 'relegated' to low desirability jobs like food preparation and janitorial work while Whites were often given work assignments in a clerical or office setting (Goetting 1983). But, there is some contradiction in definitions of 'prestigious' prison jobs between studies. A study of inmates in the United Kingdom revealed kitchen and food preparation jobs were deemed desirable (Genders and Player 1989) while studies in the United States report these jobs as being undesirable to inmates (Goetting

1983). It has been suggested that inmates' refusal to participate in certain work assignments is a conscious decision (i.e. personal preference) against performing 'slave work' (Mann 1993). This raises an interesting question. Does the assignment of certain work assignments by administrators directly reflect a mentality that some jobs are more suitable for Blacks? If so, it remains possible that certain rehabilitative opportunities are viewed as less suitable for Blacks as well.

Differential participation in programs may also be the result of inmate preference or access to programs. Though consistent with the discrimination thesis, evidence of disparity in program involvement at the individual level does not confirm the presence of discrimination in the prison. Self-report surveys administered to prison inmates have shown that differential participation was often the result of inmate personal preference (Petersilia 1983). However, this particular study did not detail the specific reasons that inmates chose to not participate in available programs. Therefore, it remains possible that some inmates may be discouraged or coerced, either outright or subtly, to not participate in some programs (Knepper 1990; Mann 1993). Without precise responses from inmates detailing the specifics of their involvement in programs it is difficult to ascertain the exact nature of the disparity.

Nearly all institutions offer some form of drug treatment and adult basic education, but few offer programs such as college courses.

Studies have also identified an under representation of Blacks in college and educational programs (Knepper 1990; Goetting 1985). Knepper (1990) has suggested that the under representation of Blacks in college course programs may be the result of differential experiences of inmates or that whites may be viewed as suitable participants for advanced degree programs. An inmate's access to program opportunities may be "determined by an administrative decision-making process within correctional institutions that reflects racial...stereotypes" (Knepper 1990:131).

Blacks may be discouraged from pursuing education beyond basic education or high school equivalency as a result (Knepper 1990). Other researchers have raised similar questions regarding the subtle forms of discrimination that manifest in the assignment to programs. Goetting (1983) states that "in the realm of education, training and work, it becomes apparent that while educational attainment for [B]lacks and [W]hites did not differ significantly (suggesting comparable employment qualifications), a higher proportion of [W]hites reported having work assignments" (p. 29).

Programs in the Prison

The efficacy and benefits of prison programs have been discussed at great length (Gease 1998; Johnson 1987; Parker 1990; Lanier 1994). Findings indicate that programs have a variety of positive effects. The

purpose of programs in prison are to rehabilitate and increase life chances through the acquisition of new skills in education, work training, and self-improvement. All of these benefits are meant to increase an inmate's success in society upon release. Inmate psychological well-being is sometimes influenced by participation in programs (Parker 1990; Wexler 1999; Wooldredge 1999).

Vocational programs teach skills which increase an inmate's odds of gainful employment following release from prison (Bartollas 1985). Inmates sometimes fall into the 'who cares trap', but participation in programs has a motivating effect on some inmates who are then able to avoid the trap of complacency (Gagliano 1989). Inmates often lack any experience of work. The responsibility many take for granted of waking every morning and showing up for a job is something which can be learned through rehabilitative programs (Bartollas 1985).

Prison programs directed toward self-improvement are also beneficial. Life skills such as anger management teach inmates vital coping strategies (Sappington 1996). Self-improvement, parenting, and life course programs teach skills that many inmate have never had an opportunity to learn. But prison programs do more than just give inmates a good feeling about themselves. Increased program availability has been correlated with reduced rates of assaults on inmates and staff in the prison setting (McCorkle et al. 1995; DiIulio 1996). Thus, prison programs are effective in maintaining order in the prison environment.

Positive benefits from various prison programs have been shown to exist. Programs ease depression, anxiety, and alienation (Wooldredge 1999), are correlated with reduced rates of recidivism among drug offenders (Wexler 1999), provide motivation for release (Gagliano 1989), and teach important employment skills to inmates (Bartollas 1985). The presence of programs has also been identified as a useful management tool (McCorkle et al. 1995). Likewise, prison programs provide a stabilizing effect in the prison. Levels of violence are then mediated by this form of stability and other environmental attributes of the prison (DiIulio 1997).

Therefore, stability within the prison is a direct outgrowth of predictable uniform prison management (DiIulio 1997). In this context, programs, though discretionary, lend themselves well to maintaining equilibrium behind prison walls. Occurrences like assaults and other forms of violence contribute to disorder in the prison. The severity and frequency of assaults has been shown to contribute to general sense of disorder in the prison (Light 1990). Yet, rates of violent assaults and the level of perceived disorder in a prison are preventable to a certain extent through the discretionary powers of management. To this extent, attributes of prison disorder or stability are within the discretionary power of administrators to change.

Even so, rehabilitative efforts in prisons have been steadily declining since the 1970's. By 1994 over 50 percent of state correctional

systems had reduced or eliminated educational programs (Tewksbury 1996). Clearly, this represents a shift toward a more punitive form of incarceration (Scharf 1985). The move to cut Pell Grant funding was based upon the premise that prisoners seeking higher education drained a needed resource from free students on the outside. However, since the revocation of Pell Grant monies for inmates to 1996, there had not been a single documented case of this occurring (Tewksbury 1996). Elimination of such opportunities effectively relegates inmates to remain at a lower status regardless of whether or not they desire change. Considering the growing prison population, this move toward a purely punitive approach should be re-examined from an objective standpoint.

The majority of prison facilities offer adult basic education and the general education degree, but these programs provide only the most basic and barest minimum of education and training. The purpose of prisons is not to incapacitate offenders permanently. At some point, inmates will be released and when this happens the rehabilitative opportunities afforded them may make the difference between both recidivism and their opportunities for successful re-integration into society. Programs such as adult basic education and general education degree are institutional minimums, but programs such as college courses go beyond the basic level. These types of programs challenge and stimulate the intellectual abilities of inmates, prepare participants

psychologically for release, and increase their life chances upon release (O'Neil 1990; Stevens and Ward 1997).

Whether administrators and communities go out of their way to provide meaningful rehabilitative programs beyond the minimum level may be interpreted two ways. First, the absence or presence of programs may be indicative of the level of value placed on the inmate population. Second, allotment of funds may be a conscious decision of how to allocate scarce resources in an already strained system. Thus, the implementation of discretionary programs is based on a notion of whether resources are not only available, but on whether money would be better spent elsewhere. If prison inmates are a devalued population or the system is characterized by patterned responses which negatively impact Blacks, then the allocation of funds for work, educational, and treatment programs beyond a minimum level may be more difficult to justify.

CHAPTER 4

METHODS

Data Source and Study Procedures

The present study utilizes data from the 1995 Census of State and Federal Adult Correctional Facilities. The Census is part of an ongoing enumeration of state and federal correctional institutions sponsored by the Bureau of Justice Statistics and conducted by the Bureau of the Census. Prison facility is the unit of analysis. In 1995, there were 125 federal and 1,375 state facilities for a total of 1,500 facilities surveyed.

Facilities surveyed included prisons, prison farms, classification centers, and drug and alcohol treatment centers. For inclusion in the census, facilities met the following criteria: (1) they were staffed with federal, state, local, or private employees, (2) housed primarily state or federal prisoners, (3) were physically, functionally, and administratively separate from other facilities, and (4) were in operation on June 30, 1995.

Facilities were excluded from the census if they were (1) privately operated facilities which were not exclusively for state and federal prisons, (2) military facilities, (3) immigration and naturalization centers, (4) facilities operated by the Bureau of Indian Affairs, (5) facilities operated and administered by local governments which may house state prisoners, (6) operated by U.S. Marshalls, and (7) hospital wards reserved for state prisoners. Collection procedures resulted in a response rate of 100 percent.

Research Hypothesis

The purpose of the present study is to examine the extent and nature of differential treatment of Blacks in United States Correctional Facilities. Using data from the 1995 Census of State and Federal Adult Correctional Facilities, a series of regression models were estimated to determine the effect of the relative size of the Black inmate population on the level and nature of rehabilitative programming offered in a facility.

As discussed previously, the discrimination thesis states that the contemporary justice system remains discriminatory toward Blacks. This continuing discrimination results in differential treatment and outcomes for Blacks as they maneuver through the justice system. Previous studies and research have focused on discrimination at various points including case processing. The current study questions

whether empirical evidence of differential treatment exists in an environment such as the prison setting.

Using the prison as the unit of analysis, this study examines whether decreased program availability is evident in prisons with higher percentages of Black inmates. Results will be consistent with the discrimination thesis if findings indicate that prisons with more Black inmates are less likely to offer rehabilitative programs for inmates.

The Sample

Three selection criteria were used to select the sample. First, only facilities with the capability to offer programs were included. Omitted from the sample were facilities such as administrative segregation units, which by their very nature preclude inmates from participating in programs. Minimum security facilities were also excluded because they generally house inmates for shorter periods of time. This makes implementation of lengthy, sustained programs difficult. Second, only adult correctional facilities were selected for the sample. Third, only those facilities housing male inmates were selected. The census data included several female facilities as well as facilities which housed both females and males. However, the effects of mixing female and male facilities is problematic. Since the research question does not focus on questions of gender, and because there were only 34 facilities housing both females and males, the sample was restricted to facilities housing

only adult males. Using these criteria, a final sample of 592 facilities was selected for analysis.

Variables

Dependent

This study examines whether the percentage of Blacks in a facility is a predictor of whether a facility will offer discretionary programs. The outcome measures are of two types. The first is the level of programming available in a facility. The second is whether a facility offers a particular type of program.

Several varieties of programs are offered within correctional facilities. These various programs were collapsed into three categories of programs for the purposes of this study. Work oriented programs include prison industry and public works. Educational programs include those programs such as adult basic education (ABE), special education, and post-secondary courses. Counseling and self-help programs include programs such as psychiatric counseling, life skills and parenting programs.

Measures were reported for each separate program in the original data set. However, not all programs were included in the analysis. Many programs it appears, are institutionalized within the correctional setting. For instance, virtually all facilities (90 percent or higher) in the

sample (N=592) offer some form of adult basic education, facility maintenance support or drug treatment programs. Consequently, little variation exists to be explained across facilities. The current study attempts to explain variation in discretionary decision making. Therefore, any program in which more than 90 percent of facilities participated was discarded. Ten programs had non-participation rates of 10 percent or higher. These ten programs were selected as dependent variables.

The first research question examines the level of programming in facilities. That is, do facilities with higher populations of Blacks tend to offer less programming overall? This question focuses on the level of program availability. To measure level of programming, a dependent variable (PROGRAMS) was created which is the total number of discretionary programs offered by a prison. The second research question examines the nature of programming in prison facilities. For this question, each specific program was designated as a dependent variable and a separate logistic regression model was estimated for each.

Table 1 presents descriptive statistics for the dependent variables. The selected program categories are presented in Table 1. All programs were coded as dichotomous variables (0=NO, 1=YES) indicating whether the facility did or did not offer the particular program. For the purpose

Table 1: Coding and Descriptive Statistics For Dependent Variables (N = 583)

Variable	Description	Coded	Mean	Standard Deviation
Dependent Variable				
PROGRAMS	Total number of programs	0 - 10	5.76	2.31
<i>Work Programs</i>				
INDUSTRY	Prison industry	YES = 1	.60	.49
FARMING	Prison farming	YES = 1	.38	.48
PUBWORKS	Public works	YES = 1	.51	.50
<i>Educational Programs</i>				
VOCTRAIN	Vocational training	YES = 1	.80	.40
SPECED	Special education programs	YES = 1	.47	.50
COLLEGE	College courses	YES = 1	.43	.50
<i>Counseling & Self-Help</i>				
PSYCH	Psychological programs	YES = 1	.89	.31
EMPLOY	Employment skills	YES = 1	.61	.49
LFSKILLS	Life skills	YES = 1	.71	.46
PARENT	Parenting programs	YES = 1	.36	.48

of this study, programs have been collapsed into three category types: (1) work programs, (2) educational programs, and (3) counseling and self-help programs.

Independent

Table 2 presents descriptive statistics for the independent variables. The independent variable of interest is the proportion of the Black population in each facility (BLCKPOP). A measure for this variable was created by dividing the number of Black prisoners by the total inmate population for each facility. Additional variables were included in the models to control for other factors which might influence facility programming.

Previous research has suggested a wide range of control variables which may influence prison dynamics. Dilulio (1987) focuses on managerial variables such as staff inmate ratios, repressive measures, and level of expenditures. Other studies have integrated the impact of deprivation and violence in the prison setting (Ellis, Grasmick and Gilman 1974; Gaes and McGuire 1985; Light 1990). This study identifies several measures to capture the level of disorder in a prison and characteristics which may impact the extent and nature of programming.

The level of violence in a prison hinders the ability to safely and successfully implement inmate programs. Violence in the prison may

Table 2: Coding and Descriptive Statistics For Independent Variables (N = 583)

Variable	Description	Coded	Mean	Standard Deviation
Independent Variables				
BLCKPOP	Black inmate population	ratio of black inmates to total inmate population	.50	.19
ASSAULTS	Assault rate	ratio of assaults to total inmate population x 100	4.21	5.95
RIOTS	Facility riots	actual number coded	.48	1.71
SEGPOP	Segregated population	ratio of segregated inmates to total inmate population x 100	6.16	7.79
VLTDTH	Violent deaths	YES = 1	.23	.42
CROWDING	Level of crowding in the facility	ratio of total inmates to rated capacity of facility x 100	107.54	28.70
STFFINM	Staff to inmate ratio	ratio of total correction officers to total inmate population	.27	.17
CTORDER	Facility under consent decree	YES = 1	.18	.39
DMAX	Maximum security facilities	YES = 1	.38	.49
DFED	Federal facilities	YES = 1	.01	.23
DSOUTH	Facilities in Southern states	YES = 1	.48	.50

manifest in several forms. Inmates may assault or murder other inmates or staff, suicides may occur, and riots may take place. Each of these indicates a level of disorder within a facility. Three measures for violence were used to capture the aggregate levels of violence occurring in a facility. The importance of this can not be underestimated. High levels of disorder not only impact decisions made by administrators but also affect the behavior of inmates within the facility. A more violent prison may be an inappropriate setting for programs.

Four variables were used to control for disorder in the prison. Three composite variables captured aggregate rates of assault (ASSAULTS), violent deaths (VLTDTH), and segregated populations (SEGPOP). The first control variable is an aggregate measure of assaults (ASSAULTS) occurring in the prison. This variable includes assaults on inmates and staff. A rate is calculated by dividing the total number of assaults by the inmate population and then multiplying by 100. Three measures of violent death (suicides, inmate murders, staff murders) were combined to create a dummy variable (VLTDTH) for whether or not a facility experienced any violent deaths (0=NO, 1=YES). Violent deaths were a relatively rare occurrence in most facilities. Only 134 facilities experienced any fatal deaths. Therefore, the differentiation rested less upon the number of instances and primarily upon whether or not a facility had experienced any form of violent death.

The third measure of prison disorder and level of fear in the prison population is the proportion of inmates who are housed in special units away from the general population (DiIulio 1987; Gendreau et al. 1974). A variable capturing the proportions of these inmates was created by dividing the number of inmates placed in segregation units by the total inmate population. This variable for the segregated population (SEGPOP) included inmates housed in protective custody, administrative segregation and disciplinary custody. The last measure of possible prison disorder was the number of riots a facility experienced in the previous year.

Previous studies identify the possible impact that crowding has on the prison environment (Gaes and McGuire 1985; McCorkle et al. 1995). A control variable (CROWDING) was created by dividing the total population by the rated capacity. This ratio was then multiplied by 100 so that any rate returned above 100 indicates a facility operating at above 100 percent capacity. The staff to inmate ratio (STFFINM) has been used as an important indicator of manageability and governability of the prison environment (DiIulio 1997; McCorkle et al. 1995). Facilities were identified as to whether or not they were operating under a consent decree (CRTORDER; 0 =NO, 1=YES). Other dummy variables were used to identify federal facilities (DFED; 0=No, 1=YES) and maximum security facilities (DMAX; 0=NO, 1=YES).

Considering the research question, the control variable of greatest importance, or interest, is whether differences are observed geographically. Operationalization of a dummy variable for the South proved difficult for several reasons. There are many ways in which to conceptualize the South and previous research has varied significantly in interpretation (Whitt, Corzine, and Corzine 1995). The importance of this spatial differentiation is rooted in studies of a possible Southern sub-culture of violence (Gastil 1971; Hackney 1969). The operational definitions may vary according to purpose and depend on whether the South is better operationalized as cultural attitude, geographical region or historical setting.

The current study employs a broad definition of the South. For instance, although generally thought of as a southwestern state, Texas has historical linkage to the confederacy so it is included as a Southern state. The dummy variable for the South (DSOUTH; 0=NO, 1=YES) includes the original seven confederate states, the four border states which later seceded, and the states considered 'culturally' southern but which did not secede (see Appendix 1).

CHAPTER 5

Results

The present study examines the impact of the relative size of the Black inmate population on the extent and nature of prison programming in facilities with larger populations of Blacks. To empirically test the hypothesis of this paper, two methods of analysis were used; (1) ordinary least squares, and (2) logistic regression. Two models were run for each program variable. Model 1 refers to the estimated regressions run without a control for Southern states. The second model is estimated with the dummy variable for Southern facilities.

Level of Programming

The first set of models estimates the impact of the independent variables on the number of programs offered by a facility. Because the dependent variable is quantitative, ordinary least squares regression is used. Table 3 presents the coefficients for level of programming.

The coefficients for the relative size of the Black population are

Table 3: Ordinary Least Squares Coefficients For Programs Offered

Variable	Programs Model 1		Programs Model 2	
	β	S.E.	β	S.E.
BLCKPOP	-.5390	.494	-.3320	.530
ASSAULTS	.0027	.016	.0023	.071
RIOTS	.0094	.055	.0099	.055
SEGPOP	.0024	.014	.0025	.014
VLDDTH	.5210 *	.234	.4960 *	.235
CROWDING	.0011 **	.003	.0009 **	.004
STFFINM	-3.4100 **	.603	-3.3480 **	.603
CTORDER	.0031	.242	.0070	.245
DMAX	.0047	.220	.0033	.221
DFED	.2230	.429	.2530	.430
DSOUTH			-.2310	.212
CONSTANT	5.3350 **	.527	5.4730 **	.542
	$R^2 = .132$		$R^2 = .133$	
	Adjusted		Adjusted	
	$R^2 = .116$		$R^2 = .117$	

* = $p < .05$ ** = $p < .01$

not statistically significant although they are in the predicted direction. Model 1 was run without the dummy variable for Southern facilities. The inclusion of the dummy variable for the South did not impact the results. The adjusted R square results were weak. For model 1 the adjusted R square value was .116. For model 2 the adjusted R square value was .117. This means that for both models, approximately 12 percent of the variation in the level of facility programming was attributable to the independent variables.

However, three significant control variables are present in both models. As violent deaths and level of crowding increase so to does the level of programming. These variables may be operating as a proxy for facility size. Conversely, as the staff to inmate ratio increases the level of programming in a facility decreases. This may indicate a more punitive environment, where greater emphasis is placed on control as opposed to rehabilitation. The results of the ordinary least squares analysis are inconsistent with this study's hypothesis that larger Black populations impact an administration's level of programming.

The Nature of Programming

This study also examines the impact of the Black population on the nature of available programming. The dependent variable (i.e. whether a specific program is offered) is dichotomous. Therefore, logistic regression is used. The logit model estimates the impact of each

independent variable on the unobserved probability of an outcome occurring (0=failure, 1=success). In this case, the outcome is that a specific program is offered in a facility (0=NO, 1=YES).

Three categories of programs were identified in this study: (1) work programs, (2) educational programs, (3) counseling and self-help programs. Each program category consists of specific types of programs. Logistic regression models were estimated for each program. As with the ordinary least squares analysis, model 1 is estimated without a variable for the South while model 2 is estimated with the dummy variable for the South.

Work Programs

Table 4 presents the logistic regression coefficients and odds ratios for work programs. The first program is industry. For model 1 we see that the coefficient for the Black population is statistically significant, and the coefficient is in the predicted direction. The higher the Black population, the less likely a facility is to offer industry programs. Several of the control variables also had significant effects. Facilities with greater numbers of inmates in segregation units are more likely to offer this type of program. Violent deaths and crowding were also positively related to the likelihood of industry programs being offered. Again, these results may represent the influence of facility size. Larger facilities, with larger populations may have a greater chance of

Table 4: Logistic Regression Coefficients and Odds Ratios (in parenthesis) For Work Programs

Variable	INDUSTRY		FARMING		PUBWORKS	
	Model 1 b	Model 2 b	Model 1 b	Model 2 b	Model 1 b	Model 2 b
BLCKPOP	-1.5751 ** (.2070)	-1.2963 * (.2735)	.9302 (2.5351)	-.5552 (.5739)	.8110 (2.2502)	.1685 (1.1836)
ASSAULTS	.0291 (1.0295)	.0233 (1.0235)	-.0274 (.9730)	.00006 (.9999)	-.0031 (.9969)	.0080 (1.0080)
RIOTS	.0056 (1.0057)	.0154 (1.0156)	.1701 ** (1.1855)	.1453 * (1.1564)	-.0142 (.9859)	-.0038 (.9668)
SEGPPOP	.0570 ** (1.0587)	.0589 ** (1.0607)	-.0035 (.9965)	-.0077 (.9923)	-.0209 (.9794)	-.0228 (.9774)
VLDDTH	.8806 ** (2.4124)	.8350 ** (2.3052)	-.2580 (.7726)	-.0716 (.9309)	-.1787 (.8364)	-.1013 (.9037)
CROWDING	.0110 ** (1.0111)	.0091 * (1.0091)	-.0060 (.9940)	.0036 (1.0036)	-.0024 (.9976)	.0013 (1.0013)
STFFINM	-4.6016 ** (.0100)	-4.6874 ** (.0092)	-5.4816 ** (.0042)	-4.9290 ** (.0072)	-.8448 (.4296)	-.8333 (.4346)
CTORDER	.7263 ** (2.0675)	.7687 ** (2.1569)	.2368 (1.2672)	.0273 (1.0277)	.1864 (1.2049)	.0689 (1.0713)

Table 4: Logistic Regression Coefficients and Odds Ratios (in parenthesis) For Work Programs (cont.)

Variable	INDUSTRY		FARMING		PUBWORKS	
	Model 1 b	Model 2 b	Model 1 b	Model 2 b	Model 1 b	Model 2 b
DMAX	.3137 (1.3685)	.3425 (1.4085)	.5117 * (1.6680)	.3567 (1.4285)	-.4937 * (.6104)	-.5545 ** (.5743)
DFED	8.7054 (6035.2)	8.6412 (5659.8)	-2.1454 ** (.1170)	-2.6353 ** (.0717)	-1.9643 ** (.1403)	-2.1383 ** (.1179)
DSOUTH		-.3164 (.7288)		1.5886 ** (4.8970)		.7218 ** (2.0581)
CONSTANT	.3770	.6135	.9806	-.2420	.5440	.1352

* = $p < .05$

** = $p < .01$

experiencing disorder, but simultaneously offer more programs due to their size. Another statistically significant control variable is whether a facility is under a court order. Facilities under court order are more likely to offer industry programs.

In model 2 we see that the coefficient for Black population is statistically significant as well. The coefficient is in the predicted direction. The statistically significant control variables reported in model 1 are also statistically significant in model 2. All coefficients are in the same direction. Once again, segregated population, violent death, and level of crowding all appear as statistically significant coefficients that are positively related to the odds that industry programs will be offered.

Whether or not a facility is under court order appears to impact the availability of industry programs as well. This may indicate that a facility must be directed under consent decree before offering programming of this nature. Therefore, facilities may not be voluntarily offering programs of this type. For both models, an increase in the staff to inmate ratio decreases the likelihood that a facility will offer industry programs. One possible explanation is that a higher staff to inmate ratio indicates a more controlling and punitive environment.

The next program is farming. Black population is not statistically significant in either model. However, several control variables in both models are statistically significant. For model 1 we see that as the

incidence of riots increases so to does the likelihood of farming programs being offered. The next statistically significant coefficient is staff to inmate ratio. As the value of this variable increases, the odds decrease that a facility will offer farming programs. Maximum security facilities are more likely while federal facilities are less likely to offer farming programs.

In model 2 riots are positively related to the odds of farming programs being offered. As the incidence of riots increase the odds of farming programs being offered increases as well. Statistically significant coefficients for staff to inmate ratio and federal facilities are consistent with model 1. Both of these control variables are negatively related to the odds that farming programs will be offered. We see in model 2 that the dummy variable for the South is statistically significant. Facilities in the South are more likely to offer farming programs. This makes intuitive sense and is not surprising considering the rural environment of many facilities in the South.

The last program type in Table 4 is public works. Black population is not significant in either model. In both models the coefficients for maximum security and federal facilities are significant. Both maximum security facilities and federal facilities are less likely to offer public works programs. In model 2 the dummy variable for the South is again statistically significant. Facilities in the South are more

likely to offer public works programs. Again this may be due in part to the more rural nature of many Southern facilities.

Educational Programs

Table 5 presents the logistic regression coefficients and odds ratios for educational programs. The first program is vocational training. In model 1 we see that as the Black population increases the odds decrease that a facility will offer vocational training programs. Other statistically significant coefficients in model 1 include the level of crowding and the staff to inmate ratio. As with previous models, as the level of crowding increases, vocational training opportunities increase. As the staff to inmate ratio increases, the likelihood of this program being offered decreases.

The introduction of the dummy variable for the South in model 2 washes out the effects of Black population. The Black population coefficient is in the predicted direction, but is no longer significant. Again in model 2, the staff to inmate ratio is statistically significant. The higher the staff to inmate ratio the lower the odds that a facility will offer vocational training.

The second program category is special education. Black population does not have an effect in either model. The only statistically significant coefficients in these models is for court order. In both models

Table 5: Logistic Regression Coefficients and Odds Ratios (in parenthesis) For Educational Programs

Variable	VOCTRAIN		SPECED		COLLEGE	
	Model 1 β	Model 2 β	Model 1 β	Model 2 β	Model 1 β	Model 2 β
BLCKPOP	-1.2312 * (.2920)	-.4694 (.6254)	.0843 (1.0879)	.2754 (1.3170)	-1.4185 ** (.2421)	-1.2072 * (.2990)
ASSAULTS	.0223 (1.0225)	.0078 (1.0078)	.0306 (1.0311)	.0274 (1.2077)	.0094 (1.0095)	.0060 (1.0060)
RIOTS	.0587 (1.0604)	.0082 (1.0922)	.0143 (1.0144)	.0196 (1.0198)	.0128 (1.0129)	.0185 (1.0186)
SEGPPOP	.0172 (1.0173)	.0207 (1.0209)	.0134 (1.0135)	.0139 (1.0140)	.0234 (1.0237)	.0240 (1.0243)
VLDDTH	.5938 (1.8109)	.4766 (1.6106)	.2260 (1.2536)	.2045 (1.2270)	.3687 (1.4458)	.3423 (1.4082)
CROWDING	.0129 * (1.0130)	.0081 (1.0081)	.0080 * (1.0080)	.0069 (1.0069)	.0152 ** (1.0153)	.0139 ** (1.0140)
STFFINM	-2.7639 ** (.0630)	-2.8636 ** (.0571)	-.9199 (.3986)	-.9602 (.3828)	-.6359 (.5294)	-.6663 (.5136)
CTORDER	.4162 (1.5162)	.5591 (1.7491)	-.7113 ** (.4910)	-.6778 ** (.5077)	.4165 (1.5167)	.4570 (1.5793)

Table 5: Logistic Regression Coefficients and Odds Ratios (in parenthesis) For Educational Programs (cont.)

Variable	VOCTRAIN		SPECED		COLLEGE	
	Model 1 β	Model 2 β	Model 1 β	Model 2 β	Model 1 β	Model 2 β
DMAX	-.1266 (.8811)	-.0833 (.9200)	.2331 (1.2625)	.2471 (1.2803)	-.0749 (.9278)	-.0596 (.9421)
DFED	.9164 (2.5003)	.9583 (2.6074)	-.7918 (.4530)	-.7611 (.4672)	.9205 * (2.5106)	.9481 * (2.5807)
DSOUTH		-.8448 ** (.4297)		-.2074 (.8127)		-.2328 (.7923)
CONSTANT	1.0901	1.6933	-.9486	-.8182	-1.3974	-1.2492

* = $p < .05$

** = $p < .01$

facilities under a court order were less likely to offer this type of program.

The last program in the educational program category is college courses. In model 1 we see that facilities with larger populations of Blacks are significantly less likely to offer these types of programs. The coefficient for crowding is significant. As the level of crowding increases the odds increase that college courses will be offered. Federal facilities are more likely to offer this program type.

In model 2, we see that the coefficient for Black population remains statistically significant and in the predicted direction following the inclusion of the dummy variable for the South. Facilities with higher Black populations are significantly less likely to offer college course programs. Crowding and whether a facility is federally run remain significant. As crowding increases the odds of college programs being offered increases as well. College course programs are significantly more likely to be offered in federal facilities.

Counseling and Self-Help Programs

Table 6 presents the logistic regression coefficients and odds ratios for counseling and self-help programs. The first program is psychological and psychiatric programs. Although in the predicted direction, Black population is not statistically significant in either model. Several control variables produced statistically significant effects however. For both models the rate of assaults and whether or not a

Table 6: Logistic Regression Coefficients and Odds Ratios (in parenthesis) For Counseling and Self-Help Programs

Variable	PSYCH		EMPLOY		LFSKILLS		PARENT	
	Model 1	Model 2	Model 1	Model 2	Model 1	Models 2	Model 1	Model 2
	b	b	b	b	b	b	b	b
BLCKPOP	-.6998 (.4967)	-.3173 (.7281)	.1216 (1.1294)	.9145 (2.4956)	.3261 (1.3855)	.7621 (2.1407)	-.7219 (.4858)	-.3277 (.7206)
ASSAULTS	.1292 * (1.1379)	.1112 * (1.1176)	.0147 (1.0149)	.0020 (1.0020)	.0336 (1.0342)	.0264 (1.0267)	.0015 (1.0015)	-.0054 (.9946)
RIOTS	-.0833 (.9201)	-.0705 (.9319)	.0204 (1.0206)	.0435 (1.0445)	.0391 (1.0399)	.0533 (1.0548)	.1604 ** (1.1740)	.1747 ** (1.1909)
SEGPOP	.0004 (1.0004)	.0010 (1.0010)	.0270 * (1.0274)	.0304 * (1.0309)	.0166 (1.0168)	.0182 (1.0184)	.0038 (1.0038)	.0047 (1.0047)
VLDDTH	.6572 (1.9295)	.6063 (1.8336)	.4880 * (1.6290)	.4061 (1.5010)	.3371 (1.4008)	.2859 (1.3309)	.1054 (1.1111)	.0514 (1.0528)
CROWDING	.0023 (1.0023)	-.0004 (.9996)	.0054 (1.0054)	.0009 (1.0009)	.0018 (1.0019)	-.0006 (.9994)	.0116 ** (1.0117)	.0092 * (1.0093)
STFFINM	-.1096 (.8962)	-.1619 (.8505)	-2.4692 ** (.0847)	-2.6668 ** (.0695)	-2.1056 ** (.1218)	-2.1935 ** (.1115)	-1.3497 (.2593)	-1.4466 (.2345)

Table 6: Logistic Regression Coefficients and Odds Ratios (in parenthesis) For Counseling and Self-Help Programs (cont.)

Variable	PSYCH		EMPLOY		LFSKILLS		PARENT	
	Model 1	Model 2	Model 1	Model 2	Model 1	Models 2	Model 1	Model 2
	b	b	b	b	b	b	b	b
CTORDER	1.2161 *	1.2826 *	-.2673	-.1486	-.7194 *	-.6549 **	-.0479	.0228
	(3.3740)	(3.6061)	(.7654)	(.8619)	(.4871)	(.5195)	(.9532)	(1.0230)
DMAX	.2787	.3270	-.4744 *	-.4321 *	-.0636	-.0361	-.1598	-.1242
	(1.3214)	(1.3869)	(.6223)	(.6491)	(.9384)	(.9646)	(.8523)	(.8832)
DFED	1.0901	1.1772	.2443	.3578	.1714	.2289	1.9708 **	2.0347 **
	(2.9744)	(3.2453)	(1.2767)	(1.4302)	(1.1869)	(1.2572)	(7.1765)	(7.6502)
DSOUTH		-.4234		-.8320 **		-.4627 *		-.4478 *
		(.6548)		(.4352)		(.6296)		(.6390)
CONSTANT	1.5305	1.8784 *	.3789	.9281	.9399	1.232 *	-1.309 *	-1.0175

* = p < .05

** = p < .01

facility is under a court order are statistically significant. Facilities with higher rates of assaults are more likely to offer psychological and psychiatric programs. Facilities under a consent decree are more likely to offer this type of program.

The second program type is employment skills programs. The Black population does not impact the availability of this program type in either model. In model 1, violent deaths and higher levels of inmates in segregated units are positively related to the odds of this program type being offered. For model 2 we see similar statistically significant coefficients for segregated population, staff to inmate ratio and federal facilities. As values for crowding and segregated populations increase so do the odds that this program will be offered. Federal facilities are more likely to offer employment skills programs. Facilities with higher staff to inmate ratios are less likely to offer this type of programming. The dummy variable for the South in model 2 produces a statistically significant coefficient. If a facility is located in a Southern state, the odds decrease that this type of program will be offered.

Life skills programs is the third type of program in the counseling and self-help category. Black population is not significant in either model for this program. For both models the staff to inmate ratio remains significant and negatively correlated to the odds that this program will be offered. Court order is statistically significant for both models 1 and 2. The odds of life skills programs being offered increased

if a facility was under a court order. The dummy variable for the South is statistically significant in model 2. The odds that life skills programs will be offered decreases if a facility is located in the South.

The last program in the counseling and self-help category is parenting skills programs. Black population does not appear to affect the availability of this type of program in facilities. Control variables for the level of crowding and riots produced statistically significant coefficients in model 1. The results show that facilities with higher levels of crowding and incidents of riots have an increased probability of this type of program being offered. Again this most likely is a reflection of facility size. The coefficient for federal facilities is statistically significant. Those facilities operating under federal direction are more likely to provide this type of program.

Similar results are reported in model 2. Increased incidents of riots and crowding are positively related to the odds of this program being offered. Federal facilities are more likely to offer parenting skills programs, while, facilities in the South are less likely to offer parenting programs.

Summary of Results

The effect of Black population was inconsistent across the models, and in some cases the predicted direction was reversed (e.g. public works, life skills, employment programs). However, in all cases

where Black population was statistically significant, the reported coefficients were in the predicted direction. Statistically significant coefficients for Black population were reported in the following programs: (1) industry, (2) college, and (3) vocational training. For vocational training the inclusion of the dummy variable for the South in model 2 washed out the effects of Black population from model 1. Yet in college programs and industry, the impact of Black population remained statistically significant and strong in both models.

With the exception of farming and public works, coefficients for the South variable show that facilities are less likely to offer programs if they are located in Southern states. This result is consistent for both type of programming and level of programming. Similarly, the variable for staff to inmate ratio produced consistent results across all models. Facilities with higher levels of staff to inmate ratios were consistently less likely to offer programs across all program categories and program types. These results may indicate a greater emphasis on social control within the prison as opposed to rehabilitation.

Measures of prison disorder such as riots, violent death and crowding generally increased the probability that a specific program would be offered in a facility. As stated, these variables may be acting as a proxy for facility size. Depending on the program type, whether or not a facility was maximum security or federally run affected the odds that some programs would be offered. For instance, federal facilities are

less likely to offer programs such as public works and farming, but more likely to offer college courses and parenting programs. Given the characteristics of these facilities this makes intuitive sense. The risks involved in instituting public works and farming programs in a maximum security facility precludes those types of programs from being offered.

CHAPTER 6

Summary

The purpose of this study was to identify whether evidence of differential treatment on the basis of race exists in the prison environment. The present study examined whether evidence of differential treatment was present in the discretionary implementation of programs in the prison setting. Both the level and nature of programs offered were of importance in the current study. The discrimination thesis states that differential treatment of Blacks continues to manifest in the discretionary decisions that are made by various individuals throughout the criminal justice system.

The results of the present study did not consistently support the hypothesis of differential treatment. However, the findings are consistent with previous research that has examined the nature and extent of differential outcomes for Blacks. As with previous studies, the presence and effect of race on criminal justice decision making is at some points quite pronounced and at others negligible. The same holds true for the current study.

Black population was not a significant predictor for the level of programming a facility offered. Yet, when looking at specific types of programs, the impact of Black population was significant for several program types. Thus, the extent of programming does not appear to be correlated with race, but the nature of programming is significant in some instances. Most notably, the impact of race seemed greatest in those discretionary programs which may most influence an inmates' life chances upon release.

The results show that the availability of college, industry and vocational training programs are impacted by the Black population. For all facilities in the study, the larger a facility's population of Blacks, the less likely they were to offer these highly discretionary programs. Inclusion of a dummy variable for Southern states shows that facilities in Southern states consistently have lower levels of programming and are less likely to offer specific programming across all categories.

Limitations of the Study

There are some limitations of the present study which must be addressed. Two limitations of the data set exist. The first was the lack of a variable that captured available funding in facilities. Of equal importance may be the income level of the surrounding areas. Facilities located in economically distressed areas may be impacted by the sentiment of least eligibility. Second, the data set did not include a

variable for mean age of inmates. Age is an important consideration in any study of a prison facility because it has the potential to impact the level of disorder and interact with the models in an unknown manner. This may be one of the most important variables in determining the level of disorder in a facility.

The sample included only adult male populations. As a result, juvenile facilities and facilities housing females were omitted. It may be the case that the observed trends reverse for juvenile facilities. If older populations in adult facilities are viewed as beyond redemption, juveniles may be viewed as a worthwhile rehabilitative investment. Finally, because the data is from a self-report survey of prison facilities, all data may not be accurate. For instance, incidents of riots and assaults may be under reported if these occurrences were perceived as reflecting badly on a facility.

Discussion

There are several implications of the study to consider. Declining or non-existent opportunities in the prison environment may not indicate intended differential treatment on the basis of race. These results may actually reflect a much more basic devaluation of all prisoners and a shifting emphasis toward punitive incarceration at the cost of rehabilitation. For certain, this is supported by the consistently negative relationship between staff to inmate ratio and the availability of

programs. Yet, the implications of this remain troublesome considering that a disproportionately vast majority of those imprisoned are Black.

The ability to participate in programs is a vital component of the prison environment. The elimination or declining opportunities for prison programs may be reflective of a public policy which opts for recidivism over rehabilitation (Tewksbury 1996). The limitation of prison opportunities to the most basic programs (e.g. adult basic education) relegates inmates to a similar disadvantage which may have contributed to incarceration in the first place. Most certainly elimination of opportunities precludes inmates from an opportunity which may assist them in avoiding recidivism. Granted, not all prisoners benefit or even participate in program opportunities, but for those who do, the rewards are worthwhile.

The Black population of a facility was a strong predictor of whether or not a facility offered college, industry and vocational training programs. For two of these programs the findings held even with the addition of a control variable for the South. Not only are these types of programs highly discretionary, but they may reflect an unspoken assessment of the relative worth of the inmate population. Similarly, programs not deemed suitable or potentially effective for a particular prison population may not be implemented. Whether these decisions are impacted by 'symbolic connotations' (Zatz 1987) or perceptions of the inmate population is unknown. The possibility that differential

program opportunity occurs as the result of subtle discretionary decisions which may be biased, deserves further scrutiny.

Differential treatment on the basis of lingering stereotypes and perceptions may occur at various stages of the criminal justice process. Some state that this is actually no more than a class issue (Wilbanks 1987), but when race and class are so deeply connected it may be impossible to address the two as separate facts. Thus, contemporary perceptions of Blacks and conceptions of criminality, dangerousness, and usefulness in society remain tied to historical perceptions. In this sense, extracting the system part and parcel from the past may be more difficult than anticipated. Discretionary decision making may not simply be responsibility of those in positions of power, but is simultaneously a reflection of the social climate which dictates the appropriate treatment of inmate populations.

For instance, it has been argued that prison walls are similar to a semi-permeable membrane which allows for the constant exchange between the outside world and the prison environment (Farrington 1992). That is, prisons mirror society in several ways and on several different levels (Farrington 1992; Michaelowski 1985). Therefore, it is unlikely that individual bias and public perceptions regarding Black stereotypes simply stop at the prison walls. Facilities that are less likely to offer educational and training opportunities for Black inmate populations may mirror the public sphere other ways.

The disappearance of educational and employment opportunities from inner cities was an integral factor in the declining social infrastructure in many Black neighborhoods. A variation on this same theme is occurring in the prison. Results from the current study indicate that in facilities with higher populations of Blacks, programs such as college courses, vocational training and industry programs are less likely to be offered. These programs are analogous to the disappearing educational and employment opportunities evident in many Black communities across the nation.

Contemporary discrimination and differential outcomes must be understood in the context of historical discrimination (Wilson 1985). Legal change and public awareness of the problem does not automatically provide equality for Blacks. A host of intervening variables (e.g. socio-economic status) continue to have economic and ideological implications for Blacks in the United States, yet the manifestation of differential outcomes derives from previous inequalities (Roscigno and Bruce 1995). Therefore, differential outcomes are embedded within political and economic factors in both the public sphere and the prison environment (Roscigno and Bruce 1995).

The results of the present study, and those that have come before, are far more complex than merely the impact of 'race' on observable differential outcomes. To say that race is the mitigating factor in and of itself negates the complexities of the social structure

and the host of factors which place Blacks at a disadvantage in society. The findings of this study are consistent with previous research on discrimination and differential outcomes in the criminal justice system. There is no consistently direct evidence of discrimination and subsequent 'proof' of differential treatment toward Blacks in the justice system. However, observable disparities suggest that something is amiss. Like research of discrimination in case processing, support for the discrimination thesis is apparent at some points but absent at others.

Conclusions

The present study reaffirms the need for further research in the area of discrimination and differential treatment of Blacks in the criminal justice system. Whether differential outcomes are the manifestation of discriminatory decision making or a myriad of factors remains unknown. Yet, in a system where a particular segment of the population continues to receive disparate treatment, the causes must continually be examined. The fact that Blacks have historically been the recipients of differential treatment further underscores the importance of this issue.

Whether Blacks experience differential outcomes as a result of the color of their skin may be of less importance than the fact that they continue to bear the brunt of disparate treatment. The impact of race

should be examined as it relates to the availability of opportunities both in education and employment. Blacks may not receive harsh differential treatment as they once did, but the slow methodical removal of educational and employment opportunities may be equally damaging to Blacks as a group.

Questioning the existence and root causes of differential outcomes is necessary if the system is to maintain its integrity. This does not imply that persistent discrimination against Blacks is present and must eventually be proven. Continued research serves the purpose of identifying where, when, and how differential outcomes occur in the criminal justice system. This research subsequently identifies tangible ways in which the system may be improved.

Differential treatment is not just a matter of one groups' adversity, it threatens the rectitude of the entire system and calls into the question the society that condones differential outcomes and the possibility of differential treatment. Further research produces a climate where further dialog is possible. Whether differential treatment on the basis of race exists is of less importance than the reasons for the observed disparities. The reasons for differential outcomes are rooted in a broader social context, and perhaps assigning blame solely to the

criminal justice system overlooks broader social implications. As stated by Headley (1990):

proposing the nonexistence of racism in the criminal justice system...[goads] us into a distracting sideshow, to divert our attention from the larger social reality which produces the human wreckage...in which the justice system serves as custodian. (P. 93)

APPENDIX 1

The Designation of Southern States

Seven Confederate states seceded in 1861. These original Confederate states were South Carolina, Mississippi, Florida, Alabama, Georgia, Louisiana, and Texas. Four border states soon joined the Confederacy. These states were Virginia, Arkansas, North Carolina, and Tennessee. Several other states were either culturally or geographically Southern but did secede.

For instance, the states of Kentucky, Missouri, and West Virginia are generally thought of as culturally Southern. However, opposition to secession was too great in these states and they remained with the Union. States such as Delaware and Maryland are geographically Southern. Both lay below the Mason Dixon line, and both are categorized as South Atlantic states by the Bureau of the Census. However, neither of these two states embodies the 'Southernness' one typically associates with Southern states. It may be argued that Delaware and Maryland resembled the Northern states of the Union more than their Southern counterparts.

The current study identifies Southern states as the original seven seceding states, the four border states, and the culturally Southern states of Kentucky, Missouri, and West Virginia.

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