Beyond the Imprisonment Rate:  
The Social and Political Determinants of Prisoner Treatment

Jeremiah Olson  
Ph.D. Student  
Department of Political Science  
University of Kentucky  
(jeremiah.olson@uky.edu)

Richard C. Fording  
Professor  
Department of Political Science  
University of Alabama  
(rcfording@ua.edu)

Abstract

A number of studies have examined the determinants of state imprisonment rates, finding that the social and political context plays an important role in explaining variation in state preferences for punishment. However, very little attention has been paid to how inmates are treated once they are imprisoned, despite the fact that significant variation exists in state prison conditions and services offered to prisoners. This paper extends the literature on state imprisonment policy by examining the effects of race and the state political context on three important indicators of the disciplinary and punitive dimension of state prison conditions – the use of disciplinary actions, the use of restricted population facilities, and the degree of prison overcrowding. The sample includes approximately 1,200 state prisons included in the 2000 Bureau of Justice Statistics Census of Federal and State Correctional Facilities. Our findings suggest that the racial composition of the prison population is the most important predictor of inmate treatment. More specifically, prisons with relatively larger black and Latino inmate populations are more likely to use enforce disciplinary sanctions, confine prisoners in restricted population facilities, and engage in overcrowding.

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Over the last four decades, the design and implementation of criminal justice policy in the United States has undergone a dramatic transformation, reflecting a shift in the values and assumptions guiding the treatment of criminal offenders. From the 1890s until the 1960s, the United States operated what David Garland has called ‘penal welfarism,’ which was largely based on two assumptions. First, there was an assumption that social reform, together with affluence, would eventually reduce the frequency of crime. Criminal behavior was viewed as a reflection of environmental factors, and it was believed that an alleviation of poverty could therefore reduce crime. The second assumption was that the state is responsible for the care of offenders as well as their punishment and control. Consequently, the treatment of criminals was individualized and largely based on an individual’s capability of being rehabilitated, and a central role was given to professionals such as parole officers and social workers who worked together to help reintegrate former prisoners (Garland 2001).

Since the 1960s, this “rehabilitative model” has been gradually supplanted by a “crime control” model in which incapacitation and punishment have replaced reform and rehabilitation as the primary goals guiding the treatment of criminal offenders. There are several features which distinguish the new system from its predecessor. First, a popular strategy of the new system is “punitive segregation,” which aims to separate the criminal from society, rather than reintegrate the criminal into society. Second, criminals are primarily seen as deviants or ‘delinquents’, rather than reflections of their social environments. Third, the role of case workers and parole officers has been reduced, while the importance of victims has increased. As a result, the goals of rehabilitation and reintegration have been surpassed in priority by the goal of retribution (Garland 2001).
The most obvious empirical manifestation of the transition to the crime control model has been the historic increase in the imprisonment rate. Yet, despite the fact that imprisonment rates have increased in all 50 states since 1970, there has been significant variation in that growth and the extent to which states have embraced the crime control model. As a result, a large literature has emerged which aims to explain variation in state imprisonment rates. Contrary to conventional wisdom, these studies have consistently concluded that the use of imprisonment is not solely determined by the level of crime. Indeed, several studies have found that crime rates are only weakly related to imprisonment rates, if they are even related at all (Jacobs and Jackson 2010; Western 2006). Rather, reflecting the highly salient, racialized and politicized nature of criminal justice policy, these studies conclude that variation in state preferences for punishment are largely explained by the social and political context in a state. More specifically, state imprisonment rates are highest in states with high levels of racial diversity (especially large black populations) and in ideologically conservative states where the state Republican party has had significant influence on state policymaking (e.g. Jacobs and Helms 1996; Jacobs and Carmichael 2001; Smith 2004; Stucky, Heimer and Lang 2005; Yates and Fording 2005).

These studies have greatly contributed to our understanding of recent trends as they convincingly show that the use of imprisonment is as much a policy choice as it is a mechanical response to the level of criminal activity. Yet, due to its near-exclusive focus on the imprisonment rate as the dependent variable, the existing literature is limited in its contribution to our understanding of variation in state “punitiveness” due to the fact that the literature has largely ignored what happens to convicted criminals once they get to prison. And just as states were increasing the scale of imprisonment during the last four decades, so too were they making significant changes to how their prisoners were treated. Reflecting the rejection of the values
guiding the rehabilitative model, states have been less willing to invest in treatment and rehabilitation programs for prisoners, believing such strategies to be ineffective. In addition, as the goal of “punishment” has increasingly come to guide criminal justice policymaking, many states have been more willing to house their prisoners in overcrowded facilities and subject them to humiliating practices and punishments.

As we elaborate below, just as states vary in their use of imprisonment, states also display significant variation in how they treat their prisoners. Yet, we know very little about the causes underlying this variation. This gap in our understanding is potentially important for a number of reasons. According to Garland (2001), as the goals of retribution and incapacitation have come to dominate criminal justice policy, concerns about civil liberties and the rights of prisoners have become relatively minor concerns. Although prison conditions have undoubtedly improved since the 1960s due to court intervention, this intervention has been very uneven and compliance is often circumvented (Selke 1993). In addition, recent U.S. Supreme Court decisions have potentially opened the door for a retreat in the area of prisoner rights.\(^1\) Finally, prisoner treatment has potentially important policy consequences as it has been found to be an important determinant of the psychological well-being of inmates, and thus the potential for criminal behavior and recidivism upon release (Chen and Shapiro 2007; Drago, Galbiati and Vertova 2008; Selke 1993).

In a recent paper, Percival (2009) examined variation in the rate at which states offer important rehabilitative services to their prisoners. Using state-level data for 1995 and 2000, Percival found that important rehabilitative services related to mental health and education were

\(^1\) For example, in one of the most potentially important decisions, the Court ruled in Sandin v. Connor (1995) that states need not provide due process to prisoners in administrative disciplinary hearings when the penalty is a sentence of segregation. In other recent cases, the Court has ruled that prisons need not provide prisoners access to a law library (Lewis v. Casey, 1996), nor do they need to provide prisoners with more than one hour a day (five days per week) of recreation and physical exercise (Watts v. Ramos, 1996).
less likely to be offered in states with higher levels of racial diversity, white racial hostility, and conservative control of state government. Our paper follows Percival’s analysis, as well as the literature on state imprisonment policy more generally, by examining the effects of the two most consistent predictors of state imprisonment growth – racial diversity and the state political context - on the treatment of state prisoners. However, our analysis breaks new ground in two important ways. First, we shift the focus from rehabilitative services to the disciplinary and punitive side of prisoner treatment by examining the use of formal disciplinary sanctions, the presence and use of restricted population facilities, and the extent of overcrowding. Second, we argue that in an implementation setting, the effect of race and racial stereotypes is likely to operate at two levels - through the local racial context (i.e. the racial composition of the prison) as well as the state racial context. To test this possibility, we conduct our analysis at the prison level, relying on a sample of approximately 1,200 state prisons included in the 2000 Bureau of Justice Statistics Census of Federal and State Correctional Facilities.

Contrary to expectations, our findings suggest that the treatment of prisoners is generally unrelated to the state political context. However, consistent with prior literature, we find a strong role for racial and ethnic diversity. Indeed, we find the racial and ethnic composition of the prison population to be the most consistent predictor of inmate treatment. More specifically, prisons with relatively larger black and Latino inmate populations are (1) more likely to use disciplinary sanctions, (2) more likely to have and use restricted population facilities, and (3) are more likely to engage in overcrowding. Interestingly, to the extent that the state racial context matters, the effects tend to run in the opposite direction, suggesting a possible mediating role of minority political power.
Explaining the Treatment of State Prisoners

What explains variation in prisoner treatment across states? We conceptualize prisoner treatment as a dimension of state criminal punitiveness. Therefore, to answer this question we focus our attention on two sets of explanations that have been found to play an important role in explaining variation in the most studied dimension of state punitiveness - state imprisonment rates. More specifically, we examine the role of the state political context and the racial context. Although we believe that the impact of these two forces on prisoner treatment will be similar to the effect seen for state imprisonment rates, the causal mechanisms linking state political and racial context to prisoner treatment are likely to be somewhat different.

For imprisonment rates, the effects of the political and racial context most likely operate through the actions of two sets of actors - policymakers within state political institutions (legislators, governors, and state judges) and local law enforcement agencies. Policymakers within state political institutions are responsible for determining the specific types of behaviors that are classified as criminal, as well as the severity of the sentence for engaging in such behaviors. They are also partly responsible for supplying local governments with much needed resources for local law enforcement agencies. Although local law enforcement actors (local elected officials, prosecutors and police) have significant discretion of their own concerning the level of enforcement of state laws, the effects of the state political and racial context on the imprisonment rate are likely stronger than the effects of the local racial and political context. Thus, it would seem that studying imprisonment rates at the state level is well-justified.

The set of actors responsible for prisoner treatment are somewhat different. Although prison conditions might be affected by the actions of governors, state legislators and state judges, the treatment of prisoners is perhaps most significantly affected by policymakers within the state
agencies that oversee the state prison system, as well as the administrators, caseworkers and correctional staff within the prisons themselves. Executive branch policymakers at the state level have considerable discretion in determining policies that affect all prisons within the state. But as the street-level bureaucrats within the prison system, prison administrators and correctional staff also have considerable discretion concerning many important aspects of prison conditions. Given this two-level structure to the exercise of policymaking discretion, we therefore include variables measured at both the state level and the prison level in our analysis. We discuss this in more detail in the data and methods section below.

**State Partisanship and Ideology**

The link between politics and punishment is likely rooted in the relationship between “law and order” political values and ideology. As many studies have shown, the perceived causes of and potential solutions to the problem of crime typically differ, with conservatives favoring punitive responses to crime based upon rationales of retribution, deterrence, and incapacitation, as opposed to the social welfare and rehabilitation solutions often proposed by liberals (e.g. Beckett 1997). Scholars examining the relationship between ideology and punishment as a social policy have offered three primary explanations for this relationship. First, conservatives are more inclined to view crime as a matter of personal choice and focus upon the offender’s personal responsibility for their deeds, as opposed to the explanations given by liberals and moderates that concentrate more on the potential influence of offenders’ socio-economic constraints and limited opportunities for economic success (Scheingold 1984). Second, some social theorists have argued that conservatives are more apt to employ law enforcement and incarceration as a means of asserting political authority to manage members of the economically marginal or “dangerous” underclass who may threaten socio-economic elites
Finally, conservative Republicans have stressed a retributive and deterrence-based law and order agenda in an attempt to realign the electorate by building an ideological bridge on the issue of crime between well-to-do fiscal conservatives and middle to lower class social conservatives, with whom they might otherwise have little in common (Beckett and Sasson 2000).

The empirical literature largely supports these theoretical assertions. For example, studies indicate that Republican politicians tend to spend more on law enforcement than Democrats (Caldeira and Cowart, 1980; Scheingold, 1984). In addition, nearly all of the studies that have examined the determinants of state imprisonment rates have found a significant relationship between some indicator of state conservatism and the imprisonment rate. This includes studies using national level time series data (e.g. Jacobs and Helms, 1996), state-level cross-sectional data (e.g. Greenberg and West 2001; Taggart and Winn 1993), state-level panel data (e.g. Beckett and Western 2001; Jacobs and Carmicheal 2001; Smith 1994; Yates and Fording 2005), and cross-sectional county-level data (Weidner and Frase 2003).

The application of this theory to prisoner treatment would seem straightforward. If conservatives are more likely to believe that criminal offenders generally cannot be rehabilitated, and if they are more concerned about retribution and victims rather than the rights of offenders, it would logically follow that conservatives would be less concerned about the comfort and well-being of prisoners while incarcerated. Although we believe the same values may be operating here to affect prisoner treatment, the mechanism through which they do so is likely to be somewhat distinct. Most of the imprisonment studies assume that the influence of state conservatism on imprisonment operates through elected state policymakers and state judges. This seems quite plausible given the large literature supporting the effect of state political ideology.
and partisanship on state policy outcomes. However, as we argued above, prison conditions are also likely to reflect the exercise of discretion by unelected policymakers within the state agency responsible for the state’s prison system. Although state bureaucrats are unelected and somewhat insulated from political forces through civil service protections, this does not mean that the bureaucracy is necessarily unresponsive to the political preferences of policymakers in the other branches of government. Indeed, a large literature exists in political science which finds significant political effects on bureaucratic policymaking, both at the federal and state level (e.g. Ringquist 1995; Schneider and Jacoby 1996; Sholz and Wei 1986; Wood and Waterman 1991). In addition, in the study that most closely approximates ours, Percival (2009) found a positive relationship between measures of state conservatism and the generosity of prisoner reentry (i.e. rehabilitative) policies. Based on this literature, we therefore present our first hypothesis.

(H1) The State Politics Hypothesis: The treatment of state prisoners will be negatively related to the level of state conservatism.

The Racial Context

One of the most consistent predictors of state imprisonment rates has been the size of the state’s minority (especially black) population (e.g. Beckett and Western 2001; Greenberg and West 2001; Jacobs and Helms 2001; Smith 2004; Sorensen 2002). Why this relationship exists is not obvious, but it is usually attributed to some combination of racial threat theory (Blalock 1967; Key 1949) and the use of a “law and order” strategy by conservatives to drive a wedge between black and white voters in the South (Beckett 1997; Beckett and Sasson 2000; Jacobs
and Carmichael 2001). Regardless of the precise explanation, the relationship is quite strong and robust to alternative measures of imprisonment.

We also expect that the racial context will be related to the treatment of state prisoners; however we theorize that a somewhat different causal process may be responsible for this relationship. If racial threat theory is correct, it is plausible that whites might imprison more minorities in response to growing economic and political competition. Yet, it is difficult to see how a racial threat theory would lead to a relationship between race and prisoner treatment. Whites would have little to gain, materially speaking, by imposing harsh conditions on minorities once they are imprisoned. Similarly, while incarcerating more criminals may have an electoral payoff for conservative politicians in high-minority regions, one would think that there is relatively little electoral payoff from treating prisoners poorly, as prison conditions are not visible to the electorate. Nevertheless, there is still good reason to believe that the racial context may be strongly related to prisoner treatment, although as we argue below it is likely to be operating at the prison level, rather than the state level.

To theorize the role of race in the context of prison administration, we rely on the Racial Classification Model (RCM), recently introduced by Soss, Fording and Schram (2008; also see Scham et al. 2009 and Fording, Soss and Schram 2011). The RCM draws on Schneider and Ingram’s (1993, 1997) work on the social construction of target populations, along with theories of implicit racism (Quillian 2008) to clarify the unconscious ways that racial schemas can guide interpretation and choice in public policymaking and implementation. The RCM specifies how implicit cognitive processes function to produce racial disparities even in circumstances where overt prejudice and discriminatory intent are not observed. The RCM consists of three basic premises (see Soss, Fording, and Schram 2008).
1. To be effective in designing policies and applying policy tools to specific target groups, policy actors must rely on salient social classifications and group reputations; without such classifications, they would be unable to bring coherence to a complex social world or determine appropriate action.

2. When racial minorities are salient in a policy context, race will be more likely to provide a salient basis for social classification of targets and, hence, to signify target differences perceived as relevant to the accomplishment of policy goals.

3. The likelihood of racially patterned policy outcomes will be positively associated with the degree of policy-relevant contrast in policy actors’ perceptions of racial groups. The degree of contrast, in turn, will be a function of (a) the prevailing cultural stereotypes of racial groups, (b) the extent to which policy actors hold relevant group stereotypes, and (c) the presence or absence of stereotype-consistent cues.

Although policy actors are surely guided by many motives, the RCM suggests that they generally try to choose courses of action that they expect to be effective, or at least not costly, in light of what they believe about the specific groups they aim to address. In this process, social group characteristics can serve as proxies for more detailed information about a policy’s intended target group. When race is salient to a policy area, as in the case of criminal justice (Peffley and Hurwitz 2010), racial classifications can serve precisely this function, regardless of whether racial animus is present and regardless of the decision-maker’s own racial identity. In such cases, group reputations can frame expectations of the consequences of policy decisions on policy-target behaviors, and therefore cue assumptions about the kinds of policy actions that are likely to be effective or ineffective. The effects of a particular group reputation, however, will depend on the policy-relevance of its contents and on situational factors that may strengthen or weaken its utility as an information proxy (Schram et al. 2009).

In applying the RCM to decisions affecting prison conditions and prisoner treatment, we assume that prison administrators and correctional staff will favor more beneficent treatment of
prisoners if they believe that the prisoners are capable of being successfully rehabilitated. Client race should therefore affect decisions about prisoner treatment to the extent that contrasts between racial-group reputations convey information about the likelihood that a prisoner can effectively contribute to society upon release. Do racial group stereotypes exist that convey such information? One such stereotype that is likely to be highly informative in this regard is the belief that blacks (and Latinos) are inherently more prone to commit violent crime. This existence of this stereotype has been documented in numerous studies (e.g. Hurwitz and Peffley 1997; Sniderman and Piazza 1993), and as Quillian and Pager (2001) conclude with respect to black stereotypes, “The stereotype of blacks as criminals is widely known and is deeply embedded in the collective consciousness of Americans, irrespective of the level of prejudice or personal beliefs” (732). This being the case, the RCM suggests that the disproportionate presence of black and Latino prisoners in a prison may influence the exercise of administrative and frontline staff discretion concerning policy choices that affect prisoner treatment and prison conditions. More specifically, in prisons with large populations of black and Latino prisoners, correctional administrators and staff may be less willing to invest scarce resources in rehabilitative policies, and more willing to utilize harsher disciplinary practices due to the belief that their prisoners are less able to be rehabilitated and more deserving of harsh punishment. This leads to our second hypothesis, which posits an effect of the racial composition of the prison population on prisoner treatment. Note that unlike our first hypothesis, our second hypothesis is cast at the prison level, rather than the state level.

(H2) The Racial Context Hypothesis: The treatment of inmates in a prison will be negatively related to the percentage of the prison’s inmate population that is black (Latino).
The Conditional Effect of Race

The third assumption of the RCM states that the likelihood of racially patterned policy outcomes will be positively associated with the degree of policy-relevant contrast in policy actors’ perceptions of racial groups. The degree of contrast, in turn, is not only a function of the level of group stereotypes (which is the basis for Hypothesis 2), but it is also enhanced by the presence of stereotype consistent cues. In other words, the theory suggests that racial stereotypes are more likely to be activated, and thus influence decision-making, when the racial group in question exhibits traits that are consistent with the stereotype. In our case, the RCM thus suggests that the effects of the racial composition of the prison population on prisoner treatment should be strongest within prisons that primarily house violent offenders, and weakest in prisons that house less serious offenders. This leads to a third hypothesis:

(H3) The Conditional Racial Effects Hypothesis: The effect of the racial composition of the prison population will be strongest in maximum security prisons and relatively weaker in low and medium security prisons.

Data

The sample for our analysis includes 1,272 state prisons included in the 2000 Bureau of Justice Statistics Census of Federal and State Correctional Facilities. The data span a wide variety of correctional institutions that housed state prisoners in 2000. Jails, as well as other local and regional detention facilities are excluded. In addition, the sample does not include private or federal facilities.
Dependent Variables

The dependent variable for our analysis is prisoner treatment, which we measure using two indicators of disciplinary enforcement and an indicator of overcrowding. The specific indicators are described below.

Disciplinary Enforcement

The enforcement of discipline by correctional officers represents one of the most important dimensions of prisoner treatment in modern prisons. One reason for this is that the enforcement of discipline can often be degrading and have potentially significant consequences for prisoner well-being. Some of the most disturbing complaints from prisoners include such things as forcible strip searches, body cavity searches (and resulting sexual abuse), unnecessary shackling of prisoners’ hands and feet while they are in solitary confinement, and confinement in cells so small that the prisoners could not sit down (Prison Welfare Policy Initiative 2007). Equally important is the fact that discipline is enforced by frontline correctional staff who exercise considerable discretion in choosing the targets of discipline. The degree of discretion is largely due to the inherent discretion afforded to frontline workers in an implementation setting, but in the case of prisons this discretion is enhanced due to the fact that it is very difficult for prisoners to seek redress from the arbitrary or excessive enforcement of discipline by correctional officers.

Our data do not include such egregious acts as described above. Yet, reliable data do exist for two types of official disciplinary actions that have a significant impact on prisoner well-being. Our first indicator is labeled Disciplinary Actions and is measured as the percentage of inmates in the facility under a disciplinary infraction. Such sanctions represent the least severe form of punishment within the prison, yet they can significantly affect the life of a prisoner.
Examples include disciplinary actions that take away commissary privileges, result in the loss of a prison job, or result in a visitation restriction. Our second variable is labeled Restricted Population Rate, and is measured as the rate at which inmates in the facility are subjected to restricted movement. The vast majority of prisoners subject to restricted movement are in administrative segregation units (i.e. solitary confinement). However, not all prisons have an administrative segregation unit. In such cases, discipline is enforced by sentencing inmates to the equivalent of solitary confinement without being placed in a specialized unit. We therefore rely on the “restricted population” designation as it applies to both situations.

Overcrowding

Ever since the imprisonment boom began in the 1970s, prison overcrowding has been an issue of concern among advocates for prison reform. Overcrowding is not just uncomfortable for the prisoners, but has been found to have a number of important and costly effects on the lives of prisoners. These include behavioral, psychological and even physical effects that are likely to be experienced well beyond release (see Haney 2009 for a review). We measure Overcrowding as the number of inmates divided by the rated capacity of the facility. Our expectation is that the degree of overcrowding will be higher in more ideological conservative states, and in prisons with relatively larger black and Latino inmate populations.

In Figure 1, we present a frequency distribution for each of these three dependent variables. These graphs reveal two important complications of the data that require special attention. First, for the disciplinary action and restricted population variables, it is clear that there are a large number of cases that take on a value of 0. Second, it is clear that the distributions of all three dependent variables deviate significantly from a normal distribution. We deal with these problems differently, depending on the variable. For the rate of disciplinary actions, we
have no reason to believe that these zero values are not “real”. However, the large number of zeros, in combination with the highly skewed, non-negative distribution, precludes the use of OLS. Therefore, we estimate this model using a zero-inflated negative binomial regression model (Cameron and Trivedi 1998). For our restricted population variable, however, the zero values are due to the fact that these facilities do not have the physical capability (i.e. a restricted population unit) of implementing a restricted population policy (often by choice). We therefore treat these zero values as censored and estimate this model using a Heckman selection model. In the first stage of the model, we estimate the probability of a prison being what we term a “restricted population facility”. The second stage models the rate of restricted movement sanctions (we utilize the natural log to correct for the non-normality of the nonzero values). Finally, we transform the overcrowding measure by taking the natural log to correct for moderate skew.

(Figure 1)

Independent Variables

The primary independent variables of interest are indicators of the state political environment and the racial composition of the prison. To test the State Politics Hypothesis, we include the revised measure of state government ideology (“Nominate version”) recently introduced by Berry et al. (2010). As this is a measure of state government liberalism, we expect this variable to be negatively related to the treatment of state prisoners.

To measure the racial composition of the prison, we include three measures of the prison population, which together reflect the entire population of nonwhite and Latino inmates: %Black Inmates, %Latino Inmates, and %NonWBH Inmates. The first two variables are simply measured as the percentage of the prison population that is black and Latino, respectively. The third
variable captures all nonwhite prisoners who are not black or Hispanic. This group would largely consist of Asian-American and Native American inmates. Based on the Racial Context Hypothesis, we expect that $\%Black$ Inmates and $\%Latino$ Inmates will have a negative effect on prisoner treatment. We are less confident about the effect of $\%NonWBH$ Inmates, and therefore remain agnostic regarding its ultimate impact on prisoner treatment.

To allow us to isolate the effect of prison-level variation in the racial context, as well as to pick up any possible effects of the state racial context, we include $\%Black$ State, $\%Latino$ State, and $\%NonWBH$ State. These variables measure the percentage of the state population that is black, Latino or nonwhite (as defined above), respectively. We do not have any clear expectations about the direction of the effect of these variables. On the one hand, the size of the state minority population might have a negative effect on prisoner treatment due to some type of racial threat effect (which we previously discounted) or through some other type of effect on state racial attitudes. Alternatively, we could easily imagine that the size of the respective minority populations would have a positive effect on prisoner treatment due to their correlation with minority political power in the state (Fording 2003; Percival 2009; Preuhs 2007; Yates and Fording 2005).

One potential concern about including racial context variables measured at the prison and state level in the same model is that there may not be enough within-state variation in the minority prison population variables once we have controlled for the state-level variables. While it is true that the prison-level and state-level racial context variables are correlated, the strength of the correlations is smaller than one might think. This fact is graphically presented in Figures 2 and 3, which present scatterplots of the relationship between the percentage of a prison that is black (Figure 2) or Latino (Figure 3) and the equivalent state population percentage. As can be
seen, the prison-level and state-level variables are clearly correlated, but the correlations are far from perfect. Indeed, the bivariate correlations between all three pairs of racial context variables are .74 (%Black Prison and %Black State), .70 (%Latino Prison and %Latino State), and .55 (%NonWBH Prison and %NonWBH State; not shown in Figures 2 and 3). Given our large sample size, these modestly strong correlations indicate that there should be plenty of remaining within-state variation left to identify the effect of the prison-level racial composition variables, even after controlling for the state racial context.

(Figures 2 and 3)

The Conditional Racial Effects Hypothesis posits a conditional effect of the racial composition of the prison. That is, we expect the race effects to be strongest among maximum security prisons and relatively weaker in medium and low security prisons. To estimate these interactive effects within the same model, we first created two dummy variables to measure the security level of the prison (Maximum Security, Medium Security), omitting low security as the baseline category. For each prison-level minority population variable, we then created two multiplicative terms, for a total of six multiplicative terms to be included in the final model: %Black Inmates*Medium Security, %Black Inmates*Maximum Security, %Latino Inmates*Medium Security, %Latino Inmates*Maximum Security, %NonWBH Inmates*Medium Security, %NonWBH Inmates*Maximum Security.

Finally, in addition to the variables already discussed, we also include several state-level control variables. First, we control for a state’s financial health by including Per Capita Income and Per Capita Revenues. Our assumption here is that richer states may be better able to afford to provide prisoners with better treatment and conditions. We also include a dummy variable for the South, based on the historically punitive prison systems in the region.
Results

The results of our analyses are presented in Table 1. We begin by assessing the performance of the State Politics Hypothesis. Our results for this hypothesis were rather conclusive. State government liberalism was found to be statistically significant for only one of the four models – the restricted population rate. However, contrary to our expectations, government liberalism was associated with higher use of this disciplinary tool. One possible explanation for this finding that is consistent with the underlying theory is that policymakers in liberal states may be more concerned about prisoner safety, and therefore are more likely to engage in practices that separate potentially dangerous and disruptive prisoners from the rest of the prison population. Regardless of the accuracy of this explanation, it thus appears that the state political context has less to do with the punitive dimension of prisoner treatment than it does for rehabilitative services (Percival 2009).

(Table 1)

The same cannot be said for the effect of the racial composition of the prison population, which appears to have a strong and relatively consistent effect on prisoner treatment. The effect is most consistent for the percentage of black prisoners, which exerts a statistically significant effect on prisoner treatment for each of the three dependent variables. Consistent with our hypothesis, prisons with larger black inmate populations are more likely to report higher rates of disciplinary actions, are more likely to subject their inmates to restricted movement sanctions, and are more likely to exceed their inmate capacity. The effect of the Latino share of the prison population is less consistent, yet appears to be an important determinant of whether a prison has
a restricted population unit. The share of the inmate population that is classified as some other race appears to be unrelated to prisoner treatment.

The results for the control variables are generally rather weak. The strongest effects were found for the black and Latino shares of the state population. Of the 8 coefficient estimates for these two variables reported in Table 1, the effect was statistically significant in 4 cases, and in all 8 cases the direction of the effect was negative. This is the opposite of what the racial threat thesis would suggest, and instead may reflect the positive effect of minority electoral power or minority descriptive representation. More research, using more detailed data on minority political power is necessary before we can draw any firm conclusions. The effects of state economic capacity (per capita income, per capita revenue) were extremely weak and insignificant for all but one of our models. Finally, and somewhat to our surprise, the coefficient for the South was insignificant in every case.

In Table 2 we present the results of our interactive specifications, which provide tests of the Conditional Racial Effects Hypothesis. Based on initial results (not shown) that included all of the interaction terms, we determined that the effect of the racial context was relatively similar in low and medium security prisons. Therefore, to reduce multicollinearity we reestimated our models using a more parsimonious specification which included only three interaction terms for each model: %Black Inmates*Maximum Security, %Latino Inmates*Maximum Security, and %NonWBH Inmates*Maximum Security. The results of this modified specification are reported in Table 2 and suggest that the hypothesis receives a considerable degree of support. Given our interactive specification, the coefficients for %Black Inmates, %Latino Inmates, and %Nonwhite Inmates each represent the effect of that variable on prisoner treatment within low and medium-security prisons. For %Black Inmates and %Latino Inmates, the coefficient for the prison
population effect is statistically significant in 4 of the 8 models, and the coefficients are in the predicted direction in all 8 cases. In substantive terms, these results therefore suggest that among low-security and medium-security prisons, as the black or Latino prison population increases (relative to the white prison population), overcrowding is predicted to be higher and the percentage of prisoners subject to restricted movement and other disciplinary actions is predicted to be higher. In contrast, the coefficients for the nonwhite population variable were insignificant in every case.

(Table 2)

The coefficients for the interactive terms represent the change in the effect of a given racial population variable as we move from the low and medium-security context to the maximum security context. Therefore, if our hypothesis is correct, the signs of the coefficients for the interaction terms should be positive for each of the models. To a striking degree, the pattern of results found across these interaction coefficients conforms almost exactly to our expectations, as all 8 of the coefficients for the black and Latino population effects were positive. The strongest interaction effects are found for the effect of the black share of the prison population. According to the results, the effect of the prison racial composition increases significantly within maximum-security prisons for 3 of the 4 models in Table 2 – the rate of disciplinary actions, the presence of a restricted population facility, and the use of restricted population sanctions. The effect of the Latino prison population is significantly stronger in the maximum security environment for the two restricted population models, but the interaction term fails to reach statistical significance for the use of disciplinary sanctions or the degree of overcrowding. In sum, the results thus provide strong confirmation of the effect of the racial context for the treatment of prisoners and the Racial Classification Model.
Discussion and Conclusion

Over the last four decades, the U.S. criminal justice system has undergone an historic transformation. The primary goals of the new system have shifted decidedly in the direction of retribution and incapacitation, and in turn the U.S. has witnessed unprecedented increases in imprisonment rates. Social scientists have studied the imprisonment boom extensively, and have convincingly shown that state politics, as well as racial politics, go a long way toward explaining the degree to which states have embraced the new crime control system. Yet, state “punitiveness” is defined by much more than the imprisonment rate. It should also extend to how the state treats criminal offenders once they arrive in prison. In contrast to imprisonment rates, social scientists have devoted relatively little effort to understanding variation in conditions and treatment in contemporary prison systems, despite the fact that considerable variation exists across states and across prisons. Can the same political and racial factors that have been found to explain variation in imprisonment rates also help us understand how prisoners are treated?

In this paper, we set out to answer this question. Based on an analysis of over 1200 state-operated prisons in 2000, we find very little support for political explanations of the punitive and disciplinary dimensions of prisoner treatment, at least with respect to political variables representing traditional left-right ideological cleavages. This finding is surprising, and could be due to the fact that decisions that affect prisoner treatment are generally made by state bureaucrats, administrators and frontline correctional staff who may be relatively insulated from the influence of elected officials. However, this conclusion is far from certain. Another explanation is that there may simply be very little disagreement between modern conservatives
and liberals (or Republicans and Democrats) when it comes to decisions involving the treatment of state prisoners. As a target group, prisoners are politically weak, relatively small, and suffer from a highly negative social construction (Schneider and Ingram 1993).

In contrast to the effects of the state political context, we found strong support for the effect of the racial context on prisoner treatment. Drawing from the Racial Classification Model (Soss, Fording and Schram 2008), we hypothesized that due to prevailing stereotypes concerning black and Latino offenders, the racial composition of the inmate population would be significantly related to prisoner treatment. We further hypothesized that the magnitude of the racial effects would be strongest among maximum security prisons, where characteristics of the inmates would presumably be more likely to activate the operation of stereotypes. Our results were largely consistent with our hypotheses across all five indicators of prisoner treatment. Where black and Latino inmate populations were larger, prisoners were more likely to be housed in an overcrowded facility, and were more likely to be subject to a restricted movement order or some other type of disciplinary sanction.

Despite the strength and consistency of our results, one might reasonably question whether these racial effects are truly causal, or if they are spurious. The most serious threat to the validity of our results, we believe, is the possibility that our racial effects can be explained by unobserved background characteristics of prisoners that are merely correlated with race. We cannot rule out this possibility, but we doubt that it can fully account for our findings. This is especially true for prison overcrowding, which represents a policy decision that in theory should be unrelated to the characteristics of the prisoners. If there is a spurious threat in our analysis it is most likely to exist for our models of disciplinary enforcement, as variation in these indicators represents some combination of the exercise of policymaking discretion as well as the objective
need for discipline among the prison’s inmates. Yet, once again we are not convinced that this is a serious problem for our analysis.

According to our results, the size of the black and Latino prison population was positively related to the rate of restricted movement orders and other disciplinary actions. For this result to be entirely spurious due to unobserved background characteristics, we would need to assume that black and Latino prisoners are significantly (and objectively) more likely to engage in disruptive or illegal behavior while in prison. We are able to control for this possibility in our analysis to some degree by controlling for the security level of the prison. Yet, Figure 4 provides further evidence that our results are unlikely to be entirely spurious. In Figure 4, we present the percentage distribution of offense type by race, for the entire state prison population in the United States in 2000. If black and Latino prisoners were truly more likely to misbehave in prison, we might expect that this would be reflected in the types of offenses they committed which resulted in their prison sentence. As can be seen, there is little support for this “hypothesis.” Remarkably, the percentage of violent offenders in state prisons was exactly the same for blacks, Latinos and whites at 49%. To the extent that there are differences across the races in prisoner backgrounds, black and Latino prisoners were significantly more likely to be convicted for drug offenses, while whites were more likely to be sent to prison for property and public order offenses. In summary, there are no obvious differences between racial groups in offense type that could explain the racial effects found in our analysis of the use of prison discipline. More research is obviously needed on this question, but we believe that our results at the very least represent a cause for concern. And quite possibly, they suggest that the collateral effects of the incarceration boom for minorities, who are already incarcerated at an alarming rate, may be even more significant than we have realized.
References


Schneider, Anne and Helen Ingram. 1993. “Social Construction of Target Populations:


### Table 1. Regression Results for the Effect of the Political and Racial Context on Prisoner Disciplinary Treatment and Overcrowding

<table>
<thead>
<tr>
<th>Independent Variables</th>
<th>Disciplinary Action Rate</th>
<th>Restricted Population Facility</th>
<th>Restricted Population Rate</th>
<th>Overcrowding</th>
</tr>
</thead>
<tbody>
<tr>
<td>% Black Inmates</td>
<td>0.0187**</td>
<td>0.0042</td>
<td>0.0193**</td>
<td>0.0031**</td>
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<td>(0.058)</td>
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<tr>
<td>% Latino Inmates</td>
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<td>% NonWBH Inmates</td>
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**Estimation Method**
- Zero-Inflated Negative Binomial Regression
- Heckman Selection Model
- OLS Regression

**Model Statistics**
- N=1272
- Nonzero obs.=669
- Alpha = 1.177**
- Wald Chi-sq. = 66.66**
- N=1272
- Uncensored obs.=750
- Rho = -.5009**
- Wald Chi-sq. = 171.45**
- N=1244
- F = 3.34**
- R-sq. = .08

*p<.10, **p<.05 (Standard errors are corrected for error clustering by state)
Table 2. Regression Results for the Conditional Effect of the Racial Context on Prisoner Disciplinary Treatment and Overcrowding

<table>
<thead>
<tr>
<th>Independent Variables</th>
<th>Disciplinary Action Rate</th>
<th>Restricted Population Facility</th>
<th>Restricted Population Rate</th>
<th>Overcrowding</th>
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<td>% Black Inmates</td>
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<td>.0169*</td>
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<td>Per Capita Income</td>
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<td>Crime Rate</td>
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<th>OLS Regression</th>
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<td>Nonzero obs. = 669</td>
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<td>Alpha = 1.177**</td>
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<tr>
<td>Wald Chi-sq. = 66.66**</td>
<td>Wald Chi-sq. = 224.30**</td>
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<td></td>
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</tbody>
</table>

*p<.10, **p<.05 (Standard errors adjusted for error clustering by state)
Figure 1. Frequency Distribution of Dependent Variables

A. Disciplinary Action Rate

B. Restricted Population Rate

C. Overcrowding
Figure 2. Scatterplot of the Relationship Between Prison-Level and State-Level Black Population
Figure 3. Scatterplot of the Relationship Between Prison-Level and State-Level Latino Population
Figure 4. Percentage Distribution of U.S. State Prison Population by Race and Offense, 2000

Source: *Prisoners in 2000*, Bureau of Justice Statistics (adapted from Table 17).