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REVIEW OF INMATE LITIGATION CHALLENGING THE CONSTITUTIONALITY
OF SOLITARY CONFINEMENT

by

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A THESIS

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REVIEW OF INMATE LITIGATION CHALLENGING THE CONSTITUTIONALITY
OF SOLITARY CONFINEMENT

KAELYN LITTLE

CRIMINAL JUSTICE

ABSTRACT

Inmate litigation has evolved since the 1960s, and little is known about the state of inmate litigation since the enactment of the Prisoner Litigation Reform Act (PLRA) in 1996. Additionally, the current conditions of solitary confinement are largely unknown, and correctional facilities operate with little accountability. This study provides an analysis of Section 1983 lawsuits across six states and decided from 2015 to 2020. All cases included in the study involved inmates filing a Section 1983 lawsuit due to a constitutional violation experienced during their time spent in solitary confinement. The findings showed that most lawsuits were unsuccessful due to failure to establish a constitutional claim or provide sufficient evidence to overcome a defendant's qualified immunity.

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CHAPTER 1

INTRODUCTION

The American prison system currently operates with little visibility and accountability. There is currently a scarcity of research focusing on inmate litigation and the majority of research on solitary confinement is outdated. Due to the limited availability of current research on these topics, we can only make assumptions regarding the processes of both solitary confinement and inmate litigation. The current study is an attempt to increase our knowledge about solitary confinement by examining inmate experiences in solitary confinement and court responses to those experiences. The findings of this study will assist criminal justice officials and policymakers in understanding the conditions of solitary confinement as well as court rulings in response to alleged injustices relating to solitary confinement.

It has been shown that exposure to solitary confinement can have damaging long-term effects to an individual's mental health and physical health. .When placed in solitary confinement, inmates are housed in a small cell without personal belongings, entertainment, or the ability to interact with others. Inmates may typically leave their cells for one hour per day to exercise (King, 1999). While in this type of confinement, inmates have limited access to programs within their facility. Various forms of solitary confinement exist. Disciplinary segregation may be used as a response to an event of misconduct. Protective segregation is often used for inmates who are at risk of

victimization. Inmates who are disruptive may be placed in administrative segregation in an attempt to protect other inmates and staff. Inmates who are extremely dangerous and disruptive are sentenced to long-term solitary confinement in correctional facilities that are colloquially referred to as “supermax prisons” (Weir, 2012).

The Kalief Browder case increased awareness about incarcerated juveniles who were placed in solitary confinement. In 2010, sixteen-year-old Kalief Browder was arrested for allegedly stealing a backpack (Weiser, 2019). Browder was held as a pretrial detainee at Rikers Correctional Center for three years. Two of his three years in incarceration were spent in solitary confinement. Browder was ineligible for bail because he was on probation at the time of the arrest and his trial was repeatedly delayed. The charges against Browder were dismissed in 2013. While in Rikers, Browder was beaten by guards as well as other inmates, starved, and held in filthy cells (Romo, 2019). In 2015, Browder committed suicide as a result of the trauma he experienced while he was incarcerated.

Influenced by Browder’s story, city officials announced in 2015 that individuals under the age of twenty-one could no longer be housed in solitary confinement. While this new policy was a positive change for young offenders, facilities in New York simply began transferring offenders under twenty-one to facilities outside of the city where they were able to be placed in solitary confinement. In 2016, former President Barack Obama banned solitary confinement for juveniles in federal prisons. Obama noted Browder’s story as reasoning for the new policy. Currently, Rikers Correctional Center is scheduled to close by 2027 (Weiser, 2019). Browder’s story is just one example of the harm that can be caused by exposure to solitary confinement.

Inmate litigation regarding solitary confinement increased during the period when there was an increase in litigation filed by prisoners protesting their prison conditions. Inmate litigation increased during the 1960s and 1970s. Many have cited the Attica Riots as either a catalyst or a microcosm of conditions that indicated reforms were needed. During these riots, prisoners protested the conditions of their confinement and in particular, the long periods of time they spent in isolation. Prior to this time, the federal courts consistently ruled that prison administrators were experts of their own facilities (and penology and/or corrections in general) and allowed prison administrators conduct their operations largely without oversight by the courts. This period of time is often referred to as the “hands-off doctrine.”

Events such as the Attica Riots and the broader civil rights movements led the Supreme Court, often referred to as the “due process revolution” to vastly increase civil rights protections for defendants within the criminal justice system as well as correctional clients. After a period of time, public opinion shifted a growing perception became that increased inmate litigation was that inmates were abusing the legal system rather than pushing for much needed legal protections. Due to these shifts, the Prisoner Litigation Reform Act (PLRA) was passed, in 1995, which required inmates to exhaust all administrative remedies within their correctional institutions before filing claims in court (Gideon & Griffin, 2017). The PLRA increased the authority of prison administrators over their respective facilities.

The current study is a systematic review of lawsuits filed by inmates in which inmates spent time in solitary confinement and alleged that their confinement was unconstitutional. The alleged constitutional violations described by inmates and court

rulings are examined. This analysis provides clarification to the experiences of those who have spent time in solitary confinement and will provide accountability for prison administrators. This study also shows trends in court responses to allegations of unconstitutional conditions of solitary confinement.

CHAPTER 2

REVIEW OF THE LITERATURE

History and Background

Shifts in Correctional Ideology, Practices and Policies

Opinions regarding the purpose of prisons in the United States vary. Some argue that prisons should rehabilitate offenders, while others argue that the goal of imprisonment should be punishment. This variation in public opinion also applied to the management of prisons with a shift toward more punitive strategies to handle incarcerated individuals. For instance, correctional administrators made use of solitary confinement that separates individuals from the general population of a prison that provides limited opportunities for social interactions or time outside of the cell. Opinions regarding solitary confinement, in the same way, vary and have varied since its inception. The goals of solitary confinement have shifted from moral reform in the nineteenth century, behavior modification in the early twentieth century, and risk-management in the late twentieth century (Shalev, 2013).

During the 18th century, the first prisons in the United States were built and focused on either isolation or silence as the primary mode of operation (Rubin, 2015). The methods of operation of the Eastern State Penitentiary, which opened in 1836, became the ideal model of the “Pennsylvania system”. The Pennsylvania system housed

prisoners in isolation in single cells that had a bathroom and a small outdoor space so that prisoners did not need to leave their cells. Inmates housed in these cells had limited contact with staff and other inmates and completed labor within their cells each day (Smith, 2004).

The Pennsylvania Prison Society, along with the Quakers, took steps to abolish capital and corporal punishment. Both the Pennsylvania Prison Society and the Quakers believed that the use of hard labor in corrections exploited human rights. Because of this view, the Pennsylvania system abolished corporal punishment and instead housed inmates in isolation in their cells to ensure that offenders did not associate with others and provided offenders the time to reflect on their crimes. The need for inmate development of spiritual engagement was also a major component of this model. The Pennsylvania system model was originally implemented in a section of the Walnut Street Jail. In 1829, the Eastern State Penitentiary was built, which maintained the methods of the Pennsylvania system (Griffin & Sacks, 2019).

The Auburn Correctional Facility was opened in New York in 1816 and established what is referred to as the Auburn or congregate system of incarceration. In the Auburn system, inmates could leave their cells each day to work. This allowed some form of interaction between inmates and staff that were not permitted in the Pennsylvania system. The primary difference is that inmates were supposed to always remain silent. Inmates walked in step while wearing striped uniforms, which were used for easy identification of prisoners. Prison staff in the Auburn system used methods of corporal punishment by whipping inmates to encourage compliance and reform (Griffin & Sacks, 2019).

Both the Pennsylvania and the Auburn systems of incarceration received attention and support early on and were widely replicated. Many European prisons adopted the Pennsylvania system, while the Auburn system became popular in the United States (O'Donnell, 2014; Smith, 2004). Eventually, however, both systems faced strong criticisms.

The Pennsylvania system as a method of rehabilitation was criticized when it appeared that long term solitude contributed to mental illness (Griffin & Sacks, 2019). Inmates with pre-existing mental illness appeared to worsen when exposed to long periods of solitude. Inmates with no history of mental illness began to show symptoms of mental illness when kept in long-term isolation. Within the first years of operation at Auburn, death and insanity appeared to be a result of solitude. Many jurisdictions within the United States attempted to limit the use of solitary confinement and minimize its deleterious effects (Haney & Lynch, 1997). Early prisons that practiced solitude quickly became overcrowded and long-term forms of solitary confinement fell out of favor at the end of the nineteenth century (O'Donnell, 2014).

Today, the primary form of corrections in the United States is based on the Auburn system. Inmates today do not have to remain silent and engage in a variety of jobs including operation of facilities, industrial work, and farming. Additionally, practices of corporal punishment largely disappeared from correctional facilities in the 1970s. Although both the Auburn and Pennsylvania systems were intended to be rehabilitative, modern prisons incorporate educational and treatment programming to rehabilitate offenders (Griffin & Sacks, 2019).

Organizing surrounding prisoners' rights litigation emerged during the 1960s and 1970s. In 1971 at San Quentin State Prison, inmate George Jackson smuggled a gun into the prison and overtook the solitary confinement unit where he was being held. Jackson attempted to escape but was shot and killed. George Jackson was an influential figure largely due to *Soledad Brother* (1970), a compilation of the letters he had written in prison over a six-year period of time. During his incarceration, Jackson protested racism and segregation in prisons and taught inmates martial arts for protection against correctional officers (Bernstein, 2007). Jackson was a role model to many prisoners across the country due to his charisma, intelligence, and defiance of authoritarian prison guards.

Prisoners in Attica Correctional Facility fasted to mourn the death of George Jackson. Weeks later, perhaps the most significant moment that indicated reforms occurred. In 1971, violent protests arose during the aforementioned Attica Riots. Inmates seized control of Attica, a maximum security prison, for four days in an effort to bargain for improved living conditions. It has often been cited that these inmates were subjected to chronic overcrowding, censoring of mail, and limited religious freedom and were only afforded one shower per week. Negotiations ensued in an attempt to meet prisoner demands. After failed negotiations, law enforcement regained control of Attica by use of teargas and gunfire. Thirty-nine people were killed, including prison employees and inmates.

During various prison riots, prisoners and guards across the United States fought, resulting in numerous deaths. Entire cell blocks of prisons were placed on lock down, leading to the cancellation of work, education, and treatment programs. These lockdowns

lasted for years at a time and states across the country began to follow this framework of placing inmates and cell blocks on lockdown to prevent further violence. Prisoners challenged their conditions of confinement as well as the long durations they spent in isolation. Despite the increase in inmate litigation, states built new prisons that could hold prisoners in more restrictive conditions of long-term solitary confinement (Reiter, 2017).

Many attorneys aided prisoners in filing lawsuits, causing a wave of prison litigation during the 1960s and 70s. Due to the efforts of inmates, attorneys, and civil rights activists, a movement took place within the criminal justice system that called for the courts and prison administration to respond to high incarceration rates and unconstitutional conditions (Gideon & Griffin, 2017). During this time, policies moved towards a correctionalist approach, meaning that they focused on rehabilitation and individualized treatment for offenders (Garland, 2001). This approach was referred to as penal welfare, which contributed to change through the implementation of due process rights and individualized treatment supported by the expertise of criminologists (Gideon & Griffin, 2017).

In the 1960s, rising crime rates, increased public fear of crime, criticism of rehabilitation efforts to deter crime, media depictions of criminals as dangerous, and Martinson's study that concluded "Nothing Works" led to another shift in correctional ideology and policy. In the 1970's, President Richard Nixon declared that he would restore law and order, the emergence of rational choice and deterrence theory, and President Reagan's efforts in the 1980 to get tough on crime impacted social control policies. The War on Drugs and the War on Crime emerged as policies to address and deter criminal behavior and reduce crime and illegal drug supply and demand. The War

on Crime was a political movement that encouraged punitive approaches to criminality. Out of this movement came harsher mandatory sentencing, which increased incarceration rates.

In 1971, the War on Drugs was declared by Richard Nixon. This government initiative was a response to increased recreational drug use in the 1960s. The goal of the war on drugs was to end illegal drug use through the use of harsh sentences for both drug users and dealers. Federal funding for drug-control agencies increased at this time. High arrest rates, creation of private prisons, and unequal treatment of minorities resulted from the war on drugs.

In 1974, sociologist Robert Martinson published a report which concluded that offender treatment and rehabilitation is largely ineffective. The Martinson report is known as the “nothing works” doctrine. The Martinson report, along with changing public sentiments towards criminality, halted investment of resources into rehabilitative efforts.

In the 1970s and 1980s, government funding and public policy shifted to focus on policing and deterrence. Punitive policies were set in place, which included the imposition of mandatory minimum sentencing and the incarceration of offenders for longer periods of time. Prison administrators were given greater autonomies to run their facilities as they saw fit to keep prisoners and staff safe with increased prison populations (Gideon & Griffin, 2017).

Increased use of Solitary Confinement

In 1986, the Arizona Department of Corrections opened the Special Management Unit (SMU), another term for solitary confinement unit. The unit contained 786 isolation

beds. Cells had no windows and prisoners were able to leave their cells for one hour per day. Officers sat in control booths and pressed buttons to open cell doors in order to allow one prisoner at a time out of their cell. This was the first modern prison built with a supermax model, which was intended to create long-term solitary confinement (Lynch 2010).

Shortly after the opening of the SMU in Arizona, California opened a Security Housing Unit within Pelican Bay State Prison, which had 1,056 isolation beds and closely resembled the design of the SMU in Arizona (Lynch, 2010). Many states across the U.S. followed the example of Arizona and California by opening supermax facilities (National Institute of Corrections, 1997). In the United States, from 1995 to 2000, the rate of solitary confinement grew much faster than the rate of incarceration (Gibbons & Katzenbach, 2006). Today, an individual may be in solitary confinement for up to two to three years (Baumgartel et al., 2015).

From 2011 to 2013, inmates in the Security Housing Unit at Pelican Bay went on hunger strikes. Over 30,000 participated in an act of protest of the long durations and conditions of confinement within the unit. At the time of the protests, over 500 inmates had been in the Security Housing Unit for more than ten years (Reiter, 2017). In 2011, the United Nations special rapporteur on torture stated that more than fifteen days spent in solitary confinement is a violation of human rights, which led to a reform conversation regarding whether solitary confinement is appropriate (United Nations, 2011).

Inmate Litigation

In 1890, the Supreme Court condemned the use of solitary confinement (*In re Medley*). Colorado passed a law which required death-sentenced prisoners to be held in

solitary confinement. The Court ruled that this constituted a significant increase in punishment for these prisoners. *In re Medley* showed the Supreme Court's willingness to go against prison administration when necessary, which can be seen in later litigation. Following *Medley*, in 1891, the Supreme Court held that extended stays in solitary confinement for death-sentenced inmates was constitutional in New York State (*McElvaine v. Brush*).

Inmate litigation was significantly changed in the 1960s. *Robinson v. California* (1962) expanded rights that were afforded to prisoners. Before this case, prisoners were only afforded state protections when incarcerated in state-run correctional facilities. The ruling by the Supreme Court in *Robinson* allowed prisoners to file claims in federal court that challenged the conditions of their confinement in state prisons. The Supreme Court further expanded the rights of inmates by ruling that inmates could file habeas corpus petitions to challenge the conditions of their confinement (*Jones v. Cunningham*, 1963).

In 1964, the Supreme Court ruled that inmates had the right to file lawsuits for violations under Section 1983 of the Civil Rights Act (*Cooper v. Pate*). The Court also ruled that inmates could sue a state prison official in federal court. Following the ruling of *Cooper v. Pate*, an explosion of prisoner lawsuits took place across the United States. This marked the beginning of the hands-on era, which involved an influx of inmate litigation challenging the conditions of their confinement.

In 1967, the Supreme Court established the qualified immunity doctrine, which protects government officials, such as law enforcement and correctional officers, from liability (*Pierson v. Ray*, 1967). Under the qualified immunity doctrine, it must be proven that a government official violated a constitutional right and the court must determine

whether the constitutional right was “clearly established” (*Saucier v. Katz*, 2001). Due to this doctrine, it is possible for an inmate to file a Section 1983 lawsuit claiming that the actions of a correctional officer violated their constitutional rights, and the court may rule that the officer is afforded qualified immunity from the claims.

There is debate amongst scholars regarding whether the practice of qualified immunity is equitable. Many scholars note that the doctrine is not transparent and lacks legal justification (Baude, 2018; Chen, 2006; Jeffries, 2010; Nielsen & Walker, 2018; Schwartz, 2018). Because qualified immunity is determined on a contextual basis, scholars note that the doctrine allows judges to make decisions on the qualified immunity of officials, while this duty may be more appropriately performed by juries. In the decision of *Harlow v. Fitzgerald* (1982), the Supreme Court referred to qualified immunity as a necessary evil. The Court noted that there must be protections in place to decrease government litigation expenses and allow officials to perform their jobs. The doctrine implicitly assumes that Section 1983 lawsuits filed against officials are frivolous and officials may become so overwhelmed with such claims that they are unable to perform their duties appropriately. Policy suggestions propose a reframing or complete elimination of the doctrine in order to shift the focus of Section 1983 lawsuits to whether officials acted in an unconstitutional manner (Jeffries, 2010; Schwartz, 2018).

Prisoners Talley, Hash, and Stone filed three separate lawsuits relating to the conditions of their confinement at the Arkansas State Penitentiary in the 1960s (*Talley v. Stephens*, 1965). The three prisoners alleged that the lack of available medical care, use of corporal punishments, and denial of access to the courts were a violation of their rights. The district court heard each case separately and joined them together because of

their similarities. The case expanded within five years to include the entire Arkansas State Prison system.

Chief Judge Henley ruled that conditions in Arkansas prisons violated the Eighth Amendment prohibition against cruel and unusual punishment and ordered changes to improve prison conditions. The ordered changes included improvements to basic living conditions and limitations on the amount of time spent in isolation cells. Henley's orders expanded over the next few years to include limitations to overcrowding, requirement of prisoner desegregation plans, specifications to healthcare provisions, grievance procedures, and visiting regulations. The Arkansas District Court ruled that punitive isolation in cells holding multiple inmates for 24 hours per day without access to work programs, outdoor recreation, and adequate lighting must be limited to a maximum of thirty days. The Supreme Court upheld this order in 1978 under the name *Hutto v. Finney*.

Hutto v. Finney (1978) set the standard for prison litigation in the following years through its allowance of court intervention to the management of state prison systems. It was the first case in which a judge found that an entire state prison system was in violation of the United States Constitution. *Hutto* was also the first case of the twentieth century in which the Supreme Court determined the constitutionality of long-term isolation.

Echoing the decision in *Hutto v. Finney*, which required a limit on the number of days spent in isolation, the district court decided in *Sostre v. McGinnis* (1971) that harsh conditions in solitary confinement were considered constitutional due to a limited period of time spent in isolation. In *Sostre*, inmates were held in solitary confinement for a few

days or a few weeks at most. The New York district court determined that isolation for more than fifteen days violated the Eighth Amendment because it could easily put an individual's sanity at risk. The decisions of both *Hutto* and *Sostre* clarified court standards of the use of solitary confinement in relation to the Eighth Amendment.

In the case of *James v. Wallace* (1974), a federal district court determined that prisoners' Eighth and Fourteenth Amendment rights were violated by the Alabama prison system. At this time, the courts determined that a plaintiff must prove deliberate indifference by prison authorities for their claim to be successful. The deliberate indifference standard required that a violation of rights committed by correctional staff must be proven to be intentionally discriminatory treatment.

The Supreme Court allowed federal courts to require improved conditions in entire prison systems (*Holt v. Sarver*, 1969; *Ruiz v. Estelle*, 1980; *Pugh v. Locke*, 1976). In 1976, the federal court required that the Alabama prison system meet minimum basic standards in the conditions of their isolation cells (*Pugh v. Locke*). The judge stated that the inhumane conditions in Alabama made it unlikely that inmates would be rehabilitated. The minimum standards required included a cell size of at least 40 to 60 feet, cells occupied by only one prisoner, three meals per day, daily outdoor exercise, basic hygiene items, and regular examination by a medical professional.

In 1981, the Supreme Court applied the Eighth Amendment standard of cruel and unusual punishment to a single prison for the first time. In *Rhodes v. Chapman* (1981), multiple prisoners were being held in cells designed for one person. The Court determined that this practice was constitutional because there were no "deprivations of essential food, medical care, or sanitation," and violence among these inmates was no

more significant than levels of violence in the general population (*Rhodes v. Chapman*, 1981). The decision of this case set boundaries for what conditions of confinement were considered constitutional versus unconstitutional by both the Supreme Court and the federal courts.

Following *Rhodes* (1981), many cases that were decided in the 1980s and 1990s did not find unconstitutional conditions of confinement (*Harris v. Fleming*, 1988; *Wilson v. Seiter*, 1991; *Johnson v. Ozim*, 1991; *Sandin v. Conner*, 1995; *Beverati v. Smith*, 1997). For example, the Supreme Court ruled in *Hewitt v. Helms* (1983) that due process may be limited by the needs of a correctional institution. In *Block v. Rutherford* (1984), the Supreme Court stated that the courts ought to play a limited role in management of correctional institutions. The Supreme Court determined in *Goff v. Nix* (1997) that mandatory body cavity searches did not violate the Fourteenth Amendment right to be “secure in their persons...against unreasonable searches and seizures.”

The hands-on era resulted in progress in relation to prisoner litigation. During this era, organizations requested fair grievance procedures for inmates, research on effective grievance procedures was completed and organizations, such as the American Correctional Association and the American Bar Association, adopted and distributed grievance models and procedures, which culminated in the grievance processes that are in place today (Minor & Parson, 2015). Conversely, many people considered the increase in prisoner litigation as an abuse of the system. The perception of abuse along with fear of crime resulted in a renewed hands-off doctrine (Gideon & Griffin, 2017).

At the end of the hands-on era, President Bill Clinton passed the Prisoners Litigation Reform Act (PLRA) in 1996, which limited prisoners' ability to file claims in

federal court (Gideon & Griffin, 2017). Under this act, the court dismisses any case that has not exhausted all administrative remedies within a correctional institution (42 U.S.C. Section 1997e (a)). This reform act placed control of justice institutions in the hands of prison administrators and significantly affected the ability of prisoners to file claims in federal courts (Palacios, Butler, & Griffin, 2020). The PLRA also prevents prisoners from filing a claim if they have three or more prior claims that were dismissed as frivolous, malicious, or for failing to state a claim (28 U.S.C. Section 1915(g)). The goal of the PLRA was to reduce the number of frivolous cases being filed in federal court due to the belief that inmates were being allowed to abuse the system (Schlanger & Shay, 2008).

Concern for the potential to exacerbate mental illness by exposure to long-term solitary confinement has continued to be a large theme in court rulings. In *Madrid v. Gomez* (1995), the judge found that the conditions of confinement in California's Pelican Bay Security Housing Unit were "harsher than necessary." Rather than ordering a change in conditions, the judge prohibited mentally ill inmates and those at risk of mental illness from being housed in the unit. Echoing the concerns discussed in *Madrid*, the district court decided in *Ruiz v. Johnson* (1999), that housing mentally ill inmates in supermax confinement could exacerbate mental illness and was therefore unconstitutional.

More recently, United States Supreme Court Justice Anthony Kennedy testified before Congress regarding the use of solitary confinement. Justice Kennedy noted that inmate Hector Ayala in *Davis v. Ayala* (2015) had remained in solitary confinement for twenty-five years. He stated that short-term solitary confinement is a useful tool for the functioning of an institution. However, he urged the courts to consider some alternatives

to long-term solitary confinement due to its negative impacts on individuals (U.S. House of Representatives, 2015).

In *Wilkinson v. Austin* (2005), Austin's placement in Ohio State Penitentiary (OSP), a maximum-security prison, was indefinite. He was given a review of his sentence after thirty days. After the thirty-day review, his placement was only reviewed annually. Additionally, this placement made Austin ineligible for parole. The case resulted in the creation of a new policy which provided formal procedures governing inmate classification and placement into the facility. The new policy required that prison officials complete a classification review at the time of prison entry for inmates with certain offenses and during incarceration if an inmate engaged in certain activities. Under the new policy, a three-tier review was required following a recommendation for placement at the OSP.

Throughout the history of inmate litigation, the courts have required changes to prison systems and practices on the basis that such practices are unconstitutional. These changes have provided guidelines of what the courts accept as constitutional. Solitary confinement units often allow prisoners to have regular showers, outdoor exercise, adequate lighting and hygiene, physical safety from other inmates, and some minimal due process protections (Reiter, 2016). Since the 1990s, federal courts have been extremely hesitant to find unconstitutionality in an entire prison or prison system. Instead, individual challenges to Eighth Amendment conditions of confinement are often heard at the district and appellate level and usually do not involve challenges to the operation of an entire facility.

Current Uses of Solitary Confinement

Solitary confinement typically consists of inmates being confined to a small cell in which they do not have access to personal belongings or any forms of entertainment, are not allowed to communicate with other inmates, and are only allowed out of their cell for one hour per day (King, 1999). Placement in supermax prison facilities is a form of long-term solitary confinement (Nolasco & Vaughn, 2018). Individuals in long-term solitary confinement have limited contact with family and friends as well as restricted access to prison programs (Aranda-Hughes, Mears, Pesta, & Brown, 2021).

Prisons utilize solitary confinement as a method of preventing violence and misconduct by exercising control and discipline of inmates (King, 1999; Pizarro & Stenius, 2004; Ward & Werlich, 2003). The widespread use of solitary confinement represents extreme social control placed on inmates within the correctional system (Cochran et al., 2018, Mears, 2008). This type of confinement was designed to maintain order in prisons by housing the most violent and disruptive inmates; however, some argue that solitary confinement is not effective, infringes on human rights, and is harmful to inmates (Briggs et al., 2003; Kurki & Morris, 2001; Riveland, 1999).

There are multiple reasons an individual may be placed in isolation. Disciplinary segregation refers to solitary confinement that is temporary and is a punishment used in response to misconduct. This type of segregation is usually tied to a particular event or act of violence and there is a specific period that an inmate will be in isolation (Weir, 2012). Protective segregation is used for inmates who are at risk of victimization. The goal in the case of protective segregation is not to punish but to protect an individual who is being isolated. Administrative segregation takes place when highly disruptive inmates

are given a long-term sentence of isolation to protect other inmates or prison staff from victimization (Weir, 2012).

Supermax facilities are intended to house prisoners who are extremely dangerous and disruptive (King, 1999). The National Institute of Corrections (1997) defined supermax facilities as free-standing facilities, or units within facilities, that emphasize safety and security through the separation of disruptive inmates from staff and other prisoners. The implementation of these facilities was intended to be the “new generation” of prisons that protect using technology to supervise and control inmates. Some argue that these facilities are overused and the punishment of long-term solitary confinement in these facilities is often not proportionate to the misconduct of inmates (King, 1999).

Much is still unknown about the uses and effects of solitary confinement due to a lack of empirical evidence regarding its effectiveness (Frost & Monteiro, 2016; Kurki & Morris, 2001; Mears, 2013; Morgan et al., 2016). The effectiveness of solitary confinement has not been widely evaluated because the goals of this type of confinement remain unknown (Mears & Labrecque, 2019). *Restrictive housing* is a term that came about in the past decade and is used to describe the contemporary use of solitary confinement or solitary-like confinement and limited privileges of incarceration. Adoption of the term *restrictive housing* may direct attention away from a form of incarceration that often comes under criticism. This goal of refocus has led to multiple terms meaning generally the same thing, which causes confusion and hinders the ability to conduct accurate research and direct policy (Mears et. al., 2019). The terms supermax, solitary confinement, isolation, and segregation are interchangeable, but for the purpose of this paper the term solitary confinement will be used.

Perceptions of Solitary Confinement

Public perceptions regarding the use of solitary confinement ultimately influence policy decisions made that relate to this aspect of incarceration. Public demand has played at least a partial role in the use of supermax prisons (Mears & Watson, 2006; Pizarro et al., 2006; Riveland, 1999). Mears, Mancini, Beaver, and Gertz (2013) found that the public supported supermax prisons; however, this support declined when there was not expectation of promoting public safety using these prisons. Seventy percent of respondents believed that supermax prisons were not inhumane.

Mears and Labrecque (2019) found that prison personnel believed that solitary confinement is necessary to maintain order when inmates who are a risk to others' safety are placed in isolation. According to prison personnel, solitary confinement is justified because inmates today are more violent than they were in the past (Mears et al., 2021). Mears and colleagues (2021) found that males and prison administrators often believed that solitary confinement effectively improves an inmate's behavior. On the other hand, staff who were older, Blacks, and those with a bachelor's or graduate degree were less likely to hold the perception that solitary confinement was effective in improving behavior (Mears et al., 2021).

Risk Factors for Placement in Solitary Confinement

It appears placement in solitary confinement is influenced by certain objective factors and ascriptive characteristics. Examples of objective risk factors are prior criminal record and inmate misconduct. Examples of ascriptive inmate characteristics, on the other hand, are mental health, gender, and age (Mears & Labrecque, 2019). Evidence has shown that misconduct in prison often leads to placement in solitary confinement to

maintain order (Aranda-Hughes, Mears, Pesta, & Brown, 2021; Briggs et al., 2003; Kurki & Morris, 2001; Riveland, 1999). Additionally, an individual's infraction type plays a large role in their in-prison sanctioning (Cochran, Toman, Mears, & Bales, 2018; Crouch, 1985; Flanagan, 1982).

Inmates who have mental health concerns or are minorities are disproportionately sent to solitary confinement (Mears & Labrecque, 2019). This claim was supported by Mears and colleagues (2021) who found that individuals in long-term solitary confinement were more likely to be young, male, Black, and identified as needing mental health services. Additionally, females are less likely to receive solitary confinement than males (Cochran, Toman, Mears, & Bales, 2018).

In contrast, some evidence has shown that minority inmates do not receive harsher sanctions than other inmates, including being housed in solitary confinement (Logan et al., 2017; Cochran, Toman, Mears, & Bales, 2018). Logan and colleagues (2017) found that correctional officers base their decisions of punishment primarily on the criminal histories of an individual and on the severity and frequency of misconduct while an individual is incarcerated. It is possible that race may be an indirect factor in placement in solitary confinement due to the disproportionate likelihood of minorities being found guilty of misconduct in incarceration. In addition, the clear separation of power between staff and inmates may make racial disparities in prisons more likely, particularly when institutions are given maximum amounts of authority in running their facility (Logan et. al., 2017).

The Effects of Solitary Confinement

Research has shown that exposure to solitary confinement negatively affects the mental health of inmates (Aranda-Hughes, Mears, Pesta, & Brown, 2021; Beck, 2015; Briggs et al., 2003; Cloud, Drucker, Browne, and Parsons, 2015; Hagan et al., 2017; Kurki & Morris, 2001; Riveland, 1999). Solitary confinement may lead to psychological distress, higher rates of infractions, self-harm, and suicide (Arrigo & Bullock, 2008; Hagan et al., 2017; Haney et al., 2017; Haney, 2018; Kupers, 2017; Lovell et al., 2000; Shalev, 2013). Cloud, Drucker, Browne, and Parsons (2015) analyzed the living conditions of prisoners in solitary confinement. The researchers stated that about a third of individuals in solitary confinement have preexisting psychiatric conditions (Cloud, Drucker, Browne, & Parsons, 2015).

Hagan et. al. (2017) examined the relationship of solitary confinement and post-traumatic stress disorder (PTSD) in former prisoners who had recently been released from incarceration. The researchers discovered that individuals who had been exposed to solitary confinement were more likely than those who had not been exposed to report symptoms of PTSD. Specifically, 40% of participants reported a history of solitary confinement and 28% of those individuals screened positive for PTSD symptoms. A report completed by the Bureau of Justice Statistics stated that 29% of prison inmates and 22% of jail inmates with symptoms of psychological distress had been placed in solitary confinement within the year prior to the study (Beck, 2015).

When an individual is in solitary confinement, their access to correctional programming, personal belongings, exercise, and hygiene is limited, which may affect mental health. The imposed health effects of solitary confinement may take place after an

individual's release from prison. Improved screening of mental health concerns and provision of mental health care during an individual's incarceration and release will best suit the needs of the individual (Hagan et al., 2017).

According to Butler, Johnson, and Griffin (2014), most states require that mental health professionals visit inmates regularly while an inmate is in a supermax facility. In another study, Butler, Griffin, and Knight (2012) discovered that inmates of supermax prisons were often only allowed to speak to mental health professionals through the steel door of their cell, which required loud speaking and allowed the possibility of other inmates overhearing their conversations. It may be argued that the manner of visits made by mental health professionals are counteractive to the treatment of an inmate.

Once released from solitary confinement, inmates often have a difficult time adjusting back into the general prison population (Mears et al., 2021). This difficulty in adjusting may influence inmate behavior upon reentry (Garcia, 2016). Additionally, the Bureau of Justice Statistics found that prisons with higher rates of solitary confinement had higher rates of disorder within the facility as well as more violent inmates (Beck, 2015). However, Morris (2015) assessed the relationship between short-term punitive segregation exposure and misconduct exhibited post-exposure and determined that an initial experience with solitary confinement may not influence subsequent misconduct. Short-term solitary confinement removes an inmate from other individuals when there is a threat of danger and it does not deter or increase the likelihood of subsequent violence or general misconduct (Morris, 2015; Medrano, Ozkan, & Morris, 2016).

When individuals experience trauma in prison, which may result from time spent in solitary confinement, they eventually take that trauma out into the world. This makes

solitary confinement more than just a corrections problem (Cloud, Drucker, Browne, & Parsons, 2015). Exposure to long-term solitary confinement is associated with a higher likelihood of recidivism (Mears et al., 2021). Those who are released from isolation into the community reoffended more quickly and more often than inmates who have time to adjust back into the general prison population (Cloud, Drucker, Browne, & Parsons, 2015; Mears et al., 2021).

Policy Implications

Cloud, Drucker, Browne, and Parsons (2015) stated that there is a need for correctional officers to gain training on how to handle psychiatric distress, rather than viewing psychiatric stress as noncompliance. If staff were more sufficiently trained in this area, there may not be as many individuals with preexisting psychiatric conditions in solitary confinement. According to Butler, Johnson, and Griffin (2014), it is critical for correctional departments to protect and appropriately care for individuals with mental illnesses through their policies.

Correctional agencies face the challenges of preventing the evolution of mental illness for inmates as well as caring for inmates who have a mental illness. According to Butler, Johnson, and Griffin (2014), it is best to address these challenges by clearly articulating the way staff should be trained, and inmates should be managed in their official policies. The researchers found that most correctional agencies studied utilized an inmate evaluation and reactive or precautionary strategies regarding the management of inmates. It is critical for correctional agency policies to comply with the Constitution in their treatment and protection of inmates.

The use of solitary confinement should serve as a protection of the inmates and staff within an institution if all other options to gain order have been exhausted. Medrano, Ozkan, and Morris (2016) argued that inmates should be administered solitary confinement based on behavior or risks and released from isolation as their behavior suggests that they are no longer a risk to others. Per Medrano, Ozkan, and Morris, solitary confinement should only be used as a last response.

Notable Studies

Two studies have influenced the development of this paper. First, Nolasco and Vaughn (2018) examined cases in which inmates challenged the legality of their confinement based on the atypical and significant hardship legal standard. The authors conducted an inductive doctrinal analysis of 68 cases decided by all 12 U.S. Circuit Court of Appeals.¹ Each of the cases examined took place after *Wilkinson v. Austin* (2005) was decided. *Wilkinson* was a landmark case in which the Supreme Court determined that the inmate's placement in segregation was unconstitutional due to indefinite placement in segregation and disqualification from parole because of segregation status. This was the first time the Court decided that conditions of confinement could violate a liberty interest.

Nolasco and Vaughn (2018) found that circuit court interpretations vary in determining the constitutionality of inmate exposure to solitary confinement. Clarification from the Supreme Court is needed to establish uniformity among the circuit courts. Additionally, consideration of the harmful effects of inmate segregation is called for when applying the standard of atypical and significant hardship.

¹ The Federal Circuit Court, often described as the 13th Circuit Court, only hears appeals from a select group of federal administrative agencies.

The second study that guided this paper is Palacios, Butler, and Griffin's (2020) examination of conditions of confinement in the Texas state prison system. The authors utilized a systematic review design to examine 121 federal court cases decided in 2015 in which inmates challenged the constitutionality of their confinement. The purpose of the lawsuits and justification for the rulings provided by the courts were analyzed.

The authors categorized cases by the type of allegation made, which are listed in Table 1 (Palacios, Butler, & Griffin, 2020, p.7). Justifications for rulings of denied relief were placed in one of five categories defined in Table 2 (Palacios, Butler, & Griffin, 2020, p.8). Palacios, Butler, and Griffin found that only a small number of cases were granted relief. Most of the cases examined were denied relief due to a plaintiff's failure to establish a constitutional claim.

Table 1. Categories of Allegations.

| Types of Allegations | Description |
|-----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Medical | Failure to provide medication, special diet, living and work restrictions for medical condition, or perform necessary surgery |
| Wellbeing | Correctional officer use of excessive force, failure to protect against communicable diseases, inadequate sanitation, threats and harassment by correctional officers, unreasonable body cavity searches, or failure to protect against retaliation from correctional staff or other inmates |
| Due process | Inadequate disciplinary hearing, loss of good time and reduction in classification, denial of access to courts, legal material and law library |

Table 2. Rationale for Court Rulings.

| Rationale | Description |
|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Establish claim | Failure to state a section 1983 claim, claim did not implicate a protected liberty interest, claims are conclusory or speculative, failure to establish cruel and unusual punishment, failure to demonstrate excessive use of force |
| Deliberate indifference | Failure to demonstrate objective and substantial risk to serious harm, failure to show Defendant(s) ignored complaints and intentionally harmed, or otherwise demonstrated wanton disregard, failure to demonstrate a substantial harm, claims of gross negligence do not rise to the level of deliberate indifference |
| Exhaust claims | Failure to properly exhaust available administrative procedures and remedies, failure to file grievance appeals, claims not filed in timely manner, failure to comply with grievance process |
| Material evidence | Failure to provide sufficient facts or evidence to demonstrate Defendant(s) engaged in unlawful conduct, claims are conclusory in nature and unsupported by any factual allegations, failed to plead facts sufficient to overcome Defendant(s) entitlement to qualified immunity |
| Other | Failure to pay filing fees, inmate has three prior lawsuit strikes, claims severed and transferred to different court, failed to comply with statutory requirement to provide adequate affidavit of prior lawsuit filed, duplicate claims previously dismissed |

CHAPTER 3

CURRENT STUDY

There is currently a lack of accountability and visibility for the operations of prisons. The purpose of this study is to shed light on solitary confinement by examining individual experiences in solitary confinement and court responses to those experiences.

The research questions that are examined in the current study are as follows:

- (1) What are the reasons that inmates believe their constitutional rights were violated while in solitary confinement?
- (2) Were inmates granted relief in their cases?
- (3) How do the courts address alleged injustices relating to solitary confinement?

To sufficiently answer the research questions, an in-depth analysis of lawsuits made by inmates and subsequent court rulings is completed. The two outcomes that are examined are the reasons inmates believed their confinement violated their rights and the reasoning for subsequent court rulings. This study aims to fill a gap in the literature regarding the content and rulings of inmate lawsuits by federal district courts. The findings of the current study will assist criminal justice officials and policymakers in understanding the conditions of solitary confinement as well as court responses to issues concerning solitary confinement.

Research Methods

The data for the study includes 110 cases extracted from LexisNexis. Cases retrieved from the database took place from 2015 to 2020. An analysis of cases during these years will provide a modern examination of the current conditions of solitary confinement and subsequent court rulings. The examination of cases over the course of five years aids in identifying trends in allegations and court responses.

Cases examined took place in Alabama, Texas, Florida, California, Michigan, and Massachusetts. Retrieving cases from five states helps to control for the processes that may exist in a certain state but may not exist in others. The rulings examined were decided by the United States District Courts in Alabama (Middle, Northern, and Southern District Courts), Texas (Eastern, Southern, Western, and Northern District Courts), Florida (Middle, Southern, Northern District Courts), California (Central, Eastern, Southern, Northern District Courts), Michigan (Eastern and Western District Courts), and Massachusetts. Cases decided by Appellate Courts were also examined in Alabama, Florida, Michigan, and Texas. Cases were gathered from multiple states to capture variation in management strategies, regional differences, etc.

The target population includes lawsuits filed by inmates who have received a sentence of solitary confinement in federal or private adult detention facilities, including detention centers, jails, and prisons. Cases that led to imprisonment or a sentence of confinement will be excluded from the study. Only cases that were initiated by individuals who spent time in solitary confinement will be included in the sample. The following search terms were used in LexisNexis to gather cases for the study: administrative confinement, administrative segregation, disciplinary segregation, punitive

segregation, isolation, conditions of confinement, inmate eighth amendment, and inmate Fourteenth Amendment rights.

Analysis

This study uses a systematic review design to examine themes in claims of unconstitutional solitary confinement and court responses to those claims. The selection criteria for the study include cases where an inmate was exposed to solitary confinement and the claim presented directly relates to the inmate's experience in solitary confinement. The systematic review involves a three-step analysis of each case: 1) examination of claims of unconstitutional confinement presented by an inmate, 2) court ruling of each case, and 3) justification for the ruling provided by the courts. The results are presented as frequency distributions where complaints are grouped at the case-level.

The study first examines the reason(s) a lawsuit was filed followed by an examination of the justifications for the subsequent rulings given by the courts. Allegations of unjust solitary confinement are categorized as wellbeing, medical, or due process. Cases containing multiple categories of complaints were coded as the majority category. For instance, a case may have two due process complaints and one medical complaint. In this scenario, the case would have been coded in the due process category. Justifications for rulings of denied relief are categorized as establish claim, deliberate indifference, exhaust claim, material evidence, or other.

CHAPTER FOUR

RESULTS

The cases examined (n=110) were largely made up of wellbeing concerns (49.1%). Following wellbeing concerns, cases were comprised of due process (34.6%) and medical concerns (16.4%) (Table 3). A distribution of states and the years included can be found on Tables 4 and 5.

Table 3. Cases by Allegation Type.

| Categories of allegations | n | % |
|----------------------------------|----------|----------|
| Due Process | 38 | 34.6% |
| Medical | 18 | 16.4% |
| Wellbeing | 54 | 49.1% |
| Grand Total | 110 | 100.0% |

Table 4. Cases by State.

| State | n | % |
|--------------|----------|----------|
| AL | 20 | 18.2% |
| CA | 18 | 16.4% |
| FL | 20 | 18.2% |
| MA | 12 | 10.1% |
| MI | 21 | 19.0% |
| TX | 19 | 17.3% |
| Total | 110 | 100.0% |

Table 5. Cases by Year.

| Year | n | % |
|-------------|----------|----------|
| 2015 | 10 | 9.1% |
| 2016 | 22 | 20.0% |
| 2017 | 22 | 20.0% |
| 2018 | 22 | 20.0% |
| 2019 | 16 | 14.6% |
| 2020 | 18 | 16.4% |
| Total | 110 | 10.0% |

The majority of cases were denied relief (67.3%). In some instances, a judge granted relief to certain claims and denied relief to others. When the majority category contained cases that were granted relief as well as cases that were denied relief, the case was determined to be denied relief in part and granted relief in part. For instance, a case that contained mostly medical concerns where one medical concern was granted relief and one medical concern was denied relief, the case was determined to be denied relief in part and granted relief in part. This accounted for 24.5 percent of the total cases. A small number of cases were granted relief (8.2%) (Table 6).

Table 6. Outcomes of Cases.

| Outcome | n | % |
|-----------------------------------------------|----------|----------|
| Denied relief | 74 | 67.3% |
| Denied relief in part; Granted relief in part | 24 | 24.5% |
| Granted relief | 9 | 8.2% |
| Total | 110 | 100.0% |

Of those cases that were denied relief entirely or denied relief in part, the most common reasoning courts provided was failure to establish a claim (62.4%) (Table 7).

Failure to establish a claim was the most common reason for denial of relief regarding to the due process and wellbeing categories (due process – 75%; medical – 35.7%; wellbeing – 60.8%). Failure to provide material evidence was the most common reasoning for denial of relief in the medical category (42.9%). The second most common reasoning for denial of relief across the due process and wellbeing categories was failure to provide material evidence (due process – 19.4%; wellbeing – 33.3%). Cases that were dismissed due to a lack of material evidence were often dismissed because the claims could not surpass an individual’s immunity (e.g., qualified immunity, state immunity, etc.) (Table 8).

Table 7. Court Rationale for Denial of Relief.

| Rationale | n | % |
|-------------------------|------------|---------------|
| Deliberate indifference | 2 | 2.0% |
| Establish claim | 63 | 62.4% |
| Exhaust claim | 5 | 5.0% |
| Material evidence | 30 | 29.7% |
| Other | 1 | 1.0% |
| Total | 101 | 100.0% |

Table 8. Court Rationale for Denial of Relief by Allegation Type.

| Rationale | Due Process | | Medical | | Wellbeing | |
|-------------------------|--------------------|---------------|----------------|---------------|------------------|---------------|
| | n | % | n | % | n | % |
| Establish claim | 27 | 75.0% | 5 | 35.7% | 31 | 60.8% |
| Deliberate indifference | 0 | 0.0% | 1 | 7.1% | 1 | 2.0% |
| Exhaust claim | 1 | 2.8% | 2 | 14.3% | 2 | 3.9% |
| Material evidence | 7 | 19.4% | 6 | 42.9% | 17 | 33.3% |
| Other | 1 | 2.8% | 0 | 0.0% | 0 | 0.0% |
| Totals | 36 | 100.0% | 14 | 100.0% | 51 | 100.0% |

Tables 9, 10, and 11 include an analysis of a sample of cases from each type of allegation. A stratified random sample was completed to gather five randomly selected cases per each allegation type. 15 total cases were selected to provide an in-depth analysis. Each table includes the case name, state, year decided, allegation, and rationale for the court ruling. For cases with multiple types of allegations, a description of the allegation and rationale that correspond with the case allegation category is shown.

Table 9. Analysis of Due Process Cases.

| Case Name | Description | Ruling |
|----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| Boone v. Nemesito (MI, 2020) | Boone was held in administrative segregation for an extended period of time and experienced restrictions, including his ability for parole, due to an unjust Security Threat Group status. | Boone failed to state a constitutional claim. |
| Fields v. Texas Dept of State Health Services (TX, 2017) | Fields was held in solitary confinement for months and was not allowed to access the law library. Fields claimed that he was charged and prosecuted based on false accusations. | Fields failed to establish a constitutional violation and his claims did not overcome Defendant's governmental and qualified immunity. |
| Seastrom v. Jennett (MI, 2019) | Seastrom alleged that his disciplinary charge investigation was unjust due to failure to conduct an adequate investigation, failure to volunteer evidence to hearing investigator, and his inability to present a defense and confront a witness. | Seastrom had no right to due process on his disciplinary charge or the investigation of the disciplinary charge. |
| Perry v. Spencer (MA, 2016) | Perry was unlawfully confined in non-disciplinary segregation for an unreasonable amount of time without adequate due process. Perry was in segregation for 611 days. | Defendants were entitled to qualified immunity. |
| Webb v. Boyd (AL, 2017) | Webb was placed in administrative segregation due to fabricated information and was denied a lower custody classification. | Defendants were entitled to qualified immunity. |

Inmate claims varied widely throughout each category of allegation. The majority of cases resulted in a ruling which stated that the Plaintiff failed to state a constitutional violation. Many cases in the analysis show that Plaintiffs failed to state a claim or provide evidence that was sufficient to overcome a Defendant’s qualified immunity. Here, 8 of the 15 cases examined in the random sample involved Defendants who were entitled to qualified immunity.

Table 10. Analysis of Medical Cases.

| Case Name | Description | Ruling |
|---------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Dillon v. Moore (TX, 2018) | Dillon was refused medical treatment following an incident of excessive force used against him. | Dillon was treated several days after the incident and medical records show that he complained of only muscle soreness. The Defendant was entitled to qualified immunity. |
| Scott v. Kwarteng (TX, 2019) | Defendants ordered the taking of Scott's medical neck and back braces, showed deliberate indifference to his medical needs, and retaliated against Scott by cancelling his important medical care. | Claims of deliberate indifference and retaliation by canceling important medical care were granted relief. Scott's claim for property loss due to taking of his medical devices failed to state a constitutional claim. |
| Scott v. Beregovskay (CA, 2018) | Scott alleged that Defendants acted with serious deliberate indifference to his medical needs and that his medical privacy was violated. | Scott failed to allege a constitutional violation. |
| Keith v. Naglich (AL, 2018) | Keith filed the lawsuit on behalf of her deceased son, Dwight Hammonds. Keith alleged that Defendant's acted with deliberate indifference to her son's medical needs by failing to provide him medication and appropriate classification for his known mental health needs. | The Defendants were entitled to qualified immunity. |
| Best v. Huffman (AL, 2018) | Best claimed that Defendants acted with deliberate indifference to his medical needs by denying diabetic treatment, which caused Best to become permanently blind. | Best stated claims sufficient to overcome the Defendants’ qualified immunity. |

Table 11. Analysis of Wellbeing Cases.

| Case | Description | Ruling |
|----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| Sparklin v. Wilkerson (FL, 2016) | Sparklin alleged that he was subjected to excessive use of force by correctional officers. | Sparklin failed to exhaust all administrative remedies available to him. |
| Dallas v. Chippewa Corr. Facility (MI, 2018) | Dallas stated that conditions in administrative segregation caused him mental distress. In addition, Dallas was verbally harassed by Defendant and was subjected to excessive use of force. | The claim that Dallas was subjected to excessive use of force was granted relief. Dallas otherwise failed to state an Eighth Amendment claim. |
| Jones v. Higgins-O'Brian (MA, 2018) | Defendants failed to protect Jones from a situation that resulted in physical harm and sexual harassment. | The claim made by Jones was sufficient to overcome the Defendant's qualified immunity. |
| Swyck v. Davis (TX, 2017) | Defendants failed to protect Swyck from inmates who had access to his food trays and repeatedly poisoned his food. | Swyck's claim was not sufficient to overcome the Defendant's qualified immunity. |
| Marbury v. Warden (AL, 2019) | Marbury alleged that Defendants failed to protect him from unsafe conditions and were deliberately indifferent to those conditions, which resulted in an assault on Marbury by another inmate. | Marbury's claims were insufficient to establish deliberate indifference to a substantial risk of harm. |

CHAPTER FIVE

DISCUSSION

Little is known about the current conditions of solitary confinement and the state of inmate litigation since the enactment of the PLRA in the 1990s. The goal of this study was two-pronged. First, this study attempted to examine recent conditions in solitary confinement. Second, this study aimed to address a gap in the present literature to provide a recent analysis of the current state of inmate litigation. This was done by examining reasons inmates believed their solitary confinement was unconstitutional and examining court rulings relating to these issues.

Cases from 2015 through 2020 in Alabama, California, Florida, Texas, Massachusetts, and Michigan were analyzed. An analysis of inmate litigation spanning five years and six states allows trends to be shown across time and geographic limitations. All the cases included in the sample involved an inmate who spent time in solitary confinement, and their complaints directly related to their time in isolation. The present study indicated some themes in inmate litigation in relation to both inmate allegations and involvement of the courts. Courts often found that inmates failed to state a constitutional claim and few cases were granted relief.

Cases focusing on due process allegations made up 34.6 percent of the total number of cases examined. Such cases often concerned allegations of wrongful accusations or false disciplinary charges, an inmate not receiving a hearing, and extended

placement in isolation. Many inmates argued that they received sanctions that were based on false information or were a result of retaliation for filing an institutional grievance. The ability of staff to administer sanctions is crucial to the management of an institution. However, it is important that such processes are internally regulated to ensure the fair treatment of those incarcerated.

Medical cases were the minority category of cases examined in the sample. Only 18 of the 110 cases examined (16.4%) were categorized as medical cases. Many of these allegations involved denied or delayed medical care. The most common reason medical cases were denied relief was due to a Plaintiff's failure to provide evidence sufficient to overcome a Defendant's immunity. Fifty of the total cases examined involved an analysis of a Defendant's immunity, which makes up 45 percent of the sample.

Qualified immunity is provided to government officials, such as police officers and prison guards, who must use significant discretion to perform their roles (Miller, 2008). This doctrine was established by the Supreme Court in 1967 to protect government officials from liability (*Pierson v. Ray*, 1967). To evaluate whether qualified immunity is applicable in a Section 1983 lawsuit, courts conduct a two-pronged test. First, it must be proven that an official violated a constitutional right. Second, if a constitutional right was violated, the court must determine whether the constitutional right was "clearly established" (*Saucier v. Katz*, 2001). The qualified immunity doctrine allows prison staff, including medical personnel, to violate the rights of prisoners so long as the violation has not been clearly established in a previous case. This doctrine allows government officials to act without accountability and hinders the ability of inmates to receive justice.

The majority of lawsuits examined related to wellbeing concerns. In particular, 54 of 110 cases (49.1%) were comprised of wellbeing allegations. These cases most often consisted of allegations of retaliation, failure to protect from harm, verbal harassment by staff, denial of meals or exercise, and experience of emotional or mental disturbance due to time spent in isolation. Of the cases examined, 11 cases involved failure to provide mental health care. Additionally, 11 separate cases involved claims in which time spent in isolation caused or exacerbated mental or emotional distress. This means that 20 percent of the cases examined involved concerns relating to mental health.

The effects of isolation on mental health have been widely studied. Mental health issues resulting from long periods of time spent in isolation has been termed isolation sickness, reduced environmental stimulation (RES), or security housing unit syndrome (Scott, 1969; Haney, 2003). The literature shows that self-mutilation, suicide, and deteriorating mental health are prevalent in isolation units (Hayes, 1989; Johnson, 1973; Jones, 1986; Porporino, 1986). Such psychological reactions often continue after release from incarceration (Haney, 2003).

Most of the cases examined were denied relief (67.3%), and a small portion of cases were granted relief fully (8.2%). Some of the cases were partially granted relief (24.5%), meaning that a judge granted relief to some, but not all, of the claims that were examined in the majority category. *Dallas v. Chippewa Correctional Facility* (2018) provides an example of a case that was granted relief in part. Dallas alleged that he was verbally harassed, subjected to excessive use of force, and the conditions in administrative segregation caused him mental distress. The court ruled that Dallas failed to state an Eighth Amendment claim in relation to the verbal harassment and mental

distress claims; however, the court granted relief to the Dallas' claim of excessive use of force.

Cases were often denied relief due to failure to establish a constitutional claim. This finding was consistent with prior research (Palacios, Butler, & Griffin, 2020; Schlanger, 2015) and suggests that it is unlikely for inmates to be granted relief in a Section 1983 lawsuit across multiple states. The second most common rationale for denial of relief was material evidence, which was often a direct result of the qualified immunity doctrine. The findings of the study support the notion of Schlanger (2003) that inmates have difficulty receiving relief for the constitutional violations they have experienced due to the "defendant-friendly standards" utilized in Section 1983 lawsuits.

This study involved some limitations which may influence further research. First, a sample of 110 cases was chosen for review in this study. Additional cases gathered from 2015 to 2020 may have altered the trends shown in the findings. Second, the demographic characteristics of inmates who filed lawsuits were not examined. Future research should attempt to account for trends in the characteristics of inmates that file Section 1983 lawsuits. This would provide an understanding of inmates who are most likely to experience unconstitutional conditions in solitary confinement as well as inmates that are most likely to file a lawsuit. Third, only six states were included in the review. Themes in litigation as well as institutional policies may differ between states that were not accounted for in this study. Fourth, only cases decided from 2015 to 2020 were reviewed. Additional research conducted in different states, and across different time frames, would allow for a broader view of the on goings of inmate litigation.

Future research is needed to determine the state of inmate litigation across the United States. Research focusing on the regulations and sanctions given to inmates is needed. Many inmates in the current study alleged that they were retaliated against by correctional staff for filing institutional grievances. This retaliation often took place in the form of institutional sanctions, such as placement in isolation. Further, it has been widely documented that mental health care in correctional institutions is in need of reform. Improved mental health care in such institutions would contribute to the wellbeing of offenders and would likely result in fewer lawsuits filed by inmates. Finally, there is ongoing debate regarding the fairness of immunity (Miller, 2008; Schaffer, 1995; Schweikert, 2020). Much of this debate focuses on the provision of qualified immunity for police officers. Research on the implications of qualified immunity for correctional staff, as well as the effects on inmate litigation, ought to be examined.

This study extended previous research on inmate litigation by exploring trends in lawsuits and experiences in solitary confinement across five years and six states. The findings from this study may provide insight to prison administrators seeking to improve conditions of confinement and may provide guidance for policy change. There is still much to be learned regarding the inner workings of correctional institutions and the existing state of inmate litigation across the country.

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APPENDIX
IRB DETERMINATION

NHSR DETERMINATION

TO: Little, Hannah Kaelyn

FROM: University of Alabama at Birmingham Institutional Review Board
Federalwide Assurance # FWA00005960
IORG Registration # IRB00000196 (IRB 01)
IORG Registration # IRB00000726 (IRB 02)
IORG Registration # IRB00012550 (IRB 03)

DATE: 21-Mar-2021

RE: IRB-300006704
Review of Inmate Litigation Challenging the Constitutionality of Solitary Confinement

The Office of the IRB has reviewed your Application for Not Human Subjects Research Designation for the above referenced project.

The reviewer has determined this project is not subject to FDA regulations and is not Human Subjects Research. Note that any changes to the project should be resubmitted to the Office of the IRB for determination.

if you have questions or concerns, please contact the Office of the IRB at 205-934-3789.