

Student Example 1:

Essay Question:

Prison and Society: Gawande (2009:36) suggests, "Human beings are social creatures. We are social not just in the trivial sense that we like company, and not just in the obvious sense that we each depend on others. We are social in a more elemental way: simply to exist as a normal human being requires interaction with other people."

Consider this statement given that the US holds tens of thousands of inmates in long-term solitary confinement. Define solitary confinement using academic sources and connect this practice with the rising crime control approach in US penal policy. Provide an argument to justify a punitive approach to crime using three (3) academic sources. Provide a counter argument based on two (2) academic sources. In a detailed discussion of the above arguments include three (3) examples from class to consider what prison practice in the US tells us about law and society? What other approaches exist?

Solitary Confinement In The U.S. Penal System: Ensuring Safety and Order

Introduction and Thesis

The use of solitary confinement in the U.S. penal system has become a controversial debate among prisoners, the general public, and mental health professionals across the country. This practice of imprisonment however is not something that is new to our society. The origins of this mode of imprisoning can be traced back to the 19th century when Philadelphian Quakers placed inmates in isolation at the city's Walnut Street prison. Prisoners were placed in complete isolation and silence in an attempt to force them to think about their actions in hopes that they would be rehabilitated (Berman, 2007).

While the first uses of solitary confinement were thought to be unsuccessful and resulting in negative outcomes for prisoners, the practice has become more prevalent as a punitive approach in U.S. correctional facilities, especially in Supermax prisons. While solitary confinement is primarily used in Supermax prisons, it is also used in lower level prisons and jails to punish unruly and dangerous inmates. With solitary confinement becoming a growing practice in the U.S penal system, the United States continues to take a more crime control approach in its penal policies.

Rather than trying to rehabilitate violent and dangerous inmates, the U.S. penal system has turned to shunning these individuals into isolation. The crime control approach that the U.S. has begun to take in its penal system is reflected by the lack of

resources available. Jails and prisons have reached population numbers that have never been seen, resulting in mass overcrowding. The lack of prison staff is another issue that has led penal systems to shy from rehabilitation methods and turn to a more punitive approach. Not only are prison staff numbers remaining stagnant as prisoner numbers increase, but training in terms of rehabilitee programs is also declining (de Lesseps, 1976). With the lack of resources to rehabilitate and control inmates, the U.S. has been forced to turn to a more punitive approach, such as using solitary confinement, in its correctional facilities.

When it comes to the debate, many believe that the isolation in solitary confinement is cruel and unusual punishment to an inmate. They feel that this treatment is inhumane and has negative physiological effects on the individual. On the other side of the debate, many see solitary confinement as a justifiable practice used in prisons. Solitary confinement in their eyes ensures the safety of not only the staff, but the general prison/jail population as well. This paper will argue that the use of solitary confinement and the punitive approach to crime in the U.S. penal system is justifiable in means of securing prisoner safety, staff safety, and also to punish unruly prisoners who cause problems within the prison population.

Definition

Solitary confinement can be defined as:

restriction to a single-bunk cell for 23 hr per day, allowing just 1 hr out of cell for personal hygiene and exercise. Inmate movement is severely restricted, with multiple restraints placed on inmates before leaving their cell. Personal contact is kept to a minimum. Even contact with staff is limited; therapy and worship services may be provided through video-conferencing or secure barrier. Visitations are allowed on a limited basis but are generally no contact, meaning there is a physical barrier between inmates and visitors (O'keefe, 2008:124).

This detailed definition of solitary confinement deals with Supermax prisons. In this definition, the seriousness of the isolation is outlined with each point. Inmate's movement, contact with other humans, rehabilitation programs, and visitations are all limited to their lowest point, if not taken away completely. Not all solitary confinement practices are this extensive, but they all do the same thing, which is isolating the inmate as much as possible.

Bruce A. Arrigo and Jennifer Bullock of the University of North Carolina define solitary confinement as

“...the segregation of convicts.....Prisoners are placed in isolated housing for reasons that are deemed punitive or administrative, but the objective in all cases is to increase control over them”(Arrigo,2008:622).

This definition explores the idea of punitive and administrative reasons for solitary confinement. Punitive measures involve placing an inmate in confinement because of his or her negative actions while in the jail or prison. Whether they threaten or assault an inmate or staff member, being placed in solitary confinement for an unspecified amount of time punishes these individuals for their actions. Administrative reasons involve the discretion and decisions made by prison officials to place inmates in confinement without them having committed a violation. The administration of the prison or jail may feel that this inmate will cause future problems if placed with the other inmates. Whether they are gang related issues or racial issues, administrative reasons for placing inmates in solitary confinement are left up to the prison officials' discretion (O'keefe, 2008).

While defining solitary confinement is simple and in most cases universal, the use of the practice is controversial in itself. Whether punitive or administrative, the use of this punitive approach to crime has shed much controversy. However, in order to secure

prisoner safety and staff safety, prisons and jails must use solitary confinement to punish and deter violent or disruptive actions by the inmate population.

Evidence

I. Prison Violence: Staff Safety

One of solitary confinements main goals is to reduce violence in prisons. By separating violent criminals from the rest of the prison population, the administration is attempting to lower its risk of not only inmate on inmate violence, but also inmate on staff violence. During the early 1970's, the number of assaults directed toward staff members and other inmates in prisons continued to escalate. The Bureau of Prisons(BOP) began to send troubling inmates who were disruptive to the normal operation of the facility to the high security prison in Marion. The mission of this prison was to change the attitudes and behaviors of these individuals in order to reinsert them into the general prison population.

However, violence continued to escalate and assaults on prison staff increased 45.5%. The continuing increase in assaults on prison staff became the BOP's number one concern. In response, the BOP deemed Marion prison as the first super-maximum-security prison, or level 6 prison, where the main goal "was to provide long-term segregation within a controlled setting for prisoners throughout the federal system who threatened or injured other inmates or staff members, possessed deadly weapons or dangerous drugs, disrupted the orderly operation of a prison, or escaped or attempted to escape" (Pizarro, 2004:250-251). Supermax prisons were designed to segregate the most dangerous inmates from the rest of the prison population and the prison staff.

With violence against prison staff escalating and becoming a growing problem, the use of solitary confinement in not only Supermax facilities, but also other prisons, became necessary to ensure the safety of staff members. Not just any inmate is placed in solitary confinement and even the criminals who have committed the most violent crimes are not always confined or segregated. Staff members do have discretionary authority to deem a prisoner as being a threat to safety and security and issue him/her to solitary confinement (Pizarro, 2004). With staff members coming in contact with inmates on a daily basis, they deserve and need to be protected from those who are willing to harm them.

Order and Safety are believed to be the most important aspect in managing a prison. The use of solitary confinement provides staff members with the safety and allows them to run the prison without a disruption in order. These inmates that are placed in solitary confinement have already proven that they cannot operate in the general prison population. In many cases, they have already assaulted or threatened a staff member. If these prisoners that posed a threat to the staff were not placed in confinement, the safety and security for staff members would be jeopardized on a daily basis.

II. Prison Violence: Inmate Safety

Prisons have been described as having “rampant violence and (a) jungle atmosphere”(Harvard Law, 1981:630). Inmate on inmate violence is something that is inevitable in prisons. The constant interaction and housing of incompatible inmates in prisons lead to the victimization of the younger and weaker inmates by the more aggressive or stronger inmates. In large prison populations, there exist little opportunity

to isolate these dangerous inmates from the vulnerable ones. This can lead to the weaker inmates being harassed, attacked, terrorized, and even raped by others. With violent inmates terrorizing others and jeopardizing the security and order of prisons, solitary confinement needs to be used as punitive method to corrections (Harvard Law, 1981).

Violence in prisons between two inmates not only causes an unsafe environment for the general inmate population, but it also furthers the violent inmate subculture that has “been linked to many other social and institutional problems such as the failure of rehabilitation, high levels of recidivism, and violation of inmate rights” (Patrick, 1998:253-254). In the article *Differences in Inmate-Inmate and Inmate-Staff Altercations: Examples from a Medium Security Prison*, Steven Patrick discusses the direct causes of inmate on inmate violence. His findings uncover that the less safe an inmate feels, the more likely that inmate will get involved in an altercation with another inmate. The feeling of being unsafe and insecure will lead to the inmate being fearful of his surroundings and fellow prisoners, causing him/her to be on edge and more likely to fight. Inmates that feel safer in prisons are far less likely to be involved in fights, but the witnessing of other inmate altercations make them feel less safe. When the rules and regulations of the prison are enforced however, and these unruly inmates are punished, inmates will see this as limiting the danger that surrounds them (Patrick, 1998).

When an inmate assaults another inmate, whether sexually, physically, or with a weapon, he or she needs to be punished. Placing this individual in confinement for weeks, months, or years, allows them to rethink their actions next time they plan on laying their hands on another inmate. Not only will this result in a safer environment, but also the view that the prison is enforcing their rules creates a better situation for the

inmates who practice good behavior behind bars. Simply entering this individual into a rehabilitation program is not justice and does not do anything for the prison system. If an inmate can get away with unruly behavior without severe punishment, the wrong message is being sent to the other inmates. There must be punishment inside a correctional facility to keep order and for the safety of the other inmates; therefore, solitary confinement helps isolate these inmates who behave disorderly, creating a better and safer environment for the rest of the prison population.

III. Gangs

“Gang membership is a robust correlate of delinquency, violence and other forms of antisocial behavior. Penologists have identified gang membership as an important determinant of prison misconduct”(Berg, 2004:369-370). Gangs in prison attempt to control their environments through violence directed towards non-gang members. Many individuals who come into prisons are already affiliated with outside gangs, thus causing opposing gangs to bump heads in prison. Gangs are also established inside the cell walls as groups form in order to gain power and control in the prison. Whether formed inside or brought in from the outside, these gangs are involved in misconduct and violence wherever they go (Berg, 2004).

Due to the security threat that gangs bring into prisons, it has become the main concern for prison administrators. It has been found that gang members are 74% more likely to commit disciplinary actions than those who are not involved in a gang. If prison officials do not approach the gang issue in a punitive matter, they can weaken an entire

prison system. In a Texas prison, the failure to address the problem of prison gangs led to a ten times increase in the rate of murders and assaults committed (Berg, 2004).

In order to control gangs in prisons and reduce the risk of violence, prison administration must separate these inmates from the rest of the prison population. In the study of gang members and prison violence conducted by Matt Delisi, Mark t. Berg, and Andy Hochstetler, it was discovered that “isolating known gang members in a special management unit reduced the rates of serious assault, rioting, drug violations and threats to staff by 50 percent”(Berg, 2004:377). When prison administration can effectively identify gang members in prisons and confine these inmates out of the prison population, they are creating a much safer environment for the staff and the inmates. This is especially paramount to high-ranking gang leaders, who may use their contacts on the inside and outside to continue their gang leadership. Drastically reducing the potential of violence by separating gang members from the other inmates justifies the use of solitary confinement to create a healthier and safer environment for the prison population.

Counter Evidence

“Your cell measures ten feet by twelve feet. It is made of poured concrete with a steele door-no bars-just a lot of little holes, smaller than the tip of your little finger, punched through it. You have a stainless steel toilet and sink built as a unit...There is a small window, high and narrow, that lets in a little outside light...your bunk bed is made of poured concrete...the light cannot be turned off entirely...bright enough for the guards to peer in at you. There is a small trapdoor...through which your food can be pushed to you” (Kurki, 2001:295)

The above description of a solitary confinement room helps explain why opponents of solitary confinement think that the practice is cruel and unusual punishment, for which the Eighth Amendment of the United States Constitution

prohibits. The reason for believing that the practice is cruel and unusual resides on the fact that many cells are lightless, contain limited bedding, and the prisoners are given minimal food. Opponents also stress that some prisoners are also sometimes placed in solitary confinement naked or with just their underwear where they are denied toiletries and other personal articles (Walton, 1997).

Another stance that opponents to solitary confinement hold is that the practice has negative psychological consequences. Living in solitary confinement and supermax prisons are felt to be a painful experience that affects the inmates' behavior and their physiological well-being. Inmates feel deprived and frustrated due to their loss of liberty, autonomy, heterosexual relationships, goods and services, and lack of personal security and safety. The isolation is also believed to affect the prisoners' mental health due to a lack of activity and contact with people. While early experiments showed the severe impact that isolation has on an inmate, the practice of confining prisoners continued to opponent's dismay.

When limiting human activity and human contact, the program of solitary confinement is seen as detrimental to not only one's mental health, but also to their chances of rehabilitation. Studies have also shown that the segregation of these inmates as a punitive approach leads to the physiological distresses of depression, hostility, anger, anxiety, and sleep disturbances. Instead of punishing these inmates and making their situations worse, alternate program methods of education, recreational activities, and physiological services are seen to be more affective.

The list of consequences believed to affect solitary confined inmates are numerous and believed to be disturbing to many. Inmates report becoming delusional,

hallucinate, having trouble thinking, having trouble concentrating, and trouble with their memory. Inmates also express becoming claustrophobic, suffering from chronic rage reaction, and also becoming severely depressed. All these symptoms are believed to be in relation to the denial of individuality. When a prisoner is confined, he stripped of himself and is in turn suffering from depersonalization.

Research suggests that inmates placed in solitary confinement as punishment develop psychological problems. However, almost all the research performed on the matter has flawed methodology. Many studies have looked at prisoners who volunteer to enter solitary confinement. Other studies that have examined true confined prisoners have failed to look at or discuss these prisoners being examined past health and criminal records (Pizarro, 2004).

Not only do these studies fail to make valid assessments on inmates by leaving out important information, but also they fail to look at the overall goal of solitary confinement. Prisoners are just not thrown into confinement or supermax prisons. They are given chances in prisons and prove that they cannot function in society or in a prison population. Prisons must be able to ensure the safety of their inmates and their staff and the use of solitary confinement makes this possible. If a prisoner is unruly or presents a threat of violence towards other inmates and the prison staff, they must be punished and isolated. They are showing that they cannot follow the rules and should not be given protection from what some deem as “cruel and unusual punishment.”

Discussion and Conclusion

The different approaches to dealing with inmates all have their advantages and disadvantages. While the use of solitary confinement is a necessary tool of punishment in U.S. prisons and jails, many believe that the rehabilitation approach in correctional facilities needs to be utilized. In the documentary watched in class, the attempt at rehabilitation of inmates was seen. Travis, one of the inmates who came into the correctional facility, was a drug addict and was suffering from addiction. After being removed from one side of the prison and placed in a drug program, he went through detox and left the facility with a new attitude. This rehabilitation program that Travis went through was seen as a positive way of dealing with inmates.

However, both Travis and another inmate who went through rehabilitation found themselves back in prison and back to using drugs less than a month later. This example shows that rehabilitation is something that doesn't always work for inmates. Inmates in prison will enter rehab programs and psychological programs in order to get a shortened prison term. Their goal is to get back onto the streets, and if participating in these programs get them back faster, they will do them without question. These programs however do nothing but give the prison system and rehabilitation programs a false sense of success. The number of repeat offenders in prison and jails is testament to this. These programs are not changing inmates and this is starting to be shown as prisons are going towards a more punitive approach to crime.

This documentary also showed the effects of solitary confinement on inmates. The individual who volunteered to go to jail for 30 days stayed in solitary confinement

for 72 hours and gave his feedback on the experience. He expressed that the confinement almost drove him crazy. Sitting in a small confined cell was not a pleasant experience for him and he said that prolonged confinement would be a terrible experience. This experience however is not one that should reflect actual prisoners in solitary confinement. Due to him going in voluntarily and not having experienced confinement for only a short amount of time, the effects of the practice cannot be fully judged.

Another example from class that shows the violence levels in prison was the video on inmate on inmate violence. The video showed how prisoners constructed homemade weapons and used them to stab and injure or kill other inmates. Inmates would call others to the door of their cell where they would slash their face with a weapon, effectively cutting the inmate across the face leaving a scar for the rest of their life. The video was capped off by a large prison brawl. The brawl was characterized by racial and gang on gang violence. This emphasizes the importance of isolating prison gang leaders and those who pose a violent threat to other inmates. The use of solitary confinement can ensure the safety of inmates and staff by separating these current or potential violent inmates.

While experiments and studies continue to be done on solitary confinement and its affects on inmates, the goal of this punitive method cannot be ignored. Prisoners who are confined do not just get thrown in solitary isolation because of the crimes they have committed on the outside world. They are placed there because of their unruly and dangerous actions inside prisons. Prisons must punish inmates who do not behave on the inside and disrupt the order of the system. Solitary confinement is thus a jail inside another jail or prison for those who do not follow the rules. This necessary technique,

while problematic to many, needs to be used in order to secure the safety of inmates, prison staff, and maintain order inside the dangerous society that prisons are.

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