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Supermax Confinement: A Descriptive and Theoretical Inquiry

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SUPERMAX CONFINEMENT: A DESCRIPTIVE AND THEORETICAL INQUIRY

By

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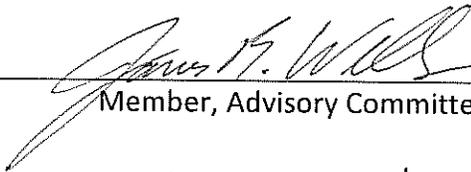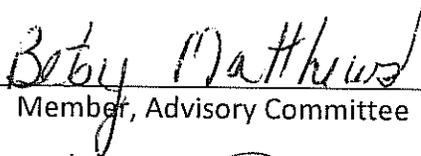
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SUPERMAX CONFINEMENT: A DESCRIPTIVE AND THEORETICAL INQUIRY

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Bachelor of Arts
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Submitted to the Faculty of the Graduate School of
Eastern Kentucky University
in partial fulfillment of the requirements
for the degree of
MASTER OF SCIENCE
August, 2011

DEDICATION

This thesis is dedicated to my parents
Jim and Linda Baumgardner
for their unwavering support.

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I would like to thank my major professor, Dr. Kevin Minor, for his guidance and patience and for his willingness to continue to revise all of my rough drafts. I would also like to thank the other committee members, Dr. James Wells and Dr. Betsy Matthews, for their comments and assistance with this thesis.

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CHAPTER 1

THE SUPERMAX AS AN OBJECT OF STUDY

In the past few decades, there has been a proliferation of supermax prisons and units

across the nation, reflecting the increased use of administrative, isolated segregation (Mears &

Reisig, 2006; Mears & Watson, 2006; Pizarro & Narag, 2008; Sundt, Castellano & Briggs, 2008).

This proliferation is embedded within a broader shift in society towards more punitive

measures of disciplining those people convicted of criminal offenses. The punitive shift is

reflected not only in the exponential increase of inmates held in American prisons, but also in

the sway toward the ideological mindset that the primary goal of prison is no longer to help

rehabilitate inmates, but instead to punish, deter, and incapacitate them (Cullen & Johnson,

2012). The shift is reflected in the cultural landscape of society where prisons and, most

importantly for this paper, supermax prisons, are increasingly seen as necessary, normal and to

some extent, expected to combat danger. The primary purpose of this thesis is to examine the

proliferation of supermax confinement as a major component of the punitive shift. Other

purposes include analyzing the history and current status of supermax prisons and also

reviewing the scholarly literature that has accumulated to date.

Administrative segregation has a long history in corrections and consists of removing an

inmate from the prison's general population and placing him or her into segregation for an

indefinite period of time, usually based on a prediction of future misbehavior on the part of the

inmate (Minor, Wallace & Parson, 2008; Pizarro, Stenius & Pratt, 2006). Supermax prisons, also

known as administrative control units, special (or security) handling units (SHU), or control

handling units (CHU), are facilities designated for the "worst of the worst" inmates (Ross, 2007). The key difference between supermax prisons and other prisons is that in supermax prisons (or supermax units) administrative segregation is employed throughout the entire facility; it is the rule rather than the exception.

Although the exact number of supermax facilities is unclear, it is estimated that within 20 years after the first supermax prison opened in 1983, approximately 60 different supermax facilities emerged (Pizarro & Narag, 2008). Why the use of supermax confinement has spread so rapidly is unknown and under analyzed (Pizarro, Stenius & Pratt, 2006), and so are the true goals of supermax facilities (Mears & Castro, 2006).

Although supermax prisons have emerged as an icon of the American prison system, little is known about their intended goals or operational realities, and research remains fairly limited, in part because of supermax prisons being a fairly recent phenomenon. Besides the recentness of the supermax trend, there is another factor that hinders the progress of supermax research. In the prison subculture, there forms a sort of insider versus outsider mentality, where the prison workers and the inmates serve as the "insiders", and the public outside of the prison walls serve as the "outsiders". This makes research difficult, even more so when dealing with supermax prisons. If outsiders are allowed inside supermax facilities, their visits are usually very short, and what they experience is controlled; in fact, they are usually confined to special visitor rooms (Shalev, 2009) which obstruct any viewing of the prison that the insiders wish to keep out of sight.

With supermax prisons being so closed off from the rest of society, it becomes important to have research that can validate the operations of and the necessity for these

facilities. In order to move forward in research, we need a better understanding of the current

status of supermax confinement and previous research needs to be pulled together and

assessed to gain a better understanding of what is known and what issues or aspects of

supermax confinement need to be further addressed.

Furthermore, by engaging theoretical inquiry, we can begin to appreciate why the use

of supermax facilities spread so rapidly throughout the US. As mentioned before, the U.S. went

from one official supermax facility in 1983 to around 60 in 2003 (Pizarro & Narag, 2008). This is

an exceptionally large increase for such a short period of time. The violence that prisons faced

during the 1960s, 1970s and 1980s could have led to a legitimate need for solitary confinement,

in the most extreme form, bringing about this rapid increase of supermax facilities. Or as

Mears (2008) suggests, the supermax epidemic could have spawned from states *perceiving* the

need for supermax facilities, rather than actually needing them. Clearly, then, more research

and theory are needed to explain the supermax movement.

Supermax prisons are also important to study because of the negative effects associated

with these facilities. Critics maintain that supermax confinement is inhumane and possibly

unconstitutional (Haney, 2003; Shalev, 2011). Studies show the harmful effects caused by

isolated segregation, such as mental deterioration and the physical ailments that inmates suffer

(Arrigo & Bullock, 2007; Haney, 2003; Pizarro & Stenius, 2004; Toch, 2003; Toch, 2001). With

such a rapid increase in the use of supermax confinement, it would be beneficial to know the

consequences for prisoners resulting from such confinement.

Even if these negative consequences can be justified by the goals of supermax facilities,

the other costs associated with these prisons need to be considered as well. Supermax facilities

are much more expensive to build and maintain than any other type of prison (Mears & Bales, 2009; Ross, 2007). Overall, the estimated cost to build and maintain a supermax facility is two to three times more than the costs for lower security prisons (Mears & Bales, 2009). A specific example of this is the estimated cost of $75,000 for building one supermax confinement cell, which compares to $25,000 for a non-supermax confinement cell (Ross, 2007). As another example, Shalev (2009) explains that the amount of money spent annually on one inmate at California's Pelican Bay supermax facility would pay for five students to attend California State University.

Currently, there is no exact estimate as to the number of supermax facilities; there are only approximations. This is partly a result of the varying definitions that states have of supermax prisons, a factor that hinders further research for these types of facilities. Since the terminology used to identify supermax facilities varies from state to state, surveys and questionnaires regarding the existence of the facilities can be inaccurate, and the procedures to record or report information about supermaxes are not always reliable. As a consequence of these varying definitions and because of annual changes in policies, statistics on supermax confinement tend to fluctuate from year to year (Naday, Freilich & Mellow, 2008).

As with the statistics on supermax prisons, the goals of supermax prisons tend to fluctuate as well. Presumably the goals of any institution are reflected in the policies and practices of that institution, and in order for those goals or practices to be valid, they should be based on legitimate theory (Mears, 2008). For instance, rehabilitation is sometimes cited as a major goal for supermax prisons (Mears & Bales, 2009). Yet when one examines "rehabilitation" as a goal of supermax confinement, it becomes clear there is no legitimate

theoretical foundation. For rehabilitation to transpire, a person needs to be exposed to a

planned program of intervention (e.g., some form of treatment); a person cannot sit in solitude

for years on end and gradually, or perhaps suddenly, become rehabilitated (Cullen & Gendreau,

2000). So rehabilitation may seem like legitimate reasoning for supermax prisons on the

surface, but when examined more closely, it does not fit well with reality.

There have been few attempts to address the theoretical underpinnings of supermax

prisons (Mears, 2008), but there have been attempts to apply theory to some of the proclaimed

goals of supermax confinement (Briggs, Sundt & Castellano, 2003; Lippke, 2004; Mears & Bales,

2009; Mears & Reisig, 2006). For instance, some articles (Briggs, Sundt & Castellano, 2003;

Mears & Reisig, 2006) focus on one particular goal, such as system-wide-order, and the

researchers analyze theory that would explain how that particular goal fits with the concept of

supermax confinement. However, there are few instances where theory is applied to explain

the wider movement in penology towards the use of supermax prisons. More evaluations are

needed to determine which goals are grounded in sound theory, but there especially needs to

be a more thorough application of theory to conceptualize supermax prisons as part of a

broader shift in modern society towards an increasingly punitive approach to social control. In

other words, there is need for theory that explains supermax prisons as a new and additional

means for social control.

Given the large number of supermax facilities, it is unlikely that they will close or that

states will desist in using their supermax facilities. Thus, it is imperative that we gain a better

understanding of the reasons for the supermax movement, as well as the costs and long term

consequences associated with supermaxes, so that states can make more educated decisions

regarding the future of supermax facilities and confinement.

In view of the above considerations, there are three main purposes for this thesis. The

first is to describe the current status of supermax prisons in the United States (Chapter 2). The

second is to draw together all the available scholarly literature on supermax prisons (Chapter

3). The third purpose is to broaden the theoretical analysis of supermax prisons and to develop

a theoretical foundation for understanding supermax prisons as a means of social control

(Chapter 4). The thesis concludes with a discussion regarding the limitations of the descriptive

and theoretical inquiry herein, and speculations are offered on future policy and the economic

reality of supermax prisons (Chapter 5).

CHAPTER 2

THE SUPERMAX LANDSCAPE: HISTORY AND CURRENT STATUS

History and Background of Supermaxes

Although supermax prisons may seem like a novelty due to the fact that, up until the

1990s, most states did not have one, the use of prolonged isolated segregation for prisoners

actually traces back to the early 1800s (Pizarro, Stenius & Pratt, 2006; Toch, 2003). The most

well known example happened at Eastern State Penitentiary in Pennsylvania. Although the

prison was not completely finished until 1836, prisoners were sent to live there starting in 1829.

Prisoners at Eastern State Penitentiary were confined to their cells all day long. The prisoners

had everything they needed in their cell, including a bed, a flushable toilet (which was very new

technology at that time), and a work station. Most cells also had a built on exercise yard. The

prisoners were not allowed to talk to each other, to know each other's names, or to even see

each other's faces which were covered with a hood when the prisoner entered the facility

(Johnston, 2004).

The practices at Eastern State Penitentiary came to be known as the Pennsylvania

System. The foundations of the Pennsylvania System stemmed from the belief that separation

and silence would not only keep the prisoners isolated from other prisoners that could

potentially have a bad influence on them, but also isolation would lead the prisoners to

contemplate their criminal actions and see the error in their ways (Johnston, 2004). Ideally, the

prisoners would eventually repent; in other words they would become penitent, which is what

lead to the use of the word "penitentiary" (Arrigo & Bullock, 2007). Thus we see the

rehabilitative orientation of early segregation efforts. The Pennsylvania System was

discontinued by the end of the 1800s because of the negative psychological and physiological

effects that segregation had on the prisoners, such as depression and attempted suicides; the

system also proved to be extremely expensive to build and operate (Johnston, 2004).

Another example of early segregation for prisoners was found in New York's Auburn

Prison in 1821. An experiment at Auburn Prison was initiated as a result of the

disappointments in the overall effectiveness of the prison's ability to punish. The idea was to

place the oldest and the worst prisoners in solitary confinement. This experiment was ended

by the governor after he toured the facility and interviewed some of the prisoners who had

been placed in solitary confinement. It was concluded that placing prisoners in solitary

confinement led to suicides, negative effects on physical and mental health, and an increase in

recidivism upon release (Toch, 2003).

One of the most famous examples of early attempts to segregate problem prisoners is

Alcatraz, a prison built on an island in the San Francisco Bay. In 1934, Alcatraz became a federal

prison. Alcatraz was not a supermax facility per se, but it utilized segregation and the

concentration model, both of which are primary foundations of modern day supermax facilities.

The concentration model assumes that placing all of the most problematic prisoners in one

facility lessens the problems that other prisons face throughout the jurisdiction in question.

Instead of dispersing problematic prisoners throughout the prison system, the concentration

model calls for placing all such prisoners in one location, like Alcatraz (O'Keefe, 2008; Tachiki,

1995). Alcatraz was known for having the worst and the most notorious criminals of the early

to mid 1900s (King, 1999). In 1963, Alcatraz was closed due to the costs associated with

operating a prison on an island (Tachiki, 1995), or as Toch would call it, an "offshore dungeon for supergangsters" (2001, p 378).

As a replacement for Alcatraz, the United States Penitentiary Marion was opened in Illinois in 1963 (Arrigo & Bullock, 2007). Like Alcatraz, Marion was used to hold the worst prisoners, and it is considered to be the first supermax prison. Initially, Marion was not designed to be a supermax prison. Even though Marion held the most problematic prisoners, only a small fraction of those prisoners were kept in segregation; other prisoners were able to move around the prison in a controlled manner (Richards, 2008). From 1980 to 1983, there were 28 serious attacks on correctional officers at Marion (Irwin, 2005; King, 1999), and in October of 1983, Marion was placed on permanent lockdown status after a period of six days led to the death of two correctional officers (both of whom were killed on the same day), one prisoner, and the serious injury of another two correctional officers (Richards, 2008).

After the lockdown was instituted, Marion gradually was retrofitted into a supermax facility (Ross, 2007). Inmates were confined to their cells for up to 23 hours a day; some were only allowed to leave their cells occasionally (Richards, 2008). Following the transition of Marion into a supermax facility, a trend known as "Marionization" started. "Marionization" refers to the adoption by other prisons of Marion's practice of segregating inmates from each other and keeping the inmates confined to their cells for 23 hours a day (Richards, 2008). One of the first state-level supermax prisons was Pelican Bay which opened in California in the year 1989 (Eisenman, 2009). Before "Marionization", there were no state-level equivalent facilities (Mears & Bales, 2009).

Because Marion was not originally designed for supermax confinement, in 1994 the

Federal government opened ADX (Administrative Maximum Facility) in Florence, Colorado as a

replacement for Marion (Arrigo & Bullock, 2007). ADX Florence became known as the "Alcatraz

of the Rockies" (Ross, 2007). Although Marion was transformed into a supermax facility, it was

originally designed as a U.S. penitentiary, and this led to security issues related to the initial

design of the facility. ADX Florence addressed these problems and was specifically designed to

segregate prisoners.

Current Status

The definition and conceptualization of supermax prisons has evolved over time. The

definition most commonly used today is the one offered by the National Institute of Corrections

(1997). A supermax prison is:

> "A free standing facility, or a distinct unit within a facility, that provides for the
> management and secure control of inmates who have been officially
> designated as exhibiting violent or serious and disruptive behavior while incarcerated.
> Such inmates have been determined a threat to the safety and security in traditional
> high security facilities, and their behavior can only be controlled by separation,
> restricted movement, and limited direct access to staff and other inmates." (p 1)

To further distinguish supermax prisons, if one were to place the different types of

prison facilities in a hierarchy according to security levels, the lowest facility would be a

minimum security prison, followed by a medium security prison, then a maximum security

prison and lastly, a supermaximum (or supermax) security prison. As the security level of the

prison increases on the hierarchal structure, so do the levels of observation of the prisoners and

restrictions on their movements and freedoms (Welch, 2009). As the definition above implies,

a higher level than the maximum security prison is said to be needed to control those inmates who have been designated as especially violent or problematic. There is also a second less frequently cited part of NIC's definition that describes further what a supermax facility is by defining what it is not. According to the NIC, supermax prisons are not:

> "…maximum or close facilities or units that are designated for routine housing of inmates with high custody needs, inmates in disciplinary segregation or protective custody, or other inmates requiring segregation or separation for routine purposes." (p 1)

At this point it is necessary to define some of the terms used in the second definition. First let us recall from Chapter 1 the term "administrative segregation". Administrative segregation is the type of segregation that is employed at supermax facilities, and it is an administrative decision that allows for the use of indefinite segregation for those inmates deemed to be incorrigible. This is different from disciplinary segregation in two major ways. First, disciplinary segregation is a result of an inmate being found guilty of a specific rule infraction. Second, disciplinary segregation is a defined period of time that is usually relatively short (Minor, Wallace & Parson, 2008). It is important to keep these two terms separate when discussing supermax confinement. The next term that should be kept differentiated from supermax confinement is "protective custody". Protective custody is for inmates who request to be separated from the general population because they fear victimization, or it can be for those inmates who are recommended by the administration because the administration fears victimization. Like with administrative segregation, the segregation period for protective custody is indefinite (Minor, Wallace & Parson, 2008). Understanding the difference between

administrative segregation, disciplinary segregation, and protective custody is important for an accurate conceptualization of supermax confinement.

Although administrative segregation has been a part of the penal system for many years now, it was not until the late 1980s to the mid 1990s that many states began to build their own supermax prisons, or add a supermax unit onto a pre-existing prison facility. As of 2004, 44 states were identified as having a supermax facility or unit (Mears, 2005). Supermax facilities have also been implemented in other countries, such as the Netherlands (Boin, 2001; King & Resodihardjo, 2010). As mentioned earlier, the exact number of supermax facilities is unknown. This is partly because, in the greater scheme of things, there are not that many free standing prisons that provide only for supermax confinement, but many prisons have supermax units for the purpose of housing inmates deemed to require the closest security.

To date, there are no extensive studies that have set out to determine where each state houses its supermax inmates, which would allow for a more precise estimate of the number of supermax facilities. A survey conducted in the late 1990s (King, 1999) put together a table identifying states that had supermax facilities, along with the number of supermax beds and whether or not the facility was retrofitted into a supermax prison. King did not identify the individual institutions in each state. A more recent study conducted by Naday et al. (2008) was interested in counting the number of supermax prisons and the number of supermax inmates; however, the study focused on the data provided by each state, from three different sources, specifically for the years 2001-2004. Naday et al. looked specifically for the use of the term "supermax" by each state and for consistency in use of the term "supermax" from year to year (in the time frame examined). They found that states reporting the existence of a supermax

prison were inconsistent from year to year; this was a result of many factors, including security level changes for prisons from year to year and reporting errors on the part of the source providing the information.

Method

In an effort to get a more exact estimate of supermax facilities, I set out to examine where each state houses its supermax inmates. Because my theoretical model of the supermax confinement movement (see Chapter 4) emphasizes the role of public and cultural sentiments in shaping the movement, as well as the importance of the movement in shaping sentiments, I wanted to use information that was readily available to the public. Thus, I utilized the secondary data that is currently available in an attempt to discern the availability and extent of this information. To this end, I chose two data sources. The first source was each state's individual department of corrections website. Searching under "facilities", "adult institutions" or "institutions", all of the information that each state had listed for each prison facility was explored. While some of the states did not offer anything besides the name of the prison facilities and contact information, most states provided some if not most of the following: the history of the prison including the date opened and the dates of any later construction, the number of current prisoners and the capacity of prisoners, and the security level of the prison along with the different units located within the prison. Some states included more detailed information like the number of staff at each location and the annual budget or the costs for housing each individual inmate per year.

Since some states provided a lot of information, and other states provided little or none, the information that most states provided was collected. This information includes: the name of the facilities, the year opened, the population of inmates, and the capacity for inmates. If the facility was not a free standing supermax prison, any information on the supermax unit that was provided was gathered, including if the unit was used for more than administrative segregation (supermax confinement). For some prisons, there are two different dates listed for the year opened; this is because the earliest date is the actual opening date of the prison, and the more recent date is the date the prison was last re-modeled. In many cases this more recent date represents when the supermax unit was added onto the prison.

After searching for information on each of the state's department of corrections website, there was still missing information for many of the states. Much of the missing information was filled in after including data from the second source, the American Correctional Association Directory (2009). Each prison listed for each state was examined using the same keyword search that was used with the department of corrections websites. The reason for searching the websites first and using the directory as a supplementary, secondary source was the appeal to see what information was readily accessible for the public; the assumption here was that the Internet would be the first resource used by most people. The directory, though available to the public, is not widely known. Having said this, without the directory, the available information is very limited.

Aside from not being able to obtain data for some states due to the lack of information available on their website or in the American Correctional Association Directory, the main problem encountered was the lack of uniformity in the terminology used to classify supermax

inmates and the units in which they are housed. Some states listed "administrative

segregation" under the security level of the facility, but many states only listed "minimum",

"medium" or "maximum" as the security level. However, often times in any overview or history

listed for the facility, there would be descriptions for any extra units designed for special

populations such as administrative segregation or protective housing. Although some states

listed directly that they had an administrative segregation unit, or a SHU, or a CHU, this is

where I had to look for key phrases like: the "worst of the worst", "most recalcitrant", inmates

with "severe behavioral problems", the "most dangerous prisoners in the state/system" or the

"most predatory" inmates. These phrases are key for identifying administrative segregation

units, because it is these phrases and keywords that are most commonly used in the political

promotion of supermaxes, in much of the media coverage, (whether news or entertainment),

and in academic literature.

Close attention was paid to any descriptions of disciplinary segregation units or special

threat housing units. With disciplinary segregation units, information was sought to determine

whether or not the disciplinary segregation unit also housed administrative segregation

inmates; if it did not, it was not identified as a supermax unit. In a few cases, especially in those

states with fewer prisons, disciplinary and administrative segregation were housed in the same

units. As with special threat housing units, this signifies units that are usually designated for

identified gang members or especially dangerous inmates.

It is because of the second aspect of NIC's definition that I did not include any units that

claimed "special needs inmates", "close custody" (even those that seemed likely to be

administrative segregation units), "disciplinary segregation" or "protective custody", unless it

was made explicit that administrative segregation inmates were also held there. Results of my

findings are provided in Table 1.

Results

Table 1 States Supermax Prisons/Units

States	Supermax Facilities/Units	Year Opened	Pop/Cap
Alabama	Donaldson Correctional Facility*	1982	1701/1492
Alaska	Spring Creek Correctional Center	1988	539/557
Arizona	NA	NA	NA/NA
Arkansas	Varner Unit*	1987/2001	467/456
California	Pelican Bay	1989	3435/2550
	Valley State Prison for Women*	1995	73/44
	California State Prison Corcoran**	1988	5676/2916
	California Correctional Institution*	1933/1986	5491/2708
Colorado	Centennial Correctional Facility	1980	NA/336
	Colorado State Penitentiary	1993	746/756
Connecticut	Northern Correctional Institution****	1995	440/NA
Delaware	James T. Vaughn Correctional Center*	1971/2000	2564/2601
Florida	Lowell Correctional Institution*	1956	2845/3356
	Santa Rosa Correctional Institution*	1996	2460/2621
Georgia	Georgia State Prison****	1936/1990	1189/1255
Hawaii	NA	NA	NA/NA
Idaho	Idaho Maximum Security Institution	1989/2005	NA/517
	Pocatello Women's Correctional Center*	1994/1997	NA/299
Illinois	Tamms Correctional Center	1995	406/736
Indiana	NA	NA	NA/NA
Iowa	Iowa State Penitentiary*	1839/2002	1104/1119
Kansas	El Dorado Correctional Facility*	1991/2001	1321/1280
	Hutchinson Correctional Facility*	1898/2000	1690/1850
Kentucky	NA	NA	NA/NA
Louisiana	NA	NA	NA/NA
Maine	Maine State Prison at Warren*	1824/2002	NA/916
Maryland	North Branch Correctional Institution	2003	NA/NA
	Western Correctional Institution	1996	NA/NA
	Maryland Correctional Adjustment Center	1989	287/287

Table 1 (Continued)

Massachusetts	MCI- Shirley*	1970s	NA/NA
	MCI- Cedar Junction*	1956/2003	780/793
Michigan	Baraga Maximum Correctional Facility	1993	1168/1184
	Bellamy Creek Correctional Facility**	2001	1847/1866
	Chippewa Correctional Facility*	1989	1125/1150
	Ionia Maximum Security Facility*	1987	655/706
	Marquette Branch Prison	1889	1180/1216
	Oaks Correctional Facility	1992	914/987
Minnesota	MCF-Oak Park Heights*	1982	434/438
Mississippi	Central Mississippi Correctional Facility* (Women's facility)	1986	NA/3665
Missouri	NA	NA	NA/NA
Montana	Montana State Prison*	1977/2008	1388/1387
Nebraska	Nebraska State Penitentiary*	1869/1981	1127/718
	Tecumseh State Correctional Institution***	2001	890/978
Nevada	Ely State Prison*	1989	1125/1150
New Hampshire	NA	NA	NA/NA
New Jersey	Northern State Prison*	1987/1993	2704/2695
New Mexico	Penitentiary of New Mexico Santa Fe*	1956/2001	874/906
New York	NA	NA	NA/NA
North Carolina	Alexander Correctional Institution*	2004	NA/1000
	Bertie Correctional Institution*	2006	NA/1000
	Columbus Correctional Institution*	1939	476/780
	Eastern Correctional Institution*	1983	529/539
	Foothills Correctional Institution*	1994	NA/942
	Fountain Correction Center for Women*	1926/1984	520/583
	Harnett Correctional Institution*	1936	728/854
	Hoke Correctional Institution**	1954	519/583
	Johnston Correctional Institution*	1938/1981	479/644
North Dakota	North Dakota State Penitentiary*	1885	504/507
Ohio	Ohio State Penitentiary	1998/2004	614/504
	Southern Ohio Correctional Facility*	1972	1418/NA
Oklahoma	Oklahoma State Penitentiary*	1908/1991	1301/1526
Oregon	Oregon State Penitentiary*	1866/1991	2322/2444
	Snake River Correctional Institution***	1991/1996	2950/3040
Pennsylvania	NA	NA	NA/NA

Table 1 (Continued)

Rhode Island	High Security Center****	1981/2002	99/166
	Rhode Island DOC Intake Service Center	1981/1991	1072/1148
South Carolina	Camille Griffin Graham Correctional Institution*(Women's facility)	1973	517/653
	Kirkland Correctional Institution*	1975	972/1887
South Dakota	NA	NA	NA/NA
Tennessee	Southeastern Tennessee State Regional Correctional Facility*	1979/2002	946/981
Texas	Ellis Unit	1995	2362/2404
	Estelle Unit**	1984	3273/3085
	Ferguson Unit	1962	2305/2421
	Goree Unit	1907	1098/1321
	Huntsville Unit	1849	1677/1705
	Polunksy Unit****	1993	2868/2900
	Wynne Unit	1883	2602/2621
	Beto Unit	1980	3362/3471
	Michael Unit**	1987	3183/3221
	Telford Unit**	1995	2805/2832
	Clemens Unit	1893	1068/1215
	Darrington Unit	1917	1867/1931
	Stiles Unit**	1993	2883/2897
	Terrell Unit	1983	1577/1603
	Hodge Unit	1995	940/989
	Jester 1V Unit	1993	507/550
	Montford Unit	1995	935/950
	Skyview Unit	1988	523/562
Utah	NA	NA	NA/NA
Vermont	NA	NA	NA/NA
Virginia	Red Onion State Prison	1998	800/848
Washington	Clallam Bay CC	1985/2001	890/858
	Monroe*	1910	2425/2466
	Stafford Creek CC	2000	1933/1936
	Washington Correctional Center for Women*	1971/2001	838/738
	Washington State Penitentiary	1887	1933/1825
West Virginia	Mount Olive Correctional Complex	1995	1030/1048

Table 1 (Continued)

Wisconsin	Taycheedah Correctional Institution* (Women's facility)	1921/2002	730/730
	Wisconsin Secure Program Facility *	1999	485/509
Wyoming	NA	NA	NA/NA

NA= Not Available
*= Prison facility has an Administrative Segregation unit built within it
**= Administrative Segregation unit is shared with Protective Custody
***= Administrative Segregation unit is shared with Intensive Management
****= Administrative Segregation unit is shared with Death Row, Close Custody or Mental Health unit

From the results shown in the table, it is apparent that there are 37 states with at least one supermax prison or unit, and 11 of these states have at least one free-standing supermax facility, these data alone are sufficient to demonstrate that there has been a supermax movement since the 1980s. In fact, the evidence that there are at least 11 states with a free-standing supermax prison is noteworthy and demonstrative of a movement in itself. On the other hand, the data indicate that there are 13 states that do not have any supermax prisons or units, but this may not necessarily be the case. For some of the states with "NA" listed, scholarly literature and the media (e.g., news articles, books, TV shows, etc.) have identified supermax prisons within that state, such as Louisiana, New York, and Arizona (Briggs, Sundt & Castellano, 2003). Information from the media sources mentioned was not used because of the lack of reliability of some of the information provided. For example, while some prisons, like San Quentin in California, are commonly referred to as supermax facilities, they are not. Other states like Indiana, and Kentucky, are also known to have supermax prisons and/or units. Although this information for some of the "NA" states is available through literature and the media, they were listed as "NA" because the information was not available on the state's website or through the ACA directory, and gathering data from additional, alternative sources

was beyond the focus of this study. Other states listed as "NA" like New Hampshire, South Dakota, Utah, and Vermont are more likely to not have supermax facilities, either because the prison population is too small for such facilities or, as in the case of Utah, because it has been indicated in scholarly literature that there are no supermax facilities in that state (Briggs, Sundt & Castellano, 2003).

Furthermore, Table 1 shows that 17 of the 37 states have at least 2 supermax prisons and/or units. Of the 17 states, there are 6 states that have 3 or more supermax prisons and/or units. Texas has, by far, the largest number of facilities at 18 and North Carolina follows with 9 facilities. From the table, it is concluded that there are 11 states that have actual, free standing facilities that are used entirely for supermax confinement (Alaska, California, Colorado, Idaho, Illinois, Maryland, Michigan, Ohio, Virginia, Washington, and West Virginia). Since many of the states were not explicitly clear on whether or not the institutions were free standing supermax prisons, or whether they had a unit for supermax confinement, the actual number of states with free standing facilities, and the number of such facilities, may be underrepresented in this study.

The results of this study indicate that there has indeed been a supermax movement since the transformation of U.S. Penitentiary Marion in 1983 into a supermax facility. With at least 37 states operating supermax facilities or units, it is important to know the specific characteristics that differentiate supermax facilities and units from lower level security facilities. The following chapter illustrates these characteristics.

CHAPTER 3

THE SUPERMAX LITERATURE

In this chapter information is presented from the available literature on supermax

prisons. I include a table listing the literature and give a brief summary, with focus on the

findings or conclusions of each article (see table 2). As will be seen, the extant literature on

supermax confinement focuses mostly on the psychological effects (Arrigo & Bullock, 2007;

Haney, 2003; Pizarro & Stenius, 2008; Rhodes, 2005; Toch, 2003), and the goals of supermax,

with an emphasis on recidivism control and system-wide-order (Lovell, Johnson & Cain, 2007;

Mears, 2005; Mears, 2008; Mears & Bales, 2009; Mears & Reisig, 2006; Pizarro, Stenius & Pratt,

2006). There are also a couple of widely cited articles that focused on a reduction of inmate-

on-inmate violence and inmate-on-staff violence, following the opening of a supermax prison

(Briggs, Sundt & Castellano, 2003; Sundt, Castellano & Briggs, 2008).

The chapter is organized into the following subsections: characteristics of supermax living,

inmates inside supermax, the effects of solitary confinement, the goals of supermax and the

major legal cases on supermax confinement. The chapter was organized in this manner

because in order to understand the effects and goals, it is necessary to first understand what

kind of environment supermax facilities provide; this is demonstrated through the first two

subsections. The chapter concludes with the major legal cases because it is the subsection with

the least amount of material and because it is not necessary to know the legal cases prior to the

other sections.

Table 2 Literature Chart

Authors	Name of Article	Content	Findings/Conclusions
Anderson, G. (1999)	Supermax Prisons: What They All Have in Common is Extreme Isolation	Discusses the human rights issues regarding supermax confinement.	Suggests that there should be a screening used to place individuals in supermax confinement that happens at a higher level than the warden to promote consistency.
Arrigo, B.A. & Bullock, J.L. (2007)	The Psychological Effects of Solitary Confinement on Prisoners in Supermax Units: Reviewing What We Know and Recommending What Should Change	Presents previous studies on psychological effects of solitary confinement, discusses the history of supermax, and the role of class, race and gender in supermaxes.	Long term segregation (and maybe short term segregation) is psychologically harmful. Inmates with mental illness should not be confined in segregation, staff abuse needs to stop, inmates should be allowed some time to interact socially, humane conditions need to be provided and there needs to be a limit on the duration of segregation.
Boin, Arjen (2001)	Securing Safety in the Dutch Prison System: Pros and Cons of a Supermax	Discusses the rise of supermax prisons in the Dutch system, the problems associated with them and the benefits they provide.	Supermaxes are now seen as a necessity for the Dutch, supermaxes need clear policies for the workers, the regime for a supermax is difficult to design, prisoners need to know the policies for getting sent to a supermax and how to be released from one, workers need to be trained and professional, supermaxes are inherently controversial and are a vulnerability for administration.

Table 2 (Continued)

Briggs, C.S., Sundt J.L., & Castellano, T.C. (2003)	The Effect of Supermaximum Security Prisons on Aggregate Levels of Institutional Violence	Conducted a study using a time series model on three states to determine if opening supermax prisons reduced inmate on inmate violence and inmate on staff violence.	Within the three prison systems studied, supermax prisons did not decrease the rate of inmate on inmate violence and there was evidence in only one state of a decrease of inmate on staff violence.
Eisenman, S.F. (2009)	The Resistible Rise and Predictable Fall of the U.S. Supermax	Discusses the incarceration boom and the rise of supermax confinement, with a focus on the Tamms facility.	Proposes that a mixture of the supermax related issues (such as human rights issues, the economic strain of the corrections system and popular protest) will end the use of supermax confinement.
Haney, Craig (2003)	Mental Health Issues in Long-Term Solitary and "Supermax" Confinement	Discusses the rise of supermax prisons and focuses on the negative effects solitary confinement has been shown to have on mental health.	A study done at Pelican Bay found that high percentages of the prisoners reported symptoms of psychological distress or trauma.
Hartman, Kenneth E. (2008)	Supermax Prisons in the Consciousness of Prisoners	A life without parole prisoner talks about supermax prisons from the prisoner's perspective.	Supermaxes are all about "payback". In order to treat inmates humanely, the experiences of prisoners need to be taken into account since they are the ones living in and experiencing prison.

Table 2 (Continued)

King, Roy D. (1999)	The Rise and Rise of Supermax: An American Solution in Search of a Problem?	Discusses the rise of supermaxes in the U.S., paying detailed attention to the events at Marion. Goes on to compare/contrast the U.S. and the U.K. in their views on supermax.	Says supermax is at best a pre-emptive strategy that is disproportionate to the problems faced, or it is a penology perversion.
King, R.D., & Resodihardjo, S.L. (2010)	To Max or Not To Max: Dealing With High Risk Prisoners in the Netherlands and England and Wales	Analyzes the decision for the Netherlands to implement supermax and the decision for both England and Wales to not implement supermax even though they all faced similar conditions and England and Wales both considered supermax.	The understanding of shifts in policy can lead to the better understanding of organizations (such as prisons) that have multiple goals, which may explain different responses to similar problems.
King, K., Steiner, B., & Breach, S.R. (2008)	Violence in the Supermax: A Self-Fulfilling Prophecy	Focuses on Pelican Bay, the case *Madrid v. Gomez, and* the subculture of correctional officers working in supermax.	There needs to be some prison reform starting with: the treatment of inmates by staff, changes to rules/policies/procedures and inmates in supermax need to be reclassified every year.
Lippke, Richard L. (2004)	Against Supermax	Argues that the two arguments, crime reduction and retribution, used to support supermax prisons are flawed.	Crime reduction and retribution do not give much support for supermaxes. Supermaxes seem to have more of a symbolic purpose than anything else.

Table 2 (Continued)

Lovell, D., Cloyes, K., Allen, D. & Rhodes, L. (2000)	Who Lives in Super-maximum Custody?	Profiles the inmates living in supermax confinement in Washington state.	Concludes that not all of the inmates profiled represent the same managerial problems, which indicates that solutions for these types of inmates should not all be the same and should have some variance.
Lovell, D., Johnson, L.C., & Cain, K.C. (2007)	Recidivism of Supermax Prisoners in Washington State	Conducted a study to see: if the amount of time spent in supermax is related to recidivism, if direct release to the community influences recidivism and if those released back into community recidivate sooner.	Those supermax prisoners released directly back into the community recidivated sooner and at higher rates than comparable groups.
Mears, Daniel P. (2005)	A Critical Look at Supermax Prisons	Discusses the goals and consequences of supermaxes, discusses a survey of wardens.	Supermax prisons hold a promise to improve many of the managerial problems that correctional facilities face and the logic underpinning supermax prisons has not been well developed; more research is needed.
Mears, Daniel P. (2008)	An Assessment of Supermax Prisons Using an Evaluation Research Framework	Examines the goals of supermax prisons and discusses how to determine effectiveness based on those goals; also looks at cost analyses of supermaxes.	Analyzing supermaxes through five main research questions, it is concluded that supermaxes are based on little to no theoretical or empirical foundation.

Table 2 (Continued)

Mears, D.P., & Bales, W.D. (2009)	Supermax Incarceration and Recidivism	Looks at theory related to supermax confinement and recidivism. Discusses a study done on Florida supermax and non-supermax inmates.	Found in Florida study that supermax inmates more likely to recidivate with violent crime, also that duration in supermax and receny of supermax incarceration are not significantly related to recidivism.
Mears, D.P., & Castro, J.L. (2006)	Wardens' Views on the Wisdom of Supermax Prisons	Discusses a survey given to state prison wardens to determine: the goals, the effectiveness and alternatives to supermax prisons.	Overall wardens agreed that supermaxes increase system wide order, safety and control as well as incapacitate violent inmates.
Mears, D.P., & Reisig, M.D. (2006)	The Theory and Practice of Supermax Prisons	Applies theory to the system-wide-order goal for supermaxes.	Found that supermaxes are not effective in increasing system-wide-order.
Mears, D.P., & Watson, J. (2006)	Towards a Fair and Balanced Assessment of Supermax Prisons	Discusses the results of a survey done on corrections policymakers, officials, and practitioners. Respondents were asked to identify the goals and impacts of supermax prisons, and prior research was applied to responses.	The evidence available indicates that supermaxes are not effective. Furthermore, research suggests that they have harmful effects and that they draw investments away from other potentially effective practices.
Naday, A., Freilich, J.D., & Mellow, J. (2008)	The Elusive Data on Supermax Confinement	Discusses issues with data inconsistencies on supermax facilities and inmates up until 2004.	The literature available on supermaxes is filled with data inconsistencies.

Table 2 (Continued)

O'Keefe, Maureen L. (2008)	Administrative Segregation From Within: A Corrections Perspective	Looks at Colorado administrative segregation units and profiles the inmates placed there.	Found that inmates placed in administrative segregation were typically there because of disruptive behavior, they tended to have lower education than the general population and higher psychological problems as well as more assaultive behavior.
Pizarro, J., & Narag, R.E. (2008)	Supermax Prisons: What We Know, What We Do Not Know, and Where We Are Going	Reviews academic literature on supermax prisons and reviews the role that courts have played so far.	More research is needed to determine: the mental effects on inmates, how supermaxes affect overall policies and whether or not supermaxes really deter.
Pizarro, J., & Stenius, V.M.K. (2004)	Supermax Prisons: Their Rise, Current Practices and Effect on Inmates	Discusses the rise of supermax prisons and issues that cause concern, such as the cost, the psychological effects on inmates and the lack of proof that supermaxes act as a deterrent to prisoners.	Concludes that supermaxes are ineffective for what they are currently used for and they have high economic and psychological costs associated with them.
Pizarro, J., Stenius, V.M.K., & Pratt, T.C. (2006)	Supermax Prisons: Myths, Realities, and the Politics of Punishment in American Society	Discusses the shift in penology starting in the 1970's and examines the myths that supermaxes are a novelty, that they increase public safety and that they increase managerial efficacy.	More research is needed on most every aspect of supermaxes.

Table 2 (Continued)

Rhodes, Lorna A. (2005)	Changing the Subject: Conversation in Supermax	An ethnographic study on mental health problems suffered by supermax prisoners found a set of norms in which prisoners communicate with one another.	Supermaxes are harmful even for the strong minded inmates, supermax prisons are overwhelming to the observers but remain hidden from the public obscuring the fact that they represent social worlds for the inmates within, the inmates within create a bare life.
Rhodes, Lorna A. (2007)	Supermax as a Technology of Punishment	Examines supermax prisons as a machine utilizing technology to create a war-like environment.	The long term effects of supermax confinement need to be examined and supermax prisons need to be categorized as social institutions.
Ross, Jeffrey Ian (2007)	Supermax Prisons	Gives an overview of supermax prisons.	Supermaxes are too expensive, need to be revamped to be more cost effective; for example maybe regionalize supermax prisons.
Richards, Steven C. (2008)	USP Marion: The First Federal Supermax	Gives background of USP Marion.	Regardless of whether the supermax facility uses high tech or low tech, inmates confined in supermax face more restrictions than those housed on death row.
Shalev, Sharon (2011)	Solitary Confinement and Supermax Prisons: A Human Rights and Ethical Analysis	Discusses the moral/ethical issues dealing with healthcare in supermax. Also talks about legal cases dealing with solitary confinement with an emphasis on Madrid v. Gomez. Discusses human rights standards and supermaxes.	Solitary confinement has many constitutional and human rights issues that should be addressed. Also, there are moral and ethical issues relating to the healthcare services provided to inmates.

Table 2 (Continued)

Sundt, J.L., Castellano, T.C., & Briggs, C.S. (2008)	The Sociopolitical Context of Prison Violence and Its Control: A Case Study of Supermax and Its Effect in Illinois	Uses interrupted time series analyses to determine if the opening of Illinois's supermax prison reduced inmate on inmate violence, inmate on staff violence and the number of lockdown days in the system.	Found that the opening of Tamms did not affect inmate on inmate violence, but it did lower inmate on staff violence and the number of lockdown days.
Tachiki, Scott N. (1995)	Indeterminate Sentences in Supermax Prisons Based Upon Alleged Gang Affiliations	Discusses the role that prison gangs have and the procedures that allow alleged gang members to be sent to supermax; calls for improved procedures.	Supermax confinement is unconstitutional for inmates determined to be gang members, the use of indeterminate sentencing for gang members is too harsh a punishment.
Toch, Hans (2003)	The Contemporary Relevance of Early Experiments With Supermax Reform	Discusses experiments done on the mental effects of solitary confinement during the 1800s.	The conditions of supermax confinement often produce or exacerbate mental illness.
Toch, Hans (2001)	The Future of Supermax Confinement	Discusses problems of supermax prisons such as their perceived need, the effects on prisoners and the types of prisoners sent there. Some possible implications and changes are discussed.	It is unjust to place people in supermax confinement based on predictions of future behavior, and since most supermax inmates will eventually be released, there should be programming inside supermaxes.

Characteristics of Supermax Living

The prison cell itself and the time spent therein is, perhaps, the most distinctive feature

of supermax prisons. As mentioned, inmates placed in supermax can spend up to 22 to 23

hours a day in their cells (Anderson, 1999; Arrigo & Bullock, 2007; Rhodes, 2005), or even 24

hours per day on a weekend or holiday. Although variation exists from one facility to the next,

the following tend to be the dominant characteristics described in the literature for supermax

cells. The cells are typically 7ft. by 12ft. and are often windowless (Pizarro & Narag, 2008).

Each cell is equipped with a solid door, a shatterproof glass window and a slot where food can

be passed through to the inmate. The slot in the door also serves as a means to handcuff the

inmate (Irwin, 2005). The lights are kept on at all times (Toch, 2001), with no way for the

inmate to adjust the brightness (Arrigo & Bullock, 2007). The beds, desks and stools found

inside the cells are all made of cement and the toilet and sinks are made of stainless steel (Ross,

2007; Tachiki, 1995). Some of the cells have showers built into them equipped with timers,

many of which are set for 3 days out of the week. Those inmates who do not have showers

built in their cells are escorted to a limited number of showers per week (Lovell, Johnson &

Cain, 2007; Pizarro & Narag, 2008).

Aside from the characteristics of the supermax design, inmates housed in supermax

facilities share other common characteristics that describe how their activities and behavior are

affected by security procedures. Security precautions require that the inmate be handcuffed

and his or her ankles shackled, prior to being escorted by multiple correctional officers, every

time he or she leaves his or her cell; this includes when the inmate is taken to the exercise yard

and to the showers. When an inmate becomes disorderly, or refuses to leave his or her cell,

cell extractions are used. This is when officers enter the cell and use tools such as electric

shields, batons, rubber bullets and tasers in order to subdue the inmate. Though it is very

controversial, the use of fetal restraints and hog tying has been employed in order to subdue an inmate (Arrigo & Bullock, 2008). For legal purposes, there is usually an officer videotaping the cell extraction (King, Steiner & Breach, 2008). The inmates are under constant video surveillance (Lovell, Johnson & Cain, 2007; Ross, 2007). Correctional officers communicate with the inmates with built in intercoms. When all is said and done, the inmates are allowed a very limited amount of human contact.

Generally, inmates are allowed an hour a day outside of their cells. This hour is typically reserved for exercise, although it can be used for showering. The exercise yard is usually 26ft. by 10ft. and is surrounded by 20ft. tall cement walls (King, Steiner & Breach, 2008). Due to the nature of their imprisonment and the fact that the inmates typically only have an hour each day out of their cells, there are few if any rehabilitative programs available (Briggs, Sundt & Castellano, 2003). For those who are allowed an educational or rehabilitative program, there is no physical contact allowed, so the treatment facilitator or the teacher must stand on the other side of the door and speak through the door. This is also true for clergy, doctors and therapists. This sometimes acts as a deterrent for the inmates to ask for medical help because of the embarrassment of having to speak loudly enough to be heard through the door (Arrigo & Bullock, 2007), and because the person on the other side of the door is also having to speak loudly enough to be heard through the door. This makes their conversation audible to other inmates and to staff members. An alternative to communicating through the door is to communicate via video conferencing with the inmate's television set. This can also be a way for the inmate to communicate with any family or friends who come to visit, since no contact visitation is allowed.

One of the key assumptions about solitary confinement is that it is quiet; however, this is not necessarily the case. Inside supermax facilities there is a constant supply of noise; for instance, there are the sounds of tier doors opening and closing, correctional officers talking amongst themselves or with prisoners, banging on walls by either inmates or correctional officers who are searching for signs of escape or contraband, and inmates shouting attempting to have conversations with one another. At night janitors make their rounds cleaning and making noise. All of these sounds become distorted as they bounce off the concrete walls. Sometimes the noises become so distorted that inmates become confused and are unable to identify where the sounds are coming from (Rhodes, 2005).

While conducting research with colleagues in Washington State at the various control units throughout the prison system, Rhodes (2005) noticed a set of communication norms for those inmates in solitary confinement. Rhodes describes how inmates who lean up against the doors of their cells and speak towards the cracks can be heard by the other inmates, which allows them to communicate with one another. Unlike with direct contact, where one is able to change the subject, or use body language to direct conversation, conversation within supermax does not allow for either. As such inmates, who insist on conversation topics may offend or annoy other inmates, with no way for the other inmates to cease the conversation, or even interrupt the speaker. These inmates who ignore the feelings of those around them and rely on the security of their own cells are known as "cell warriors". Even with the presence of the "cell warriors", many inmates find the ability to have a conversation with a "good neighbor" to be a positive experience (Rhodes, 2005).

Inmates Inside Supermax

Inmates placed in supermax facilities are said to have a double incapacitation; that is, they are separated not only from the outside world, but also from other inmates and most staff members (Pizarro & Narag, 2008). Segregating these inmates is a way to protect staff and other inmates from those inmates who could potentially cause harm (Pizarro, Stenius & Pratt, 2006). Most of the inmates who do time in supermax facilities are referred to as the "worst of the worst" (Briggs, Sundt & Castellano, 2003; Lippke, 2004; Mears & Watson, 2006; Toch, 2001), the most "recalcitrant" (Briggs, Sundt & Castellano, 2003), the most "dangerous" and the most "hard-core". However this may not always be the case given the broad guidelines for sending inmates to supermax facilities (O'Keefe, 2008).

Inmates can be sent to supermax facilities because they are considered to be a serious escape risk (Boin, 2001; King & Resodihardjo, 2010; Naday, Freilich & Mellow, 2008), they have acquired a certain number of rule infractions, actual or suspected affiliation with gangs (Lippke, 2004; Tachiki, 1995), or because a particular inmate protests prison conditions or helps other inmates file legal appeals (Arrigo & Bullock, 2007; Lippke, 2004). Being sent to a supermax facility is not supposed to be a punishment, although sometimes it is perceived as punishment by the inmate and/or by prison staff. Supermax placement is an administrative decision that is supposed to rest more on the idea of preventing a potentially problematic prisoner from causing harm or being disruptive. This decision relies on beliefs of administrative personnel about a particular prisoner and what he or she may do (Haney, 2003; O'Keefe, 2008; Toch, 2001). In the federal system, some prisoners are sentenced directly by the courts to ADX Florence, but these prisoners are usually high status prisoners who have received a lot of media

attention and may be targeted if placed in the general population at a prison; for instance, Ramzi Yousef, the 1993 World Trade Center bomber, was sent directly to ADX Florence (Ross, 2007). This is an illustration of how supermax confinement can serve protective custody functions.

Problems related to gang activity in the prison system represent a major security threat for prison administrators. Thus, supermax, or administrative segregation, is an important tool for administrators. From the administration's point of view, the practice of sending inmates affiliated with gangs to supermax facilities makes sense. It separates gang members from each other, which in turn makes that gang's influence decrease, while simultaneously encouraging other gang members to desist from criminal behavior; this can make the prison environment safer. On the other hand, from the inmate's point of the view, the process of identifying gang members can be arbitrary and unfair (Tachiki, 1995).

Many prisons employ gang investigators, whose job is to identify gang members within the prison facility. In California, these individuals are referred to as Institutional Gang Investigators or IGIs (Tachiki, 1995). The IGIs are responsible for tracking gang activity and documenting notes about inmates that may indicate gang affiliation. IGIs determine gang affiliation mostly by the "debriefing" of other inmates, but other ways include gang affiliated tattoos on an inmate's body and the participation of an inmate in a known gang activity. When an inmate has been accused of gang affiliation, the only way for him or her to get out of supermax confinement besides serving out the sentence, or dying, is to "debrief" (Tachiki, 1995). In fact, there is a saying at California's Pelican Bay that to move back to general population an inmate must "snitch, parole, or die" (King, Steiner & Breach, 2008). When an

inmate "debriefs", he or she names other inmates who are affiliated with gangs. Many

problems arise with this scenario. If an innocent inmate is accused of being a gang member and

then falsely determined to be a gang member, he or she cannot debrief because that person is

not actually affiliated with a gang, insinuating that even if that person wanted to debrief, he or

she may not know any names of gang members. Therefore, that inmate has no choice but to

remain in supermax confinement. Here again we see an illustration of supermax confinement

serving protective functions.

Some accused individuals debrief, or give names of other inmates who are supposedly

affiliated with gangs in order to get released back into general population. However, these

names given during debriefing are sometimes names of other inmates considered to be

undesirable, such as child molesters (Tachiki, 1995). This allows the inmate who debriefed to

be released back into general population without being considered a "snitch", but this leads to

the possibility of wrongly accused individuals having to serve time in supermax.

Inmates who do debrief and who give names of other gang members are then

considered a "snitch," and being released back into the general population is dangerous and

possibly life threatening (Tachiki, 1995). For "snitches", supermax offers a safer environment

than the general population; but then the question that arises is whether a supermax facility

should serve as a safe haven for a gang member who cooperated with the IGIs by naming other

gang affiliates; the inmate is faced with the possibility of a fatal retaliation by fellow gang

members if returned to the general population, or he or she is faced with long term, solitary

confinement that is filled with extreme sensory deprivation. In this situation, a supermax facility

can become a de facto protective custody unit.

A study done to profile the types of inmates serving time at ADX Florence, found that only 31% of the inmates had no known security threat group affiliations; in other words, they had no known ties to gangs or cliques. This suggests that well over half of those serving time at ADX Florence could be there for no other reason than being associated with a gang. Other findings of the study showed that the inmates at ADX Florence tended to have a slightly lower education level than the general population inmates but had greater levels of disruptive institutional behavior, assaultive behavior, self-destruction tendencies and psychological concerns. Furthermore, it was discovered that only a small percentage of inmates at ADX Florence were serving time there because of the crimes for which they were originally convicted and sentenced (O'Keefe, 2008).

Another study done in Washington State found similar results (Pizarro & Narag, 2008). The data from that study showed that most of the supermax inmates differed from the regular inmate population in that they were more likely to have convictions for violent offenses, and they were more likely to have engaged in serious infractions while incarcerated. Those incarcerated in supermax confinement also tended to be younger and have longer sentences.

A survey conducted with prison wardens found that more than half of the respondents characterized the inmates in supermax confinement as being drug dealers or chronic offenders. Gang leaders and escape risks were identified as comprising higher proportions. The highest percentages of wardens described the inmates in supermax as being those who assault other inmates or staff members and those who instigated other inmates (Mears, 2005).

According to Haney (2003) the combination of modern day technology, and the aged practice of isolating inmates through solitary confinement, has resulted in an advanced means

to control and dehumanize inmates to a degree that was never before possible. Taking this into account, along with the characteristics of supermax confinement described earlier, it is no wonder that supermax facilities have been determined to be unfit for mentally ill persons (Haney, 2003; Toch, 2001). Unfortunately, persons with mental illness are prone to being placed in supermax confinement. A study done involving supermax confined inmates in Washington found that 30% were identified as having serious mental disabilities, compared to 10-15% of the general prison population (Lovell, Cloyes, Allen & Rhodes, 2000). Another study involving supermax inmates in Colorado, found that a high percentage had personality disorders (O'Keefe, 2008).

As Table 2 depicts, much of the scholarly literature addresses mental illness caused by or exacerbated from supermax confinement. Many of the inmates with mental illness end up in solitary confinement because of the lack of alternative placements (O'Keefe, 2008). In other instances, mental illness goes undetected. Some inmates have underling conditions that become exacerbated with solitary confinement (Haney, 2003). As Toch (2001) explains, many inmates who appear to be problematic could be acting that way because they have mental health problems; furthermore, those inmates having problems adjusting to the prison environment may be suffering from mental disabilities. Persons with mental disabilities may be unable, or find it difficult, to comply with the rules implemented at prison facilities, and as a result, they may find themselves frequently getting into trouble (Haney, 2003). Without knowing the underlying cause of these rule infractions, prison workers will likely regard such an inmate as a trouble maker and possibly have him or her transferred to a supermax facility. This

implies that the problem of sending mentally ill inmates to supermax could be addressed simply

by training prison workers to better identify the signs of mental illness.

Finally, there are some inmates who request to be sent to a supermax facility (Pizarro &

Narag, 2008). This can be a result of an inmate wanting the protection that solitary

confinement can offer, such as the scenario discussed earlier regarding "snitches". It can also

be that the inmate does not want to share a cell with another inmate. In some cases, the

inmate prefers supermax living because of the lack of programs available and the fact that

those inmates who live in supermax are not allowed to have jobs. Of course, due to limited

space and the cost of housing a supermax inmate, such requests can be denied.

It is also important to note that both males and females are serving time in supermax

confinement. There is very little literature on women in supermax, but recalling Table 1 in

Chapter 2, it is apparent that there are at least 7 facilities that are equipped to house women in

supermax confinement. Supermax units in women's facilities started to gain popularity in the

mid 1980s, around the same time as supermax facilities for men became popular (Eisenman,

2009).

The Effects of Solitary Confinement

As far back as the Auburn prison experiment, and possibly even further back,

researchers have been trying to determine the effects of solitary confinement on individuals.

As Haney (2003) explains, researchers across the world have done all types of studies including

descriptive accounts and systematic research regarding solitary confinement. The studies all

point to evidence of negative psychological effects caused by such confinement including

hypertension, hallucinations, uncontrollable anger, depression and suicidal thoughts (Haney, 2003).

As discussed earlier, the Auburn prison experiment in solitary confinement was ended because of the observed psychological effects on the confined inmates. During the time period that the Auburn experiment took place, wardens acted as researchers, conducting and observing experiments involving the confinement of prisoners, as well as recording the data collected. The idea behind this approach was that with trial and error, the best way to run prisons would eventually be discovered. Given this frame of mind, the finding that solitary confinement had harmful effects led the government to cease the practice and instead experiment with congregate living. This is why, complete isolated confinement was ended in the 1800s, and why in places like New Jersey, solitary confinement was only allowed if the inmates were also allowed to participate in manual labor.   This eliminated some of the stress from living in solitary confinement (Toch, 2003).

The early findings of the negative psychological effects of solitary confinement helped bring about the practice of disciplinary segregation (Pizarro, Stenius & Pratt, 2006). Disciplinary segregation is a punishment placed on an inmate and usually consists of a relatively short, defined period of time where the inmate is placed in isolated confinement (Minor, Wallace, & Parson, 2008). Unlike supermax confinement, which became popular only in the last few decades, disciplinary segregation has been a traditional practice in prisons (Haney, 2003; Lippke, 2004). As such, putting an inmate in isolated confinement for a relatively short period of time for discipline has been accepted throughout much of penal history, but placing an

inmate in long term isolated confinement has only recently been accepted, even though it was a practice initiated in the 19th century.

A survey of inmates at California's Pelican Bay SHU (security housing unit), found that 70% felt they were on the brink of an emotional breakdown, and nearly all of the inmates surveyed suffered from anxiety, nervousness and lethargy; more than half of the inmates suffered from headaches, nightmares, dizziness and loss of appetite (Haney, 2003). These symptoms were all signs of psychological and emotional trauma. The inmates in the SHU were also surveyed to identify any symptoms of psychopathological effects stemming from solitary confinement. More than 75% of the inmates suffered from depression, confusion, irrational anger, intrusive thoughts and sensitivity to stimuli, while 60% or higher reported violent fantasies, mood swings and talking to themselves. Just under half of the surveyed population reported more severe signs of psychopathology such as, perceptual distortions and hallucinations, and 27% admitted to suicidal thoughts (Haney, 2003).

Goals of Supermax

The goals of supermax facilities remain unclear (Mears & Castro, 2006). Most correctional agencies claim that the goal of supermax prisons is to house the "worst of the worst" inmates; however, this can be seen as more of a strategy than a goal (Mears & Watson, 2006; Mears, 2005). Claiming this as the primary goal makes it easier to gain support of the public. The public's perception that supermax prisons are reserved for the "vilest and most despicable" offenders (Arrigo & Bullock, 2008) helps construct the fear needed to support such facilities and to ultimately fund the building of these facilities. If knowing that supermax

facilities hold the "worst of the worst" offenders is not enough to draw out support from the public, the promise of new jobs is usually sufficient to gain the extra support needed, especially since many supermax facilities (and prisons in general) are built in smaller, rural communities where new jobs are always welcomed and needed.

Another popular goal to claim is system-wide prison order. It is one of the most popular goals found throughout the scholarly literature; it is also one of the goals that is most commonly cited as needing more research to determine the effectiveness. System-wide-order relies on the concentration model, contending that placing the "worst of the worst" offenders all in the same place where their behavior can be restricted and controlled will increase system-wide-order (Mears & Reisig, 2006). There are certain components to system-wide-order, the first one being specific deterrence. With specific deterrence, a problematic inmate is placed in an environment where he or she is unable to continue with the offensive behavior. Once the inmate is released, the thought of returning to the supermax environment where there are no privileges and where his or her behavior is severely restricted, will presumably deter that inmate from committing undesired acts (Lippke, 2004; Mears & Reisig, 2006).

There are several critiques of this aspect of system-wide-order. First, the inmate may return to the general population in a lower security prison but not be deterred because he or she realizes that there is limited space available in supermax; space limitations may decrease the probability of the inmate being placed back into supermax confinement. Secondly, the inmate may prefer supermax to the dangers faced once released back into general population (Mears & Reisig, 2006), which relates back to the issue discussed earlier regarding "snitches". Thirdly, supermax inmates need to be placed directly back into general population in order to

be given a situation where the inmate can show that he or she is deterred from committing infractions. However some supermax inmates are released directly back into the community without having to transition at a lower security level prison, so it becomes difficult to distinguish any deterrent effects (Mears & Reisig, 2006). Lastly, using deterrence as a goal to justify supermax confinement is inherently flawed. As Lippke (2004) points out, the inmates at the maximum security level were not deterred from committing the crime that landed them in maximum security, so why should we assume that deterrence will be a factor in the inmate's decision to avoid infractions while incarcerated?

The next component of system-wide prison order is general deterrence. The idea behind this concept is that the general population will be deterred from committing behavior that might get them sent to supermax; they see what happens to the inmate who does get sent to supermax (Mears & Reisig, 2006). According to Hartman (2008), an inmate who has served 27 years in the California prison system for murder, the threat of supermax does not deter anything. In fact, Hartman claims that the opposite has happened. Becoming an inmate at Pelican Bay in California has become another sort of rite of passage in the convict culture, leaving those who have served time at Pelican Bay with a special desired status (Hartman, 2008).

The last component for system-wide prison order is incapacitation (Mears & Reisig, 2006). Incapacitation implies removing the disruptive inmates and planting them in an environment where they are unable to continue with their behavior. The main problem with this is that there is no definite way to identify those inmates who are the most violent and problematic, in other words, the inmates who need to be incapacitated by being moved to

segregation (Sundt, Castellano & Briggs, 2008). The past behavior of an inmate can serve as a

good predictor, but relying entirely on that can lead to inmates being sent to supermax who

could be dealt with at a lower security level prison. Incapacitation also relies on inmates not

replacing one another when one is sent to supermax. But as is the case with most gangs, as

one member is sent away, another takes his or her place.

Those who support the incapacitation goal maintain that the removal of the disruptive

inmates allows for a safer and less threatening environment for the remaining inmates and the

prison staff (Lippke, 2004). The incapacitation of disruptive inmates can also relieve other

inmates of fear that they may have gained from the disruptive inmate, and this relief may lead

to the inmate participating in programs or activities that he or she had abstained from before

because of fear (Mears & Watson, 2006). It is also assumed that the incapacitation of

disruptive inmates will result in a decrease in lockdown days. When a facility is in a lockdown,

all inmates, even the ones who were complying with institutional rules, are locked in their cells

and are unable to attend any rehabilitative or educational programs. Inmates are unable to

participate in any other daily activities such as working at their jobs or enjoying recreational

time. Many prisons have had their fair share of lockdown days. During the 1990s, Illinois's

prison system had an average of 200 lockdown days a year (Sundt, Castellano & Briggs, 2008).

In a study involving the prisons in Illinois, and taking into account the opening of the Tamms

supermax prison in 1995, it was discovered that the opening of Tamms had a positive effect of

reducing the number of lockdown days. Lockdown days went from a high average of 55 per

month down to 20 per month following the opening of Tamms (Sundt, Castellano & Briggs,

2008).

Though more research is needed to make any final conclusion, the concept of system-wide prison order has proven difficult to measure and has not been shown to be very effective (Mears & Reisig, 2006). This may serve as an idealistic goal for supermax prisons, but if supermax prisons were held accountable on this goal, they would be determined to be a less than successful endeavor.

Another claimed goal is that of retribution (Lippke, 2004). With retribution, supermax confinement becomes purely punitive. Retribution implies that there are some offenders whose pre-prison or in-prison crimes were so awful and dehumanizing to the victims, that it becomes a justifiable response to imprison them in supermax confinement. It is assumed that the actions of these offenders were intentional, and therefore, a just response is to place the offender in an environment that punishes such intentional, harmful behavior (Lippke, 2004). A critique of using retribution as a goal for supermax confinement is that it contradicts the common practice of placing inmates into such confinement because of the perceived potential harm that they *could* cause. Since retribution is retroactive and because the inmate has not necessarily caused any harm yet, retribution seems unnecessary (Lippke, 2004). This critique assumes that retribution is the sole motive for placing an inmate in supermax confinement.

There are some offenders who may fit with the retribution theory, but many of the inmates in supermax confinement do not. A study involving Colorado inmates (O'Keefe, 2008) found that the most frequent reasons for placement in administrative segregation were because of: inmate assaults or fighting (49%), "riotous activity" (15%), possessing a weapon (12%), and staff assaults (11%). Other placement reasons with smaller percentages included: escaping (3%), threatening staff (4%) and staff intimidation (6%). From these data, there is no

way to determine how serious the assaults on inmates and staff were; it is apparent that there are other reasons for administrative segregation placement that do not fit with retribution as a goal.

One of the most cited goals for supermax prisons is to increase prison safety (Mears & Bales, 2009). Increasing prison safety can mean reducing the amount of violent incidents, like inmate-on-inmate violence or inmate-on-staff violence, and the reduction of riots (Mears & Watson, 2006). A study using a multiple interrupted time series model included three states (Arizona, Illinois, and Minnesota) in order to test the impact of supermax facilities on inmate-on-inmate assaults and inmate-on-staff assaults; Utah served as a control state. The results showed that there was no decrease in inmate-on-inmate assaults in any of the states. There was however a small decrease in inmate-on-staff assaults in Illinois, but not in Arizona or Minnesota (Briggs, Sundt & Castellano, 2003). A more recent study involving Illinois reaffirmed the decrease in inmate-on-staff assaults and reaffirmed that there was no decrease for inmate-on-inmate assaults (Sundt, Castellano & Briggs, 2008).

A study was conducted to see what prison wardens believed the goals of supermax prisons to be, and nearly 99% of the respondents believed a major goal to be the increase of safety throughout the system. Just under that percentage believed that order and control throughout the system were major goals. Incapacitation and the improvement of inmates' behavior were the next highest rated goals, followed by the goal of decreasing prison riots and decreasing the influence of gangs. In addition, the goals identified by wardens included the reduction of prison escapes and recidivism, the punishment of violent inmates, as well as rehabilitation and deterrence (Mears & Castro, 2006). What this boils down to is that wardens

all over the US have varying ideas of the goals of supermax facilities. With the goals varying so much and each goal having different approaches to measurement, it becomes hard to determine how effective supermax prisons are and, more importantly, if they are effective at all.

Major Legal Cases on Supermax Confinement

With supermax facilities being a relatively recent phenomenon, there are only a few major legal cases regarding supermax confinement. The first major case, *Madrid v. Gomez* (1995), was decided by the U.S. District Court of the Northern District of California. This case involved the conditions of confinement for the inmates held in Pelican Bay's SHU. The Inmates claimed: excessive abuse, inadequate access to medical and mental health care, inhumane living conditions, exposure to unreasonable risk of assaults from other inmates, inadequate access to the courts, and failure to separate gang members (*Madrid v. Gomez,* 1995).

The court recognized several of the concerns expressed by the inmates, but the only ruling in favor of the inmates was that persons with mental illness should not be placed in the SHU. The court found that the mental health services offered at Pelican Bay were insufficient; in fact, the court declared that Pelican Bay was in a state of "mental health care crisis" (p 1217), but it was not deemed to be unconstitutional. As for the other concerns expressed by the inmates, the court acknowledged that the inmates held in Pelican Bay's SHU were subject to some especially harsh conditions, including the use of excessively forceful cell extractions, involving hog tying and fetal restraints, and excessive abuse of inmates by correctional officers. The court also acknowledged the practice of placing inmates in outdoor cages, sometimes

partially clothed, sometimes naked, as a means to punish the inmates. Situations were

arranged by correctional officers so that inmates could assault, or even murder other inmates.

Lastly the court noted that the medical and mental health care available to the inmates was

inadequate; however, none of these concerns were found to be in violation of the inmates'

constitutional rights (*Madrid v. Gomez,* 1995)*.*

Another case involving the constitutionality of incarcerating mentally ill persons in

supermax confinement is *Jones' El v. Berge* (2001) which was heard by the U.S. District Court for

the Western District of Wisconsin. Inmates claimed that incarcerating mentally ill persons in

supermax confinement resulted in irreparable harm to those persons. The court ruled in favor,

saying that supermax confinement is not appropriate for persons with serious mental illness.

Several inmates were ordered to be removed from supermax confinement, and for the

remaining inmates a health specialist was called on to determine if there were any other

persons with a serious mental illness; if so those persons would need to be transferred out of

supermax confinement (*Jones' El v. Berge,* 2001).

The last case, *Wilkinson v. Austin* 2005, involved the Ohio State Penitentiary (OSP). In

this U.S. Supreme Court case, inmates claimed that the transfer to OSP from another facility

violated the due process clause of the 14th Amendment. In Ohio, inmates are allowed an

informal process in which they are able to defend themselves before being sent to supermax,

and it was this process that the inmates claimed to be insufficient. The Court ruled that the

inmates have a constitutional right to contest placement at OSP because it imposes a much

greater hardship on the inmate than any of the other Ohio prisons. This ruling traces back to

Sandin v. Conner (1995), where the U.S. Supreme Court declared that a liberty interest exists

(and due process is required) when the punishment falls outside the range of conditions,

restrictions, and sanctions to be normally expected from the sentence (Cripe & Pearlman, 2005;

Sandin v. Conner, 1995). Being transferred to a supermax facility creates a liberty interest for

the prisoners because once transferred they not only are subjected to the environment

described earlier, but in Ohio, they are also not able to earn good time credits towards early

release.

In response to whether or not the due process that the Ohio prisoners received before

being sent to OSP was adequate, the Court ruled that the new policy that OSP had created for

inmate placement was sufficient to protect the inmates' 14th Amendment rights. The Court

explained that it was important to leave the prison administration with some deference in

deciding that a prisoner has engaged in disruptive behavior and that the inmates have

restricted due process rights, due to the fact that they are incarcerated (*Wilkinson v. Austin,*

2005).

Before moving on to the next chapter it may be beneficial to review the highlights of

this chapter. The descriptions of the conditions and confinement that inmates held in

supermax are subjected to portray a strict environment in which the inmates living there have

little, if any, luxuries and minimal to no human contact. The inmate living in supermax has little

to no choices regarding much of anything, including his or her activities, when he or she eats,

showers, and exercises and even the types of conversations that he or she can have with fellow

supermax inmates. The type of inmates living in supermax varies as a result of the open ended

policies under which inmates can be sent to supermax. However, scholarly literature has

pointed out that many of the inmates housed in supermax are there not because of horrible

and violent crimes committed on the outside, but because of prison rule infractions, gang

affiliations, and escape attempts. The various types of inmates housed in supermax presents

other issues, including the fact that many inmates sent to supermax have underlying mental

illnesses that become exacerbated in the harsh conditions of supermax. Furthermore, the

current legal rulings regarding supermax confinement have tended to favor the prison

authorities more so than the inmates. Lastly, the goals for supermax confinement are

widespread, but research showing that supermaxes are effective in supporting these goals is

lacking and in need of further attention.

CHAPTER 4

THE SUPERMAX AND CULTURE: TOWARD THEORETICAL CONCEPTUALIZATION

Supermax prisons function as somewhat of a mystery to the majority of the public. The public is aware of the existence of these facilities, but beyond that they are mostly unaware of the goals and operations of such facilities, as well as the foundational reasons for the existence of supermax prisons. The public is, however, not alone in being unaware of the foundational reasons for the existence of supermax prisons. As mentioned previously, there has not been an attempt to provide a systematic theoretical analysis of supermax prisons, which would help in understanding the rapid movement towards the use of these facilities.

While there have been theoretical applications with regard to specific goals of supermax confinement (Briggs, Sundt & Castellano, 2003; Lippke, 2004; Mears & Bales, 2009; Mears & Reisig, 2006), these have been undertaken in a more limited, less systematic way to clarify, justify, and evaluate these goals. In this chapter, I draw on contemporary sociology of punishment theory, this body of theory looks at punishment as a social institution and tries to explain the nature of punishment; it is distinct from theory which tries to explain the nature and etiology of crime. Drawing on the sociology of punishment allows a broader, more rounded account of how supermax prisons have become a relatively stable part of the United State's cultural landscape and how they have become a means for expanded governmental control- a means to govern through crime (Simon, 2007).

The closest application of contemporary sociology of punishment theory in regard to supermax-like confinement has been with the detainee camps like Guantanamo and Abu

Ghraib (Welch, 2009). Detainee camps are often associated with supermax prisons because of

the extreme manner in which the inmates are housed. Because of especially troubling scandals

arising at camps like Abu Ghraib, there has been much more scrutiny directed at the punitive

nature of these types of camps, which has led to attempts to theoretically analyze the existence

of these places.

Detainee camps, however, are not the same as the supermax correctional facilities

found in the United States. Camps like Guantanamo and Abu Ghraib are militaristic in nature

and in operations, while supermax facilities are not. Furthermore, supermax facilities do not

hold detainees; they hold citizens of the U.S. and other nations who have been convicted and

officially sentenced.   The detainees at camps like Guantanamo and Abu Ghraib are not

afforded the same rights and privileges that prisoners in the U.S. are (Welch, 2009). So it is safe

to say that supermax prisons are different enough from detainee camps to warrant a separate

theoretical analysis.

A theoretical analysis of supermax prisons may seem relatively inconsequential since in

the greater scheme of things, the inmates housed in supermax confinement represent a very

small percentage of the prison population (Pizarro, Stenius & Pratt, 2006). But this line of

argument overlooks the substantial cultural symbolism and ideological effects of these prisons,

which is precisely why they are consequential to the larger scheme. Supermax prisons have

quickly blended into the cultural landscape as a taken-for-granted artifact of the penal state.

They have become a normal, accepted, and indeed expected means of social control (Pizarro,

Stenius & Pratt, 2006). As such, it is appropriate to conduct a theoretical analysis of supermax

prisons.

The central theoretical question of this chapter can be framed as follows: why after more than 150 years, has the U.S. returned to the use of long term solitary confinement? In other words, after the failure of such confinement at Auburn and the Eastern State Penitentiary, how is it that we have returned to a practice of dedicating entire institutions, or large sections of facilities, to long term solitary confinement?

It is important to point out that at Eastern State Penitentiary, the extreme isolation of prisoners was thought to be necessary in order to further rehabilitation (Johnston, 2004). Rehabilitation through solitude traces to the monastery and the assumption that isolation is spiritually cleansing and reformative. In the Pennsylvania System, placing inmates alone where they would not be able to communicate with other people was seen as essential for the inmate to repent; the inmates needed solitude in order to reflect on their crimes, realize that their actions were wrong and make penitence (Shalev, 2011). Additionally, isolation was thought (and still is to some extent) to prevent the potential criminogenic effects of putting prisoners together. Prisoners who might otherwise be rehabilitated should not be contaminated by the negative influences of other criminals (Johnston, 2004).

Clearly, the thinking that informed the use of solitary confinement at Eastern State Penitentiary is different from that which informs solitary confinement in the contemporary supermax. In today's supermax environment, solitary confinement is practiced to contain violent behavior as well as to deter and punish institutional rule breaking. While rehabilitation remains a declared goal of some supermax institutions, it is clearly an afterthought if spoken of at all; in some supermax facilities, there is not even the pretense of rehabilitation. In short, supermax confinement is part of the penal harm movement (Clear, 1994), while the solitary

confinement practiced at Eastern State Penitentiary was part of a penal welfare movement (Garland, 2001). Thus, it is necessary to critically evaluate the reemergence of long term solitary confinement to discover the reasons behind this punitive movement.

The remainder of this chapter begins by examining supermax prisons through the meso level lens of correctional organizations and employees. Attention then shifts to a macro level lens and analysis of the supermax in the context of late modernity. Following that, the next section examines the impact of supermax prisons on culture and social control, and the last section links back to the organizational level.

Organizational Level Analysis

To understand supermax prisons, it is helpful to first examine the dynamics within correctional bureaucracies. Following Foucault's (1977) inside-out approach, such an examination leads logically to an analysis of the wider macro context of supermax confinement.

From the correctional employee's perspective, supermax prisons result from more than just the need for containing the "worst of the worst". Containing or incapacitating these prisoners so that they are unable to cause problems in the community, or more importantly from the employee's perspective, inside the prison walls, is certainly a central objective. Obviously, inmates who spend 22-23 hours a day in a cell (Arrigo & Bullock, 2007; Rhodes, 2005), and an hour or so exercising in solitude, are incapacitated. But from the standpoint of correctional organizations, equally salient justifications for supermax prisons include deterrence and retribution (Lippke, 2004; Mears, 2008).

Deterrence is important from a bureaucratic level because dissuading inmates from causing serious problems through threats of transfer to supermax should result in smoother, less scrutinized operations for any given institution. Smoother operations can have the effect of reducing employee stress levels and external scrutiny and making inmates more content with fewer things to complain about. In short, prison authorities can use the threat of transfer to supermax confinement as a deterrent for a variety of unwanted outcomes. As discussed earlier, the extent to which inmates are actually deterred by the existence of supermax prisons is debatable. Nevertheless, supermax confinement allows correctional employees to threaten inmates with *something*. In the absence of supermax prisons, incorrigible inmates with little to lose have no incentives to behave as prison officials desire. The threat of disciplinary segregation can only resolve the problem for so long, since such segregation is temporary. This need for authorities to have the ultimate upper hand with problematic inmates helps illustrate why supermax prisons are an important tool in the culture of control (Garland, 2001) at a meso level. Without the threat of supermax incarceration, managing inmates perceived as dangerous and/or incorrigible would become much more difficult.

Retribution is equally important from an organizational standpoint (Lippke, 2004). In fact, retribution was a major factor in the decision to build an entire supermax prison (ADX Florence) after two inmates (Thomas Silverstein and Clayton Fountain) each murdered a correctional officer at USP Marion in 1983 in separate incidents on the same day (King, 1999). Prior to the incident, Silverstein was already serving a life sentence in one of the control units at USP Marion. This was before Marion went on permanent lockdown status. So when deciding how to punish Silverstein, and other inmates like him who had no hope of ever being released,

prison authorities looked at supermax institutions with favor. From an organizational point of view, by the late 1980s and early 1990s prison authorities were growing tired of the violence and unrest many prisons had exhibited through the 1960s, 1970s and 1980s. In addition to a perceived need to incapacitate and deter, there was a desire to retaliate. As supermax facilities and units became more common, a new punitive mechanism evolved that served as a way not only to control but also to punish the "worst of the worst" subpopulation.

Retributive emotions contribute to an underlying cultural tone in the correctional environment because of the internal organizational dynamics in place. Especially relevant are dynamics promoting the mentality of "us versus them" (Arrigo & Bullock, 2007) that correctional employees tend to form particularly in relation to prisoners seen as incorrigible or dangerous. Generally speaking, correctional officers start to feel like they have to stick together, just as the prisoners start to think the same way. The result is two separate groups with different goals and mutual suspicion. This dynamic is fertile ground for retributive sentiments to flourish and play out from all directions. It reveals why incidents like the ones discussed earlier regarding Pelican Bay occurred (King, Steiner & Breach, 2008). The strongest kind of prison staff solidarity and punitive retribution stems from incidents like those involving Silverstein and Fountain, where staff are injured or killed by a prisoner. Retaliation against "them" by "us" seems natural and justified.

Late Modernity and its Discontents: The Macro Context of Supermax Confinement

In *The Culture of Control* (2001), Garland argues that since the 1970s criminal justice in the U.S. and U.K. has been significantly influenced by a combination of social changes and free

market socially conservative politics. The social transition which characterized the second half of the twentieth century and beyond (particularly the 1970s) is referred to as "late modernity" (Garland, 2001). Prior to the late modern era, the government's focus was the welfare of society; indeed it can be said that government governed through welfare, as opposed to governing through crime which is the current status (Simon, 2007); this idea will be addressed further on in this chapter. This welfare stance of government was reflected throughout society's institutions. In prisons, the primary goal was to rehabilitate, or to correct the individual involved in the legal system. In politics, welfarism was evident through Roosevelt's "New Deal" and subsequently Johnson's "Great Society" (Garland, 2001).

As the U.S. moved through the World War 2 and Cold War eras, and as the civil unrest of the 1960s unfolded, there was a convergence of economic volatility, discontent with the government, and heightened senses of insecurity and vulnerability (Garland, 2001). Life came to be experienced by many people as unpredictable, less safe, and more risky. As the economy shifted to a global scale and assumed a service orientation, amidst de-industrialization in traditional hubs of production, volatility ensued. This new economy brought wealth to many, but it also brought instability, insecurities and uncertainties that fueled an ongoing perpetual sense of crisis. As the economic gaps between the poor and wealthy increased, distinct socio economic levels developed between the poor, the expanding middle class, and the upper class (Garland, 2001). Rapid economic and social change led to a breakdown in informal social controls. Diminished informal social control resulted partly from a shift in family structure and changes in the workforce (Garland, 2001). As females increasingly joined the workforce, youth were allowed more freedom without stay-at-home mothers there to control them. Economic

changes also increased the need for both parents to work outside the home, and often times, to work more than was previously necessary (Garland, 2001). In short, individual freedoms expanded and informal social controls diminished, with the result being a kind of default heightened reliance on formal state control.

One specific issue that reaffirmed insecurities and fueled discontent with the government during the 1960s through the mid 1980s was the growing problem of prisons. During this time, many prisons exhibited unrest and increased violence that was readily publicized and circulated throughout society. Prison unrest reinforced the message that the government was losing control. Social insecurities were exacerbated by such scenes as the widely publicized riots at Attica and Santa Fe.

On the inside, prisons were undergoing a breakdown from a long standing consensus that rehabilitation was viable to a state of turmoil and violence (Irwin, 2005). With the release of the Martinson report in 1974 promoting the notion that with rehabilitation "nothing works", academics and practitioners alike became frustrated and discouraged (Haney, 2006). Prior to the release of the report, many academics and practitioners had already started to form a discontent; the report served as an instigator to move away from rehabilitation towards a more punitive "just deserts" stance. If rehabilitation was not effective, then the alternative should focus more on punishing the offender for the crime he or she committed and containing the dangerous. Though rehabilitation was replaced with just deserts as the primary focus, rehabilitation did not die out completely; some features developed during the rehabilitation era remained in the system but were pushed out of focus into the background.

The discontents of late modernity mounted, and as the criminal justice system shifted increasingly towards a conservative version of just deserts that emphasized deterrence, incapacitation, and retribution (Pizarro, Stenius & Pratt, 2006), members of society (including the public, media, and politicians) sought out culprits for their insecurities, fears, and anger (Garland, 2001). The demand was issued that something be done, that someone be made accountable and blamed. Hence the ideological conception of the "dangerous other" was re-molded (Garland, 2001; Haney, 2006). The concept of the "dangerous other" is akin to the stereotype of the "boogieman". It is premised on the assumption that there are those who are fundamentally different from the rest of "us", in the sense of being depraved and dangerous (Haney, 2006). A target of attribution and blame for insecurity is thus provided.

As the middle and upper classes accumulated wealth and obtained more of the sought after commodities, such as cars and new technology, they also increasingly became crime victims (Garland, 2001). Previously crime had been considered mostly a problem of the poor, a problem that they kept amongst themselves in their own habitus (Bourdieu, 1985). Now that people of all socio economic statuses were being victimized, crime and insecurity were everyone's problem (Garland, 2001). Creating the "dangerous other" became a functional enterprise. Instead of being seen as a population in need of welfare and capable of reforming, many of the poor came to be seen as "dangerous others", fundamentally different from normal members of society and both deserving and in need of punishment and control (Haney, 2006; Wacquant, 2009) to combat insecurities.

To summarize before moving on, what we have is a late modern social context infused with volatility, uncertainty, insecurity, and perceived vulnerability to risks. An example is

publicized unrest and violence in prison systems that, above all else, should be controlling

problems and promoting protection. Ideologically, the public, political, and media reaction to

elevated angst and anger is the social construction of a culprit to target for blame and shame –

a dangerous other fundamentally distinct from the rest of us. For purposes of this analysis, it is

irrelevant whether this dangerous other is a predatory serial killer, a ravaging drug dealer or sex

offender, a foreign or home-grown terrorist, or a recalcitrant prisoner residing in a supermax

cell. The underlying "us" versus "them" ideological differentiation is a constant across

categories in legitimating retributive and incapacitative responses such as supermax

confinement.

Why did things shift in this particular direction? Vengeful, revanchist penology, was not

the only course that could have resulted from the various discontents of late modernity. As

Simon explains in *Governing Through Crime* (2007), this shift was a strategy. As the welfare

state of New Deal era politics lost its legitimacy during the 1970s, the government needed a

new strategy for representing itself to the populace, a new modality of governance. In this

regard, risk control, vulnerability and waste management, and citizen protection resonated well

with the free market, socially conservative political culture that typified the early 1980s and

beyond. The ideological message was clear. We would move back to basics and common

sense, with little if any tolerance for deviation. Order and safety would be promoted at all cost,

despite the level or kind of resistance encountered. Citizens could rest assured, "something"

would be done. The "correctional Leviathan" (Useem & Piehl, 2008) or "penal state"

(Wacquant, 2010) came to overshadow the welfare state. Prognoses were dire. The wayward

but redeemable citizen of penal welfarism became the immutable other targeted as an enemy by the penal state.

Governing through crime is not limited to supermax confinement. The government plays on citizens' fears and insecurities in a way that allows multiple social institutions to have a role (Simon, 2007). For example, with youth having more freedom as a result of the breakdown of informal social controls discussed earlier, the safety of schools became a target of concern. These concerns led to the notion that unsafe schools are caused by bad grades, which in turn led to the practice of standardizing education material and tests; standardization became mandatory if schools wanted government funding. There would be "zero tolerance" for deviations of any kind on school grounds.

So with the government managing the vulnerabilities of society in this manner, or governing through crime, it has been able to extend its sphere of control into diverse aspects of society (e.g., education, healthcare, security, etc.), and to do so in ideologically rigid terms which helped to legitimate courses of action that previously might have been seen as civilly suspect. This expanded reach of government is consistent with Foucault's conception of a carceral continuum. This continuum stretches from addressing minor to major departures from normalcy, but all along it, the underlying concern is common- to assess and correct deviations from desired conduct. Yet recent scholarship in this area suggests that Foucault's emphasis on correcting departures should be supplemented, or even replaced, by an emphasis on punishing and incapacitating deviants (Wacquant, 2009). The effect of this punitive orientation is that social institutions like schools and mental hospitals take on operational qualities traditionally reserved to penal agencies and security providers.

Sitting at the far right of the carceral (second only to capital punishment) is the supermax prison. With the welfare state, rehabilitation was a primary goal of imprisonment, so when an individual came into contact with the correctional system, protractive solitary confinement made little sense except in select extreme cases. On the contrary, retribution, deterrence, and incapacitation are the primary goals of the penal state (Garland, 2001), and supermax penology has much greater affinity with these goals. The modality of governing through crime fosters public expectations for greater security and protection (Garland, 2001); the penal state is expected to deliver the punishment, deterrence, and incapacitative effects that it promises through its ideological representations.

Viewed in this way, supermax prisons provide an important ideological function. The ideological mindset of free market socially conservative politics was to reestablish practices that predated the welfare state- to go back to the basics (Simon, 2007). This orientation emphasized the need to repress deviants at all levels of society. There would be little if any tolerance. Within this general context, and against the specific context of prison unrest and violence that carried into the 1980s, one convenient way to deliver results, while at the same time helping to maintain control in prisons, was to construct a dangerous other, worst of the worst subclass within the prison population (Garland, 2001; Haney, 2006). The ideological message was clear. The worst members of society make up the prison population, and within the prison population, there is an even worse group of prisoners from whom members of society, other prisoners and prison staff must be protected. And it is the proper role of government to provide this protection.

In this manner, the "dangerous other" ideology legitimated supermax incarceration. From a practical economic standpoint, however, it would have been impossible for prison authorities to manage the entire prison population as if they were the worst of the worst. To fulfill the ideological purpose on pragmatic terms, to further governance through crime, a very selective subgroup of the prison population was chosen. While the criteria for supermax placement are ambiguous and inconsistent (Ahn-Redding, 2007; Tachiki, 1995), certain assumptions have legitimized this movement. The first is that there is actually an identifiable subclass in the prison population that represents this "worst of the worst" group. Secondly, it is assumed that this subgroup *can* be controlled without violating constitutional protections. These assumptions formed the foundation for the supermax movement of the 1980s, 1990s and beyond.

Voyeuristic Mysticism, Reaffirmation of Otherness, and the Construction of Governing Authority

The previous section established that the supermax confinement movement was a component of a larger movement toward a modality of governing through crime, undertaken in response to insecurities and fears characterizing the late modern era that welfarist ideology was ill equipped to calm (Garland, 2001; Simon, 2007). Stated differently, supermax confinement is an established component of the culture of control (Garland, 2001), and therefore, a component of governing authority legitimacy (Simon, 2007). In this section, the analysis is extended to cover some specific ways that this movement has helped shape wider culture and thereby helped bolster governmental legitimacy.

In *The Culture of Punishment*, Brown (2009) examines the mysticism that surrounds the culture of control. Mysticism results most fundamentally from the physical and social distance existing between members of the public and the institution of punishment, combined with symbolism and intrigue that invite spectatorship and voyeurism. Much effort goes into constructing and maintaining distance between the public and "correctional experts." For example, having supermax prisons located in rural places fosters an "out of sight out of mind," distanced mentality.

Members of the public know these facilities exist and know that the "really bad criminals" are sent there. But because the public is so removed from the actual institution of punishment, there is a lack of the quantity and type of scrutiny that most other social institutions receive, such as the economy, education, or healthcare. Given the lack of scrutiny and realistic information, the public becomes more apt to accept the ideological guise of control that the government represents throughout the penal state generally, and supermax prisons in specific. Larger society is assured through the media that "something" is being done to manage the most dangerous of the dangerous (Brown, 2009). And moreover, this "something" is being done by government "experts" on behalf of public security (Brown 2009; Garland, 2001). Public detachment is thereby encouraged. The image that the government is doing "something" is especially reinforced when the media reports on those high profile cases where the criminal committed a highly publicized crime, such as Ramzi Yousef the 1993 World Trade Center bomber, or the Unabomber Ted Kaczynski. Incarcerating these high profiled criminals in a supermax prison shows the public that the criminal in question will be justly

punished and properly contained. As a result of this, people see supermax prisons as a good

thing.

Members of society develop a comfort zone as "distanced spectators." Distanced

spectatorship encourages "voyeuristic mysticism" to evolve (Brown, 2009). This is similar to the

experience of being fascinated by a car accident or a train wreck, except in the case of the

supermax, the dangerous other is readily available as the outlet for the mix of blame, shame,

anger and fear (versus attributions to amorphous fate or circumstances in the case of

accidents). Members of society are drawn toward media filtered representations of supermax

prisons; there is fascination and awe with TV shows that depict the inner workings of such

places and even fascination when reporting efforts are curtailed by the ostensible necessity of

security concerns.

Another example of how magnified this voyeurism has become is the fact that instead

of tearing down old, dilapidated prisons that are no longer in use, states have made some of

these prisons into tourist destinations. Famous prisons like Alcatraz, which has more than a

million visits from tourists each year (Brown, 2009), offer tours where visitors can experience

such things as the sensation of being locked in a dark cell. Some prisons like Eastern State

Penitentiary offer special "haunted" tours during the fall season where tourists can spend the

night in a "haunted prison". Furthermore, some prisons are made into historical landmarks and

are operated by local historical societies instead of being torn down (Brown, 2009). Some

people are also able to tour prisons that are still in operation. These tours are usually

designated for special groups like students, and they provide a very controlled environment

where the visitors are only able to see the very edges of the inner workings of the prison

(Brown, 2009; Shalev, 2009).

The media representations of supermax prisons and the tours provided oscillate

between stimulating and soothing the curiosity that accompanies distanced spectatorship. The

outcome, of course, is dramatized sensationalism that inhibits and buffers informed critical

thinking about the complexities and contradictions of these places. The culture of control is

thereby formulated and sustained. The otherness of supermax inhabitants is reaffirmed.

Across time and with repetitious exposure, the ideologies promoted through TV shows,

news articles, prison tours, and the like gradually take on the status of "common sense" and

intersect with the political arena where they both shape and are shaped by the institutions and

practices comprising the culture of control. As long as society remains placated with what is

given to them through distanced encounters, the supermax institutions and representations

thereof contribute to cultural hegemony. For Gramsci (1992), cultural hegemony is achieved to

the extent that the values and interests of the bourgeoisie and sovereign authorities become

expressed in normative, taken-for-granted, common sense terms by most of the populace. The

supermax prison thus comes to be perceived as a logical and indeed necessary, extension of the

traditional penitentiary. Furthermore, the mentality that supermax prisons, and prisons in

general, are common sense reinforces the belief that violent crime itself is normal (Garland,

2001). This belief of course, only reaffirms supermax prisons as part of our cultural landscape.

The culture of control is thus self-legitimating and self- perpetuating.

People employ popular common sense knowledge to account for select aspects of the

culture of control (such as supermax prisons) that they encounter or learn about during their

life course. This knowledge framework has three characteristics. The first is that it is embedded against such sensibilities as insecurity, fear, and anger. The second is that it is necessarily fragmented and partial. As such, the framework has the effect of inhibiting, precluding, and relieving people from a systematic critical appraisal of underlying complexities and contradictions. That we should build and operate separate segregation facilities for the worst of the worst criminals, for instance, seems almost to defy question or need for debate; the need is self-evident.

If this affect-laden, partial, hegemonic knowledge serves as an accelerator toward supermax confinement and related culture of control initiatives of the penal state, the third characteristic serves as a brake (or at least a flashing caution light). The third characteristic exists in a state of dialectical tension with the first two, and to examine it, it is useful to draw on the work of Smith (2008). Based on his historical analysis of the rise and fall of various technologies of punishment (e.g., the guillotine), Smith analogizes crime and deviance as a form of cultural pollution – as threatening the cultural purity and sanctity of person and property. Punishment is above all about containing pollution, decontaminating that which is culturally offensive. But the main point here is that punishment will be perceived as illegitimate by large numbers of people to the extent that it gives off more cultural pollution (i.e., offends more moral sensibilities) than it controls (i.e., upholds). This point is easily seen by considering contemporary controversies over the treatment of military detainees. For purposes of legitimacy, then, it is necessary that punishment conform to the parameters of cultural sensibility and thus be construed as fair, humane, and sanitary. As Smith observes, "the range and extent of disciplinary possibilities have been as severely constrained by the sacred status of

the sovereign human being as they have been energized by the quest for the docile body" (p. 175).

The supermax prison thus hovers on a dicey tipping point vis-à-vis the cultural hegemony of the penal state. While it helps further and sustain hegemony through varied imageries and representations, given the extremity of its very nature, it simultaneously possesses strong potential to undermine hegemony by serving as a reservoir of exposable inhumanity. In short, the supermax threatens to offend the very moral sensibility that it upholds (Smith, 2008). The cultural danger here is that in testing and pushing the bounds of sensibility, the supermax movement can have the effect of moving those bounds, thus creating relatively lasting impressions on the cultural landscape that make ever more extreme forms of punishment seem normal, acceptable, and indeed necessary. This, of course, is integral to appreciating the rise and culminations of the National Socialist German state (see Friedlander, 1995).

Figure 1 below presents a schematic of most important aspects of this chapter covered thus far.
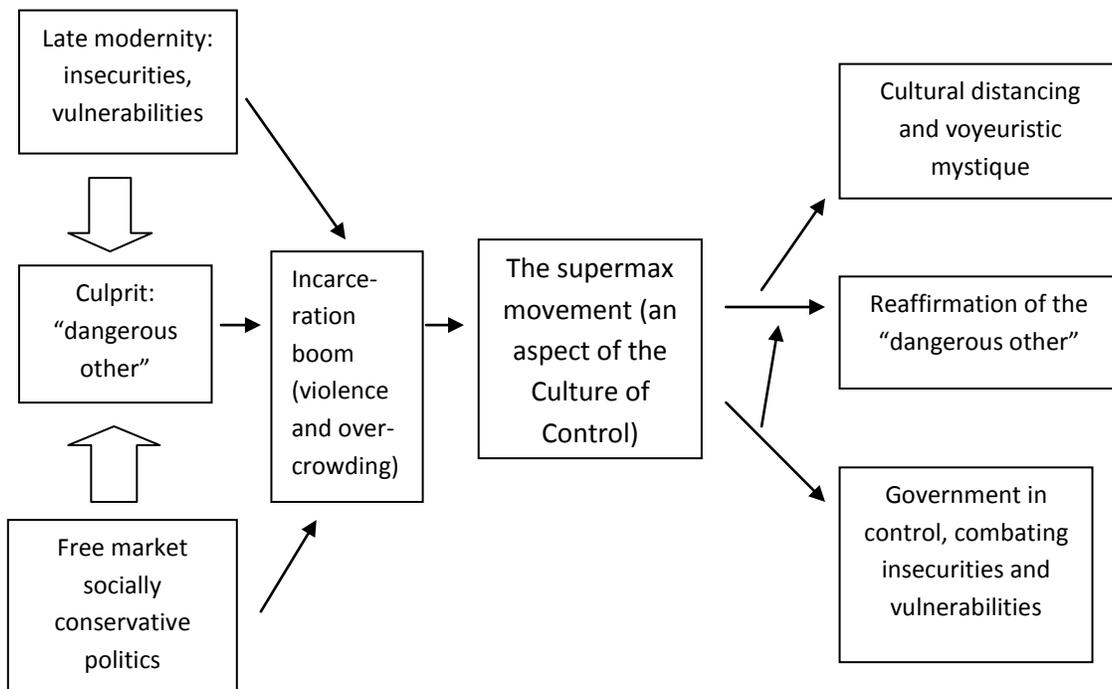
Figure 1 Theoretical Analysis Schematic

Revisiting the Organizational Level

In wrapping up chapter 4, it becomes important to shift focus back to the chapter's

start-- back to the meso level, which consists of the correctional organization and its

employees. The supermax prison movement was initially based on the ostensible need for

correctional bureaucracies to incapacitate, deter and exact retribution. This need resonated

well with the discontents of late modernity and with free market socially conservative politics.

Relatively little was required to gain approval for this fiscally expensive shift in punishment.

The distance between the public and the institution of punishment facilitated a guise of state

control. Given the public and media voyeuristic fascination with punishment (especially

extreme punishment), government officials are positioned to control the meanings expressed

through the cultural symbols of supermax confinement. In so doing, they are able to reaffirm

the legitimacy and necessity for supermax prisons.

Words, practices, and portrayals are spun to justify the ongoing need for supermax

prisons. Of utmost importance in this regard is the representation of the supermax as a

professionally managed, rationalistic institution where complete, but humane, control is

achieved through specialized architectural design, bureaucratized routinization of life and

movements, as well as strategic use of automated technologies (Rhodes, 2007). An effect of

this portrayal is the casting of supermax staff as experts in high stakes, big league penology,

trained professionals who ought to be left alone to carry out their work. Accordingly, the aura

of expertise helps wedge the public from the supermax and provides ideological fuel for

containing dangerous others therein. Such is the nature of the buffer between macro structural

and cultural dynamics on the one hand and the internal bureaucratic dynamics of high security

confinement on the other (Garland, 1990; Garland 2001).

CHAPTER 5

THE SUPERMAX AND THE FUTURE

Synopsis

The goals for this thesis were: to describe the contemporary status of the supermax

prisons and units across the nation, to synthesize the literature on supermax prisons, and most

importantly to theoretically analyze the existence of supermax prisons as a component of the

culture of control. All of these are important and relevant to furthering the information and

data available on supermax prisons. Going back over the highlights of each chapter we can

recap on some of the more significant aspects of supermax prisons and the findings of my

study.

Starting in the late 1980s, the U.S. witnessed a penal trend toward building entire

facilities and units to house a subpopulation of the prison population dubbed "the worst of the

worst". This trend spread at an alarming rate resulting in the majority of states having and

operating their own supermax facilities or units by the start of the 21st century (Mears & Reisig,

2006). The spread took place despite what was known about the harmful effects of prolonged

solitary confinement (Haney, 2003; Toch, 2003).

In order to see just how extensive the use of supermax confinement is, in Chapter 2, a

table of states with the different supermax facilities and units was presented. The definition

given by the National Institute of Corrections (1997) was used as the criteria to identify

supermax facilities and units throughout the nation, through the use of the secondary data that

was selected. The results of Table 1 show that there are 11 states that operate a free-standing

supermax facility, and altogether a total of 37 states that have at least one supermax prison or unit. However, scholarly literature commonly cites that as of 2004, 44 states had at least one supermax facility or unit (Mears, 2005). Thus, 37 may be an under estimation of the actual number of states that have a supermax facility. This inconsistency between the results of my study and the estimate cited by Mears (2005) could be a result of me only using information readily available to the public, or it could be a result of different collection methods, such as using different definitions when determining what constitutes a supermax facility. Either way, the inconsistency should probably be further examined. As discussed later in the limitations section, a future study might aim to get a better estimated number of facilities by directly contacting jurisdictional representatives, and this may help to correct any inconsistencies with other scholarly literature.

Chapter 3 focused on the scholarly literature available on supermax prisons. The literature shows that there has been a dramatic increase in supermax facilities in the last couple decades; however, the estimates of the extent of this increase tends to vary from source to source, and the data used for these estimates are collected using different definitions. The result of this is a collection of inconsistent information (Naday, Freilich & Mellow, 2008). As research on supermax confinement continues to develop, inconsistencies can be expected to be corrected.

Within the last decade research and literature on supermax confinement has gradually assembled, providing the rudiments of a knowledge base. My goal of drawing the literature together was to show what information is already available and what information is still needed. There is plenty of literature on the history and background of supermaxes, but in the

area of research and studies, the literature could be expanded much more. More studies need to be conducted in order to get a better understanding and knowledge base of the mental health issues associated with long term isolated segregation. Related to that, research needs to address the possibility that educating prison employees can help to reduce mentally ill, or those persons prone to mental illness, from being sent to supermax. More research is also needed to determine the economic costs associated with supermax confinement, and whether or not supermaxes are cost efficient. Granted, this is easier said than done, especially with supermax prisons being so closed off to the public, but nonetheless, these are areas in need of further pursuit. Also, I found that much of the available literature does not offer any sort of theoretical analysis to explain the supermax movement, and none of it links the supermax movement to the theoretical literature on the sociology of punishment.

In Chapter 4, we saw that the proliferation of these institutions can be traced back to a shift in society towards a more controlling, punitive ideological mindset that started to form in the latter half of the 1900s. This punitive shift resulted from a society that was plagued with insecurities and fears that stemmed from social changes associated with late modernity and from free market socially conservative politics (Garland, 2001). The culprits who would be blamed for the fears and insecurities would be classified as the "dangerous others", and it was the incarceration of these fundamentally different beings that would result in overcrowded, violent prisons (Haney, 2006). This development would, in turn, guide the way towards the expanded use of supermax confinement as a means to control and punish.

The existence of supermax institutions reaffirms the idea that the "dangerous others" are in fact, fundamentally different and deserving of the severe control and punishment offered

by supermaxes. The use of supermax prisons would then be reaffirmed by the public being distanced from the institution of punishment and from the voyeuristic appeal that supermax confinement (or extreme punishment) has on the public. On the other hand, having supermax prisons also allows the government to govern through crime, legitimating the authority of those in control through the ideology of combating insecurities and vulnerabilities. The reaffirmation of the dangerous other and the constructed imagery of the government being in control can then have the effect of pushing the boundaries of cultural sensibilities towards ever greater punitiveness. Pushing the boundaries in this manner presents two possible directions for policy, which will be discussed later on in this chapter.

Although it is important to study the extensiveness of supermax prisons, it is equally important, and even more fundamental to understand the wider cultural effects bound up with supermax confinement. Supermax confinement has rapidly blended into the cultural landscape, which facilitates the mindset that the public has toward crime, especially violent crime, being a normal aspect of life. As a result of this, supermax confinement has come to be viewed as a necessary and normal way to handle criminals, and as this way of thinking further imbeds itself in the minds of the public, the possibility of pushing the limits of cultural sensibilities toward greater punitiveness becomes an issue. Smith's (2008) analysis suggests that supermax prisons exist near, if not right at, the borderline of what is seen as acceptable and unacceptable. If that is the case, then the cultural messages that society members receive regarding supermax institutions become useful tools for the hands that issue the messages; this is because the authorities who issue those messages are able to construct them in a manner that would likely reaffirm the cultural acceptability of supermaxes.

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Limitations/Delimitations

There are three main limitations/delimitations to this study: the availability of data, the validity of the data provided, and the terminology used by the different states. The first limitation, the availability of data, relates to the problems I encountered finding information on supermax facilities for each state. As discussed earlier, there were some states that offered all of the needed information on their department of corrections website.

However, for the majority of the states, much of the information that I was looking for was either incomplete or missing entirely. Although the American Correctional Association Directory helped to fill in much of the missing information, there is still some data missing from Table 1. Since these two sources represent the available information to the public for the information needed, there is not much that can be done to complete the missing data. Future research could benefit by directly contacting representatives from each jurisdiction to supply needed information. The focus of my research was delimited to secondary data readily available as a source of public information about supermax prisons. This delimitation was reasonable given the importance of public and cultural sentiments in the theoretical model (see Figure 1).

The second limitation is the validity of the data provided from both the department of corrections websites and the American Correctional Association Directory. It is assumed that the data provided reflects the most current data available, but there is no way of really knowing that. Some of the websites offered the last date when the information was updated, but for most of the websites this was not the case. Certain inconsistencies between the two sources indicate that in some instances the information provided by one source was either outdated or

calculated differently compared to the information given by the other source. Without

contacting each jurisdiction, there is no way to counteract this validity problem, and since this

study was only interested in finding the information that was available to the public, I did not

contact any jurisdiction representatives to correct inconsistencies.

The final limitation is the inconsistencies with terminology used to identify supermax

prisons and/or units. This problem was discussed earlier in Chapters 1 and 2, but it is important

to reiterate this obstacle. There are several names that are used to identify supermax facilities

and units, such as administrative segregation, control units, etc. My concern is that because of

the inconsistent use of terminology, some facilities or units may have been either identified as a

supermax prison or unit when they should not have been, or that certain prisons or units were

not identified because of the terminology used (for instance they could have been marked as a

close facility, protective custody unit, disciplinary segregation, etc.). Another noteworthy issue

is that some states have up to four different security levels for the same prison (Naday, Freilich

& Mellow, 2008); this is problematic for this particular study because there is no way to know

whether or not all of the security levels were listed in the information found on the prisons.

The only way to counteract these problems besides contacting jurisdictional representatives is

to make terminology more consistent across the states, which is not very practical because

each state has different policies and practices that utilize the different terminology; there are

no legal requirements for states to use the same terminology (Naday, Freilich, & Mellow, 2008).

Policy Direction

This study implies at least two policy directions. The first one deals with the effects of supermax confinement on culture and how these effects might shape future policy. More specifically, this direction focuses on the potentially desensitizing effects of supermax confinement on cultural sensibilities, which could result in future movement toward punishments presently considered inhumane. The second direction relates to the need for information on supermax prisons to be more readily available to the public; there is need for more clarity and transparency. More clarity and transparency would allow society to determine where we are, where we are headed, and in which direction we should go.

With the first policy direction, the ultimate focus is on public tolerance of what is and is not considered acceptable in the penal realm. We saw in Chapter 4 that the symbolism of the culture of control and the mode of governing through crime reaffirm society members' roles as "distanced spectators". As distanced spectators in an arena of intense emotion and powerful symbolism that so readily bestows the status of dangerous otherness, people can grow more desensitized when it comes to punishment. They become comfortable with the distance between themselves and the actual institution of punishment; they leave the implementing of punishment to the "experts" who rely on members of the public (and, for that matter, members of the polity) remaining comfortably distanced from the everyday operations (Brown, 2009). This setup is fertile ground for inhumane punishments that continue to push and expand the boundaries of sensibility. The distance between members of society and correctional authorities, together with the ideological hegemony this distance helps create, can dissuade any objections that may arise to the way convicted persons are handled. Since

members of society are not directly involved, they rely on information provided by the authorities through the media, and this information can be altered or biased in order to justify the use of more inhumane punishment; this results in a society where members passively and uncritically allow authorities to push the cultural boundaries of acceptable punishment.

The second policy direction that will be examined here would help to prevent the previous direction just discussed. With a movement towards a more transparent correctional system, members of society would be able to become more than just "distanced spectators". More information and more valid information would allow society members to be better equipped in making decisions regarding the implementation of punishment as well as other aspects of the correctional system; in other words the correctional system would become more easily scrutinized like other social institutions. On a meso level, clearer, more transparent and standardized policies regarding things like criteria requiring valid risk assessment prior to transferring inmates to supermax, could help to keep things more consistent within and across jurisdictions.

Economic Reality

Starting in the 1970s when incarceration rates began to increase at an exponential rate, authorities were more concerned with removing the "dangerous others" from society and not so much concerned with what to do once all of these "dangerous others" were reentering society (Simon, 2010). Another thing not considered was how to pay for the expenses associated with mass incarceration of individuals for long periods of time, such as providing sufficient healthcare; since sentences became much longer than in previous decades healthcare

came to be a more pressing issue. The problem of paying the substantial expenses associated

with the correctional system is no longer yesterday's initiative. It is now today's problem, and

with the current economic situation, it is becoming increasingly difficult to finance large,

expanding penal systems (Eisenman, 2009). The future of supermax prisons will be greatly

influenced by the reality of the economy and the ability of the economy to handle the

increasing expenses of the United State's massive correctional system.

   We know from Chapter 1 that approximately 60 supermax facilities were built in less

than 20 years (Pizarro & Narag, 2008); this has a substantial effect on the economy. Of course,

with the money spent on building all of these prisons, especially the more costly supermax

prisons, it is expected that funding will be provided in order to operate and maintain the facility

and to employ a sufficient number of staff. However, with state budgets already overly

strained, the public is beginning to notice the particular burden that the correctional system has

on state funds. And one concern is that as society experiences additional financial crisis, the

consequences may include an increase in incarceration rates, as is shown to have happened in

previous decades characterized by financial crisis (Gottschalk, 2010). If this happens, then the

use of supermax confinement might be expected to increase as lower security prisons

experience the various problems associated with overcrowding (e.g., assaults, inmate

discontent, etc.).

   The economic problems associated with the correctional system have no easy,

straightforward solutions. As Gottschalk (2010) describes, there are legitimate reasons to

continue on with the correctional system as it is, and there are legitimate reasons to curtail the

correctional system.   With an estimated 750,000 correctional employees nationwide, cutting

back on expenses and or closing down prison facilities is easier said than done (Gottschalk, 2010). Decreasing the budget for the corrections system will have rippling effects that will be felt throughout society, whether it be a former correctional employee now unemployed or a community reeling from the effects of an abundance of former prisoners returning home after being let out because the court mandated that so many prisoners be released by a certain date (such as the case with California in the aftermath of the U.S. Supreme Court's 2011 ruling in *Brown v. Plata*). So while the correctional system has taken on a huge position in society with a lot of power, there is a growing dissatisfaction with the amount of money that the system requires each year to function and expand. So the question remains- what is the next course of action that would be more economically sound?

Some people naturally jump to the conclusion that the solution is to cut back on incarceration rates and start to close prison facilities. But even this solution that seems fairly straightforward has other implications that ought to be considered. An example of the implications involved can be seen through the illustration that Gottschalk (2010) provides; she uses the example of the deinstutionalization in the U.S. of mental institutions beginning in the second half of the 1900s. She explains that movements like the deinstitualization of mental institutions are grounded in the notion that without these institutions, states will be saving money; however, what is often overlooked is the amount of money that goes into the process of deinstitutionalization. Community services are needed to make up for the absence of such institutions, and often times the cost is displaced elsewhere where the federal government ends up having to cover it.

To relate this more specifically to the problem of prisons, it becomes necessary to consider how an influx of prisoners released back into society will affect social services provided in that community. These prisoners will need places to live and places to work, and many will still have problems associated with drugs and alcohol. Relating this specifically to supermax prisons, one might imagine supermaxes being closed down or downsized, with inmates who have spent a considerable time confined to a cell with no social interactions being released to other prisons, or back into the community. These particular inmates would need even more social and community services. More money would have to be allocated to these services, which are already strained and underfunded.

An illustration that relates to the issue of having prisoners return to their communities following incarceration is depicted by Simon (2010). He likens the incarceration binge as being very similar to the housing bubble that was especially experienced this last decade, but traces back to the 1980s. Simon refers to his metaphor as "troubled assets", and he further compares the similarities in public policy that led to mortgage companies overestimating the ability of their customers to pay their mortgages, making it easier for them to enter the real estate market, in other words giving too much value to their customers. On the other hand, policy led the criminal justice system to underestimate the person entering the system, in a sense not giving enough value to that person and making it more likely that he or she would be incarcerated in prison as opposed to being incarcerated in jail or being placed on probation. These practices eventually led to what we now know as the "housing bubble", and additionally what Simon refers to as the "punishment bubble"; both bubbles, of course, have burst, leaving the economy even more strained and left with an abundance of de-valued, or troubled, assets.

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The de-valued assets for the "punishment bubble" are the masses of prisoners exiting prisons with less value to offer for their communities than they had when they entered prison. It can even be said that the prisoners leaving the system who did not receive sufficient exposure to education or rehabilitation programs have actually become more de-skilled as a result of their incarceration (Eisenman, 2009). For the "housing bubble" the de-valued assets are the numerous houses foreclosed and left abandoned, where these foreclosed houses would have had value for their community before the housing bubble (Simon, 2010). Dealing with all of the troubled assets then becomes the main issue at hand. It is an interesting perspective that leaves off with the idea that the problem with the correctional system may be similar to the problems faced in other social institutions, which insinuates that the answer might be found by examining the solutions for those other social institutions.

Regardless of the economic burden that the correctional system presents, it is difficult to imagine a scenario involving a *mass decarceration* where prisoners are released at an exponential rate and prisons, including supermax prisons, are increasingly closed down. But as states are forced to decide between allocating funds to overcrowded prisons that need to provide healthcare to an aging inmate population, or providing those funds to other social institutions such as public education and healthcare, the notion that *something* needs to be changed with the increasingly expensive correctional system is reinforced. Informed consideration of supermax confinement should be an aspect of this debate.

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