

# Solitary Watch

## Criminal Justice Issues and Prisoners' Rights

<https://solitarywatch.org/2013/11/02/prison-segregation-racial-disparities/>

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by [Solitary Watch Guest Author](#) | November 2, 2013

*Margo Schlanger is Professor of Law at the University of Michigan Law School. The following post is based on an article that appeared in the Michigan Journal of Race & Law (see link below). The article was presented as an introduction to a symposium held at the University of Michigan Law School in February 2013, Inhumane and Ineffective: Solitary Confinement in Michigan and Beyond.*

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There is remarkably little systematic information available about who is held in segregated confinement in our nation's prisons and jails. I recently pulled together what little quantitative data exist. What I found is preliminary, but it suggests that in many states the harsh conditions of solitary confinement are probably disproportionately affecting prisoners of color. Full details on sources, methodology, etc. are available in Margo Schlanger, [Prison Segregation: Symposium Introduction and Preliminary Data on Racial Disparities](#), 118 Mich. J. Race & Law 241 (2013).

The best sources of demographic information about prisoners are the various surveys and censuses conducted by the U.S. Department of Justice Bureau of Justice Statistics (BJS). While no BJS publication directly addresses the issue, and no BJS dataset allows its full analysis, it is possible to glean something from the most recent BJS prison census, the [2005 Census of State and Federal Adult Correctional Facilities](#). I present in the Table that follows data derived from that census for seven state facilities. I also include, for comprehensiveness, information from a [2012 NYCLU report](#) on New York supermax confinement. (Even so, the table covers only a very small portion of the nation's tens of thousands of supermax prisoners.)

TABLE 1: DEMOGRAPHICS IN SELECTED SUPERMAX FACILITIES

	U.S. 2005	Ark. 2005	Colo. 2005	Conn. 2005	Md. 2005	Mass. 2005	N.J. 2005	N.Y.* 2011-12	R.I. 2005
<b>Population (N)</b>									
Prison	1,038,363	11,416	14,272	17,928	16,626	9,297	23,176	55,197	2,632
Supermax unit		447	755	412	253	541	1,825	4,293	86
<b>White</b>									
Population	66.8%	77.0%	71.9%	75.3%	59.1%	79.7%	63.0%	58.3%	79.1%
Prison	37.6%	52.6%	45.7%	29.4%	22.6%	45.5%	20.3%	23.2%	48.3%
Supermax unit		28.6%	35.5%	11.9%	24.9%	41.0%	19.8%	14.6%	41.9%
<b>Black</b>									
Population	11.9%	15.3%	3.5%	8.8%	28.4%	5.5%	12.8%	14.4%	6.3%
Prison	43.1%	45.7%	19.7%	42.9%	72.6%	27.1%	61.5%	49.5%	29.6%
Supermax unit		70.7%	15.0%	43.7%	75.1%	34.2%	65.2%	59.0%	32.6%
<b>Hispanic</b>									
Population	14.5%	4.7%	19.5%	10.9%	5.8%	7.9%	15.3%	17.6%	10.9%
Prison	16.0%	1.4%	31.5%	27.0%	0.1%	25.3%	17.7%	24.6%	20.4%
Supermax unit		0.4%	46.6%	43.9%	0.0%	22.7%	14.1%	24.7%	25.6%
<b>Other</b>									
Population	6.8%	3.0%	5.0%	4.9%	6.7%	6.8%	8.8%	9.7%	3.6%
Prison	3.2%	0.3%	3.1%	0.7%	4.6%	2.2%	0.5%	2.7%	1.7%
Supermax unit		0.2%	2.9%	0.5%	0.0%	2.0%	0.9%	1.7%	0.0%

\* New York data for the rows labeled "supermax unit" cover all prisoners housed on January 1, 2012 in Special Housing Units, statewide; New York non-prison population data are from December, 31, 2011. In all other states, all data are from 2005. The profiled facilities are: Varner Supermax (Arkansas); Colorado State Penitentiary; Northern Correctional Institution (Connecticut); Massachusetts Correctional Institution—Cedar Junction; North Branch Correctional Institution (Maryland); New Jersey State Prison; High Security Center (Rhode Island)

The table includes all the facilities in the 2005 BJS prison census that meet all the following criteria:

Given the limited available information, the table is merely suggestive but it does support a working hypothesis of current racialized impact for isolated confinement. In four of the eight columns (Arkansas, Colorado, Connecticut, and New York), non-white prisoners are substantially overrepresented in the highlighted facilities; statistical testing confirms that the difference is statistically significant. (In three of the other four Massachusetts, New Jersey, Rhode Island the small overrepresentation is not statistically significant; likewise, the tiny proportion of underrepresentation in Maryland lacks statistical significance.)

Of course evidence of disproportion does not demonstrate racial discrimination; it is possible that whatever disproportion exists has other explanations. But whether or not the source is detectable bias, the demographic impact of supermax and similarly isolated custody seems to me worthy of analysis. In short, it seems high time for corrections researchers to more systematically examine race in this area. American jails and prisons are themselves vastly racially skewed in their populations, and what we are likely to find is an even more extreme skew for those who are on the receiving end of isolated confinements harsh effects.

Accurate information and authentic storytelling can serve as powerful antidotes to ignorance and injustice. We have helped generate public awareness, mainstream media attention, and informed policymaking on what was once an invisible domestic human rights crisis.

Only with your support can we continue this groundbreaking work, shining light into the darkest corners of the U.S. criminal punishment system.

by [Juan Moreno Haines](#)

October 25, 2022

by [Solitary Watch Guest Author](#)

October 13, 2022

by [Vaidya Gullapalli](#)

September 29, 2022

Solitary Watch encourages comments and welcomes a range of ideas, opinions, debates, and respectful disagreement. We do not allow name-calling, bullying, cursing, or personal attacks of any kind. Any embedded links should be to information relevant to the conversation. Comments that violate these guidelines will be removed, and repeat offenders will be blocked. Thank you for your cooperation.

Add the director of ATF, Todd Jones and Obamas nominee, Jeh Johnson for Secretary of the Department of Homeland Security as other top African American leaders working in the Department of Justice.

So as I have noted above the BJS is in control of the data in question through the OJP.

The Office of Justice Programs (OJP) is led by the Assistant Attorney General, who assists the Department of Justice leadership in implementing Department policies and programs, and promotes coordination among the OJP bureaus and offices. OJP reports to the Department of Justice's Associate Attorney General.

Assistant Attorney General is Karol Virginia Mason and Eric Holder is the AG. And we all know that the AG reports to President Obama.

And on the issue of general representation in government:

In the current survey of Decision Makers (a National Journal selection of 250 officials), just 48 percent of the top officials were white males. This is down four percentage points from our 2009 survey (although that had a larger sample size, and our selection of Decision Makers isn't a random assortment). We don't have the data to prove it, but it's safe to say this is probably the first time white men are in the minority in high-ranking positions.

Where white males lose footing, white females, blacks, and Hispanics gain. Blacks in the Administration are approaching numbers representing the population at large. According to the Census Bureau, 13.6 percent of Americans are black. Thirteen percent of Obama's top decision makers are black as well.

I am sure these men reach out to other members of their race when filling positions so it goes deeper than these men.

<http://www.theatlantic.com/national/archive/2013/11/how-not-to-hold-an-oversight-hearing/281207/>

How Not To Hold An Oversight Hearing

At a time of overcrowded prisons, cost overruns, and serious allegations of abuse and neglect, the Senate Judiciary Committee plays patty-cake with the Bureau of Prisons chief.

ANDREW COHEN

NOV 7 2013

Only Senator Richard Durbin, the Democrat from Illinois, mustered up a serious question for the prisons chief. In fact, he asked one of the questions I had asked someone to ask of Samuels. Senator Durbin wanted to know:

What had the Bureau of Prisons done since June 2012, the last time Samuels appeared before the Judiciary Committee, to study the relationship between solitary confinement and mental illness among federal inmates?

It's a question that goes to the heart of the BOP's most controversial practices as well as one that directly implicates the cost component of confinement.

Samuels told the Committee that there are approximately 4,000 fewer inmates in restricted housing today than there were then but, given the bureaucratic nature of prison-speak, it's hard to know precisely what that means.

Samuels did not even mention mentally ill federal prisoners in his response to Senator Durbin's question about them.

The senator, for his part, inexplicably did not press the BOP chief for such a response, and then the pair moved on to talk about the relative costs of confinement at Guantanamo Bay, Cuba, as opposed to confinement on the American mainland.

That was it.

From this Committee, that single question and non-responsive answer was the extent of anything that could be remotely considered oversight in the classic sense of that word.

Upon further investigation I have found that a very agreeable-looking African American man, and Birmingham native, Charles Samuels Jr., holds reins over the US prison system.

So to reiterate my previous comment the U.S. Department of Justice Bureau of Justice Statistics (BJS) is in control of the data through the OJP.

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Assistant Attorney General is Karol Virginia Mason and Eric Holder is the AG. And we all know that the AG reports to President Obama.

So the chain of command at the highest levels of our government is in direct control of these four African Americans. So why would such a group knowingly oppress their brethren?

It is a question whites were forced to ask in the 19th century.

As the history professor Rebecca McLennan, points out in her essay *When Felons Were Human* criminal disfranchisement occurred first in Northern states where there were significant prison populations and where the overwhelming majority of prisoners were white.

The Norths disfranchisement of convicts was NOT primarily aimed at black convicts, but, rather convicts drawn from the WHITE LABORING CLASSES (and, subsequently, Irish and other immigrant populations, as well).

The governments argument has remained the same. Compare the following paraphrased account of the past with Charles Samuels Jr testimony below.

In 1829 the elite opinion in the United States was firmly behind the idea of solitary confinement. The debates of the day focused largely on whether the system at Eastern State was cost effective.

The arrogance of the system can be heard in the annual report of 1869, which lists the arguments against the solitary system, refutes them, and concludes, We are justified in unequivocally asserting that the Pennsylvania system of penitentiary discipline understood and properly applied, is not injurious to the health, has no injurious influence on the mind, is neither inhuman nor cruel and that if properly administered, it is now the most philosophic and effective system for the treatment of crime as an actual condition of persons in all societies.

Flash forward to this past June.

During his first eight months in BOPs top job, Samuels has been busy responding to several issues within the prison system, including the budget and criticisms over the treatment of inmates.

On June 19, Samuels testified on the issue of solitary confinement before a subcommittee of the U.S. Senate Committee on the Judiciary.

That committee began looking at the issue after complaints and lawsuits were filed about the mental effects solitary confinement has on prisoners including reports of suicides.

Samuels defended the BOPs use of different levels of confinement within the prisons and emphasized that the most restrictive form had been used with a small percentage of inmates within the system. The use of restricted housing, however limited, remains a critical management tool that helps us maintain safety, security, and effective reentry programming for the vast majority of federal inmates housed in general population, he stated in prepared remarks to that committee.

Samuels also testified in March before the U.S. House of Representatives appropriations subcommittee regarding the BOPs 2013 budget request and the prisons steadily growing population.

For many years now, the BOP has stretched resources, streamlined operations, and constrained costs to operate as efficiently and effectively as possible, Samuels testified.

Of the inmates in BOP custody, more than 177,000 inmates are housed in 117 prison facilities, that were built for a capacity of 127,236. Overcrowding is the worst at the BOPs highest security facilities 53 percent over capacity, Samuels had testified.

The prison system has more than 36,000 employees to staff the prisons around the clock. But the number of inmates has grown at a faster pace.

[http://blog.al.com/spotnews/2012/09/birmingham\\_native\\_charles\\_samu.html](http://blog.al.com/spotnews/2012/09/birmingham_native_charles_samu.html)

Welcome to our new reality.

Least you believe he is a stell out here is a little background on

JORGE ANTONIO RENAUD:

When I was in prison, during the mid nineties I was in a unit called the Robertson Unit and it was really heavily gang infested, mostly Hispanic gangs, and I was really upset a lot by the propensity to war not only, on anybody of course, but to war on each other or they walk around with all this Chicano tattoos, hermanos siempre, and Viva La Raza and Chicano and Brown Power.

But all they did was war on each other and kill each other. So I figured that very few of them knew any of their history, of the history of La Raza, of the history of Chicanos and whatever.

So I tried to get some literature for them and I asked a friend of mine to send me some books, some of the seminal books in Chicano history, y no se lo trag la tierra, Yo soy Joaquin, and Occupied America and some of the others and the mail room denied them.

They called me down there and said these are gang related. Fijate, Corky, Corkys now a gang member. All these people are gang members.

So I wrote something called, Lamentation for Literature

We will not read this book.  
It will not whisper its histories  
to us. we will not  
listen to its secrets,  
be seduced  
by its sweet mysteries,  
compelled to arise  
revolt question  
accuse desire  
confess dream  
love die.

we will not.  
read. this. book.

This last stanza from Jorge Antonio Renauds poem, Lamentation for Literature, could not sum up more eloquently his commitment to, and dissatisfaction with, the Texas prison system, and the policies they have put in place to rehabilitate their inmates. Antonio is more than a poet and an activist, however. He is a convict that has spent over 28 years in prison.

Profoundly, lost in a world of hopelessness and despair, Antonio began to explore both his feelings, and the implications of his situation, through poetry.

While in prison he would author some of the most naked accounts of Texas prison life ever known.

Antonio has been published and employed with publications like the Austin American Statesman, Waco Tribune-Herald, The Huntsville Item, and Echo. He also published a book in 2002 entitled Behind the Walls: A Guide for Families and Friends of Texas Prison Inmates as a posthumous reaching out to his mother and brother who, he felt, never understood what it was like to live in prison.

What Antonio began to understand while he was serving his time was that what he needed all along was not vocational classes or even college. What he needed was to reach deep in himself, understand the roots of his deviance, develop a moral code, and, at long last, definitively decide that he was not going to return to prison ever again. According to his 2010 interview, he devolved this idea through readings of philosophers like Immanuel Kant, and through books like Rudy Acuas Occupied America readings that were not allowed to pass through the prison mail room because of their seemingly dangerous content.

And on the issue of representation:

In the current survey of Decision Makers (a National Journal selection of 250 officials), just 48 percent of the top officials were white males. This is down four percentage points from our 2009 survey (although that had a larger sample size, and our selection of Decision Makers isnt a random assortment). We dont have the data to prove it, but its safe to say this is probably the first time white men are in the minority in high-ranking positions.

Where white males lose footing in the second-term administration, white females, blacks, and Hispanic gain. Blacks in the Administration are approaching numbers representing the population at large. According to the Census Bureau, 13.6 percent of Americans are black. Thirteen percent of Obamas top decision makers are black as well. Women, however, are still underrepresented in respect to their portion of the population.

<http://solitarywatch.com/2011/09/08/a-form-of-torture-testimony-of-laura-magnani-on-solitary-confinement/>

Excerpts from this previous Solitary Watch article on the nations largest prison system.

Statement of Laura Magnani at Hearing of California Assembly Public Safety Committee, August 23, 2011.

Our research found that California houses close to 4,000 prisoners in security housing units and close to 14,500 in some form of segregation administrative, psychiatric, protective custody etc. Though statistics are not released about the racial breakdown in these units, our estimate is that the people held there are over 90% people of color.

Lets assume the estimate of 90% is correct and take a look at the populations involved.

The State of Californias 2012 demographics:

Persons of

Asian descent 13.9 %

African American descent 6.6%

Hispanic or Latino origin, 38.2%

White not of Hispanic origin, 40.1%

(This includes a substantial number of diverse groups such as Jews, Iranians, Arabs.)

The prison system, like the state as a whole, lacks a racial/ethnic majority among its population, with Hispanic inmates making up approximately 37% of the population,

And African American and white inmates each representing about 27%,

and other inmates representing 8% as of 2006.

So if the numbers in the SHU would be equal to the states prison population it would mean

$37\% + 27\% + 8\% = 72\%$  people of color

(Verse the 90% estimated, without access to the actual numbers, by an activist group.)

This leaves 27% white.

(Source Wikipedia California Prisons)

This doesn't sound like such a dramatic imbalance when we know the actual numbers and hear the case studies of assaultive behavior above.

There is a higher percentage of blacks and lower percentages of whites incarcerated.

There is room for debate as to why, with racism playing a role but not an exclusive one.

Why then do we get side tracked with race issues when it is a human rights concern?

I forgot to reply to the statement that it was the Bush administration in charge when the report was made. I still find it unlikely that Alberto R. Gonzales, a Hispanic, who served as the 80th United States Attorney General from February 3, 2005 September 17, 2007 was fulfilling a racist agenda by not supplying Federal numbers. The states are independent from the federal control of the info what I have read.

Incompetence is a more likely reason for not gathering this data and making it available to the public. Just look how hard it has been to get statistics on the number that have successfully enrolled for health insurance plans under Obama Care.

In addition it is highly likely that many minority inmates were arrested, judged, and sentenced by someone that looked like them in cities with mayors and police chiefs who also looked like them.

The time has passed when this was not the case.

The question Knowles posed above would seem a better place to do some research in order to stop the flow of inmates entering the hole no matter what their color.

No one can draw more out of things, books included, than he already knows. A man has no ears for that to which experience has given him no access.

Friedrich Wilhelm Nietzsche 1844-1900

So I tend to believe those that have direct experience. Let's take a look at two prisoners who were there when the drastic increase in minorities being incarcerated.

The late 1960s forward. According to Edward Bunker up until that time whites were still about 70% of the incarcerated population in San Quentin and he witnessed little racial tension. Then he noted in this article:

Harpers Magazine Feb. 1972

War Behind Walls

Page 4, a religious doctrine of hate:

what increases racial polarization in prison beyond conciliation is the mutative leap in black militant rhetoric. This rhetoric is heard within prison walls by unsophisticated minds and gives those blacks that already hate whites a rationale for murder.

Everyone understands that blacks have been brutalized by generations of institutional racism, and recently by inertia and indifference. What the sympathetic fail to grasp is that sometimes the psychological truncation is so great that it cannot be repaired. Nothing is left but hate. They have no desire no motivation for anything but revenge

This view is echoed in this UT Law article covering a Hispanic American personal experience in the Texas prison system.

In Texas prisons, violence and racism reign  
by Jorge Antonio Renaud

Published: Nov. 22

Jorge Antonio Renaud, a graduate student in the School of Social Work, spent 27 years in Texas prisons. This post is part of a Know series on the Texas prison system.

Excerpt:

Relieved of the certainty that random violence might result in deadly retaliation, incoming gang bangers overwhelmingly black and Hispanic brought their street codes into prison: the drive-by mentality took hold, and it was visited against Anglos. These cons didn't limit their violence to enemies they adopted the attitude that any white boy was fair game, and that he could and should be broken by continual, unexpected gang beatings administered regardless of whether he fought back, or whether he showed heart. The unwilling joined white supremacy gangs for protection, while those men weary of constant beatings became sex slaves and cash cows.

Supporting evidence from Texas Observers article Cruel and Unusual Still

Justice, Wayne Justice of Texas wrote in 1999:

Texas prison inmates continue to live in fear a fear that is incomprehensible to most of the states free world citizens. More vulnerable inmates are raped, beaten, owned, and sold by more powerful ones. Despite their pleas to prison officials, they are often refused

protection. Instead, they pay for protection, in money, services, or sex. Correctional officers continue to rely on the physical control of excessive force to enforce order. Those inmates locked away in administrative segregation, especially those with mental illnesses, are subjected to extreme deprivations and daily psychological harm. Such practices and conditions cannot stand in our society, under our Constitution.

Here is a quote from the Supreme Court?

U.S. Supreme Court Justice Harry A. Blackmun, *Farmer v. Brennan*:

The horrors experienced by many young inmates, particularly those who are convicted of nonviolent offenses, border on the unimaginable. Prison rape not only threatens the lives of those who fall prey to their aggressors, but it is potentially devastating to the human spirit. Shame, depression, and a shattering loss of self-esteem accompany the perpetual terror the victim thereafter must endure.

Here are the uncomfortable facts uncovered by researchers and validated by my own personal observations.

The Davis study:

One theme that emerges clearly from the US literature is the racially biased nature of sexual victimization. The striking difference was in the victim group, where whites were greatly over-represented.

Reflecting more generally on this imbalance, Knowles (1999: 268) remarked that: This racial inequality may be the largest in any violent crime committed in the United States. As he saw it the question to be answered was: What are the social forces that drive blacks to repeatedly and exclusively rape whites?

More than 30 years after Davis completed his study, Human Rights Watch (2001) indicated that little had changed and that victims remained predominantly white.

Human Rights Watch published a report about this: *No Escape: Male Rape in US Prisons*

Inter-racial sexual abuse is common only to the extent that it involves white non-Hispanic prisoners being abused by African Americans or Hispanics. In contrast, African American and Hispanic inmates are much less frequently abused by members of other racial or ethnic groups; instead, sexual abuse tends to occur only within these groups.

Past studies have documented the prevalence of black on white sexual aggression in prison. These findings are further confirmed by Human Rights Watch's own research. Overall, our correspondence and interviews with white, black, and Hispanic inmates convince us that white inmates are disproportionately targeted for abuse.

Jorge Antonio Renaud in closing wrote:

This aspect of Texas prisons results in thousands of men leaving the system with a predator mentality or a raging racism buried so deep it might never be eradicated. Reducing barriers to reentry is one thing; understanding and relieving the trauma this unceasing violence leaves on the thousands of Texans returning to our streets is another.

The solution to reducing racism is to stop feeding the hate mongers new excuses to hate.

These data were gathered (in 2005, during the prior administration) by the federal government, but they report results in state prisons, not federal. The federal Bureau of Prisons declined to report the relevant information for its facilities.

The professor wrote:

While no BJS publication directly addresses the issue, and no BJS dataset allows its full analysis, it is possible to glean something from the most recent BJS prison census. Of course evidence of disproportion does not demonstrate racial discrimination; it is possible that whatever disproportion exists has other explanations.

The BJS is in control of the data through the OJP.

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I find it highly unlikely that these three African Americans are overseeing a racist system.

Such arguments were more credible a generation ago.

Let's focus on eliminating the abuse and refrain from fueling the racial divide in our prisons. Every article like this is used by inmates to incite violence. Of course the violence then gets people sent to the hole. So you're only indirectly hurting the very people that you wish to help when using such incomplete statistics.

This article is no more accurate than the recent articles which claimed Silverstein and Fountains' actions brought the supermax to the US. These three articles on Silverstein verge on plagiarism but whether plagiarism or just group thinking they are dangerous and simple minded.

I expected more original thinking from one of the nation's best law schools.

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Solitary Watch

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