The Prison Journal

http://tpj.sagepub.com

Racial Desegregation in Prisons

Chad R. Trulson, James W. Marquart, Craig Hemmens and Leo Carroll

The Prison Journal 2008; 88; 270
DOI: 10.1177/0032885508319208

The online version of this article can be found at:
http://tpj.sagepub.com/cgi/content/abstract/88/2/270

Published by:

http://www.sagepublications.com

On behalf of:

Pennsylvania Prison Society

The Prison Journal
Volume 88 Number 2
June 2008 270-299
© 2008 Sage Publications
10.1177/0032885508319208
http://tpj.sagepub.com
hosted at
http://online.sagepub.com

Racial Desegregation in Prisons

Chad R. Trulson
University of North Texas, Denton
James W. Marquart
The University of Texas at Dallas, Richardson
Craig Hemmens
Boise State University
Leo Carroll
University of Rhode Island, Kingston

This article examines the history, law, and research on racial desegregation in American prisons. It focuses on the 2005 U.S. Supreme Court case of *Johnson v. California,* in which the Court held that prison administrators cannot racially segregate inmates unless under extraordinary circumstances to maintain the security of inmates, staff, and institutions. This article also examines evidence on attitudes and outcomes of racial desegregation in prisons. It ends with a discussion of racial desegregation mandates and policy change in prison organizations.

Keywords: *desegregation; prisons; prison violence integration;* Johnson v. California

When Eric Balagot, a tattooed and violent White supremacist, stepped onto the recreation yard in 1998 at the New Hampshire State Prison at Concord, little did he know that his head would be stomped so hard that James Skinner's shoe tread would leave an impression on his skull—a beating that also left him dead. Skinner, a Black inmate, was charged with murder, claimed self-defense, and was acquitted. The New Hampshire State Prison

Author's Note: The research contained in this document was coordinated in part by the Texas Department of Criminal Justice under Research Agreement No. 016-R99. The contents of this publication reflect the views of the authors and do not necessarily reflect the views or policies of the Texas Department of Criminal Justice. Please address correspondence to Chad R. Trulson, Department of Criminal Justice, University of North Texas, Box 305130, Denton, TX 76203; ctrulson@unt.edu.

System at Concord was faced with allegations that prison officers failed to protect inmates from racial assaults by letting them on the yard, unsupervised, with racial enemies.

Penitentiaries hold disproportionate numbers of the most violent and least stable individuals in American society (Jacobs, 1983). It should cause little surprise to learn that race has been and continues to be one of the most salient influences on prisoner behavior (Irwin, 2005, p. 85; Jacobs, 1983). Research and other media have portrayed the prison environment as fraught with racial tensions and violence—that the American prison has gone helter skelter, a place in which inmates self-segregate and avoid and racial tensions and violence dominate their days.[1] As Jacobs (1983, p. 78) explained, "It is hard to imagine a setting that would be less conducive to . . . race relations than the prison." Events such as the 2006 Los Angeles County Jail race riots periodically remind us of the reality of Jacobs's statement.

What would be surprising to learn, however, is that race is being used less and less in prison settings as a factor affecting housing assignments. Despite instances of race riots, disturbances, and racially motivated killings, no other institution in American society has arguably made more progress with desegregation in the past 30 years, in kind and degree, than have prisons. Indeed, desegregation is occurring in one of the most unlikely of places in the prison setting—the double cell.[2]

The rich history of racial segregation in American prisons belies the changes occurring today. Well after institutions in the wider society were desegregated, prisoners remained largely segregated by race. In some systems, especially in the South, entire prisons were racially segregated, and this practice occurred well into the 1960s (Jacobs, 1983). A 1963 publication from one southern prison system made note of the degree of segregation in their facilities:

> The type of prisoners are White, first offenders of all ages. . . . habitual criminals and negroes over the age of 25. . . . Latin American first offenders and the best rehabilitative prospects under 25. . . . A prison farm where first offenders, negroes, are confined. (Hammett, 1963, pp. 92-93)

This narrative is not much different than the practices of other state prison systems at the time (see Chilton, 1991; Harris & Spiller, 1977; Irwin, 1980; Oshinsky, 1996; W. Taylor, 1993, 1999; Yackle, 1989).

Those systems without the resources or inclination to segregate entire prisons remained racially segregated in such areas as camps, buildings, cellblocks, dormitories, and job assignments. Crouch and Marquart (1989, p. 246)

commented on racial segregation in Texas, where following unit desegregation in 1965 (e.g., Whites, Blacks, and Hispanics could live in the same prison), the Texas prison system still maintained segregated field squads such as "White line," "Black line," and "Mexican line" where the squads would disperse from "all White tanks," "all Black tanks," and "all Mexican tanks." Parchman Farm in Mississippi was "divided into fifteen field camps . . . segregated only by race and sex" until federal district court judge William Keady in *Gates v. Collier* (1972) ordered Parchman officials to "eliminate all racially discriminatory practices at the prison" (Oshinsky, 1996, pp. 138, 247).

Because they held society's rejects, there was little concern that penitentiaries like Parchman Farm in Mississippi or Eastham in Texas lagged 10 or 20 years behind the progress of institutions in the wider society concerning racial desegregation. Prisons held a different and more violent clientele, and there were certain free-world changes that simply did not apply. This logic of exclusion applied not only to racial desegregation, but to everything from living conditions, to health care, to inmate discipline. Indeed, in the 1960s and continuing through the 1990s, 48 state prison systems had at least one institution declared unconstitutional, and several entire systems violated the Constitution because prison administrators believed certain rights and privileges should never apply to prisoners (Feeley & Rubin, 2000; Schlanger, 1999).

Despite the barrage of court rulings that led to the transformation of American prisons in the 1960s, 1970s, and beyond, the racial caste system that characterized penitentiaries in the United States, especially in the South, survived the wrath of the federal courts largely unscathed. Desegregation cases and decrees, or cases that involved a desegregation component, lingered as unwelcome add-ons in the federal courts for years. This was perhaps for many reasons. During the most intense push of the federal courts to constitutionalize correctional systems, desegregation issues were often superseded by larger and more encompassing conditions of confinement cases involving such issues as violence, overcrowding, discipline practices, and medical care. As these major prison issues were remedied, desegregation became the last great prison case—a relic of the hands-on era that had long since passed.

A tell-tale indication of the remaining vestiges of racial segregation in prison settings today comes from the U.S. Supreme Court case of *Johnson v. California* (2005). This case represents the culmination of nearly 40 years of the courts dealing with prisoner racial segregation. In *Johnson,* the Court held that prisons must operate by the same rules as the wider society when it comes to the use of race—prison managers cannot use race to segregate

inmates except under extraordinary circumstances to ensure the safety and security of inmates, staff, and institutions. According to the Court, "by insisting that inmates be housed only with other inmates of the same race, it is possible that prison officials will breed further hostility among prisoners and reinforce racial and ethnic divisions" (*Johnson v. California,* 2005, p. 7). It is against the backdrop of the rich history of prisoner segregation in the United States, and the recent case of *Johnson v. California,* that we examine 40 years of progress toward racial desegregation in prisons and, in particular, the desegregation of prison cells.

A Current Affair: Racial Segregation in California Prisons

In the California prison system, inmates are assigned to two-person cells by race during the reception process and at their long-term prison unit. Although inmates in California may choose a cell partner of a different race, they are not required to do so.[3] Inmates who do not choose a cell partner (either of the same or a different race) are assigned to a racially segregated cell by default through an unofficial practice that has occurred for decades in the California prison system. Thus, the chance of a California prison inmate being assigned a cellmate of a different race is "pretty close to zero percent" (*Johnson v. California,* 2005, p. 1).

California prison officials use racial segregation to prevent violence among rival gangs aligned along race and ethnicity (J. Taylor, 2004). Because administrators lack detailed information about inmates at reception (such as gang affiliation, racial animosity, etc.), the belief is that all inmates must be segregated by race so that administrators can have time to observe and evaluate their security needs for proper housing ("Ninth Circuit Court," 2004). The same rationale of preventing racial violence is used to justify racial segregation on inmates' arrival at their long-term prison unit. The claim is that gang membership along racial and ethnic lines is so prevalent on the "mainline" that any racial mixing will foment violence. Therefore, in California's prison system, race functions as a proxy for gang membership, and gang membership is used as a proxy for violence (*Johnson v. California*, 2005). As a result, California prison inmates are not forcibly desegregated within cells throughout the duration of their sentence.

In 1995, California prison inmate Garrison Johnson filed a complaint in the U.S. District Court for the Central District of California challenging the California Department of Corrections' (CDC's) blanket practice of segregating

inmates by race in housing assignments. Johnson wrote in his handwritten complaint to the court that inmates "are housed in a two-man cell based on their ethnicity, which provokes racial tension and riots among different ethnic groups within California's prison systems" (Khoo, 2005, p. 14). After years at the district court level, where the CDC ultimately prevailed, the Ninth Circuit U.S. Court of Appeals on writ of certiorari upheld California's racial segregation practices in 2003 (*Johnson v. State of California,* 2003). The Ninth Circuit held that the CDC's practice of racially segregated housing assignments was constitutional when reviewed under the rational basis test articulated by the U.S. Supreme Court in *Turner v. Safely* (1987). Under this test—the test traditionally used in prisoner rights cases—prison practices such as racial segregation are considered valid if they are reasonably related to a "legitimate penological interest," such as security, control, and rehabilitation. After 10 years of traveling through the federal court system, in 2005 the case reached the U.S. Supreme Court on writ of certiorari.[4]

The U.S. Supreme Court held in *Johnson v. California* (2005) that the use of racial classifications involving prisoner housing assignments must be evaluated under the standard of strict scrutiny instead of the more deferential rational basis test. The Court in *Johnson* did not go so far as to conclude that California's racial segregation practice constituted an equal protection violation. Rather, in a 5-3 decision, the Court reversed and remanded the case back to the Ninth Circuit, holding that the Ninth Circuit should have applied strict scrutiny in the first instance.[5] The Court's majority held that all racial classifications are inherently suspect and must be reviewed under strict scrutiny—even in prisons. Unlike the more deferential rational basis test announced in *Turner v. Safely* (1987) and applied by the Ninth Circuit, under strict scrutiny a prison system would have to prove that "racial segregation is narrowly tailored only to achieve prison safety and that no other method will keep the prison operating securely" (Khoo, 2005, p. 14)—a much higher burden to meet.

The bottom-line implication of the *Johnson v. California* (2005) decision is that unless compelling reasons exist to discriminate by race in housing assignments, including double-cell housing assignments, blanket policies of racial segregation are no longer legally defensible according to the Court.

California Is Not Alone

The reality, as opposed to the legality, of racial segregation policies and practices, is that the racially segregated celling of prison inmates continues

in U.S. prison systems to varying degrees (Henderson, Cullen, Carroll, & Feinberg, 2000).[6] Although the *Johnson v. California* (2005) case dealt with California's practice of automatic racial segregation in reception centers, evidence suggests that California is not alone in the practice of racially segregating inmates.

The only empirical evidence on the extent of racial segregation in American prisons comes from a national survey of U.S. prison wardens in 2000 by Henderson and colleagues. This study revealed that 45% of wardens reported that that their Department of Corrections does not have an official policy of racially integrating inmates within cells (Henderson et al., 2000). Almost 3% of wardens reported that inmates are not housed in racially integrated cellblocks, and another 37% of wardens indicated that cellblock integration was discretionary. Moreover, nearly 60% of prison wardens revealed that inmates within their institutions may request an exemption from being integrated with an inmate of a different race, subject to the warden's discretion. Henderson and colleagues summarized the state of racial desegregation in American prisons by noting that "the racial integration of prison cells is largely left to the discretion of the prison warden" (pp. 305-307)—and that among inmates sharing a cell in U.S. prisons, only 30% of these cells are integrated by race.

The best evidence shows that California may not represent the last vestige of segregation in American prisons.[7] As a result, the *Johnson v. California* (2005) decision has important ramifications for prison systems around the country that appear to racially segregate their prisoners outside of the legitimate and extraordinary circumstances noted by the Court.[8]

The Litigated Path to Prisoner Desegregation

The path to prisoner desegregation has spanned nearly 4 decades. In this section, we first examine the U.S. Supreme Court's decision in *Lee v. Washington* (1968), the first prisoner racial segregation case heard by the Court. We then examine the various rulings by lower federal courts interpreting *Lee* and, specifically, cases dealing with prison officials' concerns that desegregation would result in racial violence—perhaps the most contentious aspect of prisoner desegregation cases in the courts. This section ends by examining the opinions in *Johnson v. California* (2005), only the second case ever heard by the U.S. Supreme Court dealing directly with inmate racial segregation.

Lee v. Washington (1968): Desegregation Absent "Particularized Circumstances"

In 1966, a three-judge panel from the Middle District of Alabama held in *Washington v. Lee* (1966) that an Alabama statute requiring the blanket racial segregation of prisoners was unconstitutional. On appeal, the U.S. Supreme Court affirmed *per curiam* the District Court's ruling in *Lee v. Washington* (1968). In concurrence, Justice Black, joined by Justices Harlan and Stewart, remarked,

> In joining the opinion of the court, we wish to make explicit something that is left to be gathered only by implication from the Court's opinion. This is that *prison authorities have the right, acting in good faith and in particularized circumstances, to take into account racial tensions in maintaining security, discipline and good order in prisons and jails* [italics added]. We are unwilling to assume that state and local prison authorities might mistakenly regard such an explicit pronouncement as evincing any dilution of this Court's firm commitment to the Fourteenth Amendment's prohibition of racial discrimination. (*Lee v. Washington,* 1968, p. 334)

This brief concurring paragraph led to several questions about the desegregation of prison inmates. For example, the Court never explained how desegregation was to be accomplished (e.g., voluntary or forced) or which "particularized circumstances" might justify the segregation of the races as these circumstances were never defined (such as racial tensions or a limited racial disturbance vs. a full-scale race riot). The Court also failed to clarify whether such particularized circumstances, provided they were valid, implied a temporary or long-term practice of racial segregation or whether such segregation should then apply to an entire prison, a certain housing area within the prison, or simply to certain individuals. The Court also neglected a discussion of the degree of desegregation mandated, for example, in two-person or multiple-occupant cells, in dormitory housing areas, or all of these areas or if simply some aspect of broader desegregation would suffice (e.g., general cellblock desegregation but not on tiers of the cellblock).

Racially segregated institutions of varying degrees continued after *Lee v. Washington* (1968) primarily because of these questions, and undoubtedly because of the steadfastness of prison administrators (especially in the South) in the hands-on era to buck the authority of the Court's opinions pertaining to prison administrative issues (Feeley & Rubin, 2000; Schlanger, 1999). Even in the 1972 decision of *Cruz v. Beto*, in which the Court adopted the

language in Justice Black's concurrence that the racial segregation of inmates might be permissible when necessitated by institutional security needs, the Court did not explicate what might constitute such "particularized circumstances." Since *Lee* and *Cruz,* the Court has not directly addressed the issue of racial segregation in prisons. As a result of the ambiguities of *Lee*, a "wait-and-see" attitude prevailed among prison authorities on the issue of desegregating prison inmates—leaving it to the lower federal courts to evaluate what constitutes the sort of special circumstances that might permit correctional administrators to use a policy of racial segregation (Jacobs, 1983, p. 84).

Lower Federal Court Cases and Fear of Violence

One of the most contentious aspects of desegregation cases in the lower federal courts was the position taken by administrators, correctional officers, and inmates that desegregation would result in extreme racial violence (Harris & Spiller, 1977). According to prison administrators, such fears satisfied the "particularized circumstances" requirement announced in *Lee v. Washington* (1968; although these circumstances were never defined), and thus justified the continued segregation of inmates by race. Even in the Court's ruling in *Johnson v. California* (2005), California officials rested the major portion of their case on the belief that racial violence would ensue following a desegregation policy—thus asserting that the segregation practice was not because of racism but rather for the protection of inmates (see discussion on *Johnson* below).

There have been numerous cases in the lower federal courts in the past several years that have dealt with inmate racial segregation (Trulson & Marquart, 2002b). Overall, courts have been reluctant to accept claims that racial tensions and vague fears of racial violence are enough to justify racial segregation. Below are a few passages from these court decisions:

> Racial tensions do not constitute a license for "violent resistance". . . . Rather, the tensions generate a need for a higher degree of restraint, for those who follow the path of "violent resistance" will not halt desegregation, but will merely bring their own conduct to a halt by disciplinary action and criminal sanctions. (U.S. District Court for Northern District of Georgia in *Rentfrow v. Carter*, 1968, p. 6)
>
> If disruptions would occur as a result of the desegregation of this facility we would expect that administrators would take appropriate action against the offending inmates . . . the image of the entire Nebraska penal system being held at bay by 50 prisoners is unacceptable . . . to reward them for their

> intransigent racial attitudes, cannot be legally sanctioned. (Eight Circuit Court of Appeals in *McClelland v. Sigler,* 1971, p. 1267)
>
> Segregation in the Wyandotte County Jail finally boils down to . . . a vague fear on the part of the authorities that desegregation may result in violence. This is not enough. (Tenth Circuit Court of Appeals in *United States v. Wyandotte County, Kansas*, 1973, p. 7)
>
> Because integration has not even been attempted . . . within the past ten years, prison officials could not have had any experience with the effects of integration on which to base their apprehensions. (Ohio Federal District Court in *Stewart v. Rhodes,* 1979, p. 1188)
>
> The general rule is clear: a generalized or vague fear of racial violence is not a sufficient justification for a broad policy of racial segregation. (Fifth Circuit Court of Appeals in *Sockwell v. Phelps,* 1994, p. 7; see also Rideau & Sinclair, 1985)
>
> The court is wary of being seen to test the resolve of inmates who announce that their hate will make them violently disposed to other races if they are locked together. No amount of violence, large or small, to prove one's eligibility for a single-race cell will be rewarded by the state or by this court . . . an inmate who proves that he is both a bigot and violent will face consequences much worse than an undesirable cellmate. (U.S. District Court for the Southern District of Texas in *Lamar v. Coffield,* 1996, pp. 630-631)

Administrators, correctional officers, and inmates have all argued in the lower federal courts for racial segregation policies because of fears of violence.[9] Some lower federal court cases dealt with desegregation in larger living areas such as dormitories and cellblocks. Other cases dealt specifically with in-cell desegregation. Some cases dealt with particular institutions, and others involved entire systems. However, to those arguing for a policy of racial segregation from fears of violence, the courts have consistently held that general, vague, or speculative fears of racial violence are not sufficient reasons for racially segregating inmates, that although segregation may be necessary in some circumstances, it should only be a temporary expedient to the safe and secure operation of prison settings.

Johnson v. California (2005): Fear of Racial Violence Revisited

With the exception of *Cruz v. Beto* (1972) and *Hudson v. Palmer* (1984), where in citing *Lee v. Washington* (1968) the Court remarked that racial segregation and discrimination is "as intolerable within a prison as outside, except as may be essential to prison security and discipline" (p. 523), the

Court has not dealt with a case involving inmate racial segregation since *Lee v. Washington*.

This changed in 2005 with the case of *Johnson v. California* (2005). In oral arguments before the Court in November 2004, the California Attorney General's office argued that CDC prisons were "ground zero" for prison and street gangs aligned along race and ethnicity and that desegregation would result in violence. However, the CDC failed to put forth any substantial evidence that segregation in reception centers was necessary to prevent race-related violence and did not present evidence of one single incident of interracial violence in the CDC.[10] Although Justice Scalia sarcastically remarked that the CDC would say that "proves that their policy is very effective" (p. 7), like other lower federal court cases just presented, the Court was reluctant to accept the impending racial violence argument because desegregation had never been attempted in California's prisons.

Three months after oral argument, on February 23, 2005, the U.S. Supreme Court held in a 5-3 decision that segregation was impermissible unless deemed compelling under a proper strict scrutiny analysis. In a reversal and remand, the Court ruled that California's unwritten practice of racially segregating inmates must be subject to strict scrutiny analysis instead of the more deferential rational basis test applied by the Ninth Circuit. Delivering the majority opinion for the Court, Justice O'Connor wrote,

> We have held that all racial classifications . . . must be analyzed by a reviewing court under strict scrutiny. Under strict scrutiny, the government has the burden of proving that racial classifications are narrowly tailored measures that further compelling governmental interests. . . . The CDC claims that its policy should be exempt from our categorical rule because it is neutral—that is, it neither benefits nor burdens one group or individual more than any other group or individual. In other words, strict scrutiny should not apply because all prisoners are "equally segregated."
>
> The need for strict scrutiny is no less important here, where prison officials cite racial violence as the reason for their policy. As we have recognized in the past, *racial classifications threaten to stigmatize individuals by reason of their membership in a racial group and to incite racial hostility* [italics added]. Indeed, by insisting that inmates be housed only with other inmates of the same race, it is possible that prison officials will breed further hostility among prisoners and reinforce racial and ethnic divisions. *By perpetuating that race matters most, racial segregation of inmates may exacerbate the very patterns of violence that it is said to counteract* [italics added].
>
> The CDC invites us to make an exception to the rule that strict scrutiny applies to all racial classifications, and instead to apply the deferential standard of review articulated in *Turner v. Safely* (1987). . . . We decline the invitation.

> . . . In the prison context, when the government's power is at its apex, we think that searching judicial review of racial classifications is necessary to guard against invidious discrimination. Granting the CDC an exemption . . . would undermine our unceasing efforts to eradicate racial prejudice from our criminal justice system. (*Johnson v. California,* 2005, pp. 4-8)

In addition to suggesting that racial segregation could "threaten to stigmatize individuals," thus using the desegregation rationale applied in desegregation cases involving schools and other public places in the wider society, the Court went further and said that segregation could actually incite racial hostility and lead to the racial violence it is supposed to prevent. Thus, the justification for desegregation in prisons was clarified by the U.S. Supreme Court in *Johnson v. California*: (a) It is precedent in the Court that all racial classifications be subject to strict scrutiny analysis, even in prisons; (b) segregation could lead to stigmatization; and (c) segregation could incite racial hostility and lead to race-based violence.

In *Johnson,* there was one concurring opinion, and two dissenting opinions. Justices Ginsburg, Souter, and Breyer concurred in the decision but disagreed that strict scrutiny applies to "all racial classifications." They asserted, however, that the use of race in California's prisons warrants "rigorous scrutiny."

Justice Stevens dissented in the case. He felt that the Court should have ruled California's practice unconstitutional and in violation of the Equal Protection Clause of the Fourteenth Amendment. He remarked that

> the California Department of Corrections (CDC) has had ample opportunity to justify its policy during the course of this litigation, but has utterly failed to do so . . . nor has the CDC made any offer of proof to suggest that a remand for further factual development would serve any purpose other than to postpone the inevitable . . . the Court should hold the policy unconstitutional on the current record. (*Johnson v. California*, 2005, p. 21)

Thus, Justice Stevens actually agreed with the majority that the strict scrutiny test should be applied rather than the rational basis test; his disagreement was with the majority's refusal to take the next step and rule in favor of the inmate plaintiff rather than sending the case back to the Ninth Circuit to make a ruling.

Justice Thomas, joined by Justice Scalia, dissented from the majority opinion that strict scrutiny must apply to racial classifications within prison walls. Instead of viewing this as a race case, he viewed it primarily as a prison case. In doing so, he felt that deference should be given to California

prison officials because the practice in California's prisons was to protect inmates' safety—it was not a practice based on racism. He remarked,

> The Constitution has always demanded less within the prison walls. Time and again, even when faced with constitutional rights no less fundamental than the right to be free from state-sponsored racial discrimination, we have deferred to the reasonable judgments of officials experienced in running this Nation's prisons. There is good reason for such deference in this case. California oversees roughly 160,000 inmates, in prisons that have been a breeding ground for some of the most violent prison gangs in America—all of them organized along racial lines. In that atmosphere, California racially segregates a portion of its inmates, in a part of its prisons, for brief periods of up to 60 days, until the State can arrange permanent housing. The majority is concerned with sparing inmates the indignity and stigma of racial discrimination. California is concerned with their safety and saving their lives. I respectfully dissent. (*Johnson v. California,* 2005, p. 29)

For nearly 4 decades, and even in the Court's ruling in *Johnson v. California* (2005), the major argument against inmate racial desegregation was that disorder and racial violence would ensue. Before 2002, however, there was scant empirical evidence to confirm or refute such claims. An examination of the core sociological research in the 1970s and 1980s suggests that the racial violence argument would hold true following a desegregation policy. Recent evidence has suggested otherwise. We examine these perspectives below with an eye toward what is known about the consequences of desegregation in prisons.

The Consequences of Desegregation in Prisons

Early Research on Prisoner Desegregation

Race relations among prisoners had never generated much interest from prison scholars until the early 1970s. Indeed, it took more than 150 years from the discovery of the asylum for a systematic study of race relations and the prison environment to appear. The earliest evidence on race relations in the prison setting suggested that tension, disorder, and violence should be expected with the desegregation of prison inmates.

Leo Carroll (1974/1988) provided the first real glimpse into the racial cleavages in prison settings in his book *Hacks, Blacks, and Cons* (see also Carroll, 1977, 1982). He documented racial polarization and interracial attacks before and after reforms implemented in the Rhode Island maximum

security prison he studied. His figures documenting patterns of informal and formal racial self-segregation in the gym, movie theater, and housing areas are telling as to the attitudes of inmates and administrators concerning racial mixing. In an epilogue to his study in 1988, Carroll noted that the racial tension and hostility that he observed in prisons are endemic to American society, and it should not be surprising to find such tensions and racial avoidance in a prison environment. He maintained, "It is unrealistic to expect to cure in the prison what is one of society's most serious and persistent problems" (Carroll, 1974/1988, p. 236).

Carroll's (1974/1988) findings were generally supported by James Jacobs's (1977) study of Stateville Prison in Illinois. Jacobs's mandate was not focused necessarily on race relations in prison, but this became a central theme of his study of judicial and administrative change in the prison environment. He uncovered a prison world fraught with racial tension and violence, made worse with the importation of race-based street gang members. His outlook on the racial desegregation of prison inmates is perhaps best summarized as he wrote in a later article:

> It should hardly cause surprise to learn that relations among the racial groups of prisoners are extremely tense, predatory, and a source of continual conflict. Prison populations contain disproportionate numbers of the least mature, least stable, and most violent individuals in America. If that were not sufficient to make successful race relations unlikely, prison conditions themselves generate fear, hatred and violence. . . . Racial conflict, including extreme violence and riots, is a reality of institutional life in prisons around the country . . . such settings do not promote understanding among the races; on the contrary they are breeding grounds for racism. (Jacobs, 1982, pp. 120-121)

Irwin (1980) offered perhaps the bleakest view of prison race relations and what to expect with forced desegregation in his book *Prisons in Turmoil*. He documented racially polarized inmate cliques and gangs who were responsible for numerous interracial assaults despite the almost complete segregation of inmates in the California prison system. In this tenuous racial environment, Irwin (1980, pp. 72-73) remarked that "at least Black and White prisoners were not allowed to cell together." Twenty-five years later, Irwin (2005) echoed some of the same feelings when he noted that "race has been and continues to be one of the most salient influences on prisoner behavior" (p. 85).

Others have examined race relations in prisons and generally given the indication that fear, violence, and hatred might be the likely outcome with efforts at forced prisoner desegregation (see, generally, Toch, 1992). Some

of these research efforts have documented racial tensions and violence in juvenile facilities (Bartollas, Miller, & Dinitz, 1976; Dishotsky & Pfefferbaum, 1979), and other efforts have examined prison race relations and violence through the lenses of interracial sexual assault and rape (for an excellent review of these early studies, see Man & Cronan, 2002; also see Carroll 1977; Chonco, 1989; Davis, 1968; Lockwood, 1980; Scacco, 1975; Wooden & Parker, 1982).

Early sociolegal explorations also give some indication of the consequences following desegregation in prisons. Numerous researchers have documented interracial violence in prison settings, particularly in the aftermath of judicial interventions that forced desegregation and attacked traditional mechanisms of prisoner control and existing subcultural arrangements (Chilton, 1991; Crouch & Marquart, 1989; Dilulio, 1987, 1989; Engel & Rothman, 1983; Feeley & Rubin, 2000; Martin & Ekland-Olson, 1987). In Texas, for example, the aftermath of the *Ruiz v. Estelle* (1980) remedies triggered a wave of lethal violence in the Texas prison system. Crouch and Marquart (1989) found that once the building tender (BT) system of inmate guards was dismantled, a power vacuum was created in which inmate groupings, aligned along race and ethnicity, vied for control of the prison. Crouch and Marquart noted that with the loss of the BT system, "racial intolerance and animosities, once controlled and contained, became more overt, creating considerable tension" (p. 193). In the late 1980s, the violence was so extreme that inmates "killed more people in a two year span than had been killed in the twenty years prior" (Ralph & Marquart, 1992, p. 47). One Texas inmate writing in 2001 witnessed the implementation and initial impact of desegregation in Texas in the late 1980s and remarked,

> When the BTs disappeared and the orders came down to integrate cells, all hell broke loose. White prisoners, who had long been in the minority but had taken advantage of life under BTs, were thrown into cells with sworn enemies. . . . A killing spree erupted in Texas prisons that lasted for two years. At the end of each day we'd gather around the radio to listen to the body counts from various prisons. (Doe, 2001, pp. 142-143)

This is not much different from the findings in Mississippi. The end of inmate segregation led to high levels of interracial violence following the *Gates v. Collier* (1972) remedies. Oshinsky (1996, p. 250) noted of Parchman Farm that

> the end of racial segregation . . . led to a surge of gang activity in the cages, as Whites and Blacks squared off to protect themselves. . . . Integrating a

> prison was not like integrating a high school or restaurant . . . power is the game. It is won in two ways: by physical force and by appeals to the worst prejudices.

One inmate in Mississippi proclaimed that "Dis int'gration shit jis ain't gon' go down. Black and White people be diff'rent, 'speshly dem wild town-niggahs an' crazy 'necks'" (W. Taylor, 1999, p. 12). Taylor noted that inmates were difficult enough to control in "segregated cages" and that desegregation turned the Mississippi prison system into a "war zone . . . giving reign to the "law of th' jungle" (p. 8). Desegregated inmates were "facing off, shanks were everywhere, and people 'be gittin' cut'" (p. 12). Georgia experienced some of the same in the aftermath of *Guthrie v. Evans* (1981), which desegregated the Georgia State Prison. Following desegregation, a riot broke out that led to its temporary resegregation (Chilton, 1991). Similar findings were found in Ohio's Lucasville Prison following court intervention that mandated desegregation in *White v. Morris* (1992, 1993; see Henderson et al., 2000).

This brief review of early research on desegregation in prisons suggests that racial violence should be expected and was found in several prison systems in the aftermath of some degree of desegregation. Such findings fueled the beliefs by prison administrators and others that the potential for racial violence provided enough "particularized circumstances" to justify segregated prison systems.

Inmate Perspectives on Racial Desegregation

Systematic evidence of what inmates think about prison race relations and specifically racial desegregation is few and far between. One of the earliest known efforts to document inmate attitudes concerning desegregation comes from a 1986 survey conducted by Sheldon Ekland-Olson (1986) before in-cell desegregation in Texas compelled by *Lamar v. Coffield* (1977). In this random sample survey of Texas prison inmates, Ekland-Olson asked inmates several questions pertaining to desegregation such as "Do you object to having a cellmate of a different race or ethnic origin?" or "If you object to being celled with a member of another race, rate the strength of your objection." From more than 700 inmate surveys, Ekland-Olson revealed that more than one half of all inmates had no objection to celling with a member of a different race. Of those who objected, most cited "differences" or "just can't get along" as the major reasons for refusing to cell with another race, but roughly 40% of objecting inmates held "very strong" objections. Overall, one half of the inmates surveyed did not have objections to celling with a member of a

different race, but almost one half of those who did object held strong or very strong beliefs against desegregation.

One of the most recent studies on inmate attitudes specific to prison desegregation comes from Hemmens and Marquart (1999). In a survey of 775 "exmates" just released from the Texas prison system, Hemmens and Marquart (pp. 240-244) asked exmates two questions specific to race relations and prison desegregation. In the first question, exmates were asked their level of agreement with the statement that "race is a big problem in TDC [Texas Department of Corrections]." White and Hispanic exmates tended to agree or strongly agree with that statement, whereas Black exmates tended to disagree that race was a big problem in TDC. The second item asked exmates to respond to the question of whether "allowing inmates of different races to live in separate living areas is a good idea." Overall, exmates tended to disagree that inmates of different races should be separated in living areas. Black exmates were more likely to support a desegregated housing policy than White or Hispanic exmates, although the latter racial groups still leaned toward desegregated housing.

In the absence of further empirical evidence on inmates' attitudes toward desegregation, anecdotal evidence gives some indication of inmates' feelings. Trulson and Marquart (2001) placed a general request in the Texas prison inmate newspaper, the *Echo,* and asked inmates to respond to three questions concerning whether racial desegregation increased tensions, whether they preferred to be in racially segregated housing, and the limits and benefits to desegregation. Although not a scientific study, Trulson and Marquart (2001) received more than 300 responses from inmates dispersed throughout the Texas prison system. Most of the responses were from White inmates who were steadfastly opposed to desegregation. Below is a typical inmate response against desegregation, many of which used the same analogy as the inmate below:

> So, it's been about 10 years and here you are! Sure, I'll go ahead and throw in a 33 cent stamp, no big deal, this subject has already cost me a few years of my life (freedom). . . . Water and oil do not mix. It's as simple as that. Have you ever been to a zoo? Have you ever seen polar bears in the same cages as lions? Do you know why you haven't? Because it's not natural. Sure you could say the lion and the polar bear have no problems living in the wild together. That's right Chad, they don't. But you put those two mean fuckers together in a 6 by 10 cell and see what goes on. . . . Limits and benefits [of desegregation]. Such a strange question. Limits, hmmmm, ok, fuck you White boy, ho ass blue eyed devil, funky ass cracker, suck a niggers dick,

> give me some of your store you all White folks owe a niga. All of the above are over the limit. (Inmate correspondence to Trulson and Marquart, 2001).

Clearly, this inmate's response, which typified responses from most other White inmates, leaned away from desegregation. Some inmates even expressed a proclivity toward violence to avoid a desegregated cell.[11] As one Texas inmate explained,

> I was racially restricted until the last of 1998. I am still restricted against living with Blacks. I get along with most Hispanics but I will not live with a Black. Plain and simple, if they force it on me I will kill one for them. . . . I would rather be on death row, ready for the needle than to have to do my time in a cell with a Black. It is bad enough having to live with Hispanics, but they at least have a little respect for themselves and their celly. (Inmate correspondence to Trulson and Marquart, 2001)

The bottom line is that the overwhelming majority of inmates responding to this informal survey preferred segregation to desegregation and suggested that it raised racial tensions. Even though there was a likely response bias, some inmates indicated a preference for desegregation, and this type of response was usually from Black inmates. One long-term Black inmate remarked,

> I believe racial integration decreases racial tension because it teaches tolerance of other races. This is good when offenders are released back into society. They will have experienced a multi-racial living environment, and thus, more tolerant in society as a whole. (Inmate correspondence to Trulson and Marquart, 2001)

Not unlike the findings from Hemmens and Marquart (1999), White inmates appeared to be, by the volume and nature of their responses relative to other inmates, most opposed to inmate desegregation. Although there are many possible reasons why Black and Hispanic inmates did not respond, the large response almost solely from White inmates suggests that they are less favorable to desegregation than Black or Hispanic inmates (Doe, 2001). This is not inconsistent with evidence on inmate attitudes toward general race relations in prison settings in which some have concluded that because Whites more often constitute the minority group in prison and are thought to be less organized than Hispanic or Black inmates, they may feel that racial issues are more of a problem because they are not in the presence of a large group of similar others (see, generally, Carroll, 1977, 1982; Hemmens & Marquart, 1999; Irwin, 1980; Jacobs, 1983; Leger, 1988).

Corrections Officials' Perspectives on Desegregation

In a 2004 amicus brief in support of petitioner inmate Garrison Johnson to the U.S. Supreme Court in the case of *Johnson v. California* (2005), six former high-ranking corrections officials rejected the belief that segregation is needed to prevent interracial prisoner violence by noting that desegregation is at odds with the "evolving professional judgment of corrections officials nationwide" ("Brief of Former State Corrections Officials," 2004, p. i). The views of these corrections officials were summarized in the amicus brief: "It is the professional judgment of the *amici* that the CDC's rigid and blunderbuss policy of segregating every double cell in every reception center in the California prison system is contrary to sound prison management" (p. 4). The *amici* relied on several academic studies to support their expert opinions that the racial desegregation of prison cells "generally diffuses racial tensions in prisons" (p. 4).

The only systematic evidence on the beliefs of prison administrators on the desegregation of inmates was provided by Henderson et al.'s (2000) survey of wardens of maximum-security institutions in the United States. Specific to racial violence, wardens were asked whether racially integrating prison cells would increase, decrease, or have no effect on the level of violence within institutions. Although Henderson and colleagues revealed that most prison cells in the nation are not racially integrated, 70% of wardens believed that inmate desegregation in cells would decrease (15.7%) or would have no effect (54.3%) on the level of violence within institutions (p. 304). Thirty-nine percent of wardens reported instances of racial conflict in desegregated cells, but almost 90% of wardens felt that conflict in desegregated cells was much less than (2.1%), less than (5.3%), or about the same as (81.1%) conflict in segregated cells.

Evidence available on the perceptions of former and current high-ranking prison administrators (wardens) on the desegregation of prison inmates demonstrates that prison officials did not feel that desegregation led to any more violence than segregation and in the end suggested that in today's prison environment segregation is contrary to sound prison management.

Large-Scale Prisoner Desegregation in One State Prison System

The only empirical evidence to date on what happens in the aftermath of prisoner desegregation comes from the Texas prison system's experience with forced desegregation. Trulson and Marquart (2002a, 2002b, 2002c)

examined desegregation in the Texas prison system in the aftermath of *Lamar v. Coffield* (1977), a class-action lawsuit out of the U.S. District Court for the Southern District of Texas that forced the Texas prison system to desegregate prisoner housing areas, including double cells.

At the time of the *Lamar v. Coffield* decree in 1977, Texas had a long history of inmate racial segregation. Texas prisons were completely segregated by race until 1965, with separate prison units for White, Black, and Hispanic inmates. In 1965, then–prison director George J. Beto desegregated individual prisons by allowing White, Black, and Hispanic inmates to live in the same prison units. However, all Texas prison housing areas, such as cells, cellblocks, and work squads, continued to be segregated by race. In fact, until 1975 Texas law authorized prison managers to separate and classify inmates by "color" (Trulson & Marquart, 2002b, p. 503). Although this law was changed in 1975, Texas prisons still remained almost completely segregated by race.

In 1977, the Texas prison system entered into the *Lamar v. Coffield* consent decree to avoid judgment that systemwide patterns of discrimination and equal protection violations existed. Among other areas, the decree required the Texas prison system to eliminate the last vestiges of state-sanctioned segregation by developing a plan to assign inmates to housing areas, including double cells, without regard to race. Desegregation did not immediately follow the consent decree of 1977, however. In fact, Texas prison administrators outwardly resisted the decree and in several instances organized inmates to file grievances against desegregation (Trulson, 2002). Prison staff also purportedly asked another inmate to kill Allen Lamar (the inmate plaintiff in the case), burned his legal materials, and threatened to send him home in a "pine box" (*Lamar v. Steele,* 1982, p. 561; Martin & Ekland-Olson, 1987). Such defiance led to nearly 15 years of legal jousting, foot dragging, and intervention by the Department of Justice's Civil Rights Division to coerce the Texas prison system to comply with the decree (see Schlanger, 1999, on the role of the Civil Rights Division in prison cases, including desegregation cases; Trulson & Marquart, 2002c).

Finally, in the face of stiff contempt sanctions and other coercive court actions, in 1991 the Texas prison system submitted a plan to the court for the in-cell desegregation of inmates (Trulson & Marquart, 2002b). The court accepted this plan, and for all intents and purposes, the Texas prison system began desegregating its entire prison system immediately. By 1998-1999, almost 10 years after they stipulated to in-cell desegregation, the Texas prison system had desegregated more than 62% of its double cells, making the Texas prison system the most thoroughly desegregated prison system in

the nation (Trulson & Marquart, 2002a, 2002b, 2002c; cf. also the level of desegregation figures cited by Henderson et al., 2000). By 2006, Texas remained the most racially desegregated prison system in the nation. The Texas prison system desegregates more than 60% of the 20,000-plus double cells in the system, and upward of 80% of double cells in some individual prisons.

The Aftermath: Interracial and Racially Motivated Violence

The federal district court required that the Texas prison system implement a special Incident Data Form to track all inmate-on-inmate incidents in the wake of desegregation. The Incident Data Form had indicators to track whether the incident was interracial, if it involved cell partners, if it was gang related, and if the incident was "racially motivated," among many other areas. Trulson and Marquart (2002a) analyzed 10 years of Incident Data Forms in the Texas prison system. Their analysis included more than 39,000 male inmate-on-inmate assaults in all housing areas from cells to dormitories. Overall, Trulson and Marquart found that 55% of all incidents were intraracial (e.g., Black/Black incident) and 45% were interracial (e.g., White/Black incident) over the decade of the 1990s.

More specific to double-cell desegregation, 6,459 incidents were among cell partners in the Texas prison system from 1990 to 1999. Of those 6,459 cell-partner incidents, 3,382 (or 52%) were among cell partners who were racially desegregated, and 3,077 (or 48%) were among cell partners who remained racially segregated.[12] However, the rate of incidents per 1,000 inmates in the desegregated double-celled population, with the exception of 1991 and 1992, was always lower than the rate of violence among racially segregated double-cell partners. In fact, as more inmates were desegregated over the decade of the 1990s, the rate of interracial and intraracial violence decreased (Trulson & Marquart, 2002a, 2002b, 2002c).

One aspect that is usually neglected in a discussion of interracial prisoner violence is the extent to which interracial incidents are actually motivated by race. Although an interracial assault is necessary for a label of racial motivation, it is not sufficient.[13] There were a total of 1,691 racially motivated incidents in the Texas prison system over the decade of the 1990s. Of those 1,691 incidents, only 333 occurred among desegregated cell partners. Therefore, only 20% of all racially motivated incidents (333 of 1,691), over 10 years in the entire prison system, were attributed to racially mixed cell partners. Moreover, only about 10% of all interracial cell-partner incidents (333 of 3,382) in the Texas prison system were motivated by race, equaling

less than 1 racially motivated attack among desegregated cell partners, per prison unit, per year of the decade of the 1990s in the Texas prison system (Trulson & Marquart, 2002a).

This brief review of the Trulson and Marquart (2002a, 2002b, 2002c) studies suggests that desegregation did not result in the racial Armageddon predicted in the aftermath of prisoner desegregation. In fact, the results revealed that racially motivated incidents were very rare in the Texas prison system in the aftermath of desegregation—and even less likely among desegregated cell partners as compared with non–cell partners in the general prisoner population. This being the only systematic empirical evidence on the aftermath of desegregation in prisons is important because it suggests that in one of the largest correctional systems in the nation, one most similar to California in terms of diversity and presence of racial gangs, desegregation was accomplished absent the extreme racial violence that was predicted by most earlier accounts.

In the Most Unlikely of Places: A Model for Successful Prisoner Desegregation?

Texas desegregates their prisoners without disproportionate interracial or racially motivated violence. They do so in the most unlikely of places—the double cell. Such a finding begs the questions (a) how does Texas desegregate their prisoners and (b) how do they prevent disproportionate interracial and racially motivated violence?

The Texas prison system desegregates inmates in double cells through a random process.[14] In a simplified view, inmates arrive at reception centers from the county jail and are evaluated as to their potential to be desegregated safely. Some inmates are not able to be desegregated for security purposes and are racially restricted from housing with a member of a different race in a cell (but not in a cellblock, cellblock tier, or dormitory and not necessarily for their entire prison sentence). Racial restrictions occur for a defined set of objective reasons, such as a history of racially motivated prison violence, confirmed and active membership in a racial gang, or the crime of commitment's being race related. However, fewer than 1% of all inmates are racially restricted in the Texas prison system, a mere handful of inmates across the system (Trulson, 2002).

Once inmates are determined to be racially eligible for a desegregated cell, they are then assigned to the first available and appropriate cell within a cellblock at the reception center and at their long-term prison unit.[15]

Selecting this cell is race neutral, meaning that the first available and appropriate cell may have an inmate of the same or different race than the newly arrived inmate. Although race is not a factor in cell assignments for those eligible to be desegregated, the Texas prison system does take into account such factors as age, height, weight, crime of commitment, and other objective criteria when assigning inmates to race-neutral cells. Thus, race is excluded, but other rational objective criteria are considered so as to match the most compatible inmates together. In short, Texas attempts to equalize status within cells to give all inmates a fighting chance (Trulson & Marquart, 2002a).

How does Texas avoid racial violence? In addition to equalizing status within cells, perhaps the main reason that desegregation in Texas is accomplished without disproportionate interracial and racially motivated violence is that the small but disproportionately disruptive group of violent and intransigent inmates is removed from the general prison population and isolated, sometimes in single cells (see Irwin, 2005, on a similar strategy in California prisons and its effect on disorder in lower custody level institutions). Texas embarked on a prison building binge in the mid-1990s that gave them space to house the most incorrigible inmates in single cells while allowing the vast majority of regular inmates to do their time without significant tension and fear. Texas also implemented a proactive plan to identify and deal with gang members and members of other security threat groups so as to prevent gang violence, recruiting, and other activities of these types of disruptive groups.

In sum, the Texas experience with desegregation succeeded for two main reasons. First, Texas administrators place a premium on classification aimed at pairing up the most compatible inmates possible, thus promoting equal status in double cells (Trulson & Marquart, 2002a). Second, the prison system created and maintained the necessary space to house intransigent inmates who cause a disproportionate amount of problems in the prison environment. Although other reasons exist to explain the Texas prison system's success with desegregation (see Trulson, 2002; Trulson & Marquart, 2002a), the aforementioned factors helped to reduce tensions and fear of victimization by cell partners and other incorrigible inmates.

Discussion and Conclusions: Prisoner Desegregation and Policy Change in Prisons

Prisons were one of the last institutions to be desegregated in American society. In some states, however, race is being used less and less as a factor

affecting institutional operations—most notably in housing assignments—and prisons have arguably become one of the most desegregated institutions in American society. The state of desegregation in American prison systems is far from uniform, however. Some institutions desegregate cells, some have desegregated cellblocks and dormitories, some do all of these things, and the rest remain racially segregated to different degrees (Henderson et al., 2000). With the *Johnson v. California* (2005) case recently decided by the U.S. Supreme Court, prison systems must avoid policies of racial segregation unless it is the only way that security, control, and rehabilitation can be maintained. Even then, only narrowly tailored policies and practices, based on rational objective criteria and specific to individual inmates, are likely to pass the strictest of judicial scrutiny. This decision, in effect, means that a number of prison systems around the country will have to modify their celling practices and policies to exclude the use of race unless it is warranted by compelling security concerns (Henderson et al., 2000).

Desegregating a prison system marked by years of partial or complete segregation is not as simple as taking race out of the equation and randomly "mixing" inmates in cells after accounting for height, weight, age, or other rational objective criteria. Just as free-world settings such as schools, universities, and restaurants struggled with desegregation, prison systems also face multiple obstacles to get to the point at which racial segregation in housing assignments is the exception rather than the rule. Controversial policy changes such as racial desegregation, whether judicially mandated or not, cause significant waves to pass through the correctional landscape. And all of these changes affect some systems differently than others because no two systems are completely alike.

There is perhaps no best practice or one-size-fits-all model for prisoner desegregation. However, there appear to be some common themes that may influence the potential of an in-cell desegregation policy despite differences both within and between prison systems. One endemic obstacle is fiscal and facility concerns. Institutions in many states are filled to the brim with inmates, sometimes 10%-30% or more over rated capacity. Some of these facilities were built in the 1950s or earlier, and they are dilapidated, cramped, and archaic. Newer institutions are not much better off. Although tight spaces, stress, and frustration are relevant concerns with full prisons, overcrowded institutions are often lacking in the type and degree of capacity to house persistently troublesome inmates. Those systems without the appropriate space have a real challenge, for they are unable to isolate the incorrigible prisoners so that regular inmates may do their time without the pending fear of violence and assaults—an aspect that is perhaps one of the most

important ingredients to successful desegregation (Trulson & Marquart, 2002a). But containing the incorrigible prisoners in separate lockdown areas may be cost prohibitive or otherwise undesirable for many state prison systems, and those systems will have to search for alternative means to deal with persistent and violent inmates. Failing to contain the incorrigible inmates in one way or another can have severe consequences for a desegregation policy.

Another area of concern with racial desegregation is the relationship between staff and inmates. Farmers, loggers, fishermen, and cowboys have been transformed into correctional officers in many areas of the country (Carroll, 2004). Oftentimes, these individuals are rural Whites supervising minority group members (see Carroll, 2004; Jacobs, 1983). The conflict created in this situation is not a new finding in prison research (Jacobs, 1983), but it has important implications for the success of a desegregation policy. Inmate and officer relationships that exist on diverse cultural backgrounds may breed racial tension and inhibit understanding among these groups. This tension may present a significant barrier to desegregation because inmates are asked to do that which some staff may outwardly detest. As Sykes (1958, p. 8) noted years ago, "The prison wall is far more permeable than it appears . . . in terms of the relationships between the prison social system and the larger society in which it rests." What this implies is that prejudice and animosities by staff, including a lack of sensitization to the experiences and views of other racial groups, will clash in the prison environment. This will have an impact on race relations in the prison setting for both staff and inmates and will affect the probability of a successful desegregation policy.

Notwithstanding the racial conflict and tension between staff and inmates, there may also be an important racial divide within staff ranks. Just as the local correctional officers may have issues with the inmate clientele with whom they deal, they have also been found to have issues with minority group staff members transferred from other institutions in the state and/or commuting from an outside area (Carroll, 2004). Carroll (2004) noted these issues: violence, racist remarks, insults, racist organization recruiting, and anger when minority officers receive promotions (see also Huling, 2002). The racial divide in the staff ranks may be no more obvious than the formation of correctional peace officer associations in some states based on race or ethnicity. Examples such as the Association of Black Correctional Officers, the Mexican-American Peace Officers Association, and the European-American Correctional Workers Association may exacerbate

the racial divide among staff. Racial divisions at the line staff level decrease the probability of successful inmate desegregation "because of what the symbol of an integrated society means to people whose own lives and institutions are far less integrated than those of prisoners" (Jacobs, 1983, p. 98). Administrators attempting to desegregate, then, must be attuned to prejudices not only among inmates, but also among staff, and take appropriate action (Carroll, 2004).

Perhaps at the most basic level, the move toward a desegregation policy must be approached in an incremental fashion (see Feeley & Rubin, 2000). Sometimes incremental implementation is a real obstacle, especially if the courts and not prison administrators are dictating the timeline. Rushing a controversial policy change such as inmate desegregation in an unprepared prison environment can have significant consequences at the organizational, staff, and inmate levels. If anything was learned from the relatively successful experience in Texas it is that the necessary ingredients were in place—an updated classification scheme for pairing inmates, space for the incorrigible inmates, administrator and staff buy-in, and time to hone an acceptable policy—before the primary push toward full-scale desegregation. Without such an incremental approach, it is possible that desegregation would have been a miserable failure with massive surges in general disorder and violence affecting both staff and inmates. Indeed, a rushed desegregation implementation may result in few successes and substantial failures early on from which it will become increasingly difficult to cultivate staff and inmates for another shot.

The 2006 racial melee in the Los Angeles county jail system is just another reminder of the tenuous line that exists between different racial groups in correctional settings—an incident that some believe reinforces the need to keep racial groups separated full time. Yet despite these and similar incidents, the California prison system has taken an important step toward ridding their system of racial segregation in housing unless justified by legitimate security-related concerns. Indeed, at the end of 2005, the newly named California Department of Corrections and Rehabilitation settled the *Johnson v. California* (2005) case in mediation and will begin implementing an inmate housing plan that no longer automatically uses race to separate prisoners within double cells. Evidence presented in this article reveals that California is probably not alone in the racial segregation of inmates, however, and the coming years will witness prison systems continuing to deal with the desegregation of prison inmates.

Notes

1. In the popular media, one need only look to shows such as *OZ* for a current example that portrays the prison as fraught with racial tension and race-based violence.

2. We distinguish desegregation from integration. *Desegregation* is removing barriers that separate the races; *integration* is a state of mind that cannot be forced. Also, this perspective is not to suggest that inmates do not still hold race as one of the most dominant influences on their behavior.

3. Two of us toured several California mainline prisons and reception centers in 2005-2006 and observed that cellblocks, dormitories, job assignments, dining halls, and yards are fully desegregated. Cells, however, are almost completely segregated by race, a contention conceded by the CDC.

4. We refer to CDC's "practice" instead of "policy" because the practice of segregating inmates by race is not written but rather a customary procedure that has gone on for years.

5. Chief Justice William Rehnquist did not participate in the decision.

6. The extent to which most other state prison systems and the Federal Bureau of Prisons practice the racial desegregation of inmates is unclear, despite the fact that many appear to have a policy prohibiting racial discrimination. There are very different conceptions of what desegregation actually entails in the various states. The bottom line is that a policy that prohibits racial segregation and discrimination may be much different than a policy that actively calls for racial desegregation, in cells or otherwise. Thus, a policy prohibiting segregation and discrimination is necessary, but it is not sufficient to assume that racial desegregation is occurring.

7. In fact, two of us observed several California prisons in 2005-2006, and this observation revealed that California is perhaps as desegregated as the rest of the country, with the exception of Texas and Oklahoma. These observations revealed desegregated yards, cellblocks, dormitories, and dining halls in both reception and mainline units. Thus, California is not doing something entirely out of the ordinary, for few prison systems have active policies that force in-cell desegregation.

8. A proxy indicator of the level of segregation in U.S. prisons is shown by the fact that there have been nearly 40 federal level cases dealing with inmate racial segregation in U.S. prisons over the past several years. See Trulson and Marquart (2002b).

9. See also the following cases that also required desegregation as a component of a larger conditions-of-confinement case or other reasons not centrally related to the fear of violence argument: *Holt v. Sarver* (1971), *Gates v. Collier* (1972), *Taylor v. Perini* (1972), *Holt v. Hutto* (1973), *Battle v. Anderson* (1974), *Thomas v. Pate* (1974), *Finney v. Arkansas Board of Corrections* (1974), *United States v. Illinois* (1976), *Finney v. Mabry* (1982), *Jacobs v. Lockhart* (1993), *Howard v. Collins* (1997), and *Walker v. Gomez* (2004). This list is not inclusive of all lower federal court cases dealing with inmate segregation.

10. The CDC failed to put forth expert testimony, evidence on violence and disorder, surveys, academic studies, or other evidence to suggest that desegregating prisoners at reception and on transfer would result in violence. The only evidence the CDC provided for its policy was generalized acts of violence that occurred in the CDC's Pelican Bay Secure Housing Unit. However, Pelican Bay is reserved for the most intransigent inmates in California, much different than reception center inmates. The CDC's generalized evidence was unpersuasive to members of the Court, as it has been in numerous lower federal court cases.

11. Although the Texas prison system does not "reward" inmates with a racially restricted cell simply because of violence, a pattern of severe racially motivated violence could result in

a segregated cell or, more typically, single-cell segregation in administrative separation housing areas.

12. After 1993, more double cells in the Texas prison were desegregated than were segregated through the random celling process. Thus, one would expect a higher raw number of interracial incidents by sheer numbers alone. Calculating the rate in each population showed that intraracial incidents occurred at a greater rate than interracial incidents overall and among cell partners (see Trulson & Marquart, 2002a).

13. Racial motivation is not a simple face-value determination that is attached to all interracial incidents; rather, it is a relatively rigorous process in the Texas prison system. See Trulson and Marquart (2002a, p. 761, no. 27).

14. The random celling process is not purely random because Texas prison housing officers do take into account factors to ensure some level of compatibility among inmates. Once these factors are considered, such as height, weight, and criminal history, the selection of the first available and appropriate cell is essentially random.

15. Texas did not desegregate its reception center cells until late 2005 following the *Johnson v. California* (2005) decision. However, the Texas prison system was fully desegregated in mainline prison units. This is because the *Lamar v. Coffield* (1996) decree did not require reception and transfer institutions to be desegregated. Interactions with Texas administrators and on-site visits to reception right before the desegregation of reception centers revealed that Texas administrators believed desegregation would occur without fanfare and would easily become a matter of official policy.

References

Bartollas, C., Miller, S., & Dinitz, S. (1976). *Juvenile victimization: The institutional paradox*. New York: John Wiley.

Battle v. Anderson, 376 F. Supp. 402 (E.D. Okla. 1974).

Brief of former state corrections officials as amici curiae in support of petitioner. Case of Johnson v. California, *No. 03-636* [Amicus brief]. (2004). Carroll, L. (1977). Humanitarian reform and biracial sexual assault in a maximum security prison. *Urban Life, 5,* 417-436.

Carroll, L. (1982). Race, ethnicity, and the social order of the prison. In R. Johnson & H. Toch (Eds.), *The pains of imprisonment* (pp. 181-203). Beverly Hills, CA: Sage.

Carroll, L. (1988). *Hacks, Blacks, and cons: Race relations in a maximum security prison*. Toronto: Lexington Books. (Original work published 1974)

Carroll, L. (1998). *Lawful order: A case study of correctional crisis and reform*. New York: Garland.

Chilton, B. (1991). *Prisons under the gavel: The federal court takeover of Georgia prisons.* Columbus: Ohio State University Press.

Chonco, N. (1989). Sexual assaults among male inmates. *Prison Journal, 68*, 72-82.

Crouch, B., & Marquart, J. (1989). *An appeal to justice: Litigated reform of Texas prisons*. Austin: University of Texas Press.

Cruz v. Beto, 405 U.S. 319 (1972).

Davis, A. (1968). Sexual assaults in the Philadelphia prison system and sheriff's vans. *Transaction, 6*, 8-16.

Dilulio, J. (1987). *Governing prisons.* New York: Free Press.

Dilulio, J. (1989). *Courts, corrections, and the Constitution: The impact of judicial intervention on prisons and jails*. New York: Oxford University Press.

Dishotsky, N., & Pfefferbaum, A. (1979). Intolerance and extremism in a correctional institution: A perceived ethnic relations approach. *American Journal of Psychiatry, 136*, 1438-1443.
Doe, J. (2001, March). Hardcore hate. *Playboy,* pp. 113-118.
Ekland-Olson, S. (1986). *Eligibility for racially integrated cell housing.* Unpublished survey.
Engel, K., & Rothman, S. (1983). Prison violence and the paradox of reform. *Public Interest*, *73,* 91-105.
Feeley, M., & Rubin, E. (2000). *Judicial policymaking and the modern state*. New York: Cambridge University Press.
Finney v. Arkansas Board of Corrections, 505 F.2d 194 (8th Cir. 1974).
Finney v. Mabry, 546 F. Supp. 628 (E.D. Ark. 1982).
Gates v. Collier, 349 F. Supp. 881 (N.D. Miss. 1972).
Guthrie v. Evans, 93 F.R.D. 390 (S.D. Ga. 1981).
Hammett, A. (1963). *Miracle within the walls*. Corpus Christi: South Texas.
Harris, K., & Spiller, D. (1977). *After decision implementation of judicial decrees in correctional settings.* Washington, DC: U.S. Department of Justice.
Hemmens, C., & Marquart, J. (1999). The impact of inmate characteristics on perceptions of race relations in prison. *International Journal of Offender Therapy and Comparative Criminology*, *43*, 230-247.
Henderson, M., Cullen, F., Carroll, L., & Feinberg, W. (2000). Race, rights, and order in prison: A national survey of wardens on the racial integration of prison cells. *Prison Journal, 80*, 295-308.
Holt v. Hutto, 363 F. Supp. 194 (E.D. Ark. 1973).
Holt v. Sarver, 442 F.2d 304 (8th Cir. 1971).
Howard v. Collins, U.S. App. Lexis 32235 (8th Cir. 1997).
Hudson v. Palmer, 468 U.S. 517 (1984).
Huling, T. (2002). Building a prison economy in rural America. In M. Mauer & M. Chesney-Lind (Eds.), *Invisible punishment: The collateral consequences of mass imprisonment* (p. 1). New York: New Press.
Irwin, J. (1980). *Prisons in turmoil*. Boston: Little, Brown.
Irwin, J. (2005). *The warehouse prison: Disposal of the new dangerous class*. Los Angeles: Roxbury.
Jacobs, J. (1977). S*tateville: The penitentiary in mass society*. Chicago: University of Chicago Press.
Jacobs, J. (1982). The limits of racial integration in prison. *Criminal Law Bulletin, 18*, 117-153.
Jacobs, J. (1983). *New perspectives on prisons and imprisonment*. Ithaca, NY: Cornell University Press.
Jacobs v. Lockhart, 9 F.3d 187 (8th Cir. 1993).
Johnson v. State of California, 321 F.3d 791 (2003).
Johnson v. California, 543 U.S. 499 (2005).
Khoo, A. (2005, March 28). The defiant ones: Johnson v. California. *Daily Journal Extra,* pp. 14-16.
Lamar v. Coffield, Civil Action No. 72-H-1393 (S.D. Tex. 1977).
Lamar v. Coffield, 951 F. Supp. 629 (S.D. Tex. 1996).
Lamar v. Steele, 693 F.2d 559 (5th Cir. 1982).
Lee v. Washington, 390 U.S. 333 (1968).
Leger, R. (1988). Perceptions of crowding, racial antagonism, and aggression in a custodial prison. *Journal of Criminal Justice*, *16*, 167-181.
Lockwood, D. (1980). *Prison sexual violence*. New York: Elsevier North-Holland.

Man, C., & Cronan, J. (2002). Forecasting sexual abuse in prison: The prison subculture of masculinity as a backdrop for deliberate indifference. *Journal of Criminal Law and Criminology*, *92*, 127.

Martin, S., & Ekland-Olson, S. (1987). *Texas prisons: The walls came tumbling down*. Austin: Texas Monthly Press.

McClelland v. Sigler, 456 F. 2d 1266 (8th Cir. 1971).

Ninth circuit holds that cell assignments based on race are permissible. (2004). *Harvard Law Review, 117*, 2448.

Oshinsky, D. (1996). *Worse than slavery: Parchman Farm and the ordeal of Jim Crow justice*. New York: Free Press.

Ralph, P., & Marquart, J. (1992). Gang violence in Texas prisons. *Prison Journal*, *71*, 38-49.

Rentfrow v. Carter, 296 F. Supp. 301 (N.D. Ga. 1968).

Rideau, W., & Sinclair, B. (1985). Prisoner litigation: How it began in Louisiana. *Louisiana Law Review, 45,* 1061.

Ruiz v. Estelle, 503 F. Supp. 1265 (S.D. Tex. 1980).

Scacco, A. (1975). *Rape in prison*. Springfield, IL: Charles C Thomas.

Schlanger, M. (1999). Beyond the hero judge: Institutional reform litigation as litigation. *Michigan Law Review, 74*, 1994.

Sockwell v. Phelps, 20 F.3d 187 (5th Cir. 1994).

Stewart v. Rhodes, 473 F. Supp. 1185 (S.D. Ohio 1979).

Sykes, G. (1958). *The society of captives.* Princeton, NJ: Princeton University Press.

Taylor, J. (2004). Racial segregation in California prisons. *Loyola of Los Angeles Law Review, 37*, 139-152.

Taylor, W. (1993). *Brokered justice: Race, policies, and Mississippi prisons 1798-1992.* Columbus: Ohio State University Press.

Taylor, W. (1999). *Down on Parchman Farm: The great prison in the Mississippi Delta.* Columbus: Ohio State University Press.

Taylor v. Perini, 365 F. Supp. 557 (N.D. Ohio 1972).

Thomas v. Pate, 493 F.2d 151 (7th Cir. 1974).

Toch, H. (1992). *Living in prison: The ecology of survival*. Washington, DC: American Psychological Association.

Trulson, C. (2002). *Judicial intervention, desegregation, and interracial prisoner violence: A case study of desegregation in the Texas prison system*. Unpublished doctoral dissertation, Sam Houston State University, Huntsville, Texas.

Trulson, C., & Marquart, J. (2001). *Texas prison inmates on the racial integration of prison cells.* Unpublished survey. (Letters available from Chad R. Trulson, University of North Texas, Denton, Texas; e-mail: ctrulson@pacs.unt.edu)

Trulson, C., & Marquart, J. (2002a). The caged melting pot: Toward an understanding of the consequences of desegregation in prisons. *Law and Society Review*, *36*, 743-782.

Trulson, C., & Marquart, J. (2002b). Inmate racial integration: Achieving racial integration in the Texas prison system. *Prison Journal*, *82*, 498-525.

Trulson, C., & Marquart, J. (2002c). Racial desegregation and violence in the Texas prison system. *Criminal Justice Review*, *27*, 233-255.

Turner v. Safely, 482 U.S. 78 (1987).

United States v. Illinois, Civil Action No. 76-0158 (S.D. Ill. 1976).

United States v. Wyandotte County, Kansas, 480 F. 2d 969 (10th Cir. 1973).

Washington v. Lee, 263 F. Supp. 327 (M.D. Ala. 1966).

Walker v. Gomez,370 F.3d 969 (9th Cir. 2004).

White v. Morris, 811 F. Supp. 1185 (S.D. Ohio 1992).
White v. Morris, 832 F. Supp. 1129 (S.D. Ohio 1993).
Wooden, W., & Parker, J. (1982). *Men behind bars: Sexual exploitation in prison*. New York: Plenum.
Yackle, L. (1989). *Reform and regret: The story of federal judicial involvement in the Alabama prison system*. New York: Oxford University Press.

Chad R. Trulson is an associate professor in the Department of Criminal Justice at the University of North Texas. He has published in numerous professional journals and recently coauthored *Juvenile Justice: The System, Process, and Law* with Rolando V. Del Carmen, published by Wadsworth. His current research examines recidivism among serious and violent state-committed delinquents. He is also finishing a book on the racial desegregation of inmates in the Texas prison system.

James W. Marquart is currently the director of the Program in Crime and Justice Studies at the University of Texas at Dallas. He has published five books and more than 50 refereed articles. His current research involves the long-term consequences of victimization, sexual victimization in prison, desistance from criminal careers among juvenile offenders, and racial desegregation in prisons.

Craig Hemmens holds a JD from North Carolina Central University School of Law and a PhD in criminal justice from Sam Houston State University. He is director of the Honors College and professor in the Department of Criminal Justice at Boise State University, where he has taught since 1996. He has published 10 books and more than 100 articles on a variety of criminal-justice related topics.

Leo Carroll is professor of sociology at the University of Rhode Island. He is the author of numerous articles in professional journals and two books: *Hacks, Blacks, and Cons: Race Relations in a Maximum Security Prison* and *Lawful Order: A Case Study of Correctional Crisis and Reform.* He is currently engaged in research on racial profiling by police and on the constitutionality of conditions in a prison system 10 years after the termination of a totality of conditions suit.