Documenting Detention: Records of Segregation in Two U.S. Prisons

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Abstract: The following research explores the extent to which American prisons demonstrate accountability through recordkeeping for instances of inmate segregation. Segregation is a broad prison management tool that correctional facility administrators deploy to maintain safety and order within a prison. But the application of this management tool has consistently raised legal and ethical questions about its constitutionality. The ensuing legal battles often consult various sources of evidence, with records serving as particularly significant due to their perceived neutrality and objectivity. Conducted during the course of a master's thesis, this study investigates two prisons' segregation practices to provide a systematic inquiry into the intersection of recordkeeping and accountability. After surveying the relevant literature, the researcher describes his use of a holistic multiple-case studies design to conduct several on-site, semi-structured interviews at the Indiana State Prison and the Mississippi State Penitentiary. The research seeks to assess the availability, accessibility, and authenticity of segregation records and highlight the factors that impact them. The research contributes to archival and information science conversations on accountability, records management, and the public interest.

Introduction

The following research explores a fundamental question that has implications for records managers, as well as legal and other professionals who are called into an accountability forum: How do American prisons demonstrate accountability through recordkeeping? Records are essential for judicial bodies, truth commissions, and accountability forums to investigate government abuses and misconduct. Internationally, researchers sampled the Guatemalan National Police Archive to reveal that high-ranking Guatemalan government officials knew of the numerous detentions, deaths, and disappearances that took place during the country's civil war from 1960 to 1996 (Price et al. 2009). Domestically, in 2002 a federal judge approved a settlement agreement between prisoners and the Wisconsin Department of Corrections that stipulated, among other things, a Court approved monitor would "have access to records at [the Supermax Correctional Institution]" in an effort to remedy the unconstitutional treatment of inmates.[1] These cases exhibit that as widespread government-sanctioned abuses come to light, records emerge as a nexus of accountability.

The state of American prisons provides a particular paradigm through which one can interrogate notions of accountability. The scale of incarceration in America is well documented. The United States comprises five percent of the world's population, but incarcerates twenty-five percent of the world's prisoners, a disproportionate amount of whom are black and Latino men (Kirchhoff, 2010 p. ii). However, *that* the United States incarcerates more than any other nation is no indication of *how* the nation incarcerates, a phenomenon raising an opportune moment to examine an extreme "citizen-state interaction" (Cook 1992). This need for research is apparent when considering the testimony of prisoners who experienced segregation:

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[1] United States District Court for the Western District of Wisconsin, Jones'El v. Berge, Case No. 00-C-421-C (W.D. Wis.), filed January 24, 2002, accessed February 4, 2013, http://www.clearinghouse.net/chDocs/public/PC-WI-0001-0003.pdf. For further discussion on the role of records in uncovering human rights abuses, see Caswell (2010).

> …I had no physical contact with another human being for at least 10 of the 18 years I was incarcerated. Today I have a hard time being around a group of people for long periods of time without feeling too crowded. No one can begin to imagine the psychological effects isolation has on another human being…Solitary confinement does one thing, it breaks a man's will to live and he ends up deteriorating. He's never the same person again.[2]

Segregation is a prison management tactic that removes certain offenders from the general prison population and places them into separate units. Prisons typically order an inmate to segregation for disciplinary, administrative, or protective reasons. An inmate's length of stay in segregation varies, but can range from an indefinite amount of years to a predetermined number of months (Browne et al. 2011). Proponents and opponents debate the merits, risks, and costs of segregation, but one fact remains evident: the records of segregation provide a crucial data source for understanding its impact. As Meijer (2001 p. 363) indicates, "before the accountability forum can discuss or sanction government actions, it needs to make a reconstruction of what has happened." That reconstruction cannot proceed without the availability, accessibility, and authenticity of records, and such is the focus of this research.

Literature Review

A requisite framing and analysis of a complex phenomenon necessitates a nuanced comprehension of previous research that spans various academic and professional disciplines. In the context of accountability within American prisons, this includes dedicated discussions of recordkeeping and accountability, the sociology of recordkeeping, and how a carceral environment demonstrates the latter while complicating the former.

Recordkeeping and Accountability

Researchers in the archival and information science research communities have long addressed the intersection of recordkeeping and accountability. Palmer (2000) asserts that good records management is a "safeguard" that can theoretically prevent corruption, fraud, and maladministration. After describing the scale of corruption around the globe, Palmer comments on the potential ineffectiveness of freedom of information laws in democratic nations for their assumption that records and information are "well managed and easily accessible for any citizen" (2000 p. 63). Accountability through recordkeeping, Palmer agues, evinces itself at the micro and macro levels and does so by ensuring the proper expenditure of public funds. Records, Palmer writes, possess the ability to reduce financial malfeasance because they "reflect the mis-classification, mis-description, and under-evaluation of goods and services" (2000 p. 64).

Barata and Cain (2001) consider the role of technology as it impacts accountability and transparency, extending Palmer's claim by stating, "recordkeeping and records management are fundamental building blocks of a functioning public institution" (2001 p. 247). For the authors, much like Palmer, the focus is on financial management and accountability, especially the systems that guarantee reliability and authenticity. A financial records manager, in their view, exists to support internal and external auditors, concluding that good records management is "a powerful means of constraining individuals from engaging in fraud and corruption" (2001 p. 256). The capture of contextual information—date, time, location—is critical for following audit trails and holding public agencies accountable over time.

Tough (2007 and 2011) furthers Palmer's discussion of records and accountability, noting that two forms of the latter exist and professionals and academics conflate them. One form of accountability, probity,

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[2] Testimony by Anthony C. Graves. Presented to the Senate Judiciary Committee, Subcommittee on The Constitution, Civil Rights, & Human Rights. "Reassessing Solitary Confinement: The Human Rights, Fiscal and Public Safety Consequences." June 19, 2012. http://www.judiciary.senate.gov/pdf/12-6-19GravesTestimony.pdf.

seeks to answer "were things done right?" while a different form of accountability, responsibility, seeks to answer "were the right things done?" Tough is very clear that records managers are best served operating in the first domain and archivists in the second. Like Palmer, Tough sees probity as a means of ensuring "public property and funds are used honestly and protected from being siphoned off for private gain" (2007 p. 656). Relying on his experience with the Tanzania Records Management Project (TRMP), Tough concludes that accountability as probity should be the objective of records and information managers, existing only to provide assurance against financial fraud and manipulation.

Meijer (2001, 2003) distinguishes accountability as a social process from accountability as an object. Using Day and Klein's (1987) framework, Meijer identifies six distinct steps in any accountability proceeding, beginning with an event that triggers it and finishing with the sanctions it levies against the person(s) being held to account. Safeguards, according to Meijer, are essential for providing authentic records to an accountability forum and can be either technological or organizational. Meijer selected eleven case studies in Dutch public administration to assess the level of trust accountability forums—such as the National Ombudsman, Administrative Courts, and the National Audit Office—placed in the records created by the department they were reviewing. In no case did forum members question the authenticity of the records, even though in three of the cases the department had implemented neither an organizational nor technological safeguard to ensure its records were free of corruption or tampering. In this sense, the perception of authenticity was the deciding factor for whether to trust a series of records, not the actual measures in place to ensure it. Meijer believes the acceptance of their records into evidence had to do with their department's use of institutional safeguards to certify the legitimacy of documents it created and maintained and that "norms, values, and cognitive scripts" are adequate in the absence of technological or organizational protections (2003 p. 290). Meijer's major contribution is in his model that records become significant for their ability to adjudicate or rectify abuses, whereas Palmer, Tough, Barata and Cain posit that records can prevent or avoid abuses.

Yakel (2001), like Meijer, explored recordkeeping in its social setting by analyzing the creation of radiological reports in radiological reading rooms. Accountability, to Yakel, is a social construct that manifests in the plural as well as the singular. The technical attributes of accountability—systems, technology, and manuals—do not capture the social and cultural practices of individuals within an organization, and as such, archivists and records managers are advised also to evaluate the environment of accountability in addition to its traditional manifestations. Cox and Wallace elevate the understandings of that environment when they highlight the social capacities of recordkeeping and accountability by declaring, "the chief value of records is, in fact, a broad accountability binding individuals with each other and with governments, organizations, and society across space and time…it is records' power as sources of accountability that is for us their most salient feature" (2002 p. 4). From this view and the case studies in their edited volume, records occupy a social as well as technical function that has implications for the extent to which a citizenry can bring those records to bear on the persons entrusted to government and financial business in democratic nations.

Sociology of Recordkeeping

Whereas memory of an event is bound to the sociology of a particular time and place, records of that event exhibit a sociological function. Writing about the recordkeeping practices of police officers and auditors, Van Maanen and Pentland (1994) dispute a positivist paradigm of records and information and contend that records are rather "self-conscious" and "self-interested" in the "impression management" of the overall organization, especially in situations (such as a prison) where adversarial and litigious prospects are at the fore of the work environment. Seen in this light, the "appearance" and "performance" of records are not ancillary to the work culture of auditors and police officers but instead constitute the *sine qua non* for convincing the public that their actions, and by virtue their existence, are justified.

Trace (2002) advances the research of Van Maanen and Pentland when she revisited recordkeeping culture in law enforcement agencies, noting that "records are…designed to produce an effect" and "people are often socialized in the art of record creation and control" (2002 p. 155). Trace's research further delineates the role of records in an organization while also challenging positivist assumptions about the integrity of the work process that created them. Indeed, the use of a record may or may not be related to the purpose of a record, the former concerning itself with short-term execution of business duties and the latter concerning itself with long-term litigation or impediment against it (2001 p. 153). Whereas Van Maanen and Pentland provide evidence that records perform layered roles in organizations, Trace illuminates how records perform layered roles in organizations, a distinction that lays the foundation for further understanding of records created and used in a correctional facility.

The social processing of records has direct implications for the degree to which users accept their authenticity and reliability. An authentic record, MacNeil explains, is "one that…has not been corrupted," whereas a reliable record relates to its "truth-value…as a statement of facts" (2001 p. 40). Sundqvist offers a more conceptual notion of trust as "a relationship between someone who trusts, and someone or something to be trusted in" (2011 p. 279). Sundqvist suggests that the effort to increase trustworthiness in records corresponds with a diminishing social trust both in institutions and in governments, a relationship that electronic records strains even further. Moreover, records contain performative features that cause change, the trust in which "is the reason why records are created, ascribed agentive functions, and considered evidential" (2011 p. 289).

Prison Recordkeeping

Because of the high stakes involved, the agency and evidence that records perform in correctional facilities are especially contested and challenge archival constructs of trust. Two examples will help illuminate this point. The first comes from Louisiana, where in 1989 state legislators agreed to open three new prisons to accommodate the state's soaring inmate population. With the privatization of correctional facilities a popular trend, the state decided that placing two of the prisons under private management and one under public management would allow for a comparison between the three that would highlight the advantages and disadvantages of privatization. The public prison was to open in Avoyelles Parish and the private prisons in both Winn and Allen Parish. By 1996, just seven years after their opening, researchers Archambeault and Deis, Jr. had completed their multi-year assessment of the three prisons. Important metrics for the assessment included the degrees to which the facilities provided for public safety, staff safety, inmate safety, work environment for correctional personnel, and successful environments for inmate rehabilitation. The researchers found "the two private prisons—Allen and Winn Correctional Centers--significantly outperformed the public, state operated prison—Avoyelles Correctional Center--on the vast majority of measures used to compare the three prisons" and "The state of Louisiana has benefited from the *dynamic competition* that exists between the two private prisons and the public operated prison. Privately operated prisons have a definite place in the planning of any state's total prison system" (1996 p. 566 and 573).

Archambeault and Deis, Jr. relied heavily on the records and information the three prisons produced to reach their conclusions. But the reliability of those data were of concern to the researchers, leading them to declare "the process of data verification described above found that common clerical errors or omissions had been made on many of the '30-1 Reports' provided by 'Headquarters' [leading to an] overall…error rate…between 15% to 20%" and that "much information is collected monthly and stored without thorough verification or validation of accuracy" (1996 p. 456 and 577). Though making a commentary on records and information was surely not the research goal for the investigators, their analysis is emblematic of the self-interested nature of recordkeeping within law enforcement generally

and within prisons specifically. How the "clerical errors" arose is one matter, but what the discrepancy means for accountability is another. The discrepancy, Meijer would argue, impedes an accountability forum from executing its task due to the unreliability of information. Because safeguards were either absent or inefficient, users of the data (in this case two researchers) revealed a lack of trust in the records, thereby diminishing greatly the capability that any one person could be held to account for any one action.

The second example stems from the Citizens' Commission on Jail Violence (CCJV) and its investigation into the use of force and discipline at the Los Angeles County Sheriff's Department (LASD) jails. On October 18, 2011, the Board of Supervisors of Los Angeles County authorized the creation of the CCJV to "conduct a review of the nature, depth and cause of the problem of inappropriate deputy use of force in the jails, and to recommend corrective action as necessary."[3] The CCJV, which was composed of expert attorneys and legal scholars, spent four months reviewing documentation and interviewing key personnel within the LASD before it released its final report and findings on September 28, 2012. Two findings are especially relevant: "LASD's statistics on use of force are not reliable" and "Evidence suggests that the use of force is underreported" (CCJV, p. 43 and 47). CCJV challenged the reliability of information gathered about the use of force primarily because the two databases that store records do not communicate with one another and also contained conflicting aggregate numbers. The Commission attributed underreporting to cultural pressures within jails, from officer concerns about superiors to inmates fear of retaliation for filing a complaint.

A counterargument to the Commission's findings is that they are particular to Los Angeles County and thus have little applicability to jurisdictions elsewhere. But as Schlanger (2008) describes, the information produced in a prison or jail is rarely done so without the anticipation of future litigation, a fact that has in many ways shaped the relatively recent "bureaucratization" of jails (p. 45). Given that records are essential to a functioning bureaucracy, prison records occupy a certain currency—literal and figurative— of which agencies are aware and taking steps to maximize. With this in mind, the LASD's poor records management appears more strategic than anomalous. From an accountability standpoint, the LASD's practices and (lack of) policies for records management may critically impair an adjudicative body's ability to objectively reconstruct events in question, thereby limiting its opportunity to hold leadership accountable.

The literature from archival and information science has addressed the technical and social underpinnings of accountability as it pertains to archivists and records managers. One view positions records as having the potential to preempt accountability while the other positions records as having the potential to adjudicate accountability. But as research has explored specific organizational settings, different obstacles present themselves, most notably the reality that records in law enforcement serve an anticipatory and preventative function that complicates the authenticity and reliability of records in this domain. Awareness of the research and investigation conducted by attorneys, legal scholars, and sociologists enabled the following research to proceed in a manner that considers the many stakeholders, pressures, and phenomenon affecting how prisons document inmate segregation practices.

Methodology

The researcher selected an exploratory case study approach to investigate the research question: How do prisons demonstrate accountability through recordkeeping for instances of inmate segregation? An exploratory approach was appropriate for the study given that the subject matter, recordkeeping in U.S. prisons, has yet to receive significant interest from the archival and information science community and due to the uncertainty of existing interventions (Baxter and Jack, 2008 p. 548) practiced in the respective

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[3] "CCJV," Citizens' Commission on Jail Violence. Accessed January 29, 2013, http://ccjv.lacounty.gov/.

environments. After deciding that the exploratory case study would be most effective, the researcher consulted various research designs before settling on the holistic multiple-case studies design described by Yin (2003).

A holistic design, as opposed to embedded one, evaluates the entirety of a particular case, whereas an embedded case study focuses on a particular component of a case. Given that the field of archives and records management concerns itself with an overall recordkeeping environment, selecting a holistic approach allowed the researcher to consider the many different elements impacting the phenomenon being studied. The decision to investigate multiple cases, as opposed to just one, stems from Yin's advice (2003) to ward off criticism that any findings of one case are bound to the conditions of that particular case.

Units of analysis

The choice of which prisons to include in the study was a deliberate one. After considering many options, two considerations emerged as most significant: scope and security. For scope, the researcher sought to include only correctional facilities that performed similar functions in their respective jurisdictions. This requirement eliminated the prospect of including federal prisons, given that all of their operations occur within the confines of one jurisdiction, the Federal Bureau of Prisons of the United States Department of Justice. For security, the researcher pursued institutions with the highest custody level of offenders, because it is in those settings—with the "worst of the worst"—that prison management most frequently resort to inmate segregation.

The researcher prioritized quality interviews over quantity, especially given the research was exploring a subject unfamiliar to the discipline in which the study is situated. As such, the researcher placed inquiries into four state corrections departments to gauge their interest in supporting this research. The two that granted the researcher necessary access to conduct the research were the Mississippi State Penitentiary in Parchman, Mississippi, and the Indiana State Prison in Michigan City, Indiana. These two cases—similar in scope and security—comprise the units of analysis for this study.

Data sources

The primary data were gathered from two streams of evidence: documentation and interviews. Four categories of documentation were obtained from both cases: 1) state statutes, 2) state administrative codes, 3) state retention schedules, and 4) internal correctional facility policies and procedures. The interviews were conducted on-site and followed a semi-structured protocol (Appendix A) approved by the Institutional Review Board. The interviews totaled slightly over ten hours between the two facilities and included fifteen total interview participants. In each case, the researcher interviewed personnel representing records management, inmate classification, hearings, and custody. The cross-section of interviewees ensured that the researcher understood how inmate segregation operates in each facility and how records flow with that process.

Criteria for interpretation and analytic technique

Before any data gathering began, the researcher identified the criteria for interpreting the results and a strategy for their analysis. The criteria stems from Meijer's work studying how information and communication technologies complicate records and information management. In his research, Meijer outlined a framework for assessing accountability:

…the risks and opportunities could be evaluated by ranking four different criteria concerning the availability of information for accountability (information is present, can be accessed, can be interpreted, and can be trusted)…(2001 p. 364).

This research adheres to these criteria and applies it to the data uncovered in Indiana and Mississippi. Regarding records documenting inmate segregation, is the information present? Can it be accessed? And can it be trusted? The technique used for the analysis of these questions will be a cross-case synthesis, which Yin describes is especially suitable when using two cases, as this research does (2003 p. 133). This technique will synthesize and interpret the data through the construction of a word table, which will revolve around three central notions: availability, accessibility, and availability.

Case Descriptions

In order to more reliably evaluate the cases in relation to each other and allow for a more nuanced interpretation of the results, separate description of the units of analysis—the Indiana State Prison and the Mississippi State Penitentiary—will proceed along five common points: overview, organization, accountability environment, segregation, and recordkeeping practices.

<u>Indiana State Prison (ISP)</u>

A. Overview

The ISP is the oldest operating prison in the State of Indiana, having received its first inmates in 1860. Located in Michigan City, the facility opened as the northern counterpart to the Indiana State Prison in Jeffersonville, which operated from 1822 until a fire destroyed the building in 1922. ISP, like all state prisons in Indiana, had functioned under its own board of trustees until the Indiana state legislature created the Indiana Department of Correction (IDOC) in 1952 to oversee management of all the state's convicted felons. The IDOC, as of March 1, 2013, maintains custody of 25,483 adult male offenders. Currently, ISP is an adult male prison designated as a level four maximum-security facility that houses the most violent offenders the IDOC receives, including all death row offenders from the state. On one hundred acres of land, two distinct units operate within ISP and remain separated by a thirty-foot wall. The unit located behind "The Wall" (high and maximum security) can house 2,049 inmates and the unit located outside "The Wall" (minimum and medium security) can hold up to 385 inmates, bringing the institutional capacity to approximately 2,400. As of March 1, 2013, 1,974 offenders were in custody behind the wall.

B. Organization

The mission of the ISP is "the advancement of public safety and successful re-entry through dynamic supervision, programming and partnerships." The ISP is led by a Superintendent and, according to the most recent data available from the state, has 531 total staff members, 426 of whom have custody responsibilities. The employees interviewed ranged from multiple units, including administrative, custody, and disciplinary. Their titles included the following: supervisor of classifications and records coordinator, secretary, executive assistant to the superintendent, assistant shift supervisor, and hearing officer.

C. Accountability environment

Understanding the legal and statutory framework surrounding government records is necessary to describe the processes and procedures in which ISP staff members engage to administer the business

function of segregation. A confluence of state regulations impact inmate segregation at ISP and the documentation generated as evidence. The Indiana Commission on Public Records (ICPR) is the state agency authorized to coordinate statewide records management and issue retention schedules, which it administers through its Records Management Division. In addition to its Records Coordinator's Handbook, which mandates that state agencies identify records series and create records inventories, the ICPR's Electronic Records Policy regulates *how* records are to be managed by all agencies and the Retention Schedule, on the other hand, regulates *what* records are to be managed by a specific agency.

Effective September 19, 2012, the state's policy on electronic records is clear and unambiguous when addressing the challenge of modern government:

> Maintaining trustworthy records is essential for a governmental entity to meet its legal and internal business needs, as well as its responsibilities to the public. The purpose of this policy is to ensure that governmental entities create and maintain trustworthy electronic records that demonstrate authenticity, reliability, integrity, and useability.[4]

Far from a work of rhetoric, the policy defines authenticity and reliability in the context of ISO 15489, the internationally accepted standard for records management. The policy places the burden on agencies to adhere to core professional principles, ranging from the addition of metadata to the development of internal guidelines and procedures within agencies. To promote compliance, the ICPR grants itself the authority to monitor the extent to which state agencies are in accordance with the policy, though it falls short of outlining penalties for noncompliance. As written, the policy is effective in its demonstration of accountability because of its requirement that electronic records be authentic, reliable, and accessible and for its prescriptions of how agencies—which include the IDOC and the ISP—can attain it.

Accordingly, all correctional facilities within the IDOC abide by the same retention schedule. Of the thirty-five record series that facilities are required to maintain, the Segregation Unit Records are the most pertinent for documenting its segregation. These records encompass everything from property inventories to segregation/confinement reports, all of which ISP is obliged to destroy three years after an inmate returns to the general prison population. Consistent with the agency regulations, Segregation Unit Records are governed by the disclosure, access, and confidentiality provisions outlined in the Indiana Administrative Code (IAC).[5] The retention schedule and IAC complement the electronic records policy by constructing accountability as a matter of law and dictating how segregation records are maintained, accessed, and used.

D. Segregation

ISP segregates inmates for either disciplinary or administrative purposes, the former entailing a definite period of confinement that stems from a specific incident and the latter entailing an indefinite confinement stemming from concern for inmate safety. The IDOC Disciplinary Code for Adult Offenders details the process, requirements, and sentencing for inmates who violate rules of ISP. If an internal investigation and hearing officer deem an inmate guilty of a Class C or higher offense, the resulting segregation can range from fifteen days up to a year, typically in a shared cell with another segregated inmate (i.e., not solitary confinement). Administrative segregation, on the other hand, does include the use of solitary confinement for an indefinite period of time and can be enforced without a hearing to determine guilt or innocence. Though the Indiana Code prohibits certain conditions—such as deprivation

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[4] Indiana Electronic Records Policy, OCPR Policy 12-01. Available at
http://www.in.gov/icpr/files/policyelectronicrecords.pdf.
[5] Indiana Administrative Code, 210 IAC 1-6. Collection, Maintenance, and Release of Offender and Juvenile Records.

of medical care, denial of access to courts and counsel, restrictions on clothing—the steps one needs to take to earn release from administrative segregation are unknown to most inmates.[6] That on the day this researcher visited ISP 324 inmates were held in administrative segregation as opposed to ninety-five inmates in disciplinary segregation highlights the scale of the practices.

E. Recordkeeping Processes and Practices

Though ISP maintains electronically stored information in its Offender Information System (OIS), officials initiate the process of inmate segregation via paper. Two records in particular stand as evidence of an inmate's segregation: the conduct report (Appendix B) and the segregation/confinement report (Appendix C). After observing a rule violation, the witnessing officer is responsible for initiating the conduct report, which has metadata fields for the date of the incident and the date the report was written, a recordkeeping feature that distinguishes between an event and a memorialization of the event. Once filed, the report makes its way to a shift supervisor before it reaches the ISP's hearing officer. Depending on the severity of the alleged violation, an inmate can be placed in segregation during the hearing officer's investigation. Regardless of the outcome, a record of the hearing process is created, and if guilty and assigned to disciplinary segregation, the offender reserves the right to appeal. If the appeal is bypassed, ISP initiates the segregation/confinement report as well as other Segregation Unit Records.

ISP's segregation records demonstrate varying levels of availability, accessibility, and authenticity. Were an accountability forum to convene, Indiana's statutory obligations and the IDOC's internal procedures ensure that records documenting the segregation process would be available. The retention schedule, the Disciplinary Code, and the Indiana Code provide unequivocal language dictating for the creation and maintenance of segregation and disciplinary records, allowing such a forum to gather the information it needs to advance the accountability process. But due to the ISP's hybrid system of paper and electronic records management, the accessibility of segregation records remains a challenge, in particular the staff members' difficulty in locating records that were scattered across the OIS, an offender's hard copy file, or any other of the ISP's records systems. That records are available provide insufficient guidance as to how one would find or access them. What's more, no technological safeguards are in place to prevent unauthorized access or manipulation of records. ISP staff grants access of paper segregation records to other personnel who they recognize as owning proper credentials, but no logs of who accesses paper (or digital) files are generated. As such, following an audit trail of which persons accessed a record—for whatever reason—would have to be done manually and with scant technological assurance that records were not indeed accessed by an unauthorized person or for an unauthorized purpose.

Mississippi State Penitentiary (MSP)

A. Overview

Unlike ISP, MSP has a well-chronicled past. It, too, is its state's oldest penal institution but the present iteration of the penitentiary emerged in 1901 on the grounds of the Parchman plantation, bringing together what had been a privately owned and operated convict lease system in which the state and private companies profited from inmate labor producing crops and goods.[7] Prison labor continued at Parchman as its prime location in the fertile Mississippi Delta region helped it develop an infamous reputation for harsh working conditions and imprecise justice. Whereas the state of Mississippi took ownership of the prison in 1901, it would not be for another seventy-five years until the Mississippi Department of Corrections (MDOC) would be established and be responsible for MSP's administration. The MDOC, as

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[6] Indiana Code, 11-11-5, Conduct and Discipline.
[7] See Taylor (1993), Oshinsky (1996), and Taylor (1999) for detailed histories of Parchman Farm and the MSP.

of March 1, 2013, maintains 22,329 inmates throughout its statewide prison network. Currently spread across 18,000 acres of farmland in Sunflower County, MSP holds 3,341 of them across all custody levels, including the state's death row offenders.

B. Organization

The mission of the MSP is to "provide public safety by maintaining the confinement of offenders within a safe, secure humane and cost-effective environment, while providing meaningful work and other self-improvement opportunities to assist them in becoming productive law abiding citizens upon their release." The Superintendent oversees the entire facility and is assisted by two wardens, three deputy wardens, and two associate wardens; just a small portion of the 986 total employees. The interview subjects performed different roles across the penitentiary, including: associate warden, warden, commander, records and archives officer, classification hearing officer, movement coordinator, disciplinary officer, project officer, correctional supervisor, and bureau director.

C. Accountability Environment

Neither the laws of Mississippi nor the state's administrative code offer a clear framework for documenting segregation within correctional facilities. Of the thirty-five records series currently scheduled under the Records Control Schedule, only five pertain to inmate activity, health, or safety. Of those five, only the Inmate Master Files and the Inmate Working File generate evidence about offenders' confinement or segregation while incarcerated, with the State Archives retaining the former permanently and the Central Records Office disposing the latter upon inmate discharge. The Mississippi Administrative Code is equally broad in its requirements for documenting inmate segregation. The chapter of its Prisons and Parole title addressing records only outlines the policy and procedure for how a penal institution should handle public records requests for inmate master files and fails to construct an environment for how MDOC personnel should create and manage those inmate master files.[8]

The state's Management Information Systems, which encompasses the software utilized at all state prisons, describes, not the procedures to be followed for managing internal information within each facility, but the processes for maintaining external information on the MDOC's website.[9] The subset of the title devoted entirely to public records only governs oral proceedings and declaratory opinions, further compounding the absence of records management from the agency's regulations.[10] Lastly, the Mississippi Code that authorizes the MDOC fails to circumscribe the issue of records and segregation, stating not more than what a prison in the state is required to maintain on an offender's cover sheet.[11] Given the litigious and adversarial nature of segregation, the lack of a firm accountability environment surrounding its records management may very well impair an accountability forum should it seek to understand the context in which the segregations records were created and managed.

D. Segregation

Segregation at MSP has undergone a major shift in the last decade. A restricted population that was once 1,000 shrank to 150 in just a few years, primarily due to a court-approved consent decree in which the MDOC partnered with the American Civil Liberties Union (ACLU) to reduce the size of segregated population, offer better mental health care for mentally ill inmates, and restructure its classification

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[8] Mississippi Administrative Code §29, Part 1, Rule 5.1.1 and Rule 5.2.4.
[9] Mississippi Administrative Code §29, Part 1, Rule 12.1.1.
[10] Mississippi Administrative Code §29, Part 3, Rule 1.1.1 and Rule 1.2.1.
[11] Miss. Code Ann. § 47-5-10 (2013).

process (Kupers et al. 2009). Today, MSP employs administrative segregation on a limited basis and with the expectation that offenders' status in segregation will be reviewed early and often. Currently, MSP segregates offenders who violate the rules and regulations of the institution and to protect vulnerable inmates. A detention notice must be completed to inform the inmate of the reason for segregation, after which the notice then arrives at the desk of a case manager. The case manager has one to three business days to decide whether the offender will be transitioned into segregation. If placed, the offender's status must be reviewed after seven days, and no offender at MSP can remain in segregation for a period longer than twenty days without a newly issued detention notice as long-term segregation is housed at another MDOC facility. Once the short-term segregation sentence is served, MSP personnel facilitate an offender's reentry into the general prison population.

E. Recordkeeping Processes and Practices

The MDOC-wide Offender Track database is the software in which MSP manages the records and information related to the segregation process. Each employee who accesses the system has a unique login name and password that identifies staff members and their respective viewing and modification privileges, in certain cases requiring a pre-approved clearance to take particular actions. All forms related to the segregation process, such as a rule violation report (RVR, Appendix D), are generated electronically in Offender Track and only printed when documents require the wet signature of an offender or MSP officer. Once printed and signed, officers scan the document into a complementary document management system, making it available for others within the Department while the analog copy is retained on file.

Any information that staff members needs to complete a disciplinary or segregation form is accessed through Offender Track, putting an end to the past system that required employees to physically consult records before manually transferring relevant information from an offender's history. Offender Track has automated the information gathering process and, according to staff estimates, reduced the time to complete forms by upwards of eighty percent. The log that the database maintains of which officer accessed, edited, or otherwise altered a record provides added security and assurance that only authorized persons can take authorized actions with offender records related to segregation.

The availability of segregation records at MSP, were it to rely solely on statutory and regulatory requirements, would be insufficient for an accountability forum to gather the information it needed. The abstract levels at which the state's legal and administrative code are written leave much to the MDOC to devise and implement internal policies to ensure the availability of records documenting segregation. The MDOC more than recompenses for the loose accountability environment through its deployment of the Offender Track database that not only guarantees that segregation records are available but also accessible to those who have appropriate clearance and need to use them. That the database creates a log for every authenticated user who views or modifies a record delivers assurance that an audit trail would have the capacity to identify every staff member who accessed a particular type of file or the file of a particular inmate.

Findings

The highly litigious nature of segregation records suggests that authenticity and accessibility are pivotal factors when assessing the extent to which a penal institution demonstrates accountability in its recordkeeping. Though the study was executed in two U.S. prisons that were willing to grant access to an external researcher, the research should serve as an impetus for other state and federal correctional facilities to evaluate their segregation processes and the records they generate as evidence. These evaluations would not only provide institutions with mutual points of comparison but also allow them to

rethink the necessity of segregation—especially the indefinite, long-term variety—as a viable and ethical prison management tool.

Notwithstanding possible future comparative analyses, analysis of the recordkeeping environments, processes, and practices at the Indiana State Prison and the Mississippi State Penitentiary offer nuanced degrees of accountability. Synthesizing both cases reveals relevant findings for records and information professionals as well as for stakeholders who partake in accountability forums such as judges, truth commissions, or hearing officers. The most salient finding is that a stricter accountability environment at the ISP did not result in greater accessibility and authenticity of segregation records. Conversely, despite a more vague accountability environment, MSP segregation records exhibit an increased accessibility and authenticity. The following word table displays this dynamic (see Figure 1).

	Availability	Accessibility	Authenticity
ISP	*Environment*: strict, prescriptive, instructive *Evidence*: electronic records policy, retention schedule, IN Administrative Code	*Retrieval*: inconsistent, uncertain *Evidence*: existence of nonaligned systems, confusion navigating hybrid system	*Safeguards*: organizational *Evidence*: multiple offices involved, records officer manages access of segregation records
MSP	*Environment*: loose, undefined, vague *Evidence*: records control schedule, MS Administrative Code, MS Code	*Retrieval*: standard, uniform *Evidence*: existence of one centrally managed database, segregation records are attached to offender's database record	*Safeguards*: organizational, technological *Evidence*: multiple reviews, scanning wet signatures, requisite credentials, access logs

Figure 1: Word Table of Accountability in Two U.S. Prisons

Three metrics outlined by Meijer (2001) function as the criteria for analyzing the evidence: availability, accessibility, and authenticity. Corresponding with each criterion is a term (italicized) that ascribes practical meaning to Meijer's concepts. Respectively, the ascriptions are environment, retrieval, and safeguards. Below each ascription is evidence from the interviews and documentation that supports each analysis of the criteria. The table exhibits that the ISP operates in a stricter accountability environment than the MSP, but that the MSP institutes more technological systems and mechanisms to ensure that the segregation records it generates are more accessible and authentic than those generated at ISP. The State of Indiana has a substantially more robust accountability environment because of its explicit and codified nature regarding which segregation records are to be managed, why they should be managed, and how they should be managed. Through its retention schedule, administrative code, and internal policy, the availability of segregation records is unlikely to be of concern for an accountability forum charged with adjudicating a claim against the ISP.

But ISP personnel struggle with the retrieval and storage of records due to the prison's current use of four independent recordkeeping systems and the systems' inability to communicate with one another. Aiding the MSP in this regard is the MDOC's enterprise-wide records management program—the Management Information System—that facilitates coherence and consistency, two factors that allow for a more accessible recordkeeping process. With an electronic information system managed system-wide from the state capital, compared to Indiana's decentralized system that varies between various institutions,

Mississippi's department-wide usage of the MIS and Offender Track provides for uniformity in file plans, access points, and other important features of enterprise records management. Moreover, though a more liberal recordkeeping environment surrounds the MSP, the MDOC compensates for the lack of structure by implementing more technological safeguards to assure authenticity in the records it generates.

These findings suggest that, were an accountability forum to convene, Indiana's statutory obligations and the IDOC's internal policies ensure that records documenting the segregation process would be available. The retention schedule, the Disciplinary Code, and the Indiana Code provide clear instructions for the creation and maintenance of segregation and disciplinary records, allowing such a forum to gather the information it needs to advance the accountability process. But due to the ISP's hybrid system of paper and electronic records management, the accessibility of segregation records remains a challenge, in particular the staff members' difficulty in locating records scattered across the OIS, an offender's hard copy file, or any other of the ISP's records systems. *That* records are available provide insufficient guidance as to *how* one would find or access them, nor does the availability of records guarantee that duplicate records in other systems are consistent with each other.

And while the ISP has organizational safeguards to promote authenticity, it employs no technological safeguards to prevent unauthorized access or manipulation of records. ISP staff grants access of paper segregation records to personnel whom they recognize as owning proper credentials, but no logs of who accesses paper (or digital) files are generated. This means that following an audit trail of which persons accessed a record—for whatever reason—would have to be done manually and with no certitude that records were not accessed by an unauthorized person or for an unauthorized purpose.

In the other case, were it to rely solely on statutory and regulatory requirements, the availability of segregation records at MSP would be insufficient for an accountability forum to gather the information it needed. The abstract levels at which the state's legal and administrative code are written leave the MDOC to its own devices to ensure the availability of records documenting segregation. But the departments uses those devices efficiently through its deployment of the Offender Track database that not only guarantees that segregation records are available but also accessible to those who have appropriate clearance and need to use them. That the database creates a log for every authenticated user who views or modifies a record delivers assurance that an audit trail would have the capacity to identify every staff member who accessed a particular type of file or the file of a particular inmate.

Limitations and Future Research

The research exhibits three chief limitations. First, the number of cases and the particular nature of each case raise concerns for the applicability and relevance of the findings to archival, information and legal professionals in different contexts. A response to this legitimate claim is that the research does not seek to replicate findings across contexts, but instead pushes for more nuanced understandings of the phenomenon in the setting in which it occurred. As such, to the extent that records themselves are bound to the organizations in which they are created, the environment shaping those organizations is equally if not more nuanced. Nonetheless, future research into the domain of recordkeeping, accountability, and correctional facilities should ideally consider a greater volume of cases.

Second, the design of the research did not discriminate between the many types of segregation that occur within a prison. A more focused look into the recordkeeping of administrative segregation as opposed to disciplinary segregation might yield new understandings of prison culture and how its records reflect or reject that culture. Further exploration into this topic may tailor its approach in this regard.

Lastly, a probe into the reliability or truth-value of segregation records presents an opportunity to build upon this study. The research explored the process that ostensibly yields truth but offered no claims about that truth's veracity. Complicating this possibility are incarcerated persons' right to privacy and the many hurdles a researcher would experience in pursuing a question that, if answered, might induce litigation of a facility or a department. That the researcher was denied access for this study in a state that is currently facing a litigation process buttresses that likelihood. Notwithstanding the improbability, analyzing the availability, accessibility, authenticity, and reliability of segregation records would allow a researcher to draw more definitive linkages between recordkeeping, accountability, and prisons.

Conclusion

Records possess immense power. When accountability forums assemble, the records of a corporal entity or organization are essential ingredients in enabling them to execute their tasks justly and judiciously. These forums often need to know who knew what, when they knew it, and what they did once they knew. Because of their potential gravity, records documenting incarceration, and in particular inmate segregation, have consequences for democratic understandings of accountability and justice. As such, maintaining their availability, accessibility, and authenticity should be of utmost concern for government agencies, scholars, advocates, and lastly, information professionals. Surely, records cannot tell an audience everything it would like to know about a particular organization or event. Records, as other scholars have noted, suffer from the blind spots and biases of their creators. But accessible and authentic records tell us *something*, and sometimes, that something is the difference between liberty and justice for some and liberty and justice for all.

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Appendix A: Interview Protocol

Process: The intent of the following protocol is to conduct a semi-structured interview with prison/agency personnel responsible for the creation and/or maintenance of records that document inmate segregation within a prison. All interview subjects will be given advance knowledge of the semi-structured interview content and the purpose of the research study.

Content:

1. **Background**
   a. What is your position in the organization and what are your responsibilities?
   b. How long have you worked with the organization?

2. **How Segregation Operates**
   a. Why does the MSP use inmate segregation?
   b. How does it work? Are there different classifications?
   c. Can you walk me through the sequence of events starting from what triggers it through inmate release? What is your role in this sequence of events?

3. **Record Creation**
   a. Are you required to create any specific records related to segregation? If so, what are they and can you describe their impact?
   b. Are different types of segregation recorded differently? If so, how?
   c. Who is the intended audience of these records? Who might be interested in accessing or using them?
   d. How soon are records created following segregation activities?

4. **The Process**
   a. Can you describe your work process for creating the record? What procedures do you follow?
   b. Can you talk through the sequence of steps involved in creating the record? Does creating the record require you to work with others in the organization or get information located elsewhere?
   c. Is there any technology used to facilitate the record creation process? If so, who maintains the technology?

5. **Records Capture and Management**
   a. Once the record is created, how is it captured and classified? Who has access to the record? How is it shared and used?
   b. Are there any deviations in the creation and/or maintenance of these records?
   c. Where is the record stored once it has served its purpose? For how long?
   d. What is the disposition of these records?

Appendix B: Report of Conduct, Indiana Department of Correction

REPORT OF CONDUCT
State Form 39590 (R3/4-94)

INDIANA DEPARTMENT OF CORRECTION

Case number

Date assigned

INSTRUCTIONS: *Type or Print clearly*

NOTE TO REPORTING EMPLOYEE: *This report is to be filled out in triplicate. All copies shall be forwarded to the screening officer, in accordance with the Disciplinary Code for Adult Offenders.*

Name of offender	Offender's DOC number	Facility	Housing unit

Date and time of Incident	☐ a.m. ☐ p.m.	Place of incident	Date report written

Offense	Code number

DESCRIPTION OF INCIDENT *(If more space is needed attach additional sheets in triplicate)*

Disposition of physical evidence, if any

Witness(es), if any

Signature of reporting employee	Name and title *(please print)*	Screening officer

FOR SCREENING OFFICERS ONLY

Copy of report delivered to offender by:	Date report delivered *(month day, year)*

Signature of offender receiving copy	Note here if offender refuses to sign

DISTRIBUTION: White -Offender; Canary - Central Office; Pink - Facility Packet

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Appendix C: Segregation/Confinement Report, Indiana Department of Correction

SEGREGATION/CONFINEMENT REPORT
State Form 39588R2

Shift		
Date		Time

Offender's Name (Last, first)	Offender's No.	Work Assignment	House Unit

Reason(s) for Segregation/Confinement:

☐ Segregation Admittance

☐ Own Request (PC Status)

☐ Safety of Other Offenders

☐ Safety/Security of Institution/Facility

☐ Investigation (Code Violation)

☐ Pending Conduct Board Hearing

Restrictions

☐ Restricted to _____

☐ Suspension of Recreation

☐ Suspension of Commissary

☐ Suspension of Phone Privileges

☐ Suspension of Count/letter(s)

Effective Dates _____ Thru _____

Brief description of reason for Segregation/Confinement. (If applicable include Code Violation number(s) and offense(s):

_____

_____

_____

_____

_____

_____

Signature of Author of Conduct Report (if applicable)	Signature of Officer Transporting Offenders Personal Property
	Shift Supervisor's Signature
Authorized By	

NOTE:

The information below must be completed: If Offender is intoxicated, under influence of other substance, physically or mentally unable to sign.

	Offender's Signature
	Offender's No.
Copy of form delivered by (Signature)	Witness's Signature (if any)

Note here offenders reason/inability to sign:

_____

Appendix D: Rule Violation Report, Mississippi Department of Corrections

(MSP) _____ (CWC) _____
(CMCF) _____ (SMCI) _____
(OTHER) _____

MISSISSIPPI DEPARTMENT OF CORRECTIONS

RULE VIOLATION REPORT

№ 01292586

(Unit Admin. Initial)_____   Zone / Tier   Unit   Cell / Bed #

Offender _____ MDOC# _____ Violated Rule # _____ . Entitled

_____ Date _____ Approx. Time _____ Hrs.

By the specific act of _____

Weapon involved _____ Yes _____ No   **EXACT** location of incident _____

CIRCUMSTANCES AND DETAILS

Reporting Employee's Signature _____ Title _____ PIN# _____ Date _____ Time _____

Evidence _____ Yes _____ No- Located _____ . Placed in Segregation - PDA _____ No _____ Yes- Location _____

I request witness(es) _____ Yes _____ No

Witness(es) (1) _____ (2) _____

Unless waived, you are hereby notified that a hearing will be held within, no less than, twenty-four (24) hours and no more than (7) working days

I waive the right to a Hearing _____ Yes _____ No

ACCUSED _____ DELIVERING EMPLOYEE_____ DATE _____ TIME _____

1. Investigation began within 24 hrs of violation? ___Yes ___No.   2. Date/Time investigation completed___/___/___ ___:___AM PM.
3. If not completed without reasonable delay, explain: _____ .
4. Name of Investigator _____ .
5. Working days between date of violation and hearing _____ .
6. If more than seven (7) working days, explain:_____ .

Is accused offender in Trusty Status _____ Yes_____ No   Does accused offender receive Earned Time_____ Yes_____ No

Name of Persons at Hearing - Accused _____ Hearing Officer _____

Other _____

Accused's response _____ Admit _____ Admit w/ modifications _____ Deny   Accused's Statement

Documents read and discussed _____ RVR _____ Investigation _____ Witness Statements _____ Other _____

FINDINGS: _____ Guilty _____ Not Guilty   Reason for Findings: _____

_____

_____

PUNISHMENT: _____

Reason (s) _____ Seriousness of offense _____ The need to protect the institution, employees or others _____ Poor conduct record

Other _____

A total of _____ Rule Violations in _____ . A total of _____ Rule Violations for Rule #_____ .

Signature: _____ Date: _____
    Hearing Officer

Appeal may be filed within 30 days with Legal Claims Adjudicator, c/o ARP, P.O. Box 609, Parchman, MS. 38738, after receipt of the Disciplinary decision.

Offender Signature: _____ Date: _____

Signature of Reviewing Superintendent/Warden/CSD/Designee: _____ Date: _____

Custody Reduction _____ to _____ Date _____ Signature_____
Due to guilty finding on the RVR, offender is ineligible to continue to receive Trusty Earned Time/ Remove from Trusty Status/ Trusty Earned Time effective _____ Signature _____

Loss of Earned Time _____ Approved _____ Disapproved   _____
                                                Commissioner of Corrections or Designee

Original with All Attachments - Records   1st Copy - Offender   2nd Copy - Working File   3rd Copy - Reporting Employee
Revised 08/17/09