

ARTICLE

Picking battles: Correctional officers, rules, and discretion in prison

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We would like to thank the correctional officers and incarcerated individuals who shared their time and stories with us and the institutions that opened their doors for us. Thanks also to Luca Berardi, Holly Pelvin, Peter Manning, and William Schultz who provided helpful comments on drafts of this article, as well as the many team members of the University of Alberta Prison Project (<https://www.canadiancriminology.com/projects/uapp>).

Funding information

Social Science and Humanities Research Council Canada, Grant/Award Number: SSHRC IG 435-2017-1051; Canadian Network for Research on Terrorism, Security and Society, Grant/Award Number: 114998; and the Killam Trust

Abstract

To outsiders, prisons vacillate between visions of regimented order and anarchic disorder. The place of rules in prison sits at the fulcrum between these two visions of regulation. Based on 131 qualitative interviews with correctional officers across four different prisons in western Canada, we examine how correctional officers understand and exercise discretion in prison. Our findings highlight how an officer's habitus shapes individual instances of discretionary decision-making. We show how officers modify how they exercise discretion in light of their views on how incarcerated people, fellow officers, and supervisors will interpret their decisions. Although existing research often sees a correlation between "rule-following" by incarcerated individuals and official statistics on such misdeeds, our data highlight that official statistics on rule violations do not easily represent the rate or frequency of such misbehavior. Instead, these numbers are highly discretionary organizational accomplishments. Our findings advance an appreciation for correctional officer discretion by focusing on the range of factors officers might contemplate in forward-looking decisions about applying a rule and how they rationalize the nonenforcement of rules.

KEYWORDS

correctional officers, discretion, governance, habitus, prisons

1 | INTRODUCTION

Governance within an organization involves some combination of explicit rules and the discretion employed by street-level bureaucrats in how to interpret and apply those rules selectively (Lipsky, 1980). Discretion involves personal judgment by officials who have leeway to decide how vigorously they will enforce the laws, rules, and regulations (Watkins-Hayes, 2009). An understanding of that reality has made discretion a central topic of analysis in criminology (Bushway & Forst, 2013; Hawkins, 2002; Lundman, 1979), sociology (Simmel, 1950; Weber, 1978), sociolegal studies (Zatz & Rodriguez, 2014), and organizational analysis (Finkelstein & Hambrick, 1990; Kleinbaum et al., 2013; Powell & DiMaggio, 1991).

Understanding how such discretion operates in practice is a central concern of the social sciences as research on this topic can provide insight into the nature of organizational routines and the realities of both institutional and interpersonal power. It is particularly hard, however, to gain an appreciation for how this phenomenon operates in more secretive or closed institutions. Prisons stand out in this regard as they are spaces that outsiders typically do not personally scrutinize, but where one might expect that to maintain order officials would need to enforce the rules strictly. The fact correctional officers routinely exercise discretion in enforcing the rules is particularly intriguing for what it says about the dynamics of maintaining order, professional practice, and the prison regime more generally.

We interviewed correctional officers in four western Canadian prisons, encouraging them to reflect on how, when, and why they use discretion. Our research question is as follows: “How do correctional officers understand and exercise discretion in prison? Assuming that such decisions are not arbitrary, what types of factors do officers contemplate when making discretionary decisions?” We are particularly interested in what rules prison officers decide *not* to apply and how they rationalize the nonenforcement of such rules in the context where 1) there is little guidance provided to acknowledge and formalize the operation of discretion by officers; 2) officers work to gain advantages over incarcerated people in their day to day work; and 3) officers contemplate how their responses to misconduct might shape their immediate and long-term relationship with imprisoned people and colleagues.

Developing a greater understanding of these processes is desirable for several reasons. At the most basic, it advances our appreciation for the on-the-ground realities of working as a correctional officer. Notwithstanding recent insightful research (see, for example, Arnold et al., 2007; Ibsen, 2013), such officers remain one of the least studied and understood professions in the criminal justice system. The focus on discretion also moves the analysis away from the frequent public concern about officers’ use of force, to greater recognition of the interpersonal subtleties involved in managing a prison unit. Demonstrating some of the considerations at play as officers work to manage, manipulate, and control incarcerated people also provides a more well-rounded sense of officers’ agency. In addition, as they are subjected to such decisions, incarcerated people’s experiences are profoundly shaped by when, how, and why officers use their discretion. Finally, a greater understanding of officer discretion also raises questions about the value and utility a large body of research focused on rule-breaking by incarcerated people, a topic we turn to in the Discussion section.

2 | LITERATURE REVIEW

Our research is, in part, a response to prominent appeals for specific lines of inquiry and methodological approaches. Evans called for investigations that move beyond the usual academic focus on managerial oversight designed to constrain discretion, to ask what additional factors might “contribute to the extent and nature of discretion within a particular site?” (Evans, 2016, p. 66). Likewise, both Loïc Wacquant (2002) and Jonathan Simon (2000) lamented the decline of prison-based qualitative research in North America. Such neglect is glaring in Canada (Watson, 2015), which has almost no history of independent qualitative research conducted inside of prisons or remand facilities (for exceptions, see Pelvin, 2019, and Weinrath, 2009, 2016).

A focus on discretion is in keeping with the trend away from the “law first” approach to studying the operation of legal regulation toward an appreciation for the complexities of how officials and citizens perform the law in everyday life (Ewick & Silbey, 1998; Sarat & Kearns, 1985). Researchers concerned with understanding criminal justice processes have made discretion a focus of studies on sentencing (Bushway & Piehl, 2001; Ulmer et al., 2016), policing (Manning, 1977; Nowacki, 2015), corporate regulation (Hawkins, 2002; Hutter, 1997), and parole decisions (Hoffman & DeGostin, 1974; Jones & Kerbs, 2007). By comparison, however, academics have produced few detailed empirical studies of discretion in prison.

Writing in 2000, Liebling (2000, p. 335) concluded the following: “The use, scrutiny and management of prison officer discretion has rarely been the focus of . . . research attention.” Undoubtedly, the challenges in obtaining research access and the rigors of prison-based research have played a role in such neglect (Bosworth et al., 2005; Decker & Pyrooz, 2019; Fox et al., 2011; Mitchell et al., 2018; Trulson et al., 2004). Although more recent European research has tried to close this gap (Liebling, 2008; Liebling & Price, 2003, 2011), all such studies of discretion in prison have analyzed prisons that have “Incentives and Earned Privileges” (IEP) programs. Such programs aim to modify the conduct of incarcerated people by providing them with conditional privileges based on their good behavior and hard work. Officer discretion has a prominent formal place in such programs as officers are encouraged to use their professional judgment to assess and selectively reward the behavior of incarcerated people. To our knowledge, there are no recent empirical qualitative studies focused on how officer discretion operates in the much different North American context, where such IEP programs do not typically exist.

Prisons are particularly interesting spaces for studying discretion. Prisons have a strict power relation between correctional officers and people who are incarcerated, with correctional officers enforcing “the law” and regulations set out by the state. Although state policies should ostensibly determine how on-the-ground decisions are made, and theoretically allow little room for discretion, discretionary application of rules in prison is pervasive, however. One key factor that seems to differentiate the operation of discretion in prison from other criminal justice institutions is that correctional officers cannot deal with infractions and misconduct by primarily focusing on what is and is not allowed. In contrast to judges, parole officers, and (to a lesser extent) police officers, correctional officers need to focus on how their responses to misconduct might influence their long-term relationships with criminally involved individuals (Liebling, 2000) and with their colleagues. In contrast to the situation for other criminal justice actors, a broad audience of incarcerated people informally scrutinizes how correctional officers enforce the rules. That necessitates that correctional officers’ responses to rule infractions have to be forward-looking and consider how a raft of spectators will perceive their discretionary decisions about rule infractions.

The small body of research on discretion in prisons has accentuated how officers tend to approach their selective nonenforcement as a way to gain long-term advantages (Crewe, 2011; Liebling, 2000; Sparks et al., 1996). Yet the specifics of what considerations officers use in deciding on how to exercise such discretion are unclear. To help answer this question, we draw on Pierre Bourdieu's concept of "habitus" as it provides a lens for appreciating the personalized and contextual logics of how officers exercise discretion as well as the structuring forces that shape the contours of such discretion.

For Bourdieu, habitus refers to "a set of historical relations 'deposited' within individual bodies in the form of mental and corporeal schemata of perception, appreciation, and action" (Bourdieu & Wacquant, 1992, p. 16), culminating in a sense for how to "play the game" characteristic of different social fields. For this article, we are concerned with the correctional field in which officers work, and where their habitus operates as an "acquired system of preferences" based on a "system of durable cognitive structures," conditioned by historical and social forces (p. 16). For our purposes, a crucial aspect of the correctional officer habitus is that it is future-oriented. It entails "the art of *anticipating* the future of the game" (Bourdieu, 1998, p. 25, emphasis in original).

Each individual possesses a unique general habitus formed from his or her biography. Groups with similar histories, or that occupy comparable positions in institutions (such as correctional officers), however, develop comparable dispositional matrixes. Typically, analysts understand these "mental schemata" as preconscious considerations enacted almost instinctually, but a person's habitus would also inform more explicit decision-making and strategizing. Officers working in a correctional field would therefore be expected to have an individualized, contextual, and evolving pattern of rule enforcement and nonenforcement. These predispositions and inclinations would be part of their unique professional persona but would also loosely correspond with that of individuals who occupy similar positions within the correctional field. Their habitus, therefore, then sets limits on any personal or idiosyncratic discretionary decision-making as the habitus "generates inventions and improvisations *but within limits*" (Bourdieu, 2005, p. 46, emphasis added). Our analysis below draws attention to some of these creative improvisations in the exercise of discretion but also attends to how different prison-related attributes structure the limits of such discretionary decision-making.

3 | RESEARCH SETTING

On any day, Canada detains approximately 40,000 adult men and women in a correctional institution, which translates to a national incarceration rate of 139 per 100,000 individuals. Depending on the seriousness of their crimes, these individuals will find themselves in one of Canada's two correctional systems: 1) the federal system or 2) the provincial/territorial system. The federal system houses more serious offenders, those who have been sentenced to a period of incarceration of 2 years or more. These people account for a comparatively small percentage (2.3 percent) of individuals who receive a custodial sentence in Canada, resulting in a daily federal population count of approximately 15,000 individuals (Reitano, 2017).

We conducted our research in prisons that are part of the provincial correctional system. There are 177 such institutions spread across the country, operated by provincial/territorial governments and that hold approximately 25,000 individuals. Although there is considerable variability in the structure of provincial institutions, they generally comprise two primary types of facilities. The first are sentenced institutions, housing those adult men and women sentenced to a term of incarceration of fewer than 2 years. The second are remand facilities (often called "jails" in the

United States). Most individuals in remand facilities are legally innocent and are awaiting trial. Depending on the outcome of their trial, they might be sent to a federal institution (that holds people sentenced to 2 years and longer), to a provincial institution, be released for “time served,” or be released after being found not guilty. People on remand can therefore include individuals arrested for comparatively minor offenses, such as administrative breaches, petty theft, and impaired driving, but also those accused of particularly severe and high-profile crimes, including murder or terrorist activities. Consequently, remand facilities operate as maximum-security institutions.

The median sentence length for all prisons in Canada in 2011–2012 was 35 days. Such comparatively short sentences result in a stark discrepancy, particularly at the provincial level, where the number of annual prison admissions is high (~250,000) relative to the daily provincial prison count (~25,000; Reitano, 2017; Statistics Canada, 2016).

We interviewed correctional officers and incarcerated individuals in four provincial prisons in western Canada. Two prisons in our sample were designated remand prisons—one housing more than 700 individuals and the other being the largest prison in Canada, housing 1,800 people. Both remand centers are maximum-security institutions and have living units that housed between 50 and 80 people. The third prison in our sample is a sentenced facility holding approximately 300 people and is one of the oldest prisons in Canada. The living units in this facility include some open dorm units housing between 40 and 60 people and others that are typical Alcatraz-style barred cells. The last prison in our sample is a hybrid institution for approximately 500 people in total, detaining ~70 percent remanded individuals and 30 percent sentenced individuals. The prisons in our research setting are by and large representative of the mixture of institutions in western Canada (based on age, size, population, location, remand vs. sentenced).¹

People incarcerated in remand facilities tend to serve short sentences, often of less than 2 weeks (Maleakieh, 2018; Reitano, 2017). For various legal and organizational reasons, however, a subset of these individuals will spend years in remand.² A large subset of “repeat customers” tend to cycle in and out of prison, sometimes dozens of times over many years. Thus, correctional officers are often personally familiar with a considerable subset of people on their units, something that, as we detail below, can be important in how they exercise discretion.

Canadian remand institutions provide little educational, rehabilitative, or vocational programming (Deshman & Myers, 2014; Pelvin, 2019). Sentenced facilities provide slightly more programming, such as the ability for most incarcerated individuals to have a job. Still, in either type of institution, many imprisoned people spend most of their day idle on the housing unit, sleeping, exercising, watching television, or playing cards. Unlike the United Kingdom or some other jurisdictions, the institutions we studied did not have an IEP system to formalize the expectation that correctional officers will offer discretionary rewards for good behavior to imprisoned people (Crewe et al., 2014; Liebling & Price, 2003).

¹ Although it is difficult to generalize about prisons, as institutions differ starkly in terms of appearance and daily routine, these facilities are reminiscent of stereotypical American prisons, although less racially segregated (see Tetrault et al., 2020), as opposed to the more progressive institutions associated with Nordic countries (Eriksson & Pratt, 2014).

² There are many reasons why people who are incarcerated can stay for a prolonged period of time. For example, legally, if a case has not been heard and decided by the court within a 2-year window, the charges are dismissed. If the person changes lawyers within those 2 years, however, the 2-year clock starts anew.

4 | METHODOLOGY

This article is based on semistructured interviews we conducted with 131 correctional officers from four provincial prisons in western Canada. Twenty eight of these participants were women, approximating the proportionate sex makeup of the profession in our research context.³ Forty five of the correctional officers we interviewed worked at one of the two remand institutions, 44 at the mixed institution, and 32 at the sentenced prison. We conducted our interviews in several 3- to 4-week periods between September 2016 and October 2017.

We recruited correctional officers through general announcements at preshift staff briefings, as well as through e-mail announcements sent to all prison staff. Typically, however, officers signed up after having seen us frequent “their” prison units for a few days and having had the ability to talk to us about our study. We entered each prison as a group of six to eight researchers (the two principal investigators who are authors on this article and four to six research assistants). We announced the study to the incarcerated population on the prison living units, explaining that we were researching life experiences and group membership in provincial prisons, and asked for volunteers. These announcements also introduced us to the correctional officers working on the respective units and allowed them to learn more about our project. We also relied on “snowball sampling” (Biernacki & Waldorf, 1981) to recruit additional officers. This methodological strategy foregrounds the “decision field” in which discretionary decisions are made (Hawkins, 2012, p. 189), which in this case is the prison living unit. Officer discretion might have also been shaped by factors related to the wider organizational “surround” (Manning, 2003) beyond the interpersonal context. These could hypothetically include a situation where an incarcerated person had recently assaulted an officer, or if a prison-related corruption scandal was receiving prominent media attention. In our study, however, the officers never pointed to such factors as playing a role in how they exercised discretion.

At each field site, we recruited officer participants working on all units, including protective custody, gang, special handling, segregation, and solitary confinement. One of our research assistants had worked for 5 years as a correctional officer before entering graduate school. He conducted ~80 percent of the officer interviews, with the two principal investigators and another research assistant completing the remainder. His status as a former officer positioned him as a “trusted insider” (Bucerus, 2013) and appeared to make the interviewees more at ease and candid in their discussions of sensitive matters. The wider research team seemed to garner a degree of legitimacy and trust in the eyes of correctional officers by having a former correctional officer on our team. At the same time, members of the wider research team were able to build rapport and recruit officers while interviewing incarcerated individuals on their living units. Often, there were chance conversations with officers after we had concluded the day’s formal research. Many correctional officers were curious about our team and study. They would ask questions, allowing us to build some degree of rapport before asking whether the specific officer might want to participate.

We interviewed officers primarily in private offices or empty rooms within the jails but sometimes at a nearby coffee shop or restaurant. We offered our participants strict confidentiality and anonymity, assigned pseudonyms for all participants, and obscured any identifying information. Although “rules” and “discretion” were not the only focus of our research, the interview protocol

³ We have not been able to obtain official data on the gender profile of correctional officers in this jurisdiction. This assessment is based on our impressions and informed by discussions with senior correctional officials.

included a subset of questions related to how officers fulfill their day-to-day duties. We asked questions about how they run the living units, as well as about how they make decisions about which rules to insist on enforcing and which ones they could ignore. We often diverged from the interview protocol to allow for the full range of detail and discussion the correctional officer wished to devote to a particular topic. Interviews were audio-recorded and averaged approximately 50 minutes. They were transcribed verbatim and thematically coded using NVivo 11™.

To ensure analytical rigor, we drew on principles and heuristic devices of grounded theory when coding and analyzing our data set (Charmaz, 2014). During our coding phase, most themes and categories related to discretion emerged through answers and discussions around these questions and prompts. The two authors and three research assistants initially coded the first six interviews line by line to reveal emergent categories and themes in our data. After this initial coding phase, we modified our interview protocols to explore emergent themes in greater detail. For example, the correctional officers' perceptions of their co-workers were shaped by how co-workers exercised discretion and rule enforcement, a theme we had not anticipated taking on such a prominent role. Adjusting our interview protocols allowed us to explore these unanticipated themes further. Our subsequent data collection included efforts to examine how the exercise of discretion by co-workers, for example, shapes an officer's perception of their colleagues and the job in general.

Throughout each phase of data collection and analysis, we used a constant comparative method where we compared our initial themes and codes with new emergent themes, identified patterns and gaps in our initial coding scheme, and developed new conceptual categories (Silverman, 2015).

Our inductive analysis around the theme of discretion and rule enforcement began by exploring how officers make decisions about which rules to enforce and which to be lenient about, how to justify such decisions, and how they thought about their co-workers' decisions concerning rule enforcement. We used basic tabular data to identify similarities and differences in the data and to verify the overall strength of patterns in the data. This method also helped us to identify cases that deviated from our observed patterns. After completing all of our interviews, the two authors and three research assistants coded a set of six randomly chosen interviews to determine whether our coding scheme to date had to be amended by additional categories. We developed twin coding schemes: one for people who are incarcerated and one for correctional officers. Once the five coders reached between 85 and 90 percent overlap on the six randomly chosen transcripts, we coded the transcripts based on the themes we had identified in the coding scheme. After the entire data set had been coded, the two authors randomly chose five already coded transcripts for re-coding by two additional coders to double-check the robustness of the coding scheme (again, the re-coding resulted in an overlap of more than 90 percent for all five transcripts).

5 | FINDINGS: PICKING BATTLES

In the past several decades, notable developments in both Canada and other Western countries have affected the work of correctional officers. Prisons have become more bureaucratic, and the exercise of power in prison has become more formally rational (Garland, 1990). There is also increased external oversight, and decisions about significant operational matters tend to now reside with a cadre of managers and supervisors (Liebling, 2006). These developments might suggest that the power of correctional officers has been markedly curtailed over the past several decades. Officers in our study certainly lamented the increased constraints on their abilities to run a unit and "deal with" incarcerated people as they see fit. Closer examination, however, reveals

the tremendous latitude officers have maintained for managing prison units and, in the process, fundamentally determining the experience of incarceration.

Below we identify several factors that our participants contemplate in their decisions about when, how, and why they use their discretion. The point of singling out such examples is not to suggest that these are of overriding importance in all instances of discretionary rule enforcement, or that such factors work in isolation from other influences. Instead, we present them as reflexive instances of officers articulating aspects of their distinctive habitus relevant to the realities of how they selectively apply rules in prison. Such behavior is itself conditioned by the immediate demands pertaining to the need to maintain order, as well as strategic considerations about how these decisions will shape relations and unit dynamics into the future. As such, officers recognize that both incarcerated individuals and fellow officers regularly scrutinize their behavior, and they take such visibility into account in making a wide range of decisions.

5.1 | The rule context

The criminal law applies in prison as in any other context, but correctional officers are expected to enforce a litany of other prison-specific rules, regulations, and guidelines. Perhaps counter-intuitively, a massive slate of regulations is a key precondition for the overall operation of discretion in prison. Every year each correctional officer is supposed to read a weighty 600-page manual held in three large binders containing a complex and comprehensive set of regulations. Officers also administer an additional set of unwritten prescriptions. “Misconduct” by people who are incarcerated encompasses such diverse behaviors as swearing at officers, keeping food in a cell, brewing alcohol, displaying gang signs, taking illicit drugs, not wearing shoes, consensual physical contact with other incarcerated individuals, selling drugs, throwing feces, writing graffiti, extortion, cutting hair, diverting (“cheeking”) medication, getting or giving tattoos, entering someone else’s cell, covering cell windows, making improvised weapons, taking canteen items from someone else, threatening violence to enforce drug debts, scratching gang symbols into the paint, deliberately clogging toilets, gambling, masturbating,⁴ sending messages (“kites”) to other incarcerated persons, monopolizing the telephones, extortion, placing posters on the walls, and a litany of other misdeeds. In encountering almost all such situations, a correctional officer could choose to lay institutional disciplinary charges against the perpetrator, and for some of these behaviors, they might initiate criminal charges. Whether they be formal regulations or informal prescriptions, all such matters take on disproportionate significance—for both incarcerated individuals and officers—when life’s horizons shrink to the parameters of a cellblock containing fifty or so incarcerated people (Goffman, 1961).

Our participants were conscious of the vast discretionary latitude they had in deciding how to respond to such misbehavior, although they relate to this situation in different ways. Most see discretion as serving the prison’s predominant “order maintenance” function. This amorphous “order maintenance” agenda consumes most of an officer’s time and cognitive energy. Stringently enforcing the rules is not compatible with such ambitions (Sykes, 1958), but nonenforcement is also fraught with complications, contradictions, and risk. As a result, officers must skillfully draw on their professional habitus to weigh many personal, organizational, and security considerations in the balance.

⁴ Officially prohibited.

Correctional officers who lean toward strict enforcement can be disparaged as “heat bags” by their peers, characterized by officer Stewart⁵ as being “super inflexible, ultra by-the-rule, yelling a lot, sort of telling people to fuck off all the time, stuff like that.” Many participants deride such an approach for taking a needlessly authoritarian orientation that can stir up hatred and undermine their order maintenance ambitions.

For officers, it is not solely the preponderance of rules that characterizes the prison’s regulatory environment but also their sense of trying to govern a population incessantly scheming to violate those rules. Officers believe people who are incarcerated regularly break the rules to make life easier and to gain any number of advantages. They also assume such individuals violate rules to undermine officers’ authority, thus, enhancing their reputation among other incarcerated individuals. Officer Etienne sees such expressions of agency (or resistance) as akin to recreation for incarcerated people: “It’s a game. It’s like a game of cat and mouse. They want to see how much they can get away with, right? And if you get tired of doing your job, they win, right?”

When pushed on this issue, however, even officers with a “strict enforcement” sensibility admitted full and automatic execution of all rules is a fantasy, particularly given the sheer number of regulations: “We just don’t have time in the day. That’s one of the nuisances of working on this unit, is that ... like, we could run around every day all day. ... Like, we could literally spend every minute on our feet running around, chasing people down” (Officer Matt). The fact that a team of two or three officers oversaw units housing 40 or more individuals (sometimes up to 92) reinforced that assessment. Officers believed that such ratios made it pragmatically impossible for even highly motivated individuals to come even close to enforcing *all* the rules. Officers, therefore, characterized the enforcement situation as one where they need to “pick your battles.” Officers Adam and Connor nicely articulate that view, with both of them giving a sense of how their work experiences have shaped their habitus, which in turn informs how they exercise discretion:

There’s so many minor rules that I can enforce—but at whatever point, you gotta pick your battles, right? You can’t be so militant that you think that you’re gonna go out there and have a perfect unit. It’s just not feasible. Just like when you raise your kids, raise whatever—are your kids perfect? No. Is your dog perfect?... Do they follow all the rules? No. Did you discipline them the same way for everything? No. You can’t. You’ve got to do everything case-by-case. But that comes with experience and knowing the job, right? (Officer Adam)

It’s like raising a kid. You have to pick your battles. You can’t pick every battle, or you’re going to be yelling all the time, and your kid will hate you. Same with these guys. If you have to fight every battle with these guys, it’ll just drive you crazy. (Officer Connor)

This “picking battles” theme highlights a key aspect of discretion as exercised by correctional officers compared with many other criminal justice decision-making contexts. Judges or parole officers, for example, make temporally defined and highly circumscribed decisions about a person’s guilt, innocence, or release. They decide, and the subject of such decisions goes away and is perhaps never seen again. Correctional officers, in contrast, make decisions about enforcing a rule on people who they will probably see again within 10 minutes and perhaps engage with

⁵ All names are pseudonyms.

repeatedly over the next 10 days, 10 weeks, or 10 years (in the federal system). Officers consequently are not just concerned with the immediate determination of what is and is not allowed. They also contemplate how their decisions about how to “deal with” such infractions might alter unfolding relationships with incarcerated people (Liebling, 2000), with fellow officers, and with unit dynamics more generally.

It is, therefore, best not to think of correctional officer discretion as a stand-alone instance of rendering a verdict. Instead, it is a moment in a continuous flow of decisions about all kinds of matters—both trivial and monumental—about groups of people with whom they have repeated encounters and ongoing relations. As such, officer discretion is more akin to parenting than to a judge rendering a verdict in court, something officers signified by repeatedly characterizing their job as “babysitting.”

5.2 | Officer orientations to rule enforcement

As an officer’s habitus is the embodied culmination of a lifetime’s worth of experience, it is not possible to delineate *all* the factors that combine to shape their situational exercise of discretion. Many officers, however, were candid in sensitizing us to several considerations that can be in play when picking battles. In doing so, they painted a picture of a highly contextual process of rule enforcement in prison where officers made decisions that were sometimes immediate and almost instinctual, and others that involved conscious calculation. All such decisions were embedded in the correctional field and drew on and were conditioned by an officer’s habitus, understood as a series of “mental and corporeal schemata of perception, appreciation, and action” (Bourdieu & Wacquant, 1992, p. 16).

Officers in our study were regularly frustrated by the fact their co-workers did not pick the same battles as they did nor fight those fights with the same degree of vigor. To be clear, officers were not upset that their colleagues did not enforce the rules. Instead, they were annoyed because others did not reproduce *their* distinctive constellation of enforced and unenforced rules. For example, Officer Abbott, who worked at the sentenced facility, discussed at great length the importance of consistently enforcing the rules, even those that some officers tended to dismiss for being unimportant:

Like having your grays [gray sweatshirts] rolled down. That’s not allowed. You are not allowed until after 4:00. Then they can take their [orange] coveralls off and put their grays on. If they have their grays... they are not supposed to wear their grays underneath. And what a lot of them will do is they will put their gray sweaters on and roll their coveralls down. It’s not allowed. They’ll draw on their shoes. They’ll wear hobby items, like necklaces. They’ll make necklaces and earrings and stuff. They’re not allowed.

He complained about others not enforcing the rules, saying he preferred a situation where “these are the rules. Everybody is going to stick to the rules.” Almost immediately, however, he proceeded to detail several regulations that he ignores:

One of the things that I let slide is gambling. I don’t really care about gambling. I’m not going to sit there and watch the cameras to see ‘are they gambling?’ Playing cards?

Whatever. I don't care. But that's a charge. I could charge them if I suspect them of gambling.

Decisions about what rules to enforce and when to formally respond to such infractions can be somewhat personalized, but they are not arbitrary. Instead, they are informed by an officer's appreciation for the dynamics of the correctional field in which they work. Officer Abbott's discretionary ability to allow gambling, or stop incarcerated people from wearing nonstandardized or prohibited attire, for example, would be highly visible to everyone on his unit, something about which officer Abbott and his colleagues are well aware. This comparative visibility of their discretionary decisions often informs officers' decision-making as they try and anticipate how different audiences will respond to these performances of enforcement or nonenforcement, and how that might condition their immediate order maintenance ambitions.

5.3 | Soft power

Rather than continually butting heads with a recalcitrant and potentially volatile population, officers selectively ignore some rules to enhance their standing with incarcerated people and perhaps call in favors at a later point. Here, nonenforcement is a strategic part of the overall order maintenance ambition. We encountered many instances of this dynamic. Officers were often forthright about how explicit and public this "give-and-take" process could be. For example, when first admitted to a sentenced facility, individuals receive a 71-page "inmate handbook." Officer Josh did not see this document as a simple chronicle of rules that inmates need to follow. Instead, in drawing on his professional habitus, he used the handbook as a prop in a future-oriented performance. He enacted this bit of theatre to signal to the people he oversaw how rarely he enforced the rules, drawing attention to this laxity to encourage the incarcerated individuals to conform to his preferred profile of regulatory expectations:

I've showed. . . if the inmates want, you can give them the inmate manual. I've gone through it with them before, and they're like, "Are you kidding?" I'm like, "These are the things we let you get away with, 'cuz we want units to run smooth."

For officer Quinton, such discretionary give-and-take was, in part, a public and strategic display of priorities. Similarly, below he describes being resigned to the reality of drug dealing on his unit. At the same time, he makes it clear that he is anxious about the prospect of incarcerated people overdosing—an occurrence that officers can find personally traumatizing (Bucerus & Haggerty, 2019) and that can result in unwelcome questions from supervisors and voluminous paperwork. As a result, he uses his discretion to announce his priorities. He detailed for the drug dealers the conditions under which he will tolerate dealing, and how he would eliminate the discretionary perks that can make prison life slightly more tolerable if they did not meet his conditions:

Do not let someone overdose on my unit . . . if someone overdoses, I will dedicate every spare minute I have to ruining your lives. After this is all done and over, you guys will not be getting the meals you guys want. You guys will not be having extra sheets. You will not have photos on your walls. Everything you want, that is coming in for you, will mysteriously disappear.

The performance of this discretionary soft-power strategy is partial recognition that power in prison is necessarily negotiated between officers and people who are incarcerated (Sparks et al., 1996; Sykes, 1958) and is a key component of the rule enforcement and nonenforcement situation. Officer discretion, however, is not absolute or unconstrained. Myriad factors in the correctional field relating to the visibility and practical consequences of such decisions condition and set contextually specific limits on when and how officers enforce the rules (Feldman, 1992).

5.4 | **Constrained discretion: Considerations relating to incarcerated individuals**

The limits on officer discretion are set to a considerable extent by their perceptions of incarcerated individuals. These views are informed by their professional habitus and involve an almost instantaneous situational weighing of an officer's opinions on incarcerated people in general, their inferences about the group of people detained on the unit they are managing, as well as their knowledge of, and relationships with, specific individuals detained on their unit.

The job of a correctional officer can be dangerous, and a sizeable minority of officers in each of the four prisons we studied was or had been on medical leave as a result of violent encounters with incarcerated people and the emotional trauma associated with such confrontations. Every officer knew an officer in such a situation. A subset of people incarcerated on some of the units known for violent encounters (often, the "gang units") was not afraid to fight officers. At two prisons, it was not uncommon to hear alarms signaling a violent confrontation between an incarcerated person and correctional officers. Officers were aware incarcerated people could and occasionally did attack officers, and that even nonviolent individuals—if they were sufficiently upset and motivated—could make their work life intolerable. The tenor of discretionary rule enforcement was shaped continuously by an appreciation for these field-specific realities.

The fact that the prison could be volatile and unpredictable conditioned how vigorously officers enforced the rules. For example, the specific drug and alcohol situation in prison is part of any assessment of such possible volatility. The prisons we studied contained an enormous proportion of residents (perhaps more than 80 percent) who struggled with substance abuse, most notably alcohol, methamphetamine, crack, and opioids (including potent new synthetic analogs such as fentanyl and carfentanyl; Bucarius & Haggerty, 2019). Illicit drugs were often available, and some residents would get drunk on homemade alcohol, called "brew." Officers could, therefore, randomly encounter incarcerated individuals whose behavior was unpredictable because they were drunk, high, going through withdrawal, or experiencing methamphetamine-induced psychosis. Many imprisoned individuals suffered from mental health problems, and surprising numbers of them volunteered to us that they struggled with anger management, "had issues" with authority figures, or had been diagnosed with oppositional-defiant disorder.

All these factors were intertwined with and exacerbated by the personal stresses associated with being incarcerated and away from family and loved ones. For people on remand, these strains could be acute, given they could not anticipate or plan for their future, as they had not been found guilty or sentenced (Kohler-Hausmann, 2013; Pelvin, 2019). Would they be convicted? Would they lose their jobs while awaiting trial? Would the bank foreclose if they defaulted on their mortgage because they could not work? Was someone taking care of their children? Were their pets safe? Were their "friends" robbing their apartment or stealing their tools while they were in jail (a sadly common practice)? Officers knew that the combination of such stressors could make even a usually calm and orderly person inherently unpredictable and more easily set off by confrontation.

An appreciation for the mercurial nature of resident's reactions factored into how stridently officers enforced the rules. Officer Smith, who worked at the most volatile prison we studied, put a fine point on such forward-looking consequences of how officers employed discretion: "[I]f you follow that inmate manual, you'd have riots here."

Officers were aware rules were not enforced on a *tabula rasa* free of existing regulatory routines. Managing a prison unit entails an established visible pattern of ordering the minutia of daily life, which is itself a function of how rules have been enforced and misbehavior has been dealt with in the immediate past. The wide remit of correctional officer discretion meant officers could disrupt such routines, but deviating too far from the existing pattern of enforcement and nonenforcement was risky. Incarcerated people could vigorously push back on rules that outsiders might see as comparatively trivial—simple departures from expectations and prior practice could suffice to spark a confrontation. Here, for example, officer Carrie, who worked at a remand facility, discusses how altering the procedures for giving residents a new toothbrush could inflame an incarcerated person and result in a violent confrontation:

It's supposed to be the one-for-one exchange for toothbrushes and stuff like that. Most staff just let them take as many as they want. You know what I mean? Even those little things! Now I'm having a code [violent confrontation] because I said "no" to you because I wanted you to bring down your fucking toothbrush!?

Correctional officials also detain people on the same units because they deemed them to share similar characteristics or risk profiles. In the prisons we studied, this included boot camp units, general population units, women's units, protective custody units (mainly housing sex offenders and informants), gang units, "old man" units (for older individuals), weekend units (housing people serving intermittent sentences), maximum-security units, and mental health units. Their assumptions about the "types" of individuals housed on such units can also shape how officers exercise discretion, with an incarcerated person's unit serving as a form of "master status" (Hughes, 1945) that officers use to draw inferences about his or her potential for violence or confrontation. Officers draw on their professional habitus to mark a series of categorical distinctions about people who are incarcerated, which in turn shapes when and how they exercise discretion. Most conspicuously, officers adopt a distinctive approach to enforcing rules on the maximum-security unit (known as "max pod"), which holds individuals who have attacked officers, beaten other incarcerated people, or who are accused of murder. Officer Asher acknowledged that officers conspicuously "lighten up" on enforcing the rules on such units "because it's a different type of inmate. These guys are warriors. They're not going to kneel to every single rule." The presence of gang members on a unit could exacerbate this situation:

If you have a unit with a lot of gang members, you're going to have to make more concessions with how the unit is run. You're going to have to give them more leeway. Because if you start cracking down on them really hard . . . they'll say it heats up the unit. Everybody gets really angry really quickly. And that's not a situation anyone wants to be in. So, there is definitely, with these hard-core criminals—you can't—it's a lot harder to rule with an iron fist. . . . So, me and a lot of officers will have to make some sort of concessions.

Discretion on the maximum-security units also tended to skew toward more lax enforcement of rules because of how officers interpreted several organizational and legal constraints characteristic of the correctional field. In particular, officers had few legally sanctioned options

available to punish such individuals. As these people were already on the most secure unit, officers could not send them somewhere “worse” when they broke the rules. Initiating internal disciplinary charges for even comparatively serious infractions was rare as most officers had little faith that the internal disciplinary system would result in meaningful sanctions for incarcerated people who misbehaved. Moreover, there were informal disincentives to enforcing the rules. Officers who used their discretion to initiate official warnings, reprimands, and disciplinary charges were also, in the process, producing paperwork and making work for other members of the correctional hierarchy.

Instead of being seen as committed and motivated employees, officers who initiated more than their share of disciplinary measures were likely to be seen by fellow officers or supervisors as unable to run their unit via the preferred informal and negotiated social control measures. Officers therefore explicitly contemplated the future professional consequences of using their discretion to initiate formal proceedings, given that doing so could make them visible to supervisors in an unwelcome manner. Officer Carrie, who worked in the mixed facility, expressed her frustration with this situation, noting, “They [managers] didn’t want staff reports. They didn’t want incident reports. And if you get incident reports, you’re getting moved [to a different unit], because clearly, you’re not working out well there.” For similar reasons, it was also exceptionally rare for officers to call in the police to lay criminal charges (referred to as “street charges”), something that tended to be done only in the most egregious of circumstances.

Here officer Matt recounts an instance when his supervisor had noticed that he and his colleagues working on the maximum-security unit were conspicuously not enforcing specific rules that officers consistently discharged on other units. Matt then had to articulate aspects of his habitus, explaining to his supervisor the challenges of rule enforcement on this unit. In the process, he also gives a sense of how enforcing rules is shaped by forward-looking considerations about the sustained nature of officers’ relationships with people who are incarcerated:

We sat him down, we’re like: “Listen. You gotta pick your battles here. These guys have already proven they’re willing to fight an officer. Like, they’ve—one of them sent an officer to hospital. They’ve done bad stuff, right? And they’re on Max Pod. They’ve proven that they’re willing to get here. . . . And if we’re going to sit there and belittle them all the time, nit-pick the little things, it’s like—they’re going to fight us. And then where are we going to send them? They’re already on Max Pod. We can’t send them anywhere else. They’re going to fight us. And the next day, we’re going to come in, and it’s like [a prisoner saying] ‘Oh, hey. I fought you yesterday. Want to fight again?’ (laughing). So, it’s like we want to pick our battles. So you actually pick the ones that are worth it.”

Officers also sometimes consider someone’s criminal history when deciding on what rules to enforce. As the men and women incarcerated in remand prisons tend to be housed there for short periods, it can be difficult for officers to get to know many of them personally (Pelvin, 2019). This anonymity could reduce some of the more personal considerations from the operation of discretion. Inevitably, however, even in remand facilities, a prominent group of individuals is well known simply because they are charged with particularly heinous acts and tend to stay for more extended periods awaiting trial. Other high-profile individuals include leading gang figures, or “heavies” who stand on their reputations for violence, most of whom have a detailed understanding of prison life. For our correctional officer participants, such individuals can be a mixed blessing. Some are dangerous, but they can also help keep other incarcerated people in line, making it

easier for the officers to manage the units housing the most volatile individuals. As officer Duane observed about one notorious unit: “If you don’t have the rapport of the inmates, you’re not running that place. . . . You gotta remember, in most of these units, especially East Wing, the inmates run it. They let us have authority. If they didn’t want to listen to us, there’s sixty against one.”

Many participants would go lighter in enforcing the rules on such individuals in hopes of garnering their informal assistance in managing a unit. We frequently heard about unofficial “agreements” officers had established with certain heavies. Such arrangements might entail officers providing those individuals with extra perks such as more time on the telephones, an extra mattress, or more food, in exchange for helping regulate the unit and keep other residents in line. Some of our officer participants also told us about occasions where they or other officers transferred heavies off their unit because they were not performing this task up to an officer’s expectations.

This situation stands in contrast to that in almost all other spheres of criminal justice where people with “unblemished records . . . generally fare better than those who are morally stigmatized” (Baumgartner, 1992, p. 136). In prison, correctional officers occasionally enforce the rules in light of their interpretation of a person’s reputations for violence, serious organized criminality, and knowledge of, and adherence to, the prison code. For this reason, those who are understood to be more deeply embedded in a criminal subculture can fare better than their less violent or criminally involved peers in terms of the discretionary “perks” they receive and how vigorously officers regulate their behavior.

5.5 | Fellow officers: Supervisors and colleagues

Officers are also conscious of the fact that their fellow officers are a vital audience for their discretionary decision-making. Contemplating how supervisors might respond to such decisions was part of the discretionary equation because while not enforcing some rules was inevitable, from a strictly legalistic perspective, it is also a violation of an officer’s duties. Depending on the rule, and what untoward consequences might result if an officer did not enforce it, our participants faced the prospect of being chastised, formally disciplined, or fired. Although supervisors did not typically spend extended time monitoring a unit, officers did have to contemplate the consequences if their superior observed them ignoring the rules.⁶ Officer Jason gives a sense of how he anticipates this prospect when describing the guidance he provides incarcerated people about when and where they can violate the regulations against possessing and smoking marijuana or tobacco:

“Hey guys, just so you know, I know. It’s good . . . but keep it on the down-low” . . . I always say—“My rule is, fuck you guys, smoke it after eleven [o’clock].” ‘Cuz on midnight shift, nobody cares. You don’t have the manpower. If it’s a little bit of weed or a little bit of smoke, like . . . whatever, right? But you know what I mean? Nobody gives a fuck. “But if you smoke it in the afternoon, and the unit reeks of pot, and my ADD [supervisor] walks in. . . . Now I’m fucked. Now *I’m* in the spotlight. Which means that you’re *fucked*.” (Emphasis in original)

Some degree of nonenforcement was inevitable, and publicizing such laxity could be strategically useful for officers, but it also made them vulnerable. Many worried that if something went wrong, management would deflect responsibility by personalizing the issue, blaming individual

⁶ In keeping with the focus on discretion, officers were also aware that different supervisors might respond to such violations in significantly different ways.

officers for not enforcing rules everyone privately acknowledged were routinely flouted. Officers had to draw on the experiences that inform their habitus to contemplate the potential “worst-case” scenarios in deciding when to skirt the rules. Such calculations are not easy to make, given the unpredictable nature of prison life. Consider, for example, that incarcerated people will often give each other haircuts on the units. The “barber” breaks open a disposable razor, removes the blade, and attaches it to the arm of a comb, which he then uses to cut hair. Although explicitly prohibited, many officers turn a blind eye, including Officer Asher. He did, however, recall one haircut that went memorably wrong when an incarcerated individual inadvertently gashed his hand on his makeshift razor. Officer Asher then had to concoct a story for his supervisor explaining why people were cutting hair on his unit. As he was doing so, the unit “barber” unexpectedly volunteered to take the blame by lying to management—proposing to say he was cutting hair without permission—to keep the officer out of trouble:

He cut his hand wide open and had to go out [to the hospital]. So as soon as he goes out, a report has to go up to those people [management]. So, I’m lucky, because I had people who covered for me. I just told—I’m like, “I can’t charge the guy, I told him he could do it. I’m not going to charge the guy in good faith.”... He tried to be solid on my behalf. He was like, “Boss, I’ll tell them that I [did it without permission] ...” I’m like, no, no. I can’t lie and say that you did it without me saying you could do it.

An officer’s perceptions of his or her peers also shaped when and how they exercised discretion. As noted, inconsistencies in how officers exercise discretion could be a point of contention between officers as it was exasperating to have incarcerated people complain an officer was a “heat bag” for enforcing rules neglected by different officers. The logistics of shift work played a role in this dynamic as teams of officers work 8-hour shifts on a unit and are then relieved by a new crew. By working together, the teams tend to develop a somewhat characteristic profile of rule enforcement, an arrangement that varied across shifts. Officer Matt, for example, characterized his crew as comparatively low key, not interested in adding more confrontational officers to the mix: “Like, if they want to send an officer here who wants to come to work and go to fight every day, then they’ve chosen the wrong crew. ... For us, we want to come here; we want to do our time. Everybody’s alive. We don’t cause any fights, and we—if anything, you mellow everything out.”

To try and mitigate these irritants, some officers explicitly coordinated with other officers and different shifts to decide which rules to enforce on their unit and those they would ignore. Here Officer Jason gives a sense of an elaborate effort to try and standardize how discretion would operate across shifts as it pertains to several battles officers consistently fought with people who are incarcerated:

We actually communicated [with officers on the next shift]. And it was perfect. For one set—each shift, we did it—we’re like, doors closed. And that’s all we focused on. That’s all we cared about. And after doors closed, coveralls. We just focused on coveralls. And for the next set, we focused on doors closed, coveralls, and don’t have anything, have your windows uncovered. And the fourth one was doors closed, coveralls up, window uncovered, and your walls. ... The stuff you could see from the entrance, that has to be clear.

Prisons are the workplace of correctional officers. Like all workplaces, prisons contain employees who monitor and judge how their peers perform their jobs (Ball, 2010). Officers are attentive to assessments of how skillfully they exercise their discretion and bear this in mind in how enthusiastically and consistently they apply both formal and informal rules.

6 | DISCUSSION AND CONCLUSION

Correctional officer discretion operates behind formidable prison walls and is often only grudgingly admitted to by senior officials. Such barriers have made such discretion doubly invisible to anyone who is not immediately affected by such decisions. In recent years, the small body of research on correctional officer discretion has focused on prisons where “Incentives and Earned Privileges” (IEP) programs are in place, which empower officers to provide discretionary perks to incarcerated individuals in a manner designed to reinforce positive behavior. Our findings, in contrast, focus on prisons where such programs do not exist—as is typical in North America—and where discretion consequently tends to be less formally structured and more focused on order maintenance rather than on rehabilitation. That said, our findings support earlier assessments that discretionary rule enforcement is endemic to prison life and essential to its functioning (Gilbert, 1997; Liebling, 2000; Sparks et al., 1996). We have emphasized, in particular, instances where officers choose not to enforce the rules as the process of rule-following seems to require less explanation in a prison setting where one might presume officers enforce rules consistently.

By virtue of our focus on the habitus of officers working in a correctional field, we have drilled down into the specific nuances of several factors officers can attend to in deciding when, how, and why they exercise discretion. Most fundamentally, officers use their discretion to avoid managing rule infractions through recourse to the official disciplinary system. This situation is itself informed by not wanting to inflame tensions on the unit and a recognition of the need to maintain productive relationships with a subset of people who are incarcerated. As a result, such decisions are also conditioned by an assessment of both the “type” of person an officer is dealing with and the dynamics of the particular unit where they are working. Officers also contemplate what rules their colleagues enforce and how other officers will assess how they execute their discretionary decision-making. These assessments are themselves informed by a recognition that attempting to enforce more than a fraction of the rules would overwhelm their workload. So, their use of discretion involves ongoing considerations of how their actions will transform their immediate occupational environment. Although previous researchers have noted this “forward-looking” component of discretion in prison (Liebling, 2000), we believe future works should study this attribute of decision-making in relation to any discretionary decision-making process in criminal justice. How might the discretionary decision making of a judge, for example, differ given that he or she does not have to anticipate future sustained interactions with the people they sentence?

As our data demonstrate, discretionary decisions have both instrumental and expressive components. Instrumentally, they allow or disallow certain behaviors. At the same time, however, they are also a form of performance, “a sequence of gesture postures, verbalizations or actions seen by others” (Manning, 2008, p. 680). Officers are aware that their discretionary choices are visible to different audiences, and they often render decisions designed to manage such visibility toward strategic ends. This can include trying to assess how a particular decision will be interpreted and responded to by fellow officers, by supervisors, by people who are incarcerated, or even by one specific individual.

Consequently, in prison, the operation of discretion might be “low visibility” (Goldstein, 1960) in that these decisions are not broadcast via the media and are rarely documented on official forms. Nor do they often serve as the basis of formal criminal or disciplinary charges. At the same time, within the prison, and on any particular unit, discretionary decisions are often acutely and purposefully visible to people who are incarcerated and to other correctional officers, something that officers intuit when performing their jobs. As such, decisions are not based exclusively on the merits of any individual case but are interaction based, and often amount to a forward-looking communicative practice. Officers regularly contemplate and manipulate the visibility of their decisions, trying to anticipate their possible downstream organizational and interpersonal effects.

Our findings advance an appreciation for correctional officer discretion by foregrounding the role played by an officers’ habitus while providing candid empirical insights into the range of factors specific to the correctional field that such officers might contemplate in deciding what rules to apply, and when. We have pointed to many contextual influences and forward-looking considerations that inform an officer’s habitus and his or her consequent exercise of discretion. One methodological limitation of our research, however, is that space precludes identifying all (or even most) of the possible contextual influences on discretion. It is also the case that interviewees can only access those factors they know and are willing to admit to, meaning forces that might invisibly shape or bias the operation of discretion are not apparent. For example, we encountered considerable variation in how strenuously officers regulated gambling, smoking marijuana, or making “brew.” We learned about some of the instrumental and strategic reasons for not enforcing those regulations. Still, it is also plausible an officer’s moral position on gambling and drug or alcohol use informed the extent to which they implemented these and other rules. They rarely spoke to us, however, about the morality of such activities.

Finally, the picture our research participants paint of their wide latitude for discretion also raises methodological questions about research conducted on “rule-following” and “misbehavior” by incarcerated people. Most of this research relies on official statistics of rule violations or formal disciplinary reports as their measure of “inmate rule violation” or “inmate misbehavior.” In their systematic analysis of this literature, Steiner et al. (2014) identified 98 studies (containing 306 models) of multivariate analyses of misconduct by people who were incarcerated published between 1980 and 2013.

The soundness of such an approach is called into question by our findings, which demonstrated that correctional officers encounter a tremendous variety of “misconduct.” Such infractions can range from physical assaults, to gambling, to covering a lightbulb in a cell, to not wearing the prison-issued coveralls. The relative seriousness of such behaviors is an open question. So, even though assault seems self-evidently serious, gambling can result in debts that culminate in assaults. A covered lightbulb can spark a fire, and wearing street clothes can be a prelude to an escape attempt. Although these and many other forms of behaviors can seem like trivialities to outsiders, correctional officers can interpret them as severe rule violations. Should an officer choose to do so, they can also formally charge an incarcerated person for such infractions. Our analysis points to the tremendous range of factors well beyond the prohibited nature of such behaviors, which officers contemplate before responding.

Researchers eager to understand the dynamics of “misbehavior” by people who are incarcerated would therefore need to employ measures that encompass a reliable approximation of the totality of such rule-violations. As such data do not exist, this body of research regularly relies on official counts of infractions or disciplinary charges as a proxy for “misbehavior.” Unfortunately, such a move conflates “misbehavior” with what is really the outcome of several highly discretionary

organizational decisions made by correctional officers. At best, a tiny but ultimately unknowable fraction of rule violations—including “serious” crimes—ever make it onto the official statistics. As Officer Matt stated, and as was confirmed by almost all of our research participants, “we could run around every day all day. . . . Like, we could literally spend every minute on our feet running around, chasing people down.”

Rather than studying “rule violations” by people who are incarcerated, this body of research should be understood as studying the outcomes of officers’ highly discretionary decisions about which misdeeds they will formally single out for official processing. An appreciation for this situation necessarily turns attention away from “what a person did” to be officially reprimanded to “what an officer did (or didn’t do)” such that an incarcerated person’s behavior ends up on the statistical count of rule violations. Authors writing about misbehavior in prison are aware of these difficulties. Nonetheless, most sidestep the full implications of this situation, choosing instead to caution readers about the need to be careful in interpreting findings about misbehavior by people who are incarcerated that rely on official statistics. The methodological issues, however, are more severe than such cautions might suggest. Writing in *Federal Probation* in 1990, Light drew attention to similar measurement issues in official data about rule infractions by people who are incarcerated, concluding that “the use of official prison data for any purpose save political posturing may be untenable until such time as more becomes known” (p. 5). His dismissal might be too sweeping, but 30 years later, our research on officer discretion reaffirms the inherent difficulties in assuming even a loose correspondence between “rule violations” by people who are incarcerated and official statistics on such misdeeds.

REFERENCES

- Arnold, H., Liebling, A., & Tait, S. (2007). Prison officers and prison culture. In Y. Jewkes, J. Bennett, & B. Crewe (Eds.), *Handbook on prisons*. Willan.
- Ball, K. (2010). Workplace surveillance: An overview. *Labor History*, 51(1), 87–106.
- Baumgartner, M. (1992). The myth of discretion. In K. Hawkins (Ed.), *The uses of discretion* (pp. 129–162). Oxford University Press.
- Biernacki, P., & Waldorf, D. (1981). Snowball sampling: Problems and techniques of chain referral sampling. *Sociological Methods and Research*, 10(2), 141–183.
- Bosworth, M., Campbell, D., Demby, B., Ferranti, S., & Santos, M. (2005). Doing prison research. *Qualitative Inquiry*, 11(2), 249–264.
- Bourdieu, P. (1998). *Practical reason*. Stanford University Press.
- Bourdieu, P. (2005). Habitus. In J. Hillier & E. Rooksby (Eds.), *Habitus: A sense of place* (pp. 43–52). Ashgate.
- Bourdieu, P., & Wacquant, L. (1992). *An invitation to reflexive sociology*. University of Chicago Press.
- Bucerus, S. (2013). Becoming a “trusted outsider”: Gender, ethnicity and inequality in ethnographic research. *Journal of Contemporary Ethnography*, 42(6), 690–721.
- Bucerus, S., & Haggerty, K. D. (2019). Fentanyl behind bars. *International Journal of Drug Policy*, 71, 133–138.
- Bushway, S., & Forst, B. (2013). Studying discretion in the processes that generate criminal justice sanctions. *Justice Quarterly*, 30(2), 199–222.
- Bushway, S., & Piehl, A. (2001). Judging judicial discretion. *Law & Society Review*, 35(4), 733–764.
- Charmaz, K. (2014). *Constructing grounded theory*. Sage.
- Crewe, B. (2011). Soft power in prison. *European Journal of Criminology*, 8(6), 455–468.
- Crewe, B., Warr, J., Bennett, P., & Smith, A. (2014). The emotional geography of prison life. *Theoretical Criminology*, 18(1), 56–74.
- Decker, S., & Pyrooz, D. (2019). Activism and radicalism in prison. *Justice Quarterly*, 36(5), 787–815.
- Deshman, A., & Myers, N. (2014). *Set up to fail*. Canadian Civil Liberties Association.
- Eriksson, A., & Pratt, J. (2014). *Contrasts in punishment*. Routledge.
- Evans, T. (2016). *Professional discretion in welfare services*. Routledge.

- Ewick, P., & Silbey, S. (1998). *The common place of law*. University of Chicago Press.
- Feldman, M. (1992). Social limits to discretion. In K. Hawkins (Ed.), *The uses of discretion* (pp. 163–183). Oxford University Press.
- Finkelstein, S., & Hambrick, D. (1990). Top-management-team tenure and organizational outcomes: The moderating role of managerial discretion. *Administrative Science Quarterly*, 35(3), 484–503.
- Fox, K., Zambrana, K., & Lane, J. (2011). Getting in (and staying in) when everyone else wants to get out. *Journal of Criminal Justice Education*, 22(2), 304–327.
- Garland, D. (1990). *Punishment and modern society*. Clarendon.
- Gilbert, M. (1997). The illusion of structure. *Criminal Justice Review*, 22(1), 49–64.
- Goffman, E. (1961). *Asylums: Essays on the social situation of mental patients and other Inmates*. Garden City.
- Goldstein, J. (1960). Police discretion not to invoke the criminal process. *Yale Law Journal*, 69, 543–594.
- Hawkins, K. (2002). *Law as last resort*. Oxford University Press.
- Hawkins, K. (2012). Order, rationality and silence: Some reflections on criminal justice decision-making. In L. Gelsthorpe & N. Padfield (Eds.), *Exercising discretion* (pp. 186–231). Willan.
- Hoffman, P., & DeGostin, L. (1974). Parole decision-making: Structuring discretion. *Federal Probation*, 38(4), 7–15.
- Hughes, E. C. (1945). Dilemmas and contradictions of status. *American Journal of Sociology*, 50(5), 353–359.
- Hutter, B. (1997). *Compliance*. Oxford University Press.
- Ibsen, A. (2013). Ruling by favors: Prison guards' informal exercise of institutional control. *Law & Social Inquiry*, 38(2), 342–363.
- Jones, M., & Kerbs, J. (2007). Probation and parole officers and discretionary decision-making. *Federal Probation*, 71, 9–15.
- Kleinbaum, A., Stuart, T., & Tushman, M. (2013). Discretion within constraint. *Organization Science*, 24(5), 1316–1336.
- Kohler-Hausmann, I. (2013). Misdemeanor justice. *American Journal of Sociology*, 119(2), 351–393.
- Liebling, A. (2000). Prison officers, policing and the use of discretion. *Theoretical Criminology*, 4(3), 333–357.
- Liebling, A. (2006). Prisons in transition. *International Journal of Law and Psychiatry*, 29(5), 422–430.
- Liebling, A. (2008). Incentives and earned privileges revisited: Fairness, discretion, and the quality of prison life. *Journal of Scandinavian Studies in Criminology and Crime Prevention*, 9(S1), 25–41.
- Liebling, A. (2011). Distinctions and distinctiveness in the work of prison officers: Legitimacy and authority revisited. *European Journal of Criminology*, 8(6), 484–499.
- Liebling, A., & Price, D. (2003). Prison officers and the use of discretion. In L. Gelsthorpe & N. Padfield (Eds.), *Exercising discretion* (pp. 77–96). Willan.
- Light, S. (1990). Measurement error in official statistics. *Federal Probation*, 54(4), 63–68.
- Lipsky, M. (1980). *Street-level bureaucracy*. Russell: Sage Foundation.
- Lundman, R. (1979). Organizational norms and police discretion. *Criminology*, 17(2), 159–171.
- Maleakieh, J. (2018). *Adult and youth correctional statistics in Canada 2016/17*. Statistics Canada, Canadian Centre for Justice Statistics.
- Manning, P. (1977). *Police work*. MIT Press.
- Manning, P. (2003). Policing. In L. T. Reynolds & N. J. Herman-Kinney (Eds.), *Handbook of symbolic interactionism* (pp. 196–209). AltaMira Press.
- Manning, P. (2008). Goffman on organizations. *Organization Studies*, 29(5), 677–699.
- Mitchell, M., McCullough, K., Wu, J., Pyrooz, D., & Decker, S. (2018). Survey research with gang and non-gang members in prison: Operational lessons from the Lone Star Project. *Trends in Organized Crime*, 1–29.
- Nowacki, J. (2015). Organizational-level police discretion. *Crime & Delinquency*, 61(5), 643–668.
- Pelvin, H. (2019). Remand as a cross-institutional system. *Canadian Journal of Criminology and Criminal Justice*, 61(2), 66–87.
- Powell, W., & DiMaggio, P. (Eds.). (1991). *The new institutionalism in organizational analysis*. University of Chicago Press.
- Reitano, J. (2017). *Adult correctional statistics in Canada, 2015/2016*. Statistics Canada: Canadian Centre for Justice Statistics.
- Sarat, A., & Kearns, T. (1985). *Law in everyday life*. University of Michigan Press.
- Silverman, D. (2015). *Interpreting qualitative data*. Sage.
- Simmel, G. (1950). *The sociology of Georg Simmel*. Collier-Macmillan.

- Simon, J. (2000). "The society of captives" in the era of hyper-incarceration. *Theoretical Criminology*, 4(3), 285–308.
- Sparks, R., Bottoms, A., & Hay, W. (1996). *Prisons and the problem of order*. Clarendon Press.
- Statistics Canada. (2016). *Adult correctional services, custodial and community admissions to provincial and territorial programs*. Canadian Centre for Justice Statistics.
- Steiner, B., Butler, H. D., & Ellison, J. M. (2014). Causes and correlates of prison inmate misconduct: A systematic review of the evidence. *Journal of Criminal Justice*, 42(6), 462–470.
- Sykes, G. (1958). *The society of captives*. Princeton University Press.
- Tetrault, J., Bucierius, S., & Haggerty, K. D. (2020). Multiculturalism under confinement: Prisoner race relations inside western Canadian prisons. *Sociology*, 54(3), 534–555.
- Trulson, C., Marquart, J., & Mullings, J. (2004). Breaking in: Gaining entry to prisons and other hard-to-access criminal justice organizations. *Journal of Criminal Justice Education*, 15(2), 451–478.
- Ulmer, J., Painter-Davis, N., & Tinik, L. (2016). Disproportional imprisonment of Black and Hispanic males. *Justice Quarterly*, 33(4), 642–681.
- Wacquant, L. (2002). The curious eclipse of prison ethnography in the age of mass incarceration. *Ethnography*, 3(4), 371–398.
- Watkins-Hayes, C. (2009). *The new welfare bureaucrats*. University of Chicago Press.
- Watson, T. (2015). Research access barriers as reputational risk management. *Canadian Journal of Criminology and Criminal Justice*, 57(3), 330–362.
- Weber, M. (1978). *Economy and society: An outline of interpretive sociology*. University of California Press.
- Weinrath, M. (2009). Inmate perspectives on the remand crisis in Canada. *Canadian Journal of Criminology and Criminal Justice*, 51(3), 355–379.
- Weinrath, M. (2016). *Behind the walls*. UBC Press.
- Zatz, M., & Rodriguez, N. (2014). The limits of discretion. *Law & Social Inquiry*, 39(3), 666–689.

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How to cite this article: Haggerty KD, Bucierius SM. Picking battles: Correctional officers, rules, and discretion in prison. *Criminology*. 2020;1–21.
<https://doi.org/10.1111/1745-9125.12263>