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A LIMITED CAPACITY TO TREAT:
EXAMINING THE EFFECTS OF
PRISON POPULATION CONTROL STRATEGIES
ON PRISON EDUCATION PROGRAMS*

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 PRISON EDUCATION PROGRAMS***

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The Prison Education Research Project is a cooperative research program of the Criminal Justice Center, Sam Houston State University, and the Windham School System of the Texas Department of Criminal Justice--Institutional Division. The purpose of the project is to assess the impact of prison-based education programs on offender behavior.

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INTRODUCTION

It is fast becoming trite to speak of prisons as a growth industry in America (Christie 1993). The steady expansion of the incarcerated felon population over the past decade has been staggering. For example, the number of prisoners in America increased by 115 percent or from 329,000 to 710,000 between 1980 and 1989. To accommodate this deluge of prisoners, forty eight states and the Federal Bureau of Prisons constructed 975 new correctional institutions (Allen and Simonsen 1989). However, despite this expansion, by 1989, thirty-seven states were under some form of court order related to crowding (Byrne and Kelly 1989). In short, demand for prison bed space has far exceeded supply.

In a scramble to manage the rising tide of persons under correctional supervision and the reality of judicial intervention, many states implemented a wide range of community-based supervision programs. Illustrative of such programs are electronic monitoring, intensive probation, restitution centers, house arrest, boot camps, and community service (Byrne, Lurigio, and Petersilia 1992; DiIulio 1991; Lilly 1987; Morris and Tonry 1990).

To date, virtually all journalistic, academic, and lay commentary on the growth of state and federal imprisonment has focused on such readily visible issues as the explosion of prison budgets, the rising cost of prisoner care, net widening, unmanageable parole caseloads, and over-crowding. Although the capacity to punish has been well-described, analysis or discussion has not focused on a prison organization's capacity to "treat" incarcerated offenders.

Prison growth most certainly means more prison officers and cells. But can the same be said for prison treatment programs?

Prisons serve the dual purpose of confining criminal offenders (ensuring public safety) and returning them to the free community to lead law-abiding lives (treatment). Though scholars have recently questioned the efficacy of prison treatment programs (Logan and Gaes 1992; Cullen and Gilbert 1982), the fact remains that correctional systems invest millions of dollars and the time of thousands of staff in treatment efforts. Such investment of resources will probably continue in the short term. Moreover, specific treatment programs within various institutional settings have to some extent proven successful (Gendreau and Ross 1987)

Prisons perform varied functions in our society: incapacitation, deterrence, and punishment. This paper argues, however, that the prison is also a service delivery organization in which inmate treatment programs are not immune from shifts in the larger political environment. More specifically, this paper examines the effects of prison capacity constraints on a prisoner education program in the Texas prison system. Our interest lies in the effects of a prisoner population cap on the ability of the Windham School System, one of the largest and most well-regarded prisoner education programs in America, to deliver a prisoner education program. But, first we briefly examine the Texas prison population crisis, the steps justice system policy makers initiated to keep the prison system open and in compliance with a judicially-mandated population cap, and the implementation of a prisoner quota system. Next, we examine the relationship between time in prison and time spent in educational and vocational programs. Finally, we discuss several policy options for dealing with the current defects in the educational program available to prison and prison education administrators.

BACKGROUND

Texas, like most other states, has experienced enormous prisoner population growth. In this section, we describe the prison crisis and the various steps state criminal justice policy makers used to manage the burgeoning prisoner population. This section specifically addresses: (1) measures state officials took to control prisoner inflow; (2) development of the prison allocation formula; and (3) results of the population control policies and ramifications for prisoner education programs.

Early Attempts at Population Control

Between 1971 and 1990, the total number of Texas prisoners increased almost 300 percent, from 15,418 in 1971 to 45,000 in 1990. Between 1980-1990, 38,357 beds or 20 new prison units were added to the prison system. Then, too, the daily cost per inmate increased from \$8.64 in 1980 to \$34.07 in 1989 (Texas Department of Corrections, Annual Overview 1989, p. 79). State correctional spending increased from \$300 million in fiscal 1982 to \$802 million in 1989, a 167 percent increase in just seven years (Bullock 1990, p. 2). The 1990-91 correctional budget was \$2.02 billion, a thirty-nine percent increase over the previous biennium. Most of these new appropriations went to new prison construction. In the late 1980s, lawmakers also authorized two contracts for four private 500 bed inmate pre-release centers (Ethridge 1990).

In conjunction with massive prison construction, various "front door" measures were implemented to divert convicted offenders from the penitentiary. For example, probation services were expanded to divert eligible convicted felons from prison. Roughly 80,000 convicted felons were sentenced in 1980 to probation. This figure increased to over 291,156 by 1989, or twelve percent of the

nation's total (Jankowski 1991). Even so, these efforts failed to reduce local demand for prison beds.

The most controversial policies designed to reduce prison admissions, the Prison Management Act or PMA and the Ruiz Crowding Stipulation, specified that the Texas prison system could not operate in excess of ninety-five percent of capacity (Crouch and Marquart 1989). Prison administrators were required to refuse all new admissions until enough prisoners eligible for early release on parole were released to maintain the legally specified capacity. The "back door" was opened, like an emergency exit, to relieve the inmate population pressures at the front door.

Legislators compounded the situation by enacting additional laws in the mid-1980s to lengthen prison sentences (e.g., flat 5 and 10 year sentences for certain categories of drug offenses) which added more strain on the prison system. Offenders given 10 year or longer sentences were legally eliminated from probation consideration; such offenders had to be imprisoned. These "get tough" actions actually required the state to build more prisons and the release of other prisoners so as to keep the prison system at or below ninety-five percent capacity (Bullock 1990).

The PMA was originally intended to avoid overcrowding and its ill effects on prisoners and staff (Gaes and McGuire 1985). Despite the expansion of prison capacity and probation services, Texas counties continued to send large numbers of convicted felons to prison. Demand for prison bed space did not diminish; new prison units were filled to capacity soon after the ribbon cutting ceremonies. As a result, between February 1987 and September 1987, the prison system closed (or refused to accept new admissions) twenty-one times. In the end, the Prison Management Act became a "back door" prison population control device (Bullock 1990).

The Allocation Formula

Prison closures resulted in a substantial increase in the convicted felon population in county jails. The Texas Commission on Jail Standards estimated that in November 1989, Texas's largest county jails housed about 11,000 convicted felons awaiting transfer to state prisons. Inmates were literally waiting in line to get into prison. To cope with these new pressures, state legislators consolidated adult probation, adult corrections, and parole agencies into the Texas Department of Criminal Justice. Lawmakers also mandated a prisoner quota system or allocation formula in which each county was assigned, on the basis of a formula, a fixed number of prisoners who could be transferred to the state prison system (Thurman, Cuvelier, and Marquart 1990).

This formula was designed to regulate and systematically control prison admissions. It consisted of the following six items: (1) the proportion of the state's prison admissions in the preceding twelve months (historical factor); (2) the proportion of the state's violent index crime in the preceding twelve months; (3) the proportion of the state's total index crime in the preceding twelve months; (4) the proportion of the state's total arrests under the Texas Controlled Substance Act in the preceding twelve months; (5) the proportion of the state's population residing in the county; (6) the proportion of the state's total unemployment (Texas Board of Criminal Justice, Allocation Formula Overview, May 16, 1991). Even though it was not pretested in any way and despite protests from county sheriffs, the formula became state law on August 31, 1990 (Cuvelier, Huang, Marquart, and Burton 1993). Moreover, the citizenry was not allowed to express its opinion about the development or purpose of the prisoner quota system, or how the formula might affect public safety (Jacobs 1983).

Results of Population Control Policies

The intended and manifest result of the population cap was the early release of thousands of prisoners prior to expiration of their sentences. Administrative actions bent on compliance with the population cap resulted in the wholesale parole of prisoners. Table 1 illustrates the rapid turnover of the Texas prisoner population between 1980-1990.

TABLE 1. ABOUT HERE.

In 1980, just over 7,000 Texas inmates were paroled, while by 1985, the figure had grown to almost 9,500. By 1990, over 45,000 prisoners were released from state prisons on parole (Kelly and Ekland-Olson 1991, p. 604). According to Jack Kyle, chairman of the Texas Board of Pardons and Paroles, "during this period of time [late-1980s] parole in Texas became an open door" (Robison 1992, p. 1). By way of comparison, the national parole rate in 1983 was 135 parolees per 100,000 population and increased to 248 in 1989. In Texas, the 1983 rate was 290 and in 1989 the figure leaped to 758 (Kelly and Ekland-Olson 1991, pp. 604-605). The data in Table 1 also show that by 1990, the prisoner population nearly reached complete replacement, with as many prisoners being released as were admitted annually.

One unintended outcome of the early releases from prison was a rapid downturn in time served in prison. The data indicate that the average flat time served for all inmates released from prison in 1980 was nearly three years, but by 1986, this figure fell to twenty-four months, and by 1990, the average time served dipped to seventeen months (Bodapati 1993). Time served in prison by offense categories is even more revealing. For example, Texas drug offenders released in 1980 served an average of two years, while by 1990 drug offenders served just seven months behind bars. In comparison, a national survey of inmates found

that drug offenders "expected" to serve an average of thirty-six months before being released from prison (Beck, Gilliard, Greenfeld, Harlow, Hester, Jankowski, Snell, and Stephan 1993, p. 7). Because of this situation in Texas, some convicted offenders opted for a prison term (and a quick release on parole) rather than a lengthy term in some form of community supervision (Crouch 1992).

These data on parole releases and time served illustrate that Texas criminal justice policy makers were overwhelmed by the prison crisis. All activity and attention was directed toward maintaining compliance with the population cap. The construction of additional prison units failed to relieve population pressures. But, what effect did the prison crisis have upon prisoner education? We turn now to this question, beginning with a brief description of the Windham School System.

The Windham School System

Education, whether it be religious, vocational, or academic instruction, has been part of correctional treatment programs since the inception of the penitentiary (Rothman 1971; Glaser 1964). Correctional administrators and citizens alike have long regarded such instruction as an important tool in preparing inmates to lead law-abiding lives following release to the free community. Most prison systems across the nation have prison education programs and Texas is no exception.

The Texas state legislature created the Windham School System in 1969 to "provide the opportunity for students to acquire academic and vocational skills necessary for any adult" (Texas Performance Review 1992, p xiii). Windham's mission was, and is, to raise inmate literacy levels as well as to provide prisoners with vocational skills to enable them to join the work force upon release from

prison. Both goals were aimed at reducing recidivism. The WSS is legally an independent school system like any other local Texas community school system. Each prison unit has its own principal, teachers (all certified and accredited according to state regulations), and student prisoners.

The WSS currently offers basic adult and high school equivalency, bilingual, special education, and a wide variety of vocational classes (e.g., automotive, refrigeration, woodworking). Both classroom and in-cell programs are available to prisoners. Death Row inmates, for example, are eligible for in-cell classes. Most important, the original legislation required all inmates who did not possess a high school degree and who scored below the sixth grade literacy level to enroll in the education program.

The size and scope of the WSS is immense. In 1985, it provided educational services at 26 prison units, with an average daily attendance of 6,420 inmates. By 1991, this figure grew to 36 institutions and 10,393 inmates. These latter figures underscore the rapid growth of the Texas prison system in general. The costs of operating this program are large. Bi-annual operating expenditures for 1984-85 were \$17,369,292 and grew to \$31,255,313 in 1991-1992 (Annual Performance Reports, Windham School System). Finally, the WSS has over the past two decades established a national reputation among correctional education program administrators.

SOURCES OF DATA

Data for this analysis were obtained from a larger project that evaluated the effect of the Windham School System's prisoner education program on inmate institutional and post release conduct. Data were collected from two primary sources, the Texas Department of Criminal Justice Institutional Division Annual Reports and the Windham School System. From the prison system, we collected data (e.g., prison number, average sentence length, average time served in prison) on 73,990 "new receives" or inmates admitted for the first time for a new felony conviction and 66,160 prisoners who exited (i.e., paroled or discharged) Texas prisons between 1990 and 1992.

The time frame under study (1990-1992) was selected because it contained the richest, reliable, most detailed, and comprehensive WSS information on inmate program participation and individual performance. A wealth of information on individual inmates was collected from the Windham School System data files, including general information such as the person's prison number, educational level at admission to prison, types of classes attended during confinement, dates of testing, whether or not the inmate-student passed and received a certificate, the number of in-class participation hours, and unit changes in grade levels.

We matched (by prison number) the WSS data to the larger prison data set of new receives and discharges in order to identify prisoners who participated in WSS academic and vocational courses between 1990 and 1992. This procedure identified 21,388 academic enrollments and 6,919 inmates who participated in vocational courses.

WSS academic programs are geared toward raising the functioning level of program participants. Most important, the WSS regards a one grade level increase for an inmate participant (e.g., fifth to sixth grade) to be a significant

personal and organizational accomplishment. The WSS measures the performance and effectiveness of the vocational courses by the total number of certificates generated.

Texas prisoners, like those in most other state prison systems, are not randomly assigned to prison units, instead they are placed in specific institutions on the basis of criminal history, age, and prior prison experience. Inmates, because of their varied backgrounds and levels of risk, require different types of institutional security.

Prison classification personnel in Texas sort all new admissions into the eight segregative classes which are identified in Table 2.

TABLE 2. ABOUT HERE.

"First offenders" are felons admitted to the state prison system for the first time, although many of them have committed previous undetected offenses or were in lower forms of punishment. Recidivists generally refer to prisoners who have been previously imprisoned no more than two times in an adult institution. Habituals and malcontents (classes IIc and III) are inmates who have previously been incarcerated more than three times and are over the age of twenty-five. Class III inmates constituted a very small group and were eliminated from subsequent analyses.

The Window of Opportunity

The population cap forced justice officials to take extraordinary steps to keep the Texas prison system at or below 95 percent capacity. What impact did this structural constraint have on state-supported prisoner educational and vocational programs? Did the drop in time-served in prison affect the WSS? For an intervention program to "work," clients must have the opportunity to

experience or participate in the entire treatment regimen. We define the "window of opportunity" as the time necessary for an inmate to achieve a one grade change in the academic program or receive certification in a vocational course. This definition comports with WSS program expectations and performance goals. Table 3 shows the average time-served in prison, along with the average time it took an inmate to achieve a one level grade change in the academic program or certification in a vocational course.

TABLE 3. ABOUT HERE.

Table 3 indicates that during 1990-1992, prisoners in three of six segregative classes were not incarcerated a sufficient length of time to advance one grade level. Further, classes IB and IIC served barely enough time to progress one grade level. In other words, the "window of opportunity" or the time it takes to advance an inmate's grade level was structurally constrained by the lack of time-served in prison. Compounding this problem was the fact that twenty-seven percent of the students in 1991-1992 required by law to enroll in remedial classes had to wait for an opening due largely to inadequate class space (Texas Performance Review 1992, p. 11-18).

The data reported in Table 3 suggests that the average time it takes to achieve vocational certification was well within the range of time served in prison. First appearances might suggest that inmates in the vocational program have more than enough time to complete a course before release, but this would be an inaccurate conclusion.

Vocational courses, like their academic counterparts, were subject to a delay factor. There were a limited number of vocational courses and a limited number of slots available, thus inmates had to queue up and wait a period of time before participating in a particular course. Table 4 indicates the time the

average inmate (by segregative category) was required to wait in days and in months before beginning a vocational course.

TABLE 4. ABOUT HERE

In general there was a six-month wait before the actual first vocational class day. When this delay is added to the average time to certification (see Table 3) along with average time served, it can be seen that prisoners were in jeopardy of leaving prison before completing a particular vocational course. This situation represents a classic example of queuing theory (Saaty 1961). Further analysis revealed that during the time period under investigation, 974 out of 6,919 prisoners were released from prison while participating in a vocational course. In other words, one out of seven inmates enrolled in a vocational course began it and then exited prison before certification.¹

The data also allowed the examination of another variable affecting time served in prison-- time spent in the county jail. As already noted, the population control measures combined to slow down prison admissions but in turn created a severe backlog in the county jails. According to Robison (1993), the jail backlog in November 1993 was 28,426. Between 1990-1992, prisoners served twenty-six percent of their sentences in the county jails. By the time many inmates reached prison, one-quarter of their sentence had already been served. This situation severely limited the window of opportunity. In sum, the combined "trickle down" effects of population control policies and early releases severely attenuated the original WSS performance measures.

The early release program was a random process, hence it would be unfair to contend that prison officials enrolled inmates in classes, knowing full well it would be impossible for them to complete them. The decision to release was an

administrative one beyond the control of classification personnel and prison educators. In short, the data strongly suggest that prison personnel enrolled inmates in WSS programs with the expectation that they would complete them, but those expectations were frustrated by early release practices.

Policy Options

Inmates in Texas continue to serve only a fraction of their original sentences. This reduction in time-served has had major unintended consequences for the educational and vocational programs offered by the Windham School System. Our data indicate that the window of opportunity for inmates (in a number of custody categories) in both educational and vocational programs has been virtually closed. The time it takes to effect a one grade level change or to achieve vocational certification surpasses the average time served in prison. Policy solutions to rectify this situation are varied and pose additional dilemmas.

One option would be to extend time served in prison so that inmate students could be exposed to the entire course or program of study, but this poses major financial and material problems. First, lengthening time served by twelve months, for example, would adversely affect prisoner turnover, existing prisoner bed space, and jeopardize compliance with the population cap. More institutions would have to be constructed to house a larger, more static prisoner population, thus this option is not likely, given the cost of such a prison construction program. Whether or not the public would endorse building prisons to enhance prisoner education is open to question. Few politicians are likely to stake their careers on a "prisons-for-education" platform. Increasing the time-served for certain categories of offenders further would not take full effect

for several years, thus, in the meantime other options must be developed and debated by lawmakers and the public alike.

Second, increasing time served would create a "stacking" effect of inmates waiting for the educational services afforded by the WSS, especially in the vocational courses. Third, the WSS could hire additional staff and expand course offerings, but this option (and the related expenses of additional textbooks, classrooms, and trade machinery) would be very costly.

The latter policy options obviously require more money. Their full political and economic implications remain unclear and require additional analysis well beyond the scope of this paper. However, our brief discussion makes clear that money alone can not solve the current dilemma. Yet, two additional policy options without major fiscal requirements exist.

First, lawmakers could simply abolish the prisoner education program. Abolition, however, would pose significant social costs and raise serious issues about the abandonment of prison treatment programs as well as signaling a retreat to prisons-as-warehouses. Further, abolition would result in the termination of thousands of WSS personnel and the end of a long-established prisoner treatment program.

Often lost in the debate about prison education programs are the important instrumental ends such activities serve in prison governance, institutional stability, and control. Inmates who attend several hours of class each day are busy and occupied, rather than being idle. Inmates who are busy and occupied are not security problems. Abolition of educational programs would mean that additional programs to keep the inmates occupied in some useful activity, (e.g., inmate industries and other profit making ventures) would have to be funded, staffed, and implemented. Moreover, it is by no means certain that "replacement" programs could handle all the former WSS inmates.

Abolition, though a possibility, is not likely. We are, therefore, left with one final policy option-- the practical one. The data presented here underscore the need for improved resource management and the development of more appropriate performance measures for the WSS. In the first place, during the classification process, prison and WSS personnel could identify inmates with the greatest likelihood of completing various education programs. Given current structural constraints, prison staff would have to prioritize or implement eligibility requirements for specific WSS offerings.

The large and growing population of prisoners in county jails also suggests that the prison classification process may have to be transferred in part to the county jails. Classification personnel in jails could identify those inmates who could most benefit from the existing window of opportunity. This action would most directly aid the vocational programs. Prison educators might also examine how other states faced with a similar plight responded to the situation and might also explore the possibility of developing "fast track" or intensive programs for offenders most likely to be affected by early release policies. Finally, prison and parole authorities could develop new educational programs that bridge the prison and free community.

DISCUSSION AND CONCLUSIONS

This paper began with a discussion of the prisoner population crisis Texas. We indicated that demand on a finite state resource, in this case prisons, has exhausted supply. State policy makers enacted various regulations to control the flow of prisoners from the counties. Maintaining compliance with the cap, however, was not without consequences. Crisis management led to additional crises and unforeseen dilemmas. One unintended side effect was the early release of thousands of prisoners.

Correctional policies implemented, however, to address one specific problem oftentimes have important and unforeseen side effects. Our findings indicated that correctional policies aimed at regulating prison populations had negative consequences for prison treatment programs. Effective correctional treatment depends, in a large part, on an available "window of opportunity," in which offenders have the necessary time to experience the full effects of programs. The move to comply with the population cap produced a situation whereby the average number of months in prison was less than the average number of months needed to advance one grade level or to attain vocational certification. Accordingly, the opportunity to benefit from educational programming escaped many inmates.

This analysis underscores the prevailing cognitive dissonance which legislators, policy makers, and the public alike have towards the prison (Burton, Dunaway, and Kopache 1992). Should the prison be a warehouse? Should prisons treat offenders? Do prisoners "deserve" treatment? What makes an effective prison education/training program? Is it possible to strike a balance between population caps and treatment programs for offenders? Who should have the most influence and power over prison policies? These are not new questions by any means but answers to them have not been forthcoming. It is

incumbent on policy makers to review potential consequences, both manifest and latent, before policies are fully implemented (Jacobs 1984; Feeley and Sarat 1980).

The cost to the state for noncompliance with judicially decreed population mandates would be prohibitive in terms of fines. However, the costs of closing the window of opportunity (in terms of possible reductions in recidivism, and providing education and training for the truly disadvantaged in our society) certainly solidifies the notion that prisons are indeed warehouses. Returning unprepared and untrained prisoners to the free community would also pose a threat to public safety. A balance must be struck between population control measures, inmate programming, and public safety. There are no easy choices.

Administrators of "free world" school districts are increasingly required to reexamine their delivery system (e.g., instituting the twelve month curriculum) to meet the needs of a changing student population. Prison organizations and prisoner programs, like school districts, do not exist in a vacuum, insulated from legislative and judicial mandates. In particular, prison program administrators must increasingly be sensitive to the shifting nature of punishment and criminal justice policy making.

This paper has also demonstrated an important lesson about the dynamics of correctional policy making. Attempts to control prisoner population levels can have negative unintended consequences for entire prison organizations and individual inmates alike. A longitudinal analysis of prison systems with similar population constraints would illuminate the effects of such constraints on a wide variety of prisoner programming, activities, and budgets (Jacobs 1983). Students of the prison would also do well to pay more attention to the latent or unintended effects of policy on all facets of the prison organization. Finally, charting the effects of policy on the service delivery aspects of prison

organizations will increase our understanding about the role and effectiveness of treatment and the obligations of the state toward incarcerated citizens.

**TABLE 1. Total Prisoner Population, New Admissions,
and Turnover Ratio, 1980-1990**

Year	Total Prisoner Population	New Admissions	Turnover Ratio
1980	28,543	14,176	.50
1981	30,315	15,702	.52
1982	34,393	18,837	.55
1983	36,769	22,870	.62
1984	35,772	23,058	.64
1985	37,320	25,365	.68
1986	38,246	30,471	.80
1987	39,652	35,007	.88
1988	39,664	33,816	.85
1989	41,626	33,303	.80
1990	49,157	46,290	.94

TABLE 2. Texas Prison Segregative Class Categories

Level	Group	Age
I	First Offender	17-21
IA	First Offender	22-25
IB	First Offender	Over 25
II	Recidivist	17-21
IIA	Recidivist	22-25
IIB	Recidivist	Over 25
IIC	Habituals	
III	Malcontents, High Security Risks	

TABLE 3. Time Served in Prison versus Time Needed to Advance One Grade Level.

Segregative Class	Mean Number of Months Served in Prison	Mean Number of Months Needed to Advance 1 Grade Level	Mean Number of Months Needed to Achieve Vocational Certification
I	12.1	14.5	6.3
IA	11.8	10.3	6.1
IB	12.1	11.3	6.3
II	13.0	27.5	6.2
IIA	11.3	12.8	6.6
IIB	12.2	15.5	6.2
IIC	14.0	13.9	6.5
Overall Mean	12.3	13.0	6.3

**TABLE 4. Waiting Time in Days and Months
By Segregative Class.**

Segregative Class	Waiting Time in Days	Waiting Time in Months
I	179.9	5.9
IA	163.6	5.3
IB	204.2	6.7
II	145.9	4.8
IIA	181.2	5.9
IIB	152.9	5.0
IIC	166.3	5.4
Overall Mean	176.9	5.8

NOTES

1. We found that some inmates were released prior to completing the academic program. However, we can not say for sure that the population control policies are the root cause. In the first place, academic courses are self-paced and inmate participants can "drift" along and be released prior to taking an achievement test. In addition the WSS data set lacked the necessary variables to adequately assess this situation. We caution the reader not to generalize the findings reported in the vocational program to the academic program. One course of study (academic) is self-paced and the other (vocational) is not.

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