

Summer 2017

Third Party Reforms In Corrections: A Qualitative Analysis Of Interest Groups' Effectiveness At Reducing Entropy Using Litigation

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THIRD PARTY REFORMS IN CORRECTIONS: A QUALITATIVE ANALYSIS OF
INTEREST GROUPS' EFFECTIVENESS AT REDUCING ENTROPY USING
LITIGATION

by

James Mack Arthur Pitts

A Dissertation
Submitted to the Graduate School,
the College of Science and Technology,
and the School of Criminal Justice
at The University of Southern Mississippi
in Partial Fulfillment of the Requirements
for the Degree of Doctor of Philosophy

August 2017

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ANALYSIS OF INTEREST GROUPS EFFECTIVENESS
AT REDUCING ENTROPY USING LITIGATION

by James Mack Arthur Pitts

August 2017

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2017

Published by the Graduate School



ABSTRACT

THIRD PARTY REFORMS IN CORRECTIONS: A QUALITATIVE ANALYSIS OF INTEREST GROUPS' EFFECTIVENESS AT REDUCING ENTROPY USING LITIGATION

by James Mack Arthur Pitts

August 2017

Interest groups have been prevalent in American society for decades. Much of interest groups' (IGs) influence has been examined by their effect on decision-making. IGs' ability to affect policy choices is undeniable both legislatively and judicially. Analyses of judicial decision-making generally focus on the use of amicus curiae briefs (ACBs) by IGs. While most analyses of IGs' influence have been conducted using quantitative methods, few have assessed IGs' effect on decision-making qualitatively. Although the literature on IGs and decision-making is well established among political scientists, these concepts have been discussed much less among criminologists. The current analysis fill this void by conducting a qualitative content analysis of ACBs submitted by IGs working to reform corrections through USSC litigation. By doing so, this analysis more exhaustively identifies IGs involved in corrections reform and their stances on various issues. Additionally, this approach provides a more in depth understanding of how and why ACBs have been an effective strategy for IGs.

ACKNOWLEDGMENTS

I would like to personally acknowledge several notable individuals that have contributed substantially to my personal and professional development. First and foremost, special consideration is given to Dr. William W. Johnson, also known as Wes, of the School of Criminal Justice at the University of Southern Mississippi. Wes has contributed extensively to my success as a dissertation chairman, doctoral advisor, and professor for numerous classes. Additionally, he has assisted me as a mentor, friend, and fellow musician, such that he is now considered to be a member of my extended family. Wes has worked tirelessly to assist me in meeting various deadlines during my time as a doctoral student. As well, Dr. Johnson encouraged me to put aside personal biases rooted in political ideology in favor of a more objective approach to assessment and evaluation. Further, he has always stressed the importance of “family first” as a priority in life. I look forward to working with Dr. Johnson in various capacities in the future.

Second, special consideration is given to Dr. O. Hayden Griffin who is current at the University of Alabama Birmingham. Dr. Griffin has been an inspiration to me through his tenacity for good debate, extensive knowledge of music history, and similar interests in video games. His character precedes him as an excellent writer, teacher, and researcher. Dr. Griffin was instrumental in helping me realize that law school is not always the best option to accomplish my goals of prison reform. As such, he has worked tirelessly to help me refine my writing style, establish a research agenda, and navigate the complexities of the publication process. His advice has been invaluable as I could always turn to him for mentoring on most any given subject. I look forward to publishing with Dr. Griffin as I further develop my career as an academician.

Third, special consideration is given to Dr. Kathanne Greene of the political science department at the University of Southern Mississippi. Dr. Greene helped me to develop many of my political views beginning as early as freshman year at the University of Southern Mississippi. She has always displayed unique views about government and society that have been instrumental in my professional development. Further, she has always stressed the importance of women's rights which are routinely disregarded or violated. Her views on politics, punishment, patriarchy, and prisons have helped me to realize the value of my own ideas. I cannot thank her enough for many difficult and demanding classes as an undergraduate which ultimately prepared me for graduate studies. Lastly, I will never forget her controversial, yet accurate comments in class the day after the attack on the World Trade Center on September 11, 2001.

Finally, special consideration is given to Dr. Robert Press, also known as Bob, of the political science department at the University of Southern Mississippi. Bob's teachings on human rights, foreign politics, and social movements were essential to my belief that the American prison system can be reformed. I was always inspired by his work and travels as a reporter in Africa. More than anyone, Dr. Press was the first individual to suggest that I too would someday work as a teacher in higher education. He continues to be invested in my academic success as an interdisciplinary advisor and community activist.

Together these four individuals have made substantial contributions to my academic and personal development. The aforementioned compliments are well deserved and are just a small token of my appreciation as a student. Much thanks to all of you.

DEDICATION

Personal thanks is given to God who is the head of my life. I only hope that what I have accomplished and will continue to pursue will be acceptable in His sight for the purpose of glorifying His kingdom. To God be the Glory!

Special thanks is given to my parents both of whom have encouraged me to strive for the highest level attainable in every endeavor. Throughout the course of my life, my mother and father have demonstrated unmatched dedication and commitment to the successful completion of my academic pursuits. Similarly, they have been an excellent example of perseverance and determination despite numerous obstacles which they have encountered in life. For these reasons, they are my “heroes” in every way. I pray that my accomplishments have made them proud. My success results from the sacrifices made by each of them to ensure that I received a high quality education.

Thanks to my wife, LaTisha Pitts, who endured the stress of the dissertation process with me. Throughout our marriage, she has been the one that encouraged me during the toughest of times. I am elated that she can now share in the joy of completing this chapter of my life. Thanks to her unwavering support and dedication, we now stand at the precipice of success. In closing, I look forward to the completion of her dissertation as she is soon to be called Dr. LaTisha Lenese Pitts as well. Thank you for being my best friend, my wife, and my “shoulder.”

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LIST OF ABBREVIATIONS

ACB	Amicus Curiae Brief
ACG	Amicus Curiae Groups
IG	Interest Group
INF	Influence
OwMI	Offenders with Mental Illness
USSC	United States Supreme Court

CHAPTER I –INTRODUCTION

Interest Groups

Throughout American history, interest groups (IGs) have played a pivotal role in shaping our society. Alternatively, IGs might also be referred to as pressure groups, social/political, or advocacy groups (Griffin, Woodward, & Sloan, 2016; Smith & Pollack, 2000; Yancey, 2014). Although IGs have influenced economics and social relationships their influence is perhaps most notable politically. Political scientists have long debated the role of IGs in economics, elections, and both legislative and judicial decision making. The role of IGs in American politics has been well documented highlighting a long history of successful lobbying (Caldeira & Wright, 1998; Shepherd, 2009; Wiseman & Ellig, 2007).

Despite these facts the role of IGs in helping shape the criminal justice system seems understated in criminal justice literature. This is not to suggest that the impact of IGs' lobbying efforts have gone completely unrecognized among criminologists. Several authors have made considerable contributions to the literature concerning IGs in numerous areas. For instance, Stolz (2005; 2002) asserts the role of IGs in criminal justice policy making by focusing on the efforts of these organizations legislatively. Similarly, Samuel Walker's (1999) historical account of the American Civil Liberties Union (ACLU) provides a lengthy record of the origins of the organization. In doing so, the author provides readers with substantial insight into the ACLU's evolution and procedures. Lastly, Buckler (2014) highlights the importance of IGs as these groups often influence judicial decision making with regards to case selection and case outcomes. While a discussion of IGs as influential actors is prevalent among

criminologists, such literature is sparsely available from sources that focus on the criminal justice system (Stolz, 1997).

Much like other actors in the criminal justice system IGs are oriented toward public service to some extent. These organizations provide services to the public by advocating for the rights of various individuals or groups that are often unable to do so. Just as the major institutions of the criminal justice system (police, courts, and corrections) are based upon the notion of public service IGs are primarily concerned with service by protecting the public in the event that the government fails to do so. Services rendered by IGs commonly involve upholding citizens' rights using litigation and efforts to educate others by disseminating information (Collins, Jr. & Solowiej, 2007; Garland & Simi, 2011; Smith & Pollack, 2000; Zackin, 2008). This is not to suggest that all IGs are preoccupied with citizens' rights or employ identical strategies in an attempt to protect those rights (Griffin et al., 2016; Stolz, 2005, 2002). The aforementioned efforts to champion citizens' rights are by no means exhaustive. The current analysis focuses solely on the role of IGs in the development of criminal justice policy particularly through the use of litigation.

Inmates and Prisoners' Rights

Any discussion of prison reform would be incomplete without considering the actors involved. Inmates are often the focus of numerous analyses as they comprise one of the largest groups within the criminal justice system. Thus, issues of prison reform often hinge on concerns for inmates' rights. While the American experiment with mass incarceration has provided some benefits for some public officials it has not been as positive for the targets of those policies. As a result of legislation and policies related to

punishment inmates have become a distinct population of American society mandating expenditures totaling billions of dollars. As a group, inmates are seldom able to argue on their own behalf for better care due to a lack of knowledge about the law and judicial procedure. Numerous authors have asserted the complexities of bringing forth litigation, especially in the Supreme Court and the associated problems involved in such an endeavor (Kuersten & Jagemann, 2000; Smith & Pollack, 2000). Not only are there problems with preparing a case, but there are also legal impediments to inmates filing suit. Legislation like the Prison Litigation Reform Act (PLRA) presents a host of challenges for inmates by requiring full payment of fees prior to filing a case as well as other case filing restrictions (Brill, 2008; Golden, 2004; Roosevelt, 2003). With these obstacles in mind, IGs represent an important resource for inmates by helping them to obtain redress for grievances while incarcerated.

In some instances, IGs act as a buffer against excessive and unlawful use of authority by government officials. For example, IGs often advocate based on constitutional guarantees contained in the 1st, 5th, and 8th Amendments. These amendments involve freedom of religion, the right to remain silent, and prohibition on cruel and unusual punishments respectively. IGs have been effective at pressing for reforms of policies which placed unnecessary limits on individuals' religious practices (Bleich, 1989). Such groups have also contributed notably to prison reform efforts by challenging facility conditions and practices as cruel and unusual. Thus, the advocacy efforts of IGs have helped to prevent overbearing policies and procedures that exceed constitutional limits.

However, all IGs are not oriented towards upholding inmates' rights. Some IGs are more concerned with the interests and goals of the criminal justice system, its agencies, or the actors involved. Groups like the National District Attorneys Association or the National Association of Black Law Enforcement Officers are less likely to advocate for prisoners' rights but instead are concerned with advancing interests related to the institutions for which their members are employed. Viewed in this regard, these IGs are much different in the goals they hope to achieve through litigation compared to other IGs in the discussion that follows.

Griffin et al. (2016) assert that IGs can be distinguished by the scope of issues with which they are concerned. For instance, IGs like Mothers Against Drunk Driving (MADD) could be categorized as single issue organizations. Groups like MADD have a vested interest in the criminal justice system through victims' rights advocacy for more punitive measures. Nonetheless, while MADD can be classified as an IG, it has an indirect influence on the criminal justice system by pressing for tougher sanctions and legislation. In other words, the single issue with which MADD is concerned is eliminating drunk driving as opposed to reforming prisons or the criminal justice system. Still other groups like the ACLU are involved in numerous issues and might be better referred to as general issue organizations (Griffin et al., 2016). Thus, groups like the ACLU are more often concerned with much broader concepts that contain a wider spectrum of issues like constitutional rights. As such it is more likely that general interest organizations participate more frequently as *amici curiae* in litigation before the courts.

Similarly, Fairchild (1981) asserts that some IGs might also be distinguished as either law enforcement lobbying groups or civil interest groups. Each categorization

differs in that the former is more often concerned with the interests of the criminal justice system. On the contrary, the latter generally advocates for the public often through class action litigation. As such, advocacy efforts for prisoners' rights generally hinge on the 8th Amendment's prohibition on cruel and unusual punishment or the 14th Amendment's equal protection guarantees for all citizens. This is because other civil liberties are sometimes encompassed within these amendments. Thus, both the 8th and 14th Amendments are often used to challenge the constitutionality of legislation and/or policies which infringe on other civil liberties like freedom of religion (1st Amendment) or inmates' right to counsel (6th Amendment).

The context of IGs' advocacy is particularly important in terms of its scope. Rarely are IGs concerned with the conditions experienced by individual inmates. Instead IG advocacy is more often centered on issues that affect prisoners as a class of individuals (Walker, 1999). For instance, when IGs petition the courts in matters concerning constitutional rights, the resulting judicial decisions impact all prisoners that are similarly situated. In this regard, IG advocacy is primarily a public service. As such, IGs' services differ in comparison to the efforts of a private attorney. The responsibilities of private counsel are arguably more attuned to the needs of individual defendants.

Prisons

Corrections in practice is in many ways a closed institution which places limits on transparency. Managing prisons is a matter of managing chaos. Kraska and Brent (2011) define such chaos as entropy. IGs affect the chaotic nature of prisons by highlighting questionable penal practices that might otherwise go unnoticed. In this regard, IGs have the effect of counteracting tendencies toward entropy and "moving toward higher levels

of order” (Van Gigch, 1974, p. 42). A more in depth discussion of entropy is included in chapter two.

Incarceration is one of the more prevalent forms of punishment used in America. As a result, the penal system in America is quite large incarcerating just over 1.6 million inmates at its peak. At the height of mass imprisonment in 2010, the incarceration rate in prison was as high as 506 inmates per 100,000 residents (Carson & Sabol, 2012). Stated differently America has the highest imprisonment rate of all affluent nations (Enns, 2014). In the past few years, the rate of imprisonment has declined slightly yet still exceeds that of most well developed countries. The practice of mass imprisonment has spurred pervasive prison overcrowding which has been a catalyst for other problems as well (Caplow & Simon, 1999; Chung, 2000). These issues include an inability to adequately attend to inmates’ needs, a lack of effective rehabilitation programs, public scrutiny both domestically and internationally, and countless violations of prisoners’ constitutional rights (Cobb, Jr., 1985; Eckland-Olson, 1986; Gaes, 1985; Haney, 2006; Ross, 2010; Spector, 2010). These concerns have resulted in a plethora of litigation aimed at improving conditions for inmates.

Although the current rate of incarceration is rather high, this phenomenon has not always been a characteristic of American prisons. For example, during the 1970s incarceration rates were much lower with approximately 300,000 inmates in prison for a rate of 93 people incarcerated per 100,000 residents (Carson, 2014; Enns, 2014). At year-end of 2011, the national incarceration rate was 492 per 100,000 residents (Carson & Sabol, 2012). Numerous causal explanations have been proffered for the rapid increase in prison admissions including mandatory minimum sentences, truth in

sentencing laws, three strikes laws, recidivism, and an increase in technical violations (Kendrick, 2011; Reiman & Leighton, 2009). Despite numerous causes, each of these explanations results from a society and criminal justice system preoccupied with harsh punishments (Pizarro, Stenius, & Pratt, 2006). In other words, the prevailing ideology of the last forty years regarding punishment has been to utilize a tough-on-crime approach to sanction offenders (Pizarro et al., 2006; Ross, 2007). While this approach has allowed elected officials to gain political capital by campaigning with a crime control agenda (Scheingold, 1984), the effects of such efforts have placed the penal system in a precarious position. Thus, prison administrators have been forced to accommodate a substantial rise in new inmates and recidivists to comply with increasingly harsher penalties for offenders. Unfortunately, prison officials are unable to refuse new admissions due in part to the structure of the criminal justice system and a political and social climate predicated on maintaining a “tough on crime” image. It should be noted that prison populations have recently been on the decline as a result of fiscal demands (Carson, 2014).

These issues have seeded litigation aimed at protecting inmates’ rights. As such, IGs advocating prisoners’ rights have played an important role in keeping criminal justice actors accountable for shortcomings in the system. Perhaps the most notable organization advocating for prisoners’ rights, the ACLU, has been instrumental at bringing forth suits on behalf of prisoners in an attempt to protect inmates’ constitutional rights (Haines, 2006; Walker, 1990; Zackin, 2008). In so doing, IGs have been essential to prison reform in America by facilitating mandated changes within the penal system. While IGs are quite prominent in America, not much is written in the research literature

about their influence on the criminal justice system (Griffin et al., 2016; Stolz, 2005). Among literary sources that consider the role of IGs within the criminal justice system, few have examined the influence of such organizations as it pertains to prison policies and reforms. The current analysis fills this void by focusing on United States Supreme Court (USSC) litigation involving IGs. In this regard, the current study is a qualitative historical analysis of IGs' ability to influence prison policies and reform corrections.

Numerous studies have examined IGs with a focus on litigation. While some studies have approached the issue from the standpoint of lower United States federal courts (Collins & Martinek, 2010; Martinek, 2006; Scherer, Bartels, & Steigerwalt, 2008), others have examined the issue more specifically focusing on litigation at the USSC level (Caldeira & Wright, 1998; Hansford, 2004; Songer & Sheehan, 1993). Despite the applicability of these studies to the current analysis, most previous assessments have failed to consider prison policies as a topic for discussion. Instead, previous studies have often been more concerned with the IGs themselves (Walker, 1999), the role of such groups in either legislative or judicial decision-making (Caldeira & Wright, 1998; Collins & Martinek, 2010; Hansford, 2004), or differences among IGs in the degree of influence they are accorded in various judicial venues (Box-Steffensmeier, Christenson, & Hitt, 2013; Buckler, 2014).

For purposes of this study, it is assumed that the impact of USSC litigation is more extensive and carries a much greater effect on criminal justice policy than all other American courts. This is a plausible assumption for several reasons. First, from a jurisdictional standpoint, lower federal court and state court decisions are not binding on all states. Decisions rendered in lower courts cannot lead to "sweeping reforms" in the

way that USSC decisions can and often do. Additionally, most litigation is often subject to appellate review. The appeals process is rather complex often hinging upon minor nuances or interpretations of the law which might go unnoticed. As a result, lower court decisions, while they may initially alter or influence criminal justice policy, can later be reversed due to errors or inconsistencies in the interpretation of the law. Lastly, justices in lower courts are likely to have a higher turnover rate. While federal justices enjoy appointment to the bench for life, state courts have numerous methods for selecting justices. For example, some states allow citizens to elect judges while others commonly rely on gubernatorial nomination and legislative confirmation (Peak, 2015). It is possible that the higher turnover rate among justices of lower courts leads to inconsistencies in the interpretation of the law, thereby exacerbating the need for appellate review. For these reasons, this analysis is limited to cases argued before the USSC. In doing so, the current analysis is better able to capture the effect of prison policy reform. Additionally, reversals of case precedents pertaining to prison reform can be easily traced any review of judicial precedent must be rendered by the USSC.

Gaps in Previous Literature

While IGs have been extensively involved in American politics their role is not as well documented in the criminal justice system. Previous assessments (Garland & Simi, 2011; Halpern, 1975; Tauber, 1999; Yancey, 2014; Zackin, 2008) have often focused on the most well-known IGs at the expense of fully uncovering the efforts of those that are less well-known. As a result, many IGs remain relatively unknown or unmentioned in the literature as previous analyses have failed to adequately identify the range of groups

completely. Even fewer assessments exist of IGs' efforts regarding reforms in corrections using amicus curiae briefs to lobby the USSC.

Additionally, while there is acknowledgement among literary sources of IGs' influence on the criminal justice system, little is known about the quality of their efforts. In other words, does the quality of information included in amicus curiae briefs (ACBs) submitted by IGs matter in any way? Although previous research has sought to uncover the effect of IGs as amici curiae quantitatively, few studies have examined this phenomenon qualitatively.

Purpose

The purpose of this analysis is to examine more thoroughly the effect IGs have on USSC rulings through the use of ACBs. In doing so, this research more adequately identifies the full range of IGs involved in reforming corrections. As such, the current study enables a more exhaustive compilation of IGs.

This research allows researchers to definitively assert the way in which IGs are able to sway judicial decision-making using ACBs. The manifest and latent content of the ACBs is analyzed to ascertain the extent to which words and concepts included in the justices' opinions are consistent with the arguments proffered in ACBs. Additionally, this research allows researchers to examine efforts at prison reform historically to determine which ones have been successful. A longitudinal assessment of the data provides a more specific time line of prison reforms. For a more complete description of methods, see chapter three.

Justification for Study

The role of IGs throughout American history is well documented (Caldeira & Wright, 1998; Shepherd, 2009; Wiseman & Ellig, 2007). Not only are IGs catalysts for reform, but they also provide educational services by disseminating information to spotlight important legal issues (Collins, Jr. & Solowiej, 2007; Stolz, 2005; Walker, 1999). Further, IGs' effect on judicial decision-making has been highlighted in previous literature as well (Buckler, 2014; Collins, Jr., 2004; Tauber, 1999; Walker, 1999). Despite the extensiveness of participation by IGs, examinations of *amici curiae* influence have been primarily limited to quantitative assessments. As such, the ability to determine whether ACBs have any real effect on judicial decision-making is limited. In the absence of qualitative reviews of the data, it is difficult to know whether the USSC justices read the ACBs submitted. Thus it becomes difficult to definitively assert quantitatively that the number of ACBs filed, or the frequency/popularity of participating IGs has any effect on judicial decisions. The current analysis remedies this problem by conducting a qualitative content analysis that also constitutes an historical assessment of *amici curiae* influence in the USSC.

Conclusion

This chapter has provided an overview of the current analysis. This chapter highlights the complex interplay among agencies of the criminal justice system and the way in which loosely coupled agencies are able to affect reforms. The relevant literature concerning the role of IGs and their effect on decision-making follows in chapter two. Chapter three provides an extensive explanation of the methods used to conduct the current analysis.

CHAPTER II - LITERATURE REVIEW

The literature concerning interest groups (IGs) and decision-making is extensive. This chapter details the theoretical framework used to guide the current analysis. Additionally chapter two includes an in depth assessment of previous studies with a focus on their methodological characteristics. The chapter concludes with an overview of the literature highlighting various similarities and gaps where additional research might be useful.

Theoretical Framework

The current analysis is guided by general systems theory. Kraska and Brent (2011) highlight three important distinctions concerning the benefits of using this approach. First, systems theory employs a macro level scope to the analysis. This perspective is useful in assessing interactions among various agencies within the criminal justice system to gain a more complete understanding of the system as a whole. In other words, systems theory helps to reveal “the big picture”; it is unconcerned with variance among individuals. Because this analysis involves several loosely associated subsystems (Marquart, Bodapati, Cuvelier, & Carrol, 1993), a theory which utilizes a macro level approach is appropriate.

Second, systems theory has traditionally focused on organizational and managerial concerns within or among various agencies (Kraska& Brent, 2011, p. 47). This point is important since much of the controversial case law on prisons involves managerial concerns. As prisons have become increasingly overcrowded in recent decades new problems have surfaced while previous concerns have been exacerbated. For instance, as prison admissions have increased, the adequacy of available resources

like medical care has often declined (Kurlychek, 2011; Spector, 2010; Ross, 2010). Similarly, as prisons have become overcrowded, inmates with mental illness are increasingly subjected to supermax confinement (Arrigo & Bullock, 2007; Haney, 2003; Rhodes, 2007). The rate of prison admissions is beyond the control of prison administrators as it results from distinctly different judicial and legislative policy choices. Thus, a theoretical framework is needed that has a scope broad enough to incorporate multiple, loosely coupled, yet interrelated systems. As these two examples illustrate, systems theory is perhaps the most appropriate theoretical framework for assessing reciprocal effects among criminal justice agencies.

Regarding organizational concerns, systems theory is able to shed light on the procedural dynamics of these loosely coupled subsystems (Marquart et al., 1993). As this framework is often concerned with the internal functioning of the system, the current analysis leans more towards an “open systems” approach. This approach is unique in its assertion that the criminal justice system is bigger than the sum of its parts (Bernard, Paoline, & Pare, 2005; Van Gigch, 1974). It is possible that the way in which the criminal justice system is organized is a contributing factor to the problems associated with American corrections. Furthermore, a systems framework might uncover issues related to the organizational dynamics of the IGs themselves. It is possible that the way in which some IGs are structured, whether locally or nationally, contributes to their effectiveness in various ways. By examining IGs within the larger context of associated criminal justice institutions (courts and corrections), it is possible to better understand the complex nature of interactions occurring among various sub-agencies.

Third, systems theory has often adhered to a reformist agenda (Kraska & Brent, 2011). By establishing a more complete understanding of system structure and functioning, increases in efficiency and legitimacy are possible. Prior litigation brought forth by IGs often reflects a progressive agenda characteristic of a systems framework. Thus, systems theory is a useful starting point for better understanding advocacy efforts aimed at prison reform.

When applied to the criminal justice system, a common objection to systems theory is that system components often lack clearly defined goals. Bernard and colleagues (2005) contend that a common objective of various agencies in criminal justice is to process cases in a complete and competent manner. Competent processing of cases ensures that such cases will not reopen in the future. One might argue as well that a common goal of subsystems considered in this study is an extension of case processing. More specifically, each subsystem has a sub-goal to protect inmates against violations of their constitutional rights. IGs assist in this function by further preventing shortcomings during various phases of processing and punishment. Efficient processing ensures that new cases are not introduced in the form of litigation thereby enhancing system efficiency. New litigation in response to constitutional violations only exacerbates system strain, a problem evidenced by the enactment of the Prison Litigation Reform Act (PLRA). This legislation was implemented in 1996 to reduce the strain on the judiciary resulting from the enormity of cases challenging prison conditions (Spector, 2010). For these reasons, the systems approach is beneficial by providing a more complete analysis of system interactions and associated consequences, both within and among individual agencies.

Social entropy theory is regarded as a framework for describing social processes (Mitar, 2010). The author asserts entropy theory to be a modified version of systems theory which makes it possible to measure entropy as it relates to the open systems approach. Thus, it is a macro level view of system functioning useful to uncover and describe complex associations among various system components. A major tenet of social entropy theory suggests that “systems simultaneously exhibit both consensus and conflict” (Miltar, 2010, p. 943) in which integration is made possible through consensus whereas change and adaptation result from conflict. In some ways, these points are illustrative of the symbiotic relationship that exists between criminal justice subsystems and IGs external to it. To some extent there must be consensus among agencies of the criminal justice system to administer justice in a manner that is effective and efficient. Additionally, consensus is evident by system goals that are consistent among criminal justice agencies and IGs. Because the Constitution is the highest authority in America which comprehensively reconciles the objectives of all major agencies in the criminal justice system, one can argue that the goals of both the criminal justice system and IGs are similar if not identical.

On the other hand, conflict is also evident between the system and IGs. Because IGs are not a part of the criminal justice system, their influence upon corrections is often indirect. As mentioned earlier, the prison system seeks to remain a closed institution resistant to the pressures exerted by IGs and other agencies such as courts. However, the courts provide an avenue for change through an adversarial process that enables reform. Such change is made possible by a system of checks and balances that allows for review

of corrections policies and procedures using litigation. Viewed in this regard, conflict is a necessary phenomenon purposed to facilitate reform.

Thus, consensus and conflict become opposite sides of the same coin. Because the law is structured by the Constitution, there is some degree of consensus among criminal justice agencies and IGs regarding the rights of prisoners. Conflict arises among these entities insofar as there is disagreement about how to accomplish similar goals of upholding the laws and protections afforded by the Constitution. Courts become a necessary resource to assist IGs in reducing entropy since they have the authority to mandate change in a way that IGs do not. Viewed in this regard, the judicial process moves corrections more toward being an open system that must respond to external inputs (in this case through court mandates) in an attempt to function consistently with the goals of the larger criminal justice system.

Entropy refers to a state of chaos which occurs within closed systems. Such chaos might be better illustrated in corrections by constitutional violations experienced by inmates. Constitutional violations often catalyze other issues within the prison system. For example, prison riots, negative media attention, and civil suits can result from constitutional violations like inadequate medical attention or inmate/staff violence (Chung, 2000; Kurlychek, 2011). Van Gigch (1974) states “entropy, uncertainty, and disorder are related concepts” with regards to systems theory. Thus, entropy is a by-product of closed systems due to these systems’ inability or unwillingness to incorporate new information when processing offenders.

Violence within prisons is an obvious sign of disorder. To the extent such disorder persists, it becomes more difficult for prison management to anticipate future

challenges. In other words, the presence of disorder in the form of violence or constitutional violations contributes to the level of uncertainty experienced by both prison administrators and staff. Thus, efficient and effective management of prison facilities is compromised by the potential for civil litigation resulting from entropy. The threat of litigation increases the uncertainty of managing prisons because unfavorable court decisions often lead to correctional facilities being placed in receivership, a condition in which judges oversee prison management (Levitt, 1996). Additionally, negative media attention potentially compromises the legitimacy of the prison system by whittling away public support.

In short, the presence of entropy within corrections is not a positive component of the criminal justice system. Entropy reduces the efficient processing of offenders through various forms of chaos and disorder. The ensuing disorder is likely to contribute to negative relationships among correctional staff and inmates exacerbating problems for prison management. As such, violence and corruption are likely to result from disorder among prisoners and/or personnel. Such violence is likely to contribute to stereotypically negative public perceptions of inmates. Taken together, these factors perpetuate a cycle of punitiveness predicated on crime control resulting in conditions of confinement that are often unconstitutional.

IGs are effective at reducing entropy because they force corrections to behave more like an open system. Van Gigch (1974) asserts that entropy can be decreased by reducing the level of uncertainty involved within a system. The author posits that as information is gained within a system, uncertainty and disorder are reduced or alleviated. With regards to corrections, IGs have been effective at introducing such information by

lobbying courts. These organizations utilize amicus curiae briefs (ACBs) to provide courts with useful information (Caldiera & Wright, 1998; Spriggs & Wahlbeck, 1997) concerning the operation of prison facilities. ACBs often highlight the inadequacies of prison management efforts as a matter of persuading judges to remedy questionable corrections practices. Armed with such information, judges are better able to reconcile prison management policies and procedures with constitutional requirements. This process is the essence of prison reform. The complex nature of such reforms and IGs' indirect method of intervention are indicative of an open system. While neither the courts nor IGs are able intervene in corrections directly, proposed litigation invokes a process of judicial review that often results in reform.

Kraska and Brent (2011) utilize a garden pond analogy to illustrate the difference between open and closed systems. The authors suggest that the criminal justice system is much like a pond and its primary agencies can mostly function exclusive of external inputs. As such, a symbiotic relationship is maintained through homeostasis among criminal justice agencies in a similar manner to the ecology of a garden pond. This homeostasis is essential to the efficient functioning of the system. However, the balance and tranquility of both the garden pond and the criminal justice system can be upset by the introduction of external interference. Such interference is introduced when IGs are successful in their petitions of the Court on behalf of citizens. While IGs are not agencies within the criminal justice system, their efforts are able to indirectly influence the criminal justice system through the use of litigation. As such, IGs have both direct and indirect effects on the equilibrium of criminal justice sub-systems.

Corrections may be viewed as a subsystem that attempts to remain closed as a system. Van Gigch (1974) asserts that closed systems have a tendency to increase entropy due to a lack of external inputs. For example, inputs from the external environment are illustrated by attempts to intervene or apply pressure on criminal justice administrators to modify or reform the prison system. In doing so, closed systems are inherently chaotic (Van Gigch, 1974).

In corrections, such chaos may be viewed as an inability or unwillingness to provide constitutionally adequate services and treatment to inmates. In the absence of advocacy efforts by external entities like IGs, the prison system – an institution which is largely self-sustaining – is usually resistant to reform. Van Gigch (1974) notes that open systems are less susceptible to entropy by virtue of their interaction with the external environment. While IGs are not regarded as part of the criminal justice system, these groups have been successful at decreasing the level of entropy within corrections using litigation. Stated differently, to the extent that IGs are successful at introducing litigation resulting in reforms, prisons are forced to be more transparent. In doing so, the goals of these institutions become more aligned with those of the larger society and criminal justice system as a whole. This process is illustrative of the assertion that the criminal justice system is larger than the sum of its parts (Kraska & Brent, 2011; Van Gigch, 1974). As a system involved in public service, corrections is accountable not only to the public but to the courts as well. This accountability can be attributed to a system of checks and balances designed to ensure that neither branch of government is able to exercise too much power. The courts are the avenue by which subsystems' primary goal, upholding inmates' constitutional rights, are reconciled. The previous point is important

to consider since in the absence of judicial oversight there is little or no impetus for reform as corrections operates as a closed system.

IGs commonly represent the interests of the public by calling for reforms consistent with the Constitution. One can argue that adhering to the Constitution is a common goal of institutions within the criminal justice system as well as those external to it. By virtue of this association, IGs become part of a loosely coupled system even though they are not part of the criminal justice system in an official capacity (Marquart et al., 1993). As laws are created, amended, and more thoroughly interpreted by the judiciary, new judicially created rules (or requirements) are introduced that correctional administrators must take into consideration. In this way, the prison system receives inputs from its external environment thereby affecting the tranquility of managing correctional facilities without external interference by the judiciary. For these reasons, systems theory is a legitimate tool for examining the interactions among various entities of the criminal justice system.

Literature Review

As previously mentioned in chapter one, the literature on IGs is well developed. The role of IGs is undeniable in American politics as their efforts have been historically prevalent for many decades (Walker, 1999; Zackin, 2008). While numerous assessments of IGs exist, there are few that clarify the definition of an IG. To this point, Fairchild (1981) clarified this dilemma by asserting that IGs are “organizations...dedicated to influencing the formulation and execution of public policy” (p. 183). The study is a meta-analysis of research involving criminal justice IGs. Findings indicated among other things that IGs are not homogenous in the degree of power and influence they have.

Specifically, law enforcement groups tend to be more influential than civil liberties groups. Secondly, social and economic factors affect IGs' power and subsequent success in terms of advocacy. This study serves as a notable predecessor for assessments which later focused more heavily on power differentials among various IGs.

How are IGs effective?

A review of the literature reveals that IGs have the potential to affect policy (Caldiera & Wright, 1998; Shephard, 2009; Spriggs & Wahlbeck, 1997). This task is primarily accomplished through two distinct forms of lobbying. The first involves campaign contributions by IGs. Shephard (2009) examined the influence of politics and money on judicial rulings. The author noted that judges are susceptible to constituents' views. The analysis is premised on the idea that judges are likely to vote in a pattern consistent with constituents in an attempt to secure votes and/or satisfy campaign contributors whether appointed or elected. The study employed multivariate regression to assess whether judges' voting is influenced by both campaign contributions and preferences of "retention agents." Results indicated that campaign contributions significantly affect case outcomes by affecting judges' voting behavior. Additionally, the size of contributions tends to influence the likelihood of judges voting in favor of their contributors (Shephard, 2009). For instance, the authors assert that large contributions (\$100,000 or more) increase the average probability of a favorable decision by almost 70%. Viewed in this regard, the impact of IGs in shaping policy can be substantial.

The second way in which IGs have been able to lobby decision-makers is through direct involvement in political and procedural processes. Such efforts may come in the form persuasive conversations with decision-makers, participation at hearings through

both oral and written testimony, efforts to educate and inform the public, and organized demonstrations (Griffin et al., 2016). Each of these lobbying efforts might be perceived as attempts to promote, oppose, or amend proposed policy choices.

Why are IGs effective?

Two important hypotheses suggest alternative methods of effectiveness for IGs. The “information hypothesis” argues that policymakers receive valuable information concerning the pros and cons of policy options (Caldiera & Wright, 1998; Spriggs & Wahlbeck, 1997). As a result, policymakers are often receptive to the arguments presented by IGs (Kearney & Merrill, 2000). The “affected-groups hypothesis” argues that policymakers are able to estimate the degree of public sentiment regarding policy choices (Collins, Jr., 2004). Researchers have previously suggested that policymakers assume that the number of IGs involved in an issue are a reflection of the public’s interests (Collins, Jr., 2004; Kearney & Merrill, 2000). To the extent that decision-makers are cognizant of constituents’ preferences, IGs may be able to influence decision-makers through the sheer volume of their participation.

Where are IGs commonly effective?

The efforts of IGs have commonly been examined with a focus on their effect on decision-making. These assessments are often conducted with regard to either legislative or judicial decision-making. Upon closer examination, the literature reveals that IGs are able to affect many different sectors of society indirectly through American courts and legislatures (Collins, Jr., 2004; Kearney & Merrill, 2000; Scherer, Bartels, & Steigerwalt, 2008; Stolz, 2005; Wiseman & Ellig, 2007). IGs are involved in lobbying these institutions at various levels including local, state, federal government agencies.

However, most literary assessments focus on IGs' ability to affect federal policy (Buckler, 2014; Kuersten & Jagemann, 2000; Tauber, 1999).

Legislative decision making. From a legislative standpoint, IGs are able to influence public policy, albeit indirectly, in a number of different arenas including foreign policy (Rebenzer, 2011), the economy (Owen, 1995; Wiseman & Ellig, 2007), as well as numerous matters of domestic policy (Ralston, 2015). Several studies have also examined the effects of IGs' lobbying efforts on the Senate confirmation process for nominated justices (Caldiera & Wright, 1998; Stolz, 2005). Caldiera and Wright (1998) examined IGs' lobbying efforts in relation to the confirmation process of three USSC justices (Bork, Souter, Thomas). Findings indicated that IGs introduced important information to Senators concerning judicial nominees and public interests surrounding those nominations.

Scherer et al. (2008) found that IGs' opposition to federal justice nominees often slowed the Senate confirmation process. Further, the study revealed that IG opposition was significantly stronger than other predictors included in the study. Findings indicate that the salience of an issue plays a role in the decision-making process for Senators (Scherer, 2008). In other words, if the confirmation process is a substantially contentious issue likely to attract negative publicity, the confirmation process is negatively affected.

Roby (1969) examined legislative decision-making at the state level. The author analyzed social processes related to defining crime through an in-depth examination of the New York State Penal Law on Prostitution enacted in 1967. This study is unique in that it highlights the way in which IGs' influence fluctuates over time. This study is an historical analysis of five phases of the law's development using interviews, transcripts

from public hearings, and other print media. Roby's (1969) analysis is mentioned here primarily for its acknowledgement of IGs' ability to influence public policy. The author notes that while IGs vary in their ability to affect legislative decision-making, such variance differs during each phase of the process. As such, while some groups may influence legislative enactment, others may be more effective at altering enforcement or proposing amendments to a given law (Roby, 1969). In short, IGs are not homogenous in their ability to influence decision-making.

Inspired by Roby (1969), Stolz (2002) proposed a redefined framework concerning IGs' influence on criminal justice policy-making legislatively. The article highlights the importance of the time dimension by focusing on various decision points within the legislative process. The author asserts that a focus on decision points allows for a more extensive and systematic process of identifying IGs. Stolz's (2002) assessment is important in that it provides evidence supporting the need for more comprehensive methods of identifying IGs.

Judicial decision making. From a judicial standpoint, IGs have been similarly assertive. Countless studies have been conducted of IGs' ability to influence case outcomes. Hansford (2004) examines the process of venue selection for IGs employing a litigation strategy. The author contends that IGs choose courts to lobby (e.g. USSC) based on how receptive justices are to the issues involved. In other words, IGs assess and select venues for advocacy based on their perceived ability to persuade justices and achieve a favorable outcome. The analysis sampled cases ranging from 1948 to 1995 assessing 579 organized interests in 692 cases. Additionally, the issues contained in each case were also coded to determine which courts were selected for each issue and how

venue selection changed over time. Findings indicate that IGs' participation before the USSC is structured by the receptiveness of the justices to the issues at hand. Results also show that USSC justices are generally sympathetic to past participants especially when presenting arguments consistent with prior case law by that Court.

A common approach to examining IGs' influence on judicial decision making is by analyzing amicus curiae briefs (Collins, Jr. & Martinek, 2010; Songer & Sheehan, 1993). Amicus curiae briefs (ACBs) are the most frequently utilized method of IG involvement with the courts (Box-Steffensmeier, Christenson, & Hitt, 2013; Kearney & Merrill, 2000). Numerous studies have been conducted to evaluate the effectiveness of ACBs as a mechanism to alter judicial decision making. There seems to be a consensus that ACBs have a significant impact on case outcomes. Studies indicate that justices derive useful information from amicus curiae briefs that is invaluable to the decision making process (Collins, Jr., 2004; McAtee & McGuire, 2007; Spriggs & Wahlbeck, 1997; Stolz, 2005). Several researchers have tested the "information hypothesis" in terms of whether justices rely on knowledge contained in ACBs (Caldiera & Wright, 2000; Collins, Jr., 2004; Kearney & Merrill, 2000). Stolz (2005) provides support for the information hypothesis although the study focused on Congressional decision making. Executive and legislative interviewees revealed that IGs educate policymakers at numerous points of the legislative process.

Spriggs and Wahlbeck (1997) examined the role of information in judicial decision making by reviewing the content contained in ACBs. The study examined every opinion (110 cases) from cases that were orally argued during the 1992 USSC term. ACBs were coded in terms of whether IGs' arguments presented new information

uncontained in litigants' briefs. Comparisons were made between ACBs and litigants' briefs. Results support the information hypothesis finding that ACBs contributed new information to the case more than 67% of the time. Additionally, ACBs proposed new arguments in more than 25% of all cases analyzed.

Collins Jr. (2004) considers IGs' effect on litigation success with a similar test of the information hypothesis. Additionally, the study assessed whether justices are susceptible to the number of groups affected by case outcomes. Previous literature has argued that justices possibly consider the number of IGs participating as amici curiae to be a barometer of public opinion on an issue (Kearney & Merrill, 2000; Martinek, 2006; Smith & Pollack, 2000). Thus, the "affected group hypothesis" is tested here as well. Collins Jr. (2004) attempts to distinguish between effects posed by the number of amici curiae versus the number of ACBs filed using several control variables. The study accounts for justice ideology, support from the Solicitor General, party resources, and conflicting opinions in lower court rulings to better isolate the effects of amici curiae participation. The author utilized logistic regression to determine if the relative advantage of ACBs versus amici curiae resulted in any significant differences in case outcomes. Contrary to other studies (Box-Steffensmeier et al. 2013), findings from Collins, Jr. (2004) indicate that cosigning ACBs does not provide significant advantages in terms of case outcomes. Thus, coalitional amici curiae participation is less likely to influence judicial decision-making. The researcher concluded that justices appear to be more receptive to the number of ACBs filed than the information contained therein. Stated differently, the results from this study are supportive of both the information hypothesis and the affected groups' hypothesis. The Collins, Jr. (2004) study also reveals

that ACBs filed by the Solicitor General of the United States tend to have greater credibility than other amici curiae. As such, this study supports the notion that amici curiae are not viewed equally by justices depending upon which IG files an ACB.

ACBs as influential factors

Studies have indicated that IGs' "prestige" and "participation frequency" are important factors affecting judicial decision making (Buckler, 2014; Kearney & Merrill, 2000; Tauber, 1999). This point again reiterates the notion that all IGs are not regarded with the same degree of credibility. To some extent, this fact may also explain differences in the success rates of IGs. Buckler (2014) argues that status differential between IGs involved significantly predicts case outcomes. The researcher tests two related hypotheses to uncover the effects of amici curiae participation. The status differential hypothesis states that participants' status (corporation, citizen, inmate, or defendant) as amici curiae affects litigation success. The repeat players' hypothesis states amici curiae that participate frequently are more likely to influence judicial decisions. The increased success rate among these IGs likely results from greater experience at handling USSC litigation.

Buckler's (2014) findings reveal that the Solicitor General of the United States is favored in USSC litigation (Buckler, 2014). This point supports the status differential hypothesis as results indicate that government entities are likely to have an advantage in USSC litigation. The repeat players' hypothesis is partially supported as well. Repeat player effects likely result from expertise gained from IGs frequent involvement with the USSC. The author notes that only conservative amici curiae displayed effects independently as repeat players. Liberal repeat players were most effective as coalitions

of amici curiae cosigning on a single ACB (Buckler, 2014). This finding presents some explanation of why groups often file ACBs in concert. Coalition building may be essential to the efforts of IGs with less status especially if they are not frequent participants in USSC litigation. It should be noted that the analysis found no support for the information hypothesis (Buckler, 2014).

Collins Jr. and Solowiej (2007) assessed judicial decision making with a focus on organizational type and frequency of opposing amici curiae as factors of influence. The study sought to examine the role of competition in terms of conflict and consensus as to how these concepts affect information presented to justices. The study analyzes ACBs from the 1995 USSC term. ACBs were examined to identify IGs and record their stance on issues to better understand which groups were in conflict. Conflict among amici curiae is inferred by direct citation by an opposing group. Findings indicate that conflict among opposing amici curiae is rare occurring less than 15% of cases. Additionally, conflict seems infrequent as participants only cited opposing amici curiae in about 30% of cases. Although the type of IG and frequency of its participation are factors, the effect of those factors is miniscule according to these findings.

Box-Steffensmeier and colleagues (2013) examined whether the power of IGs affects judicial decision making. The study assessed more than fifty years (1946–2001) of USSC cases to determine whether the author of an ACB affects judges' decisions. Researchers measured power differential among groups by examining case outcomes in relation to participating IGs authoring ACBs. Additionally, the study is unique in that it explored whether the content of an ACB matters. Researchers employed a probit model to test the power of IGs. Using measures of eigenvalue centrality, researchers were able

to identify the five most powerful IGs for each decade. Findings indicated that over time, the level of power and degree of influence IGs have varies considerably. For instance, while the ACLU has the highest eigenvalue of the five leading IGs during the 1980s and thus is regarded as the most powerful from that decade, the ACLU is not ranked among the top five in any other time period. The analysis shows that in cases with relatively unequal support on either side of an issue, IGs' "power is not meaningful" (Box-Steffensmeier et al., 2013, p. 455). Most importantly, the results indicate that IGs' power is heterogeneous and matters most in a case when the number of participating IGs is almost equal (Box-Steffensmeier et al., 2013).

Conversely, Songer and Sheehan (1993) found no support for the idea that amicus curiae participation results in favorable case outcomes for litigants. In light of extralegal factors (justice ideology, issue salience, lower court ruling, etc.) that have been found to affect judicial decision making (Box-Steffensmeier et al., 2013; McAtee & McGuire, 2007), the study utilizes a precision matching technique to make comparisons among IGs (Songer & Sheehan, 1993). Theoretically, precision matching helps to better isolate the influence of individual IGs thereby reducing the effects of status differential. The analysis examined ACBs over a period of twenty years from 1967 to 1987 sampling only odd numbered USSC terms. The authors do not focus on competition among opposing IGs as do similar examinations of the efficacy of amici curiae participation (Box-Steffensmeier et al., 2013; Hansford, 2004; Kuersten & Jagemann, 2000). Instead, Songer & Sheehan (1993) excluded cases in which amici curiae participated on behalf of both litigants. This approach makes it possible to assess participation effects in the absence of opposing amici curiae which may work to cancel out any evidence of IG

influence. Contrary to prior research, these findings revealed that litigants won slightly less if receiving amici curiae support than those without such support.

McAtee and McGuire (2007) examined factors that contribute to successful case outcomes with a focus on issue salience. The authors suggested that justices are most likely to respond to lobbying efforts that involve issues which are noticeable to the public. Researchers sampled USSC cases from 1977-1982 (Burger Court) to quantitatively examine the impact of oral arguments and their effect on strongly held, often partisan views (e.g. abortion, capital punishment, religious freedoms). Three important findings resulted from this analysis. Researchers found that (1) experienced advocates tend to fare better than those participating less frequently despite controls for justices' ideological preferences. Findings also revealed (2) justices' attitudes are more important in salient cases and thus are less likely to be influenced by lobbying. This point highlights the importance of extra-legal factors and the role they play in judicial decision-making. Lastly, (3) non-salient cases present an avenue for experienced advocates to present their case thereby increasing the likelihood of a favorable outcome. In other words, there is more flexibility among judges when the case is less likely to result in public unrest or political backlash. As such, non-salient issues are opportunities to advance a less popular agenda. McAtee and McGuire's results are supportive of both the information hypothesis and repeat players hypothesis.

Lower Courts

Most studies of judicial decision-making focus on USSC decisions (Buckler, 2014; Kuersten & Jagemann, 2000; Tauber, 1999) which likely results from higher levels of amici curiae participation before the USSC (Simard, 2008). Nonetheless, analyses of

lower court decisions have also been conducted (Collins, Jr. & Martinek, 2006, 2010; Martinek, 2006, Scherer et al., 2008). However, amici curiae participation in lower courts is unlikely to have similar influence in comparison to USSC rulings. This results from the limited scope of lower courts' rulings. Despite this fact, Martinek (2006) suggests that some issues may be important enough for IGs to lobby at the lower court level rather than the USSC. Results indicate that amicus curiae involvement in lower courts is determined by whether the case is judged as being a useful vehicle for policy reforms. In other words, IGs target specific cases in an attempt to advance policy agendas which are consistent with organizational goals.

Collins, Jr. and Martinek (2010) analyzed the effect of amici curiae participation in United States appellate courts as well. Their study randomly sampled appellate court decisions between 1997 and 2002. Among other things, the study distinguishes between appellants and appellees and whether this distinction affects case outcomes. These findings indicate that ACBs filed in favor of appellants improve the likelihood of success, but not for appellees. The authors assert that this finding is due to the heightened probability that courts of appeals generally rule in favor of appellees. As such, the authors note that amici curiae briefs are useful to "level the playing field" between litigants (Collins, Jr. & Martinek, 2010).

Simard (2008) represents a rare instance in which a study examined decision making in both the USSC and lower courts. The study used self-report surveys and subsequent follow-up interviews to measure federal justices' perceptions of IGs that participate in litigation using amicus curiae briefs. Justices' perceptions were assessed at different levels including both district and circuit courts as well as the USSC. The

method employed by Simard (2008) differs from other studies as most have relied upon sampling cases rather than justices. Survey response rates ranged from 23% for both circuit and district court justices to 30% for USSC justices. Findings revealed that not all ACBs are given equal consideration as many are not read in full. Additionally, justices often take into consideration new arguments proposed in ACBs which may not have been asserted by the litigants themselves. These findings cast doubt on other studies (Songer & Sheehan, 1993) that have suggested new arguments raised by amici curiae have little to no effect on case outcomes. Lastly, justices thought that duplicate arguments by multiple amici curiae did not benefit litigants in any way. As such, the number of ACBs submitted is an unlikely determinant of case outcomes. One should exercise caution in generalizing findings from this study due to low response rates.

Case Studies. Often, analyses of judicial decision-making have focused on the most popular IGs (Smith & Pollack, 2000; Tauber, 1999; Zackin, 2008). While this approach has been used perhaps as a matter of convenience, it has still been useful from an exploratory perspective. In this regard, the case study method has been particularly revealing of IGs in various ways to include influence on decision-making. However, the case study method has not only been used to assess to judicial decision-making. Stolz (2005) also utilized the case study method to examine the enactment of a specific law and how IGs affected the legislative process at numerous points.

The American Civil Liberties Union (ACLU)

The ACLU is one of the most prominent IGs in the country. Originating in 1920, the organization is well known as a litigation-based interest group that advocates for greater civil liberties. Zackin's (2008) study of the ACLU historically examines the logic

behind the organization's choice to move beyond informative strategies to incorporate a litigation strategy approach. The advantages of a litigation strategy approach are explained in conjunction with a dearth of historical facts about the ACLU shortly after its inception. The study relies on coded archival data and meeting minutes to illustrate how the organization's official stance on contentious issues and mounting unpopularity forced ACLU administrators to embrace a litigation styled approach in conjunction with constitutionalism outside the courts.

From a structural standpoint, Halpern's (1975) study of the ACLU is particularly revealing. The author analyzed how the organization's litigation strategy at the state and national level comes at the expense of providing services through local affiliate chapters. This case study was based on an urban ACLU chapter and analyzed citizen requests for assistance and communications between state and local affiliates to make recommendations for improving organizational success. The study notes that while the ACLU is a national organization operating in forty-seven states with more than 5,000 cooperating attorneys, the institutional structure renders adequate assistance at the local level improbable. This article details numerous organizational procedures to include agenda selection, funding, affiliates' autonomy, and staffing choices. The author notes that such procedures affect the pursuit of constitutionalism within the courts (Halpern, 1975).

Walker (1990) provides an historical analysis of the ACLU. The book outlines the history of the organization using archival data, meeting minutes, and countless interviews to compile a chronological thematic assessment of the institution. This analysis goes beyond merely examining the structure and process by which the

organization functions and includes accounts of social interactions among administrators and employees. These interactions highlight internal conflicts and challenges both socially and politically providing readers with insight into the daily struggles of the institution.

The Southern Poverty Law Center (SPLC)

Much like other IGs, the Southern Poverty Law Center (SPLC) is a well-known IG that employs a litigation strategy approach. Founded in 1971, the organization initially focused on anti-discrimination cases (Yancey, 2014). Notably, the SPLC developed the “Hatewatch” project aimed at identifying and exposing active hate groups in the United States. Yancey (2014) examined effect bias in academia arguing political progressives are overrepresented. The author suggests that this bias can substantially affect critiques of IGs’ advocacy efforts in a way that underscores the efforts of conservative groups. The author contends that negative scrutiny accorded too many conservative IGs may be unwarranted and instead results from over-examination by mostly liberal researchers. Unfortunately, the author offers no quantitative statistics on the level of representation of either progressive or conservative academicians. The article encourages readers to question the subjective process used by the SPLC to select targets for monitoring in the Hatewatch program.

Garland and Simi (2011) assessed the utility of litigation strategies employed by the SPLC. The study examines the effect of lawsuits brought forth by the SPLC. Findings reveal that this approach has been useful to diminish organizational resources of White supremacist groups. Through the use of civil suits resulting in monetary damages and asset forfeitures, the SPLC has been successful at securing awards for victims’

families. The SPLC aims to bankrupt groups engaged in racial hatred and violence as a means of combating racism. This article illustrates alternative ways in which IGs can effectively utilize the judiciary to affect change. However, the authors are careful to note the limitations of using litigation to combat racism. For example, litigation is largely ineffective for removing hate speech or media from the Internet. Nonetheless, this article shows the way in which litigation can be an effective tool for social reform.

The National Association for the Advancement of Colored People (NAACP)

The National Association for the Advancement of Colored People (NAACP) is another prominent IG that is frequently involved in USSC litigation. Tauber (1999) examines whether group efficacy affects judicial decision-making. The authors conducted a content analysis of 164 race discrimination cases regarding numerous issues. Cases ranged from 1938 to 1993 covering a fifty-five year period. Consistent with previous research, Tauber's (1999) multivariate analysis included controls for extralegal factors like justice ideology and status differential of executive agencies. Analysis results indicated that the NAACP did not significantly impact judicial decision-making in cases involving race discrimination. The authors are careful to note that the NAACP's objective may not have been simply to win the case. Rather the group may too have been concerned with members' recruitment and/or mobilization. Thus, the measure of success used by Tauber (1999) may be an inadequate barometer of gains won by IGs.

Comparisons among prominent IGs. Aside from case studies, analyses of popular IGs are commonly used for purposes of comparison. Smith and Pollack's (2000) study compares differences between IGs' influence on judicial decision-making as either liberal or conservative groups. The ACLU and the NAACP are listed as two of the most

prominent liberal IGs while the American Center for Justice and Liberty Council are two of the most well-known among conservative IGs. The study examines changes in the perceived ideological position of the USSC based on notable issues like civil rights. The USSC has become more conservative than in the 1960s when numerous civil rights related cases were won for liberals. Conservative IGs have emulated litigation strategies and tactics originally utilized by liberal IGs. Despite this fact, conservative IGs have shown virtually no interest in race discrimination or criminal cases perhaps contributing to the overall success of liberal IGs. Findings indicate that while liberal IGs have successfully achieved favorable rulings, lobbying efforts of conservative IGs have not been as clear cut. Although conservative IGs have been able to advance their agenda albeit incrementally, there is little evidence that these groups are responsible for moving the USSC to a more conservative position. Ultimately, this study draws a distinction between the success rates of IGs participating in cases as amici curiae. As such, it attempts to explain whether the increased participation of conservative IGs is responsible for recent USSC rulings that appear to be more conservative.

Haines (2006) similarly focuses on popular IGs to explain factors that affect the official position of these groups on contentious social issues like abolishing the death penalty or drug prohibition. The study compares the ACLU and Amnesty International with a focus on how factors like public scrutiny affect the organizational agenda of membership based IGs. The study analyzed meeting minutes and other private correspondence spanning three decades of advocacy from the 1970s to the 1990s. Additionally, the researcher conducted structured interviews of personnel in both organizations to better understand the process of how IGs establish their agenda.

Findings indicate that public perceptions play a substantial role in determining the official position of Amnesty International regarding death penalty abolitionism. Conversely, the ACLU was less affected by the potential for public criticism as its agenda was based more on civil liberties principles.

Haines (2006) helps to explain why some groups are less involved in contentious social issues. His analysis revealed how and why the agenda of the USSC is often centered upon certain issues. If participating IGs are more concerned with their public image than the reforms being sought, this point may suggest why particular social issues have been granted certiorari more frequently than others. It becomes less likely that membership based IGs can sustain themselves if alienated from their primary contributors. As such, these IGs may be less likely to advocate contentious social issues that are contrary to prevailing moral or social values. It may also suggest why some IGs are more frequent participants as *amici curiae*.

Methodological differences. Distinctions might as well be made concerning methodological differences used in numerous analyses. Some studies are limited to analyzing a single term (Collins, Jr. & Solowiej, 2007; Spriggs & Wahlbeck, 1997) of the courts while others focus on numerous years (Collins, Jr. & Martinek, 2010; Songer & Sheehan, 1993). The sampling frame for studies assessing numerous years is often determined by the presiding Chief Justice of the USSC (Collins, Jr., 2004; Kuersten & Jagemann, 2000) or by the issues being adjudicated (Haines, 2006; Tauber, 1999). For instance, Stolz (2005) assesses decision-making with a focus on the enactment of human trafficking legislation. Using a thematic approach to sampling procedures enables longitudinal assessments of IGs more so than those based on individual court terms.

These long term assessments can identify trends in policy choices and can result in more exhaustive efforts at identifying participants.

Kuersten and Jagemann (2000) similarly assess judicial decision making by framing the examination thematically. Instead, the authors base their analysis upon race and gender based IGs. The study focuses on coalition building and whether such coalitions improve the likelihood of favorable case outcomes for amici curiae. Researchers distinguished between prominent and less popular groups. These less popular disadvantaged groups were divided into two categories, repeat players and underdogs whose participation as amici curiae is infrequent. The sample included 129 cases involving discrimination from 1969 to 1986. Findings indicate that race and gender groups often form coalitions. Approximately 20% of all cases sampled involved coalitions among amici curiae. Prominent groups like the NAACP coalesced at lower rates. The authors suggest that this finding likely results from the availability of more resources and expertise for prominent groups. Additionally, powerful IGs commonly coalesce with disadvantaged groups which the authors assert has mutual benefits for both categories of IGs. The study sheds light on why amici curiae employ different approaches to filing briefs.

Overall, the literature reveals several patterns concerning IGs' lobbying efforts. The Supreme Court is the most commonly lobbied venue among American courts (Kuersten & Jagemann, 2000). IGs' decisions regarding whether to participate often hinge on justices' preferences on certain issues and membership retention concerns (Hansford, 2004). ACBs are the most common method of lobbying by IGs (Box-Steffensmeier et al., 2013; Songer & Sheehan, 1993). Justices find invaluable

information in ACBs (Buckler, 2014; Caldiera & Wright, 1998; Collins Jr., 2004; Spriggs & Wahlbeck, 1997) however studies indicate that IGs do not exhibit homogenous effects through lobbying efforts (Box-Steffensmeier et al., 2013; Collins Jr., 2004). Variance in success in judicial lobbying is affected by numerous factors including prestige, issue salience, popularity, differential status, and political receptiveness (Buckler, 2014; McAtee & McGuire, 2007; Stolz, 2002).

Prior research has been useful for identifying IGs (Box-Steffensmeier et al., 2013; Buckler, 2014; Hansford, 2004; Kuersten & Jagemann, 2000). However, additional research can continue to identify new IGs and others that may have been overlooked. Due to the sparsity of assessments by criminologists, it is likely that the literature on IGs contains areas that have not been explored since many studies only examine a sample of cases either by court terms or by social issues. This point suggests that there may be more IGs to identify and that each might provide new insight about how they affect the larger system.

Prior research has also been useful to measure the effectiveness of IGs' lobbying efforts (Buckler, 2014; Hansford, 2004; McAtee & McGuire, 2007). In this regard, the strategy utilized by IGs is of particular importance. Studies have indicated that coalition-building among IGs is an effective approach to increase the likelihood of favorable case outcomes (Collins Jr., 2004; Collins Jr. & Solowej, 2007; Kuersten & Jagemann, 2000). This finding results from factors like differences in levels of group expertise and participation frequency. Such factors are important to consider since IGs are unlikely to have equal rapport with justices (Hansford, 2004).

Few studies have examined influence as a distinct concept in a qualitative manner (Collins Jr. & Solowej, 2007; Spriggs & Wahlbeck, 1997). Most often influence has been assumed or inferred using quantitative measures of IGs' participation frequency and/or the number of ACBs supporting either litigant (Buckler, 2014; Collins Jr. 2004; Kuersten & Jagemann, 2000; Smith & Pollack, 2000; Songer & Sheehan, 1993).

To that end, the frequency with which IGs have appeared before the USSC has been identified as a factor in previous research that affects case outcomes (Martinek, 2006; Smith & Pollack, 2000). Some researchers have suggested that increased participation in USSC litigation results in greater experience for IGs making their case before the Court (Buckler, 2014; Hansford, 2004).

Collaborative efforts by numerous IGs are common strategies of amici curiae participation. Previous research has examined the collective efforts of IGs in an attempt to determine the effects of coalition building on judicial decision-making (Box-Steffensmeier et al., 2013; Kuersten & Jagemann, 2000).

Because IGs commonly focus on civil liberties, these groups are often at the forefront of corrections reforms. Though there have been numerous assessments to identify IGs involved in USSC litigation, few if any have exclusively studied IGs in relation to prisoners' rights and/or prison reforms.

Despite a few methodological differences, there are notable similarities among the methods employed by analysts examining the effect of ACBs on judicial decision-making. While the literature is replete with quantitative analyses of IGs' influence using ACBs, there are a limited number of qualitative assessments. Studies range from analyzing a single USSC term (one year) to much larger blocks (e.g. 50 years or 5

consecutive decades) in terms of the cases being considered. In light of this variation, there are considerable advantages for both approaches. Analyzing individual USSC terms provide opportunities for more in-depth analysis of the decision-making process while controlling for other factors like changes in the Court's composition, evolving values of society, changes in the law, etc. Because the data for these assessments has generally involved a sample of cases covering a range of issues, the utility of such findings is limited in terms of quality. The advantage of larger sampling frames of analysis is the ability to comprehensively examine the full range of IGs and cases associated with a particular issue. Additionally, larger sampling frames allow for longitudinal assessments of IGs' influence, which can be traced over time. In doing so, researchers can assess changes in lobbying efforts among other trends.

Previous analyses of IGs and their effect on judicial decision-making have sometimes been limited to the most prominent IGs involved in landmark cases (Smith & Pollack, 2000; Tauber, 1999). This constricted focus has resulted in sampling procedures that were not the most comprehensive. Focusing on the most prominent IGs or popular cases is a rather subjective approach to sampling.

Prior studies have mostly used quantitative approaches to analyzing data. While these quantitative assessments have been useful in uncovering various findings, like the frequency of participation or the number of filings by IGs, these results come at the expense of what more in-depth qualitative data analyses could reveal about a particular phenomenon. As such, very little is known about the content of ACBs and how the information contained therein influences judicial decision-making. While content analyses of ACBs have been previously conducted (Collins Jr. & Soloweij, 2007; Zackin,

2008), such studies constitute a very small percentage of assessments conducted on judicial decision-making.

Gaps in previous literature. What is missing from previous studies is an analysis of judicial decision-making whose methods qualitatively examine the content of ACBs to determine if there is evidence of why some groups are more successful using litigation strategies. While quantitative factors like coalition-building or the total number of ACBs filed in a case may influence case outcomes, it is plausible that the content and/or quality of information contained in such briefs affects justices' decisions as well. Hardly any studies exist which analyze ACBs by actually reading the content word for word. Stated differently, analyses of ACBs' latent content are rare.

While many IGs may participate in the judicial process through ACBs, it is still difficult to determine whether the content of ACBs is reflected in justices' opinions. However, it is possible that justices' are receptive to the content of ACBs yet do not rule in favor of the litigants being supported. Thus it is important to understand both the influential nature of the content contained in ACBs and the degree of success accorded from their use.

Nor have previous studies examined IGs' influence with regards to corrections. This is important since prisoners are likely to be one of the most disliked groups in society. There may be notable differences in factors affecting judicial decision-making as it pertains to prisoners in comparison to non-prisoners especially if one considers the fact that IGs often represent public interests and rely on public funding sources. As such, many IGs are accountable to the public through the public's opinion of inmates. To the extent that advocacy on behalf of prisoners is inconsistent with prevailing social norms

and values, it is less likely that membership based IGs will advocate in a manner contrary to its supporters (Haines, 2006; Zackin, 2008). This phenomenon could potentially result in fewer IGs being involved in prisoners' rights litigation. Additionally, it is useful to know which groups are most active in corrections litigation. It is possible that some IGs participate less frequently due to less than desirable case outcomes that exhaust valuable resources for their efforts.

Finally, with so few analyses of the content contained in ACBs, there is no clear distinction on how and why the information therein is likely to be effective. Of those studies that employed a qualitative approach they either relied on a considerably subjective method of sampling IGs (Haines, 2006), or employed a rather narrow sampling frame (Collins & Solowej, 2007; Spriggs & Wahlbeck, 1997). Doing so can result in notable shortcomings in terms of generalizability and sample size. With regards to narrow sampling frames, it becomes more difficult to assess trends occurring over time that might highlight periods of successful lobbying efforts.

Additionally, previous research has failed to consider the anticipated direction of successful lobbying. While some studies (Collings Jr. & Solowej, 2000; Songer & Sheehan, 1993) have noted variations in favorable case outcomes for opposing litigants (petitioner/respondent), few studies (Kuersten & Jagemann, 2000; Tauber, 1999) have assessed such variation among litigants thematically. As mentioned in chapter one, some IGs do not advocate for prisoners' rights and reforms. Unlike civil liberties groups, law enforcement IGs focus on securing legal victories for criminal justice agencies. This results in an adversarial context of prisoners' rights advocacy between IGs that either support or oppose prisoners' rights and prison reforms. It is possible that IGs' support for

litigants does not always adhere to the anticipated direction. Stated differently, law enforcement groups might sometimes choose to advocate on behalf of prisoners. Civil liberties groups may sometimes advocate in opposition to prisoners' rights as well. Besides a few notable exceptions (Collins Jr., 2004; Songer & Sheehan, 2010; McAtee & McGuire, 2006), prior research has largely failed to examine the direction of successful lobbying or whether IGs' advocacy can be predicted with any accuracy.

Although the research literature is clear about changes and reforms that have occurred in corrections, what is less clear is which reforms have been granted and when. It is possible that IGs are inconsistent in their advocacy efforts. For instance, while a particular IG may file ACBs in relation to prisoners' rights resulting in unfavorable results, to what extent are these groups involved in subsequent litigation regarding similar issues? In other words, are IGs persistent in their attempts to achieve a desired outcome?

Collins (2004) noted that "scholars may be better served by approaching USSC decision-making as a complex phenomenon, perhaps best explained through the integration of numerous approaches, rather than outright adopting a particular perspective" (p. 827). Viewed in this regard, the current body of literature is deficient without more nuanced qualitative assessments of IGs' influence as *amici curiae*.

Conclusion

This chapter has provided a review of the literature concerning IGs and the effects of their advocacy on decision-making. A description of various research designs has been included to highlight notable shortcomings in previous research. A description of the theoretical framework is provided to illustrate the way in which various actors within the criminal justice system are loosely coupled and similarly connected by the same

goals. Building on previous qualitative assessments, chapter three provides a rationale and description of the methods used in the current analysis.

CHAPTER III - METHODOLOGY

This chapter presents an overview of the research design used in the current study. This chapter provides a description of data collection procedures and analytical methods used to conduct a directed content analysis of ACBs. Research questions are discussed as well as numerous variables. Lastly, the benefits of the proposed sampling procedure and analytical technique for the current analysis are discussed.

The current study analyzes the effects of interest groups (IGs) on prisoners' rights. More specifically, the content contained in ACBs is analyzed to determine whether it is somehow influential in determining case outcomes. If such influence results in desired case outcomes (reforms) then it might be viewed as leading to a reduction of entropy in corrections. Given these objectives, the following research questions are presented:

Research Questions

1. Regarding prisoners' rights and prison policy, who are the IG's that have been involved in litigation at the Supreme Court level? (Identity)
 - a. Which IGs have filed ACBs opposing prisoners' rights and/or prison reform? (Stance on reforms)
 - b. Which IGs have filed ACBs in favor of prisoners' rights and/or prison reform? (Stance on reforms)
 - c. Which IGs have participated as legal counsel during a case? (Counsel)

Identity also includes two subcategories, stance on reforms and counsel. Identity was coded as the official name of an IG as recorded in an ACB. Stance on reforms was coded with two attributes, 0 (content of ACB indicates an IG is opposed to prisoners) and

1 (content of an ACB indicates an IG is in favor of prisoners). Counsel was coded as 0 (IG is not listed as an attorney/legal counsel for either litigant) and 1 (IG is listed as attorney/legal counsel for either litigant in an ACB).

Additionally, it is necessary to highlight whether support from IGs follows the anticipated direction. For instance, one might expect corrections officers unions to be more aligned with law enforcement groups since corrections officers are agents of the criminal justice system. Conversely, such groups may also advocate for prisoners' rights issues since improved prison conditions are likely to contribute to a better work environment for corrections officers. As this example illustrates, it is inaccurate to assume that IGs' efforts will always be focused in a manner consistent with anticipated advocacy.

IGs commonly participate on behalf of litigants as legal counsel. The current analysis uncovered the frequency of IGs' participation as legal counsel. Parties to litigation are included in the WestlawNext database and were identified accordingly. These results better inform future research regarding IGs effectiveness as legal counsel.

2. To what extent and direction have IGs been able to influence reforms in corrections using ACBs to lobby the USSC regarding prison policies and/or prisoners' rights? (Influence)
3. With regard to prisoners' rights and/or prison reform, which IGs have appeared before the USSC most frequently as amici curiae? (Frequency)
4. What is the scope of corrections reforms with which IGs have been involved? (Scope)

5. To what extent have IGs been successful in advancing their argument?

(Effectiveness)

It is important to determine whether the efforts employed by IGs are successful. Prior research has generally conceptualized effectiveness to be loosely defined as favorable case outcomes in which justices' opinions agree with stances taken in ACBs (Buckler, 2014; McAtee & McGuire, 2007). The current analysis adopts a similar conceptualization to determine whether advocacy leads to reforms.

Sampling

A search was conducted using a legal database known as WestlawNext to produce a comprehensive list of cases and IGs. The initial search focused on ACBs filed in USSC cases. The advantages of focusing on USSC cases are numerous. First, ACBs make it possible to compile a more complete list of parties involved in prisoners' rights litigation. This method is preferred to identify participants other than litigants involved in the case. In many instances, IGs file ACBs in support of either litigant although not a party to the suit. As well, ACBs are more frequently used to participate in USSC litigation than in lower courts (Martinek, 2006).

For purposes of this analysis ACBs are used to identify IGs as well as their official position (stance) on the issue being adjudicated. ACBs generally include a short description of the IGs involved. As such, ACBs aid researchers in identifying the various organizations involved in prisoners' rights in addition to the scope of their services. Previous assessments IG lobbying effects have sometimes focused on the most prominent IGs (Box-Steffensmeier et al., 2013; Smith & Pollack, 2000) or landmark cases (Smith & Pollack, 2000).

The implications of decisions rendered by the USSC are experienced nationwide. The sampling process used in the current analysis facilitates compilation of a more comprehensive list of cases with national implications for reform. Excluding state and federal cases from lower courts reduces the sample of potential cases and makes the analysis more manageable. Additionally, this approach comprehensively identifies IGs involved in prison reform to examine their involvement historically.

To further refine the search and facilitate a content analysis of ACBs, keyword search was conducted within the Westlaw database. Two specific keyword phrases were used to conduct the search. “*Prisoners’ rights*” and the “*8th amendment*” revealed a list of 40 USSC cases. *Prisoners’ rights and the 8th amendment* revealed a list of 200 USSC cases. This method was especially sensitive to minor changes in wording. For instance, the words *eighth amendment* revealed a substantially lower number of USSC cases (105) than if typed numerically as *8th amendment* which uncovered 200 USSC cases. The two lists of USSC cases were reconciled to identify differences. A total of 31 USSC cases were identical on each list. Nine USSC cases were not found on the larger list of 200 and were subsequently added. This process resulted in an initial sample of 209 USSC cases.

The resulting case list was used to identify litigants and participating amici curiae involved in prisoners’ rights litigation with the USSC. This process uncovered a host of IGs that have not been previously studied due to their lack of renown. In this regard, the current analysis is exploratory and highlights the efforts of lesser known IGs that have received scant attention in prior research.

Initial sampling revealed a total of 209 cases involving issues concerning prisoners’ rights and/or prison reforms. These cases were then screened by reviewing

case summaries to ensure that each case involved issues pertaining to prisoners' rights and/or prison reforms. Of the 209 cases in the initial sample, several were excluded because they did not meet the following criteria: contained at least one ACB filed on behalf of litigants, argued before the USSC, and a majority opinion rendered.

Several cases involved constitutional rights issues for prisoners but not in a manner that affected prison reform. For example, many cases involved appeals of convictions or sentences of death upon determination of guilt. These matters are unrelated to the rights of prisoners unless they involve the question of whether prisoners can petition courts for such appeals (such as habeas corpus motions). In many instances such cases involved inadequate counsel or procedural unfairness at various stages of the trial. Again, as these complications occurred prior to a determination of guilt, such cases were deemed unfit for purposes of the current analysis.

Secondly, many cases identified in the initial search procedure involved neither prisoners' rights nor prison reforms. This error of selection likely results from citations of case precedents from cases involving prisoners' rights. In other words, some cases may be totally unrelated to prisoners' rights but may contain citations or references from prior prisoners' rights litigation. Lastly, in some cases the records either contained no ACBs filed on behalf of litigants or such records were unavailable. Because the objective of this analysis is to review ACBs to better understand their influence on judicial decision-making such cases could not be used in the current study.

After adjusting for cases excluded due to the aforementioned reasons, the sampling procedure resulted in ninety USSC cases (n=90). The number of ACBs filed on cases sampled varied from zero to as many as 22. As previously mentioned, in some

instances the records for ACBs and other filings were unavailable. However, such cases were not excluded since only one ACB is necessary for comparison with justices' opinions. From the sample (n=90), the number of ACBs available for qualitative content analysis totaled 124 – 62 ACBs filed by individual IGs and 62 ACBs filed by IGs in coalition. The number of ACBs submitted per case ranged from one to as many as 18.

After IGs were identified, a directed content analysis was conducted to determine the extent to which arguments proposed in ACBs are present in justices' final opinions. For each case sampled, ACBs were carefully analyzed to better understand how the information contained within affects the outcome of the case. This process allows numerous comparisons to be made concerning the scope of litigation, the frequency of participation among IGs in USSC litigation, and the amount of success each organization has experienced with their approach. Additionally, this process of analyzing cases illustrates the extent to which prison reforms have progressed over time, the issues to which the Court has been the most receptive, and how the concept of prisoners' rights has been expanded or constricted. Case analysis examined the facts of the case, its disposition, and the time elapsed until a ruling is rendered. The process provides a brief overview of USSC litigation involving prisoners' rights that is more complete than many previous studies and is not limited to landmark cases.

Benefits of the sampling design

The benefits of this sampling design are numerous. Unlike many previous studies, this analysis is not limited to a cross sectional analysis based on USSC terms (Spriggs & Wahlbeck, 1997) or chief justices (McAtee & McGuire, 2007) and examines an expanded range of time. Prior research has indicated that the frequency of amici

curiae participation and filings has increased notably over time (Collins, 2004; Martinek, 2006). The current analysis documents how the use of ACBs has changed since 1932 in relation to prison reforms.

Analytical Technique

The research design for the current analysis embodies a mixed methods approach. Latent and manifest content were analyzed using a directed content analysis. Hsieh and Shannon (2005) distinguish directed content analyses as employing a deductive approach in an attempt to extend or validate an existing theory. In this regard, theory is used as a framework to guide ones analysis. As such, key terms are developed using a theoretical framework which form the basis of categories used for coding data. Text and phrases are then identified that seem to represent with the aforementioned coding categories.

Latent content was analyzed by reading the content of ACBs and opinions filed by case. Content was read word by word and coded into categories consistent with the arguments presented. Data was coded by paragraph in terms of the issues being discussed in the ACB or opinion. Comparisons were made between categories of issues for both ACBs and justices' opinions in search of similarities indicative of ACBs' effect on decision-making. Similarities between ACBs and opinions were analyzed and taken as an indication of influence resulting from the use of ACBs. It should be noted that justices' opinions included all opinions filed per case despite whether concurring and dissenting. Manifest content analysis involved cross tabulations of the remaining non-metric variables to determine the frequency of occurrences.

For each case, data were collected from both ACBs and justices opinions organized by case name. After data were collected, comparisons between ACBs and

justices opinions were made by case to assess the degree of similarity between each manuscript. Based on the degree of similarity ACBs displayed with case opinions, each ACB was categorized in terms of its level of influence. Next, sum totals for influence were calculated for ACBs of the same litigants to comprise an influence factor used to assess the cumulative impact of IGs' participation. Lastly, favorable case outcomes were juxtaposed against influence factors to determine whether IGs' efforts are somehow influential of prison reforms. It was anticipated that influence factors would predict case outcomes if influence is a factor that affects judicial decision-making.

Methodological caveats

There are numerous methodological caveats associated with the current analysis. While numerous IGs focus on civil liberties, few studies have examined IGs in relation to corrections. Prior research has not examined civil liberties with a focus on prisoners' rights. A thematic analysis of cases is preferred for several reasons. First, a thematic analysis facilitates an exhaustive sample of cases. From those cases, researchers can more accurately and comprehensively identify IGs with involvement in prisoners' rights. Additionally, a thematic assessment facilitates a longitudinal analysis of IGs' effectiveness over time. Using prisoners' rights as a thematic frame, USSC cases can be sampled and analyzed from multiple years or decades. This approach identifies trends not only in corrections reform, but in IGs' participation as well.

Another caveat of the current analysis involves its qualitative assessment of the content contained in ACBs. The current study adds to the limited number of qualitative studies further extending the current body of literature with a focus on corrections reform. Previous researchers have noted the scant criminological literature involving IGs and

their role in the criminal justice system (Fairchild, 1981; Stolz, 2002). While political scientists have discussed the influence of IGs extensively, criminologists have largely overlooked the role of IGs in shaping the criminal justice system.

Lastly, the current study is unique in that it analyzes concurring and dissenting opinions. Previous qualitative assessments of ACBs have sometimes been limited to comparisons between ACBs and majority opinions (Collins & Solowej, 2007). To more adequately assess the impact of arguments presented in ACBs, it is important to realize that justices, whether dissenting or concurring with the majority, may be influenced by IGs' efforts. As such, this impact can be measured by making comparisons between ACBs and dissenting opinions. To the extent that justices' opinions reflect the arguments presented by IGs, researchers can infer whether ACBs have any effect on justices' decisions. As such, the current study more thoroughly examines the impact of ACBs by more completely analyzing all written opinions available per case sampled. In this regard, the full range of judicial opinions (majority, concurring, and dissenting) is used as a benchmark for comparison unlike previous research that has limited such comparisons of ACBs to majority opinions.

Conceptualization and Operationalization

Several concepts require clarification. The term "IG" has been ambiguously and inconsistently defined in previous studies. In fact, some researchers make no mention of the way in which IGs are conceptualized in their analysis. The resulting ambiguity leads to varying definitions of IGs and likely contributes to variation in identifying IGs. As prior research has often focused on the most prominent or popular organizations, it is unsurprising that the term "IG" has so often remained undefined in the literature. For

purposes of this analysis, IGs are defined as “organizations that are entirely or partially dedicated to influencing the formulation and execution of public policy in the areas” (Fairchild, 1981, p. 183).

The current study examined levels of participation among IGs in the realm of prisoners’ rights and prison reform. Previous research has noted that participation can occur in numerous ways to include writing letters to politicians, information campaigns, as well ACBs (Griffin et al., 2016; Roby, 1969; Walker, 1999). For purposes of the current analysis, participation is conceptualized as involvement in a case by either filing an ACB or acting as legal counsel on behalf of litigants.

Lastly, the current study examines the level of similarity between ACBs and justices’ opinions. Thus, consistency is conceptualized as the degree of similarity between two manuscripts. Comparisons were made between ACBs and justices’ opinions to uncover whether there is evidence of the content (influence) proposed in the brief.

Variables

Because the current analysis is an exploratory qualitative analysis, it utilized a deductive approach to examine the phenomena in question. A deductive approach is guided by theory which is used as a framework for coding and category selection (Hsieh & Shannon, 2005). The variables selected partially reflect the aims of systems theory previously discussed in chapter two. The following variables were examined in the current analysis.

Influence. The current analysis seeks to uncover whether ACBs influence judicial decision-making through a directed content analysis of the content contained in ACBs.

Influence was measured by whether justices' opinions are similarly consistent and/or reflective of the arguments presented in ACBs. Thus "influence" is conceptualized as the degree of consistency between ACBs and justices' opinions. The variable influence is composed of two measures. The "influence score" measures the degree of consistency between the two documents using the following scale: no similarity, low similarity, moderate similarity, or high similarity (coded 0-3 respectively). Comparisons were made between ACBs and justices' opinions to determine whether the information contained in ACBs is given any mention in justices' opinions. To the extent that ACBs are consistent with opinions from justices, it is possible to infer that IGs are successful in their efforts to influence judicial decision-making. Influence scores revealed variance in the level of influence IGs have. This measure also assists in predicting the likelihood of favorable case outcomes.

An "influence factor" was used to measure differences in summated influence scores for all IGs per case. Stated differently, the "influence factor" is the difference in summated influence scores between opposing IGs. To calculate influence factors, influence scores for all IGs supporting petitioners were totaled. Similarly influence scores were totaled for all IGs supporting respondents. Thus, if summated influence scores totaled 10 for respondents and 13 for petitioners, the current example would yield influence factors of -3 and +3 respectively. The difference in the influence scores for petitioners and respondents is indicative the degree of influence resulting from the collective efforts of IGs termed "influence factor." In other words, influence factors are measures used to assess the cumulative influence of IGs as amici curiae. If the content of

ACBs is a factor in judicial decision-making, it is anticipated that “influence factor” will be a predictor of favorable case outcomes.

Effectiveness. While it is important that IGs propose influential arguments and that those arguments are in some way reflected in justices opinions, influence alone is insufficient to suggest that such advocacy results in reform. Thus, a measure of effectiveness was used to determine the extent to which IGs’ participation in USSC litigation influences reform. “Effectiveness” is conceptualized as the extent to which IG participation results in favorable case outcomes. As such, “favorable case outcomes” were conceptualized as a majority opinion that is supportive of IGs’ stance on specific issues. IGs’ stance on issues is preferable to cases since groups are sometimes neutral in their support for litigants. In this way, it is possible to assert that IGs are successful in their advocacy efforts thereby resulting in corrections reforms. Using the aforementioned influence factor one can also examine effectiveness of IG participation. If IGs efforts are to be considered effective, they must result in favorable case outcomes. IGs with influence factors greater than zero are expected to be more effective in their efforts to bring about reforms, thereby resulting in a greater number of cases won.

Identity. A primary purpose of the current analysis is to determine the identity of each IG that has participated in prisoners’ rights litigation. The identity of each IG is conceptualized as the organization’s official name listed within an ACB. IGs often have multiple chapters or branches in various states or regions. For instance, the ACLU has both local and state affiliate chapters all of which work toward similar goals largely determined by a national chapter (Halpern, 1975). With so many chapters simultaneously involved in numerous cases across the United States, the efforts of the ACLU may seem

fragmented if examined using such partitioning. This segregation of state and local affiliates can result in inaccuracies in identifying IGs and an underestimation of such groups' participation in correctional reform. To overcome this problem, all occurrences of affiliate chapters for the same IG were counted toward advocacy of the IG as a whole. Thus, while the ACLU of Mississippi, Alabama, and Texas may each file an ACB in a given case, they are identified as simply "the ACLU." Although three different state affiliate chapters participate in this example, it is counted as one occurrence of ACLU advocacy rather than three instances of individual participation by each state's affiliate chapter.

The same point applies to the frequency of participation by IGs. While the aforementioned example list three separate chapters participating in the same case, these three occurrences were counted as one case in which the ACLU participated. In short, multiple chapters within the same case were not used to bolster participation frequency as this too would overstate level of participation for the IG as a whole.

After all IGs were identified, they were then categorized by type. Collins, Jr. and Solowejij's (2007) study serves as the basis for these categorizations as it differentiates between the following types of amici curiae: individual, corporation, government (federal, state, or local), public advocacy, public interest law firms, trade associations, and unions. Individual citizens often file ACBs on behalf of litigants. Generally, these individuals are experts on the subject matter involved in the case. For instance, academicians, practitioners, judges, and politicians often file ACBs individually or in concert on behalf of litigants. Government entities often participate in litigation using ACBs as well. Government amici curiae can include both individuals and groups. For

example, states' attorneys general frequently participate in USSC litigation. Similarly, the California Department of Corrections and Rehabilitation (CDCR) can be categorized as a government entity as well. However, the current study focused on IGs, rather than individual amici curiae and government agencies. As such, both individual and government amici curiae were excluded from the current analysis. Nonetheless, groups such as the National District Attorneys Association were not excluded since it is a group that is not created nor maintained by the government. That is not to suggest that government funding disqualifies IGs from the current analysis. However, IGs comprised of members that have no voluntary association with the group were excluded.

This process of identification also includes determining which issues or reforms each IG is involved with. This data will help establish the range of issues or reforms that IGs have championed and the degree of variation that ACBs have in proposing legal arguments.

Frequency. Frequency is conceptualized as the number of cases in which an IG participates by filing an ACB either separately or in coalition with other groups. Frequency is useful to determine which IGs are most involved in prisoners' rights litigation and prison reforms. Additionally it identifies which groups most often stand alone when filing ACBs as opposed to joint filings as coalitions.

Scope. As this analysis involves an historical assessment, it is able to identify trends occurring with regards to prison reforms. Reform is conceptualized as case topics which are favorably recognized by justices for groups in support of prisoners. Scope is conceptualized as the full range of reforms for all cases sampled. Examination of this variable enables a chronological timeline of reforms to be compiled.

Conclusion

This chapter detailed the methods used in the current analysis to include data collection, coding, and analysis. This chapter also specifies a distinct analytical technique and a description of sampling procedures and sampling difficulties. The next chapter details findings resulting from these methods.

CHAPTER IV – ANALYSIS AND FINDINGS

The first task associated with the current analysis involved identifying which interest groups (IGs) participated in cases sampled. Identification of IGs was heavily dependent upon the way in which IGs were conceptualized. For purposes of this analysis, amici curiae groups (ACGs) are distinguished from IGs in that ACGs submitted amicus curiae briefs (ACBs) but were excluded simply because they were not membership-based groups. First, ACGs were identified using cases as the unit of analysis. A total of 263 ACGs participated in 52 cases. The various types of ACGs included private law offices, law clinics (primarily at law schools), state and federally funded legal servicing agencies, non-profit organizations, churches and other faith-based institutions, as well as IGs.

After identifying participants, ACGs were then screened to ensure they could be categorized as IGs for purposes of the current analysis. This process involved reviewing descriptions of ACGs found in ACBs and websites for ACGs to determine their purpose and membership capabilities. Conceptualization of IGs was limited to membership based groups exclusive of state or federal agencies/agents that often participate in USSC litigation as amici curiae. As such, the initial list of 263 ACGs resulted in 102 IGs that were consistent with the conceptualization used in the current analysis.

Often ACBs were submitted collaboratively on behalf of numerous amici curiae. In some instances, ACGs that would have normally been excluded sometimes submitted ACBs collaboratively with IGs. Stated differently, one ACB was often submitted on behalf of numerous amici curiae. When such events occurred, these collaborative ACBs were included in the analysis so long as they contained at least one IG despite the number

of amici curiae inconsistent with the conceptualization used. The current analysis includes a total of 81 ACBs with 34 ACBs submitted collaboratively and 47 submitted by individual IGs.

Findings often revealed consistency in the groupings of IGs participating in cases. For instance, many of the same faith-based IGs participated in the cases of *Holt v. Hobbs* and *Sossamon v. Texas*. This finding suggests that IGs perhaps are cognizant of other groups with similar interests. As well, it is possibly an indication that IGs actively organize collaborative efforts using individual submissions of ACBs. The data shows that some IGs advocate as “teams of IGs.” Such teams sometimes choose to forego the submission of a single collaborative ACB opting instead to participate by individual submission. Despite the individuality of some IGs, their participation is still largely tied to the team of IGs with which they generally participate. Additional research could reveal if such teamwork occurs intentionally among IGs or whether such participation is merely a coincidence resulting from case types that attract groups with similar interests.

In some instances, IGs filed both individual and collaborative ACBs in the same case. For example in *Panetti v. Quarterman*, the National Alliance on Mental Illness (NAMI) submitted an individual ACB and was also a party to another ACB in collaboration with other groups. Interestingly, in *Porter v. Nussle* the National Association of Counties was listed twice as a participant in a single collaborative ACB.

IGs as Counsel

Table 1 displays the results of both ACGs and IGs participating as counsel on behalf of litigants. Additionally, the number of cases in which such groups were involved is also listed. A total of 16 ACGs participated as counsel on behalf of litigants.

Sometimes ACGs participated both by submitting amicus curiae briefs (ACBs) and as counsel for litigants. In 10 cases, participation occurred solely by IGs acting as counsel to litigants as there were no ACBs (Table 2). Because these 10 cases did not involve ACB submissions, these cases were not included in the qualitative analysis of influence. As such, these “counsel only” cases are highlighted here because they involve IGs groups and because their inclusion also affects the total number of cases analyzed.

Table 1

ACGs and IGs Participating as Counsel

Amici Curiae Participating as Counsel	Cases with ACB Submission	Total with ACB	non IG	Cases as Counsel	Total as Counsel
American Civil Liberties Union (ACLU)	<i>Baze v. Rees; Bell v. Wolfish; Booth v. Churner; Brown v. Plata; Correctional Services Corporation v. Malesko; Crawford El v. Britton; Hope v. Pelzar; Hutto v. Finney; Johnson v. CA; Minneci v. Pollard; Parratt v. Taylor; Overton v. Bazetta; Procunier v. Navarette; Rhodes v. Chapman; Richardson v. Ramirez; Ryan v. Gonzales; Shaw v. Murphy; Sossamon v. Texas; U.S. v. Georgia; West v. Atkins; Wolff v. McDonnell; Woodford v. NGO</i>	22		<i>Baxter v. Palmigiano; Board of Pardons v. Allen; Estelle v. Gamble; Farmer v. Brennan; Lewis v. Casey; Montanye v. Haymes; Pell v. Procunier; Procunier v. Martinez; Procunier v. Navarette; Rhodes v. Chapman; Wilson v. Seiter</i>	11
Becket Fund for Religious Liberty	<i>Sossamon v. Texas</i>	1	x	<i>Holt v. Hobbs</i>	1
CA Rural Legal Assistance		0		<i>Richardson v. Ramirez</i>	1
Community Legal Services, Inc.		0		<i>Youngberg v. Romeo</i>	1
Equal Justice Initiative		0	x	<i>Nelson v. Campbell</i>	1
Keystone Legal Services, Inc.		0	x	<i>Hewitt v. Helms</i>	1
League of Women Voters		0	x	<i>Richardson v. Ramirez</i>	1

Table 1 (Continued)

ACGs and IGs Participating as Counsel

Legal Aid Society (of NYC, of Columbus)	<i>Booth v. Churner;</i> <i>Correctional Services</i> <i>Corporation v. Malesko;</i> <i>Minneci v. Pollard;</i> <i>Overton v. Bazetta; Shaw</i> <i>v. Murphy; U.S. v.</i> <i>Georgia; Woodford v.</i> <i>NGO</i>	7	x	<i>Bell v. Wolfish; Faye v.</i> <i>Noia; Rhodes v. Chapman</i>	3
Mental Health Law Project	<i>Hutto v. Finney</i>	1	x	<i>Washington v. Harper</i>	1
Migrant Legal Action Program	<i>Hutto v. Finney</i>	1	x	<i>Richardson v. Ramirez</i>	1
Prisoner Legal Services		0		<i>West v. Atkins</i>	1
Prisoners' Union Inc.		0		<i>Jones v. North Carolina</i> <i>Prisoners' Labor Union,</i> <i>Inc.</i>	1
Public Citizen Litigation Group		0		<i>Helling v. McKinney;</i> <i>Minneci v. Pollard; Roell v.</i> <i>Withrow; Ryan v. Gonzales</i>	4
Southern Poverty Law Center	<i>Cleavinger v. Saxner;</i> <i>Hutto v. Finney; U.S. v.</i> <i>Georgia</i>	3	x	<i>Hope v. Pelzar</i>	1
Stanford Law School Supreme Court Litigation Clinic		0	x	<i>Sossamon v. Texas</i>	1
University of Montana School of Law, Criminal Defense Clinic		0	x	<i>Shaw v. Murphy</i>	1

Table 2

Cases Involving IGs as Counsel Exclusive of ACB Submissions

Case Names	Year	IG
Baxter v. Palmigiano	1976	American Civil Liberties Union (ACLU)
Board of Pardons v. Allen	1987	ACLU
Estelle v. Gamble	1976	ACLU
Farmer v. Brennan	1994	ACLU
Faye v. Noia	1963	Legal Aid Society
Helling v. McKinney	1993	Public Citizens Litigation Group

Table 2 (Continued)

Cases Involving IGs as Counsel Exclusive of ACB Submissions

Jones v. North Carolina Prisoners' Labor Union	1977	Prisoners' Union Inc.
Montanye v. Haymes	1976	ACLU
Nelson v. Campbell	2004	Equal Justice Initiative
Roell v. Withrow	2003	Public Citizens Litigation Group

The term “dual participation” is used to describe IGs that participate in USSC litigation both as counsel for litigants and by submitting ACBs in various cases. After excluding amici curiae that were inconsistent with the conceptualization used in the current analysis, the result was six IGs participating as counsel for litigants in 15 cases. While dual participation was rare, only six ACGs were involved in a dual capacity. It should be noted that the ACLU was the only IG (as conceptualized in the current analysis) that displayed this sort of dual participation. In doing so, the ACLU participated as counsel in 11 cases and submitted ACBs in 22 cases. As such, the ACLU participated in a total of 33 cases.

IGs' Stance on Inmate Litigation

An overwhelming majority of IGs participating in USSC litigation submitted ACBs in favor of prisoners' rights or prison reforms. This finding may have resulted in part from the manner in which IGs were conceptualized in the current analysis. Amici curiae that most frequently opposed prisoners' rights and prison reforms were state agencies such as attorneys' general offices. Consistent with previous literature, the solicitor general and state attorneys general were frequent participants (Buckler, 2014; Collins, Jr., 2004) and as such opponents of prisoners' rights and prison reforms. Nonetheless, state agencies and similar amici curiae were excluded from the current

analysis as they are not membership based groups. Of the 102 IGs identified, 27 advocated from a stance opposing prisoners' rights and/or prison reforms (26.21%). As such, the remaining 75 IGs advocated in favor of prisoners' rights (73.53%). This finding illustrates the importance of IGs in working to reform the penal system on behalf of inmates.

Frequency of Participation

IGs participated at varying degrees in the sample of cases examined. The majority of IGs (72.55%) were "one shot" participants (74 of 102 IGs) in USSC litigation. On the contrary, the American Civil Liberties Union (ACLU) participated most frequently in USSC litigation submitting an ACB in 22 cases. Stated differently, the ACLU submitted ACBs in 52% of the total cases examined in the current analysis. Other frequent participants included the American Bar Association which participated in seven cases, the American Psychiatric Association which participated in six cases, and the American Psychological Association which participated in five cases all in favor of prisoners' rights. It should be noted that the Criminal Justice Legal Foundation (CJLF) was the most frequently participating amicus curiae opposed to prisoners' rights and/or prison reforms. The CJLF submitted ACBs in seven cases (16.67%). However, the CJLF was largely excluded from results since it does not fit the conceptualization of IGs used in the current analysis.

Another interesting finding is that the CJLF primarily submitted ACBs individually choosing not to participate in coalition with other groups. While this finding is largely irrelevant to the current analysis, it perhaps could be something to consider in

future research in terms of comparative analyses of collaborative participation versus individual submissions.

IGs were not always consistent in their advocacy for various case types. For example, while both *Procunier v. Martinez* and *Procunier v. Navarette* are cases that dealt with prison policy restrictions on mail delivery, the ACLU only participated in the latter case.

On the other hand, findings sometimes revealed consistency in the groupings of IGs participating in cases. IGs with similar types of interests (faith-based, mental health, journalism, etc.) commonly contributed to the same cases. For instance, many of the same faith-based IGs that participated in *Holt v. Hobbs* likewise submitted ACBs in *Sossamon v. Texas*. Similarly, the American Psychological Association and the American Psychiatric Association participated in the same case on five of six occasions. This finding suggests that IGs perhaps are cognizant of other groups with similar interests. As well, it is possibly an indication that IGs actively organize collaborative efforts using individual submissions of ACBs. The data shows that some IGs advocate as “teams of IGs.” These “teams of IGs” at times choose to forego the submission of a single collaborative ACB opting instead for a more nuanced approach. Additional research could reveal the likelihood that such teamwork among IGs occurs intentionally and whether such focused advocacy provides an added benefit with regard to influence and effectiveness.

In rare instances, IGs filed both individual and collaborative ACBs in the same case. For instance, the National Alliance on Mental Illness (NAMI) submitted an individual ACB and was a party to another ACB in collaboration with other groups in the

case of *Panetti v. Quaterman*. Interestingly, in *Porter v. Nussle* the National Association of Counties was listed twice as a participant in a single collaborative ACB.

Scope of Reforms

The scope of reforms included a host of different issues, yet too often certain aspects did not fit well into succinct categories. Ideally, one would want to categorize case topics parsimoniously. However, such categorization was not always permissible to adequately capture the full extent of issues involved in the case. For instance, in the case of *Minneeci v. Pollard*, it would have been desirable to characterize the case as one involving “inadequate medical attention.” Unfortunately, doing so understates the fact that the case involves private prison facilities as well. As such, case outcomes often hinged on seemingly miniscule issues like the types of facilities/agents involved (private/public, state/federal, etc.).

Frequencies of categories were difficult to determine due to the subjective nature of categorizing cases as a particular type. Most cases involved numerous issues many of which were not deducible to any particular category. For instance, cases most often involved civil suits under Title 42 United States Code Section 1983. Nonetheless, these same cases likely included violations of other constitutional rights like free speech under the 1st Amendment or inmates’ right of access to the courts under the 6th Amendment. Additionally, these same cases might encompass 14th Amendment equal protection and due process claims.

As the previous example illustrates, the problem arises in terms of the best categorization for cases. In other words, is it better to characterize a case in relation to the type of relief sought whether injunctive or monetary, or in terms of the rights being

violated? This question highlights the subjective nature of attempting to identify the scope of reforms as other researchers might draw different conclusions for such categories.

Unfortunately, the problem also involves whether to exhaustively consider the full range of questions presented in a case. In other words, are cases better characterized by the holdings rendered by justices in terms of judicial procedure or instead based on the merits of the case? For instance, many cases were dismissed due to procedural issues like failure to exhaust administrative remedies under the Prison Litigation Reform Act (PLRA). Still, some cases were resolved due to a lack of standing by litigants to bring forth a suit or due to moot claims. Even if procedural issues were satisfied, summary judgments often precluded judicial review of meritorious claims due to qualified immunity of prison officials or sovereign immunity of individual states.

In terms of merits, inmates often brought suit under legislation or amendments in a manner that was deemed inappropriate for the issues involved in the case. For instance, in *Minnecci v. Pollard*, justices ruled that it was inappropriate to extend “Bivens actions” to include 8th Amendment claims against officials in private prison facilities due to the availability of state tort remedies that could provide redress on the matter. Stated differently, while inmates’ claims may have been warranted, such claims might be opposed by the justices due to poor or improper legal strategy.

The aforementioned problems associated with characterizing the scope of reforms were not initially anticipated. Considering the complexities associated with accurately categorizing the scope of reforms, this task should certainly be considered for more extensive assessment in the future. As such, the following results should be interpreted

with careful consideration of the difficulties involved. In the end, each case was categorized in relation to the alleged injury initially brought forth by inmates. It is assumed that doing so will minimize ambiguities of case types while still maintaining variance among categories.

Table 3 displays the results for the Scope of Reforms identified by the current analysis and their frequencies. A total of 16 categories were identified among 42 cases. Among those categories, post-conviction relief occurred most frequently in eight cases, followed by prison conditions (six cases), and inadequate medical attention (five cases).

Table 3

Scope of Case and Frequency

Category	Number of Cases
Post-conviction Relief	8
Prison Conditions	6
Inadequate Medical Attention	5
Mail Delivery	4
Excessive Force	3
Prison Disciplinary Procedures	3
Access to Courts	2
Death Penalty	2
Religious Practice	2
Civil Commitments	1
OwMIs	1
Race Discrimination	1
Right to Refuse Treatment	1
Rules of Civil Procedure	1
Visitation	1
Voting Rights	1

The qualitative component of the current analysis involved an exploratory attempt to measure the influential nature of each ACB submitted per case. This task was accomplished by conducting a thorough reading of the ACBs and opinions available by case in a database known as WestlawNext. ACBs and opinions by justices were first copied and pasted into a Microsoft Word file and labeled by paragraph in an attempt to highlight similarities among each document. As similar paragraphs were identified the arguments contained therein were further analyzed to be certain that the intricacies of each paragraph remained similar. The types of documents submitted by justices included majority, concurring, and dissenting opinions. In rare instances, a justice recused themselves for undisclosed reasons. Sometimes justices both concurred in part and dissented in part since holdings often involved numerous components. This finding primarily occurred in cases in which justices agreed with the ruling held by the majority but disagreed with the manner the Court relied upon to arrive at its conclusion.

A few points deserve mention with regard to labeling paragraphs to identify similarities. Opinions by justices tended to follow a similar format beginning with contextual information about the case. In other words, opinions often began with a description of the litigants and a discussion of historical events involved in the case such as the crime(s) committed. Paragraphs such as these were labeled as “case facts” to distinguish them from other paragraphs that might have a notable influence on a case’s outcome. In other words, information related to “case facts” was not used in compiling measures of influence.

Similarly, “case history” was used to highlight paragraphs that detailed a case’s path to the USSC. Opinions generally noted that a case began in either a state trial court

or federal district court, then was later appealed, possibly affirmed, reversed, or remanded and retried, but ultimately granted certiorari for review by the USSC. Although paragraphs labeled “case history” may illustrate similarities between ACBs and opinions, such information was generally regarded as irrelevant for purposes of influencing justices’ opinions.

“Jurisprudence” was used for labeling to easily identify paragraphs that discussed case precedents extensively. Both ACBs and opinions commonly detailed prior case law that justified various stances taken by their authors. In most instances, such “jurisprudence” was not relied upon to identify similarities between documents. Careful consideration of “jurisprudence” was essential to accurately identify whether the information contained therein constituted a similar argument between each manuscript or whether it was simply jurisprudential information used to establish context.

Thus, jurisprudential references generally were not used to link matching concepts. Often IGs might cite a case in relation to lower courts’ rulings. As such, the USSC would also summarize the case to set the context for the decision. However, as in *Wolff v. McDonnell*, such contextual clarity could also lead to a false positive for matching concepts. While both the IG (ACLU) and the plurality opinion summarized notable case precedents (*Morrisey v. Brewer*), Justice White’s opinion goes on to state disagreement with the lower court that the *Morrisey* standard is universal in its application. As such, the opinion is inconsistent with the argument proffered by the IGs in their ACB. This example illustrates why case precedents by and large were not used as matching concepts.

In order to measure influence, ACBs were reconciled against justices’ opinions to determine the degree of similarity associated with each manuscript. This method was used to infer the level of influence IGs displayed upon judicial decision-making. As such, matching paragraphs of ACBs and opinions were counted toward influence scores for each ACB. Influence scores are a measure of the degree of similarity between each manuscript and are an indication of the number of matching paragraphs identified in each case.

The number of matching paragraphs per case in the current analysis ranged from 0 to 7. Table 4 displays the results for matching paragraphs, the number of matches per ACB, and influence scores to indicate which groups were most influential with regards to judicial decision-making. Matching paragraphs were coded as the page number of each paragraph in each document. Influence scores were coded as 0 representing no similarity (0 matching paragraphs), 1 representing low similarity (1–2 matching paragraphs), 2 representing medium similarity (3–4 matching paragraphs), and 3 representing high similarity (5 or more matching paragraphs). Matching concepts were identified in 26 ACBs. ACBs of low similarity were most prevalent (15 cases), followed by ACBs of medium similarity (seven cases). Finally ACBs of high similarity were least prevalent (4 cases). Most ACBs (54 ACBs) revealed no similarity with justices’ opinions. These findings indicate that ACBs most often are dissimilar to justices’ opinions in cases.

Table 4

Matching Paragraphs

Case Names	IGs Submitting ACBs	Matching Concepts	Total	Influence Score
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Table 4 (Continued)

Matching Paragraphs

<i>Johnson v. California</i>	American Civil Liberties Union (ACLU)	acb3-Op505; acb5-Op510; acb5-Op510/511; acb6-Op506; acb9-Op512; acb18-Op513; acb26-Op512	7	3
<i>Porter v. Nussle</i>	The National Conference of State Legislatures; Council of State Governments; International City/County Management Association; U.S. Conference of Mayors; National Governors Association; National Association of Counties; International Municipal Lawyers Association	acb5-Op524; acb10-Op524; acb10-Op524 (1st para); acb6-Op523; acb17-Op529; acb15-Op531; acb20-Op526	7	3
<i>Crawford-El v. Britton</i>	ACLU	acb19-OP595; acb25-OP594; acb24-OP595; acb27-OP595; ACB 22-Op603 (Rehnquist dissent)	5	3
<i>Hutto v. Finney</i>	American Civil Liberties Union, Action on Smoking and Health, the Children's Defense Fund, Concerned Citizens for Justice, Connecticut Women's Educational and Legal Fund, Inc., the Council for Public Interest Law, Equal Rights Advocates, the Food Research and Action Center, the Indiana Center on Law and Poverty, the Lawyers Military Defense Committee, the Los Angeles Center for Law in the Public Interest, the Massachusetts Advocacy Center, the Mental Health Law Project, Mexican American Legal Defense and Education Fund, the Migrant Legal Action Program, the National Conference of Black Lawyers, the National Council of Senior Citizens, the National Organization for the Reform of Marijuana Laws, the Native American Rights Fund, Oficina Legal Del Pueblo Unido, the Public Interest Law Center of Philadelphia, the Rutgers University Constitutional Litigation Clinic, the San Francisco Lawyers Committee for Urban Affairs, the Southern Poverty Law Center, Tax Analysts and Advocates, the University of Maryland Developmental Disabilities Project, the University of Michigan Clinical Law Program, the Western Law Center for the Handicapped, the Wisconsin Center for Public Representation, the Women's Law Project, and the Youth Law Center	acb31-Op694; acb31-Op696; acb32-Op693; acb34-Op695; acb32-Op702 (Brennan concur)	5	3

Table 4 (Continued)

Matching Paragraphs

<i>Hope v. Pelzar</i>	ACLU	acb5-Op733; acb7-Op739; acb10-Op740; acb20-Op745	4	2
<i>Youngberg v. Romeo</i>	American Psychiatric Association	acb4-Op320; acb10-Op316; acb12-Op316; acb19-Op324	4	2
<i>Estelle v. Smith</i>	American Psychiatric Association	acb19-Op471; acb19-Op467; acb10-Op75	3	2
<i>Holt v. Hobbs</i>	Americans United For Separation of Church and State	acb12-Op759; acb17-Op761; acb18-Op768 (Marshall dissent)	3	2
<i>Sossamon v. Texas</i>	Christian Legal Society; and Prison Fellowship	acb7-Op306 (Sotomayor dissent); acb14- Op297 (Soto dissent) acb30- Op304 (Soto dissent)	3	2
<i>West v. Atkins</i>	American Civil Liberties Union Foundation; the North Carolina Civil Liberties Union Legal Foundation	acb28-Op54; acb33-Op56; acb25-Op54	3	2
<i>Youngberg v. Romeo</i>	American Orthopsychiatric Association; American Psychological Association; Association for Retarded Citizens of the United States; Mental Health Association; National Association of Social Workers	acb13-Op319; acb14-Op324; acb25-Op316	3	2
<i>Carlson v. Green</i>	(2) ACLU; Legal Aid Society of NYC	acb3-Op20; acb17-Op23;	2	1
<i>Glossip v. Gross</i>	National Association of Criminal Defense Lawyers	acb4-Op2762 (Breyer dissent); acb4-Op2772 (Breyer dissent)	2	1
<i>Lewis v. Casey</i>	The National Conference of State Legislatures; Council of State Governments; National Governors' Association; National Association of Counties; International City/County Management Association; National League of Cities	acb4-Op346; acb6-Op350;	2	1
<i>Parratt v. Taylor</i>	ACLU	acb8-Op535; acb9-Op535/536	2	1

Table 4 (Continued)

Matching Paragraphs

<i>Sossamon v. Texas</i>	American Civil Liberties Union; ACLU of Texas; Uptown People's Law Center; Washington Lawyer's Committee for Civil Rights and Urban Affairs; Americans United for Separation of Church and State; American Jewish Committee; Baptist Joint Committee for Religious Liberty; and the Interfaith Alliance Foundation	acb9-Op296 (soto dissent); acb18-Op300 (Soto dissent)	2	1
<i>West v. Atkins</i>	American Public Health Association	acb58-Op56; acb59-Op57	2	1
<i>Baze v. Rees</i>	American Society of Anesthesiologists	ACB4-OP64 (Alito concur)	1	1
<i>Bell v. Wolfish</i>	ACLU	ACB24-OP533	1	1
<i>Correctional Services Corporation v. Malesko</i>	ACLU	ACB21-Op77(Stevens dissent)	1	1
<i>Minneci v. Pollard</i>	DRI	acb10-Op127	1	1
<i>Murray v. Giarratano</i>	American Bar Association	acb14-Op2771 (Kennedy concurs)	1	1
<i>Richardson v. Ramirez</i>	American Bar Association	acb14-Op80 (Marshall dissent)	1	1
<i>Sossamon v. Texas</i>	National Association of Evangelicals	acb13-OP293 (Sotomayor dissent)	1	1
<i>Washington v. Harper</i>	National Association of Protection and Advocacy Systems; National Association for Rights Protection and Advocacy; Protection and Advocacy, Inc.; Michigan Protection and Advocacy Inc.	acb9-Op230	1	1
<i>Washington v. Harper</i>	American Psychological Association	Acb6-Op230	1	1

Of the four ACBs that were found to display a high degree of similarity with justices' opinions, the ACLU was responsible for submitting three of them. This finding is perhaps indicative of the extensive experience that the ACLU has as an amicus curiae. Additionally, this finding is consistent with prior research which suggests "repeat

players” (Buckler, 2014) or “past participants” (Hansford, 2004) are more influential in judicial decision-making than other groups.

In a similar manner, the American Civil Liberties Union, American Psychological Association, and American Psychiatric Association each submitted ACBs which displayed medium levels of similarity. It is worth noting that each of these groups were also the top three most frequent participants in USSC litigation (Table 5). Again this finding further supports previous research that argues USSC justices are sympathetic to past participants (Buckler, 2014; Hansford, 2004).

Table 5

IGs’ Stance and Frequency of Participation

Interest Groups	Stance	Cases as IG	Sum	Sum as Counsel
American Civil Liberties Union (ACLU)	1	<i>Baze v. Rees; Bell v. Wolfish; Booth v. Churner; Brown v. Plata; Correctional Services Corporation v. Malesko; Crawford El v. Britton; Hope v. Pelzar; Hutto v. Finney; Johnson v. CA; Minneci v. Pollard; Parratt v. Taylor; Overton v. Bazetta; Procunier v. Navarette; Rhodes v. Chapman; Richardson v. Ramirez; Ryan v. Gonzales; Shaw v. Murphy; Sossamon v. Texas; U.S. v. Georgia; West v. Atkins; Wolff v. McDonnell; Woodford v. NGO</i>	22	11
American Bar Association	1	<i>Brown v. Plata; Murray v. Giarrantano; Overton v. Bazetta; Panetti v. Quarterman; Richardson v. Ramirez; U.S. v. Georgia; Wolff v. McDonnell</i>	7	0
American Psychiatric Association	1	<i>Brown v. Plata; Estelle v. Smith; Panetti v. Quarterman; Ryan v. Gonzales; U.S. v. Georgia; Washington v. Harper; Youngberg v. Romeo</i>	6	0
American Psychological Association	1	<i>Brown v. Plata; Panetti v. Quarterman; U.S. v. Georgia; Washington v. Harper; Youngberg v. Romeo</i>	5	0
American Public Health Association	1	<i>Brown v. Plata; Rhodes v. Chapman; West v. Atkins; Wilson v. Seiter</i>	4	0

Table 5 (Continued)

IGs' Stance and Frequency of Participation

International City Management Association	0	<i>Hewitt v. Helms; Lewis v. Casey; Porter v. Nussle</i>	3	0
National Association of Counties	0	<i>Hewitt v. Helms; Lewis v. Casey; Porter v. Nussle</i>	3	0
The National Association of Criminal Defense Lawyers (NACDL)	1	<i>Glossip v. Gross; Overton v. Bazetta; U.S. v. Comstock</i>	3	0
National Association of Evangelicals	1	<i>Brown v. Plata; Holt v. Hobbs; Sossamon v. Texas</i>	3	0
National Association of Federal Defenders	1	<i>Ryan v. Gonzales; Overton v. Bazetta; U.S. v. Comstock</i>	3	0
National Conference of State Legislatures	0	<i>Lewis v. Casey; Porter v. Nussle; Youngberg v. Romeo</i>	3	0
The National Legal Aid and Defenders Association	1	<i>Cleavinger v. Saxner; Overton v. Bazetta; Ross v. Moffit</i>	3	0
American Academy of Psychiatry and the Law	1	<i>Ryan v. Gonzales; U.S. v. Georgia</i>	2	0
Americans United for Separation of Church and State	1	<i>Holt v. Hobbs; Sossamon v. Texas</i>	2	0
The ARC of the United States aka Association for Retarded Citizens of the United States	1	<i>U.S. v. Georgia; Youngberg v. Romeo</i>	2	0
Citizens United for the Rehabilitation of Errants (CURE)	1	<i>Overton v. Bazetta; U.S. v. Georgia</i>	2	0
Council of State Governments	1	<i>Lewis v. Casey; Porter v. Nussle</i>	2	0
General Synod of the United Church of Christ	1	<i>Brown v. Plata; Holt v. Hobbs</i>	2	0

Table 5 (Continued)

IGs' Stance and Frequency of Participation

The National Association for the Advancement of Colored People (NAACP)	1	<i>Bell v. Wolfish; U.S. v. Georgia</i>	2	0
National Association for Rights Protections and Advocacy	1	<i>U.S. v. Georgia; Washington v. Harper</i>	2	0
National Association of Social Workers	1	<i>Overton v. Bazetta; Youngberg v. Romeo</i>	2	0
National Conference of Black Lawyers	1	<i>Cleavinger v. Saxner; Hutto v. Finney</i>	2	0
National Council on Crime and Delinquency	1	<i>Overton v. Bazetta; Wolff v. McDonnell</i>	2	0
National Lawyers Guild, Amicus Committee	1	<i>Cleavinger v. Saxner; U.S. v. Georgia</i>	2	0
National League of Cities	0	<i>Hewitt v. Helms; Lewis v. Casey</i>	2	0
State Bar of Michigan	1	<i>Murray v. Giarrantano; Overton v. Bazetta</i>	2	0
United States Conference of Mayors	0	<i>Hewitt v. Helms; Porter v. Nussle</i>	2	0
Academy of Correctional Health Professionals	1	<i>Brown v. Plata</i>	1	0
Advocates for Human Rights	1	<i>Glossip v. Gross</i>	1	0
American Association of Community Psychiatrists	1	<i>Overton v. Bazetta</i>	1	0
American Association of Jewish Lawyers and Jurists (AAJLJ)	1	<i>Baze v. Rees;</i>	1	0
American Assoc. of Mental Retardation	1	<i>U.S. v. Georgia</i>	1	0

Table 5 (Continued)

IGs' Stance and Frequency of Participation

American Association of Public Health Physicians	1	<i>Brown v. Plata</i>	1	0
American Association of Retired Persons	1	<i>U.S. v. Georgia</i>	1	0
American Correction Health Professionals	1	<i>Brown v. Plata</i>	1	0
American Council of the Blind	1	<i>U.S. v. Georgia</i>	1	0
American Diabetes Association	1	<i>U.S. v. Georgia</i>	1	0
American Medical Association	1	<i>Rhodes v. Chapman</i>	1	0
American Nurses Association	1	<i>Brown v. Plata</i>	1	0
American Ortho-Psychiatric Association	1	<i>Youngberg v. Romeo</i>	1	0
American Society of Anesthesiologists	1	<i>Baze v. Rees;</i>	1	0
Association of Higher Education and Disability	1	<i>U.S. v. Georgia</i>	1	0
The Association of the Bar of the City of New York	1	<i>Booth v. Churner</i>	1	0
California Council of Churches	1	<i>Brown v. Plata</i>	1	0
CA Psychiatric Association	1	<i>Brown v. Plata</i>	1	0
CA Psychological Association	1	<i>Brown v. Plata</i>	1	0
Catholic League for Religious and Civil Rights	1	<i>O'Lone v. Estate of Shabazz</i>	1	0

Table 5 (Continued)

IGs' Stance and Frequency of Participation

Catholic League for Religious and Civil Rights	1	<i>O'Lone v. Estate of Shabazz</i>	1	0
Center on the Administration of Criminal Law	1	<i>Brown v. Plata</i>	1	0
Central Conference of American Rabbis (CCAR)	1	<i>Holt v. Hobbs</i>	1	0
The Child Welfare League of America	1	<i>Overton v. Bazetta</i>	1	0
Christian Legal Aid Society (or Christian Legal Society)	1	<i>Holt v. Hobbs; Olone v. Estate of Shabazz; Sossamon v. Texas</i>	1	0
Critical Resistance	1	<i>Overton v. Bazetta</i>	1	0
DRI	0	<i>Minneeci v. Pollard;</i>	1	0
Families Against Mandatory Minimums	1	<i>Overton v. Bazetta</i>	1	0
Forensic Mental Health Assoc. of CA	1	<i>Brown v. Plata</i>	1	0
Fortune Society	1	<i>Overton v. Bazetta</i>	1	0
The General Conference of Seventh-day Adventists	1	<i>Holt v. Hobbs</i>	1	0
Greater Stockton Chamber of Commerce	1	<i>Brown v. Plata</i>	1	0
The Interfaith Alliance Foundation	1	<i>Sossamon v. Texas</i>	1	0
The International Mission Board of the Southern Baptist Convention	1	<i>Holt v. Hobbs</i>	1	0
International Municipal Lawyers Association	0	<i>Porter v. Nussle</i>	1	0

Table 5 (Continued)

IGs' Stance and Frequency of Participation

The Islamic Shura Council of Southern California	1	<i>Brown v. Plata; Holt v. Hobbs</i>	1	0
Jewish Prisoner Services International (JPSI)	1	<i>Holt v. Hobbs</i>	1	0
Leadership Conference of Women Religious	1	<i>Brown v. Plata</i>	1	0
Leadership Conference on Civil and Human Rights	1	<i>Brown v. Plata</i>	1	0
The Louisiana Association of Criminal Defense Lawyers (LACDL)	1	<i>Brumfield v. Cain</i>	1	0
The Lutheran Church - Missouri Synod	1	<i>Holt v. Hobbs</i>	1	0
Maryland State Bar Association	1	<i>Murray v. Giarrantano</i>	1	0
The Metropolitan Organizing Strategy Enabling Strength (MOSES)	1	<i>Overton v. Bazetta</i>	1	0
The Michigan Association for Children With Emotional Problems	1	<i>Overton v. Bazetta</i>	1	0
The Michigan Federation for Children and Families	1	<i>Overton v. Bazetta</i>	1	0
National Alliance of Mental Illness (NAMI)	1	<i>Brown v. Plata; Overton v. Bazetta; Panetti v. Quarterman</i>	1	0
National Association of Black Social Workers	1	<i>Overton v. Bazetta</i>	1	0

Table 5 (Continued)

IGs' Stance and Frequency of Participation

National Association of the Deaf	1	<i>U.S. v. Georgia</i>	1	0
The National Consensus Project	1	<i>Glossip v. Gross</i>	1	0
The National Congress of American Indians and Huy	1	<i>Holt v. Hobbs</i>	1	0
National Council of the Churches of Christ	1	<i>Brown v. Plata</i>	1	0
National Council on Independent Living	1	<i>U.S. v. Georgia</i>	1	0
The National Council of La Raza (NCLR)	1	<i>Overton v. Bazetta</i>	1	0
National Disability Rights Network	1	<i>U.S. v. Georgia</i>	1	0
National District Attorneys Association	0	<i>Skinner v. Switzer</i>	1	0
National Federation of the Blind	1	<i>U.S. v. Georgia</i>	1	0
National Islamic Alliance	1	<i>O'Lone v. Estate of Shabazz</i>	1	0
The National Spinal Cord Injury Association	1	<i>U.S. v. Georgia</i>	1	0
New York State Defenders Association	1	<i>Cleavinger v. Saxner</i>	1	0
North Carolina State Bar Association	1	<i>Murray v. Giarrantano</i>	1	0
Paralyzed Veterans of America	1	<i>U.S. v. Georgia</i>	1	0
Parents of Murdered Children	0	<i>Whitmore v. Arkansas</i>	1	0
Pennsylvania Prison Society	1	<i>Whitley v. Albers</i>	1	0

Table 5 (Continued)

IGs' Stance and Frequency of Participation

People For the American Way Foundation	1	<i>U.S. v. Georgia</i>	1	0
The Polio Society	1	<i>U.S. v. Georgia</i>	1	0
Prisoners' Union Inc.	1	<i>Jones v. North Carolina Prisoners' Labor Union, Inc.</i>	1	0
Progressive Jewish Alliance	1	<i>Brown v. Plata</i>	1	0
Restorative Justice Ministry	1	<i>Overton v. Bazetta</i>	1	0
San Francisco Lawyer's Committee for Urban Affairs	1	<i>Hutto v. Finney</i>	1	0
Society of Correctional Physicians	1	<i>Brown v. Plata</i>	1	0
South Carolina State Bar Association	1	<i>Murray v. Giarrantano</i>	1	0
Synagogue Counsel of America	1	<i>O'Lone v. Estate of Shabazz</i>	1	0
Union for Reform Judaism	1	<i>Brown v. Plata; Holt v. Hobbs</i>	1	0
Washington Community Mental Health Council	1	<i>Washington v. Harper</i>	1	0
Women of Reform Judaism	1	<i>Holt v. Hobbs</i>	1	0
Public Citizen Litigation Group	1	N/A	0	4

Influence scores were later totaled exclusively for ACBs in favor of prisoners' rights and prison reforms. Sum totals were also calculated exclusively for ACBs in opposition to prisoners' rights and prison reforms. These summed totals were then used

to calculate influence factors. Influence factors are integers used to determine whether ACBs reflect more similarity in favor of prisoners' rights (positive integers) or greater similarity in opposition to prisoners' rights (negative integers). Influence factors ranged from -1 to 4. This range of influence factors is indicative of a low degree of collective influence among IGs. As well, this issue can result from either a low number of participating IGs or low levels of influence among participating groups.

Only two cases resulted in negative values likely due in part to a much lower percentage of IGs opposing prisoners' rights and prison reforms. However the utility of influence factors is better assessed in relation to case outcomes. If IGs are effective at influencing judicial decision-making, influence factors should predict case outcomes. Positive influence factors result from an excess of matching paragraphs in favor of prisoners' rights and prison reforms versus paragraphs opposing prisoners' rights and prison reforms. Thus, positive influence factors should result in favorable case outcomes for inmates. Conversely, negative influence factors should yield unfavorable case outcomes that do not advance prison reform efforts.

Effectiveness

The importance of examining effectiveness cannot be understated. Effectiveness was assessed by determining whether the cumulative effect of influence (influence factor), whether in favor or opposed to prisoners' rights, resulted in positive case outcomes. Effectiveness was dichotomized 0 (unfavorable case outcomes) and 1 (favorable case outcomes). In other words, influence factors which accurately predicted the case outcome received a favorable disposition. Table 6 displays the results for IGs' effectiveness. Influence factors accurately predicted a total of 18 cases. In other words,

in 18 cases justices ruled in a manner consistent with the collective effect IGs' advocacy efforts. This finding suggests that in most cases ACBs submitted by IGs were ineffective at influencing the case outcome favorably. As well, it suggests that other factors are influential in judicial decision-making.

Table 6

Influence Factors by Case

Case Names	INF Factor	Effectiveness
<i>Youngberg v. Romeo</i>	4	1
<i>Crawford-El v. Britton</i>	3	1
<i>Hutto v. Finney</i>	3	1
<i>Johnson v. California</i>	3	1
<i>Estelle v. Smith</i>	2	1
<i>Holt v. Hobbs</i>	2	1
<i>Hope v. Pelzar</i>	2	1
<i>Carlson v. Green</i>	1	1
<i>Brumfield v. Cain</i>	0	1
<i>Hewitt v. Helms</i>	0	1
<i>U.S. v. Georgia</i>	0	1
<i>Whitmore v. Arkansas</i>	0	1
<i>Brown v. Plata</i>	0	1
<i>Cleavinger v. Saxner</i>	0	1
<i>Panetti v. Quarterman</i>	0	1
<i>Lewis v. Casey</i>	-1	1
<i>Minneci v. Pollard</i>	-1	1
<i>Porter v. Nussle</i>	-3	1
<i>Sossamon v. Texas</i>	4	0
<i>West v. Atkins</i>	3	0
<i>Washington v. Harper</i>	2	0
<i>Baze v. Rees</i>	1	0

Table 6 (Continued)

Influence Factors by Case

<i>Bell v. Wolfish</i>	1	0
<i>Correctional Services Corporation v. Malesko</i>	1	0
<i>Glossip v. Gross</i>	1	0
<i>Murray v. Giarratano</i>	1	0
<i>Parratt v. Taylor</i>	1	0
<i>Richardson v. Ramirez</i>	1	0
<i>Booth v. Churner</i>	0	0
<i>Procunier v. Navarette</i>	0	0
<i>Rhodes v. Chapman</i>	0	0
<i>Ross v. Moffitt</i>	0	0
<i>Ryan v. Gonzales</i>	0	0
<i>Shaw v. Murphy</i>	0	0
<i>U.S. v. Comstock</i>	0	0
<i>Whitley v. Albers</i>	0	0
<i>Wilson v. Seiter</i>	0	0
<i>Wolff v. McDonnell</i>	0	0
<i>Woodford v. NGO</i>	0	0
<i>O'Lone v. Estate of Shabazz</i>	0	0
<i>Skinner v. Switzer</i>	0	0
<i>Overton v. Bazetta</i>	0	0

Justices at times seemed to rule in favor of both parties. In doing so, it was difficult to determine whether the holding was either in favor of or in opposition to prisoners' rights and prison reforms. For instance, in *Youngberg v. Romeo*, justices ruled in favor of inmates by asserting that citizens retain liberty interests in cases of civil

commitment. On the contrary, justices also ruled in favor of state officials suggesting that deference toward qualified professionals' commitment and treatment decisions was required to avoid the threat of constant litigation. Ultimately, the case was remanded because the appellate court decided the case based on the 8th Amendment rather than the 14th Amendment. In an attempt to resolve the matter, case outcomes were coded in favor of prisoners' rights and/or prison reforms if the justices ruled favorably toward inmates on a majority of the holdings adjudicated in a case.

Other Factors to Consider

ACBs and opinions varied in length among cases. Longer manuscripts involved more paragraphs to assess for similarities and perhaps increased the likelihood that matches among paragraphs would be heightened. Additionally, ACBs and opinions were rarely of similar length. It is possible that the length of ACBs and/or opinions may have heightened or constrained measures of similarity. For instance, a case with a very short opinion limits the possibility of high measures of similarity. In terms of identifying matching paragraphs, it is possible that longer opinions result in a greater likelihood of similarity.

There was also considerable variation between ACBs and opinions with regard to length. In some cases, ACBs were extremely detailed and focused on a specific topic. However, the opinion for the same case might only make a slight reference to the issue. For instance, in *Washington v. Harper*, an ACB submitted in coalition by the National Association of Protection and Advocacy Systems, National Association for Rights Protection and Advocacy, Protection and Advocacy, Inc., and Michigan Protection and Advocacy Inc. focused almost entirely on the negative side effects of forcibly

administering neuroleptic drugs to inmates. Nonetheless, the majority opinion's discussion of side effects was limited to two citations, both within the same paragraph. Additionally, justices specifically cited an ACB submitted by the American Psychological Association but not the coalition's ACB. This finding further illustrates the difficulty of accurately measuring influence with the methods used in the current analysis.

To minimize ambiguities that might arise from variations in the length of documents, a paragraph in an ACB was matched to only one paragraph in an opinion. After matches were established between manuscripts, those paragraphs were excluded from additional matches such that no two paragraphs were matched twice. In this manner, longer manuscripts were not solely dependent upon the length of the ACB or the opinion. Instead, the number of matches is more dependent upon the length of both manuscripts thereby attenuating the total number of matching paragraphs according to the extensiveness of arguments contained in each ACB and opinion combination.

Summary

This chapter has provided a detailed description of the findings associated with the current analysis. In doing so, numerous qualitative and quantitative measures were discussed in terms of how the data was interpreted. Additionally, several issues that arose during the course of the analysis were explained in conjunction with attempts to remedy or overcome various difficulties. The next chapter will further summarize the current analysis by providing a detailed interpretation of the data and its implications for future research.

CHAPTER V – Conclusion

The primary goal of the current study was to examine the extent to which interest groups (IGs) are able to influence judicial decision-making through the use of amicus curiae briefs (ACBs). This study focused primarily on 8th Amendment cases involving inmate litigation. ACBs submitted by IGs were analyzed in an attempt to determine the level of influence posed by each groups' participation and the effectiveness of IGs' advocacy. Ideally this approach might be employed in the future to cumulatively and comprehensively assess the impact of IGs' participation upon judicial decision-making.

The overarching question this study sought to answer involved the role of IGs in reforming the prison system (corrections) using litigation. As such, this study was primarily concerned with the extent to which IGs are able to influence judicial decision making using ACBs. The current study utilized a mixed methods approach to examine the following five research questions:

1. Regarding prisoners' rights and prison policy, who are the IG's that have been involved in litigation at the Supreme Court level? (Identity)
 - a. Which IGs have filed ACBs opposing prisoners' rights and/or prison reform? (Stance on reforms)
 - b. Which IGs have filed ACBs in favor of prisoners' rights and/or prison reform? (Stance on reforms)
 - c. Which IGs have participated as legal counsel during a case? (Counsel)

2. To what extent and direction have IGs been able to influence reforms in corrections using ACBs to lobby the USSC regarding prison policies and/or prisoners' rights? (Influence)
3. With regard to prisoners' rights and/or prison reform, which IGs have appeared before the USSC most frequently as amici curiae? (Frequency)
4. What is the scope of corrections reforms with which IGs have been involved? (Scope)
5. To what extent have IGs been successful in advancing their argument? (Effectiveness)

The qualitative component is addressed in research question two and is discussed first since it constitutes the bulk of this analysis. Results indicate that justices are receptive to the arguments put forth in ACBs. Prior to conducting this study, it was unclear whether justices actually read and reviewed the ACBs submitted per case. The current analysis indicates that justices frequently refer to arguments in briefs by litigants and less often cite ACBs by IGs. While the results clearly do not suggest that justices read ACBs entirely or exhaustively, the data provides considerable evidence that justices do at least consider some of the arguments proffered in ACBs. As such, the current analysis provides support for the information hypothesis cited in previous research (Collins Jr. & Martinek, 2010; Collins Jr., 2004).

The analysis revealed numerous similarities among ACBs and opinions reconciled. Matching paragraphs were identified in 26 of 81 total ACBs. These similarities (or matched paragraphs) are indicators that justices acknowledge arguments presented in ACBs. ACBs potentially influenced opinions in 21 of 42 total cases. Thus,

justices' mention of particular ACBs as justification for their holdings is evidence of the influential qualities of such advocacy. The cumulative effect of IGs' advocacy (influence factor) resulted in favorable case outcomes in 18 of 42 cases. Almost half of the cases analyzed resulted in judicial decisions that were consistent with IGs' advocacy. Taken together, such findings provide moderate support (low = 1-14 cases, moderate 15-28 cases, high 29-42 cases) for the idea that third parties (IGs) are able to influence judicial decision making using ACBs.

However, despite the prevalence of influence resulting from IG participation, such advocacy is not always effective (research question five). The current analysis also showed that IGs' influence does not always translate into desired case outcomes. Similar to previous research (Buckler, 2014; Hansford, 2004; Songer & Sheehan, 1993), this finding suggests that ACBs are but one of numerous factors that affect judicial decision making. Nonetheless, additional research might be useful to uncover other factors likely to improve the effectiveness of IGs' advocacy efforts.

Identification

Research question one addressed the identity of IGs, their stance on reforms, and whether IGs participated in any cases as litigants' counsel. The current analysis identified 102 IGs (membership-based groups) which have participated in previous USSC litigation related to prisoners' rights and prison reforms. Of those participating IGs, the overwhelming majority submitted ACBs in favor of prisoners' rights. However, this finding should be considered with caution. It is possible that IGs opposing prisoners' rights are less likely to be membership-based since the state has an interest in prison reform. Because state agencies and non-IGs were excluded from the analysis, it is

possible that agencies opposed to prisoners' rights were underrepresented. If IGs were conceptualized to include ACGs (non-membership groups), it is likely that agencies opposed to prisoners' rights would have been more prevalent in the current analysis.

Research question three focused on the frequency of participation (ACB submissions) among IGs in USSC prisoners' rights litigation. Inmates have a substantial degree of public support in the form of IG advocacy. IGs have been very active in their efforts to protect inmates' rights spearheaded primarily by the American Civil Liberties Union (ACLU). While IGs most often rely on ACBs to participate in USSC litigation, occasionally IGs provide pro bono legal services to inmates as legal counsel. Here again, the ACLU was the most frequent participant as legal counsel on behalf of inmates. However, the overwhelming majority of IGs were one-time participants in USSC litigation regarding prisoners' rights and prison reforms.

The stances of IGs (whether for or against prisoners' rights) remained constant among repeat participants. IGs that advocated in favor of prisoners' rights maintained their support for inmates in subsequent cases. Thus, stances taken by IGs on various issues seemed unaffected by extra-legal factors like changes in legislation, membership, or public views.

The scope of prisoners' rights litigation was addressed in research question four. The scope of USSC cases involving inmate litigation was extensive with 16 categories identified. However, it should be noted that the method of labeling categories for case types was quite subjective. Other researchers may vary with regards to which categories are most appropriate. Nonetheless, the data may be a useful starting point in future

research to further examine whether IGs are more successful (effective) in particular case types.

Limitations

The current analysis includes limitations that should be considered. First, this study examined a specific type of amicus curiae (membership-based groups) and their participation using ACBs. As such, the method of conceptualization used in this analysis reduced the number of groups identified. Future research might be conducted using a more inclusive conceptualization of IGs that does not exclude prominent ACGs that oppose prisoners' rights and prison reforms like the Criminal Justice Legal Foundation (CJLF). Such research will lead to a more comprehensive list of ACGs and a greater understanding of non-member groups' influence.

The second limitation also involves sampling parameters. Although state agencies were not analyzed in the current study, it is apparent that the Solicitor General and various attorneys general participate extensively in prisoners' rights litigation. As such, their exclusion from the current analysis leaves much to be desired in terms of comprehensively measuring the level of influence various groups display. It should be noted that the current study was an exploratory attempt to assess influence specifically among individual ACBs in an attempt to develop methods which might be used as measures of entropy. Future research should also consider the role of state agencies and other stakeholders like "law enforcement groups" since it is difficult to accurately infer case outcomes without calculating the effects posed by all participating amici curiae.

The third limitation involves the inability to make causal statements about judicial decision making. While there is substantial evidence that IGs have an effect on judicial

decision making, the certainty of IGs influence is still somewhat debatable. This point results from the fact that opinions could have been formed prior to reading ACBs. It is possible that arguments posed by IGs coincided with justices' predetermined personal opinions/stances on issues rather than convincing them. Furthermore, using the methods of the current analysis, there is no way to distinguish whether the influence that results from ACBs is independent of litigants' briefs. It is possible that ACBs were merely consistent with briefs submitted by litigants in each case. Because there is a greater likelihood that justices will address arguments proffered by litigants, ACBs that were similar to litigants' briefs would have a greater likelihood of matching concepts using these methods. It should be noted that litigants' briefs were not examined in the current analysis. Future research should more thoroughly examine whether there is evidence of influence when ACBs submitted by IGs propose arguments that are inconsistent with litigants' briefs.

The fourth limitation relates to measurement error. Using the proposed methods, there is no way to accurately measure each IG's "influence contribution" individually while participating in a coalition. While in some cases it is possible to infer more/less influence on behalf of some groups in certain cases, this practice would be highly subjective and speculative. In short, future research should focus more specifically on comparisons between coalitions. Such research may benefit from being separate from studies of influence among individual IGs. The current analysis is better suited for measuring and comparing collective efforts of amici curiae whether for/against prisoners' rights and reforms.

Finally, the methods employed in the current analysis were somewhat subjective. As such, results should be interpreted with caution regarding influence assessments. Other researchers using similar methods may opt to utilize broader criteria to match paragraphs in ACBs. A more inclusive matching scheme would result in higher influence scores thereby affecting results. In a similar manner, categories assigned for case types were quite subjective and may vary among researchers in subsequent analyses.

Utility of the Analysis

The current analysis makes several notable contributions to current literature concerning judicial decision making. The current analysis is perhaps the only study that distinguishes between influence and effectiveness as distinct variables. Contrary to most studies of judicial decision making, this analysis relies on qualitative evidence of influence rather than inferring such influence quantitatively. As well, the current analysis highlights important distinctions among the types of ACGs participating and the ambiguities associated with conceptualizing the term “interest group.” The methods employed in this analysis offer a unique approach to simultaneously assess IGs’ influence both individually and cumulatively by case and also consider the effectiveness of IGs advocacy efforts. Lastly the current study is a useful starting point for developing measures of entropy in social sciences. Future research should take into account the importance of measuring entropy since the judiciary (and the prison system indirectly) are especially susceptible to third parties’ efforts to introduce reforms through litigation.

The practical importance of the current study should also be noted. While the current analysis did not examine entropy directly, findings do suggest that IGs are effective at reducing entropy through litigation. As discussed in Chapter 2, entropy is a

term commonly used in systems theory which refers to chaos, disorder, and/or uncertainty and tends to ensue in closed systems (Kraska & Brent, 2011). Although IGs are not agencies within the criminal justice system, their advocacy has been influential towards reforming corrections. Such influence is evidenced by prison reforms, many of which likely result from ACBs submitted by IGs. Such external influence upon the criminal justice system is consistent with open systems theory. As litigation is adjudicated, criminal justice agents are accorded greater certainty concerning violations of prisoners' rights. As limits on prison officials are better understood such knowledge is likely to affect prison policies. Such certainty or clarity about which actions are acceptable among prison officials may in fact decrease disorder in prisons thereby resulting in greater efficiency and effectiveness in security. Lastly, inmates benefit as well from greater certainty about their rights and other limitations attributed to their captors. Thus, to the extent that IGs are successful at persuading justices to hold in their favor regarding prison reforms, entropy within the prison system is reduced.

The importance of IG support for prisoners' rights and reforms should not be understated. The prison system represents a closed institution that is often resistant to change or reform. In the absence of IGs the ensuing entropy is not likely to be reduced or remedied. IGs act as catalysts for reforms by participating as counsel and amici curiae in litigation that is less likely to succeed without them.

The current analysis was an attempt to evaluate the role of ACBs in judicial decision making. Guided by systems theory, the current analysis evaluated the role of ACBs in judicial decision making. The theoretical framework was beneficial to the analysis to explain the complex interplay that occurs between the criminal justice system

and other entities (IGs) external to it. As such, the utility of systems theory is twofold. Not only is systems theory (closed systems approach) useful to suggest why entropy (chaos, disorder, and uncertainty) is likely to manifest within correctional facilities. Systems theory (open systems approach) also explains how IGs are able to exert influence on the criminal justice system albeit indirectly despite not being part of the system. In this regard, the current analysis further supports the notion that the criminal justice system is “bigger than the sum of its parts” (Kraska & Brent, 2011). Thus, systems theory helps researchers to better understand why litigation strategies employed by IGs are effective methods for reducing entropy. Although the current analysis was not focused on theory testing, findings provide considerable support for systems theory.

Recommendations for Future Research

The current analysis highlights numerous research possibilities for the future with regards to judicial decision making. For example, the current analysis might be replicated to compare results between both studies. Ideally, both analyses should yield similar results thereby indicative of reliable methods. Additionally, the analysis might also benefit from the use of qualitative data analysis software to examine the data. The results might then be compared with the findings of the current analysis to highlight variation between both approaches (subjective researcher assessment versus more objective data assessment tools).

Future research should also examine the extent to which “teams of IGs” remain constant and whether such teamwork is a more effective strategy. Further investigations may reveal whether teams of IGs are more concerned with team participation in cases than the issues involved. Prior research has suggested the importance of issue salience

but team loyalty might also be a factor which determines which cases IGs pursue. If teams of IGs remain constant in their participation over various case types, it is likely that team loyalty (participating in cases based on other IGs' involvement rather than the importance of issues) plays a role in the number of participants per case. For instance, it might be interesting to clarify whether groups like the American Psychiatric Association and American Psychological Association, both having asserted interests in mental health, are participants in the same cases regardless of individual or collaborative ACB submissions.

Future research should also comparatively assess differences in influence scores between ACBs submitted by IGs participating individually versus ACBs IGs coalitions. If influence scores are higher for ACBs authored collaboratively, such heightened receptivity by the justices may offer support for the affected-groups hypothesis. If influence scores are higher for ACBs authored by individual IGs then it is likely that "group prominence" is a better predictor of IGs' influence. Viewed in this regard, the current analysis offers a qualitative approach to adequately explain which strategies by IGs are most influential and effective.

Lastly, future research should be expanded to examine the influence of ACBs on other criminal justice subsystems like policing. A comparative assessment between results in policing cases versus prisoners' rights litigation might reveal variance that could be further examined. For instance, are IGs similarly influential and effective in policing cases? There may be notable differences in level of IG participation and the stance of groups in policing cases. The possibilities for future research are numerous to extend the current literature on judicial decision making.

APPENDIX A – Full Lists

Table A1.

IGs and Cases Full List

Interest groups	Total Cases	Cases as IGs
Academy of Correctional Health Professionals	1	<i>Brown v. Plata</i>
Advocates for Human Rights	1	<i>Glossip v. Gross</i>
Amer. Academy of Psychiatry and the Law	2	<i>Ryan v. Gonzales; U.S. v. Georgia</i>
American Association of Community Psychiatrists	1	<i>Overton v. Bazetta</i>
American Association of Jewish Lawyers and Jurists (AAJLJ)	1	<i>Baze v. Rees</i>
American Association of Mental Retardation	1	<i>U.S. v. Georgia</i>
American Association of Public Health Physicians	1	<i>Brown v. Plata</i>
American Association of Retired Persons	1	<i>U.S. v. Georgia</i>
American Bar Association	7	<i>Brown v. Plata; Murray v. Giarrantano; Overton v. Bazetta; Panetti v. Quarterman; Richardson v. Ramirez; U.S. v. Georgia; Wolff v. McDonnell</i>
American Civil Liberties Union (ACLU)	22	<i>Baze v. Rees; Bell v. Wolfish; Booth v. Churner; Brown v. Plata; Correctional Services Corporation v. Malesko; Crawford El v. Britton; Hope v. Pelzar; Hutto v. Finney; Johnson v. CA; Minneci v. Pollard; Parratt v. Taylor; Overton v. Bazetta; Procuinier v. Navarette; Rhodes v. Chapman; Richardson v. Ramirez; Ryan v. Gonzales; Shaw v. Murphy; Sossamon v. Texas; U.S. v. Georgia; West v. Atkins; Wolff v. McDonnell; Woodford v. NGO</i>
American Correction Health Professionals	1	<i>Brown v. Plata</i>
American Council of the Blind	1	<i>U.S. v. Georgia</i>
American Diabetes Association	1	<i>U.S. v. Georgia</i>

American Medical Association	1	<i>Rhodes v. Chapman</i>
American Nurses Association	1	<i>Brown v. Plata</i>
American Orthopsychiatric Association	1	<i>Youngberg v. Romeo</i>
American Psychiatric Association	6	<i>Brown v. Plata; Estelle v. Smith; Panetti v. Quarterman; Ryan v. Gonzales; U.S. v. Georgia; Washington v. Harper; Youngberg v. Romeo</i>
Amer. Psychological Association	5	<i>Brown v. Plata; Panetti v. Quarterman; U.S. v. Georgia; Washington v. Harper; Youngberg v. Romeo</i>
American Public Health Association	4	<i>Brown v. Plata; Rhodes v. Chapman; West v. Atkins; Wilson v. Seiter</i>
American Society of Anesthesiologists	1	<i>Baze v. Rees;</i>
Americans United for Separation of Church and State	2	<i>Holt v. Hobbs; Sossamon v. Texas</i>
The ARC of the United States aka Association for Retarded Citizens of the United States	2	<i>U.S. v. Georgia; Youngberg v. Romeo</i>
Association of Higher Education and Disability	1	<i>U.S. v. Georgia</i>
The Association of the Bar of the City of New York	1	<i>Booth v. Churner</i>
California Council of Churches	1	<i>Brown v. Plata</i>
CA Psychiatric Association	1	<i>Brown v. Plata</i>
CA Psychological Association	1	<i>Brown v. Plata</i>
Catholic League for Religious and Civil Rights	1	<i>O'Lone v. Estate of Shabazz</i>
Center on the Administration of Criminal Law	1	<i>Brown v. Plata</i>
Central Conference of American Rabbis (CCAR)	1	<i>Holt v. Hobbs</i>
The Child Welfare League of America	1	<i>Overton v. Bazetta</i>
Christian Legal Aid Society (or Christian Legal Society)	1	<i>Holt v. Hobbs; O'Lone v. Estate of Shabazz; Sossamon v. Texas</i>
Citizens United for the Rehabilitation of Errants (CURE)	2	<i>Overton v. Bazetta; U.S. v. Georgia</i>
Council of State Governments	2	<i>Lewis v. Casey; Porter v. Nussle</i>
Critical Resistance	1	<i>Overton v. Bazetta</i>
DRI	1	<i>Minnecci v. Pollard;</i>
Families Against Mandatory Minimums	1	<i>Overton v. Bazetta</i>
Forensic Mental Health Assoc. of CA	1	<i>Brown v. Plata</i>

Fortune Society	1	<i>Overton v. Bazetta</i>
The General Conference of Seventh-day Adventists	1	<i>Holt v. Hobbs</i>
General Synod of the United Church of Christ	2	<i>Brown v. Plata; Holt v. Hobbs</i>
Greater Stockton Chamber of Commerce	1	<i>Brown v. Plata</i>
The Interfaith Alliance Foundation	1	<i>Sossamon v. Texas</i>
International City Management Association	3	<i>Hewitt v. Helms; Lewis v. Casey; Porter v. Nussle</i>
The International Mission Board of the Southern Baptist Convention	1	<i>Holt v. Hobbs</i>
International Municipal Lawyers Association	1	<i>Porter v. Nussle</i>
The Islamic Shura Council of Southern California	1	<i>Brown v. Plata; Holt v. Hobbs</i>
Jewish Prisoner Services International (JPSI)	1	<i>Holt v. Hobbs</i>
Leadership Conference of Women Religious	1	<i>Brown v. Plata</i>
Leadership Conference on Civil and Human Rights	1	<i>Brown v. Plata</i>
The Louisiana Association of Criminal Defense Lawyers (LACDL)	1	<i>Brumfield v. Cain</i>
The Lutheran Church - Missouri Synod	1	<i>Holt v. Hobbs</i>
Maryland State Bar Association	1	<i>Murray v. Giarrantano</i>
The Metropolitan Organizing Strategy Enabling Strength (MOSES)	1	<i>Overton v. Bazetta</i>
The Michigan Association for Children With Emotional Problems	1	<i>Overton v. Bazetta</i>
The Michigan Federation for Children and Families	1	<i>Overton v. Bazetta</i>
National Alliance of Mental Illness (NAMI)	1	<i>Brown v. Plata; Overton v. Bazetta; Panetti v. Quarterman</i>
The National Association for the Advancement of Colored People (NAACP)	2	<i>Bell v. Wolfish; U.S. v. Georgia</i>
National Association of Black Social Workers	1	<i>Overton v. Bazetta</i>
National Association of Counties	3	<i>Hewitt v. Helms; Lewis v. Casey; Porter v. Nussle</i>
The National Association of Criminal Defense Lawyers (NACDL)	3	<i>Glossip v. Gross; Overton v. Bazetta; U.S. v. Comstock</i>
National Association of the Deaf	1	<i>U.S. v. Georgia</i>

National Association of Evangelicals	3	<i>Brown v. Plata; Holt v. Hobbs; Sossamon v. Texas</i>
National Association of Federal Defenders	3	<i>Ryan v. Gonzales; Overton v. Bazetta; U.S. v. Comstock</i>
National Association for Rights Protections and Advocacy	2	<i>U.S. v. Georgia; Washington v. Harper</i>
National Association of Social Workers	2	<i>Overton v. Bazetta; Youngberg v. Romeo</i>
National Conference of Black Lawyers	2	<i>Cleavinger v. Saxner; Hutto v. Finney</i>
National Conference of State Legislatures	3	<i>Lewis v. Casey; Porter v. Nussle; Youngberg v. Romeo</i>
The National Concensus Project	1	<i>Glossip v. Gross</i>
The National Congress of American Indians and Huy	1	<i>Holt v. Hobbs</i>
National Council of the Churches of Christ	1	<i>Brown v. Plata</i>
National Council on Crime and Delinquency	2	<i>Overton v. Bazetta; Wolff v. McDonnell</i>
National Council on Independent Living	1	<i>U.S. v. Georgia</i>
The National Council of La Raza (NCLR)	1	<i>Overton v. Bazetta</i>
National Disability Rights Network	1	<i>U.S. v. Georgia</i>
National District Attorneys Association	1	<i>Skinner v. Switzer</i>
National Federation of the Blind	1	<i>U.S. v. Georgia</i>
National Islamic Alliance	1	<i>O'Lone v. Estate of Shabazz</i>
National Lawyers Guild, Amicus Committee	2	<i>Cleavinger v. Saxner; U.S. v. Georgia</i>
National League of Cities	2	<i>Hewitt v. Helms; Lewis v. Casey</i>
The National Legal Aid and Defenders Association (NLADA)	3	<i>Cleavinger v. Saxner; Overton v. Bazetta; Ross v. Moffit</i>
The National Spinal Cord Injury Association	1	<i>U.S. v. Georgia</i>
New York State Defenders Association	1	<i>Cleavinger v. Saxner</i>
North Carolina State Bar Association	1	<i>Murray v. Giarrantano</i>
Paralyzed Veterans of America	1	<i>U.S. v. Georgia</i>
Parents of Murdered Children	1	<i>Whitmore v. Arkansas</i>
Pennsylvania Prison Society	1	<i>Whitley v. Albers</i>
People For the American Way Foundation	1	<i>U.S. v. Georgia</i>
The Polio Society	1	<i>U.S. v. Georgia</i>
Prisoners' Union Inc.	0	
Progressive Jewish Alliance	1	<i>Brown v. Plata</i>
Public Citizen Litigation Group	0	
Restorative Justice Ministry	1	<i>Overton v. Bazetta</i>

San Francisco Lawyer's Committee for Urban Affairs	1	<i>Hutto v. Finney</i>
Society of Correctional Physicians	1	<i>Brown v. Plata</i>
South Carolina State Bar Association	1	<i>Murray v. Giarrantano</i>
State Bar of Michigan	2	<i>Murray v. Giarrantano; Overton v. Bazetta</i>
Union for Reform Judaism	1	<i>Brown v. Plata; Holt v. Hobbs</i>
United States Conference of Mayors	2	<i>Hewitt v. Helms; Porter v. Nussle</i>
University of Montana School of Law, Criminal Defense Clinic	1	<i>Shaw v. Murphy</i>
Washington Community Mental Health Council	1	<i>Washington v. Harper</i>
Women of Reform Judaism	1	<i>Holt v. Hobbs</i>

Table A2.

ACGs and Cases Full List

Amicus Curiae Groups	Cases as ACG	Total as ACG	non IG
Academy of Correctional Health Professionals	<i>Brown v. Plata</i>	1	
Action Alliance of Senior Citizens	<i>Booth v. Churner</i>	1	x
Action on Smoking and Health	<i>Hutto v. Finney</i>	1	x
ADAPT	<i>U.S. v. Georgia</i>	1	x
Advocates for Human Rights	<i>Glossip v. Gross</i>	1	
Alabama Prison Project	<i>Cleavinger v. Saxner</i>	1	x
Aleph Institute	<i>Brown v. Plata</i>	1	x
Alliance Defending Freedom	<i>Holt v. Hobbs</i>	1	x
Allied Educational Foundation	<i>Lewis v. Casey; Whitmore v. Arkansas</i>	2	x
Amer. Academy of Psychiatry and the Law	<i>Ryan v. Gonzales; U.S. v. Georgia</i>	2	
American Association of Community Psychiatrists	<i>Overton v. Bazetta</i>	1	
American Association of Jewish Lawyers and Jurists (AAJLJ)	<i>Baze v. Rees;</i>	1	

American Association of Mental Retardation	<i>U.S. v. Georgia</i>	1	
American Association of Public Health Physicians	<i>Brown v. Plata</i>	1	
American Association of Retired Persons	<i>U.S. v. Georgia</i>	1	
American Bar Association	<i>Brown v. Plata; Murray v. Giarrantano; Overton v. Bazetta; Panetti v. Quarterman; Richardson v. Ramirez; U.S. v. Georgia; Wolff v. McDonnell</i>	7	
American Civil Liberties Union (ACLU)	<i>Baze v. Rees; Bell v. Wolfish; Booth v. Churner; Brown v. Plata; Correctional Services Corporation v. Malesko; Crawford El v. Britton; Hope v. Pelzar; Hutto v. Finney; Johnson v. CA; Minneci v. Pollard; Parratt v. Taylor; Overton v. Bazetta; Procunier v. Navarette; Rhodes v. Chapman; Richardson v. Ramirez; Ryan v. Gonzales; Shaw v. Murphy; Sossamon v. Texas; U.S. v. Georgia; West v. Atkins; Wolff v. McDonnell; Woodford v. NGO</i>	22	
American Correction Health Professionals	<i>Brown v. Plata</i>	1	
American Council of the Blind	<i>U.S. v. Georgia</i>	1	
American Diabetes Association	<i>U.S. v. Georgia</i>	1	
American Friends Service Committee	<i>Brown v. Plata; Overton v. Bazetta</i>	1	x
American Jewish Committee	<i>Holt v. Hobbs; Sossamon v. Texas</i>	2	x
American Medical Association	<i>Rhodes v. Chapman</i>	1	
American Nurses Association	<i>Brown v. Plata</i>	1	
American Orthopsychiatric Association	<i>Youngberg v. Romeo</i>	1	
American Psychiatric Association	<i>Brown v. Plata; Estelle v. Smith; Panetti v. Quarterman; Ryan v. Gonzales; U.S. v. Georgia; Washington v. Harper; Youngberg v. Romeo</i>	6	
Amer. Psychological Association	<i>Brown v. Plata; Panetti v. Quarterman; U.S. v. Georgia; Washington v. Harper; Youngberg v. Romeo</i>	5	
American Public Health Association	<i>Brown v. Plata; Rhodes v. Chapman; West v. Atkins; Wilson v. Seiter</i>	4	
American Society of Anesthesiologists	<i>Baze v. Rees</i>	1	

Americans United for Separation of Church and State	<i>Holt v. Hobbs; Sossamon v. Texas</i>	2	
Anesthesia Awareness Campaign, Inc.	<i>Baze v. Rees</i>	1	x
Anti-Defamation League	<i>Holt v. Hobbs</i>	1	x
The ARC of the United States aka Association for Retarded Citizens of the United States	<i>U.S. v. Georgia; Youngberg v. Romeo</i>	2	
Arizona Constitutional Defense Council	<i>Lewis v. Casey</i>	1	x
Arizona Voice for Crime Victims	<i>Ryan v. Gonzales</i>	1	x
Arkansas Voices of the Children Left Behind	<i>Overton v. Bazetta</i>	1	x
Association of Higher Education and Disability	<i>U.S. v. Georgia</i>	1	
The Association of the Bar of the City of New York	<i>Booth v. Churner</i>	1	
The Baptist Joint Committee for Religious Liberty (BJC)	<i>Holt v. Hobbs; Sossamon v. Texas</i>	2	x
The Bazelon Center for Mental Health	<i>U.S. v. Georgia</i>	1	x
Becket Fund for Religious Liberty	<i>Sossamon v. Texas</i>	1	x
Brennan Center for Justice at New York Univ. School of Law	<i>Booth v. Churner</i>	1	x
California Council of Churches	<i>Brown v. Plata</i>	1	
CA Psychiatric Association	<i>Brown v. Plata</i>	1	
CA Psychological Association	<i>Brown v. Plata</i>	1	
CA Rural Legal Assistance	<i>N/A</i>	0	x
Carondelet Psychiatric Care Center	<i>Washington v. Harper</i>	1	x
Catholic League for Religious and Civil Rights	<i>O'Lone v. Estate of Shabazz</i>	1	
Cato Institute	<i>U.S. v. Comstock</i>	1	x
The Center for Children of Incarcerated Parents	<i>Overton v. Bazetta</i>	1	x
Center for Criminal Justice, Boston University School of Law	<i>Procurier v. Martinez</i>	1	x
The Center for HIV and Law Policy	<i>U.S. v. Georgia</i>	1	x
Center for Law in the Public Policy, Los Angeles	<i>Hutto v. Finney</i>	1	x

Center for Public Representation	<i>Washington v. Harper</i>	1	x
Center for the Study of Social Policy	<i>Overton v. Bazetta</i>	1	x
Center on the Administration of Criminal Law	<i>Brown v. Plata</i>	1	
The Centers for Youth and Families	<i>Overton v. Bazetta</i>	1	x
Central Conference of American Rabbis (CCAR)	<i>Holt v. Hobbs</i>	1	
Central Washington Community Mental Health Center	<i>Washington v. Harper</i>	1	x
The Cheyenne River Sioux Tribe of South Dakota	<i>Overton v. Bazetta</i>	1	x
Chicago Legal Advocacy to Incarcerated Mothers	<i>Overton v. Bazetta</i>	1	x
Chicago Tribune Company	<i>Pell v. Procunier</i>	1	x
The Child Welfare League of America	<i>Overton v. Bazetta</i>	1	
The Children and Family Justice Center	<i>Overton v. Bazetta</i>	1	x
Children's Defense Fund	<i>Hutto v. Finney</i>	1	x
Christian Legal Aid Society (or Christian Legal Society)	<i>Holt v. Hobbs; O'Lone v. Estate of Shabazz; Sossamon v. Texas</i>	1	
The Citizens Alliance on Prisons and Public Spending	<i>Overton v. Bazetta</i>	1	x
Citizens United for the Rehabilitation of Errants (CURE)	<i>Overton v. Bazetta; U.S. v. Georgia</i>	2	
Coalition for the Fundamental Rights and Equality of Ex-Patients	<i>Washington v. Harper</i>	1	x
Coalition of the Legal Rights of the Disabled	<i>Washington v. Harper</i>	1	x
Community Legal Services, Inc.	<i>N/A</i>	0	x
Concerned Citizens for Justice	<i>Hutto v. Finney</i>	1	x
Connecticut Women's Educational and Legal Fund, Inc.	<i>Hutto v. Finney</i>	1	x
Correctional Association of New York	<i>Overton v. Bazetta; Whitley v. Albers</i>	2	x
Council for Public Interest Law	<i>Hutto v. Finney</i>	1	x
Council of State Governments	<i>Lewis v. Casey; Porter v. Nussle</i>	2	

Criminal Justice Legal Foundation (CJLF)	<i>Baze v. Rees; Brown v. Plata; Glossip v. Gross; Mayle v. Feliz; Lewis v. Casey; Nelson v. Campbell; Overton v. Bazetta; Panetti v. Quarterman; Shaw v. Murphy</i>	9	x
Critical Resistance	<i>Overton v. Bazetta</i>	1	
DRI	<i>Minneci v. Pollard;</i>	1	
Easter Seals	<i>U.S. v. Georgia</i>	1	x
Education Law Center	<i>Booth v. Churner</i>	1	x
Edwin F. Mandel Legal Aid Clinic	<i>Parratt v. Taylor</i>	1	x
The Epilepsy Foundation	<i>U.S. v. Georgia</i>	1	x
Episcopal Church of the Incarnation	<i>Overton v. Bazetta</i>	1	x
Equal Justice Initiative	<i>N/A</i>	0	x
Equal Rights Advocates	<i>Hutto v. Finney</i>	1	x
Families Against Mandatory Minimums	<i>Overton v. Bazetta</i>	1	
Family and Corrections Network	<i>Overton v. Bazetta</i>	1	x
Florida Justice Institute, Inc.	<i>Cleavinger v. Saxner</i>	1	x
Forensic Mental Health Assoc. of CA	<i>Brown v. Plata</i>	1	
The Food and Research Action Center	<i>Hutto v. Finney</i>	1	x
Fortune Society	<i>Overton v. Bazetta</i>	1	
Friends Committee on Legislation of California	<i>Brown v. Plata</i>	1	x
Gay Community News Prisoner Project	<i>Cleavinger v. Saxner</i>	1	x
The General Conference of Seventh-day Adventists	<i>Holt v. Hobbs</i>	1	
General Synod of the United Church of Christ	<i>Brown v. Plata; Holt v. Hobbs</i>	2	
Greater Stockton Chamber of Commerce	<i>Brown v. Plata</i>	1	
Highline-West Seattle Community Mental Health Center	<i>Washington v. Harper</i>	1	x
Houston Chronicle Publishing Company	<i>Pell v. Procnunier</i>	1	x
Human Rights Watch	<i>Baze v. Rees; Brown v. Plata; Shaw v. Murphy; U.S. v. Georgia</i>	4	x
The Indiana Center on Law and Poverty, Inc.	<i>Hutto v. Finney</i>	1	x

Institutional Legal Services Project of Evergreen Legal Services	<i>Cleavinger v. Saxner</i>	1	x
The Innocence Project	<i>Glossip v. Gross</i>	1	x
The Interfaith Alliance Foundation	<i>Sossamon v. Texas</i>	1	
International City Management Association	<i>Hewitt v. Helms; Lewis v. Casey; Porter v. Nussle</i>	3	
The International Mission Board of the Southern Baptist Convention	<i>Holt v. Hobbs</i>	1	
International Municipal Lawyers Association	<i>Porter v. Nussle</i>	1	
The International Society for Krishna Consciousness (ISKCON)	<i>Holt v. Hobbs</i>	1	x
The Islamic Shura Council of Southern California	<i>Brown v. Plata; Holt v. Hobbs</i>	1	
Jerome N. Frank Legal Services Organization	<i>Cleavinger v. Saxner; Woodford v. NGO</i>	2	x
Jewish Prisoner Services International (JPSI)	<i>Holt v. Hobbs</i>	1	
Judge David L. Bazelon Center for Mental Health Law	<i>Brown v. Plata</i>	1	x
Justice Policy Institute	<i>Overton v. Bazetta</i>	1	x
Keystone Legal Services, Inc.	<i>Cleavinger v. Saxner</i>	1	x
Kitsap Mental Health Services	<i>Washington v. Harper</i>	1	x
Lawyers Committee for Civil Rights Under Law	<i>Carlson v. Green; Hutto v. Finney; U.S. v. Georgia</i>	3	x
The Lawyers Military Defense Committee	<i>Hutto v. Finney</i>	1	x
Leadership Conference of Women Religious	<i>Brown v. Plata</i>	1	
Leadership Conference on Civil and Human Rights	<i>Brown v. Plata</i>	1	
League of Women Voters	<i>Overton v. Bazetta</i>	1	x
Legal Aid Bureau Inc., Prisoners' Assistance Project	<i>Cleavinger v. Saxner</i>	1	x

Legal Aid Society (of NYC, of Columbus)	<i>Booth v. Churner; Correctional Services Corporation v. Malesko; Minneci v. Pollard; Overton v. Bazetta; Shaw v. Murphy; U.S. v. Georgia; Woodford v. NGO</i>	7	X
Legal Services for Prisoners, Inc.	<i>Brown v. Plata</i>	1	x
Legal Services for Prisoners with Children	<i>Overton v. Bazetta</i>	1	x
Louis Stein Center for Law and Ethics	<i>Glossip v. Gross</i>	1	X
The Louisiana Association of Criminal Defense Lawyers (LACDL)	<i>Brumfield v. Cain</i>	1	
The Lutheran Church - Missouri Synod	<i>Holt v. Hobbs</i>	1	
Maryland State Bar Association	<i>Murray v. Giarrantano</i>	1	
Massachusetts Advocacy Center	<i>Hutto v. Finney</i>	1	x
Massachusetts Correctional Legal Services	<i>Cleavinger v. Saxner</i>	1	x
Mental Health Association	<i>Youngberg v. Romeo</i>	1	x
Mental Health Law Project	<i>Hutto v. Finney</i>	1	x
The Metropolitan Organizing Strategy Enabling Strength (MOSES)	<i>Overton v. Bazetta</i>	1	
Mexican American Legal Defense and Education Fund	<i>Hutto v. Finney</i>	1	x
Miami Herald Publishing Company	<i>Pell v. Proconier</i>	1	x
The Michigan Association for Children With Emotional Problems	<i>Overton v. Bazetta</i>	1	
The Michigan Federation for Children and Families	<i>Overton v. Bazetta</i>	1	
Michigan League for Human Services	<i>Overton v. Bazetta</i>	1	x
The Michigan Protection and Advocacy Service	<i>Overton v. Bazetta</i>	1	x
Migrant Legal Action Program	<i>Hutto v. Finney</i>	1	x
Minneapolis Star and Tribune Company	<i>Pell v. Proconier</i>	1	x
Muslim Advocates	<i>Holt v. Hobbs</i>	1	x
Muslim Public Affairs Council	<i>Holt v. Hobbs</i>	1	x
Muslim World League	<i>Olone v. Estate of Shabazz</i>	1	x

National Alliance of Mental Illness (NAMI)	<i>Brown v. Plata; Overton v. Bazetta; Panetti v. Quarterman</i>	1	
The National Asian Pacific American Legal Consortium	<i>U.S. v. Georgia</i>	1	x
The National Association for the Advancement of Colored People (NAACP)	<i>Bell v. Wolfish; U.S. v. Georgia</i>	2	
National Association of Black Law Enforcement Officers	<i>Johnson v. California</i>	1	x
National Association of Black Social Workers	<i>Overton v. Bazetta</i>	1	
National Association of Councils on Developmental Disabilities	<i>U.S. v. Georgia</i>	1	x
National Association of Counties	<i>Hewitt v. Helms; Lewis v. Casey; Porter v. Nussle</i>	3	
The National Association of Criminal Defense Lawyers (NACDL)	<i>Glossip v. Gross; Overton v. Bazetta; U.S. v. Comstock</i>	3	
National Association of the Deaf	<i>U.S. v. Georgia</i>	1	
National Association of Evangelicals	<i>Brown v. Plata; Holt v. Hobbs; Sossamon v. Texas</i>	3	
National Association of Federal Defenders	<i>Ryan v. Gonzales; Overton v. Bazetta; U.S. v. Comstock</i>	3	
National Association for Rights Protections and Advocacy	<i>U.S. v. Georgia; Washington v. Harper</i>	2	
National Association of Social Workers	<i>Overton v. Bazetta; Youngberg v. Romeo</i>	2	
The National Catholic Reporter	<i>Brown v. Plata</i>	1	X
National Conference of Black Lawyers	<i>Cleavinger v. Saxner; Hutto v. Finney</i>	2	
National Conference of State Legislatures	<i>Lewis v. Casey; Porter v. Nussle; Youngberg v. Romeo</i>	3	
The National Consensus Project	<i>Glossip v. Gross</i>	1	
The National Congress of American Indians and Huy	<i>Holt v. Hobbs</i>	1	
National Council of the Churches of Christ	<i>Brown v. Plata</i>	1	
National Council on Crime and Delinquency	<i>Overton v. Bazetta; Wolff v. McDonnell</i>	2	
National Council on Independent Living	<i>U.S. v. Georgia</i>	1	

The National Council of La Raza (NCLR)	<i>Overton v. Bazetta</i>	1	
The National Council of Senior Citizens	<i>Hutto v. Finney</i>	1	x
National Crime Victim Law Institute	<i>Skinner v. Switzer</i>	1	x
National Disability Rights Network	<i>U.S. v. Georgia</i>	1	
National District Attorneys Association	<i>Skinner v. Switzer</i>	1	
National Federation of the Blind	<i>U.S. v. Georgia</i>	1	
National Governors Association	<i>Hewitt v. Helms; Lewis v. Casey; Porter v. Nussle</i>	2	x
National Health Law Program	<i>U.S. v. Georgia</i>	1	x
National Islamic Alliance	<i>O'Lone v. Estate of Shabazz</i>	1	
National Jewish Commission on Law and Public Affairs	<i>Holt v. Hobbs</i>	1	x
National Lawyers Guild, Amicus Committee	<i>Cleavinger v. Saxner; U.S. v. Georgia</i>	2	
National League of Cities	<i>Hewitt v. Helms; Lewis v. Casey</i>	2	
The National Legal Aid and Defenders Association (NLADA)	<i>Cleavinger v. Saxner; Overton v. Bazetta; Ross v. Moffit</i>	3	
The National Mental Health Association	<i>Overton v. Bazetta; U.S. v. Georgia</i>	1	x
The National Mental Health Consumers' Self-Help Clearinghouse	<i>U.S. v. Georgia</i>	1	x
The National Network for Women in Prison	<i>Overton v. Bazetta</i>	1	x
The National Organization for the Reform of Marijuana Laws	<i>Hutto v. Finney</i>	1	x
National Organization on Disability	<i>U.S. v. Georgia</i>	1	x
The National Paralegal Institute	<i>Procunier v. Martinez</i>	1	x
The National Spinal Cord Injury Association	<i>U.S. v. Georgia</i>	1	
Native American Rights Fund	<i>Hutto v. Finney</i>	1	x
New York State Defenders Association	<i>Cleavinger v. Saxner</i>	1	
North Carolina Prisoner Legal Services	<i>Lewis v. Casey</i>	1	x
North Carolina State Bar Association	<i>Murray v. Giarrantano</i>	1	
Oficina del Pueblo Unido	<i>Hutto v. Finney</i>	1	x
Ohio Justice and Policy Center	<i>Woodford v. NGO</i>	1	x
Osborne Association	<i>Overton v. Bazetta</i>	1	x

Pacific Legal Foundation	<i>Johnson v. California</i>	1	x
Paralyzed Veterans of America	<i>U.S. v. Georgia</i>	1	
Parents of Murdered Children	<i>Whitmore v. Arkansas</i>	1	
Paulist National Catholic Evangelization Association	<i>Brown v. Plata</i>	1	x
Penal Reform International/The Americas	<i>Brown v. Plata</i>	1	x
Pennsylvania Prison Society	<i>Whitley v. Albers</i>	1	
People For the American Way Foundation	<i>U.S. v. Georgia</i>	1	
The Polio Society	<i>U.S. v. Georgia</i>	1	
Post-Conviction Justice Project of Univ. of Southern CA Law Center	<i>Board of Pardons v. Allen</i>	1	x
Prison Access Working Group	<i>Overton v. Bazetta</i>	1	x
The Prison Activist Resource Center	<i>Overton v. Bazetta</i>	1	x
Prison Fellowship Ministries	<i>Brown v. Plata; O'Lone v. Estate of Shabazz; Sossamon v. Texas</i>	2	x
Prison Law Office	<i>Woodford v. NGO</i>	1	x
Prison Legal News	<i>U.S. v. Georgia</i>	1	x
Prison Legal Services (of Michigan, New York)	<i>Lewis v. Casey; Cleavinger v. Saxner; Woodford v. NGO</i>	3	x
Prison Reform Advocacy Center (PRAC)	<i>Booth v. Churner; Overton v. Bazetta</i>	2	x
Prisoner Legal Services	<i>Cleavinger v. Saxner</i>	1	x
Prisoners' Union Inc.	<i>Jones v. North Carolina Prisoners' Labor Union, Inc.</i>	1	x
Progressive Jewish Alliance	<i>Brown v. Plata</i>	1	
The Promise of Justice Initiative (PJI)	<i>Brumfield v. Cain; Glossip v. Gross</i>	2	x
Protection and Advocacy, Inc.	<i>Washington v. Harper</i>	1	x
Public Citizen Litigation Group	<i>N/A</i>	0	
Public Interest Law Center of Philadelphia	<i>Hutto v. Finney</i>	1	x
Queens Federation of Churches, Inc.	<i>Holt v. Hobbs</i>	1	x
Reporters' Committee for Freedom of the Press	<i>Houchins v. KQED, Inc.</i>	1	x
Restorative Justice Ministry	<i>Overton v. Bazetta</i>	1	

Rutgers university constitutional litigation clinic	<i>Hutto v. Finney</i>	1	x
The Rutherford Institute	<i>Baze v. Rees; Glossip v. Gross; Holt v. Hobbs; Sossamon v. Texas</i>	3	x
Sacred Heart Medical Center	<i>Washington v. Harper</i>	1	x
San Francisco Lawyer's Committee for Urban Affairs	<i>Hutto v. Finney</i>	1	
Shalom Center for Justice and Peace	<i>Overton v. Bazetta</i>	1	x
The Sikh American Legal Defense and Education Fund ("SALDEF")	<i>Holt v. Hobbs</i>	1	x
The Sikh Coalition	<i>Holt v. Hobbs</i>	1	x
Society of Correctional Physicians	<i>Brown v. Plata</i>	1	
Sojourners	<i>Brown v. Plata</i>	1	x
South Carolina State Bar Association	<i>Murray v. Giarrantano</i>	1	
Southern Center for Human Rights	<i>Overton v. Bazetta; Shaw v. Murphy</i>	2	x
Southern Poverty Law Center	<i>Cleavinger v. Saxner; Hutto v. Finney; U.S. v. Georgia</i>	3	x
Spokane Community Mental Health Center	<i>Washington v. Harper</i>	1	x
Spokane County Community Services Department	<i>Washington v. Harper</i>	1	x
Stanford Law School Supreme Court Litigation Clinic	<i>N/A</i>	0	x
State Bar of Michigan	<i>Murray v. Giarrantano; Overton v. Bazetta</i>	2	
Stop Prisoner Rape	<i>Overton v. Bazetta</i>	1	x
Synagogue Counsel of America	<i>O'Lone v. Estate of Shabazz</i>	1	
Tax Analysts and Advocates	<i>Hutto v. Finney</i>	1	x
Times Mirror Company	<i>Pell v. Procnier</i>	1	x
Union for Reform Judaism	<i>Brown v. Plata; Holt v. Hobbs</i>	1	
Unitarian Universalist Association	<i>Brown v. Plata</i>	1	x
United Cerebral Palsy Associations, Inc.	<i>U.S. v. Georgia</i>	1	x
The United States Conference of Catholic Bishops (USCCB)	<i>Brown v. Plata; Holt v. Hobbs</i>	2	x
United States Conference of Mayors	<i>Hewitt v. Helms; Porter v. Nussle</i>	2	

University of Arkansas at Little Rock, School of Social Work	<i>Overton v. Bazetta</i>	1	x
University of Maryland Developmental Disabilities Project	<i>Hutto v. Finney</i>	1	x
University of Michigan Clinical Law Program	<i>Hutto v. Finney</i>	1	x
University of Montana School of Law, Criminal Defense Clinic	N/A	0	x
Uptown People's Law Center	<i>Sossamon v. Texas; Woodford v. NGO</i>	2	x
Urban Justice Center	<i>Overton v. Bazetta</i>	1	x
Washington Community Mental Health Council	<i>Washington v. Harper</i>	1	
The Washington Lawyers' Committee for Civil Rights and Urban Affairs	<i>Minnecci v. Pollard; Sossamon v. Texas</i>	2	x
Washington Legal Foundation	<i>Lewis v. Casey; Whitmore v. Arkansas</i>	2	x
Washington Post Publishing Company	<i>Pell v. Procunier</i>	1	x
The Western Law Center for the Handicapped	<i>Hutto v. Finney</i>	1	x
Wisconsin Center for Public Representation	<i>Hutto v. Finney</i>	1	x
Wisconsin Correctional Services	<i>Cleavinger v. Saxner</i>	1	x
Women of Reform Judaism	<i>Holt v. Hobbs</i>	1	
Women's Law Project	<i>Hutto v. Finney</i>	1	x
The Women's Prison Association	<i>Holt v. Hobbs; Overton v. Bazetta</i>	2	x
World Vision	<i>Holt v. Hobbs</i>	1	x
Yakima Valley Memorial Hospital	<i>Washington v. Harper</i>	1	x
Yale Legal Services Prison Law Project	<i>Board of Pardons v. Allen</i>	1	x
The Youth Law Center	<i>Hutto v. Finney</i>	1	x

Table A3.

Cases Analyzed and Scope Full List

Case Names	Year	Issues Involved	Category
<i>Baze v. Rees</i>	2008	Lethal injection protocol is cruel and unusual	Death Penalty

<i>Bell v. Wolfish</i>	1979	Challenge to prison conditions: double celling, restrictions on receiving books, body cavity searches	Prison Conditions
<i>Booth v. Churner</i>	2001	Assault/Excessive force by prison officials	Excessive Force
<i>Brown v. Plata</i>	2011	Two cases combined involving prison overcrowding and its effect on prison officials ability to provide adequate medical attention	Inadequate Medical Attention
<i>Brumfield v. Cain</i>	2015	Post-conviction relief for OwMIs; entitlements to hearings to determine mental deficiencies	Post-conviction Relief
<i>Carlson v. Green</i>	1980	Deceased inmate resulted from inadequate med attn; suit filed by surviving relatives	Inadequate Medical Attention
<i>Cleavinger v. Saxner</i>	1985	Prison disciplinary action involved administrative segregation and forfeiture of good time credits for allegedly insighting a work stoppage	Access to Courts
<i>Correctional Services Corporation v. Malesko</i>	2001	Inmate in private halfway house with a heart condition was forced to use stairs (by policy) despite exemption resulting in a heart attack and fall down the stairs	Inadequate Medical Attention
<i>Crawford-El v. Britton</i>	1998	Corrections officer did not follow procedure when mailing inmates belongings to a relative instead of to inmate's next prison location	Mail Delivery
<i>Estelle v. Smith</i>	1981	Custodial psychiatric evaluation was later used against inmate at sentencing hearing to impose death penalty	Post-conviction Relief
<i>Glossip v. Gross</i>	2015	Lethal injection protocol is cruel and unusual	Death Penalty
<i>Hewitt v. Helms</i>	1987	Inmate seeking attorneys' fees as a non-prevailing party	Rules of Civil Procedure
<i>Holt v. Hobbs</i>	2015	AK DOC grooming policy interferes w/ religious freedom of inmates	Religious Practice
<i>Hope v. Pelzar</i>	2002	Inmate cuffed to a hitching post as a disciplinary matter	Prison Disciplinary Procedures
<i>Hutto v. Finney</i>	1978	State challenged district court's limitation of 30 day punitive isolation and award of attorney's fees on behalf of inmates	Prison Conditions
<i>Johnson v. California</i>	2005	Cell assignments based on racial classification	Race Discrimination
<i>Lewis v. Casey</i>	1996	inadequate law libraries constitutes denial of access to courts for inmates	Access to Courts
<i>Minneeci v. Pollard</i>	2012	<i>Bivens</i> action to recover damages for inadequate medical care in private prisons	Inadequate Medical Attention

<i>Murray v. Giarratano</i>	1989	Class action suit on behalf of inmates to receive appointed counsel for post-conviction proceedings	Post-conviction Relief
<i>O'Lone v. Estate of Shabazz</i>	1987	Right to counsel for mentally ill in post-conviction proceedings	Post-conviction Relief
<i>Overton v. Bazetta</i>	2003	Challenge to prison regulations that restrict visitation for certain offenders	Visitation
<i>Panetti v. Quarterman</i>	2007	Right to counsel for mentally ill in post-conviction proceedings	Post-conviction Relief
<i>Parratt v. Taylor</i>	1981	Lost mail related to hobby materials; approximate value of \$24	Mail delivery
<i>Porter v. Nussle</i>	2002	Assault and battery by prison officials	Excessive Force
<i>Procunier v. Navarette</i>	1978	Negligent interference with mail delivery	Mail Delivery
<i>Rhodes v. Chapman</i>	1981	Double Celling of Inmates	Prison Conditions
<i>Richardson v. Ramirez</i>	1974	Voter disenfranchisement for Ex-Cons	Voting Rights
<i>Ross v. Moffitt</i>	1974	Indigents' entitlements to state financed counsel on discretionary appeals	Post-conviction Relief
<i>Ryan v. Gonzales</i>	2013	Are inmates entitled to stay of federal proceedings if determined to be incompetent?	OwMIs
<i>Shaw v. Murphy</i>	2001	Do inmates possess a first Am right to inmate/inmate correspondence to assist other inmates as law clerks?	Mail delivery
<i>Skinner v. Switzer</i>	2011	Refusal to allow inmate access to evidence for purposes of DNA testing	Post-conviction Relief
<i>Sossamon v. Texas</i>	2011	Denial of access to religious services due to disciplinary restrictions	Religious Practice
<i>U.S. v. Comstock</i>	2010	civil commitments (perhaps indefinitely) for sex offenders beyond release date	Civil Commitments
<i>U.S. v. Georgia</i>	2006	Can a disabled inmate sue for money damages under ADA?	Prison Conditions
<i>Washington v. Harper</i>	1990	States' authority to treat an inmates using antipsychotic drugs forcibly; is a hearing required before such action can be taken?	Right to Refuse Treatment
<i>West v. Atkins</i>	1988	Private physician under contract with government agency acted under color of law	Inadequate Medical Attention

<i>Whitley v. Albers</i>	1986	Inmate shot in the leg during prison riot claimed 8th Am violation for excessive or unnecessary force	Excessive Force
<i>Whitmore v. Arkansas</i>	1990	Does a 3rd party have standing to challenge death penalty on behalf of an inmate that chooses to forego rights to appeal?	Post-conviction Relief
<i>Wilson v. Seiter</i>	1991	Deplorable conditions alleged; overcrowding, too much noise, inadequate ventilation and air conditioning/heat, and unclean facilities	Prison Conditions
<i>Wolff v. McDonnell</i>	1974	Civil rights action challenging, inter alia, procedures and disciplinary removal of good time credits	Prison Disciplinary Procedures
<i>Woodford v. NGO</i>	2006	Lawsuit challenging restrictions on access to special programs	Prison Disciplinary Procedures
<i>Youngberg v. Romeo</i>	1982	Mentally retarded inmate involuntarily committed; Section 1983 suit for rights to safe facilities, freedom from restraints, and habilitation	Prison Conditions

REFERENCES

- Arrigo, B. A., & Bullock, J. L. (2008). The psychological effects of solitary confinement on prisoners in supermax units: Reviewing what we know and recommending what should change. *International Journal of Offender Therapy and Comparative Criminology*, *52*, 622–640.
- Bernard, T. J., Paoline III, E. A., & Pare, P. P. (2005). General systems theory and criminal justice. *Journal of Criminal Justice*, *33*, 203-211.
- Bleich, J. (1989). The politics of prison crowding. *California Law Review*, *77*, 1125-1180.
- Box-Steffensmeier, J. M., Christenson, D. P., & Hitt, M. P. (2013). Quality over quantity: Amici influence and judicial decision making. *American Political Science Review*, *107*(3), 446-460.
- Brill, A. (2008). Rights without remedy: The myth of state court accessibility after the Prison Litigation Reform Act. *Cardoza Law Review*, *30*, 645-681.
- Buckler, K. G. (2014). Supreme Court outcomes in criminal justice cases (1994-2012 terms): An examination of status differential and amici curiae effects. *Criminal Justice Policy Review*, *26*(8), 1-32.
- Caldeira, G. A. & Wright, J. R. (1998). Lobbying for justice: Organized interests, Supreme Court nominations, and the United States Senate. *American Journal of Political Science*, *42*(2), 499-523.
- Caplow, T., & Simon, J. (1999). Understanding prison policy and population trends. *Crime and Justice*, *26*, 63–120.

- Carson, E. A. (2014). *Prisoners in 2013* (NCJ 247282). Washington, DC: Government Printing Office.
- Carson, E. A. & Sabol, W. J. (2012). *Prisoners in 2011*. U.S. Department of Justice Bulletin. <http://www.bjs.gov/content/pub/pdf/p11.pdf>.
- Chung, S. Y. (2000). Prison overcrowding: Standards in determining Eighth Amendment violations. *Fordham Law Review*, 68, 2351–2400.
- Cobb, Jr., A. (2012). Home truths about prison overcrowding. *Annals of the American Academy of Political and Social Science*, 478, 73-85.
- Collins, Jr., P. M. (2004). Friends of the court: Examining the influence of amicus curiae participation in U.S. Supreme Court litigation. *Law & Society Review*, 38(4), 807-832.
- Collins, Jr., P. M. & Martinek, W. L. (2010). Friends of the circuits: Interest group influence on decision making in the U.S. courts of appeals. *Social Science Quarterly*, 91(2), 397-351.
- Collins, Jr., P. M. & Solowej, L. A. (2007). Interest group participation, competition, and conflict in the U.S. Supreme Court. *Law & Society*, 32(4), 955-984.
- Ekland-Olson, S. (1986). Social control, and prison violence: Evidence from the post-Ruiz years in Texas. *Law & Society Review*, 20(3), 389-422.
- Enns, P. K. (2014). The public's increasing punitiveness and its influence on mass incarceration in the United States. *American Journal of Political Science*, 58(4), 857-872.
- Fairchild, E. S. (1981). Interest groups in the criminal justice process. *Journal of Criminal Justice*, 9, 181-194.

- Gaes, G. G. (1985). The effects of overcrowding in prison. *Crime and Justice*, 6, 95-146.
- Garland, B. & Simi, P. (2011). A critique of using civil litigation to suppress white supremacist violence. *Criminal Justice Review*, 36(4), 498-512.
- Golden, D. M. (2004). It's not all in my head: the harm of rape and the Prison Litigation Reform Act. *Cardoza Women's Law Journal*, 11(37), 37-60.
- Griffin, O. H., Woodard, V. H., & Sloan, J. J. (2015). *The Money and Politics of Criminal Justice Policy*. Durham North Carolina: Carolina Academic Press.
- Haines, H. H. (2006). Dangerous issues and public identities: The negotiation of controversy in two movement organizations. *Sociological Inquiry*, 76(2), 231-263.
- Halpern, S. C. (1975). Assessing the litigative role of ACLU chapters. *Policy Studies Journal*, 4(2), 157-161.
- Haney, C. (2003). Mental health issues in long-term solitary and "supermax" confinement. *Crime and Delinquency*, 49, 124-156.
- Haney, C. (2006). The wages of prison overcrowding: Harmful Psychological consequences and dysfunctional correctional reactions, *Washington University Journal of Law and Public Policy*, 22, 265-293.
- Hansford, T. G. (2004). Lobbying strategies, venue selection, and organized interest involvement at the U.S. Supreme Court. *American Politics Research*, 32(2), 170-197.
- Hsieh, H. & Shannon, S. E. (2005). Three approaches to qualitative analysis. *Qualitative Health Research*, 15(9), 1277-1288.
- Kearney, J. D. & Merrill, T. W. (2000). The influence of amicus curiae briefs on the

- Supreme Court. *University of Pennsylvania Law Review*, 148, 743-855.
- Kendrick, K. (2011). The tipping point: Prison overcrowding nationally, in West Virginia, and recommendations for reform. *West Virginia Law Review*, 113, 585–620.
- Kraska, P. B. & Brent, J. J. (2011). Criminal justice as a system. In P. B. Kraska & J. J. Brent (Eds.), *Theorizing criminal justice: Eight essential orientations* (pp. 45-91). Long Grove Illinois: Waveland Press, Inc.
- Kuersten, A. K. & Jagemann, J. (2000). Does the interest group choir really “sing with an upper class accent?” Coalitions of race and gender groups before the Supreme Court. *Women & Politics*, 21(3), 53-73.
- Kurlychek, M. (2011). What is my left hand doing? The need for unifying purpose and policy in the criminal justice system. *Criminology & Public Policy*, 10, 909-916.
- Levitt, S. (1996). The effect of prison population size on crime rates: Evidence from prison overcrowding legislation. *The Quarterly Journal of Economics*, 111, 319-351.
- Martinek, W. L. (2006). Amici curiae in the U.S. courts of appeals. *American Politics Research*, 34(6), 803-824.
- McAtee, A. & McGuire, K. T. (2007). Lawyers, justices, and issue salience: When and how do legal arguments affect the U.S. Supreme Court? *Law & Society Review*, 41(2), 259-278.
- Peak, K. J. (2015). *Introduction to Criminal Justice: Practice and Process*. Thousand Oaks California: Sage Publications, Inc.
- Pitts, J. M. A., Griffin, III, O. H., & Johnson, W. W. (2014). Contemporary prison

- overcrowding: Short-term fixes to a perpetual problem. *Contemporary Justice Review*, 17(1), 124-139.
- Pizarro, J. M., Stenius, V. M. K., & Pratt, T. C. (2006). Supermax prisons, myths, realities, and the politics of punishment in American society, *Criminal Justice Policy Review*, 17(1), 6-21.
- Reiman, J., & Leighton, P. (2009). *The rich get richer and the poor get prison*. Boston, MA: Allyn & Bacon.
- Roby, P. A. (1969). Politics and Criminal Law: Revision of the New York state penal law on prostitution. *Social Problems*, 17(1), 83-109.
- Roosevelt III, K. (2003). Exhaustion under the Prison Litigation Reform Act: the consequence of procedural error. *Emory Law Journal*, 52, 1771-1814.
- Ross, J. I. (2007). Supermax prisons. *Society*, 44(3), 60-64.
- Ross, J. I. (2010). Resisting the carceral state: Prisoner resistance from the bottom up. *Social Justice*, 36, 28-45.
- Scheingold, S. A. (1984). Crime, culture, and political conflict. In P. B. Kraska & J. J. Brent (Eds.), *Theorizing Criminal Justice: Eight Essential Orientations* (pp. 140-149). Long Grove IA: Waveland Press, Inc.
- Scherer, N., Bartels, B. L., Steigerwalt, A. (2008). Sounding the fire alarm: The role of interest groups in the lower federal court confirmation process. *The Journal of Politics*, 70(4), 1026-1039.
- Shepherd, J. M. (2009). Money, politics, and impartial justice. *Duke Law Journal*, 58, 623-685.
- Smith, A. B. & Pollack, H. (2000). Conservative pressure groups and the Supreme Court.

The Justice Professional, 13, 271-285.

- Songer, D. R. & Sheehan, R. S. (1993). Interest group success in the courts: Amicus participation in the Supreme Court. *Political Research Quarterly*, 46(2), 339-354.
- Spector, D. (2010). Everything revolves around overcrowding: The state of California's prisons. *Federal Sentencing Reporter*, 22, 194-199.
- Spriggs, J. F. & Wahlbeck, P. J. (1997). Amicus curiae and the role information at the Supreme Court. *Political Research Quarterly*, 48(3), 365-386.
- Stolz, B. A. (2005). Educating policymakers and setting the criminal justice policymaking agenda: Interest groups and the 'Victims of Trafficking and Violence Act of 2000.' *Criminal Justice*, 5(4), 407-430.
- Stolz, B. A. (2002). The roles of interest groups in US criminal justice policy making: who, when, and how. *Criminal Justice*, 2(1), 51-69.
- Stolz, B. A. (1997). Privatizing corrections: Changing the corrections policy-making subgovernment. *The Prison Journal*, 77(1), 92-111.
- Walker, S. (1999). *In defense of American civil liberties*. Carbondale IL: Southern Illinois University Press.
- Wiseman, A. E. & Ellig, J. (2007). The politics of wine: trade barriers, interest groups, and the commerce clause. *Southern Political Science Association*, 69(3), 859-875.
- Yancey, G. (2014). Watching the watchers: The neglect of academic analysis of progressive groups. *Academic Questions*, 27(1), 65-78.
- Zackin, E. (2008). Popular constitutionalism's hard when you're not very popular: Why the ACLU turned to courts. *Law & Society*, 42(2), 367-396.