

Institutional Misconduct and Recidivism: Considering Recency and Severity in Parole Decisions

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Editor's note: Ralph C. Serin died on November 7, 2023. A highly valued contributor to the field of criminology and criminal justice through his teaching, research, mentoring, and articles in many criminal justice journals, including Federal Probation, he conceptualized the research questions in this article and, in Dr. Rieger's words, "His recommendations to paroling authorities were to focus on recent institutional behaviour to best inform current risk and allow for positive behaviour change to be incorporated. This study was an empirical examination of whether narrowing focus to recent 3 years would change prediction." For a more detailed appreciation of him and his career, see Volume 87, No. 2 of Federal Probation.

WHEN EVALUATING SUITABILITY for release, paroling authorities have ready access to an individual's criminal behavior prior to incarceration, as well as information that informs the individual's behavior while incarcerated. Prior criminal history is important in assessing risk and establishing potential patterns of behavior (Singh et al., 2018) but is insufficient to inform current risk and suitability for release for incarcerated individuals (Serin, 2020; Serin et al., 2022). Institutional behavior can inform whether the individual exhibits ongoing concerning

patterns of behavior or improved behavior over time. Survey research suggests that paroling authorities place importance on institutional behavior records on their release decisions (Caplan, 2007; Lindsey & Miller, 2011; Rieger & Serin, 2023; Ruhland et al., 2016; Serin & Scott, 2006). The empirical evidence to support the association between institutional misconduct and recidivism, which refers to formal reports of institutional rules violations, has been consistent with small effects in univariate analyses, but somewhat inconsistent in multivariate analyses (Goodley et al., 2021). Examination of the literature highlights the need for clarity in operationalizing institutional misconduct and its relationship with outcomes to better inform release decision-making practice.

Institutional Misconduct and Recidivism

Studies over the past 25 years have established a relationship between institutional misconduct and recidivism (DeLisi et al., 2020; Goodley et al., 2021; Trulson et al., 2011). Evidence suggests that the presence of institutional misconduct predicts both violations (Clark & Duwe, 2019; DeLisi et al., 2020; Hsieh et al., 2018) and new criminal behavior (DeLisi et al., 2020; Hsieh et al., 2018; Luigi et al., 2020; Trulson et al., 2011; Trulson et al., 2022).

In looking at institutional misconduct, we seek to examine whether an individual's prior patterns of concerning behavior are ongoing while incarcerated. While institutional misconduct has a small effect in predicting supervision behavior, the mere presence of misconduct is less informative than the type, context, and motivation for that misconduct. In particular, it can be important to identify what constitutes offense-analogous behavior for an individual (Olver & Stockdale, 2020). For example, for one individual, non-serious misconduct reports may reflect poor institutional adjustment, but not an ongoing pattern of criminality. If the context is institutional maladjustment in being targeted for victimization, this might not flag risk for new criminal behavior. However, if the context is more general disregard for institutional rules, this might flag poor supervision potential. For another individual, persistent misconduct reports may reflect offense-analogous behavior in line with the individual's prior pattern of offending behavior. For that person, misconduct reports—even non-serious ones—would flag risk for violation and new criminal behavior. Non-violent misconduct, specifically substance use-related misconduct, has also been associated with violation behavior (DeLisi et al., 2020; Ternes et al., 2019).

Serious misconduct, such as violence, has

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exhibited a reliable relationship with outcomes. Similar to nonserious misconduct, it appears the link between serious misconduct and outcomes is driven by offense-analogous behavior. Violent type misconduct behavior predicts violations, revocations (Mooney & Daffern, 2014), and new criminal behavior (Walters & Crawford, 2014). Individuals exhibiting persistent violent misconduct are often exhibiting offense-analogous behavior, as individuals with violent behavior histories are more likely to exhibit violent institutional misconduct than individuals with no violence history (Walters & Crawford, 2014). Violent institutional behavior is not usually widespread, with evidence suggesting most of an institution's serious violent misconduct incidents can be attributed to a small percentage of individuals (Butler et al., 2021), and individuals sentenced for capital crimes are less likely to commit serious violent misconduct (Morris et al., 2010). These findings suggest that an individual presenting with a violence history who persisted in violent behavior while incarcerated is exhibiting an ongoing pattern of offense-analogous behavior that aggravates risk for continuation in the community.

Similarly, individuals with sexual offending histories who persist in offense-analogous behavior while incarcerated (i.e., misconduct with a sexual component) would aggravate risk for reoffense. Research in individuals with sexual offense histories suggests that institutional misconduct predicts revocation and sexual recidivism (Hsieh et al., 2018). Of concern for paroling authorities is an individual's current suitability for release and risk to the public. Ongoing behavior that includes victimization produces concern for public safety.

Individuals who exhibit serious and violent misconduct while incarcerated may be confined to restrictive housing (aka solitary confinement). Meta-analytic review suggested that time spent in solitary confinement predicted all forms of new criminal behavior, including rearrest, violent recidivism, and reincarceration (Luigi et al., 2020). This suggests that the presence of serious misconduct may be indicative of generally higher risk with other consequences and predictors to flag risk.

An open question is whether institutional behavior is stable. Limited research has suggested that misconduct behavior may not be consistent over time in long-term confined individuals (Cunningham & Sorensen, 2006; Reidy et al., 2017; Sorensen & Reidy, 2019). Research into trajectories of misconduct

in a female sample suggest there are three typologies of misconduct behavior while incarcerated: stable-limited, early onset, and delayed onset (Reidy et al., 2017). Stable-limited might suggest persistent misconduct behavior. Early onset could reflect misconduct in initial incarceration that declines in the first one to three years of confinement. An initial period of misconduct may reflect maladjustment to the incarcerated setting rather than an ongoing pattern of concerning behavior, even among individuals serving life and ineligible for parole (Sorensen & Reidy, 2019). Late onset suggests concern for escalation of antisocial behavior while incarcerated. Late onset would present aggregated risk, as paroling authorities are advised to flag evidence of improved and prosocial behavior in suitability considerations (Serin & Rieger, 2023).

In contrast, good institutional adjustment, or lack of misconduct, is not reliably predictive of reoffending. It could be that some individuals behave differently in a highly structured environment and struggle to maintain good behavior outside of that environment (Munn, 2011). Individuals may also monitor their institutional behavior in hopes to improve their likelihood of release with good behavior. Incarcerated individuals can be incentivized to exhibit good behavior (Polinsky, 2015). Some justice agencies offer incentives in the form of time off a sentence, for example. However, such incentives have not been shown to directly deter violations (Steiner & Cain, 2019).

The Current Study

In this study, we seek to clarify the relationship between institutional misconduct and recidivism to inform parole release decision-making practice. We examine whether and how the recency and severity of misconduct predicts outcomes and respond to the following research questions:

Research Question 1: Does the seriousness (not serious, serious) and recency (within 3 years, within 5 years) impact the association between institutional behavior and recidivism?

To these authors' knowledge, research has yet to directly compare the impact of the type and recency of institutional misconduct on recidivism. Prior research has suggested that serious misconduct may predict violations (DeLisi et al., 2020; Hsieh et al., 2018), rearrest (Trulson et al., 2011), and returns (Luigi et al., 2020; Trulson et al., 2022). Research

also suggests that institutional behavior is not static and may differ across time, especially for individuals incarcerated for long sentences (Manchak et al., 2008; Sorensen & Reidy, 2019). In line with current recommendations for parole release decision-making, we anticipate that serious, recent misconduct will predict returns better than non-serious, more distal misconduct behavior.

Research Question 2: How does the strength of the impact of institutional misconduct hold in the presence of other factors recommended for consideration by paroling authorities?

Paroling authorities are recommended to consider factors that reflect historical, criminal history information as well as information that reflects recent behavior and prosocial change (Serin et al., 2022; Serin & Rieger, 2023). Previous research has indicated that the strength of the association between institutional behavior and recidivism is reduced and potentially nonsignificant in the presence of other factors (Goodley et al., 2021; Steiner et al., 2014). In this study, we anticipate that the strength of the relationship between institutional behavior and recidivism will be reduced, but still significant in multivariate analyses.

Method

Sample

The sample includes secondary use of data reflecting all adults, both men and women, released from custody in the California Department of Corrections and Rehabilitation (CDCR) for any reason between April 1, 2020, and December 31, 2020, who had previously been incarcerated for five years or more ($N = 9,434$). Individuals were mostly categorized as men ($n = 8,977$, 95.2%), with a minority categorized as women in the system ($n = 435$, 4.6%). The average age was 41.3 years ($SD = 12.5$, $min = 20$, $max = 91$). Race included seven categories: Hispanic ($n = 4,054$), White ($n = 2,044$), Black ($n = 2,691$), Asian or Pacific Islander ($n = 147$), American Indian/Alaskan Native ($n = 112$), or Other ($n = 386$).

Measures

Institutional Behavior

Institutional misconduct was coded to account for the mere presence, seriousness, and recency of the behavior. The presence of misconduct is coded dichotomously ($0 = no\ misconduct$, $1 = misconduct$). In this jurisdiction, misconduct was recoded from "administrative," "counseling only," or "serious" to dichotomous $0 = not\ serious$ or $1 =$

serious. Recency was coded as within three years or within five years. Misconduct beyond 5 years was not available in this data.

Covariates

Covariates were selected to reflect factors recommended for paroling authorities to consider in release decisions from previous offending behavior to recent behavior. Previous offending behavior will be represented with risk assessment and the presence of previous violent behavior. Risk assessment is assessed with the California Static Risk Assessment (CSRA) for this study. The CSRA includes 22

static items intended to assess risk for general reoffending, with five risk categories (low risk, moderate risk, high-risk drug, high-risk property, high-risk violence). For these analyses, we reclassified these categories to reflect three categories of 1 = *low*, 2 = *moderate*, and 3 = *high risk*. The presence of previous serious or violent behavior is also included and reflected as 0 = *no prior serious or violent conviction* or 1 = *prior serious or violent conviction*. This is intended to indicate a pattern of escalating or concerning behavior considered by paroling authorities. Prior supervision failure was also included as 0 = *no prior supervision failure* or 1 = *prior supervision failure*.

Recent behavior will be reflected with institutional misbehavior, program completion, and good conduct credits earned. Program completion will be reflected by the total number of programs completed. In this jurisdiction, incarcerated individuals can earn time off their sentence through several avenues of prosocial behavior. The mere presence of good conduct credits earned was reflected as 0 = *no credits earned* or 1 = *credits earned*.

Recidivism

A high standard for recidivism was used in this study: return to CDCR custody. Three outcomes were examined: any return to custody, return for new felony offense, and return for parole violation. Fixed follow-up period of two years was calculated from the time of release (up to December 31, 2022). Examining returns for new criminal behavior separately from violation behavior is important to clarify behavior of interest (Ostermann et al., 2020).

Analytical Plan

A series of univariate and multivariate logistic regression models were run to examine the relationship between types of institutional misconduct and each recidivism outcome (return for violation or return for new criminal offense). First, univariate logistic regression examining each variation of misconduct (any, serious, recent, serious and

recent) on recidivism was conducted separately on the mere presence and number of misconduct reports. Next, we sought to address the concerns of recent meta-analytic findings suggesting that the effects of institutional behavior and recidivism were reduced in multivariate analyses (Goodley et al., 2021). Multivariate logistic regression models were conducted to examine the association between institutional misconduct and recidivism in the presence of other predictors of return: static risk level, prior serious or violent offenses, prior supervision failure, program completion, and good conduct credits earned. Interpretation in logistic regression is expressed as odds ratios: For every one unit increase in the predictor variable, the odds of the outcome increase/decrease above or below one. Interpretations with logistic regression reflect odds ratios, which can be interpreted using Cohen's (1988) criteria of *small* = 1.4, *medium* = 2.3, and *large* = 3.7.

Results

Descriptives

Individuals in this sample were assessed for static risk with 59% low risk, 20% moderate risk, and 21% high risk. See Table 1 for full descriptives. A large portion of this sample had at least one prior serious or violent conviction on their record (47%). A very small minority was tracked for having prior supervision failure (1%). Regarding institutional behavior, over half of the individuals in this sample earned some good time credits (86%). Individuals completed an average of 1 (*min* = 0, *max* = 17).

Institutional misconduct is reported for the number, mere presence, type, and recency. Over half of this sample had any misconduct on their record in the past five years (72%), while less displayed serious misconduct in that time (62%). Most of the individuals displaying misconduct did so within 3 years. Individuals in this sample had an average of 2 serious misconducts on record and 3 total misconducts in five years.

We examine rates of return between individuals who received serious and recent violations in Table 2. Rates of return were relatively similar between the seriousness and recency of violations. Individuals exhibited a return rate about 9% for any return at two years. Returns for new felony offenses were lower, around 3% regardless of the type or recency of return. Individuals with misconducts on their record were returned for violations at a rate of about 6% at two years.

TABLE 1
Descriptive Characteristics of Sample

	<i>n</i>	%
Criminal History		
Static Risk	5,579	59.1
Low		
Moderate	1,897	20.1
High	1,936	20.5
Prior Serious/Violent Convictions	4,445	47.1
Previous Supervision Failure	57	0.6
Institutional Behaviour		
Institutional Misconduct		
Any within 3 yrs	6,232	66.1
Any within 5 yrs	6,749	71.5
Serious within 3 yrs	5,434	57.6
Serious within 5 yrs	5,833	61.8
Credits Earned	8,073	85.6
	<i>M</i>	<i>SD</i>
Institutional Misconduct		
Number within 3 years	4.7	5.3
Number within 5 years	6.3	7.1
Number Serious within 3 years	2.9	3.4
Number Serious within 5 years	3.8	4.5
Programs Completed	3.6	2.7

TABLE 2
Rates of Return at 2 Years between Seriousness and Recency of Institutional Misconduct

Misconduct Type	Return New Felony		Return Violation	
	<i>n</i>	%	<i>n</i>	%
Any Misconduct	257	3.0%	526	6.0%
Serious Misconduct	250	2.9%	492	5.6%
Recent Misconduct	247	2.8%	508	5.8%
Serious & Recent Misconduct	245	2.8%	474	5.4%

Univariate Analyses

We conducted univariate logistic regression analyses to examine how the seriousness or recency of misconduct predicts return compared to the mere presence or number of misconduct reports (Table 3). Analyses were conducted separately for the mere presence of any misconduct and the number of misconduct reports. We report prediction for return for new felony offense versus return for violation separately below and in Table 3.

Return for new felony was predicted by both the number and mere presence of misconduct reports. The mere presence of any misconduct within three or five years was associated with 3.0 and 3.2 times odds of return for new felony, respectively, which are medium effects. Including seriousness bolstered prediction of new felony return. Individuals with serious misconduct produced 4.0 times odds of return for new felony, which is a large effect. Further, the combination of serious and recent misconduct predicted return for new felony, with 4.2 times odds of return, a large effect. The number of misconduct reports also predicted return for new felony offense. Each new misconduct report was associated with a small incremental increase in odds of return for new felony that was strongest for serious and recent misconduct ($OR = 1.1$).

Institutional misconduct reports produced strong effects in predicting returns for violation behavior (Table 3). The presence of any misconduct within five years produced the strongest odds of return for violation ($OR = 7.1$ vs. $4.4 - 5.5$, respectively) and all types of misconduct produced strong effects. The number of misconduct reports also predicted return for violation. Each new misconduct report was associated with a small incremental increase in odds of return for violation that was strongest for serious and recent misconduct ($OR = 1.1$).

Overall, misconduct reports did predict returns for new felony and violation in this sample, with some medium but mostly large effects. While some differences in odds ratios were observed between types of misconduct reported, the differences are not significant, as is noted with overlapping confidence intervals. This suggests that including any or specific types of misconduct report would produce similar predictive value in informing outcomes.

Multivariate Analysis

Multivariate models, including variations of institutional misconduct alongside other

predictors of return recommended to be considered by paroling authorities (Serin et al., 2022), was conducted (Table 4). Static risk predicted return to custody for new felony and violation. Individuals rated moderate risk were more likely than individuals rated low risk to return for new felony ($OR = 2.0 - 2.3$) and violation ($OR = 2.2 - 2.3$), with small effects. Individuals rated high risk were more likely than individuals rated moderate risk to return for new felony ($OR = 2.8 - 3.0$) and violation ($OR = 3.3$), which are medium effects. The presence of serious or violent prior convictions was associated with greater odds of return for new felony ($OR = 2.3$) but not return for violation.

Predictors associated with institutional behavior also predicted return. Individuals who earned good conduct credits while incarcerated displayed reduced odds of return for violation ($OR = 0.8$) compared to individuals who did not earn credits while in custody. Types of institutional misconduct predicted returns for new felony ($OR = 2.0 - 2.9$) and violations ($OR = 2.7 - 4.2$). Serious and recent misconduct within 3 years displayed 3.0 times odds of return for new felony, a medium effect. Serious and recent misconduct predicted return for new felony the best, but not significantly different than the other types of misconduct. Any misconduct displayed 4.2 times odds of return for violation compared, a large effect. Any misconduct predicted return for violation better than serious or violent misconduct, though the differences were not significant.

TABLE 3

Univariate Associations between Institutional Misconduct and Return at 2 years

Variable	Return New Felony		Return Violation	
	OR	CI [LL, UL]	OR	CI [LL, UL]
Presence of Misconduct Reports				
Any Misconduct	3.20*	[2.21, 4.63]	7.05*	[4.89, 10.16]
Serious Misconduct	4.04*	[2.88, 5.68]	4.95*	[3.81, 6.44]
Recent Misconduct	3.01*	[2.16, 4.18]	5.53*	[4.11, 7.44]
Serious & Recent Misconduct	4.16*	[3.01, 5.74]	4.42*	[3.48, 5.60]
Number of Misconduct Reports				
Any Misconduct	1.03*	[1.01, 1.04]	1.04*	[1.03, 1.05]
Serious Misconduct	1.05*	[1.03, 1.07]	1.06*	[1.05, 1.08]
Recent Misconduct	1.04*	[1.03, 1.06]	1.06*	[1.04, 1.07]
Serious & Recent Misconduct	1.08*	[1.05, 1.11]	1.09*	[1.07, 1.12]

Note. * $p < .001$. OR = odds ratio; CI = 95% confidence intervals with LL = lower limit and UL = upper limit.

Discussion

Paroling authorities are tasked with incorporating all available risk-relevant information to provide a comprehensive review of an individual's current risk and release suitability. Comprehensive review includes examining an individual's previous pattern, if any, of offending behavior and determining to the extent possible whether the individual's recent behavior exhibits prosocial change. Paroling authorities can examine institutional behavior to gauge whether individuals are engaging in offense-analogous behavior while incarcerated. While not a perfect reflection of behavior in the community, it is the best information available to inform whether patterns of concerning behavior continue in an incarcerated setting.

Institutional behavior can reflect increased risk with ongoing patterns of concerning behavior, or mitigate risk with evidence of meritorious behavior or prosocial change. In previous decades, paroling authorities have considered institutional misconduct in their release decisions (Bowman & Ely, 2017; Caplan, 2007; Lindsey & Miller, 2011; Rieger & Serin, 2023; Ruhland et al., 2016). Current industry recommendations encourage paroling authorities to place special consideration on recent, offense-analogous and serious institutional behavior to inform current risk to reoffend (Serin et al., 2022; Serin & Rieger, 2023; Rieger & Serin, 2023). Older or more administrative-related misconduct should be considered to establish a pattern of behavior over time, but may not

be the best representation of an individual's current disposition—especially for individuals incarcerated for long periods of time. These recommendations were drawn from industry leaders in parole release decision-making with decades of experience.

Reasoning for narrowing the view of misconduct to recent, serious misconduct was two-fold. First, especially for individuals incarcerated for a long period of time, older misconducts may not reflect an individual's current behavior. Whether years have brought fewer misconducts through maturity, prosocial change, or other factors, parole release decision-making seeks to assess current risk, and outdated information may muddy this analysis (Serin, 2020). We hope to see prosocial improvement in incarcerated persons motivated by any reason. Assessing more recent behavior allows for individuals who have exhibited positive improvement to have that adequately reflected in release considerations. As persistent misconduct can be stable across multiple incarceration periods (Drury & DeLisi, 2010), decisions still incorporate prior behavior, with this recommendation separately emphasizing prosocial change

to the individual's credit. Existing literature does not specifically examine the association between the recency of misconduct in a single incarceration period and supervision and community outcomes.

Second, paroling authorities are concerned with ongoing patterns of offending or concerning behavior. While individuals are incarcerated, paroling authorities specifically are concerned with offense-analogous behavior consistent, to the extent possible, with how an individual might behave in the community (Olver & Stockdale, 2020). Some misconduct behavior may stem from an initial period of institutional adjustment, especially in high-conflict prison environments (Sorensen & Reidy, 2019). Initial maladjustment may be offense-analogous for one individual, but not another. For example, initial violent misconduct in an individual with a history of high threat perception and violence would be offense-analogous, while the same behavior in an individual with no prior violence and no subsequent violence may not. Recommendations thus emphasize discretion and identifying pattern interruption as evidence of prosocial improvement.

This research sought to empirically examine whether paroling authorities should account for the seriousness and recency of misconduct impact outcomes over the mere presence of any misconduct on file. Specifically, we sought to clarify what elements of institutional misconduct best inform supervision and community outcomes. We summarize our findings for each research question.

Research Question 1: Does the seriousness (not serious, serious) and recency (within 3 years, within 5 years) impact the association between institutional behavior and recidivism?

Previous research has displayed an association between serious institutional misconduct and violation behavior (DeLisi et al., 2020; Hsieh et al., 2018), new criminal arrest (Trulson et al., 2011), and returns (Luigi et al., 2020; Trulson et al., 2022). We examined whether the association between institutional misconduct is impacted by narrowing consideration to misconduct that is serious, recent (within 3 years), or both serious and recent. We predicted that serious and recent misconduct would provide incremental improvement in prediction of returns for new felony and violation compared to the mere presence of

TABLE 4
Multivariate Associations between Predictors of Release Suitability and Return at 2 years

Misconduct Type	Any (5 yrs)		Serious		Recent (3 yrs)		Recent & Serious	
	OR	CI [LL, UL]	OR	CI [LL, UL]	OR	CI [LL, UL]	OR	CI [LL, UL]
Return New Felony								
Static Risk Level								
Low (ref)								
Moderate	2.26***	[1.62, 3.15]	2.09***	[1.50, 2.92]	2.26***	[1.62, 3.15]	2.04***	[1.46, 2.85]
High	3.04***	[2.38, 3.88]	2.83***	[2.21, 3.61]	3.00***	[2.35, 3.83]	2.75***	[2.16, 3.52]
Prior Serious/Violent	2.28***	[1.78, 2.93]	2.34***	[1.82, 3.00]	2.29***	[1.78, 2.94]	2.35***	[1.83, 3.02]
Prior Supervision Failure	1.56	[0.55, 4.46]	1.45	[0.51, 4.14]	1.54	[0.54, 4.39]	1.45	[0.51, 4.13]
Institutional Misconduct	2.13***	[1.45, 3.14]	2.87***	[2.01, 4.10]	2.00***	[1.41, 2.83]	2.95***	[2.10, 4.15]
Programs Completed	0.98	[0.93, 1.03]	0.97	[0.93, 1.02]	0.98	[0.93, 1.03]	0.97	[0.93, 1.02]
Good Conduct Credits	0.76	[0.56, 1.04]	0.79	[0.58, 1.08]	0.77	[0.56, 1.05]	0.80	[0.58, 1.08]
Return Violation								
Static Risk Level								
Low (ref)								
Moderate	2.26***	[1.76, 2.90]	2.24***	[1.75, 2.88]	2.26***	[1.75, 2.91]	2.24***	[1.74, 2.88]
High	3.32***	[2.78, 3.97]	3.26***	[2.72, 3.90]	3.27***	[2.73, 3.92]	3.25***	[2.71, 3.89]
Prior Serious/Violent	0.92	[0.77, 1.10]	0.93	[0.78, 1.12]	0.92	[0.77, 1.11]	0.45	[0.78, 1.12]
Prior Supervision Failure	1.14	[0.40, 3.26]	1.12	[0.39, 3.21]	1.12	[0.39, 3.20]	0.80	[0.40, 3.29]
Institutional Misconduct	4.22***	[2.90, 6.13]	3.09***	[2.34, 4.06]	3.31***	[2.43, 4.50]	2.72***	[2.11, 3.49]
Programs Completed	1.02	[0.98, 1.06]	1.02	[0.98, 1.06]	1.02	[0.99, 1.06]	1.02	[0.99, 1.06]
Good Conduct Credits	0.75*	[0.59, 0.94]	0.76*	[0.60, 0.96]	0.75*	[0.59, 0.95]	0.76*	[0.60, 0.96]

Note. * $p < .05$, ** $p < .01$, *** $p < .001$. OR = odds ratio; CI = 95% confidence intervals with LL = lower limit and UL = upper limit.

any misconduct on record.

Return for new felony was predicted with medium effects by the mere presence of any misconduct at three or five years, and large effects when the misconduct was serious or serious and recent. Further, the odds of return for new felony offense increased incrementally with each serious and recent misconduct within three years. These findings suggest seriousness may bolster the accuracy of predictions for new criminal behavior. Further, prediction may improve as the number of serious and recent misconduct reports on file increase for a person. A person with multiple serious and recent misconduct reports has greater odds of return for new felony than a person with older or nonserious misconduct on file.

Return for violation was predicted with large effects by the presence of any type of misconduct, regardless of whether the misconduct was serious or recent. The odds of return for violation increased incrementally with each misconduct, with the greatest incremental increase for each serious and recent misconduct within three years. Interestingly, the seriousness or recency of misconduct did not improve prediction of return for violation in this sample with a strong effect, as predicted. Serious and recent misconduct did provide stronger incremental predictive value compared to the presence of any misconduct, however. Taken together, in this sample, it appears any misconduct predicts future return for violation, with potentially improved prediction if there were multiple serious and recent misconduct reports on file.

Overall, our hypothesis was weakly supported. Focusing on serious and recent misconduct did not harm and may bolster prediction of new felony behavior. Violation behavior is predicted by the presence of any misconduct in this sample. For both return types, accounting for the number of serious and recent misconduct reports did provide incremental improvement over any misconduct on record.

Research Question 2: How does the strength of the impact of institutional misconduct hold in the presence of other factors recommended for consideration by paroling authorities?

While previous research has reported institutional misconduct as a fairly reliable predictor of supervision violations and sometimes new criminal behavior, previous research has displayed inconsistency in the contribution of institutional misconduct to community outcomes in the presence of

other factors (Goodley et al., 2021; Steiner et al., 2014). Parole decisions are subject to the nuance involved with individual circumstances and behavior patterns. To this effect, we examined the relationship between multiple factors recommended for parole board consideration together with institutional misconduct on separate community outcomes. Consistent with our hypothesis, we found the association between institutional misconduct and return was reduced but still significant in multivariate analyses. For most types of institutional behavior, prediction of return for new violation produced large effects, which were reduced to medium effects in multivariate analyses. Similarly, prediction of return for new felony produced medium to large effects in univariate analyses and small to medium effects in multivariate analyses.

Limitations

This sample was also limited by context and outcome. This sample included individuals released from state custody in California 2020 during the COVID-19 pandemic. In that time and shortly after, changes to policies to intentionally discourage reentry into closed institutions resulted in depressed violation, rearrest, and reentry rates compared to prior years (see Rieger, 2024). The recidivism outcome available for this study constituted a high bar of return to custody. Future research should replicate this study on another sample and outcome of conviction rather than custody.

The limitations of the sample may also impact the association between recency and recidivism. This sample included individuals who would not be considered for parole, but instead could earn time off their sentence through good-time credits. It is possible that preparing for potential release or parole may influence behavior prior to the release decision. For example, individuals may make special effort to improve their institutional behavior in the months or years prior to parole eligibility. Future research could examine the effects of time on a sample with prior knowledge of their early release eligibility and incorporate shorter time-to-release comparisons.

The data available for this study was limited in time and context. Regarding time, this data only included misconducts on record for an individual within five years. While we were able to find significant effects with only three- and five-year comparisons, it would be interesting to replicate this comparison

across an entire incarceration period beyond five years. Especially for individuals incarcerated for long periods, examination of whether older misconducts inform future outcomes would be a welcome contribution to the literature and to recommendations for paroling authorities.

Conclusions and Recommendations for Paroling Authorities

Findings from this research provide support for best-practice recommendations for how paroling authorities should evaluate and incorporate institutional misconduct into release decision-making. Takeaways from this study for parole release decision-making practice include:

Serious misconduct strongly informs risk of return for new criminal behavior

Recidivism is best reflected in new criminal behavior, rather than violation of conditions (Ostermann et al., 2020). In this study, we found new criminal behavior was best informed by misconduct that was serious. Any misconduct also informed return, but with a smaller effect. Paroling authorities can evaluate any misconduct, with specific attention to serious or offense-analogous misconduct as the stronger predictor of new criminal behavior.

Returns for violation are informed by any misconduct

Individuals released on parole are likely to be supervised for a number of years in the community. Failure to comply with supervision conditions for administrative or new criminal behavior may trigger return to custody for violation. Revocation may not reflect new criminal behavior and is informed differently (Ostermann et al., 2020). In this sample, returns for violation were predicted by any misconduct. Paroling authorities can use this information, in conjunction with other predictors of violation, such as prior supervision failure, to assess supervision readiness.

Narrowing attention to serious and recent misconduct more strongly predicted return than including any misconduct on record

The current best-practice recommendation for paroling authorities to use their judgment to consider mostly serious, offense-analogous misbehavior (Serin & Rieger, 2023) to predict new offending is supported by this research. When looking at the number of misconduct

reports on record, serious and recent misconduct predicted returns for new felony and violation significantly better than any misconduct, though the effects were small. This recommendation is intended to narrow attention to consider institutional misconduct as a reflection of recent behavior to inform current risk, rather than another historical factor to consider. This also provides incarcerated individuals with an opportunity to change their behavior while in custody and to have that change recognized.

Discretion to evaluate a broader scope is imperative

As with any research of this nature, findings inform group-level prediction and may not fit every case. Importantly, the recommendation to focus on serious and recent misconduct still allows for discretion in decision-making to incorporate misconducts on record that do not fit this narrow standard, where warranted. For example, behavior in line with an individual's previous offending pattern may not be considered "serious," but still may trigger minor or administrative misconduct reports; the presence of offense-analogous behavior warrants a broader scope of consideration for release suitability. Additionally, evaluating the entire institutional record can inform trajectories of behavior that can reflect prosocial change or potentially ongoing concerning patterns of behavior.

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