

The Lawless Ones in Lockup:
Curbing the Growth of the Sovereign Citizen Movement in Prisons
A Review of Existing Literature Review and Suggestions for Furtherance

Tommy L. Smith

Helms School of Government, Liberty University

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Author Note

There are no known conflicts of interest to disclose. Correspondence concerning this essay should be addressed to Tommy L. Smith, Liberty University, tsmith759@liberty.edu

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Abstract

This paper examines restrictive housing as a possible means to curb the growth of the Sovereign Citizen Movement (SCM) in prisons. It will touch on some historically significant events in SCM history and several main tenets and beliefs. Further, the paper will examine the emphasis placed on combatting the ever-growing gang problem in America (and in its prisons), and compare the important similarities and differences between the SCM and gangs to discern whether restrictive housing might be as effective for the former, as it is for the latter.

Keywords: Sovereign Citizen, SCM, gangs, America, prisons, restrictive housing

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Prologue

Throughout the past several decades, more and more jails and prisons have been facing two dilemmas: their ever-growing inmate populations and the need to separate or solitarily confine more inmates due to increasing numbers of them being members of gangs and extremist groups. Gangs are the more well-known justification for inmate separation and confinement; however, extremist groups like the Sovereign Citizen Movement (SCM) have increasingly become a major problem since its resurgence of activity in 2009 (Anti-Defamation League, 2012). As of 2012, the Sovereign Citizen Movement had been deemed one of the most problematic domestic extremist movements in the United States, exemplified by many examples, including the double murder of West Memphis police officers conducting a traffic stop—in this case, the two people traveling in the stopped vehicle were a father and son duo of Sovereign Citizens, who opened fire, killing both officers on-scene (Anti-Defamation League, 2012). More commonly, however, Sovereign Citizens use the government institution as their personal vendetta distribution network, often filing harassing and fraudulent liens against public officials, such as judges, lawyers, law enforcement officers, politicians, and even correctional officers. For this reason, they have been aptly dubbed “paper terrorists,” a name which they live up to continually, even when they are manufacturing fake deeds and mortgage claims to squat in what they perceive as “abandoned homes” (Anti-Defamation League, 2012). Early on, the Movement tended to be traditionally made-up of white members, but in the 1990s and 2000s, black people began to adopt the ideology, combining those beliefs with the name of the Moorish Science

Temple, creating the Moorish Sovereign faction. This opened up an entirely new pool of potential recruits for the Movement—even in prison. While incarcerated, Sovereigns tend to spread their beliefs and recruit new members into the ideology, teaching them how to use paper terrorism tactics and flood the court system. According to this report from the Anti-Defamation League (2012), thus far, prison officials have had little-to-no luck in curbing the Movement's recruitment efforts behind bars.

The SCM is Not a Militia

Although Sovereign Citizens have become a major issue for law enforcement and corrections personnel, the Federal Bureau of Investigation (FBI) points out that not every action taken in the furtherance of the Sovereign ideology is a crime (2010). Actions such as active recruiting or espousing beliefs (in most circumstances), for instance, would not be considered crimes; actively recruiting new members for such a group as a criminal street gang, however, would be against the law. Sovereign crimes, as described in the prologue section above, are non-violent and menial the majority of the time; however, Sovereign Citizens have been known to commit brutal murders and assaults, threaten legal professionals, impersonate officials and police officers, use fraudulent identification documents, and engage in all sorts of white-collar scams (FBI, 2010). Although many people tend to confuse Sovereign Citizens with other groups and movements—i.e. White Extremists—they are separate; in some cases, though, certain members do share both ideologies. So, while Sovereigns do use weapons sometimes, they are not a militia group and the armed aspect of their behaviors and tendencies comes second to their primary anti-tax, anti-government beliefs (FBI, 2010).

Sovereign Convictions and Courtroom Antics

In-line with their anti-government beliefs, Sovereigns often represent themselves *pro se* in court, because they believe that no legal official (in this case, a lawyer) has any authority (Smith, 2016)—that is, except for county sheriffs, as they are elected by *the people*. Folks who espouse these beliefs often make a mockery of the courtroom, making a scene whenever possible to attract attention and turn the legal proceedings into a proverbial circus. They do this because they feel as though the federal government and, by default, the court system, is corrupt and illegitimate and is simply there to eclipse the one true law—common law (Smith, 2016). Interestingly, Smith (2016) found that as a whole, Sovereign Citizens are more educated than adherents of other far right extremist groups, with over half of his sample group having obtained a college degree. Further, Smith (2016) identified what might be an important difference between Sovereigns and other extremists—their conviction rates are much less; in fact, in his sample, Sovereigns were convicted in less than 40 percent of cases, whereas members of other far right movements/groups were convicted in about 52 percent of the cases examined.

The conviction rate above is quite alarming. What does it mean? By now, it is clear that Sovereigns aim to bog down the criminal justice and court system, make a mockery of the court, and continually attempt to subvert the legal process. The Treasury Inspector General estimated that from 2010 to 2013, approximately 7,000 fraudulent Original Issue Discount (OID) filings had been made, most of which were from Sovereign Citizens. Then, in 2018, the State of New Jersey issued a report which read that approximately three out of every six ideologically motivated attacks across the United States that year were carried out by Sovereigns (Smith, 2019a). The answer to the question posed in the first sentence of this paragraph is still unknown. Is the conviction rate low because Sovereigns are more educated and smarter than the average

criminal, and as such, know how to work the system? Is it low because they tirelessly tie-up the court system to a point where the courts just want them gone so they do not have to deal with them any longer? Or is the conviction rate lower than for other extremists because officials know they will be threatened and bombarded with fraudulent liens and complaints against them even if the Sovereign offenders are imprisoned?

Sovereigns Behind Bars

In the first section of this literature review, the Anti-Defamation League (2012) stated that prison officials' efforts have not had much of an effect on the Sovereign problem. This begs the question of how effective incarceration is against Sovereign criminals. When incarcerated, Sovereigns still have amenities like phones, televisions, computers, and access to libraries. This allows them every medium they need to carry out their criminal activities from behind bars, which is what they often do (Smith, 2019b). No matter where a Sovereign is housed (county jail, state prison, federal prison, etc.), he/she will quickly realize that there is a new audience to receive the Sovereign ideology—other inmates. Aside from recruiting new members and gaining assistance from their new followers, Sovereigns often create fraudulent businesses and shell companies, file fraudulent paperwork, and commit government and financial fraud from inside prison (Smith, 2019b).

Whitehead (2018), a then 13-year veteran with the New York State Department of Corrections and Community Supervision, included information acquired as part of his years of experience that suggests the most crucial place for correctional officers to be vigilant in is the prisons' law libraries. Sovereign Citizens often utilize the books and computers in the law libraries to undermine the legal system by doing research on how to deploy their tactics, sending fraudulent paperwork outside the prisons, and ultimately, challenging the procedural framework

inside the facilities (Whitehead, 2018). In some cases, a Sovereign may fill the role of a “lawyer” and provide “legal advice” to other inmates who are less knowledgeable than they are.

The Focus is on Gangs

Bearing all this in mind, how do we—as the criminal justice community made up of law enforcement and corrections professionals—head-off this blatant misuse and abuse of the system, and decelerate the growth of the Sovereign Citizen Movement through in-prison recruitment? Perhaps the answer lies in examining how some individual states and prison networks regulate Sovereign Citizens and similar, more organized groups within *the system*. Florida, for example, is a strong anti-gang state. State officials recognized that gangs, terrorist organizations, and hate groups all pose a clear and present danger to law enforcement and to the peaceful citizens of the state. As a result, in 1996, Florida enacted a specialized gang enhancement via *Florida Statute 874*, which bestows upon prosecutors the power to increase punishments for crimes whenever the person committing such crimes are either members of a criminal gang or associates of a criminal gang. Street gangs and even wide-network criminal gangs (i.e. Bloods and Crips) have much in common with Sovereign Citizens, but they have two key differences—gangs are usually more organized and structured, and in direct correlation, gangs usually have identifying symbols, numbers, and colors; Sovereign Citizens, on the other hand, do not make use of flags, graffiti, or special clothing colors and they are usually independent nodes, rather than organized networks. Therefore, *Florida Statute 874* mandates that certain criteria are met before a law enforcement agency can designate/label someone as a criminal gang member or associate. To be classified as a gang member, one must exhibit at least two traits typical of criminal gang membership, including but not limited to: admitting to gang membership, being identified as a gang member by a family member or reliable informant,

having a tattoo used solely by the gang in question, adopting the style of dress (i.e. colors/flags) of the gang, etc. For classification as a gang associate, however, Florida law enforcement is only required to observe one of the listed criteria. Sharing some similarity, the state of Utah also maintains a gang enhancement. It defines a gang as “two or more persons acting in concert,” which one senator believes is too vague; he is now seeking to refine the enhancement language. In one recent case, the enhancement was used to increase a woman’s criminal mischief charge to a first-degree felony—a charge punishable by life in prison (KUTV, 2020).

The key takeaway from the preceding paragraph is that states tend to focus on organized gangs, as opposed to making laws inclusive of all groups or movements with a prime function of supporting a criminal enterprise. This applies even to Florida, despite the very language of its gang enhancement statute stating it was created because of the threat of gangs, terrorist organizations, and hate groups (and again, the FBI classifies the SCM as a domestic extremism group, and its members as domestic extremists/paper terrorists). Smith (2019) identified a now-defunct official SCM recruiting website, which advertised the Movement as having more than 300,000 members in America. Compared to the published 2019 United States’ population of approximately 328 million, Sovereigns equate to over .09 percent. The United States Department of Justice estimates that nearly one million people in the United States are members of one of the more than 20,000 criminal gangs here—this equals slightly over .30 percent (National Drug Intelligence Center, 2008). In prison, as of 2018, nearly 200,000 of the 1.5 million people incarcerated in the United States were affiliated with gangs. They are said to be responsible for a significantly disproportionate amount of all prison misconduct and violence that occurs inside the prison walls, and continually present challenges to officials trying to ensure a safe, orderly, and controlled environment (Pyrooz, 2018). If that statement sounds familiar, it should—

Whitehead (2018) described the effect Sovereigns have on the prison system in nearly the exact same way: they present challenges to the procedural framework inside the facilities.

An Overview of Restrictive Housing as a Means to Combat Gangs in Prison

Now that we know both gang members and Sovereign Citizens play a pivotal role in upsetting and destabilizing the internal framework of the prison system, what could possibly be done to reverse or prevent this disruption? Pyrooz (2018) indicates that although many intervention methods have been tried, only one has been proven effective. Dubbed the “silver bullet” of prison-gang combat, the removal of gang affiliates from the general inmate population and placement in isolation or restrictive housing has had some success in helping to constrain gang influence and violence, especially in larger prison systems such as those in California and Texas. Gang members and associates entering prisons are often already known to be affiliates of gangs, whether from prior criminal history, self-admission, or tattoos/markings on their bodies; therefore, they are often placed in restrictive housing (or at least separated from members of rival gangs) as a preventative method. This is done with the belief that removing them from the general population will deter the misbehavior of particular inmates, as well as the overall population, to positively impact the *atmosphere* of the prison (Pyrooz, 2018). Approximately 600 prison wardens and 37 gang experts in various prison systems were surveyed and asked about the effectiveness of the use of restrictive housing for gang affiliates. The vast majority of the persons surveyed indicated that they fully supported the use of restrictive housing and that it was significantly effective in combatting the gang problem (Pyrooz, 2018).

Even though restrictive housing seems to be effective against gang violence and recruitment in prison, there are some ethical concerns that opponents of the idea exploit for their own ends. The use of this practice to manage gangs in prison is controversial at best, because

gang affiliates need not necessarily commit any offense while incarcerated to end up in restrictive housing; this is in stark contrast to other inmates, who are usually only placed in restrictive housing after violating a rule or being the recipient of a threat and needing to be isolated for his/her own safety (Pyrooz, 2018). Instead, gang affiliates are often subjected to restrictive housing protocols for one simple reason—managing the threat they *may* pose to the prison (Pyrooz, 2018). Is the idea of a *potential* threat or the experienced-based thought that an inmate *might* commit an offense, violate a rule, hurt someone, or upset the order of the prison enough to justify depriving them of the normal, minimal liberties and freedoms afforded to general population inmates by placing them in restrictive housing? The controversy settles to a near halt when one examines a gang affiliate's decision to associate with a gang in the first place. We know that restrictive housing is most often used to discipline or protect an inmate, but sometimes it is used administratively. First, just by being a gang member or associate of a gang, the inmate has already engaged in or been associated with some type of misconduct. Second, by being affiliated with a particular gang, the inmate already has inherent enemies from rival gangs (Pyrooz, 2018). The administrative assignment to restrictive housing is where the controversy picks back up. Making proper use of the *Labeling Theory*, the proponents of administrative segregation postulate that since a person is labeled a gang member, he is prone to violent or disruptive behavior and should be separated from other inmates who he/she *could* have altercations with; there are two distinct variations to this type of practice, one which focuses on dispersion (separation to different places within the facility) and the other on consolidation (placing all members of a certain gang together, but away from members of rival gangs) (Frost & Monteiro, 2016).

Gangs vs. the SCM

Would it be prudent (and moral) to utilize restrictive housing as frequently for adherents to the SCM as it is used for gang affiliates? We know that the SCM is less organized than any *professional* gang, but this does not particularly make Sovereigns any less dangerous than a criminal gang member. To illustrate this, we must first look into the past and discern why both groups were formed in the first place—essentially, their primary tenets and their reason for being. There is a vast timeline of gang emergence in the United States, with the earliest account coming from the early-1780s to the mid-1800s. During this time, the American Revolution ended, leaving European immigrants from opposing parts of the continent (the English, Irish, and Germans). During this time, unemployment and poverty were high, as were tensions between the immigrants (Howell & Griffiths, 2018). In the 1920s, New York City organized gangs took a foothold, at least in part because of the city's political corruption. During this time, police were powerless to stop the gangs and government leaders were compromised. Gangs became increasingly violent and routinely injured or killed police officers (Howell & Griffiths, 2018).

The SCM, on the other hand, was initially brought about due to one specific belief—a group of elaborate conspiracists somehow influenced the government and subverted it, making it a corrupt organization composed of parts of the original government and parts of the new, illegitimate government (Goetz, 2014). They share some beliefs that other anti-government groups hold, espousing that the federal government has no authority and is a violation of the Bill of Rights. Financial hardship, hatred of the government, and fraudulent tendencies are the main draws to the Sovereign ideology (Goetz, 2014). Some Sovereigns, like Shawn Rice, go much further than simply espousing their beliefs. In 2011, the FBI converged on a home where he was staying, after he failed to show up for court on federal money laundering charges. Rice donned a

bulletproof vest, a handgun, and a long gun. When he knew agents were outside, he told them if they entered the home, they were going to run into trouble (Goetz, 2014). Both gangs and the SCM were formed out of a perceived necessity, and both attempt to subvert government efforts (either now or in the past). Both have some propensity for breaking the law, violently in many cases. Finally, both the SCM and individual gangs have a primary objective or a set of tenets they hold above all else.

Conclusion & Recommendation(s)

Despite the many testimonies of restrictive housing's success from prison officials, gang experts, and researchers, there are still opponents that find certain applications of the practice immoral, such as administrative segregation discussed in a preceding section. As a whole, restrictive housing has been successful in stunting the growth of gangs in prison and in maintaining order by separating potentially violent members from rival gangs. There are indisputable similarities between gangs and the SCM as touched on in this paper; however, do they share enough of a similitude to adjudge that restrictive housing will work just as well to combat the SCM in prison, as it does when fighting gang recruitment and violence? Although usually less violent and less organized than gangs, SCM adherents have a tendency to break the law, disrupt the system, and yes—they can and will use violence to achieve their goals or to defy authorities. There is one key difference between the SCM and gangs and by reading this paper, you may have picked-up on it: the SCM does not have rivals (unless you count the government), whereas gangs do (in the form of other gangs). Therefore, while restrictive housing works to *protect and control* gang members, the same would not be true for Sovereign Citizens; however, while it may be more controversial, restrictive housing could be effective to simply *control* Sovereigns better while incarcerated. It is my belief that while restrictive housing could be

effective in dissolving SCM activities behind bars, it is crucial that more resources be judiciously directed to future empirical studies with a focus on direct contact with SCM adherents serving considerable prison sentences.

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