

Fifteenth Edition

Corrections in America

AN INTRODUCTION



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edition 15

Corrections in America

An Introduction

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dedication

To nephews Joseph Hunter Allen, Jr.; Craig Allen; and
Forrest Allen

Harry Allen

To my family—Sally, Amy, Jennifer, Michael, Allison, and
Denise, for always being there for me

Edward Latessa

To James and Gertrude Watts and my grandfather Warren
White for providing the intellectual guidance to excel

Bruce S. Ponder

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new to this edition

The field of corrections is undergoing rapid and significant changes, occasioned by court decisions, changes in correctional populations, the fiscal crises in many states, and legislative demands. Sentencing smarter and introducing evidence-based practices have exerted important impacts on practice, policies, and personnel. The results are problems unforeseen in the history of corrections. In this edition, we identify those major change factors and the effects they are having on the field. In addition, we have attempted to provide projections through the next three years. These improvements are designed to enhance student understanding and learning about this dynamic field. They include the following:

- About 25 percent of the research cited is new.
- Photographs have been updated.
- New or expanded coverage is included on such issues as prison recidivism rates, effects of court decisions on correctional practices, new techniques to improve community supervision, a leveling off of prison populations, strategies and innovative solutions for decreasing prison overpopulation, what works in corrections, security threat groups, and major problem-solving courts.
- Approximately 80 percent of the charts, graphs, and figures are new or updated, and most are projected to 2017.
- The Glossary has grown to include definitions and descriptions of all key words in this edition.
- Correctional careers have been identified and described in a new Appendix.

INSTRUCTOR SUPPLEMENTS

Instructor's Manual with Test Bank Includes content outlines for classroom discussion, teaching suggestions, and answers to selected end-of-chapter questions from the text; also contains a Word document version of the test bank.

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REVEL FOR CORRECTIONS IN AMERICA, FIFTEENTH EDITION BY HARRY E. ALLEN, EDWARD J. LATESSA AND BRUCE S. PONDER

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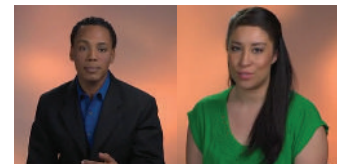
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We would like to acknowledge the great assistance of the people who merit special recognition in the fifteenth edition of *Corrections in America*. Instructors, former students, colleagues, and doctoral graduates were generous in pointing out the strengths and weaknesses of the thirteenth edition, and they made considerable suggestions for improving the textbook. Fortunately, we took them seriously and have benefited from their expertise. Our formal reviewers heaped praise where there might be praise and uniformly agreed on subjects deserving more attention, such as the chapter on security threat groups and problem-solving courts. (The identities of the reviewers for the fifteenth edition are unknown to the authors.) We would like to thank these conscientious reviewers: John Augustine, Triton College; Jack Brady, Indiana Wesleyan University; Michael Dwayne Lee, Midlands Technical College; and Allison Timbs, Campbellsville University. Continued appreciation for the previous edition reviewers: Lisa Cason, Columbia College; Scott Chenault, University of Central Missouri; Dana C. De Witt, Mount Marty College; Thomas A. Dreffein, Triton College; Lisa A. Hoston, Allegany College of Maryland; Patricia Nunally, Southwest Tennessee Community College; Patrick Patterson, Eastfield College; Mari Pierce, Penn State University; Russ Pomrenke, Gwinnett Technical College; and Jason Smith, New Hampshire Technical Institute. Gary Bauer's team contributed in many ways to the improvement of the fifteenth edition of this work, the longest continuously published textbook on corrections in the nation.

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Harry E. Allen

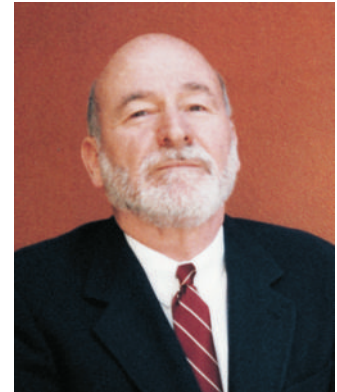
Edward J. Latessa

Bruce S. Ponder

about the authors

Harry E. Allen is Professor Emeritus in the Justice Studies Department at San Jose State University. Before joining San Jose State University in 1978, he served as director of the Program for the Study of Crime and Delinquency at The Ohio State University. Previously, he served as executive secretary of the Governor's Task Force on Corrections for the State of Ohio after teaching at Florida State University in the Department of Criminology and Corrections.

Professor Allen is the author or coauthor of numerous articles, chapters in books, essays, and textbooks, including the first 10 editions of *Corrections in America* with Clifford E. Simonsen, the 11th edition with Drs. Simonsen and Edward J. Latessa, and the last four with Professor Latessa and Bruce S. Ponder. He also coauthored the first three editions of *Corrections in the Community* with Edward J. Latessa. He has been very active in professional associations and was the first criminologist to serve as president of both the American Society of Criminology (1982) and the Academy of Criminal Justice Sciences (1994). He received the Herbert Block Award for service to the American Society of Criminology and the Founder's Award for contributions to the Academy of Criminal Justice Sciences. He is a fellow in both the Western and the American Society of Criminology and was the most frequently cited criminologist in the field of correctional textbooks. He was a Humana Scholar at the University of Louisville (2001) and for the past 15 years has been designing and instructing online courses for the University of Louisville in the areas of corrections, ethics, substance abuse, community corrections, terrorism, alternatives to incarceration, and capital punishment.



Edward J. Latessa received his PhD from Ohio State University and is Director and Professor of the School of Criminal Justice at the University of Cincinnati. Dr. Latessa has published over 170 works in the area of criminal justice, corrections, and juvenile justice. He is co-author of eight books, including *What Works (and Doesn't) in Reducing Recidivism*, *Corrections in the Community*, and *Corrections in America*. Professor Latessa has directed over 195 funded research projects, including studies of day reporting centers, juvenile justice programs, drug courts, prison programs, intensive supervision programs, halfway houses, and drug programs. He and his staff have also assessed over 1,000 correctional programs throughout the United States, and he has provided assistance and workshops in forty-eight states. Dr. Latessa served as President of the Academy of Criminal Justice Sciences (1989-90). He has also received several awards, including William T. Rossiter Award from the Forensic Mental Health Association of California (2017), Marguerite Q. Warren and Ted B. Palmer Differential Intervention Award presented by the Division of Corrections and Sentencing of the American Society of Criminology (2010), Outstanding Community Partner Award from the Arizona Department of Juvenile Corrections (2010), Maud Booth Correctional Services Award in recognition of dedicated service and leadership presented by the Volunteers of America (2010), Community Hero Award presented by Community Resources for Justice (2010), the Bruce Smith Award for outstanding contributions to criminal justice by the Academy of Criminal Justice Sciences (2010), the George Beto Scholar, College of Criminal Justice, Sam Houston State University (2009), the Mark Hatfield Award for Contributions in public policy research by The Hatfield School of Government at Portland State University (2008), the Outstanding Achievement Award by the National Juvenile Justice Court Services Association (2007), the August Vollmer Award from the American Society of Criminology (2004), the Simon Dinitz Criminal Justice Research Award from the Ohio Department of Rehabilitation and Correction (2002), the Margaret Mead Award for dedicated service to the causes of social justice and humanitarian advancement by the International Community Corrections



Association (2001), the Peter P. Lejins Award for Research from the American Correctional Association (1999), ACJS Fellow Award (1998), ACJS Founders Award (1992), and the Simon Dinitz award by the Ohio Community Corrections Organization. In 2013, he was identified as one of the most innovative people in criminal justice by a national survey conducted by the Center for Court Innovation in partnership with the Bureau of Justice Assistance and the U.S. Department of Justice.



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part 1

Historical Perspectives

Overview

A crucial question in corrections is, "Who are offenders and what shall we do with them?" Part 1 deals with the process by which punishment originated as a private matter between an offending party and the victim but later came to be an official state function. Significant changes over time are examined, starting with 2000 B.C. and continuing through contemporary efforts to construct places of punishment and reform. Behind each of the four major answers to the crucial question lay assumptions about the nature of offenders and what to do with them. Part 1 details these perceptions, assumptions, and answers, as well as corresponding correctional practices and fads that have emerged during the last 4,000 years.

chapter 1



Early History
(2000 B.C. to A.D.
1800)

chapter 2



Prisons
(1800 to the Present)

chapter 3



**Correctional
Ideologies:**
The Pendulum Swings

chapter 4



**The Sentencing
and Appeals Process**



Tomasz Zajda/Alamy Stock Photo

Objectives

- Summarize the definition, mission, and role of corrections.
- Summarize early responses to crime prior to the development of prisons.
- Describe how secular law emerged.
- Summarize sentencing goals and primary punishment philosophies from 1800 to present.
- Outline the development of the prison.

chapter 1

Early History (2000 B.C. to A.D. 1800)

Outline

What Is the Role of Corrections?

Redress of Wrongs

- Retaliation
- Fines and Punishments

Early Codes

- Babylonian and Sumerian Codes
- Crime and Sin
- Roman and Greek Codes
- The Middle Ages

Punishment

- Capital and Corporal Punishment
- Deterrence
- Emergence of Secular Law
- Early Prisons
- Workhouses

The Age of Enlightenment and Reform

- Montesquieu and Voltaire: The French Humanists
- Bentham and the Hedonistic Calculus
- John Howard

Houses of Correction, Workhouses, and Gaols

Transportation Systems

- Deportation to the American Colonies and Australia
- Hulks: A Sordid Episode

Early Cellular Prisons

- The Maison de Force at Ghent and the Hospice of San Michele
- William Penn and the "Great Law"
- The Walnut Street Jail

The descent
to hell is easy. The
gates stand open
day and night.
But to reascend the
slope and escape
to the upper air:
this is labor.

—Virgil,
Aeneid, Book 6

Overview

This textbook is not intended to be an in-depth history of corrections nor a dissertation on its legal aspects. It is helpful, however, to know at least a little of the fascinating historical background (legal and social) to gain an improved understanding of the concepts, practices, and operations that we will discuss later and how we got to where corrections is today as we progress into the twenty-first century. In describing this background, we avoid technical jargon to keep misunderstanding to a minimum. Where appropriate, specific individuals and events that have influenced the history of corrections are detailed in the chapter.

It is important to study the growing field of corrections for a variety of reasons. This dynamic field is undergoing rapid, mind-boggling change. In the interest of reducing crime, protecting children, salvaging redeemable offenders, and increasing citizen and society safety, the nation has invested unprecedented amounts of time and money in the correctional system. Between 1972 and 2008, the number of state inmates grew 705 percent before beginning to drop in 2009. The growth of corrections has not been limited to prisons; the number of offenders reentering society as well as the jail and probation populations have never

been higher. Corrections is a major industry, annually costing over \$80 billion recently,¹ and as such needs to be able to find and hire competent, educated, and motivated persons.

Never have so many Americans been in the arms of the law and under correctional control; never has the percentage of the citizenry incarcerated been as high as it is today (although U.S. Supreme Court decisions have recently forced some states to reduce their prison population). The size of corrections is rapidly increasing and—measured by the number of employees, offenders, and budgets—still undergoing significant growth.

Corrections affects the lives of ordinary people almost daily. Employees of prisons (as well as probation and parole officers) are in immediate contact with frequently violent and aggressive offenders, much more so than the typical municipal police officer who, in a busy week, may interact once with such an offender. The populace in general and students of corrections in particular must understand the dynamics that affect all forms of correctional work. They also must understand criminal behavior to better cope with the variety of offenders and to deal effectively with problematic clients. These factors are explored throughout this textbook, and your instructor will help you gain the necessary knowledge to begin your journey into this fascinating field. We begin now by tracing the roots of corrections back to the early beginnings of civilization as we know it.

WHAT IS THE ROLE OF CORRECTIONS?

The role of corrections has changed significantly since 2000 B.C. At that time, the fledgling corrections system was focused on eliminating wrongdoers, either through execution or banishment from that jurisdiction. Having to live unsupported by a social network meant the offender was vulnerable to starvation or being killed by wild animals. About 1650 B.C., codes of behavior began to be passed by emerging countries, and both fines and restitution became possible. With the advent of the Christian church, two separate systems of justice emerged: one for the nobility and the other for the common man. In this development, the focus of corrections grew to include reformation and penitence.

The period known as the Enlightenment (1650 through the end of the eighteenth century) brought major changes to correctional philosophy, and philosophers began to develop limits to the still dominant punitive role of corrections. Enlightenment leaders argued for human rights, humane and measured treatment toward offenders, and alternatives to punishment as important roles for corrections. By 1790, American Quakers included financial penalties for most offenses, and their efforts led to the development of the first penitentiary in the nation: the Walnut Street Jail. This was the beginning of the penitentiary movement and its stress on reformation and training. Finally, in the twentieth century and as a result of massive over-crowding in penal facilities, the role of corrections expanded to include rehabilitation, education, vocational training, and community supervision. The other major outcome of the overcrowding was the decision by many states to develop alternatives to imprisonment, the intermediate sanctions or alternative sentencing practices that were designed to provide community protection through the use of sanctions falling between probation and incarceration. Currently, the role of corrections is to punish serious offenders, rehabilitate criminals, ensure public safety, and prepare offenders for return to society as law-abiding citizens. These developments are discussed below and in Part 2 of this textbook.

REDRESS OF WRONGS

Retaliation

The earliest remedy for wrongs done to one's person or property was simply to retaliate against the wrongdoer. In early primitive societies, personal **retaliation** was accepted and even encouraged by members of the tribal group. This ancient concept of personal revenge could hardly be considered "law." Yet it has influenced the development of most legal systems, especially English criminal law, from which most American criminal law derives.

The practice of personal retaliation was later augmented by the **blood feud**, in which the victim's family or tribe took revenge on the offender's family or tribe. Because this form of retaliation could easily escalate and result in an endless battle or **vendetta** between the injured factions, some method of control had to be devised to make blood feuds less costly and damaging.

The practice of retaliation usually begins to develop into a system of criminal law when it becomes customary for the victim of the wrongdoing to accept money or property in place of blood vengeance. This custom, when established, is usually dictated by tribal tradition and the relative positions of power between the injured party and the wrongdoer. Custom has always exerted great force among primitive societies. The acceptance of vengeance in the form of a payment (such as cattle, food, and personal services) was usually not compulsory, however, and victims were still free to take whatever vengeance they wished. Legal historians Albert Kocourek and John Wigmore described this pressure to retaliate:

It must not be forgotten that the right of personal revenge was also in many cases a duty. A man was bound by all the force of religion to avenge the death of his kinsman. This duty was by universal practice imposed upon the nearest male relative—the avenger of blood, as he is called in the Scripture accounts.²

The custom of atonement for wrongs by payment to appease the victim's family or tribe became known as **lex salica** (or **wergeld** in Europe). It is still in effect in many Middle Eastern and Far Eastern countries, with the amount of payment based on the injured person's rank and position in the social group. The practice of paying restitution for crimes to the Crown, in addition to victims, was known as **friedensgeld**. With fines, the victim disappeared from the criminal justice system, becoming the ignored component of the crime. The victim has reappeared in the restorative justice movement, described in Chapter 5.

Fines and Punishments

How did these simple, voluntary programs become part of an official system of fines and punishments? As tribal leaders, elders, and (later) kings came into power,³ they began to exert their authority on the negotiations. Wrongdoers could choose to stay away from the proceedings; this was their right. But if they refused to abide by the imposed sentence, they were declared to be outside the law of the tribe (nation, family), or an **outlaw**. There is little doubt that outlawry, or exile, was the first punishment imposed by society,⁴ and it heralded the beginning of criminal law as we now know it.

Criminal law, even primitive criminal law, requires an element of public action against the wrongdoer—as in a pronouncement of outlawry. Before this element of public action, the backgrounds of criminal law and sanctions seem to have been parallel in most legal systems. The subsequent creation of legal codes and sanctions for different crimes either stressed or refined the vengeance factor, according to the particular society's values.

key term

Retaliation

Act designed to repay (as an injury) in kind or to return like for like, especially "to get revenge."

key term

Blood feud or vendetta

An often-prolonged series of retaliatory, vengeful, or hostile acts or exchange of such acts.

key term

Lex salica

The custom of atonement for wrongs against a victim by payment to appease the victim's family.

key term

Wergeld

The European word denoting *lex salica*.

key term

Friedensgeld

The practice of paying restitution for crime to both the victim and the Crown.

key term

Outlaw

Declared to be outside the law of the tribe (nation, family).

EARLY CODES

Babylonian and Sumerian Codes

key term

Lex talionis

The act of repaying in kind, such as “an eye for an eye, a tooth for a tooth.”

Even primitive ethics demanded that a society express its vengeance within a system of regulations and rules. Moses was advised to follow the “eye for eye and tooth for tooth” doctrine stated in Exodus 21:24, but this concept of *lex talionis* is far older than the Bible; it appears in the Sumerian codes (1860 B.C.) and in the 1750 B.C. code of King Hammurabi of Babylon, compiled more than 500 years before the *Book of the Covenant* (1250 B.C.).

As early societies developed language and writing skills, they began attempting to record the laws of their nations. While most historians view the Hammurabic Code as the first comprehensive attempt at codifying social interaction, the Sumerian codes preceded it by about a century, and the principle of *lex talionis* was evident in both. The punishments handed out under these codes were harsh and based on vengeance (or *talion*), in many cases being inflicted by the injured party. In the Babylonian code, more than 24 offenses called for the penalty of death. Both codes also prescribed mutilation, whipping, or forced labor as punishments for numerous crimes.

The kinds of punishments applied to slaves and bonded servants have been cited by many scholars⁵ as the origin of the punishments that in later law applied to all offenders. As stated by historian Gustav Radbruch,

Applied earlier almost exclusively to slaves, [the mutilating penalties] became used more and more on freemen during the Carolingian period [A.D. 640–1012] and especially for offenses that betokened a base and servile mentality. Up to the end of the Carolingian era, punishments “to hide and hair” were overwhelmingly reserved for slaves. Even death penalties occurred as slave punishments and account for the growing popularity of such penalties in Carolingian times. The aggravated death penalties, combining corporal and capital punishments, have their roots in the penal law governing slaves.⁶

The early punishments were considered synonymous with slavery; those punished even had their heads shaved, indicating the “mark of the slave.”⁷ In Roman days, the extensive use of penal servitude was spurred by the need for workers to perform hard labor in the great public works. The sentence to penal servitude was generally reserved for the lower classes; it usually meant life in chains, working in the mines or rowing in the galleys or ships, or building the public works planned by the government. The sentences carried with them the complete loss of citizenship and liberty until they died and were classed, along with exile and death, as capital punishment. Penal servitude, or **civil death**, meant that the offender’s property was confiscated in the name of the state and that his wife was declared a widow, eligible to remarry. To society, the criminal sentenced to penal servitude was, in effect, “dead.”

key term

Civil death

The status of a living person equivalent in its legal consequences to natural death; loss of all rights and powers as if dead.

Crime and Sin

Punishment of the individual in the name of the state also included the concept of superstitious revenge. Here crime was entangled with sin, and punishment in the form of *wergeld* (payment to the victim) or *friedensgeld* (payment to the state) was not sufficient. If society believed the crime might have offended a divinity, the accused had to undergo a long period of progressively harsher punishment to appease the gods. As time passed, the zone between church law and state law became more blurred, and the concept of personal responsibility for one’s act was combined with the need to “**get right with God**.”⁸ The early codes, even the Ten Commandments, were designed to make the offender’s punishment acceptable to both society and God.

key term

“Get right with God”

Directive that the offender must make peace with God through repentance and atonement.

Roman and Greek Codes

In the sixth century A.D., Emperor Justinian of Rome wrote his code of laws, one of the most ambitious early efforts to match a desirable amount of punishment with all possible crimes. Roman art of the period depicts the “scales of justice,” a metaphor demanding that the punishment balance the crime. Justinian’s effort, as might be expected, bogged down in the far-flung empire’s morass of administrative details that were required to enforce it. The Code of Justinian did not survive the fall of the Roman Empire, but it left the foundation on which most of the Western world’s legal codes were eventually built.

In Greece, the harsh Code of Draco provided the same penalties for both citizens and slaves, incorporating many of the concepts used in primitive societies (e.g., vengeance, outlawry, and blood feuds). The Greeks were the first society to allow any of their citizens to prosecute an offender in the name of the injured party. This clearly illustrates that during the Greek period, public interest and protection of the social order were becoming more important than individual injury and individual vengeance.

The Middle Ages

The Middle Ages was a long period of general social disorder. Vast changes in the social structure and the growing influence of the church on everyday life resulted in a divided system of justice. Reformation was viewed as a process of religious, not secular, redemption. As in early civilizations, the sinner had to pay two debts, one to society and another to God. The “ordeal” was the church’s substitute for a trial by the leadership of the secular group, until the practice was abolished in A.D. 1215. In trials by ordeal, the accused were subjected to impossible, dangerous, or painful tests, in the belief that those who were truly innocent would emerge unscathed, whereas the guilty would suffer agonies and die; this process determined guilt or innocence. The brutality of most trials by ordeal ensured a very high percentage of convictions.

The church expanded the concept of crime to include some new areas, still reflected in modern codes. During the Middle Ages, sexual activity other than for the purpose of procreation was seen as especially sinful. Sexual offenses usually involved either public or “unnatural” acts, and they provoked horrible punishments, as did heresy and witchcraft. The church justified cruel reprisals as a means of saving the unfortunate sinner from the clutches of Satan. The zealous movement to stamp out heresy brought on the **Inquisition** and its use of the most vicious tortures imaginable to gain “confessions” and “repentance” from alleged heretics. Thousands upon thousands of persons died at the hands of the Inquisition in Spain and Holland, where these sometimes inhumane methods were the most extensively used. Punishment was viewed not as an end in itself but as the offender’s only hope of pacifying a wrathful God.

The Inquisition was a tribunal, established by the Catholic Church in the Middle Ages, with very wide powers for the suppression of heresy. The tribunal searched out heretics and other offenders rather than waiting for charges to be brought forward. Emperor Frederick II made the Inquisition a formal institution in 1224, and it lasted until 1834. The main contribution of the medieval church to our study of corrections is the concept of free will. This idea assumes that individuals choose their actions, good or bad, and thus can be held fully responsible for them. The religious doctrines of eternal punishment, atonement, and spiritual conversion rest on the assumption that individuals who commit sins could have acted differently if they had chosen to do so.

The early codes and their administration were usually based on the belief that punishment was necessary to avenge the victim, or to satisfy God. In early, small tribal groups and less complex societies, direct compensation to the victim was used in place of revenge to prevent disintegration of the social structure through extended blood feuds. When those groups concentrated their power in a king or similar ruler with another title, the concept of

key term

Inquisition

A former Roman Catholic tribunal for the discovery and punishment of heresy; an investigation conducted with little regard for individual rights through a severe questioning.

crime as an offense against the victim gave way to the idea that crime (however lowly the victim) was an offense against the state and society in general. In the process, *wergeld* was replaced by *friedensgeld*, and the administration of punishment became the responsibility of the king. Concentrating that power also led to a tendency to ignore victims and their losses while concentrating on the crime and the criminal.

PUNISHMENT

Capital and Corporal Punishment

The most common forms of state punishment over the centuries have been death, torture, mutilation, branding, public humiliation, fines, forfeiture of property, banishment, imprisonment, and transportation.⁹ These acts and numerous variations on them have always symbolized retribution for crimes. (Imprisonment and transportation are relatively modern penal practices and will be discussed in later chapters.)

The death penalty (killing the offender) was the most universal form of punishment among early societies. There was little knowledge of behavior modification and other modern techniques to control violent persons, and often the feared offenders were condemned to death by hanging, crucifixion, burning at the stake, drowning, being drawn and quartered, and any other cruel and unusual method the human mind could conceive. As technology advanced, methods for killing offenders became more sophisticated. In the belief that punishment, especially capital punishment, would act as a deterrent to others, societies carried out executions and lesser punishments in public.

Torture, mutilation, and branding fall in the general category of **corporal punishment** (any physical pain inflicted short of death). Many tortures were used to extract a “confession” from the accused, often resulting in the death penalty for an innocent person. Mutilation was often used in an attempt to match the crime with an “appropriate” punishment. (A liar’s

key term

Corporal punishment

Any physical pain inflicted short of death; common methods include crucifixion, whipping, torture, mutilation, branding, and caning.



photo 1.1

The pillory was a way to provide public humiliation.
Michael Latessa



photo 1.2

The skull cracker was used for interrogations.
Harry Allen

tongue was ripped out, a rapist's genitals were removed, and a thief's hands were cut off.) Branding was still practiced as late as the nineteenth century in many countries, including America. Corporal punishment was considered to be an example and a deterrent to other potential offenders.

The public humiliation of offenders was a popular practice in early America, utilizing such devices as the stocks, the pillory, ducking stools, the brank, and branding. The most significant aspect of those punishments was their public nature. Offenders were placed in the stocks (sitting down, hands and feet fastened into a locked frame) or in the pillory (standing, with head and hands fastened into a locked frame) and then flogged, spat upon, heaped with garbage, and reviled by passersby.

The ducking stool and the brank were used as common public punishments for gossips. The ducking stool was a chair or platform placed at the end of a long lever, allowing the operator on the bank of a stream to dunk the victim. The **brank** was a birdcage-like instrument placed over the offender's head, containing a plate of iron with sharp spikes in it that extended into the subject's mouth. Any movement of the mouth or tongue would result in painful injury.

Flogging (or whipping) became a common punishment in almost all Western civilizations. The method was used particularly to preserve discipline in domestic, military, and academic settings. It was usually administered by a short lash at the end of a solid handle about three feet long or by a whip made of nine knotted wires, lines, or cords fastened to a handle (the famed **cat-o'-nine-tails**), sometimes with barbed-wire spikes worked into the knots. Flogging was a popular method of inducing confessions at heresy trials because few victims could stand up long under the tongue of the lash. Caning remains a legal punishment in the modern world in countries such as Malaysia, Saudi Arabia, Singapore, and South Africa.¹⁰

Deterrence

The extensive use of capital and corporal punishment during the Middle Ages reflected, in part, a belief that public punishment would deter potential wrongdoers—a belief that the passing years have refuted: “It is plain that, however futile it may be, social revenge is the only honest, straightforward, and logical justification for punishing criminals. The claim for deterrence is belied by both history and logic.” No matter how society tried to “beat the devil” out of offenders, the only criminals who seemed to be deterred were the ones who had been tortured to death. Later, enlightened thinkers began to seek more rational deterrents for crime by investigating its cause. In more recent years, deterrence has been reconceived as general and specific deterrence. General deterrence operates to reduce criminal behavior by demonstrating the punishment of others and the threat that such punishment could happen to everyone. Specific deterrence refers to the criminally inclined whose major activities are criminal in nature and such punishment is believed to prevent that specific person from committing another crime.

Emergence of Secular Law

The problem of drawing up a set of laws that applied to the actions of men and women in earthly communities was compounded by Christian philosophers who insisted that law was made in heaven. In the fourth century A.D., St. Augustine recognized the need for justice, but only as decreed by God. The issue was somewhat clarified by Thomas Aquinas in

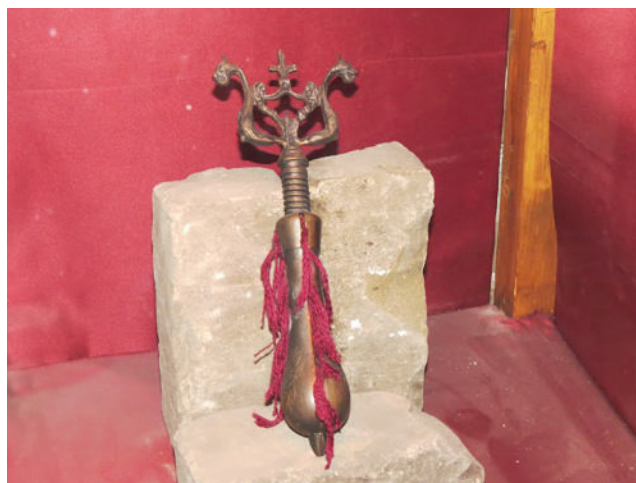


photo 1.3

The pear was used for interrogations and was inserted into an orifice of both men and women.

Michael Latessa

key term

Brank

A birdcage-like instrument placed on the offender's head with sharp-edged iron plates that would cut tongues and mouths of the gossipers.

key term

Cat-o'-nine-tails

Torture device for whipping or flogging.

key term

Lex eterna

One of the major terms describing eternal law, intended for the common good. It cannot be changed by humans.

key term

Lex naturalis

Legal theory that there are laws that occur naturally and across all cultures.

key term

Lex humana

Laws that are enacted by human beings.

key term

Criminology

Looks at the reasons for and consequences of crime.

the thirteenth century, when he distinguished among three laws: eternal law (*lex eterna*), natural law (*lex naturalis*), and human law (*lex humana*), all intended for the common good. The last was considered valid only if it did not conflict with the other two.

As time passed and the secular leaders (kings and other types of monarchs) became more powerful, they wanted to detach themselves from the divine legal order and its restrictions on their power. In the early fourteenth century, many scholars advocated the independence of the monarchy from the pope. England's Lord Chancellor Sir Thomas More opposed the forces advocating the unification of church and state and died on the executioner's block as a result. He refused to bend ecclesiastical law to suit the marital whims of his king, the fickle King Henry VIII. Sir Thomas More was out of step with his times in another sense as well. As an advocate of the seemingly radical theory that punishment could not prevent crime, he was one of the first to see that prevention might require a close look at the social conditions that gave rise to crime. In the sixteenth century, unfortunately, this line of thought was too far ahead of its time, but Sir Thomas More's ideas persisted and eventually contributed much to the foundation of modern theories in **criminology** and penology.

The early background of law and punishment points up the significance of social revenge as a justification for individual or societal punishment against an offender. This rationale allowed the development of penal slavery and civil death as retaliation for wrongs against the Crown. The idea of correcting an offender was entirely incidental to punishment. Imprisonment served purely for detention. Offenders who were condemned to the galleys or the sulfur mines suffered a form of social vengeance, often including the lash and other physical abuse, far more painful than was the loss of freedom alone. The offender was placed in dungeons, galleys, or mines to receive punishment, not *as* punishment in and of itself.

The idea of punishment to repay society and expiate one's transgressions against God explains in part why most punishments remained cruel and barbarous. Presumably, the hardships of physical torture, social degradation, exile, or financial loss (the four fundamental types of punishment)¹¹ would be rewarded by eternal joy in heaven. Ironically, those punishments did little to halt the spread of crime: "Even in the era when extremely severe punishment was imposed for crimes of minor importance, no evidence can be found to support the view that punitive measures materially curtailed the volume of crime."¹²



photo 1.4

The "rack" was used for punishment.

Harry Allen

correctional practice 1.1

Caning in the Modern World

Early in the development of criminal law for punishment of offenders, most countries used caning as a punishment. It was also used widely in the schools, military and religious institutions, prisons, and courts. Caning is a corporal punishment that directly inflicts serious and long-lasting medical and psychological damage to the offender.

Caning (sometimes known as “whipping”) utilizes a four-foot-long wooden paddle (of varying widths) to tear the flesh of prisoners with rattan canes and intentionally inflict both severe pain and bodily trauma. The stroke rips off stripes of the offender’s naked buttocks and emulsifies under-the-skin fats. Both blood and fats spurt out of the criminal’s body, immediately followed by discharge of feces and urine. Some offenders, depending on their crime, could receive 21 strokes in some countries.

Until about the end of the twentieth century, caning was popular in many English-speaking countries, such as Northern Ireland, the Republic of Ireland, Scotland, Wales, England, and Australia. Most of these countries have abandoned caning since about 1996.

Caning is still practiced in many other countries, and a large percentage of caning countries’ citizens approve of its use. It is a frequent corporal punishment in Malaysia, Singapore, Zimbabwe, Botswana, Tanzania, Trinidad and Tobago, and other jurisdictions.

Caning is generally used as punishment for serious criminal violations such as rape, aggravated rape,

incestuous rape, causing death while attempting to create rape, incest, extortion, gang robbery, possession and control of any dangerous drug, and (in Malaysia) drinking beer if the offender is Muslim. This list varies across countries using caning as punishment and deterrence. In some jurisdictions, prison staff solicit bribes from inmates sentenced to caning and may solicit other bribes from the family of the offender. The bribes are intended to persuade caning officers to miss a stroke, lessening the punishment. Some countries have correctional staff whose main duties are caning of offenders (sometimes up to 60 are caned on a single day) and are paid bonuses for the act of caning as well as the number of strokes inflicted.

Under international human rights law, corporal punishment in any form constitutes torture (or other cruel, degrading, or inhumane punishment), which in all circumstances is prohibited.

SOURCES: Based on Amnesty International (2010). *A Blow to Humanity: Torture by Judicial Caning in Malaysia*. Published by The International Secretariat, Amnesty International. London, United Kingdom, and USATODAY (August 8, 2009), “Muslim model spared from punishment, but just for now,” [malaysia_N.htm?FORM=ZZNB3](#).

Correctional Practice original from authors of the textbook.

Early Prisons

What kinds of facilities for imprisonment existed during earlier ages? It is important to examine some aspects of the first institutions as they are related to later correctional practices. Some form of detention for offenders, whether temporary or permanent, has been a social institution from the earliest times. Offenders were, of course, always detained against their will, but the concept of imprisonment as a punishment in and of itself is a fairly recent thought. Formerly, imprisonment was primarily a means of holding the accused until the authorities had decided on his or her real punishment, chosen from the variety just described. Even those condemned to penal servitude in the Roman public works must surely have been kept in some special place at night, regardless of how primitive. Unfortunately, little is known about this form of imprisonment. Most places of confinement were basically cages. Later, stone quarries and similar places designed for other purposes were used to house prisoners. The only early Roman place of confinement we know much about is the **Mamertine Prison**, a vast system of primitive cells built under the main sewer of Rome in 64 B.C.¹³

In the Middle Ages, after the fall of Rome, fortresses, castles, bridge abutments, and town gates were strongly and securely built to defend against roving bands of raiders. With the advent of gunpowder, however, those fortress cities lost much of the deterrent power of their walls and towers. The massive structures were then used as places of confinement. Many became famous as places to house political prisoners.¹⁴ It was not until the twelfth century that prison chambers were specifically included in castle plans.

key term

Mamertine Prison

An early place of confinement in Rome using primitive dungeons built under the main sewer.

correctional practice 1.2

The Mamertine Prison

The Mamertine was a prison (in Italian, a “carcer”) located near the heart of ancient Rome. This *carcer* was constructed between 640 and 616 B.C. and was a place of detention for the accused before trial and the guilty but important state prisoners who would be executed there. It was not intended as a place of long-term incarceration but functioned more like a contemporary jail with short-term detention and an execution chamber.

Captured generals, royalty, and kings would be forced to march in a triumphant procession when the conquering general returned home and would then be quickly executed in the *carcer*.

The Mamertine Prison had two vaulted chambers, one atop the other. The lower chamber was originally intended to be a water cistern. It is important to note that the *carcer* was reserved for important state persons, such as captured kings, traitors, those who plotted the overthrow of Rome, prominent Roman citizens, and the dastardly. Executions were sudden, unannounced, and unheralded. The accused could be thrown or lowered into the lowest level of the

carcer and executed at “ground zero,” frequently by strangulation. Still others would be mistreated as if slaves and lived in misery and pain until death.

Higher-status offenders, both foreign and Roman, were typically held in the custody of ranking Roman citizens, sometimes on their country estates or homes. Some were hostages held lawfully under treaty with Rome; others were captives paraded as dinner guests at banquets. In this sense, there were two classes of offenders: the poor and loathsome and high-ranking citizens.

The church of San Giuseppe dei Falegnami now stands above the Mamertine.

SOURCES: Based on Tour of Rome (2013). Mamertine Prison, http://www.rome-tour.co.uk/mamertine_prison.htm, and Richard Bauman (1996), *Crime and Punishment in Ancient Rome* (New York: Routledge, p. 23).

Correctional Practice written by textbook authors.

key term

Sanctuary

Asylum that placed the wrongdoer in seclusion or arrest in cities.

The Christian church had followed the custom of **sanctuary** or asylum¹⁵ since the time of Constantine, placing the wrongdoer in seclusion to create an atmosphere conducive to penitence. This form of imprisonment was modified into more formalized places of punishment within the walls of monasteries and abbeys. Long periods in solitary confinement for alleged transgressions against canon law were common. The prisons built during the Inquisition were similar in concept, if not in operation, to later cellular prisons in America.¹⁶ The idea of reformation through isolation and prayer had some influence on our first penitentiaries, but, in general, the impact of such practices in this respect remains hard to evaluate.

key term

Bridewell

A workhouse created for the employment and housing of London's unemployed or underemployed working classes.

Workhouses

Bridewell, a workhouse, was created for the employment and housing of London's “riffraff” in 1557 and was based on the work ethic that followed the breakup of feudalism and the increased migration of the rural populations to urban areas (<http://www.workhouses.org.uk/CityOfLondon/corporation.shtml>). The workhouse was so successful that by 1576, Parliament required the construction of a Bridewell in every county in England. The same unsettled social conditions prevailed in Holland, and the Dutch began building workhouses in 1596 that were soon to be copied all over Europe.

Unfortunately, workhouses did not typify the places of confinement used for minor offenders and other prisoners in the seventeenth and eighteenth centuries. Most cities had to make prisons out of buildings erected for some other purpose. No attempt was made to keep the young from the old, the well from the sick, or even the males from the females. No food was provided for those without money, and sanitary conditions were usually deplorable. Exploitation of inmates by other inmates and jailers resulted in the most vicious acts of violence and degradation. “**Jail fever**” (a common term for typhus), which was spread easily in such conditions, soon traveled to surrounding cities and became the main method of keeping the country's population down. By the beginning of the eighteenth century,

key term

Jail fever

Typhus frequently concentrated in places of detention that caused large-scale death of inmates and local citizens.

workhouses, prisons, and houses of correction in England and the rest of Europe had deteriorated into shocking conditions. Forcing criminals to exist in such miserable prisons became perhaps the most ruthless—if abstract—social revenge of all the punishments thus far described. “Out of sight, out of mind” was the watchword of that period, with the public seldom being aware of what happened behind the walls (ironically, a condition not unknown at the beginning of the last millennium).

THE AGE OF ENLIGHTENMENT AND REFORM

As suggested, the underlying principle of public revenge for private wrongs invariably tipped the scales of justice in favor of the state. Corporal and capital punishment were the rule. Executioners in sixteenth- and seventeenth-century Europe had at least 30 different methods of death from which to choose. These ranged from hanging and burning at the stake to more creative forms such as stretching the prisoner to death on the rack. Public punishment and degradation were commonly prescribed for even minor offenses. Imprisonment served only as a preface to the imposition of some gory punishment, carried out in the name of justice. With over 200 crimes in England punishable by death, that nation witnessed some 800 public executions a year. As the seventeenth century drew to a close, the concept of retributive punishment by the state (with its implication that pity and justice are forever locked in opposition) was firmly entrenched in the laws of England and many other European countries.¹⁷

The events of the eighteenth century are especially important to the student of corrections. For it was during this period, later known as the **Age of Enlightenment**, that some of the most brilliant philosophers of our history recognized humanity’s essential dignity and imperfection. Such giants as Charles Montesquieu, Voltaire, Cesare Beccaria, Jeremy Bentham, John Howard, and William Penn led the movement for reform. The impact of their work, though not confined to any one area, was particularly constructive with regard to the treatment of criminals. Let us consider the contribution made by each.

key term

Age of Enlightenment

A philosophic movement of the eighteenth century marked by a rejection of traditional social, religious, and political ideas and an emphasis on rationalism.

Montesquieu and Voltaire: The French Humanists

The French philosophical thinkers Montesquieu (1689–1755) and Voltaire (1694–1778), along with Denis Diderot (1713–1784), epitomized the Age of Enlightenment’s concern for the rights of humanity. In his essay *Persian Letters*,¹⁸ Montesquieu used his mighty pen to bring the abuses of criminal law to public attention. Voltaire became involved in a number of trials that challenged the old ideas of legalized torture, criminal responsibility, and justice. The humanitarian efforts of those men paralleled the work of the most influential criminal law reformer of the era, **Cesare Beccaria** (1738–1794), founder of the **Classical School**. The best-known work of Beccaria is *An Essay on Crimes and Punishment*, a primary influence in the transition from punishment to corrections. It was the most exciting essay on law of the eighteenth century. It proposed a reorientation of criminal law toward humanistic goals and established the following principles:

1. The basis of all social action must be the utilitarian conception of the greatest happiness for the greatest number.
2. Crime must be considered an injury to society, and the only rational measure of crime is the extent of that injury.
3. Prevention of crime is more important than punishment for crimes; indeed, punishment is justifiable only on the supposition that it helps to prevent criminal conduct. In preventing

profile

Cesare Beccaria

The founder of the Classical School of Criminology.

key term

Classical School

Approach to understanding crime and social policy for offenders.

crime, it is necessary to improve and publish the laws so that the nation can understand and support them, to reward virtue, and to improve the public's education both in regard to legislation and to life.

4. In criminal procedure, secret accusations and torture should be abolished. There should be speedy trials. The accused should be treated humanely before trial and must have every right and facility to bring forward evidence on his or her behalf. Turning state's evidence should be done away with, as it amounts to no more than the public authorization of treachery.
5. The purpose of punishment is to deter persons from the commission of crime and not to provide social revenge. Not severity but certainty and swiftness in punishment best secure this result. Punishment must be sure and swift and penalties determined strictly in accordance with the social damage wrought by the crime. Crimes against property should be punished solely by fines or by imprisonment when the person is unable to pay the fine. Banishment is an excellent punishment for crimes against the state. There should be no capital punishment. Life imprisonment is a better deterrent. Capital punishment is irreparable and hence makes no provision for possible mistakes and the desirability of later rectification.
6. Imprisonment should be more widely employed, but its mode of application should be greatly improved through providing better physical quarters and by separating and classifying the prisoners as to age, sex, and degree of criminality.¹⁹

Although Beccaria himself did not seek or receive great personal fame, his small volume was praised as one of the most significant books produced during the Age of Enlightenment.²⁰



photo 1.5

Cesare Beccaria, the most influential criminal law reformer in the eighteenth century and founder of the Classical School of Criminology.

Chronicle/Alamy Stock Photo

Four of his newer ideas were incorporated into the French Code of Criminal Procedure in 1808 and into the French Penal Code of 1810:

1. An individual should be regarded as innocent until proven guilty.
2. An individual should not be forced to testify against himself or herself.
3. An individual should have the right to employ counsel and to cross-examine the state's witnesses.
4. An individual should have the right to a prompt and public trial and, in most cases, a trial by jury.

Among the philosophers inspired by Beccaria's ideas were the authors of the U.S. Constitution. It seems we owe a great deal to this shy Italian writer of the eighteenth century.²¹

Bentham and the Hedonistic Calculus

Jeremy Bentham (1748–1832) was the leading reformer of the British criminal law system during the late eighteenth and early nineteenth centuries. He believed that if punishments were designed to negate whatever pleasure or gain the criminal derived from crime, the crime rate would go down. He strongly advocated a system of graduated penalties to tie more closely the punishment to the crime. As political equality became a dominant philosophy, new penal policies were required to accommodate this change in emphasis. As Thorsten Sellin stated,

Older penal law had reflected the views dominant in societies where slavery or serfdom flourished, political inequality was the rule, and sovereignty was assumed to be resting in absolute monarchs. Now the most objectionable features of that law, which had favored the upper classes and had provided often arbitrary, brutal, and revolting corporal and capital punishments for the lower classes, were to be removed and equality before the law established. Judicial torture for the purpose of extracting evidence was to be abolished, other than penal measures used to control some conduct previously punished as crime, and punishments made only severe enough to outweigh the gains expected by the criminal from his crime. This meant a more humane law, no doubt, applied without discrimination to all citizens alike in harmony with the new democratic ideas.²²

Bentham believed that an individual's conduct could be influenced in a scientific manner. Asserting that the main objective of an intelligent person is to achieve the most pleasure while experiencing the least amount of pain, he developed his famous "**hedonistic calculus**,"²³ which he applied to his efforts to reform the criminal law. He, like Beccaria, believed punishment could act as a deterrent, but only if it were made appropriately relevant to the crime. This line of thought, adopted by active reformers Samuel Romilly (1757–1818) and Robert Peel (1788–1850) in the early nineteenth century, has been instrumental in the development of the modern prison.

John Howard

John Howard (1726–1790) gave little thought to prisons or prison reform until he was appointed sheriff of Bedfordshire in 1773. The appointment opened his eyes to horrors he had never imagined. He was appalled by the conditions he found in the hulks and gaols (jails) and pressed for legislation to alleviate some of the abuses and improve sanitary conditions. He also traveled extensively on the European continent to examine prisons in other countries. He saw similarly deplorable conditions in most areas but was most impressed by some of the institutions in France and Italy. In 1777, he described those conditions and suggested reforms in his *State of Prisons*. In 1779, Parliament passed the Penitentiary Act, providing four principles for reform: secure and sanitary structures, systematic inspection, abolition of fees, and a reformatory regime.²⁴

profile

Jeremy Bentham

Argued that the crime rate would go down if the amount of punishment were carefully calibrated to deter potential offenders and maximize pleasure.

key term

Hedonistic calculus

Jeremy Bentham's argument that the main objective of an intelligent person is to maximize pleasure while minimizing pain; it was believed that individual's behavior could be influenced in a scientific manner.

profile

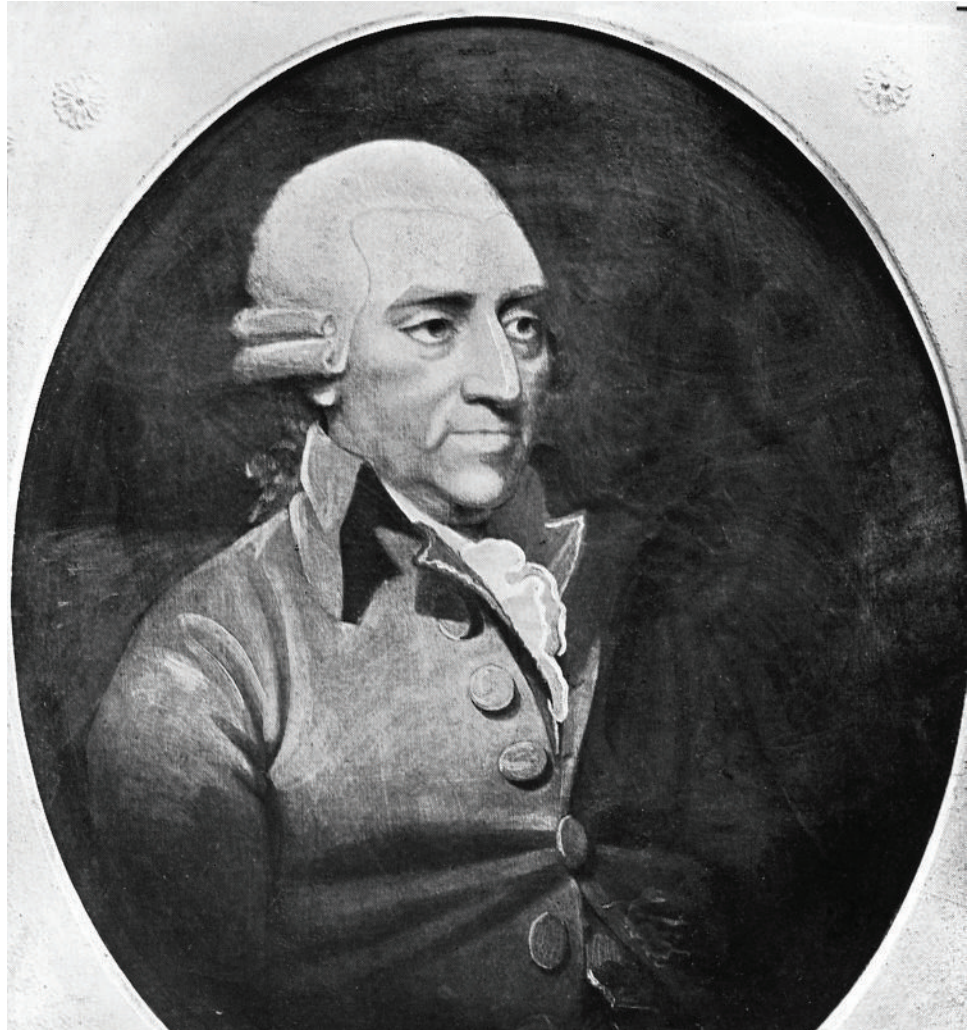
John Howard

An English high sheriff who was so appalled by jail conditions that he undertook a crusade to improve places of detention.

photo 1.6

John Howard, the first English prison reformer.

Lebrecht Music and Arts Photo Library/Alamy Stock Photo



The Penitentiary Act resulted in the first penitentiary, located at Wyndomham in Norfolk, England, and operated by Sir Thomas Beever, the sheriff of Wyndomham. As we will see later, the principles contained in the act, though lofty in concept, were hard to implement in the prevailing atmosphere of indifference. It is ironic that this great advocate for better prison conditions did himself die of jail fever in the Russian Ukraine in 1790. John Howard's name has become synonymous with prison reform, and the John Howard Society has carried his ideas forward to this day.²⁵

HOUSES OF CORRECTION, WORKHOUSES, AND GAOLS

The proliferation of Bridewell-style houses of correction in England was originally intended as a humanitarian move. As a result, in 1576, Parliament ordered that each county in England construct such an institution. They were not merely extensions of almshouses or poorhouses but were actually penal institutions for all sorts of misdemeanants. Although the bloody penalties for major offenses were growing in number, not even the most callous would advocate harsh physical punishment for every offender. All sorts of rogues, from

idlers to whores, were put into the Bridewells, where they were compelled to work under strict discipline at the direction of hard taskmasters. Today, the house of correction and the **workhouse** are regarded as synonymous. The workhouse, however, was actually intended not as a penal institution but as a place for the training and care of the poor. In practice, however, the two soon became indistinguishable, first in England and later in America. Conditions and practices in such institutions were no better than those in the gaols by the turn of the eighteenth century.

The use of **gaols** (“jails”) to detain prisoners has a grim and unsavory history. As the eighteenth century began, gaol administration was usually left up to the whim of the gaoler (jailer), who was usually under the control of the sheriff. Gaols were often used to extort huge fines from those who had the means by holding those people indefinitely in pretrial confinement until they gave in and paid. The lot of the common “gaolbirds” (detained suspects and criminals) was surely not a happy one. Many of the prisoners perished long before their trial dates. The squalid and unhealthy conditions gave rise to epidemics of jail fever that spread to all levels of English life. John Howard claimed that more people died from this malady between 1773 and 1774 than were executed by the Crown.²⁶ Ironically, prisoners, not prison conditions, were blamed for the spread of the deadly disease, and even more sanguinary penalties for offenses were devised. Robert Caldwell describes the typical English gaol:

Devoid of privacy and restrictions, its contaminated air heavy with the stench of unwashed bodies, human excrement, and the discharge of loathsome sores, the gaol bred the basest thoughts and the foulest deeds. The inmates made their own rules, and the weak and the innocent were exposed to the tyranny of the strong and the vicious. Prostitutes plied their trade with ease, often with the connivance and support of the gaolers, who thus sought to supplement their fees. Even virtuous women sold themselves to obtain food and clothing, and frequently the worst elements of the town used the gaol as they would a brothel. Thus, idleness, vice, perversion, profligacy, shameless exploitation, and ruthless cruelty were compounded in hotbeds of infection and cesspools of corruption. These were the common gaols of England.²⁷

It is depressing to think that John Howard, shocked into humanitarian reform efforts when he found himself responsible for one of those human cesspools, was the only sheriff to undertake action against such institutions.

key term

Workhouse

A house of correction for persons guilty of minor law violations; sometimes referred to as a “poorhouse.”

key term

Gaols

Places of confinement in England for persons held in lawful custody, specifically, such a place under the jurisdiction of a local government (as a county) for the confinement of persons awaiting trial or those convicted of minor crimes.

correctional profile 1.1

John Howard

John Howard (1726–1790) was a deep humanitarian champion of bettering the handling and care of prison inmates and was born into a prosperous middle-class family in England. His father was a strict disciplinarian, and John became a difficult and lonely man. Because he was a Calvinist, he chose not to live an extravagant life. He was a complex, lonely, opinionated, self-righteous, and narrow-minded man but well deserving of the accolade of being the father of prison reform. He failed miserably as a father, and his only son was dismissed from a major university, declared insane, and imprisoned some 13 years before he died in a mental institution. His first two marriages were terminated by his spouses’ deaths. Yet he was a generous and compassionate man who spent his inheritance from his father and a behest from his sister (her home and about 15,000 pounds of silver) in pursuit of his career.

To understand his contribution to prison reform, you must know that he was appointed high sheriff in Bedfordshire in 1773, originally for a one-year term. At that time, the post was mostly ceremonial and other high sheriffs had very little interest in inspecting and managing the gaol (jail), which was left in the hands of an undersheriff. Howard inspected the county prison himself and was shocked and repelled by the practices and conditions of jail management in his jail. He found no separation of women from men, felons from misdemeanants, boys from adults, or debtors from murderers. The jail at this time period was a storage facility for the accused until convicted and (usually) executed. During this time, the undersheriff took bribes, favors, and profits that were detrimental to prisoners. Many prisoners were forced to pay for their food for the term of their incarceration. The undersheriff typically charged inmates for bedding, food,

(continued)

and other services. The “going rate” in Howard’s institution was two shillings and six pence a week for the sole use of bedding and sheets. Inmates could cost-share at half that cost (each). If the jailer had to transport an offender, the charge was six pounds (£6).

Conditions were worse than deplorable. There was no running water; the straw on the floor was dust, inmates were charged for drinking water, and food was not otherwise available. Even when declared innocent, the prisoner could not leave confinement without paying the jailer for all charges. There was no medical treatment. In some institutions, typhus fever would kill all inmates, a fate to which John Howard fell. Howard openly criticized his inherited jailer and ordered certain humanitarian changes.

John Howard wanted to find other English and Welsh institutions that would serve as an example for his jail to follow. He began an international tour of cells, dungeons, and torture centers and interviewed prisoners, staff (“turn-keys”), and jailers. His conclusion was that such malpractices were widespread over all jurisdictions. He began to seek better examples in France, Holland, Russia, and Ukraine. He spent £30,000 of his own money in his determination to improve prison conditions. In 1777, he published *The State of Prisons*, a well-received recitation of

the ills of jails and what could be done to improve them. While in Ukraine, John Howard inspected a jail and came down with typhus fever. He is buried in a walled field in Stepanovka, Ukraine.

In about 1868, some 80 years after his death, the Howard Association was formed in London. The American, Canadian, and New Zealand associations were created shortly thereafter. Correctional reform organizations work to improve the conditions and services to prisoners’ families, providing parenting classes, managing contractual reentry programs, and educating the general public of the challenges prisoners’ families and children face. The Howard associations also generate extensive reports provided to legislatures about prison security and funding for programs and prisons designed to reintegrate adult and juvenile inmates. Finally, the Howard associations address issues with long-term prisoners by working to change sentencing policies that extend incarceration in jail longer than the offenders’ original sentences.

SOURCES: Based on JHA Prison Report, Vandalia Correctional Center, “Prison Monitoring Project,” dhoffman@thejha.org. John Howard Society of Niagara, “History of John Howard,” <http://www.jhs-niagara.com/history/history-of-jhs/>.

TRANSPORTATION SYSTEMS

Deportation to the American Colonies and Australia

key term

Banishment

To remove by authority from a state or country; the sentence to cast out of a local residence or country due to criminal behavior on the offender’s part.

key term

Transportation

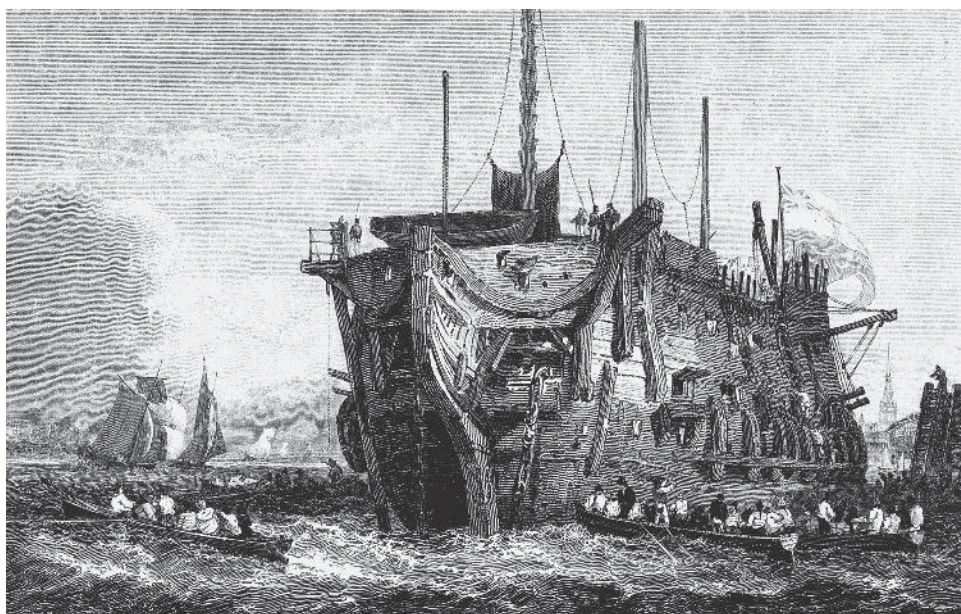
Legal sentence requiring the banishment of the offender to a different location; the act of transporting that offender to another country.

As noted, one of the earliest forms of social vengeance was **banishment**. In primitive societies, the offender was cast out into the wilderness, usually to be eaten by wild beasts or to succumb to the elements. As we have discovered, imprisonment and capital punishment were later substituted for banishment. Banishment to penal servitude was, in effect, civil death. Banishment to the gaols, however, more often than not ended in physical death.

The wandering and jobless lower classes, in the period following the breakup of feudalism, were concentrated mostly in high-crime slums in the major cities. As economic conditions worsened, the number of imprisonable crimes increased to the point that the available prisons were filled. In England, from 1596 to 1776, the pressure was partially relieved by the deportation or **transportation** of malefactors to the colonies in America. Estimates vary greatly of how many original American settlers arrived in chains. Margaret Wilson estimates between 300 and 400 annually;²⁸ other authorities put the figure as high as 2,000 a year. The use of convict labor was widespread before the adoption of slavery in the colonies. And even though the entering flow of dangerous felons was somewhat slowed by the introduction of slavery, the poor and the misdemeanor continued to come in great numbers.

The American Revolution brought transportation to America to an abrupt halt in 1776, but England and Ireland²⁹ still needed somewhere to send the criminals overloading their crowded institutions. Captain James Cook had discovered Australia in 1770, and soon the system of transportation was transferred to that continent. It was planned that the criminals would help tame that new and wild land. More than 135,000 felons were sent to Australia between 1787 and 1875, when the British finally abandoned the system.

Transportation ships were hired transports employed to convey convicts from England to New South Wales. Private business entrepreneurs carried offenders to another country

**photo 1.7**

Example of an old British hulk (ship) used to house convicts.
World History Archive/Superstock

for a fee, essentially making a pound off the backs of offenders. Contractors received between 20 and 30 pounds of silver per head. The more convicts carried, the greater the profit would be; thus, overcrowding on the ships was the rule, not the exception. As a result of such a state of confinement, the most loathsome diseases were common, and the death rate was extremely high: 158 of 502 who were placed on the *Neptune* in 1790 for conveyance to Australia died en route, and 95 of the 300 placed into the holds of the *Hillsborough* in 1799 died during the voyage. Those who did arrive were so near dead that they could not stand, and it was necessary to sling them like goods and hoist them out of the ships, and when first landed, they died at the rate of 10 to 12 a day. The government attempted in 1802 to correct these evils by sending convicts twice a year in ships specially fitted for the purpose that were under the direction of a transport board and commanded by naval officers.³⁰ Although the transports continued to be crowded, health conditions apparently improved greatly because Sir T. B. Martin, head of the transport board, reported in 1819 that “within the past three years, only 53 out of 6,409 convicts (a rate of 1 in 112) had died. Out of the 10 transports that had recently sailed, only one or two had died” (<http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1864&context=jclc>).

Hulks: A Sordid Episode

From 1776 to 1875, even with limited transportation to Australia, the increased prisoner loads wreaked havoc in England’s few available facilities. The immediate solution to that problem created one of the most odious episodes in the history of penology and corrections: the use of old **hulks**, abandoned or unusable transport ships anchored in rivers and harbors throughout the British Isles, to confine criminal offenders. The brutal and degrading conditions found in the gaols, houses of correction, and workhouses paled in comparison with the conditions found in those fetid and rotting human garbage dumps.

Those responsible for the hulks made no attempt to segregate young from old, hardened criminals from poor misdemeanants, or even men from women. Brutal flogging and degrading labor soon bred moral degeneration in both inmates and keepers. The hulks were originally intended only as a temporary solution to a problem, but they were not completely abandoned until 1858, 80 years later. (Hulks were used in California in the nineteenth century, and one state, Washington, considered the use of decommissioned

key term

Hulks

Abandoned or unusable transport ships anchored in rivers and harbors that confined criminal offenders.

U.S. Navy warships in 1976. New York used a floating jail for some time in the 1980s.) This episode in penal history becomes especially relevant when the problems of overcrowding in our maximum-security prisons are examined.

EARLY CELLULAR PRISONS

The Maison de Force at Ghent and the Hospice of San Michele

key term

Maison de Force

A Belgian workhouse for beggars and miscreants, designed to make a profit by an enforced pattern of hard work and both discipline and silence. An important rule: "If a man will not work, neither let him eat."

In his travels through Europe, John Howard was most impressed by Jean-Jacques Vilain's **Maison de Force** (stronghouse) at Ghent, Belgium, and by the Hospice (hospital) of San Michele in Rome. Although those institutions had developed along individually different lines, both made lasting impressions on Howard. Both served as workhouses, but otherwise they had little in common. Their differences were more important than their similarities.

Predecessors of the Belgian workhouses were those in neighboring Amsterdam, constructed around 1596. Most were intended to make a profit,³¹ not to exemplify humanitarian ideals, and were seen as a place to put rogues and able-bodied beggars to work. The workhouses were modeled after the Bridewell institution in England and followed a similar pattern of hard work and cruel punishment. By the eighteenth century, Belgium, too, was faced with increasing numbers of beggars and vagrants, and the government called on administrator and disciplinarian Jean-Jacques Vilain for help. His solution—the *Maison de Force* built in Ghent in 1773—followed the basic workhouse pattern established in Holland and England, but in many respects it was far more just and humane.

Vilain's efforts at improving the administration of the workhouse earned him an honored place in penal history. He was one of the first to develop a system of classification to separate women and children from hardened criminals and felons from minor offenders. Although he was a stern disciplinarian, he was opposed to life imprisonment and cruel punishment. Rather, he defined discipline by the rule, "If any man will not work, neither let him eat." Vilain's use of individual cells and a system of silence while working resembled the procedures observed at the Hospice of San Michele in Rome. His far-reaching concepts of fair and just treatment, when viewed against the harsh backdrop of that era, mark Vilain as a true visionary in the correctional field.

key term

Hospice of San Michele

A corrections facility designed for incorrigible boys and youth that included silence, large work areas, and separate sleeping cells. Both expiation and reform were intended goals.

The **Hospice of San Michele** was designed for incorrigible boys and youths under age 20. As such, it is generally recognized as one of the first institutions to handle juvenile offenders exclusively. Prisoners were administered massive doses of Scripture and hard work in hopes that this regimen would reform them. The rule of strict silence was enforced through the flogging of violators. (The use of separate cells for sleeping and a large central hall for working became the model for penal institutions in the nineteenth century.) This concept of expiation and penance, as applied to corrections, was new and exciting to John Howard, and his Puritan ethic enabled him to see the value of repentance and hard work as demonstrated by the program at San Michele. Under somewhat different policies, the Hospice of San Michele is still used today as a reformatory for delinquent boys.

The main concepts that carried over from the early cellular institutions were the monastic regimen of silence and expiation, the central community work area, and individual cells for sleeping. The philosophy of penitence and monastic contemplation of past wrongs espoused by those institutions was reflected in the Quakers' early prison efforts in America.

William Penn and the "Great Law"

The American colonies were governed by the British under codes established by the Duke of York in 1676 and part of the older Hampshire Code established in 1664. These codes were similar to those followed in England, and the use of capital and corporal punishment

was the rule of the day. Branding, flogging, the stocks, the pillory, and the brank were also used extensively.

William Penn (1644–1718), the founder of Pennsylvania and leader of the Quakers, brought the concept of more humanitarian treatment of offenders to America. The Quaker movement was the touchstone of penal reform not only in America but also in Italy and England through its influence on such advocates as Beccaria and Howard. Compared with the other harsh colonial codes in force at the time, **the Great Law** of the Quakers was quite humane. This body of laws envisioned hard labor as a more effective punishment than death for serious crimes, and capital punishment was eliminated from the original codes. Later, in supplementary acts, murder and manslaughter were included as social crimes. Only premeditated murder was punishable by death, with other criminal acts treated according to the circumstances.

It is interesting to note that the Quakers' Great Law did away with most religious offenses and stuck to strictly secular criminal jurisprudence, a departure from the codes of other colonies and the earlier European codes. Under the Great Law, a "house of corrections" institution was established where most punishment was meted out in the form of hard labor. This was the first time that correctional confinement at hard labor was used as a punishment for serious crimes and not merely as a preface to punishment scheduled for a later date.

The Quaker Code of 1682 was in force until 1718, when it was repealed, ironically, only one day after the death of William Penn. The English Anglican Code replaced the Great Law, and the mild Quaker philosophy gave way to harsh punishments. The new code

profile

William Penn

Quaker leader who created the state of Pennsylvania and a system of justice that required compensation of victims and repentance to restore the offender to God's grace.

key term

The Great Law

Body of laws of the Quakers that saw hard labor as a more effective punishment than death for crimes and one that demanded compensation to victims.



photo 1.8

William Penn, English Quaker Reformer, founder of Pennsylvania.

Portrait Essentials/ALamy Stock Photo

was even worse than the previous codes of the Duke of York. Capital punishment was prescribed for 13 offenses,³² and mutilation, branding, and other corporal punishments were restored for many others.

The influence of Montesquieu, Voltaire, Beccaria, Bentham, Howard, and Penn was felt throughout colonial America. Much of the idealism embodied in the U.S. Constitution reflects the writings of those progressive eighteenth-century leaders. With their philosophies in mind, we can consider some of the major developments in correctional practice in that era of reform.

The Walnut Street Jail

As we have seen, the world of the eighteenth century had prisons, but they were generally used as places of detention for minor offenders and for pretrial confinement. One of the earliest American attempts to operate a state prison for felons was located in an abandoned copper mine in Simsbury, Connecticut.³³ This underground prison began operation in 1773 and quickly became the site of America's first prison riots in 1774. Although some have called it the first state prison, it was really not much more than a throwback to the sulfur pits of ancient Rome, and it did nothing to advance the state of American corrections. The prisoners were housed in long mine shafts, and the administration buildings were placed near the entrances. Underground mine shaft prisons constituted one of several American attempts to provide a special place in which to house and work convicted felons. The establishment of such a special facility was finally accomplished in Pennsylvania in 1790.

The Walnut Street Jail, until the innovation of solitary confinement for felons, was typical of colonial jails. They are described in David J. Rothman's *Discovery of the Asylum* (Boston: Little, Brown, 1971, p. 55). Jails in fact closely resembled the household in structure and routine. They lacked a distinct architecture and special procedures. When the Virginia burgess required that county prisons be "good, strong, and substantial" and explicitly recommended that they follow "after the form of Virginia housing," results were in keeping with these directions. The doors were perhaps somewhat sturdier and the locks slightly more impressive, but the general design of the jail was the same as for an ordinary residence. True to the household model, the keeper and his family resided in the jail, occupying one of its rooms; the prisoners lived several together in the other rooms, with little to differentiate the keeper's quarters from their own. They wore no special clothing or uniforms, and usually neither cuffs nor chains restrained their movements. They walked—not marched—about the jail. The workhouse model was so irrelevant that nowhere were they required to perform the slightest labor.

It is hard to imagine a time when there were no long-term penitentiaries for felons, but before 1790 that was the case. Ironically, in that year, the first **penitentiary** in America, the prototype of the modern prison system, was born in the same city that spawned the fledgling United States as a nation. Philadelphia, Pennsylvania, the home of the Declaration of Independence, is also—thanks to the Quakers—the home of the **Walnut Street Jail**, the first true correctional institution in America.

key term

Penitentiary

Originally a detention center in which inmates could do penance and repent or turn away from crime; now any larger penal institution for detention of inmates.

key term

Walnut Street Jail

First penitentiary created in Philadelphia by the Quakers.

correctional practice 1.3

Newgate Prison

The Newgate Prison (later the Copper Mine) began as a copper mine in 1773 and was first used to house serious offenders. The first prisoner (John Hinson) was committed in 1773. During the Revolutionary War, both

Tories and Loyalists were housed there. It was the first state prison in America and the site of the first prison riot. Newgate closed as a prison in 1827 and was then repurposed as a mine.

policy positions 1.1

Correctional Officers Smuggling Marijuana and Cell Phones to Inmates

You are the chief administrator of a correctional facility that has a strong security threat group ("prison gang") that frequently violates the fraternization rules of your institution, including at least 10 officers who are suspected of participating by bringing contraband and cell phones into the facility. Four of your female correctional officers are pregnant and name a certain inmate as the father. That inmate is the leader of the security threat group.

1. As superintendent, what would you do?
2. How would you handle the "pregnant officers" issue?
3. How could you lessen the power of the security threat group?

Originally, the penitentiary was a place where offenders reflected on their crimes and repented (or changed). Today the term refers to a major adult facility where felons are incarcerated as punishment.

Despite earlier efforts at prison reform, the Quakers had been thwarted in their humanistic goals by the repeal of Penn's Great Law in 1718. In 1776, the first American Penitentiary Act was passed, but its implementation was delayed because of the War of Independence. In 1790, with the Revolution behind them, the Quakers reasserted their concern with the treatment of convicted criminals.³⁴ After much prodding, they convinced the Pennsylvania legislature to declare a wing of the Walnut Street Jail a penitentiary house for all convicted felons except those sentenced to death.³⁵ Thus, although prisons, gaols, dungeons, and workhouses had been in existence for years, this wing was the first to be used exclusively for the correction of convicted felons.

Some of the concepts embodied in the Walnut Street Jail had their antecedents in the charter of William Penn in 1682. Those provisions, repressed by the harsh Anglican Code, were as follows:

1. All prisoners were to be bailable.
2. Those wrongfully imprisoned could recover double damages.
3. Prisons were to be free as to fees, food, and lodging.
4. The lands and goods of felons were to be liable for confiscation and double as restitution to injured parties.
5. All counties were to provide houses to replace the pillory, stocks, and the like.³⁶

Although not all of the idealistic reforms were adopted, the direction of change had been established. The system of prison discipline developed at the Walnut Street Jail became known as the **Pennsylvania system**. The Pennsylvania system was developed through the ideas and efforts of such reformers as Benjamin Franklin (1706–1790) and Benjamin Rush (1745–1813), building on the humanitarian ideals of Howard, Bentham, Beccaria, and Montesquieu. Patriot and war hero William Bradford (1721–1791), who drafted the codes that implemented the system, praised the European reformers in the state legislature.

As originally conceived, the basic element of the Pennsylvania system called for solitary confinement without work. It was assumed that this method would result in quicker reformations. Offenders could reflect on their crimes all day and would soon repent so they might rejoin humanity. The terrible effects of such isolation—physical and psychological—soon became apparent. Some kind of work had to be provided, as well as moral and religious instruction, to maintain the prisoners' mental and bodily health. The work schedule thus was from 8 to 10 hours a day, and the prisoner worked in isolation, usually on piecework or handicrafts.

key term

Pennsylvania system

The system of prison discipline using isolation or solitary confinement with both a work requirement and moral and religious instruction.

photo 1.9

The Eastern Penitentiary.
 Atsuko Ellie Teramoto/Alamy Stock
 Photo



policy positions 1.2

Assassination of the Director of Your State's Department of Corrections

The director is sitting at home just before dinner when the doorbell rings. The director goes to the door, where he is shot to death by a recently released parolee. The killer flees, only to be tracked to another state where he exchanges gunfire with state police. The killer is slain, and ballistic tests show that the gun he used in the firefight is identical to the firearm used to shoot the director. You are selected to be the director's replacement.

1. As director, what personal safety strategies would you adopt to lessen your being killed by other parolees?
2. What would you ask local law enforcement officials to do for you?
3. What changes would you ask the State Parole Agency to make?

policy positions 1.3

Court Intervention

Your prisons are so overcrowded that the medical staff cannot handle the overload. A lawsuit initiated by inmates leads state and federal courts to order reducing your

number of prisoners as a first step in providing constitutionally guaranteed minimum medical treatment. You have to release 43,000 inmates. Which ones would you release?

Increasingly more convicts were sent to the new state prison, and overcrowding shattered early hopes for its success. Even the original system of separate areas for women and children broke down with the flood of inmates. But despite the ultimate failure of the Walnut Street Jail program, it represented a major breakthrough for penology. New prisons were soon in demand throughout America, and the Walnut Street Jail was copied extensively in at least 10 states and many foreign countries.³⁷

Role of Corrections Summarized

In sum, corrections are elements of social control of law offenders through the criminal justice system, and are designed to punish and change the behavior of those convicted so they will not reoffend (recidivate). The goals of corrections are to lower the volume of crime, increase public safety, control incarcerated offenders, prepare them for eventual release, and then supervise them after release to prevent recidivism (criminal reoffending). The earlier correctional giants of the 1800s saw and worked toward these goals.

Summary

Corrections refers to those elements of social control that deal with criminal offenders who are arrested, convicted, and processed within the criminal justice system. In more recent years, with the developments of alternatives to imprisonment and decreasing corporal punishment, the role of corrections has been extended to include nonincarcerative punishments. As we all shall see, contemporary corrections, then, has been extended to include diversion, intermediate punishments, and clemency.

blood began a form of retribution now known as *vengeance*. Later, when society became more complex and organized, the state and political leaders imposed themselves as the major victims, punishing and controlling crime in the name of the state. This was particularly true as found in the conflict between church law and the state, an argument eventually won by the state. Church punishments were minimized, but the power of the state to regulate behavior increased.

Summarize the Definition, Mission, and Role of Corrections

The role of corrections is to both punish and rehabilitate. The objective is to protect society through punishment and offender change. Punishment is a basic objective, but there is room for rehabilitation. Thus, many state departments of corrections are known as the Department of Rehabilitation and Corrections.

Summarize Sentencing Goals and Primary Punishment Philosophies

In this chapter, you have learned the primary sentencing goals: correct the offender, initiate repentance and contrition, control behavior by reinforcing the difference between right and wrong, reducing crime to provide increased public safety, and eradication of dangerous offenders intent on pursuit of a predatory and punitive life. The questions of this era boiled down to three arguments: (1) offenders are evil and must be extinguished, (2) offenders are out of step with God and need to repent, and (3) offenders are sick and need to be cured. In the coming chapters, we will encounter additional arguments: (1) offenders are poorly prepared to function as constructive and favorable citizens, so the state needs to provide education and training to prevent the offender's return to crime ("recidivism"), and (2) crime is generated by the society that fails to provide the necessary services, so the state needs to change to help all people. All told, these are the evil, religious, curative, educational, and societal reformation thrusts.

Summarize Early Responses to Crime Prior to the Development of Prisons

Original punishments by the state included banishment, corporal and capital punishments, torture, and shaming. Stocks, pillories, branding, maiming, and executions were the primary means of crime control. There were no jails or prisons, and corporal and capital punishment prevailed. In the eighteenth through twenty-first centuries, corrections moved to become more humanitarian and less brutal. It was in this later period that correctional leadership embraced development of correctional facilities (such as gaols, workhouses, and jails.) Until very recently, places in which offenders could do penance and turn their lives around (repent) were rare. Most correctional changes resulted from the contributions of highly religious and usually wealthy humanitarians.

Outline the Development of the Prison

The prison developed through local innovations: segregation of inmates by sex, convicted from the unconvicted, and juveniles from adults. The Quakers made major impacts on American corrections, organizing the first penitentiary ("place to do penance") and establishing sufficient societal interest to encourage a place of confinement both before and then after conviction. The great thinkers and actors of the Enlightenment, especially in France and England, provided the intellectual background from which the prison system grew.

Describe How Secular Law Emerged

The earliest form of corrections was no doubt *banishment*: the expelling of a criminal offender from the group and nation. Left alone, most banished offenders fell victim to predatory animals and perished. In addition, avengers of

Key Words

retaliation, 5	<i>lex eterna</i> , 10	workhouse, 17
blood feud, 5	<i>lex naturalis</i> , 10	gaols, 17
vendetta, 5	<i>lex humana</i> , 10	banishment, 18
<i>lex salica</i> , 5	criminology, 10	transportation, 18
<i>wergeld</i> , 5	Mamertine Prison, 11	hulks, 19
<i>friedensgeld</i> , 5	sanctuary, 12	Maison de Force, 20
outlaw, 5	Bridewell, 12	Hospice of San Michele, 20
<i>lex talionis</i> , 6	jail fever, 12	William Penn, 21
civil death, 6	Age of Enlightenment, 13	The Great Law, 21
“get right with God,” 6	Cesare Beccaria, 13	penitentiary, 22
Inquisition, 7	Classical School, 13	Walnut Street Jail, 22
corporal punishment, 8	Jeremy Bentham, 15	Pennsylvania system, 23
brank, 9	“hedonistic calculus,” 15	
cat-o’-nine-tails, 9	John Howard, 15	

Review Questions

- At what point in a society’s development does retaliation begin to become criminal law?
- What effect did the church’s increasing power have on punishment?
- What was the first punishment imposed by society?
- What is meant by civil death?
- What is meant by free will?
- What form of punishment has been most widely used?
- What is meant by “deterrence as a result of punishment”?
- What were some of the earliest forms of imprisonment?
- From what does most American law derive?
- What was Beccaria’s main contribution to corrections?
- What were John Howard’s four principles for a penitentiary system?
- Many reformers tried to improve prison conditions in the eighteenth century. Name at least three and describe their major contributions.
- Why is it important to study corrections?
- What objectives is the correctional system expected to fulfill?

Application Case Studies

- Your summer internship requires you to join other full-time employees in evaluating the conditions of jails within your county. Your team stumbles across a jail extension that you find is unacceptable by local standards. If these conditions are revealed, the county would be in violation of local health standards. Your coworkers want to keep these conditions secret. What would you do?
- A local juvenile male facility was built in 1890 and now has a large “debtor’s graveyard” in which juveniles in custody were buried. Rumors have widely circulated that the dead probably died at the hands of the institutional staff. A former facility guard informs you that three particular juveniles he knew in the facility died suddenly and were buried without autopsy. What would you do?
- Your father worked for 20 years as the curator of an old but small state prison that was closed about a decade ago. His particular job was to maintain the physical plant and keep intruders away. Since you were age 12, you helped him during the summers. Now that he is going to retire and you are an adult, he recommends you as his replacement, and the Board of Oversight offers you the job. What five things would you try to do in the first year?
- You joined the Pennsylvania Prison Society and were asked to serve on the Reconstruction Committee. The Committee Chairwoman asks committee members to provide her with a list of activities designed to raise funds to reconstruct and rehabilitate the first floor cell block. What five activities to raise funds would you suggest?

Group Discussion Questions

1. Define and contrast capital punishment with corporal punishment.
2. Resolved: Instead of putting petty criminals in jail, they should be caned as their punishment.
3. Why are Montesquieu and Voltaire important to the development of correctional punishments?
4. Resolved: Petty criminals should be compelled to attend workhouses by day so they might earn a living.
5. Why is John Howard so significant in the formation of penal sanctions?
6. What effects has prison crowding had on constructive changes in corrections?

Homework Assignments

1. Your instructor asks you to prepare a ten-minute speech on caning as a punishment, and arguments against it. What five points would you make?
Reading: "U.S. Student Tells of Pain Of His Caning In Singapore," <http://www.nytimes.com/1994/06/26/us/us-student-tells-of-pain-of-his-caning-in-singapore.html>.
Videotape: "Indonesia woman Nur Elita caned in public for breaking Sharia Law in Aceh province—TomoNews," <https://video.search.yahoo.com/yhs/search?fr=yhs-mozilla-002&hsimp=yhs-002&hspart=mozilla&p=caning#id=1&vid=de019512fcbee8640bb720df675b26fe&action=click>.
2. Write a two-page essay on the criminal code espoused by William Penn, speaking to the constructive elements that would have healed the damages of the crime.
Read: William Penn, <http://www.ushistory.org/penn/>.
Read: William Penn, <https://www.landofthebrave.info/william-penn.htm>.

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- BBC, "John Howard (1726–1790)," http://www.bbc.co.uk/history/historic_figures/howard_john.shtml.

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8. This religious requirement brought the two issues of sin and crime into the same arena and broadened the scope of the church courts. The offender was obligated to make retribution to both God and the state.
9. V. A. C. Catrell, *The Hanging Tree: Execution and the English People: 1770–1868* (New York: Oxford University Press, 1994).

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27. Robert G. Caldwell, *Criminology* (New York: Ronald Press, 1965), p. 494.
28. Margaret Wilson, *The Crime of Punishment* (New York: Harcourt, Brace and World, 1931), p. 224.
29. Bob Reece, *The Origins of Irish Convict Transportation to New South Wales* (New York: Palgrave, 2001). A British pound (£) meant 10 ounces of purse silver. The typical farmer in the United States at that time might earn three pounds a year.
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Philip Scalia/Alamy Stock Photo

Objectives

- Summarize the definition, mission, and role of corrections from 1790 until 1910.
- Compare and contrast the Pennsylvania and Auburn systems.
- Explain why the Auburn system became the dominant prison design.
- Describe prison development from the reformatory era to the modern era.

chapter 2

Prisons (1800 to the Present)

Outline

What Is the Emerging Role of Corrections?

The Pennsylvania System

The Auburn System

- Discipline at Auburn

Prison Competition

Economics Wins Out

Prison Rules

Change in the Wind

- Maconochie and Crofton: A New Approach
- Maconochie and the Indeterminate Sentence
- Crofton and the Irish System

The Reformatory Era (1870–1910)

Post–Civil War Prisons

The Twentieth Century and the Industrial Prison

The Period of Transition (1935–1960)

The Modern Era

New Emphases Emerge in Corrections

Internally Sought Reform

- The Prison Population Boom

To the builders
of this nitemare
Though you may
never get to read
these words I pity
you; For the cruelty
of your minds have
designed this Hell;
If men's buildings
are a reflection
of what they are,
This one portraits
the ugliness of all
humanity. IF ONLY
YOU HAD SOME
COMPASSION

—On a prison wall

Overview

The first chapter acquainted the student with how corrections has grown from individual to group punishment, then from group punishment to legal codes and punishment applied by the country or state. We saw how the idea of reform by penitence in the Walnut Street Jail grew to be a whole new concept—the penitentiary. In this chapter, we examine how this simple concept grew into the vast network of prisons across America by exploring the first two competing concepts or systems of prison design and construction in the United States.

The student should remember that corrections must always ask the question “Who are offenders, and what are we expected to do with them?” The most common schools of thoughts are the following: Offenders are (1) evil and must be punished, (2) out of touch with God and need to repent, (3) uneducated and ill trained to function in modern society, and (4) sick and in need of being cured. The answers to these questions are commonly known as the punishment, reform, education, and medical models of corrections. In the final part of this chapter, we explore the philosophical foundations on which these models were constructed and explain some of the rationales underlying current correctional developments. It is essential for the student to understand why this nation has entered into an age of massive change in public acceptance of crime and criminal and prison operations, what goals are being sought, and what might be the implications of the adoption of

new programs, operations, and facilities. We begin with the two major competing concepts or systems that evolved and fought for prison designs and construction in the United States for the majority of the twentieth century.

WHAT IS THE EMERGING ROLE OF CORRECTIONS?

As was noted in Chapter 1, the field of corrections has expanded to include roles other than the execution or expulsion of tribal members who violated rules of conduct as expected of citizenry in those groups. Corporal punishment and capital punishment were the major methods for sanctioning rule violators at that time.

Since those early dates of 2000 B.C. to present, corrections assumed many additional goals: reforming law offenders, protecting society through incarceration, reducing later criminal offending, educating and training of persons without the necessary skills to exist in increasingly complex societies, making the sick well, preparing offenders for release back into the community, supervising offenders when released, and a wide variety of crime prevention programs. The role of correctional goals is still expanding, and correctional programs are expected to do more with fewer resources. To comprehend the vast changes, we start with the two major forms of places in which offenders might reform: the major penitentiary models.

THE PENNSYLVANIA SYSTEM

key term

Pennsylvania system

Early prison system requiring inmate silence, individual cells, and inmate labor in those cells.

With the advent of the nineteenth century and the social upheaval produced by the Industrial Revolution, the citizens of Pennsylvania led the way in developing the penitentiary system. The Walnut Street Jail had been fairly effective for a decade, and the earlier **Pennsylvania system** was copied extensively in both architectural design and administration. But when the Philadelphia Society for the Alleviation of the Miseries of Public Prisons¹ observed the many emerging problems at the Walnut Street Jail, a radically new kind of prison was proposed for the state. It was suggested by some that solitary confinement without labor continue to be used as the sole reformatory process.

The Western Penitentiary at Pittsburgh, built in 1826, was based on the cellular isolation wing of the Walnut Street Jail. Essentially, the Western Penitentiary amounted to a poor imitation of Jeremy Bentham's proposed prison (Panopticon), an octagonal monstrosity that originally provided for solitary confinement and no labor. The legislature amended the program in 1829, maintaining solitary confinement but adding the provision that inmates perform some labor in their cells. In 1833, the small dark cells were torn down, and larger cells with enclosed exercise yards (**outside cells**)² were built. The efforts influenced the development of what became the Eastern Penitentiary, located in Philadelphia.

The **Eastern Penitentiary** became the model and primary exponent of the Pennsylvania, or "separate," system. This prison was built like a square wheel, with the cell blocks arranged like spokes around the hub, or central rotunda. The routine at Eastern was solitary confinement, silence, and labor in outside cells. This arrangement clearly stressed the maximum and continuous amount of separation of each inmate from all the others.

Although the Pennsylvania system aroused great international interest, it was adopted by only two other states. The New Jersey State Penitentiary in Trenton began operations in 1837, along the lines of the separate system. It was soon abandoned, however, in favor of that used at Auburn, New York. Rhode Island followed the same pattern as that of New Jersey. Its first prison, built in 1838 along the lines of the Eastern Penitentiary, had abandoned the separate system by 1852. By contrast, many European countries wholeheartedly adopted the Pennsylvania model.³

key term

Outside cells

Prison cells attached to a corridor with the back of the cell extending outward toward a peripheral wall.

key term

Eastern Penitentiary

Prison facility designed on the Pennsylvania system with rows of individual cells attached to corridors and outside cells.

**photo 2.1**

A reconstructed view of a Pennsylvania cell.

Recreated 1830s cell, 2001.

Photo: Tom Brault.

**photo 2.2**

Al Capone's luxurious cell in Eastern Penitentiary.

Rick Decker/Alamy Stock Photo

THE AUBURN SYSTEM

The major evils of the jails and other confinement facilities before 1800 were indiscriminate congregate confinement and enforced idleness. The rapid debasement of the prisoners when kept in filthy conditions, with men, women, and children thrown together under a regime of neglect and brutality, appalled the early reformers. The long-term prisons established in the last decade of the eighteenth century were not just a substitute for capital and corporal punishment; they were total administrative and custodial systems intended



photo 2.3

A cell in the original part of Sing Sing Prison.

Library of Congress Prints and Photographs Division [LC-DIG-ggbain-17943]

key term

Inside cells

Prison cells that do not touch the outside walls of the cell block.

key term

Auburn system

Prison model consisting of small individual cells, a large work area for group labor, and enforced silence.

to remedy the evils of the old methods. In the first quarter of the nineteenth century, administrators experimented with many new systems. The leading contenders for the world's attention were the Eastern Penitentiary and the New York State Prison at Auburn, opened in 1819.

The Auburn prison administrators developed a system that was almost the opposite of that used at the Eastern Penitentiary. The building itself was based on a new **inside cell** design,⁴ and the cells were quite small when compared with those at Eastern. The small cells were designed to be used only for sleeping, not as a place for work. In addition, a new style of discipline was inaugurated at Auburn that became known as the **Auburn, or “congregate,” system**.

In the early years of the Auburn prison, administrators tested the efficacy of the Pennsylvania system. They selected 80 of the most hardened convicts, placing them in solitary confinement and enforced idleness for two years, from Christmas 1821 through Christmas 1823. So many of those men succumbed to sickness and insanity that the experiment was discontinued long before the two-year mark. The Auburn administration thus claimed failure for solitary confinement when the method included idleness. Given the small inside cells in Auburn, their claim was no doubt a valid one. However, the Auburn experiment cannot be considered a fair comparison to the Pennsylvania system because the latter system used large outside cells and provided for handicraft and other labor in the cells.⁵

Discipline at Auburn

An unfortunate by-product of the badly planned Auburn experiment was the use of solitary confinement (now usually termed administrative segregation) as a means of punishment within the prison. The discipline regimen at Auburn also included congregate work in the shops during the day, separation of prisoners into small individual cells at night, silence at all times, lockstep marching formations, and a congregate meal at which the prisoners sat face-to-back.⁶ There was great emphasis on silence. In the belief that verbal exchange between prisoners was contaminating, conversation was prevented by liberal use of the whip. An excellent description of the Auburn system in its early stages, drawn from a letter by Louis Dwight (1793–1854), who was an early advocate of the Auburn system, as quoted by Harry Elmer Barnes (1889–1968) follows:

At Auburn we have a more beautiful example still of what may be done by proper discipline, in a prison well constructed. It is not possible to describe the pleasure which we feel in contemplating this noble institution, after wading through the fraud, and the material and moral filth of many prisons. We regard it as a model worthy of the world's imitation. We do not mean that there is nothing in this institution which admits of improvement; for there have been a few cases of unjustifiable severity in punishments; but, upon the whole, the institution is immensely elevated above the old penitentiaries. The whole establishment, from the gate to the sewer, is a specimen of neatness. The unremitted industry, the entire subordination and subdued feelings of the convicts, has probably no parallel among an equal number of criminals. In their solitary cells they spend the night, with no other book but the Bible, and at sunrise they proceed, in military order, under the eye of the turnkeys, in solid columns, with the lock march, to their workshops; thence, in the same order at the hour of breakfast, to the common hall, where they partake of their wholesome and frugal meal in silence. Not even a whisper is heard; though the silence is such that a

whisper might be heard through the whole apartment. The convicts are seated, in single file, at narrow tables, with their backs towards the center, so that there can be no interchange of signs. If one has more food than he wants, he raises his left hand; and if another has less, he raises his right hand, and the waiter changes it. When they have [finished] eating, at the ringing of a little bell, of the softest sound, they rise from the table, form the solid columns, and return, under the eye of the turnkeys, to the workshops. From one end of the shops to the other, it is the testimony of many witnesses that they have passed more than three hundred convicts, without seeing one leave his work, or turn his head to gaze at them. There is the most perfect attention to business from morning till night, interrupted only by the time necessary to dine, and never by the fact that the whole body of prisoners have done their tasks, and the time is now their own, and they can do as they please. At the close of the day, a little before sunset, the work is all laid aside at once, and the convicts return, in military order, to the solitary cells, where they partake of the frugal meal, which they were permitted to take from the kitchen, where it was furnished for them as they returned from the shops. After supper, they can, if they choose, read Scripture undisturbed and then reflect in silence on the errors of their lives. They must not disturb their fellow prisoners by even a whisper.⁷

The Auburn system became the pattern for more than 30 state prisons in the next half century. Sing Sing Prison in New York followed the Auburn pattern in 1825. Wethersford Prison in Connecticut copied the Auburn system but used a more moderate form of brutal punishments. Later prisons modeled their disciplinary systems after Wethersford.

Auburn's structural design, with inside cells and wings composed of two to four tiers of cells (**cell blocks**), became the model for most prisons built in the following 150 years. Many variations and innovations on the Auburn concept were developed. The most popular of those types, first constructed in 1898 at Fresnes, France, became known as the "telephone pole" design. Regardless of the cell-block arrangement, the inside cell design became the most common model in America.

One of the more important but less noted aspects of early prison architecture was the grand scale and sheer size of the institutions. "Bigger is better" (and more cost effective) was the watchword of early prison builders. Huge gothic-style structures achieved an effect similar to that of the medieval castles or cathedrals of Europe. They made the people inside seem small and insignificant. This feeling was further enhanced by the stern discipline employed in these huge castles of despair. Size is discussed again in later chapters, but we should note here that the size of the early prisons gave rise to a subtle pressure to keep them filled with society's castoffs.

PRISON COMPETITION

The main theme in both the Pennsylvania and the Auburn prison systems was the belief that a regimen of silence and penitence would prevent cross infection and encourage improved behavior in the prisoner. Supporters of the Pennsylvania system claimed it was easier to control the prisoners, gave more consideration to their individual needs, prevented contamination by the complete separation of prisoners from one another, and provided more opportunity for meditation and penitence. Another advantage they cited was that prisoners could leave the Pennsylvania system with their background known only to a few administrators because they did not come in contact with other prisoners.

On the other hand, supporters of the Auburn or congregate system argued that it was cheaper to construct and get started, offered better vocational training, and produced more money for the state.⁸ The persuasive power of economics finally decided the battle, and the **congregate system** was adopted in almost all other American prisons, even in Pennsylvania. The Western Penitentiary was converted in 1869, and finally, in 1913, the Eastern Penitentiary changed its system. The capitulation of the Pennsylvania system

key term

Cell blocks

Multitier living cells usually stacked one atop the other, built within a hollow building and not touching exterior walls.

key term

Congregate system

Prison modeled on the Auburn system with inmate work and feeding done en masse, in total silence.

followed many long years of fierce controversy between the two systems. “The only gratifying feature of the controversy was that both systems were so greatly superior to the unspeakable ... system which they displaced that their competition inevitably worked for the betterment of penal conditions.”⁹

ECONOMICS WINS OUT

While both the Pennsylvania and Auburn systems were measurably more humane and effective than those systems that preceded them, political figures and prison officials began to debate which type of penitentiary should be constructed in their state. Competition was keen and strong advocates debated both options.

As will be seen later, the Pennsylvania system required handicraft by prisoners within their large but solitary cells. The Auburn system was based on congregate work on the equivalent of the assembly line, meaning that more goods could be produced and eventually sold in order to support the Auburn-style prisons. Politicians were quick to discover that the Auburn system could produce more goods at lesser costs and that prisons could become a “money maker” for the state. It was the profit motive that determined the outcome of the competition between the two systems, and the Auburn system became the dominant form of prisons in the next century.

key term

Penitentiary system

Prison designed to enforce penitence and prisoner anonymity, with individual manual labor in inmate cells.

key term

Disciplinarian

Prison administrator usually using harsh punishments to reinforce institutional rules.

photo 2.4

Cat o’ nine tails.

Chloe Johnson/Alamy Stock Photo



PRISON RULES

As mentioned in Chapter 1, prisons can be viewed as yet another method to implement social vengeance for wrongs against society. Europeans examining the Auburn and Pennsylvania systems made a keen observation on the American society and its prisons:

It must be acknowledged that the **penitentiary system** in America is severe. While society in the United States gives the example of the most extended liberty, the prisons of the same country offer the spectacle of the most complete despotism.¹⁰

In this context, the individual citizen’s sense of guilt when he or she inflicts brutal or cruel punishment on another is diffused by the need for revenge on criminal offenders as a class and for the protection of society. The “out of sight, out of mind” principle was especially evident in the early nineteenth-century prisons. Most of them were located far out in the countryside, free from either interference or inspection by the communities that supplied the prisoners. It is not too hard to understand why rules and procedures emphasized the smooth and undisturbed operation of the prison rather than the modification of the individual prisoner’s behavior. Administrators were usually judged by the prison’s production record and the number of escapes, not by the number of successful rehabilitations. Because of this, rules were designed to keep prisoners under total control. It is those early and well-established prison practices that have been the most difficult to overcome in the emerging standards of good correctional practices.

Elam Lynds, warden of Auburn and later of Sing Sing (which he built), was one of the most influential persons in the development of early prison discipline in America. He is described as having been an extremely strict **disciplinarian** who believed that all convicts were cowards who could not be reformed until their spirit was broken. To this end, he devised a system of brutal punishments and degrading procedures, many of which remained as accepted practice until very recent times.

The imposition of **silence** was seen as the most important part of the discipline program. The rule of absolute silence and noncommunication was maintained and enforced by the immediate use of the lash for the slightest infraction. Lynds advocated flogging as the most effective way to maintain order. He sometimes used a “cat” made of barbed-wire strands but more often a rawhide whip. The stereotype of the ex-con who is always talking out of the side of his mouth actually developed in the “silent” prisons to get around the silence rules.

Another bizarre form of discipline that was developed at Auburn was the **lockstep formation**. Prisoners were required to line up in close formation with their hands on the shoulders or under the arms of the prisoner in front. The line then moved rapidly toward its destination as the prisoners shuffled their feet in unison, without lifting them from the ground. Because this nonstop shuffle was “encouraged” by the use of the lash, any prisoner who fell out of lockstep risked a broken ankle or other serious injury from the steadily moving formation. Breaking the rule of silence during formation was considered especially objectionable and was punished viciously.

The use of degrading prison garb was also initiated at Auburn and Sing Sing. Early prisoners were allowed to wear the same clothing as the free society did. At Auburn and Sing Sing, different colors were used for the first-time offenders and for repeaters. Bizarre outfits served to reveal the prisoners’ classification at a glance, to institutionalize them further, and to facilitate identification of escapees. The famous **prison stripes** came into being in 1815 in New York. The stripes were abandoned in most prisons but they have since been returned by the Mississippi legislature in 1994 and by many other local jails and prisons. Some jurisdictions have reimposed black and white prison stripes or green and white striped uniforms on men working as roadwork crews; other jurisdictions require sex offenders to wear pink uniforms or pink underwear.

The methods used to prevent conversation or communication during meals were also humiliating. As mentioned, prisoners were required to sit face-to-back. They were given their meager and usually bland and unsavory meal to eat in silence. (Some state prisons still feed inmates on administrative segregation slices of a loaf made with kitchen scraps.) If they wanted more food, they would raise one hand; if they had too much, they raised the other. Any infraction of the rule of silence resulted in a flogging and the loss of a meal. This kind of entrenched procedure, very resistant to modern reforms, has been the source of many prison riots. Earlier prisons also had **treadmills** on which inmates labored, sometimes for exercise but frequently as a form of physical punishment.

key term

Silence

Absence of speech between inmates within early prisons.

key term

Lockstep formation

Lines of inmates marching closely behind their leader, with hands on top of shoulders or under the armpits. Requires shuffling and muteness in march from one area of the prison to another.

key term

Prison stripes

Prison uniforms with horizontal black bands and white stripes, frequently colored to designate inmate classification.

key term

Treadmills

A mill worked by inmates treading on the periphery of a wide wheel having a horizontal axis and used in prison as a punishment.

photo 2.5

A modern chain gang helps with community cleanup.

Mark Peterson/Corbis Historical/Getty Images



key term

Solitary confinement

A punishment program requiring isolation of an inmate in a cell, also known as a “prison within a prison.”

key term

Indeterminate sentence

A period of confinement with specified minimum and maximum length, allowing a parole board to release the inmate when rehabilitation has been achieved.

One of the earliest and most well-known forms of prison discipline was the “prison within a prison,” or **solitary confinement**, used as punishment for violation of institutional rules. Although the early experiment with total solitary confinement at Auburn showed it could not serve as the basis of a permanent prison system, the administrators saw its possibilities as a punishment for infractions of prison rules. Most of the prisons designed along the Auburn model therefore had a block of cells somewhere inside the walls, often referred to as the “hole.” Usually, a sentence to solitary confinement was accompanied by reduced rations as well, consisting often of only bread and water. Solitary confinement is frequently used to discipline prisoners even today, although under much more humane conditions. Some contemporary inmates have been isolated in solitary confinement for decades.

The many new prisons that were constructed in the century after the Eastern Penitentiary and the Auburn Prison made few, if any, contributions to the development of penology or corrections. The two greatest innovations, which persist today, were prison industries and the massive structures that used the interior cell-block design. Enforced silence was finally seen as a failure and abandoned. Cruel and barbaric punishments, though publicly decried, are still sometimes used—largely because most prisons are isolated from society and its controls. The development of corrections between 1800 and 1870, using policies, procedures, and philosophies that were unjust, still produced better results than did the universally accepted capital and corporal punishment that preceded it. And in the following era, the swing toward a more realistic and humanistic correctional approach began.

CHANGE IN THE WIND

Maconochie and Crofton: A New Approach

The reformatory system in America owes a great deal to the work of an Englishman, Captain Alexander Maconochie, and an Irishman, Sir Walter Crofton. Together they laid the foundation for reformatory rather than purely punitive programs for the treatment of criminals.

Maconochie and the Indeterminate Sentence

In 1840, Captain Maconochie was put in charge of the British penal colony on Norfolk Island, about 1,000 miles east of Australia. To this island were sent the criminals who were “twice condemned”: They had been shipped to Australia from England and then from Australia to Norfolk. Conditions were so bad at Norfolk that men reprieved from the death penalty wept, and those who were to die thanked God¹¹—that was the kind of hell Maconochie inherited.

The first thing Maconochie did was to eliminate the flat sentence,¹² a system that had allowed no hope of release until the full time had been served. Then he developed a “mark system” whereby a convict could earn freedom by hard work and good behavior, thus creating the **indeterminate sentence**. This type of sentencing put the burden of release on the convict. As Maconochie said, “When a man keeps the key of his own prison, he is soon persuaded to fit it into the lock.” The system had five principles:

1. Release should be based not on the completion of a sentence for a set period of time but on the completion of a determined and specified quantity of labor. In brief, time sentences should be abolished and task sentences substituted.



photo 2.6

A “sweat box” punishment cell for solitary confinement.

Duane Perkins/State Archives of Florida