Introduction to Corrections

Third Edition

I dedicate this book to my wife, Gina, and our children, Tiffany, Ronnie, and Danny. I appreciate their support and understanding.

I dedicate this text to the Eastham UC. Through thick and thin, I could always count on you.

I dedicate this text to my brother, Guy Hanser, with the Texas Department of Criminal Justice—Institutional Division. I am proud of you and the work that you do.

Lastly but most importantly, I also dedicate this text to all the men and women who work, have worked, and will eventually work in the field of corrections, whether institutional or community-based. Your dedication to public safety and fair-minded actions under stressful circumstances are appreciated. All of us are depending on you.

Introduction to Corrections

Third Edition

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PREFACE

This text, like the prior edition, is intended to provide the reader with a view of corrections that is both practitioner-driven and grounded in modern research and theoretical origins. Though this text does integrate research and theory within its pages, its specific strength is the practicality and realism provided in describing and explaining today's world of corrections. This single aspect of the book, along with its insightful portrayal of prison logic, exploration of subcultural issues in prison, and emphasis on persons who work within the field, both institutional and community-based, is what sets this text apart from others in the correctional textbook market. Additionally, vignettes have now been included that provide a view of correctional issues and challenges from the vantage of correctional workers and/or offenders, which helps to further portray the day-to-day reality of the correctional experience.

While this book does integrate the world of the practitioner with theoretical aspects, it is important to note that this is not a theory text. Rather, this text illustrates how the typical practitioner conducts business in the field of corrections, including both institutional and community settings. At the same time, theoretical applications are made explicit to demonstrate to the student that contemporary punishment, incarceration, and supervision schemes are grounded in theories that are often overlooked. Indeed, this text shows that theory and the practical world do not have to be disjointed and disconnected from one another. Rather, each can serve to augment the other, and, in this book, each aspect provides the student with additional facets of *how* correctional practice is implemented (reflecting the world of the practitioner) and *why* it is implemented in that manner (rooted in theoretical perspectives).

This text is intended to serve as a stand-alone text for undergraduate students in introductory courses on corrections, correctional systems, and/or correctional practices. A special effort is made to tie the readings to practical uses that the majority of our students will encounter in the world of work. This includes discussions on qualifications of specific types of officers, stressors confronted in daily correctional work, examples of tools and instruments that are used in the field, and so forth. The organization of the book follows a logical flow through the correctional system, in terms of both historical evolution and operational developments in the field. In short, this text covers the full array of topics related to nearly any aspect of corrections—on an introductory level, of course.

In addition, the role of technology has been highlighted throughout this book. Indeed, each chapter has a specific Technology and Equipment section that highlights some type of development in technology or equipment that is used within the field of corrections. These sections, along with other areas of focus throughout the text, provide the student with an idea of how the correctional industry has developed and continues to develop and adapt to the changing demands of working with the offender population. The role of technology in security processes, assessment/classification/case management, intermediate sanctions, drug testing, medical procedures, and other correctional processes is highlighted throughout this text. This again provides a practitioner focus as the student becomes familiar with the tools and equipment used by people who work in this segment of the criminal justice system. Further, this allows the student to see how corrections has evolved into a profession that uses state-of-the-art technology applications.

Finally, this text is also unique in one other critical aspect. The data, figures, tables, and various programs showcased here are predominantly drawn from federal government documents and briefings. Thus, the data and programs selected are solid and tend to be of better quality than one might typically use. Federal research by the National Institute of Corrections abounds, and the right to public domain of much of this material has allowed the author to integrate it within the pages of this text. This provides for rich data and examples that are guaranteed to aid in student learning. Further, the sources have been subjected to rigorous scrutiny and consideration, ensuring that all information is valid and up to date.

New to This Edition

- Throughout the text, information has been updated to include new legislation, statistics, examples, and topics, such as sentencing practices, technological innovations, and offenders with special needs.
- Learning objectives continue to utilize Bloom's taxonomy and have a closer connection to the key concepts in each chapter.
- An additional chapter of immigration detention centers has been added. This is a topic that is very unique but continues to catch national and international attention. This issue involves both private companies and public agencies.
- Some chapters have been combined and streamlined so that, even with the addition of a chapter, the result is an 18-chapter text that more closely aligns with the traditional course schedule.
- The popular Cross-National Perspective feature remains in the main body of the text to demonstrate the close connection it has to the concepts covered in each chapter and to highlight the importance of considering corrections from a global perspective.
- New topics on the effects of realignment in California, medical care in jails, probation, compassionate prison design, female drug offenders, the treatment of HIV/AIDS in prisons, the use of reentry councils, and updated court decisions and controversies around the death penalty have been added.
- Some chapters contain new feature boxes, covering topics on hunger strikes in Israeli prisons, the classification process for violent offenders, white supremacist prison gang members, prison riots in Brazil, and MS-13 gang activity in prisons.
- Coverage of new technology in corrections, including RFID in correction settings, the use of drones in prison security, and easy-to-smuggle contraband.
- In most all chapters, recent statistics have been added to the figures and tables to provide students a contemporary snapshot of the status of corrections today.
- Engaging chapter-opening vignettes continue to be included to highlight important issues in corrections and allow students to understand the challenges corrections practitioners face each day.

Approach and Structure of the Text

Significantly and perhaps uniquely, this text not only connects the practical world of corrections to the theoretical but also connects treatment and security aspects in the field of corrections to show the dichotomous relationship between these two types of approaches in offender management. Further, the practical aspects of this book are reinforced with specific exercises in which students themselves apply and synthesize the various concepts found throughout the chapters. In providing this content, this text consists of 18 chapters that cover all the basic aspects of correctional systems and practices. These chapters are summarized as follows:

Chapter 1: Early History of Punishment and the Development of Prisons in the United States

This chapter serves as an introduction to and overview of the historical development of corrections in Europe and the United States. Included in this chapter is a history of the development of sanctions as well as an overview of many classic figures in the history of corrections, including Charles Montesquieu, Cesare Beccaria, William Penn, and John Howard, among others. This chapter also discusses prisons in the United States, from the earliest prison used in the original 13 colonies to modern-day maximum-security facilities; the development of prisons and prison systems at both the state and federal levels

is also discussed. The Pennsylvania system, the Auburn system, southern penology, the reformatory era, and the use of the Big Houses are all covered. Different models of correctional operation are provided, as is a brief overview of modern-day prison facilities.

Chapter 2: Ideological and Theoretical Underpinnings to Sentencing and Correctional Policy

This chapter revisits the purpose of corrections as a process whereby practitioners from a variety of agencies and programs use tools, techniques, and facilities to engage in organized security and treatment functions intended to correct criminal tendencies among the offender population. It is with this purpose in mind that a variety of philosophical underpinnings are presented, including retribution, incapacitation, deterrence, rehabilitation, restorative justice, and reintegration. Discussion regarding the use of incarceration as a primary tool of punishment is provided, and community-based sanctions are given extensive coverage. The death penalty is presented as the most serious sanction available. Lastly, types of sentencing models, as well as disparities in both prison and death penalty sentences, are highlighted. In discussing the issue of disparity, the distinction between disparity and discrimination is made clear.

Chapter 3: Correctional Law and Legal Liabilities

This chapter demonstrates how there has been a constant interplay between state-level correctional systems and the federal courts recently in America. Amidst this evolution of correctional operations, the interpretation of constitutional standards has been a central feature, as has the Supreme Court's interpretation of its own role in ensuring that those standards are met. The distinctions between federal suits and state suits are clarified. Lastly, a brief overview of injunctions and other forms of court-oriented remediation is presented. These actions are what ultimately led to the sweeping changes that we have seen in the field of corrections.

Chapter 4: Jail and Detention Facilities

Jail facilities are presented as complicated facilities that are not usually appreciated for the vital role that they play within the criminal justice system. The different types of tasks, such as the holding of persons prior to their court date, providing a series of unique sentencing variations, and the incarceration of persons who are technically part of the larger prison system, are all considered. The problems and challenges for jail facilities can be quite varied, and this creates a demanding situation for jail staff and administrators. Overall, jails have been given short shrift in the world of corrections, but they will be given much more attention in times to come. Data for this chapter has been extensively updated from the time that the first edition was published.

Chapter 5: Probation

The evolution of probation is presented, from the early days of recognizance and suspended sentences through modern-day uses. This chapter also includes a variety of different types of probation administrative models. Also discussed are the qualifications of officers, supervisory strategies, and responsibilities of offenders. Presentence investigation reports and revocation and legal procedures are also included. Extensive updates in statistics and illustrative figures related to probation officer employment have been integrated within this chapter.

Chapter 6: Intermediate Sanctions

This chapter provides an overview of several types of intermediate sanctions that are used around the country. The use of community partnerships is again emphasized. Various intermediate sanctions, such as community service, the payment of fines, intensive supervision, GPS monitoring, home detention, and day reporting centers,

are discussed. Together with community involvement, agency collaboration, and solid case management processes, intermediate sanctions are shown to be a key interlocking supervision mechanism that improves the overall goal of public safety.

Chapter 7: Facility Design to Meet Security and Programming Needs

This chapter demonstrates that the physical features of a prison require forethought before ground is even broken at the construction site. Issues related to the location of the prison facility, the types of custody levels and security, the function of the facility, logistical support for the facility, and institutional services (such as laundry, kitchen, and religious services) are all important considerations. Technological developments and improvements in security, including cell block and electric fence construction, are presented. Challenges associated with technological innovations in security are also highlighted in this chapter.

Chapter 8: Classification and Custody Levels

Effective classification is presented as an essential aspect of both security needs and the needs of the inmate. This chapter discusses Alexander Maconochie's impact on correctional classification processes through his mark system. It shows as well that classification processes are important for both security and treatment purposes.

Chapter 9: Prison Subculture and Prison Gang Influence

This chapter provides a glimpse of the "behind the scenes" aspects of the prison environment. The notion of a prison subculture, complete with norms and standards that are counter to those of the outside world, is presented. The effects of professionalism within the correctional officer ranks, the diversity of correctional staff, and the difference in this generation of inmates all have led to changes in the inmate subculture in modern times. Gangs have emerged as a major force in state prison systems. From this chapter, it is clear that prison gangs have networks that extend beyond the prison walls. Additional information is provided that covers the Prison Rape Elimination Act of 2003 (PREA) and how this has impacted prison subculture in today's contemporary correctional environment.

Chapter 10: Immigration Detention Centers

This chapter addresses a very unique aspect of criminal justice, in general, and corrections, in particular. Indeed, many would argue that the topic of immigration detention facilities is not truly a topic within the field of corrections. There is some validity to this, particularly in cases where immigrants are held but they have no criminal charge or conviction. However, the reality is that there is a proliferation of detention facilities that has been observed during the past few years. Likewise, detention facilities operate in a manner that is similar to correctional institutions. Like correctional facilities, they are subject to oversight, audits, and inspections, which indicate that they are expected to operate in transparency. This has become more true as time goes forward and as questions of Constitutionality emerge. Thus, they have the complexities of jails with populations that may be housed over the span of several months or, sometimes, years. Unlike correctional facilities, entire families may be housed simultaneously. These are unique conditions that are completely alien to the correctional industry. Because of this and because much of the public gets them confused with bona fide jails and prisons, it is necessary to add this topic of study within this text.

Chapter 11: Female Offenders in Correctional Systems

Female offenders, though a small proportion of the correctional population, are rapidly growing in number. The need for improved services and programming for female

offenders is discussed in this chapter. Mother-child programming is presented as critical to female offender reformation. Legal issues specific to female offenders are discussed, and guiding principles to improve female offender reentry are provided. As with Chapter 9, this chapter also provides information related to the PREA and its impact on security and programming services for female offenders.

Chapter 12: Specialized Inmate Populations

In this section, we include a discussion on the supervisory strategies used for a special offender population, which includes sex offenders, substance abusers, mentally ill offenders, and mentally disabled offenders. This growing population in the community presents special concerns for community safety and supervisory strategies. This section addresses some of these concerns and provides suggestions for effective supervisory strategies. This chapter contains numerous updates in data related to offenders with special needs as well as figures and information related to surprising trends concerning HIV/AIDS in prison.

Chapter 13: Juvenile Correctional Systems

In this chapter, a very brief overview of both institutional and community-based supervision strategies used for juvenile offenders is presented. These strategies include detention, probation, residential programs, juvenile aftercare, and even adult prisons when youth are tried as adults. Legal developments in juvenile justice are discussed. Additional topics include types of abuse and neglect of youth and youth gangs. This chapter also includes a discussion of how the PREA has impacted the maintenance and operation of juvenile facilities in the United States. Additional updates on Supreme Court rulings related to juvenile corrections have also been included in this edition.

Chapter 14: Correctional Administration

This chapter provides an overview of the organizational structure of both the federal and state prison systems in the United States. Styles of management and the delegation of responsibility are discussed. The rise of women in the field of corrections is presented. Private prison management is included in this chapter, along with the conclusion that such programs can be quite successful. Lastly, emergency response issues and emergency response management are discussed.

Chapter 15: Prison Programming

This chapter provides an overview of many of the typical programs offered to inmates within the prison environment. Educational, vocational, drug treatment, medical, recreational, food service, and religious programs are all presented, but a more streamlined approach is utilized to give improved focus and clarity on the overall notion of offender programming inside institutions. Prison programming is shown to be effective in inmate management and also to produce positive benefits for offender reentry. Thus, prison education, work, and other forms of programming have public safety benefits.

Chapter 16: Parole and Reintegration

This chapter provides an overview of the evolution of parole to its modern-day usage. Additional and up-to-date data and figures are included in the discussion of parole in the United States. Early historical figures who contributed to the development of parole, such as Sir Walter Crofton and Alexander Maconochie, are noted. This chapter also includes a variety of different types of parole administrative models that include not only the qualifications of officers but also the supervisory strategies and responsibilities of offenders. The use of prerelease planning and mechanisms, along with the parole board and parole revocation, are also included. The controversial nature of parole and other early release mechanisms is discussed.

Chapter 17: The Death Penalty

This chapter provides students with an understanding of the reasons and justifications that are commonly touted for implementation of the death penalty and also presents typical criticisms that are leveled toward the use of this sanction. This chapter includes a plethora of updates in statistical information as well as tables and figures that showcase very recent findings. Further, the means by which the death penalty is implemented, and the types of offenses and offenders likely to receive the death penalty, are also presented. Disparities in the use of the death penalty are examined. A completely new Cross-National Perspectives feature has been added to this chapter.

Chapter 18: Program Evaluation, Evidence-Based Practices, and Future Trends in Corrections

This chapter illustrates the importance of evaluative research and distinguishes between process and outcome measures. This chapter has been expanded from its first edition version by including all of the features common in prior chapters (i.e., Applied Theory section, Cross-National Perspectives insert, Corrections and the Law segment, and a Technology and Equipment insert). As with the first edition, the use of the assessment-evaluative cycle in corrections is discussed. Information on evidence-based practices is presented but is showcased in a more succinct manner to better illustrate how these practices aid agencies to excel in service delivery. A variety of future trends in the correctional field are also presented during the last few pages of this chapter. Unlike the first edition, this chapter is now a fully stand-alone chapter of the text.

Pedagogical Aids

A number of pedagogical aids have been included in each chapter of this text. Their primary goal is to facilitate student learning and to aid the student in synthesizing the learning goal and applying it to the modern world of corrections. Through these added features, specific theories are identified and linked to a particular point in the correctional setting. Also, cross-national perspectives are provided within each chapter to acquaint the student with applications that exist in other nations around the globe. In addition, this text has a number of ancillaries that accompany it, all as a means of further improving student learning. The pedagogical features and ancillaries associated with this text are listed below.

- ***Opening Vignettes*:** At the very beginning of each chapter, a short story is provided that is related to the chapter's topic. Each story provides a high sense of realism in portraying issues that are encountered within the correctional environment.
- ***Improved Chapter Learning Objectives*:** At the beginning of each chapter is a set of learning objectives. These objectives serve as cues for the student and also provide for easy assessment of learning for the instructor. These points are germane to the chapter and prompt the student as to the information that will be covered. They also let the student know what is critical to the text readings. Each of these learning objectives is clearly linked to headings and subheadings throughout the text.
- ***Focus Topics Boxes*:** Many chapters include Focus Topic boxes that provide additional insight regarding specific points in the chapter. The topics typically help to add depth and detail to a particular subject that is considered important or interesting from a learning perspective. The inclusion of these boxes has been made with care and consideration to ensure that the material does indeed reinforce the learning objectives at the beginning of each chapter.
- ***Applied Theory Inserts*:** Within most chapters, Applied Theory inserts are included. These inserts provide clear and focused application of a specific theory to a particular issue or set of issues in community corrections. This is an important feature because many textbooks fail to navigate the disconnect that

seems to exist between the world of theory and the world of the practitioner. These inserts bridge the two worlds and also highlight issues specific to the chapter from a theoretical perspective.

- ***Technology and Equipment Inserts*:** Also within most chapters is an insert that showcases some type of technological development in the field of corrections or some type of tool or equipment germane to work in the field. This provides the student with an additional glimpse of the practitioner's world through the examination of the working tools of the trade. This also provides the student with an awareness of the many developments that have occurred and continue to occur within the field of corrections.
- ***Corrections and the Law Inserts*:** In each chapter, students will find legal inserts that explain, in detail, some type of important legal issue or Supreme Court ruling that is associated with the topic of the chapter. This again shows the student how the field of corrections is constantly changing and also provides the student with additional insight regarding the legal concerns and considerations experienced by many correctional administrators. All Corrections and the Law inserts contain current rulings.
- ***Key Terms/Key Cases*:** At the end of each chapter is a list of key terms/key cases that help to augment information relevant to the chapter learning objectives. The terms and cases are in bold throughout the text and are included in the glossary.
- ***Discussion Questions*:** At the end of each chapter is a list of five to seven discussion questions. These questions usually ask students about chapter content that is relevant to the learning objectives found at the beginning of each chapter. In this way, they serve the function of reinforcing specific knowledge that is applicable to the learning objectives and further clarify for the student the main points and concepts included therein.
- ***"What Would You Do?" Exercises*:** At the close of each chapter, these exercises present some sort of modern-day correctional scenario that the student must address. In each case, a problem is presented to students, and they must explain what they would do to resolve the issue or solve the problem. This feature provides an opportunity for students to apply and synthesize the material from the chapter and ensures that higher-order learning of the material takes place.
- ***Applied Exercise Features*:** These assignments require the student to perform some type of activity that integrates the material in the text with the hands-on world of the practitioner. In some cases, these assignments require that the student interview practitioners in the field, while in other cases students may need to utilize specific tools or instruments when addressing an issue in corrections. In each case, the student is required to demonstrate understanding of a particular aspect of the chapter readings and must also demonstrate competence in using the information, techniques, or processes that he or she has learned from the chapter. These exercises often also require the student to incorporate information from prior chapters or other exercises in the text, thereby building upon the prior base of knowledge that the student has accumulated.
- ***Cross-National Perspective Segments*:** Within each chapter, these additions provide a brief examination of a related topic in corrections as it applies to a country other than the United States. In addition to a brief write-up on the subject, students are provided website information to read further on the cross-national topic, and they are also encouraged to consider the implications of the cross-national perspective through critical thinking questions at the end of the segment.
- ***Text Glossary*:** A glossary of key terms is included at the end of the text. These key terms are necessary to ensure that students understand the basics of corrections. Definitions are provided in simple but thorough language.

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Journal Articles: Articles from highly ranked SAGE journals such as *Crime and Delinquency, Theoretical Criminology, Criminal Justice Review,* and more can be accessed.

DIGITAL RESOURCES

To enhance this text and to assist in the use of this book, a variety of different ancillary material has been created. This text is one of several by SAGE that strives to give the text its own sense of life through the use of various media and online resources that enhance the reading of the text, particularly online.

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- **Learning objectives** reinforce the most important material.
- Lively and stimulating **chapter activities** that can be used in class to reinforce active learning. The activities apply to individual or group projects.
- EXCLUSIVE! access is provided to full-text **SAGE journal articles** that have been carefully selected to support and expand on the concepts presented in each chapter.

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At this time, I would like to first thank Jerry Westby, who is now retired. Jerry's continued support and faith in this project was an inspiration and continues to be greatly appreciated. I would also like to very much thank the editor of this project, Jessica Miller, who has been extremely supportive and has even served as a valuable sounding board during challenging times when writing this text. She continues to be instrumental in the overall project, even with her recent promotion. I would like to also thank the content development editor, Laura Kirkhuff, who has been very easy to work with and very supportive throughout the organization and compilation of the text information. These individuals were able to maintain a three-way dialogue between the authors, editors, and reviewers, which resulted in this text being a top-notch product, both in content and in delivery.

I would like to extend special gratitude to all of the correctional practitioners who carry out the daily tasks of our correctional system, whether institutional or community-based. These individuals deserve the highest praise as they work in a field that is demanding and undervalued—I thank you all for the contributions that you make to our society.

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I am also grateful to the many reviewers (see below) who spent time reading the document and making a considerable number of recommendations that helped to shape the final product. Every effort was made to incorporate those ideas. Their suggestions and insights helped to improve the final product that you see here, a product that, in truth, is a reflection of all those who were involved throughout its development.

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PART I

Foundations of Corrections

CHAPTER 1: Early History of Punishment and the Development of Prisons in the United States

CHAPTER 2: Ideological and Theoretical Underpinnings to Sentencing and Correctional Policy

CHAPTER 3: Correctional Law and Legal Liabilities

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1 Early History of Punishment and the Development of Prisons in the United States

Learning Objectives

1. Define *corrections* and the role it has in the criminal justice system.
2. Identify early historical developments and justifications in the use of punishment and corrections.
3. Discuss the influence of the Enlightenment and key persons on correctional reform.
4. Discuss the development of punishment in early American history.
5. Describe the changes to prison systems brought about by the Age of the Reformatory in America.
6. Identify the various prison systems, eras, and models that developed in the early and mid-1900s in America.
7. Explain how state and federal prisons differ and identify the Top Three in American corrections.

Prisoner Number One at Eastern Penitentiary

In 1830, Charles Williams, prisoner number one at Eastern State Penitentiary, contemplated his situation with a sense of somber and solemn reflection. He did this undisturbed due to the excruciating silence that seemed to permeate most of his incarceration. On occasion, he could hear keys jingling, and he might hear the sound of footsteps as guards brought his food or other necessities. Sometimes he could hear the noise of construction, as the facility was not yet finished and would not be fully functional for years to come. Otherwise, there was no other sound or connection to the outside world, and silence was the most common experience throughout most of the daylight hours and the entire night.

To be sure, Charles had all of his basic needs met at Eastern. He had his own private cell that was centrally heated and had running water. He had a flushing toilet, a skylight, and a small, walled recreation yard for his own private use. In his high-pitched cell, Charles had only natural light, the Bible, and his assigned work (he was involved in basic weaving) to keep him busy throughout the day. He was not allowed interaction with the guards or other inmates, and his food was delivered to him via a slot in the door. In addition, he was to not leave his cell for anything other than recreation in his own walled yard, and even then he was required to wear a special mask that prevented communication with other guards or inmates while he entered the yard.

Charles was a farmer by trade. He had been caught and convicted of burglary after stealing a $20 watch, a $3 gold seal, and a gold key. He was sentenced to 2 years of confinement with hard labor and entered Eastern on October 23, 1829. He had served 7 months of his sentence and already he felt as if he had been incarcerated for an eternity. He reflected daily (and quite constantly) on his crime. Before his arrival, he had had no idea what Eastern State Penitentiary would be like. As it turned out, it was quite numbing to Charles's sense of mental development, and he sometimes felt as if he did not even exist. Charles remembered his first glimpse of the tall, foreboding exterior of the unfinished prison as his locked carriage approached. It was an intimidating sight, and Charles, who was only 18 at the time of his sentencing, felt remorseful. He remembered when Warden Samuel R. Wood received him and explained that he would be overseeing Charles's stay at Eastern. The warden was very direct and matter-of-fact and exhibited a mean-spirited temperament. Charles found the warden to be reflective of his entire experience while serving in prison cell number one at Eastern. He thus had determined that he did not want to spend any more of his life in such confinement.

Charles considered the fact that he still had 18 months on his sentence—an eternity for most 18-year-olds. He knew that other inmates would soon follow his stay in the expanding prison. However, he was not the least bit curious about the future of Eastern. He was indeed repentant, but not necessarily for the reasons that early Quaker advocates might have hoped when they advocated for the penitentiary. Rather than looking to divine inspiration as a source of redemption from future solitary incarceration, he simply decided that he would never again be in a position where he could be accused of, guilty of, or caught in the commission of a crime. He just wanted to go back to simple farming and leave Eastern State Penitentiary out of both sight and mind for the remainder of his years.

Defining Corrections: A Variety of Possibilities

In this text, **corrections** will be defined as a process whereby practitioners from a variety of agencies and programs use tools, techniques, and facilities to engage in organized security and treatment functions intended to correct criminal tendencies among the offender population. This definition underscores the fact that corrections is a process that includes the day-to-day activities of the practitioners who are involved in that process. Corrections is not a collection of agencies, organizations, facilities, or physical structures; rather, the agencies and organizations consist of the practitioners under their employ and/or in their service, and the facilities or physical structures are the tools of the practitioner. The common denominator between the disparate components of the correctional system is the purpose behind the system. We now turn our attention to ancient developments in law and punishment, which, grounded in the desire to modify criminal behavior, served as the precursor to correctional systems and practices as we know them today.

The Role of Corrections in the Criminal Justice System

Generally speaking, the criminal justice system consists of five segments, three of which are more common to students and two of which are newer components, historically speaking. These segments are law enforcement, the courts, corrections, the juvenile justice system, and victim services. Of these, it is perhaps the correctional system that is least understood, least visible, and least respected among much of society. The reasons for this have to do with the functions of each of these segments of the whole system.

Unlike the police, who are tasked with apprehending offenders and preventing crime, correctional personnel often work to change (or at least keep contained) the offender population. This is often a less popular function to many in society, and when correctional staff are tasked with providing constitutional standards of care for the offender population, many in society may attribute this to "coddling" the inmate or offender.

On the other hand, the judicial or court segment is held in much more lofty regard. The work of courtroom personnel is considered more sophisticated, and jobs within this sector are more often coveted. Further, there tends to be a degree of mystique to the study and practice of law, undoubtedly enhanced by portrayals in modern-day television and the media. In this segment of the system, legal battles are played out, oral arguments are heard, evidence is presented, and deliberations are made. At the end, a sentence is given and the story concludes that all parties involved have had their day in court.

The juvenile justice system is unique from these other systems because much of it is not even criminal court but is instead civil in nature. This is because our system intends to avoid stigmatizing youthful offenders, hopes to integrate family involvement and supervision, and views youth as being more amenable to positive change. The juvenile justice system is designed to help youth and is, therefore, less punitive in theory and practice than the adult system. Again, the entire idea is that youth are at an early stage in life where their trajectory is not too far off the path; with the right implementation, we can change their life course in the future.

Victim services is, naturally, the easiest segment to sympathize with because it is tasked with aiding those who have been harmed by crime. The merits of these services should be intuitively obvious, but such programs are often underfunded in many states and struggle to help those in need. In addition to state programs, many nonprofit organizations are also dedicated to assisting victims.

After this very brief overview of each segment of the criminal justice system, we come back to the correctional system. The correctional system, despite its lesser appeal, is integral to the ability of the other systems to maintain their functions. As we will see later in this chapter, it is simply not prudent, realistic, or civilized to either banish or put to death every person who commits an offense. Indeed, such reactions would be extreme and quite problematic in today's world. Thus, we are stuck with the reality that we must do something else with those individuals who have offended. Naturally, some have committed serious crimes while others have not. Discerning what must be done with each offender based on the crime, the criminal, and the risk that might be incurred to society is the role of the correctional system. Further, it is the responsibility

Corrections: A process whereby practitioners engage in organized security and treatment functions to correct criminal tendencies among the offender population.

of this system to keep these persons from committing future crimes against society, a task that the other segments of the system seem unable to do.

PRACTITIONER'S PERSPECTIVE

"I have been a jail administrator for about seven and a half years . . . absolutely [the] best job I ever had."

Interested in a career in corrections or criminal justice? Visit the IEB to watch Mitch Lucas's video on his career as a jail administrator.

The correctional system is impacted by all of the other systems and, largely speaking, is at their mercy in many respects. Indeed, as police effect more arrests, more people are locked up and jails and prisons must contend with housing more inmates. When courts sentence more offenders, the same happens. A court has the luxury of engaging in plea agreements to modify the contours of a sentence, but the correctional system has few similar forms of latitude, other than letting offenders out early for good behavior—an option that many in society bemoan as the cause for high crime rates. Likewise, the juvenile system has a correctional segment that gets sufficient sympathy from the public, but state correctional facilities find themselves being given the "worst of the worst" of youthful offenders, making notions of rehabilitation more challenging than is desirable. And of course there is the victim services segment, through which the correctional system often attempts to redeem itself by ensuring that offenders are made accountable for their crimes and by generating revenue through fines, restoration programs, and compensation funds for victims. Amidst this, correctional systems engage in victim notification programs and many include victim services bureaus for those who have questions or requests of the correctional system.

This complicated system of sanctioning offenders while operating within the broader context of the criminal justice system is the result of a long and winding set of historical circumstances and social developments. In this chapter, we will explore how this story has unfolded, starting with the reality that initially the role of corrections was simply to *punish* the offender. This punishment, it was thought, would be instrumental in *changing* the behavior of the offender. These notions are just as relevant in today's world of corrections, though the means of implementation have become much more complicated. Because these early debates, ideologies, and perspectives on corrections laid the groundwork to our current system, it is the role of this chapter to give the reader an understanding of how and why they developed as they did.

The Notion of Punishment and Corrections Throughout History

As might be determined by the title of this section, there has been a long-standing connection between the concepts of punishment and correction. It is as if our criminal justice system considers these two concepts as being one in the same. However, as we will find, these two terms are not always synonymous with one another. Rather, the purpose that underlies each is probably a better guide in distinguishing one from the other, not identifying their similarities. It is the application of penalties that has the longest history, and it is with this in mind that punishment is first discussed, with additional clarification provided in defining the more modern term of *corrections*. As we will see later in this chapter and in other chapters, the distinction between *corrections* and *punishment* may be quite blurred.

When applying punishments, it was hoped that the consequence would prevent the offender from committing future unwanted acts. Though one would consider it a good

Essentials Collection

PHOTO 1.1: The Code of Hammurabi is one of the most ancient attempts to codify criminal acts and their corresponding punishments.

outcome if offenders are prevented from committing further crimes, this is not necessarily an act of *correction* regarding the offender's behavior. This is a very important point because it sets the very groundwork for what we consider to be corrections. Essentially, the common logic rests upon the notion that if we punish someone effectively, he or she will not do the crime again and is therefore corrected. Naturally, this is not always the final outcome of the punishment process. In fact, research has found cases where exposure to prison actually increases the likelihood of future criminal behavior (Fletcher, 1999; Golub, 1990). Likewise, some research has demonstrated higher rates of violent crime when the death penalty is applied, seemingly in reaction to or correlated with the use of the death penalty (Bowers & Pierce, 1980). This observation is referred to as the **brutalization hypothesis**, the contention of which is that the use of harsh punishments sensitizes people to violence and essentially *teaches* them to use violence rather than acting as a deterrent (Bowers & Pierce, 1980).

Early Codes of Law

Early codes of law were designed to guide human behavior and to distinguish that which was legal from that which was not. These laws often also stated the forms of punishment that would occur should a person run errant of a given edict. Because laws reflected the cultural and social norms of a given people and tended to include punishments, it could be said that the types of punishment used by a society might give an outside observer a glimpse of that society's true understanding of criminal behavior as well as its sense of compassion, or lack thereof.

Babylonian and Sumerian Codes

The earliest known written code of punishment was the **Code of Hammurabi**. Hammurabi (1728–1686 B.C.) was the ruler of Babylon sometime around 1700 B.C., which dates back nearly 3,800 years before our time (Roth, 2011). This code used the term ***lex talionis***, which referred to the Babylonian law of equal retaliation (Roth, 2011). This legal basis reflected the instinctive desire for humans who have been harmed to seek revenge. While Hammurabi's Code included a number of very harsh corporal punishments, it also provided a sense of uniformity in punishments, thereby organizing the justice process in Babylon (Stohr, Walsh, & Hemmens, 2013).

Roman Law and Punishment and Their Impact on Early English Punishment

Punishments in the Roman Empire were severe and tended to be terminal. Imprisonment was simply a means of holding the accused until those in power had decided the offender's fate. From what is known, it would appear that most places of confinement were simply cages. There are also recorded accounts of quarries (deep holes used for mining/excavating stone) used to hold offenders (Gramsci, 1996). One place of confinement in Rome that was well known was the Mamertine Prison, which was actually a sprawling system of underground tunnels and dungeons built under the sewer system of Rome sometime around 64 B.C. This was where the Christian apostles Paul and Peter were incarcerated (Gramsci, 1996).

Rome and other societies during this period considered convicted offenders to have the legal status of a slave, and they were treated as if they were essentially dead to society. In this "civil death," the offender's property would be excised by the government and the marriage (if any) between the offender and his or her spouse was declared void, providing the status of widow to the spouse.

Brutalization hypothesis: The contention that the use of harsh punishments sensitizes people to violence and *teaches* them to use it.

Code of Hammurabi: The earliest known written code of punishment.

Lex talionis: Refers to the Babylonian law of equal retaliation.

Early Historical Role of Religion, Punishment, and Corrections

Perhaps the most well-known premodern historical period of punishment is the Middle Ages of Western Europe. The Middle Ages was a time of chaos in Europe during which

plague, pestilence, fear, ignorance, and superstition prevailed. Throughout these dark times, the common citizenry, which consisted largely of peasants who could neither read nor write, placed their faith in religious leaders who were comparatively better educated and more literate.

While one might stand at trial for charges brought by the state, it was the **trial by ordeal** that emerged as the Church's equivalent to a legal proceeding (Johnson, Wolfe, & Jones, 2008). The trial by ordeal consisted of very dangerous and/or impossible tests used to prove the guilt or innocence of the accused. For instance, the ordeal of hot water required that the accused thrust a hand or an arm into a kettle of boiling water (Johnson et al., 2008). If after 3 days of binding the arm, the offender emerged unscathed, he or she was considered innocent. Of note was the general reason provided by the Church for its use of punishments. It would seem that the Church response to aberrant (or sinful) behavior was, at least in ideology, based on the desire to save the soul of the wayward offender. Indeed, even when persons were burned at the stake, the prevailing belief was that such burning would free their souls for redemption and ascension to Heaven. The goal, in essence, was to purify the soul as it was released from the body. This was especially true of persons who were convicted of witchcraft and who were believed to have consorted with spirits and/or were believed to be possessed by evil spirits.

Sanctuary

While the Church may have had a role in the application of punishments throughout history, it also provided some unique avenues by which the accused might avoid unwarranted punishment. One example would be the granting of sanctuary to accused offenders.

During ancient times, many nations had a city or a designated building, such as a temple or a church, where accused offenders could stay, free from attack, until such time that their innocence could be established (presuming that they were, in fact, innocent). In Europe, the use of sanctuary began during the fourth century and consisted of a place—usually a church—that the king's soldiers were forbidden to enter for purposes of taking an accused criminal into custody (Cromwell, del Carmen, & Alarid, 2002). In some cases, such as in England, **sanctuary** was provided until some form of negotiation could be arranged or until the accused was ultimately smuggled out of the area. If accused offenders confessed to their crimes while in sanctuary, they were typically allowed to leave the country with the understanding that return to England would lead to immediate punishment (Cromwell et al., 2002).

This form of leniency lasted for well over a thousand years in European history and was apparently quite common in England. Eventually, sanctuary lost its appeal, and from roughly 1750 onward, countries throughout Europe began to abolish sanctuary provisions as secular courts gained power over ecclesiastical courts.

Early Secular History of Punishment and Corrections

The origin of law was one of debate during medieval times. Over time, secular rulers (often royalty and nobility) became less subservient to the Church and gained sufficient power to resist some of the controls placed upon them by the ecclesiastical courts. As such, much of the royalty, nobility, merchant class, and scholarly community advocated separation between government rule (at this time the king or queen) and the Church. Though this was an ultimately successful process, many did die as a result of their views.

It was at this time that criminal behavior became widely recognized as an offense against the state. Indeed, by 1350 A.D., the royalty (consisting of kings, queens, and the like) had established themselves as the absolute power, and they became less tolerant of external factors that undermined their own rule; this meant that the Church continued to lose authority throughout Europe. Ultimately, all forms of revenue obtained from fines went to the state (or the Crown), and the state administered all punishments. This also led to the development of crime being perceived as an act in violation of a king or queen's authority.

Trial by ordeal: Very dangerous and/or impossible tests to prove the guilt or innocence of the accused.

Sanctuary: A place of refuge or asylum.

CROSS-NATIONAL PERSPECTIVE 1.1

Penal Slavery in Western Europe and East Asia

The use of penal slavery was extensive in ancient Rome, though the actual economic benefits for this type of labor were minimal. For the most part, penal slavery in Rome was restricted to those offenders who had been given a life sentence. In such cases, these offenders suffered a civil death and no longer existed in society; they were thereby permanent slaves of the state. A strong distinction was drawn between these offenders and those who did not have a life sentence. For those offenders not serving life, penal servitude was exacted. Though this was similar in most respects to penal slavery, there was a time limit after which the sentence was considered to have been served.

In many East Asian countries, penal slaves were a source of both public and private slaves. Prisoners provided the bulk of the enslaved population in Vietnam even though slavery was not an important industry in that country. In Korea, which is thought to have had one of the most advanced slave systems in East Asia, penal slavery was used but was not the primary source of slaves. In Japan around the sixth century A.D., the two primary sources of slaves were prisoners of war and the familial relatives of convicted criminals as well as the offenders themselves. However, it was the nation of China that truly used penal slavery on a widespread basis.

The enslavement of family members related to condemned offenders was, in actuality, the primary and perhaps the only source from which penal slaves in China were drawn. Due to a strong rank system whereby family honor subsumed individual identity, if a family was disgraced by the acts of a criminal, the entire family could be held accountable for the crime(s) committed. Prior to the Han Dynasty, there was a tendency to execute criminal offenders and imprison their family members, but over time, Chinese royalty imprisoned all persons.

Because most if not all slaves were penal slaves in China, the common view of a slave became one of being a criminal and therefore unworthy of fair treatment. The status of criminal opened the door for mutilation, torture, and abuse, all of which were condoned by Chinese law, as was also the case in much of old Europe. However, China was unusual in one routine practice in its penal slavery policy: Many penal slaves ended up becoming property of private owners. Usually given as gifts to the affluent and/or powerful, they were often acquired by unscrupulous government officials or military officers.

It would appear that many of the ancient punishments, such as flogging, and the use of different forms of the death penalty were used by cultures in the East and the West. Further, most cultures in both areas of the world refrained from using jails for anything other than holding an offender in custody until punishment could be administered. The use of prisons as a form of punishment, in and of itself, was not common in either area. However, the use of criminal offenders as cheap and exploitable labor seems to have been common to the West as well as the East. A primary distinction between East and West revolved around the strong family honor system, which, in the grand scheme of things, generated a much larger penal slave population (including women as well as men) in Imperial China. This and the existence of slaves among private Chinese social elites demonstrate how cultural differences can impact the means by which punishments such as penal servitude are implemented.

1. What are two key distinctions between penal slavery in Rome and penal slavery in Imperial China? Why did these differences exist?
2. For what purpose were jails used in both the Eastern and the Western parts of the world? Was there widespread use of prisons as we know them today?

Source: Patterson, O. (1982). *Slavery and social death: A comparative study.* Cambridge, MA: Harvard University Press.

Public and Private Wrongs

Public wrongs are crimes against society or a social group and historically tended to include sacrilege as well as other crimes against religion, treason, witchcraft, incest, sex offenses of any sort, and even violations of hunting rules (Johnson et al., 2008). Among early societies, religious offenses were considered the most dangerous since these crimes exposed both the offender and the rest of the group to the potential anger and wrath of that culture's deity or set of deities. Witchcraft was commonly thought to entail genuine magical powers that would be used by the witch for personal revenge or personal gain; the use of such magic was considered bad for a social group because it drew evil spirits in the direction of the community.

Public wrongs: Crimes against society or a social group.

The fear of witchcraft persisted for several hundred years, reaching its height of hysteria in the 1500s. Suspicion of witchcraft and the mass execution of suspected

practitioners became commonplace during this time. Indeed, during the years between 1273 and 1660, Europe executed thousands of suspected witches, the majority of them women. The total number of persons executed due to witchcraft charges may have exceeded 100,000 (Linder, 2005).

In ancient times, resorting to private revenge was the only avenue of redress for victims who suffered a **private wrong**. These types of wrongs might have included physical injury, damage to a person's property, or theft. In such cases and in many areas of Europe, there was no official authority present; the victim was on his or her own to gain any justice that could be obtained. There was also additional incentive to retaliate against perpetrators, for if the victim was able to gain revenge this was likely to deter the perpetrator from committing future crimes against the victim. However, it is not surprising that in these cases the original perpetrator sometimes fought back against the retaliatory strike from the victim, regardless of who was wrong or right. This would then lead to a continual tit-for-tat situation that might ultimately develop into a perpetual conflict. Once social groups become more advanced, the responsibility for determining punishment shifted from the individual and/or family to society as a whole.

Retaliation Through Humiliation

During early parts of European history, retaliation also occurred through the use of humiliation. A number of punishments were utilized, some of which might even be considered corporal in nature (such as the ducking stool and the stocks and pillories), but they are included in this section because their distinctive factor lies more in their intended outcome: to humiliate and embarrass the offender (Johnson et al., 2008).

One early punishment was the gag, which was a device that constrained persons who were known to constantly scold others (usually their spouse) or were guilty of habitually and abusively finding fault with others, being unjustly critical, or lying about other persons (Silverman, 2001). An even more serious form of retaliatory punishment was the use of the bridle. The bridle was an iron cage that fit over the head and included a metal plate in the front. The plate usually had spikes, which were constructed so as to fit into the mouth of the offender; this made movement with the tongue painful and thereby reduced the likelihood that the offender would talk (Silverman, 2001).

The ducking stool was a punishment that used a chair suspended over a body of water. In most cases, the chair hung from the end of a free-moving arm. The offender was strapped into the chair, which was located near a riverbank. The chair would be swung over the river by the use of the free-moving arm and would be plunged into the water while the offender was restrained therein. In most cases, this punishment would be administered during the winter months when the water was extremely cold; this alone was a miserable experience. This was a punishment typically reserved for women—in particular, women who were known to nag others or use profane or abusive language. Women who gossiped were also given this punishment (Johnson et al., 2008).

Another common punishment in the Middle Ages was the stocks and pillories. Stocks consisted of wooden frames that were built outdoors, usually in a village or town square. A set of stocks consisted of a thick piece of lumber that had two or more holes bored into it. The holes were round and wide enough so that an offender's wrists would fit through. The board was cut into halves, and a hinge was used so that the halves could be opened and then closed. The boards would be opened, the offender would be forced to rest his or her wrists into the half-circle of the bottom half of the wooden board, and then the top half would be closed over the wrists. A lock on the side opposite the hinge kept the offender trapped, hands and wrists restrained by the board. The stock was usually constructed atop a beam or post set into the ground so that the offender would have to stand (rather than sit), sometimes for days or, in extreme cases, perhaps weeks.

The pillory was similar to the stock except the pillory consisted of a single large bored hole where the offender's neck would rest. When the pillory was shut and locked, the offender was restrained with his or her head immobilized and body stooped over. The device was specifically set atop a post at a height where most adult offenders could not fully stand up straight, adding to the discomfort of the experience. As with a set of stocks, the offender would be required to stand for

Private wrongs: Crimes against an individual that could include physical injury, damage to a person's property, or theft.

TABLE 1.1

Types of Punishment in Early Correctional History

NAME OF PUNISHMENT	PURPOSE	DESCRIPTION
Trial by ordeal	Determine guilt or innocence	Very dangerous and/or impossible tests to prove the guilt or innocence of the accused.
Gag	Humiliation	A device that constrained persons who were known to constantly scold others.
Ducking stool	Humiliation and deterrence	Punishment that used a chair suspended over a body of water.
Stocks	Humiliation	Wooden frames that were built outdoors, usually in a village or town square.
Pillory	Humiliation	Similar to the stock except the pillory consisted of a single large bored hole where the offender's neck would rest.
Branding	Humiliation and warn public	Usually on thumb with a letter denoting the offense.
Whipping	Deterrence	Lashing the body of a criminal offender in front of a public audience.
Capital punishment	Deterrence	Putting the offender to death in front of a public audience.
Banishment and transportation	Deterrence	Exile from society.
Hulk imprisonment	Retribution and incapacitation	Offenders kept in unsanitary decommissioned naval vessels.
Indentured servitude	Retribution and incapacitation	Offender subjected to virtual slavery.

several days and nights. In many cases, the offender was constrained by a combination of these devices, known as a stocks and pillory, where both the offender's head and hands were immobilized.

It was at this point that the use of branding became more commonplace. **Branding** was used to make criminal offenders, slaves, and prisoners of war easily identifiable. Offenders were usually branded on their thumb with a letter denoting their offense—for instance, the letter *M* for murder or *T* for theft. Harkening back to the connection between crime and sin, consider that even as late as the 1700s, the use of branding for humiliation occurred with the crime of adultery. In New Hampshire, a specific statute (1701) held that offenders guilty of adultery would be made to wear a discernable letter *A* on their upper-garment clothing, usually in red, but always in some color that contrasted with the color of the clothing. Students should go to Table 1.1 for a more succinct presentation of the various types of punishment that have just been discussed.

Corporal Punishment

Branding: Usually on thumb with a letter denoting the offense.

Up until the 1700s, corporal punishment tended to be the most frequently used punishment. This punishment was often administered in a public forum to add to the

deterrent effect, thereby setting an example to others of what might happen if they were caught in the commission of a similar crime. Naturally, these types of punishment also included purposes of retribution. The most widely used form of corporal punishment was whipping, which dates back to the Romans, the Greeks, and even the Egyptians as a sanction for both judicial and educational discipline. Whippings could range in the number of lashes. A sentence of 100 lashes was, for most offenders, a virtual death sentence as the whipping was quite brutal; the lashes would fall across the back and shoulders, usually drawing blood and removing pieces of flesh.

Capital Punishment

This section will be brief due to more extensive coverage of the death penalty in Chapter 16. Historically speaking, the types of death penalties imposed are many and varied. Some examples include being buried alive (used in Western civilization as well as ancient China), being boiled in oil, being thrown to wild beasts (particularly used by the Romans), being impaled by a wooden stake, being drowned, being shot to death, being beheaded (especially with the guillotine), and being hanged. More contemporary methods include the use of lethal gas or lethal injection. By far, the most frequently used form of execution is hanging, which has been used throughout numerous points in history.

The LIFE Picture Collection/Getty Images

PHOTO 1.2: The stocks and pillory was an uncomfortable punishment as most offenders were forced to endure this position for several days and nights. During the night, animals, bugs, and local villagers might make the experience all the more miserable, and at all times offenders were subjected to the elements, whether extreme heat, cold, rain, or other inclement conditions.

Banishment

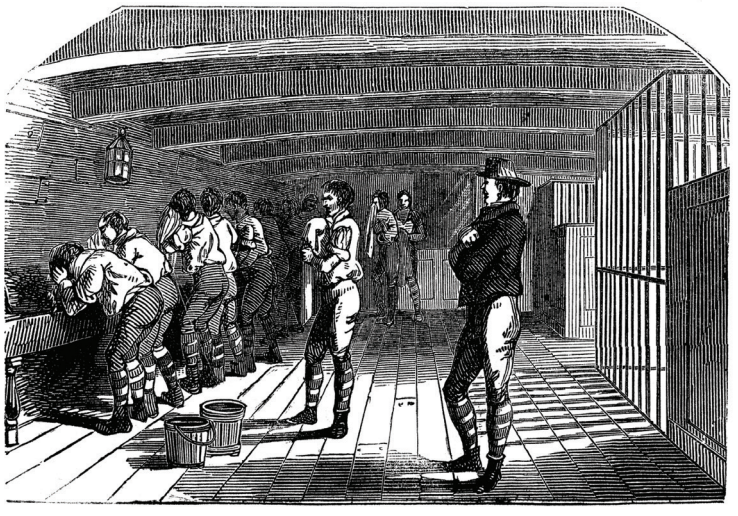
In England between 1100 and 1700 there was an overreliance on the death penalty, and during this time the criminal code was nicknamed the "Bloody Code." Though the rich and powerful may have been supportive of the harsh penalties, there was an undercurrent of discontent among numerous scholars, religious groups, and the peasant population over the capricious and continuous use of the death penalty. Thus, **banishment** proved a very useful alternative that became used with increasing regularity in lieu of the death penalty.

The 1600s and 1700s saw the implementation of banishment on a widespread scale. Over time, banishment came in two versions, depending on the country in question and the time period involved. First, banishment could be permanent or temporary. Second, banishment could mean simple exile from the country or exile to and/or enslavement in a penal colony. The development of English colonies in the Americas opened up new opportunities for banishment that could rid England of her criminal problems on a more permanent basis. This form of mercy was generally only implemented to solve a labor shortage that existed within the American colonies, with most offenders shipped to work as indentured servants under hard labor.

Transporting Offenders

Transportation became a nearly ideal solution to the punishment of criminal offenders because it resolved all of the drawbacks associated with other types of punishment. The costs were minimal, it was difficult (if not impossible) for offenders to return to England, and offenders could become sources of labor for the new colonies. Johnson and his coauthors (2008) note that of those offenders who were subjected to transportation, the majority were male, unskilled, from the lower classes, and had probably resorted to crime due to adverse economic conditions.

Banishment: Exile from society.



Photos.com

PHOTO 1.3: The hulk prison ship was usually a vessel that was old and squalid inside. Little if any lighting was provided, and women, children, and men would be imprisoned together. The conditions were filthy, and rodents commonly lived among the offenders trapped therein.

Indentured Servitude

Indentured servants in the American colonies included both free persons and offenders. Generally speaking, free persons who indentured themselves received better treatment due to the fact that they had some say in their initial agreement to working requirements prior to being transported to the colonies. Such persons came of their own accord in hope of making a better life in the New World. Most of these persons were poor and had few options in England. Though this meant that their lot was one of desperation, they were still not typically subjected to some of the more harsh treatment that offenders were subjected to when indentured into servitude.

Indentured status was essentially a form of slavery, albeit one that had a fixed term of service. During the time that persons were indentured, they were owned by their employer and could be subjected to nearly any penalty except death. It is estimated that nearly half of all persons who came to the Americas during the 1600s and 1700s were indentured servants (Johnson et al., 2008).

Hulks and Floating Prisons

When the American Revolution began in 1776, there was an abrupt halt to the transporting of convicts to those colonies. Thus, England began to look for new ideas regarding the housing of prisoners. One solution was to house offenders in hulks, which were broken-down, decommissioned war vessels of the British Royal Navy. These vessels were anchored in the River Thames. This practice started with the expectation that England would ultimately defeat the American colonies, thereby making the colonies available again for transportation. When it became clear that the colonies would maintain their independence, hulks were used as prisons for a more extended period. During the time when hulks were most widely used (1800s), there were over 10 such vessels that held over 5,000 offenders (Branch-Johnson, 1957).

Conditions aboard these decommissioned ships were deplorable. The smell of urine and feces, human bodies, and vermin filled the air. Overcrowding, poor ventilation, and a diet lacking appropriate nourishment left offenders in a constant state of ill health. Punishments for infractions were severe, and, as one might expect, there were no medical services. Further, all types of offenders were kept together aboard these vessels, including men, women, and vagrant youth. In many cases, there was no proactive effort to separate these offenders from another. This then allowed for victimization of women and youth by other stronger and predatory offenders.

The Enlightenment and Correctional Reform

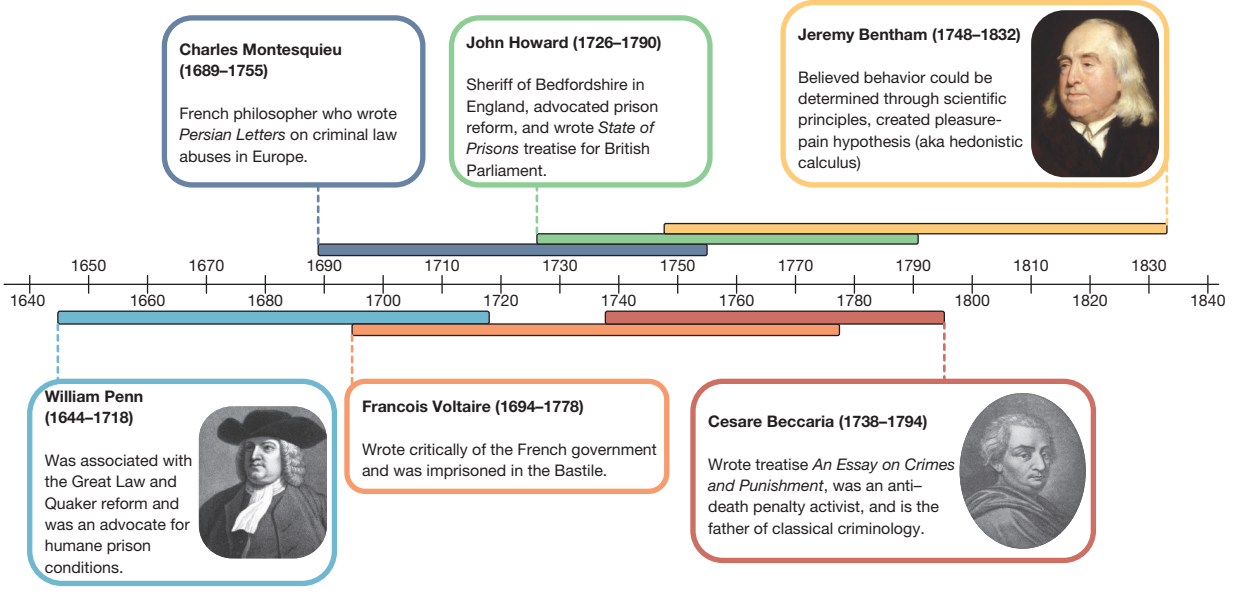
As demonstrated earlier in this chapter, the roots of punishment tend to be ingrained in a desire for revenge. From this intent emerged a number of ghastly tortures and punishments. But beginning in the 1700s, a new mind-set began to develop throughout Europe. It was during this period, referred to as the Age of Enlightenment, that many of the most famous philosophers of modern Western history found their place and left their mark (Carlson, Roth, & Travisono, 2008). This is when thinkers and reformers such as William Penn, Charles Montesquieu, Francois Voltaire, Cesare Beccaria, John Howard, and Jeremy Bentham became known as leading thinkers on punishment as well as advocates of humane treatment for prisoners (see Figure 1.1).

William Penn, the Quakers, and the Great Law

William Penn (1644–1718) was the founder of the state of Pennsylvania and a leader of the religious Quakers. He was an advocate of religious freedom and individual rights

FIGURE 1.1

Major Correctional Thinkers in Early History



Photos.com; Wikimedia Commons; National Portrait Gallery

(Carlson et al., 2008). He was also instrumental in spreading the notion that criminal offenders were worthy of humane treatment. The Quaker movement in penal reform did not just exist in America; it also took hold in Italy and England. In the process, it influenced other great thinkers, such as Cesare Beccaria, John Howard, and Jeremy Bentham, all of whom would achieve prominence after the death of William Penn.

The Quakers followed a body of laws called the **Great Law**, which was more humane in approach than the typical English response to crime. According to the Great Law, hard labor was a more effective punishment than the death penalty. This became a new trend in American corrections, where hard labor was viewed as part of the actual punishment for serious crimes rather than simply being something that was done prior to the actual punishment given to the offender (Johnston, 2009). This was also the first time that offenders received a loss of liberty (albeit while completing hard labor) as a punishment in and of itself. This same concept would later be adopted by a future scholar held in high regard: Cesare Beccaria.

Charles Montesquieu, Francois Voltaire, and Cesare Beccaria

Montesquieu and Voltaire were French philosophers who were very influential during the Age of Enlightenment, and they were particularly concerned with what would be considered human rights in today's society. Charles Montesquieu (1689–1755) wrote an essay titled *Persian Letters*, which was instrumental in illustrating the abuses of the criminal law in both France and Europe. *Persian Letters* is a collection of fictional letters from two Persian noblemen who visited Paris for their first time, and it reflects the thoughts of these two characters on European laws and customs as compared to those in Persia.

At about the same time, Francois Voltaire (1694–1778) became involved with a number of trials that challenged traditional ideas of legalized torture, criminal responsibility, and justice. Voltaire was intrigued with inequities in government and among the wealthy. Like his friend Montesquieu, Voltaire wrote critically of the French government. In fact, he was imprisoned in the Bastille (a fortified prison) for 11 months for writing a scathing satire of the French government. In 1726, Voltaire's wit, public behavior, and critical writing offended much of the nobility in France, and he was essentially given two options: He could be imprisoned or agree to exile. Voltaire chose exile and lived in England from 1726 to 1729. While in England, Voltaire became acquainted with John Locke, another great thinker on crime, punishment, and reform.

Great Law: Correctional thinking and reform in Pennsylvania that occurred due to the work of William Penn and the Quakers.

These two philosophers helped pave the way for one of the most influential criminal law reformers of Western Europe. Cesare Beccaria (1738–1794) was very famous for his thoughts and writings on criminal laws, punishments, and corrections. Beccaria was an Italian philosopher who in 1764 wrote a brief treatise titled *An Essay on Crimes and Punishments* (1764). This treatise was the first argument among scholars and philosophers made in public writing against the death penalty. The text was considered a seminal work and was eventually translated into French, English, and a number of other languages.

Beccaria condemned the death penalty on two grounds. First, he claimed that the state does not actually possess any kind of spiritual or legal right to take lives. Second, he said the death penalty was neither useful nor necessary as a form of punishment. Beccaria also contended that punishment should be viewed as having a preventive rather than a retributive function. He believed that it was the certainty of punishment (not the severity) that achieved a preventative effect, and that in order to be effective, punishment should be prompt. Many of these tenets comport with classical criminological views on crime and punishment.

Due to Beccaria's beliefs and contentions, he became viewed as the Father of Classical Criminology, which was instrumental in shifting views on crime and punishment toward a more humanistic means of response. Among other things, Beccaria advocated for proportionality between the crime that was committed by an offender and the specific sanction that was given. Since not all crimes are equal, the use of progressively greater sanctions became an instrumental component in achieving this proportionality. **Classical criminology**, in addition to advocating proportionality, emphasized that punishments must be useful, purposeful, and reasonable. Beccaria contended that humans were hedonistic—seeking pleasure while wishing to avoid pain—and that this required an appropriate amount of punishment to counterbalance the rewards derived from criminal behavior. Further, Beccaria called for the more routine use of prisons as a means of incapacitating offenders and denying them their liberty. This was perhaps the first time that the notion of denying offenders their liberty from free movement was seen as a valid punishment in its own right.

John Howard: The Making of the Penitentiary

John Howard (1726–1790) was a man of means who inherited a sizable estate at Cardington, near Bedford (in England). He ran the Cardington estate in a progressive manner and with careful attention to the conditions of the homes and education of the citizens who were under his stead. In 1773, the public position of sheriff of Bedfordshire became vacant, and Howard was given the appointment. One of his duties as sheriff was that of prison inspector. While conducting his inspections, Howard was appalled by the unsanitary conditions that he found. Further, he was dismayed and shocked by the lack of justice in a system where offenders paid their gaolers (an Old English spelling for jailers) and were kept jailed for nonpayment even if they were found to be innocent of their alleged crime.

Howard traveled throughout Europe, examining prison conditions in a wide variety of settings. He was particularly moved by the conditions that he found on the English hulks and was an advocate for improvements in the conditions of these and other facilities. Howard was impressed with many of the institutions in France and Italy. In 1777, he used those institutions as examples from which he drafted his *State of Prisons* treatise, which was presented to Parliament.

Jeremy Bentham: Hedonistic Calculus

Jeremy Bentham (1748–1832) was the leading reformer of the criminal law in England during the late 1700s and early 1800s, and his work reflected the vast changes in criminological and penological thinking that were taking place at that time. Born roughly a decade after Beccaria, Bentham was strongly influenced by Beccaria's work. In particular, Bentham was a leading advocate for the use of graduated penalties that connected the punishment with the crime. Naturally, this was consistent with Beccaria's ideas that punishments should be proportional to the crimes committed.

Classical criminology: Emphasized that punishments must be useful, purposeful, and reasonable.

Bentham believed that a person's behavior could be determined through scientific principles. He believed that behavior could be shaped by the outcomes that it produced. Bentham contended that the primary motivation for intelligent and rational people was to optimize the likelihood of obtaining pleasurable experiences while minimizing the likelihood of obtaining painful or unpleasant experiences. This is sometimes called the pleasure-pain principle and is referred to as **hedonistic calculus**. Bentham's views are reflected in his reforms of the criminal law in England. Bentham, like Beccaria, believed that punishment could act as a deterrent and that punishment's main purpose, therefore, should be to deter future criminal behavior.

Punishment During Early American History: 1700s–1800s

With the exception of William Penn, the penal reformists all came from Europe and did the majority of their work on that continent. Indeed, none of these persons (Montesquieu, Voltaire, Beccaria, Howard, and Bentham) were influential until after Penn's death in 1718. In fact, Beccaria, Howard, and Bentham were not born until after William Penn had passed away, while Montesquieu and Voltaire were in their mid-to-late 20s at this time. The reason that this is important is twofold. First, it is important for students to understand the historical chronological development of correctional thought. Second, this demonstrates that while the American colonies experienced reform in the early 1700s, this reform was lost when the Great Law in Pennsylvania was overturned upon Penn's death in 1718. From the time of Penn's demise until about 1787, penal reform and new thought on corrections largely occurred in Europe, leaving America in a social and philosophical vacuum (Johnson et al., 2008).

This digression in correctional thought continued throughout the 1700s and culminated with what is today a little-known detail in American penological history. The **Old Newgate Prison**, located in Connecticut, was the first official prison in the United States. The structure of this prison reflects the lack of concern for reforming offenders that was common during this era. Old Newgate Prison was crude in design and, in actuality, served two purposes: It was a chartered copper mine, and from 1773 to 1827, it was used as a colonial prison. This prison housed inmates underground and was designed to punish the offenders while they were under hard labor. Due to the desire to strengthen security of the facility (successful escape attempts had been made), a brick-and-mortar structure was built around the entry to the mine that consisted of an exterior walled compound and observation/guard towers. Thus, this facility truly was a prison, albeit a crude one. However, it was not built for correctional purposes; *its purpose was solely punishment*.

Hedonistic calculus: A term describing how humans seem to weigh pleasure and pain outcomes when deciding to engage in criminal behavior.

Old Newgate Prison: First prison structure in America.

Students are encouraged to read Focus Topic 1.1: Escape From Old Newgate Prison for a very interesting tale and historical account of the development and use of this prison. This prison is hardly mentioned in most texts on American corrections; this should not be the case since this was a very significant development in American penological history. Further, Old Newgate Prison demonstrates how the development of prison construction and correctional thought occurred over the span of years with many lessons that were hard learned. The history of this prison is a critical beginning juncture in American penology and also demonstrates how modifications to prison structure became increasingly important when administering a system designed to keep offenders in custody. As we will see in future chapters, the concern with secure custody plagued correctional professionals

Wikimedia Commons

PHOTO 1.4: Connecticut's Old Newgate Prison (pictured here) was the first official prison in the United States.

I. N. Phelps Stokes. Collection of American Historical Prints

PHOTO 1.5: The Walnut Street Jail, pictured here, was America's first attempt to actually incarcerate inmates with the purpose of reforming them.

throughout subsequent eras of prison development, with custody of the offender being the primary mandate of secure facilities.

The Walnut Street Jail

While the Old Newgate Prison was in full operation in Connecticut, advocates of prison reform in Pennsylvania were gaining momentum after several decades of apparent dormancy. A little over 60 years had elapsed after William Penn's death when, in the late 1780s, an American medical doctor and political activist by the name of Benjamin Rush became influential in the push for prison reform (Carlson et al., 2008). In 1787, Rush, the Quakers, and other reformers met together in what was then the first official prison reform group, the Philadelphia Society for Alleviating the Miseries of Public Prisons (which was later named the Pennsylvania Prison Society), to consider potential changes in penal codes among the colonies (Carlson et al., 2008). This group was active in the ultimate development of the penitentiary wing within the **Walnut Street Jail**, which was established in 1790 (Carlson et al., 2008). This development was America's first attempt to actually incarcerate inmates with the purpose of reforming them. A wing of the jail was designated an official penitentiary where convicted felons were provided educational opportunities, religious services, basic medical attention, and access to productive work activity. Thus, it is perhaps accurate to say that the Walnut Street Jail was also the first attempt at correction in the United States (Carlson et al., 2008). Eventually, counties throughout Pennsylvania were encouraged to transport inmates with long sentences to the Walnut Street Jail. This is thought to be the first move toward the centralization of the prison system under the authority of the state rather than of individual counties, as jails had until this time been organized.

While the Walnut Street Jail marked a clear victory for prison reformers, the jail (and its corresponding penitentiary wing) eventually encountered serious problems with overcrowding, time management, and organization as well as challenges with the maintenance of the physical facilities. Over time, frequent inmate disturbances and violence led to high staff turnover, and by 1835, the Walnut Street Jail was closed. This icon of reform stayed in operation only 8 years longer than the Old Newgate Prison.

However, it is extremely important that students read the following sentence very carefully: *The Walnut Street Jail was not the first prison in America; rather, it was the first penitentiary*. The difference is that a penitentiary, by definition, is intended to have the offender seek penitence and reform, whereas a prison simply holds an offender in custody for a prolonged period of time.

The Pennsylvania System

During the 1820s, two models of prison operation emerged: the Pennsylvania and Auburn systems (Carlson et al., 2008). These two systems came into vogue as the Old Newgate Prison was closed and once it became fairly clear that the Walnut Street Jail was not a panacea for prison and/or correctional concerns. With the approved allocation of **Western State Penitentiary** and **Eastern State Penitentiary**, the beginning of the Pennsylvania system was set into motion.

In 1826, the doors of Western State Penitentiary were open for the reception of inmates. The penitentiary opened with solitary cells for 200 inmates, following the original ideal to have solitary confinement without labor (Stanko, Gillespie, & Crews, 2004). However, doubts arose as to whether this would truly have reformative benefits among offenders and if it would be economical. Advocates of Western State Penitentiary contended that solitary confinement would be economical because

Walnut Street Jail: America's first attempt to incarcerate inmates with the purpose of reforming them.

Western State Penitentiary: Part of the Pennsylvania system located outside of Pittsburgh.

Eastern State Penitentiary: Part of the Pennsylvania system located near Philadelphia.

FOCUS TOPIC 1.1

Escape From Old Newgate Prison

Just a couple of years before the first shots of the American Revolution were fired, the Connecticut General Assembly decided that what the colony needed most was a good, heavy-duty gaol. In the legislators' wisdom, any new prison would have to meet certain specifications. It would have to be fairly close to Hartford; absolutely escape-proof; self-supporting (i.e., inmates would have to be "profitably employed"); and—most important of all, then as now—cheap to build and maintain.

Near "Turkey Hills," in the region of northern Simsbury (now East Granby), there were some abandoned copper mines that had been sporadically dug with disappointing results since early in the century. The legislature immediately appointed a three-member study commission to "view and explore the copper mines at Simsbury."

The study group was mighty impressed with the prison potential of a many-shafted mine that ran deep under a mountain. Only 18 miles from Hartford, the mine boasted at least one cavern, 20 feet below ground, large enough to accommodate a "lodging room" that was 16 feet square. There were also lots of connecting tunnels where prisoners could be gainfully employed by being made to pick away at the veins of copper ore located there.

Better yet, according to the report, the only access to the mine from outside came from two air shafts: one 25 feet deep and the other 70 feet deep, the latter leading to "a fine spring of water." Still better was the low cost of mine-to-gaol conversion. By October 1773, the government had obtained a lease, carpenters had built the lodging room, and workmen had fitted a heavy iron door into the 25-foot air shaft, 6 feet beneath the surface. In the same month, the Connecticut General Assembly designated the place as "a public gaol or workhouse, for the use of this Colony"; named it Newgate Prison, after London's dismal house of detention; and appointed a "master" (or "keeper") and three "overseers" to administer the gaol.

Only men (never women) who had been convicted of the most dastardly crimes known to the colony—burglary, robbery, counterfeiting or passing funny money, and horse thieving—were eligible for a one-way trip into the state's dank, dark prison without walls. Chosen for the dubious honor of being Newgate's first prisoner was one John Hinson, a 20-year-old man about whom—considering his historic, "groundbreaking" status—surprisingly little is known. Convicted for some unrecorded crime and remanded to Newgate by the Superior Court on December 22, 1773, Hinson spent exactly 18 days in the "escape-proof" gaol before departing quietly for parts unknown. Although no one saw him leave, obviously, there was some evidence that he had used the 70-foot well shaft to climb out of the mine.

As a consequence of the successful escape of Hinson and, 3 months later, three more Newgate prisoners, it was ordered that modifications be undertaken that included, in 1802, the erection of a high stone wall around the prison.

Finally, in September 1827, after almost 54 years of operation, during which well over 800 prisoners were committed to its clammy, subterranean dungeons, Newgate Prison was abandoned, and the remaining inmates were transferred to the new state prison at Wethersfield. Significantly, the last escape attempt occurred on the night before the move to Wethersfield, when a prisoner fell back into the well—and drowned—as he tried to emulate old John Hinson of sainted memory. Coming when it did, at the bitter end of the facility's long, dark history, the death was a tragic, but somehow fitting, reminder of Newgate's most enduring legend. ●

Source: Philips, D. E. (1992). *Legendary Connecticut: Traditional tales from the nutmeg state.* Willimantic, Conn.: Curbstone Press. Copyright © 1992 by Joseph L. Steinberg. Reprinted by permission of Northwestern University Press.

offenders would repent more quickly, resulting in a reduced need for facilities (Sellin, 1970). While construction of Eastern State Penitentiary continued, planners were careful to learn from the mistakes of Western State Penitentiary. It is because of this that Eastern State Penitentiary has drawn most of the attention when historians and prison buffs talk about the Pennsylvania system of corrections.

In 1829, Eastern State Penitentiary opened. It was designed on a separate confinement system of housing inmates, similar to Western State Penitentiary. This system allowed inmates to reside in their cells indefinitely. Aside from unforeseen emergencies, special circumstances, or medical issues, inmates spent 24 hours a day in their cells. They had interactions with only a few human beings, most of them prison staff.

Eastern State Penitentiary was sometimes referred to as the Cherry Hill facility because it had been built on the grounds of a cherry tree orchard. The original structure

https://www.flickr.com/photos/jagg889/10213099685

PHOTO 1.6: Western State Penitentiary, located outside of Pittsburgh, Pennsylvania, first opened with approximately 200 solitary cells for inmates in 1826.

had 252 cells, and each was much more spacious than those of Western State Penitentiary. Cells at Eastern were 12 feet long, 7 feet wide, and 16 feet high. The conditions within Eastern were quite humane and well ahead of their time. Indeed, as Johnston (2009) notes,

> Each prisoner was to be provided with a cell from which they would rarely leave and each cell had to be large enough to be a workplace and have attached a small individual exercise yard. Cutting edge technology of the 1820s and 1830s was used to install conveniences unmatched in other public buildings: central heating (before the U.S. Capitol); a flush toilet in each cell (long before the White House was provided with such conveniences); shower baths (apparently the first in the country). (p. 1)

It is clear that the physical conditions of this facility were sanitary even by today's standards. Further, the conditions of day-to-day treatment were also similar to what one might find in some prisons today.

Ultimately, the Pennsylvania system of separate confinement drew substantial controversy. The long periods of solitary confinement resulted in many inmates having emotional breakdowns, and various forms of mental illness emerged due to the extreme isolation. Prison suicide attempts became commonplace within the facility, which, by religious Quaker standards, meant that those inmates would not have their souls redeemed—an obvious failure at reform, both in the material world and in the spiritual world that the Quakers believed in. Eventually, the start of the Civil War made funds less available, and the practice of individual confinement was largely abandoned. Such was the demise of the Pennsylvania system of penitentiary management.

Auburn system: An alternative prison system located in New York.

The Auburn System

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PHOTO 1.7: Auburn Prison, in the state of New York, opened in 1816. Today it is still in operation but has been renamed Auburn Correctional Facility.

In 1816, 11 years before Old Newgate Prison closed in 1827, 19 years before the Walnut Street Jail closed in 1835, 10 years prior to the opening of Western State Penitentiary in 1826, and 13 years prior to the opening of Eastern State Penitentiary in 1829, the state of New York opened the Auburn Prison (see Table 1.2). The means that New York used to operate its prisons were different than the modes of operation in Pennsylvania. This alternative system was termed the **Auburn system** or congregate system, and under its provisions, inmates were kept in solitary confinement during the evening but were permitted to work together during the day. Throughout all of their activities, inmates were expected to stay silent and were not allowed to communicate with one another by any means whatsoever. Initially, this type of operation was implemented in Auburn Prison and the prison located in Ossining, New York. (Ossining would later be known as Sing Sing Prison.) The Auburn system was a significant turning point in American penology since it redefined much of the point and purpose of a prison facility.

TABLE 1.2

Timeline for the Opening and Closure of Early American Prisons

PRISON	YEAR OPENED	YEAR CLOSED
Old Newgate Prison	1773	1827
Walnut Street Jail	1790	1835
Auburn Prison	1816	Still open. Renamed Auburn Correctional Facility.
Western State Penitentiary	1826	Closed in 2005 and reopened in 2007. Renamed State Correctional Institution at Pittsburgh.
Eastern State Penitentiary	1829	1971

Auburn designs tended to have much smaller cells than the Pennsylvania system, due to the fact that inmates were allowed out of their cells on a daily basis so that they could go to work. Auburn facilities were designed as industry facilities that had some type of factory within them. The economic emphasis throughout the Auburn system was one that became popular among other states and spread throughout the nation. In 1821, Elam Lynds was made warden at Auburn, and he was the primary organizer behind the development of the Auburn system. Warden Lynds contended that all inmates should be treated equally, and he believed that a busy and strict regimen was the best way to run a prison. Prison life included lockstep marching and very rigid discipline. It is at this time that the classic white-and-black striped uniforms appeared. All inmates were expected to work, read the Bible, and pray each day. The idea was that through hard work, religious instruction, penitence, and obedience, the inmate would change from criminal behavior to law-abiding behavior (Carlson & Garrett, 2008).

The Auburn system of prison operation initially had economic success due to several factors. First, the proceeds generated from inmate labor aided in offsetting the costs of housing the inmates. Second, the use of the congregate system allowed more productive work to take place—work that often required group effort. Third, other innovations of the Auburn system ensured its profitability. One of these was the use of inmate labor for profit through a **contract labor system**, which eventually became a mainstay feature of the Auburn system. The contract labor system utilized inmate labor through state-negotiated contracts with private manufacturers who provided the prison with raw materials so that prison labor could refine those materials (Roth, 2011). Items such as footwear, carpets, furniture, and clothing were produced through this system.

Two American Prototypes in Conflict

Both the Pennsylvania system and the Auburn system of prison construction and management had achieved attention in Europe by the late 1830s and were seen as unique models of prison management that were distinctly American in thought and innovation (Carlson et al., 2008). It was not long, however, until questions regarding the superiority of one system over the other began to emerge. Both the Pennsylvania system and the Auburn system had potential benefits and drawbacks.

Ultimately, the Auburn system was the model that states adopted due to the economic advantages that were quickly realized. In addition, the political climate of the time favored an emphasis on separation, obedience, labor, and silence since sentiments toward crime and criminals were less forgiving during this era. Maintaining a daily routine of hard work was seen as the key to reform. Idleness, according to many advocates of this more stern system, provided convicts with time to teach one another how to commit future crimes. Thus, it was important to keep convicts busy so that they did not have the time or energy to dwell on the commission of criminal activity.

Contract labor system: Utilized inmate labor through state-negotiated contracts with private manufacturers.

CORRECTIONS AND THE LAW 1.1

Ruffin v. Commonwealth (1871)

In 1871, the Virginia State Supreme Court noted that an inmate was the "slave of the state" while serving his or her sentence. This case, known as *Ruffin v. Commonwealth* (62, Va. 790, 1871), established what has often been touted as the hands-off doctrine, whereby courts consistently left matters inside prisons to those persons tasked with their operation. Essentially, the courts (including the Supreme Court) stayed out of prison business during this period.

The reason for this approach is understandable. In the year 1871, the Civil War had come to a close just a few years prior, and it was not surprising that prior Confederate states like Virginia would consider inmates to be slaves of the state. However, this same legal principle was equally maintained in both the northern and southern regions of the United States. Much of this also had to do with the fact that issues related to state sovereignty were still a sensitive issue despite the end of the Civil War, and judges did not want to become enmeshed in legal issues that might aggravate an already tenuous situation. With this in mind, most judges refused to intervene on the grounds that their function was limited to freeing those inmates who had been illegally confined, which did not include meddling with the means by which prison administrators operated their facilities.

Thus, prisons operated in a virtual social vacuum, and wardens did not have to be concerned with public sentiments or any type of legal reprisal from inmates or their families. The legal stance of the courts all but ensured that prisons would operate in an unconstitutional manner since there was no incentive to do otherwise and since there was no punishment involved for the mistreatment of inmates. This would remain the case until the "hands-on era" arose alongside the civil rights movement, which ushered in sweeping social changes throughout the nation. The official turning point in which the hands-off doctrine began to be eclipsed came with ***Holt v. Sarver* (1969)**.

There is one last point that should be noted. The ruling in *Ruffin v. Commonwealth* reflects a mentality regarding prisoners that harkens back to ancient Rome. As we have seen in this chapter, the Romans viewed criminals as having a "civil death" while in custody. The rights (or lack thereof) afforded in *Ruffin* are similar, the presumption being that inmates are devoid of any rights or legal standing. It would appear that the legal status of offenders had not changed much throughout the centuries, allowing atrocities and cruel behavior to go unchecked as inmates were held as the invisible slaves of society. ●

The Southern System of Penology: Before and After the Civil War

The climate and philosophy of southern penology has been captured on the silver screen in several classic prison movies, such as *Cool Hand Luke* and *Brubaker*. Indeed, more modern films, such as *O Brother, Where Art Thou?,* portray southern penology in a manner that is similar to its predecessors. When examining southern penology, it is important to understand the different cultural and economic characteristics of the region, particularly when comparing this type of prison system with the Pennsylvania and New York systems. From a historical, social, and cultural standpoint, students should keep in mind that the slave era took place during the early to mid-1800s (up until 1864 or so), and this impacted the manner in which corrections was handled in the South.

Prior to the Civil War, separate laws were required for slaves and free men who turned criminal. These laws were referred to as **Black Codes**, and they included harsher punishments for crimes than were given to white offenders (Browne, 2010). What is notable is that black slaves were not usually given prison sentences because this interfered with the ability of plantation owners to get labor out of the slave, a commodity desperately needed in the plantation system (Browne, 2010; Roth, 2011). Thus, during the pre–Civil War era, prisons typically had populations that included mostly white inmates with only a few free blacks (Browne, 2010).

After the Civil War, the economy was in ruin, and the social climate was chaotic throughout the southern United States. In a time when things were very uncertain, there were few resources of any sort, and ideas as to how the inmate population should be dealt with were scarce. Because there were not sufficient prison resources, the lease system continued to be implemented and expanded. It is interesting to point out that

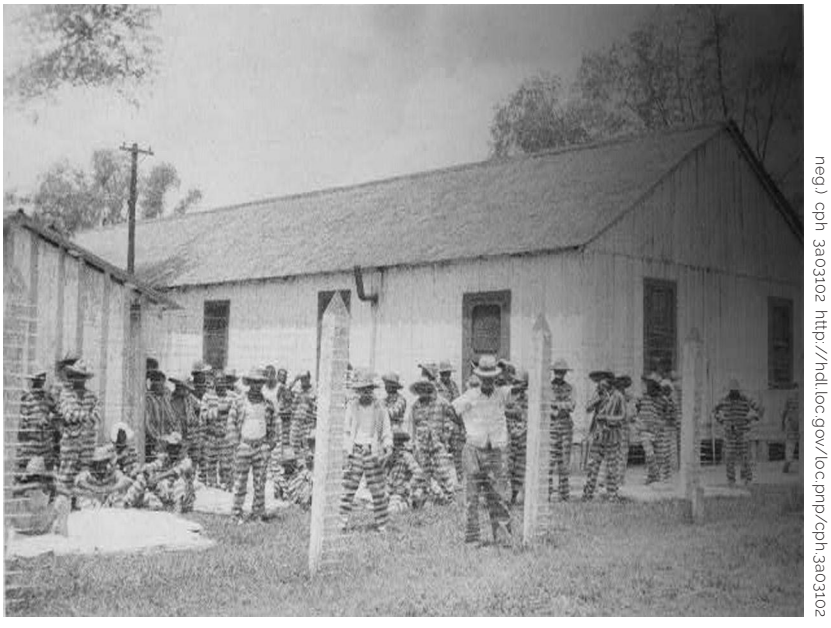
***Holt v. Sarver I* (1969):** Ruled that prison farms in the state of Arkansas were operated in a manner that violated the prohibition against cruel and unusual punishments.

Black Codes: Separate laws were required for slaves and free men who turned criminal.

after the Civil War, over 90% of all leased inmates were in the South (McShane, 1996a, 1996b; Roth, 2011). This was largely due to the political and economic characteristics of the region as well as the termination of slavery that occurred with the South's defeat.

Eventually, southern states abolished the leasing system and created large prison farms that were reminiscent of the old plantations of the South (Roth, 2006). These farms operated to maximize profits and reduce the costs associated with incarceration of the inmate population. During this time, some major southern penal farms, such as Angola in Louisiana and Cummins in Arkansas, developed a sense of notoriety (Roth, 2006).

Since the majority of the law-abiding citizenry had no concern for the welfare of convicts, both of these systems proved to be lucrative and workable arrangements for businesses and state systems. With this in mind, it is perhaps accurate to say that southern penology took a step backward in correctional advancement and did so in a manner that maximized profit at the expense of long-term reform and crime reduction. Because these systems were profitable, there was no incentive to eliminate abuses.



Library of Congress Digital ID: (digital file from b&w film copy neg.) cph 3a03102 http://hdl.loc.gov/loc.pnp/cph.3a03102

PHOTO 1.8: Louisiana State Penitentiary Angola is a sprawling, farm-like state prison that was built on the grounds of a plantation in the South. This prison is now modern and sophisticated in the programming that is offered.

The Chain Gang and the South

Chain gangs were a common feature within the southern penal system. This type of labor arrangement was primarily used by counties and states to build railroads and levees and to maintain county roads and state highways (Carroll, 1996). Most jurisdictions viewed this type of labor as a way to make money and also reduce overhead in housing inmates. The shackles were never removed from inmates on many chain gangs, and the men would usually sleep chained together in cages (Carroll, 1996).

In addition, the overseers of this system were poorly paid and often illiterate. This meant that, in a manner of speaking, the guard staff became dependent upon this system in which they settled for the substandard wage given as they furthered the cause of a system that exploited even them, though to a lesser extent when compared with the convict (Carroll, 1996). Given these circumstances and the limited skills of the guard staff, the use of brute force and clumsy tactics of inmate control prevailed.

The Western System of Penology

As crime rose in the Wild West, settlers responded by building crude jails in the towns that lay scattered across the desert terrain. These jails were not very secure and typically did resemble how they are often portrayed on American television (Carlson & Garrett, 2008). For the most part, they were used as holding cells, and long-term housing simply did not exist. During these years, most western states were territories that had not achieved statehood, and inmates were usually held in territorial facilities or in federal military facilities (Johnson et al., 2008).

As the need for space became greater, most western states found it more economical and easy to simply contract with other states and with the federal government to take custody of their inmates (Carlson & Garrett, 2008). The western states paid a set cost each year and simply shipped their offenders elsewhere; given the social landscape at the time, this was perhaps the most viable of options that these states could choose. According to Carlson and Garrett (2008), western states paid for other states to maintain custody of their offenders. This allowed western states to avoid the costs of building and maintaining large prisons and/or plantations. As time went on, state governments in the West developed, and the region became more settled. Once this

APPLIED THEORY 1.1

The Subculture of Violence Theory and Corrections

As presented by Wolfgang and Ferracuti (1967), the *subculture of violence theory* has been used to explain violence (particularly homicide) in a number of contexts and for a variety of different social groups. In their effort to explain why some groups are more prone to violence, Wolfgang and Ferracuti utilized elements of social learning theory in their work, contending that the development of favorable attitudes and norms toward violence generally involved some type of learned behavior. According to them, the subculture of violence simply suggests that there is a very clear theme of violence in the lifestyle of subculture members. In laying out their thesis, Wolfgang and Ferracuti proposed a series of tenets or key themes to explaining violent subcultures. A select set of these tenets, and their potential application to the field of corrections, is presented below:

1. The constant state of vigilance and willingness to engage in violence demonstrates how violence permeates that culture and its sense of identity. In this case, the number of incidents where a member engages in violence and the seriousness of that violence can serve as a social barometer of the member's assimilation within the subculture. In such circumstances, the overt use of violence and the use of serious violence (especially homicide) indicate the level of commitment that a member has to that subculture. Obviously, this has very clear implications for modern-day correctional systems that contend with prison gang problems, in which members may be required to commit some act of lethal violence as a requirement for membership and/or to gain an elevated status or rank within the gang.

   Wolfgang and Ferracuti (1967) also make a very interesting point to note that among members of a given subculture, one would be able to recognize quantitative differences on psychological instruments and psychometric scales between members who are more prone to violence and those who are not as committed to a belief system grounded in violence. These differences would likely include the differential perception and processing of violent stimuli (including perceived aggressive intent where there is none), levels of compassion and/or remorse for violent acts, and/or differences in cognitive problem-solving skills. This is an important point to consider because this demonstrates how mental health professionals (i.e., psychologists, social workers, and counselors) can play a critical role in the correctional process. The medical model left a lasting legacy whereby mental health interventions became part and parcel of the correctional process.

2. Nonviolence is considered a counternorm. Peaceful approaches to the resolution of conflict are not respected between and among members: For members who do not act in kind to situations that require a violent response, their acceptance by others in the subculture will decrease. In short, cowardice and weakness bring dishonor on the group and on the individual member. In cases where the requirement for violence is considered a particularly strong expectation, members who fail to meet their obligation may themselves be killed by others in the subculture. This is particularly true within some organized crime groups and is also true among some street gangs and prison gangs. Because these values are learned out on the street as they are in prison, this type of thinking is doubly reinforced. However, survival in the violent prison environment can be contingent on adhering to this precept. Thus, inmates who wish to maintain the protection of gang membership while serving time will have to be willing to engage in violence.

3. The various mechanisms of learning inherent to differential association theory and social learning theory apply to violent subcultures; violence is a learned behavior that is reinforced through shared identity and associations that favor violent acts. This tenet explains how norms and values are shaped within the group as a whole and also explain how norms may vary from group to group both in the type and in the lethality of violence as a product of differential associations and differential forms of reinforcement. This holds clear implications for correctional administrators because it is likely that unchecked violence will beget additional violence. Even more interesting is the thought that the use of violence among security staff may magnify the effects of social learning upon many inmates who are subjected to this treatment and who observe it routinely.

4. Within subcultures, the use of violence may not be perceived as wrong behavior and, as a result, is not likely to generate feelings of guilt or remorse among members. This is a very important aspect of this theory and, in actuality, tends to reflect the emotional framework of psychopaths and/or offenders diagnosed with antisocial personality disorder. These groups of offenders tend to have a greater propensity to violence than do other offenders, and, in many cases, their autonomic nervous systems do not seem to process anxiety, fear, and even guilt or remorse as do other persons in the general population. These offenders will also tend to have psychological and personality characteristics that are quantifiable via psychometric tests, including such characteristics as levels of compassion or remorse (among others). This demonstrates again that the field of psychology provides a number of contributions for correctional systems that process offenders with offenders who are prone toward violence. ●

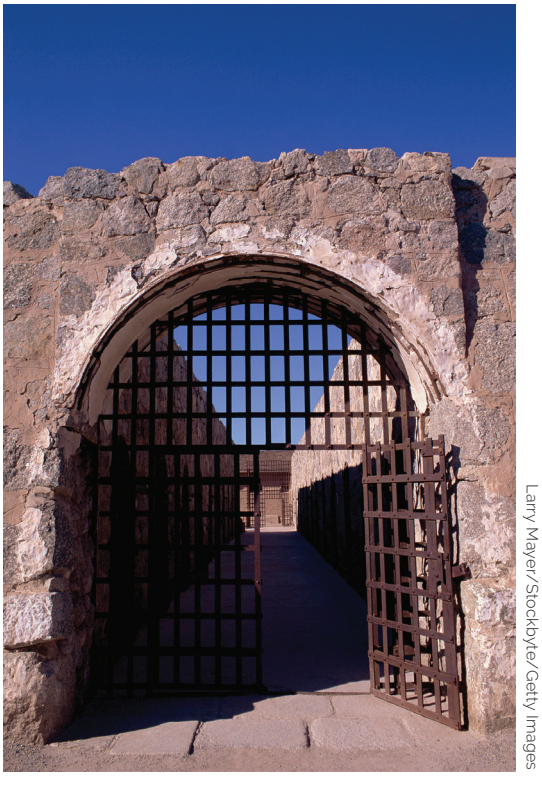
Source: Wolfgang, M. E., & Ferracuti, F. (1967). *Subculture of violence: Towards an integrated theory in criminology*. London: Associated Book Publishers.

occurred, western states began to build their own prisons. These prisons were designed along the lines of the Auburn system with an emphasis on labor.

The Age of the Reformatory in America

In 1870, prison reformers met in Cincinnati and ultimately established the National Prison Association (NPA). This organization was responsible for many changes in prison operations during the late 1800s, which were listed in its Declaration of Principles (Wooldredge, 1996). This declaration advocated for a philosophy of reformation rather than the mere use of punishment, progressive classification of inmates, the use of indeterminate sentences, and the cultivation of the inmate's sense of self-respect—perhaps synonymous with self-efficacy in today's manner of speaking. These innovations eventually became themes in the evolution of American corrections. This meeting and the recommendations that emanated from it were actually quite remarkable for the time period in which this occurred. It was only a handful of years after the Civil War, and the cattle drives and Old West tales had not yet become legend.

The first reformatory, **Elmira Reformatory**, was opened in July 1876 when the facility's first inmates arrived from Auburn Prison. Ironically, the site of the Elmira Reformatory had at one time been a prisoner-of-war camp for captured Confederate soldiers during the Civil War (Brockway, 1912; Wooldredge, 1996). The camp had a vile history, and thousands of southern soldiers died in the squalid, harsh, and brutal environment. However, the use of Elmira in 1876 was one of reform (thus the word *reformatory*), and this ushered in a new era in the field of penology.



Larry Mayer/Stockbyte/Getty Images

PHOTO 1.9: Yuma Prison, pictured here, is reflective of the southwestern style of penology.

The warden of Elmira Reformatory was a man by the name of Zebulon Brockway, who started his career in corrections as a prison guard in a state prison in Connecticut (Brockway, 1912). Brockway contended that imprisonment was designed to reform inmates, and he advocated for individualized plans of reform. During his term as warden, Brockway embarked on perhaps the most ambitious attempts to have the Declaration of Principles implemented within a correctional facility (Wooldredge, 1996). Judges, working within the framework of these principles and adopting an indeterminate sentencing approach, would sentence first-time offenders with modified indeterminate sentences. When serving these sentences, the reform of the offender was monitored, and, if successfully reformed, the offender was released prior to the expiration of the sentence. If the offender did not demonstrate sufficient proof of reform, he simply served the maximum term.

The Elmira Reformatory used a system of classification that had been produced due to Brockway's admiration of the work of Alexander Maconochie, a captain in the British Royal Navy who in 1837 was placed in command over the English penal colony at Norfolk Island. While serving in this command, Maconochie proposed a system where the duration of the sentence was determined by the inmate's work habits and righteous conduct. Called a **mark system** because "marks" were provided to the convict for each day of successful toil, this system was quite well organized and thought out (Brockway, 1912).

Under this plan, convicts were given marks and were moved through phases of supervision until they finally earned full release. Because of this, Maconochie's system is considered indeterminate in nature, with convicts progressing through five specific phases of classification. **Indeterminate sentences** include a range of years that will be potentially served by the offender. The offender is released during some point in the range of years that are assigned by the sentencing judge. Both the minimum and maximum times can be modified by a number of factors, such as offender behavior and offender work ethic. The indeterminate sentence stands in contrast to the use of **determinate sentences**, which consist of fixed periods of incarceration imposed on the offender with no later flexibility in the term that is served. Brockway was a strong

Elmira Reformatory: The first reformatory prison.

Mark system: A system where the duration of the sentence was determined by the inmate's work habits and righteous conduct.

Indeterminate sentences: Sentences that include a range of years that will be potentially served by the offender.

Determinate sentences: Consist of fixed periods of incarceration with no later flexibility in the term that is served.

advocate of the indeterminate concept and believed that it was critical to turning punishment into a corrective and reformative tool. Ultimately, it was found that these institutions were actually no more successful at molding inmates into law-abiding and productive citizens than were prisons, and by 1910, the reformatory movement began to decline in use.

Prisons in America: 1900s to the End of World War II

Prison Farming Systems

The prison farm concept was one that began in Mississippi and then extended throughout a number of southern states. The use of this type of prison operation lasted until well after World War II. As was noted earlier, prison farms were profit driven and based on agricultural production. Even though their particular market was agricultural, much of their operation was similar in approach to industrial prisons; the key difference was simply in the product that was manufactured. Two systems in particular capture the essence of southern prison farming: Arkansas and Texas.

The Arkansas System: Worst of the Worst

The conditions within the Arkansas prison system are thought to be the worst of all those among the southern prison farm era. The Arkansas system actually only consisted of two prison plantations, the Cummins Farm, which covered approximately 16,000 acres of territory, and the Tucker Farm, which spanned about 4,500 acres of territory. Each of these facilities produced rice, cotton, vegetables, and livestock. What made this prison system so particularly terrible was the corruption, brutality, and completely inhumane means of operation that existed.

The Arkansas prison system, similar to the Mississippi prison system, placed inmates in charge of other inmates. In Arkansas, these inmates were referred to as trusties and were at the top of the inmate hierarchy. Civilian employees in the prisons in Arkansas were scarce, meaning that trusties were responsible for most of the day-to-day order on the farm. The trusties served as guards over the other inmates and carried weapons. They also controlled and operated critical services, such as food and medical services. Trusties had their own dormitory to themselves, more freedom than other inmates, and the best food, and they were free to extort other inmates for money, goods, or services. As one might expect, such extortion happened quite frequently.

The overall supervisor of this system was the superintendent, whose primary role was to ensure that the prison farm operated at a profit. This meant that the superintendent tended to provide all authority to the trusties, so long as they made the prison a profit. The control of desperate, underfed, exhausted, and often ill inmates was maintained through a process of constant punishment. Some of these punishments were nothing less than the use of torture. Punishments included whipping; the inmate's fingers, nose, ears, or genitals being pinched with pliers; and even inserting needles under the inmate's fingernails. One of the most infamous forms of torture used was the "Tucker Telephone." This device is discussed in greater detail in Technology and Equipment 1.1.

The Progressive Era

From 1900 to 1920, numerous reforms took place across the United States, and this led to some dubbing this period the Age of Reform. For prison operations, the Age of Reform reflected an era of change and attention to humane treatment of inmates. During the **Progressive Era**, a particularly influential group, known as the Progressives, cast attention on social problems throughout the nation and sought to improve the welfare of the underprivileged. The members of this group remained steadfast in the belief that understanding deviant behavior lay with social and psychological causes, and they also contended that social and psychological treatment programs were the key to offender reform. Due to this line of thought and the influence of the Progressives, the

Progressive Era: A period of extraordinary urban and industrial growth and unprecedented social problems.

field of penology eventually included psychologists, social workers, and psychiatrists in addition to lawyers and security staff.

The Era of the "Big House"

The Big House era lasted from the early 1900s to just before the emergence of the civil rights movement.

Big House prisons were typically large stone structures with brick walls, guard towers, and checkpoints throughout the facility. The key architectural feature to Big House prisons was the use of concrete and steel. The cell blocks sometimes had up to six levels, making the entire structure large and foreboding. The interior of each cell block often was extremely hot and humid during the summer months and cold during the winter months. In addition, these structures magnified noise levels, creating echoes throughout as steel doors and keys clanged open and shut, announcements were made, and machinery operated within the facility.

The Medical Model

During the 1930s, another perspective emerged regarding inmate treatment and the likelihood for reform. The medical model developed in tandem with the rise of the behavioral sciences in the field of corrections (Carlson et al., 2008). The **medical model** can be described as correctional treatment that utilizes a type of mental health approach incorporating fields such as psychology and biology; criminality is viewed as the result of internal deficiencies that can be treated. The key to the medical model is understanding that it is rehabilitative in nature.

The medical model was officially implemented in 1929 when the U.S. Congress authorized the Federal Bureau of Prisons to open correctional institutions that would use standardized processes of classification and treatment regimens within their programming. One early proponent of the medical model and its clinical approach to rehabilitation was Sanford Bates, who was the first director of the Bureau of Prisons and had also served as a past president of the American Correctional Association (students will recall that this was originally named the National Prison Association in 1870).

At the heart of the medical model was the classification process; everything in the medical model that followed hinged on the accuracy and effectiveness of this process. The developers of the process believed that such a systematic approach would improve treatment outcomes and overall recidivism among offenders. However, as Carlson et al. (2008) note, "Although classification was one of the greatest concepts invented during this period, it became at best a management process rather than a reliable tool to aid in rehabilitation" (p. 13). This, unfortunately, emerged as the truth across the nation, and classification ultimately became a systematic process for housing and to aid institutional and community-based professionals in managing the inmate population rather than for changing the inmates' behavior.

The Reintegration Model

The **reintegration model** evolved during the last few years that the medical model was still in vogue. The term *reintegration* was used to identify programs that looked to the external environment for causes of crime and the means by which criminality could be reduced. This model was commonly used during the 1960s and 1970s as an alternative to punitive approaches that were gaining momentum. However, as crime continued to rise, strong skepticism of both the medical model and the reintegration model became commonplace. One of the sharpest and most distinctive blows to both of these models "was a rather infamous negative report produced in the early 1970s by a researcher studying rehabilitation programs across the country" (Carlson et al., 2008, p. 16). This report was the work of Robert Martinson, who had conducted a thorough analysis of research programs on behalf of the New York State Governor's Special Committee on Criminal Offenders.

Martinson (1974) examined a number of various programs that included educational and vocational assistance, mental health treatment, medical treatment, and early release. In his report, often referred to as the **Martinson Report**, he noted that

Big House prisons: Typically large stone structures with brick walls, guard towers, and checkpoints throughout the facility.

Medical model: An approach to correctional treatment that utilizes a type of mental health approach incorporating fields such as psychology and biology.

Reintegration model: Used to identify programs that looked to the external environment for causes of crime and the means to reduce criminality.

Martinson Report: An examination of a number of various prison treatment programs.