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EARLY CORRECTIONS

From Ancient Times to Correctional Institutions

TEST YOUR KNOWLEDGE

Test your current knowledge of correctional history by answering the following questions. After reading the chapter, check your answers in the “Answers to Test Your Knowledge” section at the end of this book.

1. The kind of punishment one received for wronging others in ancient civilizations often depended on the wealth and status of the offended party and of the offender. (True or false?)
2. Galley slavery ended when the technological innovation of sails was used to propel ships. (True or false?)
3. The concept of the panopticon, devised by Jeremy Bentham, included the ingenious combination of labor and money to improve conditions of prisons. (True or false?)
4. William Penn’s great law was based on Quaker principles and deemphasized the use of corporal and capital punishment. (True or false?)
5. What are the main differences between the Pennsylvania prison system and the New York prison system?
6. The Auburn Prison featured complete separation from other inmates. (True or false?)
7. To maintain control in the early years at the Auburn and Sing Sing prisons, liberal use of “the lash,” along with other methods, was required. (True or false?)
8. The 1870 American Prison Congress was held to celebrate the successes of prisons. (True or false?)
9. To be termed a correctional institution, a prison should have some rehabilitation programming for inmates. (True or false?)

LEARNING OBJECTIVES

Upon completion of this chapter, the reader should be able to:

- 2.1 Explain the evolution of corrections and correctional institutions.
- 2.2 Compare the different types of corrections used historically.
- 2.3 Identify some of the key Enlightenment thinkers, their ideas, and how they changed corrections.
- 2.4 Identify the housing and punishments used in prisons and jails in colonial times.
- 2.5 Assess the two predominant prison systems of the early 1800s and their strengths and weaknesses.
- 2.6 Summarize what the social critics (Beaumont, Tocqueville, and Dix) thought of early prisons and why.
- 2.7 Explain why reform of prisons and jails was needed and how those reform efforts worked out.
- 2.8 Assess where we are today in America in terms of prison types and how we got there.
- 2.9 Describe the prevailing themes in correctional history.

JIM CROW TREATMENT IN PRISONS

A Black Folsom Prison inmate named W. Mills complained about the racial segregation of prison jobs in the 1940s in a letter to the Governor's Investigating Committee in 1943. "Our servitude here is limited to inferior work. The only work that is given to Negroes is such as porter work, digging in the ground and breaking rock or whatever else the White inmates don't want to do." Among the most powerful testimonies offered to racial segregation in the California prison system came from Wesley Robert Wells, a Black prisoner who contested the conditions of prison during Jim Crow, and whose death sentence for throwing an ashtray at a guard became a rallying point for civil rights and radical labor advocates in the 1950s. Wells explained that racism abounded in the California prison system when he arrived there in 1928. "There was a lot of jimcrow [*sic*] stuff in Quentin in those days—just like there is now, and if you objected you were a marked number.... I was young and I held my head up. I didn't take no stuff from prisoner, stoolie, or guard. As a result, I got it bad. I got the strap, the rubber hose, the club, the curses" (Blue, 2012, pp. 66–67).

INTRODUCTION: THE EVOLVING PRACTICE OF CORRECTIONS AND THE GRAND REFORMS

The history of corrections is riddled with the best of intentions and the worst of abuses. Correctional practices and facilities (e.g., galley slavery, transportation, jails and prisons, community corrections) were created, in part, to remove the "riffraff"—both poor and criminal—from urban streets or at least to control and shape them. Prisons and community corrections were also created to avoid the use of more violent or coercive responses to such folk. In this chapter, the focus is on exploring the history of the Western world's correctional operations and then American corrections specifically and the recurring themes that run through this history and define it (see Figure 2.1). We also review the attributes of the seminal prison models of the early 1800s, known as the Pennsylvania prison system (including the Walnut Street Jail and the Western and Eastern Pennsylvania prisons) and the New York prison system (including the Auburn and Sing Sing prisons). We include the eyewitness accounts of the operation of such systems in their early years, as these are provided by *Gustave de Beaumont*, *Alexis de Tocqueville*, and *Dorothea Dix*.

Out of these two systems, the rampart for all American and many European prisons was constructed. As it became clear that neither prison model accomplished its multifaceted goals and that its operation was so distorted and horrific for inmates, changes were gradually made as new reform efforts ensued. The Elmira Prison in New York was perhaps the most ambitious of these efforts, in the latter part of the 1800s, which, in turn, set the stage for the later development of **correctional institutions**. Although the implementation of the reform ideals at Elmira is much critiqued, it certainly was much more humane than the convict-leasing system that operated at that time in the South. Folsom Prison in California in the 1940s, as described by inmate Wells, with its racial segregation, men laboring in rock quarries for lack of better work, and little programming, is representative of the Big Houses that preceded more concentrated efforts at rehabilitation that came with correctional institutions of the 1960s and 1970s. (More about these topics will be presented later in the chapter.)

What does become crystal clear from this review of the history of corrections in the United States is that there are several themes running through it. One such theme, of course, is the cyclical need for reform itself—but to what purpose is not always clear.

It is somewhat ironic that one of the best early analyses of themes and practices in American prisons and jails was completed by two French visitors to the United States—Gustave de Beaumont and Alexis de Tocqueville—who experienced the virtual birthing of prisons themselves while the country was in its relative infancy, in 1831 (Beaumont & Tocqueville, 1833/1964). Tocqueville, as a 26-year-old French magistrate, brought along his friend Beaumont, supposedly to study America's newly minted prisons for 9 months. They ended up also observing the workings of its law, its government and political system, and its race relations, among other things (Damrosch, 2010; Tocqueville and Goldhammer,

FIGURE 2.1 ■ Key Events in Corrections: Ancient Times to 1789

Ancient Times

Ancient Egyptian, Grecian, and Roman jails existed as the first type of correctional facility; both major and minor crimes could be punished severely

Fifth Century

Galley slavery was used by seafaring nations until the 18th century

1553 AD

First bridewell, or workhouse and poorhouse, developed in England

Middle Ages

(5th to the 15th century):

Early forms of jails and prisons existed in sheriffs' houses (jails), castle keeps, dungeons, and monasteries

1080

1080 AD

The White Tower was completed inside the Tower of London

1606

1606 AD

First official American jail built in Jamestown, Virginia

1553

1607 AD

Transportation first used as a correctional sanction

1764 AD

Cesare Beccaria wrote *On Crimes and Punishments*, proposing that punishment should be swift, appropriately severe, and certain

1775 AD

John Howard wrote *The State of the Prisons in England and Wales, With Preliminary Observations, and an Account of Some Foreign Prisons*, advocating for prison reform

1692

1692 AD

William Penn instituted his Great Law, which de-emphasized the use of corporal and capital punishment

1764

1773 AD

Newgate Prison in Simsbury, Connecticut, opened

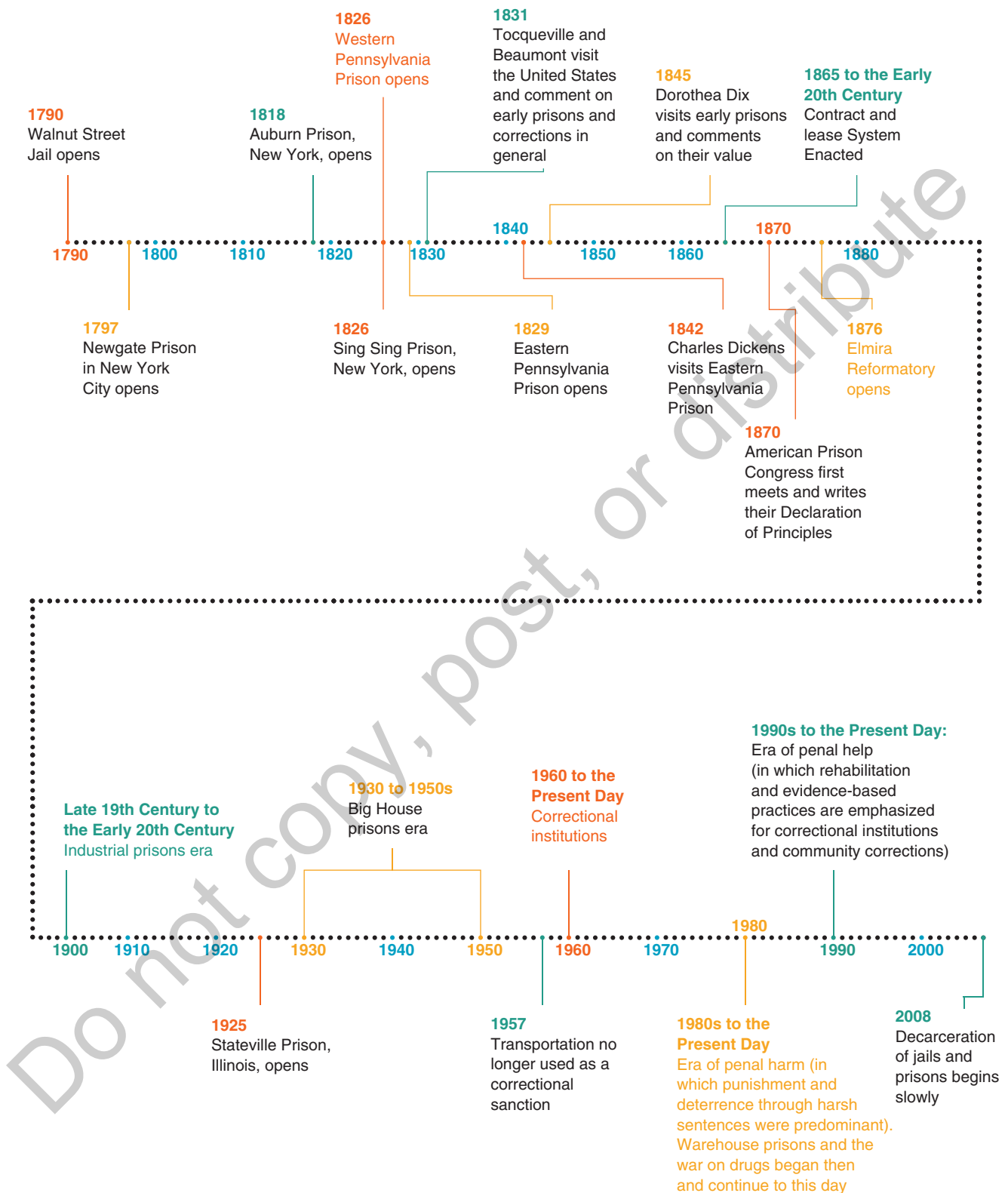
1773

1775

1789 AD

Jeremy Bentham proposed the building of a special type of prison, the panopticon

1789



1835/2004). The irony is that as outsiders and social critics, Beaumont and Tocqueville could so clearly see what others, namely Americans, who were thought to have “invented prisons” and who worked in them, were blind to. In this chapter, we will try to “see” what those early French visitors observed about Western—and specifically American—correctional operations.

Few visitors to the United States—or residents for that matter—explored or commented on the early correctional experience for women, Dorothea Dix being a notable exception. (There will be more about her and her observations about the state of corrections in 1845.) Yet, some of the themes that run through the practice of corrections apply to women and girls as well—but with a twist. Women have always represented only a small fraction of the correctional population in both prisons and jails, and the history of their experience with incarceration, as shaped by societal expectations of and for them, can be wholly different from that of men. As literal outsiders to what was the “norm” for inmates of prisons and jails and as a group whose rights and abilities were legally and socially controlled on the outside more than those of men and boys, women’s experience in corrections history is worth studying and will be more fully explored in Chapter 10.

What is clear from the history of Western corrections is that what was intended when prisons, jails, and reformatories were conceived and how they actually operated, then and now, were and are often two very different things (Rothman, 1980). As social critics ourselves, we can use the history of corrections to identify a series of “themes” that run through correctional practice, even up to today. Such themes will reinforce the tried, yet true, maxim “Those who cannot remember the past are condemned to repeat it” (Santayana, 1905, p. 284). Too often, we do not know or understand our history of corrections, and as a consequence, we are forever repeating it.

Themes: Truths That Underlie Correctional Practice

There are some themes that have been almost eerily constant, vis-à-vis corrections, over the decades and even centuries. Some of them are obvious, such as the influence that money—or its lack—exerts over virtually all correctional policy decisions. Political sentiments and the desire to make changes also have had tremendous influence over the shape of corrections in the past. Other themes are less apparent but no less potent in their effect on correctional operations. For instance, there appears to be an evolving sense of compassion or humanity that, though not always clear in the short term, in practice, or in policy or statute, has underpinned reform-based decisions about corrections and its operation, at least in theory, throughout its history in the United States. The creation of the prison, with a philosophy of penitence (hence the penitentiary), was a grand reform itself, and as such, it represented, in theory at least, a major improvement over the brutality of punishment that characterized early English and European law and practice (Orland, 1995).

Some social critics do note, however, that the prison and the expanded use of other such social institutions also served as a *social control* mechanism to remove punishment from public view while making the state appear more just (Foucault, 1979; Welch, 2004). This is not to argue that such grand reforms in their idealistic form, such as prisons, were not primarily constructed out of the need to control, but rather, there were philanthropic, religious, and other forces aligned that also influenced their creation and design, if not so much their eventual and practical operation (Hirsch, 1992). Also of note, the social control function becomes most apparent when less powerful populations, such as people living in poverty, people of color, young people, and women and girls, are involved, as will be discussed in the following chapters.

Other than the influence of money and politics and a sense of greater compassion and humanity in correctional operation, the following themes are also apparent in corrections history: the question of how to use labor and technology (which are hard to decouple from monetary considerations); a decided religious influence; the intersection of class, race, age, and gender in shaping one’s experience in corrections; architecture as it is intermingled with supervision; methods of control; overcrowding; and, finally, the fact that good intentions do not always translate into effective practice. Although far from exhaustive, this list contains some of the most salient issues that become apparent streams of influence as one reviews the history of corrections. As discussed in Chapter 1, some of the larger philosophical (and political) issues, such as conceptions of right and wrong and whether it is best to engage in

retribution or rehabilitation (or both, or neither, along with incapacitation, deterrence, and reintegration) using correctional sanctions, are also clearly associated with correctional change and operation.

EARLY PUNISHMENTS IN WESTERNIZED COUNTRIES

Human beings, throughout recorded history, have devised ingenious ways to punish their kind for real or perceived transgressions. Among tribal groups and in more developed civilizations, such punishment might include, among other tortures, whipping, branding, mutilation, drowning, suffocation, executions, and banishment (which, in remote areas, was tantamount to a death sentence). The extent of the punishment often depended on the wealth and status of the offended party and the offender. Those accused or found guilty who were richer were often allowed to make amends by recompensing the victim or their family, whereas those who were poorer and of lesser status were likely to suffer some sort of bodily punishment. Whatever the approach and for whatever reason, some sort of punishment was often called for as a means of balancing the scales of justice, whether to appease a god or gods or later Lady Justice.

As David Garland (1990) recounted, “Ancient societies and ‘primitive’ social groups often invested the penal process with a wholly religious meaning, so that punishment was understood as a necessary sacrifice to an aggrieved deity” (p. 203). As urbanization took hold, however, and transgressions were less tolerated among an increasingly diverse people, the ancients and their governing bodies were more likely to designate a structure as appropriate for holding people. For the most part, such buildings or other means of confining people were often used to ensure that the accused was held over for trial or sometimes just for punishment (Orland, 1975, p. 13). Fines, mutilation, drawing and quartering, and capital punishment were popular ways to handle those accused or convicted of crimes (Harris, 1973; Orland, 1975).

Although mutilation ultimately disappeared from English law, the brutality of Anglo-Saxon criminal punishment continued unabated into the eighteenth century. In the thirteenth century, offenders were commonly broken on the wheel for treason. A 1530 act authorized poisoners to be boiled alive. Burning was the penalty for high treason and heresy, as well as for murder of a husband by a wife or of a master by a servant. Unlike the punishment of boiling, that of burning remained lawful in England until 1790. In practice, and as a kindness, women were strangled before they were burned. The right hand was taken off for aggravated murder. Ordinary hangings were frequent, and drawing and quartering, where the hanged offender was publicly disemboweled and his still-beating heart held up to a cheering multitude, was not uncommon.

In addition, until the mid-19th century, English law permitted a variety of “summary” punishments. Both men and women (the latter until 1817) were flagellated in public for minor offenses. For more serious misdemeanors, there was the pillory, which was not abolished in England until 1837. With his face protruding through its beams and his hands through the holes, the offender was helpless. Sometimes, he was nailed through the ears to the framework of the pillory with the hair of his head and beard shaved; occasionally, he was branded. Thereafter, some offenders were carried back to prison to endure additional tortures. (Orland, 1975, p. 15)

The First Jails

Jails were the first type of correctional facility to develop, and in some form, they have existed for several thousand years. Whether pits, dungeons, or caves were used or the detainees were tied to trees, ancient peoples all had ways of holding accused criminals until judgements were made or implemented (Irwin, 1985; Mattick, 1974; Zupan, 1991).

According to Johnston (2009), punishment is referenced in a work written in 2000 BCE and edited by Confucius. The Old Testament of the Bible refers to the use of imprisonment from 2040 to 164 BC in Egypt, as well as in ancient Assyria and Babylon. Ancient Greece and Rome reserved harsher

physical punishments for enslaved people, whereas citizens might be subjected to fines, exile, imprisonment, death, or some combination of these (Harris, 1973).

Ancient Roman society was a slave system. To punish wrongdoers, *capitis diminutio maxima*—the forfeiture of citizenship—was used. Criminals became penal slaves. Doomed men were sent to hard labor in the Carrara marble quarries, metal mines, and sulphur pits. The most common punishment was whipping—and in the case of free men, it was accompanied by the shaving of the head, for the shorn head was the mark of the slave. (Harris, 1973, p. 14)

Early versions of *gaols* (or jails) and prisons existed in English castle keeps and dungeons and Catholic monasteries. These prisons and jails (not always distinguishable in form or function) held political adversaries and common folk, either as a way to punish them or incapacitate them or to hold them over for judgment by a secular or religious authority. Sometimes, people might be held as a means of extorting a fine (Johnston, 2009). The use of these early forms of jail was reportedly widespread in England, even a thousand years ago. By the 9th century, Alfred the Great had legally mandated that imprisonment might be used to punish (Irwin, 1985). King Henry II, in 1166, required that where no gaols existed in English counties, they should be built (Zupan, 1991) “in walled towns and royal castles” (Orland, 1975, pp. 15–16) but only for the purpose of holding the accused for trial. In Elizabethan England, innkeepers made a profit by using their facilities as gaols.

Such imprisonment in these or other gaols was paid for by the prisoners or through their work. Those who were wealthy could pay for more comfortable accommodations while incarcerated. “When the Marquis de Sade was confined in the Bastille, he brought his own furnishings and paintings, his library, a live-in valet, and two dogs. His wife brought him gourmet food” (Johnston, 2009, p. 12S). The Catholic Church maintained its own jails and prison-like facilities across the European continent, administered by bishops or other church officials.

In fact, the Catholic Church’s influence on the development of Westernized corrections was intense in the Middle Ages (medieval Europe from the 5th to the 15th centuries) and might be felt even today. As a means of shoring up its power base vis-à-vis feudal and medieval lords and kings, the Catholic Church maintained not only its own forms of prisons and jails but also its own ecclesiastical courts (Garland, 1990). Although proscribed from drawing blood, except during the Inquisition, the church often turned its charges over to secular authorities for physical punishment. But while in their care and in their monasteries for punishment, the Catholic Church required “solitude, reduced diet, and reflection, sometimes for extended periods of time” (Johnston, 2009, p. 14S). Centuries later, the first prisons in the United States and Europe, then heavily influenced by Quakers and Protestant denominations in the states, copied the Catholics’ monastic emphasis on silence, placing prisoners in small, austere rooms where their penitence might be reflected upon—practices and architecture that, to some extent, still resonate today.

IN FOCUS 2.1

THE TOWER OF LONDON

There are few international iconic prison images as prominent as that of the Tower of London, located on the River Thames in the center of London, England. Begun after 1066, when William the Conqueror captured the Saxon city of London in the Norman invasion, the centerpiece of this castle complex, the White Tower, was completed in roughly 1080 (Impey & Parnell, 2011). The Tower of London today has a number of buildings, including the White Tower, along with several towers and gates on its double walls. At one time, it included a moat, which has since been filled in. Sited in old London, today it is surrounded by modern buildings and near-ancient structures alike. Over the centuries, it has been added to by various kings and used to defend the city, as a royal palace and a symbol of power for royalty, as a mint for royal coinage, as an armory, as a treasury for the royal jewels, as a conservator of the King’s Court’s records, as a kind of zoo for exotic animals gifted to the royalty, as a tourist attraction for centuries, and, for our purposes, as a prison and a place of execution.



PHOTO 2.1 The Infamous White Tower inside the Tower of London Complex

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Its role as a prison began early in 1100, lasting until the 1820s, and then it was a prison again during World War II (Impey & Parnell, 2011). For the most part, there were no separate prison quarters for its mostly exalted prisoners, other than a shed constructed in 1687 for prison soldiers. Therefore, political and other prisoners were accommodated in whatever quarters were available. For instance, Anne Boleyn, the second wife of Henry VIII, was married at the tower; executed there 3 years later, in 1526; and buried there under its chapel. The young Princess Elizabeth (Anne's daughter) was also held at the tower by her half sister, Queen Mary I, until Elizabeth attained the throne as Elizabeth I. Sir Thomas More spent a year (1534) imprisoned in the tower before his execution, and Sir Walter Raleigh spent 13 years (1603–1616) imprisoned in the tower; both men were imprisoned for allegedly committing treason. Notably, William Penn, discussed in other parts of this book, was imprisoned at the tower for 7 months in 1668–1669 for pamphleteering about his Quaker religion. Their incarceration in the tower, as well as many others of rank and wealth, was not as hard as it would have been if they had been sent to public prisons of the time—and even sometimes included luxurious accommodations and servants. Torture did happen at the tower (the use of the rack and manacles, etc.), but its use was relatively rare, as at times, though not always, it had to be sanctioned by a special council. Executions occurred inside the walls of the Tower of London, but most occurred on nearby Tower Hill or elsewhere near the complex.



PHOTO 2.2 Side view of the Tower of London as it appears today

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Discussion Questions

1. Why do you think the Tower of London has survived so long?
2. If you were going to be held in a prison or jail, would you prefer the “tower” or more modern correctional institutions? Justify your answer.

Galley Slavery

Another form of “corrections,” **galley slavery**, was used sparingly by the ancient Greeks and Romans but more regularly in the late Middle Ages in Europe and England, and it stayed in use until roughly the 1700s. Under Elizabeth I, in 1602, a sentence to galley servitude was decreed as an alternative to the death sentence (Orland, 1975). Pope Pius VI (who was pope from 1775 to 1799) also reportedly used it (Johnston, 2009, p. 12S). Galley slavery was used as a sentence for crimes as a means of removing poor people from the streets. It also served the purpose of providing the requisite labor—rowing—needed to propel ships for seafaring nations interested in engagement in trade and warfare. For instance, galley slaves were reportedly used by Columbus (Johnston, 2009). The enslaved people were required to row the boat until they collapsed from exhaustion, hunger, or disease; often, they sat in their own excrement (Welch, 2004). Under Pius VI, galley slaves were entitled to bread each day, and their sentences ranged from 3 years to life (Johnston, 2009). Although we do not have detailed records of how such a sentence was carried out, and we can be sure that its implementation varied to some degree from vessel to vessel, the reports that do exist indicate that galley slavery was essentially a sentence to death. Galley slavery ended when the labor was no longer needed on ships because of the technological development of sails.

Poverty and Bridewells, Debtors’ Prisons, and Houses of Correction

However, galley slavery could absorb only a small number of poor people, who began to congregate in towns and cities in the Middle Ages. Feudalism—and the order it imposed—was disintegrating; wars (particularly the Crusades prosecuted by the Catholic Church) and intermittent plagues did claim thousands of lives, but populations were stabilizing and increasing, and there were not enough jobs, housing, or food for people living in poverty. As the cities became more urbanized and as more and more poor people congregated in them, governmental entities responded in an increasingly severe fashion to poor people’s demands for resources (Irwin, 1985). These responses were manifested in the harsh repression of dissent, increased use of death sentences and other punishments as deterrence and spectacle, the increased use of jailing to guarantee the appearance of the accused at trial, the development of poorhouses or bridewells and debtors’ prisons, and the use of “transportation,” discussed later (Foucault, 1979; Irwin, 1985).

During the 18th century, England saw the number of crimes subject to capital punishment increase to as many as 225, for such offenses as rioting over wages or food (the Riot Act) or for “blackening” one’s face so as to be camouflaged when killing deer in the king’s or a lord’s forest (the Black Act) (Ignatieff, 1978, p. 16). New laws regarding forgery resulted in two thirds of those convicted of it being executed. Rather than impose the most serious sentence for many of these crimes, however, judges would often opt for the use of transportation, whipping, or branding. Juries would also balk at imposing the death sentence for a relatively minor offense and so would sometimes value property that was stolen at less than it was worth in order to ensure a lesser sentence for the defendant. In the latter part of the 1700s, a sentence of imprisonment might be used in lieu of, or in addition to, these other punishments.

Bridewells, or buildings constructed to hold and whip “beggars, prostitutes, and nightwalkers” (Orland, 1975, p. 16) and later to serve as places of detention, filled this need; their use began in London in 1553 (Kerle, 2003). The name came from the first such institution, which was developed at Bishop Ridley’s place at St. Bridget’s Well; all subsequent similar facilities were known as bridewells.



PHOTO 2.3 Drawing of the inside of a bridewell in London (1808–1811); Bridewells helped criminalize social problems, like poverty.

Bridewells were also workhouses, used as leverage to extract fines or repayment of debt or the labor to replace them. Such facilities did not separate people by gender or age or criminal and noncriminal status, nor were their inmates fed and clothed properly, and sanitary conditions were not maintained. As a consequence of these circumstances, bridewells were dangerous and diseased places where if one could not pay a “fee” for food, clothing, or release, the inmate—and possibly their family—might be doomed (Orland, 1975; Pugh, 1968). The use of bridewells spread throughout Europe and the British colonies, as it provided a means of removing poor people and displaced people from the streets while also making a profit (Kerle, 2003). Such a profit was made by the wardens, keepers, and gaolers—the administrators of bridewells, houses of correction (each county in England was authorized to build one in 1609), and gaols—who, though unpaid, lobbied for the job, as it was so lucrative. They made money by extracting it from their inmates. If an inmate could not pay, they might be left to starve in filth or be tortured or murdered by the keeper for nonpayment (Orland, 1975, p. 17).

Notably, being sent to debtors’ prison was something that still occurred even after the American Revolution. In fact, James Wilson, a signer of the Constitution (and reportedly one of its main architects) and a Supreme Court justice, was imprisoned in such a place twice while serving on the Court. He had speculated on land to the west and lost a fortune in the process (Davis, 2008).

Transportation

Yet another means of “corrections” that was in use by Europeans for roughly 350 years, from the founding of the Virginia Colony in 1607, was **transportation** (Feeley, 1991). Also used to rid cities and towns of people who were chronically poor or people who were criminally inclined, transportation, as with bridewells and gaols, involved a form of privatized corrections, whereby those sentenced to transportation were sold to a ship’s captain. He would, in turn, sell their labor as indentured servants, usually to do agricultural work, to colonials in America (Maryland, Virginia, and Georgia were partially populated through this method) and to White settlers in Australia. Transportation ended in the American colonies with the Revolutionary War but was practiced by France to populate Devil’s Island in French Guiana until 1953 (Welch, 2004). In America, transportation provided needed labor to colonies desperate for it. It is believed that about 50,000 convicts were deposited on American shores from English

gaols. If they survived their servitude, which ranged from 1 to 5 years, they became free and might be given tools or even land to make their way in the New World (Orland, 1975, p. 18).

One of the most well-documented penal colonies was **Norfolk Island**, 1,000 miles off the Australian coast. Established in 1788 as a place designated for prisoners from England and Australia, it was regarded as a brutal and violent island prison where inmates were poorly fed, clothed, and housed and were mistreated by staff and their fellow inmates (Morris, 2002). Morris (2002), in his semifictional account of efforts by *Alexander Maconochie* to reform Norfolk, noted that Maconochie, a former naval captain, asked to be transferred to Norfolk, usually an undesirable placement, so he could put into practice some ideas he had about prison reform. He served as the warden there from 1840 to 1844. What was true in this story was that “in four years, Maconochie transformed what was one of the most brutal convict settlements in history into a controlled, stable, and productive environment that achieved such success that upon release his prisoners came to be called ‘Maconochie’s Gentlemen’” (Morris, 2002, book jacket). Maconochie’s ideas included the belief that inmates should be rewarded for good behavior through a system of marks, which could lead to privileges and early release; that they should be treated with respect; and that they should be adequately fed and housed. Such revolutionary ideas, for their time, elicited alarm from Maconochie’s superiors, and he was removed from his position after only 4 years. His ideas, however, were adopted decades later when the concepts of *good time* and *parole* were developed in Ireland and the United States. In addition, his ideas about adequately feeding and clothing inmates were held in common by reformers who came before him, such as John Howard and William Penn, and those who came after him, such as Dorothea Dix.

ENLIGHTENMENT—PARADIGM SHIFT

As noted in Chapter 1, the Enlightenment period, lasting roughly from the 17th through the 18th centuries in England, Europe, and America, spelled major changes in thought about crime and corrections. But then, it was a time of paradigmatic shifts in many aspects of the Western experience, as societies became more secular and open. Becoming a more secular culture meant that there was more focus on humans on Earth, rather than in the afterlife, and as a consequence, the arts, sciences, and philosophy flourished. In such periods of human history, creativity manifests itself in innovations in all areas of experience; the orthodoxy in thought and practice is often challenged and sometimes overthrown in favor of new ideas and even radical ways of doing things (Davis, 2008). Whether in the sciences with the Englishman Isaac Newton (1643–1727), philosophy and rationality with the Englishwoman Anne Viscountess Conway (1631–1679), feminist philosophy with the Englishwoman Damaris Cudworth Masham (1659–1708), philosophy and history with the Scotsman David Hume (1711–1776), literature and philosophy with the Frenchman Voltaire (1694–1778), literature and philosophy with the Briton Mary Wollstonecraft (1759–1797), or the Founding Fathers of the United States (e.g., Samuel Adams, James Madison, Benjamin Franklin, Thomas Paine, Thomas Jefferson), new ideas and beliefs were proposed and explored in every sphere of the intellectual enterprise (Duran, 1996; Frankel, 1996). Certainly, the writings of John Locke (1632–1704) and his conception of liberty and human rights provided the philosophical underpinnings for the Declaration of Independence, as penned by Thomas Jefferson. As a result of the Enlightenment, the French Revolution, beginning in 1789, was also about rejecting one form of government—the absolute monarchy—for something that was to be more democratic and liberty based.

ETHICAL ISSUE

WHAT WOULD YOU DO?

You are a Tory Loyalist (to the Crown of England, King George III) in the Connecticut colony in 1777. Because you are an outspoken critic of the American Revolution, you are imprisoned in the Newgate Prison in Simsbury, Connecticut, for the duration of the war. Provisions in the prison are horrid,

with minimal food and dark, dank conditions in the mine shaft; however, the people guarding you are decent and do what they can to make you and the other prisoners comfortable. Because of the distraction of the war, however, security is not as tight as it might be, and you see an opportunity to escape. What do you think you would do? If you escaped, would you try to fight on the side of England? What will be the consequences for your family (you have a wife and four children at home) and your family business (you are a tea manufacturer) should you do this? What do you think John Locke would recommend?

Such changes in worldviews or paradigms—as Thomas Kuhn (1962) explained in his well-known work *The Structure of Scientific Revolutions*, which discusses nonlinear shifts in scientific theory—usually come after evidence mounts and the holes in old ways of perceiving become all too apparent. The old theory simply cannot accommodate the new evidence. Those who experienced the Enlightenment period, much like reformers and activists of the Progressive Era (1880s to 1920s), the civil rights era (1950s and 1960s), the women’s movement (1970s), and the LGBTQ+ and #MeToo movements (1990s and 2010s) in the United States that were to follow centuries later, experienced a paradigm shift regarding crime and justice. To some it may have appeared as if, like with Spock in an episode of the original *Star Trek* television show, magic spores had fundamentally reshaped thought and suffused it with kind regard, if not love, for others. In actuality, humans seemed to realize that change in crime policy and practice was called for, and they set about devising ways to accomplish it.

John Howard

John Howard (1726–1790) was one such person who acted as a change agent. As a sheriff of Bedford in England and as a man who had personally experienced incarceration as a prisoner of war himself (held captive by French privateers), he was *enlightened* enough to “see” that gaols in England and Europe should be different, and he spent the remainder of his life trying to reform them (Howard, 1775/2000; Johnston, 2009). Howard’s genius was his main insight regarding corrections: that corrections should not be privatized in the sense that jailers were “paid” by inmates a fee for their food, clothing, and housing (an inhumane and often illogical practice, as most who were incarcerated were desperately poor, a circumstance that explained the incarceration of many in the first place). Howard believed that the state or government had a responsibility to provide sanitary and separate conditions and decent food and water for those they incarcerated. His message of reform included these central tenets:

1. The fee system for jails should be ended.
2. Inmates should be separated by gender and offense. (Single celling would be optimal.)
3. Inmates should be provided with sanitary conditions and clean and healthful food and water.
4. Staff should serve as a moral model for inmates.
5. Jails and prisons should have a set of standards and be independently inspected to ensure these standards are maintained.

His humanity was apparent, in that he promoted these ideas in England and all over the European continent during his lifetime. He was able to do so because he inherited money from his father, his sister, and his grandmother and used it to improve the lives of the tenants on his land and the inmates in correctional facilities. His major written work, *The State of the Prisons in England and Wales, With Preliminary Observations, and an Account of Some Foreign Prisons* (Howard, 1775/2000), detailed the horror that was experienced in the filthy and torturous gaols of England and Europe, noting that despite the fact that there were 200 crimes for which capital punishment might be prescribed, far more inmates died from diseases contracted while incarcerated.

Howard (1775/2000) found that gaol fever was widespread in all kinds of correctional institutions of the time: bridewells, gaols, debtors' prisons, and houses of correction. Moreover, there was little food or work to be had in many of these facilities. Ironically, Howard eventually died from typhus, also known as gaol fever, after touring several jails and prisons in Eastern Europe, specifically the prisons of tsarist Russia.

IN FOCUS 2.2

MODERN-DAY JOHN HOWARD—DR. KEN KERLE

The Corrections Section of the Academy of Criminal Justice Sciences (ACJS) established the John Howard Award in 2009 and gave the first one to a modern-day John Howard, Ken Kerle (retired managing editor of *American Jails* magazine). Kerle has spent much of his adult life trying to improve jail standards, both in the United States and abroad. As part of that effort, he has visited hundreds of jails in this country and around the world. He has advised countless jail managers about how they might improve their operations. He has increased the transmission of information and the level of discussion between academicians and practitioners by encouraging the publication of scholars' work in *American Jails* magazine and their presentations at the American Jails Association meetings and by urging practitioners to attend ACJS meetings. Kerle (2003) also published a book on jails titled *Exploring Jail Operations*.

Discussion Question

1. Knowing how much the old and the new John Howards of this world accomplish, what are the things that hold you back from becoming such a person yourself?

Bentham and Beccaria

As mentioned in Chapter 1, the philosophers and reformers Jeremy Bentham (1748–1832) in England and Cesare Beccaria (1738–1794) in Italy, separately but both during the Enlightenment period, decried the harsh punishment meted out for relatively minor offenses in their respective countries and, as a consequence, emphasized *certainty* over the severity and celerity components of the deterrence theory they independently developed. Beccaria (1764/1963), in his classic work *On Crimes and Punishments*, wrote,

In order that punishment should not be an act of violence perpetrated by one or many upon a private citizen, it is essential that it should be public, speedy, necessary, the minimum possible in the given circumstances, proportionate to the crime, and determined by the law. (p. 113)

He argued that knowledge, as that provided by the sciences and enlightenment, was the only effective antidote to “foul-mouthed ignorance” (p. 105).

Bentham (1789/1969) also proposed, in his *Plan of Construction of a Panopticon Penitentiary House*—though the funding of it was not approved by King George III—the building of a special type of prison. As per Bentham, the building of a private prison-like structure—the **panopticon**, which he would operate—that ingeniously melded the ideas of improved supervision with architecture (because of its rounded, open, and unobstructed views) would greatly enhance the supervision of inmates. Such a recognition of the benefits of some architectural styles as complementary to enhanced supervision was indeed prescient, as it presaged modern jail and prison architecture. His proposed panopticon would be circular, with two tiers of cells on the outside and a guard tower in its center, with the central area also topped by a large skylight. The skylight and the correct angling of the tower were to ensure that the guard was able to observe all inmate behavior in the cells, though because of a difference of level and the use of blinds, the keeper would be invisible to the inmates. A chapel would also be located in the center of the rounded structure. The cells were to be airy and large enough to accommodate the whole lives of the inmates in that the cells were to “serve all purposes: work, sleep, meals, punishment,

devotion” (Bentham, 1811/2003, p. 194). Somehow, Bentham noted in his plan, without elaboration, that men and women were to be invisible to each other. He did not call for complete separation of all inmates, however, which becomes important when discussing the Pennsylvania and New York prisons, but he did assert that the groups of inmates allowed to interact should be small, including only two to four persons (Bentham, 1811/2003, p. 195).

As an avowed admirer of John Howard, Bentham proposed that his panopticon penitentiary would include all of the reforms proposed by Howard and many more. Bentham (1811/2003) promised that inmates would be well fed, fully clothed, supplied with beds, supplied with warmth and light, kept from “strong or spirituous liquors” (p. 199), have their spiritual and medical needs fulfilled, be provided with opportunities for labor and education (“to convert the prison into a school” [p. 199]), “share in the produce” (p. 200) to incentivize the labor, be taught trades so that they could survive once released, and be helped to save for old age (pp. 199–200). He would also personally pay a fine for every escape, insure inmates’ lives to prevent their deaths, and submit regular reports to the Court of the King’s Bench on the status of the prison’s operation (pp. 199–200). Moreover, he proposed that the prison would be open in many respects, not just to dignitaries but to regular citizens, and daily, as a means of preventing abuse that might occur in secret. Bentham also recommended the construction of his prisons on a large scale across England, such that one would be built every 30 miles, or a good day’s walk by a man. He planned, as he wrote in his 1830 diatribe against King George III, wryly titled “History of the War Between Jeremy Bentham and George the Third—by One of the Belligerents,” that “but for George the Third, all the prisoners in England would, years ago, have been under my management. But for George the Third, all the paupers in the country would, long ago, have been under my management” (Bentham, 1811/2003, p. 195).



PHOTO 2.4 Stateville Prison in Illinois was built as a panopticon, with rounded architecture and a central tower for officers. Panopticons were devised to enhance the supervision of inmates but may have been more effective at enhancing the observation of officers by inmates.

Underwood Archives/Contributor/Getty Images

William Penn

William Penn (1644–1718), a prominent Pennsylvania Colony governor and Quaker, was similarly influenced by Enlightenment thinking (though with the Quaker influence, his views were not so secular). Much like Bentham and Beccaria, Penn was not a fan of the harsh punishments, even executions, for relatively minor offenses that were meted out during his lifetime. While in England and as

a result of his defense of religious freedom and practice, he was incarcerated in the local jails on more than one occasion—and even in the Tower of London in 1669—for his promotion of the Quaker religion and defiance of the English Crown. He was freed only because of his wealth and connections (Penn, 1679/1981). As a consequence, when he had the power to change the law and its protections and reduce the severity of punishments, he did so. Many years later (in 1682), in Pennsylvania, he proposed and instituted his **Great Law**, which was based on Quaker principles and deemphasized the use of corporal and capital punishment for all crimes but the most serious (Clear et al., 2011; Johnston, 2009; Zupan, 1991). His reforms substituted fines and jail time for corporal punishment. He promoted Pennsylvania as a haven for Quakers, who were persecuted in England and Europe generally, and for a number of other religious minorities (Penn, 1679/1981). His ideas about juries, civil liberties, religious freedom, and the necessity of amending constitutions—so they are adaptable to changing times—influenced a number of American revolutionaries, including Benjamin Franklin and Thomas Paine.

Many of Penn's contemporaries were not of the same frame of mind, however, and after his death, the Great Law was repealed, and harsher punishments were again instituted in Pennsylvania, much as they existed in the rest of the colonies (Johnston, 2009; Welch, 2004). But the mark of his influence lived on in the development of some of America's first prisons.

Much like Howard and Bentham, Penn was interested in reforming corrections, but he was particularly influenced by his Quaker sentiments regarding nonviolence and the value of quiet contemplation. The early American prisons known as the Pennsylvania model prisons—the Walnut Street Jail (1790) in Philadelphia, Western Pennsylvania Prison (1826) in Pittsburgh, and Eastern Pennsylvania Prison (1829) in Philadelphia—incorporated these ideas (Johnston, 2009). Even the New York prison system (Auburn and Sing Sing), often juxtaposed with Pennsylvania prisons on the basis of popular depiction by historians (see Beaumont and Tocqueville, 1833/1964), included contemplation time for inmates and a plan for single cells for inmates that reflected the same belief in the need for some solitude.

COLONIAL JAILS AND PRISONS

The first jail in America was built in Jamestown, Virginia, soon after the colony's founding in 1606 (Burns, 1975; Zupan, 1991). Massachusetts built a jail in Boston in 1635, and Maryland built a jail for the colony in 1662 (Roberts, 1997). The oldest standing jail in the United States was built in the



PHOTO 2.5 Photo taken in 2007 of author Mary K. Stohr outside the oldest existing colonial wooden jail (circa 1690) in the United States in Barnstable, Massachusetts

© Mary K. Stohr

late 1600s and is located in Barnstable, Massachusetts (Library of Congress, 2010). It was used by the sheriff to hold both men and women, along with his family, in upstairs, basement, and barn rooms. Men and women were held in this and other jails like it, mostly before they were tried for both serious and minor offenses, as punishment for offenses, or to ensure that they were present for their own executions.

Such an arrangement as this—holding people in homes, inns, or other structures that were not originally designated or constructed as jails—was not uncommon in early colonial towns (Goldfarb, 1975; Irwin, 1985; Kerle, 2003). As in England, inmates of these early and colonial jails were required to pay a “fee” for their upkeep (the same fee system that John Howard opposed). Those who were wealthier could more easily buy their way out of incarceration, or if that was not possible because of the nature of the offense, they could at least ensure that they had more luxurious accommodations (Zupan, 1991). Even when jailers were paid a certain amount to feed and clothe inmates, they might be disinclined to do so, being that what they saved by not taking care of their charges they were able to keep (Zupan, 1991). As a result, inmates of early American jails were sometimes malnourished or starving. Moreover, in the larger facilities, they were crammed into unsanitary rooms, often without regard to separation by age, gender, or offense, conditions that also led to disease and early death. Nonetheless, Irwin (1985) did note that generally Americans fared better in colonial jails than their English and European cousins did in their own, as the arrangements were less formal and restrictive in the American jails and were more like rooming houses.

As White people migrated across North America, the early western jails were much like their earlier eastern and colonial cousins, with makeshift structures and cobbled-together supervision serving as a means of holding the accused over for trial (Moynihan, 2002). In post–Civil War midwestern cities, disconnected outlaw gangs (such as the Jesse James gang) were treated in a harsh manner. Some communities even built *rotary jails*, which were like human squirrel cages. Inside a secure building, these rotating steel cages, segmented into small “pie-shaped cells,” were secured to the floor and could be spun at will by the sheriff (Goldfarb, 1975, p. 11).

Of course, without prisons in existence per se (we will discuss the versions of such institutions that did exist shortly), most punishments for crimes constituted relatively short terms in jails; public shaming (as in the stocks); physical punishments, such as flogging or the pillory; or banishment. Executions were also carried out, usually but not always for the most horrific of crimes, such as murder or rape, though in colonial America, many more crimes qualified for this punishment (Zupan, 1991). As in Europe and England at this time, those who were poorer or enslaved were more likely to experience the harshest punishments (Irwin, 1985; Zupan, 1991). Similar to Europe and England in this era, jails also held people with mental illnesses along with debtors, drifters, transients, the inebriated, runaway slaves or servants, and the criminally involved (usually pretrial) (Cornelius, 2007).

Although the Walnut Street Jail, a portion of which was converted to a prison, is often cited as the first prison in the world, there were, as this recounting of history demonstrates, many precursors that were arguably “prisons” as well. One such facility, which also illustrates the makeshift nature of early prisons, was **Newgate Prison** in Simsbury, Connecticut (named after the Newgate Prison in London). According to Phelps (1860/1996), this early colonial prison started as a copper mine, and during its 54 years of operation (from 1773 to 1827), some 800 inmates passed through its doors. The mine was originally worked in 1705, and one third of the taxes it paid to the town of Simsbury at that time was used to support Yale College (p. 15). “Burglary, robbery, and counterfeiting were punished for the first offense with imprisonment not exceeding ten years; second offence for life” (p. 26). Later, those loyal to the English Crown during the American Revolution—or Tories—were held at Newgate as well. Punishments by the “keeper of the prison” could range from shackles and fetters as restraints to “moderate whipping, not to exceed ten stripes” (p. 26). The inmates of Newgate Prison were held—stored, really—in the bowels of the mine during the evening (by themselves and with no supervision) and during the day were forced to work the mine or were allowed to come to the surface to labor around the facility and in the community. Over the course of the history of this facility, there were several escapes, a number of riots, and the burning of the topside buildings by its inmates. Early versions of prisons also existed in other countries.



PHOTO 2.6 Newgate Prison, a working copper mine, served as an early colonial prison.

EARLY MODERN PRISONS

The early American prisons were known as the Pennsylvania model prisons—the Walnut Street Jail (1790) in Philadelphia, Western Pennsylvania Prison (1826) in Pittsburgh, and Eastern Pennsylvania Prison (1829) in Philadelphia—as well as the New York prison system (Auburn and Sing Sing).

The Walnut Street Jail

The **Walnut Street Jail** was originally constructed in 1773 in Philadelphia, Pennsylvania, and operated as a typical local jail of the time: holding pretrial detainees and minor offenders; failing to separate by gender, age, or offense; using the fee system, which penalized people living in poverty and led to the near starvation of some; and offering better accommodations and even access to liquor and sex to those who could pay for it (Zupan, 1991). It was remodeled, however, in 1790 and reconceptualized so that many correctional scholars, though not all, regard it as the first prison.



PHOTO 2.7 Drawing of the Walnut Street Jail (circa 1799)

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

The remodeled cell house was a frame construction and was built for the inmates of the “prison” section of the jail, with separate cells for each inmate. On the basis of the reforms that John Howard (and later Bentham and Fry) had envisioned for English and European jails, several reforms were instituted in this prison: The fee system was dropped, inmates were adequately clothed and fed regardless of their ability to pay, and they were separated by gender and offense. Children were not incarcerated in the prison, and debtors were separated from convicted felons. Although inmates were to live in isolated cells (to avoid “contaminating” one another), some work requirements brought them together. In addition, medical care was provided, and attendance at religious services was required. The availability of alcohol and access to members of the opposite sex and prostitutes was stopped.

The impetus for this philosophical change came from the reform efforts of the Philadelphia Society for Alleviating the Miseries of Public Prisons (or the Philadelphia Prison Society, currently known as the Pennsylvania Prison Society), led by *Dr. Benjamin Rush*, who was a physician, reformer, statesman, and signatory of the Declaration of Independence. Rush agitated for laws to improve the jail’s conditions of confinement and a different belief about correctional institutions—namely, that they could be used to reform their inmates (Nagel, 1973; Roberts, 1997). Ideally, the Walnut Street Jail was to operate on the basis of the religious beliefs of the Quakers, with their emphasis on the reflective study of the Bible and abhorrence of violence, which was so prevalent in other correctional entities. In 1789, the General Assembly of Pennsylvania enacted legislation based on these recommendations, and the Pennsylvania system was born (Nagel, 1973).

The Walnut Street Jail, as a prison, was also an entity with a philosophy of penitence, which, it was hoped, would lead to reform and redemption. This philosophy was combined with an architectural arrangement shaped to facilitate it by ensuring that inmates were mostly in solitary cells. As John W. Roberts (1997) aptly noted, the reason the Walnut Street Jail’s new wing was the first real prison, as opposed to the other prisons such as Newgate of Connecticut that preceded it or some of the early European prisons, was “because it carried out incarceration as punishment, implemented a rudimentary classification system, featured individual cells, and was intended to provide a place for offenders to do penance—hence the term ‘penitentiary’” (p. 26).

But in reality, the Walnut Street Jail soon became crowded, reportedly housing four times its capacity. As Johnston (2010) noted, “At one point 30 to 40 inmates were sleeping on blankets on the floor of rooms [which were] 18 feet square” (p. 13). Moreover, the institutional industry buildings that provided work for inmates burned down, leading to idleness, and by 1816, the Walnut Street Jail (prison) was little different from what it had been before the reforms (Harris, 1973; Zupan, 1991).

As Beaumont and Tocqueville (1833/1964) commented in 1831, after visiting and analyzing several prisons and jails in the United States, the implementation of the Walnut Street Jail had “two principal faults: it corrupted by contamination those who worked together. It corrupted by indolence, the individuals who were plunged into solitude” (p. 38).

The Pennsylvania Prison Model (Separate System)

The Western Pennsylvania Prison (1821) was built in Pittsburgh, followed by the Eastern Pennsylvania Prison (1829) in Philadelphia, which was to replace the Walnut Street Jail (Nagel, 1973). The Western Pennsylvania Prison, built 8 years before Eastern, is little remarked upon or studied in comparison with Eastern. It was devised to operate in a solitary and separate fashion for inmates. Even labor was to be prohibited, as it was thought that this might interfere with the ability of the criminals to reflect and feel remorse for their crime (Hirsch, 1992). Despite the lessons learned from Auburn Prison (part of the New York system, which we will describe further on)—namely, that complete separation without labor can be injurious to the person and expensive for the state to maintain, a point made by Tocqueville and Beaumont—Western Pennsylvania Prison was built to hold inmates in complete solitary confinement (hence the use of the term *separate system*), with no labor, for the full span of their sentences. However, as Beaumont and Tocqueville (1833/1964) remarked about Western Pennsylvania Prison, reducing all communication and thus contamination, in the authors’ view, was almost impossible at this prison.

As a consequence of these problems of architecture and operation, the Western Pennsylvania Prison was abandoned as a model, and the Eastern Pennsylvania Prison came to epitomize the **Pennsylvania**

prison system, as opposed to the New York system of building and operating prisons. At Eastern Pennsylvania Prison, known as “Cherry Hill” for much of its 150 years of operation, the idea that inmates could be contaminated or corrupted by their fellow inmates was officially embraced.

Eastern Pennsylvania Prison was designed and built by the architect John Haviland, a relative newcomer from England. It cost three quarters of a million dollars to build, which was an incredible expenditure for the time. It was the largest building in America in the 1820s (Alosi, 2008; Orland, 1975). The prison itself was huge, with seven massive stone spokes of cells radiating off of a central rotunda, as on a wheel. A 30-foot wall was constructed around the outside perimeter of the prison, thus physically and symbolically reinforcing the separation of the prison and its inhabitants from their community (Nagel, 1973). The cells were built large (15 by 7.5 feet with 12-foot ceilings), and those on the lowest tier had their own small outside exercise yard attached, so that inmates could do virtually everything in their cells (Harris, 1973; Orland, 1975). The cells had both hot water and flushing toilets; the prison was reportedly the first public building in the country to have such amenities. There were 400 solitary cells in this prison (Orland, 1975). At first, inmates were not to work, but that dictate was later changed, and they were allowed to work in their cells (Harris, 1973).

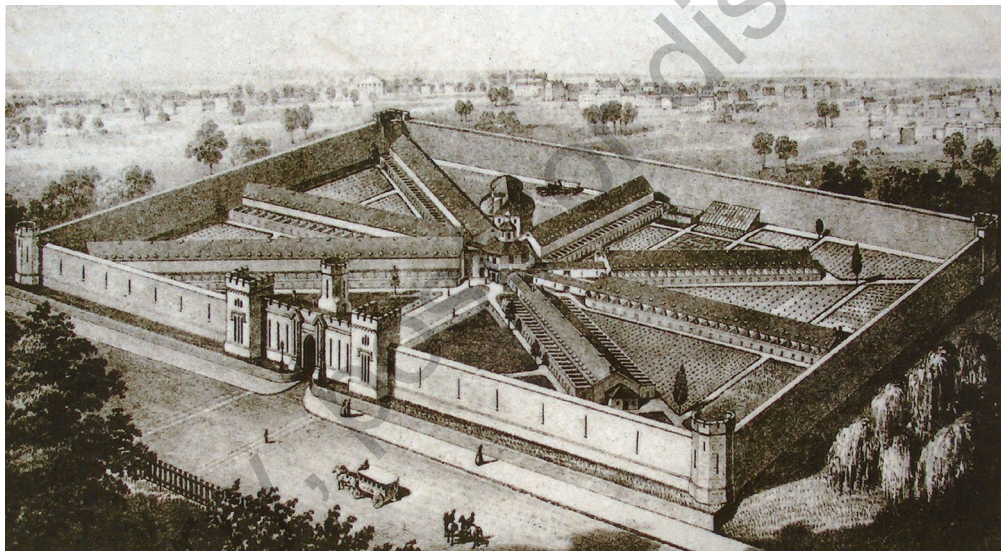


PHOTO 2.8 Eastern Pennsylvania Prison was the largest building in America in the 1820s. (Lithograph, circa 1855.)

Library Company of Philadelphia (<https://www.librarycompany.org/>)

The only contact inmates were to have with the outside was with the clergy and some vocational teachers: “The reading of the Scriptures would furnish the offender with the moral guidance necessary for reform” (Nagel, 1973, p. 7). They had no access to visitors or letters or newspapers. Even their exercise yards were surrounded by a high stone fence. When they were brought into the prison and were taken for showers or to see the doctor, they had to wear a mask or a draped hood so as to maintain their anonymity and to prevent them from figuring out a way to escape (Alosi, 2008). As to how else they could occupy their time, “they made shoes, wove and dyed cloth products, caned chairs, and rolled cigars. Those products were sold to defray prison costs” (Roberts, 1997, p. 33).

The stated purpose of the solitary confinement was to achieve reform or rehabilitation. Quakers believed that God resides in everyone, and for a person to reach God, they must reflect. Silence is required for self-reflection, the Quakers thought. The Quakers also believed that as God was in everyone, all were equal and were deserving of respect (Alosi, 2008).

Solitary confinement, as a practical matter, remained in existence at Eastern Pennsylvania Prison until after the Civil War but was not formally ended until 1913 (Alosi, 2008). When it was rigorously applied, there are indications that it drove inmates insane. In fact—and tellingly—most of the European countries that copied the Eastern Pennsylvania model and its architecture did not isolate

the inmates for this reason. Moreover, at a minimum, solitary confinement debilitated people by making them incapable of dealing with other people. For instance, the wardens' journals for Eastern in the early years indicate that it was not uncommon for an inmate to be released and then to ask to be reinstated at Eastern because they did not know how to live freely. Some inmates, once released, would actually sit on the curb outside the prison, as they said they no longer understood the outside world or how to function in it (Alosi, 2008).

Although the separation of inmates under the Pennsylvania system was to be complete, there are indications that it was not. In testimony before a special investigation by a joint committee of the houses of the Pennsylvania Legislature in 1834 (before the whole prison was even completed), it was noted that a number of male and female inmates (there were a small number of female inmates housed separately at Eastern) were used for maintenance, cleaning, and cooking at the facility and roamed freely around it, speaking and interacting with one another and with staff (Johnston, 2010). Moreover, there were indications from this testimony that inmates were tortured to maintain discipline: One had died of blood loss from the iron gag put in his mouth, and another went insane after buckets of cold water were poured on his head repeatedly. It was alleged that food and supplies meant for inmates were given to guards or community members by the prison cook (who was a wife of one of the guards). There were also indications of the use and abuse of alcohol by staff and inmates and of sexual improprieties involving the warden and his clerk, some male inmates, and the female cook. Although ultimately charges against the warden and his clerk related to these improprieties were dropped, the cook was blamed, and the guards who testified about the scandal (the whistleblowers) were fired.

In addition to these problems of implementation at Eastern, a debate raged among prison experts regarding the value of separation. As a result of the experiment with Western Pennsylvania Prison and its early use at Eastern Pennsylvania Prison and Auburn Prison, the idea of *total separation* was under siege. As mentioned, it was observed that for those truly subjected to it, solitary confinement and separation caused serious psychological problems for some inmates. Despite these problems, about 300 prisons worldwide copied the Eastern Pennsylvania model, and tens of thousands of people did time there, including the 1920s gangster Al Capone. It was a famous prison worldwide because of its philosophy, its architecture, and its huge size. It even became a tourist attraction in the 19th century, to the extent that famous English author Charles Dickens noted it as one of the two sights he wanted to see when visiting the United States (the other was Niagara Falls) (Alosi, 2008). It turns out, after a visit of a few hours and talking to inmates, keepers, and the warden, Dickens was far from impressed with its operation.

ETHICAL ISSUE

WHAT WOULD YOU DO?

You are a new pastor in the Eastern Pennsylvania Prison when Charles Dickens, the celebrated English author, visits the prison in 1842. Your position is tenuous at the prison, and you have been told that it is dependent on your meticulous adherence to the rule of silence for inmates. Although you are not a proponent of this kind of control of inmates, the warden has made it clear to you that your livelihood and that of your family (you have eight children) depends on your complete compliance. For some reason, Mr. Dickens chooses to visit inmate cells and observe them while they work making shoes or weaving. You have been instructed to report whether inmates speak to or even look at Mr. Dickens (as they have been instructed not to under penalty of confinement in a segregation cell for months, with only food and water). In the course of your rounds, you note that Dickens routinely and secretly—presumably to protect inmates from punishment—attempts to engage inmates in conversation. In a few instances, you have overheard inmates whisper responses to his queries. You cannot be sure that a guard has not also observed this behavior and has seen you in the vicinity when it occurred. What would you do? Would you report the offense? Would you ask Dickens to stop speaking to inmates (or would you just ask for his autograph)?

Auburn, Sing Sing, and the New York (Congregate) System

The **New York prison system** was preferred over the Pennsylvania system and was copied extensively by American prison builders, in part because it disavowed the solitary confinement that Dickens and others lamented in the Pennsylvania prisons. Beaumont and Tocqueville (1833/1964) commented that the use of solitary confinement as normal practice for all inmates was ended at Auburn because it drove inmates insane. But it is not that the builders and planners of the Auburn Prison in New York learned from the Pennsylvania system; rather, they learned from their own dalliance with solitary confinement. At first, the inmates of Auburn were housed in solitary confinement in their cells, a practice that was abandoned by 1822 because it led to mental anguish and insanity for inmates, and it hampered the efficient production of goods that can only be done in the congregate. By 1822, a total of five prisoners had died, one had gone insane, and the remaining 26 were pardoned by the governor of New York, as their mental faculties had deteriorated to such a great extent (Harris, 1973, p. 73). The governor ordered that inmates be allowed to leave their cells and work during the day, and in 1824, a legislative committee recommended the repeal of the solitary confinement laws (Harris, 1973).

Beaumont and Tocqueville (1833/1964) supported the practice of maintaining the solitude of inmates at night and their silence during the day as they worked, as they believed, along with the Quakers of Pennsylvania, that solitude and silence led to reflection and reformation and also reduced cross-contamination of inmates. As to labor, they claimed, “It fatigues the body and relieves the soul” (p. 57), along with supplementing the income of the state to support the prison.

Auburn Prison’s cornerstone was laid in 1816, the institution received its first inmates in 1817, and it officially opened in 1818, but it was not finished until 1819 (Harris, 1973). *Elam Lynds* (1784–1855), a strict disciplinarian and former Army captain, was its first warden in 1821. Auburn has been in existence ever since (206 years at the time of this writing, in 2023), though its name was changed to Auburn Correctional Institution in 1970.



PHOTO 2.9 Auburn Prison, officially opened in 1818, is still in operation today, though its name has changed to Auburn Correctional Institution.

© Philip Scalia/Alamy

Auburn’s cells were built back to back, with corridors on each side. The prison has always had a Gothic appearance, and its elaborate front and massive walls have been maintained up until today, with towers and a fortress façade. Auburn Prison has a storied history that spans from the virtual beginning of prisons in the United States to the present day. As was already noted, Beaumont and Tocqueville visited it and recommended it over the Pennsylvania prisons. Auburn opened with a solitary confinement

system, which was very quickly abandoned and replaced with the congregate but silent system, which formally lasted until the beginning of the 20th century. It was the progenitor of such widely adopted practices as the lockstep walk for inmates, the striped prison uniform and the classification system that went hand in hand with it, and the well-known ball and chain. Warden Lynds believed in strict obedience on the part of inmates and the use of the whip by staff to ensure it (Clear et al., 2011). Under his regime, inmates were forbidden to talk or even to glance at one another during work or meals. Solitary confinement and flogging were used for punishing and controlling inmates. As noted in the foregoing, except for a few years at the beginning of Auburn's history, inmates were single-celled at night, and the cells were quite small, even coffin-like (7 × 7 × 3.5 feet). During the day, the inmates worked together, though silently, in factories and shops (Roberts, 1997).

The small cells, like those at Auburn, were cheaper to build, and prisons could house more inmates in the same amount of space than prisons with larger cells. Also, congregate work allowed the more efficient production of more products, and thus, more profit could be made (Roberts, 1997). However, putting all of these inmates together in one place presented some difficulties in terms of control and management. This is why the control techniques represented by the use of the lash, solitary confinement, marching in lockstep, and the requirement of silence came into play. As Roberts (1997) noted, "Ironically, whereas the penitentiary concept was developed as a humane alternative to corporal punishment, corporal punishment returned as a device to manage inmates in penitentiaries based on the Auburn System" (p. 44).

Sing Sing Prison was modeled after Auburn architecturally in that the cells were small, and there were congregate areas for group work by inmates, but its cellblocks were tiered and very long. Inmate management and operations exactly mirrored the Auburn protocols. In fact, Sing Sing was built by Auburn inmates under the supervision of Auburn's Warden Lynds.



PHOTO 2.10 Sing Sing Prison, modeled after Auburn Prison, was built by inmates from Auburn Prison in 1825.

Peter Greenberg

The prison was built on the Hudson River, near the towns of Ossining and Mount Pleasant (and for many years, the prison was referred to as Mount Pleasant), from locally quarried stone. Products produced at the prison could be transported to local towns via the river. Inmates sent there would refer to it as being sent "up the river," as it is 30 miles north of New York City (Conover, 2001). Its name derives from the Native American phrase *Sint Sinks*, which came from the older term *ossine ossine* and, aptly, means "stone upon stone" (Lawes, 1932, p. 68).

Warden Lynds picked 100 men from Auburn Prison to build Sing Sing in 1825. The story of its construction, in silence, as relayed by Lewis Lawes (1932), a later warden of Sing Sing, goes like this:

Captain Lynds, then the foremost penologist of the day, was insistent, to the point of hysteria, on silence as the backbone of prison administration. “It is the duty of convicts to preserve an unbroken silence,” was the first rule he laid down. “They are not to exchange a word with each other under any pretense whatever; not to communicate any intelligence to each other in writing. They are not to exchange looks, wink, laugh, or motion to each other. They must not sing, whistle, dance, run, jump, or do anything which has a tendency in the least degree to disturb the harmony or contravene to disturb the rules and regulations of the prison.” . . . The sea gulls in the broad river, darting in large flocks here and there on the water, chirped raucously at these strange creatures sweating at their tasks in silence. Stone upon stone. (pp. 72–73)

Once the prison was constructed, it was noticed that with some effort, inmates could communicate between the closely aligned cells, but nothing was done to rebuild the cells. Moreover, as the inmates from New York City’s old Newgate Prison were moved to Sing Sing right away and so were additional inmates from Auburn, the prison was full at 800 inmates by 1830 (Lawes, 1932).

Prison labor in the early years of prisons (before the Civil War) was contract labor and subject to abuse. Contractors would pay a set amount for inmates’ labor and then would make sure they got the most work out of them, cutting costs where they could and bribing wardens and keepers when they needed to. Eventually, such contracts were ended, as the cheap labor made prison-produced goods too competitive with products made by free workers (Conover, 2001).

When one thinks about old prisons, those castle-like fortress prisons, the images of Auburn and Sing Sing inmates and prisons come to mind, even unknowingly. So many U.S. prisons copied the New York design and operation of these prisons that even if one is not thinking of Auburn or Sing Sing per se, one is likely imagining a copy of them. By the time Beaumont and Tocqueville (1833/1964) visited the United States in 1831, they reported that Auburn Prison had already been copied in prisons built in Massachusetts, Maryland, Tennessee, Kentucky, Maine, and Vermont.

It was not just the physical structure or the silent but congregate inmate management that was copied, however, from Auburn and Sing Sing, but the inmate discipline system as well. Orland (1975) summarized the Connecticut prison regulations of the 1830s, which were borrowed from the New York model:

Inmates were exhorted to be “industrious, submissive, and obedient”; to “labor diligently in silence”; they were forbidden to “write or receive a letter” or to communicate in any manner “with or to persons” without the warden’s permission; they were prohibited from engaging in conversation “with another prisoner” without permission or to “speak to, or look at, visitors.” (p. 26)

IN FOCUS 2.3

LEWIS E. LAWES’S OBSERVATIONS ON SING SING’S HISTORY AND DISCIPLINE

In 1920, Lawes began his tenure as warden of Sing Sing, and he later commented on how the severity of prison discipline had waxed and waned at this prison over the years. At first, it was very severe, with the use of the cat-o’-nine-tails whip: “It was made of long strips of leather, attached to a stout wooden handle, and was not infrequently wired at the tips. The ‘cat’ preferred its victim barebacked” (Lawes, 1932, pp. 74–75). Under a warden, in 1840, however, the cat was retired, and inmates could have a few visits and letters. A Sunday school and library were constructed, and the warden walked among the men. Within a few years, though, a new warden was appointed with a new political party in power, and all of the reforms were abandoned, and the cat was resurrected. A few years later, when a reportedly insane inmate was literally whipped to death, the public was outraged, and the use of the lash declined for men and was prohibited for women. The prison discipline

was consequently softened, and this cycle continued for the rest of the 1800s, from severe to soft discipline. Lawes maintained, after reviewing all of the wardens' reports since the opening of Sing Sing, that escapes were highest during times of severe punishment, despite the risks inmates took should they be caught.

He also observed that the prison had problems with management and control in other ways, noting that by 1845, an outside accountant found that the prison held 20 fewer female and 33 fewer male inmates than it had officially on the books, that \$32,000 was missing, and that there was no explanation as to where these people were or where the money had gone (Lawes, 1932, p. 82). The warden's and other official reports indicated that inmates were poorly fed and that diseases were rampant at Sing Sing. By 1859, some of Sing Sing's small cells had become doubles to accommodate the overcrowding, and the punishments got worse. By 1904, the official report was that the prison was in a disgraceful condition. Lawes (1932) wrote, "Such was the Sing Sing of the Nineteenth Century. A hopeless, oppressive, barren spot. Escapes were frequent, attempts at escape almost daily occurrences. Suicides were common" (p. 88).

Discussion Questions

1. Why is total control in prisons almost impossible to achieve?
2. What does it take to achieve close to total control?
3. Do you think prisons of today should be operated in the way that Sing Sing was in its early days? Why, or why not?

EARLY PRISONS AND JAILS NOT REFORMED

Lest one be left with the impression that all prisons and jails in the early 1800s in America were reformed, we should emphasize that this was not the case. Beaumont and Tocqueville (1833/1964) commented, for instance, on the fact that New Jersey prisons, right across the river from the reformist New York system, were vice ridden and that Ohio prisons, though ruled by a humanitarian law, were "barbarous," with half of the inmates in irons and "the rest plunged into an infected dungeon" (p. 49). But in New Orleans, they found the worst, with inmates incarcerated with hogs. "In locking up criminals, nobody thinks of rendering them better, but only of taming their malice; they are put in chains like ferocious beasts; and instead of being corrected, they are rendered brutal" (p. 49).

As to jails, Beaumont and Tocqueville (1833/1964) noted no reforms at all. Inmates who were presumed innocent or, if guilty, had generally committed much less serious offenses than those sent to prison, were incarcerated in facilities far worse in construction and operation than prisons, even in states where prison reform had occurred. In colonial times, inmates in American jails were kept in house-like facilities and were allowed much more freedom, albeit with few amenities that they did not pay for themselves. Dix (1843/1967) described many jails, particularly those that did not separate inmates, as "free school[s] of vice." However, as the institutionalization movement began for prisons, jails copied their large, locked-up, and controlled atmosphere, without any philosophy of reform to guide their construction or operation (Goldfarb, 1975). By midcentury, some jails had used the silent or separate systems popular in prisons, but most were merely congregate and poorly managed holding facilities (Dix, 1843/1967). Such facilities on the East Coast, by the latter quarter of the 1800s, were old, crowded, and full of the "corruptions" the new prisons were designed to prevent (Goldfarb, 1975). In the end, Beaumont and Tocqueville (1833/1964) blamed the lack of reform of prisons in some states and the failure to reform jails hardly at all on the fact that there were independent state and local governments who handled crime and criminals differently: "These shocking contradictions proceed chiefly from the want of unison in the various parts of government in the United States" (p. 49).

Prisons: "The Shame of Another Generation"

The creation of prisons was a grand reform, promoted by principled people who were appalled at the brutality of discipline wielded against those in their communities. Prisons were an exciting development supported by Enlightenment ideals of humanity and the promise of reformation. They were developed over centuries, in fits and starts, and had their genesis in other modes of depriving people of

liberty (e.g., galley slavery, transportation, jails, bridewells, houses of corrections, and early versions of prisons), but they were meant to be much better—so much better—than these.

It is not clear whether the problems arose for prisons in their implementation or in their basic conceptualization. In societies in which people who are poor and dispossessed exist among institutions in which law and practice serve to maintain their status, is it any wonder that prisons, as a social institution that reflects the values and beliefs of that society, would serve to reinforce this status? All indications are that most prisons, even those that were lauded as the most progressive in an earlier age of reform, were, by the mid-19th century, regarded as violent and degrading places for their inmates and staff.

Dorothea Dix's Evaluation of Prisons and Jails

Dorothea Dix was a humanitarian, a teacher, and a penal and insane asylum reformer who, after 4 years of studying prisons, jails, and almshouses in northeastern and midwestern states, wrote the book *Remarks on Prisons and Prison Discipline in the United States*, in 1843 (reprinted in 1845 and 1967). The data for her book were assembled from multiple observations at prisons; conversations and correspondence with staff, wardens, and inmates in prisons; and a review of prisons' annual reports.

Dix tended to prefer the Pennsylvania model over the New York model because she thought that inmates benefited from separation from others. However, she forcefully argued that both prison models that had promised so much in terms of reform for inmates were, in fact, abject failures in that regard. She found these and most prisons to be understaffed, overcrowded, and run by inept leaders who changed much too often. She noted that at Sing Sing, about 1,200 lashes, using the cat-o'-nine-tails, were administered every month to about 200 men, an amount she thought too severe, though she believed that the use of the lash, especially in understaffed and overcrowded prisons like Sing Sing and Auburn, was necessary to maintain order (Dix, 1843/1967). In contrast, at Eastern Pennsylvania Prison, she commented that punishments included mostly solitary confinement in darkened cells, which, to her, appeared to lead to changes in the behavior of recalcitrant inmates. Dix argued, as far as inmate discipline goes, "Man is not made better by being degraded; he is seldom restrained from crime by harsh measures" (p. 4).

Thus, Dix argued against the long sentences for minor offenses that she found in prisons of the day (e.g., Richmond, Virginia; Columbus, Ohio; Concord, Massachusetts; Providence, Rhode Island) and the disparity in sentencing from place to place. She thought not only that such sentences were unjust but that they led to insubordination by inmates and staff who recognized the arbitrary nature of the justice system. On the other hand, in her study of prisons, she found that the pardoning power was used too often, and this again led, she thought, to less trust in the just and fair nature of the system and to insubordination among its inmates.

Dix also remarked on the quality and availability of food and water for inmates in early correctional facilities. She found the food to be adequate in most places, except Sing Sing, where there was no place to dine at the time of the second edition of her book (1845), and the water inadequate in most places, except the Pennsylvania prisons, where it was piped into all of the cells. Her comments on the health, heating, clothing, cleanliness, and sanity of inmates also were detailed, by institution, and indicated that though there were recurrent problems with these issues in prisons of the time, some prisons (e.g., Eastern Pennsylvania Prison) did more than others to alleviate miseries by changing the diet, providing adequate clothing, and making warm water for washing available to inmates.

Dix did not find that more inmates were deemed "insane" in Pennsylvania-modeled prisons on the basis of her data—or at least not more than one might expect, even in the Pennsylvania prisons. Given the history of the separate system's being linked to insanity, she was sensitive to this topic. However, by 1845, when she published the second edition of her book, inmates at Eastern were not as "separate" from others as they had been, both formally and informally, and this might explain the relative paucity of insanity cases in her data. By this time, inmates were allowed to speak to their keepers (guards) and attend church and school.

Dix also explored the moral and religious instruction provided at the several state prisons and county prisons (jails) that she visited. Except for Eastern Pennsylvania Prison, she found them all deficient in this respect and that the provisions of such services were severely lacking in the jails.

Dix studied a peculiar practice of the early prisons: allowing visitors to pay to be spectators at the prisons. Adults were generally charged 25 cents, and children were half price at some facilities. In Auburn, in 1842, the prison made \$1,692.75 from visitors; in Columbus, Ohio, in 1844, the prison made \$1,038.78; and Dix documented five other prisons that allowed the same practice, a practice she thought should be “dispensed with” as it “would not aid the moral and reforming influences of the prisons” (p. 43). Of course, this fascination with watching inmates continues today, with reality-based television shows filmed in prisons and jails.

Finally, Dix tried to explore the idea of recidivism or, as she termed it, reform. Prisons did not keep records. In most respects and in all of these areas, she concluded from her study of several prisons that Eastern Pennsylvania Prison was far superior to most prisons and that Sing Sing Prison was far inferior, but she thought even Eastern Pennsylvania Prison was far from perfect. Rather, she called for more focus on the morals and education of young people and on preventing crime as a means of improving prisons and reducing their use—a call that sounds very familiar today.

ETHICAL ISSUE

WHAT WOULD YOU DO?

You are Dorothea Dix, the American humanitarian and penal and insane asylum reformer, and you are visiting prisons and jails in the United States in the 1840s. The task you have set for yourself is to document what appears to be working and what does not in the facilities you visit. You pride yourself on maintaining high moral standards. You are not opposed to the use of the lash in some circumstances, but its overuse, you think, is counterproductive in that it turns men into “brutes” rather than reforming them. In the course of your visit to Sing Sing, where the lash is used for the smallest offense, you notice that an emaciated inmate steals a piece of bread off a tray. The warden, though known for his harsh treatment of inmates, has treated you with every courtesy, and you know that he would expect you to report this offense. What would you do, and why? Do you think that your decision is colored by the time period you live in? Why, or why not?

The Failure of Reform Is Noted

Dix’s writings foretold the difficulties of implementing real change, even if the proposal is well intentioned. Simply put, prisons in the latter half of the 19th century were no longer regarded as places of reform. As Rothman (1980) stated,

Every observer of American prisons and asylums in the closing decades of the nineteenth century recognized that the pride of one generation had become the shame of another. The institutions that had been intended to exemplify the humanitarian advances of republican government were not merely inadequate to the ideal, but were actually an embarrassment and a rebuke. Failure to do good was one thing; a proclivity to do harm quite another—and yet the evidence was incontrovertible that brutality and corruption were endemic to the institutions. (p. 17)

Newspapers and state investigatory commissions, by the mid-19th century, were documenting the deficiencies of state prisons. Instead of the relatively controlled atmosphere of the Pennsylvania or Auburn prisons of the 1830s, there was a great deal of laxity and brutality (Rothman, 1980). Prisons were overcrowded and understaffed, torture was used to gain compliance, and the presence of prison contractors led to corruption, such as paying off wardens to look the other way as inmate labor was exploited or, alternatively, the wardens and staff using inmates and their labor for their own illegal ends.

THE RENEWED PROMISE OF REFORM

The 1870 American Prison Congress

The first major prison reform came approximately 50 years after the first New York and Pennsylvania prisons were built, doubtless as a result of all of those calls for change. The 1870 American Prison Congress was held in Cincinnati, Ohio, with the express purpose of trying to recapture some of the idealism promised with the creation of prisons (Rothman, 1980). Despite their promises of reform and attempts at preventing “contamination,” the early prisons had become, by the 1860s, warehouses without hope or resources. All of the themes mentioned at the beginning of this chapter—save the desire for reform, and that was remedied with the next round of reforms to follow the congress—applied to the operation of the 19th-century prisons: They were overcrowded, underfunded, brutal facilities where too many inmates would spend time doing little that was productive or likely to prepare them to reintegrate into the larger community.

Appropriately enough, then, the Declaration of Principles that emerged from the American Prison Congress of 1870 was nothing short of revolutionary at the time and provided a blueprint for prisons we see today (Rothman, 1980). Some of those principles were concerned with the grand purpose of prisons—to achieve reform—while others were related to their day-to-day operation (e.g., training of staff, eliminating contract labor, treatment of the insane) (American Correctional Association, 1983).

Elmira

As a result of these principles, a spirit of reform in corrections again spurred action, and the **Elmira Reformatory** was founded in 1876 in New York (Rothman, 1980). The reformatory would encompass all of the rehabilitation focus and graduated reward system (termed the **marks system** because if one behaves, it is possible to earn marks that, in turn, entitle one to privileges). The marks system, as mentioned previously, was practiced by Maconochie and later by Crofton in Irish prisons and was promoted by reformers. Elmira was supposed to hire an educated and trained staff and to maintain uncrowded facilities (Orland, 1975).

Zebulon Brockway was appointed to head the reformatory, and he was intent on using the ideas of Maconochie and Crofton to create a “model” prison (Harris, 1973, p. 85). He persuaded the New York legislature to pass a bill creating the indeterminate sentence, which would be administered by a board rather than the courts. He planned for the reformatory to handle only younger men (ages 16 to 30), as he expected that they might be more amenable to change. He planned to create a college at Elmira that would educate inmates from elementary school through college. He also sought to create an industrial training school that would equip inmates with technical abilities. In addition, he focused on the physical training of inmates, including much marching but also the use of massages and steam baths (Harris, 1973). The marks system had a three-pronged purpose: to discipline, to encourage reform, and to justify good time, in order to reduce the sentence of the offender. Brockway did not want to resort to the use of the lash.

Much lauded around the world and visited by dignitaries, the Elmira Reformatory and Brockway’s management of it led to the creation of good time, the indeterminate sentence (defined in Chapter 4), a focus on programming to address inmate deficiencies, and the promotion of probation and parole. “After Brockway, specialized treatment, classification of prisoners, social rehabilitation and self-government of one sort or another were introduced into every level of the corrections system” (Harris, 1973, pp. 86–87).

Unfortunately and as before, this attempt at reform was thwarted when the funding was not always forthcoming, and the inmates did not conform as they were expected to. The staff, who were not the educated and trained professionals Brockway had envisioned, soon resorted to violence to keep control. In fact, Brockway administered the lash himself on many occasions (Rothman, 1980). It should not be forgotten, however, that even on its worst day, the Elmira prison was likely no worse—and probably much more humane—than were the old Auburn or Sing Sing prisons.

The Creation of Probation and Parole

Probation and parole, which we will cover in Chapters 6 and 9, were developed in the first half of the 19th century, and their use spread widely across the United States in the early 20th century. The idea behind both was that programming and assistance in the community while supervising offenders could reduce the use of incarceration and help offenders transition more smoothly back into the community. Doubtless, the intent was good, but the execution of this reform was less than satisfactory; however, it did represent an improvement over the correctional practices that preceded it (Rothman, 1980).

AMERICAN CORRECTIONS IN THE 20TH AND 21ST CENTURIES

Southern and Northern Prisons and the Contract and Lease Systems

Southern prisons, because of the institution of slavery, developed on a different trajectory from that of other prisons. As indicated by Young's (2001) research, prisons in the South were little used before the Civil War. In agriculturally based societies, labor is prized and needed in the fields, and slave labor had served as a basis for the southern economy. Once slavery was abolished with the Thirteenth Amendment to the Constitution, southern states, in the Reconstruction period following the Civil War, began incarcerating more people, particularly formerly enslaved people, and re-creating a slave society in the corrections system. As Oshinsky (1996) documents, for Mississippi prisons, Black people were picked up and imprisoned for relatively minor offenses and forced to work like enslaved people on prison plantations or on plantations of southern farmers.

In the North, Midwest, and, later, the West, prisons were built somewhat on the Auburn model, but for the most part, corrections officials abandoned the attempt to completely silence inmates. It was no longer emphasized, as maintaining such silence required a large staff and constant vigilance, and these were usually not available in the understaffed and overcrowded facilities (Jacobs, 1977). Inmates in such prisons worked in larger groups under private or public employers, and order was maintained with the lash or other innovations in discipline (see also Lawes, 1932, regarding the management of Sing Sing). Although there was no pretense of high-minded reform going on in these prisons, their conditions and the accommodations of inmates were thought to be far superior to those provided in southern prisons of the time. Conditions under both the **contract and lease systems** could be horrible but were likely worse under the southern lease system, where contractors were often responsible for both housing and feeding inmates. Such contractors had little incentive for feeding or taking care of inmates, as the supply of labor from the prison was almost inexhaustible.

Industrial Prisons

The contract system morphed into industrial prisons in the latter part of the 19th century and first few decades of the 20th century in several states. Inmates were employed either by outside contractors or by the state to engage in the large-scale production of goods for sale on the open market or to produce goods for the state itself. Eventually, as the strength of unions increased and particularly as the Depression struck in 1930, the sale of cheap, prison-made goods was restricted by several state and federal laws, limiting the production of goods in prisons to just products the state or nonprofits might be able to use.

Correctional Institutions or Warehouse Prisons?

In his classic book, *Stateville: The Penitentiary in Mass Society*, James Jacobs (1977) described the operation of and environmental influences on **Stateville Prison** in Illinois. It was built as a panopticon in 1925 in reaction to the deplorable conditions of the old Joliet, Illinois, prison, built in 1860. Joliet was overcrowded, and Stateville Prison was built to relieve that overcrowding, but by 1935, Stateville itself was full, at 4,000 inmates, and the population at Joliet had not been reduced at all.

In a reformist state such as Illinois at the time (juvenile court reform began there, and it was one of the first states to initiate civil service reforms), Stateville was conceived as a place where inmates would be carefully classified into treatment programs that would address their needs and perceived deficiencies and where they could earn good time and eventual parole. Inmates were believed to be “sick,” and a treatment regimen provided by the prison would address that sickness and hopefully “cure” them so that they might become productive members of society. Thus, correctional institutions would use the **medical model** to treat inmates. Even though it was built as a maximum-security prison, Stateville’s conception fit the definition of a correctional institution, where inmates were not to be merely warehoused but corrected and treated. However, though inmates in the Illinois system were classified, and good time was available for those who adhered to the rules, there was little programming available, the prison was crowded, it was understaffed, and the staff who were employed were ill trained (Jacobs, 1977). Moreover, the first 10 years of operation were filled with disorganized management and violent attacks on staff and inmates in a prison controlled by Irish and Italian gangs.

In essence and despite the intent to create a correctional institution, Stateville became what is termed a **Big House prison**. These, according to Irwin (2005), are fortress stone or concrete prisons, usually maximum security, whose attributes include “isolation, routine, and monotony” (p. 32). Strict security and rule enforcement, at least formally, and a regimentation in schedule are other hallmarks of such facilities. The **convict code**, or the rules inmates live by vis-à-vis the institution and staff, is clear-cut: “1. Do not inform; 2. Do not openly interact or cooperate with the guards or the administration; 3. Do your own time” (p. 33).

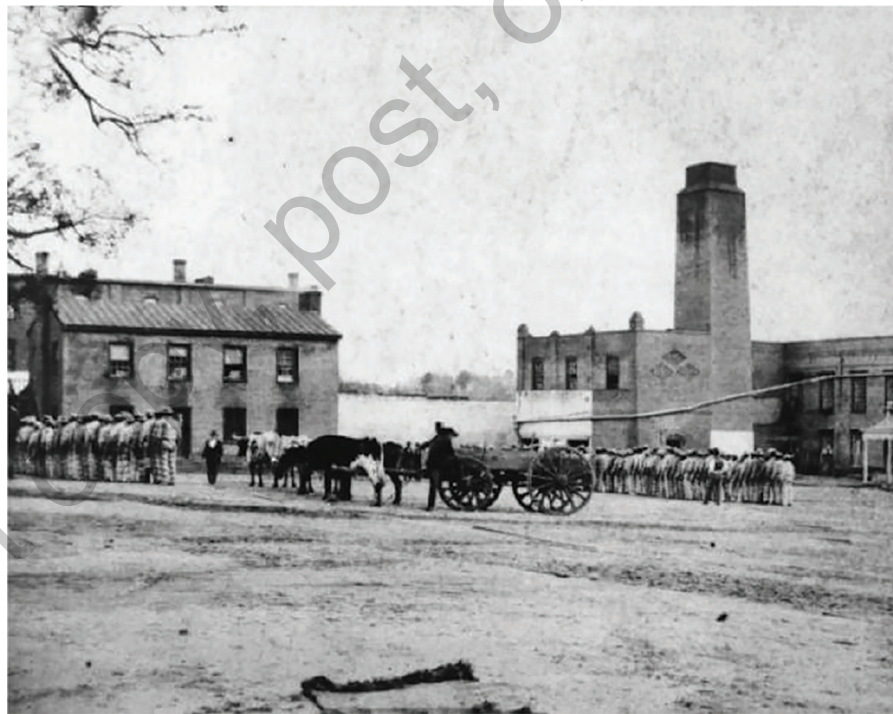


PHOTO 2.11 The prison yard of Texas State Penitentiary at Huntsville in the 1870s; Huntsville is an example of a Big House prison.

The next 25 years of Stateville Prison (1936–1961) were marked by the authoritarian control of one warden (Ragen), the isolation of staff and inmates from the larger world, strict formal rule enforcement, and informal corruption of those rules. Some of the trappings of a correctional institution were present (i.e., good time for good behavior and parole), but inmates, for the most part, were merely warehoused, double- and triple-celled. Those inmates who were favored by staff and the warden were given better housing and a whole array of privileges. Corruption seethed under the surface, with the relaxation of rules for tougher inmates, black-market trade by both staff and inmates, and the warden

turning his head when beatings of inmates by staff occurred. By the mid-1950s, Ragen, who had been appointed director of corrections for the state in 1941, was redefining its purpose as one of rehabilitation (Jacobs, 1977). So that his prisons would appear to be at the forefront of the move to a rehabilitative focus, the numbers of inmates in school and in vocational programming did increase, though staff, under the guise of providing vocational training, were able to use the inmate labor to repair their appliances and cars free of charge.

By the 1960s, Stateville and other Illinois prisons, much like the rest of the country, were under pressure internally by more career-oriented professionals interested in management of prisons and externally by greater racial consciousness and an emerging inmates' rights movement. Eventually, such prisons had to open their doors to other ideas and perspectives and sometimes the press, as well as court-mandated legal review of their practices (Jacobs, 1977).

The 1960s through the 1990s saw a boom in prison building across the country, most of the medium- and minimum-security variety, which were more likely to classify inmates according to both security and treatment needs, institute rehabilitative programming (although the amount and value of this have varied from state to state and by time period), and use good time and parole (except in those states that abolished it as part of a determinate-sentencing schema; see Chapter 4). Thus, by the 1960s and 1970s, the ideal of a correctional institution had been more fully realized in many parts of the country and in some prisons. However, the extent to which it truly was realized is in doubt. Staff hired to work in these prisons, other than the few treatment staff, tended to have only a GED or high school diploma and were not paid a professional wage. The prisons were understaffed. Also, they often were crowded, and educational and other treatment programs, even work programs, were limited. Good time was usually given, though inmates could lose it. They did not, in fact, earn it; rather, they did time and got it. Parole was typically poorly supervised, and by the 1970s and through the 1980s and early 1990s, several states and the federal government had eliminated it as they moved to determinate sentencing (see Chapter 4).

By the mid-1970s, a conservative mood regarding crime had gripped the country, and skepticism had developed about the value of rehabilitative programming. The media and politicians played on the fear of crime, and although overall street crime has been decreasing since the early 1980s in the United States, and violent crime has been decreasing since the mid-1990s, a prison-building boom ensued (Irwin, 2005). Prisons of the 1980s, 1990s, and into the 2000s reflect all of these earlier trends and influences. The maximum- and supermaximum-security prisons of today (and possibly some medium- and minimum-security prisons) are merely **warehouse prisons**, where inmates' lives and movement are severely restricted and rule bound. There is no pretense of rehabilitation in warehouse prisons; punishment and incapacitation are the only justifications for such places. The more hardened and dangerous prisoners are supposed to be sent there, and their severe punishment is to serve as a deterrent to others in lesser security prisons.

These lesser security prisons, the medium- and minimum-security prisons, which compose roughly two thirds of all prisons, do still have the trappings of rehabilitation programming, though it is limited in scope and funding, and they usually afford good time and even parole. (Most states still have a version of these.) They, too, are often crowded and understaffed, and their staff are not as educated or well paid as one might wish. However, such prisons do approximate the original ideal of a correctional institution.

The rest of this book will be focused primarily on the correctional institution model as it is often imperfectly implemented in the United States. There are some who argue (e.g., Irwin, 2005) that the rehabilitative ideal is not realized in prisons and, instead, that programming is too often used to control inmates rather than to help locate another life path that does not involve crime. Correctional institutions intended to rehabilitate instead end up warehousing the "dangerous classes" (Irwin, 2005) or people living in poverty and people of color. Of course, our history of corrections would lead us to be skeptical of any easy claims to rehabilitative change. (For a fuller discussion of rehabilitative programming, see Chapter 14.) As will be explored in this book, too often a plan, though well intentioned, is inadequately conceived and executed, and as a result, nothing changes, or worse, we achieve precisely the opposite results.

THEMES THAT PREVAIL IN CORRECTIONAL HISTORY

There are several themes that are interwoven throughout the history and current operation of corrections in the United States. The overriding one, of course, has been money. Operating a correctional institution or a program is a costly undertaking, and from the first, those engaged in this business have had to concern themselves with how to fund it. Of course, the availability of funding for correctional initiatives is shaped by the political sentiments of the time. Not surprisingly, schemes to fund correctional operations often have included ways to use inmate labor. Complementary themes that have shaped how money might be made and spent and how inmates or clients might be treated have included a move to greater compassion and humanity in correctional operations; the influence that the demographics of inmates themselves have played (e.g., race, class, gender); religious sentiments about punishment and justice; architecture, as it aligns with supervision; the pressure that crowding places on correctional programs and institutions; and the fact that though reforms might be well intentioned, they do not always lead to effective or just practice. Again, this list of themes is not exhaustive, but it does include some of the prevailing influences that span correctional history in the United States and that require the attention of each successive generation.

In the following chapters, we will see such themes and the history of corrections, as detailed here, dealt with again and again. However, although we continue to repeat both the mistakes and successes of the past, that does not mean we cannot make and have not made any progress in corrections. There is no question that, on the whole, the vast majority of jails and prisons in this country are much better than were those for much of the past 200 years, though the unprecedented use of correctional sanctions in the United States would be regarded by some as overly harsh and thus a regressive trend. The themes presented here represent ongoing questions (e.g., how much money or compassion or religious influence is the “right” amount), and as such, we are constantly called upon to address them.

PERSPECTIVE FROM A PRACTITIONER

PAT MAHONEY, ALCATRAZ CORRECTIONS OFFICER

Position: Corrections officer and boat captain

Location: Alcatraz Federal Penitentiary

How long were you a corrections officer on Alcatraz?

From 1956 to 1963, so seven years—the best seven years of my career. Alcatraz was a special place, from the guards to the convicts.

What were the primary duties and responsibilities of a corrections officer on Alcatraz?

There were about 15 positions, from tower, to kitchen, to garbage truck, to prison industries, supporting food and water deliveries, and supervising convict efforts for clean up and all the other daily requirements. It was surprisingly busy. Corrections officers also manned the gun gallery in the cell house. Roles were changed about every three months. I was originally a corrections officer; then, I was promoted to boat captain. I was also always on call if any work had to be done. I also supervised a crew that did maintenance for the actual prison.

In general, what did a typical day for a corrections officer on Alcatraz include?

In the cell house, there were several in charge of convict teams that cleaned the cell house continuously. They supervised or conducted inmate counts. They also had to get convicts from their cells to visiting attorneys, the barbershop, showers, meals, and work locations. The hours were always busy. Boredom was not ever a factor. Everyone had things to do at all times. The tower guards were

the least active but had regular duties and communication with others. Tower guards also watched the bay and occasionally saw a boat in distress, so they became a primary communicator to the Coast Guard for boats around Alcatraz.

Life on the Rock was fun when not on duty. We had a social hall, two bowling lanes, commissary for food, a playground for the kids, a handball court, and regular family dinners. About every three weeks, we had an island-wide dinner for all guards and families at the social hall. The view from the island was always tremendous. We looked right on downtown San Francisco.

What would your advice to someone either wishing to study or now studying criminal justice to become a corrections officer be?

The key is to be honest. If convicts think for a second that you are not honest, they will try to work you until you get fired or hurt. They can sense if someone is not honest. It was an exciting role, meeting some of the best and worst of society at Alcatraz. In prison, there are no weapons for the guards on the floor. All know this, so there is a common respect. You need good people skills to work with some who may have issues.

Note: Written by Steve Mahoney (born on Alcatraz), as told by Pat Mahoney.

SUMMARY

- LO 2.1** Explain the evolution of corrections and correctional institutions.
- Correctional institutions, as a type of prison, do exist in a less than perfect form in the United States.
 - What is clear from the Western history of corrections is that what was intended when prisons, jails, and reformatories were conceived and how they actually operated, then and now, were and are often two very different things
 - One overriding theme is the continued need for reform.
- LO 2.2** Compare the different types of corrections used historically.
- Human beings have been inventive in their development of punishments and ways to hold and keep people.
 - Jails were the first type of correctional facility to develop. They were often found in English castle keeps and dungeons and Catholic monasteries.
 - Those accused or convicted of crimes who had more means were less likely to be treated harshly or punished severely.
 - Galley slavery was a form of corrections in which convicts were sentenced to work as rowers on ships. Bridewells were places to hold and punish. Debtors' prisons were detention facilities for those who owed money. Transportation was a form of corrections in which offenders were transported to penal colonies.
- LO 2.3** Identify some of the key Enlightenment thinkers, their ideas, and how they changed corrections.
- Sometimes, old worldviews (paradigms) are challenged by new evidence and ideas, and they are then discarded for new paradigms. The Enlightenment period in Europe was a time for rethinking old ideas and beliefs.
 - Bentham, Beccaria, Howard, and Penn were all especially influential in changing our ideas about crime, punishment, and corrections.
 - Correctional reforms, whether meant to increase the use of humane treatment of inmates or to increase their secure control, often led to unintended consequences.
 - Howard, Beaumont and Tocqueville, and Dix all conducted studies of corrections in their day and judged the relative benefits of some practices and institutions over others.

- LO 2.4** Identify the housing and punishments used in prisons and jails in colonial times.
- The first jail in America was built in Jamestown, Virginia. However, often people were held in homes or inns. Inmates were required to pay a fee for their upkeep. As expansion occurred, structures began to be erected specifically to house convicts.
- LO 2.5** Assess the two predominant prison systems of the early 1800s and their strengths and weaknesses.
- The Pennsylvania and the New York early prisons were the models for most American prisons of the 19th century.
 - The Western Pennsylvania Prison was operated as solitary and separate confinement with no labor. The Eastern Pennsylvania Prison was operated as solitary confinement, and prisoners were to have no contact with any outsiders or one another, but they could produce goods.
 - The New York prison system did not use solitary confinement.
- LO 2.6** Summarize what the social critics (Beaumont, Tocqueville, and Dix) thought of early prisons and why.
- They were opposed to solitary confinement and unsanitary living conditions.
 - They were opposed to brutality and humiliation and inequality in treatment of people living in poverty versus those with means.
 - They felt that prisoners could be reformed and educated.
- LO 2.7** Explain why reform of prisons and jails was needed and how those reform efforts worked out.
- The Elmira Reformatory arose out of a prison reform movement that occurred roughly 50 years after Auburn Prison was built.
 - Probation and parole came into being in the early half of the 19th century.
- LO 2.8** Assess where we are today in America in terms of prison types and how we got there.
- The southern and northern versions of prisons that followed the Civil War were not like Elmira and instead were focused on using inmate labor for the production of goods for private contractors. This was a contract and lease system.
 - Industrial prisons housed prisoners who were employed to produce on a large scale goods for sale on open markets.
 - Stateville Prison, though conceived as a correctional institution with all that the term implies, for the most part became a Big House prison.
 - Warehouse prisons severely restricted movements of prisoners and adhered to strict codes and rules.
- LO 2.9** Describe the prevailing themes in correctional history.
- These themes include money; greater compassion and humanity in corrections; the influence of inmate demographics; religious sentiments about punishment and justice; architecture, as it aligns with supervision; the pressure of overcrowding; and the fact that reforms do not always lead to effective or just practice.

KEY TERMS

Big House prison	Great Law
Bridewells	Marks system
Contract and lease systems	Medical model
Convict code	New York prison system
Correctional institutions	Newgate Prison (Simsbury, Connecticut)
Elmira Reformatory	Norfolk Island
Galley slavery	Panopticon

Pennsylvania prison system
 Stateville Prison
 Transportation

Walnut Street Jail
 Warehouse prisons

DISCUSSION QUESTIONS

1. Identify examples of some themes that run throughout the history of corrections. What types of punishments tend to be used and for what types of crimes? What sorts of issues influence the choice of actions taken against offenders?
2. How were people of different social classes treated in early jails and bridewells?
3. We know that transportation ended because of the development of sails, which was an improvement in technology. Can you think of other types of correctional practices that have been developed, improved upon, or stopped because of advances in technology?
4. Several historical figures mentioned in this chapter advanced ideas that were viewed as radical for their day. Why do you think such ideas were eventually adopted? Can you think of similar sorts of seemingly “radical” ideas for reforming corrections that might be adopted in the future?
5. Discuss the relative benefits and drawbacks of the Pennsylvania versus the New York model of early prisons. What did Beaumont and Tocqueville and Dix think of them, and why? Which type of prison would you rather work in or be incarcerated in, and why?
6. What roles did Penn, Bentham, Beccaria, and Howard play in reforming the prisons and jails of their time? Are the concerns they raised still valid today?
7. Note why there is often a disconnect between the intentions of reformers and the ultimate operation of their reforms. Why is it difficult for theory to be put into practice? How might we ensure that there is a truer implementation of reforms?
8. How are the themes that run through the history of corrections represented in current practices? Why do these themes continue to have relevance for correctional operations over the centuries?

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