The history of corrections is riddled with the best of intentions and the worst of abuses. Correctional techniques 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 avert the use of more violent or coercive responses to such folk. In this section, the focus is on the recurring themes that run through and define the American experience with corrections.

It is somewhat ironic that one of the best early analyses of American prisons and jails was completed by two French visitors to our country—Gustave de Beaumont and Alexis de Tocqueville—while our country was in its relative infancy in 1831 and at the virtual birthing of prisons themselves (Beaumont & Tocqueville, 1833/1964). These two astute French observers came to American shores to investigate the relatively young democracy and its newly minted prisons, among many other social phenomena. One hundred
seventy-three years later, Norman Johnston (article included here) traces the history of one of the prisons the French visitors wrote about: the Eastern State Penitentiary. 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. Leonard Orland (1995) and Johnston, writing from a twentieth- and a twenty-first-century perspective, respectively, rather than a continental one, have the knowledge that comes from temporal distance, which allows them to see the context for such a social reform—where correctional practices and institutions, as social derivatives, came from, and what they represented—throughout the centuries.

Nichole Hahn Rafter (article included here), in a chapter from her classic work on women’s imprisonment, provides yet another “take” on the nature of incarceration in some of our historic prisons in New York, Ohio, and Tennessee. Women have always represented only a small fraction of the correctional population in either prisons or jails, and their experience with incarceration, as shaped by societal expectations of and for them, can be wholly different from that of men. Some of the themes that run through the practice of corrections apply to the women and girls as well, but with a twist. As literal outsiders to what was the “norm” for inmates of prisons and jails and as a group whose rights and abilities were socially controlled on the outside more than those of men and boys, women prisoners and the female experience in corrections history are worth studying.

What is clear from all of these writings is that what was intended when prisons, jails, and reformatories were conceived and how they actually operated then and more recently are often two very different things (Rothman, 1980; Welch, 2005). So it was in these early facilities, and so it is now. As social critics ourselves, we can use these writings on the history of corrections to identify a series of “themes” that will run through this entire book. Such themes will reinforce the tried, yet true, maxim that “Those who do not know their history are doomed 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.

In this brief introductory chapter, and as a fitting prelude to the works of the authors, we will identify some themes that appear in their and others’ writings on correctional institutions, programs, and practices, themes that are illustrative of where we have been and where we are likely to go.

Themes: Truths That Underlie Correctional Practice

Some themes have been almost eerily constant, vis-à-vis corrections, over decades and even centuries. Of these, a few are obvious, such as the influence that money or its lack exerts over virtually all correctional policy decisions. 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 or in practice, policy, or statute, has underpinned reform-based decisions about corrections, at least in theory, throughout its history in this country. The creation of the prison, with a philosophy of penitence (hence penitentiary) along with retribution, 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 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 “social control” mechanisms to remove punishment
Money, Money, Money, Labor, and Technology

When Beaumont and Tocqueville arrived in the United States, the country was literally in its first prison-building boom. We built it, and they came. But what they “came” to, in terms of prisons and jails, was very different from state to state and locality to locality. As our French documenters remark, each state, each city and county in each state had, and still has, its own laws and practices that determine how their local prison or jail is operated. From the Frenchmen’s perspective, this lack of unity of ideas and implementation was both an advantage for Americans and a curse. It was an advantage in that it led to the fermentation of new ideas and the ultimate experimentation with some of them, and a curse in that it led to a lack of uniformity such that some states and municipalities were becoming more humane in their correctional practices while, virtually “next door,” other states and municipalities were engaged in what the visitors termed the “ancient abuses.”

What shaped these differences in part was money, or a lack of it, for such luxuries as jails or prisons. Rather than punishing offenders with the whip or stocks or even executions, states, large cities, and counties (in the case of jails) were faced with building, maintaining, and staffing correctional institutions with public funds (Orland, 1995; see also Rafter reading). As Beaumont and Tocqueville remarked, such funding, if not supplemented with some sort of income from inmate labor, could be ruinous to the treasury!

The cost of building and operating prisons and jails was, and is, prohibitively expensive (see readings by Johnston and by Rafter; Irwin & Austin, 1994; Rothman, 1980). Part of this expense, then and now, is for technological wonders, for example, the plumbing and heating systems built into early facilities and our surveillance equipment of today. But just raising the capital to build and maintain a facility takes a commitment of public capital and lots of it. For instance, as indicated in Table 1.1, the Georgia Department of Corrections (2007) estimates that it costs $31,675 to build a minimum security bed and
then an additional $14,016 to operate it. Notably, those costs increase if the bed is in maximum security and decrease substantially if the offender is on probation. When compared to the prison expenditures of other states, say Washington, the Georgia costs are cheap. The Washington State Department of Corrections estimates it costs on average $26,736 per offender per year to institutionalize an inmate or about $7,000 more than the average for maximum security inmates in Georgia. But then Southern states have some of the lowest incarceration and supervision costs (though they have the highest regional incarceration rates) as compared to other regions of the country, with the Northeast having the highest incarceration and supervision costs (though they have the lowest regional incarceration rates) (JFA Institute, 2007). Notably, these costs are averages for all adults, and, typically, costs are much higher, because of decreased economies of scale and different needs, for adult women and for juveniles.

In contrast to current costs to incarcerate, correctional costs in the past were mitigated by the labor of inmates. Galley slavery, transportation, and the earliest jails and prisons (the Auburn, New York model) all used labor as an intrinsic part of the punishment. Those who labored at the oars, though they might die there from abuse and lack of clean food or water, provided the labor necessary for the ship’s power before the technology of sails rendered such work unnecessary (Orland, 1995; Welch, 2004). Transportation to the new colonies, a practice in use for over 400 years, also had the double benefit of removing the “criminal class” from English or French streets and providing the essential laborers needed for settlements (Feeley, 1991; Orland, 1995). Early bridewells and workhouses and prison-like structures (e.g., the Newgate Connecticut prison that was a copper mine) also confined the poor, the criminal, and the displaced (from the rural to urban areas of Europe and the colonies) in places where, if needed, their labor might be exploited (Phelps, 1996).

Moreover, as labor was formally restricted in some early prisons, maintenance could not be done “officially” by inmates (e.g., in the early Pennsylvania prisons). This was

<table>
<thead>
<tr>
<th>Table 1.1 Costs of Corrections in Georgia (2006)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Capital Outlay ($ per unit or prisoner)</strong></td>
</tr>
<tr>
<td><strong>Initial cost</strong></td>
</tr>
<tr>
<td>Minimum security bed $31,675</td>
</tr>
<tr>
<td>Medium security bed $60,700</td>
</tr>
<tr>
<td>Maximum security bed $109,400</td>
</tr>
<tr>
<td><strong>Operating costs</strong></td>
</tr>
<tr>
<td>Maximum security bed $18,582</td>
</tr>
<tr>
<td>Medium and minimum security beds $14,016</td>
</tr>
<tr>
<td>Prerelease, parole, and probation work and treatment centers $12,000–21,582</td>
</tr>
<tr>
<td>Regular probation $475</td>
</tr>
<tr>
<td>Intensive probation $1,241</td>
</tr>
</tbody>
</table>
another costly aspect of the prison. Also, the labor that could be produced in the individual cells of the Pennsylvania prisons did not compare to the output of the factory-like prisons (e.g., New York’s Auburn and Sing Sing prisons) that other states were developing in the 19th century (Rothman, 1980). It is for these reasons that the Pennsylvania system was not much copied inside the United States, and, when it was reproduced in other countries, individual cells were unlikely to include their own exercise yards. It is also, perhaps, that jails and prisons have almost always used inmate labor to supplement staff and sometimes in lieu of staff (Marquart & Roebuck, 1985). However, it is worth noting that the labor of women in our early prisons, as documented by Rafter, was even more restricted than men’s because of sex role expectations but also because women were more likely to be left unsupervised and secluded so that they could not perform labor with the male inmates.

One of the reasons that the Auburn and Sing Sing model of prisons spread was the congregate labor systems these prisons employed. Not only did prison administrators appreciate the remedial effects of labor, as did the Pennsylvania Prison Society, but they noted that it reduced expenses for the prisons. Maintenance of the prison could be done by inmates, and congregate work, albeit in silence, as prisoners were not allowed to communicate with one another in Auburn and Sing Sing, allowed the inmates to produce more goods for sale. Of course, the factory prisons of the North in the late 1800s and early 1900s and the convict lease system of the South during that same period survived because the cost of incarceration could be offset almost entirely by inmate labor (Pollock, 2004; Seiter, 2002). In the factory prisons, inmates labored together to produce goods, sometimes for the state and at other times for private contractors. Under the convict contract or lease system, inmates’ labor was sold by the prison to farmers or other contractors. As the supply of prisoners, mostly in the form of ex-slaves, was plentiful during the post–Civil War period, their lives were treated cheaply, and they were often not fed or clothed or sheltered adequately.

Another related example of the importance of money and labor in shaping corrections would be the plantation prisons of the post–Civil War period, which acted as proxies for slavery by keeping poor ex-slaves essentially enslaved (Oshinsky, 1996). It is not surprising, then, that we see the same thing today with offenders sentenced to probation or work release, who must refund monies to the state from their wages from outside work to pay for their housing and supervision (Georgia Department of Corrections, 2007). Although one cannot help but notice that a stay in a work release or in most prisons or jails these days is, by all accounts, much less physically trying than it once was, the scale of our current use of corrections (expanding caseloads and populations) is very troublesome (JFA Institute, 2007).

In sum, despite guards’ use of the lash to maintain control,
Beaumont and Tocqueville found early American prisons to be vast improvements over the jails that preceded them. As Kerle (2003) notes in his book on jails, colonial jails charged inmates fees for all life’s necessities while incarcerating inmates without regard to gender, age, or type of crime. So the early prisons may have represented some improvement, but perhaps only marginally in some cases, and when those prisons were operated like the southern lease system, not at all.

**A Greater Compassion or Humanity in Correctional Operation**

 Appearing in some articles in this and other sections of this book is a sense that the development of jails and then prisons and probation and parole encompassed major reforms spurred by a need to clean up the corrupted and corruptive influences of corrections and punishment as they then existed. For instance, John Howard, an English ex-sheriff and an advocate for jail reform from the 1770s to the 1790s, called for the elimination of the fee systems in jails, whereby inmates paid to be incarcerated; argued for the provision of decent food and clothing for inmates; and lobbied for the frequent inspection of jails so that they would provide decent facilities and work to reform their inmates (Krebs, 1978; Orland, 1995; Radzinowicz, 1978; see also the discussion of Howard in the introduction to this book). Such a call for reform must be viewed in light of the efforts by other Enlightenment-influenced leaders and philosophers, such as William Penn, a Quaker who founded the Pennsylvania colony and worked to eliminate harsh punishments by substituting imprisonment for whippings and executions (Johnston). English philosopher Jeremy Bentham (1811/1930), and Italian philosopher Cesare Beccaria (1764/1963), who were the great eighteenth-century advocates of deterrence theory and who also argued for less severe punishment for more minor offenses, were also very influential (see also the discussion of Bentham and Beccaria in the introduction to this book). In fact, Orland (1995, p. 10) argues that the combination of the Enlightenment belief in “right reason” (or that some humans are rational and not innately depraved) and the need to deal with burgeoning urban populations led to the creation of prisons and the need for more jails.

Prisons, such as the Eastern Pennsylvania Prison, the Western Pennsylvania Prison that followed it, and Auburn and Sing Sing, were created to “alleviate the miseries” of offenders. As Conover (2001) comments in his book on Sing Sing, “The Quakers’ goals were prevention of further harm to society, deterrence, and, by the early nineteenth century, encouragement of prisoners to engage in ‘penitent reflection,’ which could result in their personal reformation” (p. 173). Eastern, Johnston argues, was explicitly created by its founders, who were influenced by Enlightenment thinkers and the Quakers, to rehabilitate inmates and, absent that, to at least deter them from further criminality. Although the goal for Auburn and Sing Sing, where physical punishments were inextricably tied to operation and control, was decidedly not rehabilitation, those prisons certainly provided a much safer and more decent incarceration experience than had the houses of correction that came before them or that existed in other states and municipalities.

Since these early prisons, there have been multiple waves of reform aimed at reducing the miseries prisoners suffer while incarcerated. Probation, as it was originally practiced by its founder John Augustus, was just such a philanthropic endeavor (Augustus, 1852/1972). As Augustus himself recounts, his volunteer work as a probation officer began in 1841,
when he was 57. He bailed out a drunkard before the Boston courts and then proceeded to help him. Until his death at 75, Augustus followed this procedure with the other 5,000 or so men, women, and children whom he subsequently bailed out and saved from jail or prison time. But Augustus's work did not extend just to bailing out offenders; he would literally take these mostly minor offenders and help them find employment, housing, and aid for their families. He was known to house several probationers in his own home with his family over the years when he could not find alternate housing.

As the Harvard professor Sheldon Glueck wrote in his introduction to the 1939 (xxiii) reprinted version of *A Report of the Labors of John Augustus, for the Last Ten Years, In Aid of the Unfortunate*, “These rehabilitative efforts by John Augustus were inspired not only by a strong humanitarian impulse but by a definite view that ‘the object of the law is to reform criminals, and to prevent crime and not to punish maliciously, or from a spirit of revenge’” (p. 23). In other words, Augustus and reformers like him were compelled to act and to change the criminal justice system out of an impulse to improve it and the lot of those less fortunate.

Efforts to reform the conditions of women in male prisons or the women's sections of early male prisons also appear to have been inspired by some reformers with humane impulses. For instance, the “ladies” that Rafter mentions who visited women incarcerated at the Eastern Pennsylvania Prison, and the countless other men and women who decried the conditions for men and women in America's early prisons (Dorothea Dix is mentioned often by Rafter, for instance) would appear to have been compelled to do good by a genuine desire to reform not just the institutions but the people they held.

The first major prison reform occurred approximately 50 years after the first New York and Pennsylvania prisons were built and was doubtless the 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 in this section, 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 people would spend time doing little that was productive or likely to prepare them to reinte-grate into the larger community.

Appropriately enough, then, the Declaration of Principles that emanated from the American Prison Congress was nothing short of revolutionary at the...
time and provided a blueprint for the prisons we see today (Rothman, 1980). Some of those principles were concerned with the grand purposes of prisons—to achieve reform—while others were related to their daily operations, for example, training of staff, eliminating contract labor, and the treatment of the insane (American Correctional Association, 1983). As a result of these principles, a spirit of reform in corrections was again energized, and the Elmira Reformatory was founded in 1876 (Rothman, 1980). The reformatory would encompass all of the rehabilitation focus and graduated reward system (termed the *marks system*, as in you behave and you earn marks that entitle you to privileges) promoted by reformers, along with trained staff and uncrowded facilities. Unfortunately, and as before, this attempt at reform was thwarted when the funding was not forthcoming and the inmates did not conform as expected. The staff soon resorted to violence to keep control. It should not be forgotten, however, that, even on its worst day, the Elmira prison was likely no worse than the old Auburn and Sing Sing prisons and probably much more humane.

Similar sorts of reforms followed with the creation of probation and parole in the latter part of the 19th century and the early 20th century. The idea here, too, was to reduce the use of incarceration and to help the offender to transition more smoothly back into the community. Doubtless, the intent was good, and, although the execution of this reform was less than satisfactory, it did represent an improvement over the correctional practices that preceded it (Rothman, 1980).

**The Intersection of Class, Race, and Gender**

Some of the earliest descriptions of criminal law and depictions of correctional practice make clear that *who one was* demographically (class, race or ethnicity, gender) determined to a large extent *how one was handled* (Orland, 1995; Oshinsky, 1996; Reiman, 1998). Throughout history, in the earliest of legal codes (e.g., the Code of Hammurabi or the Justinian Code), in the English “Black Laws” (punishing with death the killing of deer in the king’s forest or even the “blacking” of one’s face with mud or charcoal to go into that forest), and in the differential treatment of those who enter the criminal justice system today, if one is rich, of the powerful race or ethnicity, and male, one is treated substantially differently than one would be if these were not accurate descriptors (Orland, 1995; Oshinsky, 1996; Reiman, 1998; Thompson, 1975).

The well-to-do were less subjected to physical punishments in the Middle Ages and more likely to “pay” for their crimes literally, if at all. However, the poor were subjected to all manner of abuse and violent punishments meted out by the Crown and its functionaries (Orland, 1995). When incarcerated in English and Irish jails of the 1700s and 1800s, those who could pay were housed in comfortable quarters with plenty to eat and were even able to visit with friends and relatives (Kerle, 2003; Stohr & Cooper, 2007). Such differential treatment by class was so institutionalized that facilities were constructed with this difference in mind: separate rooms were reserved for the wealthy inmates, and begging windows were built in next to busy thoroughfares for the poor. Simply put, and historically speaking, being rich has meant that either an offender’s punishment was much lighter, more comfortable, or nonexistent. As Reiman (1998) notes in his book *The Rich Get Richer and the Poor Get Prison*, such distinctions, though less obvious, continue today in our focus on “street crimes,” which tend to be largely perpetrated by poor and minority
group members, rather than on corporate and white collar crime, which tends to be the
purview of the middle and upper classes and which, he argues, actually results in greater
loss of life and property.

As indicated by Reiman’s (1998) analysis, race and ethnicity have also served to dif-
f erentiate correctional practice. In the frontier days, murder was approved practice
against those American Indians who allegedly transgressed against white settlers (Blalock
1967; Kitano, 1997; Stannard, 1992). Never mind that the whites had taken their land and
committed offenses against them. Similarly, there were separate laws governing Chinese
immigrants laboring in western mining towns or on the railroads, regarding their right to
citizenship and to own property (Blalock 1967; Kitano, 1997). Mexicans in the American
Southwest were treated more severely by the criminal justice system than the white set-
tiers who followed them and settled on their land (Moore & Pachon 1985; Weyr 1988).
African Americans saddled with the legacy of slavery and the barbaric treatment they suf-
fered as property under its practices had no protection under the law (*Dred Scott v.
Sanford*, 1856). Even after the Civil War, however, African American men and women
were incarcerated differently than their fellows; in fact, some “prison farms” in the deep
south were nothing more than plantation slavery continued (Oshinsky, 1996). Even out-
side of the south, male and female minority group inmates would often be separated from
whites and treated in a more discriminatory fashion in terms of assignments, punish-
ments, and programming (Hawkes, 1998; Joseph & Taylor, 2003). Unfortunately, some of
these “traditions” of discrimination still bedevil us.

The most prominent driver of this discrimination exists in the drug war, which has
spurred the greatest incarceration rate increase in jails and prisons in American history,
along with the concomitant rise in probation and parole caseloads (Chesney-Lind, 2001;
Joseph, Henriques, & Richards-Ekeh, 2003; Pollock, 2004; Young & Adams-Fuller, 2006;
Zimring & Hawkins, 1995). Couple these rising incarceration and correctional supervi-
sion rates with the use of “three strikes” laws and other forms of mandatory sentences and
you have the resulting “harsh justice”—the increased use of corrections—that sets the
United States apart from the rest of the Western and civilized world. We incarcerate and
use correctional supervision at higher rates than other comparable countries (Ruddell,
2004; Whitman, 2003; see also a related discussion in the introduction to this book).

A related theme is that of differential treatment for incarcerated women and girls in
corrections (see the Rafter article featured in this section). Some of the earliest correctional
institutions (e.g., the bridewells or workhouses) did not always separate the genders or
divide their inmates by age. But some of the earliest criminal statutes did provide punish-
ments for women in particular (e.g., punishing the village “scold” or the ability of a man
to discipline his wife with a stick no bigger than his thumb or the burning of witches), punish-
ments that appeared to be aimed at forcing women to conform to a certain reduced role
in social, political, and communal affairs (Anderson, 2006; Pollock, 2002). Much like
African American slaves, women and girls throughout history have been legally defined as
the property of their male relatives, and it was only over a gradual period of reform, which
lasted several hundred years and included much struggle, that they gained the same rights
and liberties in law as men and boys (Stohr, 2000). Of course, the degree to which women,
or less powerful groups such as the poor and minorities, can exercise their rights and lib-
erties in law, and thus over correctional operation, has depended to some extent on that
intersection of class, race, and gender (Joseph & Taylor, 2003).
Religious Influence

As becomes clear when one reviews the history of the Walnut Street Jail and the Western and Eastern Pennsylvania prisons, many U.S. correctional facilities would not have been created and operated in the manner that they were if not for the influence of the Quakers (Orland, 1995; see also Beaumont & Tocqueville and Johnston Readings). From the architecture to the supervision to the type of activities allowed, all aspects of these prisons were, in part, shaped by the need to provide inmates with the opportunity to reform via contemplation of the Bible and the desire to isolate them from the corrupting influence of other criminals.

In fact, the history of corrections is replete with instances of correctional institutions and practices being shaped by religious influences. The Catholic Church constructed and operated a “prison-like” existence for offenders in monasteries (Welch, 2004). Perhaps the most ubiquitous programming in prisons or jails from their inception till now, however, has been the religious outreach provided by pastors and priests and rabbis in the local community. Today, more than ever, we see such faith-based initiatives promoted for both the community and corrections (Sipes & Young, 2006).

Architecture as It Is Associated With Supervision

Jeremy Bentham was one of the first to argue cogently that architecture and supervision were complementary. In recommending to the British Parliament in 1843 the creation of his “panopticon” (an architecturally rounded prison with a central guard station in the middle and a glass ceiling), he touted the ability of the officers to supervise inmates more efficiently (Foucault, 1979). Although approved by parliament, the panopticon was never funded, so Bentham was never able to test his marriage of architecture and supervision idea, though others did (e.g., the Stateville prison of Illinois; Jacobs, 1977).

Much like the panopticon, Sing Sing, Auburn, and the Pennsylvania prisons were architecturally shaped to fit a certain supervision style (see Beaumont & Tocqueville and Johnston in this section; Orland, 1995). That style was to be removed and indirect in most cases, with restricted interactions between staff and inmates even in the congregate, but silent, New York prisons. This “ideal” of restricted contact, however, was corrupted itself when prisons confronted the reality of overcrowding.

More recently, in the last 25 years, we have seen this important connection between architecture and supervision represented in the architecture of “New Generation” jails (Zupan, 1991). In such facilities, the podular, or rounded, architecture allows officers in the living units a greater opportunity to supervise visually and physically—or directly—what is occurring. Notably, the podular architecture, coupled with direct supervision, has spread to numerous jails and prisons across the country (see Section VIII for a fuller discussion of such jails).

Overcrowding

Today, given what we know about the tendency of prisons, jails, and other correctional facilities to be overused, or at least well used, we are probably not surprised to learn that the prisons of the early 1800s, like the jails built before them and since, were prone
to overcrowding. Almost from the very beginning, the Walnut Street Jail was overcrowded, even after it was remodeled as, arguably, the first prison, and this overcrowding spurred the building of the Western and then the Eastern Pennsylvania prisons. Likewise, once the Auburn prison became crowded, the building of Sing Sing was virtually preordained. So we see today the apparently insatiable need for prison and jail space leading to the current incarceration of over two million in those institutions, with no serious abatement in prison and jail growth in the foreseeable future (Bureau of Justice Statistics, 1997, 2006b; see also Rafter below).

But what is often not noted by correctional commentators, probably because of the lesser strictures on liberty for offenders and the lesser relative cost for the state, is that the explosive growth in jail and prison populations has been exceeded by the growth of community corrections populations, particularly in the area of probation. For instance, from 1990 to 2005 there was an average increase of 53.5% in probation populations (along with a 9.1% increase in parole populations) as compared to 25.2% and 12.3% increases in populations, consecutively, for prisons and jails (Glaze & Bonczar, 2006; see also a discussion of probation and parole in other sections of this book). What these increases signify is that caseloads and not just correctional institutions get “overcrowded,” and this overcrowding complicates the ability of correctional personnel to “manage” offenders. These recent data and what we know about bridewells, poorhouses, jails, and early prisons all indicate that, if an institution is built, it will be filled and usually beyond capacity—necessitating in some policy makers minds the need to build still more institutions.

**Good Intentions Do Not Always Translate Into Effective Practice**

It has become an accepted truism of public policy making that what you plan for may not be what you get once programs are in place (Pressman & Wildavsky, 1984; Rothman, 1980). In his classic work *Conscience and Convenience*, Rothman (1980) describes the many reasons a disjunction often occurs between even the best of intentions and how programs, and in this case, institutions, actually “work.” Some of those reasons have to do with the other themes mentioned here, particularly money or the lack of it. Other reasons have to do with the politics of the time and whether a particular correctional practice or institution fits the culture it emanates from, which in turn is influenced by religious forces and perceptions of morality.

Maconochie, a progressive prison warden who was charged with operating the brutal Norfolk Island penal colony from 1840 to 1844, instituted some of the earliest prison reforms, including the mark system (a program akin to good time), a form of indeterminate sentencing (whereby inmates could reduce the severity of their sentences by behaving appropriately), and decent, nonviolent responses to most inmates’ misbehavior (Morris, 2002; Orland, 1995). But because his proposals for change were a poor fit with the politics and perceptions of morality of his time, Maconochie was removed from his post as warden, and his reform efforts were abandoned for a time until prison reform became politically popular some 30 years later.

Beaumont and Tocqueville note, as does Johnston, the good intentions that served as the conceptual rampart for the construction of America’s early prisons. Then they explain
why those intentions were never fully matched by actual practice. Similarly, Rothman (1980) finds in his review of major criminal justice reforms of the latter part of the 19th and first half of the 20th centuries—the Elmira prison of 1870, the creation and operation of the juvenile court and probation and parole, and reform efforts in prisons—that many missteps can occur between the “intent” of a program and its actual operation.

Thirty some years ago—in 1974—Martinson claimed that almost nothing works in correctional rehabilitation, and, though this assessment is generally thought to be an exaggeration, he had hit on an essential truth: some programs clearly were not “working” or, if they were, they were not being evaluated correctly so that anyone could tell (Cullen & Gilbert, 1982; Martinson, 1974; Palmer, 1983). In the last five to ten years, belief in rehabilitation programming has returned, though some rightly note that we never abandoned it as a central purpose of corrections (e.g., see Cullen & Gilbert, 1982). The lesson we can take away from these earlier attempts at reform and apply to today’s efforts—some of which you will read about in this book—is not that we should never try to improve corrections or its operation but that each such effort should be approached with a healthy degree of caution and grounded in empirically derived findings, rather than in the political or populist fads of the moment (Rothman, 1980).

Summary: Knowing Where We Have Been Helps Us Determine Where We Should Go

- Correctional institutions, whether jails or prisons or, more recently, community corrections, have been shaped by several themes throughout their history. These themes, though apparently constant, are products of their times. For instance, the Eastern Penitentiary would not be built today as a general use prison because it would be considered cruel to isolate inmates from other human contact. Yet this kind of isolation, sometimes even with the tiny cells, is seen as beneficial by those today who build and operate super-max prisons for special uses to control incorrigible inmates (Kluger, 2007).
- Whether there is an overall movement toward greater compassion and humanity in corrections is debatable. Certainly, the current willingness to use correctional punishment and very long sentences for some offenses would appear to contradict this idea. However, the whole move toward a greater use of treatment (beginning in the late 1990s and continuing today), though certainly motivated by a need to reduce the warehousing costs of “get tough” policies of the 1980s, 1990s, and today, is certainly also supported by old-time “Enlightenment” beliefs in “right reason” and in the basic humanity and dignity of most offenders. (See other sections of this book for a fuller discussion of the trend toward treatment.)
- Class, race, and gender are ostensibly not as prominent in law and practice today as they were previously, at least in relation to determining how corrections operates. Yet some would argue that the failure to focus criminal justice energies on corporate crimes and an overenthusiasm for prosecuting low-level drug offenders has the predictable effect of differential punishment in corrections by class and race, if not by gender.
Likewise, religious programming, at least in large institutions, is much more diverse in content than it was when prisons and jails were first conceived. But its basic thrust is still reform or repentance through contact with and assistance by a higher power. Moreover, the current focus on faith-based initiatives ensures that a religious influence in corrections will remain prominent.

Good intentions sometimes lead to outstanding practice; at other times, they do not. Programming today is doubtless created with the best of intentions, and, when analyzed, it sometimes lives up to its promise.

In the following chapters, we will see themes such as those mentioned here dealt with again and again by the authors. That they reappear and reappear and then reappear again does not mean, however, that 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 today are much better than those that served us for most of the last 170 years. However, the unprecedented use of correctional sanctions in our country could be regarded by some as overly harsh and thus a regressive trend. These themes presented here merely represent conundrums (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.
This book chapter excerpt by Gustave de Beaumont (a prosecutor) and Alexis de Tocqueville (a lawyer) is of great historical interest because these two French aristocrats came to the United States in 1831 purposely to observe and report upon America’s experiment with the penitentiary system. Beaumont and Tocqueville studied the Cherry Hill Prison in Philadelphia and the Auburn Prison in New York as well as some others. They found these prisons somewhat different from older American prisons and European prisons; for example, prisoners were kept in isolation so that they could not corrupt one another, and prisoners were required to work throughout their sentences. The biggest innovation was that attempts were made to reform prisoners morally and spiritually (hence the term “penitentiary”).

An Historical Outline of the Penitentiary System

Gustave de Beaumont and Alexis de Tocqueville

Though the penitentiary system in the United States is a new institution, its origin must be traced back to times already long gone by. The first idea of a reform in the American prisons, belongs to a religious sect in Pennsylvania. The Quakers, who abhor all shedding of blood, had always protested against the barbarous laws which the colonies inherited from their mother country. In 1786, their voice succeeded in finding due attention, and from this period, punishment of death, mutilation and the whip were successively abolished in almost all cases by the Legislature of Pennsylvania. A less cruel fate awaited the convicts from this period. The punishment of imprisonment was substituted for corporal punishment, and the law authorized the courts to inflict solitary confinement in a cell during day and night, upon those guilty of capital crimes. It was then that the Walnut Street prison was established in Philadelphia. Here the convicts were classed according to the nature of their crimes, and separate cells were constructed for those whom the courts of justice had sentenced to absolute isolation. These cells also served to curb the resistance of individuals, unwilling to submit to the discipline of the prison. The solitary prisoners did not work.

This innovation was good but incomplete. The impossibility of subjecting criminals to a useful classification, has since been acknowledged, and solitary confinement without labor has been condemned by experience. It is nevertheless just to say, that the trial of this theory has not been made long enough to be decisive. The authority given to the judges of Pennsylvania, by the law of April 5, 1790, and of March 22, to send criminals to the prison in Walnut Street, who formerly would have been sent to the

different county jails, soon produced in this prison such a crowd of convicts, that the difficulty of classification increased in the same degree as the cells became insufficient.

To say the truth there did not yet exist a penitentiary system in the United States. If it be asked why this name was given to the system of imprisonment which had been established, we would answer, that then as well as now, the abolition of the punishment of death was confounded in America, with the penitentiary system. People said—instead of killing the guilty, our laws put them in prison; hence we have a penitentiary system.

The conclusion was not correct. It is very true that the punishment of death applied to the greater part of crimes, is irreconcilable with a system of imprisonment; but this punishment abolished, the penitentiary system does not yet necessarily exist; it is further necessary, that the criminal whose life has been spared, be placed in a prison, whose discipline renders him better. Because, if the system, instead of reforming, should only tend to corrupt him still more, this would not be any longer a penitentiary system, but only a bad system of imprisonment.

This mistake of the Americans has for a long time been shared in France. In 1794, the Duke de la Rochefoucauld-Liancourt published an interesting notice on the prison of Philadelphia: he declared that this city had an excellent prison system, and all the world repeated it. However, the Walnut Street prison could produce none of the effects which are expected from this system. It had two principal faults: it corrupted by contamination those who worked together. It corrupted by indolence, the individuals who were plunged into solitude.

The true merit of its founders was the abolition of the sanguinary laws of Pennsylvania, and by introducing a new system of imprisonment, the direction of public attention to this important point. Unfortunately that which in this innovation deserved praise, was not immediately distinguished from that which was untenable.

Solitude applied to the criminal, in order to conduct him to reformation by reflection, rests upon a philosophical and true conception. But the authors of this theory had not yet founded its application upon those means which alone could render it practical and salutary. Yet their mistake was not immediately perceived, and the success of Walnut Street prison boasted of in the United States still more than in Europe, biased public opinion in favor of its faults, as well as its advantages.

The first state which showed itself zealous to imitate Pennsylvania, was that of New York, which in 1797, adopted both new penal laws and a new prison system.

Solitary confinement without labor, was admitted here as in Philadelphia, but, as in Walnut Street, it was reserved for those who especially were sentenced to undergo it by the courts of justice, and for those who opposed the established order of the prison. Solitary confinement, therefore, was not the ordinary system of the establishment; it awaited only those great criminals who, before the reform of the penal laws, would have been condemned to death. Those who were guilty of lesser offenses were put indiscriminately together in the prison. They, different from the inmates of the solitary cells, had to work during the day, and the only disciplinary punishment which their keeper had a right to inflict, in case of breach of the order of the prison, was solitary confinement, with bread and water.

The Walnut Street prison was imitated by others: Maryland, Massachusetts, Maine, New Jersey, Virginia, etc., adopted successively, the principle of solitary confinement, applied only to a certain class of criminals in each of these states. The reform of criminal laws preceded that of the prisons.

Nowhere was this system of imprisonment crowned with the hoped-for success. In general it was ruinous to the public treasury; it never effected the reformation of the prisoners. Every year the legislature of each state voted considerable funds towards the support
of the penitentiaries, and the continued return
of the same individuals into the prisons,
proved the inefficiency of the system to which
they were submitted.

Such results seem to prove the insuffi-
ciency of the whole system; however instead of
accusing the theory itself, its execution was
attacked. It was believed that the whole evil
resulted from the paucity of cells, and the
crowding of the prisoners; and that the system,
such as it was established, would be fertile in
happy results, if some new buildings were
added to the prisons already existing. New
expenses therefore, and new efforts were made.

Such was the origin of the Auburn prison
[1816]. This prison, which has become so cele-
brated since, was at first founded upon a plan
essentially erroneous. It limited itself to some
classifications, and each of these cells was des-
tined to receive two convicts: it was of all combi-
nations the most unfortunate; it would have
been better to throw together fifty criminals in
the same room, than to separate them two by
two. This inconvenience was soon felt, and in
1819 the Legislature of the State of New Y ork,
ordered the erection of a new building at
Auburn (the northern wing) in order to increase
the number of solitary cells. However, it must be
observed, that no idea as yet existed of the sys-
tem which has prevailed since. It was not
intended to subject all the convicts to the system
of cells, but its application was only to be made
to a greater number. At the same time the same
theories produced the same trials in Philadelphia,
where the little success of the Walnut Street
prison would have convinced the inhabitants of
Pennsylvania of its inefficiency, if the latter, like
the citizens of the State of New York, had not
been led to seek in the faults of execution, a
motive for allowing the principle to be correct.

In 1817, the Legislature of Pennsylvania
decreed the erection of the penitentiary at
Pittsburgh, for the western counties, and in
1821, that of the penitentiary of Cherry Hill,
for the city of Philadelphia and the eastern
counties. The principles to be followed in the
construction of these two establishments were,
however, not entirely the same as those on
which the Walnut Street prison had been
erected. In the latter, classification formed the
predominant system, to which solitary con-
finement was but secondary. In the new pris-
ons the classifications were abandoned, and a
solitary cell was to be prepared for each con-
vict. The criminal was not to leave his cell day
or night, and all labor was denied to him in his
solitude. Thus absolute solitary confinement,
which in Walnut Street was but accidental, was
now to become the foundation of the system
adopted for Pittsburgh and Cherry Hill. The
experiment which was to be made, promised
to be decisive; no expense was spared to con-
struct these new establishments worthy of
their object, and the edifices which were ele-
vated, resembled prisons less than palaces.

In the meantime, before even the laws
which ordered their erection, were executed, the
Auburn prison had been tried in the State of
New Y ork. Lively debates ensued on this occa-
sion, in the legislature, and the public was impa-
tient to know the result of the new trials, which
had just been made. The northern wing having
been nearly finished in 1821, eighty prisoners
were placed there, and a separate cell was given
to each. This trial, from which so happy a result
had been anticipated, was fatal to the greater
part of the convicts. In order to reform them,
they had been submitted to complete isolation;
but this absolute solitude, if nothing interrupts
it, is beyond the strength of man; it destroys
the criminal without intermission and without
pity; it does not reform, it kills.

The unfortunates on whom this experi-
ment was made fell into a state of depression,
so manifest, that their keepers were struck with
it; their lives seemed in danger, if they
remained longer in this situation; five of them
had already succumbed during a single year;
their moral state was not less alarming; one of
them had become insane; another, in a fit of
despair, had embraced the opportunity when
the keeper brought him something, to precipi-
tate himself from his cell, running the almost
certain chance of a mortal fall.
Upon similar effects the system was finally judged. The Governor of the State of New York pardoned twenty-six of those in solitary confinement; the others to whom this favor was not extended, were allowed to leave the cells during day, and to work in the common workshops of the prison. From this period, (1823) the system of unmodified isolation ceased entirely to be practiced at Auburn. Proofs were soon afforded that this system, fatal to the health of the criminals, was likewise inefficient in producing their reform. Of twenty-six convicts, pardoned by the governor, fourteen returned a short time after into the prison, in consequence of new offenses. This experiment, so fatal to those who were selected to undergo it, was of a nature to endanger the success of the penitentiary system altogether. After the melancholy effects of isolation, it was to be feared that the whole principle would be rejected: it would have been a natural reaction. The Americans were wiser: the idea was not given up, that the solitude, which causes the criminal to reflect, exercises a beneficial influence; and the problem was, to find the means by which the evil effect of total solitude could be avoided without giving up its advantages. It was believed that this end could be attained, by leaving the convicts in their cells during night, and by making them work during the day, in the common workshops, obliging them at the same time to observe absolute silence. Messrs. Allen, Hopkins, and Tibbits, who, in 1824, were directed by the Legislature of New York to inspect the Auburn prison, found this new discipline established in that prison. They praised it much in their report, and the Legislature sanctioned this new system by its formal approbation.

Here an obscurity exists which it has not been in our power to dissipate. We see the renowned Auburn system suddenly spring up, and proceed from the ingenious combination of two elements, which seem at first glance incompatible, isolation and reunion. But that which we do not clearly see, is the creator of this system, of which nevertheless some one must necessarily have formed the first idea.

Does the State of New York owe it to Governor Clinton, whose name in the United States is connected with so many useful and beneficial enterprises? Does the honor belong to Mr. Cray, one of the directors of Auburn, to whom Judge Powers, who himself was at the head of that establishment, seems to attribute the merit? Lastly, Mr. Elam Lynds, who has contributed so much to put the new system into practice, does the glory also of the invention belong to him? We shall not attempt to solve this question, interesting to the persons whom we have mentioned, and the country to which they belong, but of little importance to us. In fine, does not experience teach us that there are innovations, the honor of which belongs to nobody in particular, because they are the effects of simultaneous efforts, and of the progress of time?

The establishment of Auburn has, since its commencement, obtained extraordinary success. It soon excited public attention in the highest degree. A remarkable revolution took place at that time in the opinions of many. The direction of a prison, formerly confided to obscure keepers, was now sought for by persons of high standing, and Mr. Elam Lynds, formerly a captain in the army of the United States, and Judge Powers, a magistrate of rare merit, were seen, with honor to themselves, filling the office of directors of Auburn.

However, the adoption of the system of cells for all convicts in the state of New York, rendered the Auburn prison insufficient, as it contained but 550 cells after all the successive additions which it had received. The want of a new prison, therefore, was felt. It was then that the plan of Sing Sing was resolved upon by the legislature (1825) and the way in which it was executed is of a kind that deserves to be reported.

Mr. Elam Lynds, who had made his trials at Auburn, of which he was the superintendent, left this establishment; took one hundred convicts, accustomed to obey, with him, led them to the place where the projected prison was to be erected; there, encamped on the bank of the
Hudson, without a place to receive, and without walls to lock up his dangerous companions; he sets them to work, making of every one a mason or a carpenter, and having no other means to keep them in obedience, than the firmness of his character and the energy of his will.

During several years, the convicts, whose number was gradually increased, were at work in building their own prison, and at present the penitentiary of Sing Sing contains one thousand cells, all of which have been built by their criminal inmates. At the same time (1825) an establishment of another nature was reared in the city of New York, but which occupies not a less important place among the improvements, the history of which we attempt to trace. We mean the house of refuge, founded for juvenile offenders.

There exists no establishment, the usefulness of which, experience has warranted in a higher degree. It is well known that most of those individuals on whom the criminal law inflicts punishments, have been unfortunate before they became guilty. Misfortune is particularly dangerous for those whom it befalls in a tender age; and it is very rare that an orphan without inheritance and without friends, or a child abandoned by its parents, avoids the snares laid for his inexperience, and does not pass within a short time from misery to crime. Affected by the fate of juvenile delinquents, several charitable individuals of the city of New York conceived the plan of a house of refuge, destined to serve as an asylum, and to procure for them an education and the means of existence, which fortune had refused. Thirty thousand dollars were the produce of a first subscription. Thus by the sole power of a charitable association, an establishment eminently useful, was founded, which, perhaps, is still more important than the penitentiaries, because the latter punish crime, while the house of refuge tends to prevent it.

The experiment made at Auburn in the state of New York (the fatal effects of isolation without labor) did not prevent Pennsylvania from continuing the trial of solitary confinement, and in the year 1827, the penitentiary of Pittsburgh began to receive prisoners. Each one was shut up, day and night, in a cell, in which no labor was allowed to him. This solitude, which in principle was to be absolute, was not such in fact. The construction of this penitentiary is so defective, that it is very easy to hear in one cell what is going on in another; so that each prisoner found in the communication with his neighbor a daily recreation, i.e., an opportunity of inevitable corruption. As these criminals did not work, we may say that their sole occupation consisted in mutual corruption. This prison, therefore, was worse than even that of Walnut Street, because, owing to the communication with each other, the prisoners at Pittsburgh were as little occupied with their reformation, as those at Walnut Street. And while the latter indemnified society in a degree by the produce of their labor, the others spent their whole time in idleness, injurious to themselves, and burdensome to the public treasury.

The bad success of this establishment proved nothing against the system which had called it into existence, because defects in the construction of the prison, rendered the execution of the system impossible. Nevertheless, the advocates of the theories on which it was founded, began to grow cool. This impression became still more general in Pennsylvania, when the melancholy effects caused by solitude without labor in the Auburn prison, became known, as well as the happy success of the new discipline, founded on isolation by night, with common labor during the day.

Warned by such striking results, Pennsylvania was fearful she had pursued a dangerous course. She felt the necessity of submitting to a new investigation the question of solitary imprisonment without labor, practiced at Pittsburgh and introduced into the penitentiary of Cherry Hill, the construction of which was already much advanced.

The legislature of this state, therefore, appointed a committee in order to examine which was the better system of imprisonment. Messrs. Charles Shaler, Edward King, and
T. I. Wharton, commissioners charged with this mission, have exhibited, in a very remarkable report, the different systems then in practice (December 20, 1827), and they conclude the discussion by recommending the new Auburn discipline, which they pronounce the best. The authority of this inquiry had a powerful effect on public opinion. It however met with powerful opposition: Roberts Vaux, in Pennsylvania and Edward Livingston, in Louisiana, continued to support the system of complete solitude for criminals. The latter, whose writings are imbued with so elevated a philosophy, had prepared a criminal code, and a code of Prison Discipline for Louisiana, his native state. His profound theories, little understood by those for whom they were destined, had more success in Pennsylvania, for which they had not been intended. In this superior work, Mr. Livingston admitted, for most cases, the principle of labor of the convicts. Altogether, he showed himself less the advocate of the Pittsburgh prison, than the adversary of the Auburn system. He acknowledged the good discipline of the latter, but powerfully opposed himself to corporal punishment used to maintain it. Mr. Livingston, and those who supported the same doctrines, had to combat a powerful fact: this was the uncertainty of their theories, not yet tested, and the proven success of the system they attacked. Auburn went on prospering: everywhere its wonderful effects were praised, and they were found traced each year with great spirit, in a work justly celebrated in America, and which has essentially co-operated to bring public opinion in the United States, on the penitentiary system, to that point where it now is. We mean the annual publications of the Prison Discipline Society at Boston. These annual reports—the work of Mr. Louis Dwight, give a decided preference to the Auburn system.

All the states of the Union were attentive witnesses of the controversy respecting the two systems. In this fortunate country, which has neither troublesome neighbors, who disturb it from without, nor internal dissensions which distract it within, nothing more is necessary, in order to excite public attention in the highest degree, than an essay on some principle of social economy. As the existence of society is not put in jeopardy, the question is not how to live, but how to improve.

Pennsylvania was, perhaps, more than any other state, interested in the controversy. The rival of New York, it was natural she should show herself jealous to retain, in every respect, the rank to which her advanced civilization entitles her among the most enlightened states of the Union. She adopted a system which at once agreed with the austerity of her manners, and her philanthropical sensibility. She rejected solitude without labor, the fatal effects of which experience had proved everywhere, and she retained the absolute separation of the prisoners—a severe punishment, which, in order to be inflicted, needs not the support of corporal chastisement.

The penitentiary of Cherry Hill, founded on these principles, is therefore a combination of Pittsburgh and Auburn. Isolation during night and day, has been retained from the Pittsburgh system: and, into the solitary cell, the labor of Auburn has been introduced. This revolution in the prison discipline of Pennsylvania, was immediately followed by a general reform of her criminal laws. All punishments were made milder; the severity of solitary imprisonment permitted an abridgment of its duration; capital punishment was abolished in all cases, except that of premeditated murder.

While the states of New York and Pennsylvania made important reforms in their laws, and each adopted a different system of imprisonment, the other states of the Union did not remain inactive, in presence of the grand spectacle before them.

Since the year 1825, the plan of a new prison on the Auburn model, has been adopted by the legislature of Connecticut; and the penitentiary at Wethersfield has succeeded the old prison of Newgate. In spite of the weight which Pennsylvania threw into the balance, in favor of absolute solitude with labor, the Auburn system, i.e., common labor during
the day, with isolation during night, continued to obtain a preference. Massachusetts, Maryland, Tennessee, Kentucky, Maine, and Vermont, have gradually adopted the Auburn plan, and have taken the Auburn prison as a model for those which they have caused to be erected.

Several states have not stopped here, but have also founded houses of refuge for juvenile offenders, as an addition, in some measure, to the penitentiary system, in imitation of New York. These latter establishments have been founded in Boston in 1826, and in Philadelphia in 1828. There is every indication that Baltimore also, will soon have its house of refuge.

It is easy to foresee, that the impulse of reform given by New York and Pennsylvania, will not remain confined to the states mentioned above. From the happy rivalry which exists among all the states of the Union, each state follows the reforms which have been effected by the others, and shows itself impatient to imitate them. It would be wrong to judge all the United States by the picture which we have presented of the improvements adopted by some of them.

Accustomed as we are to see our central government attract everything, and propel in the various provinces all the parts of the administration in a uniform direction, we sometimes suppose that the same is the case in other countries; and comparing the centralization of government at Washington with that at Paris, the different states of the Union to our departments, we are tempted to believe that innovations made in one state, take, of necessity, place in the others. There is, however, nothing like in the United States.

These states, united by the federal tie into one family, are in respect to everything which concerns their common interests, subjected to one single authority. But besides these general interests, they preserve their entire individual independence, and each of them is sovereign master to rule itself according to its own pleasure. We have spoken of nine states which have adopted a new system of prisons; there are fifteen more which have as yet made no change.

In these latter, the ancient system prevails in its whole force; the crowding of prisoners, confusion of crimes, ages, and sometimes sexes, mixture of indicted and convicted prisoners, of criminals and debtors, guilty persons and witnesses; considerable mortality; frequent escapes; absence of all discipline, no silence which leads the criminals to reflection; no labor which accustoms them to an honest mode of subsistence; insalubrity of the place which destroys health; ignism of the conversations which corrupt; idleness that depraves; the assemblage, in one word, of all vices and all immoralities—such is the picture offered by the prisons which have not yet entered into the way of reform.

By the side of one state, the penitentiaries of which might serve as a model, we find another, whose jails present the example of everything which ought to be avoided. Thus the State of New York is without contradiction one of the most advanced in the path of reform, while New Jersey, which is separated from it but by a river, has retained all the vices of the ancient system.

Ohio, which possesses a penal code remarkable for the mildness and humanity of its provisions, has barbarous prisons. We have deeply sighed when at Cincinnati, visiting the prison. We found half of the imprisoned charged with irons, and the rest plunged into an infected dungeon; and are unable to describe the painful impression which we experienced, when, examining the prison of New Orleans, we found men together with hogs, in the midst of all odors and nuisances. In locking up the 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.

If it is true that the penitentiary system is entirely unknown in that part which we mentioned, it is equally true that this system is incomplete in those states even where it is in vigor. Thus at New York, at Philadelphia, and
Boston, there are new prisons for convicts, whose punishment exceeds one or two years’ imprisonment; but establishments of a similar nature do not exist to receive individuals who are sentenced for a shorter time, or who are indicted only. In respect to the latter, nothing has been changed; disorder, confusion, mixture of different ages and moral characters, all vices of the old system still exist for them: we have seen in the house of arrest in New York (Bridewell) more than fifty indicted persons in one room. These arrested persons are precisely those for whom well-regulated prisons ought to have been built. It is easy in fact to conceive, that he who has not yet been pronounced guilty, and he who has committed but a crime or misdemeanor comparatively slight, ought to be surrounded by much greater protection than such as are more advanced in crime, and whose guilt has been acknowledged.

Arrested persons are sometimes innocent and always supposed to be so. How is it that we should suffer them to find in the prison a corruption which they did not bring with them? If they are guilty, why place them first in a house of arrest, fitted to corrupt them still more, except to reform them afterwards in a penitentiary, to which they will be sent after their conviction? There is evidently a deficiency in a prison system which offers anomalies of this kind. These shocking contradictions proceed chiefly from the want of unison in the various parts of government in the United States.

The larger prisons (state prisons) corresponding to our maisons centrales, belong to the state, which directs them; after these follow the county jails, directed by the county; and at last the prisons of the city, superintended by the city itself.

The various branches of government in the United States being almost as independent of each other, as the states themselves, it results that they hardly ever act uniformly and simultaneously. While one makes a useful reform in the circle of its powers, the other remains inactive, and attached to ancient abuses.

We shall see below, how this independence of the individual parts, which is injurious to the uniform action of all their powers, has nevertheless a beneficial influence, by giving to each a more prompt and energetic progress in the direction which it follows freely and uncompelled.

We shall say nothing more of the defective parts in the prison system in the United States. If at some future period France shall imitate the penitentiaries of America, the most important thing for her will be to know those which may serve as models. The new establishments then, will form the only object of our further inquiry.

We have seen, in the preceding remarks, that few states have as yet changed entirely their system of imprisonment; the number of those which have modified their penal laws is still less. Several among them yet possess part of the barbarous laws which they have received from England.

We shall not speak of the Southern states, where slavery still exists. In every place where one-half of the community is cruelly oppressed by the other, we must expect to find in the law of the oppressor, a weapon always ready to strike nature which revolts or humanity that complains. Punishment of death and stripes—these form the whole penal code for the slaves. But if we throw a glance at those states even which have abolished slavery, and which are most advanced in civilization, we shall see this civilization uniting itself, in some, with penal laws full of mildness, and in others, with all the rigor of a code of Draco.

Let us but compare the laws of Pennsylvania with those of New England, which is, perhaps, the most enlightened part of the American Union. In Massachusetts, there are ten different crimes punished by death—among others, rape and burglary. Maine, Rhode Island, and Connecticut, count the same number of capital crimes. Among these laws, some contain the most degrading punishments, such as the pillory; others revolting cruelties, as branding and mutilation. There are also some which
order fines equal to confiscations. While we find the remains of barbarism in some states, with an old population, there are others, which, risen since yesterday, have banished from their laws all cruel punishments not called for by the interest of society. Thus, Ohio, which certainly is not as enlightened as New England, has a penal code much more humane than those of Massachusetts or Connecticut.

Close by a state where the reform of the penal laws seems to have arrived at its summit, we find another, the criminal laws of which are stamped with all the brutalities of the ancient system. It is thus that the States of Delaware and New Jersey, so far behind in the path of improvement, border on Pennsylvania, which, in this respect, marches at the head of all others.

We should forget the object of our report were we to dwell any longer on this point. We were obliged to present a sketch of the penal legislation of the United States, because it exercises a necessary influence on the question before us. In fact it is easy to conceive to what point the punishments which degrade the guilty, are incompatible with a penitentiary system, the object of which is to reform them. How can we hope to awaken the moral sense of an individual who carries on his body the indelible sign of infamy, when the mutilation of his limbs reminds others incessantly of his crime, or the sign imprinted on his forehead, perpetuates its memory?

Must we not ardently wish, that the last traces of such barbarism should disappear from all the United States, and particularly from those which have adopted the penitentiary system, with which they are irreconcilable, and whose existence renders them still more shocking? Besides, let us not blame these people for advancing slowly on the path of innovation. Ought not similar changes to be the work of time, and of public opinion? There are in the United States a certain number of philosophical minds, who, full of theories and systems, are impatient to put them into practice; and if they had the power themselves to make the law of the land, they would efface with one dash, all the old customs, and supplant them by the creations of their genius, and the decrees of their wisdom. Whether right or wrong the people do not move so quickly. They consent to changes, but they wish to see them progressive and partial. This prudent and reserved reform, effected by a whole nation, all of whose customs are practical, is, perhaps, more beneficial than the precipitated trials which would result, had the enthusiasm of ardent minds and enticing theories free play.

Whatever may be the difficulties yet to be overcome, we do not hesitate to declare that the cause of reform and of progress in the United States, seem to us certain and safe. Slavery, the shame of a free nation, is expelled every day from some districts over which it held its sway; and those persons themselves who possess most slaves, are convinced that slavery will not last much longer. Every day punishments which wound humanity, become supplanted by milder ones; and in the most civilized states of the north, where these punishments continue in the written laws, their application has become so rare that they are to be considered as fallen into disuse. The impulse of improvement is given. Those states which have as yet done nothing, are conscious of their deficiency; they envy those which have preceded them in this career, and are impatient to imitate them.

Finally, it is a fact worth remarking, that the modification of the penal laws and that of prison discipline, are two reforms intimately associated with each other, and never separated in the United States. Our special task is not to enlarge on the first; the second alone shall fix our attention. The various states in which we have found a penitentiary system, pursue all the same end: the amelioration of the prison discipline. But they employ different means to arrive at their object. These different means have formed the subject of our inquiry.
DISCUSSION QUESTIONS

1. Discuss the relative benefits and drawbacks of the “Pennsylvania” versus the “New York” models of early prisons. What did Beaumont and Tocqueville think of them and why? Which type of prison would you rather work in, or be incarcerated in, and why?

2. What was it about America that made its approach to prisons different from that of Europe, according to Beaumont and Tocqueville?

3. In what ways has prison reform changed since the era of Beaumont and Tocqueville?

READING

Norman Johnston’s article traces both the history and worldwide influence of what he calls “the world’s most influential prison.” This prison system, which completely separated prisoners from each other during their entire sentence and created a unique architecture, was developed and instituted on a large scale at Eastern State Penitentiary in Philadelphia in 1829. Although not followed in other U.S. prison systems, the so-called Pennsylvania system was adopted, along with its architecture, in most of Europe, South America, and large parts of Asia until early in the 20th century. This article considers the successes and failures of the system and assesses its place in the history of corrections.

The World’s Most Influential Prison

Success or Failure?

Norman Johnston

In 1822, on the outskirts of Philadelphia, construction began on the new Eastern State Penitentiary, which was to be not only one of the largest and most expensive structures in the country at the time but also, in both its architecture and its program, the most influential prison ever built.

To understand how Philadelphia and Pennsylvania became the center of prison reform worldwide, it is necessary to look briefly at the early development of penal practices in William Penn’s colony. Penn, who himself had been confined in England for his Quaker beliefs, abolished the severe criminal
code, instituted by the Duke of York, that was in effect in other parts of British North America. Upon Penn’s death, conservative elements in the colony and in England reintroduced many of the more sanguinary punishments. As late as 1780, punishments such as the pillory and hanging were carried out in public. An account of an execution that year related how two prisoners “were taken out amidst a crowd of spectators—they walked after a cart in which were two coffins and a ladder, etc., each had a rope about his neck and their arms tied behind [sic] them . . . they were both hanged in the commons of this city [Philadelphia] abt. 1 o’clock” (Teeters, 1955, p. 15). In spite of these practices, liberal thinkers and reformers never abandoned their concerns for prisoners and continued to be influenced by the Enlightenment ideals emanating from Europe, especially those calling for imprisonment in place of corporal and capital punishment. The investigations of John Howard and Elizabeth Fry, as well as the reforms instituted in a few exemplary prisons such as the San Michele House of Correction for juveniles in Rome and the prison in Ghent, Belgium, were also well known to the Philadelphia reformers.

Overcrowding and mingling of men, women, and boys in the Old Stone Jail at Third and High (Market) streets in Philadelphia prompted the construction of the Walnut Street Jail. It was built opposite the State House, later to be Independence Hall, and opened in 1776. After the peace of 1783, a group of prominent citizens led by Benjamin Franklin, Benjamin Rush, and others organized a movement to reform the harsh penal code of 1718. Their efforts resulted in the new law of 1786 that substituted public labor for the previous severe punishments. But reaction against the public display of convicts on the streets of the city and the disgraceful conditions in the Walnut Street Jail led to the formation in 1787 of the Philadelphia Society for Alleviating the Miseries of Public Prisons, a name it retained for 100 years. Members of the society were appalled by what they learned about the new Walnut Street Jail. Garnish was common. It was a practice in which inmates, when entering the prison, were shaken down by other prisoners for their money, which was then used to buy rum and other drinks available at inflated prices from the jailer. New prisoners lacking money had to relinquish some of their own clothing, resulting in some being nearly naked in the jail. There was no separation of men from women or hardened offenders from others, and the press reported that some women had themselves arrested and confined for fictitious debts to consort with male prisoners. Riotous and disorderly behavior and escapes were common.

As the result of lobbying by the Pennsylvania Prison Society, the legislature was urged to use solitary labor to effect reform. They asked for particulars, and, in December of 1788, the society prepared an account of their investigations of conditions at the jail and recommended solitary confinement at hard labor. An act of 1790 brought about sweeping reforms in the prison and authorized a “penitentiary house” to be built in the yard of Walnut Street Jail to carry out solitary confinement with labor for “hardened and atrocious offenders.” There is some evidence that few criminals received such sentences and that this little cellblock with 16 cells was used primarily for infractions of prison rules. However, following 1790, the jail, now a state prison, became a showplace, with separation of different sorts of prisoners even though the main building of the prison had only common sleeping rooms. Workshops were constructed and provided useful trade instruction, and the old idleness and abuses seemed to have been eliminated.

Walnut Street Jail had been built in response to overcrowding in the old jail. Now with Walnut Street a state prison and with the population of Philadelphia increasing rapidly, it too became intolerably crowded. The Society
continued to urge the creation of large penitentiaries for the more efficient handling of prisoners. Partially as the result of their efforts, money was appropriated for a state penitentiary to be built at Allegheny, now part of Pittsburgh. The Society continued to remain convinced that, in spite of the small-scale isolation cellblock at Walnut Street, that prison would never prove the value of the system of separate confinement. Only a larger structure built specifically to separate inmates from one another would be needed. New York State, responding to developments in Philadelphia, had constructed individual cells in a portion of their new prison at Auburn, but because of poor architectural design and an insufficient internal regimen, the first serious use of separate confinement in the United States lasted only from 1821 to 1823.

Conditions at the Walnut Street Jail worsened, resulting in further efforts to get a penitentiary for Philadelphia and the eastern part of the state to house felons. Both the Pennsylvania Prison Society and the Board of Inspectors of Walnut Street Jail sent memorials to the legislature. Authorizing legislation was finally passed on March 20, 1821, and the governor appointed 11 building commissioners. Among them was Samuel Wood, later to be the first warden of the prison. All but three of the building commissioners were either members of the Pennsylvania Prison Society or had served on the board of inspectors of the Walnut Street Jail. The commissioners first met on March 20, 1821. A competition for plans produced only two designs that merited serious consideration: one by the well-known Philadelphia architect, William Strickland, the designer of the disastrous first Western Penitentiary,¹ and the other by John Haviland, a relative newcomer to the United States. The board immediately split into two factions favoring either the circular plan of Strickland or Haviland’s radial design, then common in England where he had trained. Haviland’s plan was accepted, but Strickland was appointed supervising architect—which at that time included purchasing building materials, hiring workers, and acting in the capacity of a general contractor. A few months later, while Strickland was in Europe, his rival Haviland was hired to build the prison.

The building commissioners not only oversaw the construction of the new prison but also were intent upon solving some of the persistent problems they had observed at Walnut Street Jail and at other contemporary prisons in the United States and Europe. These problems included the obvious influence of bad associations; idleness that led to disorder and violence; overcrowding that had plagued each prison built in Philadelphia and in other U.S. cities; poor supervision by sometimes venal and untrained personnel; abysmal health conditions of the inmates; and, of course, the questionable rehabilitative value of such incarceration. The reformers had gradually developed the idea that the key to true reform was complete isolation of inmates from one another, providing them with the right mix of solitude for reflection and perhaps reading and some vocational training or useful work. And, if all of this did not always work, the dread of the experience of generally extroverted, sociable criminals being isolated from contact with their fellow prisoners for years on end would deter them from further crimes, whatever their earlier motivations had been. This meant that a whole new kind of prison would have to be designed so that the entire sentence would be served in a cell alone. The inmates would only be visited occasionally by a guard to bring work materials, food, or fresh bedding or clothing. The inmate would work, sleep, learn, and worship in the solitary cell and exercise in the personal exercise yard, which was attached to the cell.

The idea of solitary confinement as an answer to the evils of congregate imprisonment had been tried earlier in England but had been abandoned because of inadequate buildings and the lack of a carefully worked out internal regimen. What had developed extensively in the little county prisons in Ireland and
England—and to very limited extent in France—was a radial layout of the prison structure to give the governor (warden) better control over the movements and activities of both the inmates and the guards. What evolved was a series of structures, sometimes with hub-and-spoke designs and sometimes with half-circular designs, with a governor’s house in the center and cell buildings sometimes attached but often a short distance away from the center. The aim was what was termed inspection at the time, but there must have been little opportunity to observe the activities in the prison through the center building’s windows.

Writers sometimes have left the impression that Eastern State Penitentiary’s architect, John Haviland, created his radial plan through sheer innovation and that it was a truly fortuitous invention. But as historians of technology have observed, inventions and innovations are seldom that simple. An invention usually consists of a combination of elements already available to the inventor. This certainly was the case with Haviland’s building. His original plan for the prison was remarkably similar to plans and layouts for mental hospitals being built or proposed in England during his apprenticeship there (Johnston, 1994, p. 34).

**Constructing a Model Prison**

From among 23 sites, the building commissioners selected a farm on the northern outskirts of Philadelphia. On what had been a cherry orchard, the prison, commonly known as Cherry Hill even abroad, was begun in May of 1822, and the original seven wings were completed in 1836, although prisoners were received in 1829 while construction was still going on. No one had ever tried to design quarters for 24-hour single occupancy of large numbers of inmates. The technology of indoor plumbing and large-scale central heating was very rudimentary at the time. Eschewing the use of a toilet bucket, common in almost every prison, some into the mid-20th century, Haviland provided a cell flush toilet years before they were available in the White House and central heating before the U.S. Capitol had it. Showers, apparently the first in the country (and where the inmates were taken individually about every 2 or 3 weeks), were in place before those installed shortly thereafter in a first-class Boston hotel. Although the heating, ventilation, and plumbing were far from perfect, Eastern State Penitentiary was clearly using cutting edge technology. Because the inmate was not to leave his or her cell, it also had to serve as a workshop. This resulted in large cells, even by 21st century standards, that were 8 feet wide and from 12 to 16 feet long, most with an attached exercise yard. All of these features did not come cheap. The initial appropriation of the state legislature barely covered the cost of constructing the perimeter wall and an elaborate Gothic front building. The overall cost per cell of $1,800, compared with Connecticut’s $150 per cell, caused a minor scandal. But in spite of its critics, Eastern State Penitentiary became Philadelphia’s pride and joy, a cause for celebration before it was even completed. As an attraction for travelers, Cherry Hill was said to rank with Niagara Falls and the U.S. Capitol.

Keeping inmates absolutely out of contact with other inmates during their entire sentences was easier to put forth as a correctional principle than it was to carry out. These precautions proved both expensive and difficult. Prisoners were not to learn each other’s name or to ever see one another’s face. Entering prisoners were led to their cells with hoods over their faces. This was also done on any occasion when they were taken out of their cell to the dispensary or to the showers. Numbers rather than names were used during their entire sentence. The separate regimen required that each prisoner have not only his or her own cell but also his or her own exercise yard, which was attached to the cell. Prisoners were let out in their yards at different times so that no conversations could take place from one yard to the
next. Because inmates could not leave their cells to empty slop buckets, as was customary at other prisons, cell plumbing was necessary. For the same reason, food had to be delivered to each cell by guards. Eastern State Penitentiary also had to restrict the prisoners to in-cell work such as cigar making, shoe-making, and textile production. As inmates could not gather in a church for worship, services were conducted at the end of each cell-block. The wooden cell doors were opened so the inmates could listen to the sermon through the iron latticework inner door, but a canvas was strung the length of the corridor so that inmates could not see one another.

Prisoners in the first years of the penitentiary were inside a bubble which no outside, uncontrolled influences could penetrate, and they were not allowed visits from their family nor were they permitted newspapers. They were sealed off from the outside world like unwilling monks. Their human contacts consisted of infrequent visits from official visitors from the Pennsylvania Prison Society or from a minister, a trade instructor, or the guard who brought the meals and work materials. All of these extreme measures to insulate inmates from the corrupting influence of fellow prisoners were at the same time intended to allow the prisoners, in their solitude, to reflect on the error of their ways and to be exposed to moral guidance, appropriate reading, and to regular work habits through some instruction in a trade.

How Separate Was Separate Confinement?

Serious scandals surfaced 5 years after the prison opened. A joint state legislative committee held hearings. It became clear that the separate system, as portrayed to the public and to the proponents of the rival Auburn system, was far from the reality of everyday life inside Cherry Hill. For a variety of reasons, some inmates were out of their cells, walking around without masks and unescorted by an officer, talking to one another, having the freedom of the prison yard. From the beginning, inmates were sometimes used as helpers for the carpenters and stonemasons constructing the prison. Inmates performed some maintenance services such as keeping the stoves in the cell-blocks supplied with fuel and, in the case of female prisoners, working in the kitchen and the laundry. Although these flagrant deviations from the publicly presented picture of the Pennsylvania or separate system of prisoner treatment that the investigation revealed undoubtedly resulted in tightening the rules, the costs of using hired labor for all the housekeeping and maintenance made it tempting to continue using inmates as workers. Prisoners classified as “invalid” continued to be allowed to work in the gardens maintained in the spaces between the original seven cellblocks. It is clear that guard supervision would have been insufficient to prevent those inmates from communicating with each other and even perhaps with prisoners in their exercise yards.

The planners of Eastern State Penitentiary intended that the inmates, confined to their cells and released to their exercise yards when their neighbors were not, would not be able to communicate with each other. Such was not always the case at Cherry Hill, just as it has not been the case in other prisons past and present where such contact has been forbidden. Some inmates were able to communicate through the sewer pipes during periods when they were empty, and some developed rapping codes that were tapped on the walls or heating pipes. Prisoners threw notes weighted with pebbles over their exercise yards, making contact with prisoners even two cells away. The investigation of 1834 and 1835 revealed that an inmate housed in a two-story cellblock, while out in the exercise yard, could speak with the occupant of the cell directly above through the ventilation flue or, standing on a workbench or stool, could communicate through the skylight with neighbors. These skylights were permanently closed in 1852.

But the dirty secret of Pennsylvania’s separate system was that over-capacity inmate
numbers, due to the extremely rapid growth of Philadelphia, resulted in double celling, although the state still maintained a public posture of a system based on strict separation. As early as 1841, the visiting committee from the Pennsylvania Prison Society reported with disapproval that some cells contained two convicts. Prior to a major building program in 1876, 795 inmates occupied 585 cells. More than half of the prisoners in a penitentiary organized around the principle of separation were sharing cells. Before the turn of the century, the prison’s population approached 1,400, with as many as four inmates occupying one cell.

The Pennsylvania system, fiercely defended by its local partisans against the rival Auburn system, never maintained strict seclusion for all of its inmates and, without public acknowledgment, seriously eroded throughout the 19th century. The reality within its walls was finally recognized with a repeal of relevant legislation in 1913.

### Eastern State Penitentiary’s Influence in the United States

The idea of quarantining criminals one from the other during their imprisonment seemed at the time a sensible solution to the problems of disorder, bad associations, and other problems common in the prisons of the late 18th and early 19th centuries. To the Philadelphia reformers, separate confinement appeared to solve these problems nicely. But there was a catch; in fact there were several catches. The system turned out to be very costly. The physical plant was more expensive to build. Eastern’s cells, because they were workrooms, were large, and initially each had an attached exercise yard. Prison labor, limited to production in individual cells and unavailable for routine maintenance work around the prison, was underutilized in a country that had a chronic shortage of labor in the 19th century.

Some early attempts to institute the Pennsylvania system in other state’s prisons, such as New York’s, were soon abandoned. They too found the system to be expensive not only to build but also to run. This came at a time when some states were claiming that their prisons were self-supporting and even making a profit because of inmate factory work that was producing for a civilian market without restrictions on prison-made goods. Cherry Hill was forced to confine itself to in-cell production and, in theory, to hire outside labor for maintenance tasks that, elsewhere, were done by inmates. As machinery was introduced into manufacturing consumer goods such as shoes, Pennsylvania law forbade the use of machines in prison labor. In the 19th century United States, with a chronic shortage of laborers, the underutilization of prisoners’ labor and the expense of the system doomed its widespread adoption around the country.

There were also disquieting rumors of mental illness brought on by the relative isolation inmates experienced in the Philadelphia prison. In New York and Massachusetts, an alternative architecture and program, known as the Auburn system, was developed. Here, prisoners slept in tiny cells. Those at Auburn and Sing Sing prisons were 7 feet 6 inches by 3 feet 6 inches and 6 feet 3 and a half inches, respectively; Kingston Penitentiary in Canada, designed and built by Auburn’s master builder, contained sleeping rooms 6 feet 6 inches by 2 feet 6 inches. Sing Sing’s original single cell-block housed 1,000 inmates on five tiers of cells in what was once described as a human filing system. Warden Elam Lynds at Auburn, a former professional soldier, instituted a machine-like, meticulous routine for the prisoners, designed to regulate every aspect of their behavior at all times. Iron discipline and harsh punishments further maintained order. To avoid the expenses linked to the Pennsylvania system while still preventing inmates from communicating, the so-called silent system was created. Inmates were never to speak unless spoken to by an officer and