

CHAPTER 2

A History of Corrections

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❖ Introduction: The Evolving Practice of Corrections

The history of corrections is riddled with the best of intentions and the worst of abuses. Correctional practices and facilities (e.g., galley slavery, transportation, jails and prisons, community corrections) were created, in part, to remove the riffraff—both poor and criminal—from urban streets or at least to control and shape them. Prisons and community corrections were also created to avert the use of more violent or coercive responses to such folk. In this chapter and the next, the focus is on exploring the history of the Western world's correctional operations and then American corrections, specifically, and the reoccurring themes that run through this history and define it.

It is somewhat ironic that one of the best early analyses of themes and practices in American prisons and jails was completed by two French visitors to the United States—*Gustave de*

Beaumont and Alexis de Tocqueville—while the country was in its relative infancy, in 1831, and experiencing the virtual birthing of prisons themselves (Beaumont & Tocqueville, 1833/1964). Tocqueville, as a 26-year-old French magistrate, brought along his friend Beaumont, supposedly to study America’s newly minted prisons for 9 months. They ended up also observing the workings of its law, its government and political system, and its race relations, among other things (Damrosch, 2010; Tocqueville & Goldhammer, 1835/2004). The irony is that, as outsiders and social critics, Beaumont and Tocqueville could so clearly see what others, namely Americans, who were thought to have “invented prisons” and who worked in them, were blind to. In this chapter we will try to “see” what those early French visitors observed about Western and specifically American correctional operations.



Photo 2.1

In 1831, Tocqueville, as a 26-year-old French magistrate, brought along his friend Beaumont to study America’s newly minted prisons.

Few visitors to the United States, or residents for that matter, explored or commented on the early correctional experience for women (*Dorothea Dix* being a notable exception—there will be more about her and her observations about the state of corrections in 1845 in Chapter 3). Yet some of the themes that run through the practice of corrections apply to women and girls as well, but with a twist. Women have always represented only a small fraction of the correctional population in both prisons and jails, and the history of their experience with incarceration, as shaped by societal expectations of and for them, can be wholly different from that of men. As literal outsiders to what was the “norm” for inmates of prisons and jails, and as a group whose rights and abilities were legally and socially controlled on the outside more than that of men and boys, women’s experience in corrections history is worth studying and will be more fully explored in Chapter 10.

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

❖ Themes: Truths That Underlie Correctional Practice

There are some themes that have been almost eerily constant, vis-à-vis corrections, over the decades and even centuries. Some such themes are obvious, such as the influence

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

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

Other than the influence of money and politics and a sense of greater compassion/humanity in correctional operation, the following themes are also apparent in corrections history: the question of how to use labor and technology (which are hard to decouple from monetary considerations); a decided religious influence; the intersection of class, race, age, and gender in shaping one’s experience in corrections; architecture as it is intermingled with supervision; methods of control; overcrowding; and finally the fact that good intentions do not always translate into effective practice. Though far from exhaustive, this list contains some of the most salient issues that become apparent streams of influence as one reviews the history of corrections. As was discussed in Chapter 1, some of the larger philosophical (and political) issues, such as conceptions of right and wrong and whether it is best to engage in retribution or rehabilitation (or both, or neither, along with incapacitation, deterrence, and reintegration) using correctional sanctions, are also obviously associated with correctional change and operation.

❖ Early Punishments in Westernized Countries

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

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

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

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

The First Jails

Jails were the first type of correctional facility to develop, and in some form they have existed for several thousand years. Whether pits or dungeons or caves were used, or the detained were tied to a tree, ancient people all had ways of holding people until a judgment was made or implemented (Irwin, 1985; Mattick, 1974; Zupan, 1991).

According to Johnston (2009), punishment is referenced in a work written in 2000 B.C. and edited by Confucius. The Old Testament of the Bible refers to the use of imprisonment from 2040–164 B.C. in Egypt and its use in ancient Assyria and Babylon. Ancient Greece and Rome reserved harsher physical punishments for slaves, whereas citizens might be subjected to fines, exile, imprisonment, or death, or some combination of these (Harris, 1973).

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

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

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

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

Galley Slavery

Another form of “corrections,” **galley slavery**, was used sparingly by the ancient Greeks and Romans, but more regularly in the late Middle Ages in Europe and England, and stayed in use until roughly the 1700s. Under Elizabeth I, in 1602, a sentence to galley servitude was decreed as an alternative to the death sentence (Orland, 1975). Pope Pius VI (who was pope from 1775–1799) also reportedly employed it (Johnston, 2009, p. 12S). Galley slavery was used as a sentence for crimes or as a means of removing the poor from the streets. It also served the twin purpose of providing the requisite labor—rowing—needed to propel ships for seafaring nations interested in engagement in trade and warfare. For instance, these galley slaves were reportedly used by Columbus (Johnston, 2009). The “slaves” were required to row the boat until they collapsed from exhaustion, hunger, or disease; often they sat in their own excrement (Welch, 2004). Under Pope Pius, galley slaves were entitled to bread each day, and their sentences ranged from 3 years to life (Johnston, 2009). Though we do not have detailed records of how such a sentence was carried out, and we can be sure that its implementation varied to some degree from vessel to vessel, the reports that do exist indicate that galley

slavery was essentially a sentence to death. Galley slavery ended when the labor was no longer needed on ships because of the technological development of sails.

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

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

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

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

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

Notably, being sent to "debtors' prison" was something that still occurred even after the American Revolution. In fact, James Wilson, a signer of the Constitution (and reportedly one

of its main architects) and a Supreme Court justice, was imprisoned in such a place twice while serving on the court. He had speculated on land to the west and lost a fortune in the process (K. C. Davis, 2008).

Transportation

Yet another means of “corrections” that was in use by Europeans for roughly 350 years, from the founding of the Virginia Colony in 1607, was **transportation** (Feeley, 1991). Also used to rid cities and towns of the chronically poor or the criminally inclined, transportation, as with bridewells and gaols, involved a form of privatized corrections, whereby those sentenced to transportation were sold to a ship’s captain. He would in turn sell their labor as indentured servants, usually to do agricultural work, to colonials in America (Maryland, Virginia, and Georgia were partially populated through this method) and to white settlers in Australia. Transportation ended in the American colonies with the Revolutionary War, but was practiced by France to populate Devil’s Island in French Guiana until 1953 (Welch, 2004). Welch notes that transportation was a very popular sanction in Europe:

Russia made use of Siberia; Spain deported prisoners to Hispaniola; Portugal exiled convicts to North Africa, Brazil and Cape Verde; Italy herded inmates to Sicily; Denmark relied on Greenland as a penal colony; Holland shipped convicts to the Dutch East Indies. (p. 29)

In America, transportation provided needed labor to colonies desperate for it. “Following a 1718 law in England, all felons with sentences of 3 years or more were eligible for transport to America. Some were given a choice between hanging or transport” (Johnston, 2009, p. 13S).

It is believed that about 50,000 convicts were deposited on American shores from English gaols. If they survived their servitude, which ranged from 1 to 5 years, they became free and might be given tools or even land to make their way in the new world (Orland, 1975, p. 18). Once the American Revolution started, such prisoners from England were transported to Australia, and when settlers there protested the number of entering offenders, the prisoners were sent to penal colonies in that country as well as in New Zealand and Gibraltar (Johnston, 2009).

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

developed in Ireland and the United States. In addition, his ideas about adequately feeding and clothing inmates were held in common by such reformers, who came before him, as John Howard and William Penn and those who came after him, such as Dorothea Dix.

❖ Enlightenment—Paradigm Shift

Spock Falls in Love

As noted in Chapter 1, the Enlightenment period, lasting roughly from the 17th through the 18th century in England, Europe, and America, spelled major changes in thought about crime and corrections. But then, it was a time of paradigmatic shifts in many aspects of the Western experience as societies became more secular and open. Becoming a more secular culture meant that there was more focus on humans on earth, rather than in the afterlife, and, as a consequence, the arts, sciences, and philosophy flourished. In such periods of human history, creativity manifests itself in innovations in all areas of experience; the orthodoxy in thought and practice is often challenged and sometimes overthrown in favor of new ideas and even radical ways of doing things (K. C. Davis, 2008). Whether in the sciences with Englishman Isaac Newton (1643–1727), philosophy and rationality with the Englishwoman Anne Viscountess Conway (1631–1679), feminist philosophy with the Englishwoman Damaris Cudworth Masham (1659–1708), philosophy and history with the Scotsman David Hume (1711–1776), literature and philosophy with the Frenchman Voltaire (1694–1778), literature and philosophy with the Briton Mary Wollstonecraft (1759–1797) or the Founding Fathers of the United States (e.g., Samuel Adams, James Madison, Benjamin Franklin, Thomas Paine, and Thomas Jefferson), new ideas and beliefs were proposed and explored in every sphere of the intellectual enterprise (Duran, 1996; Frankel, 1996; Mackenzie, 1996). Certainly, the writings of *John Locke* (1632–1704) and his conception of liberty and human rights provided the philosophical underpinnings for the Declaration of Independence as penned by Thomas Jefferson. As a result of the Enlightenment, the French Revolution beginning in 1789 was also about rejecting one form of government—the absolute monarchy—for something that was to be more democratic and liberty based. (Notably, the French path to democracy was not straight and included a dalliance with other dictators such as Napoleon Bonaparte who came to power in 1799.)

Such changes in worldviews or paradigms, as Thomas Kuhn explained in his well-known work, *The Structure of Scientific Revolutions* (1962), when discussing the nonlinear shifts in scientific theory, come usually after evidence mounts and the holes in old ways of perceiving become all too apparent. The old theory simply cannot accommodate the new evidence. Such an event was illustrated on a micro, or individual, level in an episode of the original *Star Trek*

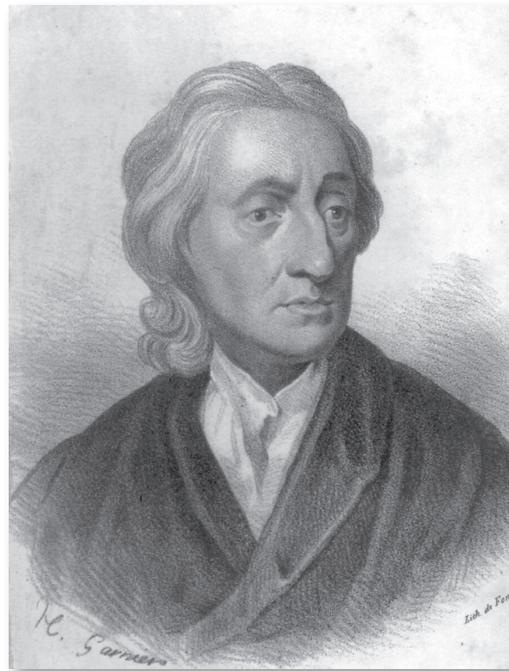


Photo 2.2

Philosopher John Locke's writings and his conception of liberty and human rights helped to provide the philosophical underpinnings for the Declaration of Independence.

television show when Spock (the logical, unemotional, and unattached second officer) fell in love with a woman for the first time after breathing in the spores of a magical flower on a mysterious planet. Those who experienced the Enlightenment period, much like reformers and activists of the Progressive (1880s to the 1920s) and Civil Rights (1960s and 1970s) Eras in the United States that were to follow centuries later, experienced a paradigm shift regarding crime and justice. Suddenly, as if magic spores had fundamentally reshaped thought and suffused it with kind regard, if not love for others, humans seemed to realize that change in crime policy and practice was called for, and they set about devising ways to accomplish it.

John Howard

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

His humanity was apparent in that he promoted this idea in England and all over the European continent during his lifetime. His major written work, *The State of the Prisons in*

England and Wales, With Preliminary Observations, and an Account of Some Foreign Prisons (1775/2000), detailed the horror that was experienced in the filthy and torturous gaols of England and Europe, noting that despite the fact that there were 200 crimes for which capital punishment might be prescribed, far more inmates died from diseases contracted while incarcerated (Note to reader: The Old English used by Howard in the following quote sometimes substitutes the letter “f” for the letter “s.”):

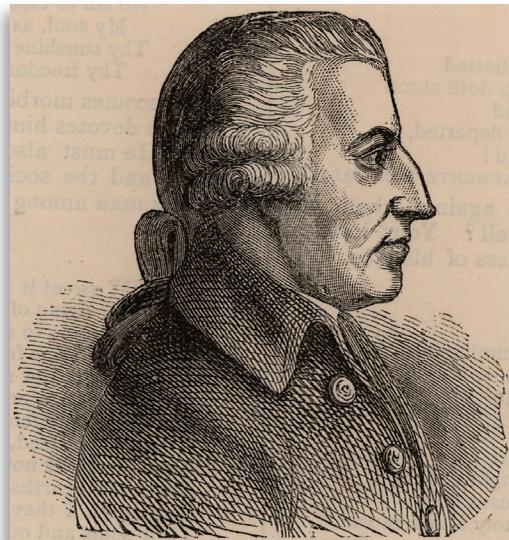
I traveled again into the counties where I had been; and, indeed, into all the rest; examining Houfes of Correction, City and Town-Gaols. I beheld in many of them, as well as in the County-Gaols, a complication of

diftrefs: but my attention was principally fixed by the gaol-fever, and the fmall-pox, which I faw prevailing to the deftruction of multitudes, not only of felons in their dungeons, but of debtors alfo. (p. 2)

Howard (1775/2000) found that gaol fever was widespread in all kinds of correctional institutions of the time: Bridewells, gaols, debtors’ prisons, and houses of correction. Notably,

Photo 2.3

John Howard (1726–1790) believed that the state or government had a responsibility to provide sanitary conditions and decent food and water for those they incarcerate.



in larger cities there were clear distinctions among these facilities and whom they held, but in smaller towns and counties there were not. In the neglect of inmates and the underfunding of the facilities, Howard found them all to be very alike. He noted that in some bridewells there was no provision at all made for feeding inmates. Though inmates of bridewells were to be sentenced to hard labor, he found that in many there was little work to do and no tools provided to do it: “The prifoners have neither tools, nor materials of any kind; but spend their time in floth, profanenefs and debauchery, to a degree which, in fome of thofe houfes that I have feen, is extremely flocking” (p. 8). He found that the allotment for food in county jails was not much better, remarking that in some there was none for debtors, the criminal, or the accused alike. He noted that these inmates, should they survive their suffering, would then enter communities or other facilities in rags, and spread disease wherever they went.

In his census of correctional facilities (including debtors’ prisons, jails, and houses of correction or bridewells) in England and Wales, Howard (1775/2000) found that petty offenders comprised about 16% of inmates, about 60% were debtors, and about 24% were felons (which included those awaiting trial, those convicted and awaiting their execution or transportation, and those serving a sentence of imprisonment) (p. 25; Ignatieff, 1978). Ironically, Howard eventually died from typhus, also known as gaol fever, after touring several jails and prisons in Eastern Europe, specifically the prisons of Tsarist Russia.

In Focus 2.1

Modern-Day John Howard—Dr. Ken Kerle

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

Bentham and Beccaria

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

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

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

Bentham also proposed, in his *Plan of Construction of a Panopticon Penitentiary House* (1789/1969)—though the funding of it was not signed off on by King George III—the building of a special type of prison. As per Bentham, the building of a private “prison”-like structure—the **panopticon**, which he would operate—that ingeniously melded the ideas of improved supervision with architecture (because of its rounded, open, and unobstructed views) would greatly enhance supervision of inmates. Such a recognition of the benefits of some architectural styles as complementary to enhanced supervision was indeed prescient, as it presaged modern jail and prison architecture. His proposed panopticon would be circular, with two tiers of cells on the outside and a guard tower in its center, with the central area also topped by a large skylight. The skylight and the correct angling of the tower were to ensure that the guard was able to observe all inmate behavior in the cells, though owing to a difference of level and the use of blinds, the keeper would be invisible to the inmates. A chapel would also be located in the center of the rounded structure. The cells were to be airy and large enough to accommodate the whole life of the inmates in that the cells were to “[s]erve all purposes: work, sleep, meals, punishment, devotion” (Bentham, 1811/2003, p. 194). Somehow, Bentham notes in his plan without elaboration, the sexes were to be invisible to each other. He does not call for complete separation of all inmates, however, which becomes important when discussing the Pennsylvania and New York prisons in the following, but he does assert that the groups of inmates allowed to interact should be small, including only two to four persons (Bentham, 1811/2003, p. 195).

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

Though his plan in theory was laudable and really visionary for his time, and ours, he hoped to make much coin as recompense for being a private prison manager—to the tune of 60 pounds sterling per prisoner, which when assigned to all inmates across England, was a considerable sum (Bentham, 1811/2003, p. 195). What stopped him, and the reason why he was so angry with his sovereign, was King George’s unwillingness to sign the bill that would have authorized the funding and construction of the first panopticon. Bentham alleged that the king would not sign because the powerful Lord Spenser was concerned

about the effect on the value of his property should a prison be located on or near it. Bentham's prison dream was dead, but eventually he was awarded 23,000 pounds for his efforts (p. 207). It was left to others to build panopticon prisons in both Europe and the states in the coming years.

William Penn

William Penn (1644–1718), a prominent Pennsylvania Colony governor and Quaker, was similarly influenced by Enlightenment thinking (though with the Quaker influence, his views were not so secular). Much like Bentham and Beccaria, Penn was not a fan of the harsh punishments, even executions, for relatively minor offenses, that were meted out during his lifetime. While in England, and as a result of his defense of religious freedom and practice, he was incarcerated in the local jails on more than one occasion, and even in the Tower of London in 1669, for his promotion of the Quaker religion and defiance of the English crown. He was freed only because of his wealth and connections (Penn, 1679/1981). As a consequence, when he had the power to change the law and its protections, and reduce its severity, he did so. Many years later (in 1682) in Pennsylvania, he proposed and instituted his **Great Law**, which was based on Quaker principles and de-emphasized the use of corporal and capital punishment for all crimes but the most serious (Clear, Cole, & Reisig, 2011; Johnston, 2009; Zupan, 1991). His reforms substituted fines and jail time for corporal punishment. He promoted Pennsylvania as a haven for Quakers who were persecuted in England and Europe generally, and for a number of other religious minorities (Penn, 1679/1981). His ideas about juries, civil liberties, religious freedom, and the necessity of amending constitutions so that they are adaptable to changing times, influenced a number of American revolutionaries, including Benjamin Franklin and Thomas Paine.

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

Much like Howard and Bentham, Penn was interested in reforming corrections, but he was particularly influenced by his Quaker sentiments regarding nonviolence and the value of quiet contemplation. The early American prisons known as the **Pennsylvania model prisons**—the **Walnut Street Jail** (1790) in Philadelphia, the **Western Pennsylvania Prison** (1826) in Pittsburgh, and the **Eastern Pennsylvania Prison** (1829) in



Photo 2.4

William Penn proposed and instituted his Great Law, which was based on Quaker principles and deemphasized the use of corporal and capital punishment for all crimes but the most serious.

Philadelphia—incorporated these ideas (Johnston, 2009). Even the **New York model prisons, Auburn** and **Sing Sing Prisons**, often juxtaposed with Pennsylvania prisons based on popular depiction by historians (see Beaumont and Tocqueville, 1833/1964), included contemplation time for inmates and a plan for single cells for inmates that reflected the same belief in the need for some solitude.

❖ Colonial Jails and Prisons

The first jail in America was built in Jamestown, Virginia, soon after the colony's founding in 1606 (Burns, 1975; Zupan, 1991). Massachusetts built a jail in Boston in 1635, and Maryland built a jail for the colony in 1662 (Roberts, 1997). The oldest standing jail in the United States was built in the late 1600s and is located in Barnstable, Massachusetts (Library of Congress, 2010). It was used by the sheriff to hold both males and females, along with his family, in upstairs, basement, and barn rooms. Both men and women were held in this and other jails like it, mostly before they were tried for both serious and minor offenses, as punishment for offenses, or to ensure they were present for their own execution.

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

Jails that did exist in the eighteenth century were run on a household model with the jailer and his family residing on the premises. The inmates were free to dress as they liked, to walk around freely and to provide their own food and other necessities. (p. 9)

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

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

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



Photo 2.5

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

Comparative Perspective: Early European and British Prisons

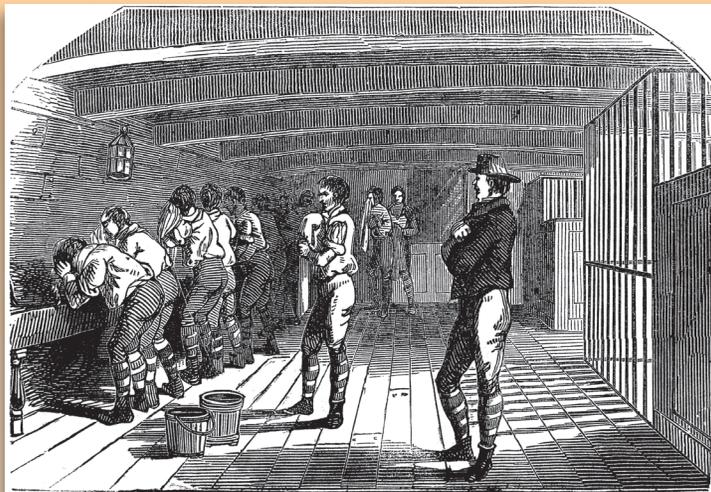
Some early European versions of prisons bucked the trend of harsh physical punishments even for minor offenses. Others, but only a few, even classified their inmates not just by economic and social status, but by gender, age, and criminal offense. For instance, in the Le Stinche Prison built in Florence, Italy, in the 1290s, the inmates were separated in this way (Roberts, 1997). Later, the Maison de Force Prison in Ghent, Belgium (1773), placed serious offenders in a different section of the prison from the less serious. A juvenile reformatory was even built in a separate wing of the Hospice of San Michele in Rome (1704) (Roberts, 1997). An architectural depiction of the Ghent prison shows an octagonal shape with a central court and then a partial view of separate living areas or courts for exercise, for women, vagrant men, and other men. Much like the American colonies and England, however, the early European prisons and jails classified inmates by their societal status and their ability to pay, with the concomitant amenities going to the wealthier.

Incarcerated nobles who could pay the heftiest fees lived in comparative comfort with a modicum of privacy; less affluent prisoners were confined in large common rooms; the poorest inmates, and those who were considered the most dangerous, had to endure squalid dungeons. It was not unusual for men, women, and children, the sane and the mentally ill, felons and misdemeanants, all to be crowded indiscriminately in group cells. (Roberts, 1997, p. 5)

Another less enlightened type of prison existed in England in the form of the **“hulks,”** derelict naval vessels transformed into “prisons” for the overflowing inmates in England. Used in tandem with transportation and other forms of incarceration in the mid-1700s, and then increasing in use in the gap between the end of transportation to the American colonies with the Revolutionary War and the beginning of transportation of “criminals” to Australia, the last hulk was used on the coast of Gibraltar in 1875 (Roberts, 1997, p. 9). The English even confined some prisoners of war in a Hudson River hulk during the American Revolution. Inmates of these hulks were taken off to labor during the day for either public works or private contractors. The conditions of confinement were, predictably, horrible. “The hulks were filthy, crowded, unventilated, disease-ridden, and infested with vermin. The food was inadequate and the discipline was harsh” (Roberts, 1997, p. 11). Some inmates housed on the lower decks even drowned from water taken on by these broken-down ships.

Photo 2.6

Drawing of inmates in the hulk prison washroom



A major proponent of reform of English prisons, and also a Quaker, was *Elizabeth Gurney Fry* (1780–1845). She was an advocate for improved conditions, guidelines, training, and work skills for women inmates (Roberts, 1997). She provided the religious instruction herself to the women inmates.

Summary

- Human beings have been inventive in their development of punishments and ways in which to hold and keep people.
- Correctional history is riddled with efforts to improve means of coercion and reform.
- Those accused or convicted of crimes who had more means were less likely to be treated or punished severely.
- Sometimes the old worldviews (paradigms) are challenged by new evidence and ideas, and they are then discarded for new paradigms. The Enlightenment period in Europe was a time for rethinking old ideas and beliefs.
- Bentham, Beccaria, John Howard, and William Penn were all especially influential in changing our ideas about crime, punishment, and corrections.
- Correctional reforms, whether meant to increase the use of humane treatment of inmates or to increase their secure control, often lead to unintended consequences.
- Some early European and English versions of prisons and juvenile facilities were very close in mission and operation to America's earliest prisons.

Key Terms

Auburn Prison

Bridewells

Eastern Pennsylvania
Prison

Galley slavery

Great Law

Hulks

New York model prisons

Newgate Prison in
Simsbury, Connecticut

Norfolk Island

Panopticon

Pennsylvania model prisons

Sing Sing Prison

Transportation

Walnut Street Jail

Western Pennsylvania
Prison

Discussion Questions

1. Identify examples of some themes that run throughout the history of corrections. What types of punishments tend to be used and for what types of crimes? What sorts of issues influence the choice of actions taken against offenders?
2. How were people of different social classes treated in early jails and bridewells?
3. We know that transportation ended because of the development of sails, which was an improvement in technology. Can you think of other types of correctional practices that have been developed, improved upon, or stopped because of advances in technology?
4. What role has religion played in the development of corrections in the past?
5. What types of things have remained the same in corrections over the years, and what types of things have changed? Why do you think things have changed or remained the same?
6. Several historical figures mentioned in this chapter advanced ideas that were viewed as radical for their day. Why do you think such ideas were eventually adopted? Can you think of similar sorts of seemingly "radical" ideas for reforming corrections that might be adopted in the future?

Useful Internet Sites

American Correctional Association: www.aca.org

American Jail Association: www.corrections.com/aja/

American Probation and Parole Association: www.appa-net.org.

Bureau of Justice Statistics (information available on all manner of criminal justice topics): <http://bjs.ojp.usdoj.gov/>

John Howard Society of Canada: www.johnhoward.ca

National Criminal Justice Reference Service: www.ncjrs.gov

Office of Justice Research (information available on all manner of criminal justice topics, specifically probation and parole here): www.ojp.usdoj.gov/bjs/pub/pdf/ppus05.pdf

Pennsylvania Prison Society: www.prisonersociety.org

Vera Institute (information available on a number of corrections and other justice-related topics): www.vera.org