

INTERNATIONAL
HANDBOOK OF

PENOLOGY and CRIMINAL JUSTICE

Edited by

Shlomo Giora Shoham

Ori Beck

Martin Kett



CRC Press
Taylor & Francis Group

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Introduction

SHLOMO GIORA SHOHAM

The need for a comparative handbook of penology and criminal justice is clear. To the best of our knowledge, no compilation of essays by the most prominent currently active theoreticians and practitioners exists. The comprehensive nature of this volume relates not only to the many jurisdictions represented in it, but also to the various scholars and researchers from so many different nations and societies who took part in it. Each contributor presents an article reflecting the best-informed thinking in the contributor's area of specialization.

The opening chapter by Thomas G. Blomberg, William D. Bales, and Courtney A. Waid goes into the history of Florida's penal practices, outlining the shift from the old to the new penology. The authors consider claims that the old penology was based on offender transformation, whereas the new penology focuses on offender risk-management. They inquire about Garland's contention that the new penology has evolved into a culture of control, trying to contain recent social disruption, dislocation, and disorder. The authors ask whether the previous focus on offender treatment is completely dead and whether offender risk-management is the future foundation of penology. They conclude, on the basis of an empirical study of the penal practices of Florida, that there is a lingering interest in some offender treatment prospects, coupled with a clear priority upon offender risk-management, imprisonment, community, surveillance, and control. Finally, they conclude that future penology will likely continue to expand its strategies on populations subject to control with both old and new penal practices.

Roy D. King's essay, "Prisons and Jails," reminds us that at the outset of the twenty-first century, more than 9 million people are held in custody, in over two hundred countries around the world. These incarcerations, apart from being a major industrial and social undertaking, affect the lives of the families, friends, and associates of the prisoners. King's essay reviews the universal attributes of prisons. He analyzes the sociology of prisons and the changes in prison staff relationships. He also considers the effects of imprisonment on crime rates. He concludes with the apocalyptic vision that in our rapidly changing world, prisons could yet be seen as relatively benign instru-

ments of control, compared to those we might face in the future; electronic tagging, subcutaneous implants, satellite tracking, and genetic engineering either are available now or will soon be on someone's political agenda.

Christine Tartaro and David Lester highlight the painful and ever-increasing problem of prison and jail suicides. The suicide of the incarcerated generally concerns the public less than the suicide of people in society at large. After all, it is "the suicide of a bunch of animals," who "are not worthy of public concern." This view is now starting to change, partly because the families of prisoners who have committed suicide have successfully managed to sue the authorities. Tartaro and Lester review the frequency of prison and jail suicides; identify risk factors; explain how, where, and when inmates take their lives; and present techniques to prevent custodial suicides. Finally, they urge correctional facilities to adopt these techniques.

Shanna Van Slyke, Gordon P. Waldo, and William Bales have written about monitoring and nontraditional punitive sanctions. The authors first discuss and evaluate fixed fines, day fines, unit fines, and forfeiture. Likewise, they consider registration with criminal justice authorities and nonincarcerative restrictions of liberty, which are becoming increasingly popular for a wide range of offenders. The authors then review a wide variety of punitive and authoritative responses to drunken driving. The next section of the chapter deals with the ever-widening range of civil rights that are lost or restricted upon conviction. The chapter ends with sections on shaming and medical castration. The authors argue finally that for decades, criminologists have been arguing for the more extensive use of evaluation research in the guidance of criminal justice policy. Whether a given sanction is relatively new or has roots in antiquity, all sanctions should be evaluated in terms of whether they meet at least one of the major rationales for punishment. If they do not, then it may be time to consider other alternatives. In the case of most of the sanctions discussed in this chapter, despite hundreds or thousands of years of use, the evaluative research has yet to be done! The message is clear. Even in areas dealing with sanctions that have existed longer than any currently existing criminal justice system, if a practice is to continue, research must be conducted to determine whether or not it meets one of the goals of punishment. If it does not, why should it be continued?

Roger Hood discusses, on a historical and comparative basis, capital punishment and the movement towards its worldwide abolition. He shows how the propagation of the ideals of human rights has led to political and judicial pressures that empower the abolitionist movement. He claims that the position of United States on the death penalty is one of the greatest obstacles to worldwide abolition. He further argues that in addition to the normative considerations involved in the debate about the death penalty, there are also utilitarian considerations. He writes: "It is necessary to

approach the question of capital punishment from both normative (moral) and utilitarian points of view, and always in relation to how it is applied in practice. In essence, therefore, the case for retaining the death penalty—and thus resisting the movement to make its abolition an international norm—cannot rest solely on moral, cultural, or religious arguments. It would also have to be shown that it is useful and that it can be applied fairly, and without mistakes or a degree of arbitrariness and cruelty unacceptable to contemporary social and legal values.” There is, as this article has tried to make clear, “sufficient evidence to indict capital punishment on all these grounds.”

Lawrence F. Travis and Victoria Simpson Beck write about probation, parole, and community corrections on a comparative-international perspective. They begin by discussing the historical development of probation and parole, and then examine the current world trends in their use. The effectiveness of probation and parole is evaluated using the criteria of (1) the effect these sanctions have on public safety, and (2) their contribution to reducing incarceration and related correctional expenditures. The chapter ends with a review of “intermediate sanctions” such as shock incarceration, intensive supervision, electronic monitoring, day reporting, and “broken window” probation. The authors conclude: “What is clear is the centrality of community supervision to contemporary correctional practice. As the pace of development for intermediate sanctions quickens, and the ability to share information about correctional practice and outcome improves, we can expect probation and parole to become ever more common and important components of correctional practice around the world.”

Steven P. Lab’s essay defines crime prevention as any action designed to reduce the actual level of crime and/or the perceived fear of crime. He then differentiates between three levels of prevention. Primary prevention identifies conditions of the physical and social environment that provide opportunities for or precipitate criminal acts. Secondary prevention engages in early identification of potential offenders and seeks to intervene to prevent crime. Tertiary prevention deals with actual offenders and involves intervention aimed at reducing the probability of subsequent criminality. In dealing with primary prevention, Lab outlines the modern environmental design approaches, neighborhood crime prevention, general deterrence, and social crime prevention. When explaining secondary prevention, Lab explains the need to accurately predict future offending, goes on to survey the methods of situational crime prevention, and studies community-policing strategies. He also gives special attention to the issue of drugs and crime prevention.

Finally, in the section devoted to tertiary prevention, Lab clarifies the issues of specific deterrence, incapacitation, electronic monitoring, and rehabilitation. Lab concludes: “There should be no doubt that crime prevention

works. ... The extent of crime prevention's impact, however, varies across time and place, as well as from one approach to another. Indeed, not every program has the same impact in every situation. ... Transplanting that same program to another location may result in the opposite outcome: crime stays the same but fear is reduced. No single approach to crime prevention has proven to be applicable in all situations. Indeed, most interventions appear to work in limited settings with different types of offenders and problems. The greatest challenge, therefore, is to identify the causal mechanisms at work so that effective programs can be replicated in other places and other times."

The situational crime prevention chapter by Marcus Felson outlines the recently popular attempts to intervene in the structured loopholes and design flaws of locations that facilitate crime. Here is an attempt to attack the most accessible link in the etiology of crime.

David P. Farrington and Brandon C. Welsh, writing about the early development of crime prevention, outline programs for preventing delinquency and youth violence shown to be effective in quality evaluation research. The programs aim to prevent the development of criminal potential in individuals, especially by targeting risk factors. The authors specifically review risk-focused prevention programs, family-based prevention programs, school-based prevention programs, and multicomponent interventions. They conclude: "There is good evidence that early family and school interventions—such as general parent education, parent training, child skill training, teacher training, and antibullying programs—can be effective in reducing later delinquency and youth violence. The time is ripe to mount a large-scale evidence-based integrated national strategy for the reduction of crime and associated social problems, including rigorous evaluation requirements, in all countries. This should implement programs to tackle risk factors and strengthen protective factors and could be based on the "Communities that Care" concept. Primary prevention has been effective in improving health and could be equally effective in reducing crime and violence in all countries.

Per-Olof H. Wikström presents an evaluation of the possibility of preventing crime through the threat of punishment. He argues that the complex of "the law, its policing, and threats and administration of punishment" can be regarded as a form of attempted social engineering, which employs deterrence and deterrence-experiences as means to attain compliance. The chapter reviews deterrence theory and its place in the wider context of the etiology of crime. He studies current research and directly tackles the question: "Does deterrence work?" Wikström answers: "Although acknowledging the shortcomings of the empirical evidence, review papers assessing deterrence research nevertheless in most cases come to the conclusion that the legal threat of punishment, by and large, does help prevent crime."

John Pratt writes about retaliation and retribution. He points out that the state, through its criminal justice system, responds to the harm crime causes by retaliating against the harm-doer on behalf of the victim. Thus, the state has institutionalized the otherwise unpredictable retaliation of victims and their kin. John Pratt examines the historical development of retribution in modern society, explains its manifestation in penal sanctions, outlines the main arguments for and against retribution, and studies the circumstances in which one may still find retaliatory practices common outside the criminal justice system. Pratt concludes: "In many countries, there have been a range of measures introduced that provide for more community involvement in penal affairs—plebiscites, for example, in the United States, and community notification procedures regarding the release of sex offenders from prison. Even so, such measures may still not be enough to contain the public mood, disillusioned as it is by the state's self-divestment of authority and acknowledgment that its own bureaucracies were never particularly effective anyway. Under such circumstances, it may well be that some citizens look towards their own forms of retaliation for perceived harms rather than putting their trust in the criminal justice system of the state to address them. Thus, whereas retributionists struggle to contain inflammatory penal trends in the formal criminal justice system at the present time, retaliation against perceived harms and wrongs breaks out beyond it."

Charles F. Abel discusses reparation, compensation, and restitution. He presents a detailed argument to support his claim that reparation constitutes the only adequately explainable, and hence the best, form of punishment. Reparation, paid either as restitution or compensation, is, according to Abel, the most realistic, empirically informed, and unemotional sanction, aimed to satisfy the victim without unduly humiliating the offender. Abel states in conclusion: "Not only must the state take up the role of punisher, but the most efficacious form of punishment is to give people money and let them spend it in ways that they feel affords them the best satisfaction for whatever wrongs they feel they have suffered and whatever values that have been affronted. Therefore, the only forms of punishment that can be explained satisfactorily are those that require reparation through a state-enforced transfer of money."

Joseph A. Schafer and Clemens Bartollas deal with the basic questions concerning the roles assigned to the police in contemporary society. What does society intend for the police to do? What are the means the police are deemed to employ? What aspects of modern policing generate controversy and conflict? Who will control the controllers? Schafer and Bartollas also review the history and development of the police, the structure of police organizations, police culture, and police operations. Schafer and Bartollas' concluding thoughts are: "The police are one of the most visible branches of

the government and remain a focus of public awe, respect, vitriol, and scorn. It is common for citizens to have mixed feelings about the police, but few are neutral in their views. The world of the police is, then, a mixed lot. They receive our trust, support, and respect, but also our fear, apprehension, and anger. They routinely confront danger, uncertainty, fear, excitement, revulsion, humor, and boredom. We recognize they are a needed social institution, that they must have discretion, that they must use force, and that they must assert their authority. At the same time, such dimensions of policing create conflict, ill-will, and animosity. Although many problematic aspects of policing have improved in the past century and a half, concern still abounds regarding misconduct, abuse of authority, excessive force, and corruption. This is tempered by the positive feelings people have toward the police, particularly in the aftermath of critical incidents in which police are viewed as heroes and saviors, such as the September 11, 2001 terror attacks.”

David Weisburd and John E. Eck ask: “What can police do to reduce crime, disorder, and fear?” They present a typology of current police practices and use it to organize and assess the evidence about police performance on the above criteria. After having reviewed existing practices, Weisburd and Eck conclude with a more general synthesis of the evidence and discuss implications for policing and research on it. They finally state: “Police practice has been centered on standard strategies that rely primarily on the coercive power of the police. There is little evidence to suggest that this standard model of policing will lead to communities that feel and are safer. Although police agencies may support such approaches for other reasons, there is not consistent scientific evidence that such tactics lead to crime or disorder control, or reductions in fear. ... Our review suggests that community policing (when it is not combined with problem-oriented approaches) will make citizens feel safer, but will not necessarily impact upon crime and disorder. In contrast, what is known about the effects of problem-oriented policing suggests promise for reducing crime, disorder, and fear.”

William F. McDonald provides a chapter on international policing. He presents the history of transnational law enforcement, explains the considerations involved in the decision to extradite offenders or prosecute them vicariously, shows how ineffective mechanisms of international policing are exploited by criminals, and addresses the issue of desperate victims (or countries) who attempt to bypass the extradition barrier by conducting searches for fugitives, either by themselves, with the aid of police officials, or via bounty-hunters. Finally, McDonald deals with the impact terrorism has had on transnational law enforcement. He states: “In sum, looking at the status of law enforcement and the administration of criminal justice from the perspective of globalization, one sees a patchwork of agreements and tensions among contending geopolitical and legal entities. Although the institutions

of transnational cooperation in law enforcement and criminal justice assistance have developed substantially in the recent past, impunity for criminals is a serious reality. For the prosecution of transnational fugitives, many victims today are like victims before the development of the modern police. If they want justice, they have to make their own arrangements. Governmental institutions cannot be relied upon to render justice. Even the states themselves are forced to rely upon heavy-handed, questionable, and politically costly methods to get evidence and to bring offenders to justice.”

William T. Pizzi reviews the roles and functions of the prosecution and the defense in Western trial systems. He compares two types of systems: the adversarial system in the common law countries, and the inquisitorial system in the civil law countries. Pizzi presents the structure of both systems, explains the responsibilities of the prosecutor and defense attorneys, and looks at the ethical issues confronting defense lawyers and prosecutors, including the pressure to resolve cases without full trials. Pizzi also tackles the role of the victims in criminal trials.

Julian V. Roberts and Estella Baker write on sentencing. Although sentencing is the *raison d'être* of the criminal process, judges in many countries enjoy a great degree of discretion in sentencing for most offenses. The authors highlight the nature of such discretion, first indirectly, by reviewing the conflicting nature of the various purposes of sentencing, and then directly, by explaining the parameters of sentencing discretion. The authors then give an overview of a range of methods that states have adopted in an attempt to structure the exercise of this discretion and evaluate their efficacy with respect to a variety of issues, such as previous convictions, sentencing disparity, plea bargaining, and victim input. The final section is devoted to restorative justice. Roberts and Baker conclude: “All together, it is hardly surprising that sentencing policies and practices have been evolving rapidly over the past twenty years, nor that they continue to evolve. There is evidence, for instance, that many American states are beginning to question the utility as well as the justice of the harsher mandatory sentencing laws, particularly those that apply to drug offenders. These laws have resulted in rising prison populations and have disproportionately affected African-American communities. Meanwhile, in other jurisdictions, there is evidence that sentencing is becoming more structured. The fact that sentencing reform remains on the agenda in these as well as many other jurisdictions attests to the difficulty of the issues involved, their continuing political importance, and the lack of satisfaction with attempts that have been made to date to solve the problems that have been outlined in this chapter.”

Ken Pease, who writes about victims and victimization, argues that victim programs should foster an internal locus of control among victims, while remaining aware of the issue of victim blame. The author pays great attention

to the prevention of repeated crimes against prior victims and suggests how criminal justice resources should be harnessed to that end. He also maintains that progress toward practical victim help and support in the criminal justice system, which is largely indifferent to them, must continue. Pease concludes: "The argument of this chapter has been that stimulating into existence a realistic degree of internal locus of control among victims should be at the core of victim programs. This should be focused upon the prevention of repeated crimes against the prior victim or those linked to that victim by location or vulnerability. This emphasis requires a diminution of stress on the avoidance of victim blame. Victims sometimes recognize their contribution to crime events, and it serves an internal locus of control that this should be so in certain circumstances (and emphatically not in others). The progress towards practical victim support in a criminal justice environment that is largely hostile to them must continue. The involvement of victims in schemes of restorative justice will require more, and more persuasive, evidence of benefit to be safely advocated."

Lode Walgrave follows with a chapter on restorative justice. He opens with the history of restorative justice, presenting both its ancient and modern roots. He then attempts to define restorative justice and find its most common features. Afterward, he reviews and evaluates the different restorative practices or models that are commonly employed in the field. The next three sections are devoted to the study of restorative justice as a form of punishment, to its socioethical foundations, and to the way it should be incorporated into a system of criminal justice. In his concluding remarks, Walgrave sketches the limits to restorative justice and offers a look into the future of the field. He claims: "Developments in criminal justice are a matter of criminal policy, which are only partially dependent on practical and scientific qualities and options, but more still on the cultural and political climate. In almost all Western countries, problems of criminality are currently exploited commercially by dramatizing media and boosted through populist rhetoric by some politicians, which together may lead to a rather simplistic attitude among a great part of the public. Many observers typify the predominating social climate as being intolerant of deviancy and repressive against offending. If that is true, the chances for restorative responses to be generally accepted and promoted would be reduced. ... I have alluded to several scientific explorations of public attitudes that show results that are not at all unfavorable to restorative responses. Therefore, there is no reason to be too pessimistic about the future of restorative justice."

Mark S. Umbreit, Robert B. Coates, and Betty Vos give us an in-depth look at one of the most widely practiced forms of restorative justice, i.e., victim offender mediation (VOM). After explaining what VOM is and how it is practiced, the authors evaluate its effectiveness. They review participation

rates, participant satisfaction, diversion rates, recidivism rates, costs, and more. The chapter ends with a look at the implementation of VOM in cases of severe violence. The authors conclude: "Victim offender mediation is a restorative justice process with considerable promise for repairing the harm caused by crime while holding offenders accountable and allowing those affected by the crime to have a voice in its solution. When it is practiced in accordance with its guidelines and values, the research demonstrates that VOM improves victims' involvement and healing, increases the extent to which offenders take responsibility for their behavior and learn from their experience, offers community members a role in shaping a just response to law violation, and contributes to a more positive public attitude toward juvenile and criminal courts."

Finally, we present two case studies designed to give readers a "hands-on" feel for how criminal justice systems deal with specific types of offences. The first case study is by Henry N. Pontell, Stephen M. Rosoff, and Andrew Peterson's chapter about white-collar and corporate crime. The authors open their chapter by citing the widely held view that although the crimes of the wealthy dwarf the painful effects of common crime, high-status white-collar offenders receive much more lenient treatment than blue-collar criminals. They investigate the evidence for this view and show that things are not as clear-cut as is often held. They point out that structural sources of leniency exist on many levels for white-collar and corporate crime and explain why it is difficult to rectify this situation.

The second case study and the last chapter of this book is by Jonathan Simon and Chrysanthi Leon, who write about American sex offender policies since the 1990s. Simon and Leon argue that the cry to get tough on sex offenders has recently become powerful and popular in the United States. They describe its manifestations in the criminal justice system and try to explain the trend.

Punishment and Culture

1

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1.1 Introduction

During the 1980s, the United States began to focus less upon offender rehabilitation strategies and increasingly upon the use of various get-tough imprisonment and other intermediate punishment measures, including home confinement, electronic surveillance, and daily reporting centers. The increased reliance upon imprisonment and intermediate punishments resulted in major increases in the number and proportion of the base population subject to some form of penal control, despite general decreases in crime rates. In attempts to explain this escalation in penal control, a series of theoretical frameworks have been proposed. Among these are net-widening, carceral society, minimum security society, maximum security society, new penology, and most recently the culture of control. Emerging from these various theoretical interpretations has been a general debate over whether

these increasing penal control trends do, indeed, reflect the emergence of a postmodern or new penology or merely the continuation of trends associated with the modern or old penology.

In terms of a postmodern interpretation of contemporary penology, Feeley and Simon (1992) claimed that several distinct features have evolved to distinguish postmodern penology, or what they term the “new penology,” from modern penology or “old penology.” The authors contended that the old penology was focused upon offender rehabilitation, transformation, or people-changing, whereas the new penology is focused upon offender risk management. Feeley and Simon elaborated that the differences in penal techniques involve a general shift from old penology’s reliance upon social technologies to change offender behaviors to new penology’s focus upon administrative technologies for offender-management: profiling, auditing, risk screening, and around-the-clock surveillance. Lemert (1993) took exception to Feeley and Simon’s claims that penology is in the midst of developing new strategies aimed at increasing control over particular groups of offenders through his examination of contemporary probation practices. Lemert argued that current probation practices are largely unchanged from those practiced throughout the twentieth century. He elaborated that the deterioration in probation supervision that has occurred is because of patterned reductions in probation staff and major increases in caseloads. The end result has been what Lemert called “bankloading,” an old practice with a new name that involves probation officers focusing their time and energy upon their most serious cases while largely ignoring the remainder of their caseloads. Lemert concluded that Feeley and Simon’s contention “that probation realizes the claims made for it as a part of a new penology or indeed whether its changes have been undertaken as logical consequence of such penology must be doubted” (1993, 460).

Garland (2001) placed the old versus new penology debate into a broader context. He suggested that it is not so much a question of a new or an old penology but rather what has actually taken place in penology. It is in this regard that Garland claimed there has developed an increasingly strident and vindictive “culture of control.” Garland elaborated that emerging from late modernity have been a series of social disruptions, dislocations, and disorder that, in turn, have led to an overriding public concern for stability and order. Garland concluded that the quest for stability and order has resulted in a series of penal policies and practices that together have resulted in a “culture of control.” The end result is more offenders subject to both new and old penal practices and technologies.

These previous theoretical interpretations of penal trends have been based largely upon fragmented, uneven, and discontinuous empirical documentation. Notably absent from the literature have been more broadly

conceived empirical studies that address systemwide practices, consequences, and trends over time. As a result, whether penology has, in fact, moved from previous “old” practices into clearly “new” practices remains questionable. For example, is the previous focus upon offender treatment indeed dead? Is offender risk management the current and future foundation of contemporary penology? Or, alternatively, is there a more complicated blend of penal practices emerging that reflect the ever-continuing ambiguity and quest for crime control? In an effort to address these questions, this chapter provides a case study of Florida’s penal practices, reforms, and consequences from 1970 to 2007. Included in the chapter’s coverage are efforts to reform Florida’s sentencing practices, use of imprisonment, use of community supervision, and the emergent penal control and crime incident-related trends. A salient finding that emerges from this case study is the documentation of a transition in Florida’s penal practices from an indeterminate offender rehabilitation focus that has been blurred over the past thirty-five years with an increasing emphasis upon offender risk management, imprisonment, and community surveillance. The end result is a lingering interest in certain offender treatment prospects coupled with a clear priority upon offender risk management, imprisonment, community surveillance, and control.

1.2 Indeterminate to Determinate Sentencing: 1970 to Present

During the past thirty-five years, Florida’s penal practices have undergone numerous changes. In 1970, indeterminate sentencing with parole was the major prison release mechanism employed by Florida, reflecting the state’s focus upon offender treatment and rehabilitation. During that year, 2,058 (59 percent) inmates were paroled, whereas 1,440 completed their sentences without supervision. Parole remained the most common prison release mechanism in 1980 when 4,166 (62 percent) inmates were paroled, and 2,564 completed their sentences. However, in 1983, indeterminate sentencing with parole as the dominant prison release mechanism came to an abrupt end. Beginning in the mid-1970s, concern over disparity in sentencing across racial groups and geographic areas of the state as well as problems with prison overcrowding contributed to Florida’s determinate sentencing movement (Griswold 1985). After several years of debate and research on various alternatives to indeterminate sentencing, Florida developed a set of sentencing guidelines that were pilot tested in 1981 (Sundberg, Plante, and Braziel 1983). When these sentencing guidelines became law in 1983, Florida’s long tradition of parole was largely eliminated. To illustrate, in 1990, only 247 (0.7

percent) of the 35,416 inmates released from the state's prisons were granted release by the Florida Parole Board.

Although the 1983 guidelines were promoted as "Truth-in-Sentencing" by policymakers, the lack of adequate prison beds to fully implement determinate sentencing and concerns over future prison overcrowding resulted in the implementation of generous gain-time policies simultaneous to the passage of the new guidelines. Specifically, the new laws allowed inmates to earn up to twenty days per month served in the form of incentive gain-time for good behavior and participation in programs. Additionally, all inmates were awarded unearned gain-time equivalent to one-third of their court-imposed sentence upon entering prison.

The next major shift in Florida's penal policies, namely early prison release, received its impetus from determinate sentencing but did not occur until 1987. At this time, and despite the generous gain-time policies, Florida's prison system was approaching its court-ordered population capacity limits. This was occurring because of a failure by the state to fund prison construction levels commensurate with the numbers of prison admissions resulting from the new determinate sentencing policies. In February 1987, the state responded by implementing an early prison release law that mandated the Florida governor to grant inmates early release credits at a level determined by the Department of Corrections (DOC) to maintain the prison population below its lawful limits. Until 1991, inmates were eligible for the early release program based upon the nature of their current and prior criminal offenses. However, changes to the early release program were implemented as a result of a high-profile case in 1990 in which an inmate with a violent past murdered two Miami police officers within a few days of his early prison release. Specifically, legislation was passed that authorized the Parole Commission to review the histories of all inmates and make the determination of early prison release eligibility. In its various forms, early prison release was in place until December 1994.

In 1994, another major change in sentencing and penal policy resulted from the termination of early prison release and the implementation of new sentencing guidelines. Simultaneous to the new guidelines, unearned gain-time resulting in an automatic one-third sentence reduction was eliminated. Additionally, the statewide administration of the guidelines originally passed in 1983 was transferred from the Florida Supreme Court to the DOC. This included the preparation of guidelines documents, training of judicial personnel, collection of sentencing data, and analysis and reporting on the new sentencing system and the effectiveness of its implementation.

Although the changes in 1994 brought Florida closer to the concept of determinate Truth-in-Sentencing that was envisioned in the 1983 guidelines, this sentencing strategy did indeed become a reality in late 1995. Through

grassroots initiatives spurred by public outrage that emerged in response to early prison releases, policymakers enacted legislation that required all offenders sentenced to prison to serve a minimum of 85 percent of their sentence. This law provides the foundation of Florida's determinate sentencing policy today with no discussion of reverting to earlier punishment strategies, despite the fact that Florida's prison population and costs continue to escalate at a rapid pace. See Table 1.1 for a summary listing of Florida's sentencing and related punishment policy changes from 1983 to the present.

Table 1.1 Summary of the History of Florida's Sentencing and Related Punishment Policies

Punishment Policy	Description	Criteria for Placement
1970 Parole	Any offender sentenced to prison with an offense date prior to October 1, 1983, was eligible for release through the Parole Board.	Offense dates prior to October 1, 1983.
1983 Sentencing Guidelines without Early Release	Sentencing guidelines were implemented in 1983 and affected all offenders with offense dates after October 1, 1983, except for those convicted of capital crimes. Eligibility for significant gain-time awards was also enacted including basic gain-time (one-third off the court sentence) and up to twenty days per month served of incentive gain-time.	Offense dates between October 1, 1983, and December 31, 1993, excluding capital cases, that did not receive any early release days under administrative gain-time, provisional credits, or control release.
1983 Sentencing Guidelines with Early Release	Same as above description with the addition of early release credits awarded to selected inmates from February 1987 to December 1994.	Offense dates between October 1, 1983, and December 31, 1993, excluding capital cases, that received any early release days under administrative gain-time, provisional credits, or control release.
1994 Sentencing Guidelines	New sentencing guidelines structure was enacted for offenders with offense dates on or after January 1, 1994. Basic gain-time, which reduced the sentence by one-third, was eliminated.	Offense dates between January 1, 1994, and September 30, 1995.
Minimum 85% of Sentence Served	All offenders with offense dates on or after October 1, 1995, are required to serve a minimum of 85% of the court-imposed sentence.	Offense dates on or after October 1, 1995.

1.3 Prison Practices: 1970 to Present

During the 1960s and 1970s, rehabilitation was recognized as the foundation of the correctional process in Florida's prisons. During this time, rehabilitation was widely accepted as the foremost need of inmates residing in the state's prisons. Furthermore, parole was widely embraced, as it was seen as the sole mechanism for continued offender change and adjustment during community reintegration.

Although it was believed that individualized treatment could continue with the parole process, prison was considered fundamental to the correctional process through its provision of educational, vocational, and substance abuse programs for Florida's inmates. During this period, there was a fundamental reliance on prison, even with the general acknowledgment that parole was a less fiscally taxing method to reforming offenders capable of meeting parole conditions and fulfilling conditions of treatment in the community. Furthermore, the continued reliance on prison persisted despite the rapid influx of inmates into Florida's prisons and the resulting overcrowded conditions that were undermining the effectiveness of prison rehabilitation programs.

As the 1970s progressed, Florida's classification practices not only proliferated but were refined in relation to institutional management needs. The classification teams at each institution were decentralized, with classification officers working directly with inmates in an effort to develop effective individualized offender treatment plans based on the specific needs of each inmate. However, this development was highlighted in the context of public protection and safety, not the offender's amenability to treatment and/or the effectiveness of treatment programming. As a result, the initial shift from the individualized treatment of offenders to risk management was beginning to take place.

During the 1980s, treatment continued, but with a new emphasis upon what was termed "structured treatment." Structured treatment was focused upon the maintenance of institutional order and safety, rather than explicitly preparing inmates for law-abiding behavior upon release. Maintaining order and promoting a safe environment for inmates was viewed as paramount, given the growth in the number of inmates housed in Florida's prisons throughout the 1980s. Table 1.2 shows that in 1975, the imprisonment rate, as measured by the number of offenders in prison per 100,000 persons living in Florida, was 171.3. This rate increased to a level of 205.9 by 1980 and steadily increased throughout the 1980s, as Florida's prisons held 251 and 325 inmates per 100,000 citizens in 1985 and 1990.

Florida's inmate population growth in the 1990s led to the construction of new prison facilities and an increased reliance on privatization throughout

Table 1.2 Number and Rates of Correctional Populations in Florida: 1975 to 2004

Year	Prison		Supervision		Total		Percent of Total in Prison	Percent of Total on Supervision	UCR Part I Index Crime Rate	Florida Resident Population
	Population	Rate Per Population	Population	Rate Per Population	Total Correctional Population	Rate Per Resident Population				
1975	14,130	171.3	44,391	635	58,521	773	24.1%	75.9%	7,246	8,248,851
1980	19,722	205.9	47,621	497	67,343	703	29.3%	70.7%	8,388	9,579,497
1985	28,310	251.0	73,866	655	102,176	906	27.7%	72.3%	7,634	11,278,547
1990	42,733	325.0	95,622	727	138,355	1,052	30.9%	69.1%	8,539	13,150,027
1995	61,992	438.1	136,056	962	198,048	1,400	31.3%	68.7%	7,623	14,149,317
2000	71,233	445.7	149,470	935	220,703	1,381	32.3%	67.7%	5,604	15,982,378
2004	81,974	469.3	151,150	865	233,124	1,335	33.6%	66.4%	4,907	17,468,408
Percent change: 1975 to 2004	480.1%	174.0%	240.5%	36.2%	298.4%	72.7%	39.0%	-12.4%	-32.3%	111.8%

the state's correctional system. By 1995, the imprisonment rate was 438.1, and by 2000, 445.7 inmates per 100,000 residents were incarcerated in Florida's prisons. As of June 30, 2004, Florida's imprisonment rate stood at 469.3. The marked increase in the numbers of offenders incarcerated in Florida's prisons in the early 1990s was followed by the construction of a number of new facilities in the mid-1990s. Specifically, in 1990, Florida operated forty-five major prison facilities; however, by 2000, fifty-seven major prison facilities were in operation. Of these fifty-seven prisons, the entire operations of five facilities were and continue today to be managed by private providers. Three of these facilities opened in 1995, and two additional private prisons began housing Florida inmates in 1997.

1.4 From Probation Supervision to Community Supervision: 1970 to Present

Not only have there been major changes in Florida's sentencing practices and resulting increases in the state's prison populations, but community supervision as an alternative to incarceration also underwent major changes. Throughout the 1970s, Florida's community supervision system was fairly straightforward. Felony probation was the only form of community supervision for less serious felony offenders as an alternative to prison. This felony probation practice changed in 1983, with the implementation of new sentencing guidelines and a new determinate sentencing policy. In addition, community control supervision, commonly referred to as "house arrest," was also implemented in 1983 and added to Florida's sentencing guidelines as an alternative to prison. House arrest officers operated with statutorily mandated caseloads of no more than twenty offenders per officer. Electronic monitoring of house arrest offenders was added as a surveillance option in 1987 for the higher risk offenders. Moreover, as electronic surveillance technology advanced, global positioning satellites (GPS) were added in 1998 to allow for twenty-four-hour real-time accountability of the highest risk offenders on house arrest.

The house arrest programs that developed in Florida during the 1980s that were enhanced by electronic monitoring that required offenders to wear an electronic security device, which enabled the tracking of the offender at home. Currently, Florida utilizes more electronic monitoring devices than any other state, except North Carolina (Camp and Camp 2002). Evidence of continued future expansion of electronic monitoring in Florida is indicated by the passage of the Jessica Lunsford Act in 2005, named after a 9-year-old girl who was abducted and killed in February of that same year. Under this legislation, anyone convicted of molesting a child under the age of 12 will face a life sentence with a minimum-mandatory 25-year prison sentence.

When the offender is released back into the community, he or she will be subjected to electronic monitoring for life. Furthermore, any sex offender 18 or older who committed a sexual offense against a victim 15 or younger and those defined as sexual predators who violate their terms of supervision and are returned to supervision are now mandated to be placed on electronic monitoring for the remainder of their term of supervision. The act appropriated \$3.9 million in reoccurring funds to increase the number of electronic monitoring devices by 1,200.

As previously mentioned, two types of electronic surveillance are currently utilized: (1) radio frequency (RF) monitoring, and (2) GPS monitoring. When employing RF monitoring devices, DOC uses “active” tamper-alert ankle devices. These devices allow for the computerized surveillance of offenders during the hours they spend within their home. This surveillance is achieved through continuous signaling from the transmitter worn by the offender on his or her ankle and a receiver attached to the offender’s home telephone. At a centralized location, a computer receives information concerning all the offenders’ movements wearing RF devices. This information is verified via comparison of the offender’s movement and his or her work schedule (Baker 2005).

One fundamental limitation of the RF technology is the fact that offenders cannot be monitored while away from their home telephone or residence. Thus, the use of RF devices does not enable DOC to monitor the offenders’ whereabouts during approved absences from the home, or while he or she is at work. In order to track the location of the more serious offenders in “near real time” and to provide mapping of the offender’s movement for retrieval upon demand from a centralized computer, DOC began employing GPS monitoring in 1998. The rationale behind the adoption of GPS technology was the ability to conduct twenty-four-hour surveillance, as opposed to the in-home-only surveillance that RF technology provides. Currently, DOC employs both “passive” and “active” GPS systems to monitor offender locations. Both systems record offender location at any given time; thus, technologically speaking, the systems do not differ widely. However, active GPS systems notify the probation officer of violations immediately, whereas a passive GPS system provides the probation officer with a printed summary of violations once a day (Florida Corrections Commission 2003).

The use of a GPS system has been promoted as a means to provide increased community protection and security to victims. In some instances, exclusionary boundaries surrounding the place of work or property of a victim are set. In these situations, GPS monitoring alerts system officials when these set boundaries are violated, and in turn, officials can notify the victim of the offense and take appropriate responsive actions. Aside from mapping for information archive retrieval, GPS systems can facilitate two-

way communication with the offender and/or victim(s), tamper-of-device notification, and remote laptop tracking (facilitated by a wireless remote). The expectation is that offenders are deterred from violating the conditions of their house arrest, as they are aware that all movements are tracked in “near real time” twenty-four hours a day.

It is important to note that in the early 1983 implementation of the house arrest program, the DOC was concerned about avoiding the pitfall of net-widening. Net-widening refers to the capacity of penal reforms to become implemented as supplements to previous penal practices instead of alternatives, thereby resulting in a larger proportion of population subject to some form of penal control. To avoid net-widening with house arrest and simultaneously provide public safety, DOC drafted very restricted language on offender program eligibility, namely only those offenders found guilty of nonforcible felony offenses. However, statewide opposition from judges to this restrictive eligibility requirement resulted in a modification of the law in which program eligibility was expanded to those offenders found guilty of forcible felony offenses and unspecified “other” offenders deemed suitable for house arrest by sentencing judges. This broad eligibility definition did result in the placement of a number of offenders on house arrest who, in the absence of the program, would have been subject not to prison but rather probation, thereby resulting in net-widening (Blomberg, Bales, and Reed 1993). However, electronic monitoring house arrest has been focused largely upon violent, sexual, and other serious criminal offenders who in the absence of these community surveillance options would have gone to prison (Padgett, Bales, and Blomberg 2006).

Today, Florida employs multiple forms of community supervision with varying degrees of surveillance, caseload sizes, and offender reporting requirements. These include felony probation, administrative probation, drug offender probation, sex offender probation, house arrest, house arrest with electronic monitoring (RF or GPS methods), sex offender house arrest, pretrial intervention, and drug offender pretrial intervention.

1.5 Florida Penal Control Trends: 1970 to 2003

Table 1.3 displays the changes in Florida’s use of imprisonment in relation to community alternatives to incarceration from 1975 to 2003. The data illustrate an increasing emphasis on the use of incarceration over community supervision. The prison population has increased by 447.2 percent, while community supervision has increased by 244.6 percent over this time period. Additionally, the percentage of the total offender population subject to incarceration increased by 39.0 percent, while the proportion subject to community supervision actually declined by 12.4 percent. This is particularly revealing given

Table 1.3 Changes in Prison and Community Supervision in Florida: 1975 to 2003

Year	Prison Population	Community Supervision Population	Total Correctional Population	Percent of Total in Prison	Percent of Total on Supervision
1975	14,130	44,391	58,521	24.1%	75.9%
1980	19,722	47,621	67,343	29.3%	70.7%
1985	28,310	73,866	102,176	27.7%	72.3%
1990	42,733	95,622	138,355	30.9%	69.1%
1995	61,992	136,056	198,048	31.3%	68.7%
2000	71,233	149,470	220,703	32.3%	67.7%
2003	77,316	152,985	230,301	33.6%	66.4%
Percent Change: 1975 to 2003	447.2%	244.6%	293.5%	39.0%	-12.4%

Table 1.4 Measures of Rehabilitation Programs in Florida's Prisons: 1970 to 2003

Year	Prison Population	GEDs Earned	GEDs per Inmate Population	Enrollments in Academic and Vocational Programs	Program Enrollments per Inmate Population
1970	8,811	920	10.4%	3,700	42.0%
2003	77,316	1,112	1.4%	25,481	33.0%

that over this period of time, the level of control and surveillance of those offenders subject to community supervision has expanded considerably over the same time period, reflecting Florida's shift from indeterminate sentencing and treatment to determinant sentencing and punishment.

Table 1.4 shows that the percentage of the inmate population earning high school equivalency diplomas (GEDs) has declined from 10.4 percent in 1970 to just 1.4 percent in 2003. Further, the percentage of inmates enrolled in prison academic and vocational programs has declined from 42.0 percent to 33.0 percent over the same period of time. An interesting quote from the DOC's FY1970–1972 *Biennial Report* states that “last year, over 700 inmates were enrolled in a total of 214 college courses, and 19 inmates graduated with an associate of arts degree” (Florida Department of Corrections, 1972, 15). Today, DOC is prohibited from enrolling inmates in any form of college courses.

1.6 Correctional Control and Crime in Florida

In Table 1.2, the number and rates for Florida's correctional population and crime rates from 1975 to 2004 are provided. The table shows that during this

twenty-nine-year period, Florida's total correctional population increased by 298 percent, the correctional population rate per 100,000 resident population increased by 73 percent, and the prison population expanded by 480 percent. However, the crime rate actually decreased by 32 percent during this same twenty-nine-year period. Consequently, what these aggregate data and trends suggest is that Florida's correctional population numbers and trends are being driven by factors that extend well beyond Florida's incidents of crime and their associated trends. What appears to have emerged over these years is a culture that is not only receptive to but expects a priority upon multiple methods of crime control.

1.7 Conclusions

The preceding description of Florida's penal policy changes over the past thirty-five years documents a general shift from offender rehabilitation to offender risk management. Florida's long-practiced tradition of indeterminate sentencing to prison with release by parole to the community was subject to considerable debate in the mid-1970s. The debate centered upon multiple concerns including disparity in sentencing and problems with prison overcrowding. Beginning in 1983, a set of pretested sentencing guidelines became law, and in the same year, Florida enacted community control, also known as house arrest. House arrest was intended as a get-tough alternative to prison for nonforcible felony cases, with prisons serving only the more serious and violent offenders who posed the greatest risk to the community. The 1983 sentencing guidelines were promoted as a Truth-in-Sentencing policy. However, problems with prison bed limitations and concerns over future prison overcrowding resulted in the state implementing several prison gain-time policies. In 1987, in reaction to a growing prison population that was near the state's federal court-ordered capacity, Florida implemented an early prison release law designed to keep the state's prison population below its lawful limit.

In 1994, following a high-profile case involving the killing of two police officers by an offender released early from prison, Florida ended early prison release and implemented still-another set of sentencing guidelines. The following year, there was a growing public outcry over early prison release, and Florida responded with a law that required prison inmates to serve at least 85 percent of their sentence. This practice remains in operation today, with Florida's prison population and number of prisons continuing to expand. Further, 10,000 offenders are now under some form of house arrest, with many of these offenders being subject to electronic surveillance. Overall, these trends document that Florida has indeed transitioned its penal policies and

practices from offender treatment and rehabilitation toward a more punitive prison and community risk management and surveillance system. However, while this transition has occurred in Florida, there is other activity now taking place that suggests a tempered yet lingering interest in offender treatment and rehabilitation.

To elaborate, at present, the DOC, in collaboration with Florida State University's College of Criminology and Criminal Justice (FSU), is conducting an experimental evaluation of the effectiveness of prison drug treatment. The DOC initiated this study with the proclamation that only a true experimental design involving the random assignment of inmates to control and experimental groups would adequately address the question of whether prison drug treatment is effective, and if such treatment is more or less effective for particular types of inmates. Only one prior prison-based drug treatment study employing a true experimental design with random assignment has been conducted in the United States. However, the study was limited to only one particular drug treatment program in one male prison in California (Wexler et al. 1999a, 1999b). The DOC/FSU study is statewide in the third-largest state prison system in the country, with over 88,000 inmates, and involves all inmates entering prison after January 2006. Additionally, the study will include twenty-five different prisons with as many as three different drug treatment modalities for both men and women.

All inmates are provided a consent form during the reception process, in which they will indicate if they are willing to participate in the study. Those agreeing to participate will be randomly assigned to a treatment or control group. Inmates assessed to be in need of substance abuse programming who are in the treatment group and are located in a facility with treatment slots available receive the type of substance abuse treatment consistent with their level of need, while similar inmates in the control group do not enter treatment. Detailed data will be extracted from the DOC's Offender-Based Information System on inmates released who were assigned to the control and treatment groups. These data will include detailed information on program participation, assessment scores measuring programming needs, and institutional conduct indicators. Also, variables shown to be effective predictors of recidivism will be captured on each inmate including age at release, prior recidivism events, gender, race, educational level, current and prior offenses, custody level, length of time served in prison, psychological condition, and special education needs, as well as re-entry services provided to inmates after prison release.

The study should provide timely and important research findings. Whether prison-based drug treatment is effective in reducing recidivism and facilitating successful community re-entry is the central question that will be answered. Additionally, whether different types of inmates based on gender,

age, criminal backgrounds, and so on are more amenable to the effect of drug treatment while incarcerated will be addressed. Finally, the relative effectiveness of different treatment modalities and the length of treatment will be assessed. Given the strength and scope of the research design as well as the level of support for this research from the DOC and other high-ranking government officials in Florida, the findings could result in major changes in the funding and administration of prison-based drug abuse programs in Florida, and perhaps elsewhere.

Florida's past and current incarceration and crime trends closely mirror national trends. For example, as reported by the U.S. Bureau of Justice Statistics (2005), the total inmate population has been increasing for the past several years, reaching 2.1 million in June 2004, or 1 in every 138 U.S. residents incarcerated. While the U.S. crime rate, like Florida's, has declined over the past ten years, the number of admissions to prisons and jails is far greater than the number of inmates released. For example, in relation to the federal prison system, the number of admissions in 2004 exceeded releases by more than 8,000. In sum, the different penal-related laws that have been enacted over the past several decades have culminated in a national reliance upon imprisonment that has resulted in the United States having the highest incarceration rate in the world without considering the growing numbers of offenders subject to community supervision and surveillance.

Florida's current efforts to assess the efficacy of prison drug treatment programs, although suggestive of perhaps a tempering in punishment policies, may instead be more of an aberration. Specifically, given Florida's response to the tragic Jessica Lunsford case, it is evident that even more vindictive punishment policies for sex offenders will be forthcoming not only in Florida, but throughout the United States. At a minimum, what these trends suggest is America's continuing confusion and frustration over crime as well as our continuing debate and uncertainty over how to best protect ourselves from crime. It seems likely that in our ever-continuing quest to provide better public safety, there will be increased reliance upon incarceration coupled with certain forms of strategic treatment as well as ever-more technologically advanced community surveillance. It appears that future penology promises more of the same, namely, a culture that embraces prison and community surveillance as well as selected attempts at treatment, as the ultimate solution to crime continues to be evasive. In sum, given the continuing confusion over the causes and cures for crime, future penology is likely to continue to expand its strategies and population subject to control with both old and new penal practices.

References

- Baker, M. 2005. "Electronic monitoring." In *Encyclopedia of Prisons and Correctional Facilities*, edited by M. Bosworth. Thousand Oaks, CA: Sage Publications.
- Blomberg, T. G., W. D. Bales, and K. Reed. 1993. Intermediate punishment: Extending or redistributing social control. *Crime, Law, and Social Change* 19: 197.
- Bureau of Justice Statistics. 2005. *Prisoners in 2004*. Washington, DC: U.S. Department of Justice.
- Camp, C. G., and G. M. Camp. 2002. *The 2001 Corrections Yearbook*. Middletown, CT: The Corrections Institute.
- Feeley, M.M., and J. Simon. 1992. The new penology: Notes on the emerging strategy of corrections and its implications. *Criminology* 30: 449.
- The Florida Corrections Commission. 2003. *A Review of the Community Control Program and Electronic Monitoring Within the Florida Department of Corrections*. Tallahassee.
- The Florida Department of Corrections. 1972. *8th Biennial Report: July 1, 1970 to June 30, 1972*. Tallahassee.
- Garland, D. 2001. *The Culture of Crime and Social Order in Contemporary Society*. New York: Oxford University Press.
- Griswold, D. B. 1985. Florida's sentencing guidelines: Progression or regression. *Federal Probation* 49: 25.
- Lemert, E. M. 1993. Vision of social control: Probation considered. *Crime and Delinquency*. 39: 447.
- Padgett, K. G., W. D. Bales, and T. G. Blomberg. 2006. Under surveillance: An empirical test of the effectiveness and consequences of electronic monitoring. *Criminology and Public Policy* 5: 61.
- Sundberg, A. C., K. Plante, and D. Brazier. 1983. Florida's initial experience with sentencing guidelines. *Florida State Law Review* 11: 125.
- Wexler, H., et al. 1999a. The Amity Prison TC evaluation. *Criminal Justice and Behavior* 26: 147.
- Wexler, H. et al. 1999b. Three-year reincarceration outcomes for Amity in-prison therapeutic community and aftercare in California. *The Prison Journal* 79: 321.

Prisons and Jails

ROY D. KING

2

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2.1 Introduction

Five years into the twenty-first century, more than 9 million people are held in custody in more than two hundred countries around the world. Several times that number are directly affected by prisons, either because family members are incarcerated or because they work in prisons; or are involved in their planning, construction, or maintenance; or otherwise service the needs of prisoners and staff. The use of imprisonment is, by any standards, not merely a substantial instrument of social and penal policy; it is also a major industrial and organizational undertaking, and most current signs indicate that it is becoming even more so.

There is undoubtedly a sense in which a prison is a prison is a prison: The fundamental similarities of locking people up against their will for determinate or indeterminate periods of time, for the most part away from their families and the rest of society, are likely to outweigh the myriad ways in which they may differ. But at the same time, there are important differences between jurisdictions in the way imprisonment is employed, and both

between and within jurisdictions in the way that prisons are managed; such differences are likely to impact upon prisoners and staff in sometimes profoundly different ways. Such differences will also send out different symbolic messages to the rest of society about the purposes and meaning of imprisonment or, put another way, may reflect on the character of societies and how they view their disgraced or potentially disgraced citizens. In this chapter, I shall try to draw attention both to what might be regarded as the universal or essential attributes of “the prison” and to the ways in which prisons can and do vary. However, it is important to bear in mind that it is obviously going to be necessary for me to be selective, and what is selected will reflect the interests and the knowledge of the author. The themes I will discuss reflect my judgments as to what is important; many of the examples I include will reflect my own direct knowledge, drawn either from my research in specific prisons or jurisdictions, or my examination of them on behalf of various international organizations. As far as possible, I shall try to put these into a wider context, but the reader should be aware that the result will be heavily biased towards what happens in the Anglo-American systems.

The title of this chapter refers both to prisons and jails, and it is appropriate to begin with an elucidation of the differences between those institutions and a brief history of how they have evolved. From there I proceed to a consideration of *the relative use of imprisonment* in section 2.3, and *the changing nature of prison populations* produced by that usage in section 2.4. In section 2.5, I consider the *sociology of prisons* and the way in which staff and prisoner cultures have changed. Section 2.6 discusses issues surrounding *security, order and control, and the supermax phenomenon*, and in the final substantive section, I turn to what is known about the *effects of imprisonment*. In my *Conclusions*, I refer briefly to several other topics that would have been included had space permitted. I conclude by trying to take stock in a consideration of whither the future.

2.2 An Historical Survey of Prisons and Jails

The terms *prison* and *jail* (or *gaol* in the original English spelling) are sometimes used interchangeably, and indeed attempts at making clear definitional distinctions between them tend to founder upon exceptional cases. This is not surprising, given a rather convoluted history and the fact that there has never been any real attempt to disaggregate the concept of imprisonment by inventing special terms to describe different forms. Moreover, the word *prisoner* precisely defines a person legally held captive against his or her will, wherever he or she may be housed. Incidentally, the term *prisoner* is always to be preferred to the term *inmate*, which smacks of management euphemism

and which could, in any case, be applied generically to persons held in a wide variety of other residential institutions. I use the term *inmate* only when it is already so enshrined in the literature, for example, in the discussion of inmate culture, where to use other terminology might seem perverse. It is probably best to regard the jail as a subspecies of the more generic prison.

The main distinctions between the nature and functions of jails and prisons can be seen by outlining the current situation in the United States. Today, there are more than 3,000 jails that serve county or other local jurisdictions. They vary enormously in size, reflecting the communities they serve, with more than half having fewer than fifty prisoners on average, and at the other extreme, about seventy-five housing more than a thousand each. They serve multiple functions, but deal with persons held while awaiting trial or sentence, and virtually all prisoners sentenced to terms of one year or less. The term *prison* is reserved for institutions organized on a statewide basis, usually under the authority of a department of corrections or, at the federal level, under the Bureau of Prisons; they deal with prisoners serving determinate sentences of longer than one year and indeterminate sentences. Also, in states that retain the death penalty, they house prisoners on death row. Prisons are usually classified by reference to security or custody levels, to take account of the perceived risks to the public or the good order of the prison, and range from open prisons to maximum security institutions; in recent years, the federal and many state systems have added a new tier of super-maximum (supermax) security prisons. The Bureau of Prisons and some states—namely Connecticut, Delaware, Hawaii, Rhode Island, and Vermont—operate both prisons and jails under a single combined authority, whereas Alaska and West Virginia have a mixture of state and local jails.

It may be helpful to illustrate the functions of these institutions and how they came about by reviewing some of their history in England and Wales. In what follows I use the traditional *gaol* in the context of Britain, and the more international *jail* in the context of the United States and other countries. Early English gaols were institutions that essentially served locally based court jurisdictions. They have probably always been multifunctional, serving to detain the accused pending trial, persons convicted pending sentencing, and sentenced persons pending the execution of the sentence, which in England and Wales was usually something other than imprisonment. Indeed, in the eighteenth century, English courts still had a “bloody code,” with an extensive list of crimes entailing capital punishment, or transportation, first to the American colonies and then to Australia. In those days, the gaols were, in the memorable words of Sir Lionel Fox, but the “ante-room to the New World or the next” (Fox 1952). For the purposes of pretrial and presentence detention, physical proximity to the courts was essential. That their function was primarily a temporary holding one was demonstrated by the fact that peri-

odically the King's justices would pass through on circuit to "deliver the gaols"; that is, to try the accused and, depending upon the outcome, either set the accused free, or sentence them to flogging, banishment, or death. Such local gaols were often small, sometimes quite large, but tended to be central and forbidding features of their communities. However, in time many of them were overtaken by economic, social, and demographic change and fell into disuse as isolated relics away from new centers of population.

Such gaols, or some similar places of detention, were probably as old as the concept of justice itself; justice could not be dispensed unless the accused were available to be held to account. At this point, we must briefly digress, because it is important to note that remanding an accused person in custody was not the only way of ensuring attendance at trial. Indeed, in the settled agrarian communities of Anglo-Saxon England, groups of families were held collectively responsible for upholding the law, which included rendering up one of their number accused of wrongdoing on pain of financial penalty. From such beginnings, it gradually became possible for royal courts and local justices to remand accused persons on bail either on their own recognizance (promises to attend, with or without forfeiture of monies if they did not), or the sureties of others on their behalf. The amount of bail reflected the assessment of the risk of failure to attend. In England and Wales, it has not been the practice to pay monies in advance, against the risk of nonattendance, but rather to collect it, or try to, after the event. Today, only a tiny proportion of bail decisions involve monetary sureties, and absconding while on bail has instead become a criminal offense. In the United States, a commercial system developed whereby bail bonds persons would assume the risk by paying the money into court in advance in return for a fee of 10 percent paid by the accused. In recent years, a number of court-administered bail schemes in the United States have somewhat reduced the role of the bail bondsmen. If the terms of bail could not be met, or if the courts determined that the risks of further offending or nonattendance were too great, they could fall back on remands in custody. The relative balance between bail and custody and the making of bail-custody decisions may have a profound effect on the size and nature of modern prison and jail populations and has been the subject of considerable research.

Until the Assize of Clarendon in 1166, Henry II decreed that every county have at least one gaol under the control of his appointed sheriff, thereby introducing a system of criminal justice that has survived in most of its essentials to the present. Until then, there had been a confusing profusion of municipal gaols, local lock-ups, and gaols franchised to lords of the manor, and even gaols operated by the church to service its ecclesiastical courts. Though many of these continued to survive alongside county gaols, they were gradually subjected to increasing control, restriction, and regulation by

both the monarch and Parliament. Eventually, too, the responsibility for the gaols passed from the King's sheriff to the local magistracy.

But from very early days, local gaols also served to house petty offenders, drunks, prostitutes, rogues, and vagabonds who served short sentences of imprisonment for breaching the peace or threatening to do so. After the Debtor's Act of 1350, gaols also held persons in an attempt to coerce payment of debts to private creditors—a procedure that was not finally abolished until the 1960s, although in later years the practice survived under the legal fiction that one was in custody for contempt of court orders to pay, and not for the debt itself. In 1777, John Howard, the philanthropic High Sheriff of Bedfordshire (after whom the Howard League for Penal Reform and John Howard Societies in many parts of the world are named), produced his famous report, *The State of the Prisons*, in which he claimed that debtors constituted some 60 percent of the prisoners in the institutions he visited. It was common to speak of some prisons, such as the Fleet in London, as debtors' prisons (and was not unusual for the families to be confined with the debtor). The last gaol used exclusively for debtors—the Queen's—was closed in 1862. Even today, it is still possible to be imprisoned for public debts, such as the nonpayment of taxes and duties of various kinds.

It is a commonplace of modern penology that imprisonment disproportionately embraces the poor and disadvantaged. That is unquestionably true, though for the most part these are poor and disadvantaged persons who have also committed crimes. However, historically the gaols were directly associated not only with debt but also with poverty or, in the terminology of the time, pauperism. The Statute of Labourers in 1349 was designed in part to deal with the shortage of labor, which resulted from the devastation of the population by the Black Death a year earlier, by trying to control the movement of laborers in search of higher wages. As feudal arrangements broke down, persons wandering abroad were seen as a threat to the peace and could find themselves branded as vagabonds, whipped at the pillory, and locked up in gaol. As the face of rural England was changed by the enclosure of common lands, beginning in the sixteenth century and accelerating into the eighteenth century, more agricultural workers were denied their subsistence way of life and became paupers dependent upon the local parish for alms. By the time of Elizabeth I, the problem of paupers had become so entrenched that the first Poor Law was enacted in 1572 with others to follow, culminating in the Poor Law Amendment Act of 1834, putting an end to "outdoor relief." These statutes distinguished between various classes of pauper and provided what were seen as appropriate remedies for their condition: upkeep and relief for the deserving poor and work for those who were unemployed in the poor-house or workhouse, and punishment for those who could, but would not, work in houses of correction or bridewells, as they came to be called after the

royal palace of Bridewell, which was converted for that use. In what has appropriately been called the “great confinement,” similar processes were to be found across Europe, and it was not just the poor and the criminal classes who were affected. Those deemed mad were also swept up into asylums.

To some extent, gaols, houses of correction, and workhouses competed for custom in the sense that it was often a matter of chance by which route one found one’s way into an institutional setting. Houses of correction overlapped most directly with the county gaols, often being built next door, and over time became indistinguishable from them. Yet they continued, in name at least, long into the nineteenth century, until they were formally amalgamated under the Prison Act of 1865. From that time on, former gaols and houses of correction became known as local prisons. Workhouses survived even longer and remained an ominous specter for many of the working class well into the twentieth century. By then, the principles of “less eligibility” and the rigorous regimes advocated by Bentham and Chadwick—which had, in turn, posed problems for gaols and houses of correction, which surely ought to have even stricter regimes for their even less eligible prisoners—had become more benign, and they served more as asylums for the elderly and infirm.

However, although gaols and houses of correction undoubtedly served a punitive role in relation to the recalcitrant poor and petty offenders, the growth of imprisonment and the establishment of prisons as places for the punishment of convicted felons in England and Wales were inextricably bound up with the uncertainties associated with the sentence of transportation, which had been the preferred method of dealing with felons since its introduction in 1717, and the need to deal with a rising tide of crime. In 1776, with transportation to America no longer an option, a reluctant central government was obliged to provide an alternative. Initially, a solution was found by keeping convicts in the hulks: decommissioned warships moored on the Thames, which had served as temporary lodging for convicts awaiting transportation. During the day, the convicts were put to hard labor in the dockyards and on public works, returning to the hulks, which were managed by a private contractor, at night. But there was a growing interest in the development of national penitentiaries—so called because their design was intended to ensure that those incarcerated therein would be forced to reflect upon, and become penitent about, their crimes.

John Howard and other reformers had shown that the gaols were pestilential places where typhus, then known as gaol fever, was rife. Moreover, though nominally under the supervision of sheriffs, and later magistrates, they were in fact run by private gaolers who charged fees for their services, which could extend from bed and board through the provision of gin and ale to the company of prostitutes. More or less anything was available at a price, and the public was more than happy to pay for the opportunity to

gawp at the suffering of others. Moreover, there was often little if anything by way of separation of first offenders from recidivists, the convicted from the unconvicted, adults from minors or even males from females. And just as the gaoler and turnkey charged fees, so too might stronger prisoners exploit the weak through claiming their right to “garnish” and “chummage” for the privilege of entering this strange society and having a bed. Such practices fleeced the families of the better-off prisoners and stripped the poor of everything they had, such that sometimes, unable to pay the discharge fee, they festered in prison even after their time had expired. The gaols were, in short, corrupt and unhealthy schools for crime.

Howard was concerned to find ways not just to improve the health and welfare of prisoners but to prevent their further corruption and to lead them on a path towards moral rectitude—a cause that was to engage reformers on both sides of the Atlantic for generations to come. He was impressed by the designs of the architect William Blackburn, which were intended to foster a well-ordered institution by separating offenders, thus facilitating their supervision. Howard had encountered the embodiment of such principles in some of the institutions he had visited in continental Europe, especially in Holland, and he began to argue for the establishment of national penitentiaries in England. A Penitentiary Act was duly passed in 1779, but no government money was forthcoming for the two penitentiaries that were planned, and there was disagreement about where they should be sited. In the absence of developments by the central government, there was a flurry of activity at local level by such influential figures as the Duke of Richmond, in Sussex, and Sir George Onesiphorus Paul in Gloucestershire, to build reformed county gaols and houses of correction.

In 1791, Jeremy Bentham published his brother’s plan for a penitentiary, which he called the Panopticon, “a mill to grind rogues honest.” By virtue of its circular design, with tiers of open cells facing inwards around the circumference, an officer standing at the center of the Panopticon would have, theoretically at least, the capacity to exercise surveillance over the entire population. For the next twenty years, he repeatedly lobbied for its adoption, modifying both the design and the arrangements for its management; it never found sufficient favor for adoption, in part because of concerns that Bentham himself, as the private contractor, would be the beneficiary of prisoners’ labor. Though no such Panopticon was built in the United Kingdom, a few were built elsewhere, the most notable example being at Stateville, Illinois. But, even as Bentham was developing his design, transportation to Australia had become a possibility and enthusiasm for a penitentiary dissipated. The first transports set sail in 1787, but the onset of the Napoleonic Wars, during which ships were needed for other purposes and convicts were conscripted for military service, meant that the process did not really take off until after

1815. Bentham (1802a), still hopeful that his penitentiary scheme would be adopted, criticized the Australian colonies for releasing convicts too soon when they had earned their “ticket of leave”: the forerunner of parole. But Bentham was not alone in thinking that transportation to Australia, where there were reports of former convicts becoming prosperous as they took advantage of the opportunities in the new colony, was insufficiently deterrent. Others, however, were later to find it too harsh and a blot on civilization.

Eventually, the first national penitentiary was built at Millbank in 1816: a monstrous and largely unworkable structure housing 1,000 prisoners in a series of pentagonal blocks surrounding a central hexagon. It was a constant source of embarrassment and criticized, in 1835, by the Reverend Whitworth Russell and William Crawford, two of the first prison inspectors appointed to advise the government, for giving insufficient attention to the uplifting possibilities of, *inter alia*, religious instruction. (Incidentally, Russell committed suicide there, in 1847.) Millbank was not demolished until 1893, when it was replaced by Wormwood Scrubs. In 1834, Crawford, a prominent member of the Quaker-inspired Society for the Improvement of Prison Discipline, had presented his monumental report on the penitentiaries of the United States to the Home Secretary. Crawford’s was one of the first official examples of cross-fertilization of ideas on crime and punishment between England and the United States. Many more were to follow. But unofficial traffic had preceded it. Crawford was singularly impressed by the design of John Haviland for the Eastern State Penitentiary in Pennsylvania, which leaned on the work of William Blackburn and took some of his principles to their logical conclusion. Seven wings, with tiers of cells on several levels, radiated outwards in a star-shaped design from the prison centre, in which prisoners could be held in completely separate single cells where they might both sleep and work, obviating the possibility of malign influences of prisoners on each other. Solitude combined with religious instruction would bring about penitence and reform. This was preferred to an alternative system that had been developed at Auburn Prison, New York, where prisoners were housed in separate cells at night, but by day were required to work together in workshops organized on factory lines. Under the Auburn system, the association of prisoners with one another during the working day was deemed a necessary evil, but accompanied by a rigidly, not to say brutally, enforced rule of silence to prevent criminal contamination. In what is conventionally described as the battle of the systems—separate versus silent—each had its advocates. In fact, there was less difference between them than is sometimes suggested, but it was the separate system, sometimes taken to relentless extremes, that proved to be the more influential in England, at least at first, whereas in the United States it was the silent system that prevailed, except in Pennsylvania, the Quaker State.

Not everyone who visited the Eastern State Penitentiary viewed it as enthusiastically as did William Crawford. Dickens, for example, was moved to campaign as forcefully against the cruelty of the rational penitentiary as he did about the debtors' prisons (Collins 1962). De Beaumont and de Tocqueville ([1833] 1964) were somewhat bemused by the monomania surrounding penitentiary systems in the United States, and while they thought the Pennsylvania system superior in its purity, it was the cheaper Auburn system that they thought more appropriate as a model for France. But in 1842, the new model prison at Pentonville, London, designed by Colonel Jebb, which closely followed that of Havilland, was opened. It was none too soon. The numbers of persons coming before the courts had risen rapidly over the last two decades, in part because of the introduction of policing under Robert Peel's administration, and the 1837 recommendation of the Molesworth Committee to end transportation. Although transportation lingered on for another twenty years, shorter periods were replaced by sentences of penal servitude. The original Pentonville, a model of architectural determinism, is generally regarded as the perfect architectural realization of the aspirations of those who believed that in a particular prison discipline lay the key to the reform of prisoners. Other prisons, variations on the Pentonville design, quickly followed, some to serve as convict prisons under the control of central government and others to replace moribund county gaols and houses of correction as local prisons. By 1877, the local prisons and the central convict prisons were brought together into a single system to be administered under a Prison Commission, and there followed a period of rationalization in which small, redundant, and inappropriately located prisons were closed down.

It may seem odd to stop this brief historical account in the last quarter of the nineteenth century. Clearly much has happened since. Harding et al. 1985 provides a useful and concise history of the system in England and Wales, whereas McConville 1981, 1994 deal with late eighteenth- and nineteenth-century developments in more detail, and there are many excellent essays on the subject in Morris and Rothman 1995. But in an important sense, the foregoing sets out most of the foundations concerning the establishment of prisons and gaols and their respective functions. Perhaps, too, enough has been said for people to recognize the antecedents of prisons and jails in the United States—as in so many other things, developments in the United States stayed more faithful to the eighteenth-century inheritance than was the case in England—and even for readers to see points of similarity and difference within systems in other countries (for an overview of prison systems in several countries, see Smit and Dünkel 2001).

Responsibility for the integrated prison and gaol system in England and Wales continued to rest with the Prison Commission until 1963, when it was

replaced by the Prison Department of the Home Office. Then in 1993, the operation of the prisons was distanced from the Home Office through the creation of the Prison Service Agency, which since 2004 has become subordinate to the National Offender Management Service. However, since the 1870s in England and Wales, local prisons have continued to this day to perform the functions of the old gaols, by holding persons in custody before trial or while awaiting sentence. They also continue to hold sentenced prisoners either for the whole of their sentence, or while they are waiting to be transferred to training prisons, and such prisoners are normally kept separate from the unconvicted, usually in separate wings. Separation, however, is often difficult to sustain because of the constantly fluctuating prison population. In the 1960s, it was planned to develop a system of remand centers to ensure the separation of unconvicted from sentenced prisoners, but only a few were actually built and those that remain are only for young offenders. They coexist alongside the local prisons. Out of the old penitentiaries and convict prisons has developed a system of prisons for sentenced prisoners that have successively been described as central, regional, and training prisons, and which are now classified mainly according to the degree of security they provide, but with several serving specialist functions, for example, as resettlement prisons for those nearing the end of their sentences, or as prisons with special units for exceptional escape risk or difficult to manage prisoners.

Most of the local and training prisons are for adult males, but there are others for women and for young offenders. There have been major changes in the way in which the purposes of imprisonment have been seen since the twin concerns with deterrence, in the form of hard (and often useless) labor, hard fare, and a hard bed on the one hand and moral reform through religious instruction and contemplation on the other, which dominated the nineteenth century. In the twentieth century, these concerns gave way to considerations first about the treatment, training, and rehabilitation of offenders and then with the collapse of the rehabilitative ideal in the face of evidence that “nothing works” in preventing recidivism, to considerations of security, control, and incapacitation. More recently, with a reappraisal of previous evidence and a shift from “nothing works” to “what works,” cognitive skills and offending behavior programs have been offered to some offenders, selected through the use of more refined assessments of risks and suitability.

Yet to see these as mutually exclusive phases would be a gross oversimplification. The history of imprisonment has been marked by the tendency of most of those involved in prison operation to have competing and contradictory expectations of what it can and should achieve. Indeed, in the period when reformers were campaigning for the establishment of penitentiaries and advocating one or another competing prison disciplines, their views were often expressed with passion and backed up by extraordinary

attention to detail as to possible effects and how they might be measured. Whether they were extolling the virtues of silence and meditation, or the relative merits of those instruments of hard labor such as the tread wheel (on the rotation of which each prisoner might “ascend” 7,200 feet a day) or the crank (whose revolutions could be so minutely calibrated on John Mance’s ergonometer), all were convinced that their method would be in the best interests of prisoner and society. As the Reverend Finley in the United States put it: “Could we all be put on prison fare for the space of two or three generations, the world would ultimately be the better for it As it is, taking this world and the next together ... the prisoner has the advantage” (cited in Rothman 1971, 84–85). Small wonder, perhaps, as McConville (1995) notes, that the philosopher C. S. Lewis considered it preferable to live under robber barons than moral busybodies; the latter might torment us for our own, with a completely clear conscience.

This bare-bones outline of prison history was traditionally interpreted as though it represented a march of progress from unsanitary, unhealthy, chaotic, and corrupt gaols to clean, healthy, well-ordered, and accountable prisons. Such progress, it was argued, was consistent with the principles espoused in the famous essay on crime and punishment by Cesare Beccaria ([1764] 1963), much applauded by Voltaire as representing a triumph of humane Enlightenment thinking over the arbitrary brutalities of the “bloody code.” There are obviously elements of truth in all that, but rarely does history unfold simply as the practical implementation of ideas; anyone surveying the state of contemporary prisons around the world can see whole national systems that remain unsanitary, unhealthy, chaotic, and corrupt. Furthermore, there is clear evidence of arbitrary brutalities even in the most advanced Western democratic systems, e.g., “three strikes” laws and the death penalty, not least in relation to mentally retarded minors.

It is clear from this outline that the development of prisons and their use has been intimately bound up with changes in the social structure of society and the economic relations between social classes or just the advantaged and disadvantaged. Witness the impact of the Black Death; of the enclosure movement; of relations between creditors and debtors; and of confused attempts to deal with the poor, the unemployed, and those who could, but would not, work. It would be extraordinary if the use of imprisonment today did not reflect demographic, economic, and social relations in the wider community, and of course it does. Thus in every society where data exist or research has been carried out, prison populations are mostly from lower social strata, and ethnic minorities are found to a degree radically disproportionate to their weight in the general population. Furthermore, whereas once prisoners were mostly debtors, now they are mainly those involved in the consumption of drugs, the supply of which is low.

Not surprisingly, several writers have sought to theorize this history in terms of the political economy of crime in ways compatible with, if not directly derived from, Marx's class theories. A recent example is by Melossi and Pavarini (1977), but the earliest and most famous of these is by Rusche and Kirchheimer (1939) in their book *Punishment and Social Structure*. Rusche and Kirchheimer sought to move behind the rhetoric of penal reformers to link various forms of punishment—fines, transportation, and imprisonment—to the underlying economic conditions of capitalism and the operation of labor markets. However, the historical basis for their explanation has been criticized and their analysis fails to account for either the differences to be found between different capitalist societies, on the one hand, or the similarities between these and developments in the Soviet Union, on the other.

Revisionist accounts of the history of prisons have been provided by David Rothman (1971, 1980) and Michael Ignatieff (1978). Both locate developments in the ideology of punishment within the history of ideas, and both give prominence to evangelical zeal and the penetration of the structures of punishment by religion and religious figures. Both, however, also seek to relate the evolution of prisons, workhouses, and asylums to wider social influences: Rothman traces American innovations to the hopes and fears of citizens in the new republic, while Ignatieff more explicitly links developments in England to ruling class hegemony.

Most controversial has been the analysis by Michel Foucault (1977), who used selected aspects of this historical canvas to elaborate a philosophical position about the structures and technologies of power in modern society. Foucault argued that the emergence of the prison arose not so much from a desire to punish *less* as a determination to punish *better*—random and brutal punishment of the body was replaced by the systematic control of the mind. In Foucault's analysis, taking Bentham's Panopticon as a starting point, the prison, the workhouse, and the factory were all mechanisms for disciplining and regulating the poor by subjecting them to minute surveillance in what was becoming an ever-more-carceral society. It is pointless to criticize Foucault's theoretical position because of its poor grounding in history and sociology; that is to misconceive his metaphorical analysis, though it has been criticized on both counts. One might note that since Foucault died in 1984, there has been a massive expansion of closed-circuit television (CCTV) surveillance, the introduction of electronic tagging, and proposals for implanting criminals with electronic devices so that they can be monitored by satellite. As an alternative to Foucaultian ideas, Spierenburg (1984) argues that the change from the spectacular theatre of the public scaffold and the pillory to the development of measured punishment that takes place behind high walls, out of public view, reflects a change in public sensibilities. In that regard, it can be seen as part of a process that began earlier and spread much wider in

the context of the work of Norbert Elias (1939), on the history of manners and what he called the civilizing process.

Whatever else they have done, these different interpretations of prison history have provoked a stimulating debate about the place of prison in contemporary society.

2.3 The Relative Use of Imprisonment

When the first *World Prison Population List* was published (Walmsley 1999), it was reported that about 8 million persons were held in penal institutions throughout the world, either as detainees awaiting trial, or as convicted offenders. By the time the fifth edition was published (Walmsley 2003), the numbers exceeded 9 million. There are many imperfections in the data assembled by Walmsley. Information is lacking on a number of countries; the data from some countries may be of questionable veracity and are sometimes supplied by unofficial sources; it is not always clear whether remand prisoners and persons confined in juvenile institutions, psychiatric hospitals, and treatment centers for alcohol or drug abusers are included; and the data do not relate to comparable dates. Surprising though it may seem, prison authorities do not always know how many prisoners they have at a given time on the basis of routinely recorded data, but rely on periodic surveys even to establish how many prisoners they have beyond their release dates. Despite such problems, the attempt to provide a global picture offers a rough-and-ready starting point to consider the relative use of imprisonment, although it will be clear that some degree of caution is needed to interpret the basic statistics.

About half of all the prisoners included in the *World Prison Population List* are incarcerated in just three countries: the United States, China, and Russia. It is intriguing that three countries at the opposite poles of the Cold War, with such dramatically different histories, economies, cultures, and patterns of crime, should nevertheless hold, as it were, gold, silver, and bronze medal positions in the world prisoner league. Although the relative positions of these three countries in terms of total prison populations remained unchanged over the five years covered by Walmsley's data, the distances between them did change and even the direction of travel. Over a five-year period, the prison population in the United States grew by over 15 percent, from 1.7 to 2.03 million, though this was a slower rate of increase than in the preceding two decades. The prison population in China also grew, at about half the U.S. rate, from 1.4 to 1.51 million, although these figures relate only to sentenced prisoners and exclude unknown numbers held in pretrial and "administrative" detention. But in Russia, the prison population declined by about 14 percent, from 1 million to 860,000, and has since declined further.

Total numbers of prisoners, without additional information, does not say very much about the relative use of imprisonment in different countries. It has become conventional to use rates of imprisonment per 100,000 population for comparative purposes, which at least standardizes for total population; on that basis, the picture of the top three countries begins to look rather different. Over the period of the five world population lists, the United States has increased its incarceration rate from 645 to 701 per 100,000 population, overtaking Russia, which declined from 685 to 606. China, by contrast (with a population of nearly thrice that of Russia and the United States combined), had incarceration rates that increased from a more modest 115 to 117. However, the inclusion of unknown numbers of prisoners held before trial or in “administrative detention” would change that ratio, possibly dramatically.

The range in incarceration rates is enormous, and some of the changes reported for the same country in successive editions of the prison population list are so large as to be hard to explain. However, grouping by regions tends to iron out the greatest disparities. On that basis, in western and central African states, the median rate is less than 50 per 100,000, whereas in southern African states, it is over 325 per 100,000. In South American countries, the median rate is around 125 per 100,000, but for the Caribbean it is almost 300 per 100,000. On the Indian subcontinent, the rate is just over 50, but in the central Asian states formerly part of the Soviet Union, the rate is almost 400 per 100,000. In southern Europe, the median is about 75 per 100,000, but for central and eastern Europe, formerly part of the Soviet bloc, the rate is approximately 200 per 100,000. The Scandinavian countries range from 60 to 75 per 100,000, with the larger countries of western Europe having rates between 75 and 100, whereas England and Wales have a rate of over 140 per 100,000.

Penal reform organizations sometimes use these incarceration rates as ammunition to suggest that some countries are too punitive, or at least use imprisonment to a disproportionate degree compared to others. They could equally be used, of course, to argue the opposite when compared to another set of countries. But both arguments would be inappropriate, because we know that, in advanced Western societies at least, most crime is committed by young males, and a fairer measure would certainly use rates that took account of the age structure of the population, not just its size. Even that would not provide a measure of punitiveness, because one must know the amount and nature of crime, to which imprisonment constitutes part of the response, before gauging a society’s punitiveness (see the discussion of these issues in Pease 1994). I shall illustrate this by reference to a comparison of the use of imprisonment in Russia, the United States, and England and Wales over the ten years from 1992 to 2001 when crime rates, which have been presented elsewhere (King and Piacentini 2005), are taken into account. The figures are presented in Table 2.1.

Table 2.1 Approximate Recorded Crime and Imprisonment Rates per 100,000 Population

		Russia	England and Wales	United States
1992	Crime rate	1,850	10,950	5,250
	Prison rate	480	90	470
2001	Crime rate	2,050	10,600	4,150
	Prison rate	670	130	690

(Note: Crime rates rounded to nearest 50, prison rates to nearest 10.)

The much-criticized imprisonment rate in England and Wales, high by European standards though low in comparison to Russia and the United States, begins to look more modest when set against the high rates of crime: more than twice the rate per 100,000 than the United States and five times the rate in Russia. The imprisonment rate for the United States, on the other hand, looks even more oppressive given the comparatively law-abiding nature of that society as reflected in its relatively low, and falling, level of recorded crime. Although the imprisonment rate in Russia continues to mirror that in the United States, it has held that rate (and since then reduced it further) despite the fact that crime rates there have been going up. It is important to enter caveats about such comparisons. It seems likely that the differences in rates of recorded crime are considerably exaggerated by differences in the degree of sophistication in recording criminal statistics and in the range of offenses that they cover, and the higher rate of crime in England and Wales has a preponderance of lesser offenses, whereas those for the United States and Russia include many more offenses of homicide and rape.

Although there are some countries in the world that are currently in the process of reducing their prison populations, sometimes dramatically (as in Russia in the last five or six years), and others such as Denmark have managed to maintain a steady state, the dominant trend, in more than two thirds of the countries in the world population list, has been upwards. Different countries began the ascent from different starting points, at different times, and proceeded at very different speeds, but there is space here only to consider the trends and the reasons for them in the United States and in England and Wales.

The United States has occupied a unique position, which, over the last three decades, has separated it to such an extent from the rest of the world that it has been characterized as pursuing a policy of “mass imprisonment,” which far exceeds the “great confinement” in Europe three centuries earlier. For most of the twentieth century, the incarceration rate in the United States oscillated between 100 and 120 per 100,000: close to the present levels in western Europe. At the beginning of the 1970s, in the wake of the Attica riot in upstate New York, reformers began to talk about a moratorium on prison

building, and the incarceration rate was at a historic low of 93 per 100,000. David Rothman (1971, 295) concluded his study of the asylum by suggesting that America was “escaping from institutional responses” and looked forward to a time “when incarceration will be used still more rarely than it is today.” But then, in every year since 1972 the rate has increased, at first relatively modestly, then accelerating at a remarkable rate (Zimring and Hawkins 1991). It continues to rise, although the rate of increase has slowed somewhat in the last few years.

Nowhere was the growth in prison numbers more spectacular than in California. As Zimring and Hawkins (1994) report, the prison population in California doubled between 1980 and 1985 and then doubled again between 1985 and 1990. At the beginning of the decade, California’s prison population was just half that in England and Wales; by the end, it was twice the size. California’s prison population increased more rapidly than that for the United States as a whole, but Zimring and Hawkins calculated that about half of the Californian increase could be accounted for by the national trend, and some further increase would have been expected simply as a result of an increase in population. However, overall the increase could not be accounted for by increases in (nondrug) crime or by overt government policies or legislative initiatives. Instead, they conclude that it was brought about by a revolution in sentencing practice whereby individual sentencers, responding to the public mood and political climate, began to use imprisonment more often in threshold cases—the numerous unremarkable cases of theft, burglary, assault, and drug-related offenses that form the bread and butter of the courts. This effect was then multiplied from the mid-1980s by an explosive increase in drug arrests arising from the “war on drugs”—despite the evidence that drug use had leveled out and was beginning to decline. In a later paper, Zimring (2001) describes the period since 1992 as one in which a new politics of punishment took hold and in which measures such as Megan’s Law, Three Strikes and You’re Out, and Truth-in-Sentencing added significantly to the length of time served: The mood was not just “lock ’em up” but also “throw away the key,” even though crime rates were falling. There are similar, as well as other, interpretations of this phenomenon in the thought-provoking collection edited by David Garland (2001) on mass imprisonment.

There is an ancient cliché that when the United States sneezes, the rest of the world catches cold. Given the strength of the relationships between Margaret Thatcher and Ronald Reagan and between Tony Blair and George W. Bush, it would not be surprising if the United Kingdom were peculiarly prone to infection. Indeed, in England and Wales, the growth followed a somewhat similar pattern, albeit on a more modest scale, and later in the day. After the riots at Strangeways Prison in Manchester and the publication

Table 2.2 Crimes and Prison Population 1991-2001

	British Crime Survey	Police recorded crime	Prison population
1991	15,125,000	5,075,000	44,809
2001	13,037,000	5,527,000	66,301
Percent change	-14	+9	+45

of Lord Justice Woolf's remarkable report (Home Office, 1991b) following his inquiry into the riot and the problems of the prison system, the prison population had been reduced to its lowest level for decades. Not long afterwards, as law and order became an election issue, the penal rhetoric changed. Table 2.2 shows the figures for recorded crimes and the prison population, together with the estimated total crime rate from the British Crime Survey (generally taken to be a better indicator of trends because of the influence of changes in recording practice and other matters that impact on the official figures of crimes known to the police) from 1991 to 2001.

It can be seen from Table 2.2 that the growth in the prison population far outstripped the growth in the official crime rate, which, to judge from the underlying downward trend revealed by the British Crime Survey, probably reflected either more reporting of crimes by the public or better recording by the police, or both, rather than a real increase in crime itself.

How might this growth in the prison population be explained? Hough, Jacobson, and Millie (2003) point out that it could not be explained by an increase in remanding prisoners before trial because the proportion of untried prisoners went down from 16.5 percent at the beginning of the period to 10.2 percent at the end. Nor could it be explained by an increase in the total number of convictions in the criminal courts because these too declined over the period by 1 percent, although it may be significant that there was a massive 92 percent increase in convictions for drug offenses. Rather, what happened was that, in response to urging from politicians who capitalized on the fears of citizens, the courts began to impose longer sentences especially for sexual offenses and for burglary, and to impose sentences of immediate imprisonment or community penalties for offenders who would previously have been discharged, fined, or given suspended sentences, as is shown in Table 2.3.

The result of these changes in sentencing has been to put the prison and probation services under enormous pressure—the former through overcrowding

Table 2.3 Percentage Court Disposals in England and Wales: 1991-2001

	1991	2001
Discharge	17.5	15.5
Fines	37.4	25.9
Community orders	16.7	26.4
Suspended custody	9.7	1.0
Immediate custody	16.5	27.9
Other	2.3	3.2

and difficulties in providing opportunities for work, education, and programs to address offending behavior, and the latter by clogging up case loads with minor offenders who divert resources away from more serious offenders who warrant closer community supervision.

2.4 The Changing Nature of Prison Populations

David Garland's characterization of mass imprisonment involves two essential elements. The first obviously relates to sheer numbers. It implies a rate of imprisonment and a size of prison population markedly above historical and comparative norms. The United States certainly meets those criteria. The second, however, relates to the systematic incarceration of whole groups of the population rather than the imprisonment of individual offenders. The group that Garland and most other writers on the subject have in mind is young, black, urban males, and there is abundant evidence that this group bears the brunt of criminal justice policies in the United States. Garland points out that for this group, imprisonment has become part of the socialization process. Everyone in these neighborhoods has direct knowledge of prison through the experience of family members, friends, or neighbors. To an increasing degree, Hispanics are following in their footsteps. Although Garland wishes to distinguish this from the old Soviet Gulag and suggests that mass imprisonment in the United States is an altogether new phenomenon, it is worth mentioning that when I was actively researching imprisonment in Russia in the early 1990s (King 1994; King and Piacentini 2005), at a time when the incarceration rate for the Russian Federation was higher than that for the United States and had been so for generations, I was struck by the fact that almost every family I met had experience of prison—either because they had themselves been incarcerated or friends or family members had been incarcerated. This contrasts markedly with the United States or the United Kingdom, where it is still the case that the vast majority of the population have no experience whatever of custody. The difference between these situations seems to be that in Russia, the prison permeated the whole of society and impacted upon ethnic majorities and elites as well as minorities, whereas in the United States it has acted upon an underclass, which it helped to create and now perpetuates.

Perhaps we should begin with a glance at what the prison population looked like in the United States in 1970 at the end of the period of stability, and before the takeoff into astronomic growth. There were then nearly 200,000 prisoners serving a year or more, 21,094 in federal prisons and 177,737 in state prisons, plus a further 129,189 in local jails. In the federal system, 4.3 percent were women, compared to 3.3 percent in state prisons

and 5.8 percent in the jails. The majority of prisoners were white: 69.6 percent in federal institutions and 56.2 percent in both state prisons and local jails. Black prisoners were already substantially over-represented and accounted for 28.8 percent of federal and 42 percent of state prisoners, and 40.9 percent of those in jails. Persons of Spanish origin accounted for 8.3 percent of federal prisoners, 6.7 percent of state prisoners, and 6.4 percent of jail inmates. Crime was then and still is a young man's game, and this was largely reflected in the age structure of the population in confinement, with about 55 percent being under the age of thirty and only about 4 percent over the age of fifty-five years. Details on the offenses for which people were sentenced are not complete nor supplied in convenient form to summarize for state prisons, and they are not always relevant for the jails, where a substantial proportion were not convicted. But as far as federal prisoners were concerned, the largest group of prisoners, 33.5 percent, were in custody for offenses of dishonesty, excluding white-collar crimes of embezzlement and tax evasion, with a further 21.9 percent convicted of transporting stolen vehicles. Violence accounted for 18 percent and drug offenses for 16.3 percent.

Before I describe the changes in the prison population in the United States, however, I need to draw a distinction between prison populations and prison receptions, because the distinction is vital to unpicking some of the political rhetoric. The distinction is often likened to that between stock and flow in industrial or commercial enterprises. Prisoners are counted as they are received into prison from the courts, and the numbers of receptions in a given year will always be greater than the number of people because some will be received several times—either because they are remanded in custody each time their trial is adjourned for one reason or another or because they may receive a very short sentence of imprisonment, be released, reoffend, and return to prison within the year. This is part of the flow. The other part is persons who have been in custody for longer periods, but are then released either on parole or other early release scheme or at the end of their sentence, some of whom will also return as either parole violators or for new offenses. The prison population refers to the numbers of persons in custody at any one time and is obviously a function of the numbers of persons received and the length of time they stay—with those serving longer sentences accumulating in the prison statistics year by year. Population data may be published either as an average daily population (as in the United Kingdom) or as year-end data or else on the basis of periodic censuses or as estimates based on sampling techniques.

Data on the more than 3,000 U.S. jails are still relatively hard to come by and exist in the form of periodic censuses or estimates based on surveys conducted between censuses, and they rarely include information on discharges. Frase (1998) reports that there were about 13,245,000 jail admissions

in 1993, of which 9,796,000 were “new” bookings. On the basis that the average jail population that year was 466,155, it was possible to calculate that the mean length of stay was about thirteen days, albeit with a highly skewed distribution in which large numbers spent very short periods, but a few prisoners had much longer stays forming a long tail (population divided by receptions equals time in years). By mid-year 2003, the jail population had risen to 691,301, having grown at the rate of about 4 percent a year on average over the period (Bureau of Justice 2004). The great majority, 88.1 percent, of the local jail population in 2003 were males, though that proportion has been steadily falling year on year as the numbers of women admitted to the jails have increased. Although whites form the biggest proportion of the jail population at 43.6%, nearly six in every ten are from ethnic minorities: 39.2 percent black, 15.4 percent Hispanic, and 1.8 percent of other ethnic origin. Over the last decade, these proportions have been relatively static. There have, however, been significant changes in the legal status of those detained, with 39.4 percent being convicted, down from about 45 percent a decade earlier, and 60.6 percent being held before trial, up from about 55 percent over the period. It is generally recognized that the growth in jail populations and the skewing towards more blacks and more females really took off in the 1980s under the influence of the war on drugs. But as arrest rates and convictions began to level off in the 1990s, the jail population continued to rise, suggesting that the courts became more punitive in their sentencing.

The data on state and federal prisons while deficient in many respects, are probably more reliable. The latest figures available at the time of writing (Bureau of Justice 2003) relate to 2002, during which year there were 663,521 admissions to state and federal prisons compared to 518,562 a decade earlier: an increase of about 22 percent. Given that the state prison population increased by about 54 percent over the same period and the federal prison population doubled, it is clear that a major factor driving the population increase is longer sentences. In 2002, there were 48,144 admissions to federal prisons and only 42,339 releases, while state prisons admitted 615,377 prisoners and released 569,599. With these kinds of flows, it is not hard to see how the prison population continues to grow even if at a slower rate than during the previous two decades.

The vast majority of state and federal prisoners are males (fifteen times as many men as women) but although both sexes are increasing in the prison population, the numbers of women, just as in the jails, are rising more quickly than the numbers of men: increases of 4.9 percent and 2.4 percent, respectively, in 2002. A decade earlier, men outnumbered women in the prison population by about twenty to one (and in 1970, by thirty to one). One third of these women prisoners are held in just three jurisdictions: Texas, California, and the federal prison system. Whereas in 1970, white prisoners accounted

for 57.6 percent of all state and federal prisoners serving a year or more, this had fallen to about 34 percent in 1993 and remained about the same at year-end 2002. Black prisoners, who comprised about 41 percent in 1970, had risen to just over 50 percent in 1992 and remained an absolute majority for some years before falling back to about 45 percent by the end of 2002. The main reason for this latest change in the composition of the prison population has been the rapid growth of Hispanics, who accounted for an estimated 7 percent in 1970, 14 percent in 1993, and 18 percent at year-end 2002. Although the numbers were much lower for females, the racial distribution was broadly similar. In 1970 (when they were not separately identified but were reported as either white or black), the prison population was predominantly young, with 55 percent of the population *under* the age of thirty, but today it is much older. In 2002, almost 60 percent of male prisoners and more than 65 percent of females were *over* the age of thirty, and a group about the size of the total prison population of England and Wales were approaching or above retirement age: a product not just of the graying of America, but of increases in the length of sentences and the fact that those sentenced to longer terms stack up in the prison population year on year.

The broad trends, then, are clear enough. There has been a major change in the composition of the population in state and federal prisons and jails in the United States, so that what was once the preserve of white Americans is now dominated by a preponderance of Afro-Americans with a rapidly growing proportion of Hispanics (and smaller, but still over-represented, groups of Native Americans and Asians). Furthermore, although the prisons and jails are still predominantly male institutions, the number of women in prison has been growing more rapidly so that women now make up about 7 percent of the total.

Considerable attention has been given to the over-representation of Afro-Americans in the prison and jail population, where they appear four times as frequently as their numbers in the general population would warrant. However, Tonry (1994) has argued that this understates the level of racial disproportion because it takes no account of the under-representation of whites. Tonry suggests that rather than use total incarceration rates, it is necessary to use racially disaggregated incarceration rates in order to see the true extent of racial disproportion. On that basis, in 1993, the incarceration rate was 2,124 per 100,000 resident African-Americans, seven times the rate of 320 per 100,000 resident white Americans. There is much debate as to why this should be the case; for example, whether it reflects relative involvement in different types of crime, or whether it is a product of bias and discrimination from arrest to sentencing throughout the criminal justice system. Tonry (1995) has argued persuasively that the outcomes of drug laws and other legislative enactments could and should have been foreseen as likely to bear disproportionately on ethnic minorities who have become the victims

of “malign neglect.” But he has also argued, no less persuasively, that, when incarceration rates are disaggregated by ethnic groups, racial disproportion is no less in other countries in the English-speaking world. It is simply less visible only because the size of ethnic minorities in the general population is smaller than in the United States. If the size of the minority groups were larger in the wider community, and the (disaggregated) incarceration rates remained the same, then the relative ethnic composition of the prison population would more resemble that in the United States (Tonry 1994).

Several writers (Donziger 1995; Currie 1998; and others) have drawn attention to what these incarceration rates mean for the life chances of young black Americans. Current Bureau of Justice statistics suggest that about one in every ten black males aged between twenty-five and twenty-nine in the United States was in prison in 2002 and that figure rises to more than one in eight if the jail population is included. If the age group is widened to between twenty and twenty-nine, Mauer and Huling (1995) show that one in three black males were either in custody or subject to penal supervision of one kind or another. They estimate that 30 percent of black children born at that time would spend some of their lives in prison, compared to 14 percent of Hispanics and only 4 percent of whites. It is on the basis of these statistics that it has been possible to speak of mass imprisonment impacting systematically upon a whole generation of black citizens. One might add that in the land of the free, concerned to export democracy around the world, not only are such large numbers of its citizens incarcerated but many are subsequently deprived of the right to vote.

It is important to note that the federal prison system has been growing in recent years even more rapidly than state systems and, at year-end 2002, was the largest prison system in the United States, fractionally larger than California and Texas, its nearest rivals. It accounted for 20 percent of the increase in the prison population in 2002–2003, in part because it took over responsibility for felons previously under the jurisdiction of the District of Columbia. Before that, drug offenders brought into custody as a consequence of the war on drugs, a war declared several years after drug use had started to decline, provided the single most important cause of the increase in prison population, and that was most marked in the federal prison system. Whereas in 1970, drug offenders counted for just 16 percent of the 20,000 or so beds in federal prisons, more than half of the 157,000 federal prison places in 2001 were given over to drug offenders, with a quarter to public order offenders (nearly half of those being illegal immigrants) and only a little over 10 percent to violent offenders. For state systems, about half the beds are occupied by violent offenders, whereas about one in five places is taken up by property offenders and a similar number by drug offenders (although many of the property offenses and violent offenses may also have been drug related).

The Bureau of Justice (2004) statistics suggest that the largest growth in the prison population between 1995 and 2001 was accounted for by violent offenders—63 percent of the growth in the prison population—whereas drug offenders accounted for only 15 percent of the growth. That is true, but it can be misleading especially in the hands of mendacious politicians who may seek to create the impression that prisons are increasingly used to deal with the most violent offenders as a last resort. This is where it is important to remember the distinction between prison population and prison receptions. As Tonry (1995) has argued, persons convicted of violent offenses rightly and understandably receive longer sentences and so stack up in the prison population so that the proportion of violent offenders in the population will always be greater than those admitted during the course of the year. Indeed, they can continue to increase as a proportion of the prison population even as they decrease as a proportion of those admitted. A much larger proportion of offenders admitted for nonviolent offenses may, because of their shorter sentences, have a much lesser impact on the prison population.

It would be a surprising indictment of past criminal justice policies, of course, if the vast increases in the prison population brought in large numbers of the most serious offenders who had previously walked free. It stands to reason that such large increases would almost certainly involve sweeping up more people into the criminal justice system and sentencing persons who previously would have received noncustodial penalties to longer and longer periods of imprisonment. As a consequence of such net-widening, there has also been an increase of defaulters on noncustodial penalties who then receive custodial sentences, and parole violators who are returned to prison. Indeed at times, in some jurisdictions, parole violators have vied with persons newly sentenced by the courts for the greater share of admissions to custody.

In England and Wales, certainly, the growth of imprisonment has produced changes, which in some respects and to some degree resemble those that have occurred in the United States. Most markedly, the proportion of nonwhite offenders in the male prison population rose from about 15 percent in 1991 to about 20 percent in 2001, the proportion serving four years or more (the cutoff point for determining long sentences, which also triggers discretionary release by the Parole Board) from 37 percent to 48 percent over the same period, and the proportion over the age of thirty years from 40 percent to 47 percent. For women, who accounted for about 4 percent of the population in 1991 and about 6 percent in 2001, the changes have been less marked, and in one instance in the opposite direction. Between 1991 and 2001, the proportion of women serving four years or more rose from 35 percent to 40 percent, but there was only a very small change in the age structure, and nonwhites actually declined from 30 percent to 26 percent of the population.

The most dramatic change in the offenses for which the prisoners had been sentenced was in relation to drugs. That increase of 92 percent in convictions for drugs offenses that I mentioned above, even without the benefit of a declared war on drugs, had produced a near doubling of the proportion of drug offenders in the prison population from 9 percent in 1991 to 16 percent in 2001. There were consequential slight declines in the proportions of robbers, burglars, thieves, and fraudsters and somewhat larger declines in the proportion of persons convicted of sexual and violent offenses in the prison population.

2.5 The Sociology of Prisons

At the outset, I remarked that there is a sense in which a prison is a prison is a prison but that there are also myriad ways in which they differ and which have consequences for prisoners. In this section, I try to say something about the commonalities and the scope for variation, as we understand from the accumulation of sociological case studies and comparative studies, of what actually goes on in prison. However, I take as my starting point a rather strange experiment reported by the psychologists Haney, Banks, and Zimbardo (1973) on “interpersonal dynamics in a simulated prison” containing three small “cells,” which they established in a basement corridor of the psychology department at Stanford University. Out of seventy-five student volunteers who were given a battery of medical, psychological, and social tests, twenty-four students who were strangers to one another were selected for inclusion because they were the most stable, mature, and least involved in antisocial behavior. In the actual experiment, ten of these were allocated to the role of prisoners and were required to wear stocking caps on their heads and loose-fitting smock dresses without underclothes to represent the depersonalization of shaven heads and prison uniforms. They were told that although some of their civil rights would be suspended and they would be confined to their cells twenty-four hours a day, they would not suffer physical abuse and would be guaranteed food, medical care, and three supervised visits to the toilet each day (this was a makeshift prison). Eleven students were allocated to the role of guards, who worked three-person, eight-hour shifts but, when off-duty, were free to go home. Guards were simply told that they must not use physical punishments or be physically aggressive towards prisoners. All participants were paid fifteen dollars a day.

The experiment had to be terminated after six days instead of the intended fourteen, because four “prisoners” suffered extreme emotional depression, crying, rage, and acute anxiety (and another from a psychosomatic condition). Some of the “guards,” on the other hand, were disappointed

that the experiment had to be ended, because, according to the experimenters, “they now enjoyed the extreme control and power which they exercised and were reluctant to give it up.” This experiment is widely known and is often quoted with reference to the formation of authoritarian personalities—the authors suggesting that their “guards” developed pathological reactions because of the power of the social forces operating in the situation to which they were exposed. In this, it stands in a direct line with the experiments of Stanley Milgram (1965) a decade earlier, in which he encouraged subjects to administer what they thought were painful electric shocks despite their belief that the recipients were crying in agony. But it is also quoted as though it reflected the inevitable social forces and consequences that flow from the very existence of *the* prison as an institution and has been understood in that way by generations of students since.

Craig Haney has gone on to become one of the most distinguished and respected commentators on the psychological consequences of confinement, based on interviews with and clinical assessment of real prisoners, but the Stanford experiment has been strongly criticized on ethical grounds, and in my view rightly so. After all, this was around the time when Jessica Mitford (1973) and others exposed the extent to which real prisoners were being used unethically in medical experiments of one kind or another, and long after the United Nations Standard Minimum Rules for the treatment of prisoners had been promulgated, so one is entitled to ask why the experimenters thought it appropriate to expose students in the way that they did. But it is also vulnerable on scientific grounds. My scientific concern is that the experimental conditions they created in no sense represent *the* prison at all. At about the same time as these experiments were being conducted on unsuspecting California students, my colleague Kelsey Kauffman (who later went on to write one of the earliest and still one of the more important accounts of prison officers) and I took our Yale students for a voluntary seventy-two-hour incarceration at Haddam Academy, then (and perhaps still, for all I know) a former county jail used for staff training purposes by the Connecticut Department of Corrections (DOC). We were all prisoners, except Kauffman, who arranged the whole program with DOC. Because both Kauffman and I were experienced prison researchers, we briefed the students first and debriefed them afterwards in some very lively seminars. The guards during our lockup were all professional prison staff from the academy.

Of course, this experience was not totally realistic, neither for the students nor for me. For one thing, there are rather few coeducational prisons. For another, we all knew that this was just pretend and we approached it with good humor, albeit touched by not a little anxiety. Thus my futile attempt to masquerade as a slightly older student was doomed to failure because the guards, having been tipped off by Kauffman, knew I was the tutor and

contrived to “find” contraband in my cell and put me on a charge. For still another, I knew (didn’t I?) that my wife would be there to collect me after my seventy-two hours of confinement, though the thought that she might run off with someone far more attractive was harder to hold at bay when I was found guilty of possessing the wherewithal for brewing prison “pruno” and thrown in “the hole”: a metal cell within a cell used for segregation and punishment. After all, I most emphatically did not have the key to the door. But I suspect that we all learned a great deal more about prisons from this experience than did either the participants or the experimenters at Stanford. We all went through the humiliating routines of strip-searching and cheek-spreading, and attending to the needs of nature in semipublic conditions. But we also became somewhat accomplished (it’s harder than you might think) at making and using rat lines for passing goods and messages between cells, for example, and using a mirror to detect the approach of guards, who for the most part treated us as though we were “normal” prisoners in the Connecticut DOC. We agreed on some basic ground rules of prisoner solidarity and survival, including which guards to trust and which would be most likely to deal sympathetically with our requests or complaints.

What was the difference between these two unreal situations, and which better resembled the prison experience? Several things: At Haddam, as at all prisons in my experience, there were rules governing the behavior of guards; the guards had received some training in the discharge of their duties; there was a hierarchical system of control within which guards were supervised by superior officers; and there was some system for holding them to account after the event. To be sure, there are many prison systems where the rules are rudimentary, ill thought-out, and inappropriate; where the guards have the barest minimum of education and training; where supervision by superiors is ineffective or collusive and corrupt; and where mechanisms of accountability are near derisory. But except in parts of the Third World, those would be recognized as deviant cases. In Stanford there were, for all practical purposes, no rules other than an embargo against violence—had there not been, the experimenters might well have found themselves indicted before the courts. It should have come as no surprise that in the absence of rules, training, hierarchies of control, and systems of accountability, people given near absolute power over others behave badly. What the experimenters had set up was something that more closely resembled a concentration camp or an internment camp for prisoners of war than a prison. If there are lessons here, they relate to Guantanamo Bay and Abu Ghraib, though even there some system of accountability has kicked in.

In any event, here I wish to contest the view of the experimenters that the students assigned to guard and prisoner roles came to behave like *real* prison guards and *real* prisoners. Even at that time, there was sufficient prison

literature based on observational research to demonstrate that prisoners, far from being universally passive, actually respond to the experience of imprisonment in richly varied and complex ways. True, there was less data available about prison staff, and the stereotype of prison officers as rather brutish authoritarian figures was widely held by those outside prison and even reported in some of the scientific literature, for example, in the study of Pentonville (Morris, Morris, and Barer 1963) (yes, the same New Model Prison from 1842), where they were described as “military martinets.” But a moment’s serious thought would surely suggest that just as any other occupation offers scope for different types of recruits and different ways of approaching the job, the same might be true for prison officers. In short, the behavior of the student prisoners and guards was being compared with what the investigators *imagined* were the realities, not the realities themselves. What purported to be a scientific experiment about prisons turned out to be a metaphor about unregulated human behavior in much the same way as Foucault’s prison was a metaphor for the carceral society. Both need a firmer grounding in the real world. If we take anything from the Stanford experiment, it is that we need rules, and systems of accountability when they are broken, and that without these, human beings possessed of power may tend to abuse it. But despite its apparent scientific garb, the experiment tells us no more about the most basic human behavior in extremity than, say, Golding’s *Lord of the Flies*.

What is common to prisons is that prisoners have to come to terms with living their lives in custody against their will for the duration of their sentences. They have to come to terms with being separated from their normal way of life and from their families, and instead, with living with other prisoners and occupying themselves, if at all, from within a restricted range of employment, training, educational, or recreational activities. This whole experience is constrained by rules and regulations that may often make little sense but cover almost every aspect of life and that are administered by prison staff who, unlike themselves, go home at the end of their shift. Not surprisingly, prisoners may respond to this in various ways, but there seem to be three traditional responses, which have achieved archetypal status. They derive essentially from the work of John Irwin, himself once a convicted felon and now a retired university teacher in California and writer of several books on prisons, the first of which he dedicated to the 200,000 convicts then doing time in American prisons (those were the days!) (Irwin 1970). His observations on prison life, understandably, carry a special resonance and a degree of street credibility not normally available to prison sociologists. The three responses are *doing your own time*, *gleaning*, and *jailing*.

Doing your own time involves trying to get through your prison sentence as little touched by the experience as possible and thus to return to the

community so that you can pick up where you left off (always providing that the world outside hasn't changed beyond recognition meanwhile). It requires prisoners to keep their heads down and their noses clean, not to become overly involved in the prisoner community, nor with the staff other than what might be necessary to get by from day to day. Gleaning involves a resolve to use the prison experience and whatever legitimate opportunities it offers in order to return to the community as a changed character. A gleaner may take as many education courses as are offered, or seek to acquire new work or vocational skills, or perhaps get religion while inside. It is often the fate of gleaners that despite, or maybe because of, the fact that they are doing precisely what the authorities may ostensibly want them to do, they may not be believed. It may be said, for example, that he or she only took those courses "in order to get parole." Jailing involves a response whereby the prisoner participates fully in the subterranean life and culture of the prison and makes the prison world his or her own preferred world. Such prisoners might become involved in rackets controlling the supply of contraband goods and services, find themselves in constant friction with staff, or become in competition with other prisoners for reputation. Once on the outside, such prisoners may find themselves like fish out of water and quickly relapse into crime and the security of the prison world, which they know best.

These conceptual characterizations, developed in California, were found to be equally applicable in the context of English prisons by King and Elliott (1977) and have been confirmed in the experience of practitioners and observers in prison systems around the world. Of course, they are not the only possible responses to prison but they remain robust and powerful in that many, though not all, other responses described in the literature could be recharacterized as major or minor variations on, or combinations of, these three themes. And they demonstrate the oversimplification of the Stanford experiment. In reality, the same prisoner may act strategically and learn from his or her experience, at times veering towards one kind of response only to adopt a different response later as he or she navigates through his or her sentence.

But although all prisons have something in common with each other, they also vary widely both between and within jurisdictions, in part reflecting the cultural characteristics of the society in which they are embedded and the policies that give life to the way in which crime and criminals are viewed at particular points in history. At different times, prisons have been expected to punish those incarcerated with or without hard labor, to separate them from bad influences in the hope of reclaiming their souls, or otherwise to reform, re-educate, rehabilitate, treat, train, or simply incapacitate them, or to deter others from experiencing a similar fate. Often they may be expected to perform several of these tasks at one and the same time, and over the last

two hundred or so years, a great deal of effort has been expended to try to find effective techniques that could be deployed in furtherance of each of these endeavors. But quite apart from these formal and intended ways in which prisons may differ, there are many other incidental variables, which enter the equation with unintentional consequences. Most importantly, as we have seen, the nature and composition of the prison population changes, and it would be surprising if the sociology of the prison were not profoundly affected by whether the prison population comprised primarily debtors, as in the time of John Howard, or persons confined because of the dependence of themselves or others on drugs, as is the case today in some jurisdictions. To a possibly lesser, but certainly significant, extent (I know of no calculus to determine this precisely), what goes on in prison will also be affected by the numbers, nature, and training of staff, and the extent to which the walls of the prison may be permeated by visits by families, nongovernmental or intergovernmental organizations, the press, and the public. When reading the prison literatures, therefore, it is important to locate what are often case studies clearly in time and place before deciding whether or not what is reported is generalizable.

The early prison literature, primarily American, was perhaps overly concerned with what came to be called the “inmate world,” in which the strange and seemingly alien deviant behaviors of prisoners were displayed for a middle class, if primarily academic, audience for the first time (e.g., Schrag 1944). Much of this related to what has generally been referred to as the “Big House”: large state or federal penitentiaries, often a legacy of the nineteenth century, whose primary role was custodial and in which there was little by way of classification or programming beyond provision of a few workshops. Of course, all prisons are primarily custodial (a prison from which prisoners can easily escape is surely a contradiction in terms), but as some prisons began to take on a more modern treatment role in what are frequently referred to as correctional facilities in the United States, and training prisons in England and Wales, so the literature became dominated by the potential for tension between custodial and treatment objectives and between custodial and treatment staff (Cressey 1961; Street, Vinter, and Perrow 1966; Kassebaum, Ward, and Wilner 1971). Clemmer (1940), writing in the era of the Big House, provided one of the earliest accounts of the prison community and introduced the concept of *prisonization*—the extent to which new prisoners took on the “inmate culture.” According to Clemmer, prisoners became more prisonized the longer they were in prison. Two decades later, Wheeler (1961) and several others in a number of replications explored this process in the context of correctional institutions with some kind of treatment goals. Wheeler posited a U-curve in relation to prisonization, with new prisoners initially expressing conventional values and taking on inmate values as they

came closer to the midpoint of their sentence, only to resume more conventional values again as they approached release. Some of these studies, based on pencil-and-paper tests measuring attitudes and values rather than observation of real behaviors, were methodologically flawed and tended to see prisoner responses in as singular and monolithic a way (albeit substantively a very different way) as the responses depicted in the Stanford experiment.

It was not until Irwin's work that systematic attention was given to the varied ways in which prisoners responded to imprisonment based upon observation. However, it is necessary to point to Gresham Sykes's (1958) account of the society of captives, and his collaboration with Sheldon Messenger, as important milestones in prison sociology. Sykes focused, among other things, on the content of the inmate subculture and the values that sustained it, as well as the vital features of imprisonment to which it constituted a response. For Sykes and Messenger (1960), the inmate subculture was embodied in an inmate social code expressing core values about the way prisoners should behave towards each other and to the guards. These included such maxims as don't interfere with the interests of other prisoners; play things cool and do your own time; don't exploit other prisoners; don't weaken; maintain your own dignity whatever the system does; don't suck up to the guards, who should be treated with suspicion, and other similar injunctions. The function of the code was to maintain solidarity among prisoners and was seen as an understandable response to what Sykes (1958) calls "the pains of imprisonment." The pains of imprisonment arose from a series of deprivations: of liberty itself; of the goods and services normally available in the outside world; of heterosexual relationships, except in those jurisdictions that permit conjugal visits; of the autonomy to make decisions over even the simplest matters; and of safety and security, because one may spend one's time with violent persons not of one's own choosing. In this respect, though the pains of confinement might be more extreme, the prison constituted but one example of what Goffman (1961) calls total institutions, from monasteries to mental hospitals, which may vary in their goals and functions but share structural features in common, including ritualized relations between staff and inmates in which inmates develop an underlife in response to processes that deprive and depersonalize them.

This view of inmate culture as a response to the pains of imprisonment was challenged by Irwin, initially in a seminal paper with Donald Cressey (Irwin and Cressey 1962) and later in his book *The Felon* (Irwin 1970), by drawing attention to the obvious fact that prisoners did have an existence outside prison. Many of them had already been heavily involved in thief culture, which had elements in common with the inmate social code. The suggestion was that, in part at least, inmate culture was imported rather than generated from inside. This observation was soon reinforced by Jim Jacobs's

(1974, 1977) work on street gangs behind bars in Stateville Prison in Illinois (one of the few prisons built along the lines of Bentham's Panopticon) and is now blindingly obvious to anyone who observes the way in which repeat offenders returned to custody in large metropolitan prisons or jails greet people inside whom they knew on the streets. What this opened up was the possibility of a much more rounded sociology of the prison, which takes account of the multiplicity of prior biographies of prisoners—and also, of course, of staff—and the way they interact with different kinds of prison policies about treatment or punishment, security, and control as these are filtered down into different kinds of prison regimes. All prison sociology starts from this point, and an early attempt to explore the interaction between biographies of staff and prisoners and the prison regimes and the consequences for order and control when security goals came to override treatment goals is to be found in King and Elliott (1977).

The influence of the inmate social code was still in evidence during the age of the correctional facility, despite the softening of regimes and the well-intentioned activities of correctional counselors, as instanced by the remarks of prisoners reported in Kassebaum, Ward, and Wilner (1971) to the effect that when all is said and done, you are still doing time even if it is in a "pastel prison." But the inmate social code, as Sykes and Messenger well knew, was an ideal-typical construction, representing how prisoners *should* behave rather than how they *do* behave, and it was frequently honored more in the breach than the observance. Though it could sometimes be enforced with ferocity, it was by no means enforced with greater consistency than the criminal code in wider society. However, by the 1970s, prisons in the United States were already changing. The riot in 1970 at Attica Prison in upstate New York drew attention to the problems when a predominantly rural white guard force had custody of a predominantly black and metropolitan prison population. Newly politicized black prisoners participated in prisoners' rights movements, which had some impact upon the legal process and on prison conditions. But as black prisoners began to exceed the numbers of white prisoners in some prisons in New York, California, and Illinois, so white prisoners became fearful not just for their position in inmate society, but also for their lives. The riot at Santa Fe prison in 1980 and its dreadful aftermath indicated the growing power of groups such as the Mexican Mafia and presaged the regrouping of white prisoners, often in racially supremacist organizations such as the Aryan Brotherhood.

What once had seemed to be an ordered social structure with defined norms intended to promote a generalized solidarity among inmates against the staff had begun to crumble, with prisoners from different racial backgrounds set against each other. By 1980, John Irwin was writing about prisons in turmoil, and it was not long before Jim Jacobs (1983) was documenting

the surprising ways in which prison sociologists had largely ignored the issue of race relations in their discussions of prison culture, and he questioned whether there were limits to racial integration in prisons. In Britain, too, though the issues about race were much more subdued, escapes and riots meant that the attention of the authorities and, following them, the research community moved elsewhere. In an age of emerging mass imprisonment, attention moved to questions outside the prison: What was driving the growth in prisons? And so far as what went on in prisons was concerned, attention was turned towards questions about how could the rise in population be managed, how could order be maintained, how could escapes be prevented, and was it possible to prevent conditions in prisons deteriorating to unacceptable levels? Research on the prison community seemed something of a luxury and certainly became a rarity, although it is probable that what had been learned about the sociology of prisons was used by managers to break down inmate culture in their search for more effective control.

As American prisons began to divide on racial lines and different ethnic groups brought their own cultures, often with different modalities by which honor and reputation were bestowed, to the prison community, so the traditional values underpinning inmate culture began to be undermined. But there were other factors at work: professional thieves, burglars, and robbers (traditionally the most powerful carriers of thief and convict cultures) were no longer numerically the most dominant groups in prison. As we have seen, a huge growth in prisoners convicted of drug offenses made these prisoners either the majority or a significant minority in federal and many state prisons. For many of these, the need for drugs while in custody over-rode other considerations of solidarity and created lucrative opportunities for those able to supply those needs. Moreover, even racial solidarity began to break down under the pressures of local street gangs, often engaged in turf wars outside, who sought to protect their "homeboys" inside. Impressionistically, at least, the growth in violent crime in the wider American society was mirrored in its prisons by the seeming replacement of instrumental violence to achieve some objective, by expressive violence that often seemed either random or a disproportionate response to perceived grievances. When John Irwin talked about prisons in turmoil in 1980, he was describing a world that could no longer be understood in terms of the old literatures.

One effect of these changes was that, just as it became more necessary to undertake research, it became more difficult to do so. When I conducted research in maximum security prisons in the United States in 1984, I was told that white American sociologists could no longer research these environments without black or Hispanic colleagues, and even then they would be regarded with mistrust. As far as most prison authorities were concerned, notions of diagnosing the problems of prisoners and applying corrective

treatment programs had been abandoned. The best departments of corrections and the Federal Bureau of Prisons retained some vestige of the rehabilitative ideal, but in a much less active form and without this forming a stated aim of the institution. Educational and other programs were provided but the onus was placed upon prisoners to recognize their own needs and to seek or earn programs once they had decided to turn their lives around. When I returned to research supermax facilities between 1996 and 1999, educational, recreational, and vocational programs had been drastically curtailed if not eliminated, as politicians aimed both to demonstrate how tough they were on crime and criminals and to cut costs. Research access was rigorously controlled. I was accepted, by the authorities, staff, and prisoners, possibly because I spoke with a pronounced English accent and made it plain that I was a complete outsider who represented no one other than myself—someone who knew a fair amount about what went on in prisons in several countries and was anxious to learn any lessons there might be for the United Kingdom from the American experience.

In England and Wales, although there have been changes in the composition of the prison population—the increase in drug offenders and minor criminals who would previously have received noncustodial sentences—issues about race, expressive violence, or street gangs have not surfaced to anything like the same degree or with the same consequences as in the United States. Moreover, English prisons have been typically run with higher staff ratios and much closer relationships between prison officers and prisoners than in many other prison systems. Although there have been major confrontations between prisoners and staff, especially in the high-security prisons and institutions for young offenders, it is by no means clear that these will have followed from prisoners acting out elements of the inmate code, the presence of which has probably always been somewhat less evident than would appear to have been the case in the American Big House. I shall return to questions about disorder in the next section. Suffice it to say here that, as concerns about treatment and rehabilitation, which dominated the 1950s and early 1960s, were replaced by concerns about security and control in the minds of prison administrators during the 1970s and 1980s, so conditions in prisons across the system deteriorated (King and McDermott 1989).

Following the major disturbance at Strangeways Prison in Manchester, there was an increased commitment to tempering security and control with considerations of fairness and justice (Home Office 1991a, 1991b). But as British politicians began to follow the lead of their American counterparts, ratcheting up the law-and-order rhetoric, so the task of the central administration became reconfigured to one of managing the rapidly increasing population and trying to ensure that a so-called “decency agenda” was still

pursued even while it was made clear that prisoners had to earn whatever privileges came their way. In an age of “new managerialism,” the performance of prisons was evaluated against key performance indicators and targets, and so-called “failing prisons” were encouraged to improve under the threat of being “market tested” against what private contractors might provide. Prison research was increasingly directed and paid for by government, even if it was carried out under contract by university-based researchers.

Nevertheless, in a unique study, Liebling and Arnold (2004), conscious that performance culture focuses too much on what can be easily measured rather than what matters, attempted to measure what they call the moral performance of prisons. They measured regime dimensions, such as the extent to which the prison fostered a sense of fairness, order, safety, well-being, personal development, family contact, and decency, and relational dimensions, such as respect, humanity, trust, and support within staff-prisoner relationships. They argue that at the highest levels of prison management, there are often strongly held values, and these can and do help to shape prison culture, but they have to overcome more negative values located elsewhere. They conclude that in the prisons they studied, the material conditions scored better than relational matters, despite the fact that by common consent it is staff-prisoner interaction that is at the core of the prison experience. In a welcome return to the observational study of the inner life of a medium-security training prison in England, Crewe (2005) provides a finely nuanced account and analysis of the varied ways in which British prisoners behave and the values they hold. In that prison, at least, the ever-present backdrop of drugs; new mechanisms of penal administration offering prisoners incentives and earned privileges, and clearer pathways through their sentences towards parole; and a general improvement in conditions had undermined old bases for solidarity among prisoners and confrontations with staff. It seems likely that this applies in varying degrees throughout the system, though probably to a markedly lesser extent in the high-security estate.

It is important to note that although there are many similarities between British and American prisons arising from historical and language affinities, one should not expect this conceptual apparatus to be transportable to other prison systems without possibly considerable amendment. There is an emerging literature on prisons and prison culture in other societies, but where prison research, nevertheless, is still very much in its infancy (see King 1994; Oleinik 2003; and Piacentini 2004, for example, on Russia; Moczydlowski 1992 and Kaminski 2004 on Poland). In societies such as Russia, where the tradition in metropolitan prisons has been to house prisoners in large communal cells under the control of a prisoner cell boss, or in their corrective labor colonies, where sometimes several hundred prisoners would be under

the control of a single member of staff, known as a detachment head, one would expect a rather different social life to emerge. In Brazil, prisoners are sometimes housed in large pavilions, which staff only enter after negotiation with *faxinas*, or prisoner leaders, who are often placemen for the Premier Command of the Capital (PCC), a prison and criminal network that flourishes throughout Sao Paulo, greatly facilitated by the advent of the mobile phone. The *faxinas* control access to prison staff, medical treatment, and the distribution of all goods that are sent in by families. They charge their fellow prisoners for room and board in ways that would resemble eighteenth-century English garnish and chummage, were they not backed up by sometimes-lethal force. Brazil is one of those societies that offer conjugal visits to prisoners, and these take place in the pavilions themselves (Russia, to some extent, is another, though there, they take place in separate and rather homely surroundings). Whatever the benefit from relieving prisoners of the deprivation of heterosexual relationships, as mentioned by Sykes (1958), the Brazilian practice frequently leads to the exploitation of prisoners and pressures either to share their visitors with others or to use them as a conduit for bringing in drugs. The scope for further work on prison communities is potentially endless, and internationally comparative work would be particularly useful.

Much of the sociology of the prison directs our attention to the struggle for power where staff and inmate worlds meet, and it is to issues about security, order, and control that I turn in the next section.

2.6 Security, Order, Control, and the Supermax Phenomenon

In the nineteenth century in England and Wales, the separate system of prison discipline was taken to extremes such that prisoners wore caps with peaks that were pulled down over their faces to form masks whenever they were out of their cells, so that they could not make eye contact with other prisoners. Under the silent system in the United States, when prisoners were out of cells, they were required to walk in lockstep to one side of a line in the corridors, and the rule of silence at meals and in workshops was brutally enforced. Subjugation was the order of the day, and prisons were regimented, and to that degree orderly, places. But it was an order based on coercion, backed up by the use of force, whereby guards may be armed with guns or batons and where the lash was still a lawful punishment for offenses against prison discipline. Though strict discipline and corporal punishment lingered on well into the twentieth century, it was clear that goals of treatment, education, training, or rehabilitation could not be achieved by coercion alone. In order

to achieve compliance with such objectives, it was necessary to appeal to some degree of legitimacy about the nature of the requirements placed upon prisoners. The planned use of force has always been and remains an option to regain control, but once the routine (nonemergency) use of force was abandoned, either as an immediate possibility available to staff, or as a consequence of some kind of quasijudicial process following a breach of discipline, then the balance of power shifted. Prisoners were always going to be in a majority, but short of a successful mass outbreak were always likely to suffer the consequences of any insurrection. Experience shows that the authorities always eventually regain control of rioting prisoners even though the prison may have been destroyed and lives may have been lost. For prisoners, freedom ultimately depends upon the lawful completion of their sentences. In principle, the less trouble they bring on themselves the quicker is likely to be their release. Staff, on the other hand, were always going to be in a minority and therefore potentially vulnerable. Although they could likely count on reinforcements coming in emergencies, and upon the support of their superiors, the politicians, and the public for the actions they may reasonably have felt constrained to take, they also knew that in a riot they might be held to account by prisoners for the way they had behaved as guards. In short, most staff and most prisoners recognize that they all have a vested interest in a well-ordered prison, but most also recognize that it is a delicate balance to maintain and one that is never wholly within their own control. Not surprisingly, some of the most interesting work on prisons has addressed these issues of order and control, often in contexts where order had broken down, resulting in either escapes or riots.

It will be helpful, in the discussion that follows, to keep some clear analytical distinctions in mind in relation to issues concerning security, order, and control because the use of these terms in official discourse can often be confusing. I shall use the term *security* to relate specifically to the issues surrounding the central function of keeping prisoners in custody for the duration of their sentence. In this sense, from the staff's point of view, it has to do with the paraphernalia and procedures designed to prevent escapes, and from the prisoners' point of view, to the possibility of overcoming those procedures. *Order* relates to the fulfilled expectation that daily life will continue in predictable ways and in which staff and prisoners at least minimally respect one another. *Control* relates to techniques and procedures deployed formally or informally to foster and maintain a state of order and to restore it once it has been lost or placed under threat. It cannot be stressed too strongly that prisons are for most of the time remarkably orderly places, even though this has often surprised prison researchers.

Two sorts of confusion arise over the use of these terms. First, it is common for prison staff and for prison manuals to use the notion of security