Prison Life

LEARNING OBJECTIVES
After reading this chapter, you should be able to
• Describe the realities of prison life and prison subculture from the inmate’s point of view.
• Illustrate the significant differences between men’s prisons and women’s prisons.
• Describe the realities of prison life from the corrections officer’s point of view.
• Describe the causes of prison riots, and list the stages through which most riots progress.
• Discuss the legal aspects of prisoners’ rights, and explain the consequences of precedent-setting U.S. Supreme Court cases in the area of prisoners’ rights.
• Describe the major problems and issues that prisons face today.
INTRODUCTION

On the FOX TV show *Prison Break*, Wentworth Miller plays the role of an engineer named Michael Scofield who holds up a bank so that he can join his brother in the fictional Fox River State Penitentiary. Scofield’s brother, Lincoln (Dominic Purcell), has been convicted of a sensational murder and is housed on the prison’s death row. The show, which centers around Michael’s elaborate plan to break Lincoln out and to prove that he’s innocent, draws a large weekly audience and demonstrates the fascination that the American public has with prison life.

For many years, prisons and prison life could be described by the phrase “out of sight, out of mind.” Very few citizens cared about prison conditions, and those unfortunate enough to be locked away were regarded as lost to the world. By the mid-twentieth century, however, this attitude started to change. Concerned citizens began to offer their services to prison administrators, neighborhoods began accepting work-release prisoners and halfway houses, and social scientists initiated a serious study of prison life. Today, as shows like *Prison Break* make clear, prisons and prison life have entered the American mainstream. Part of the reason for this is because prisons today hold more people than ever before, and incarceration impacts not only those imprisoned but family members, friends, and victims on the outside.
This chapter describes the realities of prison life today, including prisoner lifestyles, prison subcultures, sexuality in prison, prison violence, and prisoners’ rights and grievance procedures. We will discuss both the inmate world and the staff world. A separate section on women in prison details the social structure of women’s prisons, daily life in those facilities, and the various types of female inmates. We begin with a brief overview of early research on prison life.

Research on Prison Life—Total Institutions

In 1935, Hans Reimer, who was then chairman of the Department of Sociology at Indiana University, set the tone for studies of prison life when he voluntarily served three months in prison as an incognito participant-observer. Reimer reported the results of his studies to the American Prison Association, stimulating many other, albeit less spectacular, efforts to examine prison life. Other early studies include Donald Clemmer’s *The Prison Community* (1940), Gresham Sykes’s *The Society of Captives* (1958), Richard Cloward and Donald Cressey’s *Theoretical Studies in Social Organization of the Prison* (1960), and Cressey’s edited volume, *The Prison* (1961).

These studies and others focused primarily on maximum-security prisons for men. They treated correctional institutions as formal or complex organizations and employed the analytic techniques of organizational sociology, industrial psychology, and administrative science. As modern writers on prisons have observed, “The prison was compared to a primitive society, isolated from the outside world, functionally integrated by a delicate system of mechanisms, which kept it precariously balanced between anarchy and accommodation.”

Another approach to the study of prison life was developed by Erving Goffman, who coined the term *total institution* in a 1961 study of prisons and mental hospitals. Goffman described total institutions as places where the same people work, recreate, worship, eat, and sleep together daily. Such places include prisons, concentration camps, mental hospitals, seminaries, and other facilities in which residents are cut off from the larger society either forcibly or willingly. Total institutions are small societies. They evolve their own distinctive values and styles of life and pressure residents to fulfill rigidly prescribed behavioral roles.

Generally speaking, the work of prison researchers built on findings of other social scientists who discovered that any group with similar characteristics confined in the same place at the same time develops its own subculture. Prison subcultures, described in the next section, also provide the medium through which prison values are communicated and expectations are made known. Learn more about prison research at Library Extra 14–1 at MyCrimeKit.com.
THE MALE INMATE’S WORLD

Two social realities coexist in prison settings. One is the official structure of rules and procedures put in place by the wider society and enforced by prison staff. The other is the more informal but decidedly more powerful inmate world. The inmate world, best described by how closely it touches the lives of inmates, is controlled by prison subculture. The realities of prison life—including a large and often densely packed inmate population that must look to the prison environment for all its needs—mean that prison subculture develops independently of the plans of prison administrators and is not easily subjected to the control of prison authorities.

Inmates entering prison discover a whole new social world in which they must participate or face consequences ranging from dangerous ostracism to physical violence and homicide. The socialization of new inmates into the prison subculture has been described as a process of prisonization—the new prisoner’s learning of convict values, attitudes, roles, and even language. By the time this process is complete, new inmates have become “cons.” Gresham Sykes and Sheldon Messinger recognized five elements of the prison code in 1960:

1. Don’t interfere with the interests of other inmates. Never rat on a con.
2. Don’t lose your head. Play it cool and do your own time.
3. Don’t exploit inmates. Don’t steal. Don’t break your word. Be right.
5. Don’t be a sucker. Don’t trust the guards or staff.

Some criminologists have suggested that the prison code is simply a reflection of general criminal values. If so, these values are brought to the institution rather than created there. Either way, the power and pervasiveness of the prison code require convicts to conform to the worldview held by the majority of prisoners.

Stanton Wheeler, Ford Foundation Professor of Law and Social Sciences at the University of Washington, closely examined the concept of prisonization in an early study of the Washington State Reformatory. Wheeler found that the degree of prisonization experienced by inmates tends to vary over time. He described changing levels of inmate commitment to prison norms and values by way of a U-shaped curve. When an inmate first enters prison, Wheeler said, the conventional values of outside society are of paramount importance. As time passes, inmates adopt the lifestyle of the prison. However, within the half year prior to release, most inmates begin to demonstrate a renewed appreciation of conventional values. Learn more about both the positive and negative impacts of imprisonment at Library Extra 14–2 at MyCrimeKit.com.

Different prisons share aspects of a common inmate culture. Prison argot, or language, provides one example of how widespread prison subculture can be. The terms used to describe inmate roles in one institution are generally understood in others. The term rat, for example, is prison slang for an informer. Popularized by crime movies of the 1950s, the term is understood today by members of the wider society. Other words common to prison argot are shown in the CJ Today Exhibit. View an online prisoner’s dictionary via Web Extra 14–1 at MyCrimeKit.com.

The Evolution of Prison Subcultures

Prison subcultures change constantly. Like any other American subculture, they evolve to reflect the concerns and experiences of the wider culture, reacting to new crime-control strategies and embracing novel opportunities for crime. The AIDS epidemic of the 1970s and 1980s, for example, brought about changes in prison sexual behavior, at least for a segment of the inmate population, and the emergence of a high-tech criminal group has further differentiated convict types. Because of such changes, John Irwin, as he was completing his classic study titled The Felon (1970), expressed worry that his book was already obsolete. The Felon, for all its insights into prison subcultures, follows in the descriptive tradition of works by Clemmer and Reimer. Irwin recognized that by 1970, prison subcultures had begun to reflect the cultural changes sweeping America. A decade later, other investigators of
prison subcultures were able to write, “It was no longer meaningful to speak of a single inmate culture or even subculture. By the time we began our field research . . . it was clear that the unified, oppositional convict culture, found in the sociological literature on prisons, no longer existed.”

Charles Stastny and Gabrielle Tynrauer, describing prison life at Washington State Penitentiary in 1982, discovered four clearly distinguishable subcultures: (1) official, (2) traditional, (3) reform, and (4) revolutionary. Official culture was promoted by the staff and by the administrative rules of the institution. Enthusiastic participants in official culture were mostly corrections officers and other staff members, although inmates were also well aware of the normative expectations that official culture imposed on them. Official culture affected the lives of inmates primarily through the creation of a prisoner hierarchy based on sentence length, prison jobs, and the “perks” that cooperation with the dictates of official culture could produce. Traditional prison culture, described by early writers on the subject, still existed, but its participants spent much of their time lamenting the decline of the convict code among younger prisoners. Reform culture was unique at Washington State Penitentiary. It was the result of a brief experiment with inmate self-government during the early 1970s. Some elements of prison life that evolved during the experimental period survived the termination of self-government and were eventually institutionalized in what Stastny and Tynrauer called “reform culture.” They included inmate participation in civic-style clubs, citizen involvement in the daily activities of the prison, banquets, and inmate speaking tours. Revolutionary culture built on the radical political rhetoric of the disenfranchised and found a ready audience among minority prisoners who saw themselves as victims of society’s basic unfairness. Although they did not participate in it, revolutionary inmates understood traditional prison culture and generally avoided running afoul of its rules.

The Functions of Prison Subcultures

How do social scientists and criminologists explain the existence of prison subcultures? Although people around the world live in groups and create their own cultures, in few cases does the intensity of human interaction approach the level found in prisons. As we discussed in Chapter 13, many of today’s prisons are densely crowded places where inmates can find no retreat from the constant demands of staff and the pressures of fellow prisoners. Prison subcultures, according to some authors, are fundamentally an adaptation to deprivation and confinement. In *The Society of Captives*, Sykes called these deprivations the “pains of imprisonment.” The pains of imprisonment—the frustrations induced by the rigors of confinement—form the nexus of a deprivation model of prison subculture. Sykes said that prisoners are deprived of (1) liberty, (2) goods and services, (3) heterosexual relationships, (4) autonomy, and (5) personal security—and that these deprivations lead to the development of subcultures intended to ameliorate the personal pains that accompany deprivation.

In contrast to the deprivation model, the importation model of prison subculture suggests that inmates bring with them values, roles, and behavior patterns from the outside world. Such external values, second nature as they are to career offenders, depend substantially on the criminal worldview. When offenders are confined, these external elements shape the social world of inmates.

The social structure of the prison—the accepted and relatively permanent social arrangements—is another element that shapes prison subculture. Clemmer’s early prison study recognized nine structural dimensions of inmate society. He said that prison society could be described in terms of

- Prisoner–staff dichotomy
- Three general classes of prisoners
- Work gangs and cell-house groups
- Racial groups
- Type of offense
Clemmer’s nine structural dimensions still describe prison life today. When applied to individuals, they designate an inmate’s position in the prison “pecking order” and create expectations of the appropriate role for that person. Prison roles serve to satisfy the needs of inmates for power, sexual performance, material possessions, individuality, and personal pleasure and to define the status of one prisoner relative to another. For example, inmate leaders, sometimes referred to as “real men” or “toughs” by prisoners in early studies, offer protection to those who live by the rules. They also provide for a redistribution of wealth inside prison and see to it that the rules of the complex prison-derived economic system—based on barter, gambling, and sexual favors—are observed. For an intimate multimedia portrait of life behind bars, visit Web Extra 14–2 at MyCrimeKit.com.

- Power of inmate “politicians”
- Degree of sexual abnormality
- Record of repeat offenses
- Personality differences due to preprison socialization

Web Extra 14–2

Prison Argot: The Language of Confinement

Writers who have studied prison life often comment on prisoners’ use of a special language or slang termed prison argot. This language generally describes prison activities and the roles assigned by prison culture to types of inmates. This box lists a few of the many words and phrases identified in studies by different authors. The first group includes words that are characteristic of men’s prisons; the second group includes words used in women’s prisons.

**MEN’S PRISON SLANG**
- Ace duce: A best friend
- Badge (or bull, hack, the man, or screw): A corrections officer
- Banger (or burner, shank, or sticker): A knife
- Billy: A white man
- Boneyard: The conjugal visiting area
- Cat-J (or J-cat): A prisoner in need of psychological or psychiatric therapy or medication
- Cellie: A cell mate
- Chester: A child molester
- Dog: A homeboy or friend
- Fag: A male inmate who is believed to be a “natural” or “born” homosexual
- Featherwood: A white prisoner’s woman
- Fish: A newly arrived inmate
- Gorilla: An inmate who uses force to take what he wants from others
- Homeboy: A prisoner from one’s hometown or neighborhood
- Ink: Tattoos
- Lemon squeezer: An inmate who masturbates frequently
- Man walking: A phrase used to signal that a guard is coming
- Merchant (or peddler): One who sells when he should give
- Peckerwood (or wood): A white prisoner
- Punk: A male inmate who is forced into a submissive role during homosexual relations
- Rat (or snitch): An inmate who squeals (provides information about other inmates to the prison administration)
- Schooled: Knowledgeable in the ways of prison life
- Shakedown: A search of a cell or of a work area
- Tree jumper: A rapist
- Turn out: To rape or make into a punk
- Wolf: A male inmate who assumes the dominant role during homosexual relations

**WOMEN’S PRISON SLANG**
- Cherry (or cherrie): A female inmate who has not yet been introduced to lesbian activities
- Fay broad: A white female inmate
- Femme (or mommy): A female inmate who plays the female role during lesbian relations
- Safe: The vagina, especially when used for hiding contraband
- Stud broad (or daddy): A female inmate who assumes the male role during lesbian relations

Prison Lifestyles and Inmate Types

Prison society is strict and often unforgiving. Even so, inmates are able to express some individuality through the choice of a prison lifestyle. John Irwin viewed these lifestyles (like the subcultures of which they are a part) as adaptations to the prison environment. Other writers have since elaborated on these coping mechanisms. Listed below are some of the types of prisoners that researchers have described.

- **The mean dude.** Some inmates adjust to prison by being violent. Other inmates know that these prisoners are best left alone. The mean dude is frequently written up and spends much time in solitary confinement. This role is most common in male institutions and in maximum-security prisons. For some prisoners, the role of mean dude in prison is similar to the role they played in their life prior to being incarcerated. Certain personality types, such as the psychopath, may feel a natural attraction to this role. Prison culture supports violence in two ways: (1) by expecting inmates to be tough and (2) through the prevalence of the idea that only the strong survive inside prison.

- **The hedonist.** Some inmates build their lives around the limited pleasures available within the confines of prison. The smuggling of contraband, homosexuality, gambling, drug running, and other officially condemned activities provide the center of interest for prison hedonists. Hedonists generally have an abbreviated view of the future, living only for the “now.”

- **The opportunist.** The opportunist takes advantage of the positive experiences prison has to offer. Schooling, trade training, counseling, and other self-improvement activities are the focal points of the opportunist’s life in prison. Opportunists are generally well liked by prison staff, but other prisoners shun and mistrust them because they come closest to accepting the role that the staff defines as “model prisoner.”

- **The retreatist.** Prison life is rigorous and demanding. Badgering by the staff and actual or feared assaults by other inmates may cause some prisoners to attempt psychological retreat from the realities of imprisonment. Such inmates may experience neurotic or psychotic episodes, become heavily involved in drug and alcohol abuse through the illicit prison economy, or even attempt suicide. Depression and mental illness are the hallmarks of the retreatist personality in prison.

- **The legalist.** The legalist is the “jailhouse lawyer.” Convicts facing long sentences, with little possibility for early release through the correctional system, are most likely to turn to the courts in their battle against confinement.

- **The radical.** Radical inmates view themselves as political prisoners. They see society and the successful conformists who populate it as oppressors who have forced criminality on many “good people” through the creation of a system that distributes wealth and power inequitably. The inmate who takes on the radical role is unlikely to receive much sympathy from prison staff.

- **The colonizer.** Some inmates think of prison as their home and don’t look forward to leaving. They “know the ropes,” have many “friends” inside, and may feel more comfortable institutionalized than on the streets. They typically hold positions of power or respect among the inmate population. Once released, some colonizers commit new crimes to return to prison.

- **The religious.** Some prisoners profess a strong religious faith. They may be born-again Christians, committed Muslims, or even satanists or witches. Religious inmates frequently attend services, may form prayer groups, and sometimes ask the prison
administration to allocate meeting facilities or to create special diets to accommodate their claimed spiritual needs. While it is certainly true that some inmates have a strong religious faith, staff members are apt to be suspicious of the overly religious prisoner.

- The gang-banger. Gang-bangers are affiliated with prison gangs and depend upon the gang for defense and protection. They display gang signs, sport gang-related tattoos, and use their gang membership as a channel for the procurement of desired goods and services both inside and outside of prison.

- The realist. The realist sees confinement as a natural consequence of criminal activity and as an unfortunate cost of doing business. This stoic attitude toward incarceration generally leads the realist to “pull his (or her) own time” and to make the best of it. Realists tend to know the inmate code, are able to avoid trouble, and continue in lives of crime once released.

Homosexuality in Prison

Sexual behavior inside prisons is both constrained and encouraged by prison subculture. One Houston woman, whose son is serving time in a Texas prison, explained the path to prison homosexuality this way: “Within a matter of days, if not hours, an unofficial prison welcome wagon sorts new arrivals into those who will fight, those who will pay extortion cash of up to $60 every two weeks, and those who will be servants or slaves. ‘You’re jumped on by two or three prisoners to see if you’ll fight,’ said the woman. ‘If you don’t fight, you become someone’s girl, until they’re tired of you and they sell you to someone else.’”

Sykes’s early study of prison argot found many words describing homosexual activity. Among them were the terms wolf, punk, and fag. Wolves were aggressive men who assumed the masculine role in homosexual relations. Punks were forced into submitting to the female role. The term fag described a special category of men who had a natural proclivity toward homosexual activity and effeminate mannerisms. While both wolves and punks were fiercely committed to their heterosexual identity and participated in homosexuality only because of prison conditions, fags generally engaged in homosexual lifestyles before their entry into prison and continued to emulate feminine mannerisms and styles of dress once incarcerated.

Prison homosexuality depends to a considerable degree on the naiveté of young inmates experiencing prison for the first time. Even when newly arrived inmates are protected from fights, older prisoners looking for homosexual liaisons may ingratiate themselves by offering cigarettes, money, drugs, food, or protection. At some future time, these “loans” will be called in, with payoffs demanded in sexual favors. Because the inmate code requires the repayment of favors, the “fish” who tries to resist may quickly find himself face-to-face with the brute force of inmate society.

The sexual coercion experiences of inmates were recently studied by Cindy Struckman-Johnson and David Struckman-Johnson, who obtained survey data from 1,788 male and 263 female inmates in ten midwestern prisons. 

(Sexual coercion involves “persuasion” and other techniques to gain victims’ unwilling compliance.) Survey results, which were published in 2006, showed that 21% of the men and 19% of the women reported having experienced one or more incidents of pressured or coerced sexual contact during their present incarceration. Most perpetrators of sexual coercion were men (91% of the male victims, but only 51% of the female victims reported a male perpetrator), and men were more likely than women (72% versus 47%) to be coerced by other inmates, while women were far more likely to be coerced into sexual relations by prison staff (41% of women inmates versus 8% of male inmates). More than half of all incidents of sexual coercion, however, involved multiple perpetrators.

Prison rape, which is generally considered to involve physical assault, represents a special category of sexual victimization behind bars. In 2003, Congress mandated the collection of statistics on prison rape as part of the Prison Rape Elimination Act (PREA). The purposes of the PREA are to

- Establish a zero-tolerance standard for prison rape
- Make prison rape prevention a top priority in correctional facilities and systems
- Develop and implement national standards for the detection, prevention, reduction, and punishment of prison rape
- Increase the availability of information on the incidence and prevalence of prison rape
- Increase the accountability of corrections officials with regard to the issue of sexual violence in U.S. prisons

The PREA requires the Bureau of Justice Statistics (BJS) to collect data in federal and state prisons, county and city jails, and juvenile institutions, with the U.S. Census Bureau acting as the official repository for collected data. In 2007, the BJS completed its third annual national survey of administrative records and adult correctional facilities for PREA purposes. The survey found that reports of sexual violence varied significantly between prisons and across states, with every state prison system except Alaska and New Mexico reporting at least one allegation of sexual violence. Among the 344 local jail jurisdictions participating in the survey, 47% reported at least one allegation of sexual violence. About 52% of privately operated prisons and jails similarly reported at least one such allegation. Overall, the survey found 5,605 allegations of sexual violence. Extrapolating from that data, BJS estimated that the total number of prison and jail sexual assaults throughout the nation for that year was around 6,500.

The PREA survey is only a first step in understanding and eliminating prison rape. As BJS notes, “Due to fear of reprisal from perpetrators, a code of silence among inmates, personal embarrassment, and lack of trust in staff, victims are often reluctant to report incidents to correctional authorities.” Learn more about the PREA and read new survey results as they become available via Web Extra 14–3 at MyCrimeKit.com.

An earlier but comprehensive review of rape inside male prisons was published in 2001 by Human Rights Watch. Entitled No Escape: Male Rape in U.S. Prisons, the 378-page report examined three years of research and interviews with more than 200 prisoners in 34 states. Perpetrators of prison rape were found to be young (generally 20 to 30 years old), larger or stronger than their victims, and “generally more assertive, physically aggressive, and more at home in the prison environment” than their victims. Rapists were also found to be “street smart” and were frequently gang members who were well established in the inmate hierarchy and who had been convicted of violent crimes. A large proportion of sexual aggressors are characterized by low education and poverty, having grown up in a broken home headed by the mother, and having a record of violent offenses. Lee H. Bowker, summarizing studies of sexual violence in prison, provides the following observations:

- Most sexual aggressors do not consider themselves homosexuals.
- Sexual release is not the primary motivation for sexual attack.
- Many aggressors must continue to participate in gang rapes to avoid becoming victims themselves.
- The aggressors have themselves suffered much damage to their masculinity in the past.

As in cases of heterosexual rape, sexual assaults in prison are likely to leave psychological scars on the victim long after the physical event is over. Victims of prison rape live in fear, may feel constantly threatened, and can turn to self-destructive activities. Many victims question their masculinity and undergo a personal devaluation. Some victims of prison sexual assault become violent, attacking and sometimes killing the person who raped them. The Human Rights Watch researchers found that prisoners “fitting any part of the following description” are more likely to become rape victims: “young, small in size, physically weak, white, gay, first offender, possessing ‘feminine’ characteristics such as long hair or a high voice; being unassertive, unaggressive, shy, intellectual, not street-smart, or ‘passive’; or having been convicted of a sexual offense against a minor.” The researchers also noted that “prisoners with several overlapping characteristics are much more likely than other prisoners to be targeted for abuse.”

The report concluded that to reduce the incidence of prison rape, “prison officials should take considerably more care in matching cell mates, and that, as a general rule, double-celling should be avoided.” Learn more about male rape in U.S. prisons at Library Extra 14–3 at MyCrimeKit.com.
As Chapter 13 showed, more than 115,770 women were imprisoned in state and federal correctional institutions throughout the United States at the middle of 2008, accounting for about 7% of all prison inmates. Texas had the largest number of female prisoners (11,980), exceeding even the federal government. Figure 14–1 provides a breakdown of the total American prison population by gender and ethnicity. While there are still far more men incarcerated across the nation than women (approximately 14 men for every woman), the number of female inmates is rising. In 1981, women made up only 4% of the nation’s overall prison population, but the number of female inmates nearly tripled during the 1980s and is continuing to grow at a rate greater than that of male inmates.

In 2003, the National Institute of Corrections (NIC) published the results of its three-year project on female offenders in adult correctional settings. Findings from the study produced the national profile of incarcerated women that is shown in Table 14–1. NIC says that “women involved in the criminal justice system represent a population marginalized by race, class, and gender.” Black women, for example, are overrepresented in correctional populations. While they constitute only 13% of women in the United States, nearly 50% of women in prison are black, and black women are eight times more likely than white women to be incarcerated.

Study authors found that most female offenders are nonviolent and that their crimes are typically less threatening to community safety than those of male offenders. Female offenders, according to the study, are disproportionately low-income women of color who are undereducated and unskilled, with sporadic employment histories. They are less likely than men to have committed violent offenses and are more likely to have been convicted of crimes involving drugs or property. Often, their property offenses are economically driven, motivated by poverty and by the abuse of alcohol or other drugs. The majority of offenses committed by women who are in prisons and jails are nonviolent drug and property crimes.

According to NIC, women face life circumstances that tend to be specific to their gender, such as sexual abuse, sexual assault, domestic violence, and the responsibility of being the

<table>
<thead>
<tr>
<th>TABLE 14–1 National Profile of Female Offenders</th>
</tr>
</thead>
<tbody>
<tr>
<td>A profile based on national data for female offenders reveals the following characteristics:</td>
</tr>
<tr>
<td>• Disproportionately women of color</td>
</tr>
<tr>
<td>• In their early to mid-30s</td>
</tr>
<tr>
<td>• Most likely to have been convicted of a drug-related offense</td>
</tr>
<tr>
<td>• From fragmented families that include other family members who have been involved with the criminal justice system</td>
</tr>
<tr>
<td>• Survivors of physical and/or sexual abuse as children and adults</td>
</tr>
<tr>
<td>• Individuals with significant substance-abuse problems</td>
</tr>
<tr>
<td>• Individuals with multiple physical and mental health problems</td>
</tr>
<tr>
<td>• Unmarried mothers of minor children</td>
</tr>
<tr>
<td>• Individuals with a high school or general equivalency diploma (GED) but limited vocational training and sporadic work histories</td>
</tr>
</tbody>
</table>

primary caregiver for dependent children. Research shows that female offenders differ significantly from their male counterparts regarding personal histories and pathways to crime. A female offender, for example, is more likely to have been the primary caretaker of young children at the time of her arrest, more likely to have experienced physical and/or sexual abuse, and more likely to have distinctive physical and mental health needs.

The most common pathways to crime for women, according to NIC, involve survival strategies that result from physical and sexual abuse, poverty, and substance abuse. Consequently, the first life circumstance that the NIC study examined closely was physical and sexual abuse. “Not all women who suffer abuse commit crimes, but one of the things most women in prison share is a background of victimization,” says Harvard University researcher Angel Browne. Supporting data come from BJS findings showing that about half (48%) of women in jail (but only 13% of men) and about half (48%) of women in state and federal prisons (but only 12% of men) had been physically or sexually abused before incarceration. Women in prison are three times more likely to have a history of abuse than men in prison. Approximately 37% of women in state prison, 23% of women in federal prison, 37% of women in jail, and 28% of women on probation reported physical or sexual abuse before the age of 18.

Other studies show a much higher rate of abuse than the BJS data. One study, for example, found that 80% of a sample of incarcerated women in California had been physically and/or sexually abused prior to incarceration. A later study found that more than 80% of the women incarcerated in North Carolina’s state prisons had been physically and/or sexually abused. In interviews with women at a New York maximum-security prison, Browne found that 70% of incarcerated women reported physical violence, and nearly 60% reported sexual abuse.

The link between female criminality and substance abuse is very strong, and it was the second life circumstance that the NIC study examined. Research shows that women are more likely to be involved in crime if they are drug users. Approximately 80% of women in state prisons have substance-abuse problems. About half of the female offenders in state prisons had been using alcohol, drugs, or both at the time of their offense. Nearly one in three women serving time in state prisons reported committing the offense to obtain money to support a drug habit. About half described themselves as daily users. To put these statistics into perspective, it is helpful to compare them to statistics on substance abuse among women in the general population. The Substance Abuse and Mental Health Services Administration reports that 2.1% of females in the United States age 12 and older had engaged in heavy alcohol use within the 30 days preceding the survey, 4.1% had used an illicit drug, and 1.2% had used a psychotherapeutic drug for a nonmedical purpose. By contrast, the National Center on Addiction and Substance Abuse found that 54% of female offenders in state prisons had used an illicit drug during the month before they committed their crimes, and 48% were under the influence of either alcohol or another drug when they committed their crimes. Among female offenders in federal prisons, 27% had used an illicit drug in the month before they committed their crimes, and 20% were under the influence when they committed their crimes.

Some complain that many women are being unfairly sent to prison by current federal drug policies for playing only minor roles in drug-related offenses. “We’ve gone from being a nation of latchkey kids to a nation of locked-up moms, where women are the invisible prisoners of drug laws, serving hard time for someone else’s crime,” says Lenora Lapidus, coauthor of the 2005 report Caught in the Net: The Impact of Drug Policies on Women and Families. “Even when they have minimal or no involvement whatsoever in the drug trade,” the report claims, “women are increasingly caught in the ever-widening net cast by current drug laws.” Caught in the Net is available at Library Extra 14-4 at MyCrimeKit.com.

The third life circumstance that the NIC study examined was physical health. Female inmates face health issues, including pregnancy, that differ from those of men. Women frequently enter jails and prisons in poor health, and they experience more serious health problems than do their male counterparts. Their poor health is often due to poverty, poor nutrition, inadequate health care, and substance abuse. It is estimated that 20% to 35% of
women attend prison sick call daily, compared with 7% to 10% of men. Women also have 
more medical problems related to their reproductive systems than do men. About 5% of 
women enter prison while pregnant, and most of these pregnancies are considered high risk 
due to a history of inadequate medical care, abuse, and substance abuse.

Sexually transmitted diseases are also a problem among female offenders. Approximately 
3.5% of women in prison are HIV-positive, and female prisoners are 50% more likely than 
males prisoners to be HIV-positive. The number of women infected with HIV has increased 
69% since 1991, while the number of infected male offenders has decreased by 22%. Female offenders are also at greater risk than nonincarcerated women for breast, lung, and 
cervical cancer. One study, for example, found that incarcerated women who reported sexual 
abuse before the age of 17 were six times more likely than those who did not experience 
this abuse to exhibit precancerous cervical lesions.

Women in prison have a higher incidence of mental disorders than do women in the community, and mental health was the fourth focus of the NIC study. One-quarter of women in state prisons have been identified as suffering from mental illness. The major diagnoses of mental illness are depression, post-traumatic stress disorder (PTSD), and substance abuse. Female offenders have histories of abuse that are associated with psychological trauma, and PTSD is a psychiatric condition often seen in women who have experienced sexual abuse and other trauma. Symptoms of PTSD include depression, low self-esteem, insomnia, panic, nightmares, and flashbacks. Approximately 75% of women who have serious mental illness also suffer from substance-abuse disorders, and about one-quarter of all women in state prisons are receiving medication for psychological disorders. A total of 22.3% of women in jail have been diagnosed with PTSD, 13.7% have been diagnosed with a current episode of depression, and about 17% are receiving medication for psychological disorders. Women with serious mental illness and co-occurring disorders experience significant difficulties in jail and prison settings, and the lack of appropriate assessment of and treatment for women with mental health issues is an ongoing problem in correctional settings.

Children and marital status were identified as a fifth important life circumstance by the NIC study. Eighty percent of women entering prison are mothers, and 85% of those women had custody of their children at the time of admission. Approximately 70% of all women under correctional supervision have at least one child younger than age 18. Two-thirds of incarcerated women have minor children; about two-thirds of women in state prisons and half of women in federal prisons had lived with their young children before entering prison. One out of four women entering prison has either recently given birth or is pregnant. Pregnant inmates, many of whom are drug users, malnourished, or sick, often receive little prenatal care—a situation that risks additional complications.

In 2007, 1.7 million American children had a parent in prison. The number of mothers who are incarcerated has more than doubled in the past 15 years, from 29,500 in 1991 to 65,600 in 2007. Statistically speaking, one out of every 43 American children has a parent in prison today, and ethnic variation in the numbers are striking. While only one out of every 111 white children has experienced the imprisonment of a parent, one out of every 15 black children has had that experience. Moreover, between 1991 and 2007, the number of incarcerated fathers rose 76%, while the number of incarcerated mothers increased by 122%.

Separation from their children is a significant deprivation for many women. Although husbands or boyfriends may assume responsibility for the children of their imprisoned partners, this outcome is the exception to the rule. Eventually, many children of imprisoned mothers are placed into foster care or are put up for adoption.

The effects of parental incarceration on children can be significant. A number of studies have shown that the children of incarcerated mothers experience alienation, hostility, anger, significant feelings of abandonment, and overall dysfunction. They are much less likely to succeed in school than their peers and are far more likely to involve themselves in gangs, sexual misconduct, and overall delinquency.

Some states offer parenting classes for female inmates with children. In a national survey of prisons for women, 36 states responded that they provide parenting programs that deal with caretaking, reducing violence toward children, visitation problems, and related issues. Some offer play areas furnished with toys, while others attempt to alleviate difficulties
attending mother–child visits. The typical program studied meets for two hours per week and lasts from four to nine weeks.

Of children whose fathers are incarcerated, approximately 90% live with their mothers; however, only 25% of the children of female offenders live with their fathers. Grandparents are most likely to be the caregivers of the children of female offenders. Approximately 10% of these children are in foster care or group homes. More than half of the children of female prisoners never visit their mothers during the period of incarceration. The lack of visits is due primarily to the remote location of prisons, a lack of transportation, and the inability of caregivers to arrange visitation.

Women under criminal justice supervision are more likely than the general population to have never been married. In one survey, nearly half of the women in jail and prison reported that they had never been married. Forty-two percent of women on probation reported that they had never been married, and about 31% of women in prison reported that they were either separated or divorced.

Education and employment were the final life circumstances that the NIC study examined. An estimated 55% of women in local jails, 56% of women in state prisons, and 73% of women in federal prisons have a high school diploma. Approximately 40% of the women in state prisons report that they were employed full-time at the time of their arrest. This compares with almost 60% of males. About 37% of women and 28% of men had incomes of less than $600 per month prior to arrest. Most of the jobs held by women were low-skill entry-level jobs with low pay. Two-thirds of the women reported they had never held a job that paid more than $6.50 per hour. Women are less likely than men to have engaged in vocational training before incarceration. Those who did receive vocational training in the community tended to focus on traditional women’s jobs, such as cosmetology, clerical work, and food service.

Gender Responsiveness

Critics have long charged that female inmates face a prison system designed for male inmates and run by men. Consequently, meaningful prison programs for women are often lacking, and the ones that are in place were originally adapted from programs in men’s prisons or were based on traditional views of female roles that leave little room for employment opportunities in the contemporary world. Many trade-training programs still emphasize low-paying jobs, such as cook, beautician, or laundry machine operator, and classes in homemaking are not uncommon.

A central purpose of the NIC report on the female offender was to identify effective gender-responsive approaches for managing female prisoners. The study defined gender responsiveness as “creating an environment . . . that reflects an understanding of the realities of women’s lives and addresses the issues of women.” The NIC report concluded with a call for recognition of the behavioral and social differences between female and male offenders—especially those that have specific implications for gender-responsive policies and practices. Among the report’s recommendations are the following:

- The creation of an effective system for female offenders that is structured differently from a system for male offenders
- The development of gender-responsive policies and practices targeting women’s pathways to criminality in order to provide effective interventions that address the intersecting issues of substance abuse, trauma, mental health needs, and economic marginality
- The modification of criminal justice sanctions and interventions to recognize the low risk to public safety represented by the typical female offender
- The consideration of women’s relationships, especially those with their children, and women’s roles in the community in deciding appropriate correctional sanctions

The NIC study concluded that gender-responsive correctional practices can improve outcomes for female offenders by considering their histories, behaviors, and life circumstances. It also suggested that investments in gender-responsive policy and procedures will likely produce long-term dividends for the criminal justice system and the community as well as

### Institutions for Women

Most female inmates are housed in centralized state facilities known as women’s prisons, which are dedicated exclusively to incarcerating female felons. Some states, however, particularly those with small populations, continue to keep female prisoners in special wings of what are otherwise institutions for men. Although there is not a typical prison for women, the American Correctional Association’s 1990 report by the Task Force on the Female Offender found that the institutions that house female inmates could be generally described as follows:

- Most prisons for women are located in towns with fewer than 25,000 inhabitants.
- A significant number of facilities were not designed to house female inmates.
- Some facilities that house female inmates also house men.
- Few facilities for women have programs especially designed for female offenders.
- Few major disturbances or escapes are reported among female inmates.
- Substance abuse among female inmates is very high.
- Few work assignments are available to female inmates.

### Social Structure in Women’s Prisons

“Aside from sharing the experience of being incarcerated,” says Professor Marsha Clowers of the John Jay College of Criminal Justice, “female prisoners have much in common.” Because so many female inmates share social characteristics like a lack of education and a history of abuse, they often also share similar values and behaviors. Early prison researchers found that many female inmates construct organized pseudofamilies. Typical of such studies are D. Ward and G. Kassebaum’s *Women’s Prison* (1966), Esther Heffernan’s *Making It in Prison* (1972), and Rose Giallombardo’s *Society of Women* (1966).

Giallombardo, for example, examined the Federal Reformatory for Women at Alderson, West Virginia, spending a year gathering data in the early 1960s. Focusing closely on the social formation of families among female inmates, she entitled one of her chapters “The Homosexual Alliance as a Marriage Unit.” In it, she described in great detail the sexual identities assumed by women at Alderson and the symbols they chose to communicate those roles. Hairstyle, dress, language, and mannerisms were all used to signify “maleness” or “femaleness.” Giallombardo detailed “the anatomy of the marriage relationship from courtship to ‘fall out,’ that is, from inception to the parting of the ways, or divorce.” Romantic love at Alderson was of central importance to any relationship between inmates, and all homosexual relationships were described as voluntary. Through marriage, the “stud broad” became the husband and the “femme” the wife.

Studies attempting to document how many inmates are part of prison “families” have produced varying results. Some found as many as 71% of female prisoners involved in the phenomenon, while others found none. The kinship systems described by Giallombardo and others, however, extend beyond simple “family” ties to the formation of large, intricately related groups that include many nonsexual relationships. In these groups, the roles of “children,” “in-laws,” “grandparents,” and so on may be explicitly recognized. Even “birth order” within a family can become an issue for kinship groups. Kinship groups sometimes occupy a common household—usually a prison cottage or a dormitory area. The descriptions of women’s prisons provided by authors like Giallombardo show a closed society in which all aspects of social interaction—including expectations, normative forms of behavior, and emotional ties—are regulated by an inventive system of artificial relationships that mirror those of the outside world.

Many studies of female prisoners have shown that incarcerated women suffer intensely from the loss of affectional relationships once they enter prison and that they form homosexual liaisons to compensate for such losses. Those liaisons then become the foundation of prison social organization.
Recently, Barbara Owen, professor of criminology at California State University, Fresno, conducted a study of female inmates at the Central California Women’s Facility (the largest prison for women in the world). Her book, “In the Mix”: Struggle and Survival in a Women’s Prison, describes the daily life of the inmates, with an emphasis on prison social structure. Owen found that prison culture for women is tied directly to the roles that women normally assume in free society as well as to other factors shaped by the conditions of women’s lives in prison and in the free world. Like Heffernan’s work, “In the Mix” describes the lives of women before prison and suggests that those lifestyles shape women’s adaptation to prison culture. Owen found that preexisting economic marginalization, self-destructive behaviors, and personal histories of physical, sexual, and substance abuse may be important defining features of inmates’ lives before they enter prison. She also discovered that the sentences that women have to serve, along with their work and housing assignments, effectively pattern their daily lives and relationships. Owen describes “the mix” as that aspect of prison culture that supports the rule-breaking behavior that propels women into crime and causes them to enter prison. Owen concludes that prison subcultures for women are very different from the violent and predatory structure of contemporary male prisons. Like men, women experience “pains of imprisonment,” but their prison culture offers them other ways to survive and adapt to these deprivations.

A 2001 study of a women’s correctional facility in the southeastern United States found that female inmates asked about their preincarceration sexual orientation gave answers that were quite different than when they were asked about their sexual orientation while incarcerated. In general, before being incarcerated, 64% of inmates interviewed reported being exclusively heterosexual, 28% said they were bisexual, and 8% said that they were lesbians. In contrast, while incarcerated these same women reported sexual orientations of 55% heterosexual, 31% bisexual, and 13% lesbian. Researchers found that same-sex sexual behavior within the institution was more likely to occur in the lives of young inmates who had had such experiences before entering prison. The study also found that female inmates tended to take part in lesbian behavior the longer they were incarcerated.

Finally, a significant aspect of sexual activity far more commonly found in women’s prisons than in men’s prisons is sexual misconduct between staff and inmates. While a fair amount of such behavior is attributed to the exploitation of female inmates by male corrections officers acting from positions of power, some studies suggest that female inmates may sometimes attempt to manipulate unsuspecting male officers into illicit relationships in order to gain favors.

Types of Female Inmates

As in institutions for men, the subculture of women’s prisons is multidimensional. Esther Heffernan, for example, found that three terms used by the female prisoners she studied—the square, the cool, and the life—were indicative of three styles of adaptation to prison life. Square inmates had few early experiences with criminal lifestyles and tended to sympathize with the values and attitudes of conventional society. Cool prisoners were more likely to be career offenders. They tended to keep to themselves and generally supported inmate values. Women who participated in the life subculture were quite familiar with lives of crime. Many had been arrested repeatedly for prostitution, drug use, theft, and so on. They were full participants in the economic, social, and familial arrangements of the prison. Heffernan believed that the life offered an alternative lifestyle to women who had experienced early consistent rejection by conventional society. Within the life, women could establish relationships, achieve status, and find meaning in their lives. The square, the cool, and the life represented subcultures to Heffernan because individuals with similar
adaptive choices tended to relate closely to one another and to support the lifestyle characteristic of that type.

Recently, the social structure of women’s prisons has been altered by the arrival of “crack kids,” as they are called in prison argot. Crack kids, whose existence highlights generational differences among female offenders, are streetwise young women with little respect for traditional prison values, for their elders, or even for their own children. Known for frequent fights and for their lack of even simple domestic skills, these young women quickly estrange many older inmates, some of whom call them “animalescents.”

Violence in Women’s Prisons

Some authors suggest that violence in women’s prisons is less frequent than it is in institutions for men. Lee Bowker observes that “except for the behavior of a few ‘guerrillas,’ it appears that violence is only used in women’s prisons to settle questions of dominance and subordination when other manipulative strategies fail to achieve the desired effect.”83 It appears that few homosexual liaisons are forced, perhaps representing a general aversion among women to such victimization in wider society. At least one study, however, has shown the use of sexual violence in women’s prisons as a form of revenge against inmates who are overly vocal in their condemnation of lesbian practices among other prisoners.84

Not all abuse occurs at the hands of inmates. In 1992, 14 corrections officers, ten men and four women, were indicted for the alleged abuse of female inmates at the 900-bed Women’s Correctional Institute in Hardwick, Georgia. The charges resulted from affidavits filed by 90 female inmates alleging “rape, sexual abuse, prostitution, coerced abortions, sex for favors, and retaliation for refusal to participate” in such activities.85 One inmate who was forced to have an abortion after becoming pregnant by a male staff member said, “As an inmate, I simply felt powerless to avoid the sexual advances of staff and to refuse to have an abortion.”86

To address the problems of imprisoned women, including violence, the Task Force on the Female Offender recommended a number of changes in the administration of prisons for women.87 Among those recommendations were these:

- Substance-abuse programs should be available to female inmates.
- Female inmates need to acquire greater literacy skills, and literacy programs should form the basis on which other programs are built.
- Female offenders should be housed in buildings without male inmates.
- Institutions for women should develop programs for keeping children in the facility in order to “fortify the bond between mother and child.”
- To ensure equal access to assistance, institutions should be built to accommodate programs for female offenders.

Learn more about women in prison and their special needs at Library Extras 14–6 and 14–7 at MyCrimeKit.com.

THE STAFF WORLD

The flip side of inmate society can be found in the world of the prison staff, which includes many people working in various professions. Staff roles encompass those of warden, psychologist, counselor, area supervisor, program director, instructor, corrections officer, and—in some large prisons—physician and therapist.

According to the federal government, approximately 748,000 people are employed in corrections,88 with the majority performing direct custodial tasks in state institutions: 62% of corrections employees work for state governments, followed by 33% at the local level and
5% at the federal level.89 On a per capita basis, the District of Columbia has the most state and local corrections employees (55.3 per every 10,000 residents), followed by Texas (43.8).90 Across the nation, 70% of corrections officers are Caucasian, 22% are African American, and slightly more than 5% are Hispanic.91 Women account for 20% of all corrections officers, with the proportion of female officers increasing at around 19% per year. The American Correctional Association (ACA) encourages correctional agencies to “ensure that recruitment, selection, and promotion opportunities are open to women.”92

 Corrections officers, generally considered to be at the bottom of the staff hierarchy, may be divided into cell-block guards and tower guards; others are assigned to administrative offices, where they perform clerical tasks. The inmate-to-staff ratio in state prisons averages around 4.1 inmates for each corrections officer.93

 Like prisoners, corrections officers undergo a socialization process that helps them function by the official and unofficial rules of staff society. In a classic study, Lucien Lombardo described the process by which officers are socialized into the prison work world.94

**Dress Codes and Public Safety**

On July 1, 2004, the New York City Commission on Human Rights ordered reinstatement of a New York Police Department (NYPD) officer who had quit the force in 2002 because supervisors would not allow him to wear a turban while working. Jasjit Jaggi is a Sikh whose religion mandates the wearing of turbans and beards by adult males as a sign of their faith. The order, compelling the police department to grant a Sikh employee a religious accommodation, was the first such ruling in the nation issued to a law enforcement agency.

In 2009, however, the U.S. Court of Appeals for the Third Circuit ruled that Officer Kimberlie Webb, who became a Sunni Muslim two years after joining the Philadelphia Police Department, could be made to follow the department’s uniform guidelines—meaning that she could not wear a head scarf (or hijab), as dictated by her religion, while on the job.

Although turbaned corrections officers, or women wearing the hijab, are a rarity in prisons, some observers have pointed to the possibility of similar lawsuits in the corrections arena. One way for agencies and businesses to avoid legal action comes from the resolution of a religious bias claim brought against United Airlines by a turban-wearing Sikh employee in 2001. Although airline regulations banned the wearing of headgear by employees while indoors, company officials were able to avoid civil liability by offering the man six alternative jobs where he could wear a turban.

**YOU DECIDE**

How might dress codes relate to public safety? Should agencies have the authority to enforce dress codes without fear of civil liability if those codes enhance public safety? What if they merely enforce uniformity of appearance? How do these ideas apply to correctional agencies?

Lombardo interviewed 359 corrections personnel at New York’s Auburn Prison and found that rookie officers quickly had to abandon preconceptions of both inmates and other staff members. According to Lombardo, new officers learn that inmates are not the “monsters” much of the public makes them out to be. On the other hand, rookies may be seriously disappointed in their experienced colleagues when they realize that the ideals of professionalism, often emphasized during early training, rarely translate into reality. The pressures of the institutional work environment, however, soon force most corrections personnel to adopt a united front when relating to inmates.

One of the leading formative influences on staff culture is the potential threat that inmates pose. Inmates far outnumber corrections personnel in every institution, and the hostility they feel for guards is only barely hidden even at the best of times. Corrections personnel know that however friendly inmates may appear, a sudden change in the institutional climate—from a simple disturbance in the yard to a full-blown riot—can quickly and violently unmask deep-rooted feelings of mistrust and hatred.

As in years past, prison staffers are still most concerned with custody and control. Society, especially under the just deserts philosophy of criminal sentencing, expects corrections staff to keep inmates in custody; this is the basic prerequisite of successful job performance. Custody is necessary before any other correctional activities, such as instruction or counseling, can be undertaken. Control, the other major staff concern, ensures order, and an orderly prison is thought to be safe and secure. In routine daily activities, control over almost all aspects of inmate behavior becomes paramount in the minds of most corrections officers. It is the twin interests of custody and control that lead to institutionalized procedures for ensuring security in most facilities. The enforcement of strict rules; body and cell searches; counts; unannounced shakedowns; the control of dangerous items, materials, and contraband; and the extensive use of bars, locks, fencing, cameras, and alarms all support the staff’s vigilance in maintaining security. See the CJ Today Exhibit box for the report of the Commission on Safety and Abuse in America’s Prisons.

The Professionalization of Corrections Officers

Corrections officers have generally been accorded low occupational status. Historically, the role of prison guard required minimal formal education and held few opportunities for professional growth and career advancement. Such jobs were typically low paying, frustrating, and often boring. Growing problems in our nation’s prisons, including emerging issues of legal liability, however, increasingly require a well-trained and adequately equipped force of professionals. As corrections personnel have become better trained and more proficient, the old concept of guard has been supplanted by that of corrections officer. The ACA’s code of ethics for correctional officers is reproduced in the “Ethics and Professionalism” box in this chapter.

Many states and a growing number of large-city correctional systems try to eliminate individuals with potentially harmful personality characteristics from corrections officer applicant pools. New Jersey, New York, Ohio, Pennsylvania, and Rhode Island, for example, have all used some form of psychological screening in assessing candidates for prison jobs.95

Although only a few states utilize psychological screening, all have training programs intended to prepare successful applicants for prison work. New York, for example, requires trainees to complete six weeks of classroom-based instruction, 40 hours of rifle range practice, and six weeks of on-the-job training. Training days begin around 5 a.m. with a mile run and conclude after dark with study halls for students who need extra help. To keep pace with rising inmate populations, the state has often had to run a number of simultaneous training academies.96

Actor Tom Hanks playing the role of a corrections officer in the movie The Green Mile. The job of a corrections officer centers largely on the custody and control of inmates, but growing professionalism is enhancing both personal opportunities and job satisfaction among officers. Why is professionalism important to job satisfaction?

Ralph Nelson, Jr./Castle Rock/Warner Brothers/The Picture Desk/Kobal Collection

The Professionalization of Corrections Officers

Corrections officers have generally been accorded low occupational status. Historically, the role of prison guard required minimal formal education and held few opportunities for professional growth and career advancement. Such jobs were typically low paying, frustrating, and often boring. Growing problems in our nation’s prisons, including emerging issues of legal liability, however, increasingly require a well-trained and adequately equipped force of professionals. As corrections personnel have become better trained and more proficient, the old concept of guard has been supplanted by that of corrections officer. The ACA’s code of ethics for correctional officers is reproduced in the “Ethics and Professionalism” box in this chapter.

Many states and a growing number of large-city correctional systems try to eliminate individuals with potentially harmful personality characteristics from corrections officer applicant pools. New Jersey, New York, Ohio, Pennsylvania, and Rhode Island, for example, have all used some form of psychological screening in assessing candidates for prison jobs.95

Although only a few states utilize psychological screening, all have training programs intended to prepare successful applicants for prison work. New York, for example, requires trainees to complete six weeks of classroom-based instruction, 40 hours of rifle range practice, and six weeks of on-the-job training. Training days begin around 5 a.m. with a mile run and conclude after dark with study halls for students who need extra help. To keep pace with rising inmate populations, the state has often had to run a number of simultaneous training academies.96
The Commission on Safety and Abuse in America’s Prisons

On June 8, 2006, the Commission on Safety and Abuse in America’s Prisons released its much-anticipated final report.1 The commission was formed in 2005 with support from the Vera Institute of Justice following the widely publicized scandals at Abu Ghraib prison in Iraq. The commission’s avowed purpose was to explore the most serious problems inside U.S. correctional facilities and to assess their impact on the incarcerated, corrections personnel, and society at large.2 “As President Bush was calling the abuse at Abu Ghraib ‘un-American,’” said the commission’s website, “many Americans raised questions about the treatment of prisoners here at home.”

The commission’s 21-member nonpartisan panel was co-chaired by former U.S. Attorney General Nicholas Katzenbach and the Honorable John J. Gibbons, former chief judge of the U.S. Third Circuit Court of Appeals.

During much of 2005 and into 2006, the commission held public hearings across the country and interviewed corrections professionals, legislators, and interested parties to explore the most serious problems facing correctional facilities today, including violence, sexual abuse, the degradation of prisoners, overcrowding, treatment for the mentally ill, and the working conditions of corrections officers. Interim reports were released following each hearing.

The commission’s final report was built around practical recommendations intended to be useful to local, state, and federal policymakers seeking to improve conditions in prisons and jails in their jurisdictions. Recommendations were made in the areas of violence reduction, health care, high-security segregation, correctional leadership and professionalism, oversight and accountability, and the development, collection, and use of standardized data helpful in the creation of public policy about prisons and jails.

Following are the commission’s recommendations in the area of correctional leadership:

1. **Promote a culture of mutual respect.** Create a positive culture in jails and prisons grounded in an ethic of respectful behavior and interpersonal communication that benefits prisoners and staff.

2. **Recruit and retain a qualified corps of officers.** Enact changes at the state and local levels to advance the recruitment and retention of a high-quality diverse workforce and otherwise further the professionalism of the workforce.

3. **Support today’s leaders and cultivate the next generation.** Governors and local executives must hire the most qualified leaders and support them politically and professionally, and corrections administrators must, in turn, use their positions to promote healthy and safe prisons and jails. Equally important is developing the skills and capacities of middle-level managers, who play a large role in running safe facilities and are poised to become the next generation of senior leaders.

To obtain more information about the commission and to read the commission’s final report, visit www.prisoncommission.org.

---


PRISON RIOTS

In 2004, a disturbance took place at the medium- to high-security Arizona State Prison Complex—Lewis. Two corrections officers and a staff member were injured in a ruckus that broke out during breakfast preparations, and two other officers were captured and held hostage for 15 days in a watchtower. The episode, which was followed by the major national news services, may have begun as an escape attempt. Officials were able to keep disorder from spreading to the rest of the facility, and the incident ended when inmates released the officers and surrendered. “It could have been a lot worse,” said Joe Masella, president of the Arizona Correctional Peace Officers’ Association. “Once these inmates get a taste of blood, so to speak, there’s no telling what they can do.”

Although today’s prisons are relatively calm, the ten years between 1970 and 1980 have been called the “explosive decade” of prison riots. The decade began with a massive

American Correctional Association Code of Ethics

PREAMBLE

The American Correctional Association expects of its members unfailing honesty, respect for the dignity and individuality of human beings, and a commitment to professional and compassionate service. To this end, we subscribe to the following principles:

- Members shall respect and protect the civil and legal rights of all individuals.
- Members shall treat every professional situation with concern for the welfare of the individuals involved and with no intent to personal gain.
- Members shall maintain relationships with colleagues to promote mutual respect within the profession and improve the quality of service.
- Members shall make public criticisms of their colleagues or their agencies only when warranted, verifiable, and constructive.
- Members shall respect the importance of all disciplines within the criminal justice system and work to improve cooperation with each segment.
- Members shall honor the public’s right to information and share information with the public to the extent permitted by law subject to individuals’ right to privacy.
- Members shall respect and protect the right of the public to be safeguarded from criminal activity.
- Members shall refrain from using their positions to secure personal privileges or advantages.
- Members shall refrain from allowing personal interest to impair objectivity in the performance of duty while acting in an official capacity.
- Members shall refrain from entering into any formal or informal activity or agreement which presents a conflict of interest or is inconsistent with the conscientious performance of duties.
- Members shall refrain from accepting any gifts, service, or favor that is or appears to be improper or implies an obligation inconsistent with the free and objective exercise of professional duties.
- Members shall clearly differentiate between personal views/statements and views/statements/positions made on behalf of the agency or association.
- Members shall report to appropriate authorities any corrupt or unethical behaviors in which there is sufficient evidence to justify review.
- Members shall refrain from discriminating against any individual because of race, gender, creed, national origin, religious affiliation, age, disability, or any other type of prohibited discrimination.
- Members shall preserve the integrity of private information; they shall refrain from seeking information on individuals beyond that which is necessary to implement responsibilities and perform their duties; members shall refrain from revealing nonpublic information unless expressly authorized to do so.
- Members shall make all appointments, promotions, and dismissals in accordance with established civil service rules, applicable contract agreements, and individual merit, and not in furtherance of partisan interests.
- Members shall respect, promote, and contribute to a workplace that is safe, healthy, and free of harassment in any form.

Adopted August 1975 at the 105th Congress of Correction. Revised August 1990 at the 120th Congress of Correction. Revised August 1994 at the 124th Congress of Correction.

THINKING ABOUT ETHICS

1. How does the American Correctional Association’s Code of Ethics differ from the American Jail Association’s Code of Ethics found in Chapter 13? How is it similar?

2. Do you think that one code of ethics should cover corrections officers working in both jails and prisons? Why or why not?

uprising at Attica Prison in New York State in September 1971, in which 43 deaths occurred and more than 80 men were wounded. The decade ended in 1980 in Santa Fe, New Mexico. There, in a riot at the New Mexico Penitentiary, 33 inmates died, the victims of vengeful prisoners out to eliminate rats and informants. Many of the deaths involved mutilation and torture. More than 200 other inmates were beaten and sexually assaulted, and the prison was virtually destroyed.

While the number of prison riots decreased after the 1970s, they did continue. For 11 days in 1987, the federal penitentiary in Atlanta, Georgia, was under the control of inmates. The institution was heavily damaged, and inmates had to be temporarily relocated while it was rebuilt. The Atlanta riot followed on the heels of a similar, but less intense, disturbance at the federal detention center in Oakdale, Louisiana. Both outbreaks were attributed to the dissatisfaction of Cuban inmates, most of whom had arrived in the mass exodus known as the *Mariel boatlift*.

Easter Sunday 1993 marked the beginning of an 11-day rebellion at the 1,800-inmate Southern Ohio Correctional Facility in Lucasville, Ohio—one of the country’s toughest maximum-security prisons. When the riot ended, nine inmates and one corrections officer were dead. The officer had been hung. The end of the riot—involving a parade of 450 inmates—was televised as prisoners had demanded. Among other demands were (1) no retaliation by officials, (2) review of medical staffing and care, (3) review of mail and visitation rules, (4) review of commissary prices, and (5) better enforcement against what the inmates called “inappropriate supervision.”

Riots related to inmate grievances over perceived disparities in federal drug-sentencing policies and the possible loss of weight-lifting equipment occurred throughout the federal prison system in October 1995. Within a few days, the unrest led to a nationwide lockdown of 73 federal prisons. Although fires were set and a number of inmates and guards were injured, no deaths resulted. In February 2000, a riot between 200 black and Hispanic prisoners in California’s Pelican Bay State Prison resulted in the death of one inmate. Fifteen other inmates were wounded. Then, in November 2000, 32 inmates took a dozen corrections officers hostage at the privately run Torrance County Detention Facility in Estancia, New Mexico. Two of the officers were stabbed and seriously injured, while another eight were beaten. The riot was finally quelled after an emergency-response team threw tear-gas canisters into the area where the prisoners had barricaded themselves.

In 2005, 42 inmates were injured when a fight broke out during breakfast between Hispanic and white prisoners at California’s San Quentin State Prison. The riot occurred in a section of the prison housing about 900 inmates who were under lockdown because of previous fighting between the groups. In 2008, the federal correctional institution in Three Rivers, Texas, was locked down following two gang-related fights that killed one inmate and injured 22. The altercations were broken up by corrections officers with the help of plumbers, electricians, secretaries, and others who were working at the facility at the time the fights broke out.

In 2009, four prisoners were hospitalized and about 700 had to be relocated after inmates set fire to the medium security Northpoint Training Center in Kentucky. About the same time, 200 inmates were injured in a riot at the California Institution for Men in Chino, California, when rioting at the institution left at least one building ablaze. The Chino facility is home to more than 5,900 inmates, many of whom are housed in old military-style barracks.

### Causes of Riots

Researchers have suggested a variety of causes for prison riots. Among them are these:

- An insensitive prison administration that neglects inmates’ demands. Calls for “fairness” in disciplinary hearings, better food, more recreational opportunities, and the like may lead to riots when ignored.
- The lifestyles most inmates are familiar with on the streets. It should be no surprise that prisoners use organized violence when many of them are violent people.
- Dehumanizing prison conditions. Overcrowded facilities, the lack of opportunity for individual expression, and other aspects of total institutions culminate in explosive situations, including riots.
A desire to regulate inmate society and redistribute power balances among inmate groups. Riots provide the opportunity to “cleanse” the prison population of informers and rats and to resolve struggles among power brokers and ethnic groups within the institution.

“Power vacuums” created by changes in prison administration, the transfer of influential inmates, or court-ordered injunctions that significantly alter the informal social control mechanisms of the institution.

Although riots are difficult to predict in specific institutions, some state prison systems appear ripe for disorder. The Texas prison system, for example, is home to a number of gangs—referred to by corrections personnel as security threat groups (STGs)—among whom turf violations can easily lead to widespread disorder. Gang membership among inmates in the Texas prison system, practically nonexistent in 1983, was estimated at more than 1,200 in 1992. The Texas Syndicate, the Aryan Brotherhood of Texas, and the Mexican Mafia (sometimes known as La Eme, Spanish for the letter M) are thought to be the largest gangs functioning in the Texas prison system. Each has around 300 members. Other gangs known to operate in some Texas prisons include Aryan Warriors, Black Gangster Disciples (mostly in midwestern Texas), the Black Guerrilla Family, the Confederate Knights of America, and Nuestra Familia, an organization of Hispanic prisoners.

Gangs in Texas grew rapidly in part because of the power vacuum created when a court ruling ended the “building tender” system. Building tenders were tough inmates who were given almost free rein by prison administrators in keeping other inmates in line, especially in many of the state’s worst prisons. The end of the building tender system dramatically increased demands on the Texas Department of Criminal Justice for increased abilities and professionalism among its guards and other prison staff.

The real reasons for any riot are specific to the institution and do not allow for easy generalization. However, a clue to prison unrest is provided when we consider that the “explosive decade” of prison riots coincided with the growth of a revolutionary prisoner subculture. As the old convict code gave way to an emerging perception of social victimization among inmates, it was only a matter of time until those perceptions sparked militancy.

**Stages in Riots and Riot Control**

Most prison riots are spontaneous and are typically the result of some relatively minor precipitating event. Generally, riots evolve through five phases: (1) explosion, (2) organization into inmate-led groups, (3) confrontation with authority, (4) termination through negotiation or physical confrontation, and (5) reaction and explanation, usually by investigative commissions. Donald Cressey points out that the early explosive stages of a riot often involve “binges” during which inmates exult in their newfound freedom with virtual orgies of alcohol and drug use or sexual activity. It is during this phase that buildings are burned, facilities are wrecked, and old grudges between individual inmates and inmate groups are settled, often through violence. After this initial explosive stage, leadership changes occur. New leaders emerge who, at least for a time, may effectively organize inmates into a force that can confront and resist officials’ attempts to regain control of the institution. Bargaining strategies then develop, and the process of negotiation begins.

In the past, many correctional facilities depended on informal procedures to quell disturbances, often drawing on the expertise of seasoned corrections officers who were veterans of past skirmishes and riots. Given the large size of many of today’s institutions, the changing composition of inmate and staff populations, and increasing tensions caused by overcrowding and reduced inmate privileges, the “old guard” system can no longer be depended on to quell disturbances. Hence most
modern facilities have incident-management procedures and systems in place in case a disturbance occurs. Such systems remove the burden of riot control from the individual officer, depending instead on a systematic and deliberate approach developed to deal with a wide variety of correctional incidents.

**PRISONERS’ RIGHTS**

In May 1995, Limestone Prison inmate Larry Hope was handcuffed to a hitching post after arguing with another inmate while working on a chain gang near an interstate highway in Alabama. Hope was released two hours later, after a supervising officer determined that Hope had not instigated the altercation. During the two hours that he was coupled to the post, Hope was periodically offered drinking water and bathroom breaks, and his responses to those offers were recorded on an activity log. Because of the height of the hitching post, however, his arms grew tired, and it was later determined that whenever he tried moving his arms to improve his circulation, the handcuffs cut into his wrists, causing pain.

One month later, Hope was punished more severely after he had taken a nap during the morning bus ride to the chain gang’s work site. When the bus arrived, he was slow in responding to an order to exit the vehicle. A shouting match soon led to a scuffle with an officer, and four other guards intervened and subdued Hope, handcuffing him and placing him in leg irons for transportation back to the prison. When he arrived at the facility, officers made him take off his shirt and again put him on the hitching post. He stood in the sun for approximately seven hours, sustaining a sunburn. Hope was given water only once or twice during that time and was provided with no bathroom breaks. At one point, an officer taunted him about his thirst. According to Hope: “[The guard] first gave water to some dogs, then brought the water cooler closer to me, removed its lid, and kicked the cooler over, spilling the water onto the ground.”

Eventually, Hope filed a civil suit against three officers, claiming that he experienced “unnecessary pain” and that the “wanton infliction of pain . . . constitutes cruel and unusual punishment forbidden by the Eighth Amendment.” His case eventually reached the U.S. Supreme Court, and on June 27, 2002, the Court found that Hope’s treatment was “totally without penological justification” and constituted an Eighth Amendment violation. The Court ruled, “Despite the clear lack of emergency, respondents knowingly subjected [Hope] to a substantial risk of physical harm, unnecessary pain, unnecessary exposure to the sun, prolonged thirst and taunting, and a deprivation of bathroom breaks that created a risk of particular discomfort and humiliation.”

In deciding the *Hope* case, the Court built on almost 40 years of precedent-setting decisions in the area of prisoners’ rights. Before the 1960s, American courts had taken a neutral approach—commonly called the **hands-off doctrine**—toward the running of prisons. Judges assumed that prison administrators were sufficiently professional in the performance of their duties to balance institutional needs with humane considerations. The hands-off doctrine rested on the belief that defendants lost most of their rights upon conviction, suffering a kind of **civil death**. Many states defined the concept of civil death through legislation that denied inmates the right to vote, to hold public office, and even to marry. Some states made incarceration for a felony a basis for uncontested divorce at the request of the noncriminal spouse. Aspects of the old notion of civil death are still a reality in a number of jurisdictions today, and the Sentencing Project says that 3.9 million American citizens across the nation are barred from voting because of previous felony convictions.

Although the concept of civil death has not entirely disappeared, the hands-off doctrine ended in 1970, when a federal court declared the entire Arkansas prison system to be unconstitutional after hearing arguments that it represented a form of cruel and unusual punishment. The court’s decision resulted from what it judged to be pervasive overcrowding and primitive living conditions. Longtime inmates claimed that over the years, a number of inmates had been beaten or shot to death by guards and buried in unmarked graves on prison property. An investigation did unearth some skeletons in old graves, but their origin was never determined.

Detailed media coverage of the Arkansas prison system gave rise to suspicions about correctional institutions everywhere. Within a few years, federal courts intervened in the **hands-off doctrine**

A policy of nonintervention with regard to prison management that U.S. courts tended to follow until the late 1960s. For the past 40 years, the doctrine has languished as judicial intervention in prison administration dramatically increased, although there is now some evidence that a new hands-off era is approaching.

**civil death**

The legal status of prisoners in some jurisdictions who are denied the opportunity to vote, hold public office, marry, or enter into contracts by virtue of their status as incarcerated felons. While civil death is primarily of historical interest, some jurisdictions still limit the contractual opportunities available to inmates.
The person of a prisoner sentenced to imprisonment in the State prison is under the protection of the law, and any injury to his person, not authorized by law, is punishable in the same manner as if he were not convicted or sentenced.

—Section 2650 of the California Penal Code

The person of a prisoner

The Legal Basis of Prisoners’ Rights

In 1974, the U.S. Supreme Court case of *Pell v. Procunier*\(^{117}\) established a “balancing test” that, although originally addressing only First Amendment rights, eventually served as a general guideline for all prison operations. In *Pell*, the Court ruled that the “prison inmate retains those First Amendment rights that are not inconsistent with his status as a prisoner or with the legitimate penological objectives of the corrections system.”\(^{116}\) In other words, inmates have rights, much the same as people who are not incarcerated, provided that the legitimate needs of the prison for security, custody, and safety are not compromised. Other courts have declared that order maintenance, security, and rehabilitation are all legitimate concerns of prison administration but that financial exigency and convenience are not. As the balancing test makes clear, we see reflected in prisoners’ rights a microcosm of the “individual rights versus public order” dilemma found in wider society.

Further enforcing the legal rights of prisoners is the Civil Rights of Institutionalized Persons Act (CRIPA) of 1980.\(^{119}\) The law, which has been amended over time, applies to all adult and juvenile state and local jails, detention centers, prisons, mental hospitals, and other care facilities (such as those operated by a state, county, or city for the physically challenged or chronically ill). Section 1997a of the act, entitled “Initiation of Civil Actions,” reads as follows:

Whenever the Attorney General has reasonable cause to believe that any State, political subdivision of a State, official, employee, or agent thereof, or other person acting on behalf of a State or political subdivision of a State is subjecting persons residing in or confined to an institution . . . to egregious or flagrant conditions which deprive such persons of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States . . . and that such deprivation is pursuant to a pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities, the Attorney General, for or in the name of the United States, may institute a civil action in any appropriate United States district court against such party for such equitable relief as may be appropriate.

Significantly, the most recent version of CRIPA also states\(^{20}\):

No action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.

Prisoners’ rights, because they are constrained by the legitimate needs of imprisonment, can be thought of as conditional rights rather than absolute rights. The Second Amendment to the U.S. Constitution, for example, grants citizens the right to bear arms. The right to arms is, however, necessarily compromised by the need for order and security in prison, and we would not expect a court to rule that inmates have a right to weapons. Prisoner rights must be balanced against the security, order-maintenance, and treatment needs of correctional institutions.

Conditional rights, because they are subject to the exigencies of imprisonment, bear a strong resemblance to privileges, which is not surprising since “privileges” were all that inmates officially had until the modern era. The practical difference between a privilege and a conditional right is that privileges exist only at the convenience of granting institutions and can be revoked at any time for any reason. The rights of prisoners, on the other hand, have a basis in the Constitution and in law external to the institution. Although the institution may restrict such rights for legitimate correctional reasons, those rights may not be infringed without cause that can be demonstrated in a court of law. Mere institutional convenience does not provide a sufficient legal basis for the denial of rights.
The past few decades have seen many lawsuits brought by prisoners challenging the constitutionality of some aspect of confinement. As mentioned in Chapter 11, suits filed by prisoners with the courts are generally called writs of *habeas corpus* and formally request that the person detaining a prisoner bring him or her before a judicial officer to determine the lawfulness of the imprisonment. The American Correctional Association says that most prisoner lawsuits are based on “1. the Eighth Amendment prohibition against cruel and unusual punishment; 2. the Fourteenth Amendment prohibition against the taking of life, liberty, or property without due process of law; and 3. the Fourteenth Amendment provision requiring equal protection of the laws.” Aside from appeals by inmates that question the propriety of their convictions and sentences, such constitutional challenges represent the bulk of legal action initiated by the imprisoned. State statutes and federal legislation, however, including Section 1983 of the Civil Rights Act of 1871, provide other bases for challenges to the legality of specific prison conditions and procedures.

**Precedents in Prisoners’ Rights**

The U.S. Supreme Court has not yet spoken with finality on many questions of prisoners’ rights. Nonetheless, high court decisions of the last few decades and a number of lower-court findings can be interpreted to identify the existing conditional rights of prisoners, as shown in Table 14–2. A number of especially significant Supreme Court decisions are discussed in the pages that follow.

**COMMUNICATIONS AND VISITATION** First Amendment guarantees of freedom of speech are applicable to prisoners’ rights in three important areas: (1) the receipt of mail, (2) communications with others, especially those on the outside, and (3) visitation.

Courts have generally not allowed restrictions on the receipt of published mail, especially magazines and newspapers that do not threaten prison security.

In 2006, in the case of *Beard v. Banks*, however, the U.S. Supreme Court held that prison officials in Pennsylvania could prohibit the state’s most violent inmates from receiving magazines, photographs, and newspapers sent to them in the mail. Pennsylvania Department of Corrections rules prohibit all inmates classified as disruptive and problematic and who are housed at the Long-Term Segregation Unit (LTSU) in LaBelle, Pennsylvania, from receiving newspapers or magazines from all sources, including publishers and the prison library. LTSU inmates are kept alone in their cells for 23 hours a day and are not permitted access to television or radio, although they are allowed to have and read religious literature. Visits from friends and family members are limited to one per month. Prison officials argued that the restrictions on print materials placed on LTSU inmates served legitimate penological interests by controlling materials that could be used to start fires and by providing incentives for improved inmate behavior. The Court agreed, holding that “prison officials have imposed the deprivation only upon those with serious prison-behavior problems; and those officials, relying on their professional judgment, reached an experience-based conclusion that the policies help to further legitimate prison objectives.”

In the case of *Procunier v. Martinez* (1974), the Supreme Court ruled that a prisoner’s incoming and outgoing mail may be censored if necessary for security purposes. In *McNamara v. Moody* (1979), however, a federal court upheld the right of an inmate to write vulgar letters to his girlfriend in which he made disparaging comments about the prison staff. The court reasoned that the letters may have been embarrassing to prison officials but that they did not affect the security or order of the institution. However, libelous materials have generally not been accorded First Amendment protection in or out of institutional contexts.
TABLE 14–2 The Conditional Rights of Inmates

<table>
<thead>
<tr>
<th>Communications and Visitation</th>
</tr>
</thead>
<tbody>
<tr>
<td>A right to receive publications directly from the publisher</td>
</tr>
<tr>
<td>A right to meet with members of the press&lt;sup&gt;b&lt;/sup&gt;</td>
</tr>
<tr>
<td>A right to communicate with nonprisoners</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Religious Freedom</th>
</tr>
</thead>
<tbody>
<tr>
<td>A right of assembly for religious services and groups</td>
</tr>
<tr>
<td>A right to attend services of other religious groups</td>
</tr>
<tr>
<td>A right to receive visits from ministers</td>
</tr>
<tr>
<td>A right to correspond with religious leaders</td>
</tr>
<tr>
<td>A right to observe religious dietary laws</td>
</tr>
<tr>
<td>A right to wear religious insignia</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Access to the Courts and Legal Assistance</th>
</tr>
</thead>
<tbody>
<tr>
<td>A right to have access to the courts&lt;sup&gt;c&lt;/sup&gt;</td>
</tr>
<tr>
<td>A right to visits from attorneys</td>
</tr>
<tr>
<td>A right to have mail communications with lawyers&lt;sup&gt;d&lt;/sup&gt;</td>
</tr>
<tr>
<td>A right to communicate with legal assistance organizations</td>
</tr>
<tr>
<td>A right to consult jailhouse lawyers&lt;sup&gt;e&lt;/sup&gt;</td>
</tr>
<tr>
<td>A right to assistance in filing legal papers, which should include one of the following:</td>
</tr>
<tr>
<td>- Access to an adequate law library</td>
</tr>
<tr>
<td>- Paid attorneys</td>
</tr>
<tr>
<td>- Paralegal personnel or law students</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Medical Care</th>
</tr>
</thead>
<tbody>
<tr>
<td>A right to sanitary and healthy conditions</td>
</tr>
<tr>
<td>A right to medical attention for serious physical problems</td>
</tr>
<tr>
<td>A right to required medications</td>
</tr>
<tr>
<td>A right to treatment in accordance with “doctor’s orders”</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Protection from Harm</th>
</tr>
</thead>
<tbody>
<tr>
<td>A right to food, water, and shelter</td>
</tr>
<tr>
<td>A right to protection from foreseeable attack</td>
</tr>
<tr>
<td>A right to protection from predictable sexual abuse</td>
</tr>
<tr>
<td>A right to protection against suicide</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Institutional Punishment and Discipline</th>
</tr>
</thead>
<tbody>
<tr>
<td>An absolute right against corporal punishments (unless sentenced to such punishments)</td>
</tr>
<tr>
<td>A limited right to due process before punishment, including the following:</td>
</tr>
<tr>
<td>- A notice of charges</td>
</tr>
<tr>
<td>- A fair and impartial hearing</td>
</tr>
<tr>
<td>- An opportunity for defense</td>
</tr>
<tr>
<td>- A right to present witnesses</td>
</tr>
<tr>
<td>- A written decision</td>
</tr>
</tbody>
</table>

<sup>a</sup>All “rights” listed are provisional in that they may be constrained by the legitimate needs of imprisonment.

<sup>b</sup>But not beyond the opportunities afforded for inmates to meet with members of the general public.

<sup>c</sup>As restricted by the Prison Litigation Reform Act of 1996.

<sup>d</sup>Mail communications are generally designated as privileged or nonprivileged. Privileged communications include those between inmates and their lawyers or court officials and cannot legitimately be read by prison officials. Nonprivileged communications include most other written communications.

<sup>e</sup>Jailhouse lawyers are inmates with experience in the law, usually gained from filing legal briefs on their own behalf or on the behalf of others. Consultation with jailhouse lawyers was ruled permissible in the Supreme Court case of Johnson v. Avery, 393 U.S. 483 (1968), unless inmates are provided with paid legal assistance.
Concerning publications produced by inmates, legal precedent holds that prisoners have no inherent right to publish newspapers or newsletters for use by other prisoners, although many institutions do permit and finance such periodicals. Publications originating from outside of prison, such as newspapers, magazines, and special-interest tracts, are generally protected when mailed directly from the publisher, although magazines that depict deviant sexual behavior can be banned, according to Mallery v. Lewis (1983) and other precedents. Nudity by itself is not necessarily obscene, and federal courts have held that prisons cannot ban nude pictures of inmates’ wives or girlfriends.

Visitation and access to the news media are other areas that have come under court scrutiny. Maximum-security institutions rarely permit “contact” visits, and some have on occasion suspended all visitation privileges. In the case of Block v. Rutherford (1984), the U.S. Supreme Court upheld the policy of the Los Angeles County Central Jail, which prohibited all visits from friends and relatives. The Court agreed that the large jail population and the conditions under which visits might take place could combine to threaten the security of the jail.

In the 2003 case of Overton v. Bazzetta, the Court held that new visitation restrictions imposed by the Michigan Department of Corrections (DOC) in an effort to counter prison security problems caused by an increasing number of visitors and by substance abuse among inmates were acceptable. The regulations allow routine visits for most inmates but state that prisoners who commit two substance-abuse violations while incarcerated may receive visits only from clergy and attorneys. Family members are prohibited from visiting, although substance-abusing inmates can apply for reinstatement of visitation privileges after two years. In upholding the Michigan DOC’s visitation regulations, the Court found that “the fact that the regulations bear a rational relation to legitimate penological interests suffices to sustain them.”

In Pell v. Procunier (1974), discussed earlier in regard to the balancing test, the Court found in favor of a California law that denied prisoners the opportunity to hold special meetings with members of the press. The Court reasoned that media interviews could be conducted through regular visitation arrangements and that most of the information desired by the media could be conveyed through correspondence. In Pell, the Court also held that any reasonable policy of media access was acceptable so long as it was administered fairly and without bias.

In a later case, the Court ruled that news personnel cannot be denied correspondence with inmates but also ruled that they have no constitutional right to interview inmates or to inspect correctional facilities beyond the visitation opportunities available to the public. This equal-access policy was set forth in Houchins v. KQED, Inc. (1978) by Justice Potter Stewart, who wrote, “The Constitution does no more than assure the public and the press equal access once government has opened its doors.”

Inmate Antonio Ferreria participating in a Catholic worship service at Florida’s Everglades Correctional Institution. Florida has established “faith-based” programs at nine of its correctional facilities. Faith-based programs are sponsored by religious organizations and supplement government-sponsored training and rehabilitation programs. What special roles might such programs play?

© Deborah Coleman/Palm Beach Post
RELIGIOUS FREEDOM  The First and Fourteenth Amendments provide the basis for claims of prisoners’ rights in the area of religious freedoms. The U.S. Supreme Court case of Cruz v. Beto (1972)\textsuperscript{133} established that inmates must be given a “reasonable opportunity” to pursue their faith, even if it differs from traditional forms of worship. Meeting facilities must be provided for religious use when those same facilities are made available to other groups of prisoners for other purposes,\textsuperscript{134} but no group can claim exclusive use of a prison area for religious reasons.\textsuperscript{135} The right to assemble for religious purposes, however, can be denied to inmates who use such meetings to plan escapes or who take the opportunity to dispense contraband. Similarly, prisoners in segregation can be denied the opportunity to attend group religious services.\textsuperscript{136}

Although prisoners cannot be made to attend religious services,\textsuperscript{137} records of religious activity can be maintained to administratively determine dietary needs and eligibility for passes to religious services outside of the institution.\textsuperscript{138} In Dettmer v. Landon (1985),\textsuperscript{139} a federal district court held that an inmate who claimed to practice witchcraft must be provided with the artifacts necessary for his worship services. Included were items such as sea salt, sulfur, a quartz clock, incense, candles, and a white robe without a hood. The district court’s opinion was later partially overturned by the U.S. Court of Appeals for the Fourth Circuit. The appellate court recognized the Church of Wicca as a valid religion but held that concerns over prison security could preclude inmates’ possession of dangerous items of worship.\textsuperscript{140}

Drugs and dangerous substances have not been considered permissible even when inmates claimed they were a necessary part of their religious services.\textsuperscript{141} Prison regulations prohibiting the wearing of beards, even those grown for religious reasons, were held acceptable for security reasons in the 1985 federal court case of Hill v. Blackwell.\textsuperscript{142}

A federal law passed in 2000, the Religious Land Use and Institutionalized Persons Act (RLUIPA), has particular relevance to prison programs and activities that are at least partially supported with federal monies. RLUIPA says, “No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution even if the burden results from a rule of general applicability, unless the government demonstrates that imposition of the burden on that person (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.” In 2005, in the case of Benning v. State,\textsuperscript{143} the Eleventh Circuit U.S. Court of Appeals found in favor of a Georgia inmate who claimed that RLUIPA supported his right as a “Torah observant Jew” to eat only kosher food and wear a yarmulke at all times. Also in 2005, in the case of Cutter v. Wilkinson,\textsuperscript{144} the U.S. Supreme Court found in favor of past and present inmates of Ohio’s correctional system who claimed that the system failed to accommodate their nonmainstream religious practices. Perhaps the most important aspect of the Cutter ruling, however, was the Court’s finding that RLUIPA does not improperly advance religion in violation of the constitutional requirement of separation of church and state.

ACCESS TO THE COURTS AND LEGAL ASSISTANCE  Access to the courts\textsuperscript{145} and to legal assistance is a well-established right of prisoners. The right of prisoners to petition the court was recognized in Bounds v. Smith (1977),\textsuperscript{146} which was a far-reaching Supreme Court decision at the time. While attempting to define “access,” the Court in Bounds imposed on the states the duty of assisting inmates in the preparation and filing of legal papers. Assistance could be provided through trained personnel knowledgeable in the law or via law libraries in each institution, which all states have since built. In 1996, however, in the case of Lewis v. Casey,\textsuperscript{147} the U.S. Supreme Court repudiated part of the Bounds decision, saying, “[S]tatements in Bounds suggesting that prison authorities must also enable the prisoner to discover grievances, and to litigate effectively once in court . . . have no antecedent in this Court’s pre-Bounds cases, and are now disclaimed.” In Lewis, the Court overturned earlier decisions by a federal district court and by the Ninth Circuit Court of Appeals. Both lower courts had found in favor of Arizona inmates who had complained that state prison law libraries provided inadequate legal research facilities, thereby depriving them of their right of legal access to the courts, as established by Bounds. In turning back portions of Bounds, the majority in Lewis wrote that inmates raising such claims need to demonstrate “widespread actual injury” to their ability to access the courts, not merely “isolated instances of actual injury.” “Moreover,” wrote the justices, “Bounds does not guarantee inmates the wherewithal to file
any and every type of legal claim, but requires only that they be provided with the tools to attack their sentences... and to challenge the conditions of their confinement.”

In an earlier case, Johnson v. Avery (1968), the Court had ruled that prisoners under correctional supervision have a right to consult “jailhouse lawyers” for advice when assistance from trained professionals is not available. Other court decisions have established that inmates have a right to correspond with their attorneys and with legal assistance organizations. Such letters, however, can be opened and inspected for contraband (but not read) by prison authorities in the presence of the inmate. The right to meet with hired counsel for reasonable lengths of time has also been upheld. Indigent defendants must be provided with stamps for the purpose of legal correspondence, and inmates cannot be disciplined for communicating with lawyers or for requesting legal help. Conversations between inmates and their lawyers can be monitored, although any evidence thus obtained cannot be used in court. Inmates do not, however, have the right to an appointed lawyer, even when indigent, if no judicial proceedings have been initiated against them.

MEDICAL CARE The historic Supreme Court case of Estelle v. Gamble (1976) specified prison officials’ duty to provide for inmates’ medical care. In Estelle, the Court concerned itself with deliberate indifference on the part of the staff toward a prisoner’s need for serious medical attention. “Deliberate indifference” can mean a wanton disregard for the health of

**Federal Oversight of the Texas Prison System: A Timeline**

1972: Inmate David Ruiz and several other prisoners file a handwritten civil rights suit (Ruiz v. Estelle) against the Texas Department of Corrections (now called the Texas Department of Criminal Justice), alleging various constitutional violations.

October 2, 1978–September 20, 1979: The Ruiz case is tried in Houston.

December 10, 1980: U.S. District Court Judge William Wayne Justice finds that confinement in the Texas prison system constitutes cruel and unusual punishment. He cites overcrowding, understaffing, brutality by guards and inmate-guards known as building tenders, substandard medical care, and uncontrolled physical abuse among inmates.

January 12, 1981: The judge orders improvements to be made to the system and sets deadlines.

April 19, 1981: Judge Justice appoints a special master to supervise compliance with his order.

April 1982: The state agrees to halt the building tender system and to hire additional corrections officers.

January–June 1983: The Texas legislature passes laws intended to reduce the prison population.

November 1987: Texas voters authorize $500 million in bonds for prison construction.

March 31, 1990: The special master’s office is closed.

November 1990: Texas voters approve $672 million in bonds to build 25,300 prison beds and 12,000 drug- and alcohol-treatment beds.


May 1, 1992: Morales offers a settlement proposal.

July 14, 1992: Inmates’ attorneys accept the proposal.

December 11, 1992: Judge Justice signs the settlement.

January 21, 1999: Judge Justice begins a hearing to determine whether Texas prisons should be freed of federal court oversight.

March 1, 1999: Judge Justice decides to maintain oversight.

March 20, 2001: The 5th U.S. Circuit Court of Appeals reverses Judge Justice’s ruling, ending oversight but giving him 90 days to review the matter.

June 18, 2001: Judge Justice says that the Texas prison system has improved but that oversight is still needed in the areas of “conditions of confinement in administrative segregation, the failure to provide reasonable safety to inmates against assault and abuse, and the excessive use of force by correctional officers.” Judge Justice discontinues federal oversight of other aspects of the prison system, including health services and staffing.

June 17, 2002: Judge Justice orders an end to federal judicial oversight. The National Institute of Corrections, an arm of the U.S. Department of Justice, is asked to provide further recommendations to the Texas Department of Criminal Justice for a period of two years.

Should Prison Libraries Limit Access to Potentially Inflammatory Literature?

In mid-2007, the Federal Bureau of Prisons (BOP) ordered chaplains at BOP facilities nationwide to remove potentially inflammatory literature from the shelves of chapel libraries. The move came in response to a report by the U.S. Justice Department’s Office of the Inspector General, which recommended that prisons should take steps to avoid becoming recruiting grounds for militant Islamists and other radical groups.

Thousands of books were soon removed under what the BOP called the Standardized Chapel Library Project, which it admitted was an effort to bar inmate access to literature that the BOP felt could “discriminate, disparage, advocate violence or radicalize.” In identifying materials for removal, the BOP relied on the advice of experts who were asked to identify up to 150 book titles and 150 multimedia resources for each of 20 religious categories ranging from Bahaism to Yoruba. Prayer books were explicitly excluded from the list of materials targeted for removal.

Soon after the project was made public, however, members of Congress and a number of religious leaders urged the BOP to reverse its stance and return the books to chapel shelves.

In fall 2007, the Republican Study Committee, a group of conservative Republicans in the House of Representatives, sent a letter to BOP Director Harley G. Lappin, saying, “We must ensure that in America the federal government is not the undue arbiter of what may or may not be read by our citizens.” Representative Jeb Hensarling of Texas, who heads the Republican Study Committee, explained that “anything that impinges upon the religious liberties of American citizens, be they incarcerated or not, is something that’s going to cause . . . great concern.” For its part, the BOP countered that it has a legitimate interest in screening out and removing items from inside of its facilities that could incite violence.

The controversy appeared to have ended in 2008 with passage of the Second Chance Act (Public Law No. 110-199), federal legislation which funded a number of reentry initiatives for people leaving prison and which required the director of the BOP “to discontinue the Standardized Chapel Library project or any other project that limits prisoner access to reading and other educational materials.” (The Second Chance Act is discussed in more detail in Chapter 12.) In 2009, however, the BOP revived its plan to limit prison chapel books and proposed a rule that would exclude materials from chapel libraries “that could incite, promote, or otherwise suggest the commission of violence or criminal activity.” The proposed new rule targeted only literature encouraging violence, but critics said that it would still result in the banning of many religious texts.

YOU DECIDE

Should prison libraries be permitted to limit access to library literature that might incite violence or endanger the safety of inmates and staff? Would it matter if that literature is religious in nature? How might the Bureau of Prisons meet the concerns of the Republican Study Committee, religious leaders, and authors of the Second Chance Act while still accomplishing its objective of removing literature that it believes might incite violence?

of Washington v. Harper, the U.S. Supreme Court held that prisoners can refuse the involuntary administration of antipsychotic drugs unless government officials can demonstrate an “overriding justification” as to why administration of the drugs is necessary. Under Washington, an inmate in a correctional institution “may be treated involuntarily with antipsychotic drugs where there is a determination that the inmate is dangerous to himself or others and the treatment is in the inmate’s medical interest.”

In 1998, in the case of Pennsylvania Department of Corrections v. Yeskey, the Supreme Court held that the Americans with Disabilities Act (ADA) of 1990 applies to prisons and to prison inmates. In May 1994, Ronald Yeskey was sentenced to serve 18 to 36 months in a Pennsylvania correctional facility. The sentencing court recommended that he be placed in Pennsylvania’s Motivational Boot Camp for first-time offenders, the successful completion of which would have led to his release on parole in just six months. When Yeskey was refused admission because of his medical history of hypertension, he sued the Pennsylvania Department of Corrections and several state officials, alleging that his exclusion violated Title II of the ADA, which prohibits a “public entity” from discriminating against a “qualified individual with a disability” on account of that disability. Lawyers for the state of Pennsylvania argued that state prisoners are not covered by the ADA. The Supreme Court ruled, however, that “state prisons fall squarely within Title II’s statutory definition of ‘public entity,’ which includes ‘any . . . instrumentality of a State . . . or local government.’”

Similarly, in the 2006 case of U.S. v. Georgia, the U.S. Supreme Court ruled in favor of Georgia inmate Tony Goodman, holding that a state’s claim of sovereign immunity could not bar suits brought under the Americans with Disabilities Act. Goodman, a paraplegic who filed a Section 1983 lawsuit, was able to show that his constitutional rights were violated by prison officials who failed to accommodate his disability. Goodman had been confined for more than 23 hours per day in a cell too narrow for him to turn his wheelchair, making it impossible for him to reach the toilet.

**PROTECTION FROM HARM** Claims that inmates have a right to expect prisons to meet their fundamental human needs for food, water, shelter, and reasonable protection from physical and other harm (including potential harm from corrections personnel, other inmates, and themselves) are largely based on the Eighth Amendment protection against cruel and unusual punishment. One well-known court decision in this area is the federal district court case of Holt v. Sarver, in which conditions at two Arkansas state prison farms were found to constitute punishment disproportionate to any offense. Among other things, the court found that inmates have “the right to be fed, housed, and clothed so as not to be subjected
to loss of health or life, . . . the right to be free from the abuses of fellow prisoners in all aspects of daily life,” and “the right to be free from the brutality of being guarded by fellow inmates.” In Holt, Arkansas was ordered to correct defects in the conditions of confinement throughout its prisons.

In the case of Farmer v. Brennan (1994), the U.S. Supreme Court provided substantial protections to prison administration and staff when it found that even when a prisoner is harmed, and even when prison officials knew that a risk of harm existed, they cannot be held liable for that harm if they took appropriate steps to mitigate the risk. The case involved Dee Farmer, a preoperative transsexual with obvious feminine characteristics who had been incarcerated with other males in the federal prison system. While mixing with other inmates, Farmer was beaten and raped by a fellow prisoner. Subsequently, he sued corrections officials, claiming that they had acted with deliberate indifference to his safety because they knew that the penitentiary had a violent environment as well as a history of inmate assaults and because they should have known that Farmer would be particularly vulnerable to sexual attack. Although both a federal district court and the U.S. Court of Appeals for the Seventh Circuit agreed with Farmer, the U.S. Supreme Court sent Farmer’s case back to a lower court for rehearing after clarifying what it said was necessary to establish deliberate indifference. “Prison officials,” wrote the justices, “have a duty under the Eighth Amendment to provide humane conditions of confinement. They must ensure that inmates receive adequate food, clothing, shelter, and medical care and must protect prisoners from violence at the hands of other prisoners. However, a constitutional violation occurs only where . . . the official has acted with ‘deliberate indifference’ to inmate health or safety.” The Court continued, “A prison official may be held liable under the Eighth Amendment for acting with ‘deliberate indifference’ to inmate health or safety only if he knows that inmates face a substantial risk of serious harm and disregards that risk by failing to take reasonable measures to abate it.”

In 1993, the U.S. Supreme Court indicated that environmental conditions of prison life that pose a threat to inmate health may have to be corrected. In Helling v. McKinney, Nevada inmate William McKinney claimed that exposure to secondary cigarette smoke circulating in his cell was threatening his health, in violation of the Eighth Amendment’s prohibition against cruel and unusual punishment. The Court, in ordering that a federal district court provide McKinney with the opportunity to prove his allegations, held that “an injunction cannot be denied to inmates who plainly prove an unsafe, life-threatening condition on the ground that nothing yet has happened to them.” In effect, the Helling case gave notice to prison officials that they are responsible not only for “inmates’ current serious health problems” but also for maintaining environmental conditions under which health problems might be prevented from developing.

PRIVACY The Fourth Amendment to the U.S. Constitution guarantees free citizens the right against unreasonable searches and seizures. Courts, however, have not extended this right to prisoners. Many court decisions, including the Tenth Circuit case of U.S. v. Ready (1978) and the U.S. Supreme Court decisions of Katz v. U.S. (1967) and Hudson v. Palmer (1984), have held that inmates do not have a reasonable expectation to privacy while incarcerated. Palmer, an inmate in Virginia, claimed that Hudson, a prison guard, had unreasonably destroyed some of his personal (noncontraband) property during a cell search. Palmer’s complaint centered on the lack of due process that accompanied the destruction. The Court disagreed, saying that the need for prison officials to conduct thorough and unannounced searches precludes inmate privacy in personal possessions. In Block v. Rutherford (1984), mentioned earlier, the Court established that prisoners do not have a right to be present during a search of their cells.

Some lower courts, however, have begun to indicate that body-cavity searches may be unreasonable unless based on a demonstrable suspicion or conducted after prior warning has been given to the inmate. They have also indicated that searches conducted simply to “harass or humiliate” inmates are illegitimate. These cases may be an indication that the Supreme Court will eventually recognize a limited degree of privacy in prison-cell searches, especially those that uncover and remove legal documents and personal papers prepared by the prisoner or such documents prepared on his or her behalf.
INSTITUTIONAL PUNISHMENT AND DISCIPLINE A major area of inmate concern is the hearing of grievances. Complaints may arise in areas as diverse as food service (quality of food or special diets for religious purposes or health regimens), interpersonal relations between inmates and staff, denial of privileges, and alleged misconduct of an inmate or a guard.

In 1972, the National Council on Crime and Delinquency developed a Model Act for the Protection of Rights of Prisoners, which included the opportunity for grievances to be heard. The 1973 National Advisory Commission on Criminal Justice Standards and Goals called for the establishment of responsible practices for the hearing of inmate grievances. Finally, in 1977, in the case of Jones v. North Carolina Prisoners’ Labor Union, the Supreme Court held that prisons must establish some formal opportunity for the airing of inmate grievances. Soon, formal grievance plans were established in prisons in an attempt to divert inmate grievances away from the courts.

Today, all sizable prisons have established grievance procedures whereby an inmate files a complaint with local authorities and receives a mandated response. Modern grievance procedures range from the use of a hearing board composed of staff members and inmates to a single staff appointee charged with the resolution of complaints. Inmates who are dissatisfied with the handling of their grievance can generally appeal beyond the local prison.

Disciplinary actions by prison authorities may also require a formalized hearing process, especially when staff members bring charges of rule violations against inmates that might result in some form of punishment being imposed on them. In a precedent-setting decision in the case of Wolff v. McDonnell (1974), the Supreme Court decided that sanctions could not be levied against inmates without appropriate due process. The Wolff case involved an inmate who had been deprived of previously earned good-time credits because of misbehavior. The Court established that good-time credits were a form of “state-created right(s),” which, once created, could not be “arbitrarily abrogated.” Wolfe was especially significant because it began an era of court scrutiny into what came to be called state-created liberty interests. State-created liberty interests were based on the language used in published prison regulations and were held, in effect, to confer due process guarantees on prisoners. Hence if a prison regulation said that a disciplinary hearing should be held before a prisoner could be sent to solitary confinement and that the hearing should permit a discussion of the evidence for and against the prisoner, courts interpreted that regulation to mean that the prisoner had a state-created right to a hearing and that sending him or her to solitary confinement in violation of the regulation was a violation of a state-created liberty interest. In later court decisions, state-created rights and privileges were called protected liberties and were interpreted to include any significant change in a prisoner’s status.

In the interest of due process, and especially where written prison regulations governing the hearing process exist, courts have generally held that inmates going before disciplinary hearing boards are entitled to (1) a notice of the charges brought against them, (2) the chance to organize a defense, (3) an impartial hearing, and (4) the opportunity to present witnesses and evidence in their behalf. A written statement of the hearing board’s conclusions should be provided to the inmate. In the case of Ponte v. Real (1985), the Supreme Court held that prison officials must provide an explanation to inmates who are denied the opportunity to have a desired witness at their hearing. The case of Vitek v. Jones (1980) extended the requirement of due process to inmates about to be transferred from prisons to mental hospitals.

So that inmates will know what is expected of them as they enter prison, the American Correctional Association recommends that “a rulebook that contains all chargeable offenses, ranges of penalties and disciplinary procedures [be] posted in a conspicuous and accessible area; [and] a copy . . . given to each inmate and staff member.”

A Return to the Hands-Off Doctrine?

Many state-created rights and protected liberties may soon be a thing of the past. In June 1991, an increasingly conservative U.S. Supreme Court signaled what seemed like the beginning of a new hands-off era. The case, Wilson v. Seiter et al., involved a Section 1983 suit brought against Richard P. Seiter, director of the Ohio Department of Rehabilitation and Correction, and Carl Humphreys, warden of the Hocking Correctional Facility (HCF) in
Nelsonville, Ohio. In the suit, Pearly L. Wilson, a felon incarcerated at HCF, alleged that a number of the conditions of his confinement constituted cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. Specifically, Wilson cited overcrowding, excessive noise, insufficient locker storage space, inadequate heating and cooling, improper ventilation, unclean and inadequate restrooms, unsanitary dining facilities and food preparation, and housing with mentally and physically ill inmates. Wilson asked for a change in prison conditions and sought $900,000 from prison officials in compensatory and punitive damages.

Both the federal district court in which Wilson first filed affidavits and the Sixth Circuit Court of Appeals held that no constitutional violations existed because the conditions cited by Wilson were not the result of malicious intent on the part of officials. The U.S. Supreme Court agreed, noting that the “deliberate indifference” standard applied in Estelle v. Gamble (1976)\(^{186}\) to claims involving medical care is similarly applicable to other cases in which prisoners challenge the conditions of their confinement. In effect, the Court created a standard that effectively means that all future challenges to prison conditions by inmates, which are brought under the Eighth Amendment, must show “deliberate indifference” by the officials responsible for the existence of those conditions before the Court will hear the complaint.

The written opinion of the Court in Wilson v. Seiter is telling. Writing for the majority, Justice Antonin Scalia observed that “if a prison boiler malfunctions accidentally during a cold winter, an inmate would have no basis for an Eighth Amendment claim, even if he suffers objectively significant harm. If a guard accidentally stepped on a prisoner’s toe and broke it, this would not be punishment in anything remotely like the accepted meaning of the word.” At the time that the Wilson decision was handed down, critics voiced concerns that the decision could effectively excuse prison authorities from the need to improve living conditions within institutions on the basis of simple budgetary constraints.

In the 1995 case of Sandin v. Conner,\(^{186}\) the U.S. Supreme Court took a much more definitive stance in favor of a new type of hands-off doctrine and voted 5 to 4 to reject the argument that any state action taken for a punitive reason encroaches on a prisoner’s constitutional due process right to be free from the deprivation of liberty. In Sandin, Demont Conner, an inmate at the Halawa Correctional Facility in Hawaii, was serving an indeterminate sentence of 30 years to life for numerous crimes, including murder, kidnapping, robbery, and burglary. In a lawsuit in federal court, Conner alleged that prison officials had deprived him of procedural due process when a hearing committee refused to allow him to present witnesses during a disciplinary hearing and then sentenced him to segregation for alleged misconduct. An appellate court agreed with Conner, concluding that an existing prison regulation that instructed the hearing committee to find guilt in cases where a misconduct charge is supported by substantial evidence meant that the committee could not impose segregation if it did not look at all the evidence available to it.

The Supreme Court, however, reversed the decision of the appellate court, holding that while “such a conclusion may be entirely sensible in the ordinary task of construing a statute defining rights and remedies available to the general public, [i]t is a good deal less sensible in the case of a prison regulation primarily designed to guide correctional officials in the administration of a prison.” The Court concluded that “such regulations [are] not designed to confer rights on inmates” but are meant only to provide guidelines to prison staff members.

In Sandin, the Court effectively set aside substantial portions of earlier decisions, such as Wolff v. McDonnell (1974)\(^{187}\) and Hewitt v. Helms (1983),\(^{188}\) which, wrote the justices, focused more on procedural issues than on those of “real substance.” As a consequence, the majority opinion held, past cases like these have “impermissibly shift[ed] the focus” away from the nature of a due process deprivation to one based on the language of a particular state or prison regulation. “The Hewitt approach,” wrote the majority in Sandin, “has run counter to the view expressed in several of our cases that federal courts ought to afford appropriate deference and flexibility to state officials trying to manage a volatile environment. . . . The time has come,” said the Court, “to return to those due process principles that were correctly established and applied” in earlier times. In short, Sandin made it much more difficult for inmates to effectively challenge the administrative regulations and procedures imposed on them by prison officials, even when stated procedures are not explicitly followed.
A more recent case whose findings support the action of federal corrections officers is that of *Ali v. Federal Bureau of Prisons*. The case, decided by the U.S. Supreme Court in 2008, involved a federal prisoner named Abdus-Shahid M. S. Ali, who claimed that some of his personal belongings disappeared when he was transferred from one federal prison to another. The missing items, which were to have been shipped in two duffle bags belonging to Ali, included copies of the Koran, a prayer rug, and a number of religious magazines. Ali filed suit against the BOP under the Federal Tort Claims Act (FTCA), which authorizes “claims against the United States for money damages . . . for injury or loss of property . . . caused by the negligent or wrongful act or omission of any employee in the government while acting within the scope of his office or employment.” In denying Ali’s claim, the Court found that the law specifically provides immunity for federal law enforcement officers and determined that federal corrections personnel are “law enforcement officers” within the meaning of the law.

**THE PRISON LITIGATION REFORM ACT OF 1996** Only about 2,000 petitions per year concerning inmate problems were filed with the courts in 1961, but by 1975 the number of filings had increased to around 17,000, and in 1996 prisoners filed 68,235 civil rights lawsuits in federal courts nationwide. Some inmate-originated suits seemed patently ludicrous and became the subject of much media coverage in the mid-1990s. One such suit involved Robert Procup, a Florida State Prison inmate serving time for the murder of his business partner. Procup repeatedly sued Florida prison officials—once because he got only one roll with his dinner; again because he didn’t get a luncheon salad; a third time because prison-provided TV dinners didn’t come with a drink; and a fourth time because his cell had no television. Two other well-publicized cases involved an inmate who went to court asking to be allowed to exercise religious freedom by attending prison chapel services in the nude and an inmate who, thinking he could become pregnant via homosexual relations, sued prison doctors who wouldn’t provide him with birth-control pills. An infamous example of seemingly frivolous inmate lawsuits was one brought by inmates claiming religious freedoms and demanding that members of the Church of the New Song, or CONS, be provided steak and Harvey’s Bristol Cream every Friday in order to celebrate communion. The CONS suit stayed in various courts for ten years before finally being thrown out.

The huge number of inmate-originated lawsuits in the mid-1990s created a backlog of cases in many federal courts and was targeted by the media and by some citizens’ groups as an unnecessary waste of taxpayers’ money. The National Association of Attorneys General, which supports efforts to restrict frivolous inmate lawsuits, estimated that lawsuits filed by prisoners cost states more than $81 million a year in legal fees alone.

In 1996, the federal Prison Litigation Reform Act (PLRA) became law. The PLRA was a legislative effort to restrict inmate filings to worthwhile cases and to reduce the number of suits brought by state prisoners in federal courts. The PLRA

- Requires inmates to exhaust their prison’s grievance procedure before filing a lawsuit
- Requires judges to screen all inmate complaints against the federal government and to immediately dismiss those deemed frivolous or without merit
- Prohibits prisoners from filing a lawsuit for mental or emotional injury unless they can also show there has been physical injury
- Requires inmates to pay court filing fees. Prisoners who don’t have the needed funds can pay the filing fee over a period of time through deductions to their prison commissary accounts
- Limits the award of attorneys’ fees in successful lawsuits brought by inmates
- Revokes the credits earned by federal prisoners toward early release if they file a malicious lawsuit
- Mandates that court orders affecting prison administration cannot go any further than necessary to correct a violation of a particular inmate’s civil rights
- Makes it possible for state officials to have court orders lifted after two years unless there is a new finding of a continuing violation of federally guaranteed civil rights
- Mandates that any court order requiring the release of prisoners due to overcrowding be approved by a three-member court before it can become effective
The U.S. Supreme Court has upheld provisions of the PLRA on a number of occasions. In 1997, for example, in the case of Edwards v. Balisok, the Supreme Court made it harder to successfully challenge prison disciplinary convictions, holding that, under the PLRA, prisoners cannot sue for damages under Title 42, Section 1983, of the U.S. Code for loss of good-time credits until they sue in state court and get their disciplinary conviction set aside. In Booth v. Churner (2001), the U.S. Supreme Court held that under the PLRA, “an inmate seeking only [monetary] damages must complete any prison administrative process capable of addressing the inmate’s complaint and providing some form of relief [before filing his or her grievance with a federal court], even if the process does not make specific provision for monetary relief.” Similarly, in the case of Porter v. Nussle (2002), the U.S. Supreme Court held that a Connecticut inmate had inappropriately brought a Section 1983 complaint directly to federal district court without first having filed an inmate grievance as required by Connecticut Department of Correction procedures. In Porter, the Court held that the PLRA’s exhaustion requirement applies to all inmate suits about prison life, whether they involve general circumstances or particular episodes and whether they allege excessive force or some other wrong.

Finally, in the 2006 case of Woodford v. Ngo, the Supreme Court found that the PLRA requires proper exhaustion of administrative remedies before a prisoner can use the federal courts to challenge conditions of imprisonment. Proper exhaustion, the Court said, “means using all steps that the agency holds out, and doing so properly.” The Woodford case involved an inmate seeking to file a federal suit after prison grievance procedures were no longer available to him because he had failed to follow the administrative steps outlined by the prison within the time allotted for such steps to be taken.

According to one BJS study, the PLRA has been effective in reducing the number of frivolous lawsuits filed by inmates alleging unconstitutional prison conditions. The study found that the filing rate of inmates’ civil rights petitions in federal courts had been cut in half four years after passage of the act. A similar study by the National Center for State Courts, whose results were published in 2004, found that the act “produced a statistically significant decrease in both the volume and trend of lawsuits . . . nationally and in every [federal court] circuit.”

Opponents of the PLRA fear that it might stifle the filing of meritorious suits by inmates facing real deprivations. According to the American Civil Liberties Union (ACLU), for example, “The Prison Litigation Reform Act . . . attempts to slam the courthouse door on society’s most vulnerable members. It seeks to strip the federal courts of much of their power to correct even the most egregious prison conditions by altering the basic rules which have always governed prison reform litigation. The PLRA also makes it difficult to settle prison cases by consent decree, and limits the life span of any court judgment.”

**ISSUES FACING PRISONS TODAY**

Prisons are society’s answer to a number of social problems. They house outcasts, misfits, and some highly dangerous people. While prisons provide a part of the answer to the question of crime control, they also face problems of their own. A few of those special problems are described here.

**AIDS**

Chapter 8 discussed the steps that police agencies are taking to deal with health threats from acquired immunodeficiency syndrome (AIDS). In 2007, the Justice Department reported finding that 22,480 state and federal inmates were infected with HIV (human immunodeficiency virus), the virus that causes AIDS. At the time of the survey, 2.4% of all female state prison inmates tested positive for HIV infection, as did 1.8% of male prisoners. Some states have especially high rates of HIV infection among their prisoners. About 7% of New York prison inmates, for example, are HIV-positive.

The incidence of HIV infection among the general population stands at 140 cases per 100,000, according to a recent report by the Centers for Disease Control and Prevention.
Among inmates, however, best estimates place the reported HIV-infection rate at 510 cases per 100,000—more than three times as great. Some years ago, AIDS was the leading cause of death among prison inmates. Today, however, the number of inmates who die from AIDS (or, more precisely, from AIDS-related complications like pneumonia or Kaposi’s sarcoma) is much lower. The introduction of drugs like protease inhibitors and useful combinations of antiretroviral therapies have reduced inmate deaths from AIDS by 75% since 1995.

Most infected inmates brought the HIV virus into prison with them, and one study found that fewer than 10% of HIV-positive inmates acquired the virus while in prison. Nonetheless, the virus can be spread behind bars through homosexual activity (including rape), intravenous drug use, and the sharing of tainted tattoo and hypodermic needles. Inmates who were infected before entering prison are likely to have had histories of high-risk behavior, especially intravenous drug use.

A report by the National Institute of Justice (NIJ) suggests that corrections administrators can use two types of strategies to reduce the transmission of AIDS. One strategy relies on medical technology to identify seropositive inmates and to segregate them from the rest of the prison population. Mass screening and inmate segregation, however, may be prohibitively expensive. They may also be illegal. Some states specifically prohibit HIV-antibody testing without the informed consent of the person tested. The related issue of confidentiality may be difficult to manage, especially when the purpose of testing is to segregate infected inmates from others. In addition, civil liability may result if inmates are falsely labeled as infected or if inmates known to be infected are not prevented from spreading the disease. Only Alabama and South Carolina still segregate all known HIV-infected inmates, but more limited forms of separation are practiced elsewhere. Many state prison systems have denied HIV-positive inmates jobs, educational opportunities, visitation privileges, conjugal visits, and home furloughs, causing some researchers to conclude that “inmates with HIV and AIDS are routinely discriminated against and denied equal treatment in ways that have no accepted medical basis.” In 1994, for example, a federal appeals court upheld a California prison policy that bars inmates who are HIV-positive from working in food-service jobs. In contrast, in 2001, the Mississippi Department of Correction ended its policy of segregating HIV-positive prisoners from other inmates in educational and vocational programs.

The second strategy is prevention through education. Educational programs teach both inmates and staff members about the dangers of high-risk behavior and suggest ways to avoid HIV infection. An NIJ model program recommends the use of simple, straightforward messages presented by knowledgeable and approachable trainers. Alarmism, says the NIJ, should be avoided. One survey found that 98% of state and federal prisons provide some form of AIDS/HIV education and that 90% of jails do as well—although most such training is oriented toward corrections staff rather than inmates. Learn more about HIV in prisons and jails at Library Extra 14–8 at MyCrimeKit.com. Inmate medical problems in general are discussed in Library Extra 14–9.

Geriatric Offenders

In 2003, Eugene Guevara of El Monte, California, shot a physician at Kaiser Permanente’s Baldwin Park Medical Center. Surveillance cameras filmed Guevara, who was in his late 70s, fleeing the scene using his walker. Guevara later shot and killed himself outside a fast-food restaurant.

Crimes committed by the elderly, especially violent crimes, have recently been on the decline. Nonetheless, the significant expansion of America’s retiree population has led to an increase in the number of elderly people who are behind bars. In fact, crimes of violence are what bring most older people into the correctional system. According to one early study, 52% of inmates who were over the age of 50 when they entered prison had committed violent crimes, compared with 41% of younger inmates. On January 1, 2008, 76,600 inmates age 55 or older were housed in state and federal prisons. The number of prisoners older than 55 increased more than 400% between 1990 and 2008. Similarly, the per capita rate of incarceration for inmates age 55 and over now stands at more than 230 per 100,000 residents of like age and, until very recently, had steadily increased.
Not all of today’s elderly inmates were old when they entered prison. Because of harsh sentencing laws passed throughout the country in the 1990s, a small but growing number of inmates (10%) will serve 20 years or more in prison, and 5% will never be released. This means that many inmates who enter prison when they are young will grow old behind bars. The “graying” of America’s prison population has a number of causes: “(1) the general aging of the American population, which is reflected inside prisons; (2) new sentencing policies such as ‘three strikes,’ ‘truth in sentencing,’ and ‘mandatory minimum’ laws that send more criminals to prison for longer stretches; (3) a massive prison building boom that took place in the 1980s and 1990s, and which has provided space for more inmates, reducing the need to release prisoners to alleviate overcrowding; and (4) significant changes in parole philosophies and practices,” with state and federal authorities phasing out or canceling parole programs, thereby forcing jailers to hold inmates with life sentences until they die.

Long-termers and geriatric inmates have special needs. They tend to suffer from handicaps, physical impairments, and illnesses not generally encountered among their more youthful counterparts. Unfortunately, few prisons are equipped to deal adequately with the medical needs of aging offenders. Some large facilities have begun to set aside special sections to care for elderly inmates with “typical” disorders, such as Alzheimer’s disease, cancer, or heart disease. Unfortunately, such efforts have barely kept pace with the problems that
geriatric offenders present. The number of inmates requiring round-the-clock care is expected to increase dramatically during the next two decades. The idea of rehabilitation takes on a new meaning where geriatric offenders are concerned. What kinds of programs are most useful in providing the older inmate with the tools needed for success on the outside? Which counseling strategies hold the greatest promise for introducing socially acceptable behavior patterns into the long-established lifestyles of elderly offenders about to be released? There are few answers to these questions. Learn about some of the oldest prisoners in America via Web Extra 14–4 at MyCrimeKit.com.

Mentally Ill and Mentally Deficient Inmates

Mentally ill inmates make up another group with special needs. Some mentally ill inmates are neurotic or have personality problems, which increases tensions in prison. Others have serious psychological disorders that may have escaped diagnosis at trial or that did not provide a legal basis for the reduction of criminal responsibility. A fair number of offenders develop psychiatric symptoms while in prison.

Inmates suffering from significant mental illnesses account for a substantial number of those imprisoned. A 2002 lawsuit brought by a New York advocacy group on behalf of mentally ill prisoners in New York’s penal institutions put the number of inmates suffering from psychiatric illnesses at 16,000 (out of a total state prison population of 67,000). The suit alleges that problem inmates with psychiatric illnesses are often isolated, exacerbating their condition and resulting in a “cycle of torment” for inmates unable to conform to prison regimens.221

In contrast to the allegations made by the lawsuit, a 2000 Bureau of Justice Statistics survey of public and private state-level adult correctional facilities (excluding jails) found that 51% of such institutions provide 24-hour mental health care, while 71% provide therapy and counseling by trained mental health professionals as needed. A large majority of prisons distribute psychotropic medications (when such medications are ordered by a physician), and 66% have programs to help released inmates obtain community mental health services. According to BJS, 13% of state prisoners were receiving some type of mental health therapy at the time of the survey, and 10% were receiving psychotropic medications, including antidepressants, stimulants, sedatives, and tranquilizers.

Unfortunately, few state-run correctional institutions have any substantial capacity for the in-depth psychiatric treatment of inmates who are seriously mentally disturbed. A number of states, however, do operate facilities that specialize in psychiatric confinement of convicted criminals. The BJS reports that state governments throughout the nation operate 12 facilities devoted exclusively to the care of mentally ill inmates and that another 143 prisons report psychiatric confinement as one specialty among other functions that they perform.

As mentioned previously, the U.S. Supreme Court has ruled that mentally ill inmates can be required to take antipsychotic drugs, even against their wishes. A 2006 study by the BJS found that the nation’s prisons and jails hold an estimated 1.25 million mentally ill inmates (56% of those confined) and that more incarcerated women (73%) than men (55%) are mentally ill. A second government study found that 40% of mentally ill inmates receive no treatment at all. For more details about the 2006 report, visit Web Extra 14–5 at MyCrimeKit.com.

Mentally deficient inmates constitute still another group with special needs. Some studies estimate the proportion of mentally deficient inmates at about 10%. Inmates with low IQs are less likely than other inmates to complete training and rehabilitative programs successfully. They also evidence difficulty in adjusting to the routines of prison life. As a consequence, they are likely to exceed the averages in proportion of sentence served. Only seven states report special facilities or programs for retarded inmates. Other state systems “mainstream” such inmates, making them participate in regular activities with other inmates.

Texas, one state that does provide special services for retarded inmates, began the Mentally Retarded Offender Program (MROP) in 1984. Inmates in Texas are given a battery of tests that measure intellectual and social adaptability skills, and prisoners who are identified as retarded are housed in special satellite correctional units. The Texas MROP provides individual and group counseling, along with training in adult life skills.
Growing Old behind Bars

The number of older prisoners in Virginia has more than doubled in the past 10 years, creating new issues for the state’s prison system.

Like the rest of the country, Virginia is coping with a growing number of aging inmates. Aloysius Joseph Beyrer, 84, is the state’s oldest and his home, the Deerfield Correctional Center, focuses on geriatric inmates.

In 1999, Virginia had 2,015 prisoners 50 or older. Today, there are almost 4,700, and by 2011, state officials expect there to be 5,057.

A drop in the number of paroles granted to inmates who remain eligible is a factor in Virginia’s increasing number of older inmates. Truth-in-sentencing reforms that in 1995 led to stiffer, no-parole sentences for violent crimes are expected to contribute to Virginia’s aging prison population in coming years.

At Deerfield, wheelchairs and walkers line aisles in the secured assisted-living dormitory, where it would be easy to confuse the frail residents with those in nursing homes. But it would be a mistake to do so.

Beyrer, a veteran of prisons in Virginia and elsewhere, thinks Deerfield “is pretty good,” though security comes first there, even for octogenarians like Beyrer, who is serving 100 years for sex crimes. The prison’s goal is to provide older inmates care and some dignity, not freedom.

The warden, Keith W. Davis, who has a master’s degree in social work, makes it clear he is not running a spa for the golden years. “This is not a perfect world. We do not have unlimited resources,” he said.

Even with a blank check to meet all their medical and mental-health needs, Davis said no one wants to grow old or die in a prison. “That’s a big challenge for the staff. . . . We do what we can do, but we can’t cure oldness,” he said.

“Offenders are like the rest of us. We get old, we get ill, we die,” he said. Deerfield provides a continuing-care community, he said, “so they can reach what we believe is their fullest potential—body, mind and soul.” . . .

Experts say substance abuse, little or no health care before imprisonment and the stress of living behind bars can leave a 50-year-old inmate physiologically 10 to 15 years older than his chronological age.

In general, older inmates require more supervision and medical and mental-health care, as well as special diets, mobility aids and special housing.

Deerfield, Virginia’s only prison dedicated to geriatric inmates and inmates with special medical needs, accommodates 1,080 inmates, 90 of them in wheelchairs and 65 percent over the age of 50.

Other older inmates and older female inmates are in prisons such as the Fluvanna Correctional Center for Women and the Greensville and Powhatan correctional centers.

Critics point out that many older inmates are far less likely to commit new crimes and could be released at great savings. Prison officials, however, believe their care would largely be at public expense in or out of prison.

And though older people are less likely to commit crimes, some still do. Beyrer was 67 when he was convicted in Virginia Beach of statutory rape, aggravated sexual battery and forcible sodomy.

Deerfield’s head nurse, Bonita Badgett, said 800 of the inmates there have at least one chronic medical condition such as diabetes, high blood pressure or asthma. The prison psychiatrist, Dr. Amit Shah, said the major problem he treats is depression.

In October alone, the prison handled 5,200 prescriptions.

Badgett has a staff of 14 registered nurses, 25 licensed practical nurses and 21 nursing assistants. Two physicians are at the prison three days a week and the psychiatrist visits once a week. At least one registered nurse is on hand at all times. . . .

Deerfield was selected 10 years ago as the site for older offenders. An expansion opened in 2007 and there is now an 18-bed infirmary, a 57-bed assisted-living dorm, a larger ancillary-care dorm, a dorm for diabetics and a dorm for other special-needs inmates.

More than 75 percent of Deerfield’s prisoners have violent records and nearly 30 percent are sex offenders. Security measures are complicated by health-care needs, said Maj. Stanley Mayes, chief of security for the prison.

An elderly inmate. Why is the proportion of geriatric inmates increasing?

Olivier Pighetti/Saola/Getty Images, Inc.—Liaison

Terrorism

Today’s antiterrorism efforts have brought to light the important role that corrections personnel can play in preventing future attacks against America and in averting crises that could arise in correctional institutions as a result of terrorist action. In 2005, former New York City
“These guys have a lot of serious medical needs and... there are a lot of unusual [and potentially dangerous] pieces of equipment or property that we will allow them to have that you typically wouldn’t see in another prison,” he said.

Officers must be sensitive to prisoners who are gravely ill, suffering a heart attack or a stroke. “But not be deceived by someone who is faking to get an advantage to facilitate an escape,” Mayes said.

Not everyone at Deerfield is happy. More than 200 inmates signed a letter to Gov. Timothy M. Kaine last year complaining about the parole board’s low grant rate. One inmate claims staff stole his pain medication as he recovered from an injury.

Parole issues aside, inmates interviewed during a recent tour said they liked Deerfield.

James Henry Tinsley, 59 and partially paralyzed, has been there since 2003. “I been locked up 26 years,” said Tinsley, convicted of 55 felonies, including capital murder, robbery and burglary.

“You’ve got some good people here. I ain’t got nothin’ bad to say about ‘em... As far as the medical, I give it a double A plus,” he said.

Another well-traveled inmate, William H. Glazebrook, 74, has been in the state system for 25 years and at Deerfield for a year and a half. “This is Boy Scout Camp compared to the rest of ‘em. This is a hell of a lot better,” he said.

The Rev. Lynn Robinson, the prison chaplain, says, “These guys here, man, this is a special group of fellows.” He said the inmates recently arranged to have Thanksgiving food baskets sent to five families and raised $500 for breast-cancer research.

“The one thing, I think, the community can be aware of is that... they need support when they come home,” Robinson said.

Also, he said, “Saturdays and Sundays are visiting days, and some of them have family in the general area, and for some reason they don’t come to see them. They need to stay in contact with [their] children.”... Beyrer, Virginia’s oldest inmate, was a resident of Deerfield’s infirmary in November. Aside from six 1992 felony convictions, little information was available about Beyrer because of privacy rules.

He says that he was once a prisoner at California’s San Quentin State Prison. California authorities could not confirm they had ever held him, but New York state archives show he was released from Attica Correctional Facility in 1956.

Dawn Mosena, the nurse manager of the infirmary, said inmates are held there for observation and treatment before and after hospitalization, in addition to long-term care and special-needs inmates such as Beyrer.

She said the staff is planning how to make room for what is expected to be more long-term patients such as Beyrer.

Last year, an inmate’s mother was allowed to be with her son in the infirmary when he died. “We want the patient to feel comfortable and the family to feel comfortable and know that they can be with them in those last hours,” Mosena said.

“We want to get a hospice program going,” she added.

Davis said another problem is that “a lot of these guys have outlived their families... We could open the door to let them go, and where would they go?”

Badgett, Deerfield’s head nurse, agreed. “Some of them we had to keep beyond their release date because we couldn’t find a placement for them. There was no family out there, no home, there was nowhere to send them,” she said.

Sex offenders, particularly, are difficult to place. Most nursing homes do not want them, and families often reject them because of their crimes, or “the families simply cannot take care of the needs and medications.”...

At Deerfield, younger and healthier inmates—dubbed “pushers,” short for wheelchair pushers—assist the older inmates and perform a wide variety of essential jobs for 45 cents an hour, primarily janitorial and in health care, that help keep the prison running.

One “pusher,” James Lee Wainwright, 47, imprisoned in 1990 for armed robbery, helps in the infirmary. He said he has also assisted with health care at another prison before arriving at Deerfield.

“I plan on taking it up when I get out of here,” he said.

An infirmary nurse said, “We couldn’t function without these guys, literally, without their eyes and their help.”

William Robison, chief psychologist at Deerfield, said some inmate helpers perform odious jobs, peculiar to hospitals and rest homes, for infirm inmates. A program has been set up to help the helpers, Robison said.

“The caregivers support group is... for guys who are caring for other guys here. You know, if that isn’t therapeutic education, what the hell is?” Robison asked.

“It’s a little different here, the way we even think of mental health. We try and redeem a guy.”

Said Robinson: “What we do is to find them a purposefulness in living in prison and maybe dying in here.” He is familiar with programs in other states and said, “I think we’re light years ahead.”

“We’re not soft on crime. Tough love ‘em, and they could still die here with some atonement... with a sense of humanity and self worth.”

The technological forces that have made cell phones ubiquitous are beginning to converge with the forces of law and order to create what some have called technocorrections. Members of the correctional establishment—the managers of the jail, prison, probation, and parole systems and their sponsors in elected office—are seeking more cost-effective ways to increase public safety as the number of people under correctional supervision continues to grow. Technocorrections is being defined by a correctional establishment that seeks to take advantage of all the potential offered by the new technologies to reduce the costs of supervising criminal offenders and to minimize the risk they pose to society.

Emerging technologies in three areas will soon be central elements of technocorrections: electronic tracking and location systems, pharmacological treatments, and genetic and neurobiological risk assessments. While these technologies may significantly increase public safety, we must also be mindful of the threats they pose to democratic principles. The critical challenge will be to learn how to take advantage of new technological opportunities applicable to the corrections field while minimizing their threats.

**TRACKING AND LOCATION SYSTEMS**

Electronic tracking and location systems are the technology that is perhaps most familiar to correctional practitioners today. Most states use electronic monitoring—either with the older bracelets that communicate through a device connected to telephone lines or with more modern versions based on cellular or satellite tracking. With such technology, corrections officials can continuously track offenders’ locations and use that information to supervise their movements. As this technology expands, it will enable corrections officials to define geographic areas from which offenders are prohibited and to furnish tracking devices to potential victims (such as battered spouses). The devices will set “safe zones” that trigger alarms or warning notices when the offender approaches.

Tiny cameras might also be integrated into tracking devices to provide live video of offenders’ locations and activities. Miniature electronic devices implanted in the body to signal the location of offenders at all times, to create unique identifiers that trigger alarms, and to monitor key bodily functions that affect unwanted behaviors are under development and are close to becoming reality.

**PHARMACOLOGICAL TREATMENTS**

Pharmacological breakthroughs—new “wonder drugs” being developed to control behavior in correctional and noncorrectional settings—will also be a part of technocorrections. Corrections officials are already familiar with some of these drugs, which are currently used to treat mentally ill offenders. Yet these drugs could also be used to control mental conditions affecting undesirable behaviors even for offenders who are not mentally ill. Research into the relationship between levels of the neurotransmitter serotonin and violent behavior continues to be refined. Findings to date seem to indicate that people who have low levels of serotonin are more prone than others to impulsive violent acts, especially when they abuse alcohol. Not long ago, the National Academy of Sciences (NAS) recommended a new emphasis in biomedical research on violence as a means to understand the biological roots of violent behavior. The NAS reports that research findings from animal and human studies “point to several features of the nervous system as promising sites” for discovering reliable biological “markers” for violent behavior and designing preventive therapies.

It is only a matter of time before research findings in this area lead to the development of drugs to control neurological processes. These drugs could become correctional tools to manage violent offenders and perhaps even to prevent violence. Such advances are related to the third area of technology that will affect corrections: genetic and neurobiological risk-assessment technologies.

**RISK-ASSESSMENT TECHNOLOGIES**

Corrections officials today are familiar with the DNA profiling of offenders, particularly sex offenders. This is just the beginning of the correctional application of gene-related technologies, however. The Human Genome Project, supported by the National Institutes of Health and the Department of Energy, began in 1990 and was completed in 2003. The goal of the Human Genome Project was to create a map of the 3 billion chemical bases that make up human DNA. The map organized gang members, organized units. You’ve got to collect that information, you have to get it back to the authorities that need it.”

Jess Maghan, director of the Forum for Comparative Corrections and professor of criminal justice at the University of Illinois at Chicago, points to the critical role that intelligence gathering and analysis by correctional agencies can play in providing critical information to prevent terrorist attacks. According to Maghan, “the interaction of all people in a prison (staff, officers, and inmates) can become important intelligence sources.” Moreover, says Maghan, the flow of information between inmates and the outside world must be monitored to detect attack plans, especially when prisons house known terrorist leaders or group members. Vital intelligence, according to Maghan, can be passed through legal visits (where people conveying information may have no idea of its significance), sub-rosa communications
was constructed by high-powered “sequencer” machines that can analyze human DNA faster than any human researcher can. Emerging as a powerhouse of the high-tech economy, the biotechnology industry will drive developments in DNA-based risk assessment.

Gene “management” technologies are already widely used in agriculture and are increasingly used in medicine. The progression is likely to continue with applications in psychiatric and behavioral management. Researchers are investigating the genetic—or inherited—basis of behavior, including antisocial and criminal behavior. Studies of twins, for example, have revealed similarities in behavior attributable to a genetic effect. Eventually, the genetic roots of human behavior could be profiled.

Neurobiological research is taking the same path, although thus far no neurobiological patterns specific enough to be reliable biological markers for violent behavior have been uncovered. Is it possible that breakthroughs in these areas will lead to the development of risk-assessment tools that use genetic or neurobiological profiles to identify children who have a propensity toward addiction or violence? Might they also be capable of identifying individuals with a propensity for becoming sex offenders? We may soon be able to link genetic and neurobiological traits with social and environmental factors to reliably predict who is at risk for addiction, sex offending, violent behavior, or crime in general.

Attempts will surely be made to develop genetic or neurobiological tests for assessing risks posed by individuals. This is already done for the risk of contracting certain diseases. Demand for risk assessments of individuals who come from corrections officials under pressure to prevent violent recidivism. Once under correctional control, specific offenders could be identified, on the basis of such testing and risk assessment, as likely violent recidivists. The group so classified could be placed under closer surveillance or declared a danger to themselves and society and be civilly committed to special facilities for indeterminate periods. In other words, incarceration could assume a more preventive role.

“Preventive incarceration” is already a reality for some convicted sex offenders. More than a dozen states commit certain sex offenders to special “civil commitment” facilities after they have served their prison sentences because of a behavioral or mental abnormality that makes them dangerous. This happens today with no clear understanding of the nature of the abnormality. It is not difficult to imagine what might be done to justify preventive incarceration if this “abnormal” or criminal behavior could be explained and predicted by genetic or neurobiological profiling.


networks in prisons that can support communications between inmates and the outside world, and prison transportation systems.

Prison administrators must also be concerned about the potential impact of outside terrorist activity on their facility’s inmate and staff populations. Of particular concern to today’s prison administrators is the possibility of bioterrorism. A concentrated population like that of a prison or jail is highly susceptible to the rapid transmission of biological agents.

The threat of a terrorist act being undertaken by inmates within a prison or jail can be an important consideration in facility planning and management, especially because inmates may be particularly vulnerable to recruitment by terrorist organizations. According to Chip Ellis, research and program coordinator for the National Memorial Institute for the Prevention of Terrorism, “Prisoners are a captive audience, and they usually have a diminished
Censoring Prison Communications

On February 28, 2005, NBC News announced that it had learned that Arab terrorists in federal maximum-security prisons had been sending letters to extremists on the outside, exhorting them to attack Western interests. The terrorists included Mohammed Salameh, a follower of radical sheik Omar Abdel-Rahman. Salameh had been sentenced to more than 100 years in prison for his part in the 1993 bombing attack on New York’s World Trade Center. That attack, which killed six and injured more than 1,000, blew a huge hole in the basement parking garage of one of the towers but failed to topple the buildings.

The men are being held in the federal ADMAX facility in Florence, Colorado—the country’s most secure federal prison. While there, NBC News revealed, they sent at least 14 letters to a Spanish terror cell, praised Osama bin Laden in Arabic newspapers, and advocated additional terror attacks. In July 2002, Salameh, a Palestinian with a degree in Islamic law from a Jordanian university, sent a letter to the Al-Quds Arabic daily newspaper, proclaiming that “Osama Bin Laden is my hero of this generation.”

Andy McCarthy, a former federal prosecutor who worked to send the terrorists to prison, said that Salameh’s letters were “exhorting acts of terrorism and helping recruit would-be terrorists for the Jihad.” Michael Macko, who lost his father in the Trade Center bombing, posed this question: “If they are encouraging acts of terrorism internationally, how do we know they’re not encouraging acts of terrorism right here on U.S. soil?”

Prison officials told reporters that communications involving the imprisoned bombers had not been closely censored because the men hadn’t been considered very dangerous. The letters didn’t contain any plans for attacks, nor did they name any specific targets. One Justice Department official said that Salameh was “a low level guy” who was not under any special restrictions and that his letters were seen as “generic stuff” and “no cause for concern.”

Rights advocates suggested that inmates should have the right to free speech—even those imprisoned for acts of terrorism—and that advocating terrorism is not the same thing as planning it or carrying it out. After all, they said, calls for a holy war, however repugnant they may be in the current international context, are merely political statements—and politics is not against the law.

YOU DECIDE

What kinds of prison communications, if any, should be monitored or restricted (letters, telephone calls, e-mail)? Do you believe that communications containing statements like those described here should be confiscated? What kinds of political statements, if any, should be permitted?


sense of self or a need for identity and protection. They’re usually a disenchanted or disenfranchised group of people, [and] terrorists can sometimes capitalize on that situation.”

Inmates can be radicalized in many ways, including exposure to other radical inmates, the distribution of extremist literature, and anti-U.S. sermons heard during religious services.

Officials of the Federal Bureau of Investigation (FBI) say al-Qaeda continues to actively recruit members from U.S. prisons and looks especially to the 9,600 Muslims held in the federal prison system. “These terrorists seek to exploit our freedom to exercise religion to their advantage by using radical forms of Islam to recruit operatives,” says FBI Counterterrorism Chief John Pistole. “Unfortunately, U.S. correctional institutions are a viable venue for such radicalization and recruitment.” In 2005, the Institute for the Study of Violent Groups, located at Sam Houston State University, charged that the most radical form of Islam, Wahhabism, was being spread in American prisons by clerics approved by the Islamic Society of North America, one of two organizations chosen by the federal Bureau of Prisons to select prison chaplains. “Proselytizing in prisons,” said the institute, “can produce new recruits with American citizenship.” An example of such activity can be found in the story of accused terrorist Kevin James, 32, who was sentenced in federal court in Santa Ana, California, in 2009 to 16 years in prison. James had pleaded guilty in 2007 to conspiracy to wage war against the United States and was accused of plotting terrorist attacks on Jewish and military targets throughout California. Among his targets were Los Angeles International Airport, the Israeli Consulate, and Army recruiting centers.

Investigators who focused on James’s background found that he had formed an Islamic terrorist group in California’s Tehachapi prison in 1997. While serving a ten-year sentence for robbery, James joined the Nation of Islam, a traditional American Islamic faith. Soon, however, he began to associate with a fringe group of Sunni Muslims at Tehachapi. Today,
Feds Target Terrorist Recruiting in Prisons

The federal government is working with prisons in dozens of states to improve intelligence gathering and monitoring of inmates in a stepped-up campaign to curb homegrown terrorism behind bars.

The FBI and Homeland Security Department are urging prison officials to do more extensive background checks on workers and volunteers who meet with inmates. And members of Congress are looking at possible reforms in prison security as a way to combat the spread of extremist Islamic beliefs.

Chief among the concerns is that radical Muslim clerics could have access to prisoners and coerce them with terrorist literature.

“It’s a concern because we know that violent extremist groups will target people in prisons,” said Donald Van Duyn, the FBI’s counterterrorism director. “We’re working to improve monitoring, improve training and increase awareness.”

The intensified surveillance follows the recent arrests of people alleged to be home-grown terrorism suspects in London and Canada, which have raised concerns that the United States may be vulnerable to terrorism at the hands of its own citizens. British authorities said in August 2006 that they broke up a conspiracy to blow up U.S.-bound airliners with liquid bombs, and Canadian officials charged 17 people in June 2006 with an al-Qaeda-inspired plot to possess 3 tons of bombmaking materials.

Homeland Security officials, who are sending investigators to prisons around the country to gather intelligence on inmate radicalization, are worried that similar plots could be hatched in U.S. prisons. “Prisons can be a breeding ground,” says Charles Allen, Homeland Security’s top intelligence officer.

Among the steps that the FBI and Homeland Security are urging prisons to take:

- Develop more informants and set up more intelligence units in state prison systems. The FBI is encouraging prison systems to set up their own intelligence units and to work with local agents to share information. The bureau won’t say whether it has undercover agents in the nation’s prisons.
- Train more prison staff to recognize signs that prisoners are turning to extremist propaganda, sharing radical views, and attempting to convert other inmates.
- Conduct background checks on volunteers and workers to ensure extremist Muslim clerics don’t have access to prisoners.

“Our concern is not with prison inmates converting to Islam,” says Sen. Susan Collins, R-Maine, chairwoman of the Senate Homeland Security Committee. “For many converts, this religion brings the direction and purpose their lives previously lacked.”

A case in California shows how some U.S. prisons have spawned converts to radical forms of Islam.

Members of an extremist group robbed a dozen Los Angeles gas stations in 2005 to raise money to finance terrorist attacks on the United States.

The group’s founder, Kevin James, is alleged by the FBI to have recruited members from prison. Four members of the group are awaiting trial on charges including conspiracy to levy war against the U.S. government.

“We have to wonder how many other such conspiracies are taking shape under the radar in other prisons,” Collins says.


the group, known as Jamiyyat Ui Islam Is Saheeh (the Assembly of Authentic Islam, or JIS), operates throughout prisons in California where it is known as a radical Islamist prison gang. JIS advocates attacks on enemies of the Islamic faith, the U.S. government, Jews, “infidels,” and supporters of Israel.

Eventually, James took control of JIS and began distributing a handwritten manifesto, known as the JIS Protocol, in which he justified the killing of infidels. Following transfer to the maximum-security California State Prison in Sacramento, James recruited more inmates to join JIS, using inmates who were about to be paroled to recruit additional members outside of prison. Through smuggled letters and phone calls, James communicated his plans for terrorist attacks to recruits on the outside.
In 2004, the Office of the Inspector General of the U.S. Department of Justice released its review of the BOP’s practices in selecting Muslim clergy to minister to inmates in BOP facilities. The report concluded that the primary threat of radicalization comes from inmates, not chaplains, contractors, or volunteers. In the words of the report, “Inmates from foreign countries politicize Islam and radicalize inmates, who in turn radicalize more inmates when they transfer to other prisons.” The report also identified a form of Islam unique to the prison environment called “Prison Islam.” Prison Islam, the report said, is a form of Islam that adapts itself to prison values and is used by gangs and radical inmates to further unlawful goals. It was found to be especially common in institutions where religious services are led by lay mullahs (spiritual leaders)—a practice made necessary by a lack of Muslim chaplains. The report concluded with a number of recommendations, including one that the BOP should provide staff training on Islam so that corrections officers can recognize radical Islamist messages. The report also recommended that “the BOP can and should improve its process for selecting, screening, and supervising Muslim religious services providers.” Finally, the report recommended that “the BOP take steps to examine all chaplains’, religious contractors’, and religious volunteers’ doctrinal beliefs to screen out anyone who poses a threat to security.”

In response, the BOP implemented a number of new practices, and today it coordinates with other federal agencies to share intelligence information about suspected or known terrorists in its inmate population. The bureau closely tracks inmates with known or suspected terrorist ties and monitors their correspondence and other communications. The bureau also trains staff members to recognize terrorist-related activity and to effectively manage convicted terrorists within the correctional environment. A BOP program to counter radicalization efforts among inmates has been in place for the past five years.

The incarceration of convicted terrorists presents new challenges for corrections administrators at both the state and federal levels. Sheik Omar Abdel-Rahman, a blind Muslim cleric and spiritual leader for many Islamic terrorists, including Osama bin Laden, is currently serving a life sentence in a U.S. federal penitentiary for conspiring to assassinate Egyptian President Hosni Mubarak and to blow up five New York City landmarks in the 1990s. Speculation that the sheik worked from behind bars to motivate terrorist acts against the United States gained credibility when his attorney and three others were indicted in April 2002 for allegedly passing illegal communications between Abdel-Rahman and an Egyptian-based terrorist organization known as the Islamic Group.

The current world situation, and the environment in which correctional agencies operate, is likely to ensure that the issues identified here will take on ever-increasing significance for prison administrators in the future. Learn more about prison issues of all kinds from the Prison Policy Initiative via Web Extra 14–6 at MyCrimeKit.com. Read about concerns over Muslim religious services in correctional institutions at Library Extra 14–10 at MyCrimeKit.com.

**Summary**

- Prisons are small, self-contained societies that are sometimes described as *total institutions*. Studies of prison life have detailed the existence of prison subcultures, or inmate worlds, replete with inmate values, social roles, and lifestyles. New inmates who are socialized into prison subculture are said to undergo the process of prisonization. Prison subcultures are very influential, and both inmates and staff must reckon with them. Today’s prisons are miniature societies, reflecting the problems and challenges that exist in the larger society of which they are a part.
- Female inmates represent a small but growing proportion of the nation’s prison population. Many female inmates have histories of physical and sexual abuse. Although they are likely to have dependent children, their parenting skills may be limited. Most female inmates are housed in centralized state facilities known as women’s prisons, which are dedicated exclusively to incarcerating female felons. Some states, however, particularly those with small populations, continue to keep female prisoners in special wings of what are otherwise institutions for men. Few facilities for women have programs especially designed for female offenders.
- Like prisoners, corrections officers undergo a socialization process that helps them function by the official and unofficial rules of staff society. Prison staffs are most
concerned with custody and control. The enforcement of strict rules; body and cell searches; counts; unannounced shakedowns; the control of dangerous items, materials, and contraband; and the extensive use of bars, locks, fencing, cameras, and alarms all support the staff’s vigilance in maintaining security. Although concerns with security still command center stage, professionalism is playing an increasing role in corrections today, and today’s corrections personnel are better trained and more proficient than ever before.

- As this chapter discusses, the causes of prison riots are diverse. They include (1) unmet inmate needs, (2) the violent tendencies of some inmates, (3) the dehumanizing conditions of imprisonment, (4) a desire to regulate inmate society and redistribute power, and (5) power vacuums created by changes in prison administration, the transfer of influential inmates, or court-ordered injunctions. Riots, when they do occur, typically pass through five phases: (1) explosion, (2) organization into inmate-led groups, (3) confrontation with authority, (4) termination through negotiation or physical confrontation, and (5) reaction and explanation, usually by investigative commissions.

- For many years, courts throughout the nation assumed a hands-off approach to prisons, rarely intervening in the day-to-day administration of prison facilities. That changed in the late 1960s, when the U.S. Supreme Court began to identify inmates’ rights mandated by the Constitution. Rights identified by the Court include the right to physical integrity, an absolute right to be free from unwarranted corporal punishments, certain religious rights, and procedural rights, such as those involving access to attorneys and to the courts. The conditional rights of prisoners, which have repeatedly been supported by the Court, mandate professionalism among prison administrators and require vigilance in the provision of correctional services. High court decisions have generally established that prison inmates retain those constitutional rights that are not inconsistent with their status as prisoners or with the legitimate penological objectives of the correctional system. In other words, inmates have rights, much the same as people who are not incarcerated, provided that the legitimate needs of the prison for security, custody, and safety are not compromised. The era of prisoners’ rights was sharply curtailed in 1996 with the passage of the Prison Litigation Reform Act, spurred on by a growing recognition of the legal morass resulting from the unregulated access to federal courts by inmates across the nation.

- The major problems and issues facing prisons today include (1) threats from infectious diseases, including AIDS; (2) the need to deal with a growing geriatric offender population, which is the result of longer sentences and the aging of the American population; (3) a sizable number of mentally ill and mentally deficient inmates; and (4) a concern over inmates with terrorist leanings and those who have been incarcerated for terrorism-related crimes.

key terms

balancing test, 512  
civil death, 511  
deliberate indifference, 517  
grievance procedure, 521  
hand-offs doctrine, 511  
prison argot, 492  
prisonization, 492  
prison subculture, 492  
security threat group (STG), 510  
total institution, 491

key cases

Block v. Rutherford, 515  
Bounds v. Smith, 516  
Cruz v. Beto, 516  
Estelle v. Gamble, 517  
Helling v. McKinney, 520  
Houchins v. KQED, Inc., 515  
Hudson v. Palmer, 520  
Johnson v. Avery, 517  
Jones v. North Carolina Prisoners’ Labor Union, 521  
Katz v. U.S., 520  
Overton v. Bazzetta, 515  
Pell v. Procunier, 512  
Pennsylvania Department of Corrections v. Yeskey, 519  
Ruiz v. Estelle, 517  
Sandin v. Conner, 522  
Wolff v. McDonnell, 521
questions for review

1. What are prison subcultures, and how do they influence prison life? How do they develop, and what purpose do they serve?
2. How do women’s prisons differ from men’s? Why have women’s prisons been studied less often than institutions for men?
3. What are the primary concerns of prison staff? What other goals do staff members focus on?
4. What causes prison riots? Through what stages do most riots progress? How might riots be prevented?
5. What are the commonly accepted rights of prisoners in the United States today? Where do these rights come from? What U.S. Supreme Court cases are especially significant in the area of prisoners’ rights?
6. What are some of the major issues that prisons face today? What new issues might the future bring?

questions for reflection

1. What does *prisonization* mean? Describe the U-shaped curve developed by Stanton Wheeler to illustrate the concept of prisonization. How can an understanding of Wheeler’s U-shaped curve help prevent recidivism?
2. What is the hands-off doctrine? What is the status of that doctrine today? What is its likely future?
3. Explain the balancing test established by the Supreme Court in deciding issues of prisoners’ rights. How might such a test apply to the emerging area of inmate privacy?
4. What does the term *state-created rights* mean within the context of corrections? What do you predict for the future of state-created rights?

Discuss your answers to these questions and other issues on the CJ Today e-mail discussion list (join the list at MyCrimeKit.com).
Go to MyCrimeKit.com to explore the following study tools and resources specific to this chapter:

- Chapter Quiz and More Practice: dozens of multiple-choice and true-false questions
- Flashcards: 10 flashcards to test your knowledge of the chapter’s key terms
- Web Quest: activity about criminal justice–related employment sites
- Assignments: real-world essay questions about current issues, e-homework, opinion-based essay questions, and chapter projects for research and analysis

Go to Chapter 14 of Criminal Justice Interactive to use the following resources and study tools:

- Learning Modules: The Legal Rights of Inmates, Special Offenders, Prison Programs, and Prisoner Re-Entry
- Myths and Issues Videos:
  - Myth versus Reality: The Death Penalty, a Cost-Effective Solution
- Issue 1: Should Prisoners Have Rights?
- Issue 2: Our Graying Prison Population
- Simulation: Life in Prison. Hear from two inmates about what life is like in prison.

Endnotes for this chapter can be found online at MyCrimeKit.com