1 The Corrections System

LEARNING OBJECTIVES

1. To understand the basic purpose and structure of the corrections system and how it relates to the justice system as a whole.
2. To identify some of the societal factors that influence the corrections system and some of the ways that the corrections system impacts society.
3. To gain a critical perspective and an insight into our complex corrections system and some of the serious issues it faces, with an eye toward what works.
4. To be introduced to the enormous changes in corrections in the past 30 years, including "mass

A Legacy of Crisis and Turmoil

▲ While on parole after years in solitary confinement, convicted murderer Evan Spencer "Evil" Ebel murdered a pizza delivery man and used his truck to gain access to and murder the chief of Colorado Department of Corrections Tom Clements.

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Tom Clements was the director of corrections in Colorado. He was gunned down at his own home in March 2013. The murder of a high-level corrections leader is very rare, but this tragic event points to many all-too-common aspects of the ongoing crisis of American corrections. The assassin was Evan Spencer Ebel, who was 28 years old and had just spent eight years in Colorado prisons for armed robbery, most of that time in **solitary confinement**. Ebel was a member of a White supremacist prison gang—the 211 Crew. He was nicknamed "Evil Ebel" by fellow inmates and had "HATE" tattooed on his hand. He committed over 28 serious disciplinary infractions while imprisoned, including threats to prison staff and assaults on both staff and other inmates. While in custody, he pled guilty to assaulting a corrections officer in 2008, for which he was to serve an additional four years beyond his original sentence. On the day he shot Director Clements, Ebel first killed a pizza delivery person, whose truck he then used to gain access to Clements's home. In Ebel's car, the police found bomb supplies, surveillance equipment, an assortment of guns, and handwritten directions to Clements's address.[1] Letters of **grievance** Ebel had written while in custody expressed his growing anger over his long-term solitary confinement. They also showed his frustration that authorities did nothing to prepare him for life in the community after years of imprisonment.[2]

To make matters worse, Ebel was not supposed to be released from the Colorado prison system for another four years. Mistakes on the part of the judge and the court reporter led Colorado prison officials to release him before he served the extra time for assaulting the prison guard.

Director Clements was a well-respected corrections leader who championed the cause of penal reform. During his many years as a high-level administrator in Missouri, he used his position to introduce more humane prison conditions, find additional funding for literacy and rehabilitation programs, and expand efforts to assist prisoners to successfully return home. He also advocated for curtailing solitary confinement in prisons, reducing its use in Colorado by half before his death. Clements was a devoutly religious person who believed that many prisoners could be rehabilitated.[3]

Solitary confinement: Special imprisonment where the inmate is isolated from human contact. Solitary is intended as an additional punishment but is sometimes used for protective custody or suicide watch. Solitary confinement tends to create or exacerbate mental illness.

incarceration" and its associated monetary and societal costs.

5 To begin to grasp the ebb and flow of correctional philosophy in the United States and the balance point between punishment and rehabilitation.

6 To be introduced to the authors' approach in this book, which encourages the reader to ask why the system is the way it is, what works and what does not work to fulfill the system's purposes, and what can be done to improve the system.

This case is not an isolated event. Early in February 2017, the inmates of a Delaware prison that housed 2,500 seized control of the prison and took several hostages. The Delaware State Police responded with a massive show of force and smashed a backhoe through the prison doors in a predawn raid. After they retook the prison, corrections officer Steven Floyd was found murdered. Three other corrections officers were found alive with broken bones, bruises, and lacerations. Union officials asserted that the riot was not spontaneous, and there was some evidence that inmates had planned the takeover and practiced their actions to determine how the corrections staff would respond to a disturbance. The inmates had control of the prison for almost 18 hours, while Delaware state officials attempted to negotiate for the release of the hostages. It appeared that the prison was understaffed; administrators had many officers working overtime hours instead of filling 90 vacant staff positions. Inmates complained that the prison made extensive use of solitary confinement to manage misconduct, that inmates were mistreated by the staff, and that minimal education and rehabilitation opportunities were available. Prison staff had their own complaints: Five surviving correctional officers and the family of Officer Floyd sued the state, saying the riot was due to negligent understaffing and an unsafe working environment as well as poor leadership during the uprising.[4] Authorities launched a thorough investigation to identify the killer of the Officer Floyd.[5]

Heavy use of incarceration over the past several decades has not made the United States a model of how to humanely and effectively respond to crime. Rather, stories of U.S. prisons often echo those from other countries. For example, prison violence also plagued most all the prisons in Brazil in 2017. At least 120 inmates were killed as Brazilian military forces attempted to control the rioting. Many of the inmates were murdered by other inmates in battles among rival drug gangs. Many of the victims were decapitated and mutilated. Corrections officers watched the violence from guard towers. It appeared that the prison warfare spilled out onto the streets outside, and several buses were firebombed. Citizens in several Brazilian towns near prisons were terrified by the violence.[6]

All of these tragic occurrences illustrate many of the themes that are more fully explored in this text. Social dynamics inside facilities contribute to very dangerous situations for staff and other inmates. Prisons continue to be plagued with racial tensions and inequities. Violence behind the walls is often connected to dangerous conflicts in the outside world.

Denying individuals their freedom and holding them behind bars is inherently difficult; perhaps there are no "good" conditions of confinement. However, funding, staffing, training, leadership, prison design, and policies can make matters either worse or better. The American prison and sentencing system is overtaxed; errors occur, and dangerous and unhealthy climates are common. People are released who should be incarcerated, and other inmates are held illegally past their release dates. Substance abuse and mental health issues among inmates compound these challenges, and effective treatment services are all too inadequate to meet the needs of the imprisoned population. Overwhelmed and underfunded corrections officials have come to depend on the extensive use of solitary confinement and other harsh methods to manage these explosively dangerous circumstances. These practices often lead to ever higher levels of violence rather than safety. Although popular opinion seems to have shifted since the 2000s, the public either has generally supported this overuse of solitary and other harsh practices as fitting with a tough-on-crime approach to corrections or has simply been unaware of it.

Grievance: An official statement of complaint about wrong done to a person. Prisoners may file a grievance with officials about infringements on their rights or unfair or inhumane treatment. Facilities must have a policy and procedure in place for processing and responding to inmate grievances.

Prison: Detention facilities operated either by state governments or by the Federal Bureau of Prisons that are designed to hold individuals who have been convicted of crimes and who are serving sentences of a year or more.

Conditions of confinement: The physical and social environment inside of correctional facilities. Conditions include the overall environment and all of its elements—such as health and safety, food quality, sleeping quarters, rehabilitative services, inmate-to-inmate and inmate-to-guard relations, crowding (as a function of facility design), and the nature of supervision, including use of force and isolation—that impact the safety, health, comfort, and stress level of inmates.

Corrections: The punishment, supervision, and treatment of individuals suspected or convicted of criminal or delinquent offenses and the various legal and extralegal entities involved in carrying out that function.

Corrections as a System

Criminal Justice and Corrections

The criminal justice system includes law enforcement, the criminal courts, and corrections. These three systems work in many complementary ways. Each branch of American government

Social tensions are present inside prisons just as they are on the outside. Inside, they are often magnified, as they become a stronger part of the inmate's personal and group identity.

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is involved. The executive branch runs the agencies, the legislative branch makes laws and allocates funding, and the courts review claims of law violations and sentence those convicted of crimes. Each branch plays a different role, with some overlap. Each influences the system as a whole by interpreting, shaping, and applying laws, regulations, and policies, and by making decisions that ultimately determine who is involved in the system, for how long, and in what setting. It is important to remember that this human element—for everyone involved—plays a key role as laws and rules are created, defined, and applied at every stage of the system.

A defendant's case progresses through the bureaucratic steps, leading to a "day in court." After being charged with a crime, a defendant may be held in **custody** or sent home. In either case, correctional officers are responsible for ensuring that defendants appear in court for their hearings and avoid further criminal behavior. The police assist with **community supervision**, and the courts make the key decisions about pretrial custody, guilt or innocence, and, if applicable, sentencing. But the day-to-day responsibility for the defendant falls to corrections. For those convicted of a crime, this responsibility continues as the convicted individual serves his or her sentence—in the community, in jail, or in prison.

Custody: Detention in a prison or jail or being held under guard of law enforcement.

Community supervision: Various forms of noncustodial supervision where offenders are allowed to live in the community while remaining under the jurisdiction of the court or corrections agency, similar to and including probation and parole, and usually with the limitation that failure to adhere to conditions will result in time behind bars.

Elements of the Corrections System

The American corrections system is not really a single system, but a collection of systems and agencies, governed by laws, administrative policies, and broad constitutional provisions. We commonly use the singular *system* to refer to the whole. But there are actually 50 separate and distinct state systems, a federal system, and hundreds of local county or municipal corrections agencies. Each of these levels of corrections has its own function within the whole.

The U.S. Constitution and U.S. Supreme Court rulings give defendants certain rights—such as the right to legal counsel—as they are processed through each level of the system. However, federal sentencing guidelines have no bearing in the state systems, except perhaps to set an example that states may adopt on their own. Each state controls its own sentencing laws and practices. The Supreme Court has also ruled that a death sentence

for youth under age 18 is unconstitutional, yet capital punishment for adults remains a state decision. To encourage state compliance with laws established by Congress, the government leverages federal funding for state corrections. On a more practical level, individuals under the authority of the federal system may actually be held in a state facility, or vice versa, for reasons such as moving the inmate from one geographical region to another, allowing access to the courts, or providing otherwise unavailable medical care. Corrections also involves often complex relationships between state and local agencies. State laws and practices typically hold sway over those of local jurisdictions.

In addition to law enforcement, the courts, and elected officials, there is a wide range of important corrections system stakeholders. A variety of public agencies and both nonprofit and for-profit private organizations provide in-custody programming and treatment services as well as support services such as laundry, food, and maintenance. Many facilities are owned and operated by private companies. Other public agencies for health and human services are important players in corrections. Inmates often receive their medical care in the local community, such as at county hospitals or private clinics. Community groups not only provide services, especially for probationers and parolees and those in alternatives to incarceration, but also do so within facilities. Professional associations establish and promulgate standards for different aspects of the corrections system. Advocacy groups push for reforms from both the political left and right. Private philanthropy funds innovative corrections programs and research to identify and promote promising approaches. Academics and independent researchers write about corrections theory and practice, help train the next generation of correctional workers, and evaluate policy and programs. Volunteers from local communities often serve in various roles, both in community-based corrections and in facilities.

Jurisdiction:
(1) The authority to make pronouncements on legal matters and administer justice within a defined area of responsibility. (2) The political–geographical region with decision-making authority.

Of course, a crucial group within the corrections system is made up of corrections officers and administrators, including staff inside facilities as well as probation and parole officers in the community. These are the men and women who, on a daily basis, negotiate the myriad laws, policies, and practices of a complicated and imperfect system. In many states, correctional officers have developed powerful unions and strong political lobbies to protect their interests—pay and benefits, training and education, work conditions, and other issues. The corrections workforce is changing and will continue to change into the future, with more women and people of color joining the ranks.

Corrections officers require adequate training and support to respond to conflicts with an appropriate balance of restraint and force.

© AP Photo/The News Tribune, Bruce Kellman

Corrections and Society

The Purpose of Corrections: Society's Response to Crime

Corrections is a tough business. It is not a "feel-good" proposition; on the contrary, it is rooted in basic human conflict. It exists to help society deal with some of its most difficult problems, such as aggressive or violent behavior. The purpose of corrections is to fulfill society's need to respond to criminal activity. The goals of the response are to stop the offensive behavior, reduce the likelihood it will happen again, and make the offender pay some price. Put in more academic terms, the major purposes of corrections are **incapacitation, deterrence,** and **retribution.**

Incapacitation: A method of preventing crime by removing the offender from the community.

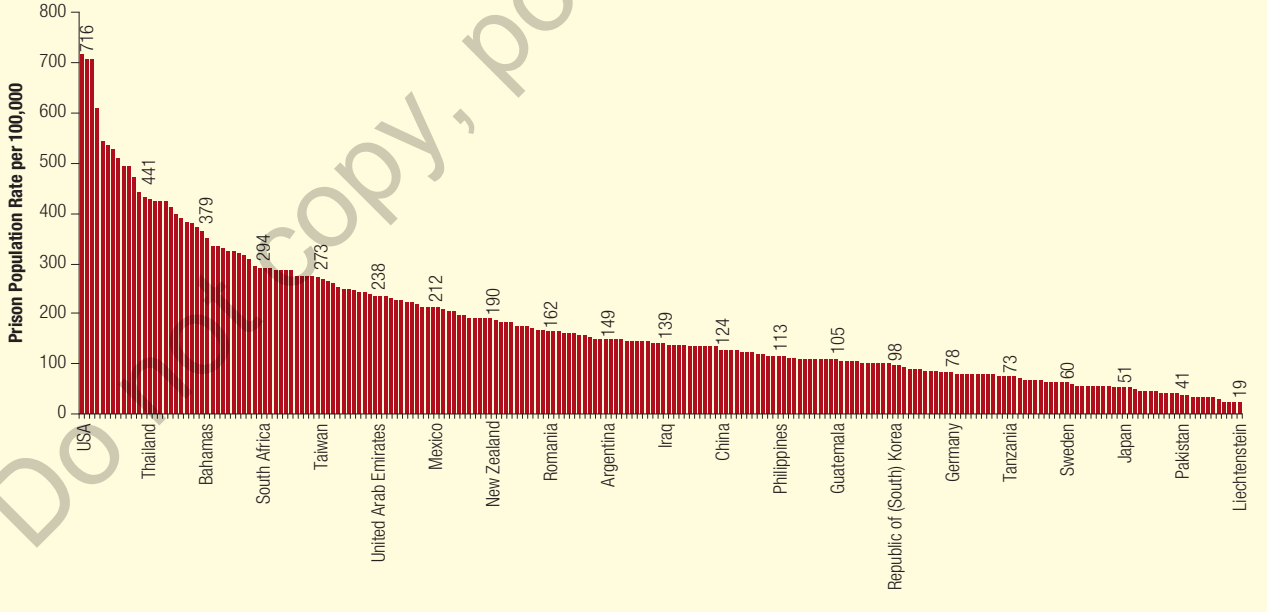
Deterrence: The use of punishment, or the threat of punishment, to discourage individuals from committing crime.

Retribution: Punishment inflicted on the offender as recompense for wrongdoing.

Incapacitation means removing a person from society or otherwise limiting his or her opportunities to commit more crime. The individual is incapacitated through restricted freedoms—usually involving imprisonment in prison or jail, supervision in the community, or both. Fines, community service, and other elements of sentencing are also considered incapacitation, because they limit the ability of the individual to engage as freely in other endeavors.

Deterrence means steering a person away from lawbreaking behavior with the threat of punishment—implicitly or explicitly. The possibilities or the reality of punishment and the denial of freedom are meant to make the criminal or the potential criminal avoid future crime.

Figure 1.1 Incarceration Rates of World Nations



International Perspective. The developments in U.S. corrections fit within a global framework, which is useful for comparing and contrasting corrections among nations. Other countries, even those we consider to be less "developed," rely far less on incarceration than the United States does to respond to nonviolent crimes. Looking at international statistics, the United States tops both lists—the largest number of incarcerated persons and the highest incarceration rate (693 per 100,000 in the U.S. general population) of all nations with a population of at least 100,000. Out of 197, all but 23 have incarceration rates below 300, less than half of the rate in the United States. In 2015, nearly 21% of all of the world's prison and jail inmates were locked up in the United States,[7] which has less than 5% of the world's population.[8]

Source: International Centre for Prison Studies. 2017. World Prison Brief.

Retribution, or punishment, means exacting a sacrifice on the part of the offender in payment for the wrong done to victims and to society. Society achieves retribution by demanding that the convicted person give back, in the form of jail or prison time, fines, community service, or compensation to those harmed by the criminal behavior. Practically speaking, when people speak of accountability, they most often mean retribution.

Rehabilitation, or returning a person to a state of readiness to rejoin and contribute to society, is arguably a fourth purpose of corrections. Some believe that facilitating rehabilitation is a responsibility of the government and of society. Others might not call it a "purpose" but admit that time spent under correctional control provides an opportunity for rehabilitation that should not be wasted. Finally, many believe rehabilitation really has no place in corrections and that it amounts to pampering or special help to unworthy individuals.

Prison Beds and Dollars

After decades of stability, the American corrections system grew at a dizzying rate between 1980 and 2008. As the U.S. general population grew by approximately 40% in that period, the prison population grew by almost 400%. The number of jail inmates tripled, and the number of persons on probation and parole rose by 225% and 287%, respectively. By 2008, there were almost 2.4 million Americans incarcerated in prisons and jails and over 7.3 million under all forms of correctional supervision.[9] Meanwhile, rates of serious and violent crime have fluctuated somewhat but generally declined since 1995. Between 2008 and 2015, there was what now appears to be a steady decrease in correctional populations. Still, 2.1 million remained in prison or jail in 2015 and another 4.6 million were on probation or parole. This equates to 1 in every 37 adult residents of the nation being under some form of correctional supervision.[10] And it would not take much in terms of changes in laws, policies, or practice to turn the tide of the current decline.

Rehabilitation: Restoring or establishing an offender's ability to contribute constructively to his or her individual and community well-being, usually through correctional programming and treatment services targeting the issues that led to his or her criminal behavior.

The movement toward mass incarceration has come with equally massive costs. The Vera Institute estimated that America's prison costs quadrupled from 2000 to 2010. Vera researchers found that total government expenditures for corrections were even higher

Prisoners gather in front of a television showing daytime soaps in a gymnasium that has been converted to house inmates, at California Institution for Men in Chino, May, 24, 2011.

© Ann Johansson / Corbis Historical / Getty Images

than those reflected in prison budgets. These other costs include healthcare and education programs for inmates, capital expenditures, and unfunded staff retiree benefits.[11]

The fiscal costs are but one side of the story. Society as a whole pays the social price of mass incarceration. No citizen is immune from the threat of crime. Society's successes or failures in stopping criminal behavior ultimately dictate the state of health of the social environment and the economy. What goes on in prisons and jails often spills out into the world. That said, some sectors of society are more directly affected than others. It has become increasingly clear that incarceration places a substantial financial and emotional burden on the families whose loved ones are incarcerated.[12] The trauma engendered by incarceration may be manifested in antisocial behavior, mental illness, homelessness, unemployment, and extreme poverty. Many public and charitable agencies attempt to partially alleviate these problems. It is the case that the costs of correction may be far greater than the numbers reflected in their budgets.

Table 1.1 Federal, State, and Local Justice System Expenditures, 2012 (in billions)

Activity	Federal	State	Local	Total
Police protection	31	15	84	126
Judicial and legal*	16	23	22	58
Corrections	9	49	26	81
Total justice system	56	86	133	265

The corrections system costs a lot of money. In 2012, the United States spent $81 billion on corrections—$9 billion in the federal system, $49 billion in the states, and $26 billion locally. These costs have been rising due to growing client populations and increasing legal requirements to meet basic standards of humane treatment and constitutional rights.

Source: Kyckelhahn 2015.

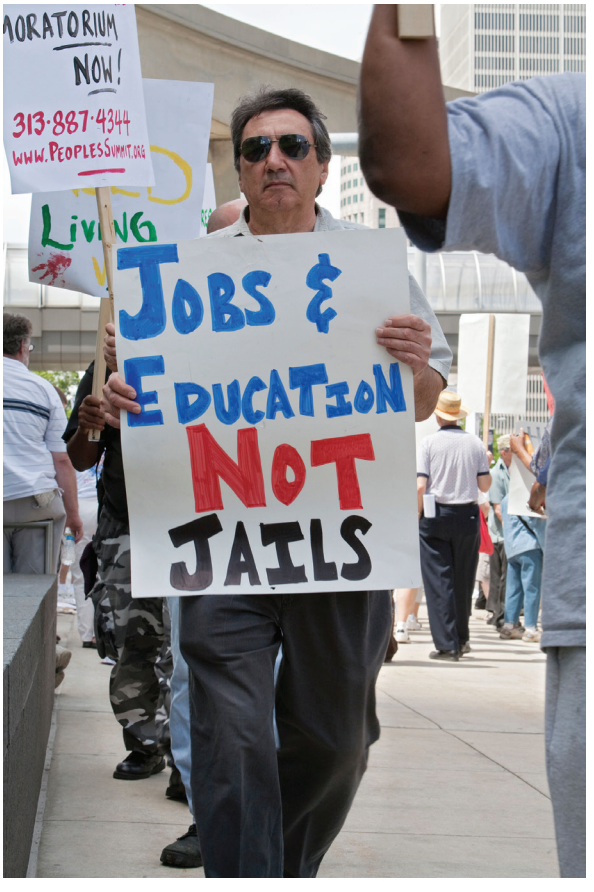
Note: Dollar amounts may not add to totals due to Bureau of Justice Statistics calculations that exclude duplicative costs.

**Includes civil and criminal law.*

Influencing Social and Political Factors

Although today's high rates of incarceration suggest that imprisonment is an essential part of corrections, there have been times in U.S. history when it was the exception rather than the norm. Labor was in such short supply in the colonies and young states of the 18th century that lawbreakers were rarely imprisoned—their work was too important to the economy. Jail and prison populations typically come from impoverished, (usually) inner-city communities with high unemployment. These communities are further weakened and marginalized by the incarceration of large portions of their residents. This concentrated impact of incarceration is not widely associated with a weakened economy by policymakers and state voters. So the cycles of intergenerational crime and system involvement continue, with only some communities bearing the brunt of the larger society's decisions. Taxpayers all support this expensive system. But marginalized communities suffer the most, with perennial unemployment, low educational achievement, communicable disease, and tense relationships with public service agencies, among other ills.

Many factors influence which individuals are incarcerated, for what crimes, and for how long. Lawmakers, judges, and the voters determine which behaviors constitute a crime and what sentence is appropriate for those crimes. Police strategies and tactics come into play, for instance, on how police focus their resources, on what types of crime, and in what



▲ Public spending on mass incarceration has left fewer resources to address other social needs, such as education, healthcare, and jobs.

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Violation: An act that violates or breaks the law.

Detention: Holding suspects or defendants as they await court processing prior to trial and a determination of guilt or innocence. More generally, any form of custody or physical control by authorities. In the field of corrections, the term usually refers to pretrial custody, the purpose of which is to ensure the defendant appears in court and does not commit additional offenses.

neighborhoods. The police often choose their tactics as a response to public concern—whether or not that concern is based in fact—or to the political crusades that follow in the aftermath of horrendous crimes.

District attorneys (prosecutors) typically have a significant amount of discretion about which cases to pursue and what specific charges to file with the court. These are decisions that have a huge impact on the eventual sentence, especially in this age of determinate sentencing, where the court's discretion is limited and where charging youth in adult court has become commonplace.

Corrections departments play a role in how much of the sentence is served and who returns to custody after release. They influence how probation and parole departments and the courts respond to probationer and parolee violations—whether to incarcerate or use alternative sanctions—and what services and supports are in place to help system-involved men and women avoid violations in the first place.

Prison administrators influence the incarcerated population, as they decide how to respond to inmate misbehavior. Infractions on an inmate's record can extend his or her time behind bars as can new offenses committed while in custody and prosecuted through the court system. Furthermore, inmate behavior is to some extent a function of conditions of confinement, facility services and programming, and the training and expertise of corrections officers. Overcrowded inmate populations become harder to control, leading to more behavior problems and a greater likelihood that inmates will be unprepared for successful reentry. Prison officials also serve on parole boards in many states and thus make decisions about who is granted parole and who is returned to prison after parole violations.

Public health agencies, which are often responsible for correctional health care services, also play a role in this system. Community residents with mental health issues who fall through the cracks of the public health system often end up in corrections. Inmates who receive inadequate treatment are more likely to have longer stays in the system and a harder time reentering society.

And, finally, funding affects everything. Insufficient funding reduces the number of cases courts can effectively process, reduces the likelihood that services will be in place to help defendants avoid pretrial detention, reduces the identification and treatment of health and mental health issues, reduces the availability and quality of both facility- and community-based programming and services, and generally reduces the ability of correctional agencies to maximize the chances of inmates completing their sentences without incident and successfully reintegrating into their communities.

A Critical View of the System

The nation's corrections systems have always been under-resourced and challenged with violence, abusive practices, scandals, and other severe problems, but the sudden and unprecedented growth in incarceration at the end of the 20th century helped fuel an explosive crisis reflected in prison violence, riots, increasing civil rights violations, and a lack of public

confidence. In the early 21st century, more and more commentators began referring to the "rise of mass incarceration" to describe the scale of the national correctional landscape. The obscenely high rates of people of color compared to Whites in the corrections system have resulted in this mass incarceration being dubbed the "New Jim Crow."[13] Dramatic stories of the breakdown in corrections come from all corners, from coast to coast.

In July 2012, the Federal Bureau of Investigation (FBI) was brought into Los Angeles jails to investigate the excessive use of force against jail inmates by the county's deputy sheriffs. There had been no internal investigations, despite a score of complaints. Some of these deputies formed a clique, wearing skeleton tattoos and operating as if they were a street gang. Other deputies were accused of having sex with female inmates and participating in drug trafficking inside the jail and in the surrounding community. Although some top managers at the Los Angeles County jail have been terminated, there are all too few signs of fundamental reform.[14]

About a year later, in the Baltimore City Detention Center, federal prosecutors handed down criminal indictments of 13 female corrections officers who permitted members of a prison gang, the Black Guerrilla Family, to operate criminal enterprises from the jail, including gun and drug smuggling and prostitution. Several of the indicted officers were having sex with inmates, and 4 of them became pregnant from these jailhouse liaisons. Some of the corrections officers were taking in more than $15,000 a month selling contraband in the jail. The indicted officers were allegedly retaliating against inmates who refused to participate in these criminal acts.[15] In November 2013, 14 additional correctional officers were arrested for their participation in the conspiracy, revealing that the scandal was more widespread than the original reports indicated. At that point, 9 of the charged officers had pleaded guilty, six current employees were placed on leave without pay, and the rest were charged but had not entered a plea.[16] In both Los Angeles and Baltimore, jail administrators did not dispute the findings of the FBI investigations but claimed that they had been unaware of the gravity and extent of the lawbreaking by jail employees.

Civil rights: Personal liberties granted by virtue of an individual's status as a citizen or resident of a country or community. Most commonly, civil rights refers to those guaranteed by the Constitution, such as freedom of speech and freedom from discrimination.

The imprisonment and control of other human beings, especially on this scale, is extremely complicated and fraught with risk; without a doubt, corrections officers and administrators have high-pressure and difficult jobs. Further, for decades the public has been willing to send thousands of people to prison while voting for reduced funding. They have also been willing to cry foul and blame corrections staff when horror stories arise, as they inevitably do. This book takes a hard look at all aspects of the system, with an eye toward areas that can be improved for the good of all—prisoners, probationers, parolees, correctional staff, and the public.

▲ Controlling human beings through correctional methods entails inherent risks and inevitable controversy.

© REUTERS/Robert Galbraith

A Keen Eye Toward the Future

There are signs that suggest that the current era of mass incarceration may be abating. The global fiscal crisis that began in 2007 has expanded the national awareness of wasteful spending in all public sectors. The public and lawmakers alike have begun to engage

IN THE COURTS

Introduction to the Courts

This feature—In the Courts—explores a pivotal case that relates to the chapter subject. (The exceptions are Chapter 10, "Law and Corrections," which itself is a survey of many legal cases that have challenged the criminal justice system, and Chapter 14, "Death Row and the Death Penalty," which presents capital punishment through the lens of related legal challenges.) The selected case highlights one aspect of the larger topic; the cases are selected from any number of possibilities, as each chapter subject is a vast territory. Students may find their curiosity sparked and follow up on their own with other relevant cases. In so doing, students are likely to find that the courts provide a rich venue for exploring the complexities of legal challenges to policies and practice.

In the United States, there are two main adult court systems: federal and state. These are not entirely independent; they interact in some situations. Each state has its own constitution and body of laws that fall under the jurisdiction of the courts of that state. There are also local courts at the municipal or county level. The federal system and each state system are structured as a hierarchy of courts, including the lower trials courts, the courts of appeals, and the Supreme Court. A party dissatisfied with the outcome of one court may appeal to a higher court for judgment. A case that originates in a state trial court may be tested and appealed in higher courts. A few cases go all the way to the U.S. Supreme Court for a final ruling.

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The U.S. Supreme Court is the highest federal court, the ultimate word on the cases it hears. Parties from the appellate courts may request that the Supreme Court hear and judge the matter in the case. This is also true with state supreme courts. The Supreme Court is not obligated to hear cases, and it selects those that affect constitutional rights and those that the justices feel merit the Court's attention.

in more pointed scrutiny of corrections expenditures. In both state and federal corrections budgets, this scrutiny has resulted in pressure to reduce prison and jail populations. Budgets are in fact finite, and incarceration is expensive. Despite the swings of the political pendulum, the concept is gradually taking hold that incarceration should be reserved for the most serious crimes and the most dangerous individuals. Although driven by economic issues, this change is also supported by research, which shows that the most effective way to reduce recidivism is to concentrate resources on the highest-risk individuals and to address lesser offenders accordingly.[17] This is a refrain that criminologists have been singing for many years. To date, real movement in this area has been limited to a few states. However, after decades of constant growth, the total U.S. correctional population has declined steadily since 2008.[18]

Some states are letting local corrections (versus state systems) manage a larger share of offenders—a strategy referred to as *realignment*. Some are modifying the mandatory minimum sentencing schemes that dominated the tough-on-crime era, again allowing judges discretion to reduce sentences to more appropriately fit the crimes. Efforts are also being

The federal courts are organized into 12 regional circuits. They handle such issues as U.S. constitutional law, U.S. treaties, disputes between states, military matters, bankruptcy, and other matters governed by federal law. State courts hear most cases having to do with criminal matters, estates, contracts, and family matters. Some cases may be heard in either system, for example, class-action cases or some civil cases that are brought against an individual or organization (defendant) by the government on behalf of society (prosecution). The crime may or may not involve one or more victims. Civil cases involve one party (the plaintiff) claiming against another (the defendant) that there was a breach of legal duty that caused personal or financial injury. A guilty verdict in criminal cases results in a sentence, which may involve a penal sanction such as prison or probation, whereas a judgment against the defendant in civil court usually results in a financial penalty, referred to as *damages*.

Federal judges are appointed by the president and confirmed by the Senate. State judges may be elected or appointed. Some trials are decided by juries; some are decided by judges (bench trials). Each side in the dispute usually has an attorney or a team of attorneys that represents the defendant or plaintiff. The district attorney is the prosecutor on behalf of the government. The public defender is the government-appointed attorney for defendants who cannot afford private counsel. The courts are staffed with many other personnel including bailiffs, court reporters, and clerks.

Court procedures are governed by complex sets of rules to which all parties must adhere, including the judge. The civil court process has various stages—pleading (or indictment in criminal court), pretrial, trial, and posttrial. Pretrial activity in civil cases is intended to streamline the court process and increase court efficiency. It includes depositions, sharing of evidence and witness lists, and motions (requests for action) to the courts. In serious criminal cases, a grand jury (up to 23 jurors) may convene to determine whether there is enough evidence to issue an indictment against the defendant and to go to trial. Criminal cases include an arraignment in court, where the defendant hears the charges and submits a plea of guilty or not guilty to the court.

The in-court trial process involves jury selection, opening statements, presentation of evidence, and closing arguments. When the trial is complete, it is followed by the judgment, from either the jury or the judge, and the pronouncement of the sentence or damages. The losing party may decide to file an appeal with a higher court to review the case and determine whether the law was followed properly in the first trial.

made to change sentencing practices that have produced stark inequities in sentence lengths for Whites versus people of color for similar offenses. These efforts should have the effect of both reducing disparities in the rates of incarceration for people of color and reducing the overall incarcerated population. Many jurisdictions are increasing their use of alternatives to detention, which in turn reduce the number of inmates in jail awaiting trial, and alternatives to incarceration, which allow convicted persons to serve a sort of enhanced probation in the community instead of serving time in jail or prison. Reduced crowding in custody helps allow effective programming to take place; rehabilitation cannot be accomplished in overcrowded facilities. Agencies are changing their response to probation and parole violators; those who, in the past, would have found themselves behind bars after a violation instead receive increased scrutiny and programming in the community. More broadly, attitudes have been changing about how to respond to those who have committed nonviolent, nonsexual, and nonserious crimes, with the new assumption being that these individuals can be supervised in the community without unduly increasing the risk to public safety.

What is making all of these ventures possible is an underlying sea change that is gathering strength and viability. Finally, since the early 1980s, the posture of tough-on-crime thinking is giving way to **smart-on-crime** approaches. The political **litmus test** for candidates running for office has been an adherence to harsh punishment, such as longer sentences for more types of crimes or maintaining the death penalty. Although the current U.S. Attorney General, Jeff Sessions, represents a throwback perspective on crime, punishment alone is still losing its credibility as the most effective penal strategy. Gradually, the simplistic notion that we just need to lock up the troublemakers is eroding. In its place is a more complex and realistic view that we must have a variety of solutions to deal with a hugely varied set of problems.

Some legislators have reached across the aisle to develop bipartisan proposals for reducing incarceration and the related costs. New partnerships exist between Republican and Democratic leaders; both concede the occurrence of devastating collateral damage—the unintended consequences—of throwing the book at everyone. Elected officials, professionals, and reformers are demanding smarter and more creative correctional practices. Even far-right conservatives, such as members of the think tank Right on Crime, see the fiscal sense in reforming sentencing policy and relying on more targeted correctional approaches such as diversion and treatment.

Senators Dick Durbin (D) of Illinois and Mike Lee (R) of Utah joined forces to create the Smarter Sentencing Act of 2013. This legislation was meant to give judges more discretion to sentence nonviolent criminals below restrictive mandatory minimums. The idea was to reduce mandatory minimums for certain drug crimes, thereby lowering costs and cutting down on crowding in a prison system that is estimated to be operating at a national average of 40% more than its capacity.

In 2013, former Attorney General Eric Holder revealed his position on corrections issues to be solidly rooted in principles of reform and a more rational, multifaceted strategy for controlling crime and criminals, including ordering similar changes to federal sentencing as put forward by Durbin and Lee.

Public opinion has seemed to be broadly shifting to a less punitive direction for drug users and other minor property crimes. Taxpayers began to rebel against an ever-larger share of public funds being consumed by the criminal justice system, especially for things that do not improve behavior or conditions. It has made more and more sense to more and more people to use methods that are based on solid data and research. Many continue to call for a renewed national commitment to what works.

U.S. Attorney General Jeff Sessions came into office in 2017 with a very different approach to sentencing and corrections policy. He opposed reducing prison sentences, argued for increasing the use of incarceration for violations of even minor drug laws, and advocated for more incarceration of undocumented persons. Sessions wants to cut back federal funding for public defenders and those attorneys who litigate on behalf of inmates. Sessions is a big supporter of privately operated prisons, including those in his home state of Alabama that are among the worst in the nation. He would restrict, not expand, inmates' rights that are protected under the U.S. Constitution. He favors the forfeiture of assets for those accused but not necessarily convicted of crimes. Sessions is unlikely to propose increased funding to help prisoners reintegrate into society. Sessions was nominated by President Donald Trump, who insists on promoting the notion that violent crime is out of control and that we need to get "much tougher" with street criminals.

At the state level, elected officials and the citizenry have called for increasingly harsh and extended penalties for sex offenders. And some commentators maintain that reduced crime rates are a direct consequence of longer prison terms for more crimes. This text explores the political dynamics of correctional practices and whether and where there may be prospects for new alliances on behalf of more rational and effective policy.

Smart on crime: A buzz phrase in recent years representing a response to crime that considers such factors as punishments appropriate to offense severity, recidivism reduction, cost-effectiveness, public safety, and equity.

Litmus test: A pivotal political issue that demonstrates whether a candidate for office or appointment leans far enough conservative or liberal to please his or her target constituency. It is a metaphor taken from a scientific measure of the relative acidity or alkalinity of a given substance.

Some political change has come at a time when the scientific community is more supportive of the crime-reduction impact of rehabilitation. Even sociologist Robert Martinson, who famously made claims that "nothing works" to change prisoners, later recanted his views. Although Martinson is routinely cited as finding rehabilitation ineffective,[19] few policymakers have paid attention to other publications in which he suggested that the problem with correctional programs, regardless of their design, is the "life-cycle damage" they cause. The problem with rehabilitative programs is not the construction of any particular program or service offered. Rather, ineffectiveness was a result of disrupting people's lives—usually young people most in need of educational and job skills training—by placing them in prisons for long periods of time. Incarceration, especially incarceration of the young, potentially creates the very condition it seeks to eliminate—reoffending—by removing people from society and weakening employment and educational opportunities, fostering criminal associations, stifling the growth of social bonds and ties to conventional society, and dehumanizing and stigmatizing offenders. The community corrections field, ironically, is founded on the realization of the potential for life-cycle damage due to institutionalization, as officers individualize supervision and treatment components to most effectively address offender risks and needs. This is a quest to find what, if anything, works, and if something works, whom such programs work best with.[20]

Of course, much will depend on whether evidence-based reform efforts are implemented with fidelity to their designs and without compromising the original intent and integrity. This book takes a careful look at what is wrong with the corrections system and poses questions about promising reform strategies and directions that can help. Is there a science to reducing recidivism, and what will it take to fully implement best practices?

Under the Obama administration, there was renewed impetus, and thus a momentous opportunity, to rediscover the potential of rehabilitation and treatment in corrections after several decades in which the conventional wisdom said that "nothing works" to reclaim the lives of offenders. With Trump in the White House, many fear that this window is closing again. Further expansion of rehabilitation in corrections will rely on elected officials at the state and local levels. Some, such as California's Governor Jerry Brown, plan to continue pursuing improved treatment for offenders, but federal funding for these efforts is at risk.

As recently as 2016, many states enacted reforming legislation to improve sentencing, reduce collateral consequences, and ameliorate a harsh juvenile system. Sentencing improvements encompass reducing racial disparity, reclassifying drug possession offenses, expanding the use of parole, curtailing three-strikes laws, and broadening sentencing ranges. These measures all have at the root the objective of reducing mass incarceration. Whether it is a primary goal or unintentional, reducing racial disparity is closely linked to reducing the prison population in any significant way. Most of the bloating of prison populations is the overincarceration of people of color.

Reductions in collateral consequences encompass easing restrictions on public assistances after time served, restoring the right to vote to disenfranchised and reentering prisoners, and backing off of suspending prisoners' driver's licenses. The restoring of voting rights to several hundred thousand convicted individuals could have a major impact on electoral politics. Virginia Governor Terry McAuliffe has boldly stated his ambition to singlehandedly restore voting rights to 200,000. As of April 2017, he had succeeded in doing so for over 156,000.[21] In an impassioned statement, McAuliffe articulated his philosophy. "I personally believe in the power of second chances and in the dignity and worth of every single human being," he said beside a civil rights monument on Capitol Square, in Richmond. "These individuals are gainfully employed. They send their children and their grandchildren to our schools. They shop at our grocery stores and they pay taxes. And I am not content to condemn them for eternity as inferior, second-class citizens."[22]

Dehumanization: Intentional or unintentional treatment of offenders as less than human by ignoring or depriving them of normal human qualities such as respect, compassion, and individuality.

SUMMARY

Ultimately, the goal of this text is to instill a sense of critical thinking in the reader. Corrections is not a steadily progressing series of developments marching toward fairer and more humane treatment of offenders, nor is it the case that all corrections workers are heartless individuals who want to exact revenge on the people they control and supervise. A realistic picture of the correctional system—one that allows for a necessary and critical review—must present its particularities and complexities. Only in so doing can there be an effective and thoughtful discussion of what it will take to transform the system to meet the needs of a new age.

DISCUSSION QUESTIONS

1. How does the case of Ebel and Clements point to serious issues facing today's corrections system?
2. What is the public's responsibility to be aware of correctional practice? What is the state's responsibility to maintain transparency?
3. Discuss ways that the law enforcement and corrections systems interact.
4. What are some ways that states have correctional autonomy apart from federal policy?
5. What is the purpose of the corrections system?
6. What are four aspects of that purpose?
7. Discuss ways that our society pays for mass incarceration.
8. What do you think of the U.S. incarceration rate, especially compared to that of other nations?
9. Who has influence over corrections policy?
10. What do you think needs to be done to address the crisis in American corrections?

KEY TERMS

Civil rights, 11
Community supervision, 5
Conditions of confinement, 4
Corrections, 4
Custody, 5
Dehumanization, 15
Detention, 10
Deterrence, 7
Grievance, 3
Incapacitation, 7
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Prison, 4
Rehabilitation, 8
Retribution, 7
Smart on crime, 14
Solitary confinement, 3
Violation, 10

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