

Teaching Guide to *Eastern State Penitentiary*

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Important Introductory Ideas and Terms

Prisons are institutions our society has developed to deal with criminals. There are four major rationales for using prisons: **deterrence, retribution, incapacitation, and/or rehabilitation**. Each rationale reflects different ideas about human nature, the causes of crime, and the appropriate role of the state.

In general terms, we can talk about three different political perspectives, or **ideologies**, that compete for acceptance in U.S. thought. Conservative, liberal, and radical ideologies each make different assumptions about the causes of crime and thus the solution to the crime problem.

Conservative ideology holds that humans have free will and make rational decisions to obey or to violate the law based upon the costs and benefits of taking one action or another. According to this thinking, the criminal justice system can discourage, or **deter**, people from choosing to engage in criminal activities if it imposes severe enough penalties. This is a primary justification for a "get tough" approach to crime policy.

General deterrence refers to the use of harsh penalties to deter people *other than the offender* from committing crimes. In theory, others in society see that criminal activity leads to punishment and decide to obey the law.

Special deterrence refers to the use of harsh penalties to convince the *person who is punished* not to commit any more crimes. The person learns that crime doesn't pay.

Another motivation for "get tough" policies rests on the moral claim that criminals *deserve* to be punished to *pay* for their crimes. Many conservatives see this philosophy of **retribution** as compatible with deterrence and endorse it as another justification for the use of imprisonment.

Liberal ideology assumes that humans are influenced by their social environment. They need to *learn* how to behave appropriately; and they need to have the proper *opportunities* to follow society's laws. According to this thinking, a person who has had a troubled childhood, faced psychological trauma, been exposed to negative role models, or suffered economic deprivation, may not be fully responsible for the wrongs she/he commits. It is society's duty to **rehabilitate**, or reform, the criminal. For this reason, liberals see prisons, or **correctional institutions**, as places that should counsel and train inmates so that they can return to society as productive citizens.

Since liberal ideology does not completely dismiss the responsibility of the offender, and because it believes the offender should be taught that crime is wrong, many liberals also accept a measure of punishment, or **retribution**, as a rationale for imprisonment.

Another justification for imprisonment is the **incapacitation** of criminals. This rationale assumes that criminals are dangerous people who will continue to hurt society if they are left free. According to this thinking, locking up criminals will keep them from doing further harm while they are confined. Incapacitation seeks neither to deter nor reform criminals. Nevertheless, both conservatives and liberals often accept incapacitation as an added justification for using prisons.

Radical ideology also holds that the actions of individuals are influenced by their social conditions. But unlike liberals, radicals believe that it is the *society* not the *individual* that needs to be reformed. Radicals see crime as the product of an unjust social and economic system. They do not want to train individuals to fit within this system; they want to change the system itself. According to this thinking, when the state enforces the laws of an unjust system, it allows those with wealth and power to continue to exploit and victimize the weak. Prisons, therefore, are often seen by radicals as instruments of oppression rather than solutions to the crime problem.

Historical Outline

Each of the following sections summarizes Abstract Ideas, Social-Structural Factors, and Specific Institutions and Practices associated with the specified period. Note that the time frames for several sections overlap.

1630-1780: Colonial Conceptions of Crime and Punishment

1760-1800: Enlightenment Ideas and Early Prisons

1800-1850: Disillusionment and Reform

1821-1834: Construction of Eastern

1834-1867: Erosion of the Separate System

1867-1900: Reformatory Movement

1630 - 1780: COLONIAL CONCEPTION OF CRIME AND PUNISHMENT

ABSTRACT IDEAS

In the colonial period, Americans equated crime with sin. In their worldview, sinful impulses were an unfortunate but inevitable consequence of man's fallen nature. Crime might be deterred through fear--fear of God's wrath or man's--but whether deterred or not, it had to be punished, and the punishments were harsh and vengeful.

SOCIAL-STRUCTURAL FACTORS

The colonial social order was based on a fixed series of ranks, upper to lower. Each rank had its own privileges and obligations; reciprocal obligations tied together communities. No one feared or thought to eliminate the poor. The poor occupied an accepted position within the social order. Communities provided for their own, including aid to the needy, which was seen as a Christian duty.

Social control in the American colonies was parochial in scope and founded upon social and geographical stability. Small communities depended on personal ties of family, church, and community to enforce standards of conduct and to identify crime and corruption. Formal and informal sanctions promoted sober, chaste, obedient, God-fearing behavior and punished deviance and depravity.

SPECIFIC INSTITUTIONS AND PRACTICES

Communities were wary of outsiders and used "settlement laws" to exclude vagrants and other outsiders who could not offer either valuable occupational skills or testimony of their good background and character. The penalty of banishment expelled criminals and other undesirables who threatened the community.

Penalties used in both Europe and America included fines, banishment, public humiliation in the stocks, flogging, branding, mutilation, and, for a great many crimes (including repeated convictions for stealing) death on the gallows.

Jails held people awaiting trial or awaiting sentence. Debtors were also held in jail until they could make good their debts. But time in jail was not seen as a criminal penalty in itself. Jails were not "instruments of discipline" and there was no expectation that time in jails would either deter or reform prisoners.

Local Jails were found throughout the colonies. Sometimes they were a part of the courthouse building; other times they were a separate structure, similar in architecture and organization to a typical house. Inmates were overseen by a jailer who lived in one part of the building with his family.

Inmates were usually mixed together-often crowded together in a single room, regardless of their age, gender, or offense. Contagious diseases-especially "gaol fever" (a variant spelling of "jail")-frequently spread through inmate populations.

Towns typically required prisoners to provide their own food, bedding, and clothing, or to pay the jailer for them. Visitors were unrestricted. Alcohol was available to those who could afford it. Local Jails were notoriously insecure; escapes were easy and frequent.

In 1756, Pennsylvania authorized the construction of work houses, intended to control vagrants. The statute explained that a "great number of rogues, vagabonds, and otherwise idle and dissolute persons frequently come from neighboring provinces." These undesirables were seen in quite different terms than a community's own needy. Indeed, in the same year, the Assembly authorized a poorhouse for the "Better Employment, Relief, and Support of the Poor within the City of Philadelphia," which they saw as a more economical way to improve the conditions of the poor who had previously been cared for within the community rather than in a distinct institution.

1760 - 1800: INTRODUCTION OF ENLIGHTENMENT IDEAS; EARLY EXPERIMENTS WITH PRISONS

ABSTRACT IDEAS

The idea of using imprisonment as a form of punishment, as a replacement for sanguinary, vengeful measures, grew out of a new conception of the world, a conception formed from the political philosophy of the Enlightenment. Enlightenment philosophers saw man as a free and autonomous being governed by reason, not nature or fate. They described the relationship between the individual and the state as a "social contract" in which each citizen gave up a part of his liberty to the state so that the state could maintain order and preserve each person's security. The problem of crime came not from the evil nature of man, from original sin, but from the illogical, ineffective, cruel, and abusive use of power by the state. Enlightenment thinkers believed that a properly conceived, rational and humane criminal code could deter crime. Moreover, as champions of individual rights and liberties, they argued that any punishment exceeding the minimum penalty necessary to preserve order was "abuse and not justice."

Inspired by the writings of the French political philosopher, Montesquieu, Cesare Beccaria captured the thinking as it related to the punishment of crimes in his influential treatise, *Dei delitti e delle pene* (On Crimes and Punishments). Published anonymously in Italian in 1764, it was quickly translated into French with a commentary by Voltaire, and then into English. Following the logic of the emerging, utilitarian philosophy, Beccaria reasoned that all individuals, endowed with free will, would calculate the costs associated with any course of action; thus, state authorities could mold the moral behavior of the citizenry by manipulating the certainty, promptness, and duration of

punishments. In this way, they could promote an efficient, rational, and useful system of justice.

Jeremy Bentham, the British philosopher, systematized and elaborated the ideas of utilitarian thinkers (1789) and extended those principles to the design of a model prison, which he called the "panopticon." His prison placed a guard in a central observatory, encircled by the cells of prisoners. Although the interior of the cells were constantly visible to the guard, the guard was hidden from the prisoners' view. Since no convict could know when he was being watched, Bentham reasoned, he would feel obliged to conform at all times to the rules of the prison. Although few prisons adopted Bentham's design, his writings on the use of architecture to enhance discipline and enable vigilant watchfulness captured the imagination of the era.

SOCIAL STRUCTURAL FACTORS

Thomas Jefferson and other founders of the American republic embraced the thinking of the Enlightenment; the ideals of reason, individual liberty, and the right to the pursuit of happiness formed the basis for the political institutions they created. Those institutions of government produced new social and political relationships among individuals and between the individual and the state. Colonial parochialism was superseded by a recognition of the larger political entities.

SPECIFIC INSTITUTIONS AND PRACTICES

By the 1790s, leading citizens in America saw their new republic as a land where these new ideas could be tried, a new social order crafted. Committees in various American states called for legislative reforms that would enact the utilitarian principles and humane practices discussed in Europe. Pennsylvania led the way when it turned the Walnut Street Jail in Philadelphia into the first state prison in 1790.

Many of the changes made at Walnut Street Jail employed the ideas of the Englishman, John Howard. In the 1770s, Howard became aware of and scandalized by the abusive and degrading conditions in his country's jails and prisons. Between 1773 and 1790, he visited various penal institutions in England and Europe and wrote careful accounts of their construction and administration that were widely read and influential. He called for, among other things, the separation of all inmates at night; and, during the day, the separation of men from women and serious felons from petty criminals; the introduction of sick wards and infirmaries; the prohibition of alcohol; and the institution of rules governing cleanliness and conduct. His work was a direct influence on the Philadelphia Society for Alleviating the Miseries of Public Prisons.

The Philadelphia Society For Alleviating the Miseries of Public Prisons was formed in 1787. They petitioned the legislature for changes in laws and changes in treatment of offenders that eventually led to the first penitentiary at Walnut Street Jail, Philadelphia. The ideas inspiring humanitarian reforms were in accord with Quaker theology, which

held that "the light of God" resided within everyone. Many Quakers were influential in the reform movement; almost half of the Society members were Friends.

In 1796, New York followed Pennsylvania's move to the use of prisons, approving the construction of Newgate state prison in Greenwich Village. At Newgate, as at Walnut Street, most convicts were housed together. Only a few especially dangerous prisoners were placed in solitary confinement. In the next few years, Virginia, Kentucky, Massachusetts, Vermont, New Hampshire, and Maryland appropriated funds for building prisons. Most states abolished the death penalty for all but the most serious crimes and began sentencing felons to terms of incarceration.

1800 - 1850: DISILLUSIONMENT WITH PRISONS AND DEBATE ABOUT PRISON REFORM

ABSTRACT IDEAS

Early prisons were quickly recognized as ineffective and as breeders of immorality and crime. Recidivism rates were high. Reformers believed that associations among convicts, while they were in prison, facilitated the spread of bad attitudes and indolent behavior. Convicts, they believed, needed to be isolated from one another to prevent this "moral contagion." Moreover, many thought convicts needed a daily routine of work to instill proper habits and attitudes--and to make them productive and cooperative citizens after release. Employment of prisoners would also off-set the public expense of building and operating prisons.

The solution to the crime problem was sought in the redesign of prisons. No longer would prisons merely hold convicted offenders. The very architecture and routines of prison life would be employed to discipline as well as punish criminals. Reformers sought to apply the principles of rationality and utility to the design and management of the penitentiaries themselves.

Throughout the 1820s, committees in Boston, New York, and Philadelphia, debated the merits of solitary confinement with or without labor. Should prisons isolate convicts only at night, while forcing them to work together, in congregate, during the day? Should convicts be kept in total solitary confinement without labor? Or should they be provided labor in their isolation?

SOCIAL STRUCTURAL FACTORS

The country was growing rapidly. Between 1790-1830, the population of Pennsylvania tripled; in Massachusetts the population doubled; in New York, the population grew by a factor of five. The years following the War of 1812 also saw rapid social change. The trend toward universal suffrage for men gave previously disenfranchised groups political

power. In addition, the nation was beginning to industrialize, unsettling a previously agricultural society. Class conflict began to appear.

Political and economic changes were disrupting previous social arrangements, weakening relationships that had defined and maintained an orderly society. Growing numbers of landless, unskilled, unindentured, and unapprenticed people--both immigrant and native born--traveled the countryside and congregated in newly emerging cities. Political and economic freedoms in the new republic were threatening the moral order of the society. Many leaders believed that social institutions had to be devised to develop strong controls that would compensate for the new freedoms. Nonconformity and individualism had to be suppressed.

SPECIFIC INSTITUTIONS AND PRACTICES

Civic leaders grew concerned about the undisciplined, immoral, and illegal conduct of the lower classes. By the early years of the nineteenth century, they sought to use penitentiaries--along with asylums, hospitals, and orphanages, the other institutions devised in that era--to instill the values of hard work, regimentation, humility, and sobriety.

In 1821, New York experimented with solitary confinement at Auburn Prison, an institution build to relieve crowding at Newgate. A new wing was constructed at Auburn with an island of cells, five tiers high, surrounded by an eleven-foot gulf of empty space stretching to the outer wall. The cells were each seven feet by three and seven feet high. Each tier had two rows of cells, back to back.

Most hardened criminals were placed in solitary confinement day and night; less dangerous criminals were allowed to work together in silence for part of the day. Those in total solitary were allowed no work and were forbidden to lie down during the day. Few were able to submit to this punishment without going insane. Several attempted suicide. Those in solitary were susceptible to consumption, general weakness and debility, paralysis.

The governor pardoned most of the solitary inmates in 1823, because of their mental and physical state. Advocates of the measure were disheartened to learn that even the unbearable harshness of solitary confinement did not have a deterrent effect. One pardoned prisoner committed burglary on the first night of his release and 12 others were quickly reconvicted.

In 1825, the experiment was abandoned and acknowledged as a failure. Auburn turned to the "silent" system in which all prisoners were kept separate during the night but, during the day, they marched to and from work or meals in military lock-step, maintaining complete silence--a discipline enforced with the lash.

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In Boston, a society organized for the improvement of public prisons attributed the worst features of Boston's Charlestown Prison to the congregation of prisoners. Massachusetts officials looked to Auburn's silent system as the best model for prison construction in operation in mid-1820s.

In 1818, Pennsylvania had authorized funds for the construction of Western State Penitentiary in Pittsburgh; the prison opened in 1826. Despite the failure of total solitary without labor at Auburn, the builders at Western followed that same plan, though the architecture was different. The cells were arranged in a circle around a central observation building, similar to Bentham's "panopticon"; but instead of being open to the surveillance of a centrally placed guard, the cells were closed, the walls were of thick stone, and a small grate in the heavy iron doors provided the only opening onto the central vestibule.

The cells at Western were too dark and unhealthy to permit continual solitary confinement; too small to allow for labor (once a 1829 revision of Pennsylvania law mandated solitary confinement at hard labor); and too poorly constructed to prohibit communication between neighboring prisoners. In 1833, Pennsylvania passed an act to demolish and reconstruct Western.

In 1821, Pennsylvania passed an act authorizing the erection of Eastern State Penitentiary. It recognized the principle of individual separation but did not specify the precise manner. Before Eastern opened in 1829, the design had been changed to allow for solitary labor within the cells.

1821-1834: CONSTRUCTION OF EASTERN; INITIAL IDEALISM

ABSTRACT IDEAS

Eastern State Penitentiary embodied Quaker ideas about the nature of man and the redemptive powers of solitary reflection and penitence. Members of non-conformist sects had long opposed capital punishment and had, since the colonial era, championed imprisonment as an alternative. But the Auburn system, in their minds, was also flawed. Quakers denounced the harsh treatment necessary to maintain order and silence at Auburn. In its place, they designed a plan based on the total isolation of each prisoner, isolation relieved only by the opportunity to work alone at a craft or trade and to seek the light of God in that solitude.

SPECIFIC INSTITUTIONS AND PRACTICES

In 1829, Pennsylvania directly challenged the philosophy and practice at Auburn when it opened Eastern State Penitentiary on the site of the Cherry Hill farm outside the city of Philadelphia. The philosophy guiding Eastern presented many challenges for an architect. Unlike earlier, unsuccessful attempts at maintaining solitary confinement, the building

would have to prevent communication between inmates in order to prevent moral contagion. Unlike Auburn, the cells would have to accommodate both the prisoner and his or her work equipment. Since the prisoners were to remain in their cells for the whole of their terms, each cell had to be equipped with water, rudimentary plumbing, and heat. Prevailing theory held that prisons needed adequate ventilation to prevent "gaol fever," which had plagued earlier institutions. And the planners wanted an imposing building that would inspire fear and respect among the citizenry.

The formidable task of designing this structure went to the architect, John Haviland. Haviland's original plan called for 250 cells arranged in seven single-story wings. Population pressures--something prisons would experienced throughout their history--were heavy from the start. Prisoners occupied the first cell block of Cherry Hill in 1829, while construction was still underway. Before the work crews had finished blocks two and three, prison officials realized that the original plan would not house a sufficient number of convicts. Haviland had to redesign the remaining four blocks as two-story structures. The new plans accommodated 450 prisons in separate cells, each with its own exercise yard.

The prison's rules specified that convicts should "be examined by the clerk and the warden, in the presence of as many overseers as can conveniently attend, in order to become acquainted with his or her person and countenance, and his or her name, height, age, place of nativity, trade, complexion, color of hair and eyes, length of feet, to be accurately measured and that these shall be entered in a book provided for that purpose together with such other natural or accidental marks, or peculiarity of feature or appearance, as may serve to identify him or her, and if the convict can write, his or her signature shall be written under the said description of his or her person."

After being interviewed and given prison clothes, the new convict was taken, with a hood placed over his head, to his cell. The English writer, Charles Dickens, later described this hood, used to mask the identity of the prisoners, as a "dark shroud, an emblem of the curtain dropped between him and the living world."

Once in the cell the prisoner was informed of the rules: "1st, you must keep your person, cell and utensils clean and in order. 2nd, you must obey promptly, all directions given to you, either by the Inspectors, Warden, or Overseers. 3rd, you must not make any unnecessary noise, either by singing, whistling, or in any other manner; but in all respects preserve becoming silence. You must not try to communicate with your fellow prisoners in adjoining cells, either from your own apartment, or during the time you are exercising in your yard. . . . You must apply yourself industriously, at whatever employment is assigned you; and when your task is finished, it is recommended that your time be devoted to proper improvement of your mind, either in reading the books provided for the purpose, or in case you cannot read, in learning to do so. . . . Be at all times, in your intercourse with the officers of the Penitentiary, respectful and courteous, and never suffer yourself to be led astray from your duties, by anger or revengeful feelings. 8th, observe the Sabbath, though you are separated from the world, the day is not the less holy."

With these rules the prisoner was locked into a cell where he would stay for the whole of his sentence, alone except for the occasional visit from a guard, the "moral instructor," a member of the prison society, or, perhaps, a dignitary touring the prison. Work involved crafts such as shoemaking or weaving, or, if a prisoner had experience in the building trades, he was employed, alongside paid laborers, in the construction of the remaining cell blocks of the prison. Inmates at Eastern State Penitentiary were permitted no contact with family or friends, no news of events outside the prison, and each was allowed a mere hour a day of solitary, outdoor exercise—a period frequently shortened, in practice.

Problems with the heating and ventilation meant the cells were often unhealthily damp and cold, or stifling hot. The design of the plumbing system left waste in the pipes, forcing prisoners to breathe tainted air. And yet, for all its faults, Eastern (or "Cherry Hill" as it was popularly called) was an architectural marvel of its day. It was the most expensive public building yet constructed in the States and it was the first building to attempt such elaborate, large-scale heating and plumbing systems. All to make real an ideal: the humane confinement of wayward souls, souls who would find redemption in solitary reflection and silent industry.

The penitentiary attracted prominent national and international visitors who toured the institution, talking to prisoners and investigating the design of its cells and the engineering of its systems. The majority of visitors applauded the prison, and its radial design became the model for new prisons around the world—something of an irony given that it failed to influence prison design in the United States, where the Auburn plan dominated until the turn of the century.

But not all international visitors looked favorably on the system of confinement established at Cherry Hill. Eastern State Penitentiary faced criticism for more than its use of solitary confinement. Critics pointed to the unprecedented expense of its construction; they charged that its system of solitary labor was unproductive and unprofitable; they argued that inmates learned no discipline alone in their cells where they did not face the hardship of working silently alongside other convicts under the supervision of guards.

1834-1867: GRADUAL EROSION OF THE SEPARATE SYSTEM; PRISON CROWDING INCREASES AS POVERTY AND RACISM LEAD TO INCREASES IN CRIME

ABSTRACT IDEAS

The humanitarian ideals of Eastern's "separate" system were difficult to implement in practice. Problems with crowding, discipline, and abuses of power corrupted the system from its start.

The debates of the early nineteenth century make clear that the nation's first penitentiaries represented both optimism about the possibilities of social engineering and profound anxiety about the emerging lower classes. That anxiety about the poor would prove an enduring motivation for the expansion of the prison system.

From the start, that fear was mixed with a contempt for people of color, a contempt that grew as the number of dislocated blacks increased. But racism extended to many ethnic minority groups that are currently considered "white." Irish, German Catholics, Poles, Jews, Chinese, and Italians were all considered "inferior races" by nineteenth-century, native-born whites. Then, as is often the case today, crime was portrayed as alien to the American character: crime was brought in by outsiders.

SOCIAL-STRUCTURAL FACTORS

The middle of the nineteenth-century saw increased immigration from Ireland and Germany. One-third of Pennsylvania's colonial population was German at the time of the Revolutionary War. It was the second wave of immigrants, following the failed German Revolution of 1848, that met with strong resistance from anti-immigration groups.

Irish immigrants began arriving in large numbers early in the 19th century. But it was not until the potato famine in 1846-1847 that immigration numbers exploded. By 1850, the number of Irish arriving to the US had tripled over the previous decade. In 1870, almost 15% of Philadelphia's population was of Irish descent.

The Irish and Germans were looked down upon by the native-born whites. Racism combined with poverty to create new social problems, and many established, middle-class citizens blamed unwelcome social changes on these immigrants. Publications openly ridiculed these immigrants, as well as American-born Blacks, with cartoons based on racial stereotypes. Prison populations swelled, putting pressure on Eastern's system of solitary confinement.

Although a free state, and home to significant abolitionist activity, Pennsylvania was not always friendly to Blacks. Anti-black riots and mob actions between 1829 and 1850 shattered Philadelphia's previously stable African-American community.

The mid-1800s witnessed the beginnings of urban growth-and along with it, the development of slums. The need to live near one's place of employment, the low wages, and the discrimination in housing led to the rise of ghettos. The segregation, dense population, low wages, and sub-standard housing made these areas breeding grounds for crime and their inhabitants easy scapegoats for all the problems that accompanied rapid urbanization and industrialization.

The start of the Civil War channeled many of the nation's poor into the military, absorbing, for several years, a population that might have otherwise turned to crime. This relieved pressure on prisons, but only temporarily.

The beginning of the industrial revolution led to the decline in craft production. Eastern's system of hand-crafted goods became increasingly unprofitable. Unlike Auburn and other congregate systems, Eastern could not organize its prisoners' labor on an industrial model.

SPECIFIC INSTITUTIONS AND PRACTICES

Despite its claims of conducting a noble experiment, unsullied by base concerns for money and humane in its treatment of inmates, just five years after its opening the state investigated charges of abuse of prisoners, misuse and embezzlement of funds, and immoral practices of officers and agents of the prison. Testimony revealed that prisoners were allowed out of their cells to wait on the administrative staff, to work unmasked on tasks within the prison, or to do work that earned money for officers.

Investigators uncovered the use of severe and abusive punishments against prisoners. The "Water Bath," the "Dark Cell," and the "Iron Gag" were among the punishments-some would say tortures-used on disruptive convicts.

The investigation of 1834 offered the first evidence that the prisoners found ways to communicate with each other through notes and rapping on the pipes.

Lax enforcement of rules for silence and isolation continued throughout the 1840s and '50s and included the practice of pairing prisoners to work together to learn a craft or trade until, by the end of the 1860s, the system of separate confinement had been abandoned in all but name.

The principal attraction of the congregate system, which virtually all other prisons employed after the 1840s, was its use of convicts for productive and profitable labor. This was the beginning of the industrial age in America; the congregate system allowed prisons to organize the labor process on an industrial model. Consequently, most prisons in the 1840s to the 1860s employed their inmates in shops and factories constructed on the prison grounds. Private contractors leased the prisoners' labor, supplying the materials and supervision for production in the prison shops.

The leaders at Eastern continued to defend the merits of solitary labor, referring to it as "an accepted reformatory agency," and explicitly forbade the introduction of power machinery, which they saw as harmful to the convict and free worker alike.

Over Eastern State Penitentiary's 142 year history, economic conditions in America changed radically--from the industrial revolution to the post-war boom. Yet the majority of the men and women who served time at Easter were sentenced for property crimes and came from lower economic classes. A Tabulation of Crimes for all inmates Eastern State Penitentiary for the years 1829-1842 showed the following breakdown for convictions: Larceny 52.16%; Burglary 13.26%; Horse stealing 7.15%; Forgery 3.64 %; Passing

counterfeit money 3.27%; Robbery 2.9%; Murder in second degree 2.47%; Manslaughter 2.34%; Assault and battery with intent to kill 1.66% . . . (all others 1.17% or less).

Eastern's first inmate, Charles Williams, and the first four female inmates were Black. The percentage of Blacks in the penitentiary was greater than their proportion in the population as a whole. During the 19th century between 20 and 50% of Eastern's native born inmates were Black.

While immigrants were often unfairly stereotyped as criminals, some did choose criminal activity as a quicker path to economic advancement. Historically, a process of ethnic success among the ranks of criminals occurred. Early on, the famous outlaws of the West, gangs in the cities, and members of organized crime tended to be Irish or German. Later, waves of Italians, East Europeans, and Jews followed them into organized crime, prostitution, and street crime.

All the major urban centers saw nativist riots directed against the Germans, Irish, Catholics, or Blacks during this time. Rioting occurred in the Southwark, Kensington, and Manayunk sections of Philadelphia, all centers of early industrialization and poor ethnic ghettos. The riots of 1844 were perhaps the most serious, with at least 30 people killed and two Catholic churches and a convent burned.

1867-1900: EASTERN'S RESISTANCE TO THE REFORMATORY MOVEMENT; PROBLEMS WITH LABOR AND CROWDING

ABSTRACT IDEAS

Concerns about crime and disorder in the lower classes continued to grow; prison leaders from other states openly recognized the failure of both the Auburn and the Pennsylvania systems to deal with the problem. They called for changes in policy that would have a positive impact on prisoners.

Reformers believed that the terms of confinement practiced in traditional penitentiaries made inmates less rather than more able to integrate into free society upon release. According to the new ideas, prisoners were not, as Enlightenment thinkers had believed, free moral agents, needing only rational deterrents and opportunities for reflection. They were flawed individuals, the products of inadequate families and immoral urban influences. They needed not punishment and penitence but active reformation, guided by Christian values and the emerging sciences of human behavior.

The primary inspiration for changing American prisons came from the "Irish system," where prisoners could work their way through various stages of less restrictive confinement, eventually achieving a conditional release or parole. That system had two advantages. First, the incentive of more lenient conditions would inspire good conduct

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among prisoners; second, prisoners received instruction and training in the ways of civilized society.

Leaders of the Reformatory movement called for indeterminate sentences and the introduction of parole laws that would allow prison officials to decide when a convict was ready for conditional release into the community.

SOCIAL-STRUCTURAL FACTORS

At the close of the Civil War, the military no longer absorbed the surplus population of indigent and dislocated men. As a consequence, the U.S. saw an increase in crime and disorder. Prisons across the nation experienced severe pressures from overcrowding.

Another surge of immigrants to the U.S. arrived between 1880-1920. This time, the immigrants came mainly from central, southern, and eastern Europe. Political, social, and economic turmoil in Europe inspired these mass movements, but American industrialists, seeking cheap labor, encouraged the movement of peasants into factory work.

Increased immigration fueled industrial expansion-but it also fueled the growth of slums. Poverty and discrimination against Italian and Jewish immigrants led to their increased involvement in crime.

Free labor organizations protested against the unfair competition from prison industries and placed limits, in several states, on the number of prisoners that could be employed in production and the types of commodities they could produce.

SPECIFIC INSTITUTIONS AND PRACTICES

Perhaps the most influential of the early reformatory wardens was Zebulon Brockway, who pioneered many of the reformatory practices in the United States.

The Reformatory Movement was aided, as the century came to a close, by the creation of centralized boards charged with overseeing state prisons and charities. The boards were to both standardize practices across institutions and guard against corrupt or politically motivated prison officers and wardens. These state boards also created a class of men who saw themselves as professional penologists. Initially, these reformers relied on personal experience and Christian values to guide them in their efforts-though by the turn of the century, the emerging disciplines of social science exerted their influence on prison organization and practice.

Eastern's warden officially rejected the new ideas about prisoner reform and continued to champion Pennsylvania's own approach. Nevertheless, Eastern State incorporated many of the liberal practices associated with the "reformatory" movement. As early as 1854, Cherry Hill employed a full-time teacher who visited inmates in their cells, offering tutorials in elementary education, bookkeeping, German, and Spanish. In 1880, policy changes allowed family members to exchange letters with prisoners and to visit them at

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two or three month intervals. At that time, the prison also made an extensive collection of library books available to inmates in their cells. By the end of that decade, Cherry Hill opened a gymnasium, part of an effort to fight tuberculosis, a disease that had become so widespread it was known as the "convict's friend," but a facility that proved useful in the modernization of the prison.

In the 1890s, Warden Cassidy instituted a rudimentary system of prisoner classification, distinguishing what he termed "crime class" men from "accidental criminals." With those classifications he justified the use of separate confinement for only those first time offenders he considered more open to reform. He did not hesitate, he said, to put together two crime class men.

With the growth of industrialization, the market for handmade shoes or woven products had disappeared by the 1870s. Eastern introduced chair caning, hosiery and cigar making in the 1880s, and, along with that, an acceptance, at least in practice, of prisoners working together. That continued until the Muelbronner Act of 1897 made it illegal for the prison to employ more than ten percent of inmates in the manufacture of goods for sale outside the prison. By the end of the century, more convicts at Eastern State were idle than employed, and prison officials had to look to other activities to keep their charges occupied. It was not until 1915 that the law again permitted tax-supported institutions in Pennsylvania to buy and use prison-made products, restoring one important market to inmates. But prison industries never again provided full time work for the majority of convicts.

At the same time that it was losing employment opportunities for its inmates, Cherry Hill, along with every other prison in America, faced serious overcrowding. In 1867, the penitentiary had 569 inmates but only 540 cells, forcing some inmates into double cells. The situation worsened in the next decade, prompting a major construction project of four new cell blocks between 1877 and 1894. Yet, by 1897 there were 1200 prisoners and only 765 cells; by the turn of the century, the number of prisoners increased to 1400, forcing some cells to hold as many as four or even five inmates.

Although prison publications continued to promote the merits of the Pennsylvania plan, officials began in the 1870s to substitute the term "individual treatment" for the earlier "separate system." The change in terminology tacitly acknowledged that Cherry Hill no longer practiced solitary confinement; but it also reflected changing sensibilities about the proper way to handle prisoners.

Discussion Questions

How did the ideas of the Enlightenment change Americans' thinking about the causes of crime? Why did early civic leaders believe that a rational system of prison sentences

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would deter crime? How does their thinking about crime and punishment compare with mainstream thought today?

Why did early prisons abandon the use of solitary confinement without labor? Did Eastern's use of solitary confinement with labor improve the situation? Did Eastern's separate system solve the crime problem? How does Eastern's system compare to today's Super Max or Control Unit prisons? Why do people today put faith in that system? Does Eastern's history justify that faith?

What did Auburn Prison hope to achieve with its silent system of prison discipline? What features of the system appealed to prison officials in other states? Did the silent system reduce or eliminate crime? Why or why not? How does the silent system compare to today's use of Boot Camp prisons? Why do people today put their faith in that system? Does prison history justify that faith?

How did immigration and industrialization affect the crime rate in the United States during the 19th century? Why did native-born whites associate crime with people of African, Irish, Chinese, Jewish, or Italian heritage? How do those attitudes compare with attitudes toward immigrants and people of color today?

Throughout Eastern's history, the racial and ethnic groups that occupied the lowest positions in the region's economic structure were over-represented in the prison population. Why? How does that compare with prison populations today?

The Reformatory Movement of the late 19th century called for the use of indeterminate sentences and conditional release or parole. Why? What ideas about human nature and the causes of crime led them to support those policies? How did those ideas differ from the ideas held at the beginning of the 19th century? How do those ideas compare to ideas today?

Recommended Reading

Cesare Beccaria,

An Essay on Crimes and Punishments

Originally published in Italian in 1764

[For an extended excerpt of this text, which presents the Enlightenment philosophy that inspired the American system of justice, see Appendix A.]

David Rothman,

The Discovery of the Asylum

Little, Brown & Company, 1971

[This is an excellent source and effective teaching text covering the Colonial through the Jacksonian eras.]

W. David Lewis

From Newgate to Dannemora

Cornell University Press, 1965

[This book focuses on the history of New York's system.]

Blake McKelvey,

American Prisons: A History of Good Intentions

Patterson Smith, 1977

[This source covers penal/correctional ideas and practices through the 1960s.]

Norman Johnston,

Eastern State Penitentiary: A Crucible of Good Intentions

Philadelphia Museum of Art, 1994

[This is a well-presented piece on Eastern State Penitentiary.]

Charles Dickens

American Notes

(Chapter VII: "Philadelphia, and its Solitary Prison)" Originally published in 1842

[Dickens offers an extended critique of the Pennsylvania system.]

Appendix A

Prison Links

[Bureau of Justice Statistics, Correction Statistics](#)

[National Criminal Justice Reference Service, Justice Information Center](#)

[Sourcebook of Criminal Justice On Line](#)

[Critical Criminology Prison Page](#)

[National Center on Institutions and Alternatives](#)

[Prison Factories: Slave Labor for the New World Order?](#)

[The Sentencing Project Homepage](#)

[American Friends Service Committee](#)

[Eastern State Penitentiary's Homepage](#)

[Alcatraz Island](#)

[Mansfield Reformatory](#)

[Prisons.com](#)

Appendix B

From An Essay on Crimes and Punishments

by Cesare Beccaria,
translated from the Italian, 1775 (original published in 1764)

INTRODUCTION.

In every human society, there is an effort continually tending to confer on one part the height of power and happiness, and to reduce the other to the extreme of weakness and misery. The intent of good laws is to oppose this effort, and to diffuse their influence universally, and equally. But men generally abandon the care of their most important concerns to the uncertain prudence and discretion of those, whose interest it is to reject the best, and wisest institutions; and it is not till they have been led into a thousand mistakes in matters, the most essential to their lives and liberties, and are weary of suffering, that they can be induced to apply a remedy to the evils, with which they are oppressed. It is then they begin to conceive, and acknowledge the most palpable truths, which, from their very simplicity, commonly escape vulgar minds, incapable of analyzing objects, accustomed to receive impressions without distinction, and to be determined rather by the opinions of others, than by the result of their own examination.

If we look into history we shall find, that laws, which are, or ought to be, conventions between men in a state of freedom, have been, for the most part, the work of the passions of a few, or the consequences of a fortuitous, or temporary necessity; not dictated by a cool examiner of human nature, who knew how to collect in one point, the actions of a multitude, and had this only end in view, the greatest happiness of the greatest number. Happy are those few nations, who have not waited, till the slow succession of human vicissitudes, should, from the extremity of evil, produce a transition to good; but, by prudent laws, have facilitated the progress from one to the other! And how great are the obligations due from mankind to that philosopher, who from the obscurity of his closet, had the courage to scatter amongst the multitude, the seeds of useful truths, so long unfruitful!

The art of printing has diffused the knowledge of those philosophical truths, by which the relations between sovereigns and their subjects, and between nations, are discovered. By this knowledge, commerce is animated, and there has sprung up a spirit of emulation, and industry, worthy of rational beings. These are the produce of this enlightened age; but the cruelty of punishments, and the irregularity of proceeding in criminal cases, so principal a part of the legislation, and so much neglected throughout Europe, has hardly ever been called in question. Errors, accumulated through many centuries, have never been exposed by ascending to general principles; nor has the force of acknowledged truths been ever opposed to the unbounded licentiousness of ill-directed power, which has continually produced so many authorized examples of the most unfeeling barbarity. Surely, the groans of the weak, sacrificed to the cruel ignorance, and indolence of the powerful; the

barbarous torments lavished, and multiplied with useless severity, for crimes either not proved, or in their nature impossible; the filth and horrors of a prison, increased by the most cruel tormentor of the miserable, uncertainty, ought to have roused the attention of those whose business is to direct the opinions of mankind.

The immortal Montesquieu has but slightly touched on this subject. Truth, which is eternally the same, has obliged me to follow the steps of that great man: but the studious part of mankind, for whom I write, will easily distinguish the superstructure from the foundation. I shall be happy, if with him, I can obtain the secret thanks of the obscure, and peaceful disciples of reason, and philosophy; and excite that tender emotion, in which sensible minds sympathize with him, who pleads the cause of humanity.

CHAPTER I. OF THE ORIGIN OF PUNISHMENTS

Laws are the conditions, under which men, naturally independent, united themselves in society. Weary of living in a continual state of war, and of enjoying a liberty which became of little value, from the uncertainty of its duration, they sacrificed one part of it, to enjoy the rest in peace and security. The sum of all these portions of the liberty of each individual constituted the sovereignty of a nation; and was deposited in the hands of the sovereign, as the lawful administrator. But it was not sufficient only to establish this deposit; it was also necessary to defend it from the usurpation of each individual, who will always endeavor to take away from the mass, not only his own portion, but to encroach on that of others. Some motives, therefore, that strike the senses, were necessary to prevent the despotism of each individual from plunging society into its former chaos. Such motives are the punishments established against the infractions of the laws. I say, that motives of this kind are necessary; because, experience shews, that the multitude adopt no established principle of conduct; and because, society is prevented from approaching to that dissolution, (to which, as well as all other parts of the physical, and moral world, it naturally tends) only by motives, that are the immediate objects of sense, and which being continually presented to the mind, are sufficient to counterbalance the effects of the passions of the individual, which oppose the general good. Neither the power of eloquence, nor the sublimest truths, are sufficient to restrain, for any length of time, those passions, which are excited by the lively impressions of present objects.

CHAPTER II. OF THE RIGHT TO PUNISH

Every punishment, which does not arise from absolute necessity, says the great Montesquieu, is tyrannical. A proposition which may be made more general, thus. Every act of authority of one man over another, for which there is not an absolute necessity, is tyrannical. It is upon this then, that the sovereign's right to punish crimes is founded; that is, upon the necessity of defending the public liberty, entrusted to his care, from the usurpation of individuals; and punishments are just in proportion, as the liberty, preserved by the sovereign, is sacred and valuable.

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Thus it was necessity that forced men to give up a part of their liberty; it is certain then, that every individual would choose to put into the public stock the smallest portion possible; as much only as was sufficient to engage others to defend it. The aggregate of these, the smallest portions possible, forms the right of punishing: all that extends beyond this is abuse, not justice.

Observe, that by justice I understand nothing more, than that bond, which is necessary to keep the interest of individuals united; without which, men would return to their original state of barbarity. All punishments, which exceed the necessity of preserving this bond, are in their nature unjust. . . .

CHAPTER VI OF THE PROPORTION BETWEEN CRIMES AND PUNISHMENTS

It is not only the common interest of mankind, that crimes should not be committed, but that crimes of every kind should be less frequent, in proportion to the evil they produce to society. Therefore, the means made use of by the legislature to prevent crimes, should be more powerful, in proportion as they are destructive of the public safety and happiness, and as the inducements to commit them are stronger. Therefore there ought to be a fixed proportion between crimes and punishments.

It is impossible to prevent entirely all the disorders which the passions of mankind cause in society. These disorders increase in proportion to the number of people, and the opposition of private interests. If we consult history, we shall find them increasing, in every state, with the extent of dominion. In political arithmetic, it is necessary to substitute a calculation of probabilities, to mathematical exactness. That force, which continually impels us to our own private interest, like gravity, acts incessantly, unless it meets with an obstacle to oppose it. The effects of this force are the confused series of human actions. Punishments, which I would call political obstacles, prevent the fatal effects of private interest, without destroying the impelling cause, which is that sensibility inseparable from man. The legislator acts, in this case, like a skillful architect, who endeavors to counteract the force of gravity, by combining the circumstances which may contribute to the strength of his edifice.

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Pleasure and pain are the only springs of action in beings endowed with sensibility. Even amongst the motives which incite men to acts of religion, the invisible legislator has ordained rewards and punishments. From a partial distribution of these, will arise that contradiction, so little observed, because so common; I mean, that of punishing by the laws, the crimes which the laws have occasioned. If an equal punishment be ordained for two crimes that injure society in different degrees, there is nothing to deter men from committing the greater, as often as it is attended with greater advantage.

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CHAP XII OF THE INTENT OF PUNISHMENTS.

From the foregoing considerations it is evident, that the intent of punishments, is not to torment a sensible being, nor to undo a crime already committed. Is it possible that torments and useless cruelty, the instrument of furious fanaticism, or the impotency of tyrants, can be authorized by a political body Which, so far from being influences by passion, should be the cool moderator of the passions of individuals. Can the groans of a tortured wretch recall the time past, or reverse the crime he has committed?

The end of punishment, therefore, is no other, than to prevent the criminal from doing further injury to society, and to prevent others from committing the like offence. Such punishments, therefore, and such a mode of inflicting them, ought to be chosen, as will make the strongest and most lasting impression on the minds of others, with the least torment to the body of the criminal.

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CHAP XIX OF THE ADVANTAGE OF IMMEDIATE PUNISHMENT

The more immediately after the commission of a crime, a punishment is inflicted, the more just and useful it will be. It will be more just, because it spares the criminal the cruel and superfluous torment of uncertainty, which increases in proportion to the strength of his imagination and the sense of his weakness; and because the privation of liberty, being a punishment, ought to be inflicted before condemnation, but for as short a time as possible. (. . .) An immediate punishment is more useful; because the smaller the interval of time between the punishment and the crime, the stronger and more lasting will be the association of the two ideas of Crime and Punishment; so that they may be considered, one as the cause, and the other as the unavoidable and necessary effect.

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CHAP XXVII OF THE MILDNESS OF PUNISHMENTS

The course of my ideas has carried me, away from my subject, to the elucidation of which I now return. Crimes are more effectually prevented by the certainty, than the severity of punishment. Hence in a magistrate, the necessity of vigilance, and in a judge, of implacability, which, that it may become an useful virtue, should be joined to a mild legislation. The certainty of small punishment will make a stronger impression, than the fear of one more severe, if attended with the hopes of escaping; fir it is the nature of mankind to be terrified at the approach of the smallest inevitable evil, whilst hope, the best gift of heaven, hath the power of dispelling the apprehension of a greater; especially if supported by examples of impunity, which weakness or avarice too frequently afford.

If punishments be very severe, men are naturally led to the perpetration of other crimes, to avoid the punishment due to the first. The countries and times most notorious for severity of punishments, were always those in which the most bloody and inhuman

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actions and most atrocious crimes were committed; for the hand of the legislator and th assassin were directed by the same spirit of ferocity; which, on the throne, dictated laws of iron to slaves and savages, and, in private, instigated the subject to sacrifice one tyrant to make room for another.

In proportion as punishments become more cruel, the minds of men, as a fluid rises to the same height with that which surrounds it, grow hardened and insensible; and the force of the passions still continuing, in the space of an hundred years, the wheel terrifies no more than formerly the prison. That a punishment may produce the effect required, it is sufficient that the evil it occasions should exceed the good expected from the crime; including in the calculation the certainty of the punishment, and the privation of the expected advantage. All severity beyond this is superfluous, and therefore tyrannical.