

# PART IV

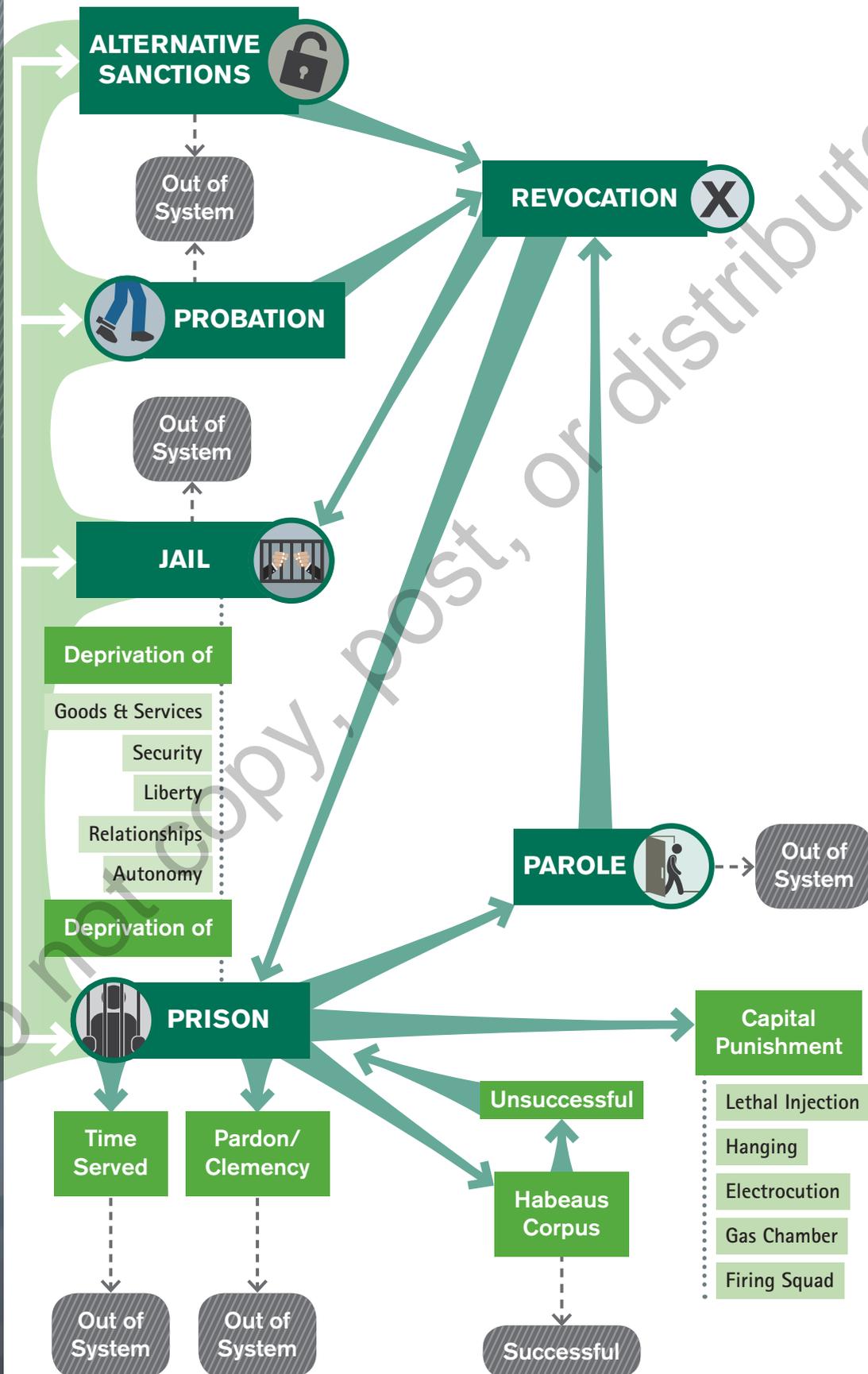
## CORRECTIONS



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- Chapter 12 • An Introduction to Corrections: History, Structure, and Actors
- Chapter 13 • Punishing Offenders in Prisons, Jails, and the Community
- Chapter 14 • Issues in Corrections

# CORRECTIONS



14

# ISSUES IN CORRECTIONS



AP Photo/Kiichiro Sato

# INTRODUCTION

IN SEPTEMBER 2014, A LOCAL ABC NEWS program aired a news that focused on how one inmate in need of mental health treatment was isolated in his jail cell for weeks. The unsanitary conditions reported by the news station were shocking:

[The inmate's] sink, toilet and shower drain were clogged, not just with feces but with toilet paper in an apparent attempt by Goodwin to cover his own waste and with orange rinds, perhaps in futile effort to mask the smell. A sign attached to the outside of the cell door instructed guards not to open it, according to insiders. Food in Styrofoam containers was pushed in by guards through a slit in the door and the refuse was never collected, sources said.<sup>1</sup>

After the program aired, the FBI began an investigation of the jail. Jail leaders defended the institution, suggesting that the incident was an isolated event rather than part of a broader pattern in this particular jail. Typically, the harm imposed on inmates comes from either the conditions of the institution or the behaviors of other inmates, rather than the actions (or inaction) of corrections staff.

Prison can be a violent place. What happens inside a prison, however, also has implications for life outside the prison. In this chapter, attention is given to issues that arise in our efforts to punish, rehabilitate, and treat criminal offenders. These issues are related to prisoners, corrections employees in institutions and the community, different types of offenders, and punishment strategies. Addressing these issues will help criminal justice students fully understand the dynamics surrounding the corrections component of the justice system.

## LEARNING OBJECTIVES

After reading this chapter, students will be able to:

- 14.1** Describe three legal rights that inmates have
- 14.2** Explain why diseases are prevalent in prisons and jails
- 14.3** Identify four sources of stress for corrections officials
- 14.4** Discuss issues women face while incarcerated
- 14.5** Discuss the types of misconduct occurring in the corrections field
- 14.6** Debate arguments for and against the death penalty
- 14.7** Describe four issues that surface when detaining juvenile offenders
- 14.8** Explain how prison might cause crime
- 14.9** Define restorative justice

## ADMISSIBLE or INADMISSIBLE Evidence.

Read the statements that follow. If the statement is true, circle *admissible*. If the statement is false, circle *inadmissible*. Answers can be found on page XXX

1. **Admissible** **Inadmissible** Inmates give up their right to reasonable health care when sentenced to prison.
2. **Admissible** **Inadmissible** Recent data show that the rate of AIDS-related deaths is lower in prisons than in the community.
3. **Admissible** **Inadmissible** Research shows that females on electronic monitoring experience the sanction differently than males do.
4. **Admissible** **Inadmissible** It is believed that corrections officers engage in more corruption than other criminal justice officials.
5. **Admissible** **Inadmissible** Some states still authorize the use of the firing squad as a death penalty tool.
6. **Admissible** **Inadmissible** Federal laws require that juveniles be punished in the same way across the states.
7. **Admissible** **Inadmissible** The brutalization perspective suggests that putting violent offenders on probation increases the risk of victimization for community members.
8. **Admissible** **Inadmissible** According to restorative justice principles, offenders must be punished severely in order to restore the public good.



Prison yards provide opportunities for interaction between inmates. They also provide a potential setting for violent interactions between inmates.

REUTERS/photographer name—I do not have access to this image on the Reuters site. Please look up credit line. (ES)

FIGURE 14.1

### Patterns Surrounding Inmates' Rights



**Cruel and unusual punishment:** Cruel and unusual punishments are those that are “incompatible with the evolving standards of decency that mark the progress of a maturing society, or which involve the unnecessary infliction of pain.”

are just sitting around watching television in their cells. This is not the case. When sentenced to prison or jail, offenders forfeit certain rights or their rights and privileges are restricted. Consider the following examples:<sup>4</sup>

- Inmates have a right to a certain amount of privacy, but not complete privacy.
- Inmates have a right to have visitors, but these rights are restricted as visitation is a privilege.
- Inmates have a right to medical care, but the care only needs to be reasonable.
- Inmates have a right to be protected against cruel and unusual punishment, but they do not have a right to be protected against punishment (and if they are injured during security measures, the infliction of injury is not cruel and unusual if the security measures were in good faith).

## General Issues for Prisoners

Observers occasionally suggest that prison and jail sanctions are lenient and easy, but in reality, incarceration experiences result in many difficulties for inmates. In considering the issues particularly relevant to inmates, we focus on inmates' rights, danger in prison, sexual assaults in prison, and health care and incarceration.

### Inmates' Rights

Some people wrongly assume that inmates lose all of their rights when they are incarcerated. This is far from the truth, but the assumption is somewhat understandable given the way that inmates' rights have evolved over time. Three fundamental aspects of inmates' rights are that they change over time, they are limited, and they are determined through court interpretations of the U.S. Constitution (see Figure 14.1).

Simply put, inmates are treated differently today than they were in the past, and these differences in treatment stem from interpretations about their rights. Definitions of **cruel and unusual punishment**, crucial to a protection offered through the Eighth Amendment, for example, have changed over time. According to the Supreme Court, cruel and unusual punishments are those that are “incompatible with the evolving standards of decency that mark the progress of a maturing society . . . or which involve the unnecessary infliction of pain.”<sup>2</sup> Among the penalties used in the past are branding, whipping, cutting off individuals' ears, or tying offenders to a wooden horse in the middle of the town.<sup>3</sup> Evolving standards of decency have told us that these punishments are now cruel and unusual.

Although some people believe that inmates have no rights, others assume that inmates have the same rights as everyone else, that prison is “easy,” and that inmates

- Inmates have a right to participate in media interviews, but these interviews can be restricted.
- Inmates have a right to practice their religion, but the religious practices can be limited if it is believed that they make it too difficult to secure the prison environment (for example, using sacrificial knives is prohibited and practicing martial arts may be limited).
- Inmates have a right to receive and send mail, but this mail can be, and will be, opened and read by prison staff for security purposes unless it is privileged materials from their attorney.
- Inmates have a right to file complaints to the courts.
- Inmates have a right to “reasonable” dietary needs related to religious beliefs.



Specific punishments are determined by the courts, while the sanctions are imposed in the correctional setting.

© AP Photo/Atlanta Journal-Constitution/John Spink

In some institutions, inmates might have access to the Internet, but the access is limited and the websites they visit are closely monitored. Some inmates might even find “penpals” through these websites (see the “Criminal Justice and the Media” box in this chapter).

Historically the courts avoided getting involved in inmate complaints. Referred to as the *hands-off doctrine*, the courts allowed corrections institutions and states to oversee their own practices. Traced to the 1871 Supreme Court decision of *Ruffin v. Commonwealth*, inmates were viewed as “slaves of the state” who had virtually no rights. In 1964, the Court’s decision in *Cooper v. Pate* interpreted the Civil Rights Act of 1871 as suggesting that imprisonment should not result in the loss of constitutional rights as described under the Fourteenth Amendment and the “equal protection under the law” clause.<sup>5</sup> The resulting effect of the *Cooper* decision gave prisoners the right to challenge prison rules, policies, and procedures and opened up a number of court cases that argued for expanded rights for prisoners in many different areas. The decision paved the way for prisoners to file petitions, or formal complaints, that challenge some aspect of their incarceration.

## CRIMINAL JUSTICE and the MEDIA:

### INMATE “PENPAL” WEBSITES

In a rather innovative archival study using websites, criminal justice scholar Richard Tewksbury read the personal advertisements of 1,051 prisoners posted on three websites (writeaprisoner.com, inmate-connection.com, and inmate.com) and compared the information that inmates posted about themselves with official information provided on state websites. He found that approximately one-third of the inmate ads included “at least one inaccurate reporting of

the three pieces of basic personal information (age, release date, conviction offense).” Just two of the inmates lied about all three pieces of information. Tewksbury stressed that two-thirds of the inmates were, in fact, honest about the information they provided.

Source: Tewksbury, R. (2005). Personal ads from prisoners: Do inmates tell the truth about themselves? *Federal Probation*, 69(2), 32–34.

After the *Cooper* decision, courts across the United States began to take a closer look at prison life. According to one author:

They were shocked by what they saw. Courts declared some prisons to be “unfit for human habitation,” “a dark and evil world completely alien to the free world,” and “so inhumane and degrading as to amount to cruel and unusual punishment.” . . . In 1974, the Court announced: “[t]here is no iron curtain drawn between the Constitution and the prisons of this country.”<sup>6</sup>

What followed was a series of court decisions that expanded inmates’ rights in the areas of health care, court access, and cruel and unusual punishment. Table 14.1 provides an overview of some of those decisions.

Generally speaking, types of petitions filed by inmates include civil rights petitions, habeas corpus petitions, motions to vacate sentences, and mandamus petitions. A *civil rights petition* (also known as a Section 1983 petition) alleges that corrections practices are violating the inmate’s rights. A *habeas corpus petition* alleges that the inmate’s incarceration is unlawful. A *motion to vacate sentence* alleges that the sentence is in

**TABLE 14.1** Significant Prisoner Rights Cases

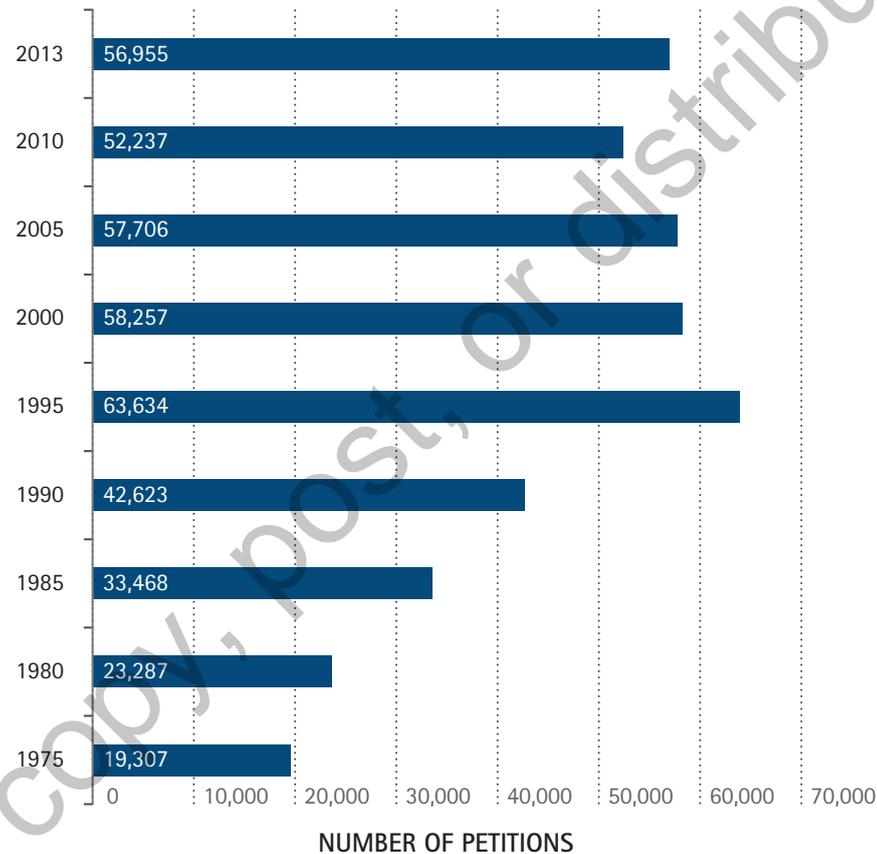
CASE	ISSUE	DESCRIPTION	WHAT THE COURT SAID
<i>Estelle v. Gamble</i> (1974)	Medical care	Gamble was injured on his prison job and received substandard responses from the prison over the injury and in some cases was not permitted to see the doctor.	“We therefore conclude that deliberate indifference to serious medical needs of prisoners constitutes the ‘unnecessary and wanton infliction of pain,’ <i>Gregg v. Georgia, supra</i> , at 173 (joint opinion), proscribed by the Eighth Amendment. This is true whether the indifference is manifested by prison doctors in their response to the prisoner’s needs . . . or by prison guards in intentionally denying or delaying access to medical . . . care . . . or intentionally interfering with the treatment once prescribed.” <i>Estelle v. Gamble</i> (75-929)
<i>Pell v. Procunier</i> (1974)	Freedom of speech	Four inmates and three journalists were denied face-to-face interviews and filed suit.	“A prison inmate retains those First Amendment rights that are not inconsistent with his status as prisoner or with the legitimate penological objectives of the corrections system, and here the restrictions on inmates’ free speech rights must be balanced against the State’s legitimate interest in confining prisoners . . . to deter crime, to protect society by quarantining criminal offenders for a period during which rehabilitative procedures can be applied, and to maintain the internal security of penal institutions. . . . Alternative means of communication remain open to the inmates; they can correspond by mail with persons (including media representatives), <i>Procunier v. Martinez</i> , 416 U.S. 396; they have rights of visitation with family, clergy, attorneys, and friends of prior acquaintance; and they have unrestricted opportunity to communicate with the press or public through their prison visitors.” <i>Pell v. Procunier</i> (73-918)
<i>Rhodes v. Chapman</i> (1981)	Double celling inmates	Inmates alleged that housing two inmates in a 63 square foot space was cruel and unusual.	“To the extent such conditions are restrictive and even harsh, they are part of the penalty that criminals pay for their offenses against society. . . . [T]he Constitution does not mandate comfortable prisons, and prisons of SOCF’s type, which house persons convicted of serious crimes, cannot be free of discomfort. Thus, these considerations properly are weighed by the legislature and prison administration rather than a court.” <i>Rhodes v. Chapman</i> (80-332)

CASE	ISSUE	DESCRIPTION	WHAT THE COURT SAID
<i>Hudson v. McMillian</i> (1992)	Excessive force	Hudson was beaten up by a correctional officer. The lower court said the injuries were not that serious and, as a result, that Hudson's rights were not violated.	"In the excessive force context, society's expectations are different. When prison officials maliciously and sadistically use force to cause harm, contemporary standards of decency always are violated. . . . This is true whether or not significant injury is evident. Otherwise, the Eighth Amendment would permit any physical punishment, no matter how diabolic or inhuman, inflicting less than some arbitrary quantity of injury. . . . That is not to say that every malevolent touch by a prison guard gives rise to a federal cause of action." <i>Hudson v. McMillian</i> (90-6531)
<i>Farmer v. Brennan</i> (1994)	Legal duty to protect inmates	Farmer, a transsexual, was housed with a traditional population and raped.	"The question under the Eighth Amendment is whether prison officials, acting with deliberate indifference, exposed a prisoner to a sufficiently substantial 'risk of serious damage to his future health'. . . . Being violently assaulted in prison is simply 'not part of the penalty that criminal offenders pay for their offenses against society.'" <i>Farmer v. Brennan</i> (92-7047)
<i>Pennsylvania Department of Corrections v. Yeskey</i> (1998)	Disabilities	Yeskey was denied admission to a boot camp because of hypertension. Do the protections in Title II of the Americans With Disabilities Act extend to inmates?	"Assuming, without deciding, that the plain-statement rule does govern application of the ADA to the administration of state prisons, we think the requirement of the rule is amply met: the statute's language unmistakably includes State prisons and prisoners within its coverage. . . . the plain text of Title II of the ADA unambiguously extends to state prison inmates" <i>Pennsylvania Department of Corrections v. Yeskey</i> (97-634)
<i>Overton v. Bazzetta et al.</i> (2003)	Visitation rights	Michigan passed a law prohibiting children from visiting unless the inmate had parental rights and restricting other types of visitors. A group of inmates filed suit.	"The fact that the regulations bear a rational relation to legitimate penological interests suffices to sustain them regardless of whether respondents have a constitutional right of association that has survived incarceration. This Court accords substantial deference to the professional judgment of prison administrators, who bear a significant responsibility for defining a corrections system's legitimate goals and determining the most appropriate means to accomplish them." <i>Overton v. Bazzetta</i> (02-94)
<i>Cutter v. Wilkinson</i> (2005)	Religion	Inmates argued that their non-mainstream religions were not accommodated as specified in the Religious Land Use and Institutionalized Persons Act of 2000.	"RLUIPA thus protects institutionalized persons who are unable freely to attend to their religious needs and are therefore dependent on the government's permission and accommodation for exercise of their religion. But the Act does not elevate accommodation of religious observances over an institution's need to maintain order and safety. An accommodation must be measured so that it does not override other significant interests." <i>Cutter v. Wilkinson</i> (03-9877)
<i>Brown v. Plata</i> (2011)	Prison population limits	A lower court ordered that the California state prison system reduce prison populations because of its inability to meet physical and health needs of inmates.	"The medical and mental health care provided by California's prisons falls below the standard of decency that inheres in the Eighth Amendment. This extensive and ongoing constitutional violation requires a remedy, and a remedy will not be achieved without a reduction in overcrowding. . . . The State shall implement the order without further delay." <i>Brown v. Plata</i> (09-1233)
<i>Swarthout v. Cooke</i> (2011)	Inmates rights to parole	A federal court overturned the governor's decision to deny an inmate parole. The state appealed on the grounds that the federal court did not have legal standing.	"Whatever liberty interest exists is, of course, a state interest created by California law. There is no right under the Federal Constitution to be conditionally released before the expiration of a valid sentence, and the States are under no duty to offer parole to their prisoners." <i>Swarthout v. Cooke</i> (10-333)

violation of legal standards. A *mandamus petition* requests that the court order a specific action to be performed by a public entity on behalf on the inmate.<sup>7</sup>

Although the number of prison petitions filed in U.S. district courts increased after *Cooper*, they soared in the mid-1990s, peaking at more than 63,000 petitions filed alleging abuses of rights. Figure 14.2 shows the number of petitions filed over time.

**FIGURE 14.2** Prisoner Petitions Filed, 1975, 1980, 1985, 1990, 1995, 2000, 2005, 2010, 2013



Source: Data compiled from U.S. Census Bureau, Statistical Abstract of the U.S.

**Prison Litigation Reform Act:** In an effort to curb the number of lawsuits filed by inmates, in 1996 Congress passed the Prison Litigation Reform Act (PLRA). This act required inmates to exhaust all administrative remedies before filing the suit and pay a filing fee.

Four factors contributed to this increase in the use of courts to resolve complaints by prisoners. First, the willingness of the courts to hear the cases in the first place created a foundation from which this increase could occur. Second, more attorneys began practicing law in this timeframe. Third, the number of inmates increased over this same period of time, suggesting that the rate of inmate complaints per total number of inmates did not increase to the same degree as the number of complaints. Finally, across the United States, a general culture supporting the use of civil courts to resolve disputes was manifested during this time. Indeed, 117,320 lawsuits were filed in U.S. district courts in 1975. By 1985, 273,670 lawsuits were filed in U.S. district courts.<sup>8</sup> In other words, it was not just inmates who were using the courts to resolve civil matters!

In an effort to curb the number of lawsuits filed by inmates, Congress passed the **Prison Litigation Reform Act** (PLRA) in 1996. Among other things, this act required inmates to exhaust all administrative remedies and to pay a filing fee before filing suit. In addition, the law stipulated that higher fees would be paid by

inmates who had a history (that is, three strikes) of filing frivolous lawsuits. As well, the PLRA restricted the amount of fees that attorneys could charge in these cases. The act seemed to have mixed success. Although filings decreased somewhat, as one researcher found, the law “seems to be making even constitutionally meritorious cases harder both to bring and win.”<sup>9</sup>

## Danger in Prison

In 1972, inmates at Attica prison in New York state rioted over poor prison conditions and took over part of the prison. Holding 42 corrections officers and staff hostage for four days, the inmates had many demands, some of which the government agreed to. However, the government was not willing to promise they would not hold the offenders accountable for taking the hostages nor would they remove the prison superintendent. The takeover became especially violent when authorities intervened and Governor Nelson Rockefeller sent state police into the prison. After the exchange of fire ended, 43 individuals were killed, including 33 prisoners and 10 corrections staff.

Less than a decade later, violence erupted at the Penitentiary of New Mexico in Santa Fe. This riot was described by one reporter as “an inmate rebellion without a plan, without leadership, and without goals.”<sup>10</sup> By the time the National Guard entered the prison, 33 inmates had already been brutally murdered. Several of the inmates were “snitches” who had been housed in a segregation unit. According to one reporter, “One was hung from the upper tier of the cellblock, another decapitated.”<sup>11</sup> Though none of the guards were killed, they were beaten and tortured, and some were raped.<sup>12</sup>

More recently, inmates rioted for 11 hours in the California Institution for Men, injuring more than 250 inmates, 55 of whom required hospitalization. Inmates’ gangs, divided between Black gang members and Latino gang members, fought one another for the duration of the riot.<sup>13</sup> Table 14.2 provides details surrounding other prison riots that have occurred across the United States.

Some prisons are notorious for the amount of violence that is reported to occur within them. Inmates at the Idaho State Correctional Center labeled the prison “Gladiator School” in reference to the seemingly high level of violence at the prison. A group of inmates sued the Corrections Corporation of America (CCA), which runs the prison, alleging that the “CCA had ceded control to prison gangs so that they could understaff the prison and save money on employee wages.”<sup>14</sup>

Factors contributing to prison violence include violent histories, diet, structural factors, and situational factors. With regard to the first factor, consider that incarcerated offenders tend to have violent histories, both as victims and as offenders. In many ways, violence is a way of life for these offenders. These violent histories are related to the importation model discussed in Chapter 13.

Meager meals have also been linked to prison violence. A study of diet found that providing inmates with daily vitamin, mineral, and essential fatty acid supplements reduced violent incidents by inmates by 37%.<sup>15</sup> Nutritional experts have suggested various changes in diet to reduce the risk of violence related to food. Besides the addition of vitamin supplements, straightforward and less costly suggestions have included serving dinner slightly later so that offenders don’t eat fatty snacks at night and minimizing the amount of time between dinner preparation and consumption so that the food does not lose its nutritional value.<sup>16</sup>

Structural factors related to the prison may also foster violence. Overcrowding, an abundance of free time, the experience of various deprivations, and prison culture are a few of the factors that may lead to violence. With regard to overcrowding, prison riots are often attributed to a high inmate-to-staff ratio. In terms of free time, the more time that offenders have on their hands, the more time they have to engage in inappropriate activities. Deprivations may lead to violence inasmuch as the deprivations lead to frustrations among inmates, who use violence as a strategy to cope. As well, prison culture (and prison management styles) “can also play a role in prison violence.”<sup>17</sup>

Situational factors also contribute to prison violence. The nature of interactions between individuals, some of whom are already disposed to violence, may lead to

**TABLE 14.2** Description of Prison Riots

LOCATION	DESCRIPTION OF EVENTS	LOCATION	DESCRIPTION OF EVENTS
Kirkland Correctional Institution (Kirkland, South Carolina)	The Kirkland facility was generally well managed at the time of the disturbance of April 1, 1986, and so was the riot's resolution. The riot began in a housing unit holding the prison's most violent and disruptive inmates. Inmates seized control of this unit, scaled the fence around it, and then used construction tools left on the grounds to release 700 general-population inmates. The riot command post functioned smoothly, resolving the disturbance in six hours.	Arizona State Prison Complex—Cimarron Unit (Tucson)	This one-hour disturbance by inmates at the Cimarron Unit of the Arizona State Prison Complex at Tucson [on June 21, 1990] initially pitted inmates against inmates. It began as a fight over a cigarette lighter and escalated into a large, racially divided brawl. When prison administrators intervened, inmates turned on them, and force had to be used to end the disturbance.
U.S. Penitentiary (Atlanta, Georgia)	On November 10, 1987, the U.S. State Department announced that Cuba had agreed to reinstate a 1984 accord that would permit the repatriation of up to 2,500 Cuban nationals. Included would be Cubans who had fled in the 1980 Mariel boatlift but who, once released on "immigration parole," had been convicted of a crime and were now detained in one of two federal prisons. Three days after the announcement, the detainees seized control of the U.S. Penitentiary in Atlanta (part of the Bureau of Prisons, U.S. Department of Justice). Their principal demand was that they not be repatriated to Cuba. The uprising lasted 11 days, involved more than 100 hostages, and required protracted negotiations to resolve.	Idaho State Correctional Institution (Boise)	The Idaho State Correctional Institution (ISCI) houses medium-custody inmates as well as close-custody inmates (those who are dangerous and difficult to manage), inmates in administrative segregation and detention, and those awaiting execution. On September 28, 1988, inmates in a close-custody housing unit refused to return to their cells after having been observed drinking a homemade alcoholic beverage. They then used an unsecured table to break into the unit's control center. The riot was eventually brought under control by an ultimatum and riot squad deployment.
Mack Alford Correctional Center (Mack Alford, Oklahoma)	The riot that occurred at this medium-security institution between May 13 and 15, 1988, was preceded by a six-hour period during which Black and White inmates milled about in crowds, expressing antagonism toward each other and toward authorities. Despite attempts to defuse the situation, a corrections official was taken hostage late in the evening, marking the start of the riot. Over a two-hour period, inmates seized seven more hostages and took over two-thirds of the prison. No substantive issues were raised during the three-day disturbance, which was eventually resolved through a combination of negotiation, exhaustion on the part of the inmates, and defection by inmates who no longer wanted to participate.	Pennsylvania State Correctional Institution (Camp Hill)	Since 1975 Camp Hill had been an adult correctional facility, housing minimum- and medium-security inmates. On October 25, 1989, inmates returning from an exercise yard in the late afternoon overwhelmed correctional staff and seized eight hostages. The riot ended through negotiations, and inmates were confined to cells. The next day the superintendent met with the inmates to discuss their grievances. In a development unknown to him, many of the cells to which the inmates had been confined were not secure, permitting the start of a second riot later that same day. Five more hostages were taken. Negotiations were again attempted, but the riot finally ended when state police forcibly entered the compound.

Source: Reprinted from B. Useem, C. G. Camp, G. M. Camp, & R. Dugan. (1995/2012). Resolution of prison riots. *NIJ Research in Brief*. Bibliogov.

violence. For example, it has been suggested that inmate-on-inmate violence occurs because of the values that inmates bring into prisons, whereas inmate-on-staff violence is the result of deprivations in prison.<sup>18</sup> In addition, inmates may find themselves in situations where they deem violence to be the appropriate response. A study by Stephen Light found that violence toward prison staff is tied to perceptions of being treated unfairly or inconsistently.<sup>19</sup> According to Light, "conduct by an officer that is defined as inconsistent with accepted practices or as arbitrary, capricious, spiteful, unnecessary, or petty may be viewed as an occasion for resistance."<sup>20</sup>

Related to situational factors, some observers have argued that contraband (that is, goods that inmates are not supposed to have in prison but that are trafficked into the institution) provides an opportunity for violence. Similar to the way that the presence of

illegal drugs in neighborhoods is tied to violence, contraband (and efforts to sneak it in and sell it) may create situations in which violence is used.

Prisons and jails are dangerous locations. They house individuals with violent histories, offer little programming, provide meager meals, and possess structural features that promote gang involvement. Given that reality, five factors explain why there is not even *more* violence in prisons and jails:<sup>21</sup>

- Professionalization of prison staff better prepares the staff to deal with inmate violence.
- Prison classification strategies that use valid risk assessment tools to predict violence can be useful in deciding which programs inmates should be offered.
- Modern technology is used to monitor inmates more closely.
- Evidence-based policies are used to support programming initiatives.
- Separating offenders who are prone to violence (for example, gang members) reduces violence.

Prisons have become much safer than in the past. In 1980, 54 out of 100,000 inmates were victims of homicide, compared to roughly 5 out of 100,000 inmates currently.

### Sexual Assaults in Prison

Sexual assault in prison has been described as “one of America’s older, darkest, and yet most open, secrets.”<sup>22</sup> Increased concern about sexual violence in prisons surfaced after the Supreme Court ruled in *Farmer v. Brennan* that the prison was responsible for the rape of a transsexual inmate who was housed in the general prison population.

About a decade after the *Farmer* case, Congress passed the Prison Rape Elimination Act of 2003 in an effort to curb sexual violence prisons. The major provisions of the act include the following:<sup>23</sup>

- Adherence to a zero-tolerance standard for the incidence of inmate sexual assault and rape
- Development of standards for detection, prevention, reduction, and punishment of prison rape
- Collection and dissemination of information on the incidence of prison rape
- Award of grant funds to help state and local governments implement the purposes of the Act

The Bureau of Justice Statistics (BJS) was charged with collecting data on the extent of sexual violence in prisons through random samples of offenders. The results from a recent effort by the BJS show that inmate-on-inmate sexual assaults are the most common allegations, and across all varieties, the allegations are infrequently substantiated. This does not mean that the acts did not occur; it simply means the allegations could not be substantiated.

Similar to sexual assaults outside of prison, those occurring in prison frequently are conducted out of a desire for power and control rather than because of sexual



Correctional officers spend a significant portion of their time searching for contraband.

Production to create. Include credit to Photographer: Jim Tourtellotte

**VIDEO**  
Prison rape

TABLE 14.3

**Sexual Assault Definitions**

SEXUAL ASSAULT TYPE	BUREAU OF JUSTICE STATISTICS DEFINITION
Inmate-on-Inmate Sexual Victimization	Involves sexual contact with a victim without his or her consent or with a victim who cannot consent or refuse
Nonconsensual Sexual Acts	The most serious victimizations, including <ul style="list-style-type: none"> <li>• Contact between the penis and the vagina or the penis and the anus, including penetration, however slight</li> <li>• Contact between the mouth and the penis, vagina, or anus</li> <li>• Penetration of the anal or genital opening of another person by a hand, finger, or other object</li> </ul>
Abusive Sexual Contacts	Less serious victimizations, including <ul style="list-style-type: none"> <li>• Intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person</li> <li>• Incidents in which the intent was to sexually exploit (rather than to harm or debilitate)</li> </ul>
Staff-on-Inmate Sexual Victimization	Includes both consensual and nonconsensual acts perpetrated on an inmate by staff. Staff includes employees, volunteers, contractors, official visitors, or other agency representatives. Family, friends, and other visitors are excluded.
Staff Sexual Misconduct	Includes any act or behavior of a sexual nature directed toward an inmate by staff, including romantic relationships. Such acts include <ul style="list-style-type: none"> <li>• Intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire</li> <li>• Completed, attempted, threatened, or requested sexual acts</li> <li>• Occurrences of indecent exposure, invasion of privacy</li> <li>• Staff voyeurism for sexual gratification</li> </ul>
Staff Sexual Harassment	Includes repeated verbal statements or comments of a sexual nature to an inmate by staff. Such statements include <ul style="list-style-type: none"> <li>• Demeaning references to an inmate's sex or derogatory comments about his or her body or clothing</li> <li>• Repeated profane or obscene language or gestures</li> </ul>

Source: Bureau of Justice Statistics. (2011). Survey of sexual violence in adult correctional facilities, 2009–11: Statistical tables. Retrieved from <http://www.bjs.gov/content/pub/pdf/ssvacf0911st.pdf>

desires. The varieties of sexual assault have been classified according to offender-victim relationships (staff-on-inmate sexual assaults, inmate-on-inmate sexual assaults) and type of behavior performed (for example, anal rape, oral rape). Table 14.3 provides definitions used by the BJS. Prison rapes are similar to other sexual assaults in that the offender and the victim tend to know one another. They are different from the vast majority of other sexual assaults (with the exception of marital rape) in that the victim lives with the offender. This dynamic places victims at continued risk for victimization.

### Health Care and Corrections Institutions

Prisons and jails are hotbeds for disease and illness. Compared to community settings, those in institutional settings have higher rates of illnesses such as HIV/AIDS and tuberculosis. Three factors make inmates in prison and jail environments particularly susceptible to disease (see Figure 14.3). First, inmates are in close contact with one another for extended periods of time. Think of a time when you were on an airplane and the person next to you sneezed. You could get off that plane and away from the “sneezer” in a relatively short period of time. In prison, there is no escaping these illnesses.

Second, inmates frequently engage in risky activities (like unprotected sexual activities) that may increase their likelihood of experiencing various illnesses. Some groups of inmates may bring diseases into the jail environment, whereas others may contract diseases while they are incarcerated. In either case, engaging in certain risky activities increases the risk of disease.

Third, until recently, efforts to prevent disease in institutional communities lagged behind efforts in community-based settings. Efforts to prevent disease in prisons and jails have been expanding over time, but in general, a greater emphasis is typically placed on protecting the community from disease rather than protecting inmates from disease.

Some individuals ask why we should be so concerned with inmates' health. Society needs to pay attention to inmates' health for several reasons. First, providing health care to those in need is simply the right thing to do. Of course, some observers might contend that inmates have committed a crime and access to health care should be forfeited. A quotation attributed to Sanford Bates, the first director of the Federal Bureau of Prisons, is worth sharing in response to this contention: "Individuals are sent to prison as punishment, not for punishment."<sup>24</sup> Deprivation of health care would fall into the "for punishment" category.

Second, in terms of disease prevention, remember that most inmates will eventually leave prison. When they do, any diseases they contracted while in prison have the capacity to become public health problems in the community.

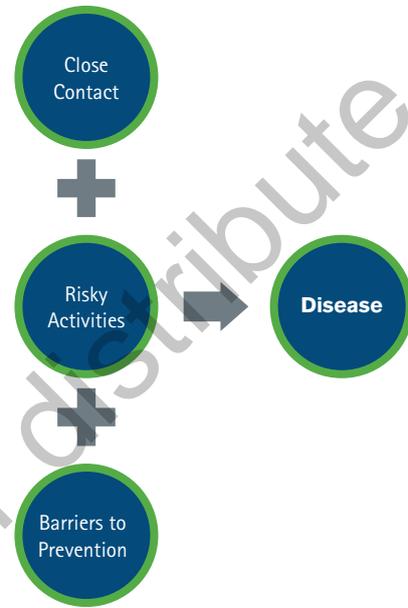
Third, with regard to reintegration efforts, attention should be given to the ties between good health and the ability to engage in prosocial behavior. Those who leave prisons and jails with illnesses may have problems getting or keeping jobs. Or, problems paying for medication or accessing health care on the outside may provide a motive for subsequent offending. When inmates leave institutions in good health, these problems are minimized.

Fourth, legal factors also drive the need to provide health care to inmates. In reality, legal factors are probably the set of factors that drive most corrections officials' decisions to provide health care. The Supreme Court scrutinized health care delivery in prisons in the past and, in 1972, even declared one state's entire system of prison medical facilities to be in violation of the Eighth Amendment protections against cruel and unusual punishment (*Newman v. Alabama*).<sup>25</sup> Four years later, the Court ruled that providing inadequate health care resulted in "unnecessary and wanton infliction of pain" for inmates (*Estelle v. Gamble*).<sup>26</sup> As a result, prisons are now expected to provide at least reasonable health care to inmates.

Finally, providing health care to inmates also makes economic sense. In short, it is cheaper to treat minor illnesses and diseases, or to prevent them in the first place, than it is to provide care for full-blown illnesses. A great portion of prison and jail budgets is spent on providing health care to inmates. Prison doctors, nurses, aides, and other health care workers are on the payrolls of all prisons and jails.

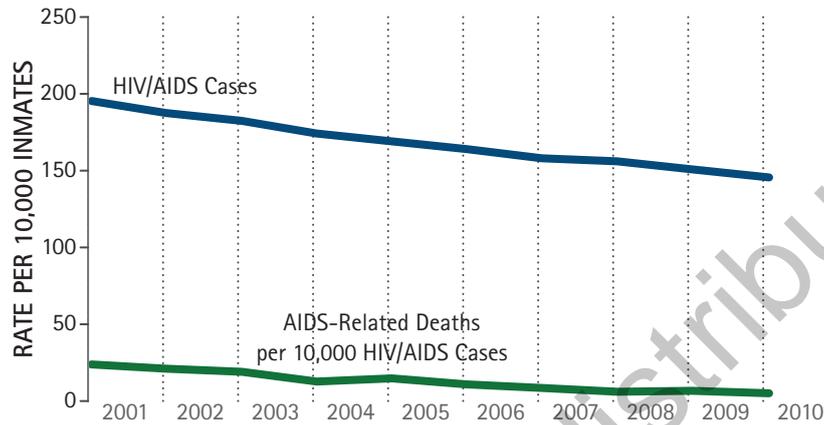
Evidence indicates that health care officials have done a good job reducing and controlling the spread of illness in prisons and jails. Figure 14.4a shows the declines in HIV/AIDS cases among federal and state prison inmates and the rate of AIDS-related deaths among this population. Figure 14.4b shows the rate of AIDS-related

**FIGURE 14.3** Sources Leading to Disease in Correctional Institutions

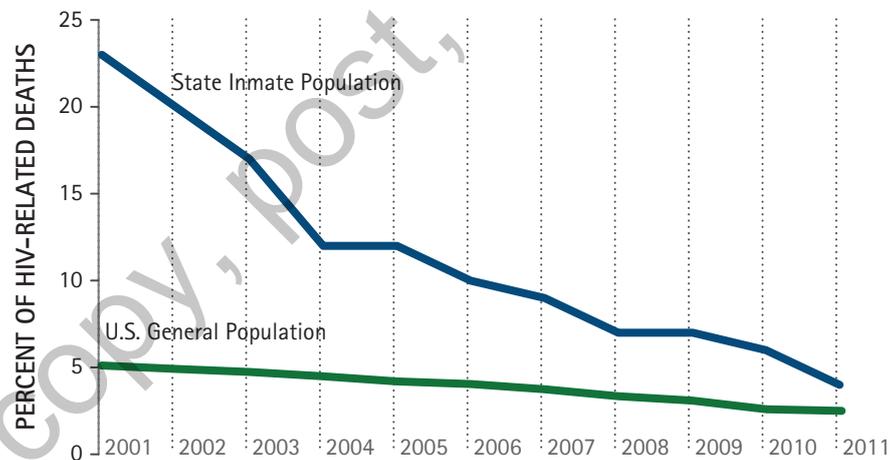


Inmates have a right to medical care while incarcerated.  
© REUTERS/Robert Galbraith

**FIGURE 14.4a** Rate of HIV/AIDS Cases and AIDS-related Deaths Among State and Federal Prison Inmates, 2001–2010.



**FIGURE 14.4b** Percent of HIV-Related Deaths Among All Deaths in State Prisons and in the U.S. General Population



Source: Mortality in Local Jails and State Prisons, 2000–2012—Statistical Tables Bureau of Justice Statistics

deaths (for 15–55 year olds) in state prisons in comparison to national rates in the community. In 2009, for the first time ever, the rate of prison deaths from AIDS-related illnesses was actually lower than the rate found in the national population.

**BEYOND A REASONABLE DOUBT 14.1**

Which Supreme Court case gave prisoners the right to challenge prison rules, policies, and procedures?

- (a) *Cooper v. Pate*, (b) *Miranda v. Arizona*, (c) *Gideon v. Wainwright*, (d) *Escobedo v. Illinois*, (e) none of the above

Answers can be found on page XXX

## ► General Issues for Corrections Employees

Like other criminal justice employees, those who work in corrections may find their careers difficult but rewarding. Among the key issues facing corrections employees are correctional misconduct and stress experienced by corrections employees.

### Correctional Misconduct

Similar to other professions, the field of corrections is not immune from misconduct by its employees. However, much less research has focused on **correctional misconduct** in comparison to other forms of workplace offending. Bernard McCarthy conducted one of the first studies on correctional misconduct.<sup>27</sup> The varieties of misconduct he examined included stealing from the institution, drug smuggling, and transporting contraband into the prison.

Physical abuse is another type of correctional misconduct. The level of authority that officers have over inmates creates a dynamic in which some officers may use unnecessary power to control the offenders. Zimbardo's Stanford Prison Experiment, discussed in Chapter 2, illustrates this point (recall that the experiment was canceled because students acting as guards in the experiment exerted too much power and control over the students acting as inmates). Consider also abuses occurring in military prisons. The torture occurring at Abu Ghraib made international headlines when photos surfaced showing military officials sexually degrading prisoners. The level of authority created a foundation from which these abuses occurred.

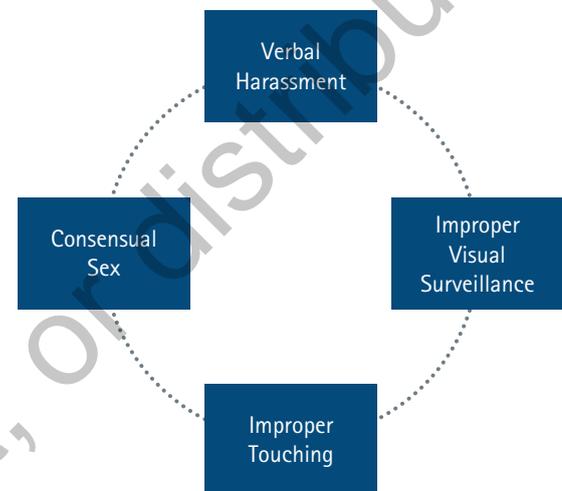
Sexual misconduct by corrections officials includes verbal harassment, improper visual surveillance, improper touching, and consensual sex<sup>28</sup> (see Figure 14.5). So-called *consensual relations* are the most common incidents of sexual misconduct between corrections officers and inmates.<sup>29</sup> Bear in mind, however, that the word *consensual* is misleading in the context of sexual misconduct by corrections officers. The corrections employee has a great deal of power over inmates or probationers, and many states have laws stipulating that sexual relations between officers and offenders are prohibited. These laws exist, in part, because it is recognized that offenders are unable to truly consent in such relationships.<sup>30</sup>

In some cases, the inmate, probationer, or parolee may be the one initiating the relationship. The term **turner** is used to describe “inmates who befriended employees and used that friendship to ultimately coerce employees into rule infractions.”<sup>31</sup> Robert Worley and his coauthors identified three types of turners. *Heart-breakers* engage corrections officials in relationships in order to develop long-term relationships with them; *exploiters* engage in the relationship in order to gain access to goods and services or privileges they otherwise would not be able to access; and *hell-raisers* “cause trouble and create hell for the prison system” just for the fun of it.<sup>32</sup> When the relationships are discovered, the most common result is the firing of the employee; criminal prosecutions are relatively infrequent.<sup>33</sup>

A variety of explanations have been offered for correctional misconduct. For example, corrections officers have a great deal of authority and work alone for much of their time. As well, the demand for contraband in prisons provides an incentive for corrupt officers to engage in misconduct. In addition, low morale among corrections staff, many of whom work in stressful environments, may result in misconduct.<sup>34</sup> Strategies suggested to prevent sexual misconduct by corrections officers, and all forms of correctional misconduct, include developing clear policies that are enforced

FIGURE 14.5

### Types of Sexual Misconduct by Corrections Officials

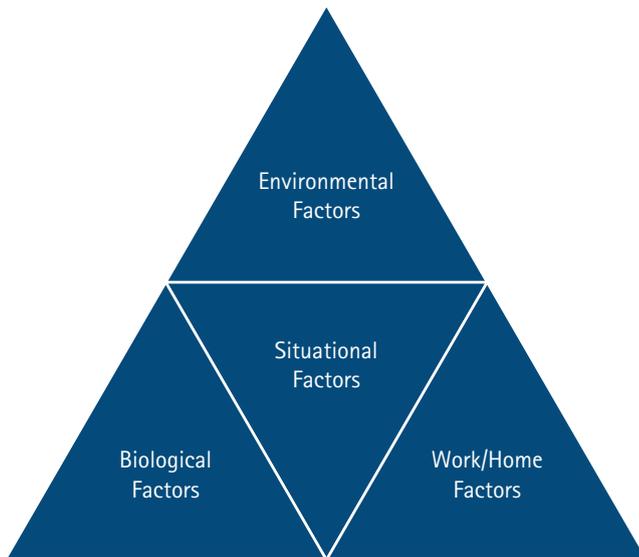


**Correctional misconduct:** Bernard McCarthy conducted one of the first studies on correctional misconduct. He examined varieties of misconduct included stealing from the institution, drug smuggling, transporting contraband into the prison and physical abuse.

**Turner:** A term used to describe an inmate who befriends corrections employees in order to manipulate them into breaking the rules.

FIGURE 14.6

### Factors Producing Stress in the Corrections Profession



as needed, improving the quality of workers, enhancing supervisory practices, implementing various social control mechanisms, and providing ethics training to officers and staff.<sup>35</sup>

As with other types of misconduct, we do not know how often correctional misconduct occurs. Inappropriate relationships appear to be the most frequent type of correctional misconduct. A study of 501 corrections employees in Texas found that “when asked to respond to the item ‘some employees have inappropriate relationships with inmates’ the mean score was 4.49 on a scale ranging from 1 to 5, with five meaning ‘strongly agree.’”<sup>36</sup> Despite this high level of agreement, it seems safe to suggest that the vast majority of corrections professionals are honest and hard-working employees. The few who are dishonest leave unwarranted marks on the entire profession.

### Stress

Working in corrections can be a stressful job. Factors that produce stress for those working in prisons and jails include environmental factors, situational factors, biological factors, and work/home factors.

*Environmental factors* refers to the condition of the prison or jail and ways that the condition itself may lead to stress for corrections officers. Officials will be inside, with little exposure to sunlight, and greatly restricted in their own abilities to move around (see Figure 14.6). Remember that corrections officers are working in a place designed to keep its inhabitants isolated from society, and while they are working there, they too are isolated and may experience “pains” similar to those that are experienced by inmates.

*Situational factors* refers to various parts of the corrections officers’ daily routines that may contribute to stress. For example, officers face constant threats of violence and danger. They are expected to perform long hours for a relatively low salary. In addition, because they are working out of the public eye, community support is minimal. Boredom is also a frequent part of the corrections officer’s routine (just as boredom is part of the inmate’s daily routine). The lack of mental activities that challenge officers to use their skills can produce stress.

*Biological factors* refers to the physical and biological demands placed on corrections officers that can make the job stressful. For example, shift work can produce stress. Also, whereas workers in many other occupations can stop working and eat when they are hungry, corrections officers’ work hours are much more regimented. In addition, the sedentary work style of some officers can result in stress.

*Work/home factors* refers to conflicts that corrections officers can experience between their work roles and their roles as husbands, wives, fathers, mothers, sons, daughters, or other family roles. When at work, officers must be in control and exert authority. Turning off their “corrections officer” behaviors may be difficult when they get home. Also, a lack of family support for corrections officers can be problematic in the workplace and the home. For instance, work/home conflict has been found to reduce job satisfaction for corrections officers.<sup>37</sup> This, in turn, could produce stress.

Probation and parole officers also have stressful jobs. After all, any wrongdoing by the offender could be blamed on the officer’s failure to supervise the offender. Sources of stress include high caseloads, working with potentially dangerous offenders, paperwork demands, lack of recognition, lack of input into decision making, unrealistic expectations of supervisors, and lack of preparation.<sup>38</sup> Research shows that better prepared probation and parole officers experience lower levels of stress,<sup>39</sup> and the ability to participate in workplace decision making also reduces stress.<sup>40</sup>

### BEYOND A REASONABLE DOUBT 14.2

Which of the following would be an example of sexual misconduct by corrections officers?

- (a) Verbal harassment, (b) Improper visual surveillance, (c) Improper touching, (d) Consensual sex, (e) all of the above

The answer can be found on page 586.

## ► Issues Related to Working With Different Types of Offenders

Corrections employees work with many different types of offenders. Each type of offender may present different issues for corrections workers as well as for the offenders themselves. The populations that warrant consideration in this context are juveniles, women, sex offenders, and mentally ill offenders.

### Juvenile Corrections

*Juvenile corrections* refers to the practices used to punish, detain, and house juveniles who have been charged with an offense, adjudicated as a delinquent, or convicted of a crime if their case was waived to adult court. Strategies used to punish juveniles vary across jurisdictions and communities.

Juvenile offenders are incarcerated in juvenile group homes, in juvenile detention centers, in juvenile institutions, or in juvenile wings of adult prisons or jails. Group homes tend to be managed much like a regular home, and they house fewer children. Sometimes, juveniles in group homes have been abandoned by their parents or are status offenders such as runaways or truant. Juvenile detention centers, also known as juvie, are facilities that house juveniles who are awaiting disposition of their cases. Juvenile institutions are facilities that house juveniles for longer periods of time, with some juveniles sentenced to these facilities until they are 21 years old. When housed in adult prisons or jails, juveniles are separated from adult inmates in order to protect them.

A number of issues arise when considering the institutionalization of juvenile offenders. Juveniles frequently have histories of abuse and neglect that, if untreated in institutions, may lead to more problems. Also, when juveniles are housed in prisons or jails, even when separated from adults, the stigma may do them more harm than good. One author team identified the following “dangers of detention” for juveniles:<sup>41</sup>

- Detention can increase recidivism.
- Congregating delinquent youth together negatively affects their behavior and increases their chance of re-offending.
- Detention pulls youth deeper into the juvenile and criminal justice system.
- Detention can slow or interrupt the natural process of “aging out of delinquency.”
- Detention makes mentally ill youth worse.
- Detention puts youth at greater risk of self-harm.
- Formerly detained youth have reduced success in the labor market.
- Detention is expensive—more expensive than alternatives to detention.



Juvenile detention facilities serve many of the same purposes as adult facilities.

© AP Photo/David Goldman

**VIDEO**

Women in jail

As in adult prisons, violence is a very real problem in juvenile institutions. Some observers have argued that the behavior of corrections staff in juvenile institutions could lead to violence. Using force, ignoring violence, and inducing violence are ways that staff have been implicated in violent incidents. One survey of 100 offenders found that one-third of the juveniles “had directly experienced or witnessed guards offering an incentive to a juvenile offender to intimidate or assault another inmate.”<sup>42</sup>

## Women and Corrections

In considering women and the corrections experience, attention can be given to women as corrections employees, women as inmates, and women as offenders on community-based sanctions.

### Female Corrections Officers

For the most part, the corrections field has been a male-dominated profession. This trend has changed in recent years, with more women entering the field. In 1984, one-fifth of corrections employees were women; by 2005, roughly one-third of corrections employees in state and federal corrections institutions were women.<sup>43</sup>

Researchers have examined differences in the ways that female and male corrections staff function. Generally, research shows that, compared to male corrections officers, female officers are better able to diffuse violent situations,<sup>44</sup> are more likely to experience work/home conflict,<sup>45</sup> and demonstrate more concern about victimization by inmates.<sup>46</sup> Although more women have entered the corrections workforce, experts suggest that female corrections officers “continue to encounter issues of tokenism, sex role stereotyping, paternalistic behavior, exclusion from informal social networks, and both verbal and sexual harassment.”<sup>47</sup>

### Female Inmates

Gender differences are also seen in the experiences of inmates. Imogene Moyer was one of the first criminologists to study female inmates. After interviewing offenders and staff for a few months, she lived in a female prison for three months in order to gain direct insight about the experiences of female inmates. Her research illuminated the experiences of female offenders while they are incarcerated. One of her observations was that, although the prison looked similar to a college campus, the regimentation and rules enforced on the inmates made it clear that punishment and control were central to the institution’s mission.<sup>48</sup>

She also found that the prison tended to promote sex role stereotypes and provided programming in line with gender roles. Such programming, she implied, would result in inmates having job skills that would place them in a disadvantaged position upon their release. For example, inmates were prepared for service occupations such as beauticians, cooks, and housekeepers. Elsewhere, Moyer concluded that changes in the female prison structure over time had “reinforced traditional sex-role stereotypes of women as dependent children.”<sup>49</sup> Moyer and others believe that prison programs frequently focus on teaching female offenders how to fulfill stereotypical, and sometimes degrading, gender roles that place them in subservient positions to males.

Whereas male prisons are characterized as having prison gangs, researchers have described how female inmates develop relationships similar to those found in families. Referred to as “**pseudo family groups**,”<sup>50</sup> these relationships develop in part as coping mechanisms for female inmates. Although some of these relationships may be sexual in nature, the majority are more familial in nature than they are intimate.<sup>51</sup>

**Pseudo family groups:** relationships which female inmates develop similar to the prison gangs which male inmates tend to form. While some of the pseudo family groups may be sexual in nature, the majority are more family type in nature than they are intimate.



Female correctional institutions may be designed differently than institutions for male inmates, but their purpose is the same: regimentation and control.

© JIM LO SCALZO/EPA/Newscom

One issue that some female inmates face involves their roles as mothers (for those inmates who have children). Inmates who enter prison pregnant will give up custody of their child when the child is born, whereas those who already have children give up custody upon admission. In many of these cases, the mother may have already been the sole provider for the child. Prison programming efforts have been developed to help incarcerated mothers maintain contact with their children. These initiatives have several benefits, including the following:<sup>52</sup>

- Helps family bonds
- Helps inmates cope with the pains of imprisonment
- Potentially protects inmates against the negative qualities of the prison environment
- Improves the likelihood of successful reentry

### Female Probationers and Parolees

With regard to females on community-based sanctions, as with the incarceration experience, females tend to experience certain types of sanctions differently than males. Because female probationers and parolees have different needs than male probationers and parolees, some agencies have developed specific female probation units. The vast majority of females on probation have histories of abuse, often at the hands of their former spouses or parents. Consequently, probation services may target strategies to address the consequences of victimization.

For mothers who are on probation, many may be in need of parenting services in order to help protect their children from the types of abuses that led to the mother's own offending.<sup>53</sup> In addition, many of these women are single parents and in need of parenting programs that promote healthy relationships with their children.

Specific types of alternative sanctions are also experienced differently by female offenders. For example, females on electronic monitoring may experience more shame from the electronic monitoring bracelet.<sup>54</sup> As well, work release programs for single mothers become problematic when the mothers have to find child care, and fines for those living on single incomes are difficult to pay. In addition, for those women leaving prison, it has been found that reentry initiatives rarely focus on child care services, health care, counseling, housing needs, or substance abuse services.<sup>55</sup>

One of the reasons that female offenders experience probation differently than males likely has to do with the types of offenses females commit. In general, females tend to commit less serious offenses than males. With different criminal backgrounds and conviction offenses, females may be assigned different types of supervision conditions than males. As a result, these conditions of probation and parole would require different investigatory and supervisory strategies by probation and parole officers.<sup>56</sup>

Feminist criminologists have noted that criminal justice is dominated by male-oriented research studies and theories. Several problems arise from this narrow focus on male offenders. First, it cannot be assumed that the theories that explain male behavior can be used to explain female behavior. Second, the types of responses and treatment strategies used for male offenders may not be appropriate or useful for female offenders. Third, the consequences of male and female offending may vary based on offender type, but these consequences cannot be understood if researchers fail to study female offending. Finally, ignoring female offending limits our understanding about crime and criminal justice in general. More specifically, just as medical doctors study rare diseases to better understand all types of disease, we can better understand all types of crime by studying crimes perpetrated by females as well as males.

### Sex Offenders and Corrections

Sex offenders are among the most vilified offender group. In prisons, jails, and community-based corrections, sex offenders, as a group, present different types of issues for corrections employees than do other types of offenders. In prisons, four qualities

of sex offenders result in the need to supervise these offenders differently than other offenders: (a) Sex offenders are stigmatized, (b) sex offenders tend to have histories of being victimized, (c) sex offenders tend to receive long prison sentences, and (d) sex offenders face a number of restrictive policies upon their release from incarceration (if they are released).

In terms of the stigma that sex offenders face, across the board, law-abiding citizens and offenders alike seem to view sex offenders as especially evil. No other offender group is viewed with the same level of hatred. For prison and jail officials, the task at hand is to create environments that protect sex offenders from victimization at the hands of fellow inmates. Some observers may wonder about the need to protect offenders; however, both moral and legal reasons warrant such protection. Recall that when offenders are sent to prison, the punishment is the time away from society, rather than the prison experience itself. Legally, prison and jail officials can be sued if inmates are victimized and it can be shown that staff could have prevented the victimization.

The histories of victimization among sex offenders are relevant for corrections staff when considering strategies to treat and rehabilitate sex offenders. It is well accepted in the research literature that many sex offenders were once victims themselves. Recognizing that this relationship exists does not condone sex offending; however, identifying this relationship provides a foundation for more appropriate treatment.

In addition, sex offenders tend to receive particularly long prison sentences. The length of their sentences means that officials will need to supervise (and protect) these offenders in different ways than would be the case for other offenders. Many sex offenders will grow old in prison, which presents a whole different set of issues (discussed in Chapter 15).

Finally, sex offenders, if and when their prison sentences end, face a number of restrictive policies that have implications for their supervision in the community. These policies are strikingly more restrictive than the types of policies used for other offenders. Consider the restrictiveness of the following sex offender policies:

- **Civil commitment laws** are used to commit sex offenders in institutions after their incarceration dates. Mechanisms used to commit mentally ill offenders are used to commit sex offenders for indeterminate periods of time as long as this confinement includes a treatment component.
- **GPS monitoring laws** allow for the use of electronic monitoring for certain types of sex offenders. Using GPS technology, officers can monitor sex offenders' locations.
- **Exclusion zone policies** stipulate places sex offenders cannot go, such as playgrounds, day cares, libraries, or school zones.
- **Registry laws** require sex offenders to register with the state police, and information about registered sex offenders is typically available online.
- **Chemical castration laws** allow officials to use drugs to control sex offenders' impulses.
- **Polygraph policies** allow probation and parole officers to force sex offenders to take polygraphs so that officers can determine if they are being honest about efforts to avoid offending.

Some states have also developed policies calling for mandatory probation sentences to be awarded either in addition to prison sentences or instead of prison sentences. In some states, lifetime probation sanctions are given to sex offenders. The result of these laws is that probation and parole officers are now working with sex offenders more so today than ever before. To address the increase in the number of sex offenders on probation and parole, some agencies have developed specific sex offender probation units. In smaller localities, sex offenders on probation are supervised by general probation officers.

It can be particularly challenging for community corrections officers to supervise sex offenders. Liability concerns for officers surface if sex offenders commit new crimes while on community supervision. In addition, whereas community corrections officers may be able to relate to, identify with, or even understand certain types of offenders, this is not the case with sex offenders.<sup>57</sup> As well, officers will need to work with officials from other systems in supervising sex offenders. Based on these considerations, issues that arise in working with sex offenders include the following:

- Interagency conflict
- Lack of understanding about the mental health system
- Lack of understanding about sex offender treatment
- Lack of understanding about “clinical criteria predicting recidivism”<sup>58</sup>

### Mentally Ill Offenders

In 1963, President John F. Kennedy signed into law the **Community Mental Health Act**, which aimed at deinstitutionalizing mentally ill individuals and treating the majority of them in the community rather than in state hospitals. On the surface, such a move likely sounds compassionate and empathetic. Because available community services were insufficient, however, the result of this widespread deinstitutionalization movement has been a dramatic increase in the number of mentally ill individuals sent to jails and prisons and placed on community-based sanctions. As one sheriff told a reporter, “Society was horrified to warehouse people in state hospitals, but we have no problem with warehousing them in jails and prisons.”<sup>59</sup>

Indeed, estimates suggest that more than half of all incarcerated inmates suffer from some form of mental illness.<sup>60</sup> Four issues are prevalent among this group of offenders. First, the vast majority of them do not receive the treatment they need while incarcerated. Second, for some offenders, having a mental illness while incarcerated may elevate their risk of victimization. Third, some observers may question whether incarcerating mentally ill individuals is equivalent to criminalizing a health problem. Fourth, most of those who are mentally ill while incarcerated will be released back into the community, and they have a high risk of returning to prison or jail.

To improve community supervision of offenders with mental health issues, some agencies have developed mental health units in order to centralize the supervision and treatment of this group of offenders. Some jurisdictions develop these units in conjunction with mental health courts, while others develop them as separate units. Typically, mental health probation units will provide officers with smaller caseloads composed solely of individuals with mental health problems.<sup>61</sup> Certainly, offenders with mental health issues will have much different needs than other offenders. Some of them may have more than one mental health problem, many will have multiple treatment needs, and many have housing needs.<sup>62</sup> In addition, the supervision strategy is typically less punitive, requiring more meetings between officers and offenders, more supervision, and more conditions placed on them.<sup>63</sup>

Because mentally ill offenders are watched more closely than other offenders while they are on probation and parole, they are more likely to be caught violating their conditions of release.<sup>64</sup> Drawing attention to this dilemma, one author team writes:

When they are behaving no worse than offenders without mental illness, it seems inappropriate to use incarceration to achieve social control over offenders with mental illness, regardless of whether this is motivated by fear or paternalism. It is important to remain mindful of our tendency to more closely watch offenders with mental illness and to more forcefully respond to their behavior. Even if evidence-based strategies in mental health and corrections are ideally matched to subgroups of offenders with mental illness, these individuals will continue to “fail” as long as we maintain an unusually high threshold for their success.<sup>65</sup>

#### VIDEO

Interview with case study participants

**Community Mental Health Act:** An act, signed by president John F. Kennedy in 1963, that aimed at deinstitutionalizing mentally ill individuals and treating the majority of them in the community rather than in state hospitals.

### BEYOND A REASONABLE DOUBT 14.3

\_\_\_\_\_ laws are used to commit sex offenders in institutions after their incarceration dates.

(a) Civil commitment, (b) Registry, (c) Exclusionary, (d) Inclusionary, (e) none of the above

The answer can be found on page 586.

## ► Issues Related to Punishment Strategies

A number of issues related to specific punishment strategies and policies continue to be the subject of significant debate among policy makers and criminal justice scholars. These issues include the death penalty, recidivism, criminogenic sanctions, support for treatment, and restorative justice.

### Death Penalty

Every now and then you may see a western television show or movie depicting the “bad guy” being sentenced to death. The offender has a noose placed around his neck while standing on a platform in the center of town, the executioner has the floor moved out from beneath the offender’s feet, and the offender falls toward the ground but does not fully reach the ground. The rope breaks the offender’s neck and the offender dies hanging from the noose. This depiction is probably not far off base.

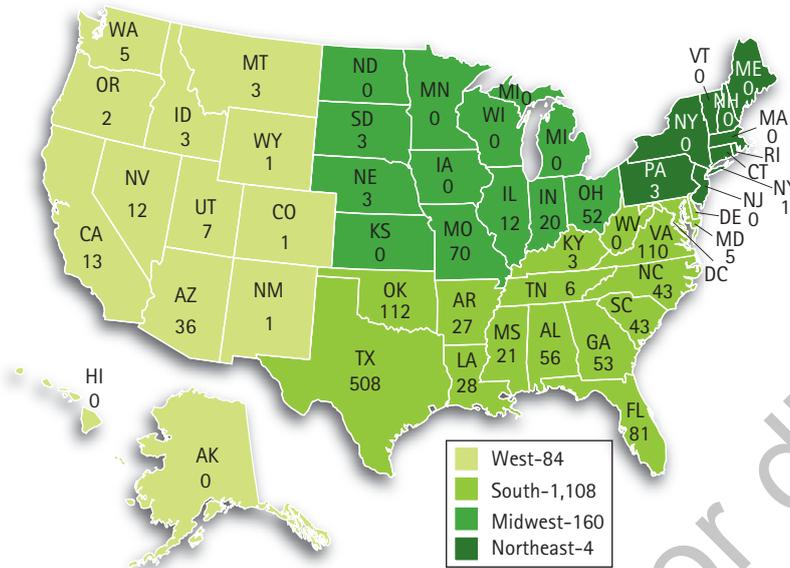
The **death penalty** (also known as capital punishment) has been used throughout time. Our modern laws governing the death penalty can be traced to *Furman v. Georgia*, a Supreme Court case that outlawed the death penalty on grounds that the penalty was arbitrary and capricious. The Court ruled this way because it believed that allowing juries to decide both guilt and the death penalty at the same time constituted cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. Justice Potter Stewart wrote in his concurring opinion that “these death sentences are cruel and unusual in the same way that being struck by lightning is cruel and unusual.”<sup>66</sup>

As a result of the *Furman* decision, state laws governing the death penalty were voided in 40 states. The state of Georgia changed its state law to provide for a two-stage decision process in death penalty cases (a stage in which guilt is determined and a stage in which the sanction is decided). This new law was upheld by the Supreme Court in *Gregg v. Georgia*.<sup>67</sup>

Some individuals oppose the death penalty because they believe the sanction is a cruel and unusual punishment. For some individuals, definitions of cruel and unusual are tied to the method of death. The most common method is lethal injection, which is generally regarded as the most humane method. Other methods include the electric chair (authorized in eight states), the gas chamber (authorized in three states), hanging (authorized in three states), and firing squad (authorized in two states).<sup>68</sup> Figure 14.7 shows the number of executions across the United States, and Figure 14.8 shows the number of individuals sentenced to death by each method in the United States since 1976.

Related to the “unusual” part of “cruel and unusual,” some people oppose the death penalty because they believe that the application of the death penalty is discriminatory. Available evidence suggests that this belief may have some merit. Studies have found that Blacks are more likely than Whites to receive the death penalty. Supporters of the death penalty typically counter this finding by suggesting that when other variables are factored in (such as seriousness of the offense, criminal histories, and so on), the significance of race is minimized. Others have found, however, that even when including these other variables, the death penalty is differentially applied when considering victims’ race. A study of 352 death penalty cases in North Carolina, for example, found that “the odds of a death sentence for those suspected of killing Whites are approximately three

**Death penalty:** The death penalty (aka capital punishment) has been used throughout time. Our modern laws governing the death penalty can be traced to *Furman v. Georgia*, a Supreme Court case that outlawed the death penalty on grounds that the penalty was arbitrary and capricious. Due to its controversial nature, this type of punishment has both many supporters and opponents. Their reasoning is related to moral, economic and ethical arguments and the opinions expressed on this subject of study differ by educational, geographical and demographic factors.

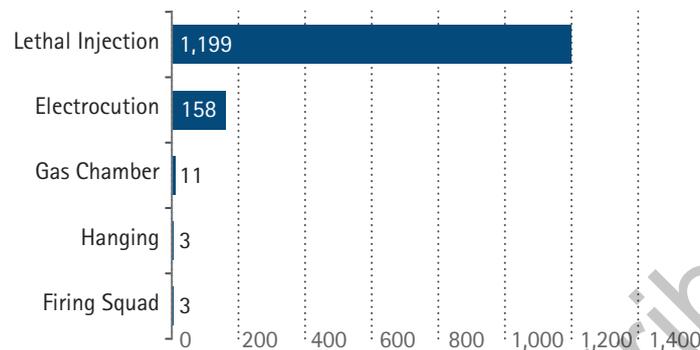
**FIGURE 14.7** Number of Executions in Various States


times higher than the odds of a death sentence for those suspected of killing Blacks.”<sup>69</sup> Other researchers have found that “the race of the defendant and victim are both pivotal,” at least in some jurisdictions.<sup>70</sup>

Another criticism of the death penalty is that innocent individuals have been sentenced to death. It has been reported that, since 1973, 140 individuals who had been sentenced to death were exonerated and freed from death row.<sup>71</sup> Supporters of the death penalty point out that the fact that these offenders were exonerated reflects the belief that the system worked. Opponents counter that some innocent individuals have been executed. Supporters of the death penalty suggest that more innocent individuals are protected by sentencing murderers to death than are wrongfully executed, and they add that those rare wrongful executions are unfortunate consequences of our justice process. In the words of one author team that supports the death penalty, “If the poor fellow had a fair trial and was convicted by a jury of his peers, and the record has been reviewed by an appellate court, the gallows may cheat him of his life, but sooner or later we will all be cheated.”<sup>72</sup> Of course, this statement is not debatable, but whether it justifies killing innocent people can be argued. Illinois governor George Ryan gained national press in 2000 when he declared a moratorium on the death penalty in his state on the basis that innocent individuals had been sentenced to death.

Moral arguments are also raised by opponents of the death penalty. In particular, some argue that it is simply wrong for the state to kill offenders. Those invoking this argument contend that the government sinks to the same level as offenders when it performs executions. The “Ethical Decision Making” box in this chapter describes an actual crime occurring in prison. Reading it may open your mind to the moral issues regarding the death penalty (for both supporters and opponents of the death penalty).

Opponents of the death penalty have also argued that, rather than deterring crime, the application of the death penalty may actually cause more crime. Research on the death penalty over a 57-year timeframe found that homicide rates tended to increase in the months following an execution.<sup>73</sup> Those who support this *brutalization perspective* suggest that the violent nature of the death penalty teaches other individuals to be violent themselves. Put more bluntly, they argue that the death penalty “contributes to creating a climate of brutal violence”<sup>74</sup>

**FIGURE 14.8** Execution Methods in Death Penalty Cases Since 1973

Source: Death Penalty Information Center.

**VIDEO**

Innocence Project

Supporters of the death penalty cite several justifications for the sanction. First, some argue that it sends a message to all Americans about appropriate behavior. According to this perspective, without the death penalty, crime rates would be even higher in some states. (Opponents of the death penalty point out that crime rates are frequently lower in states that don't have the death penalty.)

Another argument that supporters of the death penalty offer is that it takes dangerous individuals off the streets and gives the public a level of certain protection. Those who are executed will most certainly never commit additional crimes.

Some supporters of the death penalty have offered an economic argument, on the assumption that it is cheaper to sentence offenders to death than it is to incarcerate them. In reality, experts suggest that the cost of death penalty cases is higher,

## ETHICAL DECISION MAKING

The following case involves the death of a prison nurse. Read the description provided by the Occupational Safety and Health Administration and answer the questions that follow:

*On the afternoon of October 25, 2010, Employee#1, a 55-year-old female prison nurse, was treating inmates for alcohol withdrawal at a county detention facility. As medications were being administered, one of the inmates grabbed an unsecured metal desk lamp and violently struck the nurse in the head. The severely injured nurse slumped to the floor and was rushed to a nearby hospital, where she was immediately placed on emergency life support. She died from her injuries three days later.*

### YOU DECIDE

1. Based on the information provided, what are the reasons you would or would not support the death penalty in this case?
2. Should the prison be held liable on any level for the inmate's behavior?

Source: Occupational Safety and Health Administration. (n.d.). Inmate strikes and fatally injures prison nurse. Retrieved from [https://www.osha.gov/pls/imis/accidentsearch.accident\\_detail?id=202507927](https://www.osha.gov/pls/imis/accidentsearch.accident_detail?id=202507927)

particularly because of the court costs associated with appeals. As well, some observers see the “cost” argument as shallow. After all, if as a society we are concerned about cost, and it is cheaper to put offenders to death, why not execute more offenders?

Moral arguments are also offered in support of the death penalty. In particular, although some individuals view the death penalty as immoral, others believe that it is immoral to sentence individuals to spend their entire lives in desolate and hopeless environments. Demonstrating the dire conditions of prison life, one author even called for putting offenders into “punitive comas” so that they would sleep for the duration of their prison sentences.<sup>75</sup> This author, criminologist James Oleson, though avoiding mention of the death penalty, noted in concluding his article that the coma was actually more humane than the way that we already warehouse offenders.

Supporters of the death penalty also suggest that it is appropriate for one simple reason: Offenders who murder individuals deserve to die themselves. For those citing this argument, the other reasons for supporting or opposing the death penalty may be irrelevant. Consider that some family members of murder victims believe that murderers deserve to be executed. By extension, those who view the murder solely through the lens of the victim’s family may come to the same conclusion.

In general, members of the public tend to support the death penalty. The level of support for the death penalty has decreased over time. A 2012 Pew Center survey found that 55% of Americans supported the death penalty for convicted murderers.<sup>76</sup> This level of support was down from 78% in 1996. Factors that appear to influence support for the death penalty include empirical factors, demographic factors, education, and crime rates tied to geographical areas.<sup>77</sup> With regard to empirical factors, studies have found that the way that researchers ask questions about the death penalty influences the degree to which individuals support the death penalty. For example, if individuals are asked, “Do you support the death penalty for a specific type of offense,” many individuals will likely respond in the affirmative. By contrast, when asked, “Would you select life in prison without parole or the death penalty for a specific type of offense,” many of the same individuals would select life in prison over the death penalty.

With regard to demographic factors, research has found that males<sup>78</sup> and those who are married<sup>79</sup> are more likely to support the death penalty. By contrast, racial minorities are more likely to oppose the death penalty.<sup>80</sup> According to one author team, “The gap between Blacks and Whites with regard to capital punishment is enduring.”<sup>81</sup>

In terms of education, the **Marshall hypothesis**, traced to Supreme Court Justice Thurgood Marshall, suggests that the more informed individuals are about the death penalty, the less likely they will be to support it. The results of this research are mixed. Perhaps the most conclusive evidence suggests that education about the death penalty may shift attitudes in the short term, but long-term effects do not appear to exist.<sup>82</sup> In simple terms, you may decide today (because of exposure to a criminal justice class) that you do not support the death penalty, but 10 years from now, the impact of education on your attitudes will dissipate.

Geographical factors also influence support for the death penalty. On one level, research shows that areas with high rates of violence tend to be areas that demonstrate more support for the death penalty.<sup>83</sup> Laws supporting the death penalty and decisions to apply the death penalty appear to be shaped, at least in part, by geography. All told, the death penalty is illegal in 17 states and the District of Columbia, and 19 states rarely use the death penalty, even though they have laws that would allow for its use. Fourteen states, most of them in the South, apply death penalty statutes more frequently (see Figure 14.7).<sup>84</sup>



Old Smokey, an electric chair from Tennessee, is on display at the National Museum of Crime and Punishment in Washington DC.

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#### **Marshall hypothesis:**

The Marshall hypothesis suggests that the more informed individuals are about the death penalty, the less likely they will be to support the death penalty.

## Recidivism

The Bureau of Justice Statistics created a Prisoner Recidivism Analysis Tool that allows users to examine recidivism rates for a sample of offenders from 15 states released from prison in 1994. The tool is available to the public online.<sup>85</sup> A simple search of all of the offenders found that two-thirds of them were arrested again within three years and 39.2% were reincarcerated. The BJS tool should be updated with more current recidivism data in the near future. By all indications, the recidivism rate for offenders is still high, though it may not be as high as it was in the past.

In 2012, nearly 500,000 offenders were on parole. Of those inmates, 58% completed their parole successfully and one-fourth were sentenced back to prison either for a new offense or for violating their parole. This may seem like a high number of offenders returning to prison, but the percentage of parolees returning to prison has actually decreased since 2008, when a third of parolees returned to prison.

Reentering society is not an easy process for offenders. Certain factors have been found to improve the likelihood of successful **reentry**. For example, a strong family network has been found to reduce the likelihood of returning to prison.<sup>86</sup> It is not simply being married or being a parent that reduces the likelihood of reoffending. Instead, the strength of family relationships is important. Consequently, some experts have suggested that reentry efforts should focus on the entire family and not just the offender.<sup>87</sup> In addition, other factors such as employment and participation in evidence-based treatment programs also ease the reentry experience.

In some places, when offenders leave prison they are given reentry guides to assist in their return to society. A review of 13 such guides found that they fall short in their efforts to help.<sup>88</sup> Six of the guides were difficult or very difficult to read. Also, the guides have been criticized for being outdated, void of research, and too general.

Some authors have examined reentry as if it were a separate part of the justice process. Others have argued that in order to understand reentry, one must examine the entire criminal justice process. Criminologist Michael Hallett wrote:

While prisoner reentry programs emerged only as it became painfully obvious that recidivism was increasing and not decreasing, the real lesson is that “getting tough” on offenders did just that—made it harder, not easier for criminals to return to a normal life . . . the horrendous policies of the past three decades made it tougher for former prisoners to construct anything approximating a normal life.<sup>89</sup>

Many observers would argue that a high recidivism rate is an indication that the criminal justice system has failed. An alternative perspective suggests that it is shortsighted to assume that a long history of experiences by offenders can be offset by one corrections experience. One question that arises is whether offenders are any different at all after incarceration. As one author team wrote, “Corrections administrators and practitioners need to reexamine the commonly held assumption that any intervention is better than no intervention at all.”<sup>90</sup>

## Criminogenic Sanctions

*Criminogenic sanctions* refers to the possibility that, rather than deterring crime, certain sanctions might actually *cause* crimes. This is especially a concern in prisons. Although, as one author team noted, “there is general consensus that imprisonment should not be damaging [and] prisons should not change individuals for the worse,”<sup>91</sup> the possibility exists for some offenders and some sanctions. Six dimensions have the potential to produce criminogenic sanctions: (a) the prison environment, (b) learning from other offenders, (c) perceptions of fairness, (d) community consequences of incarceration, (d) lack of treatment, and (e) release strategies.

**DReentry:** The process during which an offender becomes reintegrated into the community at large

In terms of the environment, the harsh conditions found in prisons have been cited as a source of future crime. In this sense, rather than preventing crime, these conditions may actually breed crime. Indeed, Beccaria, in writing about deterring crime more than 250 years ago, advised against sanctions that are too severe. Instead, he noted that the sanction should be slightly more severe than the pleasure offenders get from committing the crime. For many offenders, the prison environment appears to violate Beccaria's recommendation.

With regard to learning, being around other types of offenders for long periods of time (and in a spartan environment) produces the opportunity for convicted offenders to learn about crime. Traced to learning theory, the idea is that offenders might learn about strategies for new crimes, reasons to commit new crimes, and opportunities for new crimes. This dynamic is not limited to prisons. It has been reported that batterer treatment programs, when not managed correctly, might result in batterers learning from one another about strategies to control and abuse their partners without getting caught.

Perceptions of fairness have also been tied to criminogenic sanctions. Tom Tyler has written extensively about procedural justice and the importance of fairness and legitimacy in the application of the law.<sup>92</sup> From this perspective, if inmates perceive their sanctions to be unfair, they may be at a higher risk of reoffending. Sanctions that are experienced as too severe, then, run the risk of producing crime rather than deterring it.

Prison sanctions can also be criminogenic when considering the impact that sanctions have on urban communities. Recall from Chapter 5 that incarcerating high numbers of minorities from urban neighborhoods weakens the social capital found in those neighborhoods. With more single-parent homes and fewer fathers available to help raise children, the potential for crime increases. Michelle Alexander likened this mass incarceration to former policies that formally segregated minorities and suppressed them in many different ways. In particular, in *The New Jim Crow*, Alexander skillfully and masterfully asserted that mass incarceration, in effect, has the same consequences that Jim Crow laws had on minority populations in years past.<sup>93</sup> Perhaps one day we will look back on our current incarceration policies and hold them in the same level of contempt that we now hold Jim Crow laws.

Release strategies and reentry processes (or rather, the lack of reentry efforts) also may contribute to crime. When these processes are weak, offenders are essentially going from a harsh environment full of regimentation and control to an environment where their needs are not met and there is nothing stopping them from reoffending. With this sort of a framework, it might be more appropriate to ask, Why don't even more offenders commit new crimes? Consider how difficult it is for felons to access federal aid for college. The "Criminal Justice and College Students" box in this chapter considers how financial aid rules are related to college students and incarceration.

*Returning Home: Understanding the Challenge of Prisoner Reentry* was an Urban Institute Study focusing on prisoner reentry in Maryland, Illinois, Ohio, and Texas. The researchers examined how reentry was experienced by offenders, their families, and communities. The results, based on a study of 1,450 incarcerated offenders and 2,600 interviews following release, led the researchers to make the following recommendations:<sup>94</sup>

- Develop individualized case management approaches for offenders
- Deliver intensive services immediately upon release
- Broaden the focus to include family and community contexts
- Reinvent postrelease supervision
- Implement comprehensive reentry strategies, not programs

These recommendations have direct ties to our society's punishment goals.

## COLLEGE STUDENTS and CRIMINAL JUSTICE



### INCARCERATION AND FINANCIAL AID

Federal regulations prohibit incarcerated individuals from consolidating their federal student loans while they are incarcerated. Inmates can, however, apply for loan deferments, allowing them to defer payment of loans they took out prior to their incarceration. Once released, individuals may be eligible for new federal student loans, though convictions for certain drug offenses and some types of sex offenses may result in limited

access to student loans. With this information as a backdrop, list three reasons why financial aid should be tied to conviction and incarceration as well as three reasons why it shouldn't. Should inmates be able to take college courses while incarcerated? Would it make a difference if the course was offered online? Discuss your answers with your classmates.

### Treating Offenders

Rehabilitation was, for the most part, an accepted philosophy of punishment for the better part of the 20th century. This changed in the 1960s and 1970s, when a law-and-order philosophy promoted more punitive responses to criminal behavior. Then, in 1974, a well-known report, known as **Martinson's report**, evaluated various treatment efforts and offered this rather straightforward conclusion: Nothing works. Martinson wrote, "The rehabilitative efforts that have been repeated so far have had no appreciable effect on recidivism."<sup>95</sup> The report provided fodder for conservatives to call for stricter responses to criminal behavior and was a serious blow to rehabilitative efforts. In considering why "nothing works," four possible explanations surface: unrealistic expectations, implementation issues, problems measuring success, and lack of evidence-based treatment strategies.

Unrealistic expectations potentially explain why "nothing works" in terms of rehabilitation. In particular, when evaluating treatment strategies, it may be expected that all individuals receiving the treatment become law-abiding citizens. This is an extraordinarily high bar. After all, when offenders are sent to prison, and then continue offending after their release, it is rare that individuals blame the prison experience for failing. So, on the one hand, treatment strategies are defined as failures because offenders reoffend, but when former inmates reoffend, the vast majority of the public does not view prison as failing. Indeed, the response is to say that the offender should have received "more prison." Few individuals have said (out loud anyway) that when treatment fails, offenders should have simply received "more treatment."

Implementation issues also help to explain why some treatment programs do not work. In particular, programs may be designed in ways that are destined for failure. For example, when drug treatment occurs in prisons, a number of issues arise for inmates. One author team has identified the following issues:<sup>96</sup>

- Some inmates may feign abuse problems in order to participate in treatment programs.
- Treatment is often tacked on at the end of a prison sentence, whereas it should be given earlier.
- Treatment is separated from community services, whereas the treatment should be integrated with the community.
- The admission criteria for treatment programs are too restrictive.

**Martinson's report:** According to this report "the rehabilitative efforts that have been repeated so far have had no appreciable effect on recidivism". The report provided fodder for conservatives to call for stricter responses to criminal behavior and was a serious blow to rehabilitative efforts.

For these programs to work, they must be implemented in a way that is responsive to available evidence.

Many treatment programs may be viewed as failures because of difficulties measuring success. Community-based sanctions, for example, are designed to do more than simply prevent crime. From this perspective, a more appropriate way to measure success might be to focus on whether offenders were able to pay their rent and find employment.<sup>97</sup> Describing this orientation, criminologists Susan Turner and Joan Petersilia wrote:

Adopting more realistic outcome measures may make it more possible to bridge the gap between public expectations for the justice system and what most practitioners recognize as the system’s actual capacity to control crime. By documenting what corrections programs can accomplish, we can move towards integrating [community-based sanctions] into a more balanced corrections strategy.<sup>98</sup>

In other words, by setting more realistic measures of success, treatment programs can be implemented more effectively, and more fairly.

A lack of evidence-based treatment strategies is also problematic in developing and implementing treatment programs. Frequently, treatment strategies that work for one group of offenders are replicated for other groups of offenders, with little thought given to offenders’ needs, risks, and responsiveness to treatment. The task at hand is for practitioners to balance offenders’ needs with available resources and treatment strategies in a way that responds to the actual causes of the offending. This is certainly a difficult task, but one worth devoting our efforts toward. Indeed, in some careers, this is precisely what workers try to do (see the “Help Wanted” box in this chapter).

### Restorative Justice

**Restorative justice** is a relatively new philosophy of crime prevention that focuses on restoring the victim and offender in a way that best serves the greater community. This orientation was formalized in the 1970s by writers such as John Braithwaite, Mark Umbreit, Howard Zehr, and Gordon Bazemore, who were critical of the punitive nature of the criminal justice system. From a restorative justice orientation,

**Restorative justice:** Restorative justice is a relatively new philosophy of crime prevention that focuses on restoring the victim and offender in a way that seemingly best serves the greater community. From a restorative justice orientation, punishing offenders takes a back seat to making the victim whole, shaming the offender, and then reintegrating offenders back into the community.

## HELP WANTED:

## DRUG ABUSE TREATMENT SPECIALIST

### DUTIES:

- The incumbent provides individual and group counseling/therapy to inmates with drug abuse problems within the Bureau of Prison’s treatment framework. He or she is also responsible for the education of prison staff about drug abuse, drug abuse treatment, and the local prison program.
- The incumbent administers eligibility and psychosocial assessments as the basis for individual treatment planning. The incumbent is responsible for providing residential and/or nonresidential treatment to offenders who volunteer for treatment and are diagnosed with a drug use disorder.
- Along with all other correctional institution employees, the incumbent is charged with responsibility for maintaining security of the institution. The staff’s correctional responsibilities precede all others required by this position and are performed on a regular and recurring basis.

**REQUIREMENTS:** Bachelor’s degree

**ANNUAL SALARY:** \$52,830–\$80,414

Source: Adapted from USAJOBS.gov. Retrieved from <https://www.usajobs.gov/GetJob/ViewDetails/367347200>

punishing the offender takes a back seat to making the victim whole, shaming the offender, and then reintegrating the offender into the community. The foundational principles of restorative justice practices include the following:<sup>99</sup>

1. The victim and offender communicate through an open dialogue.
2. The dialogue includes discussion about the harm from the act.
3. The dialogue also focuses on why the offender committed the act.
4. At some point, the offender should offer an unsolicited apology and accept fault for the act.
5. As a result of the dialogue, the victim will have a better understanding about why the crime occurred.
6. Restitution and reparations are facilitated by those with skills in these areas.
7. The offender is separated from the action.
8. The focus is on the future and rebuilding the community, not on punishing the offender.

Although some people are very supportive of restorative justice strategies, disagreement exists about the types of offenses that could be addressed through this framework. For instance, it may be much easier to make reparations for property offenses than for violent offenses. Should the victim and the offender be expected to engage in a dialogue in sexual assault cases or domestic violence cases? Do some victims gain satisfaction out of knowing that offenders are punished? Are victims more vulnerable when they engage in dialogues with offenders? These are just a few questions that arise with restorative justice strategies. Still, restorative justice efforts remain a popular alternative for addressing victimization and offending.

## Just the Facts: Chapter Summary

- ▶ Three fundamental aspects of inmates' rights are that they change over time, they are limited, and they are determined through court interpretations of the U.S. Constitution.
- ▶ Definitions of cruel and unusual punishment, crucial to protection offered through the Eighth Amendment, have changed over time.
- ▶ In 1964, the Supreme Court's decision in *Cooper v. Pate* interpreted the Civil Rights Act of 1871 as suggesting that imprisonment should not result in the loss of constitutional rights as described under the Fourteenth Amendment and the "equal protection under the law" clause.
- ▶ Factors contributing to prison violence include violent histories, diet, structural factors, and situational factors.
- ▶ Five factors explain why there is not even more violence in prisons and jails: professionalization of prison staff, prison classification strategies, modern technology, evidence-based strategies, and separating potentially violent offenders.
- ▶ Society needs to pay attention to inmates' health for moral reasons, to prevent disease, in anticipation of reintegration efforts, for legal reasons, and for economic reasons.
- ▶ Similar to other professions, the field of corrections is not immune from misconduct by its employees.
- ▶ Misconduct by corrections staff includes stealing from the institution, drug smuggling, transporting contraband into the prison, physical abuse, and sexual misconduct.
- ▶ Factors that produce stress for those working in prison include environmental factors, situational factors, biological factors, and work/home factors.
- ▶ For probation and parole officers, sources of stress include high caseloads, working with potentially dangerous offenders, paperwork demands, lack of recognition, lack of input into decision making, unrealistic expectations of supervisors, and lack of preparation.
- ▶ Juvenile probation and parole officers typically use different strategies to supervise juvenile offenders than are used by probation and parole officers who supervise adult offenders.
- ▶ Juvenile offenders are incarcerated in juvenile group homes, in juvenile detention centers, in juvenile institutions, or in the wings of adult prisons or jails.

- In 1984, one-fifth of corrections employees were women; by 2005, roughly one-third of corrections employees in state and federal corrections institutions were women.
- Whereas male prisons are characterized as having prison gangs, researchers have described how female inmates develop relationships similar to those found in families.
- In prisons, four qualities of sex offenders result in the need to handle sex offenders differently than other offenders: (a) sex offenders are stigmatized, (b) sex offenders tend to have histories of being victimized, (c) sex offenders tend to receive long prison sentences, and (d) sex offenders face a number of restrictive policies upon their release from incarceration (if they are released).
- Estimates suggest that more than half of all incarcerated inmates suffer from some form of mental illness.
- Modern laws governing the death penalty can be traced to *Furman v. Georgia*, a Supreme Court case that outlawed the death penalty on grounds that the penalty was arbitrary and capricious.
- Criminogenic sanctions refers to the possibility that, rather than deterring crime, certain sanctions might actually cause crimes.
- Six dimensions have the potential to produce criminogenic sanctions: (a) the prison environment, (b) learning from other offenders, (c) perceptions of fairness, (d) community consequences of incarceration, (e) lack of treatment, and (f) release strategies.
- Rehabilitation was, for the most part, an accepted philosophy of punishment for the better part of the 20th century.

## Critical Thinking Questions

1. Describe the types of rights that inmates have and why these rights are important.
2. What factors make prisons and jails violent?
3. Describe the types of sexual violence occurring in prisons and jails.
4. How do prison health care decisions impact the community?
5. Why are corrections jobs stressful?
6. What are some arguments for and against the death penalty?
7. Does prison cause crime? Explain.
8. Does rehabilitation "work"? Explain.

## Key Terms

chemical castration laws (22)  
civil commitment laws (22)  
Community Mental Health Act (23)

cruel and unusual punishment (6)  
correctional misconduct (17)  
death penalty (24)  
exclusion zone policies (22)

Marshall hypothesis (27)  
Martinson's report (30)  
Prison Litigation Reform Act (10)  
pseudo family groups (20)

reentry (28)  
registry laws (22)  
restorative justice (31)  
turner (17)



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