

FOURTH EDITION

corrections

the essentials

Written by former practitioners who are experts in the field, *Corrections: The Essentials*, addresses the most important topics in corrections in a brief yet comprehensive format. Authors Mary K. Stohr and Anthony Walsh introduce students to the history and development of correctional institutions while offering a unique perspective on ethics and special populations. The Fourth Edition provides insights into the future of corrections, as well as updated coverage of the most important issues impacting the field today.

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MARY K. STOHR | ANTHONY WALSH



STOHR | WALSH

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Fourth Edition

Mary K. Stohr: *To my dad and mom, the late Robert (Stanley) Stohr and Elizabeth (Betty) Stohr. They were so skilled and loving when “correcting” and guiding their own eight children (I was third) that much of what I know about love, forgiveness, and life comes from them. I will be forever grateful for the gift they were as parents. I would also like to dedicate this to my husband, Craig Hemmens, and our daughter, Emily Rose Stohr-Gillmore, for their love and support; I could do nothing well without them.*

Anthony Walsh: *To my drop-dead gorgeous wife, Grace; my sons, Robert and Michael; my stepdaughters, Heidi and Kasey; my grandchildren, Robbie, Ryan, Mikey, Randy, Christopher, Ashlyn, Morgan, Stevie, Vivien, and Frankie; and my great-grandchildren, Kaelyn, Logan, Keagan, Brayden, Caleb, and Luke. I also want to dedicate this to Mary and her husband, Craig. We have been colleagues, friends, and coauthors for so many years that I don't know what I'll do without them now that they have moved to Washington and to greener pastures.*

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The Essentials

Fourth Edition

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Singapore | Washington DC | Melbourne



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Preface

There are plenty of excellent corrections books available for use, but we think this particular book fills a niche for professors and students in that it is comprehensive and relatively inexpensive. These twin ideas became our goals and guided our development and writing of this textbook. We wanted to cover the most interesting and compelling information currently available on all aspects of corrections while also keeping the page limit within reason and the book published as a paperback. We hope readers will find this work both informative and accessible.

The information in this textbook is what you might expect from major texts. However, beyond the facts, figures, and concepts commonly contained in textbooks, this book also showcases the history and research on a number of aspects of corrections. In the interest of brevity, and in response to reviewers' suggestions, we did condense two chapters on history into one (albeit a long one!), but it still provides a historical perspective and framework for all that follows in corrections. We also condensed the two chapters on legal issues and capital punishment into one. We also believe that the presentation of research findings from academic, government, and journalistic sources, which were updated where appropriate, provides the context for understanding policy decisions and their consequences, both past and present.

Other special features of the book, which are designed to develop perspective, include brief comparative corrections sections in a number of chapters that highlight what other countries are doing in terms of correctional operation. This glimpse of corrections internationally is meant to provide readers with another way of viewing correctional practice in the United States while also giving them some insight into how alternative practices might work. In many of the chapters, we also include practitioner perspective sections on the topics discussed in those chapters; doing so allows us to learn how policy and theory get translated into practice in the field. In each chapter, we include ethical dilemmas that challenge students to think critically about the material and acknowledge the complexities of the correction system.

This book can serve as a primary text for an undergraduate course in corrections or as a supplemental text for a graduate course. The areas covered are comparable with those in other major texts, with the exceptions noted above regarding the inclusion of enhanced research, comparative perspectives, and the ethical dilemmas. Undergraduates, we hope, will find this book informative and enlivening. Graduate students might use it as an introduction, overview, and backdrop for other, more specialized books or articles. Discussion questions appear at the end of each chapter and might be used by both types of students to spur thought about, and critique of, corrections.

Structure of the Book

The structure of the book is much like that found in other textbooks on corrections. We begin with an overview of corrections and some key concepts. We include a chapter on history, then follow the flow of the corrections system, from sentencing, to jails, to probation, to prisons. We include a chapter on ethics in corrections, as the third chapter, to prepare students to review operations and institutional and individual actions through that

kind of lens. We then stop and examine the correctional experience for staff after examining the experience for inmates and probationers in the preceding chapters. We finish the system description with a discussion of parole and reentry. In the three chapters that follow, we address the reality for women, people of color, and juveniles in corrections. We then focus attention on legal issues, capital punishment, and correctional programming and treatment. We end with a look to the future of corrections and what developments we might expect during the coming years.

New to This Edition

In this fourth edition of *Corrections: The Essentials*, we have combined the historical content into one chapter. We have also combined the legal issues and death penalty content into one chapter, and we have updated the coverage of ethical considerations, special populations, and the effect of immigration policies to provide students with the context for understanding policy decisions and their consequences, both past and present. We also provide more coverage of disparities in sentencing and drug courts as a means of encouraging students to think critically about U.S. drug policies and the effectiveness of those policies. In fact, all chapters have been thoroughly updated to reflect the most current data, facts, figures, and research available, thus helping students understand the world of corrections today.

Digital Resources

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Reviewers of the Fourth Edition

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About the Authors

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1

The Philosophical and Ideological Underpinnings of Corrections

TEST YOUR KNOWLEDGE

Test your current knowledge of corrections by answering the following questions as true or false. Check your answers on page 385 after reading the chapter.

1. Whatever we choose to call it, corrections is about punishment, and punishment is considered to require philosophical justification.
2. The strongest deterrent against crime is the severity of punishment.
3. The fundamental principle of American justice is that punishment should fit the crime; all other factors are irrelevant.
4. As bad as it may sound, people feel pleasure when wrongdoers are punished.
5. The law assumes that people are rational and possess freedom of choice.
6. Philosophies of punishment depend quite a bit on concepts of human nature. (Are we naturally good, bad, or just selfish?)
7. Studies find that when criminals are punished they tend to be deterred from crime.
8. The United States incarcerates people at a higher rate than any other country in the world.

LEARNING OBJECTIVES

Upon completion of this chapter, the reader should be able to:

- 1.1** Describe the function of corrections and its philosophical underpinnings.
- 1.2** Differentiate between the classical and positivist schools in terms of their respective stances on the function of punishment.
- 1.3** Define and describe retribution, deterrence, incapacitation, selective incapacitation, rehabilitation, and reintegration.
- 1.4** Explain the distinction between the crime control and due process models.

WHAT IS PUNISHMENT?

Nathaniel Hawthorne's book *The Scarlet Letter*, first published in 1850 and read in high school by generations of Americans thereafter, opens with the following words: "The founders of a new colony, whatever Utopia of human virtue and happiness they might originally project, have invariably recognized it among their earliest practical necessities to allot a portion of the virgin soil as a cemetery, and another portion as the site of a prison" (Hawthorne, 1850/2003, p. 1). Hawthorne was reminding us of two things we cannot avoid—death and human moral fallibility—and that we must make provisions for both. Of course, punishment is not all about prisons, given that other forms are available. In Hawthorne's novel, Hester Prynne is found guilty of adultery and of bearing a child out of wedlock. While all too common today, in the novel's setting, the 17th-century Massachusetts Bay Colony, it was a major crime against "God and man." The colony was a very close-knit and homogeneous community, meaning that there was strong and widespread agreement about the norms of acceptable behavior. Hester's behavior was viewed as so outrageous that among the various penalties discussed by women viewing her trial were branding with hot irons and death "for the shame she has brought on us all." However, she was sentenced to what we might call community corrections today. She was to forever endure the scorn of her community and to forever wear the badge of shame on her dress—an elaborately embroidered letter A, branding her as an adulteress.

(Continued)

(Continued)

Such a reaction to Hester’s behavior was aimed just as much at onlookers as at Hester herself—“This could happen to me too!” That is, the authorities not only wished to deter Hester from such behavior in the future but also wished to dissuade all others from similar behavior. Few people give much serious thought to why we need correctional systems, what state punishment is, why we do it, and why the urge to punish wrongdoers is universal and strong. How did such an urge get into us? What are the origins of punishment? What would society be like without it? How do we justify imposing harm on others, and what do our justifications assume about human nature? These are the issues we explore in this chapter.

Introduction: What Is Corrections?

LO 1.1 Describe the function of corrections and its philosophical underpinnings.

As Hawthorne intimated in the opening vignette, the primary responsibility of any government is to protect its citizens from those who would harm them. The military protects us from foreign threats, and the criminal justice system protects us from domestic threats posed by criminals. The criminal justice system is divided into three major subsystems—the police, the courts, and corrections—which we may call the catch ‘em, convict ‘em, and correct ‘em trinity. Thus, corrections is a system embedded in a broader collection of protection agencies, one that comes into play after the accused has been caught by law enforcement and prosecuted and convicted by the courts.

Corrections is a generic term covering a variety of functions carried out by government (and increasingly private) agencies having to do with the punishment, treatment, supervision, and management of individuals who have been convicted or accused of criminal offenses. These functions are implemented in prisons, jails, and other secure institutions as well as in community-based correctional agencies such as probation and parole departments. *Corrections* is also the name we give to the field of academic study of the theories, missions, policies, systems, programs, and personnel that implement those functions as well as the behaviors and experiences of offenders. As the term implies, the correctional enterprise exists to “correct,” “amend,” or “put right” the attitudes and behavior of its “clientele.” This is a difficult task because many offenders have a psychological, emotional, or financial investment in their current lifestyle and have no intention of being “corrected” (Andrews & Bonta, 2007; Walsh & Stohr, 2010).

Cynics think the correctional process should be called the “punishment process” (Logan & Gaes, 1993) because the correctional enterprise is primarily about punishment—which, as Hawthorne reminded us, is an unfortunate but necessary part of life. Earlier scholars were more accurate in calling what we now call corrections **penology**, which means the study of the processes adopted for the punishment and prevention of crime. No matter what we call our prisons, jails, and other systems of formal social control, we are compelling people to do what they do not want to do, and they experience such arm twisting as punitive regardless of what name we use.

When the grandparents of today’s college students were in their youth, few thought of corrections as an issue of much importance. They certainly knew about prisons and jails, but few had any inkling of what probation or parole was. This blissful ignorance was a function of many things. The crime rate was much lower during the 1950s and early 1960s; thus, the correctional budget was a minor burden on their taxes, and fewer people probably knew anyone who had been in “the joint.” Today the story is much different.

Corrections: Functions carried out by government and private agencies having to do with the punishment, treatment, supervision, and management of individuals who have been accused or convicted of criminal offenses.

Penology: Study of the processes and institutions involved in the punishment and prevention of crime.

For instance, in 1963 the violent crime rate was 168 per 100,000, and in 2018 it was 369, an increase of almost 120% (Federal Bureau of Investigation, 2019). In 1963 there were just under 300,000 people in prison in the United States, and in 2018 there were just under 2.3 million, an increase of 466% (Jones, 2018). Much of this increase has been driven by the war on drugs. Because illicit drug use was extremely rare prior to the late 1960s, there was no war on drugs. Indeed, the only drugs familiar to folks in their prime during the 1950s and 1960s were those obtained at the drugstore by prescription.

Because of the increase in crime and imprisonment, most people in the United States probably know someone who is or has been in prison or jail. One in 55 U.S. adults (almost 2%) was on probation or parole in 2016 (the most recent year for which data are available; Kaeble, 2018), and many more have been in the past (Glaze & Herberman, 2013). In some neighborhoods, it is not uncommon for nearly everyone to know many people under correctional supervision. For instance, nearly 1 in 3 African American men in their 20s is under some form of correctional control, and 1 in 6 has been to prison (Ismaili, 2015). The expenditures for corrections in 2017 for all 50 states were approximately \$81 billion, with 88% going for prisons and jails and 12% for probation and parole (Wagner & Rabuy, 2017).



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Photo 1.1 A multilevel cellblock of a large American prison.

From Arrest to Punishment

LO 1.2 Differentiate between the classical and positivist schools in terms of their respective stances on the function of punishment.

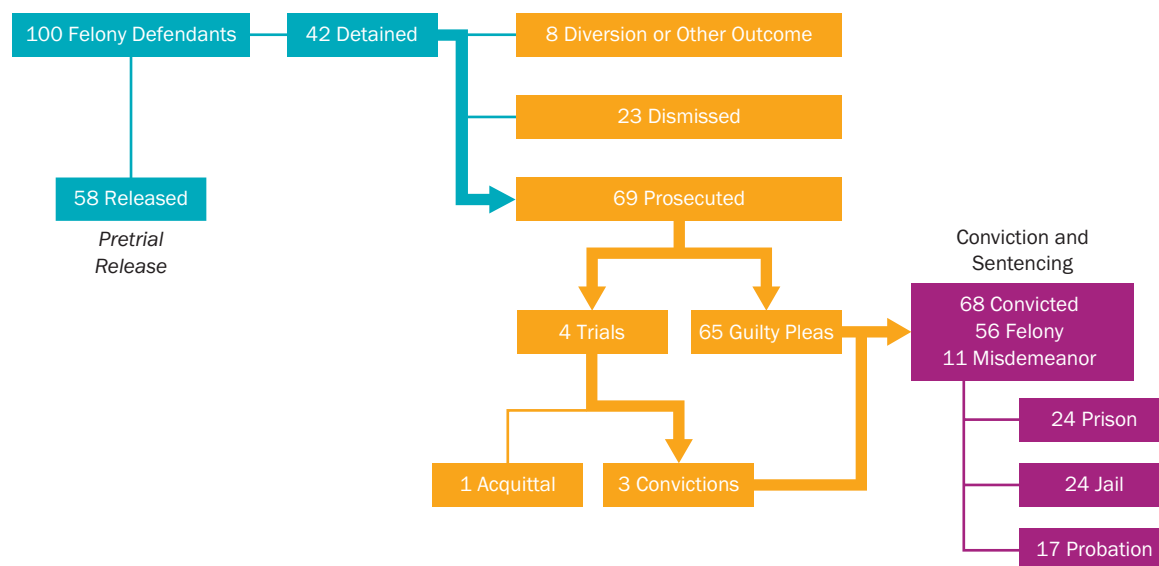
Not everyone who commits a crime is punished, of course. Many crimes are not reported, and even if they are, relatively few are solved. Figure 1.1 is based on data from the nation's 75 largest counties and indicates the typical outcomes of 100 felony arrestees (Cohen & Kyckelhahn, 2010). Only about two thirds of arrestees are prosecuted (sometimes because of lack of evidence). Of those prosecuted, some are found not guilty and some are convicted of lesser (misdemeanor) offenses after plea bargaining. This trip through the crime funnel typically results in fewer than 50% of arrests ending with jail or prison terms. The impact of the war on drugs is evident in that just over 37% of these arrests were for drug-related crimes (Cohen & Kyckelhahn, 2010). Note that only 4 of the 69 arrests resulted in actual trials, meaning that 94% of all felony prosecutions in the nation's 75 most populous counties resulted in plea bargains in which lighter sentences were imposed in exchange for guilty pleas.

The Theoretical Underpinnings of Corrections

Just as all theories of crime contain a view of human nature, so do all models of corrections. Some thinkers (mostly influenced by sociology) assume human nature is socially constructed; that is, the human mind is basically a “blank slate” at birth and is subsequently

■ **FIGURE 1.1** Typical Outcomes of 100 Felony Defendants in the 75 Largest Counties in the United States

Source: Cohen and Kyckelahn (2010).



formed by cultural experiences. These individuals tend to see human nature as essentially good and believe that people learn to be antisocial. If people are essentially good, then the blame for criminal behavior must be located in the bad influences surrounding them.

Others (mostly influenced by evolutionary biology and the brain sciences) argue that there is an innate human nature that evolved driven by the overwhelming concerns of all living things—to survive and reproduce. These theorists do not deny that specific behaviors are learned, but they maintain that certain traits evolved in response to survival and reproductive challenges faced by our species that bias our learning in certain directions. Some of these traits, such as aggressiveness and low empathy, are useful in pursuing criminal goals (Quinsey, 2002; Walsh, 2019). This viewpoint also sees human nature as essentially selfish (not “bad,” just self-centered) and maintains that people must learn to be prosocial rather than antisocial through a socialization process that teaches us to value and respect the rights and property of others and to develop an orientation toward wanting to do good. Criminologist Gwynn Nettler (1984) said it most colorfully on behalf of this position: “If we grow up ‘naturally,’ without cultivation, like weeds, we grow up like weeds—rank” (p. 313). In other words, we learn to be good, not bad. Being bad is the default option if we do not receive a prosocial rearing. The point we are making is that the assumptions about human nature we hold influence our ideas about how we should treat the accused or convicted once they enter the correctional system.

A Short History of Correctional Punishment

Punishment: The act of imposing some unwanted burden, such as a fine, probation, imprisonment, or death, on convicted persons in response to their crimes.

Legal **punishment** may be defined as the state-authorized imposition of some form of deprivation—of liberty, resources, or even life—on a person justly convicted of a violation of the criminal law. The earliest known written code of punishment was the ancient Babylonian Code of Hammurabi, created circa 1780 BCE (the origin of “an eye for an eye, a tooth for a tooth”). These laws codified the natural inclination of individuals harmed by others to seek revenge, but they also recognized that personal revenge must be restrained if

society is not to be fractured by a cycle of tit-for-tat blood feuds. Blood feuds (revenge killings) perpetuate the injustice that “righteous” revenge was supposed to diminish. The law seeks to contain uncontrolled vengeance by substituting controlled vengeance in the form of third-party (state) punishment.

Controlled vengeance means that the state takes away the responsibility for punishing wrongdoers from the individuals who were wronged and assumes it for itself. Early state-controlled punishment, however, was typically as uncontrolled and vengeful as any grieving parent might inflict on the murderer of their child. In many parts of the world, prior to the 18th century, humans were considered born sinners because of the Christian legacy of original sin. Cruel tortures used on criminals to literally “beat the devil out of them” were justified by the need to save sinners’ souls. Earthly pain was temporary and certainly preferable to an eternity of torment if sinners died unrepentant. Punishment was often barbaric regardless of whether those ordering it bothered to justify it with such arguments or even believed those arguments themselves.

The practice of brutal punishment and arbitrary legal codes began to wane with the beginning of a period historians call the Enlightenment, or the Age of Reason. The **Enlightenment** encompassed the period roughly between the late 17th century and the late 18th century and was essentially a major shift in the way people began to view the world and their place in it. It was also marked by a narrowing of the mental distance between people and the expanding of circles of individuals considered to be “just like us.”

Enlightenment: Period in history when a major shift in the way people began to view the world and their place in it occurred, moving from a supernaturalistic worldview to a naturalistic and rational worldview.

The Emergence of the Classical School

Enlightenment ideas eventually led to a school of penology that has come to be known as the **Classical School**. The leader of this school, Italian nobleman and professor of law Cesare Bonesana, Marchese di Beccaria (1738–1794), published what was to become the manifesto for the reform of judicial and penal systems throughout Europe, *Dei Delitti e Delle Pene (On Crimes and Punishments)* (Beccaria, 1764/1963). The book was a passionate plea to humanize and rationalize the law and to make punishment just and reasonable. Beccaria (as he is usually called) did not question the need for punishment, but he believed that laws should be designed to preserve public safety and order, not to avenge crime. He also took issue with the common practice of secret accusations, arguing that such practices led to general deceit and alienation in society. He argued that accused persons should be able to confront their accusers, to know the charges brought against them, and to be granted a public trial before an impartial judge as soon as possible after arrest and indictment.

Classical School: School of penology/criminology that was a nonempirical mode of inquiry similar to the philosophy practiced by the classical Greek philosophers—that is, “armchair philosophy.”

Beccaria argued that punishments should be proportionate to the harm done, should be identical for identical crimes, and should be applied without reference to the social status of either offender or victim. Beccaria (1764/1963) made no effort to plumb the depths of criminal character or motivation, arguing that crime is simply the result of “the despotic spirit which is in every man” (p. 12). He also argued that the tendency of “man” to give in to the “despotic spirit” needed to be countered by the threat of punishment, which needed to be certain, swift, and severe enough to outweigh any benefits offenders get from crime if they are to be deterred from future crime. He elaborated on these three elements of punishment as follows:

Certainty: “The certainty of punishment, even if it be moderate, will always make a stronger impression than the fear of another which is more terrible but combined with the hope of impunity” (p. 58).

Swiftiness: “The more promptly and the more closely punishment follows upon the commission of a crime, the more just and useful will it be” (p. 55).



Photo 1.2 Italian nobleman and professor of law Cesare Bonesana, Marchese di Beccaria published what was to become the manifesto for the reform of judicial and penal systems throughout Europe, *Dei Delitti e Delle Pene* (*On Crimes and Punishments*) (Beccaria, 1764/1963).

Principle of utility:

The supposition that human action should be judged moral or immoral by its effects on the happiness of the community and that the proper function of the legislature is to make laws aimed at maximizing the pleasure and minimizing the pain of the population—“the greatest happiness for the greatest number.”

Severity: “For a punishment to attain its end, the evil which it inflicts has only to exceed the advantage derivable from the crime; in this excess of evil one should include the . . . loss of the good which the crime might have produced. All beyond this is superfluous and for that reason tyrannical” (p. 43).

Beccaria made clear that punishments must outweigh any benefits offenders get from crime if they are to be deterred from future crime. But such punishment should be as certain and swift as possible if it is to have a lasting impression on the criminal and to deter others.

Beccaria also asserted that to ensure a rational and fair penal structure, punishments for specific crimes must be decreed by written criminal codes, and the discretionary powers of judges must be severely limited. The judge’s task was to determine guilt or innocence and then to impose the legislatively prescribed punishment if the accused was found guilty. Many of Beccaria’s recommended reforms were implemented in a number of European countries within his lifetime (Durant & Durant, 1967). Such radical change over such a short period of time, across many different cultures, suggests that Beccaria’s rational reform ideas tapped into and broadened the scope of emotions such as sympathy and empathy among the political and intellectual elite of Enlightenment Europe. We tend to

feel empathy for those whom we view as “like us,” and this leads to sympathy, which may lead to an active concern for their welfare. Thus, with cognition and emotion gelled into the Enlightenment ideal of the basic unity and worth of humanity, justice became both more refined and more diffuse (Walsh & Hemmens, 2014).

Another prominent figure was British lawyer and philosopher Jeremy Bentham (1748–1832). His major work, *Principles of Morals and Legislation* (Bentham, 1789/1948), is essentially a philosophy of social control based on the **principle of utility**, which posits that human actions should be judged as moral or immoral by their effects on the happiness of the community. The proper function of the legislature is thus to make laws aimed at maximizing the pleasure and minimizing the pain of the largest number in society—“the greatest good for the greatest number” (Bentham, 1789/1948, p. 151).

If legislators are to legislate according to the principle of utility, they must understand human motivation, which for Bentham (1789/1948) was easily summed up: “Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well as to determine what we shall do” (p. 125). This was essentially the Enlightenment concept of human nature, which was seen as hedonistic, rational, and endowed with free will. The classical explanation of criminal behavior and how to prevent it can be derived from these three assumptions.

The Emergence of Positivism: Should Punishment Fit the Offender or the Offense?

Just as classicism arose from the 18th-century humanism of the Enlightenment, positivism arose from the 19th-century spirit of science. Classical thinkers were philosophers in

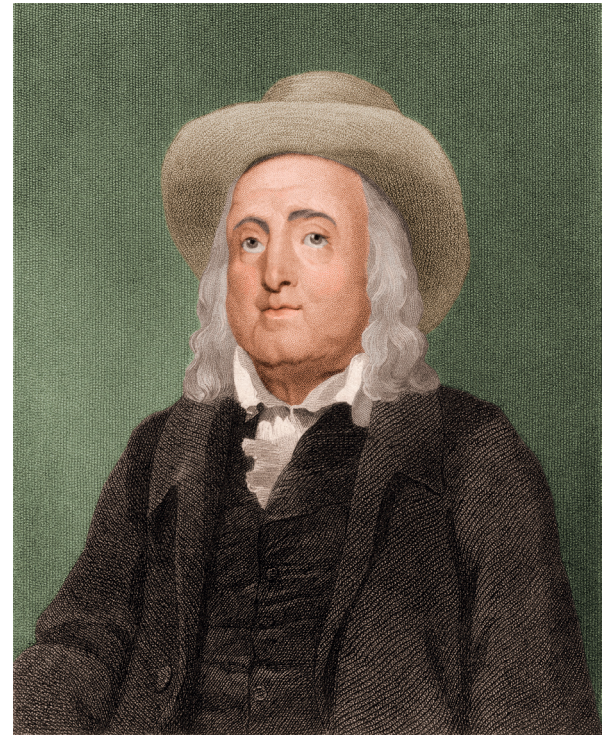
the manner of the thinkers of classical Greece (hence the term *classical*), while **positivists** took on themselves the methods of empirical science from which more “positive” conclusions could be drawn (hence the term *positivism*). They were radical empiricists who insisted that only things that can be observed and measured should concern us. This being the case, they believed that concepts underlying classical thought such as rationality, free will, motivation, conscience, and human nature should be ignored as pure speculation about the unseen and immeasurable. An essential assumption of positivism is that human actions have causes and that these causes are to be found in the uniformities that typically precede those actions. The search for causes of human behavior led positivists to dismiss the classical notion that humans are free agents who are alone responsible for their actions.

Early positivism went to extremes to espouse a hard form of determinism such as that implied in the assertion that there are “born criminals.” Nevertheless, positivism slowly moved the criminal justice system away from a concentration on the criminal act as the sole determinant of the type of punishment to be meted out and toward an appraisal of the characteristics and circumstances of the offender as an additional determinant. Because human actions have causes that may be out of the actor’s control, the concept of legal responsibility was called into question. For instance, Italian lawyer Raffaele Garofalo (1851–1934) believed that because human action is often evoked by circumstances beyond human control (e.g., temperament, extreme poverty, intelligence, certain situations), the only thing to be considered at sentencing was the offender’s “peculiarities,” or risk factors for crime.

Garofalo’s (1885/1968) only concern for individualizing sentencing was the danger offenders posed to society, and his proposed sentences ranged from execution for what he called *extreme criminals* (whom we might call psychopaths today), to transportation to penal colonies for *impulsive criminals*, to simply changing the law to deal with what he called *endemic criminals* (those who commit what we might call victimless crimes today). German criminal lawyer Franz von Liszt, on the other hand, campaigned for customized sentencing according to the rehabilitative potential of offenders, which was to be based on what scientists find out about the causes of crime (Sherman, 2005). Customized sentencing based on both the seriousness of the crime and the history and characteristics of the criminal (thereby satisfying both classicists and positivists) is routine in the United States today.

The Function of Punishment

Although most corrections scholars agree that punishment functions as a form of social control, some view it as a barbaric throwback to precivilized times (Menninger, 1968). But can you imagine a society in which punishment did not exist? What would such a society be like? Could it survive? If you cannot realistically imagine such a society, you are not alone, given that the desire to punish those who have harmed us or otherwise cheated on the social contract is as old as the species itself. Punishment aimed at discouraging cheats is observed in every social species of animal, leading evolutionary biologists to conclude that punishment of cheats is a strategy designed by natural selection for the emergence and maintenance of cooperative behavior (Alcock, 1998; Walsh, 2014). Cooperative behavior



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Photo 1.3 Jeremy Bentham’s major work, *Principles of Morals and Legislation* (Bentham, 1789/1948), is essentially a philosophy of social control based on the principle of utility, which posits that human actions should be judged as moral or immoral by their effect on the happiness of the community.

Positivists: Those who believe that human actions have causes and that these causes are to be found in the thoughts and experiences that typically precede those actions.

is important for all social species and is built on mutual trust, which is why violating that trust evokes moral outrage and results in punitive sanctions. Brain imaging studies show that when subjects punish cheats, they have significantly increased blood flow to areas of the brain that respond to reward, suggesting that punishing those who have wronged us provides both emotional relief and reward (de Quervain et al., 2004; Fehr & Gächter, 2002). These studies imply that we are hardwired to “get even,” as suggested by the popular saying “Vengeance is sweet.”

Sociologist Émile Durkheim (1858–1917) contended that punishment is functional for society in that the rituals of punishment reaffirm the justness of the social norms and allow citizens to express their moral outrage when others transgress those moral norms. Durkheim also recognized that we can temper punishment with sympathy. He observed that over the course of social evolution, humankind has moved from *retributive* justice (characterized by cruel and vengeful punishments) to *restitutive* justice (characterized by reparation—“making amends”). **Retributive justice** is driven by the natural passion for punitive revenge that “ceases only when exhausted . . . only after it has destroyed” (Durkheim, 1893/1964, p. 86). **Restitutive justice** is driven by simple deterrence and is more humanistic and tolerant, although it is still, “at least in part, a work of vengeance” (pp. 88–89). For Durkheim, restitutive responses to wrongdoers offer a balance between calming moral outrage, on one hand, and exciting the emotions of empathy and sympathy, on the other.

Retributive justice:

A philosophy of punishment driven by a passion for revenge.

Restitutive justice:

A philosophy of punishment driven by simple deterrence and a need to repair the wrongs done.



Perspective From a Practitioner

ROBERT BAYER, PRISON WARDEN

Position: Former director of corrections and prison warden; currently an adjunct professor and prison consultant

Location: Reno, Nevada

Education: BA and MA in English literature, State University of New York at Oswego; master of public administration and PhD in English/public administration, University of Nevada, Reno

The primary duties and responsibilities of a prison warden are:

First, being responsible for one facility in a much larger network of facilities. To some degree, a warden can be considered the mayor of a city, and the director or commissioner is the governor of the state where the city is located, ensuring that facility policies, procedures, and general orders are fine-tuned for that specific facility within the guidelines of the department. Additionally, the warden is usually responsible for human resources, safety and security operations, budget development and implementation, and the institution’s physical plant.

They must manage critical incidents that arise and have the overall responsibility to ensure that a positive work and living culture exists within the facility. To accomplish all of these tasks, the warden typically will bring extensive experience to the job. A warden is one of the highest level management positions in a prison system and represents the “boots on the ground” administrator for the entire system.

The qualities/characteristics that are most helpful for one in this career include:

The ability to be both an administrator and a leader, with very thorough knowledge of how a prison functions and the laws, policies, and procedures promulgated by the system; the ability to see the big picture of corrections and how the facility functions within that picture; a comprehension of the budget process and calendar; and the ability to be politically sensitive, personable, approachable, intelligent, hardworking, and decisive yet thoughtful. As a leader, the warden’s actions must reflect the best traditions of the agency and be completely ethical in his or her decisions

and actions. The warden should reflect all of the attributes prized in a frontline employee—loyalty, dedication, honesty, and reliability—and should instill confidence in all levels of staff and inmates. Staff members want a warden who is steady under pressure and not prone to swings in mood or behavior. Ultimately, though staff members may perform an infinite variety of jobs in the facility itself, they look to the warden to ensure that they have the proper orders and resources needed to keep them safe day in and day out. Finally, the warden must be a skilled communicator at all levels, with good writing and verbal skills as well as effective listening skills.

In general, a typical day for a practitioner in this career would include:

Various functions, but the day should cover all three shifts to foster good communication. One should be at the facility during each shift change to ensure access to staff members as they leave and enter the next shift, personally greeting or chatting with the support staff before the workday begins. An early-morning staff meeting with the associate wardens and the maintenance supervisor is essential to review the last 24 hours of shift activities and develop a priority list of operational issues that need resolution. Next, items in the in basket are reviewed, delegated, or responded to, and it is important to physically “walk the yard” (for about 2 hours) on a daily basis to make upper management accessible to staff and inmates and to

provide the opportunity for personal observation of any issues. This is also a time to obtain firsthand feedback as to the morale, conditions, and security of the yard. Next are formally scheduled meetings with inmate families, employee group representatives, other agency representatives, and so on. Time is also spent reviewing new policies, reading inmate appeals and requests, responding to correspondence, and conducting any necessary interviews of staff. Work continues after 5 p.m. to complete paperwork, prepare court testimony, work on difficult personnel issues, and work on budget execution and construction. Once a week, do a facility inspection, looking at sanitation and security compliance, while focusing on a different aspect of facility operations each week (such as fire suppression readiness).

My advice to someone either wishing to study or now studying criminal justice to become a practitioner in this career field would be:

Become a “triple threat” in the field: develop a solid understanding of operations, programs, and budget; know where you are going; and study leadership and become a leader. Try to find a competent mentor in the field who will take an interest in your career and guide you on a path of experience and education that will facilitate achieving your goals. The best administrators become leaders in our field, and to succeed one needs experience, training, and education.

The Philosophical Assumptions Behind Justifications for Punishment

A philosophy of punishment involves defining the concept of punishment and the values, attitudes, and beliefs contained in that definition as well as justifying the imposition of a painful burden on someone. When we speak of justifying something, we typically mean that we provide reasons for doing it both in terms of morality (“It’s the right thing to do”) and in terms of the goals we wish to achieve (“Do this and we’ll get that”). In other words, we expect that punishment will have favorable consequences that justify its application.

Legal scholars have traditionally identified four major objectives or justifications for the practice of punishing criminals: retribution, deterrence, rehabilitation, and incapacitation. Criminal justice scholars have recently added a fifth purpose to the list: reintegration. All theories and systems of punishment are based on conceptions of basic human nature and, thus, to a great extent on ideology. The view of human nature on which the law in every country relies today is the same view enunciated by classical thinkers Beccaria and Bentham, namely, that humans are hedonistic, rational, and possessors of free will.

Hedonism is a doctrine maintaining that all life goals are desirable only as means to the end of achieving pleasure or avoiding pain. It goes without saying that pleasure is

Hedonism: A doctrine maintaining that all goals in life are means to the end of achieving pleasure and/or avoiding pain.