Emerging Themes in Corrections 10

Greg Kreller/Idaho Press-Tribune/Associated Press

Learning Objectives

After reading this chapter, you should be able to

- Understand the change process in corrections.
- Describe general concerns regarding the future of corrections.
- Explain the complexities of privatization in corrections.
- Discuss the unique needs of female offenders.
- Describe the many issues associated with the death penalty.

Introduction

For citizens of the United States, the 21st century began with a terrorist attack, the election of the first African American president, and a general trend of falling violent crime rates. Through all these events, for good and for bad, the United States remains plagued by problems of poverty, racism, violence, drug abuse, and other ominous challenges.

The existence of crime and what to do with offenders are complex issues. Social problems significantly shape the nature and definitions of corrections challenges and attempts to address them. Problems usually regarded as correctional have roots in factors and conditions that correctional administrators cannot harness or control. As noted throughout this book, problems of racism, violence, overcrowding, lack of resources, and direction (or lack of it) are among a host of pressing issues that demand attention.

In this chapter, we consider things to come in corrections. Of course, it is impossible to *predict* the future; corrections is a complex undertaking filled with many uncertainties, which makes it very difficult to put forth precise projections. When policy makers and planners engage in **forecasting**, which involves the use of certain methods—some crude, some more sophisticated—to make projections, they typically consider time horizons that range from 1 to 5 years. Looking forward 10 years, 20 years, or more becomes very difficult, even if the objective is only to achieve a moderate degree of certainty. Nonetheless, it is important to consider possible future outcomes for corrections and to be sensitive to the issues that may arise as the 21st century progresses.

10.1 Change and Corrections

The organizations and agencies discussed in this text are all part of, or are intimately related to, corrections. Correctional policies and actions must be understood within the larger context of public policy. The networks of relationships between and interdependencies among these numerous correctional entities add an additional and sometimes confusing layer to our discussion. On the one hand, we must consider the unique operating contexts of a particular agency. On the other hand, correctional agencies also have a lot in common. In thinking about the years to come, we must necessarily think about change. Although the future is unpredictable, we can offer some general insights into what seems to be likely on the correctional horizon.

Corrections changes slowly and incrementally, and this is likely to be the case in the future as well. Consider the following.

1. *The state of what we know about crime and how we respond to offenders is unlikely to experience any revolutionary breakthroughs*. The technological core of American corrections contains some "hard" knowledge, a lot of assumptions based on previous practices, and a number of (sometimes contradictory) perspectives. Present practices have developed gradually, typically through a trial-and-error process that involves attempts to test or implement variations on previous themes. Seldom has the "new" truly been unique or innovative. Moreover, there are conflicting expectations of the correctional process and its desired outcomes. As noted earlier, various groups and individuals attempt to have their perspectives, interests, and visions expressed in correctional policy. This often leads to confusion, unclear goals, and perhaps unrealistic expectations. In short, there is no singular, well-defined purpose for correctional policies and procedures. The near future promises no abatement to controversy, and this truth tends to promote a conservative approach to change.
2. *The American political process is geared toward and characterized by gradual, incremental change*. The term ***policy succession***, which is when "new" policies grow from previous ones and substantially reflect attempts to "solve" the same problems or those created by previous policies, more accurately describes the U.S. political approach to change than does ***policy innovation***, which is when previously unrecognized or unencountered problems are addressed in a unique way or when problems are reconceptualized or redefined so as to require completely new approaches to address them.

   A thorough look at American political structure and processes reveals a myriad of efforts at various levels of government, varying degrees of autonomy, and complicated relationships regarding authority and responsibility that have developed over long periods of time. Politics is the means through which decisions concerning government entities' direction, mission, and guiding policies are made. If we look closely, we find that those in power share basic interests in preserving the system. Despite variations in attitude and much debate, those in power tend to fundamentally agree on the principles that underscore the entire system—such as private property, separation of powers, inheritance rights, means for attaining political office, and so on.

   The American political system is predisposed to following habit, custom, and tradition. Three aspects of the system ensure this: (a) its complicated nature, (b) that fact that decision making and policy making are undertaken by those with diverse interests and unequal influence, and (c) the fact that in this context, decisions and policies are the result of many previous decisions and actions. Thus, the overriding tendency is for change to develop slowly and be primarily conservative in nature.
3. *American organizations (correctional, governmental, and commercial) are bureaucratic*. *Bureaucracy* is not a dirty word; the term refers to a ubiquitous organizational form. Some characterize bureaucratic organizations as rigid, the antithesis of changeable, and bureaucrats as those who oppose change. Such characterizations can be misleading, however. While a detailed discussion of the processes and concerns of complex, bureaucratic organizations is beyond the scope of this text, we can begin to think more accurately about change and bureaucratic tendencies. To simplify, *uncertainty* (about the present as well as the future) is associated with change and with certain tendencies in complex organizations. Those in control of corrections organizations regularly face uncertainty, since they work in complicated, potentially turbulent, and even dangerous environments.

   The administrative tendency for dealing with uncertainty is to minimize or avoid risk. This is done in part by relying on strategies, routines, and repertoires for both decision making and action that have been shown (or are thought) to be relatively safe in terms of their overall consequences for the organization.

   This is not to say that changes or adaptations do not occur. However, these tend to represent small deviations from past practices and policies—marginal adjustments that are likely to be relatively safe. When faced with the need to adapt, the tendency is for administrators and others to consider and adopt, if possible, already existing strategies or actions that satisfy a situation's requirements and minimize risk. When no existing strategy or action is sufficient to meet these broad criteria, the tendency is to modify one or several only to the extent required to change or adapt in a relatively safe way.

Although the tendency is toward slow, cautious change, corrections will occasionally undertake risky ventures. Take, for example, the need to develop and implement prisoner reentry initiatives. Because more and more prisoners are being released (due to the expiration of sentences and other release mechanisms), there has been an unprecedented growth in the number of prisoners going back to communities. Corrections has not adequately prepared itself for this migration. As a result, reentry practices have been haphazard and inconsistent, and they often lead to failure for released prisoners (LeBel, 2012). While reentry practices have been changed, added to, and modified by correctional departments across the country, such changes have been modest at best.

By and large, incremental change is the usual pattern in corrections. Administrators are dealing with many complicated problems at once and doing so in contexts that are often unsettled or constrained. One looming question is whether existing policies have been designed for change. For example, some directions for action involve enormous **sunk costs** (commitments that cannot easily be reversed or abandoned), such as the construction of prisons. Not only does constructing a prison cost a lot of money, it also creates numerous types of jobs and establishes contracts, all of which diminish the practical reality of changing the course of action. Designing policies for change means anticipating decision stages, assessing ongoing activities, and flexibly designing, structuring, and operating programs and actions so as to facilitate change. It is difficult for any organization to anticipate future changes, but all must recognize that change is likely to occur.

Those who work in corrections should not be accused of being unresponsive or neglecting to make change. However, it is important to try to understand why we see few truly dramatic changes. It is not our purpose to crush idealism or to explain away the possibility of or even the need for dramatic change in corrections. However, those who anticipate "reforming" corrections, who zealously approach the implementation of innovative ideas, can (a) avoid some degree of frustration and (b) *be more effective* by developing a deeper understanding of change in complicated contexts.

Scott J. Ferrell/© Congressional Quarterly Inc./CQ-Roll Call/Getty Images

Change in corrections moves slowly, but efforts have been made to modify the way reentry services are handled. Here government and

corrections officials meet regarding improvements to the Second Chance Act, which supports reentry resources.

10.2 General Concerns Regarding the Future

Correctional organizations are unique and operate in unique contexts; there is also tremendous variation between states and the federal system, and among components at all levels of the correctional system. Despite this, we can start thinking about the problems policy makers are likely to face in the future by identifying broad areas in which reform and change may be necessary.

Changing Problems

The first broad area is that of *changing problems*. Our discussion here may seem a bit circular—that is, changing problems obviously appear to require change, and change results in new problems. The intent of this discussion is to suggest that it is prudent to pay attention to the possible direction of change and to think ahead about the nature of problems before they arise—rather than simply reacting to problems after they crop up.

For example, overcrowding has posed a serious problem for federal, state, and local corrections operations for decades. Today some think overcrowding should be characterized as an input problem—meaning that there are simply too many offenders for corrections agencies to handle. If we look back to the 1980s and 1990s, far fewer people were concerned with "input." Now, however, there is a need to understand corrections as a "scarce resource"—to reorient thinking around the actual limitations of corrections in terms of capacity, resources, and ability to meet demands.

This problem is complex and unlikely to be solved in the foreseeable future. Demands for more widespread use of incarceration, and for corrections in general, are being reflected through changes in sentencing practices, criminal law and sanctions, and efforts to arrest and quickly process offenders. The central issues can no longer be argued in some abstract way or framed as problems of "rehabilitation" versus "punishment." Faced with limited resources, practical problems become preeminent. We must make fundamental choices about what to do and how to proceed. We cannot expect the emergence of a simple "large solution," since portions of the problem result from policy changes in other components of the criminal justice system and from broader political, social, and economic difficulties. Addressing the central issues may require rethinking "corrections"; it will at least require more in-depth thinking about the relationship of corrections to the judiciary, law enforcement, and American society.

Noah Berger/Associated Press

California is just one state struggling with limited financial resources. In 2010 state senators approved a cost-cutting measure that would release severely ill inmates on medical parole. Would you support this decision? Why or why not?

Changes in Correctional Perspectives

"As well as the nature of the problems changing, the conventional wisdom about how to address the problems also changes" (Hogwood & Peters, 1983, p. 244). The history of American corrections reflects a series of shifts in responses to those who violate the law. For example, think about how emphases on punishment, rehabilitation, and reform cyclically played out in the 20th century— and the difference in practice necessitated by adopting one or another view as more prominent.

Overall, in corrections, we tend not to completely shift from emphasizing, say, punishment to emphasizing, say, reform. The dichotomies of "punishment" versus "rehabilitation" or "the offense" versus "the offender" can restrict our thinking. For nearly 200 years, competing perspectives have coexisted in American corrections. Although one or another emphasis may have held greater sway in certain eras, other perspectives have do not vanish entirely. Rather, there is an intermingling of perspectives, with one or another appearing more prevalent at any given point in time. This is important for thinking about the future, since it is unlikely that truly radical departures will occur. Corrections will never be singularly focused; seemingly contradictory perspectives will always coexist, a middle ground of compromise (perhaps appeasement) will persist, and previous and present perspectives will continue to inform future ones.

Changes in the Resource Base

Insufficient resources severely constrain the correctional system's capacity to adapt and innovate. From the perspective of Hogwood and Peters (1983), governments must confront two main strains on their resources: competition for funding and decreasing budget sizes. Those in corrections compete with all other governmental agencies for a piece of the budgetary pie. Allocation changes can either inhibit or facilitate meaningful changes to corrections operations. "The second and more severe problem arises when there is a reduction, or at least a slowing of growth, of real resources" (Hogwood & Peters, 1983, p. 245). In this situation, the budgetary pie actually shrinks, or increases are smaller than expected. Agency leaders must find ways to perform with less than expected or required. Planned changes may be significantly affected, or unplanned changes may be required to provide services with fewer resources.

One particular set of changes that is already underway and is illustrative of much of the foregoing discussion is termed **privatization**, or the process of involving private vendors and companies in the delivery of correctional services. The privatization of corrections is controversial, and the debate features many critical issues. The next section briefly describes the current nature and scope of relationships between corrections and private enterprises and explores key issues.

10.3 Privatization

Private, corporate involvement in corrections is not new. Since the early 19th century, private enterprise has been allied in various ways with American corrections. However, from the 1930s to the 1970s, stringent restrictions were placed on private companies' involvement with corrections and on the marketing of prison-made products. This resulted in the private sector's declining interest in corrections. However, according to the National Institute of Justice (2008), "crowding and the escalating cost of American prisons and jails are [along with other less visible factors] prompting public officials and the private sector to experiment with new alliances in the field of corrections."

The prospect of the private sector becoming more involved in corrections has caused much controversy. Culp (2011) has argued that on the whole, privatization of prisons has been an abject failure, most notably because it has not produced the savings and efficiencies its supporters had promised. In fact, it has been suggested that prison privatization has actually cost jurisdictions more money, with very little improvement in quality of service (Government Accounting Office, 1996). The feature box *Applying Criminal Justice: Private Prison Company Goes Awry* and the following section describe the private sector's involvement in corrections and look at the issues that factor into the surrounding controversy.

Applying Criminal Justice: *Private Prison Company Goes Awry*

For some, private prisons offer a solution to overcrowded and expensive public facilities. Others see prison privatization as a threat to the way corrections is traditionally approached; but more importantly, they question the efficacy, legality, and humaneness of incarcerating people in institutions run by companies that are motivated by profits. Our review suggests there are no simple ways to evaluate the effectiveness of private prisons, but examining why a specific private prison failed can help illuminate the larger issues at play.

One such failure was the Bobby Ross Group, a conglomeration of business interests that pursued private prisons in the 1990s. Through its vast connections and involvement with high-profile consultants, such as former FBI director William Sessions, the Bobby Ross Group secured multiple private contracts across the states of Texas and Georgia and specialized in housing out-of-state prisoners. Due in large part to its failure to hire people with the right expertise to run its facilities, the Bobby Ross Group experienced numerous problems and lawsuits that culminated in the escape of two sex offenders from one facility, a major disturbance and murder in another, and the destruction of one prison during an escape. As a result, its facilities were bought out by other vendors and, ultimately, the organization left the private corrections business.

These failures raise questions about whether private companies are qualified to operate and manage correctional facilities. What requisite knowledge should a private company have before it can bid on a contract to run a correctional institution? Is running a prison like running any other business? If not, what makes it distinctive, and how should that be accounted for in policy makers' decisions regarding private correctional vendors? Should prisons be treated like any other product, service, or commodity in the free marketplace? Should prisons be beyond market considerations and not viewed as for-profit entities?

Nature and Extent of Private Involvement

The renewed interest in partnering with the private sector has been fueled by the Law Enforcement Assistance Administration's Free Venture program, which was initiated in the 1970s. Although the agency is no longer in existence, the effects of Free Venture continue. In fact, Free Venture programs are found in many state prison systems. According to the CDCR (2013), these programs promote a model for prison industries that encourages

- a full workday for inmates;
- wages based on productivity;
- productivity standards comparable to industry;
- industrial management to have hiring/firing decision;
- enterprises to become self-sufficient after a reasonable start-up period;
- active coordination between prison industries and post-release placement; and
- optional partial reimbursement for room/board/restitution.

Eventually, seven states were given funds to launch Free Venture programs. Although Free Venture did not specify that private sector companies should be involved in the programs, two states (Minnesota and Washington) included the private sector in their programs. Further impetus to involve the private sector in corrections was provided in 1979 when the **Justice System Improvement Act** was passed. Also known as the Percy Amendment, this act enabled states to produce prison made goods and sell them across state lines. Prior to this federal legislative change, states could only sell prison made goods within their states' borders.

Peter Haley/The News Tribune/Associated Press

While demand for prison-made products has declined due to legal restrictions, private involvement in corrections remains strong. Here a prisoner sews postsurgical accessories. What is your opinion of private firms in corrections?

Since 1980 the federal government has encouraged greater private sector involvement in corrections. The Reagan administration (1981–1989) encouraged private sector/government alliances by passing the Justice Assistance Act of 1984, which "increased the accessibility to interstate markets necessary for the success of prison industries managed or operated by private business" (Mullen, Chabotar, & Carrow, 1985, p. 1). The Bush administration (2001–2009) followed this course of action, especially after declaring the security of the country's borders a national priority in the wake of the September 11, 2001, terrorist attacks. Kirkham (2012) documents the relationship between border security and the creation of private immigration detention facilities in small communities along the U.S.–Mexico border. Private sector involvement in corrections remains relatively limited but is nonetheless significant and could grow in the future.

In 2016, 18.1% of all federal inmates and 7.2% of all state inmates were held in private facilities (Carson, 2018). Private correctional companies have stabilized, and a few firms hold the majority of private prison contracts (Culp, 2011). As of 2018, two companies dominated the private prison market: CoreCivic (61 facilities) and the GEO Group (71 facilities). Private sector–corrections alliances extend to prison industries, private sector financing, and confinement service contracts.

Prison Industries

Prison industries can offer correctional institutions many benefits, including the chance to improve prisoners' skills and increase corrections departments' revenues. Since the 1980s, for example, the Best Western hotel chain has employed female prisoners in an Arizona correctional facility; their job is to make hotel reservations. Most states have a similar type of prison industry program.

Private Sector Financing

Efforts have been underway since the 1980s to make private sector financing available for corrections projects, primarily the construction of prisons and jails. Examples of corporations involved in such projects include CoreCivic (formerly Corrections Corporations of America), the GEO Group (Wackenhut), Cornell Corrections, and the Management and Training Corporation (Culp, 2011), among others. Examples of services provided include *lease contracts*—in which a private enterprise finances and constructs a facility and then leases it to a government agency—and **lease/purchase contracts**, a variation in which ownership of the facility is eventually transferred from the private company to the government. Private sector financing can be more or less expensive than traditional means of financing (such as through a state bonding authority), depending on the conditions surrounding construction. Such arrangements can allow the government to (a) move more rapidly, (b) avoid assuming a project's total debt, and (c) continue to build where bond referenda fail and construction is considered essential (National Institute of Justice, 2008). Industry advantages include (a) tax breaks; (b) steady, long-term cash flow; and (c) transfer of some of the owner's risk to the lessee (e.g., insurance against accidental damage or loss, when paid by the lessee).

Confinement Service Contracts

It is not common that private companies are issued contracts to manage operations in adult correctional institutions; private service contracts have been more prevalent in juvenile corrections. Many call private sector ventures in this area "prisons for profit." In many states, private contractors have provided components of community-based undertakings such as probation for a long time.

A number of private corporations (including CoreCivic and the GEO Group) are actively promoting and lobbying to receive contracts to provide confinement services. Some jail facilities in several states are operated under such contracts, and representatives of these corporations predict their activities will expand. The Management and Training Corporation is the third largest company currently providing incarceration services. This privately held company registered in Utah currently manages over 20 private correctional facilities in Arizona, California, Florida, Idaho, New Mexico, Ohio, and Texas (Culp, 2011).

Additionally, the federal government has a number of contracts with private agencies to house and detain suspected illegal immigrants. For example, the U.S. Immigration and Customs Enforcement (ICE) agency is tasked with detaining illegal immigrants and asylum seekers. Although ICE uses federal, state, and locally operated prisons and jails to carry out this role, private correctional institutions receive a majority of detained immigrants, and there are plans to increase the private correctional facility ICE budget to $2.8 billion in 2019 (Elinson, 2018). Using private correctional institutions in this way has been called into question by critics, not only for the associated cost, but also because of the ethics of housing illegal detainees under a profit rubric (Welch, 2011).

Key Issues

Not all private sector involvement in corrections is controversial. For example, privately provided community-based services in both adult and juvenile areas are relatively uncontested; the major issues center on the details and efficacy of particular contracts. Similarly, certain forms of private sector involvement in adult institutional corrections and jail programs present few issues. For example, it is common to contract out food services, medical and mental health services, and other essential services to private suppliers or civilian vendors.

The most ardently contended issues concern (a) the expansion of the role of private enterprise in prison industry ventures and (b) newly emerging facility management and operation ventures. These areas promise to generate the more difficult questions in the coming years. Their resolution will require the attention of a wide array of public officials, interest groups, and members of the public. The more important issues may be categorized among several general headings: *conceptual issues*, *strategic issues*, *administrative issues*, *legal issues*, and *financial issues*.

Conceptual Issues

The fundamental conceptual questions to be addressed are (a) is any part of the administration of justice an appropriate market for private enterprise? And if so, (b) to what extent should private enterprise be allowed to enter or develop the market?

Strategic Issues

Since 1888, when the American Federation of Labor took a strong position on the issue, organized labor has been opposed to private sector involvement in prison industries. Although organized labor has tolerated minimal involvement in prison and jail employment and services, the expansion of the private sector in this area evokes strong responses. The conditions under which organized labor would sanction a large-scale expansion to the exclusion of union members and their organizations remains to be seen.

Concerning facility management and operation, we can expect potentially strong opposition to come from public employee unions and locally organized correctional staff unions. Furthermore, while there might be some degree of acceptance from those in correctional management, there is a large likelihood of opposition (National Institute of Justice, 2008). Here the issues center on control, loss of power, and the possible realignment of networks of control and influence in the corrections sector.

Administrative Issues

In addition to the above-mentioned issues of control and power, accountability emerges as a potential issue. The primary question is, "How do we ensure that those involved in private sector–prison industry ventures or facility management/operation ventures meet the necessary criteria and contract specifications?" At the very least, ancillary issues

Gary I. Rothstein/Associated Press

Prison privatization faces opposition from correctional employee unions. Here protestors demonstrate against the privatization of correctional officers. What are the potential risks and benefits of privatizing these positions?

include (a) "What should be specified?" (i.e., what problems and issues must be anticipated and made explicit before granting contracts?) (b) "What types of monitoring and inspection procedures can best preserve and protect accountability?" (c) "What new avenues must be explored for public input?" and (d) "If there is a limited number of qualified and interested private sector providers, how does the state approach the canceling of a contract when doing so might leave no other alternative than to reestablish a state-managed operation?"

Legal Issues

Among the thornier legal issues raised is the question of liability, especially in terms of facility management. Because private facility management contracts are a recent innovation, no body of case law has yet emerged to clarify the respective liabilities of public and private agencies. There is, however, no legal principle to support the premise that public agencies will be able to avoid or diminish their liability merely because services have been delegated to a private vendor. Courts have become reluctant to provide the same immunity for private employees' actions in private prisons as they would for state actors in government-run facilities.

The range of possible liability problems is wide, and resolving these problems will involve lawmakers, the judiciary, executive branch officials, interest groups, offenders, and the general voting constituency. Moreover, legal issues do not end with liability. In many states the legal authority to contract for facility management is not explicitly provided. Similarly, in some states certain governmental units are required either by legislation or by constitutional provision to maintain direct responsibility for facility management and operation—the responsibility cannot be delegated. In these and other situations, expanding the role of private enterprise might require changes in legislation, constitutional amendments, and rethinking the role and structure of the government agencies involved.

Financial Issues

Financial issues ostensibly center on the dollar benefits or costs that result from private sector contracting. These issues are often discussed as cost–benefit issues, and some might think directly of the dollar accounting balance. However, "costs" and "benefits" also must take into account the effects on offenders, the image of correctional institutions and the criminal justice system, resulting changes in public confidence and support, and many outcomes, both anticipated and unanticipated. These effects and outcomes are difficult to measure and sometimes difficult to identify or conceptualize. Therefore, they promise to elicit greater controversy and require more fundamental consideration of just what the value of extensive privatization might be. Some critics have even suggested that the privatization of corrections is less about saving money than it is about shifting funds from public coffers to private entrepreneurs (Welch, 2011).

Applying Criminal Justice: *Prison Contracting*

Over the past 30 years, a number of issues regarding private facility contracting have required the attention of prospective public entities. Issues regarding legality, policy, programming, contracts, and monitoring and evaluation define the discussion and provide a platform from which contracting is possible. Table 10.1 presents some important questions regarding each of these issues.

Table 10.1: Questions regarding private contracting issues

Legal issues	• What liability exists for the governmental entity when contracting out correctional institution work? • Who must ultimately maintain the security of a correctional facility if trouble occurs? • How are inmates' rights protected?
Policy and program issues	• What analysis should be done prior to contracting? • What are the reasons to contract with specific private vendors? • Who announces a switch over to private contractor use? • What types of facilities will be contracted? • What level(s) of offenders should be placed in a privately run facility? • What are the maximum number of prisoners that should be contracted to a privately run facility? • What are the selection criteria for choosing prisoners to be placed in a privately run facility? • How will offenders' release dates be influenced by private considerations?
Contract issues	• Is the contract part of a competitive bidding process? • How will private proposals be evaluated? • How is the contract price determined? • How will service interruptions be addressed? • What performance standards will be put into place? • What monitoring provisions will be present? • How will current public employees be treated when attempting to secure positions with the private facility?
Monitoring and evaluation issues	• How should the contract be monitored? • How should the government evaluate the results of the contract?

	• What can be reasonably expected of the private vendor as part of the contract?

These issues raise other questions as governments grapple with contracting out correctional facilities. What would you want to know to satisfy your concerns regarding private involvement in corrections?

Does Privatization Put Corrections on the Defensive?

Private enterprise is no stranger to correctional work in the United States. However, the role of private enterprise has long been debated, and there has been much disagreement over the appropriate balance between government operations and private operations. Ultimately, privatization poses a challenge to legitimacy and power in an industry in which the current dominant interests have gone relatively unchallenged for decades.

There are many facets to the privatization issue. Since the 1980s, emphasis on private sector involvement has generally placed those committed to public sector corrections on the defensive. While the most visible issues seem to involve funding alternatives to reduce the stress on increasingly overburdened correctional systems—that is, finding complementary and supplementary arrangements for service delivery—there has also been a challenge to an existing order. For perspective regarding this challenge, think of corrections as a huge, multibillion-dollar industry—public for the most part—that has many interests surrounding the allocation of resources and the aims associated with its decentralized operation.

In previous generations, those who controlled the various portions of this industry experienced little pushback to their legitimacy. The ground rules for the industry's operation—its ways of doing business, so to speak—were firmly established. Laws and formal structural arrangements, as well as slowly developed networks of influence and control, supported the primacy of the public bureaucracies and their ways of doing business. The overriding concerns of those in the corrections industry were to "correct" offenders, or to at least "do something constructive" with them.

However, the enormous resources pumped into this industry must be authoritatively allocated to the myriad groups and interests that "depend" on the ongoing operations of the industry. Most of the issues regarding private sector–government alliances in corrections could probably be addressed through compromises, contracts, changes in legislation, and so on. However, think about the deeper, more fundamental problems privatization presents. The greatest degree of resistance and controversy occurs when proposals for private management and operation are advanced. We can begin to think of the many subissues that arise among those who struggle for control of the industry. Certainly, it is unlikely that corrections would ever become completely privatized. However, expanding the role of the private sector to include facility management and operation, as well as financing and construction work, disrupts the hegemony of the established correctional structures. Extensive privatization would challenge the established organizational relationships, networks, and methods in and among the various systems.

Correctional bureaucracies must be seen as interest-oriented structures in themselves. Those who administer the bureaucracies and work within these structures have strong interests tied to them. Furthermore, the groups and individuals whose interests coincide or are symbiotic with the bureaucracies have adapted to the established patterns. Think briefly about the challenge to those whose jobs are vested in government civil service; about unionization in corrections and what has been a long process of compromise to reach a stable position with management; and about the positions carved out over time for groups of educational, therapeutic, medical, and other service providers.

Significant privatization would mean massive changes to many of the current arrangements. Significant change means uncertainty for all involved, especially for those who could lose their position, lose status, or otherwise be forced to give up their comfortable routine. There is little definitive evidence to suggest that overwhelmingly involving private enterprise in corrections would either significantly improve or diminish correctional outcomes in the United States (Government Accounting Office, 1996). However, we can be certain that much would change in the corrections industry.

10.4 Female Offenders and Corrections

The needs of female offenders are becoming an increasing issue of concern; it is important to consider how best to manage them within correctional environments and out in the community. Many researchers have noted the unique characteristics of female offenders and the issues they pose to correctional systems (Belknap, 2003; Chesney-Lind, 2003; Bloom, Owen, & Covington, 2005). The National Resource Center on Justice Involved Women (2016) notes the following trends in female offender populations.

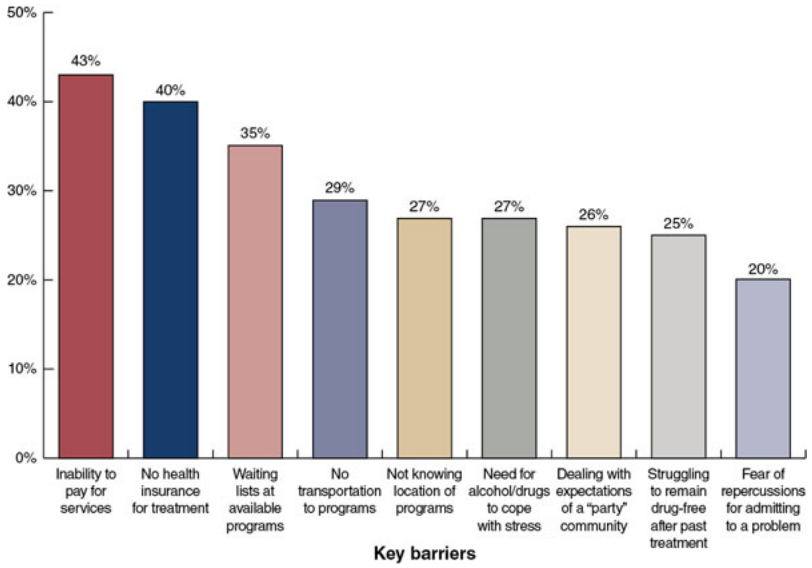
- Since 1980 the number of women in U.S. prisons has increased by more than 700% and has outpaced men by more than 50%.
- While arrests have dropped overall during the past decade, the decrease is more pronounced for men (down 22.7% in 2014 as compared to 2005) than for women (down 9.6% in the same time period). Still in 2014, over 1.3 million women were arrested in the U.S. and women in local jails has increased 44% between 2000 and 2013.
- In 2013, 1.2 million women were under the authority of the criminal justice system in some way shape or form. (p. 1)

As a group, female offenders commit a wide variety of crimes. Carson (2018) reports that in 2016, 37% of female state prisoners and 4.5% of female federal prisoners committed violent offenses; 26.9% of female state prisoners and 18.6% of female federal prisoners committed property offenses; and 24.9% of female state prisoners and 56.4% of female federal prisoners committed drug offenses. Female offenders made up 25% of the probation population and 13% of the parole population in 2016 (Kaeble, 2018). Most female offenders are in the system for committing less serious property crimes and drug-related offenses. In fact, one of the most pressing issues facing female offenders is the drug addiction and substance abuse that fuels criminal behaviors.

Begun, Rose, and LeBel (2010) have identified some major connections between alcohol/drug use and criminal behavior among female offenders. Their work focuses on the importance of assessing alcohol and addiction problems among female offenders and creating appropriate correctional responses. By relying on a jail **in-reach** effort, Begun et al. (2010) hoped to reach women while they were still incarcerated to assess their level of addiction, provide them with feedback, and offer motivational interviewing just prior to their release to encourage them to continue treatment and receive interventions to address their substance abuse problems and promote more law-abiding behavior. The results of their research were startling: 51% of the female offenders scored "high" on substance use; a majority believed their substance abuse was significant; and an overwhelming number believed they needed an intervention to help them manage their substance abuse problems.

While the majority of female offenders in the study recognized the importance of addressing their substance abuse problems, the reasons why they could not access treatment were also very revealing (see Figure 10.1).

Figure 10.1: Significant barriers facing women entering treatment at reentry



Adapted from "How Jail Partnerships Can Help Women Address Substance Abuse Problems in Preparing for Community Reentry," by A. Begun, S. Rose, and T. LeBel, in S. Stojkovic (Ed.), Managing Special Populations in Jails and Prisons (Vol. 2, pp. 1–29), 2010, Kingston, NJ: Civic Research Institute.

Female offenders face challenges that distinguish them from male offenders. Drug and alcohol abuse is high among both female and male populations (Substance Abuse and Mental Health Services Administration, 2007). Yet it is not the only issue with which female offenders contend. Rose and LeBel (2010) have documented the problems female offenders have in terms of managing their children while incarcerated. Research suggests that over 80% of female prisoners have children (Belknap, 2001). How female offenders deal with the loss of their children, and the concerns they have for their children while incarcerated, are pressing issues for correctional facilities. Since most facilities have limited programs and services for the children of incarcerated parents, there is much anxiety among offenders, both male and female, regarding how to respond adequately to this issue (Stojkovic & Lovell, 1997). Rose and LeBel (2010) suggest that the best course of action is to provide a structured program that addresses how female offenders can remain in touch with their children while incarcerated and have a plan to develop connections with their children once they are released. Similarly, Heilbrun et al. (2008) suggest that a structured, community-based aftercare system will have the best outcomes for female offenders and increase their probability of leading a crime-free life. This type of program must include gender-specific programming that addresses the needs of women, especially those who face unique challenges like raising children. See the feature box *Applying Criminal Justice: The Children of Female Offenders* to explore questions related to this topic.

Programming for incarcerated women has always received short shrift from correctional officials (Immarigeon, 2006). All offenders—male and female—have received limited correctional programming to address issues like drug and alcohol treatment, educational programming, and other personal improvement efforts directed at changing their attitudes and behaviors so they can maintain a noncriminal lifestyle. The reasons for this are many and varied, such as finite and shrinking resources and poor program design and implementation (Stinchcomb, 2011). Yet another major challenge facing correctional institutions in the 21st century is how to more equitably distribute correctional

resources for female offenders compared to their male counterparts.

Applying Criminal Justice: *The Children of Female Offenders*

Most correctional facilities are ill equipped to address the problems of being a parent while incarcerated. One of the most pressing issues for female (and many male) offenders is who will supervise and care for their children. As stated in this chapter, the majority of female offenders have children; many have more than one child. Offenders are unable to provide adequate care or support for their children while they are incarcerated. So, what should be done with these children while their parents are serving their sentences?

Some states have made accommodations for incarcerated parents and their children—by liberalizing visiting hours, making temporary housing quarters available for children so they can have longer visits with their parents, or by offering offenders parenting-related programming. But what else can be done? Should the state more actively assist prisoners with their children, both during incarceration or even after release? What type of postrelease programming might be useful for offenders to assist them as parents?

These are difficult questions with no easy answers. Suppose you could know for certain that addressing the issue of parenting behind bars would lower an offender's probability of returning to criminal behavior. Would you support such programming efforts? Given the high costs of corrections, would such programming be cost beneficial to a prison? How might you as a correctional officer balance female offenders' needs regarding their children with the institution's need to provide security and treatment programming?

Scott Olson/Getty Images News/© 2011 Getty Images

Daughter Left Behind

Women are the fastest growing segment of the U.S. prison population and most of them are moms. This leaves a quarter million kids with mothers behind bars. The girl in this video is lucky to have her grandparents to care for her, but not all children of incarcerated mothers have that luxury. Can you think of any solutions that would help address this issue?

FILMS ON DEMAND
DIGITAL EDUCATIONAL VIDEO

This embedded title is no longer available.

Click here (/p_Search.aspx?titleID=17874&sugg=1&rd=title) for a list of similar titles.

10.5 The Death Penalty

There is perhaps no more controversial correctional topic than the death penalty. As of 2016, 34 states plus the BOP were holding 2,814 prisoners under sentence of death, which was 58 (2%) fewer than in 2015 (Davis & Snell, 2018). Three states—California, Florida, and Texas, held 49% of all inmates on death row. Of the 2,814 prisoners under sentence of death in 2016, 55% were White, 42% were Black, and 98% were male (Davis & Snell, 2018).

The application of the death penalty raises several important issues, including whether the death penalty is applied fairly and consistently, whether the death penalty actually serves justice, the death penalty's financial cost, and the bureaucratization of the execution process.

Fair and Consistent Application

The death penalty is a discretionary sanction. In other words, it is not mandatory, and decisions must be made both to seek the death penalty during prosecution and to impose it upon conviction of a capital offense. Since the 1950s much debate has focused on whether inconsistency in the death penalty's application constitutes a violation the U.S. Constitution's Eighth Amendment prohibition of cruel and unusual punishment.

The U.S. Supreme Court has left it to Congress and the state legislatures to decide whether to retain the death penalty as a possible sanction. It has never ruled directly on the issue of whether the death penalty is in itself cruel or unusual punishment. The court has addressed the method of execution (***Furman v. Georgia*, 1972**), determining that some methods are so offensive or brutal that they should be considered cruel and unusual. Currently, the court has ruled that electrocution, lethal injection, lethal gas, hanging, and death by firing squad are consistent with the Eighth Amendment. However, even these must achieve their ultimate purpose without inflicting undue pain or distress. The court has also ruled that the death penalty is too severe for certain offenses, such as in ***Coker v. Georgia*, (1977)**, when the court decided that the death penalty is a "grossly disproportionate and excessive punishment for the crime of rape and is therefore forbidden by the Eighth Amendment as cruel and unusual punishment."

Patrick Semansky/Associated Press

In the 1970s the U.S. Supreme Court ruled that death penalty decisions are to be left up to Congress and state legislatures. What complications might this decision pose?

Many challenges to the death penalty have been litigated. In 1972, in the case of *Furman v. Georgia*, the U.S. Supreme Court held that the death penalty, as it was being administered at the time, constituted cruel and unusual punishment. This decision meant that Georgia was imposing the death penalty in an arbitrary, capricious, and perhaps discriminatory manner. Following the decision, there was a moratorium on executions across the United States, and representatives in all death penalty jurisdictions began to review and rewrite their statutes. Some jurisdictions attempted to avoid inconsistently applying the death penalty by making it mandatory for specified offenses. Some provided guidelines that (a) required a "bifurcated" trial process (in which a jury decides first whether the defendant is guilty and, if guilty, decides whether to impose the death penalty); and (b) specified aggravating and mitigating circumstances to be considered to determine whether a defendant should receive the death penalty. In 1976 the U.S. Supreme Court reviewed several cases that challenged the revised statutes in various states and ruled in ***Gregg v. Georgia* (1976)** that the mandatory death penalty approach was unconstitutional; however, it approved the bifurcated trial approach and the consideration of specified aggravating and mitigating circumstances. The court added that death penalty sentences must be accompanied by appropriate appeals processes to guard against the death penalty's aberrant or arbitrary imposition. The court's rulings intended to ensure that, within a state, defendants in capital cases that have similar case characteristics and circumstances receive similar and consistent outcomes.

The 1976 decision brought more revision of state statutes, and executions resumed by 1977. The legal and political foundation had been provided for dealing with issues related to consistency in administering the death penalty.

In 1987 the U.S Supreme Court ruled in the case of ***McCleskey v. Kemp*** on a challenge that the death penalty was being administered in a racially discriminatory way in the state of Georgia. McCleskey's argument relied on research produced by David Baldus (see Baldus, Pulaski, & Woodworth, 1983) that claimed disparity in the imposition of the death penalty in Georgia was based on the race of the victim. The research (which analyzed more than 1,000 murder cases, controlling for more than 30 variables) found that the killer of a White victim was more than 4 times as likely as the killer of a Black victim to receive the death penalty. In a split decision of 5–4, the U.S. Supreme Court denied McCleskey's claims, asserting that the statistical study could not account for variables unique to McCleskey's trial that would be pertinent to the decisions made by the jury. The court also reasoned that McCleskey would have to show proof that the legislature acted with intent to discriminate against the specified group to support his assertion that the state of Georgia enacted the death penalty statute specifically to discriminate against Blacks.

Discussions about the fair and consistent application of the death penalty have largely centered on the cases and questions discussed above. Executions have proceeded, and since 1973, 164 death row inmates have had their death sentences vacated on appeal because of defective convictions and/or sentences (Death Penalty Information Center, 2018b). Some argue that fair and consistent application of the death penalty is a relatively settled matter and that mechanisms are in place to support fairness and consistency. Others argue that statistical evidence shows disparity in how the death penalty is imposed.

During the 1990s the courts further examined issues concerning prosecutorial decision making and the death penalty. Prosecutors have enormous discretion and responsibility in deciding whether to seek the death penalty and in using the decision to seek the death penalty or some other sanction as a bargaining advantage in the process of plea negotiation. As discussed earlier, the U.S. Supreme Court has rejected the notion of making the death penalty mandatory upon conviction and has championed the notion of considering specific extenuating and mitigating circumstances in a sentencing hearing's deliberations, which is distinct from the trial to determine guilt or innocence. While the court's positions have not been extended directly to prosecutors' charging decisions, some use the logic of the positions and the historical practice of prosecutorial discretion to argue for the continuation of present practices, providing the

Injustice for Blacks in Alabama

An Alabama jury of 12 white people convicts a black man of capital murder, and the judge sentences him to the death penalty. Do you believe that Robert received a fair trial and sentencing? How does his case illustrate issues in unfair and inconsistent use of the death penalty?

umbrella under which variation in outcomes across particular cases can be justified.

Those critical of prosecutorial decision making in potential death penalty cases focus on variations across and within death penalty states. For example, some have argued that prosecutors seek death for defendants in only a small fraction of the cases where it is possible to do so. Those making such arguments point out that the death penalty is rarely imposed, and they infer that the rarer the imposition, the more arbitrary it must be.

Those arguing that prosecutors contribute to arbitrariness in the imposition of the death penalty focus on the large percentage of murder cases disposed of through plea negotiations and the low proportion of cases in which the death penalty is actually imposed. One point made is that the number of cases resulting in the imposition of the death penalty is so small in relation to the number of cases in which the death penalty could be sought that there are no clear-cut predictors of who will receive it. Or, as Victor Streib, a law professor at Cleveland State University, puts it, "How do you figure out why lightning strikes one defendant and not another?" (as cited in Lewin, 1995, p. 1). Of course, if a defendant pleads to life imprisonment to avoid a death penalty charge, that "leverage" for the prosecutor shows up in statistics as the defendant not being charged with a capital crime.

Injustice for Blacks in Alabama
From Title: *Black Death in Dixie: Racism and the Death Pen...*
(https://fod.infobase.com/PortalPlaylists.aspx?wID=100753&xtid=39112)

Some critics focus on variations in the death penalty's imposition. For example, in Texas—a state that leads the nation in death penalty use—there were 397 inmates on death row at the beginning of 1995. Lewin (1995) reported that 42 of Texas's 254 counties accounted for all the inmates on death row and that more than half of the 42 counties accounted for one inmate each. Furthermore, according to Lewin, 113 of the 397 inmates on death row at that time came from one county, Harris County, which includes Houston. Such situations prompt observers and critics to highlight the disparity. As attributed to James Liebman, a Columbia Law School professor, "Lots of states have death belts. In southern Georgia, there are lots of death sentences; in northern Georgia, there aren't. In Tennessee, there are tons of death sentences in Memphis and East Knoxville, but not in Nashville" (as cited in Lewin, 1995, p. A13). Prosecutors may apply different criteria or standards in deciding when to seek the death penalty, and this may lead to inconsistency for similarly situated offenders. The legal latitude granted to prosecutors practically ensures an avenue of argument for those concerned with the possibility or observed reality of variation in death penalty administration.

The arbitrary nature of the death penalty has led some governors to question its efficacy and application. Illinois governor George Ryan, for example, placed a moratorium on the death penalty in 2000, and in 2003 he commuted the sentences of all 167 people on death row upon learning that police and prosecuting attorneys had egregiously and in some cases negligently and willfully manipulated evidence and witnesses. His decision to commute the sentences of death row inmates to life in prison was interpreted as a major blow to death penalty supporters.

Retributivist Arguments

These and other U.S. Supreme Court decisions laid to rest, for the practical present, the issue of whether to abolish the death penalty on constitutional grounds. The decision to retain or abolish the death penalty has been left with Congress and state legislatures. Still, whether the death penalty is desirable or appropriate remain important issues. Many continue to debate capital punishment on moral grounds. One argument that justifies the use of capital punishment involves retribution.

"The retributivist believes that the punishment of wrong-doing is right in itself" (Close & Meier, 1995, p. 423). Retributivists generally believe that punishment is a legitimate enterprise based on the criminal act of the offender, as opposed to being based on the desire to achieve aims beyond punishing an offender for committing a criminal offense. Such aims are associated with utilitarian perspectives on punishment and its justification and are usually of two types, as noted by Close and Meier (1995): "(1) rehabilitation or correction of the offender, or (2) deterrence" (p. 1).

Some persons attach similar meanings to the terms *retribution*, *retaliation*, *revenge*, and *vengeance* (Close & Meier, 1995). Others distinguish between these terms, especially philosophers who seek to separate the notion of retribution from more base notions of revenge or vengeance. Close and Meier (1995) present Feinberg's idea that "retributive theory should not be confused with what he calls *vengeance* theories," stating, "Feinberg defines such vengeance theories as holding that the justification of punishment lies in 'vindictive satisfaction in the eye of the beholder [of the punishment]'" (p. 423). Feinberg is trying to explain and enhance the legitimacy of retributivist theory by separating the perspective from ones that appeal to the legitimacy of individual motivations for punishment. The essential idea is that the offender has committed a crime and deserves a certain punishment by virtue of the act and circumstance, and it is the privilege and obligation of the state to impose and execute punishment. Two significant questions arise, especially in relation to capital punishment. First, by whom, when, and how was the baseline of punishments established? And what is the justification or rationale for the punishments meted out for a specific crime? Second, what happens if penalties are inconsistently applied because of the discretionary nature of decision making? What is the argument in defense of an observed reality in which similarly situated persons receive disparate outcomes?

In relation to the death penalty, Hugo Adam Bedau (1995) represents a perspective that "rejects a pure retributivist view" and favors one based on "the social goals that punishment should achieve, 'limited by acknowledged moral principles'" (p. 427). He argues that there are no predictable answers to factual (empirical) questions concerning whether the death penalty is a general deterrent and administered in a discriminatory manner; whether an innocent person could be executed for a crime he or she did not commit; and whether a person guilty of a capital offense but not executed might, if released, commit another capital offense. Bedau (1995) concludes that the death penalty "projects a false and misleading picture of man and society," in that "justice requires killing the convicted murderer." He further notes that "we focus on the death that all murderers supposedly deserve and overlook our inability to give a rational account of why so few actually get it" (p. 465).

Bedau also argues that government officials should be devoted to constructive rather than destructive purposes. For Bedau (1995), "the death penalty contradicts this concern; it is government power used in a dramatically destructive manner upon individuals in the absence of any compelling social necessity" (p. 464). In other words, government's power expands over individuals rather than shrinking in the face of individual rights and concerns, even when, according to Bedau, a legitimate argument cannot be made for this expansion. Therefore, he concludes, "Far from being a symbol of justice, it [the death penalty] is a symbol of brutality and stupidity" (Bedau, 1995, p. 466).

Bedau also acknowledges other important points. First, he recognizes that the death penalty is, from his perspective, a means to one or more social goals, although for him it is not the only or best means to achieve them. He also recognizes that "there is no goal or principle that constitutes a conclusive reason favoring either side in the [death penalty] dispute" (Bedau, 1995, p. 464). And he recognizes that goals or principles must be advanced and weighted in some way but that each side may not agree to or accept the goals, the principles, or the weighting. This is essentially where we find ourselves on the issue of retributivist and other perspectives. There is more arguing but no clear resolution to be achieved. To consider your own perspective on some of these questions, see the feature box *Applying Criminal Justice: The Death Penalty*.

Applying Criminal Justice: *The Death Penalty*

Alex Wong/Getty Images News/© 2008 Getty Images

The death penalty raises more issues and controversy in society than almost any other correctional practice. In the 21st century fewer executions have been carried out—862 executions from 2000 to 2017 versus 8,141 from 1990 to 1999 (Statista, 2017; ProCon.org, 2016)—but the issue remains laden with emotion and concern among both supporters and opponents. The United States is one of very few Western societies that still use the death penalty to respond to crime, despite its problematic character and the host of operational questions and concerns that accompany its administration. In 2017 the top eight countries in the world for carrying out executions were (a) China (1,000s); (b) Iran (507+); (c) Saudi Arabia (146+); (d) Iraq (125+); (e) Pakistan (60+); (f) Egypt (35+); (g) Somalia (24); (h) United States (23) (Death Penalty Information Center, 2018a).

The United States executes very few people. For example, at the end of 2016, there were 2,814 people on death rows across the country, in facilities run by 34 states and the federal government (Davis & Snell, 2018). This number is miniscule, considering there were over 1.5 million prisoners in jails and other correctional facilities across the country. Some would say that the death penalty is a trivial matter when compared to the other problems that plague the corrections system.

Has the death penalty run its course in the United States? Should we be less concerned about its practice because it affects so few people, or should we be more concerned because its practice is final, with no appeals or reviews for errors once carried out?

One of the questions about the death penalty is whether it is fairly and consistently applied. If we cannot make sure the death penalty is applied fairly and consistently to deserving offenders, then how do we justify its use at all? Some governors and academics have dismissed the death penalty process as arbitrary and unjust and therefore unsupportable. Does the death penalty's fairness and consistency ultimately determine whether it should be supported? What do you think a pure retributivist might say about these ideas?

Financial Cost

One alternative to the death penalty is for an offender to receive a sentence of life imprisonment. Given the annual costs to imprison offenders in high-security environments, some suggest that invoking the death penalty may be less expensive. However, the current reality is that death penalty prosecutions, resultant appeals, and the average length of time capital offenders spend on death row before being executed make each execution ultimately cost hundreds of thousands, sometimes millions, of dollars. (Bureau of Justice Statistics, 2011c). Indeed, a 2016 study showed that capital punishment is more expensive than life imprisonment. McFarland (2016) claims that "this greater cost comes from more expensive living conditions, a much more extensive legal process, and increasing resistance to the death penalty from chemical manufacturers overseas" (p. 46). The study concluded that sentencing a single inmate to death increases costs by $1.2 million when compared to sentencing an inmate to life in prison.

The financial cost of death row appeals, together with the average length of time spent on death row, has led to attempts to limit the appeals process. In 1996 the U.S. Congress passed the Antiterrorism and Effective Death Penalty Act, a portion of which limited persons convicted and sentenced to death to one death row appeal. In the case of ***Felker v. Turpin* (1996)**, the Supreme Court validated the legislation, stating that the law did not threaten the writ of *habeas corpus*. Similarly, in 2005 the federal ninth circuit court was willing to address the legislation's constitutionality but then decided that sufficient precedent existed to preserve constitutional protections consistent with the intent of the law.

Some who address the issue of cost in capital punishment center their attentions on "swifter and cheaper," while others focus on what could be conceptualized as capital punishment's "social costs," such as its impact on families of both victims and offenders. It is very difficult to translate many of these social costs into dollar units that could be compared to the more easily understood costs of incarceration and trials. For example, it would be difficult to determine an acceptable cost per execution that would represent what some regard as the destruction of society's moral fabric.

It is also difficult to quantify many of the benefits to be derived from executions. For example, some want to measure the benefit of executions in terms of the amount of crime potentially deterred. This benefit would then be coupled with advocating more executions to reach the place where the marginal benefit justifies the practice. Such notions obviously meet with disagreement as well. Arguing the financial cost of executions does not promise a resolution. There are many who reject or support capital punishment regardless of any financial analysis. As Assemblyman Anthony S. Seminerio of Queens, New York, put it, "I don't look at it as a money saver or a money waster or whatever. I don't care if it costs more. I don't care as long as the guy pays with his life" (as cited in Verhovek, 1995, p. A12).

Yet costs are a reality of the death penalty. The Death Penalty Information Center (2012) estimates that death penalty costs vary by state, and the long-term costs of maintaining death rows are astronomical. California, for example, has spent over $4 billion on death penalty cases since 1978. The Death Penalty Information Center estimates that if the state's governor were to commute the sentences of those on death row to life in prison, California would save over $5 billion in the next 20 years. Similar arguments have been posited in other states and studies. Miethe (2012) estimates that Nevada's Clark County could save $15 million if it declined to prosecute a number of cases as death penalty cases. Interestingly, New Jersey has spent over a quarter of a billion dollars since 1982 on the administration of death penalty cases and has not executed a single person in that time period. The trend is to question the efficacy of spending billions on a criminal sanction that is very rarely used and has both problematic processes and questionable benefits relative to its costs.

Bureaucratization and Execution

Another major consideration relates to those who carry out executions and how these take place. In his book *Death Work*, Robert Johnson (1990) states:

> Today we have an elaborate and largely clandestine bureaucracy to carry out death sentences. We now kill efficiently and above all impersonally—"without anger or passion," to use Max Weber's fine phrase—like so many functionaries in the business of justice. (p. 21)

There are many reasons for this bureaucratic impersonalization, such as allowing those directly involved to detach themselves from what they must do and allowing the larger community to be separated from the killing of an individual. For Johnson (1990), "The result is a bureaucratic execution procedure that abrogates our humanity under the guise of justice" (p. 29).

It is very easy to become lost in the controversial dimensions of the death penalty. Many of the arguments can facilitate distant, abstract thought. It is very important to consider the issue from a work perspective, in terms of what real people must do during actual executions. Imagine working in a correctional institution and either being a member of an execution team or being responsible for managing the team and the execution. Add this to your list of issues to consider regarding the nature of execution and the use of capital punishment.

Conclusion

Most of us expect change to bring progress. Many of us equate change with reform, expecting something better than what was. Moreover, many of us have an image of relatively rapid improvement through a rather amorphous idea of change.

Predicting or forecasting the future of corrections becomes more difficult the further ahead we look. Focusing on a few sets of concerns, changing our understanding of the major problems, allowing for changes in prevailing correctional perspective, and facing the changes in resource bases, among other strategies, may guide us in trying to be more precise.

As this chapter discussed, corrections is part of a complex world. We do not aim to crush idealism or promote cynicism. Hope for the future lies in better understanding the difficulties and dilemmas, and sometimes the contradictions, associated with change. As Walker (2011) indicates, we are engaged in situations in which theories (beliefs and belief systems) hold sway, in which impressionistic logic and sometimes contradictory perspectives dominate dialogue, and in which there is little "hard" knowledge to dictate which directions to pursue.

We must plan for change and understand the slow, incremental nature of change in corrections. It is the aim of the ideas and concepts presented in this chapter to increase your knowledge and awareness of the many issues involved in the future of corrections.

Careers in Corrections: Rewards and Challenges

In this final installment of Careers in Corrections, you will hear from corrections professionals about some of the rewards and challenges of working in the corrections field. After viewing, try to think of additional rewards and challenges. What do you think motivates people to work in the corrections field? Is it a career you would want to pursue? Why or why not?

0:00 / 3:25

Key Ideas

- Corrections will continue to be a complex undertaking.
- Change in corrections involves many issues, most notably changes in the problems faced, changes in the solutions to those problems, and changes in the types and availability of resources to address problems.
- Privatization is a complex topic. It has both supporters and detractors and involves many technical and legal issues.
- Female offenders pose unique challenges for corrections.
- The death penalty, while rarely used, is one of the most controversial practices in corrections.

Critical-Thinking Questions

1. Why is it so difficult to envision the future in corrections? What factors limit our ability to think critically about corrections?
2. What problems do you see regarding corrections in the 21st century? How would you address these?
3. What are the strengths and limitations associated with correctional privatization? Is privatization a foregone conclusion in corrections?
4. What special concerns are associated with female offenders in the correctional system? Should they be treated any differently from male offenders? If so, why?
5. Given its many issues, do you think the death penalty constitutes a viable sanction in the criminal justice system? Why or why not?

Key Terms

Click on each key term to see the definition.

***Coker v. Georgia* (1977)**
(http://content.thuzelearning.com/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/

The Supreme Court case that established that the death penalty cannot be sought for rape crimes.

***Felker v. Turpin* (1996)**
(http://content.thuzelearning.com/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/

The Supreme Court case that established that the 1996 Antiterrorism and Effective Death Penalty Act did not diminish the writ of habeas corpus.

forecasting
(http://content.thuzelearning.com/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/

The use of statistical and methodological techniques to make predictions.

***Furman v. Georgia* (1972)**
(http://content.thuzelearning.com/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/

The Supreme Court case that established that the death penalty can be ruled unconstitutional if it inflicts undue pain and suffering. As practiced at the time, the death penalty was held to be unconstitutional, but it was left up to Congress and state legislatures to determine methods of execution that would not inflict undue harm or suffering.

***Gregg v. Georgia* (1976)**
(http://content.thuzelearning.com/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/

The Supreme Court case that ruled mandatory death sentences are unconstitutional and created a bifurcated system for assessing aggravating and mitigating circumstances to determine whether an offender should receive the death penalty.

in-reach
(http://content.thuzelearning.com/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/

Programming intended for correctional populations while they are still incarcerated and just prior to their release.

Justice System Improvement Act
(http://content.thuzelearning.com/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/

Also known as the Percy Amendment, a federal legislation that enabled states to produce prison made goods and sell them across state lines. Prior to this federal legislative change, states could only sell prison made goods within their states' borders.

lease/purchase contracts
(http://content.thuzelearning.com/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/

Arrangements whereby private groups build and finance correctional facilities and lease them to governmental entities, with the intention of eventually selling them to those entities.

***McCleskey v. Kemp* (1987)**
(http://content.thuzelearning.com/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/

The Supreme Court case that established that statistical data is not sufficient to show the death penalty is unfair and arbitrary to one racial group compared to another.

policy innovation
(http://content.thuzelearning.com/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/

The creation of new approaches to address new problems.

policy succession
(http://content.thuzelearning.com/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/

The process by which "new" policies grow from previous ones and substantially reflect attempts to "solve" the same problems or those created by previous policies.

privatization
(http://content.thuzelearning.com/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/cover/books/Stojkovic.5118.18.1/sections/

The process of involving private vendors and companies in the delivery of correctional services.

sunk costs

Financial commitments that cannot be easily reversed or abandoned.

Web Resources

Website for the California Department of Corrections and Rehabilitation. Filled with interesting reports and research, especially regarding issues facing the world's largest correctional system.
http://www.cdcr.ca.gov (http://www.cdcr.ca.gov)

A website dedicated to addressing the many legal issues in corrections. It also has great articles on correctional privatization.
http://www.prisonlegalnews.org (http://www.prisonlegalnews.org)

The following sites provide information about the impact of prison privatization in Louisiana.
http://www.nola.com/prisons/ (http://www.nola.com/prisons/)
http://www.npr.org/2012/06/05/154352977/how-louisiana-became-the-worlds-prison-capital (http://www.npr.org/2012/06/05/154352977/how-louisiana-became-the-worlds-prison-capital)

A website directed toward the correctional professional. In addition, a great location for research and professional articles on a host of major correctional issues, including female offenders.
http://www.nicic.gov/womenoffenders (http://www.nicic.gov/womenoffenders)

A website dedicated to the many issues associated with the death penalty. It is a virtual clearinghouse of information that is invaluable to those who want to become more educated on the death penalty as it is practiced in the United States.
http://www.deathpenaltyinfo.org (http://www.deathpenaltyinfo.org)

An international website that is housed in England that provides criminal justice perspectives that are different from those of the United States. A good website to compare criminal justice policies of England with American criminal justice policies. Excellent articles on how corrections can respond differently to crime.
http://www.policyexchange.org.uk (http://www.policyexchange.org.uk)

Additional Resources

An excellent resource regarding the central issues related to sentencing and corrections in America.

> National Conference of State Legislatures. (2011). *Principles of effective state sentencing and correctional policy: A report of the NCSL sentencing and corrections work group*. Retrieved from **http://www.ncsl.org/documents/cj/pew/wgprinciplesreport.pdf** (http://www.ncsl.org/documents/cj/pew/wgprinciplesreport.pdf)

A good review of the plight of women in the criminal justice system. It also provides an analysis of the major concerns of female offenders as they become part of the corrections system.

> Sentencing Project. (2007). *Women in the criminal justice system*. Retrieved from **http://www.sentencingproject.org/doc/publications/womenincj_total.pdf** (http://www.sentencingproject.org/doc/publications/womenincj_total.pdf)

A critical report regarding the use of private prisons in the state of Georgia. The report offers a good look at the many issues of prison privatization, as well as the use of probation among misdemeanor offenders. The report is critical of the claim of advantages of correctional privatization in the state of Georgia.

> Southern Center for Human Rights. (2012). *Roadblocks to reform: Perils for Georgia's criminal justice system*. Retrieved from **http://www.schr.org/files/post/Privatization%20Report%20FINAL.pdf** (http://www.schr.org/files/post/Privatization%20Report%20FINAL.pdf)

An excellent article that documents the impact on electoral politics when prisoners are counted as part of the prison community where they reside while incarcerated, and not part of their home communities. The significance of this issue to electoral politics is substantial, given the number of people incarcerated in this country.

> Lotke, E., & Wagner, P. (2005). Prisoners of the census: Electoral and financial consequences of counting prisoners where they go, not where they come from. *Pace Law Review, 24*(2), 587–607.

A collection of essays that addresses the consequences of correctional policies over the past 3 decades and the impacts on individuals, families, and society.

> Chesney-Lind, M., & Mauer, M. (Eds.). (2011). *Invisible punishment: The collateral consequences of mass imprisonment*. New York, NY: New Press.