

Ethics in Corrections

The preceding chapter explored philosophies of punishment and the rationales for punishment generally and set the context for the discussion in this chapter concerning ethics in corrections. Here, we are concerned with the prison system, inmates, and guards and with ethical dilemmas that may arise within the prison system. A further concern is the treatment afforded to those who are incarcerated. For example, is it ethically correct to impose severe restrictions on amenities and comforts for prisoners? Is an offender sent to prison for punishment or as punishment for an offense? Should offenders, in effect, be warehoused in prison and left to languish under strict supervision, or should they be provided with treatment programs, psychological services, and educational opportunities? First, however, it is necessary to set the context by looking at the state of the prison system in this country.

❖ The Prison Explosion

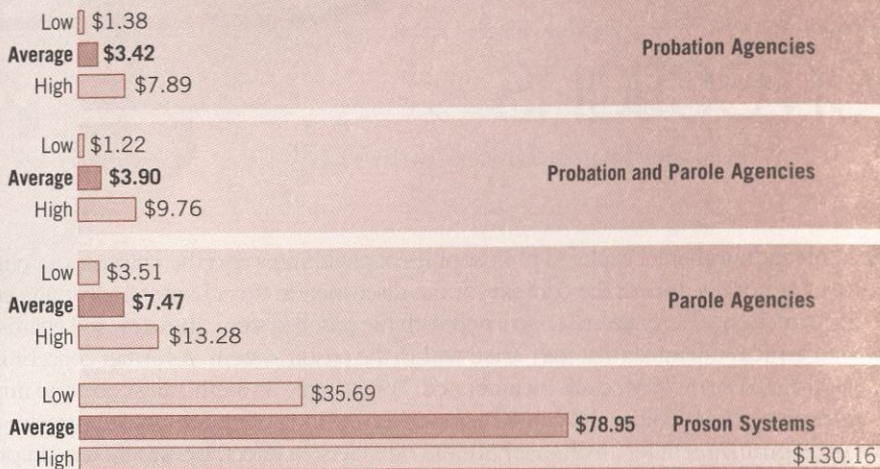
The number of state and federal prison inmates increased from 400,000 in 1982 to almost 1.3 million in 1999; as of December 31, 2002, the number of male prisoners in state and federal prisons had reached 1,440,655, and the number of female prisoners had reached 97,491 (Harrison and Beck 2003). During the period from 1982 to 1999, over 600 state and at least 51 federal correctional facilities were opened. In the same period, the number of jail inmates tripled from approximately 200,000 in 1982 to 600,000 in 1999, and the number of adults on probation increased from more than 1.3 million to almost 3.8 million persons (Gifford 2002). Moreover, the number of correctional staff more than doubled from nearly 300,000 to over 700,000 in same period. According to Pew Center on the States (2010a: 1) the number of inmates under the jurisdiction of state correctional institutions was 1,404,053 (representing a 0.3% decrease), and the number of federal inmates was 208,118 (representing a 3.4% increase) for a total of 1,612,171. In total, corrections supervised 7,225,800 persons by year-end 2009, representing 3.1% of adults in the U.S. population (Glaze 2010: 1). The number of jail and county inmates was 748,728 between midyear 2009 and midyear 2010, a 2.4% decrease from the previous report for 2008–2009 (Minton 2010: 1).

The cost of corrections has also increased by a staggering amount. For example, in 1982, federal expenditure on corrections was \$541 million; by 1999, this had increased to \$4 billion, an increase of 650%. In the states during this same period, there was a 476% increase in corrections expenditure (Gifford 2002). In fiscal year 2001, correctional authorities spent \$38.2 billion to maintain correctional systems, and day-to-day operating expenses amounted to 28.4 billion (Stephan 2004: 1), and by 2007 it had risen to \$44.06 billion (Pew Center on the States 2008: 12). State spending on corrections for the period 1986 through 2001 increased from \$65 per resident to \$134, and between 1982 and 2003, corrections expenditure increase 423% from \$40 to \$209 per U.S. resident (Hughes 2006: 1). The federal government increased its expenditure on corrections between 1982 and 2003 by 925% (p. 2). The costs of imprisonment are illustrated by Pew Center on the States (2010b):

PRISONS: 32% OF THE GROWTH, 88% OF THE COST

STATE DAILY COSTS PER OFFENDER

1 day in prison costs more than 10 days on parole or 22 days probation.



SOURCE: Pew Center on the States 2009: 13.

SOURCE: Spending figures were collected from AR, AL, AK, CO, DE, GA, ID, IA, KY, LA, MA, ME, MD, ML, MN, MS, MO, MT, NC, ND, NE, NH, NM, NY OK, OR, PA, PR, SD, TN, TX, VT, VA and WY.

NOTE: Caution should be used in making interstate comparisons since a wide variety of factors beyond agency performance or efficiency can account for daily cost differences. Some states have separate probation and parole agencies while others have combined them.

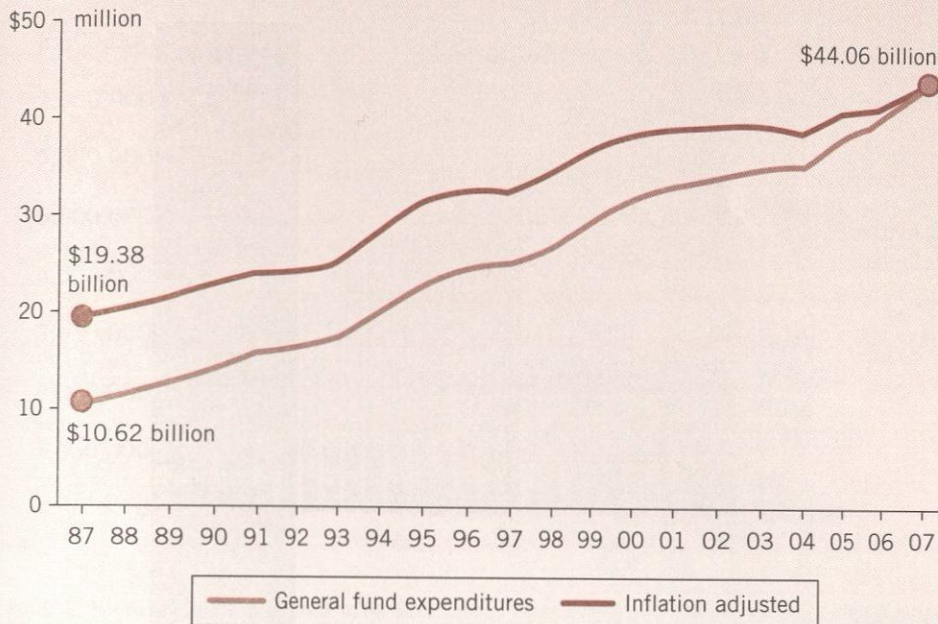
Recent statistics show that, on average, a day in state prison costs nearly \$80 compared with a day on probation supervision, which costs just \$3.50. In other words, one day in prison costs more than 22 days of probation. Instead of spending \$80 on one person for one day in prison, states could double the intensity of probation supervision and services for that offender plus nine current probationers and still have \$10 left over. As this example shows, even modest reductions in incarceration can free up funds states can use to more effectively and safely monitor people on parole and probation and strengthen supervision and behavior modification programs that have been proven to reduce recidivism (p. 25).

Projections for the future are even greater. According to the Public Safety Performance Project (2007: ii), the U.S. prison population is likely to increase by 13%, or more than 192,000 inmates, between 2007 and 2011. The cost of this increase could be as much as \$275 billion. This will mean more than 1.7 million people are incarcerated in prison (not including jails), a rate of 562 per 100,000 or 1 in 178 Americans. The number of women prisoners is expected to grow by 16% by 2011. The current average annual operational cost per prisoner for the states is \$23,876 (p. 20), and construction costs range from \$25,000 for a minimum security bed to more than \$100,000 for a maximum security cell (p. 22). Prisons currently constitute the fourth highest state budget item after health, education, and transportation (p. 25). According to Steen and Bandy (2007: 5), because so many state governments have focused on retribution and incarceration and have seen correctional expenses outpace state revenue, there is a growing realization that punitive punishment policies originating in the 1980s and 1990s are now unsustainable. States are therefore now focusing on changing their laws and reducing their fiscal expenditures (Pew Center on the States 2010a).

This vast expansion of the corrections system in the United States has meant that at year-end 2005, 737 per 100,000 U.S. residents were incarcerated in a state or federal prison or local jail (Harrison and Beck 2006). About 1 in 108 men and 1 in 1,538 women were sentenced and placed

TWENTY YEARS OF RISING COSTS

Between fiscal years 1987 and 2007, total state general fund expenditures on correction rose 315 Percent.



SOURCE: Pew Center on the States 2008: 12.

SOURCE: National Association of State Budget Officers, "State Expenditure Report" series; Inflation adjusted figures are based on a reanalysis of data in this series.

NOTE: These figures represent state general funds. They do not include federal or local government corrections expenditures and typically do not include funding from other state sources.

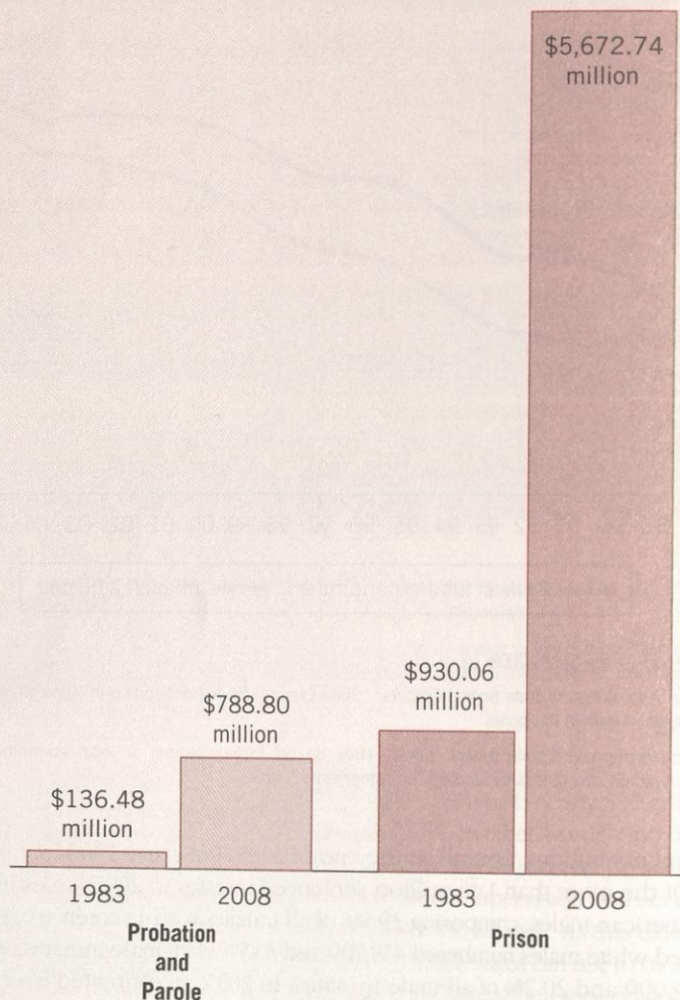
in state or federal institutions. Overall, at the end of 2005, 1 in every 136 U.S. residents was in prison or jail. Of the more than 1.46 million sentenced inmates in 2005, an estimated 547,200 were African American males, composing 39.5% of all inmates with a sentence of more than one year. Incarcerated white males numbered 459,700 and 34.5% of all male inmates, while Hispanic males were 279,000 and 20.2% of all male inmates. In 2005, an estimated 8% of black males between the ages of 25 and 29 years were in prison; this compared to 2.6% of Hispanic males and 1.1% of white males in that age group (Harrison and Beck 2006).

By the beginning of 2008, 1,596,127 adults were locked up in state or federal prisons and an additional 723,131 in local jails with a total of 2,319,258, making the rate of incarceration 1 in every 99.1 adults (Pew Center on the States 2008: 5) or 750 per 100,000 population (p. 35). Of all men 18 or older, 1 in 54 was in prison. When this group is broken down by race, 1 in 106 white men, 1 in 36 Hispanic men, and 1 in 15 black men were in prison. Of black men ages 20 to 34, 1 in 9 was in prison (p. 6). These figures are even more astounding when you compare the total prison population in the United States (which has a total population of almost 300 million) to the total prison figures for 36 of the largest European nations (which together have a total population of more than 800 million). Combined the total prison population of the 36 European countries is about 400,000 less than the U.S. inmate population on its own, as Table 6.1 shows. (Pew Center on the States 2010: 7).

The female prison population has more than doubled since 1990, with an annual growth rate since that year of 7.6%, which was higher than the 5.9% average increase in the number of male inmates. Between 1990 and 2001, the total number of male prisoners increased 77%, but the number of female prisoners increased 108% (Gifford 2002). By the end of 2007, the incarceration rate for females between the ages of 35 and 39 was 1 in 355 for white women, 1 in 297 for Hispanic women, 1 in 100 for black women, and 1 in 265 for all women ages 35–39 (Pew Center on the States 2008: 6).

EXPLOSIVE GROWTH IN PRISON SPENDING

Across 8 states, 88 percent of additional corrections spending since fy 1983 has gone to prisons.



SOURCE: Pew Center on the States 2009: 12.

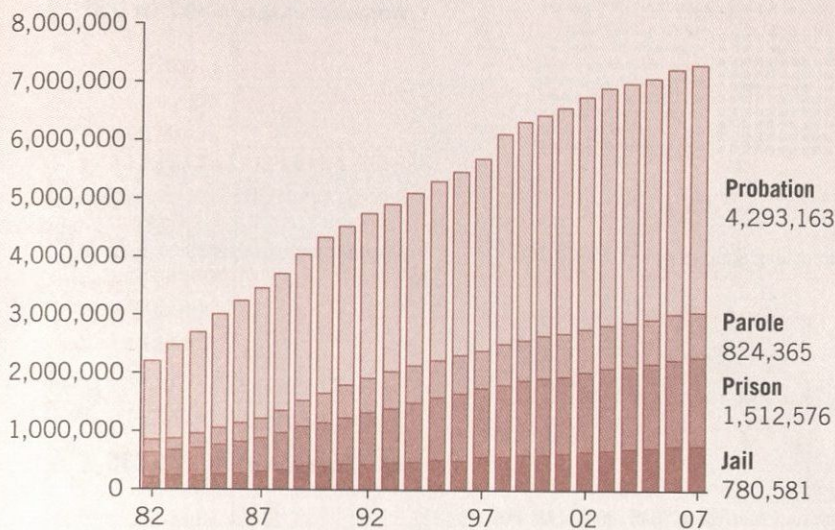
SOURCE: Only eight states could provide 25-year spending histories (AL, GA, LA, MO, MT, NY, OR and WY)

The number of male prisoners grew 34% between 1995 and 2005, and the number of females grew 57% (Harrison and Beck 2006: 4). During the same period the annual rate of increase for female prisoners was an average of 4.6%, compared to 3.0% for male prisoners (p. 4). In 2005, females made up 7.0% of all prisoners, up from 5.7% in 1990 and 6.1% in 1995. The rate of imprisonment for females was 65 per 100,000 population, and it was 929 per 100,000 males in the general population (p. 4).

To better understand the ethical issues that may arise in correctional practice, it is helpful to have a general knowledge of prison regimes and conditions. A knowledge of the daily routine within some kinds of prisons and the nature of the restrictions that both prisoners and staff experience in their daily interactions helps reveal how the management and administration of a captive population generates ethical issues and dilemmas. In particular, contextualizing ethical issues in this way highlights questions of control and coercive power and reveals how a rationally organized bureaucracy (see discussion of Max Weber in previous chapter) administers a "total institution" (Goffman 1959, 1961) as well as how it formulates and operates policies and

7 MILLION AND COUNTING

Led by probation, the correctional population has tripled in 25 years



SOURCE: Pew Center on the States 2009: 4; Bureau of Justice Statistics Correctional Surveys available at <http://www.ojp.usdoj.gov/bjs/glance/tables/corr2tab.htm>.

Note: Due to offenders with dual status, the sum of these four correctional categories slightly overstates the total correctional population.

AMERICA'S SURGING CORRECTIONAL POPULATION

WHO'S UNDER CORRECTIONAL CONTROL?

Correctional control rates vary drastically across demographic lines.

TOTAL 1 IN 31



WHITE 1 IN 45



WOMEN 1 IN 89



HISPANIC 1 IN 27



MEN 1 IN 18



BLACK 1 IN 11



SOURCE: Pew Center on the States 2009: 9.

SOURCE: Calculation for year end 2007 based on data from the Bureau of Justice Statistics "Prisons and Jail at Midyear" services as well as "Probation and Parole at Yearend" series available at <http://www.ojp.usdoj.gov/bjs> and the U.S. Census State Population Estimates.

procedures within a professional and ethical framework. Representations of the daily experience of imprisonment under maximum security and incarceration in a women's prison are discussed in the following sections, followed by general descriptions of medium and minimum security prisons.

WHO'S BEHIND BARS

A sampling of incarceration rates by various demographics. Additional information available in Appendix A-8.

According to data analyzed for this report, as of Jan. 1, 2008 more than 1 in every 100 adults is behind bars.

For the most part, though, incarceration is heavily concentrated among men, racial and ethnic minorities, and 20- and 30-year olds. Among men the highest rate is with black males aged 20-34. Among women it's with black females aged 35-39.

MEN

White men ages 18 or older **1 in 106**



All men ages 18 or older **1 in 54**



Hispanic men ages 18 or older **1 in 36**



Black men ages 18 or older **1 in 15**



Black men ages 20-34 **1 in 9**

**WOMEN**

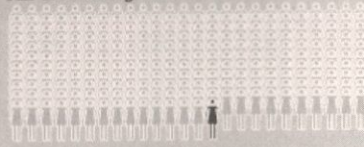
White women ages 35-39 **1 in 355**



Hispanic women ages 35-39 **1 in 297**



All women ages 35-39 **1 in 265**



Black women ages 35-39 **1 in 100**



SOURCE: Pew Center on the States 2008: 6.

SOURCE: Analysis of "Prison and Jail Inmates at Midyear 2006", published June 2007 by the U.S. Department of Justice, Bureau of Justice Statistics. All demographic statistics, with exception of "1 in every 100 adults" are midyear 2006, not 2008 figures.

❖ Maximum Security

In his classic work on a maximum security prison, Gresham Sykes (1958/1959) singles out as central to maximum security the fact that "the maximum security prison represents a social system in which an attempt is made to create and maintain total or almost total social control" (p. xiv).

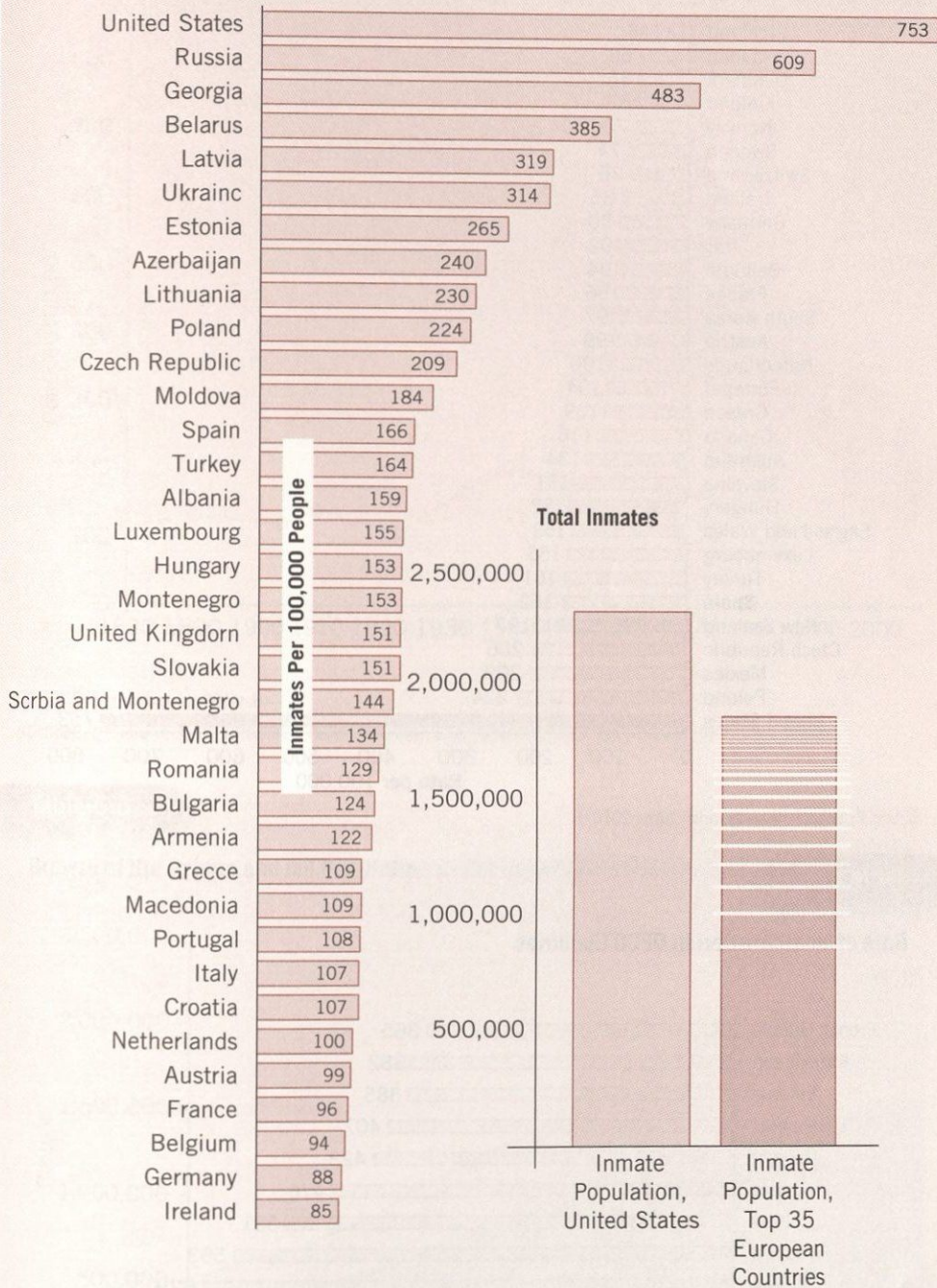
In his exploration of conditions at the New Jersey State Maximum Security Prison in 1958, Sykes noted that the prison did not inflict acute "physical discomforts" or impose hard living conditions. Instead, for Sykes (1958/1959), it appeared to possess "a grinding dullness, an existence lacking the amenities of life we take for granted, but an existence which is still tolerable" (p. 8). Sykes identified the task of keeping persons in custody as the main task of the custodians at New Jersey State Prison, with the maintenance of internal order as the next priority. Rules and regulations were designed both for custody purposes and for maintaining order. The inmates viewed the regulation of their conduct to the minutest degree as a form of punishment, whereas administrators justified prison codes of conduct in the name of custody and internal order.

Conditions in maximum security prisons have changed since Sykes conducted his research in 1958. For example, the conditions at Wisconsin's Supermax Correctional Institution are depicted by the district court in the class action *Jones 'El and others v. Berge and Litscher* (2001) as follows:

- This supermax prison has 500 beds and is designed to incarcerate the worst of the worst offenders.

Table 6.1

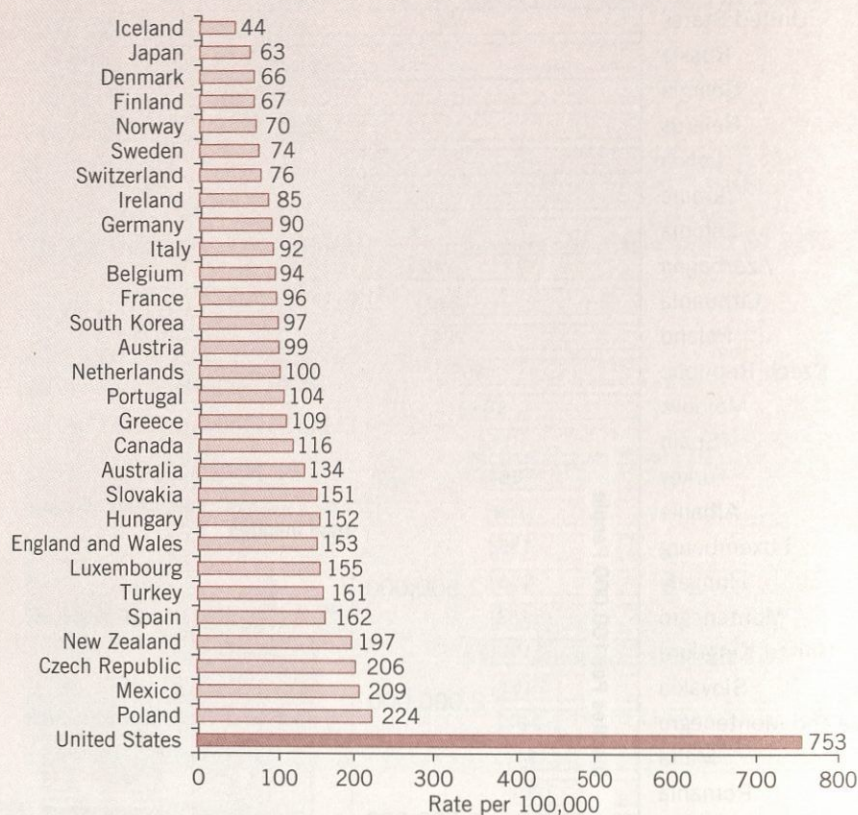
U.S. Incarceration per 100,000 Compared to Europe



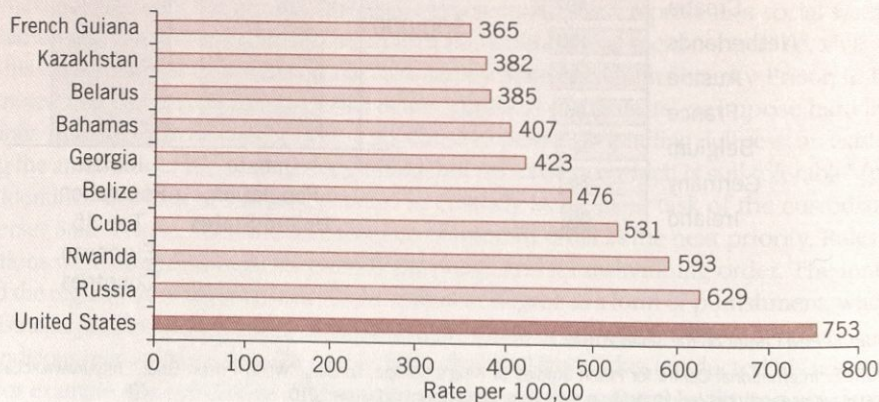
SOURCE: Pew Center on the States 2010a: 7.

SOURCE: International Centre for Prison Studies at King's College, London, "World Prison Brief." http://www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb_stats.php. Data download June 2010.

Note: Rates are for total number of residents, not just adults. Figures in this chart may not align with others due to counting methods.

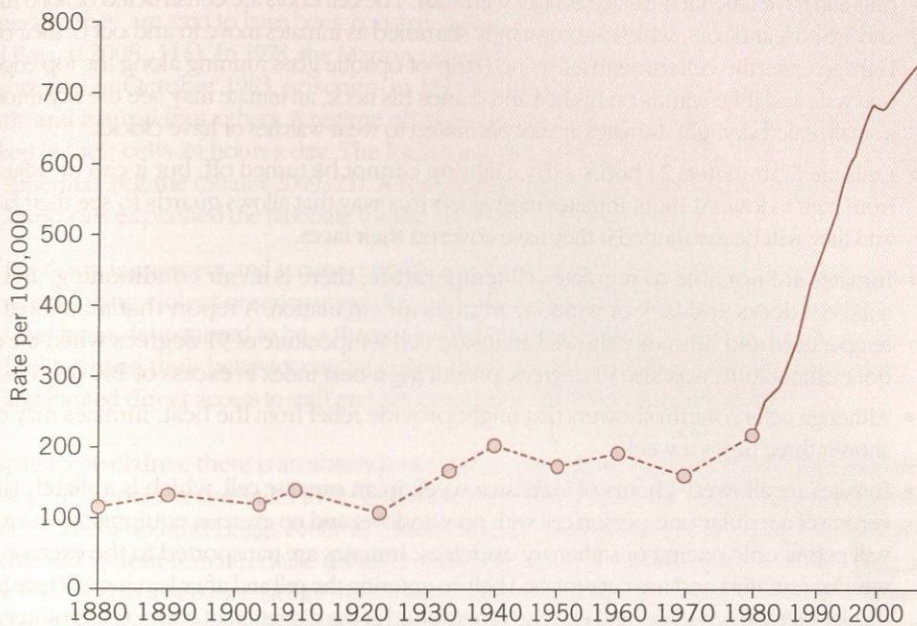
Table 6.2**Incarceration Rate per 100,000 in OECD Countries Compared to the United States**

SOURCE: Schmitt, Warner, and Gupta 2010: 5.

Table 6.3**Rate of Incarceration in OECD Countries**

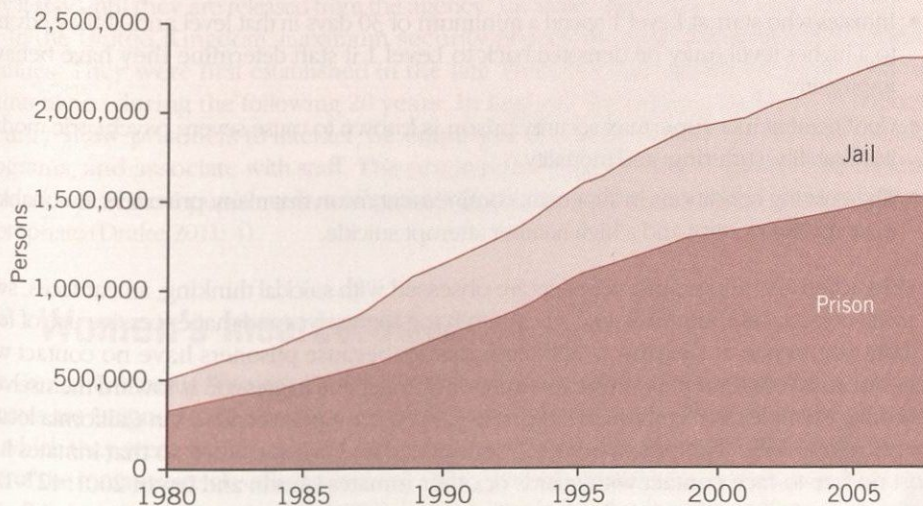
SOURCE: Schmitt et al. 2010: 7.

SOURCE: Authors' analysis of ICPS data, see appendix for details; excludes countries with population less than 100,000. Data for Rwanda includes genocide suspects.

Table 6.4**Incarceration Rate in the United States, 1880–2000**

SOURCE: Schmitt et al. 2010: 8.

SOURCE: Bureau of Justice Statistics, Census Bureau, and Cahalan (1986). See Appendix for further details.

Table 6.5**Growth of the Prison and Jail Population in the United States Since 1980**

SOURCE: Schmitt et al. 2010: 8.

Source: Bureau of Justice Statistics

- There are a number of levels of achievement within the prison as part of an incentive program, with Level 1 being the lowest level with the most restrictive conditions of confinement.
- New prisoners are assigned to Level 1 on arrival and remain there until they have been evaluated in terms of behavior and medical and program needs. They are housed in single-person cells and have little face-to-face contact with staff. The cell doors are constructed of solid metal and are boxcar doors, which are constantly slammed as inmates move in and out of their cells. Light accesses the cell through a five-inch strip of opaque glass running along the top edge of one wall, and if he stands on his bed and cranes his neck, an inmate may see the sky through a small sealed skylight. Inmates are not permitted to wear watches or have clocks.
- Cells are illuminated 24 hours a day. Lighting cannot be turned off, but it can be adjusted from high to low. At night inmates must sleep in a way that allows guards to see their faces, and they will be awakened if they have covered their faces.
- Inmates are not able to regulate cell temperature, there is no air conditioning, and the solid cell doors and lack of windows inhibits air circulation. A report that monitored the temperature and humidity showed an inside cell temperature of 91 degrees when the outdoor temperature was also 91 degrees, producing a heat index in excess of 100 degrees.
- Although cells contain showers that might provide relief from the heat, inmates may only shower three times a week.
- Inmates are allowed 4 hours of exercise a week in an exercise cell, which is a slightly larger version of a regular one-person cell with no windows and no exercise equipment. The room will permit only pacing or stationary exercises; inmates are transported to the exercise cell wearing restraints and are pat-searched before entering the cell and after leaving it. There is no regular exercise schedule, and exercise is permitted at the discretion of correctional officers.
- There is a small law library set up in a cell, but inmates using the library must be shackled and cuffed with their cuffs attached to a belly chain while out of their cells. Inmates are not allowed face-to-face visits except with their lawyers and must rely on video visitation, where inmates remain in their cell block and see their visitors on small video screens with poor audio quality. During video visits, inmates remain handcuffed, shackled, and belly chained.
- Level 1 inmates are permitted one 6-minute telephone call each month. They are not allowed library books in their cells, but they may keep a Bible, Quran, or equivalent and up to 25 letters.
- Inmates who start at Level 1 spend a minimum of 30 days in that level and, if they advance to a higher level, may be demoted back to Level 1 if staff determine they have behaved improperly.
- Confinement in a supermax security prison is known to cause severe psychiatric morbidity, disability, suffering, and mortality.
- The isolating conditions in supermax confinement mean that many prisoners are unable to maintain their sanity and a high number attempt suicide.

The class action also alleges that prisoners are obsessed with suicidal thinking, smear feces, swallow metal objects, cut their flesh, and attempt to hang themselves and that excessive use of force is a daily occurrence at the prison. Self-harm occurs because prisoners have no contact with others, and therefore their main outlet for expressing anger and aggression is toward themselves.

Another example of maximum security is Pelican Bay, a supermax prison in California located in a very remote area. The prison is entirely automated and is constructed so that inmates have almost no face-to-face contact with guards or other inmates (Austin and Irwin 2001: 127–128). Inmates are confined in their windowless cells constructed of concrete and stainless steel for 22.5 hours a day. They are not permitted to work in prison industries, have no access to recreation or to other inmates, and are not permitted cigarettes. All meals are eaten in their cells, which they leave only for brief showers and the daily 90-minute exercise, which is taken in miniature yards enclosed

by 20-foot-high walls. The doors of their cells contain slots for food trays, and meal delivery is almost the only time guards approach cells, because unlike the usual prison arrangement, guards do not walk tiers but are locked away in glass-enclosed booths, communicating with the inmates through a speaker system. The majority of Pelican Bay's inmate population comes from the Los Angeles area, located 900 miles away with no access by air, making family visits extremely difficult.

The justification for the creation of the costly supermax prison is by no means clear. Generally, they are said to have been constructed to house "the worst of the worst" (King, Steiner, and Breach 2008: 144). In 1978, the Marion prison was designated as the highest security federal prison, and in October 1983, prisoners in Marion went on a rampage, stabbed two guards to death, and injured four others. A regime of 24-hour lockdown was imposed, and prisoners were locked in their cells 24 hours a day. The lockdown at Marion is regarded as marking the birth of the supermax regime (Shalev 2009: 21). A research group in a 1997 report to the National Institute of Corrections explained the rationale for the supermax prison as follows:

For the management and secure control of inmates who have been officially designated as exhibiting violent or serious and disruptive behavior while incarcerated. Such inmates have been determined to be a threat to safety and security in traditional high security facilities, and their behavior can be controlled only by separation, restricted movement, and limited direct access to staff and other inmates (in King et al. 2008: 145).

Despite these claims, there is an absence of validating empirical evidence, and the rationale for the supermax prison continues to be questioned on theoretical, empirical, and moral grounds (Sundt, Castellano, and Briggs 2008: 95). Basically, the assumption is that a small number of disruptive and violent inmates cause disorder within the general inmate population and thus need to be removed to a separate facility that houses them in appropriate conditions. In this sense, the need for the supermax prison is perceived to be self-evident. There is scant research on supermax prisons because of the difficulty of gaining access, and their rationale is not questioned within prison management spheres. As Shalev (2009) puts it, "Managerial objectives (maintaining prison order and discipline) are predominant in official discourses about the roles of supermax confinement" (p. 57). Placing inmates in solitary confinement serves to control them, and this ensures that the entire prison system works in an orderly fashion. There is no pretense that inmates will be rehabilitated, and the principal function of the supermax prison is to punish (p. 127). While it is claimed that inmates can work their way out of supermax prison or units, some cannot, according to one administrator, "because this is where they belong and this is where they'll stay until they are released from the agency" (in Shalev 2009: 57).

In the United Kingdom, maximum security prisons are quite different to U.S. supermax facilities. They were first established in the late 1960s and had significant issues with order maintenance during the following 20 years. In England, the prison conditions in maximum security allow prisoners to interact, be employed in a range of educational and vocational programs, and associate with staff. The original thinking was that long-term imprisonment was in itself a harsh punishment, and providing inmates with a reasonably liberal regime was appropriate (Drake 2011: 4).

❖ Women's Incarceration

The Central California Women's Facility (CCWF) is the largest women's prison in the world. New inmates are assigned a classification signifying their level of security risk derived from the offense for which they were imprisoned and their history of prior commitments (Owen 1998: 64). Over 75% of the inmates are classified as low risk. The prison is divided into four separate units including administrative segregation (AD SEG), security housing, and a death row. Women are received into the prison in the receiving and release building, which is located within A-Facility, the most closely controlled section of the prison. Women may not walk around unescorted in A-Yard, which contains the most secure housing unit, unless they wear state-issued clothing. The inmates

occupy two-person cells. The daily schedule begins at 6:30 a.m. when the inmates are required to get up, clean their rooms, and make their beds by 7 a.m. Morning and afternoon activities take the form of job or school assignments, and the women return to their housing units after dinner to socialize before returning to their cells for the evening (p. 88).

The administrative segregation unit functions like a jail, and women are moved to this facility if they are under investigation for rule infractions or for other offenses, and following such investigations, they may be housed in this facility for short periods of time as punishment for minor offenses. Typically, inmates are confined to AD SEG for fighting, drug-related offenses, and assaults on staff. It is common for terms of less than 1 month to be served in AD SEG. The security housing unit (SHU) houses the small number of women whose behavior constitutes a danger to themselves or others in the institution, and it is best conceived of as a prison within the prison (Owen 1998: 113). The SHU is used for women found guilty of a serious offense, and programs in SHU may last for more than 6 months and perhaps even years. The length of term served in SHU is determined by the nature of the offense committed within the prison; offenses include assaults on staff or inmates, weapons possession, and serious drug misconduct. The daily life within these units takes the form of a lock-down, and women can only conduct loud conversations with their "vent-partners" or shout across the unit in a group discussion (p. 115). In death row, the few women sentenced to death are confined within a six-cell-wide area.

❖ Medium Security

Approximately one third of all inmates are incarcerated in medium security prisons, which generally secure inmates with double fences topped with barbed wire. Most medium security prisons have been built since 1925. Although the term *medium security* suggests a diminished focus on security, in fact, medium security prisons adopt many of the practices found in maximum security, such as head counts and a high level of supervision and guarding. One difference between maximum and medium security prisons is that inmates work without constant supervision in medium security facilities.

❖ Minimum Security

Minimum security prisons hold only about 10% of all prisoners; most were constructed after 1950. The emphasis in this form of incarceration is on vocational training and treatment. Minimum security inmates are generally nonviolent, first time offenders and white collar criminals who are not considered dangerous. Generally, minimum security prisons emphasize a more normal lifestyle, the gates are open, and inmates even have a degree of privacy. These prisons provide a range of programs, and some supply family visiting facilities where prisoners are able to stay with their families for up to 3 days at a time.

These partial descriptions of prison and prison life provide some sense of the order and regimentation of incarcerated male and female inmates. Later discussion will explore relations between prisoners and guards, especially in terms of the power and authority that guards exercise over inmates and the corresponding "power" of inmates. The nature and employment of this coercive correctional power has been a focus of correctional studies, because it often generates ethical issues and ethical dilemmas for staff.

This chapter does not provide an exhaustive history of the development of the penitentiary or of incarceration generally in the United States. The emphasis in this discussion is on ethical conduct within the prison environment. Instead, the following discussion explores the history of Stateville Prison in Illinois, as explained by James Jacobs (1977) in his classic study. The aim is to show through Jacobs's study how prison administration moved from being ad hoc to being bureaucratized and professionalized and how ethical standards and norms within the prison changed over time to parallel social change. This examination also reveals how changes in the bureaucratic structure reflected changes in agency as correctional administrators introduced new policies and practices.

❖ Stateville Prison: The Changing State of Corrections

In his study of Stateville Prison in Illinois, Jacobs (1977) showed how patterns of authority in prison changed over time. In the early days of the Stateville penitentiary, rules about conduct were made on an ad hoc basis, and discipline was exercised in an arbitrary and capricious way. Subsequently, as the prison administration became bureaucratized, the early authoritarian regime was replaced with one that depended on rules and regulations and emphasized a professional approach to corrections. Jacobs (p. 9) traces the introduction of the rule of law into Stateville to the judicial activism of the 1960s and to legislation concerned with civil rights, the poor, and the criminal defendant.

Stateville opened in 1925, and during its first decade of operations it was free from any form of outside oversight. Early wardens were political appointees, usually former sheriffs, and political patronage even decided the appointment of guards, who lost their jobs with each change in the governorship of the state (Jacobs 1977: 21). In the 1930s, guards worked up to 16 hours a day and regularly worked 12-hour shifts. They were untrained, underpaid, and physically unfit. Disciplinary measures included locking up an inmate in solitary confinement and “stringing up,” a process in which the inmate stood handcuffed to the bars of his cell 8 hours a day for up to 15 days, and perhaps longer (p. 22). Violence between staff and inmates was common, the prison was overcrowded, and most inmates were left idle.

During the period from 1936 to 1961, Stateville was “ruled” by Warden Joe Ragen, who sought to make Stateville the world’s most orderly prison. He exercised control over every detail and established an authoritarian regime that transformed Stateville into a venue internationally known among penologists. Ragen demanded absolute loyalty from his guards; in exchange, he often ignored their physical assaults on inmates (Jacobs 1977: 30). Guards exercised intense supervision over inmates and applied countless rules covering every aspect of prison life. In place of the earlier system where the untrained and politically appointed guards relied on inmate bosses and gang leaders to maintain order, Ragen established a patriarchy rule based on what Jacobs calls “charismatic authority” (p. 31). The warden distrusted all outsiders and declined to share authority with any subordinates. The backbone of the Ragen administration was its informers, who contributed to an atmosphere of insecurity and distrust that was exemplified in Ragen’s concern with the behavior of his guards on and off the job (p. 38).

As for the inmates, although he stressed their entitlement to good food, clothing, and housing, Ragen maintained that they had no other entitlements beyond this and that all other benefits were considered privileges. Order was maintained within the institution through a system of internal security that ensured complete enforcement of a set of comprehensive rules and regulations. For example, an inmate’s failure to button a shirt or salute a captain was reason enough for disciplinary action. Although Ragen reformed the practice of “stringing up,” inmates in isolation were nevertheless required to stand at attention in silence inside their cells for 8 hours a day (Jacobs 1977: 42). In spite of the severity of the disciplinary regime, exceptions had to be made to the code of discipline if the organization were to function, and this resulted in a reciprocal relationship in which guards overlooked infractions in exchange for inmate compliance, especially in supplying information.

In the Ragen era, rewards were a much more effective tool of prison management than is the case today because of the great disparities in the living conditions of inmates, who, in the 1940s and 1950s, faced very long prison terms. Whereas the average prisoner was confined with two other men in a tiny cell from 3 p.m. to 7 a.m., inmates who held administrative positions could work at night and remain in their offices as well as enjoy mobility within the prison. The warden offered top jobs to inmate leaders and tough prisoners as a form of reward. In 1955, the disciplinary system was described as “absolute” with a silent system enforced in the dining room and while marching in lines. Even when the ideology of rehabilitation came into vogue in the 1950s, Ragen was able to cast himself as a humanitarian, claiming to place the underprivileged and those from the slums on the path of morality (Jacobs 1977: 44–45). The movement for prison reform resulted in Ragen increasing the size of his academic and vocational schools, but the

vocational school reportedly was devoted to performing personal services for staff by repairing cars and electrical equipment—staff would bring in run-down cars and appliances, pay for the parts and supplies, and have the labor provided free by the inmates.

The relationship between guards and inmates during Ragen's regime was one of great social distance. The rule was that fraternization was to occur no more than was necessary and that relations between guards and inmates were to remain impersonal (Jacobs 1977: 49). Those who attempted to challenge the warden's authority by complaining to outsiders, by trying to escape, or by defying an officer could expect to be beaten by the guards or their selected inmate helpers (p. 50). When Ragen left Stateville in 1961, the institution underwent a transition from a charismatic to a traditional system of authority and then emerged as a professional bureaucratic institution in the style that is now prevalent in all correctional systems.

In the 1960s, under a traditional authority administration, the system of informers died out, and relationships between guards and inmates became more complex and problematic with a greater number of African American guards. Privileges for inmates became less valued, and the civil rights movement contributed to inmate politicization when black Muslims made demands for the recognition of their religion and linked the prison to racism and repression (Jacobs 1977: 59).

As Crouch (1980: 12) explains, during the 1960s the courts reoriented their view of inmate petitions and claims, defining four general categories of prisoners' rights:

1. Prisoner access to the court to challenge convictions and treatment during confinement
2. The Eighth Amendment prohibition on cruel and unusual punishment, extending it to include conditions such as overcrowding and isolation
3. Procedural protections applying to decisions on issues like discipline, transfer, and eligibility for parole
4. The First Amendment freedoms of religion, assembly, and speech as well as the prohibition on discrimination on grounds of race

As a result of judicial activism and the social activism of the late 1960s, many inmates, especially minorities, were provided with a political rhetoric and ideology that radicalized prisons (Crouch 1980: 22).

During the period from 1960 to 1980, there was a marked change in the inmate population, because prisons increasingly housed African Americans and young men who had access to radical ideas. Traditional solidarity among inmates gave way to sectional arrangements based on race, and the fundamentals of the old inmate code, like doing your own time and avoiding confrontations with staff, were displaced in the face of new attitudes by young, tough, and often gang-affiliated inmates (Crouch 1980: 23). As Crouch notes, such inmates did not adhere to the familiar pattern of interactions between guards and inmates, resulting in a much greater level of uncertainty for the guards in these interactions. In the case of women inmates, Owen (1998: 176) similarly noted in her research in a California women's prison that the old convict codes had changed now that gangs had entered the prisons, with the older inmates stressing the rude, disrespectful, and inconsiderate attitudes of the new young gangbangers.

At Stateville Prison, professional administration emerged during the period from 1970 to 1975, based on what Jacobs calls a rational-legal bureaucracy comprising the state Department of Corrections, an educated elite occupying the highest administrative positions, and civilians filling specialized treatment roles in the prison. The state Department of Corrections now took a much greater role in governing Stateville, and a new code of corrections introduced a more legalistic relationship between guards and prisoners, with a complex of administrative regulations covering matters that had previously been within the authority and discretion of guards. However, the gap between rules and working procedures was evident, because rules were simply not followed (Jacobs 1977: 79).

The new administration viewed the inmates as men who were redeemable, in contrast to the view under Ragen that the inmates were a separate species who needed to be kept away from society (Jacobs 1977: 82). The principal reason for ignoring rules was disorganization amongst

the staff, because job responsibilities were not clearly defined, and staff operated according to tradition and not procedure. The introduction of counselors for the inmates complicated the guards' task, because this change had the effect of taking away the guards' role as the "givers of favors" for inmates, leaving them only with the "dirty work." Consequently, the guards' ability to offer rewards in exchange for adherence to the rules was much diminished (p. 97).

Finally, concluding his historical account of Stateville in 1975, Jacobs (1977) explains how the new relationship between guards and inmates became formalistic and bureaucratic. This is best exemplified by a grievance procedure under which inmates might lodge complaints about any aspect of prison life and have those complaints investigated and answered in writing within 10 days. Holding the staff accountable in this way had the effect of setting norms against which the legitimacy of decisions could be measured. This clearly affected the authority and power of the guards and created a new level of uncertainty. Nevertheless, Stateville could no longer cope with the demands of prisoners, interest groups, and the courts and still maintain control without the governance of a rational, legal bureaucracy (p. 103).

Anthony Guenther and Mary Quinn Guenther (1980: 162) agree that this uncertainty is a factor in correctional work, in contrast to other occupations, due to the artificial nature of the relationship between the captives and the captors, their need to physically coexist, and the intensified emotions within the prison environment. They see these factors as producing a "unique organizational climate" (p. 166). As one lieutenant close to retirement at a prison in Atlanta told them,

The toughest part of this job is the anticipation that goes with each watch. You're constantly under stress because you don't know what will happen, much less what you can do about it until it breaks. No one can remain alert month after month, year after year to all the things that can go wrong in this old place (in Guenther and Guenther 1980: 169).

For the staff at this prison, a normal day would be made up of a number of inmates becoming ill, inmates refusing to work and violating regulations, and others whose conduct was influenced by personal problems; in each case, a guard would be involved in an incident, the terms of which would be unpredictable. Kelsey Kauffman (1988: 214) recalls one officer who drew a parallel between the anxieties generated by working at Walpole Maximum Security Prison in Massachusetts to the months he had spent patrolling a military base perimeter in Vietnam. Kauffman (p. 234) found that many guards were unable to divorce themselves from prison work when at home and tended to adopt the same commanding, aggressive attitude toward their family members as they did toward inmates. Many would become apathetic and withdrawn and refrain from discussing their work at all, believing that no one could understand the prison environment unless he or she actually worked there. These circumstances would cause them to turn more and more to their fellow guards for companionship and less to their families.

What does the history of Stateville Prison tell us about ethics and ethical norms in the prison environment? Insofar as the history of Stateville can be considered a representative history of correctional change, it shows how the discretion given to prison guards over their captives changed over time, as an authoritarian regime relying on inmate informers and favors, such as awarding administrative jobs to selected inmates, and a regime of intense supervision and an extreme level of discipline was replaced with an administration accountable to the courts and an environment where radicalized prisoners practiced social activism, political rhetoric, and ideology. As the nature of the prison population changed, so did interactions between guards and inmates, and in terms of ethical standards, a level of uncertainty in relations between guards and prisoners was generated as traditional prison attitudes were radicalized. With the coming of professional administration after 1970, a new managerial approach introduced different levels of governance and a much more legalistic relationship between guards and prisoners. Now, administrative regulations replaced guard discretion, but rules were nevertheless broken because of an absence of clearly defined job responsibilities. Over time, guards became subject to oversight through grievance procedures, and an atmosphere in which ethical conduct could be monitored by prison administrators and by the prisoners themselves replaced the certainties and absolutism of the early period.

A Closer Look

American Correctional Association Code of Ethics Preamble

The American Correctional Association expects of its members unfailing honesty, respect for the dignity and individuality of human beings, and a commitment to professional and compassionate service. To this end, we subscribe to the following principles.

Members shall respect and protect the civil and legal rights of all individuals.

Members shall treat every professional situation with concern for the welfare of the individuals involved and with no intent to personal gain.

Members shall maintain relationships with colleagues to promote mutual respect within the profession and improve the quality of service.

Members shall make public criticism of their colleagues or their agencies only when warranted, verifiable, and constructive.

Members shall respect the importance of all disciplines within the criminal justice system and work to improve cooperation with each segment.

Members shall honor the public's right to information and share information with the public to the extent permitted by law subject to an individual's right to privacy.

Members shall respect and protect the right of the public to be safeguarded from criminal activity.

Members shall refrain from using their positions to secure personal privileges or advantages.

Members shall refrain from allowing personal interest to impair objectivity in the performance of duty while acting in an official capacity.

Members shall refrain from entering into any formal or informal activity or agreement which presents a conflict of interest or is inconsistent with the conscientious performance of duties.

Members shall refrain from accepting any gifts, service, or favor that is or appears to be improper or implies an obligation inconsistent with the free and objective exercise of professional duties.

Members shall clearly differentiate between personal views/statements and views/statements/positions made on behalf of the agency or Association.

Members shall report to appropriate authorities any corrupt or unethical behaviors in which there is sufficient evidence to justify review.

Members shall refrain from discriminating against any individual because of race, gender, creed, national origin, religious affiliation, age, disability, or any other type of prohibited discrimination.

Members shall preserve the integrity of private information; they shall refrain from seeking information on individuals beyond that which is necessary to implement responsibilities and perform their duties; members shall refrain from revealing nonpublic information unless expressly authorized to do so.

Members shall make all appointments, promotions, and dismissals in accordance with established civil service rules, applicable contract agreements, and individual merit, rather than furtherance of personal interests.

Members shall respect, promote, and contribute to a work place that is safe, healthy, and free of harassment in any form.

SOURCE: American Correctional Association 1990. Adopted August 1975 at the 105th Congress of Correction; revised August 1990 at the 120th Congress of Correction; revised August 1994 at the 124th Congress of Correction. Reprinted with permission from the American Correctional Association.

❖ Guarding Ethically

The modern era of corrections brought with it a set of written ethical standards for correctional officers and management. The Code of Ethics shown in the Closer Look box on the following page balances the welfare and legal rights of prisoners with obligations toward colleagues and

the public. There are specific rules prohibiting corruption in the form of gifts, personal privileges, and conflicts of interest. There is also an obligation for staff to report corrupt or unethical behaviors as well as a declaration of commitment to professional and compassionate service.

Commentators and correctional administrators have offered their own views about correctional ethics. The former commissioner of corrections in Massachusetts, George A. Vose Jr., articulated a philosophy of corrections around the concept of "good citizenship." He saw offenders mainly as individuals who had failed in their obligations as citizens (in Carroll 1998). This failure was often the result of their having received fewer benefits from that citizenship than others. He argued that if offenders are to become responsible citizens, it was essential that they were treated in a civil manner by correctional authorities, whose task was to model good citizenship by protecting certain fundamental rights. According to Vose, prisoner rights include "the right to safety, adequate care, personal dignity, meaningful activity, [and] ample opportunity for self improvement and hope for the future" (in Carroll 1998: 262). Inmates on whom these rights are conferred must in turn act responsibly and respect the rights of others, and those inmates who do not act accordingly should be called to account through the firm, consistent, and lawful enforcement of correctional rules and regulations.

In his discussion of ethics in corrections, John Kleinig (2001: 7) singles out the issue of punishment as central. He emphasizes that it is incarceration itself that is the punishment, and that the purpose of incarceration is not to administer additional punishment over and above the inmate's deprivation of liberty. It is true that confinement and deprivation of liberty carry with them other deprivations, but he argues that these need to be related to the deprivation of liberty and must not be constructed so as to impose additional penalties. For example, control over visits may be justified as part of prison security but ought not to invalidate other practices concerning visitation and conjugal relations. Similarly, searching prisoners can also be justified on grounds of security, but the predominant practice of strip searching¹ may be considered as carrying an element of humiliation outside the bounds of proper security considerations. As Kleinig specifies, inmates "do not forfeit their essential humanity" (p. 7). Treatment that is intended to degrade or dehumanize inmates is not authorized by the sanctions society has imposed on them. Ultimately, most inmates will reenter society, hopefully having learned during incarceration more about their social responsibilities.

Agreeing with Kleinig, Richard Lippke (2007: 2), in suggesting the need for a normative theory of imprisonment, argues that many countries imprison offenders under conditions that cannot be morally justified. As he puts it, "Harsh and restrictive prison conditions, combined with disrespectful or abusive treatment of inmates, sends the message that offenders are contemptible, little more than dangerous wild animals to be severely chastised and restrained" (p. 3). In relation to conditions of confinement, Lippke makes a case for "minimally restrictive and reasonably humane prison conditions" in contrast to "extreme conditions of confinement" (p. 104). The latter category equates to supermaximum security prisons, and Lippke argues that as a matter of morality we ought to prefer minimum conditions that are more consistent with the aims of punishment. Lippke's view is that basic prisoner welfare demands that prisoners receive adequate food and nutrition, are protected from violence, are not exploited or preyed on by others, receive physical and mental health care, live in clean and properly ventilated accommodation with adequate heat or air conditioning, wear appropriate clothing, and are provided with the means to maintain personal hygiene and enjoy some degree of privacy (p. 112).

Kleinig (2001: 9) suggests that a correctional ethic should also take account of the roles played by guards, especially of how they interact with their co-workers, the way in which their work is coordinated with others employed in the prison system, and the connections they make with the correctional administrative structure. There will also be ethical considerations in relation to the larger society and to institutions like legislatures. Relations where strong power differences

¹ As Margaret Leland Smith (2001: 34) notes, the process of a strip search involves a presentation of nakedness and an inspection of body openings, during which mouths and ears are pulled open and the inmate is required to bend over and pull open the vagina or anus using the fingers and to cough energetically.

exist, where conflicts of interest are likely, or where decisions are made in uncertain situations are all areas where particular attention to ethics is needed. As Kleinig (p. 10) notes, Kauffman's description of the prison system in Massachusetts portrays a culture where guards are corrupted and inmates are denied their humanity; these concerns are repeated in Ted Conover's (2001) work, where he portrays the correctional training process as a course in "emotional detachment" and "degrading treatment." It is significant that, as Conover reveals, there was no ethical content in his correctional training, and, as Kleinig points out, "An academy training that fails to focus explicitly and pervasively on the ethical dimensions of correctional work undermines any claim it may have to professionalism" (p. 11). Margaret Leland Smith (2001) argues that the "intractable brutalities that inhere in the practice of imprisonment" (p. 30) make it extremely difficult to establish any moral basis for the role of a prison guard. She calls attention to the failures that have occurred within the prison system as a whole, causing the federal courts in the 1970s and 1980s to impose oversight on prison practices to ensure compliance with constitutional norms of conduct.

More recently, human rights activists have shown how brutalizing and degrading practices continue to exist in the prison system. Similarly, Derek Brookes (2001) claims that "anything posing as a correctional ethics is a nonsense" (p. 40). Z. W. Henriques (2001: 194) agrees that the operation of a humane correctional system is rendered almost impossible, because correctional practice has retribution as its dominant ideology, and in institutions where inmates' rights are easily violated, it is easy to ignore ethical and professional standards of conduct. In the case shown in Case Study 6.1, the U.S. Supreme Court decided that the guard's failure to respond to the threat of violence against Dee Farmer amounted to "deliberate indifference."

Case Study 6.1 Male Prison Rape and "Deliberate Indifference"

Dee Farmer, a young African American man, was brutally raped while serving a 20-year prison sentence (Wyatt 2006: 585). As a preoperative transsexual, Farmer "projected female characteristics" when he entered the prison and was consequently viewed as a problem case for the Federal Bureau of Prisons. Despite his protests, prison staff classified Farmer as male and placed him in general population with other male prisoners, which left him a target for sexual assault (Vaughn 1996: 141). Farmer was sometimes housed in general population but more often in protective custody and was therefore kept away from other prisoners. After being transferred to a federal penitentiary for disciplinary reasons, he was placed in general population with more "troublesome prisoners" and again found himself the victim of physical and sexual assault.

In a lawsuit against the prison administration, Farmer claimed that prison officials were "deliberately indifferent to his constitutional rights to be free from inmate-against-inmate assault" (Vaughn: 1996: 141). In its decision in *Farmer v. Brennan* (1994), the U.S. Supreme Court held that "deliberate indifference resides on a continuum between mere negligence . . . [and] something less than acts or omissions for the very purpose of causing harm or with knowledge that harm will result" (p. 141). The Court also held that prison officials violate the Eighth Amendment when they "deliberately disregard the occurrence of male rape" (Wyatt 2006: 585). The Court noted that "prison officials have a duty under the Eighth Amendment to provide humane conditions of confinement. They must ensure that inmates receive adequate food, clothing, shelter, and medical care, and must protect prisoners from violence at the hands of other prisoners. . . . A constitutional violation occurs only where the deprivation alleged is . . . 'sufficiently serious' . . . and the official has acted with 'deliberate indifference' to inmate health and safety" (*Farmer v. Brennan* 1994).

❖ The Experience of Guarding

To understand how ethical issues arise in the practice of corrections, it is necessary to contextualize the experience of guarding. This contextualization can expose the anxieties and pressures faced by guards within the prison environment. A number of authors (Conover 2001; Crouch

1980b; Lombardo 1989) have pointed to common characteristics in those choosing a career in corrections. In particular, they note that people do not typically aspire to become prison guards; rather, seeking this work is often a reaction to the need for employment or is a result of unexpected job changes. For most seeking positions as guards, job security and a regular salary are paramount. In many rural areas, working in the prison system represents the only form of employment, and the prison offers the opportunity to remain in the local environment rather than having to travel to the city for work.

Lucien Lombardo (1989: 140) explains that about one third of the officers he interviewed at Auburn Prison considered danger and mental tension as the most dissatisfying parts of their job. From their point of view, *danger* referred not to the likelihood of violent events, but to the unpredictability of a violent occurrence. Conover (2001: 82) reports one incident in Sing Sing involving an inmate porter who had been sweeping the flats outside the cells with a push broom. When another inmate appeared, the porter attacked him, broke the broom handle over his head, and then tried to spear his face with the splintered ends. Most guards consider prison violence a constant possibility that might result from seemingly arbitrary events, and they believe in their ability to sense the likelihood of violence through their awareness of behavior patterns within the prison.

Guards frequently experience personal challenges from inmates. It follows that security and control are fundamental tenets of guard work, because inmate misconduct not only threatens the prison order but also may impact the guards' personal safety (Crouch and Marquart 1980: 89). This concern for security and order tends to cause guards to view suspiciously any events that interrupt prison routines. For instance, the entry of "free world" treatment personnel into the prison is a particular cause of concern for most guards, who believe that outsiders know very little about inmates and fail to appreciate the need for constant security. Nonetheless, as was explained to Edgar May (1980: 111) by one prison commissioner, guard attacks on inmates have been greatly reduced because prisons are now far more open to outsiders. However, according to the same prison commissioner, when there is a physical conflict between a guard and an inmate and force is used to bring the inmate under control, inmates commonly claim that the guard "gets in a few extra licks" (p. 128). According to Ben Crouch and J. Marquart (1980), additional tenets of guard work taught to new recruits include the need to maintain social distance from the inmates and the dictum that guards must be "tough, knowledgeable, and able to handle inmates" (p. 90). *Knowledgeability* relates to the need for guards to understand the informal rules and processes that shape daily prison interactions and how to avoid being manipulated by inmates.

Guards are concerned about the lack of inmate understanding of their situation, especially in view of the fact that the inmates want the guards to understand their position. Some guards pointed to the sarcasm and perpetual insults they receive from inmates on a daily basis, which they say creates a hostile environment for them (Lombardo 1989: 143). Similarly, guards felt that they lacked the support of their supervisors and administrators, saw themselves as working against everyone, and felt isolated from both inmates and supervisors. G. L. Webb and D. Morris (1980: 150) found that guards perceived prison administrators as outsiders with political connections whose main focus was "looking good" and who did not possess the guards' knowledge of the institution and the inmate population.

The guards in Lombardo's study showed a particular concern for what they regarded as benefits conferred on inmates by the state department of corrections (1989: 155). For these officers, programs like work release, education release, and the ability for an inmate to receive a college education were considered improper benefits for inmates, because in their view, inmates were obtaining work while law-abiding citizens were unemployed.

Corruption of Authority

The notion that a guard's authority over inmates can become corrupted is well established in correctional studies and is frequently referred to as a category of ethical misconduct. In essence, *corruption of authority* refers to a practice by guards of deliberately refraining from enforcing prison rules and regulations.

Contrasting police and prison guards' use of discretion, Lombardo (1989: 201) notes that when a policeman decides whether and how to enforce the law, this decision is considered an exercise of his or her discretion; however, when a guard decides when and how to enforce rules, his or her decision is constructed as an exercise in corruption of authority. This is because deciding not to enforce the rules is perceived by guards as necessary to gain inmate cooperation and is a reflection of the guards' relative powerlessness. Both decisions are exercised with discretion, but the police action is cast in positive terms and the guard's decision in negative terms, thus reflecting the general perception that guard work is distasteful, unrewarding, and of low, nonprofessional status.

Sykes (1958/1999) describes the corruption of authority, and Crouch and Marquart (1980: 77–78) summarize two other forms of potential corruption. The first is the loss of authority that may arise when guards become too friendly with inmates and fail to maintain the required social distance. This may be particularly prevalent with new recruits when the new guard feels herself or himself to be closer to the inmates than to superiors. The second form of potential corruption involves handing over guard tasks to inmates. When inmates carry out duties like mail delivery and housekeeping, the guards may become dependent on their labor, and to that extent, their authority may be undermined or dissipated. Webb and Morris (1980: 150), in their interviews with guards, found that although guards frequently commented on the need for discipline and thought that strict discipline was good for inmates, they were also quick to point out the need not to go strictly by the book, that rules were made to be broken, that rules were not absolutes, and that a commonsense approach had to be taken in applying discipline.

James Hepburn (1989: 191) discusses how guards operate as agents of social control and draws attention to the "role ambiguity" that guards experience as a result of having to perform both treatment and custodial roles. The *treatment* role requires that guards demonstrate helping behaviors, enforce the rules with discretion, and establish a degree of personal relations with inmates. In contrast, the *custody* role calls for impersonal relationships, a controlling demeanor, and complete enforcement of prison rules. As well, role ambiguity is created when vague or contradictory instructions determine how the role is to be exercised. While guards are expected to show flexibility and discretion, they are still liable to be disciplined themselves if they violate or allow inmates to violate prison rules. Guards are also dependent on prisoners for their own physical safety, and they depend on inmates for the successful fulfillment of their own duties (p. 193). For example, inmates may resist guard control through work slowdowns or an increase in disciplinary problems, and this tends to focus the prison administration on a guard's inability to maintain control. Guards, therefore, may have to depend on prisoner cooperation to demonstrate their ability to manage prisoners and to obtain recognition and promotion. At the same time, guards may not be provided with adequate or clear rules for managing a potentially hostile inmate population.

❖ Power and Authority in Prison: Controlling the Inmates

The most obvious fact about the prison environment is that guards are vested with power and authority over the prisoners and exercise that power to control them in accordance with prison rules and regulations. A number of studies have attempted to explain the basis and nature of this coercive power and authority. It is the exercise of this power that creates ethical issues and dilemmas.

In his conceptualization of power in prisons, Hepburn (1985: 146) catalogs five forms of power: legitimate power, coercive power, reward power, expert power, and referent power. With *legitimate power*, guards are invested with authority to command as a result of their position as a guard of prisoners. It is the position of guard itself within the institutional structure that confers the right to give instructions and to be obeyed. In other words, a guard's orders are obeyed because they are the orders of a guard, and prisoners comply by virtue of their status as prisoners. In a 1981 survey of prison guards at New York's Auburn Prison, Lombardo (in Hepburn 1985: 46) found that nearly half of the 50 guards surveyed believed the source of their power over prisoners derived from their position as enforcers of prison rules.

Coercive power is based on inmate perceptions that guards have the capacity to punish prisoner disobedience. As was discussed earlier, Sykes (1958/1999) notes that guards who rely on this kind of power run the risk of prisoner retaliation as well as the risk that their superiors will question their ability to exercise control over inmates.

Reward power describes situations where prisoners perceive that guards are able to issue rewards, for example, through making recommendations to committees dealing with matters such as work assignments, participation in programs, and release on furlough. The fact that guards may confer rewards is itself a basis of power. However, as a result of bureaucratic and judicial action, guards nowadays are less able to influence internal decisions than they have been in the past. Nevertheless, although the ability to make these formal rewards may have lapsed, a system of informal rewards has been sustained under which guards will compromise with prisoners on the basis of reciprocity. This form of reward making encompasses such things as the toleration of minor rule violations, petty stealing, and making concessions to inmate leaders.

Expert power derives from the prisoners' perception that guards have some special skill or expertise. Such power is especially likely to arise in prisons where treatment is emphasized and where guards are seen as part of the overall therapeutic environment. This power may be undermined by the unwillingness of prisoners to acknowledge the competence of guards as well as through bureaucratic administrative procedures that reduce guard autonomy and consequently provide them with fewer opportunities to demonstrate expertise.

Finally, *referent power* is the power a guard exercises as a result of gaining the respect and admiration of prisoners. Here, the guard's personal qualities, including in particular leadership skills and success in the art of persuasion, give some guards what Lombardo calls "personal authority" (1989: 149). Guards with this power are considered fair in their relations with prisoners, as showing a degree of respect for them, and as not acting out of malice or in an arbitrary manner.

In his survey of how these kinds of power operated in one prison, Hepburn discovered that prison guards thought that their powers of control derived largely from their position as guards—that is, from their legitimate authority—and from their reputation for competence and good judgment (i.e., Lombardo's "personal authority") (1985: 155). Of the five bases of power, guards considered legitimate and expert power to be instrumental in ensuring prisoner compliance, followed by referent power, coercive, and finally, reward power. Also, the greater the guard's experience, the greater the importance he or she attached to expert power and the less importance was placed on coercive and legitimate power (p. 160).

Lombardo (1989: 93) developed a typography of guard authority comprising *personal authority* and *legalistic authority*. In his survey of guard attitudes toward inmates, over 60% of the guards perceived that their authority derived from their personal style of presentation—that is, from the way they handled and dealt with inmates—and from their interactions with inmates. These officers did not feel that rules or the fact that they were wearing a uniform endowed them with authority, and they thought it was necessary to develop and, in effect, *earn* the necessary authority, the key to which was the ability of the guard to get an inmate to recognize the legitimacy of his authority. Most agreed that consistency was key in gaining legitimacy. However, earning legitimacy was seen to be a long-term process, and some officers suggested that a period of 5 to 10 years was required. These guards saw reliance on rules as unnecessary once a guard had developed a realistic appreciation of his own abilities and of inmates' expectations. At this point, rules no longer constituted a major source of authority and were deemed necessary only in extreme cases. The more experienced officers thought that the younger guards, who were unsure of themselves, would experience more difficulty in gaining compliance from inmates. They considered that interactions with inmates about rules could erupt into major confrontations, principally because the younger guards would be anxious not to "lose face" and have what they considered their weak authority diminished further (p. 94).

In the case of legalistic authority, a group of guards thought their authority derived from legal foundations, and they saw no need to earn the right to it. They saw themselves as a part of the criminal justice system having lawful authority over those who had broken the law. Some thought this legally based view of authority derived from their job description as a correctional officer, whereas others considered its origin to be the rules and regulations of the institution, backed up with support from the prison administration (Lombardo 1989: 97).

Those professing a belief in personal authority as well as those favoring legalistic authority agreed that full enforcement of institutional regulations would effectively cause the institution to cease operating, because all inmates would be forever locked down for rule violations. As a whole, guards were always cognizant of the actual or potential impact of any inmate's conduct on the guards themselves, on other inmates, and on the overall climate within the institution. As well, most agreed that it was not the rules per se that created problems but inconsistencies in rule enforcement, a matter of great concern to the inmates (Lombardo 1989: 99).

The Battle for Compliance

According to Sykes's 1958 study, prison officials saw themselves engaged with the prisoners in a "battle for compliance" that superseded any task of reform or rehabilitation (1958/1999: 38). To support this observation, he points to the existence of violence, sexual violence, and theft as commonplace events within prisons. One might think that the prison bureaucracy would be able to impose its will on the inmates in an unchallenged fashion and would be able to act in an arbitrary or capricious manner if it thought fit. However, Sykes insightfully observed that the prison guards were in fact "engaged in a continuous struggle to maintain order" and that their dominant position did not reflect the prison reality (p. 42). He concluded that the reason the guards needed to negotiate their power rather than simply enforce their authority arose in part from constraints imposed on guards' use of force by the prison society. Physical coercion, while it might seem an obvious way of enforcing an authoritarian rule, was simply ineffective, and guards had to fall back on a system of awards and punishments in negotiating order with the inmates. Physical violence was always affected by the low guard/inmate ratio and by the danger that using violence might touch off further violence.

Evaluating Guards

The close, intimate relationship and association between guards and prisoners in the New Jersey State Maximum Security Prison in Sykes's (1958/1999) study gave rise to a relationship of reciprocity, because guards could not remain distant from inmates or completely withdraw from them. Guards would be evaluated by their supervisors on their ability to control inmates; they would want to demonstrate that they were able to perform their tours of duty with the minimum amount of trouble; and they would always be aware that riots and hostage taking are possible causes of ruptures in the negotiation of power. This view of evaluating a guard's capability to handle inmates is supported by Eric Poole and Robert Regoli (1980: 221), who found in a survey of guards that a high rate of disciplinary action was perceived by superiors as evidence of poor work performance and of an inability to handle inmates. This is an inevitable consequence of evaluating guards in terms of the inmates they control. Similarly, in a study in three California prisons, Daniel Glaser and Lincoln Fry (1987: 34) found that a clear majority of staff at all three institutions agreed with the statement that officers reporting all rule violations coming to their notice would be seen by supervisors as individuals who could not control the inmates on their units.

Rewards and Punishments

Sykes (1958/1999: 50) does not think that the use of rewards and punishments offers an adequate basis for guards to enforce control. He considers that punishments are insufficiently different to the regular routine of prison life to count for anything and notes that rewards are already offered

at the start of a prison term, principally in the form of “good time.”² Thus, privileges and rewards are not specifically tied to everyday conduct and compliance but are already granted, and this means there is an absence of any ongoing positive incentives for either guards or inmates (p. 52). Sykes argues that ultimately the authority of the guards is corrupted by their having to continually compromise with their captives so that, paradoxically, their dominant position can only be enforced through accommodations with inmates (p. 58).

In her study of the prison system in Massachusetts, with a central focus on Walpole, the maximum security prison, Kauffman (1988: 54) discusses inducements and rewards and finds that at Walpole, in particular, systematic rewards for inmates were essential to ensure their sustained cooperation. For example, inmate workers in the institution were allowed to obtain food from the kitchen, and even small tasks performed by inmates prompted award giving. According to Kauffman (pp. 54–55), although rewards might be limited to a packet of cigarettes or buying an inmate a soda, guards might offer more significant rewards in the form of contraband (especially drugs), information, and refraining from prosecuting inmate offenses. Nevertheless, award giving was not without its dangers, including these possibilities:

- Inmates might try to corrupt guards and make allegations about officer corruption (such allegations were regularly made).
- Rewards might be used by inmates to blackmail guards to ensure the continuation of those rewards.
- The rewards themselves might cause disputes or even violence among inmates unless they were evenly distributed.
- Valuable rewards such as drugs would engender more conflict.
- Officers engaging in the reward process ran the risk of endangering their own fellow guards—for example, through bringing drugs into the prison.
- Rewards might not be adequate to induce compliance.

Enforcing Rule Violations

Based on his study, Lombardo (1989: 105) maintains that the process of corruption is far more complex than Sykes describes it and that although inmate cooperation with guards is a factor, the relationship between guards and inmates with respect to rules also plays a part in handling minor rule violations. Guards who write violation reports for minor offenses are seen by the inmates as lacking the ability to handle things on a man-to-man basis and as having a strategy designed to avoid losing the cooperation of the inmates by creating tensions over minor rule violations. Minor violations included failing to shave or have a haircut and violating rules concerned with cell neatness, a common occurrence (p. 106). The guards’ focus was very much on the use of rule violations within an ongoing testing process with the inmates. Informing the inmate of a rule violation rather than writing a citation for it was not considered an exercise of leniency. Instead, it was regarded as an act of strength, because the guard was asserting his control over the situation, and by not writing a citation, the guard was demanding the inmate’s acknowledgment of the guard’s control (p. 109). Like police officers dealing with the public, the

²The term *good time* refers to the proportion of the inmate’s sentence that is deducted for “good behavior.” In indeterminate sentences, this time is automatically deducted from the sentence imposed by the court, unless the inmate commits a new offense while in prison or violates disciplinary rules that result in a reduction of the reduced period of the sentence. Although the deducted period in indeterminate sentences is automatically applied if there are no violations within the prison environment, it is considered “earned” on the basis of the inmate’s good behavior. Indeterminate sentences were developed under the rehabilitative model of punishment. However, the fact that good time is automatic except when violations of prison rules occur can reduce its value as an incentive. In cases where the court sentence specifies a determinate sentence, the possibility of good time does not apply. Determinate sentences without good time are the result of “truth in sentencing” policies.

inmate's attitude or perceived attitude becomes crucial in determining a guard's response to a minor rule violation; many guards in the Lombardo study perceived inmate attitude as more important than actual conduct. Clearly, guards are alert for challenges to their authority and person, and are prepared to interpret conduct as a personal challenge, sometimes pursuing questions of attitude and ignoring the behavior that prompted the interaction with the inmate. One guard summed up his view of inmates' behavior as follows:

Seventy to seventy-five percent there's no problem with. Tell them to do things and they do it. They look at the CO as doing a job. But fifteen to thirty percent you have problems with regardless. They hate the world and the CO's because they deal with the CO's most frequently and the CO's represent the state. Those guys give you lots of problems with drugs, extortion and verbal abuse. They're constantly into something (in Lombardo 1989: 115).

Guards pointed out that inmates are better educated and more organized than before and move in groups that are involved in drugs and extortion (Lombardo 1989). They stressed that control within the prison is now in the hands of younger inmates and gangs rather than with the "old timers," as was previously the case.

Noting the changes at Auburn Prison between 1976 and 1986, guards affirmed that violence and drugs were now factors that were not present in 1976, that individual discretion had been replaced during that period by formal procedures requiring staff to give explanations to inmates, and that this change had rendered them more accountable (Lombardo 1989: 121). One outcome of this reduced discretion is that guards no longer perceive themselves as participants in the functioning of the institution and that they sense a lack of support from administrators. These perceptions have created a greater sense of isolation, because guards feel alienated both from the workplace and from the administration.

Informal Controls

In addition to formal controls over inmates through the formal disciplinary process, it is common within the prison environment to find that guards exercise various informal controls. Again, the operation of these controls can produce ethical issues and dilemmas.

An example of these informal controls operated within the Massachusetts state prison system. Writing disciplinary reports was not seen as an appropriate means of maintaining control, because writing reports for rule breaches resulted in inmate threats of reprisals, derision from fellow guards, and a general loss of respect for the ticket writer (Kauffman 1988: 62). Kauffman found that most guards rarely wrote disciplinary reports except for major infractions. The actual disciplinary sanctions that might be imposed were limited and did not substantially affect a prisoner's status, because they were restricted to loss of "good time," being placed in isolation, or being relocated to a more secure block within the prison. The limited sanctions meant that guards considered writing disciplinary tickets a waste of their time, and they therefore resorted to informal punishments. As one guard put it, "If you give them your own type of punishment they'll think more" (in Kauffman 1988: 64). At Walpole, a guard might resort to locking inmates in their cells instead of issuing a disciplinary report for an infraction such as an inmate refusing to get back into line. This informal punishment would be implemented when the guard simply refrained from unlocking that inmate's cell during the daily prison routine. This practice of locking down the guilty inmate would be especially effective on Friday nights, because the inmate usually had to wait in his cell until Monday morning before he could see the deputy superintendent.

Similarly, Lombardo (1989) found that at Auburn guards sometimes resorted to unofficial action if they believed that established procedures would be ineffective. For example, an officer might submit a violation report on Friday knowing that no action would be taken on that violation until Monday. However, issuing the violation would have the effect of placing the inmate in "keep lock" for 2 days, whereas the actual penalty would probably have been less severe.

Other informal methods of control included guards flushing toilets back into particular cells, shutting off the electricity for an entire tier of cells, turning off the hot water, withholding toilet paper or matches, or even keeping back food (Kauffman 1988: 65). Sometimes, more indirect and secretive methods were employed, such as making inmates wait substantial periods of time before allowing them to make phone calls, denying access to writing paper, destroying an inmate's plants that he had carefully cultivated in his cell, or scratching a piece of furniture manufactured by an inmate in the prison factory. As one guard explained, "There's so many ways you can get these guys" (in Kauffman 1988: 66). These methods would often be employed as an alternative to physical reprisals that might provoke administrative action against the guards themselves.

Lombardo (1989) noted forms of informal control at Auburn. For example, one device included locking a man out of his cell for some time while others were locked in, isolating the inmate and causing a sense of anxiety. Guards also resorted to disconnecting an inmate's water supply or electricity supply and leaving a "keep lock" tag on a cell door, which would result in an inmate being locked up for a number of days until it was discovered that the tag was an error. Methods of getting back at inmates in an unofficial way included not informing an inmate of a scheduled appointment. In these extralegal approaches, it is important that the inmate is aware of the deliberate nature of the guard's action and appreciates that a message is being given that the guard can make the inmate's life uncomfortable (p. 101).

❖ Guarding With Discretion

As already noted, although guards' discretionary powers have been curtailed over time, they nevertheless continue to exercise significant discretion in carrying out their day-to-day tasks. Discretionary power can easily involve questions of ethical conduct, and some argue that it is preferable to limit discretion even more by expanding the written rules and regulations of the prison. Michael Gilbert (1999: 275) argues that administrators ought to allow correctional officers to exercise discretion whenever there is an absence of policy or where that policy is vague or inconsistent, on the basis that full enforcement of prison rules, policies, and procedures is an impossibility. The discretionary power of guards is shaped less by formal rules than by "an explicit understanding of the shared operational values and ethical principles that govern correctional practice" (Pollock in Gilbert 1999: 275). Gilbert calls for formal training to develop an ethical framework within which officers may exercise their discretion. He sees a need for managers to assist guards to understand the limits of their discretion but also to recognize that guards will make exceptions to rules that are "ethically defensible." He argues that if guard decisions are reasonable and in line with legal and ethical parameters, guards should not be disciplined for making reasonable exceptions to rules when they face complex situations. In situations when following the rules would make little sense or would constitute a danger to security, this approach, he suggests, should be supported even more. Conover (2001) also recognizes the discretionary powers of guards, writing,

After five months at Sing Sing, I understood. Experience mattered. More precisely, it took time (and confrontations) to decide (or to discover) what kind of person was going to be wearing your uniform. A hardass or a softy? Inmates' friend or inmates' enemy? Straight or crooked? A user of force or a writer of tickets? A strict overseer or a lender of hands? The job was full of discretionary power and the decisions about how to use it were often moral (p. 249).

Ben Crouch (1980) agrees that the quality of prison life for inmates has been affected by the increase in political and racial awareness and by judicial activism to the extent that inmates now have the ability to look outside the prison for the norms of prison life. As Crouch puts it, inmates became

increasingly able to compete with their keepers in the daily process of defining prison situations. That is, what was once an unambiguous case of rule violation may now be interpreted by inmates as a case of racial disrespect or legal deprivation (pp. 33–34).

Guenther and Guenther (1980: 162), in their research at an Atlanta prison, identified strategies that guards employed to minimize loss of control. These included the shakedown (locating and confiscating contraband), either routinely or on an ad hoc basis; using informers to locate contraband or gain information about potential violence or escape attempts; “the count” (counting prisoners at regular intervals becomes a core activity causing all other activities to be suspended); and the “siphon,” screening inmates to eliminate troublemakers and simplify the process of maintaining order, based on the belief that only a very small proportion of the inmate population causes trouble. In Atlanta, this latter method takes the form of maintaining a list of records of inmates with potential for trouble that guards consult from time to time.

Up to this point, we have discussed the experience of being a prison guard and how a guard's authority can become corrupted in different contexts. The power and authority of a prison guard seems absolute, but in fact is constantly being negotiated as guards make concessions to prisoners to gain their cooperation and to keep the prison routine running smoothly. Informal controls and rewards and privileges allow guards to circumvent the rules or to ignore the rules either as a strategy to reward prisoners for their cooperation or to punish them informally, but effectively. A major component of prison life for both guards and inmates is the prison guard subculture, which plays as important a role in the prison environment as it does in law enforcement (see Chapter 2).

❖ The Gray Wall of Silence: Prison Guard Subculture

The notion that an inmate subculture exists in prison was first proposed by Donald Clemmer (1940) in *The Prison Community*, where he argued that inmates take on the customs and culture of the penitentiary. Later studies, however, have proposed that features of the inmate subculture are imported into institutions by the inmates themselves and are not derived from the culture developed through prisonization.³ *Is there a guard subculture that parallels that of the inmates?* If so, is it imported, or is it generated by prison work itself? How does the guard culture impact ethical practice and standards?

In light of the popular image of prisons and guards suggesting that guards are brutal and uncaring and that inmates and guards maintain relations that are hostile and even violent, it is easy to argue that men and women become prison guards because the occupation of guarding captives appeals most to those who are sadistic and who enjoy exercising arbitrary power over the powerless. Kauffman (1988: 166), drawing on her experience as a prison guard and as a researcher in prisons, contends, however, that the importation model is inappropriate, and that the prison subculture as it relates to guards is fostered and maintained by the prison work itself. She explains that initially she entered the prison with sympathetic attitudes toward inmates and skeptical attitudes toward guards, but within a short period her sympathies had reversed. She observed that other new guards also appeared to be substantially influenced by their prison experience and underwent a similar transformation. Her own study of the issue suggests that neither importation nor prisonization by itself shapes guard recruits and the guard culture but that the culture appears to be the product “of a complex interaction of importation, socialization, deportation, and cultural evolution” (p. 167).

Kauffman (1988) argues that prison officers possess a distinct subculture, setting them apart from other professions. The central norms of this subculture inform their daily performance of duty. She distinguishes the norms shown in Figure 6.2, which she says amount to a code for prison guards.

³The term *prisonization* was coined and defined by Donald Clemmer (in Wheeler 1961: 697) as “the taking on in greater or lesser degree, of the folkways, mores, customs and general culture of the penitentiary.” The outcome, according to Clemmer, was that inmates internalized a “criminal outlook” that made them impervious to conventional values systems (p. 697).

Figure 6.2

The Prison Guard Code

<i>Norm</i>	<i>Comment</i>
Always go to the aid of an officer in distress.	This is the foundation for guard solidarity, applying to any officer in distress. It permits conduct that might otherwise violate bureaucratic norms. The norm applies whatever may be the standing of a particular guard, regardless of race or the guard's own record in responding to calls of distress. This norm is fundamental. Ignoring this norm is likely to result in a guard being ostracized by his or her co-workers.
Don't lug drugs.	This again is regarded as fundamental because of its potential for causing danger to co-workers, such as the possibility of violence by inmates acting under the influence of drugs or alcohol. Sanctions for breach of this norm include removal from the job and physical reprisal. Many guards are prepared to rat on an officer who violates this norm, and such ratting is supported by co-workers.
Don't rat.	This takes the form of not "ratting" on an officer to an inmate and never cooperating with authorities in an investigation or, worse, testifying against a fellow guard about a guard's treatment of inmates. Betraying a fellow officer to inmates is regarded as a great sin likely to jeopardize the other guard's safety and is associated with the taboo against giving inmates information about the identity and background of guards. As for testifying against other guards, Kauffman found that the norm was not absolute. Where an inmate was killed, at least some guards would take into account the circumstances of the death and the identity of those involved and would consider testifying against the responsible guard(s). Guards who opposed violence but felt the need to show loyalty to their co-workers found this norm very troubling, and those who violated it would never work again at that prison.
Never make a fellow officer look bad in front of inmates.	Violations of this norm are perceived to undercut guard solidarity and enhance the vulnerability of guards as a group. This injunction extends to an unwillingness to stop fellow guards taking part in a beating at least while it is in progress.
Always support an officer in a dispute with an inmate.	This is the counterpart of the above norm and reflects the belief that a guard ought to supply unquestioning support to his or her co-workers, especially in the face of inmate resistance and unreliable support from prison administrators. Unlike behavioral norms, the sanction for the violation of this norm was less severe. For example, a guard might refuse to sign a disciplinary report for a violation that he or she had not personally observed but would not be sanctioned because someone else would be found to sign that report.
Always support officer sanctions against inmates.	This goes beyond general support for co-workers and extends into active participation in applying informal sanctions such as physical force and coercion in response to inmate violence. Among the guards, Kauffman found some differing perceptions about the adherence to this norm. For example, whereas many new guards felt they had to participate in a situation involving beating up an inmate or be judged an outcast, others consistently refused to take part, or would deal with situations without using violence. In such instances, fellow guards might frown on not becoming the aggressor. Kauffman found that a few guards, well regarded by their co-workers, sometimes intervened to stop beatings and did not incur any sanctions for doing so other than a short period of rejection by their co-workers.

(Continued)

(Continued)

<i>Norm</i>	<i>Comment</i>
Don't be a white hat.	This prohibits any conduct indicating sympathy or identification with inmates, and this is the norm most easily and regularly violated. Breach of this norm is perceived as likely to jeopardize fellow guards who did not themselves show leniency or sympathy to inmates. Although it is considered appropriate to be respectful of inmates and engage in small talk, deep conversations with inmates are disapproved, and guards who cross that line are likely to be termed "Joe nice-guy." Nevertheless, senior guards who do not violate any other norms concerning guard/inmate relations enjoy considerable discretion in adhering to this norm.
Maintain officer solidarity against all outside groups.	This relates to outsiders such as the administration, the media, and even a guard's own family. It reflects the general feeling found by prison researchers among guards that the prison administration does not care for them, neglects them, and has no confidence in their abilities. Relations between guards and those outside the prison, as regulated by this norm, require that guards never talk about the institution to outsiders, especially the news media, because journalists are seen as allied with inmates and not capable of adopting the guard perspective. Speaking to journalists is considered so serious that a violation would invoke a sanction similar to that applied to those testifying against their co-workers in court. Although many guards refrain from talking about their work to their families to avoid creating concern and worry about the dangers of their job, others adopt the view that no one could possibly understand the job and this includes members of a guard's family.
Show positive concern for fellow guards.	Although this covers a range of conduct, Kauffman identifies two situations: Never leave another guard a problem, and help your fellow guard with problems outside the institution. Leaving problems for other guards to address can include causing problems in a fellow guard's block or leaving at the end of a shift with an outstanding problem that must be faced by the incoming guard. Kauffman notes that in practice, this norm is widely violated, largely because there are few sanctions that can be imposed from one shift to another. In relation to problems outside the institution, the ideal guard helps out fellow guards by offering assistance to the family if a guard is injured or by taking up collections to meet debts.

SOURCE: Kauffman 1988: 86–117.

Kauffman's (1988) prison guard code highlights a number of situations where guards, in supporting a particular norm, would likely be acting unethically. For example, helping other guards beat an inmate would usually be regarded as unethical conduct but from the guard's point of view would conform to the norm that a guard must always support another guard against inmates. Clearly, there is considerable scope for conflicts to occur between ethical standards and the norms of the prison subculture.

Subculture and Socialization

Guard recruits are socialized to the guard subculture during their training, and their individual motivation for joining corrections may contribute to their socialization. Looking at the motivation of guard recruits, Kauffman (1988: 170) found that the guard occupation appealed to those who were unemployed or were from communities in which any state job was considered a significant benefit. More than half of the 40 recruits in her study gave financial considerations as their only or primary reason for becoming prison officers, and recruits were typically drawn from locations with high unemployment rates where any state job was welcomed, not only by the individual, but also by his or her family members. Some recruits gave social work motivations for seeking employment as guards, seeing the prison guard career as a stepping-stone to other careers

in criminal justice. Some 20% of those interviewed gave their main motivation as a desire to become law enforcement officers, and this group would seem to be the one most attracted by the power and authority enjoyed by guards (p. 175). This group exemplified the stereotype of the prison guard (the “frustrated cop”) for whom corrections is a second choice but at least gives them the opportunity to sanction criminals in the prison if not on the street. This group focused mainly on family tradition and their wish to achieve status within the community. In terms of tradition, a number of groups were the sons or relatives of police or prison officers, and others saw themselves as having grown up with the law.

When the recruits as a whole were asked to respond to hypothetical dilemmas involving inmates, most approved of a guard acting in a sympathetic manner toward inmates. For example, 95% responded that an officer who broke up a fight between inmates should investigate the cause but do nothing if the fight was not serious, instead of giving the inmates an automatic disciplinary charge (Kaufmann 1988: 179). In terms of ethical standards of conduct, 45% approved of an officer not intervening if he or she observed fellow guards assaulting an inmate (p. 180). This question evoked the least sympathetic response toward inmates.

In discussing the socialization of prison guards, Kauffman (1988: 186) found that guards tended to appropriate the values of the prison over their own established behavioral norms. There was a considerable dichotomy between the formal training program the guards had undergone and their on-the-job training at Walpole, because the new recruits were left on their own to handle difficult and dangerous positions within the institution without, as they perceived it, receiving any substantial support from the administration. To add to their burden, new officers received little or no support from their fellow guards, who tended to show indifference to their plight, even ignoring them altogether beyond the minimum communications necessary to change shifts. Conover (2001) reports a similar experience at Sing Sing (see Chapter 4).

Kauffman (1988) discusses how the new recruits found themselves in a state of depression about the institution and the inmates, seeing themselves faced with the reality of violence and the pervasive atmosphere of fear. Therefore, in contrast to typical guards, recruits entered the prison tasked, as a result of their training, with the aim of being sympathetic to inmates. Once there, they were thrown into a hazardous and difficult job, suffering isolation from colleagues and feeling the same degree of alienation from the administration and inmates. To survive, guards had to give up old values and norms of behavior and adopt those of the officer subculture (p. 198). Kauffman explains that some guard recruits were unable to vary their behavior toward inmates, and as a result of making their sympathy toward inmates widely known, became casualties and were expelled by their fellow guards, who would respond angrily and with resentment to their liberal views about inmates (p. 206). These recruits suffered complete isolation (one was assigned to the guard towers on the midnight shift), and many guards refused to talk to these recruits. Finally, as one recruit put it, “You’re either going to have to fit in and be like these people or you’re going to get hurt” (in Kauffman 1988: 207).

Accordingly, those recruits who were unable to adapt to prison values and complete the process of socialization were subjected to ostracism, harassment, or assignment to the outermost bounds of the prison as forms of expulsion from the prison culture. In some cases, where expulsion was neither practical nor desirable, but where socialization had also failed, the prison culture was obliged to accommodate differing values. This was particularly true during the early 1970s, when prison riots occurred at Attica and in New Mexico, and values had to change. In this respect, Kauffman (1988: 209) reports that Walpole was quite a different institution in the late 1970s than it had been at the beginning of that decade.

Guard Types

Noting that guards varied in their attitudes toward inmates and other guards, Kauffman (1988: 250–251) identified five types of guards: *pollyannas*, white hats, hard asses, functionaries, and burnouts. *Pollyannas* were guards who cared about their colleagues but were critical of the manner in which they dealt with inmates. These guards adopted a helping strategy as a means of coping

with the prison environment, and they expressed their sympathy for inmates, helped them if they had needs, talked to them, and found rewards in doing these things. *White hats* were guards holding positive attitudes toward inmates but negative attitudes toward their fellow guards. They were invested in working with people, showed compassion and understanding for inmates, and pointed out the absence of such compassion in their fellow guards. *Hard asses* were the antithesis of white hats, showing hostility toward inmates but identifying closely with fellow guards. This group was typically young and inexperienced, regarded Walpole as an adventure, and found its violence stimulating. They tended to see the prison world as guards in conflict with inmates—a conflict of good against evil. Nevertheless, Kauffman found hard asses few in number at Walpole, mainly because the attitudes displayed by the hard asses were likely to provoke payback from inmates. *Burnouts* displayed negative attitudes toward both their fellow guards and inmates and were able to cope with the prison experience only barely, if at all. For these guards, prison had become such a dominating factor in their lives that they were unable to cope with the outside world. For example, one burnout always kept his back to the wall, another would jump if a door slammed, and another was unable to cope with the crowds in the city or in stores. *Functionaries* coped with prison by closing their minds to it, including both inmates and guards. They saw prison work as a dead end, as nonproductive, and as “maintaining that human warehouse” (p. 257). They expressed no enjoyment in their work, simply needing the job and finding no reward in it.

Crouch and Marquart (1980) argue that the guard subculture is crucial to the process of socializing the newly recruited guard, because for all intents and purposes, recruits imitate the more experienced guards and learn from them how to perceive inmates, how to manage them, and how to anticipate trouble. According to their study, new recruits are taught to perceive inmates as lazy, averse to work, and having “turned to crime” as the easy way out. New recruits are continuously reminded to dominate inmates, to keep a social distance from them, and to keep the upper hand in dealing with inmates through using profanity freely and routinely.

Some researchers argue that there is no guard subculture. For example, John Klofas (1984: 174) makes the case that while prison work has unique aspects, there is no set of norms adverse to inmates, something that underpins popular conceptions of a prison guard subculture. He suggests that existing studies indicate that the notion of a guard subculture serves only to reinforce guard stereotypes. In his view, a more accurate account of the practice of guarding reveals important processes in the guard group that merely provide the illusion that certain guard norms favor harsh attitudes toward inmates.

❖ Use of Force

Many situations in the prison environment might provoke the use of force by guards to control inmates. Each instance of the use of force may give rise to an ethical question about whether the force ought to have been used at all, whether excessive force was used, or whether the force was justified, perhaps for the purpose of self-defense against inmate attack.

Kauffman's (1988: 222) research found that most guards were horrified at the extent and nature of violence within prison. Guards tended to characterize the issues they faced within the prison as “moral dilemmas” involving a clash between their own personal ethical standards and the expectations of them as guards. In coping with these dilemmas, many attempted to avoid actions that would injure inmates by refusing, explicitly or implicitly, to carry out certain duties. However, as they spent more time within the prison and absorbed its culture, as well as the guard subculture, their ability to abstain from morally questionable acts weakened, and they began to construct the prison as a separate moral realm and to perceive their dealings with prisoners as outside common ethical norms.

Alternatively, some would shut their minds to the implications of the actions of others as well as to their own actions. Kauffman (1988: 223) makes a case that guard recruits who come to prison work with no prior exposure to violence are initially shocked at the events they witness, including the stabbings and murders. Veterans, however, had seen such violence before and seemed unaffected by it.

Over a period, the less experienced guards gradually became inured to the violence, got used to it, and said they were no longer bothered by it. As this process of socialization continued, many officers became dismayed by the changes they saw in themselves, especially in relation to their acceptance of the use of violence. Some rationalized their changes by stressing the difference between prison and the outside world: "This is a prison and it's not society. When you step in here, you step into a different world. . . . It's brutality anyway you look at it. . . . But you got no other choice" (in Kauffman 1988: 229).

As Kauffman (1988) points out, constructing a separate moral world within the prison and living in that world as well as in the "normal world" can provoke behavioral conflicts. For instance, one officer acknowledged that signing disciplinary reports about events that he had not witnessed was morally wrong outside the prison context. Another guard, heavily involved in violence, judged his conduct to be wrong and then spoke of co-workers who behaved in a similar way as being persons he would not wish to associate with out on the streets. As already mentioned, it was possible for some guards to rationalize morally suspect behavior by judging inmates as beyond morality and as having relinquished their claims to morally correct treatment when they committed their crimes. As one guard put it, "They're just programmed. These guys have nothing in their brains or nothing in their lives other than violence and danger. . . . Those aren't really like people. Most of them are animals" (in Kauffman 1988: 230). Overall, such rationalizations operated to lower barriers to violence.

The American Correctional Association Code of Ethics (ACA 1990) stipulates that members of the ACA must respect the "dignity and individuality of human beings" and must be committed to "professional and compassionate service." The ACA subscribes to a number of principles in its Code of Ethics, including respect and protection of the civil and legal rights of all individuals, and it requires that members report any corrupt or unethical behavior "where there is sufficient cause to initiate a review."

In considering his training experience in New York State, Conover (2001: 32) explains the position on use of force under various directives, laws, and employee manuals in that state. He reports that in New York it is permissible to "lay hands on or strike an inmate for self-defense, to prevent injury to a person or to property, to quell a disturbance, to enforce compliance with a lawful direction, or to prevent an escape." Deadly physical force can be used in three situations: to prevent an escape, in self-defense, or to prevent arson. Conover remarks that although the trainees spent a significant time learning about firearms, including the range of different types of buckshot as well as actually firing weapons, there was no discussion about "what shooting someone meant, in an ethical sense—how officers might be not only legally but morally justified in doing it" (p. 43).

Generally, guards' use of force in prison takes place within the formal structure and framework of prison rules and regulations designed to control prisoner conduct. However, sometimes force may be used informally, that is, outside the boundaries circumscribed by rules. For example, in a study of a Texas penitentiary, Marquart (1986) investigated the unofficial use of physical force and concluded that the exercise of force outside the terms prescribed was a strategy for the control of prisoners and that this strategy ran parallel to the formal control process and was entrenched within guard subculture. He himself was employed as a guard at the prison and was able to observe guard violence first hand. The guard culture at this prison defined "good officers" as those who were able not only to perform routine prison actions like counts but also to break up fights and maintain discipline without citing inmates for disciplinary infractions. Marquart found that a willingness and initiative to break up fights, a readiness to engage in confrontations with inmates, and an inclination to fight inmates were essential attributes for promotion. While most prisoners were controlled through the structure of sanctions and privileges embodied in the prison rules, there were some inmates who were controlled through verbal intimidation and the use of punitive physical force (see the Closer Look box on the following page). Verbal assaults were intended to bring about an inmate's humiliation and to destroy his standing in the eyes of other prisoners. Such assaults commonly included name calling, the use of racial terms of abuse, and threats. For example, one officer was recorded as saying to an inmate, "You stupid nigger, if you ever lie to me or any other

A Closer Look

Forms of Coercion

Marquart (1986) identified a number of forms of coercion. He referred to the first type as *counseling* or a *tune-up*. This kind of force was used for minor offenses such as refusing to obey an order, and such incidents rarely involved serious physical injury, being limited to verbal abuse, kicks, and slaps to the head and body. He documents an instance in which a guard was experiencing difficulties with an inmate who had pushed his way into the food line. The inmate was ordered to get to the back of the line, and the guard reported him to his supervisor. The inmate resisted by yelling at the guard, and as a result he was taken to the major's office (the location for the enactment of discipline) by the guard and his supervisor. There he was slapped across the face and tackled by the guard and supervisor. A third officer joined the original two in punching and kicking the inmate, and one officer threatened to cut his head off with a knife.

The second form of physical force was termed *ass whippings*, and was employed in more serious rule breaches such as threatening an officer or fighting back during a tune-up. For ass whippings, weapons such as blackjacks and riot batons were used by the guards, although the amount of force applied was limited to avoid hospitalization. In one case, a guard stood on an inmate's head while another hit him on the buttocks and thighs with a riot baton and several others kicked him.

The third form of coercion involved *severe beatings* and was reserved for inmates who violated rules considered sacred, such as those concerned with escaping or attacking guards. In this coercive form, the intent was to cause physical injury, even to the extent of requiring hospitalization. Marquart observed one situation in which an inmate who had earlier struck a guard was dragged from the hall into the major's office, beaten, and then beaten again while confined in a solitary cell. Sometimes beatings were staged in public to set an example, but most took place out of sight of witnesses.

SOURCE: Marquart 1986: 352–353.

officer about what you're doing, I'll knock your teeth in" (in Marquart 1986: 351). Sometimes the threats included a promise of physical injury or even death, and those who failed to vary their conduct after verbal assaults "were roughed up as a matter of course" (p. 351).

Marquart (1986: 355) concludes that these instances of violence were illegal in both civil and criminal terms and certainly violated prison rules and policy. However, he points out that the use of this kind of unofficial coercion was so common in the institution in which he worked that it had become a norm for the guards, and it was not employed in an arbitrary fashion but in a structured and systematic process intended to maintain control, enforce inmate deference behaviors to guards, and build guard solidarity. Guards who used this informal system were regarded as good promotion prospects.

In terms of the guard subculture, fighting an inmate was seen as an expression of guard masculinity and machismo. As one guard put it, "You have to make a convict fear you or respect you or you won't make it here" (in Marquart 1986: 359). Further, because the unofficial use of force had become a parallel system for social control within the prison, it built a culture of secrecy in which guards at the higher levels refrained from talking about coercive displays of force with lower ranking guards. Although lower ranking guards often asked their superiors about instances of use of force, their questions were never met with a substantive response but rather with a simple denial of any knowledge of an incident (p. 361). Despite the fact that the prison was managed as a large bureaucracy, Marquart found that its informal structure seemed to be the predominant method used for managing the prison. Unlike other researchers, he found that this prison, like others in Texas, had a high degree of autonomy from the central administration, which rarely interfered in prison administration. As a result, guards had wide

discretion, which was exercised in the form of the extensive use of physical force, and this became the underpinning of the guard subculture there.

Kauffman (1988: 59), based on her study of the Massachusetts prison system, observes that the use of force varies from prison to prison according to the level of security applied. She points out that the use of force is itself limited in that it cannot be relied on to ensure that routine tasks are accomplished. Nor can it be employed in daily tasks such as moving inmates through the prison. She notes that serious inmate offenses are supposedly within the jurisdiction of prosecutors and the courts but that prosecutions for such offenses committed inside prisons are rare, and internal systems of punishment are usually relied on.

As for guard violence against inmates at Walpole, while a few guards claimed never to have witnessed or participated in such events, the majority confirmed their participation or the fact that they had witnessed violence and their assumption that such events were common knowledge within the prison (Kauffman 1988: 130). However, the term *inmate assault* itself was questioned in terms of its definition, and some guards framed their discussions about guard violence by concentrating on the “deserved” nature of a beating. This nuanced approach toward violence extended to the distinction made between force used in restraining a violent inmate and force that went beyond what was necessary to restrain. The latter category included beatings inflicted by groups of guards on a single inmate in situations, for example, where inmates were moved to segregation (p. 132). One guard recalled a beating in which he was involved:

There was a black guy who threw some urine in [the supervisor's] face. . . . Here there were nine beating the shit out of one guy. Then they'd back off and they'd taunt him and say “had enough, had enough?” And the guy would stand there and start swinging. . . . That particular guy didn't deserve what he got. But there are guys who deserve what they get (in Kauffman 1988: 132).

In another incident, described in Case Study 6.2, a guard described five or six guards beating an inmate's head with chains and punching him using prison keys.

Case Study 6.2 Sex Offenders and Use of Force

Kauffman (1988) confirms general knowledge that within the prison world sex offenders are considered the “lowest of the low” and are most likely to suffer violence at the hands of guards or inmates. In Massachusetts, at the treatment center for sexually dangerous persons, where inmates were treated more as patients than inmates, guards refused to accept the notion that their captives were sick, believing themselves to be dealing with “the scum of the earth.” Guard attitudes were based on the inmates' crimes and on the experiences of the victims rather than on inmate conduct within the institution. In this sense, guards raged about just deserts for sex offenders, holding the position that many of the inmates deserved the death penalty but instead were housed in relative comfort. In fact, the inmates' crimes so repelled the guards that one fantasized about machine gunning them, another of gassing them, and another of bombing the institution.

SOURCE: Kauffman 1988: 147–149.

When discussing their *justifications for using violence*, guards focused on the inmate himself, on relationships among guards, and on the individual guard who engaged in the violence (Kauffman 1988: 141). Guard violence was commonly justified as a means of controlling inmates, and many guards felt unable to maintain control without at least referring to violence. Another justification offered was the belief that guard violence deterred inmate violence against guards. The systematic use of violent reprisals was seen as a means of preventing future assaults as well

as punishing past ones. Guards defined self-defense very broadly so as to *anticipate the need to defend themselves*, and many guards and inmates believed they needed to establish and uphold a reputation for meeting aggression with aggression. If an inmate assaulted a guard, reprisals were considered not only appropriate but also essential. As one guard put it, an inmate who assaulted a guard

should be beaten until he can't stand up anymore. And if he does stand up, beat him some more. Beat him until it gets through his head what will happen and then he'll think twice about what he is doing (in Kauffman 1988: 142).

Fundamentally, the exercise of violence by guards was not intended as a symbol of their power, but was rather a reflection of their sense of vulnerability. Guards were often dissatisfied about official punishments and therefore sought their own form of justice (Kauffman 1988: 145). In particular, although inmates involved in violent acts against guards would be sanctioned when it came to furloughs or parole, there was little by way of sanctions in the short term that would protect and reinforce the guard's position of having to be present in the prison every day.

As expressed in the following guard norms, regardless of their personal views, guards at Walpole experienced considerable pressure not only to acquiesce to violent means of handling the prisoners but also to engage in violence consistent with norms requiring guards to support their colleagues in disputes with inmates and to support guard sanctions against inmates. These pressures to conform (Kauffman 1988: 153) were reinforced by the guards' genuine fear for their survival. Guards seemed to take the attitude that while they might not personally participate in violence, they would not object if it occurred, and they would gradually acquire the belief that this was the way things happened in a prison environment. However, some guards reported that their co-workers enjoyed the violence, thrived on it, seemed to get "high" on it, and even instigated it to cause excitement and a break in the monotonous prison routine (p. 153). Comments ranged from "I like having action" to "It really peps up my day." Some guards, however, believed that co-workers who initiated violence had a need to prove themselves, to show that they were not scared, and that their persistent acts of violence were attempts to constantly prove themselves.

Some guards saw no need for explicit justification, seeing violence as natural, as a way of life, and even as a game and part of the prison culture. These guards perceived violence as a routine method of resolving differences and effectively screened out any other courses of action. In one situation, inmates confronted one guard after he had beaten another inmate, and he rationalized the beating as a response to the inmate, calling his mother a "punk." The guard saw no need to justify his actions, reporting that anyone would respond in the same way (Kauffman 1988: 158). In ethical terms, many guards at Walpole honestly believed that the use of violence was an appropriate course of action, especially in cases when an inmate had assaulted a guard. These guards had an honest belief in the correctness of their approach and were convinced that the institutional environment demanded such violent reprisals. Guards who accepted this view suggested that those outside the prison, including local and political leaders, had no interest in events inside prisons, accepted no responsibility, and demonstrated no real concern for what occurred inside prison walls (p. 163). Nevertheless, some guards categorically rejected the use of violence, considering it counterproductive given their assumption that violence begets more violence. Some opposed it on humanitarian grounds and were appalled at the severe beatings they had witnessed or even participated in. One guard expressed the view that beating an inmate into submission was the worst thing he could do "because it's not the right thing to do" (p. 164).

Kauffman (1988: 67) remarks that during the 1970s, the Massachusetts prison system relied on brutality and physical coercion, despite the fact that its use had declined considerably within the United States as a whole over the first half of the 20th century. During that period, guards routinely used violence to enforce control. In discussing the advantages and disadvantages of extralegal force, Kauffman points out that many of the inmates in maximum security institutions have committed violent crimes and may be serving multiple life sentences. In effect, they have

nothing more to lose, and some guards consequently conclude that they need to meet violence with violence. Other guards attributed inmate violence to the fact that many inmates have spent their entire lives in situations where force has determined the course of events, and accordingly, they will only respond to like treatment when guards attempt to establish control. For that reason, some guards took the position that maintaining order often required the “cracking of a few heads,” at least initially, to establish control (p. 68).

Kauffman (1988) concludes, however, that the use of physical coercion failed at Walpole and other Massachusetts prisons because guards were unable and generally unwilling to use the extreme measures that were perceived as necessary to ensure absolute control. She contrasts Walpole with the Texas penal system, which she believes has its roots more in southern slavery than in the emergence of the prison system (p. 69). In addition, she argues that the use of coercion as a technique was a failure because it could not be applied to the inmates generally but had to be enforced inmate by inmate, and also because coercion tended to fuel inmates’ anger and hatred rather than suppressing their resistance and rebellion. Another difficulty was that the use of coercion required staff to constantly increase the severity of sanctions if they were to be useful over the long term. Ultimately, in her view, coercion failed because it was unable to resolve the inherent conflict between inmates and guards. At some point, inmates would take the position that only so much could be taken away from them and, with this conclusion, they would have effectively won the battle even if beaten time and time again (p. 71).

The Court’s View of Correctional Officer Use of Force

Walker (1996: 144) examines the attitude of the courts toward correctional use of force, noting that over the past few decades, the courts have limited such force but that correctional officers are still given more latitude than police officers in the use of deadly force. In *U.S. v. Nix* (1974), the U.S. Supreme Court articulated its rationale for the use of deadly force against escaping prisoners, arguing that a determined escapee may kidnap a hostage or kill a guard or commit other unlawful acts to ease his escape. This aspect of dangerousness was sufficient to convince the Court in favor of the use of deadly force against escaping prisoners. In *Whitley v. Albers* (1986), a prison guard shot an inmate during a disturbance, and the Supreme Court ruled that cases of excessive force in corrections are governed by the Eighth Amendment, which prohibits cruel and unusual punishment. The legal standard for brutality is whether the force is “applied in a good faith effort to maintain or restore discipline, or whether it was applied maliciously and sadistically for the very purpose of causing harm” (*Hudson v. McMillian* 1992; *Whitley v. Albers* 1986). Following the case of *Clark v. Evans* (1988), where a correctional officer shot and killed an inmate trying to escape, arguments were made concerning whether the guard could have used a different means to prevent the escape or whether he should have only used force sufficient to disable the escaping inmate rather than using deadly force. The court decided in favor of the guard on both issues, holding that there was no duty to use disabling force rather than lethal force.

There have been some decisions that have gone against correctional officers, such as *McCullough v. Cady* (1986), in which a guard shot a prisoner during a disturbance while attempting to break up a fight among the prisoners. He initially fired a warning shot and then shot a prisoner who, it was later determined, was not involved in the fight. Here the court found that even though the guard shot with the intention of wounding the inmate, the use of force was not a decision of last resort made after all other means of restoring order had failed, and therefore, the guard’s actions amounted to deliberate infliction of pain on the prisoner.

In *Kenny v. Indiana Youth Center* (1991), a guard shot an 18-year-old inmate in the process of escaping from a juvenile institution. Before shooting, the guard gave a verbal warning that she intended to shoot. The court noted that it was relevant to look at various factors in deciding whether the guard had inflicted unnecessary and wanton pain and suffering. Such factors included whether force needed to be used, the relationship between that need and the amount

of force used, the actual injury inflicted, the nature of the threat to the safety of staff and inmates, and any efforts made to adopt a less severe course of action. The court concluded again that “dangerousness” was the predominant consideration, and repeated its view from the *Nix* case that any inmate who is attempting to escape is dangerous enough to justify using deadly force, provided the force is applied in good faith to maintain or restore discipline. Taken together the above rulings illustrate that prison guards are basically free to use deadly force to prevent escapes.

Correctional Policy on the Use of Force

Walker (1996: 149) presents an analysis of the policies in four states on the acceptable use of deadly force. All policies explicitly authorize the use of deadly force to prevent escapes, and in two states the policies suggest that disciplinary action will be taken against guards if they fail to use deadly force. The ACA suggests that a policy on deadly force should be more specifically related to the institution the inmate is escaping from, and ACA guidelines propose, for example, that a halfway house denotes offenders in its custody who do not represent a threat to public safety and in respect of whom deadly force might be prohibited. The Federal Bureau of Prisons explicitly limits deadly force by prohibiting the use of firearms in minimum security institutions in ordinary circumstances. It does permit deadly force to prevent an escape but only when authorized by the warden or when based on a guard’s judgment that the use of firearms is necessary to prevent the loss of life or grievous bodily harm. There is, however, a specific prohibition on using firearms if a guard sees that the potential escapee is a juvenile. A similar prohibition applies in ACA policy statements and in the state of Nebraska, but the Nebraska Department of Corrections explicitly declares that all persons housed in its correctional system are deemed to be adults.

Each of the states’ policy statements deals with the use of warning shots, but policies vary widely. Nevertheless, a common feature is that warning shots should not be fired if it is likely that innocent persons might be injured. One state absolutely prohibits the use of warning shots, and another confines warning shots to within the grounds of a facility unless there is an immediate threat to life. These policies reflect the possibility that warning shots will harm innocent bystanders, and it is significant that almost all police departments in the United States prohibit the use of warning shots.

❖ Prisoner “Power”

The notion that prisoners have any “power” within a prison seems to contradict the very nature of the prison environment. However, some activities on the part of inmates can be viewed as attempts to gain power or to resist guard power; these actions include using the court process to enforce rights, manufacturing weapons, employing unprovoked violence against guards, and coercing other inmates.

Kauffman (1988: 71) points to the upsurge in prison litigation during the 1960s and 1970s as instances of inmate power that counterbalanced administration power over inmates. During this period, jailhouse lawyers began to gain status within the prison as sources of authority who could contest prisoners’ rights with guards and with the administration. Similarly, some inmates attempted to influence the course of events within the prison through their positions as trustees. For example, in some prisons, trustees unofficially break in new officers and provide them with assistance in maintaining control. Most important, some inmates seek to control guards through coercion, either through direct violence or threats. A more nuanced approach to gaining power takes the form of inmates competing with officers for control over the inmate population, such as through the formation of gangs or through persuasion, inducement, and manipulation. This kind of control can include victimizing other inmates, itself a major problem in U.S. prisons (p. 73). For

example, at Walpole, inmate coercion of other inmates included stabbings over card games or a carton of cigarettes, rapes, robbery, and murder (p. 74).

In the contest between inmates and guards, inmates may manufacture weapons. In contrast, guards do not carry guns, which are consigned to the prison perimeter and never brought inside. Guards are limited to the use of batons or, in larger scale conflicts, tear gas and perhaps dogs. The exercise of guard power also relies on the flow of information, and in this respect, Kauffman (1988: 79) reports that in Massachusetts prisons, guards were often ill informed about occurrences amongst inmates. Guards were few in number, were socially distant from their captives, and were present in the prison only while on duty, as compared to inmates, who occupied the prisons continuously. Generally, while the use of coercion and force might have some attraction in offering an immediate solution to a power struggle, its use may cost officers dearly over time by decreasing their authority and undermining their legitimacy.

Kauffman (1988: 125–126) distinguishes spontaneous and unprovoked violence against guards from spontaneous provoked violence. Spontaneous and unprovoked violence was feared the most by guards, and they considered drugs to be the main cause of such unprovoked acts. In the case of provoked violence, guards would sometimes precipitate spontaneous violence against themselves through miscalculation or ineptness by forcing inmates into situations where they felt compelled to resist with violence. The most common occasion for such provoked violence was within an inmate's cell block at a time when he was about to be removed to segregation. In such situations, some inmates would resist; however, they were usually handled. Others would fight after provocation or because of their belief that they would receive a beating no matter what they did. Sometimes inmate violence would be calculated as an act of retaliation for the guard's conduct. A guard who wrote too many tickets or beat too many heads would eventually set himself up for payback, usually within a year or even two years. In one study of incident reports in New York State prisons, S. C. Light (1991) looked at the motivating factors underlying inmate assaults on guards and found that the majority of assaults were random acts of violence (26%). The second most frequent reason for an assault (13%) was as a response to a direct order from a guard such as to leave an area. A further 11% of assaults were classified as protests where inmates believed they had been treated unfairly. Drugs and alcohol and emotional instability accounted for the lowest number of assaults.

❖ Unethical Situations

Prison researchers have examined the nature of imprisonment, its changing structure over time, the exercise of power by both guards and inmates, the guard subculture, and the use of force within prisons. Other specific forms of unethical conduct are illustrated in the following sections, including violent attacks through acts of rape on inmates, the importation of contraband into prisons, and other forms of corruption that occur in prisons. Finally, transgender persons present special problems because correctional facilities are highly gendered.

Rape in Prison

Prisoner rape has been defined by the organization Stop Prisoner Rape (2007) as “all forms of sexual violence inflicted on anyone in custody, including someone awaiting trial in a county jail” (p. 4). The first study measuring rates of sexual assault among male inmates was conducted in 1966 in Philadelphia, and the researcher found that 4.7% of inmates reported sexual assaults while incarcerated or being transported to and from court (Hensley, Koscheski, and Tewksbury 2003: 18). A 1980 study of New York State male prisons revealed that 28% of inmates reported being targets of sexual aggression, but only one inmate reported being raped. In 1977, a study of 400 male inmates in six North Carolina state prisons showed an average report rate of sexual assaults of 2.4% (p. 18). Other studies have similarly shown a wide variation in sexual assaults and coercion. For example, a 1982 study in a California prison produced a rate of 14%, and a

study of 17 federal prisons in 1984 revealed a 2% rate of “sexual targets” and a 0.3% rape rate (p. 19). The highest rate of sexual victimization was found in a study conducted in 1994 in the Nebraska prison system, where 22% of male inmates reported being pressured or forced to have sex against their will (p. 19). In the most recent study, conducted in 2003 in three Oklahoma prisons, about 14% reported being sexual targets and 1.1% victims of completed sexual assaults. A study of sexual coercion in a female southern prison found about 4.5% had been victims of attempted or completed rapes (p. 20). It appears that prisons with higher numbers of inmates are more likely to have official reports of sexual attacks or threats of attacks filed, while this is less likely at minimum-security prisons (p. 23). Thus, reducing the size of the inmate population may result in a reduction of sexual assaults (Stop Prisoner Rape 2006: 11).

A 2001 study by Human Rights Watch on male rape in U.S. prisons argues that acts of rape are far more pervasive than is acknowledged by prison authorities (see Case Studies 6.3 and 6.4). In another 2001 study of 378 state male prisons in the United States, wardens were asked about their knowledge of forced and consensual sex in their institutions. Generally speaking, the wardens responded indicating that sexual activity was “relatively rare” in their institutions (Hensley and Tewksbury 2005: 186). There is a wide disparity between reported rapes as noted by prison authorities and as shown by inmate victimization surveys. The latter show far higher rates than the official statistics. This underreporting is exemplified in a 1996 Nebraska study, which found that only 29% of victimized inmates reported abuses (Human Rights Watch 2001: 132), and a 1968 study of prisons in Philadelphia, which found an estimated 2,000 rapes, only 96 of which had been officially reported. Human Rights Watch suggests that prisoner failure to report rapes is a response to prison administrators’ indifference toward such reports. If, it is argued, prisoners could be certain of protection, they would be more likely to report rapes (p. 132). The study contends that many inmates point out that guards fail to take protective measures on their behalf when they seek help and instead advise them to fight their attacker. In this sense, the prison system condones forced rape as, for example, was found in Florida, where physical sexual attacks were revealed as commonplace in Florida prisons (p. 142). The response of correctional authorities to rape is often the imposition of minor disciplinary sanctions, such as 30 days in segregation or moving rapists to another facility. In contrast, the victims of the rape may have to be located in protective custody with all the restrictions that such confinement imposes (p. 143). It is a reflection of the lack of seriousness with which authorities regard this issue that almost half of all state jurisdictions do not even collect statistics regarding incidents of rape and that those that do report claim it to be a very rare event (p. 145). This, however, will change significantly given the Supreme Court decision in *Farmer v. Brennan* (1994) and the subsequent passing of the Prison Rape Elimination Act 2003 (see below), which requires a zero tolerance policy for sexual assault in prison.

Case Study 6.3 Rape in Prison

In 1993, Eddie Dillard was serving time in a California prison. He was a young first timer, a slight man, and was transferred to share a cell with Wayne Robertson, a huge muscular man, nearly twice the weight of Dillard, serving a life sentence for murder. Robertson was known by all as “the booty bandit,” having earned this nickname through his practice of violently raping prisoners. Before the end of the first day in the cell they shared, the inevitable had occurred: Robertson had beaten Dillard and sodomized him, and he continued to do this for the next 2 days until finally, Dillard ran out of the cell, refusing to return. A correctional officer working on the unit informed the *Los Angeles Times*, “Everyone knew about Robertson. He had raped inmates before and he’s raped inmates since.” Documentation submitted to a California legislative hearing supported this report, showing Robertson had committed more than a dozen rapes inside that and other prisons.

SOURCE: Human Rights Watch 2001: 148–149.

Case Study 6.4 Transgender Experiences of Prison Rape

Jackie Tate told Stop Prisoner Rape (2007) that when she was incarcerated in Sacramento, “the deputies were letting inmates into my cell to have sex with me against my will. The first time it happened, I tried to tell the inmate no. He showed me some autopsy photos. He said, ‘This is what happens to people who fuck with me.’ I ended up submitting. I did what he told me to do. I orally copulated him, and he sodomized me. Thirty or forty minutes later, the deputy came onto the speaker and asked him if he was done. He said, ‘I’m done.’ The door clicked and let him out.

“They must have let 12 to 14 inmates into my cell to have sex. One day, I said to a deputy, ‘If you’re going to make me do this, could I at least have some condoms so I don’t get AIDS?’ He told me to shut the fuck up. The next day, he came in and threw 15 condoms at me.

“Where I am now, it’s just as bad. They have me in general population. I’ve asked over and over to be put on the unit with the gay and transgender inmates, but I always get denied.

“In September 2004, it was so crowded here that they had us sleeping on pads on the floor of the day room. The inmate on the next pad over told me to come to the shower with him, or he was going to slice me. I was afraid, so I went with him. He was fucking me in the shower when a deputy walked by. He just started laughing.

“Later, they moved me to a cell, and I was so happy, because I thought I had escaped this inmate. Then they moved him into the cell with me. When I finally got out of there, I had two black eyes that were completely closed up. I didn’t deserve this.

“In September 2005, I was put into a ‘protective custody’ tank with five or six other inmates. Two of them jumped me right away. They both made me suck them off. The deputy walked by and saw me fighting and struggling with them, but he didn’t do anything.

“The next day, the deputy made jokes about it. He asked me how much I charge for that.

“Gay people, transgender people in this jail—they put us in compromising positions. They chain us to 12 inmates and throw us in the back of a van with no supervision. People get dragged into bathrooms. One of my friends got dragged into a bathroom—she walks with a walker now.

“The deputies call me names—they call me ‘it,’ and ‘he/she,’ and ‘punk,’ and ‘faggot.’ They whistle at me in the shower. They come to my cell door asking to see my breasts.

“Sometimes I want to die. I’m scared to close my eyes at night.”

SOURCE: Stop Prisoner Rape 2007: 11. Reprinted by permission of Jackie Tate and Stop Prison Rape.

Case Study 6.5 Guard Forces Transgender Inmate to Have Sex With Him

On August 11, 2011, a New York City corrections officer was charged with forcing a transgender inmate to have sex with him in a Manhattan jail in September 2009. The victim was a 23-year-old transgender woman housed in a male unit at the Manhattan Detention Complex where she was being held for a parole violation. She had not had gender reassignment surgery but had undergone hormone therapy.

The woman filed a civil suit against the city claiming that corrections officer, Roberto Morales, aged 40, had sexually harassed her over the course of a month. She alleged that she had complained about Morales conduct in a formal complaint to the Corrections Department. The alleged sexual assault occurred when Morales was escorting her from a clinic. He pushed her into a stairwell and assaulted her and according to her lawyer a rape kit found DNA that implicated Morales.

(Continued)

(Continued)

Morales has been in corrections for 13 years and now faces up to 4 years imprisonment if he is convicted of the charge of committing a criminal sexual act.

In her suit against the city, the woman claimed to have previously been assaulted as an inmate at Riker's Island when she was taken to a prison hospital ward for treatment. She alleged that a nurse forced her to perform oral sex with him there and the nurse later pleaded guilty to committing a criminal sexual act. The suit also objected to the city's lack of a policy for housing transgender inmates.

SOURCE: O'Connor 2010.

According to Human Rights Watch (2001: 153), the response of guards to complaints of rape is often inadequate and even callous, and gay inmates in particular, unless able to show clear physical injury, tend to have their complaints ignored, because prison officials tend to assume consent in sexual acts involving gay inmates. Many guards respond to such charges and complaints with the advice that the inmate should defend himself against attack. This is tantamount to guards abdicating their responsibility to protect prisoners from violence and amounts to guards urging inmates to commit disciplinary infractions, because the use of force by inmates, even in self-defense, is usually a punishable act.

In September 2003, the president signed the Prison Rape Elimination Act (PREA), the first U.S. law addressing the issue of male prison rape. The purposes of the act include

- setting a zero tolerance standard for prison rape;
- prioritizing the prevention of rape in each prison system;
- devising and implementing national standards to detect, prevent, reduce and punish rape;
- collect data and information on the incidence of rape;
- increase prison staff accountability for failing to detect, prevent, reduce or punish rape (Mair, Frattaroli, and Teret 2003: 602; also see National Institute of Justice 2006).

The act establishes a Review Panel on Prison Rape within the Department of Justice; the panel is required to hold public hearings each year on operations in three prisons in the country with the highest and the two prisons with the lowest incidents of rape. The attorney general is required to submit annual reports to Congress on the review panel's activities. The act also establishes a National Prison Rape Reduction Commission made up of nine members with expertise on the subject. This body is principally a research commission with a comprehensive mandate including examining the extent to which prison rape contributes to the transmission of HIV (Mair et al. 2003: 604). In 2004, the Bureau of Justice Statistics of the Justice Department conducted the first survey of administrative records of sexual violence in adult and juvenile facilities, which revealed 8,210 allegations of sexual violence; 42% of these allegations were against prison and jail staff and 37% against other inmates (Melby 2006: 4).

Transgender Prisoners

For the purposes of accommodation in prison, prisons may adopt one of two categories for transgender prisoners: genitalia-based placement or identity-based placement. Those who have not undergone genital reconstructive surgery are generally categorized according to their

assigned sex at birth. Less frequently, a transgender prisoner may be housed according to the gender with which he or she self-identifies, but prisoners born as male yet who self-identify as female are liable to suffer sexual abuse and violence in the correctional environment. For example, a study of assaults in the California prison system found that 59% of transgender inmates reported having been sexually abused, compared with 4% of the general inmate population (Nader 2010: 83). In January 2010, media reports indicated that Italy planned to open a prison solely for transgender prisoners (BBC News 2010), but this solution was rejected in Canada largely because of the small number of inmates involved. For example, in 2000, Canadian federal prisons housed only 10 preoperative transgender inmates out of 12,500 (Mann 2006: 110). Often, a prison will simply segregate a transgender inmate as a convenient means of resolving the placement issue, leaving him or her excluded from social contact and prison facilities. Transgender inmates are often held in solitary confinement based on PREA laws for “their own protection” (Shah 2010). Even in segregation, the inmate still faces the possibility of attack, harassment, or sexual assault by guards. As in the United States, the placement of transgender inmates is an issue in Australia, and two approaches are followed. The first is a “social-based” perspective that emphasizes the social aspects of identity and how a person self-identifies. The second is a “surgery-based” approach, which considers whether the individual has undergone sex reassignment surgery (Mann 2006: 117). Australia also makes use of protective custody, but inmates are allowed to wear gender-appropriate clothing. According to studies, transgender prisoners are likely to be perceived as homosexual males participating in acts of consensual sex and are therefore unlikely to receive consideration if assaulted. They are also subject to victimization by prison staff conducting “gender-check” strip searches; mocking of genitals; verbal, physical, and sexual assault; and rape (Tarzwell 2006: 180). In the United Kingdom, the Gender Recognition Act has resulted in the Ministry of Justice (2011) issuing guidelines that mandate, “An establishment must permit prisoners who consider themselves transsexual and wish to begin gender reassignment to live permanently in their acquired gender.” This means that self-identified transgender inmates must be permitted to wear their own clothes and be given access to devices that disguise their physical sex. Transgender inmates have litigated the issue of whether they are entitled to hormone therapy while in prison based on the Eight Amendment prohibiting cruel and unusual punishment and the claim that such a denial constitutes “deliberate indifference” to an inmates serious medical needs (National Center for Lesbian Rights 2006).

Corruption

McCarthy (1995), in examining the official records of an internal affairs unit of a state department of corrections, distinguished patterns of corruption and the level of staff involved in that corruption, as shown in Figure 6.3. Defining *corruption* as “the intentional violation of organizational norms (i.e., rules and regulations) by public employees for personal material gain” (p. 281), McCarthy examined 122 cases of alleged corrupt practices in the department, which revealed four major offense categories and a miscellaneous category comprising theft, embezzlement, trafficking, and misuse of authority. Theft made up one quarter of all cases.

Petty theft was alleged by inmates in complaints of loss of both personal valuables and contraband claimed to have been stolen during cell searches or following their handing it over to staff for safekeeping. Complaints were also made by visitors that their possessions had been stolen during searches in the visiting room. Also, goods and materials were alleged to have been stolen from the state, including articles such as a walkie-talkie, tools, and a calculator. Generally, acts of theft appeared to be opportunistic individualistic acts with an absence of evidence indicating any conspiracy.

Trafficking with inmates relates to *smuggling contraband* (see Case Studies 6.6 and 6.7) into prisons for money, drugs, or services, usually of a sexual nature. McCarthy identified a number of contraband items including drugs, alcohol, money, and weapons, as well as items such as food and reading materials. He found that the more individuals involved in smuggling contraband, the more

Figure 6.3

Pattern of Corruption by Type of Decision

<i>Corrupt Acts by Type of Decision</i>	<i>Officials Involved</i>
<i>Misfeasance</i>	
Provide preferential treatment and special privileges	Line staff
Selective application of rewards and punishments	Line staff
Forms of legitimate release	Administrators
Misappropriation of resources	Administrators
<i>Malfeasance</i>	
Trafficking	Line staff
Extortion/exploitation	Line staff
Protection rackets	Line staff
Embezzlement/theft	Line staff and administration
Criminal conspiracies	Line staff
<i>Nonfeasance</i>	
Failure to enforce regulations	Line staff
Cover-ups	Line staff and administration

SOURCE: McCarthy 2002.

organized was the operation with a greater scope of items being made available. Sophisticated smuggling rings had inmates as ring leaders. These operations ranged from a guard bringing in alcohol for a single inmate to large-scale conspiracies involving drug smuggling. Generally, those involved in smuggling were guards, but sometimes counselors and job placement officers were implicated. Guard involvement varied from simply collecting drugs from prearranged locations and transporting them into the prison to actually controlling smuggling operations by directly selling items to inmates and by using inmates as pushers and salesmen within the prisons.

Robert Worley, James Marquart, and Janet Mullings (2003: 185) point out that trafficking with inmates also involves inmates who exploit relationships with guards to make illicit profits in the underground prison economy. Reported cases include a male inmate who befriended a female staff and persuaded her to bring in contraband cigarettes by the carton; a female prisoner who deliberately developed a relationship with a male guard to the extent that he began bringing into the prison eye liner, perfume, and cigarettes, which the female sold in the prison economy; and inmates who entrap guards by offering them a candy bar or soda to establish an inappropriate continuing relationship (pp. 186–187). In Texas, where it is difficult to hire sufficient staff to run the many correctional facilities, guards' salaries are low, and according to one inmate account, prison staff earn extra money to the extent of \$1,000 a week by bringing in cocaine (p. 188).

Conover (2001: 104) explains how *contraband* comprising weapons, drugs, and alcohol entered Sing Sing Prison. All these items could easily be obtained inside the prison. According to Conover, some drugs came in during prison visits, but he noted that most drugs entered the prisons through officers who were paid off to allow their entry.

Embezzlement relates to the conversion of state property or goods to one's own use. Acts involved guards, shopkeepers, and clerks embezzling money from administrative units

within the prison system such as canteens, commissaries, and prison warehouses. Staff audits commonly reveal that these acts involve both staff and inmates working alone or together; for example, colluding with each other through working together in commissaries.

The *misuse of authority* concerns a willful misuse of one's discretion for personal material gain; this conduct accounted for almost one half of complaints received by the internal affairs unit (see Case Studies 6.6 and 6.7). The kinds of discretion involved were transfers, assignment to jobs and housing blocks, and overlooking minor infractions or rules. McCarthy (1995) distinguished a number of forms of misuse of authority, including accepting gratuities for favorable consideration of inmate requests. For example, a guard in charge of a work release program was alleged to have solicited a \$20 fee from an inmate for finding him a job. Other examples of misuse of authority include accepting gratuities to protect illicit activities, such as allowing gambling, drugs, or prostitution in a facility or protecting illicit activities from discovery or competition from other inmates; extortion through mistreatment or harassment involving shaking down inmates and personally sanctioning inmates for refusal to obey instructions; mismanagement, including allegations concerning the operation of prison industries for personal gain; and a miscellaneous group, including suspicious deaths of employees, concealment of prior criminal backgrounds by prospective employees, and charges of sexual coercion against a supervisor by a female employee.

Case Study 6.6 Jail Guards Charged With Smuggling

In 1994, 10 guards at Westchester County Jail were charged with smuggling contraband to prisoners in the form of food, vodka, cash, and cocaine. In exchange for bringing in the contraband, the guards were paid bribes of up to \$1,000 and given trips to Atlantic City. The guards even facilitated escape attempts; in one case it was alleged that a guard had provided a prisoner with a key to unlock his shackles and handcuffs. The acts of the guards came to light through a sting operation involving federal agents who posed as the relatives of some cooperating inmates. These inmates provided guards with contact numbers for their relatives. When the guards met with the relatives, they discussed various deals to bring in contraband. One guard reportedly bragged to the federal agents that he had been engaged in this kind of conduct for the last 15 years.

SOURCE: Berger 1994.

Case Study 6.7 Fixing a Drink in Prison

Webb and Morris (1980) recount an event that occurred at the penitentiary where Webb conducted research while training to be a guard. He was escorting about 40 inmates to the commissary, where all transactions are conducted by ledger and where currency is not permitted. As a result, he was unable to purchase a soft drink at the commissary. He asked an experienced guard how to acquire a drink and noted that the guard simply walked to the counter, spoke to the inmate employee, and returned with two drinks. He explained that it was impossible to pay for the drinks, but the guard would someday do a favor for the inmate, for example, fix a disciplinary charge for him in the same way a traffic policeman might fix a traffic ticket. Webb and Morris also discovered that guards did not perceive inmate gambling to be a serious disciplinary matter. They regarded the most serious inmate offenses to be physically assaulting or threatening a guard, showing disrespect to a guard, and refusing to work or comply with an order.

SOURCE: Webb and Morris 1980: 150.

During his first 5 years as director of corrections in Massachusetts, George Vose Jr. fired or permitted to resign between 80 and 100 staff as a result of forms of misconduct (Carroll 1998: 282). In one case, an affair between an officer and an inmate was discovered when the inmate was found using the officer's phone card to call her while she was on vacation. In another case, an officer assaulted a co-worker on duty over a gambling debt, and it transpired that the officer who was subjected to the assault was a bookie employed by a major organized crime figure. In the first 2 months of 1996, two officers were arrested for smuggling heroin into the prison, another was arrested for bookmaking and possession of a needle and syringe, and another for possession of marijuana (p. 283).

In the case of *Dreyer v. Jalet* (1972), inmates testified that *building tenders* (the term used to describe inmate guards who were used to supplement the power of employed guards) were given access to pipes, bats, and clubs to administer discipline on behalf of the regular guards. In one case involving building tenders, 10 of these inmates, armed with axe handles, clubs, and iron pipes, assaulted a group of prisoners while accompanied by an assistant warden and several officers.

Case Study 6.8 Ex—S.C. Correctional Officer Sentenced

A former correctional officer was sentenced recently to 3 months in jail for having sex in prison with Susan Smith, who is serving a life sentence for drowning her two sons in a lake in 1994. South Carolina Circuit Court Judge Lee Casey Manning also sentenced Houston Cagle to 5 years' probation and 250 hours of community service.

Cagle pleaded guilty in August to having sex with Smith and another inmate at the Women's Correctional Institution in Columbia last year. Investigators found out about the relationship between Cagle and Smith last summer when they were looking into a tabloid report alleging that Smith had been beaten in prison.

While reviewing medical records, officers found Smith had been treated for a venereal disease. She then admitted she had sex with Cagle. He was fired shortly after his arrest.

The revelations led to a broad investigation into prison misconduct. More than a dozen Corrections Department officers and employees have been charged with having sex with inmates or smuggling drugs since a state investigation began last year.

Two prison officers, including Cagle, and three other corrections workers have pleaded guilty to having sex with inmates.

SOURCE: "Ex-S.C. Correctional Officer Sentenced" 2001.

❖ Whistle-Blowing in Corrections

Mark Hamm (1995: 202) provides several case studies of whistle-blowing that had a positive effect on a correctional organization (see Case Study 6.8). In one case, a warden used institutional funds to purchase equipment he later used to operate a section of his cattle ranch. Further, the warden insisted that guards supervise inmate labor at his ranch while they operated this equipment. Two guards complained, claiming that the warden had abused his authority, and their complaint was upheld by the state personnel board, which ruled that the guards had been required to act in ways that were undefined and not relevant to their job descriptions.

In 1997, the television news program *60 Minutes* reported cases of whistle-blowing by two guards at a California prison concerning what they considered unethical conduct by their fellow guards. They claimed that inmates from different ethnic groups in the prison had been set up to fight each other in a small prison exercise yard and that it was not unusual for guards to place

bets on the outcome of such fights. They further claimed that when the fights got out of control, guards would sometimes shoot at the inmates, and that since the prison had opened in 1988, eight inmates had been shot dead by guards and many others wounded in this way. On the program, video footage was shown of two inmates of the same ethnic origin fighting two other inmates of a different ethnic origin. One of the inmates, not considered the aggressor, was shot and killed during the fight, and the claim was made that guards had told this inmate after he had assaulted a guard that he would never leave the prison alive (Jones and Carlson 2001: 76).

In the mid-1980s, a female guard at a medium security prison reported her fellow guards for sleeping on night shift, claiming she had approached them and advised them that she felt unsafe and vulnerable while they slept. She warned them that if their conduct did not change, she would have to report them to the superintendent. They continued to sleep, she reported them, and the consequences were severe for her in that she was later the subject of graffiti on the prison walls and received abusive phone calls and letters, and her car was deliberately damaged in the parking lot (Jones and Carlson 2001: 77).

❖ Ethical Considerations in Probation and Parole

Probation and parole functions are commonly considered a component of corrections, because both functions are concerned with the management and control of former inmates. Like corrections, probation and parole officers must concern themselves with ethical issues, and their association has developed a code of ethics (see the following Closer Look box).

A Closer Look

Probation and Parole Officer's Code of Ethics

- I will render professional service to the justice system and the community at large in effecting the social adjustment of the offender.
- I will uphold the law with dignity, displaying an awareness of my responsibility to offenders while recognizing the right of the public to be safeguarded from criminal activity.
- I will strive to be objective in the performance of my duties, recognizing the inalienable right of all persons, appreciating the inherent worth of the individual, and respecting those confidences which can be reposed in me.
- I will conduct my personal life with decorum, neither accepting nor granting favors in connection with my office.
- I will cooperate with my co-workers and related agencies and will continually strive to improve my professional competence through the seeking and sharing of knowledge and understanding.
- I will distinguish clearly, in public, between my statements and actions as an individual and as a representative of my profession.
- I will encourage policy, procedures and personnel practices, which will enable others to conduct themselves in accordance with the values, goals and objectives of the American Probation and Parole Association.
- I recognize my office as a symbol of public faith and I accept it as a public trust to be held as long as I am true to the ethics of the American Probation and Parole Association.
- I will constantly strive to achieve these objectives and ideals, dedicating myself to my chosen profession.

SOURCE: American Probation and Parole Association, n.d. Reprinted with permission of the American Probation and Parole Association.

Ethical issues in probation and parole center around tensions between the role of parole or probation as treatment or as punishment, the supposed ineffectiveness of probation and parole as a form of punishment, and concerns relating to the duty of these officers toward their clients. Traditionally, probation and parole have involved supervising offenders in the community, and this supervision suggests there will be regular contact between the officer and those who make up his or her caseload. Yet, these contacts vary from full counseling sessions to brief, perfunctory contacts once a month. The supervisory role brings to the fore the conflict between treatment and control functions, or as some describe it, between surveillance and service (Studt 1973). Eliot Studt argues that parole is more surveillance than service-oriented, because, for example, officers are instructed to make surprise visits to parolees. Some argue that this tension can be eliminated by giving the surveillance function to the police, leaving probation officers to provide services (Conrad 1973, 1982), whereas John Rosecrance (1986) holds that probation officers provide neither service nor surveillance but in effect, function primarily as report writers for the courts.

There has been a trend over the past decade toward making probation tougher, emphasizing risk control, and stressing the enforcement of sanctions for breaches of probation. Parole has always had a greater law enforcement emphasis than probation, even though it has come to be regarded as the agency responsible for "letting inmates out of prison early" (Petersilia 1999: 480).

Howard Abadinsky (1982) has proposed a typography of probation officer styles of probation work comprising the *law enforcement model*, the *therapeutic model*, and the *synthetic model*. The law enforcement model involves a primary role of public protection, the therapeutic model sees rehabilitation and aiding the offender as central, and the synthetic model is a combination of both law enforcement and rehabilitation.

Like corrections officers, probation and parole officers are faced with decisions about whether to emphasize the protection of society or to aid the offender, and they are also accountable to demands from administrators and politicians about how their duties should be carried out. Frank Domurad (2000: 43) suggests that as administrators try to organize the implementation of new concepts and programs, such as restorative and community justice, this has the effect of placing additional roles and responsibilities onto line officers and creates more confusion for them about the purpose of their work.

In many states, probation agencies are located in the executive branch of government, where they operate as rational bureaucratic agencies far removed from the probation officer in the field. This separation has the potential to create conflicts for the officers. For example, conflict can occur in cases where state-level policy makers make demands about how probation officers should interact with their clients, while at the same time the local community may have different requirements and demands of these interactions (Silverman 1993: 89). When probation is located within the judicial branch of government, there is less likely to be administrative pressure on probation work, because the supervision and treatment functions may be considered subordinate to sentencing and punishment. Nevertheless, it is possible that a probation officer may have to make decisions about treatment that can conflict with the intentions of the adjudicated punishment. This becomes even more complicated due to the fact that local-level judicial officers are often subject to local pressures in their punishment decisions (p. 90).

Today, in most states, the role of the probation officer has gained a new law enforcement emphasis, and the probation officer is identified more closely with law enforcement agencies. It is now common for probation officers to be proactive in enforcing probation conditions through measures such as monitoring, surveillance, search and seizure, drug testing, and even by accompanying police on enforcement actions (Small and Torres 2001: 24). It is now a regular practice for such officers to take part in vehicle surveillance, the execution of search and arrest warrants, gang task forces, and even sting operations (p. 26). Legally, a probation or parole officer may ask law enforcement personnel for assistance in searching probationers, but the primary

purpose of that search must be related to probation or parole and must not be a cover for other police purposes (del Carmon, Barnhill, Bonham, Hignite, and Jermstad 2001: 115). If police attempt to induce a probation officer to exercise his or her powers to search and if the officer agrees to the search, he or she must be satisfied that it is necessary for the proper functioning of the probation system.

A common condition of probation is that a probationer agrees to waive Fourth Amendment rights and allow searches to be conducted on his or her person, residence, and automobile. The California Supreme Court has held that as a general rule, probationers have "a reduced expectation of privacy," and this leaves them open to intrusions by governmental authorities, which "are necessitated by legitimate governmental demands" (del Carmon et al. 2001: 116). In one case, police searched a juvenile who was associating with suspected gang members at a football game and discovered marijuana on his person. Police did not know that the juvenile was on probation, a condition of which allowed a search of his person, and no probation officer was present when the search was conducted. In this case, the California Supreme Court ruled that the probation condition allowing searches was sufficient to authorize the police search of the juvenile (*In re Tyrell* 1998).

Today, police rely on probation officers for information about probationers including their place of residence, living situation, and behavior, and in return, probation looks to law enforcement for protection when brought into contact with high-risk offenders (Small and Torres 2001: 26). Increasingly, probation officers supervise offenders convicted of violent crimes, because probation is being granted to those with serious criminal backgrounds and substantial drug abuse histories, especially in metropolitan areas. As well, the workload of probation and parole officers has dramatically increased with the rise in intensive probation supervision. According to the Department of Justice, there were some 2.6 million adults on probation in 1990; by 2001 this number had increased by 33% to 3.9 million (Glaze 2002; U.S. Department of Justice 2000). By year-end 2005, there were 4,162,536 persons under probation supervision (Glaze 2006: 1). Of the 4.1 million, 50% had committed felonies and 49% misdemeanors. The largest percentage was convicted of drug violations (28%) followed by DWI (15%) and larceny/theft (12%). Women composed almost 1 in 4 probationers, representing 23% of adults on probation, up from 21% in 1995 (Glaze 2006: 6). The Department of Justice statistics show that California has the largest probation population, amounting to 388,260 adults.

Arming Probation Officers

A major ethical debate within the probation field concerns the issue of arming probation officers. (Parole officers carry weapons in two thirds of the states.) Some argue that probation officers cannot carry out the traditional role of a probation officer effectively while armed, because bearing arms contributes to an atmosphere of distrust between the officer and the client. On the other hand, officers who are more enforcement-oriented typically view carrying firearms as a means of protection from risk, especially as they have come to associate with more violent or high-risk offenders. Some contend that officers should not be required to carry firearms if they are personally opposed to carrying weapons, but rather, they should be given the option to carry them on certain assignments where risks would warrant such protection (Small and Torres 2001: 27). One possible result of increased arming, however, is that probation officers will be regarded more as police officers than probation officers, and this will further diminish any treatment role they may still have. This debate has now entered the juvenile justice arena, and in some states, for example, in most jurisdictions in Arizona, juvenile probation officers now carry firearms (Banks, Rector, and Jackson 2005).

The ACA's view on this issue is that there should be a demonstrated need for firearms, and once this need is clear, adequate and ongoing training in their use must be provided. In many ways, the issue of carrying arms strikes directly at the difference between probation

and police work, and it is significant that those entering the profession of probation do not receive the training and awareness in the use of firearms that is provided to law enforcement personnel. Psychologically, probation officers have not traditionally been sensitized to the use of weapons, and probation officers have not been recruited with a role involving weapons in mind.

Treatment or Control?

As already noted, the traditional tensions between treatment and control have been affected by an increased focus on dangerousness, risk, and criminality. As a result, treatment is de-emphasized, and security tends to be stressed. Nevertheless, the notion that probation is granted for the purpose of treatment persists, and a goal of probation remains one of matching the probationer with treatment and rehabilitation services in the community. The increased numbers of probationers have put an end to the commonly accepted notion that individual officers' caseloads should be set at between 30 and 50 cases (Champion 1996: 437). Consequently, probation officers are challenged ethically in terms of having to choose who among their clients will receive adequate treatment services, especially as the caseloads continue to rise (Silverman 1993: 91). Associated with the problems in supervising large caseloads and the decisions about treatment responsibilities are the increased demands for, and time constraints in, the preparation of presentence reports. With very large caseloads, officers may well lack the time to prepare detailed presentence reports or may have to trade off one offender against another in the interests of performance (p. 91).

Parole

According to Joan Petersilia (1999: 479), 14 states have now abolished discretionary parole release for all offenders, and 21 have severely limited its use. Nevertheless, the Department of Justice reports that at year-end 2005, 784,408 adults were being supervised on parole out of an estimated correctional population of 7,056,000 representing a rate of 350 per 100,000 U.S. general population (Glaze 2006). Although parole systems remain, treatment programs are scarce, and parole officers focus their efforts on surveillance rather than on rehabilitation. Safety and security are now major issues in parole services (Petersilia 1999: 482), and in large urban areas parole agents are commonly occupied in drug testing, electronic monitoring, and verifying curfews. Greater numbers of parolees are not completing their parole supervision and are being returned to prison, which contributes to the explosion in the prison population (p. 483). For example, parolees were 11% of the correctional population in 2005 and accounted for a 9.1% increase in correctional population growth (Glaze 2006). In California, parolees represent a rate of 421 per 100,000 population (p. 7). Partly due to zero tolerance policies, a greater number of parole violations are being detected, and revocation to prison is becoming a routine affair, because the process of being sent to prison, later released on parole, and then sent back again to prison sets up a revolving door for parolees.

Over the past several years, at least for parole officers, the tensions between treatment and control roles appear to have been resolved in favor of control, and consequently ethical considerations in relation to this issue would seem to be much less of a concern than for probation officers. Nowadays, the parole officer's task is to all intents and purposes a policing role, because parole officers have legal authority to carry and use firearms, to search without Fourth Amendment constraints, to order arrests without probable cause, and to confine without bail (Rudovsky et al. 1988). Some argue that these powers make the parole officer a "walking court system." According to Petersilia (1999: 505), over 80% of parolees are supervised on caseloads that average 69 parolees,

and parolees are seen face to face less than twice a month. Parole officers complain about lack of time and resources, increased paperwork, and higher caseloads. Moreover, newly recruited parole officers now tend to adopt the surveillance rather than the rehabilitation model of parole and perform a “quasi-policing role” in some areas (p. 508). For the future, in light of the convergence of the roles of parole officer and police officer, parole officers are likely to find themselves having to respond to ethical issues similar to those that confront police officers.

Summary

Crime control policies over the last 2 decades have produced an explosion in the prison population, and it is in the context of a policy of mass imprisonment and the consequent concerns about security and safety that ethical concerns in the prison environment now arise. When considering ethical issues it is crucial to have an understanding of how prisons operate, their disciplinary regimes, and the experience of being both a prisoner and a guard. Contextualizing the prison environment and the experience of imprisonment provides a basis for analyzing and assessing ethical issues and dilemmas. This chapter has therefore provided this contextualization.

The organizational framework of guarding inmates has changed over time as early ad hoc individualistic approaches gave way to managerial and bureaucratic regimes that formulated detailed standards and rules about prisoner conduct. The composition of both the prison and the guard population has also changed over time, as prisoners have become radicalized and have claimed their rights through the courts.

What should be the basis for an ethical system of guarding prisoners? Some researchers emphasize the issue of punishment, pointing out that it is deprivation of liberty that is sanctioned by the courts and not additional penalties such as controlling visits, strip searching, or depriving prisoners of normal amenities. An ethical standard, therefore, that recognizes the essential humanity of prisoners would reflect the purpose of incarceration and protect prisoners from additional abuse. The role of guards and their interactions with co-workers and administrators are factors that should play a part in a correctional ethic. Strong power differences exist between guards and inmates, and decisions are constantly being made in uncertain situations. This creates a need to incorporate an ethical dimension into guard work. One extreme position, however, suggests that such is the nature of imprisonment that establishing any moral basis for the role of a guard is problematic. The brutality and degradation engendered by incarceration, it is argued, make it almost impossible for ethical and professional standards of conduct to be applied.

The detailed contextualization of prison work provided in this chapter shows how guards choose correctional employment, how they consider danger and mental tension as the core of their work, and how security and control are fundamental in their interactions with inmates. From this framework comes a guard's sense of suspicion about events that are different or which interrupt prison routines. A number of studies have shown how guards have no absolute power over inmates but are required to negotiate their dominance and how this can lead to what is called *corruption of authority*. Tensions within the role of guard include those between their treatment role and custodial role, each calling for different skills and perspectives. Ultimately, guards are dependent on the prisoners for their own safety, and at the same time have to show to their superiors an ability to manage prisoners competently. This means that rule books are often ignored in the interests of flexibility and negotiation.

Studies have examined the nature of power in prisons, how guard authority is made up of a guard's personal authority and his or her legalistic authority, and how informal controls are

employed to get back at inmates and to convey messages that reinforce guard authority. As with law enforcement, discretion is an important part of correctional work even though the correctional discretion is considerably constrained by written rules and regulations that determine conduct for both guards and inmates. Closely linked to the issue of discretion is the prison guard subculture, which has been extensively studied, revealing how new guard recruits are socialized to follow the prison guard code, especially those aspects that promote solidarity between guards against all outside groups, including inmates. Typographies of guards have been produced showing types ranging from those who adopt a helping strategy to others who display negative attitudes toward both guards and inmates and are barely able to cope with the prison environment.

Guard use of force is a major ethical issue in the prison environment, and it is clear that in the early period, guard violence was endemic. Despite detailed rules and regulations about the use of force, including deadly force, it is clear that some prison systems allow extralegal physical force to be used against inmates and that this represents a part of the guard subculture, because fighting an inmate is regarded as an expression of guard masculinity and machismo. Justifications for using violence include the guard perspective of being unable to maintain control without violence or the threat of violence and the belief that violence deters inmate violence against guards. Self-defense tends to be defined very broadly, and reprisals for inmate assaults are considered not only appropriate but also essential. Ultimately, however, unrestricted violence against inmates can only threaten the security of guards themselves, because it tends to fuel inmates' anger and hatred rather than repress their resistance. As well as rule books regulating the use of violence, the courts and state and federal governments have issued their own standards and directives, especially in relation to the use of deadly force.

Studies have identified a number of other forms of unethical conduct, including how guards react to rapes in prison and how corruption can be maintained through smuggling, drug trafficking, embezzlement, and theft. Sometimes whistle-blowing reveals acts of corruption, but at other times, whistle-blowers themselves are penalized for revealing misconduct.

Probation and parole raise some similar ethical concerns to those in corrections, especially in relation to the tension between treatment and punishment. Increasingly, probation is less directed toward treatment and more focused on enforcement and punishment, and probation officers appear to have moved closer to a policing role, which has included carrying weapons and collaborating with law enforcement officers in various activities. Parole officers have always been regarded as enforcement agents, and they have become even more law enforcement-oriented, resulting in a situation where the ethical issues that affect parole may in fact be similar to those relevant to the policing function.

Discussion Questions

1. There have been dramatic increases in the number of persons imprisoned in the United States over the last 20 years and a trend toward constructing supermax prisons. Discuss at least three ethical concerns that these two developments have given rise to in relation to inmates.
2. Explain the relationship between the different styles of prison management and how ethical issues might differ under each style of management.
3. In an ethical correctional system, all prisoners would be treated with humanity. Explain how prisoner humanity would be respected in the use of force and in the conditions of confinement.

4. What are some of the issues faced by prison guards in their interactions with inmates, and how do they cope with these issues?
5. What models explain guards' power? How can guard authority be corrupted?
6. We know that guards often overlook minor rule violations because they need inmate cooperation. Is this ethical?
7. Does the guard subculture provide answers to ethical issues and dilemmas? If so, evaluate those solutions in terms of ethical standards.
8. How do guards justify the use of force against inmates? Are there any ethical implications in their justifications?
9. Explain why guards are ethically responsible for protecting the safety of prisoners. What situations might arise where this responsibility should be exercised?
10. What ethical issues do probation and parole officers face in carrying out their duties? Given the recent emphasis on law enforcement in probation and parole practice as well as on policies of zero tolerance, explain how this change from treatment to enforcement affects ethical issues and standards for the professions.

Web Resources

American Civil Liberties Union National Prison Project. <http://www.aclu.org/issues/prisons>

Amnesty International Women in Prison. <http://www.amnestyusa.org/women/womeninprison.html>

Amnesty International Women's Human Rights. <http://www.amnesty-usa.org>

Correctional Association of New York. <http://www.corrassoc.org>

The Corrections Connection. <http://www.corrections.com>

Corrections Officers Codes of Ethics. <http://www.advocatweb.org/HOPE/correctionsethics.asp>

Family and Corrections Network. <http://www.fcnetwork.org>

Human Rights Watch: Prisons. http://hrw.org/doc/?t=global_prisons

International Center for Prison Studies. <http://www.kcl.ac.uk/depsta/rel/icps>

National Institute of Corrections (NIC). <http://www.nicic.org>

National Prison Rape Elimination Commission. <http://www.nprec.us/resources.htm>

Penal Reform International. <http://www.penalreform.org>

Prison Reform Advocacy Center. <http://www.prisonreform.com>

Rightsforall-usa.org. <http://www.rightsforall-usa.org/info/action/index.html#prisons>

Stop Prisoner Rape. <http://www.spr.org>

United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFED). <http://www.unafei.or.jp>

Vera Justice Institute. <http://www.vera.org>

Women Coping in Prison. <http://curry.edschool.virginia.edu/prisonstudy/>