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The United States Prison System: A Comparative Analysis

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The United States Prison System: A Comparative Analysis

by

Rachel O'Connor

A thesis submitted in partial fulfillment
of the requirements for the degree of
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Abstract

Throughout history the penal system has been viewed as the paramount means of dealing with criminals, though its function has transformed throughout time. It has served as a pit for detaining suspected criminals, a home for the vagrant, an institution for the insane, a dreaded place of repute, quarters for cleansing and renewal, and an establishment of cataloged charges. The trials and transformations of history have developed and shaped the institution that we recognize today. Presently, the United States prison population far exceeds that of any other country in the world. The political climate, tough on crime policies, determinate sentencing, and increasing cost of prisons have significantly increased numbers of various offenders in prisons and generated lengthy prison sentences; creating a proliferating annual prison population and a depletion of resources. As a result, this practice of essentially cataloging mass amounts of inmates appears to have resulted in a system whose practices, financial situation, depleting amount of resources and ultimately the inability achieve rehabilitation has resulted in a system accomplishing only incapacitation. However, other nations have created prison models that appear more successful, managing to lower prison populations while simultaneously lower crime rates.

Comparing the United States to the Netherlands and Germany, countries that have been successful in these to lower prison populations while simultaneously lower crime rates, provides an opportunity for uncovering potential advantageous practices.

Introduction

“The only thing necessary for the triumph of evil is for good men to do nothing (Burke).” The words of Edmund Burke ring true in addressing the dilemma of crime and punishment. Since the beginning of time, good people have rationalized the efforts to punish and prevent evil. Dating as far back as before Christ, the prison has been used as one source of detainment and punishment. However, through the course of history, the institution of the prison evolved into a vast establishment and the most used convention for dealing with evil doers. The prison has served as a pit for detaining suspected criminals, a home for the vagrant, an institution for the insane, a dreaded place of repute, quarters for cleansing and renewal, and an establishment of cataloged charges. The trials and transformations of history have developed and shaped the institution that we recognize today; a patchwork of historical elements that have resulted in an enterprise which essentially warehouses law breaking individuals.

Variances of the modern prison system can be found all over the world. However, in the land of liberty, the United States, it can ironically be found on the largest scale. America possesses the largest prison system in the world and boasts a prison population of nearly more than that of Russia’s and China’s combined. The U.S.’s burgeoning prison population continues to strain the system at capacity levels, with many prisons facing the problem of overcrowding.

Housing criminals from a variety of levels of gravity, from misdemeanor offenders to murderers, the prison system has become a revolving door of punishment; the majority of released prisoners returning to prison within a brief period. Additionally, not only does the U.S. have a greater percentage of its population locked up than any other country, but the price tag is not cheap. The United States spends billions on the prison system each year, surpassing most federal public programs. Most importantly, the tough on crime policies that have led to mass incarceration have not made the country proportionally safer. Contrarily, the United States continues to lead in crime, having the highest crime rate among comparable countries and one of the highest in the entire world.

The United States prison system currently faces many challenges. The historical evolution of the institution has resulted in a system that accomplishes no other solution to crime but incapacitation. The “tough on crime” policies and essential warehousing of criminals has led to prison overcrowding, exorbitant budgetary costs, high levels of repeat offenders, and a failure to significantly reduce crime. The facts and figures clearly point out a problematic situation, and a critical need for inquiry.

While the United States’ criminal justice system continues to face these significant challenges, some countries have effectively managed to experience declines in crime and prison populations while simultaneously maintaining comparably low per capita crime rates and prison populations. Among comparably developed democratic nations, Germany and the Netherlands are

exemplar of successfully accomplishing these attainments. Through a comparison analysis of the United States', Germany's, and the Netherlands' prison systems, valuable insight into possible beneficial practices, sentencing standards, and conditions could be obtained. This paper seeks to do just that; however, cognizant of the significant limitations in doing so. The nature and scope of the subjects of crime and prison are broad and there are many psychological, societal, and sociological factors that can contribute to crime and recidivism, making it difficult to prove exactly which factors are most influential on crime rates and prison populations within a country. While there is more than a substantial amount of information available and studies conducted regarding these factor, there is little that is concentrated on broad based comparative analysis of internal prison factors across countries. Therefore, what this paper does face in the way of limitations it makes up for in crucial insight; offering a critical evaluation of the United States' prison system and a unique comparative analysis shedding light on the internal prison systems and practices of successful countries' organizations and practices in an effort to uncover elements that may influence and promote a more effective approach here in the United States.

Chapter 1- The Prison: History and Theory

Introduction

“The mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilization of any country(Hudson, 2007).” The great words of Winston Churchill amply personify the challenge that exists between society and criminals; in the determining of direction that the management of those criminals should be. Since the earliest records of time, those that choose to break the laws of man have existed and remained constant. However, the sentiments and practices of the methods and justifications surrounding the disciplining of transgressors have experienced extraordinary transformations over time. Yet, the utilization of prison as a form of punishment has been a mainstay. Though it has experienced its own transformations over time, the prison has existed since the very beginning and has become a principal part of criminal justice and the paramount form of punishment today.

From the rudimentary times of subversive confinements and gladiator deaths to gruesome public executions and primitive prisons, the early record of punishment and prison is shocking. However, the progression to more refined houses of correction and well-ordered prisons, while still unsatisfactory by today's standards, prove that the societies in which they existed were certainly

improving in civility. Moreover, the written record of history illustrates an institution that has alternated, changed, and challenged its practices and functions, striving to achieve justification through results. Initial governments employed punishment in an effort to exact vengeance on the transgressor, while new ideas and efforts later form, endeavoring to prevent others from engaging in crime and offenders from relapsing into criminal behavior. The attempt to alter or reform criminals makes an early debut as well; however, it does not reach its height until the Age of Enlightenment. Today, prisons contain remnants of these earlier justifications, yet primarily serve as a form of incapacitation. The history experiences the institution and, often, revivals of these four justifications of imprisonment:

- *Deterrence:* The knowledge that possible or certain consequences will result from illegal activity will likely prevent some individuals from engaging in that illegal activity (Morris & Rothman, 1998). This premise is the foundation of deterrence theory. The philosophical approach of deterrence aims to reduce crime through the execution of exact and harsh punishment. Deterrence is rooted in the utilitarian perspective that individuals are guided by both pleasure and pain, seeking pleasure and thus avoiding pain (Beccaria, 2003). Motivated by the desire to avoid pain, performed via punishment, individuals will most often avoid the activity which will ultimately result in punishment. The use of punishment, justified by the deterrence approach, will not only prevent others from

committing crime, but it will prevent criminals from becoming repeat offenders.

- *Retribution*: Retribution is the philosophy where punishment is solely justice driven. The Bible passage “And thine eye for eye, tooth for tooth, hand for hand, foot for foot(The Holy Bible; King James Version, 1990).” is the hallmark of the retributive approach to justice. Retribution is reliant on two premises: that citizens willingly enter a societal contract forfeiting a small amount of their freedom in exchange for protection from the state, and that if that societal contract is broken by someone, then the state has the authority to punish (Pollock, 2005), and that the punishment imposed by the state essentially corrects the wrong committed by the individual (Pollock, 2005).
- *Rehabilitation*: Employing punishment as an aim to alter an individual for the better defines the philosophy surrounding rehabilitative punishment. Rehabilitation through punishment targets negative behavior in an attempt to modify that behavior, which can be facilitated through physical reprimand or psychological treatment (Morris & Rothman, 1998). Physical reprimand is used strictly as behavior modification or negative reinforcement, while the essential retraining of individuals through habit formation, self-reflection, and behavioral guidance form the cornerstones for psychological treatment (Morris & Rothman, 1998).
- *Incapacitation*: The detaining of dangerous or delinquent individuals in a secure environment will not ultimately reform the person, necessarily deter

them from future crime, or attain real retaliation; however, it will temporarily prevent an offender from further criminal or harmful activity(Morris & Rothman, 1998). Incapacitation is often invoked with habitual offenders in an effort to detain them on long term sentences.

The changes in justification, and thus the practices and functions of prisons, were motivated, not only by public sentiment, but were voiced by philosophers that inspired and advocated. The influences of Socrates, Plato, Beccaria and Bentham, of Locke and Rousseau, and of Tocqueville and Foucault, have a place in understanding the sentiments of the times and the alterations that resulted. From the implementation of the practice of imprisonment, to the formulation of the institution, the effects of the enlightenment period, and modern transformations in practices, the prison system has not only evolved, it has been inspired, and most importantly, endured.

Early Imprisonment

Before Christ

The book of Genesis tells the story of a son born to Jacob and Rachel, the 11th and favorite son named Joseph(Version, 1990). Because he was the obvious favorite of his father's, Joseph was resented and envied by his older brothers. By the time Joseph was seventeen, his brothers' resentment grew to hate. However, it was Joseph's dreams that would trigger the brothers to plot a plan to be rid of Joseph forever. Joseph told his brothers and father of two

dreams that he had. The first dream illustrated Joseph and his brothers collecting bundles of grain. The brothers' bundle then formed a circle and bowed down to Joseph's bundle. If this first dream did not anger them, the second certainly would. In the second dream, the father, mother, and eleven brothers all were bowing down to Joseph. While the father had listened intently and deliberated over Joseph's dreams, the brothers determined that Joseph and his large ego had to go. Together, the brothers decided to kill Joseph. It was the eldest Rueben who suggested that they put Joseph into a cistern until they determined exactly what to do. Rueben did not actually want Joseph to die and hatched a personal plan to rescue him. However, while the collective group pondered what was to be done, a caravan of Ishmaelites was passing through. Brother Judah, in an effort to avoid killing Joseph, suggested they sell him to the Ishmaelites. This would mark the beginning of Joseph's journey toward slavery in Egypt. Upon arriving in Egypt, receiving a master in Potiphar, and establishing himself as his master's favorite, his master's wife scandalously and falsely accuses Joseph of raping her. "And Joseph's master took him into the prison, a place where the King's prisoners were bound: and he was there in the prison(Version, 1990)".

The story of Joseph is the first example of prison in the ancient times. While the story of Joseph's prison experience offers little in the way of details, more detailed descriptions of Prisons follow the story of Joseph. The prisons of the bible are varied and diverse. The use of a cistern or well was not only used in the brothers' hold of Joseph, but was used in the case of an imprisoned

Jeremiah and was described as being so horrible that after being brought up for interrogation, Jeremiah begged not to be returned for his fear that he would die there (Version, 1990). The book of Psalms addresses prisons as places where captives are “doomed to die” and are “in misery and in irons (Version, 1990)”. While the varied uses of prison depict both justice and injustice; the depictions of the conditions in prison are similar and uniformly repulsive.

Greece and Rome

Literature conveys that the conditions of prison did not change from biblical times to throughout the times of Greece and Rome. The philosophical approaches to the punishment of prison do in fact begin to transform. Plato presented the deterrent approach to punishment in his dialogue *Gorgias*:

“Now the proper office of all punishment is twofold; he who is rightly punished ought either to become better and profit by it, or he ought to be made an example to his fellows, that they may see what he suffers, and fear to suffer the like, and become better. Those who are improved when they are punished by gods and men, are those whose sins are curable; and they are improved, as in this world so also in another, by pain and suffering, for there is no other way in which they can be delivered from their evil. But they who have been guilty of the worst crimes, and are incurable by reason of their crimes, are made examples; as they are incurable, they get no good themselves, but others get good when they behold them

enduring forever the most terrible and painful and fearful sufferings as the penalty of their sins- there they are, hanging up in the prison house of the world below just as examples, a spectacle and warning to all unrighteous men who come thither(Plato, 2008)."

While this novel approach to punishment is introduced, it is clear that the idea of retribution still maintained a strong hold. In fact, it was Plato's teacher that would again portray the earlier philosophy of retribution through his words in *Laws*; Socrates stated "Hence we must make the punishment for such terrible crimes here in this present life, if we can, no less stern than those of the life to come." Clearly of a different mind, teacher and student begin to enumerate differing and novel perspectives regarding the justification for punishment. Roman Marcus Tullius Cicero was, however, of the same mind of Plato. In *Laws* Cicero wrote "Let the punishment match the offense," representing the retributivist approach that the severity of punishment should equal the degree crime.

Evidence of these humble beginnings of the prison is recorded almost solitarily in literature throughout the times of the Hebrews, Greeks, and even Romans. Through these texts, not only are the details of prisons revealed, but the purpose, function, and objective can be distinguished. The Bible first introduces the philosophy of retribution in the book of Deuteronomy, stating: And thine eye for eye, tooth for tooth, hand for hand, foot for foot(Version, 1990)." The

biblical stories therein coupled with the philosophies expressed in Greek writings paint a picture of a punishment that was conditionally as horrible as the crimes that it sought to castigate. Moreover, the depictions of the emergence of prison illustrate a practice that was yet embryonic and, while it was universally retributive and dire, it was unorganized and heterogeneous.

The Birth of the Prison

The Body

The early modern period was a time of callous punishment, as well as, a time of profound transformation. Early modern forms of punishment were public spectacles and the harshest physical forms of torture. The focus of punishment during this period was directed solely at the human body. Michel Foucault's *Discipline and Punishment; the Birth of the Prison* catalogs this period infamously and therefore, early modern punishment is most recently identified with the prisoner Damians, who was charged with an attempt to murder the King and was condemned to be quartered and burned. Michel Foucault details Damien's execution in his first chapter:

“Damians the regicide was condemned ‘to make the *amende honorable* before the main door of the Church of Paris’, where he was to be ‘taken and conveyed in a cart, wearing nothing but a shirt, holding a torch of burning wax, weighting two pounds’; the ‘in the said cart, to the Place de Greve, where, on a scaffold that will be erected there, the flesh will be torn from his breasts, arms,

thighs and calves with red-hot pinchers, his right hand, holding the knife with which he committed the said parricide, burnt with poured molten lead, boiling oil, burning resin, wax, and sulphur melted together and then his body consumed by fire, reduced to ashes and his ashes thrown to the winds(Foucault, 1995).”

Damien’s death would have been more than unpleasant had everything gone as planned, though it certainly did not(Foucault, 1995). There were in fact many complications with the quartering and it was recorded that the entire process took most of the day and Damien’s body was burning well after eleven p.m.

The execution is recounted in numerous works throughout history including those of adventurer Giacomo Casanova, philosopher CesareBeccaria, philosopher Thomas Paine, writer Mark Twain, and writer Charles Dickens, to name a few. Damiens’ execution was notorious due to the rarity of such a charge and sentence; however, it is exemplary of the violence that was enacted on the body of those who violated laws.WhileDamians’ death was likely more severe than most, the punishments during this period were uniformly thematic in that they were both physical and public.

Damians was the last person to be executed by drawing and quartering in France(Foucault, 1995). In fact, the theatrical role of physical punishment was declining, with punishments such as imprisonment; transportation began to take hold(Morris & Rothman, 1998). What had previously served a moral lesson for the public, theatrical physical punishments were becoming less appealing to the

public and particularly to the elite (Morris & Rothman, 1998). These mandatory public gatherings were creating opportunities for riots and were no longer serving their deterrent purpose.

The Bridewell

England's King Henry III, notorious for his many wives, would also leave his mark on the history of the prison system. His beautiful palace built along the Thames River served as one of his homes and would later be used for the papal delegation that would sever his marriage with Queen Katherine of Aragon. However, shortly after his reign, Bridewell Palace would become a prison. The palace would become a prototype prison, or house of correction, and namesake of all those designed in its likeness. Bridewell would be the first ordered prison, and the first to provide trade training, the first to have full-time staff, and the first to create actual cells and confinement (Morris & Rothman, 1998). The prison was designed to focus on making inmates work, making conditions undesirable and most importantly, preventing idleness in the individuals that so obviously needed to be productive. During the seventeenth century, the system took hold and swept through England creating over 170 prisons like it throughout the country (Morris & Rothman, 1998).

The early modern period revolutionized the method and objective of punishment. Damiens' execution and England's implementation of Bridewell during this period demonstrate the decline in the public spectacle and the rise of imprisonment. Damiens' manner of death, though extreme, is representative of

the focus on the physical, bodily form punishments and public theatrics during this period. Conversely, the institution of Bridewells marks the rise of punishment which took place privately behind the prison walls. However, both the Bridewell and public punishments sought to accomplish one main objective; to deter future crimes. The public spectacle sought to use criminals as examples to the rest of the public, while the prison sought to make the prisoner desire never to return to the institution. Whereas both forms of punishment sought the same result, the transition in method would pave the way for a vital transformation in punishment and penal history.

The Age of Enlightenment

The Enlightenment

George Washington addressed his army in 1776, declaring:

“Our cruel and unrelenting Enemy leaves us no choice but a brave resistance, or the most abject submission; this is all we can expect. We have therefore to resolve to conquer or die: Our own Country’s honor, all call upon us for a vigorous and manly exertion, and if we now shamefully fail, we shall become infamous to the whole world. Let us therefore rely upon the goodness of the Cause, and the aid of the Supreme Being, in whose hands Victory is, to animate and encourage us to great and noble actions – The eyes of all our Countrymen are now upon us, and we shall have their blessings and praises, if happily

we are the instruments of saving them from the Tyranny meditated against them. Let us therefore animate and encourage each other, and shew the whole world, that a Freeman contending for Liberty on his own ground is superior to any slavish mercenary on earth(Sparks, 1834).”

Washington’s words traveled much further than the Continental Army and their sentiment resonated all over the world. Indeed, the Americas were not the first place that the Enlightenment had reached. The Age of Enlightenment had already begun to impact most of Europe’s culture and government. Writers like John Locke, Jean Jacques Rousseau, and Baron De Montesquieu began challenging old orders and sowing new attitudes regarding government and authority. Locke emphasized that man had natural rights bestowed on him from God, not to be infringed on by government or monarchs. Encouraging independence and equality, Locke stated that “no one ought to harm another in his life, health, liberty, or possessions(Locke, Second Treatise of Government).” Rousseau advocated for a society that was guided by “general will,” or common good, yet based on individual rights(Rousseau, The Social Contract). However, he saw a state where “Man is born free; and everywhere he is in chains(Rousseau, The Social Contract).” Montesquieu declared that power did not belong in the hands of a single individual. He stated: “If the triangles made a god, they would give him three sides(Montesqueiu, On the Spirit of Laws).” Montesquieu was the first to advocate for three branches of government; the judicial, legislative, and executive. Their writings were much more extensive;

however, here their influence would challenge the very authority that governed societies. They championed an alternative to submitting to a repressive authority and tolerating infringements on natural rights.

This intellectual environment created a platform for momentous inquiry and publications regarding prisons. The concern focused on the treatment of criminals, the conditions of prisons and the prisons' ability to meaningfully rehabilitate its inhabitants. During the Enlightenment, humanitarian thinkers advocated against the employment of excessive punishments, torture, and the death penalty. However, they acknowledged that crime was inevitable and believed that punishment was justified if the outcome resulted in the greater good of the society. Influential theorist Jeremy Bentham (*Introduction to the Principles of Morals and Legislation*, *The Panopticon Writings*, *The Constitutional Code*, and *An Introduction to the Principles of Morals and Legislation*), Cesare Beccaria (*On Crimes and Punishment*), and Voltaire (*A commentary on the book Of Crimes and Punishments*) would significantly impact the field of crime and punishment during the Enlightenment period.

Like other utilitarian Enlightenment thinkers, Bentham maintained that individuals were guided by two principles-pain and pleasure; "we seek pleasure and the avoidance of pain(Bentham, *The Rationale of Punishment* (Digital Copy), 2008). They govern us in all we do, in all we say, in all we think(Bentham, *The Rationale of Punishment* (Digital Copy), 2008)." Bentham believed that individuals were predisposed to commit crime if that act would result in an

outcome that was viewed as favorable to the individual, unless prevented by some consequence. He stated that “Whatsoever evil it is possible for man to do for the advancement of his own private and personal interests at the expense of the public interest, that evil, sooner or later, he will do, unless by some means or other, intentional or otherwise, prevented from doing it(Bentham, The Rationale of Punishment (Digital Copy), 2008).” Therefore, it follows that the general knowledge of certain resulting punishment, ergo pain, would guide an individuals’ choices regarding acts of crime. Punishment was recognized as necessary; however, it was equally necessary that punishment serve a greater purpose than retribution. They believed that punishment, if properly enforced, acted as a deterrent to future crime.

Bentham, Beccaria, and Voltaire sought to establish punishment as purposeful, in that, if carried out properly, it would deter crime. Bentham wrote that “general prevention ought to be the chief end of punishment as its real justification(Bentham, The Rationale of Punishment (Digital Copy), 2008).” Beccaria concurred, citing that “the purpose, therefore, is nothing other than to prevent the offender from doing fresh harm to his fellows and to deter others from doing likewise(Beccaria, 2003).” The concept of creating deterrence through punishment was contingent on several key factors, including constancy, proportionality, and expeditiousness. Beccaria asserts that the effectiveness of punishment as a deterrent is contingent on several key points including constancy and promptness. He contends that the severity of the punishment itself is inferior to the certainty of it being enforced: “The certainty of a

punishment, even if it be moderate, will always make a stronger impression than the fear of another which is more terrible but combined with the hope of impunity(Beccaria, 2003).” Promptness also strengthens the use of punishment as a deterrent: “the more promptly and the more closely punishment follows upon the commission of a crime, the more just and useful will it be(Beccaria, 2003).”

While punishments should be strict, it should be proportional to the gravity of the crime and should never involve torture. Beccaria avowed that “punishments and the means adopted for inflicting them should, consistent with proportionality, be so selected as to make the most efficacious and lasting impression on the minds of men with the least torment to the body of the condemned(Beccaria, 2003).” Voltaire likewise believed that punishment should be proportional, particularly if the punishment was to be justified and constructive. He wrote: “Punishment is much too often out of proportion to the crime, and sometimes detrimental to the nation it was intended to serve(Voltaire, 2012).” In fact, Voltaire, Bentham, and Becarria, all adamantly opposed the application of the death penalty. Executions during the period being typically gruesome were viewed as excessive, repulsive, and tyrannical. Voltaire voiced his disapprobation for the death penalty by stating: “Ingenious punishments, in which the human mind seems to have exhausted itself in order to make death terrible, seem rather the inventions of tyranny than of justice(Voltaire, 2012).”

The Enlightenment's influence on punishment directly affected the prison. The prison was viewed as a tool to reform the criminal. The movement to reform the souls of the prisoners was twofold; the prisoners needed religion and isolation. Jonas Hanway, period author of *Solitude in Imprisonment* sums it up, writing that "The walls of his prison will preach peace to his soul, and he will confess to the goodness of his Maker, and the wisdom of the laws of his country(Hanway, 1776, 2012)." The solitude within the walls of prison offered time for personal reflection and spiritual growth. The bodies of the prisoners were looked after by the maintenance of a structured, well ordered, clean, and healthy prison institution. The previous activities of gambling and drunkenness were eliminated. Under the new reforms, prisoners were treated equally, they were washed, and they wore uniforms(Morris & Rothman, 1998).

The emergence of two important and influential prison designs during the Enlightenment period provided roadmaps for the proper rehabilitation of criminals. Both incorporated single cell occupancies, the practice of silence, structure, daily labor, and strict order mixed with their own unique flair. America would shed the shackles of British rule and custom, creating prisons that would influence the entire world. America's Auburn and Pennsylvania plans would forever leave their mark on the institution of prison throughout the world.

American Prisons- The Auburn and Pennsylvania Plans

Along with the British authority, America shed Britain's practices of punishment. Their newly obtained independence led to adaptations of their own

thoughts and beliefs and the all-encompassing conviction of individual independence and responsibility. Americans believed that the main cause of crime was disparity in classes and wealth(Morris & Rothman, 1998). In a nation that was so formed in equality and class mobility, they believed that crime would decline. They also believed that severe punishments, like that of the British rule that had reigned supreme, were counterintuitive to decreasing crime(Morris & Rothman, 1998). Like other enlightened thinkers, they took to heart the words of Beccaria when he wrote “the severity of punishment itself emboldens men to commit the very wrongs it is supposed to prevent(Beccaria, 2003).” Therefore, Americans questioned the use of not only severe punishment, but most importantly, the penalty of death(Morris & Rothman, 1998). De Tocqueville noted that “the Americans have almost expunged capital punishment from their codes. North America is, I think, the only one country upon earth in which the life of no one citizen had been taken for a political offence in the course of the last fifty years(De Tocqueville, Democracy in America).”

While the distinct abhorrence for British monarchical laws, severe punishments, and death penalty subsisted in the minds of Americans, the desire for social order and stability persisted(Morris & Rothman, 1998). There was no tolerance for crime in a county that offered such opportunity. The concept of the Prison struck the perfect balance between adequate punishment for crimes, a punishment that was severe enough to deter crime, and a newly realized ability to rehabilitate criminals(Morris & Rothman, 1998). Most prisons were readily financed and adopted plans that focused on rehabilitation, however varying in

systematic plans. The most popular prison plans were identified as the Auburn Plan and the Pennsylvania Plan. The Auburn plan allowed for isolated sleeping quarters with communal dining rooms and workshops(Morris & Rothman, 1998). Communication among prisoners was not allowed and a strict daily routine and labor schedule. The Pennsylvania Plan differed from the Auburn Plan in that prisoners were isolated to individual cells for the entire duration of their sentence.(Morris & Rothman, 1998) The common thread between the two plans, and the distinct quality of American prisons, was that the prisons themselves were oddly and uncomfortably quiet(Morris & Rothman, 1998). De Tocqueville and Beaumont pointed out that “The silence within these vast walls was that of death. We felt as if we have traversed catacombs; there were a thousand living beings yet it was desert solitude(De Tocqueville, Democracy in America).” Americans began to feel that upon the whole, the prison rehabilitative system that was created was serving its purpose; For there was little doubt that “the habits of order to which the prisoner is subjected for several years, influence very considerably his moral conduct after his return to society(De Tocqueville, Democracy in America).”

In regards to punishment, this period marks two key transformations; a comprehensive transition away from physical punishment and the receding of the public spectacle. Physical punishment inflicted on the body was replaced with the efforts to rehabilitate the souls and characters of criminals. Mental and spiritual rehabilitation became the keystone to solving the dilemma of criminal behavior and repetitive offenders. However, rehabilitative practices took place

behind the clandestine walls of the prison, creating a receding of the public manifestation of punishment. With the seclusion and amplified control of the prisoners, the public viewed less than ever of the experience of prison(Morris & Rothman, 1998). Consequently, this created an illusionary division between society and prisoners, increasing the disgrace and essentially branding individuals who had crossed the thresholds of the penitentiary. So while the aspiration of rehabilitation remained the keen focus of prison, society conversely increased disapprobation of anyone who did their time and cast them from society interminably.

The Modern Prison System

1865- Post World War II

By 1865, the earlier reformation efforts in American prisons had been hijacked by “overcrowding, corruption, and cruelty(Morris & Rothman, 1998).” The operations of most prisons were conducted utilizing the traditional Auburn plan, allowing for single occupancy cells and congregated areas for work and meals. This was a result, not of continued efforts toward rehabilitation, but of the endeavor of operating under the most efficient costs. The declining revenues directed towards prisons resulted in a continued deterioration of conditions and staff. The necessity for reform began to receive attention and the Wines and Dwight Report aided in obtaining essential awareness and support for new reform efforts(Morris & Rothman, 1998). The result would be the establishment of fixed maximum sentences and indeterminate sentencing, which provided

prisoners with the opportunity to participate in reformatory activities and behaviors and later be evaluated for a sentence based on “proof of reformation(Morris & Rothman, 1998).”

The move toward real rehabilitation, however, came during the progressive era. Reformation efforts were in full swing again and the materialization of developments in the area of behavioral science propelled prison reform to the forefront of politics. The advancements in behavioral science offered explanations for corrupt behavior and social and psychological treatments(Morris & Rothman, 1998). Progressives argued that individualized treatment of prisoners would cure criminal and prevent future crime. Though this idealistic approach would live up to its promises, the Progressive era would produce psychotherapeutic treatment for prisoners, a more community oriented atmosphere, allocated time for communication and visits, and ultimately the Federal Prison System(Morris & Rothman, 1998).

After World War II, prisoners’ rights received attention and enforcement. Newly elected John F. Kennedy would institute policies that favored the poor and minorities, which would subsequently bleed into the prison system. Kennedy’s policies “inspired a civil rights movement, which decidedly influenced the history of American prisons(Morris & Rothman, 1998).” Prisoners began to demand that their civil rights be acknowledged and accordingly employed the writ of habeas corpus and the Civil Rights Act. The writ of habeas corpus allowed for criminals to challenge convictions that violated constitutional rights, while the

Civil Rights Act protected prisoners from abuse and ensured religious freedom and other constitutional rights(Morris & Rothman, 1998).Additionally, the conditions of prisons also came under fire during the civil rights movement. The 1967 President's Crime Commission Report surveyed the entire penal institution and concluded that "offenders in such institutions are incapacitated from committing future crimes while serving their sentences, but the conditions in which they live are the poorest possible preparation for their successful reentry into society, and often merely reinforce in them a pattern of manipulation or destructiveness (Morris & Rothman, 1998)."

1970-Today

The reforms that naturally followed the 1967 President's Crime Commission Report were short lived and promptly followed by failure and disenchantment. Reform failure, coupled with increased incarceration rates and sentencing reform would cause a doubling in the prison population during the 1970s(Morris & Rothman, 1998). Prior to the 1970s, "indeterminate sentencing" provided for maximum sentences for particular crimes, however, during the 1970s federal, state, and local governments began to implement "determinate sentencing" providing mandatory minimum sentences for each categorical crime(Morris & Rothman, 1998). The efforts to establish determinate sentencing stemmed from the growing skepticism of the actual ability to reform criminals and the conviction that criminals needed to be kept off the streets. Consequently, this would mean more lengthy sentences and increased number of confinements. This trend would continue through the 1990's, with prison populations doubling

yet again and the problem of overcrowding beleaguering the criminal justice system.

Today, prison populations total more than two million, with 1 in every 37 Americans having at some point, spent time behind bars(Bonczar, 2003). Overcrowded prison populations continue to be the greatest challenge facing the American prison system. High crime rates, the continuation of determinate sentencing, and tough on crime political attitudes and policies have caused and continue to exacerbate the prison population challenges. Determinate sentencing continues to prevail, putting more law breakers behind bars and keeping them there for prolonged periods of time(Morris & Rothman, 1998). Additionally, public and political sentiment remains strongly in favor of tough crime policies that prescribe prison sentences, and stringent ones, for a multitude of crimes(Morris & Rothman, 1998). This heavy reliance on prison as the preferred method of punishment coupled with the lengthy prison sentencing has not only produced modern population woes, it has ultimately resulted in the derailment of rehabilitative efforts, due to disenchantment and limited resources.

In 1865 the penal system was viewed as the paramount means of responding to crime, and the same is believed today. Consequently, overcrowded prison populations have historically plagued the American prison system and continue to be the greatest challenge facing the institution today. However, some key transformations within the penal system have manifested since the mid-nineteenth century. Prison survey reports, reforms, and the

prisoner rights movement resulted in the establishment of prisoners' legal status and enhanced conditions. The practice of solitary confinement now supplants corporal punishment, recreation now provides relief to prisoners, striped uniforms have been eradicated, and technology and modern medicine have remarkably progressed modern prisons (Morris & Rothman, 1998). Nevertheless, while advancements in conditions and prisoners' rights have been obtained in recent years, the system is increasingly plagued by burdening numbers of inmates which had created a system that catalogs inmates and merely incapacitates criminals for specified amounts of time.

Conclusion

Throughout history the penal system has been viewed as the paramount means of dealing with criminals, and remains so today. Prison has been used as a holding chamber, a work house, a confinement unit, and an infirmary. It has attempted to avenge, prevent crime, heal, and confine. The history of the prison tells a tale of an institution that has changed and challenged its practices and functions, striving to achieve justification through results.

The ancient biblical and Greek times mark the very beginnings of the employment of confinement. The practice of confinement was yet undeveloped, irregular, and inexpert. However, the filthy cisterns, repulsive cells, and brutal treatment demonstrate a practice that was consistently horrific and retributive. The philosophy behind confinement was focused on revenge and sought to enact vengeance equal to the crime committed.

The early modern period denotes a shift from the public spectacle of punishment that was previously conventional, however, retaining the prevalent practice of physical bodily punishment. The public spectacles sought to condition and deter the public from criminal behavior, while the physicality of punishments attempted to deter criminals from relapsing into criminal behavior. The decline in the public spectacle gave way to the rise of the prison. Moreover, the increasingly widespread employment of imprisonment created the necessity for an organized approach to confinement, producing the birth of the Bridewell. The Bridewell would become the prototype and namesake for the over 170 new houses of correction, that cropped up in England by the early seventeenth century.

While it would persist throughout the seventeenth century, the ascent of enlightenment philosophy would see to a comprehensive transition away from physical punishment. Deterrent focused physical punishment was replaced with the efforts to rehabilitate the souls and characters of criminals. America would serve as a beacon to the rest of world in regards to prison reform, creating two influential prison designs that implemented the use of silence, isolation, and structure to amend prisoners. These designs would make America the idyllic leader in prison management.

America's command over prison success, however, would be short lived. The postmodern prison has experienced both obstacles and achievements. The attainments of social and structural advancements and prisoners' rights have

categorically improved the institution of prison. The practice of solitary confinement now supplants corporal punishment, recreation now provides relief to prisoners, striped uniforms have been eradicated, and technology and modern medicine have remarkably progressed modern prisons(Morris & Rothman, 1998). However, overcrowded prison populations continue to be the greatest challenge facing the American prison system. Tough on crime policies and determinate sentencing have significantly increased numbers of various offenders in prisons and generated lengthy prison sentences; creating a proliferating annual prison population. The heavy burden of an overpopulated and too heavily relied on system has resulted in a depleting amount of resources and ultimately the inability to seek to achieve rehabilitation, resulting in a system accomplishing only incapacitation.

The history of the prison has conformed and traversed the years of change, public attitudes, and philosophical innovation. From its humble beginnings to the massive institution that it is today, the prison has endured. It has continually sought to cope with evil and crime, be it through achieving retribution, seeking deterrence, or desiring to rehabilitate. The developed experience of the prison has advanced and enhanced the institution; however, some key challenges still exist. The heavy reliance on prison for firm punishments of all forms of criminal behavior has created a system that is heavily overburdened. Therefore, the “war on crime” continues today and victory continues to appear bleak.

Chapter 2- The United States' Prison System: By the Numbers

Introduction

Home to roughly over 300 million citizens, the United States possesses only less than 5 percent of the World's population. However, it's correctional facilities house nearly a quarter of the World's prisoners. The U.S. continues to lead with the highest total incarceration rate in the World, beating out even higher populated industrialized countries like Russia and China. Furthermore, the U.S. leads in the highest per capita incarceration rate, with 715 per 100,000 individuals being incarcerated (International Centre for Prison Studies, 2012). With high incarceration rates, the prevalence of imprisonment is staggering; with 1 in every 37 Americans having spent time in a state or federal prison (Bonczar, 2003). In fact, the Bureau of Justices estimates that 6.6% of all individuals born in the U.S. each year will spend some time in prison. With over 2.3 million criminals behind bars, the U.S is clearly successful in locking up law breaking individuals (Carson & Sabol, 2012).

A Two Tier System

The United States is unique in many respects, it was the first country to form a democracy, it is founded on freedom and liberty, and its people are comprised of numerous races and ethnicities. Additionally, America is one of less

than thirty modern nations that are systematically organized as a Federalist nation. The United States democratic republic whose power is constitutionally divided and shared between a central governing authority, the Federal Government, and 52 smaller governing units, the State Governments. This sort of autonomy among states makes it necessary to point out the chief components of the U.S. criminal justice system. Jurisdiction over crimes and punishments is divided between the federal government and each state government or territory. Furthermore, within the process of criminal justice in the United States are two key aspects of the laws themselves and sentencing. While States boast a significant level of independence in regards to the formation of laws and sentencing, State laws are required to conform to the Constitution under the Federal government. So while laws and sentencing vary to some degree, the variance typically is diminutive. However, that is not to say the variation is not significant. In fact, the majority of crime and sentencing takes place at the state and local level; therefore, even a slight variance can transform the portrait of criminal justice in a state and subsequently the nation as a whole.

Jurisdiction

In general terms, federal courts possess jurisdiction over crimes that violate federal laws, occurred on federal property, are committed against federal institutions and federally regulated institutions, or involve the crossing of state lines. Federal crimes are most commonly investigated by the Federal Bureau of Investigations, the Internal Revenue Service, or the Department of External Affairs; depending on the crime committed. Subsequent to arrest, criminal cases

are tried by U.S. attorneys and sentenced to federal prison camps; therefore, formulating a procedure that maintains a distinct detachment from state criminal procedure.

Crimes prosecuted by the federal government include(Federal Bureau of Investigation, 2013):

- White Collar Crime
- Immigration Crimes
- Drug Trafficking
- Credit Card and Bank Fraud
- Hate Crimes
- Major Thefts
- Felonies
- Organized Crime
- Gun Crimes
- Public Corruption Crime
- Identity Theft
- Intellectual Property Rights
- International Money Laundering
- Bank Robberies
- Computer Crimes

State crimes can vary from state to state. However, the state is responsible for most crimes that occur within the state boundaries. State criminal cases are tried by State Attorneys and sentenced to State prison camps.

Crimes prosecuted by state governments include (Carson & Sabol, 2012):

- Homicide
- Grand Theft
- Assault/Battery
- False Imprisonment
- Robbery/Burglary
- Kidnapping
- Domestic Violence
- Fraud
- Drug Trafficking
- Stalking
- Weapons Offences
- Felonies

However, state and federal laws can sometimes, though rarely, be conflicting. In such cases, the Federal law would supersede the state law under the Supremacy Clause in the U.S. Constitution. The possession and use of marijuana provides the perfect case in point for this instance. Marijuana was first made criminal by its inclusion in the Controlled Substances Act of 1970 and has since become a center of debate in the United States (Office of National Drug Control, 2013). While it remains an illegal substance under the Federal

Government, 18 states have legalized it in some degree. The laws regarding Marijuana within the 18 states vary, with some allowing the drug for doctor supervised medicinal purposes and some permitting non-medicinal personal use with quantities varying in amounts(Office of National Drug Control, 2013). Yet the federal government, due to the Supremacy Clause, maintains jurisdiction in enforcing the Federal laws regarding Marijuana. However, the federal Department of Justice and the President of the United States often determine the extent of pursuing such violations, depending on the current policy. President Barack Obama has previous asserted his intentions by confirming that he would not “use Justice Department resources to try and circumvent state laws(The White House- Washington).”

State Laws

What constitutes a crime in one state may not constitute a crime in another. The vast majority of state laws that deal with criminal activity are analogous; however, few are distinctly divergent. These divergent laws can vary greatly among states and include directives, or lack of directives, that significantly affect crime rates and prison populations. Often, the issues surrounding these laws are hotly debated due to their correlation, or perceived correlation, with proliferate crime. The use and possession of marijuana falls into this category again, in addition to laws regarding guns, illegal aliens, and habitual offenders. Gun laws have maintained a steady place in the limelight of politics; however, most recently have gained center stage. Concealed Carry laws allow individuals to carry handguns completely concealed from view. States vary greatly in their

policies regarding this issue. Currently, 5 states allow unrestricted carrying of concealed or open carry of hand guns(National Rifle Association, 2008). Conversely, 4 states generally prohibit citizens from carrying concealed weapons, leaving the majority of states whom have some form of permitting process for concealed carry(National Rifle Association, 2008). Habitual offender laws, or 3 strike laws, have gained support in many states, offering stricter punishments for individuals committing 3 or more serious crimes. Committing 3 crimes, typically with 1 being violent in nature, will earn criminals 25 years to Life in prison(Reynolds, 2013). Nearly half of all states have instituted some form of habitual offender laws(Reynolds, 2013). Arizona has recently taken the issue of illegal immigrants into their own hands and deemed it a state misdemeanor, among many other provisions regarding illegal persons. Arizona is the only state to enact such a law; however, many other states have proposed similar laws(Morse, 2011). While there are many more laws of discrepancy, these examples provide an insight into the landscape of variety in state criminal laws.

Sentencing & Punishments

The application of punishments can vary from state to state as well. Sentencing structures are provided by the federal government establishing maximum and minimum sentences based on a few key factors; prior criminal record, age, and surrounding circumstances. The United States Sentencing Commission published federal sentencing guidelines, of which states use to establish their own sentencing policies, allowing for varied sentencing between states. State governments are permitted to use a limited number of punishments

by the federal government. Punishments can involve fines, imprisonment, probation, and restitution. Sometimes, depending on the state, judges can utilize community service and other forms of punishment at their discretion. While certain punishments are permissible by the federal government, not all states accept their implementation. For instance, the use of the death penalty has been abolished in 18 states(Snell, 2013). Conversely, the federal government and the remainder of states continue to use the death penalty, limited to the implementation by lethal injection, gas chamber, firing squad, electric chair, or hanging(Snell, 2013).

Parole is a program of early release that allows prisoners to spend the remainder of their sentence outside the prison camp yet under supervision and with conditions(Florida Parole Commission, 2004). The federal government and states alike formally regarded parole as a viable option for rehabilitating criminals and easing the burden of overcrowding in prisons. However, recent studies have shown that parole programs are failures, having little to no effect on recidivism rates. Thus, 14 states have steadily eliminated parole boards and programs(Ditton & Wilson, 1999). This discretionary program continues to be altered and eliminated from states' criminal justice system. The only state to eliminate both the death penalty and life without parole sentences as options for sentencing is Alaska(Ditton & Wilson, 1999).

The Federal Prison

Population

Like the general population of Americans, the United States Prison population is diverse. Prisoners vary largely in age, race, and offense. Of those currently incarcerated, the largest number of offenders has committed crimes that are violent in nature (Carson & Sabol, 2012). Females make up the smallest minority in state and federal prisons, totaling 103,674, while the largest race population in state and federal prisons is Blacks, accounting for 581,300 (Carson & Sabol, 2012). The chief numbers of prisoners are in their prime, with the average age of 39 (Carson & Sabol, 2012). Finally, not all prisoners are U.S. citizens. The ever growing number of non-citizens accounts for an estimated 26% of the prison population, with about 8% in federal and the remaining residing in state and local facilities (Carson & Sabol, 2012).

Table 1- Inmates by Offence

Offence	Total	State	Federal
Violent	740,000	725,00	15,000
Property	259,800	249,500	10,300
Drug	336,300	237,000	99,300
Public-Order	207,500	142,500	65,000
Other	9,000	7,900	1,100
Figures from (Carson & Sabol, 2012)			

Table 2- Inmates by Age, Gender, and Ethnicity

Prisoners by Age, Gender, and Ethnicity							
Age	17 and younger	18-24	25-34	35-44	45-54	55-64	65 and older
	<1%	13.9%	33%	26.4%	18.8%	6.2%	1.7%
Gender	Male	Female					
	1,433,741	103,674					
Ethnicity	Black	Hispanic	White	Other			
	581,300	349,900	516,200	90,015			
Figures from (Carson & Sabol, 2012)							

However, the most homogenous statistic is the education levels of those serving time. More than 41% of prisoners never earned a high school diploma or GED, and acknowledge only having some high school education or less(Harlow, 2003). Only 22.6% of inmates have earned a high school diploma and 23.4% have earned a GED(Harlow, 2003). Compared to the general population of Americans, only 18% have not finished high school. However, most state and federal prisons, even local jails, offer education to inmates(Harlow, 2003). Nine out ten state, federal, and private prisons offer educational programs including: GED preparatory classes, high school courses, basic education in reading and math, and even college courses(Harlow, 2003). Additionally, nearly one third of all state and federal prisons offer inmates job skill vocational opportunities. While not all inmates choose to participate in educational programs; 54% of state prisoners, 57% of federal prisoners, and 14% of jail prisoners participated in some educational program during their stay(Harlow, 2003).

Table 3- Inmates by Education Attainment

Education Attainment	Total Incarcerated	State Inmates	Federal Inmates	General Population
Some high school or less	41.3%	39.7%	26.5%	18.4%
GED	23.4%	28.5%	22.7%	*
High school diploma	22.6%	20.5%	27%	33.2%
Postsecondary	12.7%	11.4%	23.9%	48.4%
*not available Figures from (Harlow, 2003)				

Recidivism

Perhaps one of the principle problems facing the American Prison system is recidivism. The department of Justice measures recidivism as acts that resulted in the re-arrests, reconviction, or return to prison with or without a new sentence. Most commonly, parolees return to prison for either committing a new crime or for violating the parameters and terms of parole. The recidivism is high in the U.S., with a reported 1,180,469 individuals at risk of being re-incarcerated(Langan & Levin, 2002).

According to the most recent nation-wide study conducted by the Department of Justice, nearly 68% of prisoners were rearrested within three years(Langan & Levin, 2002). Of those rearrested, 47% were reconvicted and 24% were resentenced to prison for an additional crime(Langan & Levin, 2002). The study found that recidivism rates differed depending on the original crime that was committed. Criminals who had previously been incarcerated for property crimes were the most likely to be rearrested, while those who had been previously incarcerated for violent crimes were least likely to be rearrested.

Recidivism



Figure 1- Recidivism

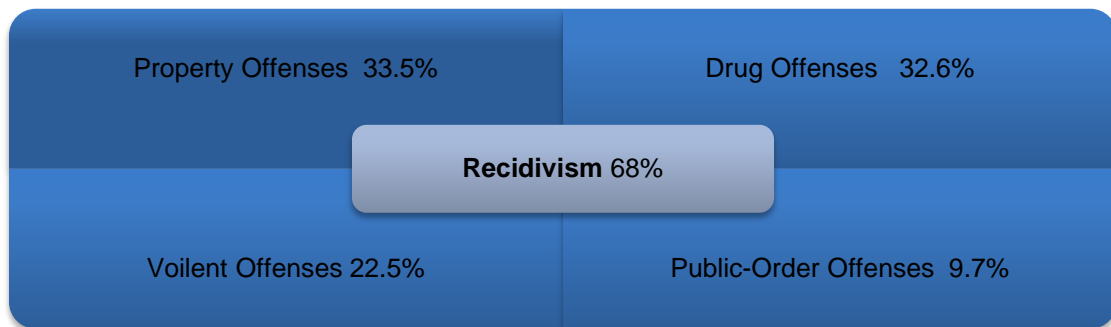


Figure 2- Recidivism by Offense

Disparities in the re-arrest rate were also apparent within categorical characteristic differences of released prisoners. Women were less likely to be rearrested than men, while Blacks were most likely to be rearrested compared to Whites and Hispanics (Langan & Levin, 2002). Additionally, Inmates who had long rap sheets were more likely to be rearrested compared to those that had short rap sheets. Within the three years following their release, more than 82% of parolees who had 15 or more prior arrests were rearrested, while only 41% of parolees with only 1 prior arrest were rearrested (Langan & Levin, 2002). Moreover, 64% of first time offenders were rearrested after their release(Langan

& Levin, 2002). However, the study found that more time spent in prison did not raise or decrease recidivism rates. In other words, regardless of the prisoners' sentence time, the recidivism rate was not affected (Langan & Levin, 2002).

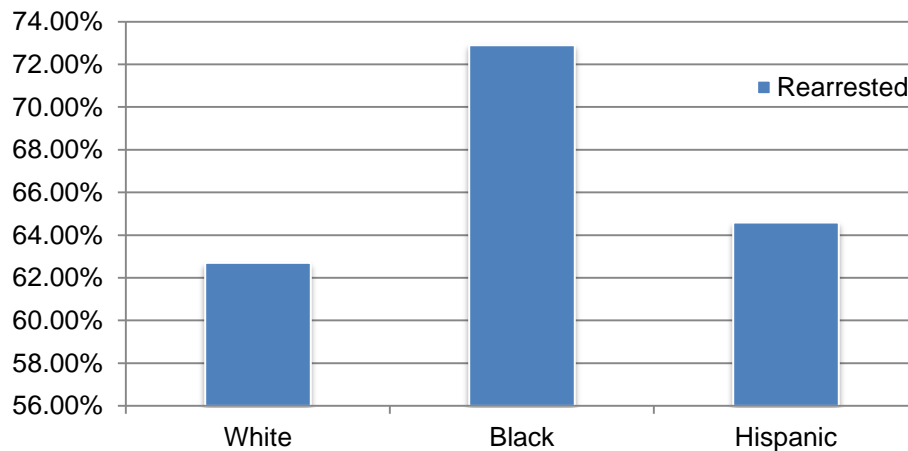


Figure 3- Recidivism by Race

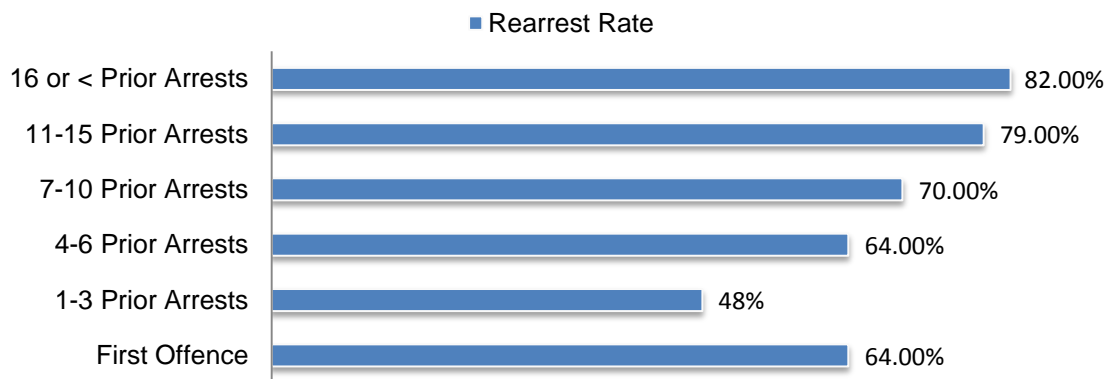


Figure 4- Recidivism by Prior Offences

The Spending

Oriente Province, located in the southwest corner of Cuba, is home to Caribbean climates and a picturesque view of the Caribbean Sea. It is also, however, home to the U.S. Naval Base of Guantanamo Bay. The base extends

on both sides of the bay securing stretches of white sandy beaches and excellent opportunities for swimming, scuba diving, snorkeling, fishing, and boating(Navy). Sounds like a resort, right? However, the Guantanamo Bay is not all resort worthy landscape; it is a cornerstone to the U.S.'s maritime strategy. It is also the location of the controversial Guantanamo Bay Detention Camp, the most expensive U.S. prison. Established in 1898, the U.S. base has served as a naval coaling station, a Cuban and Haitian refugee camp, and since 2002, a detention center for enemy combatants(Navy). Over the years, it has held numerous suspected terrorist and "high value detainees" and currently is thought to hold at least 166 prisoners(Isikoff, 2013). With a relatively slight number of prisoners, the costs of the detention camp would be suspected of being low. Conversely, Guantanamo is the most expensive U.S. prison and arguably the most expensive prison in the world. While the costs of the prison have not always been publically known, President Obama confirmed in 2011 that the Guantanamo Bay Detention Camp costs taxpayers \$150 million per year(Reporter, 2011). The inmates' food rations alone costs \$38.45 per day, which tops five times the food cost for the average American(Reporter, 2011). Because all goods are barged into the Naval Base, the cost of maintaining prisoners in this location costs \$800,000 per inmate per year(Reporter, 2011).

While this example is not representative of all prisons in the U.S., it succeeds at pointing to the immense costs that prisons can produce. With over 4,500 prisons in the U.S., the cost for incarceration does not come cheap(International Centre for Prison Studies, 2012).The federal government

spends over 5.5 billion a year on prisons(Henrichson & Delaney, 2012).Totaling over 212,000 total federal prisoners, 9,459 reside in maximum security prisons, 45,949 in medium security, and 33,331 in low security, 6,787 in minimum security, and 12,756 in detention centers(Henrichson & Delaney, 2012). The daily cost of holding each prisoners vary according to the level of security with maximum security prisoners costing 94.87 a day, medium and low 73.57, minimum 58.32, and detention center resident 83.29(Henrichson & Delaney, 2012). These per diem rates, however, do not account for facility operations in contracted, public, and private prisons. The annual cost of the facilities totals well over 2.2 billion dollars(Henrichson & Delaney, 2012). Additionally, medical referral centers add over 614 million to the annual federal prison system budget(Henrichson & Delaney, 2012).

State Prisons

Populations

While the United States has the largest prison population in the world, most of the inmates are under the jurisdiction of the 50 states. Of the 2.3 million inmates in the United States, just over 2 million are in state and local facilities(Carson & Sabol, 2012). Inmate populations vary dramatically across States and are measured by the average daily inmate populations. These figures do not include local jail populations, as numbers fluctuate continually making populations difficult to measure(Henrichson & Delaney, 2012). The great state of California leads the pack with 167,276 inmates, making up the largest

state prison population(Henrichson & Delaney, 2012). Texas, known for its no-nonsense approach to crime, ranks second highest in prison populations with 154,576 inmates, while Florida rounds out the top three with 101,324 prisoners(Henrichson & Delaney, 2012). Conversely, the three states with the lowest prison populations have fewer than 3,000 inmates. North Dakota has the smallest prison population in the United States, where 1,479 criminals reside behind bars(Henrichson & Delaney, 2012). The “Pine Tree State” boasts 2,167 prisoners; making Maine the nation’s second smallest in state prison population(Henrichson & Delaney, 2012). Finally, the third smallest prison population, at 2,248, belongs to the Green Mountain States of Vermont(Henrichson & Delaney, 2012). Compared to State populations, the ranking of states becomes distinctively different from those of total prison populations. Louisiana boasts nearly 40,000 inmates; however, the state has the largest, by far, per capita incarceration rate(Harrison, 2011). When the nation is divided geographically, the South ranks highest in per capita incarceration rate, with 519 per 100,000 individuals behind bars(Harrison, 2011). Yet one state has a per capita incarceration rate that exceeds both the national rate and the geographical rate. Louisiana has 736 prisoners per 100,000 residents(Harrison, 2011). Texas is a close second to Louisiana, with a rate of 724 per 100,000(Harrison, 2011). The southern states of Oklahoma, Mississippi, and South Carolina finish out the top five. On the contrary, Minnesota boasts the lowest per capita incarceration rate, with a scant 117 per 100,000 being incarcerated(Harrison, 2011). North Dakota, Maine, Massachusetts, and West

Virginia also have low per capita incarceration rates, ranging from 131 to 192 per 100,000 residents(Harrison, 2011).



Figure 5- Prison Population by Jurisdiction

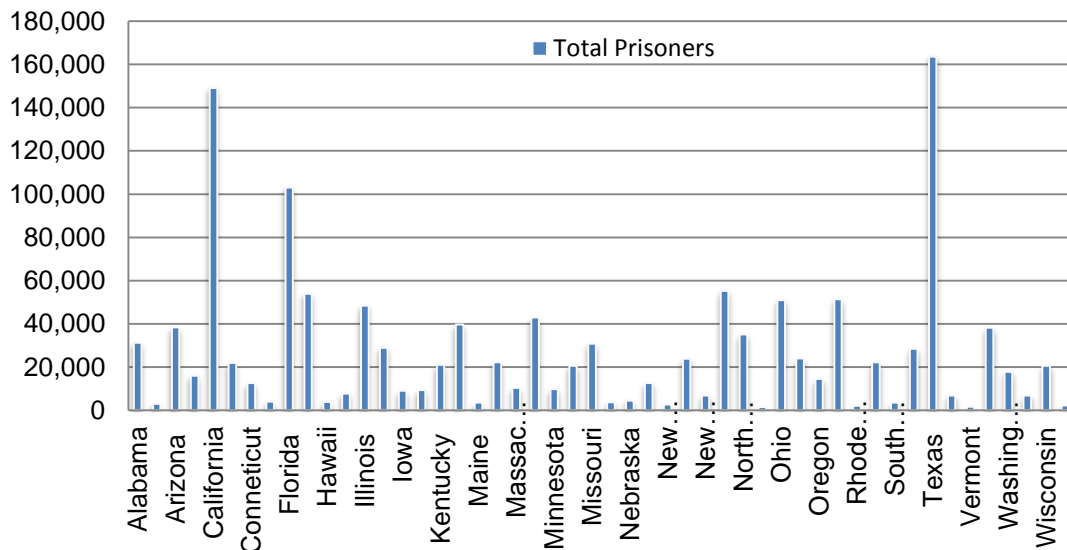


Figure 6- Total Prisoners by State

Recidivism

While the Bureau of Justice's study focused on the nation as a whole, The Pew Center on States conducted a state oriented study to determine state level recidivism data. The study found that of the 33 states that released their data,

there was a vast disparity in recidivism rates among states; ranging from Oregon's 22.8% to Minnesota's 61.2% recidivism rates(The Pew Center on the States, April 2011). Six states were reported to have recidivism rates that exceeded 50%: Alaska, California, Illinois, Minnesota, Missouri, and Utah(The Pew Center on the States, April 2011). However, five states came in with recidivism rates lower than 30%: Wyoming, West Virginia, Virginia, Oregon, and Oklahoma(The Pew Center on the States, April 2011). The Pew Center cites two key reasons for the disparity in recidivism rates among states; sentencing policies and community corrections policies(The Pew Center on the States, April 2011). Sentencing and corrections policies refer to "types of offenders sentenced to prison, how inmates are selected for release, the length of stay under supervision, and decisions about how to respond to violations of supervision(The Pew Center on the States, April 2011)." In other words, most of the variables are based on the state's parole policies and the typography of prisoners. The Pew's study offers a keen insight on practices within states and their reflective recidivism rates(The Pew Center on the States, April 2011).

The Spending

While the cost of federal prisons alone is enough to draw some attention, it is also necessary to point out that state prisons and local jails costs' are not included in these measures. In fact, the state correction expenditures far exceed those of the federal. The Census Bureau's Annual Survey of State Government Finances indicates that states collectively spent over \$48.5 billion on corrections in 2010(United States Census Bureau, 2011). In fact, state spending on corrections

is the fourth largest expenditure category in state general funds and is the fastest growing budgetary item after Medicaid(Henrichson & Delaney, 2012)(Flatow, 2012).

California tops the chart as the state that spends the most on prisons, spending an annual sum of nearly \$7 billion(Henrichson & Delaney, 2012). New York takes second spending over \$2.7 billion annually, followed by Texas and then Florida who both top \$2 billion dollars a year(Henrichson & Delaney, 2012). The 50 States' annual prison budgets range from the big-spender –California at \$7 billion to North Dakota's slim \$56,000(Henrichson & Delaney, 2012). The disparity in spending is caused mainly by incarceration rate within each state.

However, the Vera Institute of Justice points out that the disparity in spending is also due to an inconsistent measure of the spending within states(Henrichson & Delaney, 2012). In other words, prison costs are counted differently in every state. For instance, a Florida Department of Corrections official told interviewers that the department is often asked why its costs appear to be higher than those of other states. The answer is, in part, because Florida measures prison costs more comprehensively than some other states do because relatively few of its prison costs are outside the corrections budget (Henrichson & Delaney, 2012). Prison spending outside the corrections department would include employee benefits and taxes, pension contributions, retiree health care contributions, capital costs, legal judgments and claims, statewide administrative costs, private prisons, prisoner hospital care, prisoner

education and training, underfunded pension benefits, and underfunded retiree health care benefits (Henrichson & Delaney, 2012).

Factoring in these associated costs levels the field and creates a more standardized comparison of states. Accounting for these adjustments, the disparity gap does not diminish, but offers instead a more accurate and uniform account of spending in each state (Henrichson & Delaney, 2012). To demonstrate, California remains the biggest spender on prisons in the union, however, increasing its costs to nearly \$8 million; New York follows California with \$3.6 million in spending, while Texas pulls far ahead of Florida at \$3.3 million; Florida remains steady at just over \$2 million in annual spending (Henrichson & Delaney, 2012).

Table 4- Prison Costs by State

State	Corrections Department Prison Costs	Prison Costs Outside Corrections Department	Total Taxpayer Cost of Prisons
Alabama	\$445,514	\$16,993	\$462,507
Arizona	\$998,453	\$5,100	\$1,003,553
Arkansas	\$288,609	\$37,471	\$326,081
California	\$6,962,736	\$969,652	\$7,932,388
Colorado	\$584,724	\$21,484	\$606,208
Connecticut	\$613,269	\$316,169	\$929,438
Delaware	\$190,409	\$24,801	\$215,210
Florida	\$2,053,154	\$29,377	\$2,082,531
Georgia	\$1,029,553	\$100,305	\$1,129,858
Idaho	\$143,211	\$1,457	\$144,669
Illinois	\$1,177,049	\$566,104	\$1,743,153
Indiana	\$562,248	\$7,203	\$569,451
Iowa	\$265,409	\$10,630	\$276,039
Kansas	\$156,141	\$2,057	\$158,198

Table 4 Continued 1- Prison Costs by State

Kentucky	\$272,535	\$39,192	\$311,727
Louisiana	\$608,062	\$90,300	\$698,363
Maine	\$93,968	\$6,590	\$100,558
Maryland	\$731,293	\$104,930	\$836,223
Michigan	\$1,198,237	\$69,717	\$1,267,954
Minnesota	\$365,509	\$29,811	\$395,319
Missouri	\$503,987	\$176,500	\$680,487
Montana	\$74,626	\$1,334	\$75,959
Nebraska	\$158,190	\$5,094	\$163,284
Nevada	\$267,890	\$15,013	\$282,903
New Hampshire	\$80,306	\$1,111	\$81,417
New Jersey	\$1,161,258	\$255,469	\$1,416,727
New York	\$2,746,184	\$812,526	\$3,558,711
North Carolina	\$1,095,395	\$109,272	\$1,204,667
North Dakota	\$56,160	\$1,905	\$58,065
Ohio	\$1,265,012	\$50,465	\$1,315,477
Oklahoma	\$441,772	\$11,584	\$453,356
Pennsylvania	\$1,591,440	\$463,829	\$2,055,269
Rhode Island	\$159,751	\$12,312	\$172,063
Texas	\$2,523,454	\$782,904	\$3,306,358
Utah	\$178,095	\$7,917	\$186,013
Vermont	\$102,047	\$9,233	\$111,280
Virginia	\$712,422	\$36,219	\$748,642
Washington	\$684,561	\$115,029	\$799,590
West Virginia	\$152,128	\$17,062	\$169,190
Wisconsin	\$800,310	\$74,111	\$874,421
TOTAL (40 States)	\$33,495,070	\$5,408,235	\$38,903,304
Figures extracted from (Henrichson & Delaney, 2012)			

Conclusion

The structure of the United States criminal justice system is unique and complex, varying from state to state. However, the laws, sentencing, and punishments are- allowing for some variation, standardized and regulated by the

overriding administration of the federal government. However, given the variation and breadth of the states and federal governments, it is necessary to view the United States criminal justice system as two parts of one whole. Operating independently, the states and federal government punish those who break their respective laws, providing for separate facilities, inmates, and budgets. Each system is tasked with the managing of prison populations, practices, and funding. With very few exceptions, viewed singularly or collectively, state and federal prisons are challenged with overcrowding, high recidivism rates, and very large financial burdens.

The political climate and tough on crime policies which developed over time and bolstered during the 1970s have led to the rapid inundation of prison inmates and a current population that is staggering. Both federal prisons and state prisons are faced with difficulty in housing the inmates that are a result of this influx of incarceration. The 1970s experienced a heavy increase in crime, however, it was the 1980s and 1990s that suffered a massive increase in reported crime. Since this time period, the crime rate has remained relatively steady, with very minimal decreases. As a result, mass incarceration has accomplished little in the way of deterring crime and much in the way of burdening society with colossal prison populations.

The practice of cataloging mass amounts of inmates appears to have resulted in a system that fails to prevent prisoners from committing crimes once they are released back into society. While rehabilitative programs, such as some

education and vocation training, do exist, these programs and others along with a large degree of discipline are often hijacked by the conditions of severe overcrowding. Overcrowding has threatened rehabilitative programs, resources, lower staff to inmate ratios, and health services; in turn, exacerbating violence, gang activity, and drug availability, and therefore, largely failing to rehabilitate prisoners and prevent further criminal activity.

Moreover, the costs associated with prison facilities, care of prisoners, programs, services, and staffing are more than considerable. Spending billions on the prison system each year, the United States often spends more in this department than most other services, including education and excluding only social security. Nevertheless, the prison system continues to produce significantly return for such a large investment, generating merely a means of temporarily holding and prevent criminals from crime for a period of time.

Collectively, the challenges of overcrowding, reoccurring crime, enormous costs, and a steadily lofty crime that are facing the United States prison system are evidentiary of a system that is exceedingly flawed. The ideology and tough on crime policies that have led to mass incarceration have not successfully lowered crime rates or produced any solution to dealing with crime in the United States, however, have successfully burdened the American people with a fruitless system that costs an immense amount of revenue.

Chapter 3 –Macro Analysis: Finding Comparable Countries

Introduction

Reaching well over 2 million, the United States' prison population far exceeds any other country (International Centre for Prison Studies, 2012). In fact, the U.S. nearly has more prisoners than both China and Russia, the countries with the second and third most prisoners in the world, combined. While it is a strong leader in total figures, America leads in per capita figures as well, with 716 per 100,000 individuals behind bars (International Centre for Prison Studies, 2012). However, the occurrence of crime does not make it the most dangerous country in World, with the crime rate in the United States remaining the highest in the world (United Nations Office on Drugs and Crime, 2012). Crime levels continue to remain relatively steady as prison populations remain high.

Conversely, other comparable countries appear to maintain continuously low prison populations with declining or stable crime rates. Through a cross-country comparative study, an examination of other prison systems will be analyzed to uncover factors that may be contributing to successful practices and programs.

Because of strong correlations to crime, countries used for comparison will be selected controlling for socioeconomics and education. Member states of the OECD will be used to narrow the comparison countries due to their high

standards in economic stability and development. To demonstrate, the socioeconomics of a country will then be measured using gross domestic product per capita, unemployment, and inequality figures. Education will be measured according to literacy and expected average years of education.

Crime rates coupled with prison population numbers rates will be employed as indicators of the effectiveness of a country's prison system. Records on crime rates, prison populations, and recidivism will be the most current available. Figures for crime rates will be obtained from the United Nations Survey on Crime Trends and the Operations of Criminal Justice Systems. Prison population statistics will be obtained through the International Centre for Prison Studies and their publication of World Prison Brief.

Recidivism would be ideal in measure the effectiveness of prisons within each country. However, recidivism rates are more difficult to obtain as they are not collectively published, are studied by individual sources, and there is a great variation in length of study. Therefore, if recidivism rates are available, they are not beneficial for cross national studies.

Correlates to Crime

There have been extensive studies conducted regarding the causes and contributing factors of crime. The Handbook of Crime Correlates catalogs over 5200 empirical studies identifying numerous correlates to crime, including: cognitive, behavioral, and biological psychological traits, demographics, society, economy and geography(Ellis & Beaver, 2009). The individual correlates to

crime are utilized in determining the foundation for criminal behavior on individual case-by-case research. However, broad examinations of crime over populations benefit from the examination of socioeconomics and education levels, because of their statistically strong relationship to criminal activity. The United Nations states “Criminal Justice statistics are the most useful if they can be linked to statistics that describe the social and economic context, the environment with which the criminal justice system operates (Department of Economic and Social Affairs Statistics Division, 2003).”

The United Nations Office on Drugs and Crime recently conducted a cross-national study of fifteen countries investigating the possibility of a relationship between economics and crime. The study was conducted during the recent economic crisis, recorded on a monthly basis, using police reported figures (United Nations Office on Drugs and Crime, 2010). The study found that there was a strong association between economics and crime, in both times of crisis and median time periods. This complex study used multiple economic indicators including: gross domestic product, consumer price index, real income, unemployment rate, share price index, lending rate, Treasury bill rate, and special drawing rights (United Nations Office on Drugs and Crime, 2010). Using the economic indicators to demonstrate the economic climate, the study found that 80% of the countries displayed a positive association between economics and crime, with crime spikes during economic crisis (United Nations Office on Drugs and Crime, 2010). Through data and statistical modeling, property crimes were most affected by the economy, however, clear spikes were found in all

other crimes including violent crimes (United Nations Office on Drugs and Crime, 2010).

Education has also recently been heavily examined as a correlate to crime. Recently released statistics and studies corroborate this position(United Nations Office on Drugs and Crime, 2010). In the United States, it is reported by the Bureau of Justice statistics that just over 22% of federal inmates had obtained a high school diploma (Harlow, 2003). The United Kingdom and Italy also reported that incarceration rates for individuals who had not completed secondary education were significantly higher. In the U.K., men who were in their 20's and were dropouts were nearly 81% more likely to be incarcerated(Machin, Marie, & Suncica, 2011). While in Italy, dropouts accounted for over 75% of the prison population (Buonanno & Leonida, 2006). Furthermore, a study examining the effect of education on incarceration in Sweden showed directly those individuals, whom had been convicted, had obtained less education than individuals whom had never been convicted (Hjalmarsson, Holmlund, & Lindquist, 2011).

Because of the strong statistical relationship between socioeconomics and education, these factors are used to determine the compatibility of comparative nations. Using members of the Organization for Economic Co-Operative Development provides the foundation for selecting countries that are comparatively analogous socioeconomic and education levels.

The Organization of Economic Co-Operation and Development, or OECD, is a group of countries committed to economic advancement and the democratic free market society. While member states of the OECD are committed to expanding their philosophy throughout the world, they themselves are countries that are considered as highly developed countries with superior living standards and per capita incomes, and democratic regimes. The goal of the OECD is to “help government’s foster prosperity and fight poverty through economic growth and financial stability (OECD Better Policies for Better Lives, 2013).” Their efforts are accomplished through data collection, analysis and recommendation, joint resolutions, and publications (OECD Better Policies for Better Lives, 2013). They are essentially leaders in the world community and model states for their representative ideals. They are, also, countries that are relatively analogous in income and inequality, education levels, and political ideology. The 34 OECD members include: Australia, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States (OECD Better Policies for Better Lives, 2013). These Countries provide the initial basis for comparison because of their comparability in socioeconomic status, education, and political ideologies.

Table 5 demonstrates the comparableness of OECD countries for the purposes of measuring socioeconomics and education:

Table 5- Socioeconomic and Education Indicators

Country	Socioeconomic Indicators			Education Indicators	
	GDP (per capita)	Unemployment	Inequality (GINI Index)	Literacy	School Life Expectancy (in years)
Australia	\$37,828.78	6.6%	35.19	99%	16.6
Austria	\$39,269.33	4.9%	29.15	98%	14.7
Belgium	\$36,229.00	7%	32.97	99%	15.8
Canada	\$38,065.13	7.3%	32.56	99%	14.8
Chile	\$14,295.59		52	96.2%	13.5
Czech Republic	\$24,538.69		25.8	99%	13.5
Denmark	\$37,179.14	4.8%	24.7	99%	15.6
Estonia	\$21,802.37		36	99.8%	14.1
Finland	\$35,964.77	9.5%	26.88	100%	16.7
France	\$31,161.17	9.3%	32.74	99%	15.4
Germany	\$34,065.12	7.7%	28.31	99%	15.3
Greece	\$30,598.84		34.27	97.5%	14.3
Hungary	\$19,254.51		30.04	99.4%	13.6
Iceland	\$40,373.46			99%	15.8
Ireland	\$46,628.37	4.6%	34.28	99%	14.9
Israel	\$28,910.73		39.2	97.1%	14.6
Italy	\$29,393.12		36.03	98.6%	14.7
Japan	\$33,523.37	5.1%	21.85	99%	14.3
Korea	\$24,589.77			98.1%	14.6
Luxembourg	\$81,278.63		30.76	100%	13.1
Mexico	\$12,447.00		51.61	86.1%	11.5

Table 5 Continued 1- Socioeconomic and Education Indicators

Netherlands	\$38,954.50	2.6%	30.9	99%	15.9
New Zealand	\$27,309.59	5.7%	36.17	99%	16.2
Norway	\$53,285.21	3.5%	25.79	100%	16.9
Poland	\$18,990.83		34.92	99.8%	14.4
Portugal	\$21,826.89		38.45	93.3%	15.2
Slovak Republic	\$22,317.19		25.81	99.6%	
Slovenia	\$27,965.73		31.15	99.7%	14.1
Spain	\$33,647.98		34.66	97.9%	15.3
Sweden	\$37,481.64	4.4%	25	99%	16
Switzerland	\$41,505.12	2%	33.68	99%	15
Turkey	\$12,998.66		41.15	87.4%	9.5
United Kingdom	\$35,046.59	5%	34.97	99%	16.4
United States	\$45,759.46	5.9%	40.81	99%	15.2
GDP Measure from CIA World Factbooks 2003-2011 Unemployment Rate from OECD Historical Statistics Inequality Measure from The World Bank -GINI Index for Inequality Literacy Rate from CIA World Factbooks 2003-2011 School Life Expectancy from UNESCO Institute for Statistics- Measured in years					

Socioeconomic and education indicators were collected from various credible sources. The figures for gross domestic product were presented in per capita amounts due to the large disparity in country size and population. Other indicators were presented in percentages and indexes that are comparable across multiple nations regardless of size and population. Measuring the Gross

Domestic Product, Unemployment Rate, and Inequality of each country does not measure all aspects of economy; however, they provide a landscape for establishing the condition of each country's economy. The inequality measures are vital in comparing crime as it accounts for disparities within the society of a country. Education figures of literacy and school life expectancy provide a glance at the schooling attainment standards and environment of each nation. Literacy records and average educational attainment and standards are figures that are readily available among most countries and are ideal for comparing multiple nations.

The reported GDP for each country originated from the Central Intelligence Agency's World Factbook. Gross Domestic Product is measured by the CIA as goods and services produced within each country (Central Intelligence Agency, 2012). Presenting GDP in per capita figures accounts for disparity in nation size and population, but also is an indicator of citizens' standard of living.

Unemployment statistics posed a challenge for comparison. Unfortunately, not all countries provide data for collection. However, all figures available are easily comparable for cross national comparison. The OECD harmonizes the unemployment rate by determining the percentage of unemployed persons through the measurement of unemployed versus the total workforce (Organization of Economic Co-Operation and Development, 2013). The numbers of employed and unemployed individuals are utilized to formulate the

total workforce. The unemployed identified as individuals who are of working age, without work and payment, available for work, and seeking work (Organization of Economic Co-Operation and Development, 2013). The OECD collects data through the International Labour Organization's "Resolutions Concerning Economically Active Population, Employment, Unemployment, and Underemployment" publications (Organization of Economic Co-Operation and Development, 2013).

The World Bank is an institute geared toward reducing poverty throughout the world and produces reliable data on over 200 developed countries (The World Bank, 2013). Measuring inequality, the World Bank utilizes the "Gini" coefficient or index. The Gini index records the income distribution of a country using the Lorenz curve and several complex formulations (The World Bank, 2013). The Lorenz curve establishes a plot line of absolute equality equaling zero and plots either below or above the equality line. The Gini index is commonly used by statisticians and while it does have some limitations, it is a widely acceptable measurement (The World Bank, 2013).

Literacy levels are measured by the Central Intelligence Agency over total populations of both genders. Because of diversity in literacy standards, the CIA defines literacy simplistically as "the ability to read and write at a specified age (Central Intelligence Agency, 2013)." Literacy measures are limited in that they do not standardized evaluations of reading and writing and are not flawless as educational standards. However, literacy measures are readily available for

most countries and are the best measures when comparing cross-country (Central Intelligence Agency, 2013).

School life expectancy indicator was used to examine the level of education, or, average education individuals receive within each country. School Life Expectancy, or SLE, measures the “average number of years that a child is likely to spend in the educational system of his or her country (United Nations Educational, Scientific, and Cultural Organization, 2009).” It uses former and current participation rates to predict the overall average that is and will be achieved. SLE is a beneficial measurement of educational attainment because it is broad and is able to measure participation across differing programs, levels, and populations (United Nations Educational, Scientific, and Cultural Organization, 2009).

Crime Rates and Prison Populations

Crime rates are compiled by the United Nations Office of Drugs and Crime (UNODC) through surveys distributed to countries throughout the world. Crime rates are annually measured using both police recorded crimes and victim recorded crimes. These reporting methods are subject to some error including; inaccurate police or victim reporting, processing error, and changes in laws and policies (Department of Economic and Social Affairs Statistics Division, 2003). However, in an effort to streamline comparability accuracy in international reporting, the UNODC has developed nominal categorical definitions of crimes to

include: homicide, assaults, sexual violence, robbery, property, and drug-related crimes (United Nations Office on Drugs and Crime, 2012).

Table 6- Crime Categories

Homicide	Death of a person. Includes assisting death, infanticide, negligence, voluntary manslaughter, and vehicular manslaughter. Does not include attempts.
Assault	Causing harm to a person. Includes minor and serious assault, kidnapping, abduction, trafficking, harassment, stalking, coercion, and defamation.
Sexual Violence	Sexually motivated acts. Includes physical and non-physical sexual assault, and sexual exploitation of minors.
Robbery	Acts against property involving violence. Robberies can be of businesses or residential premises.
Property	Crimes against only property, not including violence. Unauthorized access of businesses or residential premises.
Drug Related	Possession, use, or distribution of personal and non-personal illicit substances.
Other	Crimes regarding public order, behavior, terrorism, and organized crime.
(United Nations Office on Drugs and Crime, 2012)	

The International Centre for Prison Studies is focused on providing facts, projects, and academic research to the public and agencies throughout the world through their partnership with the University of Essex (International Centre for Prison Studies, 2012). The Centre also works with governmental and non-governmental agencies on prison projects and practice instruction. Prison populations, both total and per capita figures, were collected through the International Centre for Prison Studies. Total prison populations are reported from each nation's central prison administration to the Centre and include current detainees, or individuals awaiting trial (International Centre for Prison Studies, 2012).

Figures 7 and 8 illustrate crime rates and total prisoner rates across OECD countries. Total figures are beneficial to comparing the changes in crime and imprisonment rates within each country.

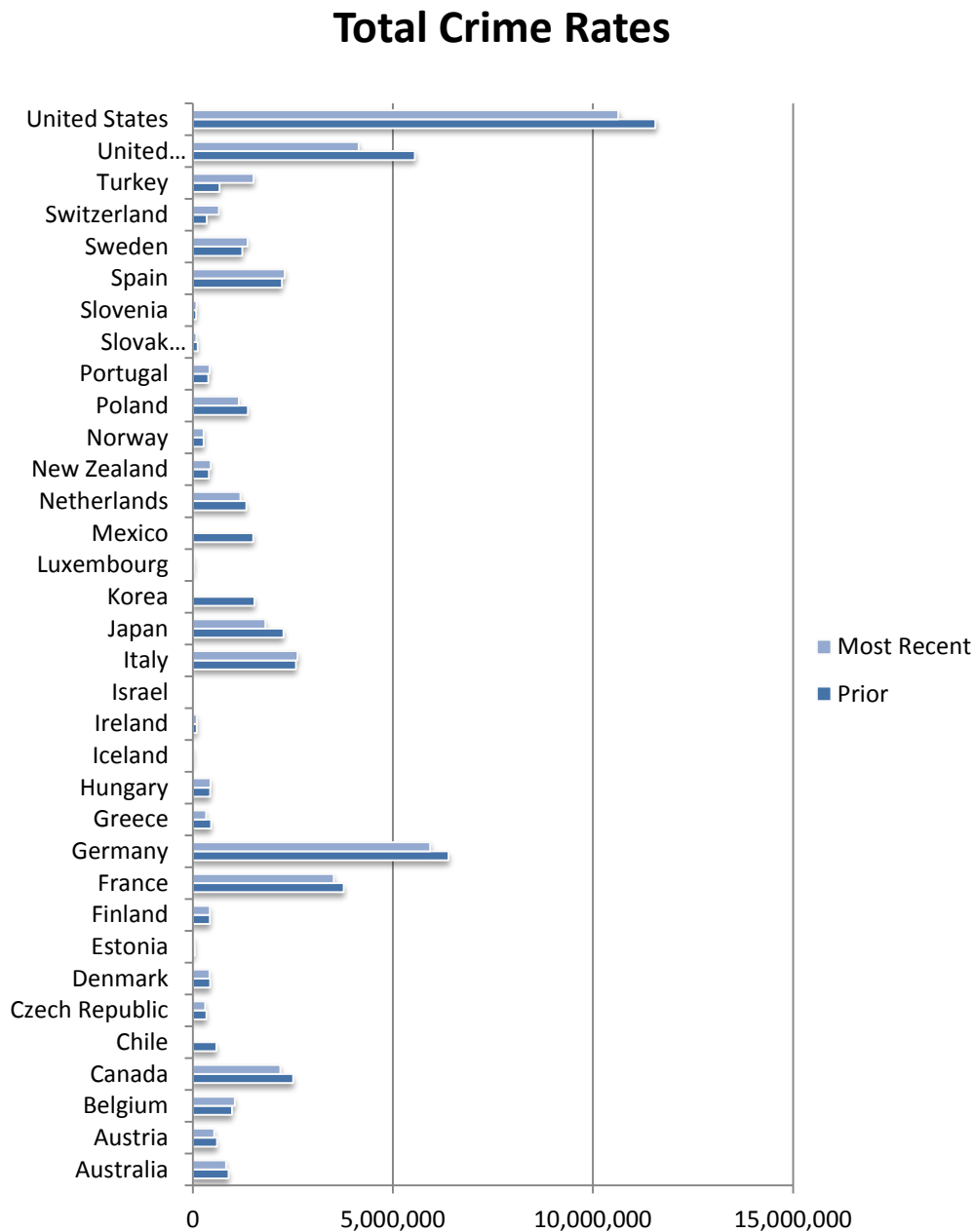


Figure 7- Total Crime Rates by Country

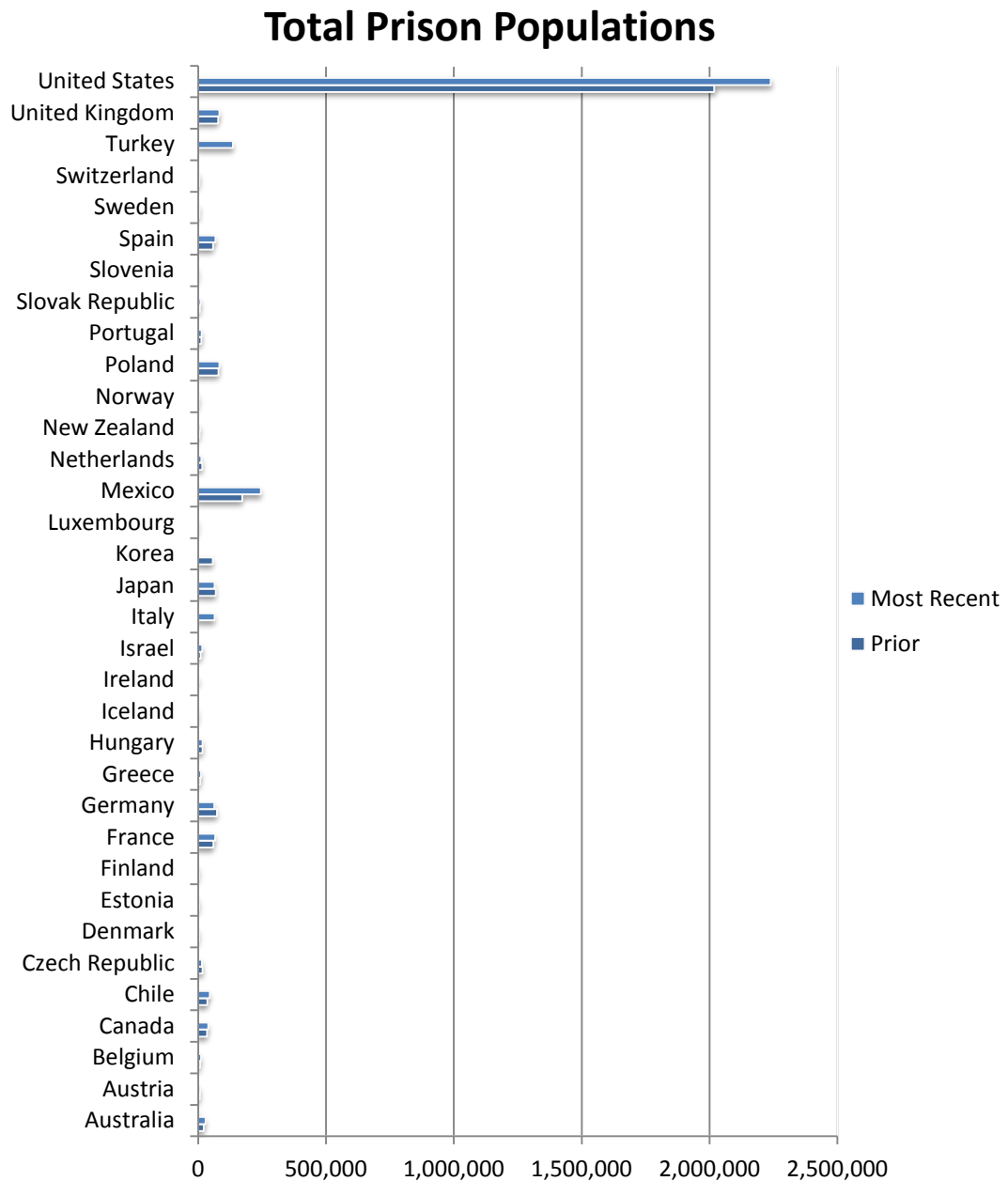


Figure 8- Total Prison Populations by Country

The large disparity among OECD countries in size and population make total figures amiss for comparing levels across nations. Therefore, measures in per capita figures are much more suitable for comparing a country's crime and

imprisonment rates with other countries. Using the same data from total populations and coordinating population statistics, per capita figures were calculated.

Figures 9 and 10 represent per capita figures for crime rates and prison populations:

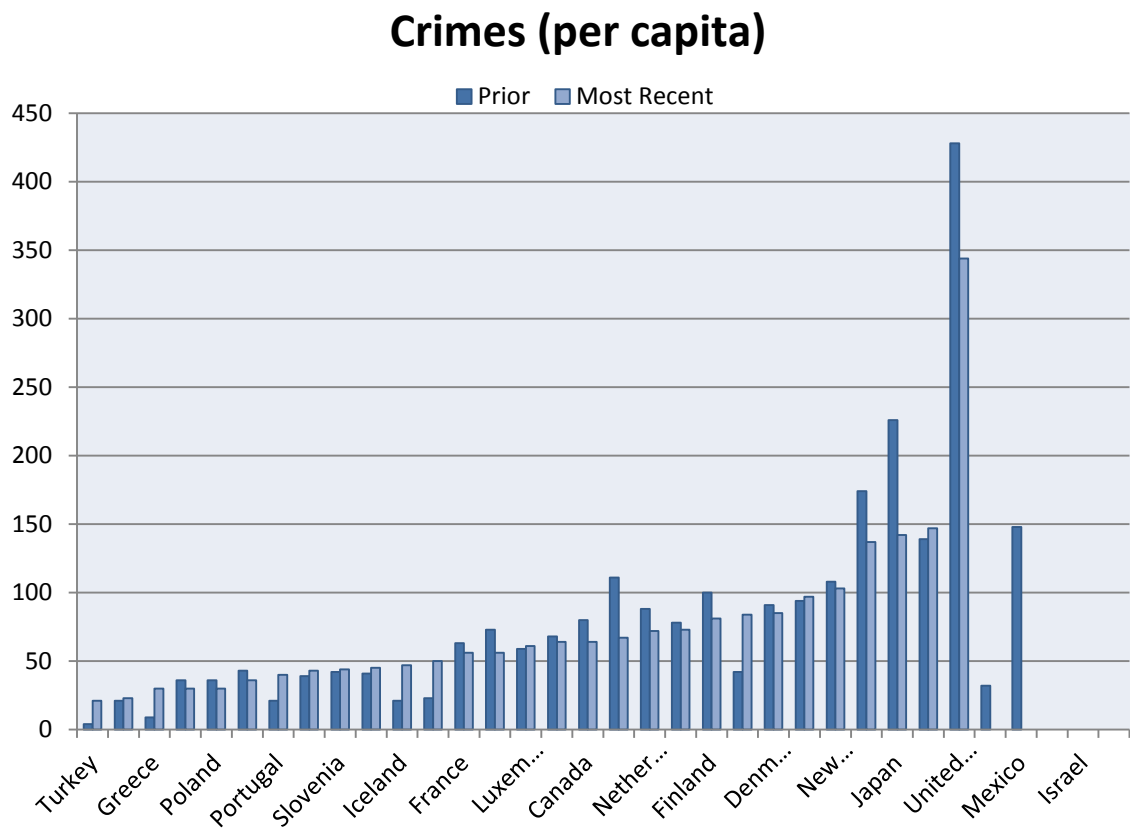


Figure 9- Per Capita Crime Rates by Country

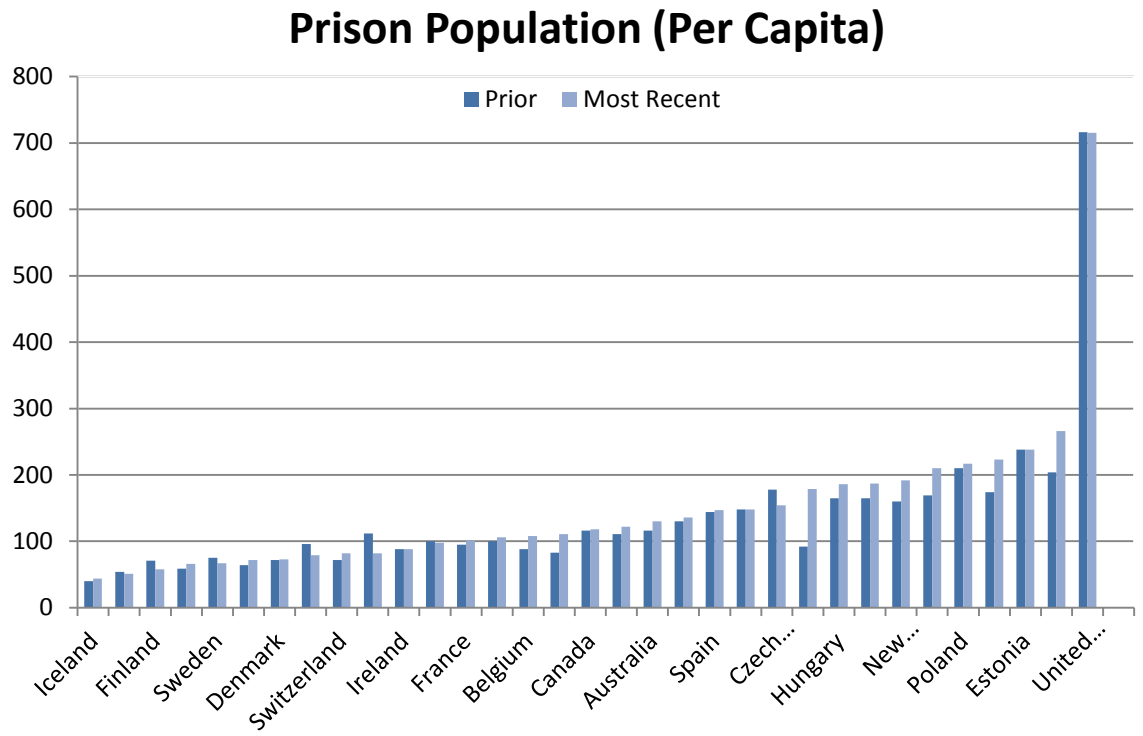


Figure 10- Per Capita Prison Populations by Country

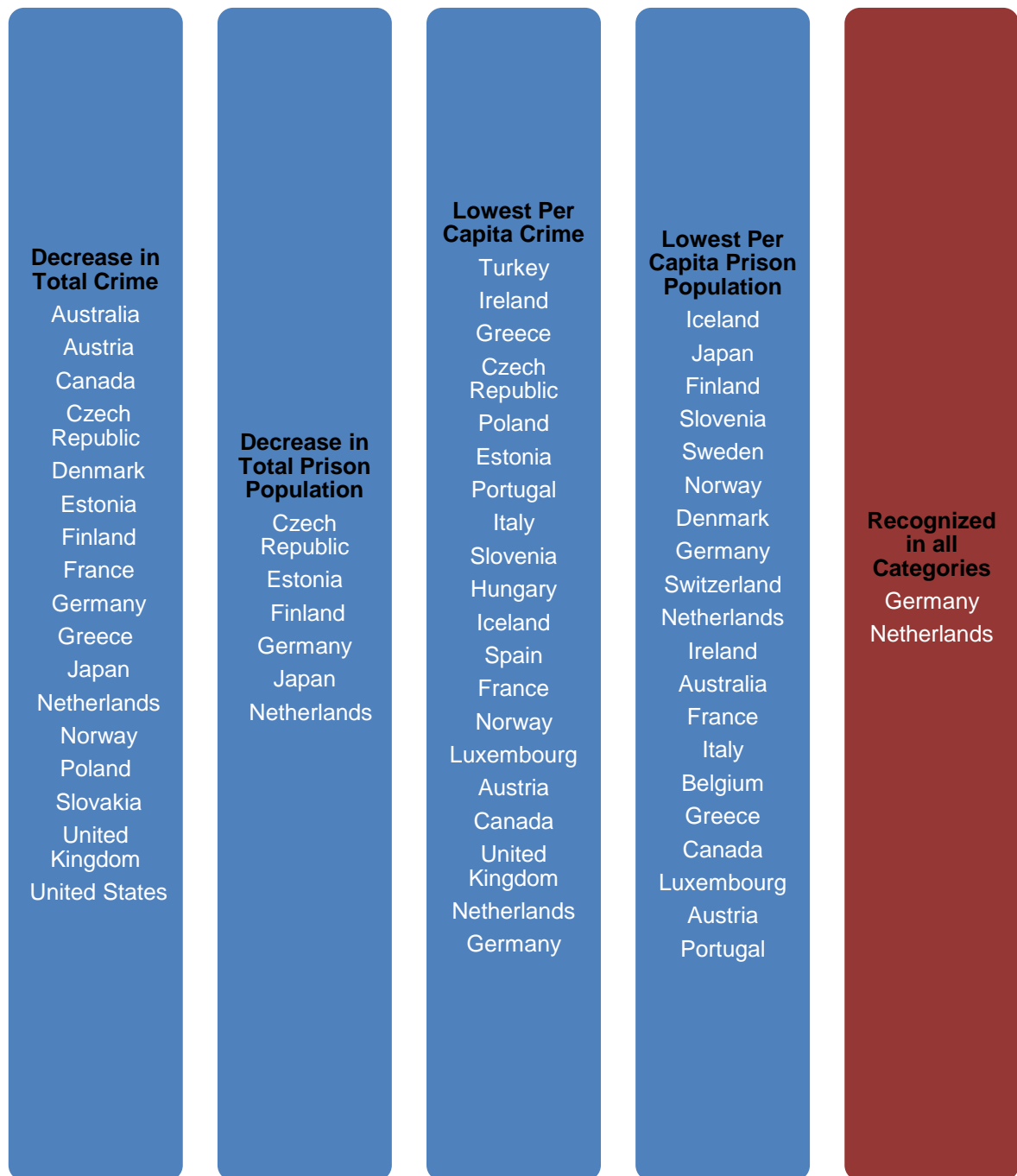


Figure 11- Comparison of Countries

Findings

Total Crime and Prison Populations

Crime and prison populations were used to provide a broad survey of each country's criminal justice system. The total figures for each country indicate an array of crime and population levels and vital fluctuations over the years examined. Nations with the highest total crime rates are Germany, the United Kingdom, France, and Italy. The nations with the lowest total crime rate include Iceland, Luxembourg, Estonia, Slovenia, and the Slovak Republic. In total prison population figures, the nations with the highest figures are Mexico, Turkey, the United Kingdom, and Poland, while the nations with the lowest populations include Iceland, Luxembourg, Slovenia, Estonia, and Finland. In total figures, one nation leads in both crime rate and prison population; the United States has the highest total figures in both categories.

Comparing total crime and prison population figures over a brief period, of approximately five years, uncovers several key findings. Reductions in crime rates were produced in seventeen countries, while rising numbers of crime developed in eight nations. Remarkably, crime rates nearly doubled in two nations: Turkey and Switzerland. Prison populations likewise displayed fluctuation, with population growths in twenty three nations and population reductions in six countries. The most significant changes were the vast rises in prison populations in Mexico and the United States.

Australia, Austria, Canada, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Japan, Netherlands, Norway, Poland, Slovakia, the United Kingdom, and the United States all experienced reductions in crime rates, while rises occurred in Turkey, Switzerland, the Czech Republic, Estonia, Finland, Germany, Japan, and the Netherlands.

Total prison populations showed distinct fluctuations in some nations. Population rates significantly increased in Mexico and the United States, along with rising numbers in Australia, Austria, Belgium, Canada, Chile, Denmark, France, Hungary, Iceland, Israel, Luxembourg, Mexico, New Zealand, Norway, Poland, Portugal, Slovenia, the Slovak Republic, Spain, Sweden, Switzerland and the United Kingdom. The only nations with drops in prison populations were the Czech Republic, Estonia, Finland, Germany, Japan, and the Netherlands.

Per Capita Crime and Prison Population

Per capita figures are the best indicators for comparability because of the nations' vast differences in total population. The per capita figures for prison populations and crime rates illustrate a different picture than that of the total figures of each country's criminal justice system. Per capita crime and per capita prison populations were compared with one another and measured over a five year period to uncover increases and decreases in both categories.

The lowest figures for per capita crime belong to Turkey, Ireland, Greece, the Czech Republic, and Poland. However, sixteen other countries were comparably lower in per capita crime rates than most OECD countries, including: Turkey,

Greece, Iceland, Ireland, Portugal, Spain, Czech Republic, Poland, Italy, Hungary, Switzerland, Slovenia, Estonia, Luxembourg, France, Austria, Norway, Germany, Canada, England & Wales, and Netherlands. The lowest per capita prison populations were found in Iceland, Japan, Finland, Slovenia, and Sweden. However, an additional fifteen countries were home to lower per capita prison populations than other OECD countries, including: Norway, Denmark, Germany, Switzerland, Netherlands, Ireland, Australia, France, Italy, Belgium, Greece, Canada, Luxembourg, Austria, and Portugal.

Fluctuations in crime rates and prison populations were naturally more apparent in the more acute per capita figures. Per capita crime rates experienced many changes among OECD countries including; growth in sixteen nations and declining rates in fourteen. Only three countries experienced stagnant per capita prison populations.

Decreases in per capita crime rates were enjoyed in the nations of Poland, the Czech Republic, Estonia, France, Norway, Austria, Canada, the United Kingdom, the Netherlands, Germany, Finland, Denmark, New Zealand, Australia, Japan, and the United States. Conversely, Turkey, Ireland, Greece, Portugal, Italy, Slovenia, Hungary, Iceland, Spain, Luxembourg, Switzerland, Belgium, and Sweden suffered increases in per capita crime.

Ireland, Estonia, and the United Kingdom maintained steady per capita prison populations, while figures declined in Japan, Finland, Sweden, Netherlands, Austria, the Czech Republic, and the United States. Growth in per

capita prison populations were experienced in Chile, Israel, Poland, Mexico, New Zealand, Slovak Republic, Hungary, Turkey, Spain, Portugal, Australia, Luxembourg, Canada, Greece, Belgium, Italy, France, Switzerland, Denmark, Norway, Slovenia, and Iceland.

Surprisingly, only two countries had comparably low per capita measures in prison population and crime while experiencing effectual decreases in total crime and prison population were Germany and the Netherlands. As a result, these countries will be used for comparison.

Chapter 4- Micro Analysis: Comparing the United States, Germany, and the Netherlands

Introduction

The prior macro analysis established that of all the OECD countries, only two countries showed low per capita prison population and crime rates while simultaneously experiencing decreased measures in crime and incarceration rates. Therefore, Germany and the Netherlands will be used in a comparative analysis with the United States. The three countries will be compared using four categories: organization, conditions, sentencing, and practices. Organization will describe the each country's system authority, jurisdictions, levels of security, and personnel and prison guard figures. Conditions will provide figures for prison populations, facilities, capacity, occupancy levels, and the use of solitary confinement. Sentence will describe information regarding sentencing authorities, crimes earning imprisonment, conditional release programs, maximum sentencing amounts, and life and death sentences. Practices will include each country's uses of furloughs, work programs, educational programs, vocational training, rehabilitative amenities, and allowance of correspondence and visitation.

Organization

Netherlands

The Netherlands' prison system is comparatively simplistic in that it falls singularly under one jurisdiction. The federal system of prisons is governed by the National Agency of Correctional Institutions and is headed by a single prison governor (International Centre for Prison Studies, 2012). Administrative staff, medical and social professionals, wardens, and guards make up the 31,882 employees of the National Agency of Correctional Institutions, with 21,500 of those operating as guards (Aronowitz, 2008).

Operating on three levels based on security, the Netherlands' "Closed" prisons are regarded as high security level prisons; while "Semi-Open" are normal or moderate level security facilities, and "Open" prisons operate on very low or minimal security (Aronowitz, 2008). Prison security levels vary in internal and external guards, infrastructure, and liberty, with open institutions often allowing prisoners to have weekly weekend furloughs.

Within the three security levels of prisons, there is separate housing for males, females, juveniles, and those prisoners requiring extra high security. Increase security divisions are reserved for inmates who are violent in behavior or are attempted escapees (Aronowitz, 2008). Interment in an extra high security section lasts for 6 months following a review and may be lengthen to an additional 6 months (Aronowitz, 2008). Additionally, male inmates who are

sentenced to 6 months or less are lodged in short term facilities separate from long term, or those sentenced to over 6 months (Aronowitz, 2008).

Germany

The State Ministries of Justice within each of the sixteen German states operate concertedly yet independently. Like in the United States, prisons operate on the state level; however conversely, there is no federal prison system. The sixteen states collectively employ over 31,882 employees, with 21,500 accounting as uniformed guards (Aronowitz, 2008).

Comparable to the Netherland's system, the German prisons are classified according to security level, however, comprising only two levels: "open" and "closed." Open prisons have low, or minimal, security and with little perceptible exterior fortifications. Closed prisons have a high level of security with heavy internal and external security characterized by increased number of guards, high walls and fences, and armed outside guards (Aronowitz, 2008). Moreover, open prisons are utilized to house nonviolent offenders with relatively shorter sentences while closed prisons are occupied by prisoners with longer sentences who typically are violent offenders (Aronowitz, 2008). Juveniles and women are also housed separately from adult male inmates (Aronowitz, 2008). Additionally, women who deliver while in prison typically have the liberty of maintaining and caring for their child until the child reaches a certain age (Aronowitz, 2008).

United States

The United States has a unique prison system consisting of three justifications: federal, state, and local. Federal prisons confine prisoners who have committed crimes that were in more than one state, affected more than one state, or broke federal laws. States maintain jurisdiction over individuals who have committed crimes within their state, while local jails house misdemeanor criminals and those awaiting trial. The prison system is led by the Federal Bureau of Prisons within the Department of Justice (International Centre for Prison Studies, 2012). State prisons are mostly autonomous and are led by individual State Departments of Justice. Jails are typically managed by local Sherriff's Departments. Due to the high volume of jurisdictions, practices and programs can vary.

The prison system in the U.S. is likewise categorized according to security level, consisting of three levels: high, medium, and low. Low security levels still include a significant amount of security with fenced and secure perimeters, separate housing units, and visual surveillance (Stephan, 2005). Medium security prisons typically feature double fenced perimeters with armed guards, a patrol tower, and separate housing units with specialized trap gates (Stephan, 2005). Consequently, high or maximum security prisons contain all the qualities of a medium with additional man power, guard isolation and protection, and isolated cell houses with double fencing. Juveniles and women are housed separately from adult male offenders, however, occasionally within the same facility(Stephan, 2005).

Over 445,000 employees work in the prison system in the United States (Stephan, 2005). Of that number, 295,261, more than half act as guards (Stephan, 2005). The U.S. is also experiencing a rise in the employment of private prison facilities. Private facilities increased by 57% from 2000 to 2005 and are contracted by state and federal bureaus of prisons(Stephan, 2005). Therefore, should employees of private prison facilities be included, the figures would be proportionately higher.

Table 7- Organization Comparison

	Germany	Netherlands	United States
Authority	State Ministries of Justice, Laender (Ministries of Justice)	Ministry of Security, National Agency of Correctional Institutions	Department of Justice, Federal Bureau of Prisons + State and Local Authorities
Jurisdictions	Federal 16 States	Federal	Federal 52 States Local
Levels	Open (Low Security)	Open (Low Security)	Maximum
	Closed (High Security)	Semi-Open (Normal Security)	Medium
		Closed (High Security)	Minimum
Personnel	7,233	31,882	445,000
Prison Guards	4,478	21,500	295,261
Data from World Factbook of Criminal Justice			

Sentencing

Netherlands

The Netherlands sentencing procedures differ from Germany and the United States in that four parties are involved in the sentencing process. A judge

is responsible for the hearing, information collection, and the determination of guilt or innocence. Acting as an advocate to the courts, the “Gerichtshilfe,” works to provide the courts with personal background and performance information and a sentence recommendation (Aronowitz, 2008). The court prosecutor is the executioner of the sentence and is ultimately responsible for enforcement (Aronowitz, 2008). The judge hands down the sentence of imprisonment, fines, or community service. If the sentence results in imprisonment, the National Prison Selection Center classifies the prisoner and establishes the location for the prisoner to serve their sentence (Aronowitz, 2008).

The average prison sentence in the Netherlands is 7 years, there is no death penalty, and rarely is a life sentence ordered (Aronowitz, 2008). In fact, prison sentences are generally only imposed on criminals who have committed serious or violent crimes. The rare case of a life sentence is reserved for murder or manslaughter cases with extenuating circumstances (Aronowitz, 2008). Furthermore, life sentences are typically pardoned and eligible for an early release. A murder conviction will receive the maximum sentence of 15 years, which can on occasion however, be extended to 20 years (Aronowitz, 2008). Judges have the discretion to sentence criminals who commit lesser crimes to range of 1 day to 15 years in prison (Aronowitz, 2008).

Germany

German judges or judicial panels have the authority to sentence criminals. The presiding judge not only hands down a sentence, but is also responsible for

collecting facts regarding the life and history of the defendant (Aronowitz, 2008). After the court determines a defendant guilty, the judge or judicial panel determines the sentence (Aronowitz, 2008). If the judicial panel is responsible for sentencing, the sentence must be determined by a minimum two thirds vote (Aronowitz, 2008).

Violent crimes committed in Germany, will earn an individual a stay in prison. Incarceration can range anywhere from period 6 months to 15 years (Aronowitz, 2008). The death penalty has been abolished, but murder is punishable by a life sentence. Other violent crimes must be punished by incarceration, however, unspecified in length and certain exceptional cases can receive life sentences as well (Aronowitz, 2008). Property crimes and other lesser crimes can be sentenced to prison, however, incarceration for property crimes is uncharacteristic and often a fine or probation is typically incurred (Aronowitz, 2008).

German judicial and prison systems provide for the rehabilitation of criminals. Judges may direct convicts to psychiatric hospitals, addiction clinics, or may defer the release of a habitual offender based on their conduct and readiness to re-enter society (Aronowitz, 2008). These measures are designed to afford the criminal the best opportunity to be rehabilitated and to succeed following release.

United States

Sentencing structures are provided by the federal government establishing maximum and minimum sentences based on a few key factors; prior criminal record, age, and surrounding circumstances. The United States Sentencing Commission published federal sentencing guidelines, of which states use to establish their own sentencing policies, allowing for varied sentencing between states. State governments are permitted to use a limited number of punishments by the federal government. Punishments can involve fines, imprisonment, probation, and restitution. Sometimes, depending on the state, judges can utilize community service and other forms of punishment at their discretion. The vast majority of state laws that deal with criminal activity are analogous; however, few are distinctly divergent. These divergent laws can vary greatly among states and generally center on the application of the death penalty, early release programs, and habitual offender laws.

While certain punishments are permissible by the federal government, not all states accept their implementation. For instance, the use of the death penalty has been abolished in 18 states (Snell, 2013). States including Alaska, Connecticut, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, North Dakota, Rhode Island, Vermont, West Virginia, and Wisconsin have all effectively eliminated the death penalty beginning in 1846 (Snell, 2013). Conversely, the federal government and the remainder of states continue to use the death penalty, limited to the

implementation by lethal injection, gas chamber, firing squad, electric chair, or hanging (Snell, 2013).

Parole is a program of early release that allows prisoners to spend the remainder of their sentence outside the prison camp yet under supervision and with conditions (Florida Parole Commission, 2004). The federal government and states alike often regard parole as a viable option for rehabilitating criminals and easing the burden of overcrowding in prisons. The federal prison system allows for sentences to be reduced for good behavior while serving their sentence. Good behavior will earn prisoners a reduction 54 days each year (Stephan, 2005). However, recent studies have shown that the current parole programs are failing, having little to no effect on recidivism rates. Thus, 14 states have steadily eliminated parole boards and programs (Ditton & Wilson, 1999). This discretionary program continues to be altered and eliminated from states' criminal justice system. The only state to eliminate both the death penalty and life without parole sentences as options for sentencing is Alaska (Ditton & Wilson, 1999).

Additionally, habitual offender laws, or 3 strike laws, have gained support in many states, offering a series of increasing prison sentences for individuals committing 3 or more serious crimes. Committing 3 crimes, typically with 1 being violent in nature, will earn criminals 25 years to Life in prison (Reynolds, 2013). Nearly half of all states have instituted some form of habitual offender laws, including; Texas, Washington, California, Arkansas, Arizona, Massachusetts,

Colorado, Connecticut, Indiana, Kansas, Maryland, New Mexico, North Carolina, Virginia, Louisiana, Wisconsin, Tennessee, Georgia, Florida, Montana, Nevada, New Jersey, North Dakota, Pennsylvania, South Carolina, Utah, and Vermont(Reynolds, 2013).

Nearly every crime in the United States is punishable by imprisonment, with the exception of public order cases. The average prison sentence in the U.S. is 29 years (International Centre for Prison Studies, 2012). Multiple life sentences and life sentences without the possibility of parole guarantee that some prisoners will never be released. The United States prison system allows for sentences to be reduced for good behavior while serving their sentence. Good behavior will earn prisoners a reduction 54 days each year (Stephan, 2005)

Table 8- Sentencing Comparison

	Germany	Netherlands	United States
Authority	Judge or Judicial Panel	Judge Prosecutor: Enforcer National Selection Placement Prison Center:	Judge
Average Sentence Length		7 Years	29 Years
Maximum Sentence	Life	20 Years	None
Life Sentencing	Yes	Rarely	Yes
Death Penalty	No	No	Yes
Crimes earning Imprisonment	Serious crimes, Optional for property crimes	Serious crimes	Nearly all crimes
Conditional Release	Yes	Yes	Yes
Data from World Factbook of Criminal Justice			

Conditions

Netherlands

The Netherlands prison population is relatively low with 13,749 individuals currently incarcerated (International Centre for Prison Studies, 2012). Prison population trends indicate a significant decline in populations since 2004. Prison populations consist mainly of adult males with women accounting for only 5.8% of the total prison population (International Centre for Prison Studies, 2012). Juveniles, or minors under the age of 18, also account for a very small percentage of the prison population at a mere 1.7% (International Centre for Prison Studies, 2012).

The Netherlands prison system is home to 85 facilities located throughout the country (International Centre for Prison Studies, 2012). 57 of the 85 house adults, 11 accommodate juveniles, 4 lodge illegal aliens, and the remainder account for TBSclinics, or involuntary commitment to a psychiatric facility.(International Centre for Prison Studies, 2012). Currently, the maximum housing available can accommodate 16,484 inmates, leaving 16.6% of the prison capacity unused (International Centre for Prison Studies, 2012).

Solitary confinement, or “extra high risk detention,” is currently still an operative practice in the Netherlands (Aronowitz, 2008). However, it is only used on prisoners who act dangerously toward other prisoners or prison personnel.

The period of detention last 6 months, upon which the prisoner is reevaluated and eligible for an additional 6 month period (Aronowitz, 2008).

Germany

Germany's 16 states currently house 64,379 prisoners, with a per capita rate of 79 (International Centre for Prison Studies, 2012). These figures indicate a steady decline in prison populations since 2004. German women account for a very small portion of the prison population at 5.5%, with juveniles making up 3.1% of the prison population (International Centre for Prison Studies, 2012).

There are 186 prison facilities throughout the German nation, of which approximately 11% being open institutions and the remainder closed institutions (International Centre for Prison Studies, 2012). The maximum number of criminals that can be housed in German prison facilities is 77, 243 (International Centre for Prison Studies, 2012). Therefore the occupancy level currently contains 83.3% of capacity, leaving 16.7% vacant (International Centre for Prison Studies, 2012).

Germany has a very restricted approach to the use of solitary confinement. While it still is practiced, it is legally only to be used if it is "indispensable (Aronowitz, 2008)." Though this regulation regarding institution is vague, there are clear perimeters for its use; solitary confinement is limited to a length of 3 months to a year (Aronowitz, 2008).

United States

The United States houses the largest population of inmates in the world, currently totaling 2,239,751 (International Centre for Prison Studies, 2012). Per capita figures also dwarf the rest of the world at a rate of 716 per 100,000

individuals being behind bars (International Centre for Prison Studies, 2012). Of this enormous amount incarcerated, women make up 8.7% of the inmate population (International Centre for Prison Studies, 2012). Juvenile prisoners account for a remarkably low proportion of inmates, amounting to a mere .4% (International Centre for Prison Studies, 2012).

While the United States has the largest prison population in the world, most of the inmates are under the jurisdiction of the 50 states. Of the 2.3 million inmates in the United States, just over 2 million are in state and local facilities (Carson & Sabol, 2012). Inmate populations vary dramatically across States and are measured by the average daily inmate populations. These figures do not include local jail populations, as numbers fluctuate continually making populations difficult to measure (Henrichson & Delaney, 2012).

In order to house this large amount of prisoners, the United States operates 4,575 institutions (Aronowitz, 2008). Federal prisons total only 102, while state facilities amount to 1,190, and local jails equal 3,283 (Aronowitz, 2008). However, the total capacity level of the 4,575 institutions makes able housing for 2,265,000 (Aronowitz, 2008). Currently, the United States' prison system, as a whole, is at capacity being nearly maxed out at 99% (Aronowitz, 2008). This current situation leaves little room for incoming inmates and has made overcrowding an issue in many facilities.

Solitary confinement is widely used in federal prisons and most states throughout the nation. At least 38 states implement the punishment, with only

the single state of Connecticut banning its use. There are few, if any, federal regulations regarding time or conditions for solitary confinement. In fact, twenty one states have the policy that enables authority to implement solitary confinement indefinitely, including; Florida, Washington, Idaho, California, Wyoming, Colorado, Kansas, Oklahoma, Texas, Arkansas, Mississippi, Alabama, Florida, Tennessee, Illinois, Indiana, Michigan, West Virginia, Pennsylvania, New Hampshire, and Maine(Naday, Freilich, & Mellow, 2008). While the exact data on inmates held in solitary confinement is unknown, it is estimated that there are potentially 20,000 to 80,000 inmates being held in confinement.(Naday, Freilich, & Mellow, 2008).

Table 9- Conditions Comparison

	Germany	Netherlands	United States
Prison Population	64,379	13,749	2,239,751
Number of Facilities	186	85	4,575
Capacity	77,243	16,484	2,265,000
Occupancy Level	83.3%	83.4%	99% ¹
Solitary Confinement	Conditionally	Yes	Yes

Data from World Factbook of Criminal Justice

Practices

Netherlands

The Netherlands offers several programs and practices for the rehabilitation and welfare of inmates. First, prisoners are eligible for conditional release and furloughs. Since prison reform in the 1980s, prisoners are only

required to fulfill half or two thirds of their actual sentence (Aronowitz, 2008). Criminal sentenced to one year or less, are to be released after serving only 6 months of their sentence (Aronowitz, 2008). Those with a sentence greater than one year are eligible to be released after serving only two thirds of their actual sentence time (Aronowitz, 2008). This is an irrevocable guideline and can only be delayed if the prisoner must serve time in a psychiatric facility or if violent behavior occurs in prison (Aronowitz, 2008). Furthermore, prisoners in open facilities have the privilege of weekend furloughs occurring on a weekly basis, while prisoners with a more extended sentence are granted weekend furloughs on a monthly basis (Aronowitz, 2008).

Because the Netherland's prison sentences are relatively short, the availability of educational and vocational programs is consequently inadequate. However, inmates in open facilities are able to obtain education externally (Aronowitz, 2008).

Work opportunities in Netherland prisons are abundant and mandatory. Prisoners are required to work either inside or outside the prison, depending on security level (Aronowitz, 2008). Open prison inmates typically work outside the prison, while closed prison inmates are required to maintain employment within the confines of the prison. Repudiating work will result in five days of solitary confinement (Aronowitz, 2008).

Prisoners are responsible for, and required to, engage in rehabilitative development. In order to provide for that fulfillment, prisons organize lectures

and performances and provide films, television, and chaplains (Aronowitz, 2008). Additionally, prisoners are provided with medical, psychological, and psychiatric care. Regular visitation and mail are also rights possessed by inmates (Aronowitz, 2008).

Germany

Germany boasts a vast array of practices and programs that benefit prisoners. Inmates in Germany are also eligible for conditional release and furloughs. Conditional releases are granted for good behavior and occur when a prisoner has served two thirds of their original sentence (Aronowitz, 2008). However, release after half of the sentence is served does on occasion occur. If an inmate is sentenced to life, they must serve a minimum of fifteen years (Aronowitz, 2008). Conditional releases are granted by the authority of a judge. Furloughs are granted for day long outings as well as temporary emergency leaves. Vacation furloughs are allowed, pending approval, and can last up to twenty one days (Aronowitz, 2008).

Prisoners are required to work either internally or externally. Prisoners may obtain employment outside the prison and are granted daily leave and require after work (Aronowitz, 2008). Working in factories within the prison will earn prisoners a salary and often, through apprenticeship programs, the ability to earn a trade certificate (Aronowitz, 2008).

Educational programs within German prisons are optional. However, they are heavily stressed for juveniles (Aronowitz, 2008). Basic courses in education are offered and prisoners have the ability to earn certifications (Aronowitz, 2008).

The German prison system also provides for visitation and correspondence, as well as, religious services. Physical and mental medical care is provided for each prisoner in addition to substance abuse rehabilitation (Aronowitz, 2008). Most significantly, the prison system provides financial assistance to prisoners when they are released, to aid them in getting back on their feet. This assistance never has to be repaid (Aronowitz, 2008).

United States

Prisoners are also eligible for parole, a program of early release that allows prisoners to spend the remainder of their sentence outside the prison camp yet under supervision and with conditions. Prisoners in the United States are not offered furlough privileges (Stephan, 2005).

However, most state and federal prisons, even local jails, offer education to inmates (Harlow, 2003). Nine out ten state, federal, and private prisons offer educational programs including: GED preparatory classes, high school courses, basic education in reading and math, and even college courses (Harlow, 2003). Additionally, nearly one third of all state and federal prisons offer inmates job skill vocational opportunities. While not all inmates choose to participate in educational programs; 54% of state prisoners, 57% of federal prisoners, and

14% of jail prisoners participated in some educational program during their stay (Harlow, 2003).

Work, educational, and vocational programs are all optional in U.S. prisons. However, wide varieties are available. Formal education programs are available in 90% of public facilities; offering secondary, GED, literacy, and college level opportunities (Stephan, 2005). Conversely, only 7% of prisons allow inmates to study externally (Stephan, 2005). Vocational programs are only offered in just over half of all prisons in the U.S. Work programs are typically found within prisons are offered at nearly all public prison facilities. On the other hand, external work programs were only found in approximately 28% of prison institutions (Stephan, 2005).

Because of the world class medical programs and facilities that exist in the United States, prisoners very likely receive an increased level of medical care. Physical, psychological, and psychiatric care is available to prisoners in addition to substance abuse detoxification and rehabilitation (Stephan, 2005). Recreational opportunities vary from state to state; however, a variety of recreational activities are typically available. Prisoners are allowed to receive visitors and regular correspondence as well (Stephan, 2005). Religious practice is considered a right and prisoners are encouraged to practice accordingly (Stephan, 2005).

Table 10- Practices Comparison

	Germany	Netherlands	United States
Furloughs	Yes	Yes	No
Work	Mandatory	Mandatory	Optional
Education	Voluntary	Limited	Voluntary
Vocational Training	Yes	Limited	Sometimes
Correspondence/Visitation	Yes	Yes	Yes
Rehabilitative Amenities	Work Release	Work Release	Recreation
	Medical (physical, psychological, psychiatric)	Medical (physical, psychological, psychiatric)	Medical (physical, psychological, psychiatric)
	Religious Practice	Chapel/Chaplain	Religious Practice
	Drug & Alcohol Rehabilitation	Recreation	Drug & Alcohol Rehabilitation
	Financial Assistance		
	Recreation		

Data from World Factbook of Criminal Justice

Findings

Organization

The elevated prison population and proportional size of the country naturally makes the United States the most substantial prison system among the three nations. The U.S. has exponentially more facilities, personnel, and guards. Additionally, the United States functions under three jurisdictions while Germany contains two and the Netherlands only one. Sentencing is therefore more diverse in both Germany and the United States; however, the Germany operates only at the state level with no overriding federal system. Germany and the Netherlands differ from the United States in that they both utilize open prison structures while reserving closed maximum security facilities for dangerous

inmates. The United States operates with three levels of security, varying in security intensity, however they all are closed.

Sentencing

The differences among the three nations' sentencing structures and practices vary in the areas of prevalence of prison sentence application, sentencing guidelines, the exercise of life sentencing and the death penalty, and conditional release programs. The United States utilizes prison sentences more broadly than both the Netherlands and Germany. America's approach to criminal justice centers on the prison as the chief form of punishment for nearly all crimes committed, while the Netherlands and Germany both function with a more varied use of punishments, reserving prison sentencing only for crimes that are violent in nature. When prison is employed as the necessary form of punishment, Germany and the Netherlands use comparable sentence lengths that are much briefer than those of the United States'. Moreover, the United States' federal criminal justice systems and many states, still employ the death penalty and multiple life sentencing without parole. While not all U.S. states utilize the death penalty, only one state has effectively abolished both the death penalty and life sentencing. German and Nordic criminal justice systems have abolished both death penalties while still exercising life sentencing, however, both do not multiple life sentences and life sentences without parole. Additionally, the Netherlands and Germany have remission programs allowing prisoners who behave to only serve two thirds or one half of their actual sentence. While the United States' federal prison and many states offer early release programs, they

come at a much lower sentence reduction rate, allowing for a reduction of only 54 days per year.

Conditions

Prison conditions in the Netherlands, Germany, and the United States vary greatly, particularly in the areas of population and capacity levels, and the utilization of solitary confinement. The sheer size and scope of the United States' prison system, with its quantity of facilities and total population, far exceed the systems of both the Netherlands and Germany. Germany and the Netherlands have more than 20% of capacity still available. The United States' federal, state, and local prisons are, conversely, often overcrowded, with near capacity level populations. The conditions within these three nations also vary greatly in regard to the practice of solitary confinement. In the United States, the practice is widely used in federal prisons as it is in at least three quarters of all states. Restrictions and time limits on solitary confinement are non-existent, with federal prisons and nearly half of all states implementing the practice with no time limit. However, in the Netherlands and Germany, solitary confinement is used less and has limitations. In Germany solitary confinement is limited to 1 year and in the Netherlands, the limit is 6 months prior to reevaluation.

Practices

Prison practices among the three countries have many similarities and yet some distinct differences. While both Germany and the Netherlands both allow prisoners furloughs, the United States generally does not. The United States

also differs from both the other nations in that work programs are not mandatory in federal or state prisons, while employment is a mandatory obligation to prisoners in Germany and the Netherlands. However, medical attention, recreation, correspondence, visitation, and religious practice are all readily available to prisoners in all three countries. Educational opportunities and vocational training are also available to German, Dutch, and American inmates, though it is limited in the Netherlands due to such brief sentencing periods. Additionally, only Germany and the United States offer drug rehabilitation.

Analysis

Sentencing

Sentencing in Germany and the Netherlands was relatively similar, while the United States showed to employ prison sentences much more often and for much longer durations. Moreover, neither Germany nor the Netherlands carry capital punishment or true life sentences. The United States still practices capital punishment and criminals can warrant multiple life sentences and life sentences without the possibility of parole.

German punishments are mostly centered on fines, probation, and loss of privileges, while prison sentences take a backseat and are imposed only for violent crimes and, on occasion property crimes. If imposed, prison sentence can vary in a limited range of 6 months to 15 years. Life sentences mostly reserved for cases of murder. Additionally, through Germany's remission

program, prisoners can reduce their sentence through good behavior which results in only serving two thirds or half of their actual sentence.

The Netherlands is much the same, with a criminal justice system utilizing mostly fines, community service, and detention. Prison sentences are only employed for serious and violent crimes. Sentences are limited to a maximum of 15 years and can be as short as 1 day. 20 year and life sentences are murder cases. The Netherlands' remission program, like Germany, also affords prisoners who behave the opportunity of early release after having served two thirds or half of their actual sentence.

Nearly every crime in the United States is punishable by imprisonment, with the exception of public order cases. The average prison sentence in the U.S. is 29 years. Multiple life sentences and life sentences without the possibility of parole guarantee that some prisoners will never be released. The death penalty is still used and accounts for many deaths every year. Moreover, while the U.S. does employ an early release program for good behavior, a mere 54 days knocked off every year does little to shorten a long sentence.

The sentencing practices of the United States are clearly divergent from those in the Netherlands and Germany. The increased use of imprisonment and the prolonged sentencing not only affects the substantial current and succeeding prison populations, but also does not deter future crimes. A recent study found that extremely severe punitive sentencing has essentially no effect on crime levels (Doob & Webster, 2003). Moreover, According to the most recent nation-

wide study conducted by the Department of Justice, nearly 68% of released prisoners were rearrested within three years. Of those rearrested, 47% were reconvicted and 24% were resentedenced to prison for an additional crime. The Department of Justice also found that the re-arrest rate was not affected by the amount of time criminals had spent in prison (Langan & Levin, 2002).

Conditions

Conditions in German and Netherland prisons are, again, comparable. Both countries are well below capacity levels and have limits to practices such as solitary confinement.

Capacity in the Netherlands and Germany is currently just over 80%, while the United States is near maximum capacity. Maximum capacity levels affect prison conditions and are problematic to the areas of prison violence, inmate health, and inmate rehabilitation. Prisons with overcrowding are susceptible to less control over prison violence, weakened sanitation maintenance, poor availability of healthcare to inmates, and a reduced ability to supply educational, occupational, and recreational services to inmates (Van Ness, 2008)

The Netherlands and Germany both practice solitary confinement, however, with limitations. The Netherlands limits the time spend in confinement to 6 months, following which, prisoners are reevaluated and eligible for only an addition 6 months (Aronowitz, 2008). Germany limits solitary confinement to 1 year and promotes that it should only be used when it is “indispensable”(Aronowitz, 2008).Solitary confinement in the U.S. is wide spread,

with potentially 20,000 to 80,000 inmates being held in confinement, based on estimates(Naday, Freilich, & Mellow, 2008). Designed to house the most dangerous and depraved prisoners, solitary confinement facilities are designed as stark cells with a bare necessities, no windows, and prevent prisoners from having contact with any other humans (King, Steiner, & Breach, 2008). In the United States, there are no limits to the amount of time prisoners can be held in solitary confinement.

Extensive research shows that the practice of solitary confinement causes a host of effects in prisoners, including: psychiatric, psychological, physical, and sensory consequences. Inmates who have experience long term solitary confinement often develop memory loss, hallucinations, and impulsive actions among many other symptoms (Grassian, 1983). Moreover, some argue that not only do inmates in solitary confinement experience these effect, but they are bereaved of the ability to function in society should they ever be released (Haney & Lynch, 1997).

The United Nations has issued a statement against solitary confinement, calling for a ban on the practice, labeling it torture (United Nations, 2011). The U.N. has since specifically called on the United States to end the practice of prolonged and indefinite solitary confinement. Juan Mendez, Special Reporter for the United Nations, issued the statement, adding that he “calls for an absolute ban of solitary confinement of any duration for juveniles, persons with psychological disabilities or other disabilities or health conditions, pregnant

women, women with infants and breastfeeding mothers, as well as those serving a life sentence and prisoners on death row (United Nations New Centre, 2013)."

The United States continues to practice solitary confinement.

Programs

Germany and the Netherlands exercise similar practices and programs. Most notable is the employment of furloughs and mandatory work obligations. The United States' highly secure, closed prisons do not often allow prisoners furloughs and violent criminals are strictly prohibited from the privilege. Work furloughs are often granted to eligible prisoners, while occupation is strictly optional.

While there is little evidence to suggest that furloughs and mandatory work programs positively benefit prisoners, it is important to acknowledge that both Germany and the Netherlands employ analogous practices. Additionally, in both countries' cases, inmates earn a salary for their work. While this may only limitedly benefit inmates while they are in prison, upon release any earned income would benefit a criminal immensely. According to the Center for Public Policy Research, in the United States, prisoners are frequently eligible for state programs that provide some assistance. However, that assistance is very limited and often prisoners are leaving prison facilities with merely a bus ticket and approximately fifty dollars (Wilson, 2007). It had been established that prisoners having a difficult time getting back on their feet are more likely to relapse into criminal behavior (Horowitz, 1967).

Conclusion

Throughout history the penal system has been viewed as the paramount means of dealing with criminals, and remains so today. Prison and confinement has been conducted in a variety of spaces and for a variety of purposes; it has been holding chamber for vengeance, a work house for deterrence, a confinement unit to heal, and a cell for confinement. The ancient biblical and Greek times mark the very beginnings of the employment of confinement and the brutal conditions and philosophical approach focused on revenge and the enactment of a vengeance that was equal to the crime committed. The early modern period denotes a shift from the public spectacle of punishment, while maintaining the focus on the physicality of punishment. These two factors gave way to the rise of the institution of prison, yet a prison that would center on the physical labor of inmates. However, the ascent of enlightenment philosophy would see to a comprehensive transition away from physical punishment. Deterrent focused physical punishment was replaced with the efforts to rehabilitate the souls and characters of criminals. America would serve as a beacon to the rest of world in regards to prison reform, creating two influential prison designs that would make America the leader in prison management.

America's command over prison success, however, would be short lived. The American prison is no longer exemplar, though it has experienced both obstacles and achievements. The attainments of social and structural advancements and prisoners' rights have categorically improved the institution of

prison. However, overcrowded prison populations continue to be the greatest challenge facing the American prison system. Today, the United States prison population far exceeds that of any other country in the world. Federal and state prisoners are varied in age, gender, race, education, and come from a variety of walks of life. Collectively, the cost of these prisoners is high. The financial responsibility of prison facilities, care of prisoners, programs, services, and staffing are more than considerable, amounting to billions each year. The astronomical amount makes prison system spending exceed spending in most all other services, including education and excluding only social security.

The political climate, tough on crime policies, determinate sentencing, and increasing cost of prisons have significantly increased numbers of various offenders in prisons and generated lengthy prison sentences; creating a proliferating annual prison population. The burden of overpopulation has led to a scarcity of rehabilitative programs, resources, health services, and lower staff to inmate ratios, while consequently exacerbating violence, gang activity, and drug availability. As a result, this practice of essentially cataloging mass amounts of inmates appears to have resulted in a system whose practices, financial situation, depleting amount of resources and ultimately the inability achieve rehabilitation has resulted in a system accomplishing only incapacitation.

The Netherlands and Germany offer a unique insight into the organization, sentencing, conditions, and practices of two countries' prison systems that have successfully lowered prison populations and simultaneously lowered crime rates.

While they are two very diverse countries, their prison systems are strikingly similar. Germany and the Netherlands favor the employment of fines, community service, and probation as punishments for lesser, nonviolent crimes. Prison sentences are reserved for serious, violent crimes. Sentences are relatively short, life sentences are rare, and both countries have abolished the death penalty. Both countries are well below capacity levels in their prisons and are able to amply provide for prisoner programs and care. Furthermore, Germany and the Netherlands grant prisoners furloughs and have mandatory work programs.

The United States could not be more divergent from Germany and the Netherlands in sentencing, conditions, and practice. America readily condemns criminals to imprisonment, even for lesser crimes. Prison sentences are exceptionally lengthy, life sentencing without parole and multiple life sentences are used, and the death penalty is still in practice. Prison populations are currently near prison capacity levels, making it difficult to accommodate the soaring influx and current quantity of inmates. And while the United States does offer educational and work programs, they are optional. Furloughs are certainly not granted to prisoners.

Comparing the United States to two other highly developed countries with concurrent decreasing crime and prison populations is beneficial in uncovering potentially advantageous practices. While there are many societal and sociological factors that can contribute to crime and recidivism, it is important to

examine the internal practices of prison systems and their possible impact on criminals. Pursuing the models of the German's and Netherlands' prison systems, the United States should consider and evaluate: a reduction in the utilization of prison sentences for lesser crimes and greater employment of fines, probation, and community service; greater sentence reduction rates for well-behaved inmates, elimination of excessive sentencing and perilous confinement practices, improving conditions, and implementing furlough and mandatory work programs.

While the implementation of such practices will not solve all the numerous challenges facing the United States criminal justice system, they may better provide an approach to reducing and better managing the heavy burdens within the prison system. With the highest rates of incarceration in the world, in total and per capita figures, the United States must reevaluate its sentencing, conditions, and practices in an effort to better contend with crime and better serve its citizenry. Looking to countries that have successfully reduced prison populations while simultaneously lowering crime rates is the perfect place to start.

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