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## Challenging the Architecture: a Critical History of the Wisconsin Prison System

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CHALLENGING THE ARCHITECTURE:  
A CRITICAL HISTORY OF THE WISCONSIN PRISON SYSTEM

by

Jacob Glicklich

A Dissertation Submitted in  
Partial Fulfillment of the  
Requirements for the Degree of  
Doctor of Philosophy  
in History

at

The University of Wisconsin-Milwaukee

December 2019

ABSTRACT  
CHALLENGING THE ARCHITECTURE:  
A CRITICAL HISTORY OF THE WISCONSIN PRISON SYSTEM  
by

Jacob Glicklich

The University of Wisconsin-Milwaukee  
Under the Supervision of Professor Joseph Austin

In my dissertation I explore the history of the Wisconsin prison system, with an emphasis on 1970 to 2019, Waupun Correctional Institution and Taycheedah Correctional Institution. From this study, I explore the nature of the Wisconsin system and how it has developed. Across this work I argue that the core priority for the WI Department of Corrections has been to maintain and expand its bureaucratic infrastructure, imposing limited recourse on prisoners, and maximizing its own disciplinary flexibility. There have been significant human costs to this system, and my work helps to document these costs, contextualize why they happened, and look at the resistance prisoners have made against the Wisconsin carceral regime.

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## Chapter I: Introduction

### **Argument**

My dissertation is a public history of the Wisconsin prison system from 1851 to 2019, with a focus on 1970 to 2019. Across this work I argue that the prison system in Wisconsin has as its real aim expanding its bureaucratic infrastructure. In recent decades the regime has succeeded more fully in this aim. The prison system increased the flexibility it has to impose sanctions against prisoners. There were rising hardships in the Wisconsin prison system, not just because of over-crowding under mass incarceration, but because of the disciplinary code, guard conduct and material restrictions that prison authorities put on prisoners.

There are benefits to scholarship to approaching this research as an historical project. Without looking at the process of change it would be harder to assess specific moments. The Wisconsin Department of Corrections builds its power by normalizing itself. It claims its system as an organic process that exists outside of politics or history. Looking at different institutional reports shows variation over time. It also lets scholars see the different rhetorical claims made at different points. Prison authorities write of the prison system as something that does not alter in a major way. Authorities' explanation for the treatment of incarcerated people emerges from their individual behavior. Prison authorities emphasize the present to safeguard the prison system, removing awareness of origins of this system or alternatives to it. The lack of history is itself a political stand that justifies the exercise of power.

Looking at statements by imprisoned people makes it clear that they do not accept this view. Prisoners do not describe prison as an unchanging institution. They show a sharp awareness of different eras in incarceration. Prisoners identify the impact of increasing numbers

of people imprisoned, the distinction between “old law” and “new law” sentencing and the increasing cost of prisoner sustenance. Many of the acts of prisoner resistance demanded restoration of specific conditions. One of the DOC's core approaches is to isolate prisoner resistance. The DOC broke contact between resisting prisoners. When riots occurred, the institution focused on the personal histories of violence of prisoners. At the same time, they obscured the history of violence committed by the prison. A fuller history can act to expose this agenda. History helps to uncover both atrocities and moments of resistance that the DOC hides. Understanding past actions by both guards and prisoners is crucial to appreciate the modern functioning of the Wisconsin prison system.

### **Origins of project**

I entered the Phd program in history at UW-Milwaukee with the intention of pursuing a different dissertation topic, analyzing 19<sup>th</sup> century British travel narratives. Starting in 2015 I became a volunteer with prisoner solidarity organizing through the Industrial Workers of the World, Milwaukee branch. In consequence of this work I became more interested in the history of the prison system. In communication with prisoners I learned a lot of how much fluctuation there had been in prison regulations. I also gained insight into how much prisoner resistance there had been. It also became clear from these interactions that both aspects were unevenly recorded. Prisoners were also extremely limited in their ability to document their own experiences. I therefore decided to apply my doctoral study to understanding the context of and history of incarceration in Wisconsin. I consulted with professors on their availability for being on a committee for this topic, drafted my proposal and began research in the fall of 2017.

### **Writing Process**



In late 2017 I first wrote an initial draft of the 2016 hunger strike by prisoners in Waupun Correctional, using sources I was close to as an outside supporter during this campaign. I then expanded this to understand the whole history of Waupun Correctional Institution, from its earlier days to the present. After completing an initial draft of this chapter I engaged with scholarship on the history of the prison. I then wrote chapters 3 and 4 on the overview of incarceration and on prisoner resistance. In early 2018 while continuing to revise and polish existing chapters, I also wrote my first draft on chapter 5, covering the main changes of the Wisconsin prison system. During this period, I did the bulk of my archival research and open records and interviews. In late 2018 I revised the draft material, undertook research on the history of female incarceration in Wisconsin, and wrote my first version of chapter 7 on Taycheedah Correctional Institution. In 2019 I conducted interviews, repeatedly revised my core chapters, and wrote an introduction and conclusion for my work. I passed my dissertation defense on November 26, 2019, and on advice of my committee at that point separated my introduction into the current material and a literature review and expanded the conclusion.

Across the two years of this work, I have been motivated by appreciating how transitory most of the records on the prison experience. The DOC presents the most documentation and is inherently partial in what it depicts. News stories can present more critical incidents, but they are partial and lack sustaining power. Activist groups work to build their own histories but have limited audience and often limited continuity as well. The scale of the prison system in Wisconsin also showed the need for expanded study. The more that I became aware of how extensively it operated, and the financial and human costs it entailed, the less I was able to turn away from it.

## Overview

Across the twentieth century the Wisconsin prison population and budget steadily expanded. There have also been increasing rates of racial disparity in the prison. In the 1904 Census, Wisconsin recorded 1,336 prisoners, 61.5 out of every 100,000 people.<sup>1</sup> Of the 1,336 people incarcerated in the Wisconsin prison system at this time, records identify 96.8% of them as white. In 1973 the Wisconsin prison system incarcerated 2,046 people, 45 out of every 100,000 people. In 2004 it was 22,966, or 417 out of every 100,000 people.<sup>2</sup> The three-strikes laws implemented by the Wisconsin state legislature had a more limited scope than California's equivalent laws, yet Wisconsin's pattern of imprisonment increased at a faster rate than in California.<sup>3</sup> Wisconsin's pattern of incarceration was even more racialized than the norm, with the highest rate of incarcerations for men, and extremely high levels of.<sup>4</sup> People experienced continuing impact from Wisconsin's truth in sentencing laws,<sup>5</sup> which expanded prison sentences and created more consistent classification of felonies.<sup>6</sup> By 2016 the Wisconsin justice system held approximately 104,000 people. This included roughly 23,000 people in state prisons, 14,000 people in local jails, 1,900 in federal prison, 350 on civil commitment, 800 in youth facilities, 19,000 on parole and 45,000 on probation.<sup>7</sup> Since 2013 prison has cost three times as much as

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<sup>1</sup> Anonymous. "Prisoners and Juvenile Delinquents in Institutions 1904", United State Census Bureau. <https://www.census.gov/library/publications/1904/dec/prisoners-1904.html> pp. 13, (accessed January 5, 2018).

<sup>2</sup> O'Hear, Michael. *Wisconsin Sentencing in the Tough-on-Crime Era*. Madison, University of Wisconsin Press, 2017. Print. pp. 3.

<sup>3</sup> O'Hear, 8

<sup>4</sup> O'Hear, 203

<sup>5</sup> Enacted 1997-2001

<sup>6</sup> Scott Franklin. "How Did We Get Here?" *Wisconsin Lawyer*: 75, no. 11, (November 2002): 2.

<sup>7</sup> Sawyer, Wendy. "The Gender Divide: Tracking Women's State Prison Growth". *Prison Policy Initiative*. [https://www.prisonpolicy.org/reports/women\\_overtime.html](https://www.prisonpolicy.org/reports/women_overtime.html) (accessed August 15, 2018).

education for the state of Wisconsin.<sup>8</sup> A study by the Vera Center found that in 2015 the Wisconsin state prison system cost \$867,991,403, an average cost per inmate per year of \$38,644.<sup>9</sup>

The huge growth in Wisconsin's prison system coincided with decline in manufacturing, that reshaped economic life in the state, particularly for the black and indigenous communities, with disproportionately high rate of arrest, conviction and incarceration. The increase in number of people incarcerated has caused overcrowding, inadequate physical care and increasingly brutal forms of control. Governor Doyle implemented reforms including a pattern of earned release, which was overly complex and inferior to changes made in other Midwestern states, but even this was quickly overturned by the Republican legislature in 2011.<sup>10</sup> More than 30 states have developed and sustained more lenient policies on parole than Wisconsin. The state of Wisconsin also imposes longer sentences and heavier use of solitary confinement than the national average. Wisconsin also has a larger racial disparity in sentencing.<sup>11</sup> Gerrymandering in the state has exacerbated the impact on African-American communities. A 2011 examination concluded there is "systemic bias" in how with prison population are counted in the census.<sup>12</sup> Even more significant is the overall scale of the prison system, and the cumulative cost. In 2017 the state

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<sup>8</sup> Lee, Pauleen. "Wisconsin Prison System." *News 8000*. 18 November 2018. pp. 1.

<sup>9</sup> Anonymous. "The Price of Prisons: Prison Spending in 2015." *Vera Center*.  
<https://www.vera.org/publications/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends-prison-spending>  
(Accessed June 25, 2018).

<sup>10</sup> O'Hear, Michael. "Let the Good Times Roll: Early Release for Good Behavior in Prison." *Wisconsin Lawyer*. 88, No. 3 (March 2015): 4.

<sup>11</sup> O'Hear, 7

<sup>12</sup> Wagner, Peter. "Wisconsin Sees Dramatic Prison-Based Gerrymandering." *Prison Policy Initiative*. 8 no. 1 (July 2011): 3.

spent \$1.2 billion on corrections, more than the UW-System.<sup>13</sup> Wisconsin spent 12% more on corrections than the national average, more than any state in the Midwest, and more than all but 9 states in the U.S.<sup>14</sup>

Overcrowding of prisons has strained prisoners' access to education and rehabilitative services. Human Rights Watch determined that black individuals in Wisconsin are 42 times more likely than whites to face incarceration for drug convictions, the highest racial disparity in the country.<sup>15</sup> As Michael O'Hear said: "Once the infrastructure for mass incarceration is in place, the forces of institutional inertia help ensure that imprisonment rates remain high."<sup>16</sup> My dissertation will explore aspects of the human cost of this rising incarceration, as well as the fiscal cost, which in 2017 hit \$1.2 billion annually. This amount of funding is 12% more per state resident than the national average, and more than any other state in the Midwest.<sup>17</sup> Most prisoners in Wisconsin are men. At present there are 1,317 women incarcerated in Wisconsin Department of Corrections, and across the 1990s the average rate of increase for women in prison (8.5%) was more than that of men (6.9%).<sup>18</sup>

## **Methodology**

I looked at official DOC publications to understand the framework of the Wisconsin prison system. The annual reports that each prison produced was a useful source for overall prison numbers. These reports also showed shifts in the scale of the prison over time. Other

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<sup>13</sup> Cornelius, Tamarine. "State's Prison Costs Still Growing." *Urban Milwaukee*. November 1, 2017. pp. 4.

<sup>14</sup> Cornelius, 6

<sup>15</sup> O'Hear, 143

<sup>16</sup> O'Hear, 248

<sup>17</sup> Cornelius, 2

<sup>18</sup> Cook, Sandy. *Harsh Punishment: International Experiences of Women's Imprisonment*. York, Northwestern University Press, 1999. Print. pp. 211.

DOC publications included warden's statements, public relations outreach and system reviews authorized by the DOC Secretary were useful to flesh out these aspects. In addition to core numbers, these sources were invaluable in showing how the Wisconsin prison authorities sought to present their regime. Such documents provided a useful way to engage with legitimization and rhetorical justifications in the prison. I read these sources extensively and critically. Through these sources I built my understanding of the Wisconsin DOC beyond how its higher-ups presented it.

I also analyzed Wisconsin legislative audits and other critical reports of the DOC. These sources provide a useful examination of how specific systems functioned within the DOC. These reports were funded and exhaustive. The authors of such audits were willing to be critical of norms in the DOC. They were however inherently specialized and focused on narrow aspects of the wider system. The value of the audits and other reports is that I could use them in conjunction with other sources to understand the interlocking components of the Wisconsin prison system.

I conducted interviews to expand information on the Wisconsin prison system. Due to Institutional Review Board conditions I need to maintain anonymity about the identities of the individuals. To summarize on these people, there were five individuals that I interviewed, three who were formerly incarcerated, two who were members of prison reform groups. Of the incarcerated people all three were men, one was white and two were black. They were incarcerated in 1970-1972, 1990-2013 and 1995-2009. Two were in their 50s, one was in his 40s. Of the prison reformers, one was a man, one was a woman, both were white, one was in their 50s, one in their 60s. These interviews were particularly useful in uncovering psychological aspects of incarceration. The interview process was also invaluable in showing a much more

critical presentation of the daily regime of the DOC. The interviews echoed many points that prisoners made in publications and letters to the outside, but at greater length, and without the same barriers from DOC censorship. The interviews with participants in prisoner reform activism also provided a useful compliment to the more personal and traumatized presentations from formerly incarcerated people. Showing a similar engagement with and critique of the prison system without the same emotional intensity reveals a lot about the damage that incarceration produces.

I made a number of open records requests over the course of this research. For this process I emailed the Wisconsin DOC's open records department and asked for specific documents, which they either provided, refused on security grounds, or required a fee before delivery. The documents I asked for included emails by DOC administrators, notes by prison committees, incident reports and inter-office memos. This open records process was relatively straightforward, a testament to the strength of the progressive movement in Wisconsin that provided for a degree of transparency with public institutions. These sources were valuable in seeing how elements of the DOC talked to each other. It provided another vantage point of the internal bureaucracy of the prison system at different levels.

I also used many newspaper reports for this dissertation. These were good presentations on concrete events and dramatic developments. Looking at a large number of articles over time helped to show the different stress points that the prison system experienced. It was particularly useful in addition to DOC publications, in showing more dysfunction and turmoil than the prison authorities described. The major limitation of these source are that they were focused on notable events rather than the buildup to or resolution of crisis points. For most of the incidents they uncover, it is necessary to provide more context to usefully process this information.

I read and analyzed many books and articles relevant to Wisconsin incarceration as sources for my dissertation. These helped to unpack a lot of the wider components of incarceration in Wisconsin. It was useful both in particular context it established, and in the gaps in what authors chose to or were able to depict. I also read several master's thesis and dissertation relevant to the Wisconsin prison system. Compared with published books they tended to have more extensive detail on structural aspects, and were useful in fleshing out significant I evaluate these sources and specific things I found in different aspects of the relevant literature in my next chapter.

### **Dissertation Outline**

My dissertation explores major changes and continuities in the recent history of the Wisconsin department of corrections. In chapter two I will review relevant literature on history of incarceration in the United States. In chapter three I will establish the basis for my dissertation by exploring the history of and origin of the prison, both in the United States and globally. I will evaluate different models that the prison has taken within different societies. I will look more closely at how the U.S. moved from the 1960s from a period of comparative questioning of the need for prisons to a massive expansion of prison infrastructure from the 1970s onwards. I will also look at the history of the U.S. prison over the last two decades, and the partial contestation of the mass-incarceration trend.

In chapter four I will explore the forms that prisoner resistance has taken and the historical meaning of these acts of defiance. I will evaluate successful and unsuccessful attempts at collective action and look at what these meant for understanding agency by prisoners. I will explore the fluidity and calculation behind these acts of revolt. I will explore the stakes involved

in this for hunger strikes, litigation, work stoppages, riots and prisoner unionization. I will argue that these are crucial aspects to uncovering the dynamic of power within the prison.

In chapter five I will provide an overview of the Wisconsin Department of Corrections and the way that it has fought to expand itself. I will look at how the prison system became a significant actor, and how it sought to maximize the flexibility that guards, and higher-ups could wield against prisoners. I will assess how the DOC has pushed for changes in increasing the scope of its prisons and expanding its prison network, as well as some internal pushback against these trends.

In chapter six I will examine the history of Waupun Correctional Institution, to flesh out the functioning of maximum-security Wisconsin prisons. Across WCI's history, the disciplinary power increased, the bureaucracy grew and the prison authorities increased the flexibility that they could apply against prisoners. I will also analyze prisoner resistance as both a way that people have called out these patterns of abuse, and as a force that prison authoritarians have used to justify further repression.

In chapter seven I will look at Taycheedah Correctional Institution, the female maximum-security prison in Wisconsin. I will explore the ways that women's incarceration in Wisconsin parallels men's, but also how it functions with a different portrayal of women. I will look at how for prison guards and administrators a moralistic critique of female criminals moved to a harshening of attitudes. I will also explore how correctional employees initially viewed female prisoners as easily malleable and shifted to emphasizing their danger. This shift in representation enabled an intensification of abuse and neglect into the twenty first century. I will conclude by assessing the selection of Milwaukee to host the 2020 Democratic National Convention, look at



the rhetoric surrounding this choice, and contrast this with the understudied and underperceived reality of incarceration in Wisconsin.

My work is not a comprehensive history of the totality of the Wisconsin prison system, the sheer scale of carceral infrastructure makes that impossible at this length. Instead, this dissertation works to trace significant patterns in how corrections has reshaped itself, and how the prison as an institution has pushed for key priorities. This study provides a way to trouble and make more complex assumptions of Wisconsinite identity.

## Chapter II: Literature Review

My analysis is indebted to recent scholarship that evaluates the U.S. prison system, as well as the increasing resistance movements from within prison. Where these writings are lacking is in area-specific detail within the Midwest, that addresses how prison system expansion and resistance could develop in ways that are less overt than the few sensational cases that are studied. Many authors wrote on how and why the prison system expanded, including writers in historical and sociological modes.

One of the foundational pieces for my approach is Kristian Williams's *American Methods: Torture and the Logic of Domination*. Williams' work shows the raw physical violence inherent to American prisons. Williams identifies how different levels of physical punishment create the foundations for confinement. He presents torture as an everyday constant rather than a distant exception. Furthermore, Williams contextualizes how this methodology of pain operates against prison bodies, how authorities normalized and developed their expertise in agony. Williams documents how prison rape, isolation and restriction of medical care are integral parts of this system. The torture of prisoners expanded as the population increased and technologies of control have also become more complex. Williams sees torture as a tool the prison uses both to exert control and to create a rationale for abuse by degrading its subjects. What Williams' analysis shows is the limitations of challenging only scandalous abuses. It is crucial to also understand the more routine violations of the carceral system. This provides a strong example, to which it is beneficial to explore a particular prison system in depth, to be able to better contextualize how the overt brutality and bureaucratic weight of the system functions. My analysis of Wisconsin's prisons shows that coercion and the threat of pain is fundamental, but

another related aspect is the levels of hierarchy that cover yet are not directly involved in these practices, which are not covered fully in this account.<sup>19</sup>

My research is also indebted to Naomi Klein's *Shock Doctrine*, and who shows how torture functions as a tool for top-down economic change. Klein is particularly valuable in showing the psychology of disorientation in "disaster capitalism" and how such changes can flow from a crisis imposed by authorities. Klein shows the raw power at work in the functioning of neoliberalism, documenting how the slow violence of expanded corporate power built on overt brutality. For Klein the emphasis is on terror and incarceration as short-term processes. Yet there is much in this argument that adapts to intensified incarceration, including the erosion of the welfare state, and intensified imprisonment to deal with populations left behind. For sectors of the population judged as "criminal" compliance through terror never stopped. Klein is valuable in helping to see through the assumption of "soft power" as a tool for elite control. In a similar pattern to Williams, Klein provides a broad conceptual framework. Yet I will need to expand on the history of prisons to effectively unpack this system.<sup>20</sup>

Victoria Law's *Resistance Behind Bars: The Struggles of Incarcerated Women* is another crucial inspiration. Law provides an invaluable investigation into prison economics, and models of collective resistance, taking a broader view to what constitutes prisoner resistance than many scholars have, including riots, work stoppages, small-scale direct action, and collective petition. It is a useful exploration of distinctive hardships for incarcerated women. Law's work also points to the value of studying the modes of communication that such women use to challenge systems

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<sup>19</sup> Williams, Kristian. *American Methods: Torture and the Logic of Domination*. Boston, South End Press, 2006. Print.

<sup>20</sup> Klein, Naomi. *The Shock Doctrine*. London, Picador Press, 2008. Print.

of abuse. Such analysis can be generalized. Looking in detail at such modes of resistance in Wisconsin's prisons helps to challenge commonly understood assumptions on the inevitability of carceral forms of control. Looking at the prism of resistance also shows the ways that Wisconsin, has shown greater levels of suppression<sup>21</sup>, and more overtly racialized patterns of control even than the norm of prisons in the U.S.<sup>22</sup>

Angela Davis' *Are Prisons Obsolete?* is a forceful overview of the economic origins and impact of the prison system, providing crucial insight into how prisons disempower poor and black people and defining this as the true purpose of this system. Davis highlights the links between chattel slavery and imprisonment.<sup>23</sup> She also shows the long pattern of attempted reforms and how they have created new punishments.<sup>24</sup> Davis also documents the systematic withdrawal of educational opportunities to contain unruly prisoners.<sup>25</sup> Davis gives a brief but crucial overview of the impact of the prison system in the United States. She also provides historical context for why a vision of prison abolition is crucial. She writes to contest the way that "the prison is considered an inevitable and permanent feature of our social lives."<sup>26</sup> By showing the origins of prison, Davis also traces the long history of abolitionist thought.

Staughton Lynd's *Lucasville* provides a detailed organizing summary of the 11-day prisoner rebellion at the Southern Ohio Correctional Facility in 1993. Lynd compares the

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<sup>21</sup> Despite or because of the assumed progressive character of the state

<sup>22</sup> Law, Victoria. *Resistance Behind Bars: The Struggles of Incarcerated Women*. Oakland, PM Press, 2009. Print.

<sup>23</sup> Davis, Angela. *Are Prisons Obsolete?* New York City, Seven Stories Press, 2003. Print. pp. 26-7

<sup>24</sup> Davis, 44

<sup>25</sup> Davis, 58

<sup>26</sup> Davis, 9

uprising to the American Revolution.<sup>27</sup> He builds on oral history to show the chain preceding this conflict.<sup>28</sup> *Lucasville* provides exhaustive documentation of the conditions in prison. It also shows the manipulation of judicial punishment against people that refused to inform against others.<sup>29</sup> Lynd also shows the impact of cross-racial solidarity that emerged through the Lucasville Rebellion. Such connections included members of the local Aryan Brotherhood joining with the Nation of Islam to oppose the prison system. Both groups engaged in hunger strikes together.<sup>30</sup> Through interviews with black and white prisoners, Lynd concludes: “Ultimately, prisoners stand together against dehumanizing treatment not as blacks or whites, but as human beings.”<sup>31</sup> Lynd explores the way that consciousness changes and people change through connection through such qualities. He identifies the possibilities of “Lucasville Redemption” leading to global solidarity.<sup>32</sup> Lynd also suggests lessons for people in the outside to learn from the ability of black and white populations to overcome their differences through common struggle.<sup>33</sup> The value of Lynd's account lies in its specificity. By concentrating his study on Lucasville, Lynd explores distinctive factors that appeared from the carceral regime change at Lucasville. He also shows the prison’s connection to deindustrialization and mass incarceration in the Youngstown region of Ohio. The area-specific study of specific policies, penal expectations and economic structures parallel what was happening in many other areas. By focusing in on the regional history of this site, Lynd gives a fuller account of what processes

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<sup>27</sup> Lynd, Staughton. *Lucasville : The Untold Story of a Prison Uprising*. Philadelphia, Temple University Press, 2004. Print. pp. 14.

<sup>28</sup> Lynd, 16-7

<sup>29</sup> Lynd, 128

<sup>30</sup> Lynd, 150

<sup>31</sup> Lynd, 153

<sup>32</sup> Lynd, 153

<sup>33</sup> Lynd, 14

were at work here. From this focus, Lynd makes substantive evaluation of wider trends in prison expansion and resistance, because he has the space to explore specific nuances. Lynd gives Lucasville this amount of consideration because of the attention provoked by the prisoner rebellion. This analysis is even more valuable when it connects with surveys of recent prisoner resistance movements, such as the series *Prison Action News*<sup>34</sup> and *Dixie Be Damned*.<sup>35</sup> The evaluation of distinctive carceral trajectory in Ohio's deindustrialized region is of relevance in a study of Wisconsin, which experienced broadly similar changes.

My dissertation builds on Lynd's study, while also seeking to go further. I argue that there is value in area-specific examination of different prison systems. I argue that this is the case even when the acts of resistance are not as dramatic as occurred in Lucasville. I work to expand understanding of what is distinctive to the Wisconsin prison system, by focusing on details of economy, resistance and bureaucracy. There is value in the existing overviews of mass incarceration. Yet there are some things that appear only in the study of statewide network. Such accounts lack the ability to capture a full explanation of how resistance emerges. They give only a brief gloss on what things happened into the months and years prior to these incidents that inform a comparative understanding of these rebellions.

By providing more attention to a smaller area, I seek to build understanding of continuity in prisoner actions. Such focus can better explain acts of resistance. By not seeking to cover all prisons in one study, my work is able to analyze the significance between periods where overt

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<sup>34</sup> *Prison Action News*. Volume 10, Issue 1. February 10, 2017.

<sup>35</sup> Sharley, Neal. *Dixie Be Damned: 300 Years of Insurrection in the American South*. Oakland, AK Press, 2014. Print.

resistance did not happen. I can identify what dynamics of repression and exhaustion caused periods of comparative quiet as well as more active periods.

In my exploration of the history of Wisconsin prisons I analyze several previous historical texts that described aspects of this history. There are both useful contexts, and some significant omissions that require further scholarship. Much of the relevant texts focus on a narrow aspect of prison conditions in Wisconsin. Joseph Lohman's 1932 master's thesis *Family Backgrounds of Ninety Seven Lifers At the Wisconsin State Prison*<sup>36</sup> operates in this vein. Lohman explicitly declined to look at the prison as a system. He instead centers on criminality and the family details of individual prisoners. This work is useful in showing the logic of prison classification that was increasingly becoming dominant in American prison systems in the 1930s. As analysis it is limited, especially in how it doesn't address the factors of recidivism. In a broader scope, Giles Brown's 1936 presents an effective, but somewhat mechanical, overview of major characteristics of the prison in the first 80 years. Crucially it lacks an assessment of prison policies and how this prison functioned as a system of power. It also neglects analysis of how resistance occurred. The text refers to the "changing social and economic conditions"<sup>37</sup> within Wisconsin economy and changed directorial structure in the prison. However this study does not seriously investigate this norm. This thesis refers to the growth of rehabilitative effort but does not substantiate claims on how this functions on the level of the prisoner.<sup>38</sup> There are some limitations by the short length of this text but even more by the way that it frames its investigation, the limited scope of inquiry.

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<sup>36</sup> Lohman, Joseph. *Family Backgrounds of Ninety Seven Lifers At the Wisconsin State Prison*. Master of Arts Thesis, University of Wisconsin, Madison, Wisconsin, 1932. Print.

<sup>37</sup> Brown, Giles. *History of the Wisconsin State Prison*. 1936. University of Iowa. Master's Thesis. Print. pp. 54.

<sup>38</sup> Brown, 55

Bernett Odegard's 1939 *History of the State Board of Control of Wisconsin and the State Institutions*<sup>39</sup> gives crucial evidence on how Wisconsin's carceral administration formed and changed. It's valuable in showing the link between the prison system, mental health and sterilization in the early decades of the Wisconsin prison system. It also defines patterns of prison labor, finances and reporting that flesh out the infrastructure of the early prison system. The main limitation is how much it uncritically takes on the viewpoint of the State Board. This text asserts that Wisconsin is a leader in prison education and labor without adequately exploring controversy or dissension on this issue.<sup>40</sup> It also presents the prison as a coherent entity, while Langsam's overview shows significant discontinuity, turmoil and internal politics involved in the early prison system. The limitations of this text are not from a lack of available sources or brevity, but in what appears to be a deliberate minimizing of dysfunction. It is an issue with taking the institution too much at its own word.

A significantly different approach is Hubert Henrich's 1943 thesis *American Prison Publications*,<sup>41</sup> which presents crucial information on the goals, content and style of prison newsletters. This is one of the few texts that centers on statements by prisoners and does a lot to counter assumptions made by the state and prison authorities of prisoners' capability. It is a valuable look at specific publications within Wisconsin prisons, and as general characteristics of this period. The biggest limitation of this text is its scope. It has only a few pages specifically analyzing Wisconsin publications. As well, due to its time of publishing this text does not cover

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<sup>39</sup> Odegard, Bernett. *A History of the State Board of Control of Wisconsin and the State Institutions*. Madison, State Board of Control, 1939. Print.

<sup>40</sup> Odegard, 249

<sup>41</sup> Henrich, Hubert. *American Prison Publications*. University of Wisconsin Press. Master's Thesis. Print. 1943.



the decline of prison periodicals and the development of more restrictions on prisoner self-expression.

Gale Smith's 1962 thesis *Evaluation of the Social Service Orientation Program At the State Prison* is a useful overview of aspects of the program. This thesis gives some glimpses into the norms of the prison. However it is content to be a mostly technical overview, to not press for broader interpretations of how the system functions. Instead it openly adopts a progressive narrative that justifies the structures of the prison at that time. Smith claims that harsh discipline was a mistake from the distant past, and that the present-day prison had a well-functioning rehabilitative process.<sup>42</sup>

A much wider history appears in Miriam Langsam's 1967 dissertation *The Nineteenth Century Wisconsin Criminal: Ideologies and Institutions*.<sup>43</sup> This is one of the most thorough and analytically rich histories yet published on the Wisconsin prison system. It includes an extremely detailed discussion of the emergence of corrections. Langsam's work is most valuable in showing how prison administration contested itself. She reveals the partisan political battles and bureaucratic tensions that operated across the correctional superstructure. Langsam's work uncovers the tensions that happened in selecting the location for Wisconsin's first prison, in the selection of wardens, and in controversy over the management of prison funds. Langsam shares the common tendency to assume the best intentions of prison administrators, and to take an exceptionalist view of Wisconsin's prison reformers. At the same time, her account is extremely effective at showing how the bureaucratic reality beneath annual financial statements were a lot

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<sup>42</sup> Smith, Gale. *Evaluation of the Social Service Orientation Program At the State Prison*. Master of Science Thesis, Department of Social Work, University of Wisconsin, Madison, 1962. Print. pp. i.

<sup>43</sup> Langsam, Miriam. *The Nineteenth Century Wisconsin Criminal: Ideologies and Institutions*. Madison, University of Wisconsin Press, 1967. Print.

messier. Langsam's text presents a brief overview of prisoner uprisings and a more extended discussion of outside controversy about prison contracting. It is otherwise an extremely top-down history of the Wisconsin prison system. Yet by distinguishing between different individuals and factions involved in this administration it is more nuanced than most other scholarship. It is a crucial source for approaching the first fifty years of the Wisconsin prison system.

A much more partial reading is Sherman Van Drisse's 1977 thesis *Library Reading Needs and Interests of Residents at Wisconsin State Prison*. Written by a librarian at the prison, it presents prison policies as justified by the extreme mental limitation in prisoners, who tend to act without thought.<sup>44</sup> Nevertheless there is some useful structural context that emerges in how the prison undertakes its core classifications.

Recent scholarship focuses on women's incarceration in Wisconsin, tackling this from several angles. Nina Troia's 1984 *An Evaluation of the Cosmetology Training Program at Taycheedah Correctional Institution* is a valuable study in employment norms and expectations. It also evaluated the financial conditions of Taycheedah. Nancy Mortell's 1998 thesis *The Equality-Versus-Difference Dilemma: The Case of Women's Prison Reform in Wisconsin* provides a useful look at the formation of women's prisons, and major transitions that occurred in the prison. Rachel Williams' 2000 dissertation *The Art, Art-Making, and Related Experience of Incarcerated Women Who Define Themselves as Artists At Taycheedah Correctional Institution* provides a comprehensive presentations on the Wisconsin prison systems. It is most

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<sup>44</sup> Van Drisse, Sherman. *Library Reading Needs and Interests of Residents at Wisconsin State Prison*. Master of Arts Library Science. University of Wisconsin-Oshkosh. 1977. Print. pp. 7.

effective in giving background on women's incarceration, and in connecting that to specific prisoners' experience that appear in the study.

Finally, a more general text, Donald Tibbs' 2007 thesis *Inmate Discipline in Wisconsin: How Law "Works" Behind Prison Walls*<sup>45</sup> provides a valuable assessment of how prison regulations work in practice. It draws effectively on scholarship and a study of conditions in Fox Lake Correctional. It is most useful in illustrating how apparently rational regulations produce chaotic and arbitrary disciplinary regulations.

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<sup>45</sup> Tibbs, Donald. *Inmate Discipline in Wisconsin: How Law "Works" Behind Prison Walls*. Madison, University of Wisconsin Press, 2007. Print.

## Chapter III: History of the Prison

### **Introduction**

I argue that the Wisconsin prison system does not fulfill its stated goals of public safety and rehabilitation, but how it does fulfill its internal logic of economic and racial stratification and expanding bureaucratic infrastructure. Further, I argue that as the scale of the Wisconsin Department of Corrections has increased pragmatic authoritarianism has tightened the prison regime and inflicted additional hardships. In order to provide context for the focus on Wisconsin prisons, it is useful to setup understanding on where these carceral norms came from.

Understanding origins can help to better understand alternatives to the current conditions that exist. The present chapter explores this larger context, covering early foundations of the prison, different experiments in 19th century U.S. incarceration, the increasingly racialized prisons patterns after 1865, development of bureaucratic classification and the explosion of U.S. prison under mass incarceration. By looking at conditions before society used prisons, and at times when people utilized and legitimized these spaces in different ways, my analysis helps to de-normalize these patterns. This foundation prepares both for the consideration of prisoner resistance in the next chapter and the regional focus on history of Wisconsin prisons across the rest of this dissertation. Prisons are not inevitable institutions. They have emerged from specific power systems and acted to strengthen different systems of social control. Understanding how they appeared and changed over time is crucial to appreciating more recent changes.

My dissertation works to provide a wider context than much scholarship does. In recent decades, scholarship on mass incarceration has flourished. Scholarship produced much valuable insight produced on how prison systems locked up millions of Americans. However, focusing on mass incarceration leaves several gaps. Opening the story in the 1970s when policies that pushed much higher rates of incarceration leaves obscured the foundations of this shift. Looking

at how prisons have functioned since their inception helps to better see them. As well, highlighting mass incarceration as the only problem makes a problematic political stance. It encourages partial solidarity; it says that too many people are locked up, that some prisons should be closed, that some prisoners should be set free, and some should be incarcerated. This stance helps prisons protect themselves.

While much scholarship describing the history of mass incarceration begins with 1970, setting up context for this period is important. To that end this chapter will explore briefly major developments across three thousand years prison history, and in more detail the past two hundred years. A critical history of prisons is necessary to identify their core abuses. As the last 200 years has shown, prison reforms can be damaging when they only address aspects of the problem. It is useful to see prisons as social constructs that emerge in specific ways for specific purposes. By looking at the different forms that prisons have taken to advance different specific agendas, this chapter sets up ways to consider the forms that Wisconsin prisons have taken.

### **Before 1650**

This section covers the broadest range of time in my dissertation and provides a wider context for understanding the developments within the U.S. prison system over the last 150 years, and within the Wisconsin Department of Corrections over the last 30 years. The value of this section is in showing alternatives to the prison that existed, as well as forms of the prison that were very different than its modern form. It is crucial to see how imprisonment existed, retributive ideologies existed, however before the development of prison construction and a bureaucratic infrastructure prisons were substantively different.

The earliest prisons did not function in the same way as contemporary incarceration does. In the Mesopotamian legal system the Code of Hammurabi (1750 BCE), imprisonment was an accepted practice used by debtors against people in debt.<sup>46</sup> Imprisonment in static, isolated conditions was not the dominant punishment used under this system. Instead authorities more typically imposed forced labor as a punishment.<sup>47</sup> In the 4<sup>th</sup> century B.C. Athenian prisons were places of custody, torture and detention used for those awaiting execution, as well as debtors unable to pay fines.<sup>48</sup> The treatment of imprisonment was extremely different for citizens versus outsiders, with the later treated much harsher.<sup>49</sup> One ancient prison, *Tullianum*, was constructed by the Romans in the 3<sup>rd</sup> century B.C. The prison had spaces that served interchangeably for both confinement and execution. The main reasons for imprisonment were debt and political reprisal. By the second century B.C, there were prisons beyond Rome, small underground dungeons with contaminated food, where people were held before execution, along with prisoners of war.<sup>50</sup> While the infrastructure had expanded, confinement for an extended period remained rare. An edict of Constantine in the Theodosian Code in 320 A.D. prohibited torture and “manacles of iron that cleave to the bone.”<sup>51</sup> This edict also shows that the prison had different physical sections, including an inner portion where some prisoners were shut in darkness. An imperial

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<sup>46</sup> Roth, Mitchel. *Prisons and Prison Systems: A Global Encyclopedia*. Westport, Greenwood Press, 2006. Print. pp. 18.

<sup>47</sup> Roth, 19

<sup>48</sup> Hillner, Julia. *Prison, Punishment and Penance in Late Antiquity*. Cambridge, Cambridge University Press, 2015. Print. pp. 33.

<sup>49</sup> Allen, Danielle. “Punishment in Ancient Athens,” in A. Lanni, ed., “Athenian Law in its Democratic Context” (Center for Hellenic Studies On-Line Discussion Series) 2015. pp 8 .

<sup>50</sup> Morris, Norval. *The Oxford History of the Prison: The Practice of Punishment in Western Society*. Oxford, Oxford University Press, 1997. Print. pp. 17.

<sup>51</sup> Morris, 19

edict in 367 A.D. released prisoners in celebration of Easter. The exception to this pardon was prisoners guilty of treason, sorcery, adultery, rape, homicide and crimes against the dead.<sup>52</sup>

A crucial change in the development of ancient prisons is the ways in which infrastructure steadily expanded. In the fifth century A.D., the late Roman empire began introducing the practice of monastic confinement into public law and legal practice. This confinement isolated offenders in prisons that were run by religious authorities for punishment and reformation.<sup>53</sup> Monastic confinement was a significant development that combined a focus on spatial confinement with expectations of moral improvement.<sup>54</sup> The public prison was defined by law as only preventing escape and making convicts available for judicial proceedings. Yet in practice the functions assigned to imprisonment increasingly assumed that lower-class people would change their behavior by enduring unpleasant experiences.<sup>55</sup> The late Roman empire improvised the location for prisons, adapting unused temples and modifying spaces to hold more people rather than constructing new prison buildings.<sup>56</sup> Even as they became more common, prisons were adapted from other facilities rather than constructed as carceral spaces.

It is crucial to understand how past carceral regimes were shaped by power relations within society. Class differences within the late Roman period informed the stark patterns of control within incarceration. Imprisonment of high-status individuals shielded them from public gaze to protect their family's honor, while authorities confined slaves in a way meant to extract

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<sup>52</sup>Morris, 19

<sup>53</sup> Hillner, Julia. *Prison, Punishment and Penance in Late Antiquity*. Cambridge, Cambridge University Press, 2015. Print. pp. 5-6

<sup>54</sup> Hillner, 6

<sup>55</sup> Hillner, 120-1

<sup>56</sup> Hillner, 125

further labor and highlight bodily submission.<sup>57</sup> Sixth century monastic confinement served as a nucleus for later prison systems, yet these spaces were adapted rather than built for confinement.<sup>58</sup> Understanding that confinement of populations does not necessarily create prison systems is crucial to better understand the later ubiquity of the prison system. Examining earlier foundational practices can help historians de-normalize the processes that became instrumental to the modern prison. Prisons as they are discussed, planned, built and filled now are not the only form that confinement can take. The dominant model only emerged recently, in the nineteenth century. Looking at the Roman and monastic systems of confinement shows that the social consensus on punishing criminals only goes so far. There also needs to be a bureaucratic system to make mass prison life sustainable as a regular social feature.

A major shift with incarceration in the post-Roman period was expansion of norms that made prison more regular. In the eighth century, the Lombard king Liuprand ordered that each judge should build a subterranean prison in his *civitas*, intended to hold thieves unable to compensate their victims.<sup>59</sup> This was intended as a light punishment. Repeated offenses lead to shaving, branding and eventually being sold into slavery.<sup>60</sup> While still only one punishment of many the development of containment was significant. By the thirteenth century the Catholic Church was developing more of the coercive and penitential qualities of confinement. As Hillner has noted: “The later Middle Ages, then, developed an infrastructure of imprisonment that the late Roman empire lacked, despite similar concerns about the purity of religious society.”<sup>61</sup>

When prison became a consistent space built and maintained by authorities explicitly for that

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<sup>57</sup> Hillner, 164

<sup>58</sup> Hillner, 351

<sup>59</sup> For a maximum of three years

<sup>60</sup> Hillner, 142

<sup>61</sup> Hillner, 352



purpose, rather than an improvised system of confinement, the potential for maintaining people there expanded dramatically. From that point on, individual initiative and adaptation by authorities mattered less. The foundations for processing people into confined spatial restriction gained significant traction during this period.

Looking closely at the physical spaces of European prisons in the 13th and 14th centuries is useful to show foundations of imprisonment as it exists now. Starting in 1250, prisons developed across western Europe. The new mechanisms of social control included municipally run prisons and annexed marginal institutions. The spaces that communities adapted included hospitals, Jewish quarters, leper-houses and brothels.<sup>62</sup> The adaptation of existing space served as a transition into modern prison conditions. Prisons emerged in urban locations with continual contact with the outside and in consequence prisoners were not fully cast out of social life.<sup>63</sup> In the fourteenth century prison administration developed in more systematic ways, seeking continuous expansion of prison spaces and greater formal calculus to convert fines into jail time.<sup>64</sup> Florentine prisoners in this period paid for their incarceration, with standard processing fees and additions charges depending on the individuals' status and the reason for their imprisonment.<sup>65</sup> Prisons expanded in size, bureaucratic support and secular rationale. At this time, however, prisons functioned in significantly different ways than did over the next 400 years. In 14th century Europe most prisons were still existing spaces converted temporarily or permanently into housing prisoners.<sup>66</sup> They were not structures built for this purpose.

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<sup>62</sup> Morris, Norval. *The Oxford History of the Prison: The Practice of Punishment in Western Society*. Oxford, Oxford University Press, 1997. Print. pp 38.

<sup>63</sup> Morris, 35

<sup>64</sup> Morris, 15

<sup>65</sup> Morris, 20

<sup>66</sup> Morris, 29

## 1650 to 1865

This section explores the development of the prison system in the 17th, 18th and 19th centuries, with a closer regional focus on the United States. It is necessary to narrow the scope to be able to better see the foundations of current U.S. incarceration. Such analysis also shows different ways prisons developed administratively. It is crucial to understand prisons as not inevitable constants, but specific constructs built for specific reasons at specific times. Unpacking those reasons helps to understand past and present prisons better. One of the most significant differences in this period was solitary confinement, its value to the prison system and its debilitating effect on prisoners. This tension was crucial in the formation of the U.S. prison system, and as I explore later in this chapter and in subsequent ones, remains pivotal in the modern prison system.

Early U.S. prisons in Pennsylvania and New York showed the experimentation and debates that were part of the birth of American carceral norms. The Great Law of Pennsylvania, enacted 1682, transformed blunt corporal and capital punishment into a series of private punishments.<sup>67</sup> The Quaker reform movements from 1788-1829 also helped to build up the infrastructure and coordination of American prisons.<sup>68</sup> Quaker reformers believed human beings were fundamentally good. They thought that criminals needed to be isolated from evil influences through productive labor and solitary confinement, where prisoners are kept in isolation from anyone else.<sup>69</sup> In consequence, the Philadelphia prison system created an isolating system that

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<sup>67</sup> Guenther, Lisa. *Solitary Confinement: Social Death and Its Afterlives*. Minneapolis, University of Minnesota Press, 2013. Print. pp. 3.

<sup>68</sup> Crews, Gordon. "A Brief History of Corrections in America." from ed. Stanko, Stephen. *Living in Prison*, Greenwood, 2004. Print. pp 43.

<sup>69</sup> Crews, 44

caused high levels of mental illness among prisoners.<sup>70</sup> By the 1790s, prisoners worked and produced goods under the piece price system, separated from other human contact.<sup>71</sup> New York's Auburn system used total solitary confinement as a rehabilitation method. However, within six months prison administrators adjusted the original policy, after five of the original eighty prisoners died and forty of the surviving ones showed after policy physical and emotional problems.<sup>72</sup>

There are significant lessons in the failure of this attempted prison reform. The Auburn program led to harsh discipline, regimentation, compulsory work and flogging. As Gordon Crews describes: "The goal of reformation was dropped in favor of order, efficiency, and economy."<sup>73</sup> Even reformers widely accepted the practice of solitary confinement. Debate centered on whether or not work should be required of prisoners in addition to isolation.<sup>74</sup> Solitary confinement produced high rates of insanity and illness among prisoners confined in these conditions in the 1820s.<sup>75</sup>

There were several tensions that became more crucial in the 19<sup>th</sup> century U.S. prison system. Officials' opposition to prison education emerged in the 1820s, justified by concern that teaching prisoners to write could allow crimes of forgery.<sup>76</sup> Starting in the early nineteenth

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<sup>70</sup> Casella, Jean. *Hell Is A Very Small Place: Voices From Solitary Confinement*. The New Press, 2016. pp. 156

<sup>71</sup> Fink, 957

<sup>72</sup> Guenther, Lisa. *Solitary Confinement: Social Death and Its Afterlives*. Minneapolis, University of Minnesota Press, 2013. Print. pp. 15

<sup>73</sup> Guenther, 47.

<sup>74</sup> Johnston, Norman. *Forms of Constraint: A History of Prison Architecture*. University of Illinois Press, 2006. pp. 69.

<sup>75</sup> Johnston, 76

<sup>76</sup> Hughes, Emma. *Education in Prison: Studying Through Distance Learning*. Burlington, Ashgate Publishing Company, 2012. Print. pp. 3.

century the bureaucracy of the prisons grew substantially. This growth created administrative distancing between the general public and prisoners, with citizens encouraged to view them with disgust.<sup>77</sup> In the northeast penitentiaries hard labor became increasingly dominant in the 1830s, requiring labor from both able-bodied and disabled inmates.<sup>78</sup> The reform efforts addressing challenges to earlier abuses led to strengthening the prison as an institution.

Frustration with the problems of the prisons lead to new attempts at reform. In 1848 S. G. Howe wrote in his report to the Boston Prison Discipline Society<sup>79</sup>: “There is not a prison in this wide land where anything like sufficient provision is made for the moral and religious instruction and training of those whom the law forcibly holds under its guardianship. There is not a prison where their capacities for improvement and reformation are duly cultivated; not one where wrong is not done to their spiritual natures.”<sup>80</sup> A number of nineteenth century critics of the prison system viewed it as responsible for civil and social death without a chance of redemption.<sup>81</sup> This analysis is useful in tracing the continual movement around how prison authorities and reformers have approached the concept of isolation. As Howe described: “*Solitary confinement without labor* was then deemed to be the panacea for all the evils of prisons, and the plan was tried at Auburn, in 1822, upon eighty convicts...Enough was seen to prove that the principle was wrong. The prisoners became idiots, or maniacs, or corpses.”<sup>82</sup>

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<sup>77</sup> Pratt, John. *Punishment & Civilization: Penal Tolerance and Intolerance in Modern Society*. London, Sage Publications, London, 2002. Print. pp. 138.

<sup>78</sup> Myers, Martha. *Race, Labor & Punishment in the New South*. Columbus, Ohio State University Press, 1998. Print. pp. 6.

<sup>79</sup> A prolific and influential prison-reform movement in the early nineteenth century.

<sup>80</sup> Howe, S. G. *An Essay on Separate and Congregate Systems of Prison Discipline*. Boston, William D. Ticknor and Company, 1846. Print. pp. iv.

<sup>81</sup> Guenther, 15

<sup>82</sup> Howe, S. G. *An Essay on Separate and Congregate Systems of Prison Discipline*. Boston, William D. Ticknor and Company, 1846. Print. pp. 16-17.

Howe sought to develop reforms for prison that would provide opportunities for genuine long-term reflection and improvement, including through productive labor.<sup>83</sup> He did not question the basic pattern of coercion. Howe also did not specify how the labor would be beneficial to prisoners' rehabilitation. The remedy created new mechanisms of confinement and exploitation. Not least of the factors was the potential profit to be gained through forced employment of incarcerated workers.

Alongside attempted reforms state legislators approved construction for more prisons. The increase in scale of the U.S. prison system exposed increasing contradictions and internal abuses by the middle of the 19th century. A decline in prison conditions was evident by 1850. There were escalating levels of violence and deprivation for incarcerated people, along with a corresponding increase in public tolerance for these norms. As Jennifer Graber defines the situation in *The Furnace of Affliction*:

The public consented to the prisons, even though they did not reduce crime and even as recidivism rates went up. They tolerated prisons even when they became sites of awful violence. They embraced them and continued to build more. Indeed, the arguments that pitted mild and strict disciplines against each other only seemed to mask these failings. Partisans could keep tweaking the details of their prison projects, even as these institutions failed overall.<sup>84</sup>

It's striking how rapidly the prison expanded and became a major part of American society. This normalization needs to be understood in relation to the social function that prisons provided to elites and their mechanisms of control. There were alternatives to developing prisons, so it is important to see the acceptance of them as inevitable as itself being a major political shift. This normalization did more than stabilize the prison system. It also helped it to expand.<sup>85</sup> Prior to

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<sup>83</sup> Howe, 89

<sup>84</sup> Graber, 175-6

<sup>85</sup> Egerton, Douglas. *The Wars of Reconstruction: The Brief, Violent History of America's Most Progressive Era*. London, Bloomsbury Press, 2015. Print. pp 120.

1865, the prison system in the U.S. focused on systematic isolation of prisoners both from each other and from wider society, to free them from contaminating influences.<sup>86</sup> After the end of slavery prisons became an increasingly widespread tool for white supremacist social order, so increased consideration of race is important. Since prisons are not inevitable, it's useful to see how they become constructed and reconstructed to advance the changing needs of social order. It is also significant in the late nineteenth century and early twentieth centuries that there is more documentation on actions and statements from prisoners themselves.

### **1865-1900**

The main characteristics of this time period were the expansion of the U.S. prison system, its heightened racial characteristics, and the way that different reform movements impacted on the carceral system. Prisons during this period acquired many of the bureaucratic aspects that remain relevant now. There were also some pivotal shifts in the justifications used for incarceration. A notable element is that despite these expansions the total number of people incarcerated remained small, contrasted with the explosion that occurred subsequently.

To understand the U.S. prison system after 1865 it is crucial to explore the history of race in America. Immediately after the Civil War some slaves in interior counties of Mississippi were not told they were free, continuing the practice of slavery overtly. When that became difficult to sustain, white elites developed new mechanisms of control.<sup>87</sup> Southern state legislatures developed the Black Codes in late 1865. They created a stringent set of regulations that could

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<sup>86</sup> Rotman, Edgardo. "The Failure of Reform: United States, 1865-1965." from ed. Morris, Norval. *The Oxford History of the Prison: The Practice of Punishment in Western Society*. Oxford, Oxford University Press, 1997. Print. pp. 169.

<sup>87</sup> Oshinsky, David. *Worse Than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice*. New York, Free Press, 1997. Print. pp, 16

control the labor supply and ostensibly protect freedmen from their own vices.<sup>88</sup> Following 1865 U.S. prisons decreased their focus on isolation, and built in new systems to try to compel obedient behavior.<sup>89</sup> The culmination of organized counterrevolution by white elites led to the withdrawal of federal troops and accelerated a process of fraud, terrorism and intimidation in the South that “restored blacks to a condition more resembling serfdom than freedom.”<sup>90</sup> During Reconstruction 15% of office holders in the south were black, but after 1877 blacks occupied less than 1 percent of elected offices, and were once again compelled to the bottom of the social ladder.<sup>91</sup>

This racialized prison system carried a significant economic and psychological cost. By 1883, the average wage of black farm laborers in the South was fifty cents a day. The penitentiary system terrorized former slaves into accepting onerous labor conditions.<sup>92</sup> Elites criminalized black life, producing extensive grounds for black men to be accused, arrested and incarcerated. Chain-gang labor provided mechanisms for American industrial revolution, and continued the process of racialized forced labor.<sup>93</sup> Even prior to the end of Reconstruction prison authorities in the South developed a system of convict leasing in the South, tolerated by state Republican leadership, black and white.<sup>94</sup> A series of attempted reform efforts in different state prisons systems made limited changes to the core of the prison system in the coming decades.

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<sup>88</sup> Oshinsky, 20

<sup>89</sup> Rotman, 169.

<sup>90</sup> Rable, George. *But There Was No Peace: The Role of Violence in The Politics of Reconstruction*. Athens, University of Georgia Press, 1984. Print. pp. 185

<sup>91</sup> Rable, 213

<sup>92</sup> Zinn, Howard. *A People's History of the United States*. New York, Harper & Row, 1980. Print. pp. 204.

<sup>93</sup> Chomsky, Noam. *Who Rules the World?* New York, Metropolitan Books, 2016. Print. pp. 92

<sup>94</sup> Oshinsky, David. *Worse Than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice*. New York, Free Press, 1997. Print. pp, 37

Introduction of the rhetoric of rehabilitation helped to legitimize the prison system. The 1867 nationwide survey of U.S. prisons criticized the lack of training for staff, the reliance on corporal punishment and inadequate space for cells.<sup>95</sup> Most prison hierarchies did not develop much administrative structure. Wardens maintained their positions with little oversight, and no consistent state authority to supervise them.<sup>96</sup>

## **1900-1950**

It is useful to lay the foundations for analyzing the U.S. prison system by appreciating its total scale in this period. The 1904 U.S. Census showed 1,337 prisons, containing 81,772 prisoners. Of these 67 were state prisons and 1,181 were county jails and workhouses. The incarceration rate was 100.6 per 100,000 people.<sup>97</sup> At this time 77,269 of the prisoners were male and 4,503 were female.<sup>98</sup> The census recorded 55,111 of the prisoners were recorded as white and 26,661 as “colored”.<sup>99</sup> Major crimes justifying incarceration were divided into three categories: “against property” 45.5%, “against the person” 31.8%, and “against society” 21.7%.<sup>100</sup> The length of sentences varied, with 24.6% of prisoners incarcerated for less than one year, 6.1% sentenced for life, 15.1% for indeterminate sentence, 53.4% for one year or more and .2% sentenced to death.<sup>101</sup> By 1926 sixty-seven prisons employed psychiatrists, and forty-five had psychologists. The ratio of prisoners to professionals (typically 500 to 1 or more) was so

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<sup>95</sup> Rotman, 170

<sup>96</sup> Rotman, 171

<sup>97</sup> Anonymous. “Prisoners and Juvenile Delinquents in Institutions 1904.” U.S. Decennial Census Publications. 1907. Print. pp. 13.

<sup>98</sup> *ibid*, 15

<sup>99</sup> *ibid*, 17

<sup>100</sup> *ibid*, 20

<sup>101</sup> *ibid*, 24



high as to make the programs ineffective.<sup>102</sup> The total numbers of imprisoned people in the United States during the first decades of the 20<sup>th</sup> century remained small. There were less than 100,00 prisoners in state and federal prisons in 1925.<sup>103</sup> By the early twentieth century the U.S. prison system was beginning to function in a more bureaucratic way. New guards initially approached prisoners in a relatively humane way, but older guards trained and pressured the newer guards to dehumanize incarcerated people.<sup>104</sup>

In the early twentieth century, public discussions on crime centered on the danger of foreign-born criminals.<sup>105</sup> The Federal Immigration Commission's 1911 Report proposed strengthening immigration restrictions, and there were a series of revisions in 1910, 1917 and 1924. The continued association between crime and immigrants continued into the 1930s, with the Wickersham Commission.<sup>106</sup> At the same time that these commissions recommended expanded anti-immigrant statutes, they found no link between increased immigration and rises in violent crime.<sup>107</sup>

There were several reforms in the early twentieth century that produced ambivalent effects in the conditions of prisoners. In one trend, federal legislation<sup>108</sup> restricted the interstate sale of prisoner-made goods. The state prisons themselves then became the main market for

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<sup>102</sup> Rotman, 178

<sup>103</sup> Kirchoff, Suzanne. *Economic Impacts of Prison Growth*. Columbus, Biblio Grove, 2010. Print. pp. 11.

<sup>104</sup> Berkman, Ronald. *Opening the Gates: The Rise of the Prisoners' Movement*. Lexington, Lexington Books, 1979. Print. pp. 246.

<sup>105</sup> Moehling, Carolyn and Piehl, Anne. and Anne Morrison Piehl. "Immigration, Crime, and Incarceration in Early Twentieth-Century America." *Demography*. 2009 Nov; 46(4): 739–763. pp. 740.

<sup>106</sup> Moehling, 741

<sup>107</sup> Moehling, 743

<sup>108</sup> Particularly the 1929 Hawes-Cooper Act and the 1935 Ashurst-Sumners Act)

prisoner labor. This provided another example of reforms morphing but not weakening exploitation within the prison system.<sup>109</sup> The federal government operated a highly regimented prison at Alcatraz island beginning in 1933. Through such means, prison authorities sought to isolate and break incorrigible prisoners, with both physical and psychological pressure.<sup>110</sup> Assigning prisoners to specific behavioral and psychological classifications responded to some of the Progressive era reform efforts. The introduction of psychiatric classifications provided justification for minimum and maximum security standards.<sup>111</sup>

### **1950-1980**

Attempts to expand the psychiatric classification of prisoners was part of a renewed rehabilitative focus after World War 2. As one indication of this, in 1954 the American Prison Association changed its name to the American Correctional Association, and encouraged its members to re-designate its prisons as “correctional institutions”.<sup>112</sup> A 1957 report by the Conference Group on Correctional Organization asserted that solitary confinement was a limited technique. They presented it as limited both by both because of statutory regulations and because of the designs of the prisons.<sup>113</sup> During this time the criminal justice state still talked about the

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<sup>109</sup> Fink, Eric. *Union Organizing & Collective Bargaining for Incarcerated Workers*, 52 Idaho L. Rev. 953 (2016). pp. 958.

<sup>110</sup> Shoatz, Russel. *Maroon the Implacable: The Collected Writings of Russell Maroon Shoatz*. Oakland, PM Press, 2013. Print. pp. 57-8 .

<sup>111</sup> Rotman, 179

<sup>112</sup> Rotman, 190

<sup>113</sup> Cloward, Richard. “Social Control in the Prison.” *Theoretical Studies in Social Organization of the Prison*. Social Science Research Council, 1960. Print. pp. 23.

possibility of defeating and ending crime.<sup>114</sup> Despite this, conditions were also set for a massive increase in the scale and intensity of the U.S. prison system.

Resistance to prison from inside and outside after 1965 was followed by a huge increase in scale. This increase has significantly altered U.S. society, while overcrowding has made almost every previously existing problem with incarceration worse. I argue that the expansion of prisons happened not just as a backlash against organized resistance but as the working out of economic trends that provided legitimacy for the sacrifice of a large component of the U.S. population along increasingly racialized lines.

In response to the rapid growth of the prison system, legal authorities showed interest in lowering prison population sizes and finding alternatives to incarceration.<sup>115</sup> The 1966 survey by National Council on Crime and Delinquency, concluded that “life in many institutions is at best barren and futile, at worst unspeakably brutal and degrading.”<sup>116</sup> Their response was also connected with significant social movements that organized against increasingly visible and unnecessary modes of authoritarian control in prisons that continued even after the high point of student activism and black power mobilization. In a 1974 study on *The Future of Imprisonment* Norval Morris argued “Prisons have few friends; dissatisfaction with them is widespread. They are too frequently the scene of brutality, violence, and racial conflict. And insofar as prisons purport to cure criminals of crime, their record has not been encouraging.”<sup>117</sup> Morris was part of

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<sup>114</sup> Garland, David. *The Culture of Control: Crime and Social Order in Contemporary Society*. Chicago, University of Chicago Press, 2001. Print. pp. 33.

<sup>115</sup> Austin, James. *It's About Time: America's Imprisonment Binge*. Belmont, Wadsworth Publishing Company, 1994. Print. pp. 9.

<sup>116</sup> Rotman, 193

<sup>117</sup> Morris, Norval. *The Future of Imprisonment*. Chicago, University of Chicago Press, 1974. Print. pp. ix.

a wider trend that faced the prison system in the early 1970s in a critical way. National crime commissions, including the National Council on Crime and Delinquency, recommended reduction in imprisonment and a moratorium on construction of new institutions. Abolitionist analyses gained traction. One of the most vocal voices was a Wisconsin federal district court judge, James E. Doyle, who said in *Morales v. Schmidt*: “I am persuaded that the institution of prison probably must end. In many respects it is as intolerable within the United States as was the institution of slavery, equally brutalizing to all involved, equally toxic to the social system.”<sup>118</sup> But the abolitionist analysis was short-lived in the mainstream. A backlash against abolitionism came to the fore in the mid-1970s. The United States federal and state governments began construction of the largest system of mass incarceration in human history.

The increase in crime rates in the 1960s had a variety of contributing factors, including increased opportunities for crime from the consumer boom of the post-war decades, which put a mass of portable high-value goods into circulation.<sup>119</sup> Yet the ideologies that formed in the “war on crime” and the backlash against prison abolition claimed that the increase in crime was from criminal mentalities. This view of the origins of the 1960s crime increase took an institutional form even prior to Nixon’s “law and order” emphasis. One development was Lyndon Johnson’s 1965 creation of the Office of Law Enforcement Assistance, which increased funding for prisons and expanded the bureaucracy that increased anti-crime mechanisms.<sup>120</sup> While this process used various ideological justifications, abstract concepts were not as important as the desire by guards

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<sup>118</sup> Morris, Norval. *The Oxford History of the Prison: The Practice of Punishment in Western Society*. Oxford, Oxford University Press, 1997. Print. pp. 6

<sup>119</sup> Garland, David. *The Culture of Control: Crime and Social Order in Contemporary Society*. Chicago, University of Chicago Press, 2001. Print. pp. 90.

<sup>120</sup> Thompson, Heather Ann. *Blood in the Water: The Attica Prison Uprising of 1971 and Its Legacy*. New York, Pantheon, 2016. Print. pp. 18.

to maintain their positions. Also relevant was wardens' desire to increase the size of their teams, and the push by ambitious subordinates to create more spaces and roles to ease the chances of advancement. American social elites were proactive in developing counter-offensive against many of the gains made by social movements in the 60s and 70. Locking up poor people and people of color provided one of the foundational tools in the neoliberal organizing. Rather than demolishing the prison system, authorities took an active role in reshaping it to advance political priorities.

Among the tools used to develop a consensus for increased incarceration, Martison's study on rehabilitation was significant. Martinson's 1974 study at the New York State Department of Corrections concluded that rehabilitative programs did not reduce recidivism. Politicians and social conservatives subsequently employed this conclusion to enhance the punitive aspects of prison.<sup>121</sup> In his study Martinson admitted to methodological flaws, and five years later he retracted his conclusion.<sup>122</sup> His attempt to remedy the impact of this earlier study was unsuccessful.<sup>123</sup> Policymakers seized on his earlier research to cut treatment programs, and to avoid seeming soft on crime.<sup>124</sup>

Yet the main factors driving the transition to mass incarceration were wider than one study. In the 1970s, the redesign of the American economy under neoliberal principles began a growth in financialization, offshoring production. As Noam Chomsky put it: "The black

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<sup>121</sup> Crews, 55

<sup>122</sup> Shewan, David. *Drug Use and Prisons: An International Perspective*. Boca Ratah, CRC Press, 2000. Print. pp. 92

<sup>123</sup> Casella, Jean. *Hell Is A Very Small Place: Voices From Solitary Confinement*. New York, the New Press, 2016. Print. pp. 168

<sup>124</sup> Casella, 92

population, now largely superfluous, has been recriminalized.”<sup>125</sup> Incarceration has always been influenced by economic patterns, and the late 20th century expansion in the number of prisons and the total population incarcerated is a particularly significant example of this. The expansion of prisons formed a way to readjust high-tech capitalism on a more coercive basis. This shift included sacrificing part of the population to help maintain the class relations of wider society. Rhetorical precedent for accelerating market-driven warehousing of incarcerated people came in a speech by a Chief Justice on November 16, 1972 where he spoke about recidivism rates using the term “recall rate”, viewing prisoners as a product that was being produced poorly.<sup>126</sup>

Another pivotal shift was the Rockefeller drug laws, the 1973 imposition of mandatory sentencing laws for drug offenses in New York State under the administration of Governor Nelson Rockefeller.<sup>127</sup> These laws provided for mandatory prison terms up to life imprisonment for a large category of drug offenders. The New York State Substance Control Act in 1973 eliminated the distinction between small scale sellers and large scale drug dealers. This act heightened the punishment applied to small scale drug dealers.<sup>128</sup> Other initiatives included mandatory sentences for repeat armed criminals.<sup>129</sup> Within ten years the Rockefeller drug laws doubled the number of the New York state prison population, and increased the percentage of non-violent drug offenders in the New York prison system from 10 percent to 30 percent.<sup>130</sup> Subsequent efforts to reform these laws were piecemeal and limited. The prison population in

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<sup>125</sup> Chomsky, Noam. *Who Rules the World?* New York, Metropolitan Books, 2016. Print. pp. 93

<sup>126</sup> Bissonette, Jamie. *When the Prisoners Ran Walpole*. Cambridge, South End Press, 2008. Print. pp. 89

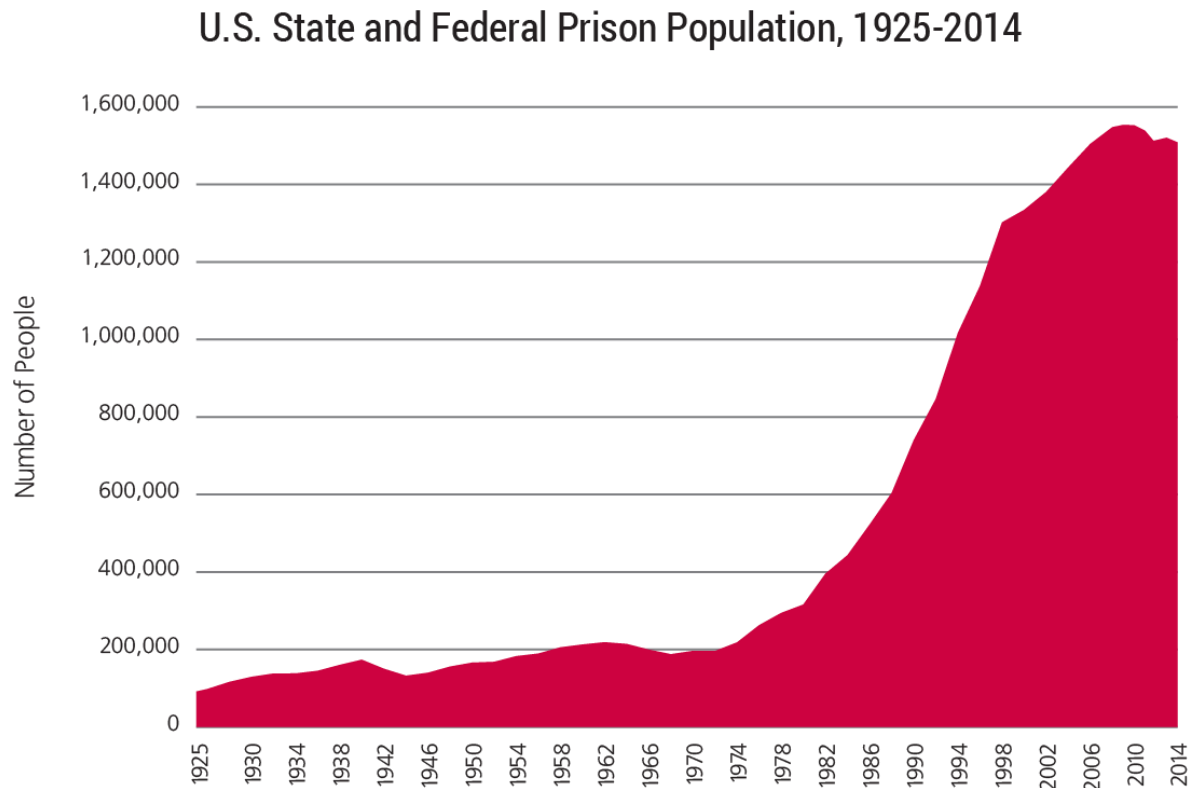
<sup>127</sup> Kirchhoff, 11.

<sup>128</sup> Tsimbinos, Spiros A. "Is it Time to Change the Rockefeller Drug Laws?," *Journal of Civil Rights and Economic Development*: Vol. 13: Issue. 3. (1999) pp 614.

<sup>129</sup> Kirchhoff, 11.

<sup>130</sup> Tsimbinos, 624.

New York city in 1998 was over 70,000, more than three times the population before the Rockefeller laws.<sup>131</sup> Even more damagingly, these laws became a model for other legislation across the United States.



Source: Bureau of Justice Statistics *Prisoners Series*.



One of the factors that helped legitimize the new political mold focus on harsh retribution was popular culture. *Dirty Harry* was an influential 1971 movie starring Clint Eastwood as a cop who was able to overcome legal technicalities to stop a serial killer. The film embodied a conservative critique of liberal permissive culture, which generated crime and hampered police efforts to fight it. The film embodied an alternate to the collective crisis of self-confidence in the

<sup>131</sup> Tsimbinos, 628.

<sup>132</sup> Lopez, Gregory. "Mass incarceration in America". October 11, 2016. <https://www.vox.com/2015/7/13/8913297/mass-incarceration-maps-charts>

U.S in the early 1970s. The movie projected an attitude of confidence and simplicity.<sup>133</sup> The movie even more directly challenged the mold of legal liberalism, with excessive protection of individual rights for criminals undermining public safety. *Death Wish* (1974) starred Charles Bronson, in the character of a pacifist who becomes a street vigilante after a home invasion and violence against his family. The movie critiqued rampant crime in New York as a failure of liberal governance and endorsed violence as a legitimate tool for controlling crime. The film argued that punishment shouldn't focus on rehabilitation, but deterrence.<sup>134</sup> These crime films, also identified as "backlash films" by some scholars, were popular and influential.<sup>135</sup> These films did not create increasingly punitive sentencing and confinement standards in the U.S in the 1970s, but they helped to legitimize these changes in popular consciousness.

Elizabeth Hinton in *From the War on Poverty To the War on Crime* documents the shifts in legitimacy and funding that pushed federal support for mass incarceration in the 1960s and 70s. This process began earlier than often assumed, with the Great Society-era Safe Streets Act of 1968, which invested \$400 million to modernize law enforcement. The act also created the Law Enforcement Assistance Administration, which saw significant growth in funding and scope in the coming decades.<sup>136</sup> Between the start this agency and the beginning of the Reagan War on Drugs the prison system grew by 251,107 people, compared with the 184,901 total Americans incarcerated between 1865 and 1965.<sup>137</sup> A key part of the prison expansion was the Nixon

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<sup>133</sup> Lenz, Timothy. "Conservatism in American Crime Films". *Journal of Criminal Justice and Popular Culture*, 12 (2), 116-134. (2005). pp. 121.

<sup>134</sup> Lenz, Timothy. "Conservatism in American Crime Films". *Journal of Criminal Justice and Popular Culture*, 12 (2), 116-134. (2005). pp. 123.

<sup>135</sup> Sarat, Austin. *Punishment in Popular Culture*. New York, NYU Press, 2015. Print. pp. 24.

<sup>136</sup> Hinton, Elizabeth. *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America*. Cambridge, Harvard University Press, 2016. Print. pp. 2.

<sup>137</sup> Hinton, 5



administration's use of discretionary programs to fund increases in local police networks.<sup>138</sup> The bulk of the \$2.4 billion spent by the federal government on law enforcement over Nixon's administration took this form.<sup>139</sup> Simultaneously, Nixon and his attorney general John Mitchell supported the construction of hundreds of new federal and state prisons. The modernization of the prison and increase in its capacity occurred during the early 1970s, when the nation's incarcerated population shifted from majority white to majority black and Latino, setting the conditions for the dynamics of American incarceration that were characteristic up to the present.<sup>140</sup> Hinton states:

The forces of inequality in low-income urban neighborhoods took on new forms as the carceral state grew dramatically during and after Nixon's presidency. Although ascendant numbers of black Americans were imprisoned at disparate rates following the Civil War, until the 1970s they constituted roughly a third of the nation's prison population. Only after federal policymakers started investing in crime control measures, and only after the Nixon administration began to plan and incentivize prison construction, did black Americans encompass roughly half of the nation's incarcerated citizens.<sup>141</sup>

Carter's administration subsequently advanced some of these concerns over a perceived breakdown of social order in the nation, viewing crime as a cause of urban decay rather than an effect, and pushing for new legislation to deal with violent crime.<sup>142</sup> "Carter's punitive urban policy firmly institutionalized the carceral state in segregated urban neighborhoods."<sup>143</sup> Reagan built on the preceding administrations, including the militarization of local police forces, defunding of social programs, demonizing the poor and mass incarceration. Reagan's administration expanded the scope of police raids and created new collaboration between

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<sup>138</sup> Hinton, 137

<sup>139</sup> Hinton, 137

<sup>140</sup> Hinton, 138

<sup>141</sup> Hinton, 178

<sup>142</sup> Hinton, 278-9

<sup>143</sup> Hinton, 281

domestic law enforcement and national defense agencies. One component of this was the federal government justice department shutting down the LEAA in 1982 and working with local law enforcement directly. The administration also expanded the criminalization of welfare recipients. These measures also benefited from bipartisan consensus on the danger of “black youth gangs” during the 1980s that fueled higher rates of arrests, conviction and incarceration.<sup>144</sup> One effect of this shift was the erosion of social services. Impoverished neighborhoods had no other recourse except calling the police when dealing with disruption and consequences of drug addiction.<sup>145</sup> The total consequences of this shift were significant and cumulative.

The development of mass incarceration took specific forms due to the wider history of the prison, as an analysis of Charles Thomas’ scholarship helps to show. In his 1977 sociological survey *Prison Organization and Inmate Subculture* Charles Thomas noted that prisons as formal organizations had not changed significantly since governments established them to provide custodial control, and that adding goals of rehabilitation had not altered the structure of what prisons fundamentally do.<sup>146</sup> He also described the core paradox concerning prisons:

The location, construction, financing, staffing and functioning of prisons are all reflections of a political process, and the products of that political process are, in turn, inextricably tied to an ongoing struggle between powerful groups whose vested interests are often contrary to those of the inmates being processed within the prison.<sup>147</sup>

Much of the way that prison conditions degraded in the 1970s can be understood as the impact of the huge increase in numbers of prisoners and abusive overcrowding, but that wasn’t the only determining factor. Since 1970 there had been a significant shift in the assumptions of crime

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<sup>144</sup> Hinton, 309

<sup>145</sup> Hinton, 9

<sup>146</sup> Thomas, Charles. *Prison Organization and Inmate Subculture*. Indianapolis, Bobbs-Merrill Company, Inc, 1977. Print. pp. 21.

<sup>147</sup> Thomas, 27-8

control and justifications for incarceration. Policy developments became significantly more volatile.<sup>148</sup> Official discourse legitimized (and perhaps created) popular calls for retribution and punishment.<sup>149</sup> The change, identified by David Garland in *The Culture of Control* as a collapse of support for penal-welfarism, ushered in decades of changes in sentencing law, probation, political discourse on crime and the practice of prisons.<sup>150</sup> Wider dynamics beyond prisoner suppression were also a part of this. In major protests across the 1960s and 1970s, including the Democratic National Convention protest, Kent State and Wounded Knee, unrestrained police power manifested as violence against protesters and bystanders. Yet in each case the media presented the violence as originating from the protesters, rather than police.

## **1980-2000**

In a presentation to the conference at the Brookings Institution in 1987, Richard Engler described the 1980s as “a period of innovation in correctional construction” characterized by normalization of the prison environment and the introduction of the private sector into corrections.<sup>151</sup> For Engler this trend was a positive one. It’s useful to observe this attitude, to see the growth in the prison system not as an accidental drift, or as the inevitable result of populist demagogues, but to instead see it as a triumph of policies and infrastructure expansion developed by people long connected to operating prisons. Profit-making from incarcerated labor increased

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<sup>148</sup> Garland, David. *The Culture of Control: Crime and Social Order in Contemporary Society*. Chicago, University of Chicago Press, 2001. Print. pp. 4.

<sup>149</sup> Garland, 9

<sup>150</sup> Garland, 53

<sup>151</sup> Engler, Richard. “Analyzing the Costs of Design and Construction.” From ed. Sevick, James. *Constructing Correctional Facilities: Is There a Role for the Private Sector*. Washington D.C, The Brookings Institution, 1987. Print. pp 29.

the players involved in prison regimes.<sup>152</sup> As a result there were more institutions who directly profited from a monumental increase in the size of the prison population, and who could profit from maintaining the new scale of the prison. The expansion of the U.S. system after the 1960s was important not just because it served different economic ends than before, and not just because it had new basis for legitimizing these changes. A crucial change was that this expansion occurred in a way that established further justifications for mass incarceration. Starting in 1983 the developing prison complex has made increasing use of super maximum security institutions.<sup>153</sup> In that year, US authorities placed the federal penitentiary at Marion, Illinois, in permanent lockdown for twenty three years, restricting social contact for all prisoners.<sup>154</sup> This “Marionization” featured increasing use of total isolation. The Q-Wing of the Florida State Prison denied prisoners any access to the outside and confined people for as long as seven years.<sup>155</sup> The rise of supermax prisons or “extended control units” significantly reduced conditions for prisoners. This change locked people up for 23 hours a day, limited contact between prisoners, restriction of library and telephone privileges, minimal access to work or rehabilitative programs, continual escort by guards and a heightened pattern of strip searches.<sup>156</sup> Violent approaches by guards, including cell extractions<sup>157</sup> are an expected part of procedures.<sup>158</sup>

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<sup>152</sup> Sloan, Bob. “The Prison Industries Enhancement Certification Program: Why Everyone Should be Concerned.” *Prison Legal News*. 15 March 2010. pp. 1.

<sup>153</sup> Christie, Nils. *Crime Control As Industry*. Abingdon-on-Thames, Routledge Classics, 2016. Print. pp. 102.

<sup>154</sup> Grubic, Andrej. *Living At the Edges of Capitalism: Adventures in Exile and Mutual Aid*. Oakland, University of California Press, 2016. Print. pp. 182

<sup>155</sup> Grubic, 101-2

<sup>156</sup> Reiter, Keramat. *23/7: Pelican Bay Prison and the Rise of Long-Term Solitary Confinement*. New Haven, Yale University Press, 2016. Print. pp. 6-7.

<sup>157</sup> Cell extractions are the forcible transfer of prisoners from their cells to restrictive housing. For an example of a recent cell extraction at the Wisconsin Secure Program Facility, see: <https://www.youtube.com/watch?v=V26zgNUUoQQ> *Wisconsin Watch* 6 April, 2017.

<sup>158</sup> Reiter, 41

Pelican Bay, opening in California in 1989, had solitary exercise, minimal contact, and no windows. This prison worked to reduce physical contact between people to the maximum extent possible.<sup>159</sup>

A new political consensus consolidated around prisons in the 1980s. This was reflected in California where state administration expanded plans for prison construction while dropping the justification of rehabilitation, reclassifying some offenses as felonies and imposing new anti-drug laws.<sup>160</sup> Legislation against “street terrorism” and expanded revocation of parole further acted to send and return people to prison in increasing numbers.<sup>161</sup> As Ruth Gilmore has described in *Golden Gulag*: “From 1980 onwards, crime was objectively and subjectively different from what it had been prior to the 1977 Uniform Determinate Sentencing Act and the subsequent authorization, funding, and siting of new prisons.” This switch in approaching crime involved a systematic pattern of politicians conflating drug use, gang membership and criminal activity into a monolithic social scourge, that justified the need of more prisons to isolate criminals.<sup>162</sup> As mass incarceration expanded, prisons increasingly began to be seen as a separate world.<sup>163</sup> In the 1980s prison gangs became prominent, and served both as a potential threat to prison staff and as a way to keep prisoners divided.<sup>164</sup> The steady increase in overcrowding in the 1980s increased rates of violence, mental breakdown and suicide.<sup>165</sup> The broad political consensus of the 1980s

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<sup>159</sup> Reiter, 7

<sup>160</sup> Gilmore, Ruth. *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California*. Berkeley, University of California Press, 2007. Print. pp. 95-6

<sup>161</sup> Gilmore, 96

<sup>162</sup> Gilmore, 109

<sup>163</sup> Kunzel, Regina. *Criminal Intimacy: Prison and the Uneven History of Modern American Sexuality*. Chicago, University of Chicago Press, 2008. Print. pp. 225

<sup>164</sup> Parenti, Christian. *Lockdown America: Police and Prisons in the Age of Crisis*. New York, Verso Press, 1999. Print. pp. 193

<sup>165</sup> Casella, 167

drew on operating logics that had driven American punishment for generations, but also pushed them much further. While presenting their policies as common-sense community protection, politicians, judges and administrators created a significantly new scale of surveillance and incarceration.

From the mid-1980s, with the emergence of supermax prisons, prison policy in the U.S has increasingly focused on management and control of security risks rather than rehabilitation.<sup>166</sup> As Garland describes, “the new institutional arrangements originate as problem-solving devices growing out of the practical experience of government agencies and their constituencies rather than the ideological program of reformers.”<sup>167</sup> Infrastructure and bureaucratic conditions matter. This functioned on both the state and federal level. In the latter sphere the Sentencing Reform Act of 1984 was a major development, which ended federal courts having the ability to suspend criminal sentences and compelling mandatory minimum sentences that forced longer periods of incarceration.<sup>168</sup> States also received federal pressure that compelled expansion of the prison system. The United States Sentencing Commission assessed the impact of these laws, issued its first report in 1987 and its most recent in 2017. The Commission consistently found that rigid requirements of long sentences are not effective, and cautioned against “excessively severe” mandatory minimums.<sup>169</sup>

It is important to see the end of the 20<sup>th</sup> century as not simply a capture of the prison system by market forces. Privatization and the expansion of businesses’ links to prisons were not

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<sup>166</sup> Guenther, 138

<sup>167</sup> Garland, 72

<sup>168</sup> Kirchoff, Suzanne. *Economic Impacts of Prison Growth*. Columbus, Biblio Grove, 2010. Print. pp. 12.

<sup>169</sup> Pryor, William. “An Overview of Mandatory Minimum Penalties in the Federal Criminal Justice System.” *United States Sentencing Commission*. July 2017. Page 2.

the only changes. Instead there were a variety of adaptations made to expand punitive techniques. As Pratt has observed: “There was no need for full-scale privatization of the prisons to achieve efficiencies and modernization: this would have been inefficient in itself—too politically controversial, for example. Instead, a limited injection of the private sector would provide new standards for the public prisons to strive for.”<sup>170</sup> Coherence of approach within the prison was not paramount. Control was more crucial.

In the early 1990s, justification for the expansion of prison control appeared in a new penology. This policy was not focused towards individuals, but instead toward the “management of aggregate populations.”<sup>171</sup> This managerial perspective emphasized probabilistic calculations applied to populations rather than moral description of individuals.<sup>172</sup> Ideological assumptions within the prison system provided tools to increase the prison system. Between 1990 and 2005 state and national legislatures approved the budget necessary to increase the number of state and federal correctional facilities by 43%. The number of prisons increased from 1,277 to 1,821, or an average of one new facility constructed approximately every 15 days.<sup>173</sup> The imprisonment rate increased dramatically, from 133 per 100,000 in 1979 to 504 per 100,000 at the end of 2008.<sup>174</sup> The U.S. incarceration rate became 10 times that of other western democratic states, with a rate of incarceration of black men 20 times higher than comparable countries.<sup>175</sup>

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<sup>170</sup> Pratt, 170

<sup>171</sup> Christie, Nils. *Crime Control As Industry Third Edition*. New York, Routledge, 2000. Print. pp. 182-3.

<sup>172</sup> Christie, 183

<sup>173</sup> Kirchhoff, 19

<sup>174</sup> Kirchhoff, 13

<sup>175</sup> Western, Bruce. “Incarceration, Unemployment and Inequality.” *Focus* 21(Spring 2001). pp.32-36. pp. 33.

This pattern occurred as social elites pushed for new criminalization of the American underclass. Expansion on this scale compelled development of new justifications, including concern over social breakdown, intensified focus on the specter of gang violence and coded racial concerns. These justifications further shifted normal patterns of treatment of prisoners. Cuts to social welfare eroded economic opportunities for people with felonies, which magnified economic inequality and structural racism. Extended incarceration impacted on the ability of incarcerated and formerly incarcerated people to function in relation with other.

By 1993 some theorists had identified a totalitarian pattern in mass incarceration. As Nils Christie describes in *Crime Control As Industry*: “Gulags, Western type will not exterminate, but they have the possibility of moving from ordinary social life a major segment of potential troublemakers for most of those persons’ lives.”<sup>176</sup> Solitary confinement doubled this effect, isolating people within the prison that isolated people from wider society. As Andrej Grubic has describing in *Living In the Edges of Capitalism*: “Even in the age of prison privatization, prisoners in isolation rarely work.”<sup>177</sup> The 1994 Violent Crime Control and Law Enforcement Act made prisoners ineligible for federal grants to assist in college tuition, which led to the close of most in-prison college programs.<sup>178</sup> In 1995 the Prison Litigation Reform Act diminished the ability of federal courts to oppose or alter even extremely toxic prison conditions.<sup>179</sup>

One of the crucial forces in these changes was the American Legislative Exchange Commission. ALEC is a coalition of corporations and legislators that provides mechanism for

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<sup>176</sup> Christie, 15

<sup>177</sup> Grubic, 179.

<sup>178</sup> Hughes, Emma. *Education in Prison: Studying Through Distance Learning*. Burlington, Ashgate Publishing Company, 2012. Print. pp. 4.

<sup>179</sup> Stanko, Stephen. *Living in Prison*. Westport, Greenwood Publishing, 2004. Print. pp 122.



businesses to write legislation favorable to their interests, with legislators introducing bills rather than writing the text. Through this mechanism, ALEC has made some of the harshest sentencing laws in effect in the U.S, including mandatory minimums for non-violent drug offenders and truth in sentencing laws. These laws curbed parole by requiring incarceration for longer lengths of time.<sup>180</sup> ALEC lobbied for the Prison Industries Act of 1995 which expanded companies' access to prison labor. ALEC's subsequent campaigning for truth in sentencing laws extended both the numbers of prisoners and the length of their sentences.<sup>181</sup> Into the 2000s this organization pushed for state laws to allow private for-profit prisons and privatizing the parole process, benefiting for-profit bail bond companies.<sup>182</sup> One major development in this vein, affecting the largest prison system and the highest number of prisoners, was California's Proposition 184 in 1994. This measure, often called the "Three Strikes Law" set a minimum sentence of 25 years to life for three-time offenders.<sup>183</sup> Similar laws passed in many states which pushed the length of incarceration longer.

The increased rates of incarceration has been self-perpetuating despite dramatic drops in crime. Between 1993 and 1996 the rate of US murders declined by 20%, while the number of murders reported on NBC, ABC and CBS rose by 721%.<sup>184</sup> As Dresinger has argued, the term "criminal" has served to rationalize the abuse of millions of incarcerated people at the hands of the state: "Call someone a "criminal" or "ex-con" or "offender" and you have, in one fell swoop,

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<sup>180</sup> Elk, Mike. "The Hidden History of ALEC and Prison Labor". *The Nation*. 1 August 2011 Print. pp. 2.

<sup>181</sup> Kendall, Wesley. *From Gulag to Guantanamo: Political, Social and Economic Evolutions of Mass Incarceration*. Lanham, Rowan & Littlefield International, 2015. Print. pp 64.

<sup>182</sup> Elk, 2

<sup>183</sup> Kirchhoff, 12

<sup>184</sup> Dreisinger, Baz. *Incarceration Nations: A Journey to Justice in Prisons Around the World*. New York, The Other Press, 2017. Print. pp. 209.

reduced them to their worst act and vindicated yourself for tolerating their lynching.”<sup>185</sup> As we’ve seen in this chapter there’s a long legacy of this, and demonization of “criminals” is basic to the nature of prison in modern era. Yet the late twentieth century expanded the scale and intensity of this system.

Alongside the major structural shifts, abuses in the prison system emerges in blatant forms. In the summer of 1995 there were a number of scandals involving the torture of mentally ill prisoners at California’s Pelican Bay prison, including strangling inmates and leaving them chained in excrement for days.<sup>186</sup> In the same time period, researchers witnessed rampant self-mutilation in Texas prisoners, with guards joking among themselves about the practice.<sup>187</sup> Individual sadism by guards occurred under a bureaucratic structures that curbed prisoners’ legal rights.<sup>188</sup> While peaks of cruelty gained condemnation, the wider process of expanding the scale of prison and degree of inequities within prisons proceeded without much criticism, and with significant bipartisan support.

The consequences of these structural changes by the end of the 20th century is significant. By 1998 state legislatures had eviscerated higher education in prisons. Only eight states offered degree-granting programs, and all of these relied on volunteer effort.<sup>189</sup> The decade saw several simultaneous trends building, on the increase in the number of prisons, tightening conditions of confinement. These regulations gave more discretion to prison authorities, decreased the options for prisoners, and reduced the mechanisms by which people on the outside

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<sup>185</sup> Dreisinger, 216

<sup>186</sup> Parenti, 174

<sup>187</sup> Abramsky, Sasha. *American Furies: Crime, Punishment, and Vengeance in the Age of Mass Imprisonment*. Boston, Beacon Press, 2007. Print. pp. 141

<sup>188</sup> Parenti, 174-5

<sup>189</sup> Parenti, 181

could support them. These policies were justified through dehumanization including the use of terms like “super-predators”.<sup>190</sup> The same system that increasingly deprived prisons of resources increased their condemnation.

## **2000-2019**

This final section brings the historical overview of incarceration in the United States up to the present. I examine the continued restrictions imposed at the federal and state level as a way of coping with the scale of mass incarceration and the underlying logic of dealing with the unprecedented level of incarceration through further restrictions and expanded networks of control. I also examine how different forms of legitimacy and popular representations helped to justify this system. In the end of the chapter, I look at some moves away from incarceration.

In the early 21st century new policies made prison increasingly relevant and increasingly ignored. The 2000s (2000-2010) are too often assessed as if they only worked out implications of penological policies from the 1980s and 1990s. Instead, we need to historically assess the shifts and policies that emerged during this decade. By the early twenty-first century rates of imprisonment in the United States had reached levels previously associated only with the Soviet bloc, fulfilling earlier predictions of this trend. As John Pratt asserted in *Punishment & Civilization*: “Now in the United States, a new kind of gulag is being constructed: high levels of imprisonment are no longer simply an aberration that can be reversed or defeated by rational

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<sup>190</sup> Nellis, Ashley. *A Return to Justice: Rethinking Our Approach to Juveniles in the System*. Lanham, Rowman & Littlefield, 2015. Print. pp. 124

arguments, but instead are one of the very conditions of existence of its social structure.”<sup>191</sup> In 2000 over a million Americans were incarcerated after conviction of nonviolent crimes.<sup>192</sup>

This has produced an immense impact on politics, economics and community structure.<sup>193</sup> In 2000 the sales of law enforcement technology exceeded \$1 billion annually.<sup>194</sup> As David Garland wrote in 2001, “Imprisonment has emerged in its revived, reinvented, form because it is able to serve a newly necessary function in the workings of late modern neoliberal societies: the need of racialized and ‘constitutional’ means of segregating the problem populations created by today’s economic and social arrangements.”<sup>195</sup> This pattern made prison an increasingly relevant factor in U.S. society. At the same time prison incorporated people who were seen as increasingly irrelevant. Prison was an increasing reality of life, yet prison conditions became less transparent to people on the outside. Marjorie Cohn in *The United States and Torture* points out that the scandal over abuse of detainees at Guantanamo Bay generally overlooks the systematic confinement of tens of thousands of mentally ill prisoners in solitary confinement at supermax prisons.<sup>196</sup> Cell extractions in supermax routinely use physical assault.<sup>197</sup> The origins described here have had major impact on the ongoing confinement that has increasingly defined American society.

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<sup>191</sup> Pratt, 186

<sup>192</sup> Abramsky, xviii

<sup>193</sup> Abramsky, xviii

<sup>194</sup> Gonnerman, Jennifer. “The Riot Academy” from Herivel, Tara. *Prison Profiteers: Who Makes Money From Mass Incarceration*. The New Press, New York City, 2009. Print. pp 229.

<sup>195</sup> Garland, 199

<sup>196</sup> Cohn, Marjorie. *The United States and Torture*. New York, NYU Press, 2012. Print. pp 215-16.

<sup>197</sup> Cohn, 218

The expanding world of the prison system has passed several significant infrastructure benchmarks. As one congressional study describes the situation in the early 21st century: “Correctional spending has continued rising, even though the crime rate has declined or stabilized since the early 1990s. High rates of recidivism—ex-offenders coming back into the corrections sector for new offenses or violations of probation or parole—indicate that the system may not be effective as desired in deterring or rehabilitating offenders.”<sup>198</sup> That spending did not reduce after it’s ostensible justification had changed suggests other motivations were in play, as well as the momentum that prison society had gained to maintain itself.

Another major shift occurred when the state began employing more private companies to manage prisons. Between 2000 and 2005, 153 prisons and jails opened, and 151 of them were private institutions. During this five-year period private facilities increased by 57%. In 2005, 23% of adult correctional institutions were private facilities, contrasted with 16% in 2000. Viewed over a longer time span the change is even more striking. Almost 17% of federal prisoners were in private prisons in 2008, while only 3% were in 1999.<sup>199</sup> While private prisons remain a minority of all U.S. prisons, this represents a significant shift in how prisons functioned, and a shift in the role of the state.

The infrastructure involved with lockups on this scale were increasingly significant and imposed a variety of direct and indirect stresses. In 2006 spending on incarceration in the U.S. reached \$68 billion, almost at the level of \$98 billion spent on policing.<sup>200</sup> In 2004 a survey of American prison system estimated there were 25,000 people in solitary confinement in state

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<sup>198</sup> Kirchhoff, 18

<sup>199</sup> Kirchhoff, 19

<sup>200</sup> Clear, Todd. *The Punishment Imperative: The Rise and Failure of Mass Incarceration In America*. New York, New York University Press, 2014. Print. pp. 20.

prisons and 11,000 in federal prisons.<sup>201</sup> A 2005 report by Bureau of Justice found that 81,622 prisoners were held in some kind of restricted housing.<sup>202</sup> In a corrective to *The New Jim Crow*, Marc Hill in *Nobody* cites the increasing incarceration rates of black people as well as Latinos, new immigrants and women.<sup>203</sup> This is a system that, in Marc Hill's words: "profit[s] from the exploitation and further subjugation of the powerless."<sup>204</sup> There were particular hardships for people with mental illness, who faced systematic abuse and isolation in solitary. And these populations were incarcerated in ever higher numbers, with a fourfold increase in the mentally ill population in U.S. prisons and jails from 1998 to 2006, an increase to 1,264,300.<sup>205</sup> Control units also held politically active prisoners and perceived leaders.<sup>206</sup>

There have recently been state-level initiatives that have slowed or reversed mass incarceration, although there are limitations on these changes. In California, the 2009 California Community Corrections Performance Incentive Act, reduced the number of adult felony probationers who were sent to state prison, and offered counties a share of the money saved. By 2011 revocations had dropped 32 percent.<sup>207</sup> Connecticut's prison population hit an all-time high in 2008, but as of 2016 it had decreased 25 percent. In 2015 a Second Chance Society bill passed, reclassifying drug possessions as a misdemeanor, ending mandatory minimum sentences

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<sup>201</sup> Cohn, 221

<sup>202</sup> Guenther, 161

<sup>203</sup> Hill, Marc Lamont. *Nobody: Casualties of America's War on the Vulnerable, from Ferguson to Flint and Beyond*. New York, Simon & Schuster, Inc, 2016. Print. pp. 125-6.

<sup>204</sup> Hill, 126

<sup>205</sup> Powers, Ron. *No One Cares About Crazy People: The Chaos and Heartbreak of Mental Health in America*. New York, Hachette Books, 2017. Print. pp. 321

<sup>206</sup> Guenther, Lisa. *Solitary Confinement: Social Death and Its Afterlives*. Minneapolis, University of Minnesota Press, 2013. Print. pp. 163.

<sup>207</sup> Edelman, Peter. *Not a Crime To Be Poor: The Criminalization of Poverty In America*. New York, Perseus Distribution, 2017. Print. pp. 173.

and simplifying the pardon process.<sup>208</sup> In the state of New York, the prison population dropped 26% from 1999 to 2012, with a decline in felony crimes and drug arrests, reform of sentencing statutes and an increase in alternatives to incarceration.<sup>209</sup> Between 2011 and 2014 New York state closed 24 prison facilities, and pushed towards dealing with addiction through medical resources rather than criminalization.<sup>210</sup> Georgia’s 2012 public safety reform bill (H.B. 1176) was intended to halt the growth in prison population within five years.<sup>211</sup> The 2008 recession crisis and extended decline in crime rates give further reasons to reduce the size of the prison system.<sup>212</sup> In fiscal year 2010, 26 states cut the budget for corrections.<sup>213</sup> However, recent bipartisan interest in prison reform motivated by cost containment is unlikely to produce meaningful reductions in prison. There also needs to be a substantive look on underlying issues. Instead, the exclusive focus on containing costs generated “leaner and meaner” incarceration strategies, with consequences such as overcrowding and reduced education and vocational programs.<sup>214</sup> And amongst the reductions, some aspects have continued to expand. By 2015 in the United States there were 67,442 prisoners in solitary confinement, 4.9% of the total prison population.<sup>215</sup>

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<sup>208</sup> Edelman, 167

<sup>209</sup> Edelman, 168

<sup>210</sup> Bridge of Voices. “May Report.” pp. 2. Forum For Understanding Prisons. Web. 3 May 2012.

<sup>211</sup> Clear, Todd. *The Punishment Imperative*. New York, NYU Press, 2013. Print. pp 8.

<sup>212</sup> Clear, 11

<sup>213</sup> Kirchhoff, 2

<sup>214</sup> Thorpe, Rebecca. “Democratic Politics in an Age of Mass Incarceration.” *Democratic Theory and Mass Incarceration*. Oxford, Oxford University Press, 2016. Print. pp 27.

<sup>215</sup> Anonymous. “Trends in prison population and spending: 2010-2015”. *Vera Center*. <https://www.vera.org/publications/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends-prison-spending> (accessed March 3, 2018).

The growth of the prison system occurred in uneven and racialized ways. Different engines of state control interlocked and developed increasing infrastructure for mass confinement. Across this period the state expanded its mechanisms for surveillance, detention and deportation of immigrants, bolstered by the growing “tough on crime” rhetoric.<sup>216</sup> As high as the number of 2.2 million people currently incarcerated is, it’s not the whole story, as structural consequences of mass incarceration continue even for people who leave prison, including restriction of voting, employment, parole and housing. Over 16 million people in the United States are disenfranchised and cut off from stable access to education, work or living, with a particularly high impact on African American populations.<sup>217</sup>

### **Current conditions**

Having established the background that lead up to this point, in this section I evaluate in more detail where things stand now. I work here to explore the total scale of prisons in the United States and distinctive structural facets. I’ve argued that prisons are not inevitable in their existence or in the varying forms that they take, and consequently it is useful to assess the specific characteristics of present U.S prisons. One major aspect is that prisons are more bureaucratically complex and internally disunified seem to be. This setup builds on the patterns of continuity and change earlier in the chapter and prepares for the more detailed look at prisons in Wisconsin that my dissertation will later explore. The assessment of current conditions also

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<sup>216</sup> Chang, Dae. *The Prison: Voices From Inside*. Rochester, Schenkman Publishing Co, 1972. Print. pp. 211-212.

<sup>217</sup> Thorpe, Rebecca. “Urban Divestment, Rural Decline and the Politics of Mass Incarceration.” *The Good Society*. Vol. 23, No. 1 (2014). 17-29. pp. 28.



helps to setup the analysis of different modes of prisoner resistance that my next chapter explores.

The current prison system simultaneously uses several contradictory logics to rationalize itself. Modern day prisons at different times act as if their purpose was either rehabilitation, deterrence, restoration or incapacitation.<sup>218</sup> Since these goals are contradictory, they produced tensions in prison operation. As Pat Carlen observes in her international study of prisons *Analyzing Women's Imprisonment* correctional institutions are inherently contradictory, fragmented within themselves. The prison is “a multi-professional workplace for a miscellany of specialists working under several different, and often opposed, legal auspices and professional ideologies.”<sup>219</sup> Similar analysis appears in Sean McConville's assessment in *Prison Architecture*, where he claims that it's misleading to define penal philosophy as coherent or unified.<sup>220</sup> “Prison is in many ways a shadow world where limits on state power do not apply and people are forced by conditions to adopt different social norms and cultural expectations.”<sup>221</sup> Significantly different conditions are imposed on daily life. This separation is not accidental. Jane Atwood asserts in *Too Much Time*: “Protocol is designed to de-emotionalize the incarceration experience for inmates and to keep critical people out.”<sup>222</sup> Fragmentation is accepted as part of the contradictory logic of prison.

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<sup>218</sup> Crews, 56

<sup>219</sup> Carlen, Pat and Worrall, Anne. *Analyzing Women's Imprisonment*. Willan Publishing, Portland, 2004. Print. pp. 185.

<sup>220</sup> McConville, Sean. “The architectural realization of penal ideas.” Bosworth, Mary. *Prison Architecture: Policy, Design and Experience*. Architectural Press, 2002. pp 3.

<sup>221</sup> Firehawk, Simone. *The Fire Inside*. PM Press, Oakland, 2017.

<sup>222</sup> Atwood, Jane. *Too Much Time: Women in Prison*. Phaidon Press Limited, London, 2000. pp 11.

In looking at the scope of the current prison system, it is important to see the ways that exists because of attempts to reform it. The territory covered by the prison boom since 1980 spans 580 square miles, over half the size of Rhode Island, and costing hundreds of billions of dollars.<sup>223</sup> As Heather Ann Thompson wrote in *Blood in the Water*, in an overview of New York prison system that applies more broadly, “It was clear by the close of the twentieth century that many of the post-rebellion calls for change to New York’s prison system had been rolled back the instant that prisoner activism--and thus pressure on the system--was quelled.”<sup>224</sup>

The design of correctional facilities reflects the emphasis on tight control. Prison architecture prioritizes space for housing, food and laundry, with providing of space for education, recreation, religion and substance abuse treatment being of visibly secondary priority.<sup>225</sup> Among the debilitating long term conditions, prison sociologists have identified the stress of “killing time”, the deadening monotony of routine in prison and the lack of purposeful activities for incarcerated people.<sup>226</sup> An Ohio prisoner, Siddique Abdullah Hassan wrote in his article “Induced Failure” that the objective to warehouse prisoners ensure the failure of rehabilitative efforts. This deliberate failure produces job security for prison workers and parole officers.<sup>227</sup>

Evaluating the scale of the prison system also necessitates looking at the dynamics of prisoners’ labor. By 2016, 870,000 prisoners worked full time, with 550,000 of them doing work

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<sup>223</sup> Eason, John. *Big House on the Prairie: Rise of the Rural Ghetto and Prison Proliferation*. Chicago, University of Chicago Press, 2017. Print. pp. 164

<sup>224</sup> Thompson, 565-566

<sup>225</sup> Phillips, Richard. *Quick Reference to Correctional Administration*. Gaithersburg, Aspen Publishers, 2000. Print. pp., 117.

<sup>226</sup> Jewkes, Yvonne. *Captive Audience: Media, masculinity and power in prisons*. Portland, Willan Publishing, 2002. Print. pp. 12.

<sup>227</sup> Anonymous. “Induced Failure.” *Incarcerated Worker*. (Feb 2015), pp. 15-16. 15.

that maintains the prisons, including food service, maintenance and laundry.<sup>228</sup> The issue of prison labor has occasionally provoked scandal, as with attention paid to Whole Foods selling products made by businesses using prison labor.<sup>229</sup> In one study of the Lompoc prison, it was found that refusing to work is a prohibited act, and that 9.4% of incidents reports were written for refusing to work.<sup>230</sup> Food production generally happens through inmate labor.<sup>231</sup> Commentators have frequently condemned prisoner exploitation both for the damage it does to incarcerated workers and the way it weakens labor on the outside.<sup>232</sup>

The increasing overcrowding of prison has also generated increase use of solitary confinement. The U.S. Supreme Court came close to abolishing the practice in 1890.<sup>233</sup> Yet it has emerged as a ubiquitous practice, a prison within a prison, a continual threat that maintains discipline within the prison system. In the U.S. in 2017 100,000 people were in solitary confinement in prison, jails and immigrant detention centers.<sup>234</sup> A third of prisoners in long term solitary develop acute psychosis and hallucinations. Individuals in isolation show paranoia, chronic depression, self-mutilation and high rates of suicide.<sup>235</sup>

The essence of prisons is to keep people overcrowded yet separated. One separation is length of sentence. People are kept together, exploited together; yet facing different years of

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<sup>228</sup> Fink, Eric. *Union Organizing & Collective Bargaining for Incarcerated Workers*, 52 Idaho L. Rev. 953 (2016). pp. 953.

<sup>229</sup> Fink, 954

<sup>230</sup> Fleisher, Mark and Krienert, Jessie. *The Myth of Prison Rape: Sexual Culture in American Prisons*. Lanham, Rowman & Littlefield Publishers, Inc, 2009. Print. pp. 141-2.

<sup>231</sup> Phillips, 127

<sup>232</sup> Fink, 962

<sup>233</sup> Ferguson, Robert. *Inferno: An Anatomy of American Punishment*. Cambridge, Harvard University Press, 2014. pp. 146.

<sup>234</sup> Dreisinger, Baz. *Incarceration Nations: A Journey to Justice in Prisons Around the World*. New York, The Other Press, 2017. pp. 174.

<sup>235</sup> Dreisinger, 191

release. This encourages separate self-interest instead of connection. Conversations between people can build shared identity. Animosity between gangs also helps keep people separate and reinforces prisons authority. Moments like the Pelican Bay ‘Short Corridor Collective’ declaring ceasefire are important and challenging to prison autocracy. Another separation is from rape culture in prison. The assault and victimization between incarcerated people act as a tool to prop up the prison system and maintain both hierarchies and the prison economy.

There is no legal requirement for US prisons to provide substance abuse treatment services. As Pat Carlen has argued in *Women and Punishment*, the ultimate purpose of prisons is punishment and maintenance of confinement for prisoners and thus “any policy changes (such as a meaningful ‘empowerment’ of prisoners) which would necessarily involve dilution of that primary goal are unlikely to be successful.”<sup>236</sup> Prisons are not separated from wider society they appear in. The facets of economic inequality and mass lockup are closely linked. As Jeffrey Reiman asserts in *...And the Poor Get Prison*: “Not only are the poor arrested and charged out of proportion to their numbers for the kinds of crimes poor people generally commit—burglary, robbery, assault, and so forth—but when we reach the kinds of crimes poor people almost never have the opportunity to commit, such as antitrust violation, industrial safety violations, embezzlement, and serious tax evasion, the criminal justice system shows an increasingly benign and merciful face.”<sup>237</sup> This provides a functional way of using inequalities and the evaporation of welfare policies to increase antagonism between workers. The regime demobilizes and fragments people through imposing the category of criminal and citizen. The disconnect between the norm

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<sup>236</sup> Carlen, Pat and Worrall, Anne. *Analyzing Women’s Imprisonment*. Willan Publishing, Portland, 2004. Print. pp. 12.

<sup>237</sup> Reiman, Jeffrey. *...And the Poor Get Prison: Economic Bias in American Criminal Justice*. Boston, Allyn & Bacon, 1996. Print. pp. 99.

and deviant also rationalizes much greater levels of prisoner deaths. This pattern involves some deep internal tensions, and deft representational bait-and-switch. “To serve as a means of social control, the prison must always loom on the horizon. Yet the invisibility of the prison, its operations, and those its confines is crucial to the legitimacy of the institution. Notice how carefully the prison guards its secrecy.”<sup>238</sup> Prison society creates a system where the borders of punishment are wide ranging. The regime reached into the body of the convicted person and also to impact on their family on the outside.<sup>239</sup> This tension is deeply ingrained, making prisons as invisible and yet intertwined with wider communities.

Another primary function behind prisons lies in the business interests that push for certain changes. As Wesley Kendall has argued in *From Gulag to Guantanamo* “for corporations to engage in paid advocacy for social change intended for the good of society would seemingly violate their fiduciary duty to shareholders to focus on increasing profits.”<sup>240</sup> This aspect is not very concealed, it is inherent to the nature of corporate incentive. Part of this control includes extreme force used against mentally ill prisoners, including regular beatings and restrictive confinement, and has also included cases of throwing prisoners into boiling water and scrubbing them with a wire brush.<sup>241</sup> These structures have a number of debilitating consequences for daily life of people incarcerated in the United States. Medical facilities provide delayed care for all but the most severe of medical crises. Some prisons had a ratio of prisoners to doctors as high as

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<sup>238</sup> Williams, Kristian. *American Methods: Torture and the Logic of Domination*. Boston, South End Press, 2006. Print. pp. 175.

<sup>239</sup> Matlin, David. *Prisons: Inside the New America: From Verbooykill Creek to Abu Ghraib: Second Edition*. Berkeley, North Atlantic Books, 2005. Print. pp. 116-17.

<sup>240</sup> Kendall, Wesley. *From Gulag to Guantanamo: Political, Social and Economic Evolutions of Mass Incarceration*. Lanham, Rowman & Littlefield International, 2015. pp. 69.

<sup>241</sup> Williams, 178

1,400 to 1.<sup>242</sup> Food preparation emphasizes mass scale, with no concern given to taste.<sup>243</sup> Contamination of food is also common.<sup>244</sup>

Another defining norm of the American carceral system is routine sexual assault. In 2000, a study by *Prison Journal* of seven men's prisons from four states showed that 21% of the inmates had experienced a minimum of one case of forced sexual contact.<sup>245</sup> While there are a multitude of horrific stories of individual and group violent attacks against people incarcerated, overtly violent rapes are not the entirety of this context, as many victims of prison rape are coerced into sexual acts against their will based on more subtle forms of intimidation.<sup>246</sup> Such activities have at some points developed into market systems, as Texas prisoners reported sexual slavery with prisoners sold or rented to others.<sup>247</sup> Practices of sexual slavery appear to be the worst in Texas prisons, but there are also records of such patterns in Illinois, Michigan, California and Arkansas. Across the United States, correctional officers show a pattern of acceptance and indifference towards sexual assault of prisoners.<sup>248</sup> The legal standard for prisoners makes it substantially difficult to prove that the prison system has actual knowledge of risk. Such norms create structural incentives for guards to ignore such violence.<sup>249</sup>

There are longstanding gaps in penological literature that inadequately explores the roles of guards in tolerating and facilitating sexual assault.<sup>250</sup> It is estimated that up to 290,000

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<sup>242</sup> Stanko, Stephen. *Living in Prison*. Westport, Greenwood Press, 2004. Print. pp 162.

<sup>243</sup> Stanko, 165

<sup>244</sup> Stanko, 165

<sup>245</sup> Mariner, Joanne. *No Escape: Male Rape in U.S. Prisons*. New York, Human Rights Watch, 2001. Print. pp 4.

<sup>246</sup> Mariner, 6-7

<sup>247</sup> Mariner, 8-9

<sup>248</sup> Mariner, 9

<sup>249</sup> Mariner, 11

<sup>250</sup> Hensley, Christopher. *Prison Sex: Practice and Policy*. Boulder, Lynne Rienner Publishers,

prisoners are raped each year in the United States.<sup>251</sup> Such assaults are a mechanism for controlling prison population.<sup>252</sup> Surveys of Midwest correctional officers show that guards are more likely to have written disciplinary report for consensual sexual acts (38%) than for rape (18%).<sup>253</sup> At the same time, prisons have used perceptions of rape in prison to justify no-condom policies despite widespread consensual and non-consensual sex, and the devastation of AIDS from the 1980s onward.<sup>254</sup>

These systems of abuse show that scandalous prison abuses such as Abu Ghraib are not anomalies. As Kristian Williams argued in *American Methods* “As one hears more about the things that happen to people in the custody of the state, comparisons between domestic prisons and those our government operates in Iraq start to sound less hyperbolic.”<sup>255</sup> Williams argues that Foucault’s depiction of incarceration replacing physical pain is overstated, that confinement involves continual torture as part of its operating logic.<sup>256</sup> Such patterns of torture will continue as long as American society is stratified by race, class and gender.<sup>257</sup>

## Conclusion

Over this chapter I have reviewed the origins and development of the prison system, and the different forms it has taken in United States history up to the present. I have done this to provide a foundation for considering the prison critically and understanding that alternatives to

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2002. Print. pp 50.

<sup>251</sup> Parenti, 185

<sup>252</sup> Parenti, 189

<sup>253</sup> Parenti, 53

<sup>254</sup> Kunzel, Regina. *Criminal Intimacy: Prison and the Uneven History of Modern American Sexuality*. Chicago, University of Chicago Press, 2008. Print. pp. 233.

<sup>255</sup> Williams, 179

<sup>256</sup> Williams, 182

<sup>257</sup> Williams, 195

these norms were possible across the history of the prison. In one section I cover the long span of carceral norms up to 1650, looking at how the early prisons were developed, and aspects in their infrastructure and public justification that were different than later forms. From 1650 to 1865 I look at the development of prison as crucial aspect of United States punishment and social life, with a focus on different experiments and regional variations in what the intent and practice of prison looked like. From 1865 to 1965 I cover the increasing racialization and bureaucratic classification of prisons that lays the groundwork to understand more recent developments and to explore the specific trajectory of these conditions within Wisconsin in my fifth chapter. From 1965-2000 the crucial fact is the explosion of mass incarceration after a period where prisons seemed about to be reduced in population, and I explore the many effects of this change on prisoners and on outside society. I also look at recent developments from 2000-2019, both in continuing the impact from mass incarceration, the development of privatized facilities and the partial movement towards reversing some of these patterns. Finally, I evaluate where things stand at present within the world of Wisconsin prisons. I explore how the apparently simple presentation of prisons contains a chaotic complexity, developed from centuries of uneven carceral continuity. This provides a foundation for my next chapter which explores how prisoners' collective activity has challenged and delegitimize prison norms.



## Chapter IV: Prisoner Resistance

### **Foundations**

In this chapter I present an overview of prisoner resistance in the United States in the 20th and 21st centuries. This presentation advances my analysis of Wisconsin prisons in several ways. Prison authorities have made crucial assumptions about the nature of prisoners, and prisoner resistance shows defiance of these assumptions. Prisoner resistance also exposes crucial realities inside the system. The overview in chapter 3 on wider prison conditions helped to lay the groundwork for understanding the distinctive conditions within Wisconsin prisons. In a similar vein, this chapter provides an important backdrop to the presentation of Wisconsin prison resistance. Because prisoner resistance movements in Wisconsin were influenced by developments in other states, it is crucial to describe wider oppositional patterns before exploring the specific dynamics within Wisconsin. This is the last chapter where I focus on these wider trends, chapter 5 applies this context in study of the Wisconsin Department of Corrections, chapter 6 looks in more detail at Waupun Correctional, and Chapter 7 analyzes Taycheedah Correctional.

In describing this larger history my argument is that prisoner resistance is under-perceived. This neglect in scholarly literature and in contemporary perceptions has proceeded in several different ways. One basis for how people talk about prisoner' resistance is as a rare anomaly. Another is to define such resistance as irrationally motivated. Another pattern depicts prisoners as capable of resistance, but as too antisocial and predatory to effectively develop alternative structures within prison. Over this chapter I will draw out moments from the history of the prison that questions these assumptions. I will also explore the way that prison authorities

have understood and fought against prisoner resistance. Crucially, prison authorities have sought to delegitimize and erase the memory of these actions almost as intensely as they have fought physical loss of control over the prisons. To this end, I will explore the history of several common tactics used by prisoners in the United States to resist prison norms over the last 120 years, including litigation, other individual acts of resistance, riots, hunger strikes, work stoppages and prisoner self-organization. I am mostly obligated to use secondary sources. The same prison discipline that deals harshly with prisoner resistance deals equally harshly with documentation of prisoner struggle. Records and publications are not allowed to prisoners when it relates to directly challenging materials, and such records that endured are largely those of outside publications. That means that there is an inherent disconnect in much of the documentation, especially less recent struggles, that should be identified. This component also gives added significance to the few publications that were written largely by people on the inside. Publications like *The Fire Inside* and *The Incarcerated Worker* function in recognition of the limited documentation prisoners provided their own resistance experiences and provide sources that need to be mined closely to add this perspective.

Prisons can be regarded as a battleground of what type of human beings will be produced by prisons. There is structural pressure to developing possessive individualism, but prisoner communities can also develop people through mutual aid.<sup>258</sup> As Lisa Guenther has argued in *Solitary Confinement: Social Death and Its Afterlives* there is significant value to studying prisoner resistance: “We risk missing its significance if we fail to consider the prisoners’ perspective on their own situation, and the meaning that resistance generates for relational beings

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<sup>258</sup> Grubacic, Andrej. *Living At the Edges of Capitalism: Adventures in Exile and Mutual Aid*. Oakland, University of California Press, 2016. Print. 179

in excess of what may be objectively achieved.”<sup>259</sup> Prisoners have acted coherently and collectively in defiance of the norms inside prison. Through collective action people created a system that validated themselves. This happened in a variety of specific modes of resistance. More important than the tactic used were the results. Sometimes this occurred in material gain, sometimes in building collective connection and sometimes in increasing the sense of personal value.

Scholarship on prison resistance tends to be too localized. Attica is an inevitable reference point, but histories do not always draw out the lower intensity prisoner struggles. There is a methodological bias towards prisoner protest in the late 1960s and early 1970s. There is also a focus on studying high intensity riots. Scholars have made effective analysis on rebellions such as the New Mexico State Penitentiary riot in 1980 or Ohio’s Lucasville’s uprising in 1993.<sup>260</sup> <sup>261</sup> Yet this research left out many prisoner mobilizations. There is a tendency to see prisoner defiance only in open challenge. This creates histories of prison resistance when prisoner organization is particularly strong, or the state’s power is weaker. What is lacking are histories of prisoner resistance that are not able to advance at this point, struggles where the prison authorities disperse opposition or resistance occurs on a smaller scale. Correcting this is crucial to having a fuller understanding of how prison power and resistance functions. Scholars have delegitimized prisoner resistance, following a similar pattern in political discussion and popular culture. Part of the pattern that produces this neglect is a narrow focus on only a few

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<sup>259</sup> Guenther, Lisa. *Solitary Confinement: Social Death and Its Afterlives*. University of Minnesota Press, 2013. Print. 131.

<sup>260</sup> Jseem, Bert. *Resolution of Prison Riots: Strategies and Policies*. Oxford, Oxford University Press, 1996. Print. 14.

<sup>261</sup> Lynd, Staughton. *Lucasville*. Oakland, PM Press, 2011. Print. 2.

cases. When Attica, the New Mexico prison uprising and Lucasville eclipse most other moments of resistance, it has several negative consequences. It makes it seem that prisoners only employ one tactic. It makes it seem that these are the occasional anomaly, and that most prisoners in most facilities accept their lot most of the time. It works fundamentally to make prisoners appear passive in the development of the prison system. By looking more into the varied histories, my writing pushes against shared assumptions, and expands an understanding of how control became less inevitable and more fragile than is often assumed.

Material stakes matter, but the gains made by prisoners through struggles have always been extremely fragile. As Frances Fox Piven noted in *Poor People's Movements*, authorities will ignore, co-opt or repress resistance from below and will work to make any forced reforms accrue in a controlled top down manner. This tendency is at its height in the prison context. There are strong resources available for prison authorities to deny recognition winning anything against these struggles. Furthermore, the prison rests its legitimacy on absolute control over prisoners. Prisoners lack infrastructure to build to their own histories. They are limited to oral culture and do not have consistent continuity at a prison. Such continuity as does persist has a significant impact. Shared life experiences between people who have engaged in struggle often has an inspiring effect. As long as prisons exist there is mobilization by prisoners against prison norms. This reality makes it a priority to oppose the disregarding and delegitimization of prisoners. One of the most effective ways to do this is to take seriously the alternative conditions that prisoners create, and that they attempt to create. An interview with twenty six prisoners in super maximum prisons across the U.S found them being unwilling to turn on fellow inmates to get out of isolation. Some of these people were isolated for over twenty five years and will be in

isolation for life or until prison policies change.<sup>262</sup> The stakes of confinement are high, and so is the intensity of collective connection that has sometimes emerged as part of this.

Prisoner resistance is too often left out of the history of prisons. Prisoners are often treated as an abstraction. When prisoner voices are included in these histories, it is often just as victimization. Historians and sociologists portray the exploitation and abuse done to prisoners. While this is an essential characteristic of the prison system, telling of violence and exploitation without resistance is a partial and misleading picture. Writing about prisons without including stories of riots, work stoppages, hunger strikes, and other collective organizing is as problematic as it would be to talk about the Great Depression without mentioning the strikes that workers built. The invisibility of prisoner resistance even for many scholars of prisons, even for some abolitionist scholars, is troubling. This gap in scholarship is possible partly because prison authorities suppress attention to prisoner resistance as fervently as they punish resisting prisoners. There is also a gap because of assumed separation from scholars and prisoners. Many writers talk about the obvious hardships and injustices of prisons yet presume that prisoners collectively are incapable of realizing this or incapable of acting on this knowledge. In fact, prisoners constantly talk about the basic problems of prison, not just to scholars outside of prison but to each other. It is important for historians to recognize these as an essential facet of prison. As powerful as the state is, prisoner resistance has won gains. Yet there is concentrated institutional pressure to erase knowledge of improvements won from struggle.

Such documentation as exists provides critical insight. Margo Schlanger's effective if legalistic "Trends in Prisoner Litigation" is a useful introduction to this tactic and is particularly

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<sup>262</sup> Grubic, Andrej. *Living At the Edges of Capitalism: Adventures in Exile and Mutual Aid*. Oakland, University of California Press, 2016. Print. 207

effective in documenting victories that prisoners achieved.<sup>263</sup> Sasha Abramsky in *American Furies* provides a more pessimistic but necessary correlation, fleshing out how the state restricted prisoner litigation, in part because of its success.<sup>264</sup> Staughton Lynd in both *Moral Injury and Nonviolent Resistance* and *Lucasville* centers on moral agency in compelling ways and is effective in bringing continuity between his labor history and the history of prisoners' movements, with both hunger strikes and riots.<sup>265</sup> Lisa Guenther in *Solitary Confinement: Social Death and Its Afterlives* offers some of the most effective extrapolations of agency and opposition for prisoners in situations where resistance would seem impossible.<sup>266</sup> However, the work is not brought out into continuity with the wider prison experience as much as it could be. The scholarly literature on riots is more sensational, particularly Vernon Fox's *Violence Behind Bars* which adopts uncritically a tone of horror.<sup>267</sup> Bert Useem's *State of Siege* at points lapses into this but is generally more solid in contextualizing the rationality and different mode of organization of prison riots, and in the detailed assessment of post-Attica uprisings provides much valuable material.<sup>268</sup> For Attica itself, Heather Ann Thompson's recent *Blood in the Water* provides a comprehensive and structurally rich assessment of the often-studied riot, providing an essential overview that also gives the groundwork to evaluate prisoner mobilization beyond this

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<sup>263</sup> Schlanger, Margo. "Trends in Prisoner Litigation, as the PLRA Enters Adulthood." *UC Irvine L. Rev.* 5, no. 1 (2015): 153-79.

<sup>264</sup> Abramsky, Sasha. *American Furies: Crime, Punishment, and Vengeance in the Age of Mass Imprisonment*. Boston, Beacon Press, 2007. Print.

<sup>265</sup> Lynd, Staughton. *Moral Injury and Nonviolent Resistance: Breaking the Cycle of Violence in the Military and Behind Bars*. Oakland, PM Press, 2017. Print.

<sup>266</sup> Guenther, Lisa. *Solitary Confinement: Social Death and Its Afterlives*. Minneapolis, University of Minnesota Press, 2013. Print.

<sup>267</sup> Fox, Vernon. *Violence Behind Bars: An Explosive Report on Prison Riots in the United States*. Westport, Greenwood Press, 1956. Print.

<sup>268</sup> Useem, Bert. *States of Siege: U.S. Prison Riots, 1971-1986*. Oxford, Oxford University Press, 1997. Print.

moment.<sup>269</sup> The literature on prisoner hunger strikes is more extensive and generally more sympathetic. However at points this literature risks moving too far into moral generalization and losing sight of the tactic as a tool for tangible organizing purposes. Pauline Jacobs' *Force-Feeding of Prisoners and Detainees on Hunger Strike* is a useful counterpoint to this tendency, exploring the way that these actions had strategic concern for both prisoners and prison authorities. Jean Casella's *Hell Is A Very Small Place* shows how these concerns have operated in the context of solitary confinement struggles and is a very useful supplement to Schlanger and Guenther. Despite the value of these writings, there are still profound gaps.

This chapter will explore different tactics that prisoners have used to fight their conditions, including individual and collective action, litigation, hunger strikes, work stoppages and riots. The most important component of prisoner resistance is the collective organizing that they do, the way that people form connections, identify shared goals and plan collective action. This is crucial because it's the foundation for collective action. Without coordination there is only individual action, and individual action is at a profound disadvantage against prison regimes. Just as it would be chaotic to survey labor history as a collection of strikes without looking at the unions that built such actions, so it does not make sense to ignore the presence of organization within prisons. These associations are difficult to perceive and are heavily repressed, but they continue to persist and to reinvent themselves in different contexts. Organization is crucial for any sustained opposition, since the prisons have a massive organization on their side. Tracking the way that non-coercive groups have formed inside prisons provides crucial insight into the operation of resistance in and against prisons. Within this

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<sup>269</sup> Thompson, Heather Ann. *Blood in the Water: The Attica Prison Uprising of 1971 and Its Legacy*. New York, Pantheon, 2016. Print.

organizing, the process can be fluid. As Juanite Diaz-Cotto has demonstrated in *Gender, Ethnicity and The State*, there is not always a clear-cut distinction between apolitical social groups and organized political networks by prisoners. Radical prisoners have participated in informal networks, and generally apolitical prisoners have joined effort against mistreatment at certain points.<sup>270</sup> Appreciating this backdrop helps to see the larger continuities between different tactics.

### **Individual Resistance**

A lot of the prisoner resistance that is hardest to recognize and to see as political is individual acts of defiance. At some points in the prison regime, control is so strong that prisoners are cut off from communication with others and can act only through their own person. This aspect does not necessarily imply fragmented struggle, since prisoners cut off from each other often still fight for changes in collective conditions. They also push for greater contact with others inside to build up greater opposition and as an improvement. There have also been some openings presented, especially through litigation, through recognition of the problems of prison and the need for resources. However just as prisoners have learned modes of fighting back, prison authorities have learned ways to undercut their efforts. This has included making physical challenges harder, streamlining the process of force-feeding for hunger strikes, and most substantively pushing for legislation that makes prisoner litigation harder. The rollback on many gains of potential litigation was particularly crucial, as it greatly increased the isolation of prisoners. Individual activity has varied widely, but it occurs against a wider structural backdrop

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<sup>270</sup> Diaz-Cotto, Juanita. *Gender, Ethnicity, and the State: Latina and Latino Prison Politics*. Albany, State University of New York Press, 1996, Print. 153



where the prisons were successful at making this individual resistance cost more and deliver fewer gains. The next section will explore this pattern in more detail.

One mode of opposition that is officially tolerated within prisons is litigation, although this is restricted by resources and by administrative policy. Lawsuits against a specific prison or state correctional system offer the potential to overturn injustices and end traumatic structures. Officially access to legal knowledge and litigation is a basic right but retaliation is common. This includes practices of putting “jailhouse lawyers” in solitary confinement.<sup>271</sup> As well, prison litigation is inherently isolating. It often challenges collective conditions, but it is a process of a specific individual filing paperwork and requires specialized skills. There were some attempts to limit the scope of this control, and in *Johnson v. Dye* (1949) the Third Circuit for the first time objected to the prison’s infliction of cruel and unusual punishment. The Civil Rights Act, section 1893 of Chapter 42 of the U.S. Code, first enacted in 1871, increasingly became a tool for state prisoners to oppose violations of their federal rights.<sup>272</sup>

Even at the height of successful prisoner litigation the record was mixed. People doing social movement work sometimes criticized litigation as allowing the appearance but not the reality of justice. The result of litigation was often the construction of new prisons to address overcrowded conditions.<sup>273</sup> Even when unsuccessful, these lawsuits had some value in forcing a contestation of prison norms, creating a record of particular problems that prisoners challenged.

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<sup>271</sup> Drapkin, Lisa. “Struggles of Using Legal Recourse as a Path Toward Better Prison Conditions”. *National Lawyers Guild*. 15 January 2018. pp. 2.

<sup>272</sup> Rotman, Edgardo. “The Failure of Reform: United States, 1865-1965.” from ed. Morris, Norval. *The Oxford History of the Prison: The Practice of Punishment in Western Society*. Oxford, Oxford University Press, 1997. Print. pp 192.

<sup>273</sup> Schlanger, 171

The retaliation that prison authorities undertake shows that they take this approach seriously. In consequence prison officials have also worked to prevent it from becoming more widespread.

Across the 1960s there were attempts to use the courts to positively influence conditions. Long term administrative confinement prompted some of the early inmate rights litigations, including 1966 *Jordan v. Fitzharris*, in opposition to confinement in “strip cell” punitive segregation in California’s Soledad prison.<sup>274</sup> As prison populations increased in the 1970s, the amount of prison civil rights litigation also increased. There was a corresponding jump in the 1990s as the numbers of incarcerated people exploded. Prisoners made some gains through different lawsuits, winning rulings on increased living conditions, greater access to the media and less severe disciplinary procedures.<sup>275</sup> One notable success was a class-action lawsuit in 1995, *Madrid v. Gomez*, that identified patterns of brutalization and inadequate mental health resources. The lawsuit overhauled the administration, but the basic elements of the system stayed the same.<sup>276</sup>

Prisoner litigation was effective enough that national legislature redrew the laws to make prisoner litigation more difficult. The 1996 Prison Litigation Reform Act (PLRA) that has had a significant effect. As Margo Schlanger wrote in an overview of the change: “The PLRA undermined prisoners' ability to bring, settle, and win lawsuits. The PLRA conditioned court access on prisoners' meticulously correct prior use of onerous and error-inviting prison grievance procedures. It increased filing fees, decreased attorneys' fees, and limited damages.”<sup>277</sup> In

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<sup>274</sup> Schlanger, 156

<sup>275</sup> Schlanger, 158

<sup>276</sup> Abramsky, Sasha. *American Furies: Crime, Punishment, and Vengeance in the Age of Mass Imprisonment*. Boston, Beacon Press, 2007. Print. 131.

<sup>277</sup> Schlanger, 153

Wisconsin, the number of prisoner lawsuits declined from 559 in 1996 to 296 in 2012, a 69.1% decrease.<sup>278</sup> The same change that made it harder to file lawsuits also made it harder to win them.<sup>279</sup> This legislation limited the value of prisoners and outside attorneys seeking to remedy prison conditions with lawsuits. This shift helps show the fluid and contested nature of legal forms in connection to prison and helps to understand the context in which prisoners adopted alternate tactics. In addition, litigation continued to be a tool used in conjunction with collective action, and in some situations, such as accompanying the mass hunger strike in Pelican Bay prison, this tactic delivered results.<sup>280</sup> On September 2, 2015 California agreed to reduce the use of solitary confinement as part of a settlement.<sup>281</sup>

This is a significant shift because it shows the impact of intense, long term opposition from the inside, in pressuring prison authorities and creating visibility that can help coalesce outside support. Changes in solitary confinement are important is in the impact on people imprisoned in these conditions. They are also crucial because of how solitary confinement works to buttress the overall prison system.

Individual prisoner activity also includes more visceral and physical personal resistance. Defiance includes individual acts like bashing one's body against the cell, which make a statement of refusal to be contained even in unescapable confinement. Pacing back and forth can also be seen as an attempt to take the measure of the space, and insist that one is still a living,

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<sup>278</sup> Schlanger, 160

<sup>279</sup> Schlanger, 161

<sup>280</sup> Lynd, Staughton. *Moral Injury and Nonviolent Resistance: Breaking the Cycle of Violence in the Military and Behind Bars*. Oakland. PM Press, 2017. Print. 141.

<sup>281</sup> Anonymous. "Timeline: Recent Events". *The Incarcerated Worker*. Issue 3: Winter 2016. pp 4.

moving being.<sup>282</sup> In Florida in the first decade of the twentieth century, self-mutilation by prisoners to avoid work was an accepted norm in prison life. This practice included prisoners chopping off fingers and sawing open throats.<sup>283</sup> During the early 1950s prisoners also undertook many other forms of resistance, including sit-down strikes, expanded attempts to escape and self-mutilation, the latter particularly common as a mode of revolt in the South.<sup>284</sup> Throwing feces at guards was also a form of resistance by people who have no other option to fight back.<sup>285</sup> Prisoners have also resisted by building their own experiences, including tattooing, painting, writing, congregating,<sup>286</sup> storytelling, creative use of language, and building autonomous spaces.<sup>287</sup> It is very hard to find these details, in large part because the prison system works to annihilate and obscure these patterns, eroding the potential that exists in prisoner-initiated activity. Because of the fragility of these moments, it is doubly important to not de-legitimize them when we encounter them, to see their rationality.

## **Riots**

There is a long pattern of forceful resistance from behind prison bars, and modes of struggle have taken different forms, including riots. I define riot in this context as a collective act by prisoners involving violence or the threat of violence to correctional officers or prison property as a means of advancing specific demands. It includes taking hostages, barricading

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<sup>282</sup> Guenther, Lisa. *Solitary Confinement: Social Death and Its Afterlives*. Minneapolis, University of Minnesota Press, 2013. Print. 184

<sup>283</sup> Oshinsky, David. *Worse Than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice*. New York, Free Press, 1997. Print. 72

<sup>284</sup> Rotman, 188

<sup>285</sup> Guenther, Lisa. *Solitary Confinement: Social Death and Its Afterlives*. Minneapolis, University of Minnesota Press, 2013. Print. 188

<sup>286</sup> Grubacic, Andrej. *Living At the Edges of Capitalism: Adventures in Exile and Mutual Aid*. Oakland, University of California Press, 2016. Print. 179

<sup>287</sup> Grubacic, 182-3

sections of the prison and smashing up sections of the facility. Riots are both over-studied and under-studied in scholarship. They are over-studied in that they are often assumed to be the only mode of prisoner resistance. Other tactics are obscured. They are under-studied in that few riots are analyzed in detail, and the context that leads up to such actions is inadequately explored. Looking at the different waves of prison riots and some specific cases in more details helps to better understand their value as attempts to oppose intolerable prison conditions. Giving a fuller history of this tactic helps to build an alternate perspective. It can approach riots as rational attempts that sometimes make gains. It is crucial to understand that riots sometimes work out well for prisoners, in order to understand why the state reacts so intensely.

It is important to approach riots in a nuanced way. By their nature they are easy to over-dramatize or sensationalize. Yet it's important to recognize that for every major riot there are dozens of short ones, conflicts that end without loss of life or major standoff.<sup>288</sup> It's useful to evaluate these moments as relevant in themselves, and in giving new context to the time period before and after these disturbances. Riots also show the basic potential of prisoners to overcome controlling norms, to create brief autonomous zones where power systems are reversed or eroded. Understanding these moments helps to see prisons as less inevitable. Even with enormous carceral infrastructure and a lot of different incentives, prison authorities can and do lose control. It's particularly relevant to identify the full range of prisoner disturbances, because prison authorities scrutinize minor as well as major riots, and use this knowledge to shape their internal policies.

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<sup>288</sup> Useem, Bert. *States of Siege: U.S. Prison Riots, 1971-1986*. Oxford, Oxford University Press, 1997. Print. 137.

Across U.S. history there has always been the specter of actual and potential riots, however there is notable variation in the frequency by which prisoners use this tactic to fight prison abuses. To an extent all expansions in the number of prisons and the population within each prison has created more capacity for riots. The clear pattern with sequence of riots in the 1920s, 1950s and 1970s showed how one disturbance helped launch another. Expansion provided inspiration for prisoners, as the correctional apparatus was stretched thinner. In response, prison discipline helped to erase long-term memory of these actions and expanded its infrastructure.

Riots are typically portrayed as frenzied and irrational. In contrast it is useful to approach them as reasonable and emerging in response to pressures from the prison system. Given the massive control systems inside prisons, it requires significant coordination to overturn prison norms, even temporarily. The collective action taken, and the risks assumed make sense given the stacked odds of prison. Common demands in early twentieth century riots were to dismiss the warden and let prisoners out of solitary confinement.<sup>289</sup> The first major wave of riots in the United States occurred in New York Clinton State Prison in 1929, with up to 1,600 people rioting.<sup>290</sup> The series of riots showed increasing stress within the prisons, and the way that one moment of unrest could impact on others. Demands also became more complex in the 1920s, including better quality food, expanded parole policies, and providing “good time consideration”

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<sup>289</sup> Fox, Vernon. *Violence Behind Bars: An Explosive Report on Prison Riots in the United States*. Westport, Greenwood Press, 1956. Print. 33.

<sup>290</sup> Useem, Bert. *States of Siege: U.S. Prison Riots, 1971-1986*. Oxford, Oxford University Press, 1997. Print. 19.

rather than reliance on parole board rulings.<sup>291</sup> The 1920s riots led to a new wave of construction and fortification, designed to be escape-proof and riot-proof.<sup>292</sup>

In 1952 prisoner militancy launched a second period of American prison riots, 40 uprisings over an 18 month period. More riots occurred over a year and a half than had occurred in the previous 25 years.<sup>293 294</sup> Among the largest uprisings of this period was the riot at Ohio State Penitentiary on October 31, 1952. This riot involved 1,200 people, burnt eight buildings and caused over a million dollars of damage.<sup>295</sup> The Michigan State Prison uprising in April 1952 involved over 1,600 prisoners and caused \$2.5 million in damage.<sup>296</sup> Although these actions provoked increased awareness of poor housing in the prisons, the news reports dismissed the prisoners as irrational actors.<sup>297</sup> It is part of the prison system's containment approach to delegitimize resistance. Close examination of the demands made by prisoners shows a developing political movement at different points in the twentieth century. While the demands at this point were less sweeping than would later develop into the 1960s and 1970s, they provided an intensification of what prisoners aspired to, after smaller-scale demands claims proved inadequate. The typical demands of prison rioters in this period were for less brutality by guards, revision of solitary confinement policies, more humane restraint equipment, better dental care and creation of a permanent council elected by prisoners.<sup>298</sup> While these were significant changes

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<sup>291</sup> Fox, 34

<sup>292</sup> Useem, 19

<sup>293</sup> Useem, 10

<sup>294</sup> The disturbances included two uprisings at the penitentiary of New Mexico within a six-month period, involving seizure of hostages, with demands for removing certain guards and abolishing the underground dungeon for punishment. (Useem, 86)

<sup>295</sup> Fox, 26

<sup>296</sup> Fox, 28-9

<sup>297</sup> Useem, 10

<sup>298</sup> Berkman, Ronald. *Opening the Gates: The Rise of the Prisoners' Movement*. Lexington, Lexington Books, 1979. Print. 35-6.

that were sought, they stopped short of major structural shifts. As one historian has described, for all their intensity there were limitations to the ambition of these riots: “What was at stake in the riots of the 1950s was not the architecture of the house, but the way it was kept.”<sup>299</sup> Increased organization of prisoners and decreased legitimacy to authoritarian systems helped to eventually increase the total prisoner activity, and built demands that called into question the need for prisons.<sup>300</sup> The increasing use of solitary confinement in the middle of the twentieth century also provoked resistance of prisoners in the prisons and in the courts.<sup>301</sup> Continued changes in goals and rhetoric show the centrality of prisoners’ experiences in understanding prisons. The presence of these ideologies and debates also further shows that these actions were not impulsive violent outbursts.

There were twenty-seven prison riots across the United States in 1970 and 1971. The most influential was Attica. The Attica rebellion was inspired by the civil rights and black power movements. Many of the participants were members of Black Panthers, Nation of Islam, Nation of Gods and Earths, and other black nationalist groups.<sup>302</sup> Given the common pattern of underseeing and delegitimizing prisoner resistance, it is crucial to see that Attica involved more than the violent uprising of September 9, 1971. It is important to identify the long pattern of similar and varied tactics that people used because of their shared frustrations and communal links. People incarcerated at Attica believed that the conditions of the prison made resistance inevitable.<sup>303</sup> The Attica uprising was preceded by a sit-down strike by 450 prisoners in the metal shops in the prison, on July 19, 1970. This strike succeeded in tripling the wage, although

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<sup>299</sup> Berkman, 39

<sup>300</sup> Berkman, 39-40

<sup>301</sup> Guenther, 129

<sup>302</sup> Hill, 137

<sup>303</sup> Clark, 3



organizers of the action were dispersed to other prisons. Other instances of collective action and protest preceded the uprising, and built up the experience of prisoners at Attica.<sup>304</sup> During the uprising, the prisoners at D Yard established an inmate counter-society, including a high degree of formal organization, established political principles and democratic participation.<sup>305</sup> Leaders of the riot conducted open votes on key decisions, and maintained the decision of votes that went against their preference.<sup>306</sup> The presence of these collective processes is useful in countering assumptions that prisoners were basically opportunistic and predatory, and that riots are the ultimate expression of the threat. The pattern, seen in Attica and many other riots, of how prisoners became a threat to the state but not to each other provides a crucial alternate history. State governor Rockefeller was concerned that Attica-style rebellions could become an epidemic in prisons across the country and wanted to retake the prison in a way that would send a strong message. In preparation for the assault state police were armed with .270 caliber rifles and bullets banned by the Geneva Convention.<sup>307</sup> In the retaking guards shot 128 people. Their bullets killed 29 prisoners and 9 hostages, were killed.<sup>308</sup> Injured prisoners were often denied medical care and tortured.<sup>309</sup> The process of retaking prisons is subsequently used to argue for the viciousness of prisoner behavior. This aspect appears in a particularly vivid form with the extended efforts by state authorities to attribute the deaths of hostages they killed to prisoners' violence rather than their own.

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<sup>304</sup> Useem, 27

<sup>305</sup> Useem, 34

<sup>306</sup> Useem, 36

<sup>307</sup> Thompson, 157

<sup>308</sup> Thompson, 187

<sup>309</sup> Thompson, 209

The Attica uprising had considerable long term impact. After the massacre, there were widespread rallies across and beyond New York.<sup>310</sup> By October there had been teach-ins on Attica at over 20 college campuses.<sup>311</sup> The Attica uprising inspired prisoner resistance at other prisons. On September 15 prisoners began a lunchtime protest at Fulton County Jail (Atlanta), a protest at Cuyahoga County Jail (Cleveland), planned rebellion at Wayne County Jail (Detroit), start of a strike for prison reform at Norfolk (Massachusetts), rebellion at Federal Reformatory for Women in Alderson (West Virginia) and attempted hostage taking and protest at Baltimore City Jail.<sup>312</sup> In October there were further prisoner uprisings at Illinois State Penitentiary in Pontiac, county courthouse jail in Dallas, Rahway (New Jersey) and at the Maine State prison. In subsequent months there were continued upheavals across prisons and jails, including a 10 hour rebellion in the New York City jail on December 28, 1971. The rebellion ended after winning reform of the bail system and setting a 90 day limit for detention. Attica also inspired a rebellion by Paris prisoners.<sup>313</sup>

Both prisoners and prison authorities recognized the stakes of memory and continued activity after this uprising. The state launched a series of high-profile trials against prisoners involved in the resistance. Authorities also sought to intimidate prisoners into testifying against each other.<sup>314</sup> This acted both to increase penalties against individuals, as well as to promote divisions within the prisoners' movement. On the flip side, the Attica uprising led to significant improvements in conditions in the New York prison system. Among the improvements were less restrictions on mail, less time spent in the cells, expansion of educational programs and creation

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<sup>310</sup> Thompson, 256-7

<sup>311</sup> Thompson, 258

<sup>312</sup> Thompson, 259

<sup>313</sup> Thompson, 260

<sup>314</sup> Thompson, 294

of an inmate grievance procedure.<sup>315</sup> As Heather Ann Thompson wrote in *Blood in the Water*, “While many scholars and pundits have considered the 1960s the heyday of prisoner rights, and the 1970s the decade of unmitigated backlash, the decade immediately after the Attica rebellion saw vital victories for prisoners across the country in general and in Attica in particular.”<sup>316</sup>

Attica also shows that different tactics often influence and blur into each other in the groundwork formed by major mobilization. After the rebellion, individual prisoners began hunger strikes from October through December 1971, and 506 prisoners attempted to sue the state for damages.<sup>317</sup> Individual opposition continued after the end of collective resistance.

As the twentieth century ground to a close, the increasing numbers of prisoners and escalating harshness of prison conditions has provoked prisoner opposition efforts. In 1993 prisoners launched a major uprising at Lucasville prison, in Ohio, lasting 11 days.<sup>318</sup> During the disturbance nine prisoners and one guard died.<sup>319</sup> The rebellion was provoked by overcrowding and repressive conditions, including “Operation Shakedown,” a program by the new warden that included destroying prisoners’ property in front of them and imposing arbitrary rules. It was also preceded by an attempt by prisoners at Lucasville to form an union in 1987.<sup>320</sup> Riots do not emerge out of nowhere. Prior actions by guards and other actions by prisoners built up the relevant conditions. Staughton Lynd wrote of this period: “The single most remarkable thing about the Lucasville rebellion is that white and black prisoners formed a common front against the authorities.”<sup>321</sup> More than the physical force of prisoners, the potential of collective support

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<sup>315</sup> Useem, 57

<sup>316</sup> Thompson, 559-60

<sup>317</sup> Thompson, 299.

<sup>318</sup> Lynd, Staughton. *Lucasville*. Oakland, PM Press, 2011. Print. 14.

<sup>319</sup> Lynd, 62

<sup>320</sup> Lynd, 41

<sup>321</sup> Lynd, Staughton. *From Here to There*. Oakland, PM Press, 2010. Print. 198.

from outside the prison was challenging to the prison regime, and consequently provoked major response. Over a thousand members of the Ohio national guard were activated during the conflict.<sup>322</sup> The uprising ended in a 21 point negotiated surrender that included no reprisals and ending arbitrary restrictions. The state violated this agreement, singled out some prisoners as leaders, and pushed for death sentences and harsh reprisals.<sup>323</sup> The trials were essentially political, acting to link the rebellion's organizers with the deaths, to execute leaders of the rebellion and to demonize resistance in this form. Yet despite this pushback, prisoners have continued to employ this tactic, and others.

### **Group Hunger Strikes**

For this section I define hunger strikes as multiple individuals refusing food, or food and water, with specific demands that they advance against prison norms. Pauline Jacobs' writing in *Force-Feeding of Prisoners and Detainees on Hunger Strike* explores crucial motivation behind why prison authorities respond so forcefully to hunger strikes. Beyond the justifications of ensuring survival for prisoners, crucial factors include public scrutiny and fear of blackmail from prisoners' actions. This can cause prison officials to adopt more rigid attitudes, and to impose isolation of prisoners, to "take away the opportunity for the hunger striker to demand attention for his situation."<sup>324</sup> This factor also motivates prison intervention through force-feeding. Such a tactic can help the prison avoid negative publicity, and to suppress the power of the hunger strikers. In U.S. prisons compared with European, prison authorities made more explicit

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<sup>322</sup> Powell, Lisa. "7 Things to Remember About the Lucasville prison riot." *Dayton News*, 17 April 2013, p. 2.

<sup>323</sup> Lynd, Staughton. *Lucasville*. Oakland, PM Press, 2011. Print. pp. 85.

<sup>324</sup> Jacobs, Pauline. *Force-Feeding of Prisoners and Detainees on Hunger Strike: Right to Self-Determination versus Right to Intervention*. Cambridge, Intersentia Publishing Ltd, 2012. Print. pp. 137.

presentation of the need for preserving internal order when dealing with hunger strikes. This priority is used by the state to justify forceful repression of even small-scale hunger strikes.<sup>325</sup> The harsh response by the state to hunger strikers is logical because of the nature of the threat. It is less a material threat than riots, but greater in public relations impact. As legal restrictions and harshening disciplinary sanctions in the late twentieth century created increased barriers for individual resistance, effective prisoner litigation and riots, hunger strikes have become increasingly widespread. Although this tactic inherently presents less leverage compared with successful litigation or work stoppage, it has built moral legitimacy and has produced gains. These gains were more likely in connection with other tactics and with persistent outside support. The 2013 Pelican Bay Strikes showed the upper level of what resistance in this form has looked like. While singular in some important respects, this action shows important aspects about this tactic more generally.

In more recent decades, the intensification of mass incarceration had increasingly been discussed as a problem in left wing, and even some right-wing thought. The most intense confrontation on these conditions however has not been outside protest or political change, but in activity taken by prisoners, particularly the long buildup to mass hunger strike at Pelican Bay Prison in California in 2013. This followed a hunger strike by over six hundred prisoners, in opposition to torturous solitary confinement.<sup>326</sup> The Short Corridor Collective was formed among two hundred prisoners deemed “worst of the worst” at Pelican Bay prison, and isolated in the Short Corridor in 2006.<sup>327</sup> After reading about the Irish prisoner hunger strikes of 1980-1, the

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<sup>325</sup> Jacobs, 138

<sup>326</sup> Abramsky, Sasha. *American Furies: Crime, Punishment, and Vengeance in the Age of Mass Imprisonment*. Boston, Beacon Press, 2007. Print. 130.

<sup>327</sup> Casella, Jean. *Hell Is A Very Small Place: Voices From Solitary Confinement*. New York, the New Press, 2016. Print. 87.

group discussed and decided on a hunger strike. The California prison hunger strikes were also inspired by political writing by Che Guevara, Howard Zinn, Naomi Wolf, Thomas Paine, and others.<sup>328</sup> In 2012 they wrote *An Agreement To End Hostilities*, calling for an end to all conflict between different racial groups to secure collective improvement against prison system.<sup>329</sup> The coalition included members of the Black Guerilla Family, the Mexican Mafia, Nuestra Familia and the Aryan brotherhood on the inside. They gained outside support from California Prison Focus, Critical Resistance and Legal Services for Prisoners with Children. Part of the strategic potential of the hunger strike was the threat it made to synchronize the hundreds of suicides that had occurred in California isolation units over the past twenty years, in a way that would be harder to overlook.<sup>330</sup> On August 19, 2013, U.S. District Court Judge Shelton Henrison ruled that prisoners on hunger strike in California could be force fed, even when they had signed an advance directive refusing medical resuscitation.<sup>331</sup> The 2013 hunger strike lasted 3 months, and ended after prisoners were promised a legislative hearing and a new step-down program to provide an end to solitary.<sup>332</sup> It involved 30,000 prisoners at the height.<sup>333</sup> The hunger strikers had spread communication through the adjoining pods, but they needed outside support to reach people in other prisons, and used communication with a support group in Oakland called Prison Focus to that end.<sup>334</sup> They also filed a class action lawsuit. In 2015 the named plaintiffs agreed to a comprehensive settlement that fundamentally altered many aspects of the cruel and unconstitutional use of solitary confinement. One year after the settlement, Pelican Bay's long-

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<sup>328</sup> Casella, 90

<sup>329</sup> Casella, 89-90

<sup>330</sup> Reiter, 195-6

<sup>331</sup> Casella, 214

<sup>332</sup> Casella, 144

<sup>333</sup> Reiter, 197

<sup>334</sup> Grubacic, 217-18

term (more than ten years) solitary population had dropped 99 percent from 513 to 5. Between December 2012 and August 2016, California's entire solitary confinement population had fallen by 65 percent from 9,870 to 3,471.<sup>335</sup> The clear gains in material conditions show why so many prisoners in so many contexts acted against prison norms. It also shows an example where a conscious tactic by the state, isolating people through gang divisions, backfired.

Hunger strikes are a tactic that prisoners used in many circumstances and continues to use. In 2015 hundreds of prisoners at the U.S. Penitentiary Administrative Maximum (ADX) went on hunger strike and endured forced feeding.<sup>336</sup> On March 30, prisoners at Kinross Correctional Facility (Michigan) held a hunger strike.<sup>337</sup> In August 2016, a group hunger strike by 26 female immigrants detained at the Berks County Residential Center (Pennsylvania) lasted over a week, condemning the extended detention of them and their children.<sup>338</sup> The effectiveness of this tactic has varied widely, but the continued repression suggests that there is potential in the disruption.

As strong as they are, and as many tools as they have, prison authorities do not feel stronger enough to simply ignore hunger strikes. They consistently launch a response, although this response is usually not a concession to demands. It may be thought of as the moral opposite of a prison riot--directing violence inward rather than at the guards--but looking at the time periods when these moments occur, we can perceive a more pragmatic context. Prisoners engage in tactics that they think will be effective. Hunger strikes have preceded or followed riots as

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<sup>335</sup> Lynd, Staughton. *Moral Injury and Nonviolent Resistance: Breaking the Cycle of Violence in the Military and Behind Bars*. Oakland, PM Press, 2017. Print. 141.

<sup>336</sup> Casella, 196

<sup>337</sup> Anonymous. "Challenges." *The Incarcerated Worker*, issue 4. 2016. pp. 5.

<sup>338</sup> Anonymous. "Recent Hunger Strikes". *Prison Action News*. Volume 10, Issue 1. 10 February 2017, pp. 21.

alternate ways that people attempted to create impact. A consistent issue is that hunger strikes are relatively visible, but the process of frustration, agitation and co-ordination that makes them happen are very hard to see. Records of these motivations are rarely preserved. Understanding this context is particularly useful when looking at the recent decades of Wisconsin prisoner organizing, where riots and work stoppages have not occurred, and most collective resistance involves attempted hunger strikes. It is useful to assess these factors in reading in more significance to the pattern of hunger strikes as part of prisoner resistance.

## **Strikes**

One effective way of opposing prisons is to shut them down. The main techniques for doing that are riots and work stoppages. Since a large portion of the labor of prison is done by prisoners themselves, coordinated strikes put direct pressure on the operation of these facilities. This is an aspect of prisoner resistance that's not discussed as frequently as riots, since it doesn't match stereotypes of inherently violent, uncontrolled convicts. Yet strikes are incredibly significant in understanding the history of prisons, and it's a tactic that has become more widespread over the past ten years. The revival of the strike as a prominent prisoner tactic in the 21st century reflects both the developing tensions of mass incarceration as well as a situation when the potential of riots and litigation are greatly constrained.

One of the first major U.S. prison strikes occurred at Sing Sing prison in 1961. At this site, 1,451 prisoners went on strike to protest the prison administration's policy of reducing the sentences of prisoners for good behavior.<sup>339</sup> The American Correctional Association conducted a survey of prisons in 1969, and found the presence of a "new type of prisoner, presenting

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<sup>339</sup> Olivero, James. *A Theoretical and Stage Model Analysis of Prison Riots*. 1988, South Illinois University. Ph.D. Dissertation. Print. pp. 343.



politically radical young prisoners as stirring up problems against law and order.<sup>340</sup> The Control Unit, an isolation facility within the prison, was first introduced in 1972 as a response to a labor strike by prisoners at Marion Penitentiary.<sup>341</sup> Control units have since become standard methods of preempting resistance and intensifying control across super maximum facilities.<sup>342</sup> In December 2010 prisoners in ten facilities in Georgia launched a major prison strike. Prisoners across racial and religious groups coordinated using contraband cell phones and refused to work. They demanded wages for their labor, communication with families, education and an end to solitary confinement.<sup>343</sup> They also asserted that the DOC should stop treating prisoners like animals, and provide programs that address basic human rights.<sup>344</sup> The strike was repressed by the Georgia Department of Corrections, including beatings, lockdown, and moving the leaders to other facilities.<sup>345</sup> Again, the way that the state acts is revealing, showing the significant repression that can occur even when prisoners engage in non-violent resistance. As much as prison authorities present unrest as sporadic and random, their actions show that they understand it to be deliberate, intentional and a permanent feature of prison life.<sup>346</sup>

From 2014 to the present most of the regions that have seen major prisoner uprisings and collective movements have seen further development of this activity. There have also been increased unrest in other states, increasing outside support of these movements, with greater

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<sup>340</sup> Thompson, 562

<sup>341</sup> Guenther, 130

<sup>342</sup> Guenther, 131

<sup>343</sup> Anonymous. "Incarcerated Workers Take the Lead: Prison Struggles in the United States, 2008-2016". *Incarcerated Worker*, 2016. pp. 6.

<sup>344</sup> Guenther, 126

<sup>345</sup> Anonymous. "Incarcerated Workers Take the Lead: Prison Struggles in the United States, 2008-2016". *Incarcerated Worker*, 2016. pp.6.

<sup>346</sup> Anonymous. "Incarcerated Workers Take the Lead: Prison Struggles in the United States, 2008-2016". *Incarcerated Worker*, 2016. pp. 3.

independent media, writing to prisoners, and outside demonstrations supporting specific prisoner campaigns. There has also been expanded national coordination, despite the inherent difficulty of linking up systems of prisoners. Since 2014 the Free Alabama Movement has sought to explicitly create a prisoners' union, and to use prisoner strikes to fight the profit incentive of the prison system.<sup>347</sup> Their standpoint is that nonviolent work stoppage will create a financial burden to the Department of Corrections that will push them to be more receptive to demands for basic human rights.<sup>348</sup> As Eric Fink concludes in his overview of incarcerated workers organizing in the United States, "The lesson of this history is that, with or without legal support, incarcerated workers, like workers on the outside, have persisted in organizing and acting through unions as a means of improving the conditions under which they labor and live."<sup>349</sup> Uncovering the use of this tactic is important because it has an immediate effect on the prisons. It's also useful to develop a new understanding of how prisoners understand and react to their experience.

On September 9, 2016, prisoners across the United States made a national prisoner strike, estimated as the largest prisoner strike in United States history, with over 46 prisons experiencing work stoppages, other forms of disruption or preemptive lockdown. The Incarcerated Workers Organizing Committee estimated 57,000 or more prisoners acted or were locked down to prevent them from acting.<sup>350</sup> Prisoners called for the strike to be on the 45<sup>th</sup> anniversary of Attica uprising, and was planned based on recent resistance movements in Alabama, California, Texas. Different incarcerated people calling for the strike identified the value of putting direct economic pressure on prisons, rather than appealing to the conscience of

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<sup>347</sup> Fink, Eric. *Union Organizing & Collective Bargaining for Incarcerated Workers*, 52 Idaho L. Rev. 953 (2016). pp. 972.

<sup>348</sup> Anonymous. "Movements." *Incarcerated Worker* Vol. 1 No. 1 (February 2015). pp. 24.

<sup>349</sup> Fink, 973

<sup>350</sup> Firehawk, 1

people on the outside.<sup>351</sup> Among the challenges in building up collective action is opposing the logic of the privilege system, which divides prisoners and buys off prisoners.<sup>352</sup> In California State Prison, participants in action were mostly non-employed, so they took action by fasting in support of work stoppages.<sup>353</sup> In evaluation of the campaign after the fact, a Texas prisoner involved concluded that strikers and outside supporters needed to prepare food supplies, stamps, lawyers and cell phones before taking action.<sup>354</sup> A Louisiana prisoner said they needed more informed, structural organizing, with publications and co-ordination to sustain shorter prisoner flare-ups. Some people viewed it crucial to get more systematic outside support, including countering the narratives made by the prison authorities.<sup>355</sup>

### **Prisoner Self-Organizing**

Prisoner self-organization has often taken the mode of prisoner unions, but it has also occurred in different modes such as prisoner publications. Prisoner organizations were crucial in allowing other modes of resistance and shifting the routine model of prison hierarchy. From prisoner newsletters in the early 20th century to overt unionization in the 1970s to revived unionization in the 2010s, internal prisoner institutions were crucial in developing collective consciousness and continuing resistance against imposed legal limits. The more recent manifestations of prisoner unions have also been a crucial aspect of how continuity with earlier struggles, and with a range of organizing tactics, continued.

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<sup>351</sup> Firehawk, 6

<sup>352</sup> Firehawk, 11

<sup>353</sup> Firehawk, 22

<sup>354</sup> Firehawk, 13-14

<sup>355</sup> Firehawk, 16-17

Not all the modes of prisoner self-organization were directly challenging to prison authorities. Prison publications were widespread in the U.S. until the 1960s and helped prisoners to express themselves and circulate journalism on aspects of prison life.<sup>356</sup> Prisoners also had interest in circulating their publications to outsiders. The editors of the publications were usually prisoners.<sup>357</sup> The prison periodicals were of higher quality than generally expected by outside observers, containing a wide variety of topics and some stylistic deftness.<sup>358</sup> Wardens tended to be supportive of these publications until the 1960s.<sup>359</sup> In the earlier period the possibility of prisoners coming together and expressing themselves wasn't perceived as threatening. A wide variety of sizes and styles existed in these texts, including pocket-size, magazine sized and tabloid sheet size.<sup>360</sup> The first known prison publication was the Summary, at Elmira Reformatory in New York, 1883.<sup>361</sup> As of 1942, 65 state and federal prisons, 48.5%, had a publication.<sup>362</sup> Some publications existed for the benefit of the institution's reputation, with the warden expecting positive feedback.<sup>363</sup> The content of the papers included humor, sports news, editorials, requests for correction of penal laws, chapel announcements, poetry, work talk, fiction, entertainment announcements, world news, book reviews, prison statistics and famous quotations.<sup>364</sup> Recovering the history of this period when prisoner self-expression flourished is useful, showing that incarcerated people are capable of defining themselves, something that the

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<sup>356</sup> Henrich, Hubert. *American Prison Publications*. 1943. University of Wisconsin Press. Master's Thesis. Print. 8.

<sup>357</sup> Henrich, 10

<sup>358</sup> Henrich, 128

<sup>359</sup> Henrich, 132

<sup>360</sup> Henrich, 13

<sup>361</sup> Henrich, 23

<sup>362</sup> Henrich, 30

<sup>363</sup> Henrich, 42

<sup>364</sup> Henrich, 44-5

normal discourse on prisons does not prepare members of the public to accept. In contrast, the dominant pattern of representation is to treat prisoner activity as self-interested and predatory. As part of this process authorities viewed collective expression of prisoners as larger-scale deception and a predatory movement. Much of the behavior of prison authorities in this sphere makes sense as not just repression of prisoner dissent, but also delegitimizes it in ways that make the public hostile or indifferent to these challenges. This representation of prisoners by authorities will be explored in greater and more specific detail in the chapter on Waupun. It is crucial to note here that public attitudes are not formed in a vacuum. Instead they are shaped in large part by the efforts of prison administrators to present the issues in a certain way, as a necessary tool to maintain public support and public funding for increasingly costs repressive apparatuses.

One of the most frequently repressed but enduring forms of prisoner organization was their attempts to form unions. In the early twentieth century union officials in the American Federation of Labor made plans to assist prisoners at New York's Sing Sing Penitentiary in vocational training and preparing them for membership in the union upon release.<sup>365</sup> This was a significant connection, but it was still an individual appeal. It sought to connect prisoners to unions after they entered outside society. A very different mode of organization appeared in the push towards self-organization and prisoner unions that has emerged out of intensified prisoner struggles. It has also become a major current in prisoner agitation at points when the prison system appears as increasingly unacceptable, both under the impact of black power thought inside U.S. institutions in the 1970s, and in the 2010s under the increasing strain of mass incarceration. This latter period made the need for alternate internal increasingly apparent.

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<sup>365</sup> Fink, 969

Prisoner unionization increased in the 1970s worldwide, although it underwent a sharp legal restriction in the U.S. later in this decade. During this period guards engaged in substantial efforts to prevent prisoner unification, including physical attacks, isolation, intimidation and transfer to remote facilities.<sup>366</sup> In 1974 prisoners at North Carolina Central Prison established the North Carolina Prisoners' Labor Union, filing articles of incorporation, affiliating with the AFL-CIO and seeking to bargain with the prison. The prison officials tolerated individual membership, but made regulations to prevent inmate solicitation of other inmates, bulk mailings about the union or meetings between members of the union.<sup>367</sup> Attempts at retaliation included transferring inmates who filed grievances to different prisons.<sup>368</sup> The union sued, and was decided against in *Jones v. North Carolina Prisoners' Labor Union, Inc.*<sup>369</sup> Prisoners continued attempts at an underground union, but with continued pressure from North Carolina prison system ceased operation in 1981. Yet despite this legal ruling, prisoners continued to organize and build unions.

Since February 2015 the Incarcerated Workers Organizing Committee (IWOC), the prisoner wing of the Industrial Workers of the World, has produced the newspaper *The Incarcerated Worker* sent to IWW members on the inside, written by prisoners. The editor of the newspaper, Sean Swain, faced retaliation by Ohio Department of Corrections, including withholding his blood pressure medicine on February 9, 2015 and cutting off his outside

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<sup>366</sup> Diaz-Cotto, Juanita. *Gender, Ethnicity, and the State: Latina and Latino Prison Politics*. Albany, State University of New York Press, 1996, Print. pp. 154.

<sup>367</sup> Fink, 971

<sup>368</sup> Tibbs, Donald. *From Black Power to Prison Power: the making of Jones v. North Carolina Prisoners' Labor Union*. New York, Palgrave Macmillan, 2012. Print. pp. 151.

<sup>369</sup> Fink, 971

communication starting May 5, 2015.<sup>370</sup> The leading editorial in the fifth issue argued for the critical use of anarcho-syndicalist organization by prisoners, stating:

Prisons function so smoothly largely due to the cooperation of inmates. That cooperation is often incentive through employment opportunities. The fact of the matter is that prisons cannot function so smoothly-or at all-without the cooperation and cheap and often free-labor of prisoners. Most jobs within prisons are filled by prisoners. Officers are outnumbered by prisoners 5 to 1, and sometimes more. 10 kitchen staff members supervise up to 300 inmate workers throughout the workday.<sup>371</sup>

Issue 6 identified several barriers to prisoners organizing, such as prisoner complacency and “egotistical bullshit” including gangs, racism and heterosexism.<sup>372</sup> In many prisons gangs form the dominant form of prisoner organization, and they are able at points to defend their members against harassment by guards, and provide material benefits for its members. Yet there are extensive costs to these structures, particularly the way that they are pitted against rival gangs, focusing energy on other prisoners in ways that ultimately safeguard the overall prison system. For this reason, gang structures do not form a mode of prisoner-lead resistance, and crucial resistance movements from Attica to Pelican Bay have gained ground by suspending and superseding the normal functioning of prison gangs and gang antagonism.

## **Conclusion**

The continued resistance reveals the strength of human connections that are possible for a group judged asocial and inherently selfish. The morphing of different tactics to oppose different systems of control shows the ongoing dynamics of this struggle. This helps uncover important aspects of power and confinement within Wisconsin. In this dissertation I have argued that there is not enough attention paid or legitimacy given to prisoner resistance in the United States.

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<sup>370</sup> Anonymous. “The Pen and the sword”. *The Incarcerated Worker*. Issue 2. (2015). pp. 3.

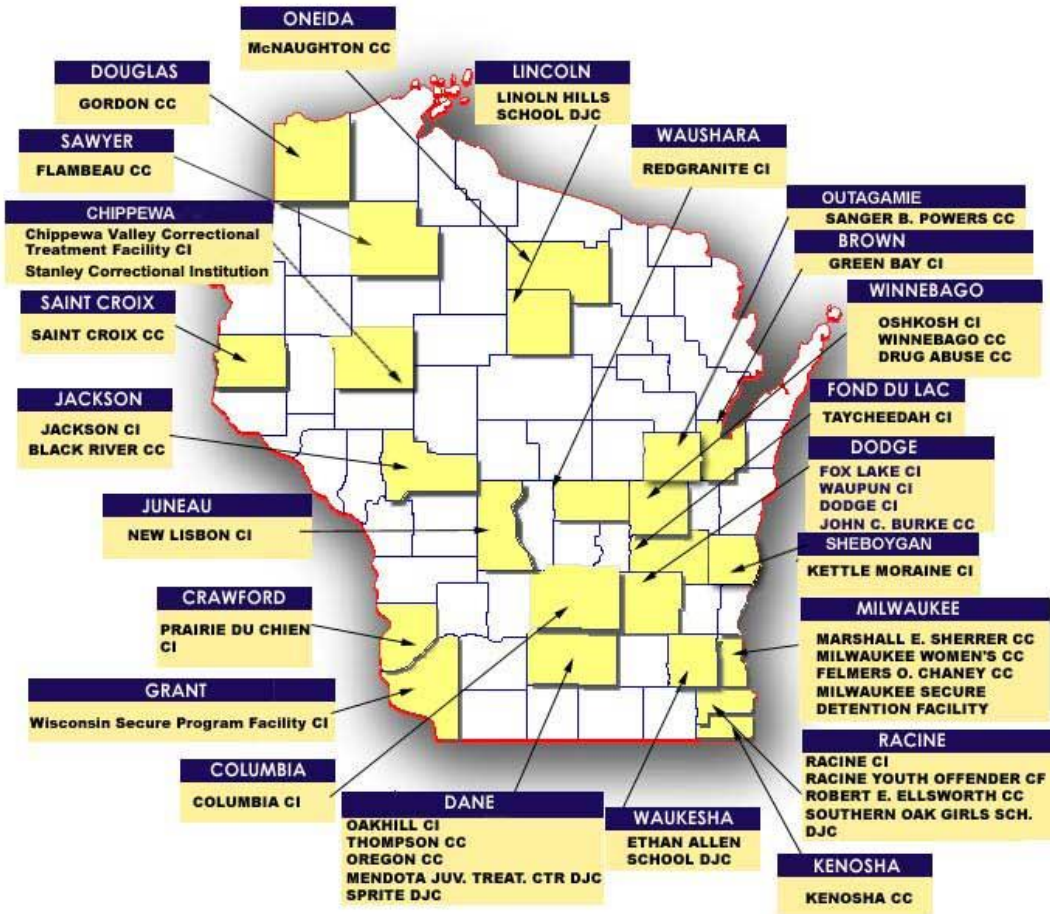
<sup>371</sup> Anonymous. “The Incarcerated Lumpen.” *The Incarcerated Worker*. Issue 5. (2016). pp. 1.

<sup>372</sup> Anonymous. “A Change Has Got to Come.” *The Incarcerated Worker*. Issue 6. (2016). pp. 1.

Rather than seeing prisoner resistance as a rarity, I find continuities and developing patterns of internal opposition. I also argued that correctional authorities have appreciated the significance and potential of prisoner resistance, and even as they have discredited this reality, they have shifted their tactics accordingly. This chapter explored the dynamics of prisoner resistance through different tactics, including litigation, riots, hunger strikes and work stoppages. My analysis also explores the type of communal associations that have made such actions possible. My research found material gains that prisoners achieved with all these tactics, and indications that these actions were deliberate, intentional, and inspired by other acts of opposition from different prisons. I found a fluidity, where different tactics were used in similar situations, and sometimes by the same groups of prisoners. Appreciating commonality and tactical change helps to appreciate the agency that even people under intense levels of control, and to center prisoners more in understanding the history of incarceration.



Chapter V: Overview of the Wisconsin Department of Corrections



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**Introduction**

In this chapter I explore the history of the Wisconsin state prison system from 1850 to the present. My emphasis is on adult prisons, although I briefly discuss juvenile confinement when it is relevant in understanding the expansion of this system, as in the conversion of sites from

<sup>373</sup> Anonymous. Map of Prisons, Correctional Centers in Wisconsin. <https://midwestprisonwatch.wordpress.com/2009/08/05/map-of-prisons-correctional-centers-in-wisconsin/> Accessed 11/28/19.

juvenile to adult prisons. This chapter provides an overview of the Wisconsin adult prison system. This evaluation gives a foundation that prepares for my more detailed look at a maximum security male prison (Wisconsin State Prison/Waupun Correctional) and a maximum security female prison (Taycheedah) in chapters 6 and 7. In this chapter I argue that the Wisconsin prison system has shown consistent coercive pragmatism, that it has sought to maintain authoritarian control with a lot of flexibility on its justifications. Such pragmatism is capable of using different ideological justifications, without binding the prison regime to any of them. Because the prison has not been bounded by fixed ideology, the Wisconsin DOC has acquired new options for regulating prisoners as it increased its infrastructure. This underlying facet has driven specific administrative and disciplinary code policy changes. It is more crucial than any single shift, as it has allowed the prison to maintain its basic authoritarian character even as its scale massively increased from the 1970s on under mass incarceration. While the main patterns within Wisconsin across the 19th, 20th and 21st centuries show an ability to adapt to new conditions and critiques, there is also a legacy of internal resistance to these patterns, which I analyze in a separate chronology at the end of this chapter. Tensions against the Wisconsin prison system developed primarily from opposition by prisoners to the increasing severity of their confinement. The prison system has shown an ability to repress discontent and maintain control, but challenges continue. This sequence raises the possibility that the Wisconsin DOC's coercive pragmatism may be insufficient long-term.

Despite some distinctive aspects, Wisconsin prison system has developed in similar patterns to other states in the essentials. Wisconsin prisons deprived prisoners of resources and authorities pragmatically adapted the coercion they imposed. Prisons have across the twentieth century been attention starved, developing as one of the most opaque of government institutions.

This dynamic has created a space for prisons to expand and innovate with policy that affects conditions of thousands of people with relatively little outside oversight. In 1926, the rules for the prisoners at the Wisconsin State Prison included this language “All necessary means shall be used, under the direction of the Warden, to maintain order in the prison, enforce obedience, suppress insurrections and effectually prevent escapes, even at the hazard of life.”<sup>374</sup> This aspect is an ongoing priority to the system. The prison presents itself as an efficient regime that improved in rational understanding of and control over prisoners. This development was always more partial than the prison regime presented, and came at a major cost to prisoners.

General histories of Wisconsin have not commonly addressed the impact of the prison system. One can search in vain through Larry Gara’s *A Short History of Wisconsin*, Richard Current’s *Wisconsin*, David Tehlen’s *The New Citizenship* or Justus Paul’s *The Badger State* for an evaluation of the role in incarceration and penal politics, or even for the word “prison” anywhere in the index. Histories of abolitionist sentiment in the region such as Michael McManus’ *Political Abolitionism in Wisconsin, 1840-1861* address chattel slavery and the concern of people towards it, but convict leasing and New Jim Crow mass incarceration are not part of typical histories in the same way. Wisconsin would look very different in the absence of prisons, yet their presence is not recognized as part of Wisconsin identity. Central to this presentation of folksy Wisconsin identity is the idea of civility, an application of “Midwest nice” a shallow pattern of politeness. Under a common depiction this aspect is the essential Wisconsin character that has recently been shifted by the 2008 economic depression, the rise of the Tea Party and the building of resentment through Scott Walker’s Wisconsin. When we include the

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<sup>374</sup> Lee, Oscar. *Wisconsin State Prison: Rules for the Government of Prisoners*. Madison, Wisconsin DOC. 1926. Print. pp. 4.

study of prisons in understanding Wisconsin's social history, we see how insubstantial this identity has always been. Taking prisoners' experiences seriously and seeing what guards and DOC institutional policies have done to them reveals that Wisconsin civility has always had barbed wire edges.

## **1850-1900**

The purpose of this section is to explore the development of the Wisconsin prison system during the first 50 years of its operation, when its sole facility was the Wisconsin State Prison. A crucial aspect of this overview is exploring ways that the prison's administrative system was less efficient and more turbulent than later DOC history would present. My overview also explores ways that prison organization changed across this period. Examining this time period is useful to complicate this period, as well as to see how the prison system emerged, and how it built to a point where it underwent massive expansion across the twentieth century. As I argue that the overall trajectory of the Wisconsin Department of Corrections was one of growing possibilities and flexibility, so looking at the complexities and tensions of the period when the prison system was limited to a single facility makes that contrast clearer.<sup>375</sup>

The development of the prison system in Wisconsin was a result of pre-existing pressures, and an administrative push to coordinate incarceration in more efficient ways. However it took a long time for full bureaucratic mechanisms to develop. In 1839 the Wisconsin territorial legislature passed a statute exploring the need for a central prison, finding that county jails were inadequate for the population. Memorials in 1845, 1846 and 1848 stressed that county jails were expensive, temporary, and lacked provisions putting prisoners to work in productive

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<sup>375</sup> See the appendix at the end of the dissertation for a timeline of the major events in the Wisconsin DOC.

ways.<sup>376</sup> By 1848 state governor Nelson Dewey campaigned for a prison, condemning the conditions of demoralizing inactivity for prisoners.<sup>377</sup> In 1851 the first prison in Wisconsin opened, called the Wisconsin State Prison, and subsequently renamed Waupun Correctional Institution.<sup>378</sup> I explore this prison in detail in a later chapter of this dissertation. A perceived gap lead the state to develop additional prison infrastructure. From 1851 to 1870 the administrative system of state control featured decentralization, lack of a unifying state agency, and the use of trustee positions as political awards.<sup>379</sup>

In its official overview, the Wisconsin DOC claimed that the city of Waupun was selected because of its proximity to transportation and available building materials in the area, yet this claim smooths out controversies involved in the origin.<sup>380</sup> A three-person committee determined the location of prison, two pushing for Waupun, one person voting for Madison.<sup>381</sup> Prior to the selection partisan controversy emerged, with the Whig paper *Milwaukee Sentinel* mocking the desire of Democrats in Madison to put the prison in proximity to them.<sup>382</sup> The Democratic Madison paper *Wisconsin Argus* claimed personal interests were involved in the selection of Waupun as the site for the new prison.<sup>383</sup> The commission took care to choose a location for the prison where, in Governor Dewey's words, "the labor of the convicts would

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<sup>376</sup> Berthrong, Donald. *Social Legislation in Wisconsin 1836-1900*. 1951. University of Wisconsin. Master's Thesis. Print. pp. 76-7.

<sup>377</sup> Langsam, Miriam. *The Nineteenth Century Wisconsin Criminal: Ideologies and Institutions*. Madison, University of Wisconsin, 1967. Print. pp. 34.

<sup>378</sup> Nissen, Kristin. "Prison Points In Time Population 1990-2014". August 2015. PowerPoint. pp. 4.

<sup>379</sup> Berthrong, 88-9

<sup>380</sup> Anonymous. "Department History." *DOC Department History*. doc.wi.gov/Pages/AboutDOC/DepartmentHistory.aspx. (accessed November 20, 2017).

<sup>381</sup> Butterfield, C. W. *History of Dodge County, Wisconsin*. Culver, Page, Hoyne & Co, printers, 1881. Print. pp 513.

<sup>382</sup> Langsam, 51

<sup>383</sup> Langsam, 53-4

come least in competition with the industry of the country.”<sup>384</sup> In an earlier stage of discussions for a potential prison the committee also considered using the federal army post at Fort Winnebago.<sup>385</sup> John Taylor from Waupun was appointed Commissioner by the legislature in 1852 but was removed by Governor Farwell before taking office, and Henry Brown of Fond Du Lac was instead appointed commissioner.<sup>386</sup> In this period there were limited openings for prison officials and only one state prison, so the stakes of internal competition was more severe. Looking at the controversy and partisan conflict in this period helps to uncover instability and fluidity at the heart of this program.

The Wisconsin State Prison expanded rapidly in its early years. In forming the institution Wisconsin adopted the Auburn system and its goals of prison reform.<sup>387</sup> The initial temporary prison construction cost \$4,600, and an estimated \$25,000 to expand and become operational.<sup>388</sup> The first building made for the prison had space for forty beds. In 1852 the prison began incarcerating people, with 27 inmates, 2 of them women.<sup>389</sup> The facility expanded rapidly, and by 1854 it contained sixty seven cells and incarcerated 61 people.<sup>390</sup> In 1855 a special legislative committee recommended that the shoe shop, tin shop and cabinet shop of the prison be let out to contractors. The legislature accepted this and set up the role of Prison Commissioner. Once again the prison authorities pragmatically developing new forms of administration as required.<sup>391</sup>

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<sup>384</sup> Langsam, 37

<sup>385</sup> Langsam, 33

<sup>386</sup> Butterfield, 513

<sup>387</sup> Langsam, v

<sup>388</sup> Butterfield, 513

<sup>389</sup> Anonymous. “Department History.” *DOC Department*

*Historydoc.wi.gov/Pages/AboutDOC/DepartmentHistory.aspx*. (accessed November 20, 2017).

<sup>390</sup> Butterfield, 513

<sup>391</sup> Bennett, 53-54

From early on, there were structural issues and tensions involving the treatment of prisoners. Investigation found that medical care provided at the State Prison and its hospital facilities were both inadequate.<sup>392</sup> Several prisoners later died from an outbreak of smallpox in 1864.<sup>393</sup> The lethality that emerges from conditions shows the high stakes for how the prison built up its infrastructure. In 1854 the new prison became the backdrop for part of a slave-catching controversy. Authorities captured Joshua Glover, a fugitive slave, and imprisoned him in Milwaukee. The abolitionist editor Sherman Booth incited a mob to rescue Glover and transport him to Canada. Police subsequently arrested Booth under the Fugitive Slave Law, and the state held him at the Wisconsin State Prison. This issue became a political controversy, and legislators introduced an Assembly bill (which did not pass) to prevent the federal government from using Wisconsin's prison as a place of incarceration for fugitive slaves or people assisting them.<sup>394</sup> In 1864 a guard shot a prisoner in the head. Legal authorities subsequently exonerated him, finding he had acted in self-defense.<sup>395</sup>

The early history of the prison system in Wisconsin shows significant gaps in bureaucratic process. From 1851 to 1873 political parties appointed the warden of the Wisconsin State Prison. There were a series of scandals and political maneuverings that impacted the administration of the prison.<sup>396</sup> From 1854-55 the state treasury had no money, and it was difficult for the prison to pay contracts or obtain supplies.<sup>397</sup> The institution received 25 cents to

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<sup>392</sup> Brown, Giles. *History of the Wisconsin State Prison*. 1936. University of Iowa. Master's Thesis. Print. pp. 24.

<sup>393</sup> Brown, 25

<sup>394</sup> Langsam, 107-8

<sup>395</sup> Hasse-Schnell, 3

<sup>396</sup> Langsam, 94.

<sup>397</sup> Hasse-Schnell, 2

60 cents per prisoner per day, depending on where the prison employed them.<sup>398</sup> During the 1850s, the warden's position in determining contracts and acting as treasurer presented significant potential for abuse. As Miriam Langsam noted in *The Nineteenth Century Wisconsin Criminal*: "With an inadequate book-keeping system, prison accounts were usually in a state of chaos."<sup>399</sup> The 1857 Wisconsin committees on state prisons attacked the unlimited power of the warden and the potential for graft.<sup>400</sup> The State Board of Charities and Reform, established in 1871, developed increasing scrutiny over the warden's discretion. The State Board of Control included the administration state prisons, dealing with juvenile delinquency, education of deaf children and care for "mental deficiency", including sterilization.<sup>401</sup> The first board in 1871 reviewed jail conditions and found them deplorable. "The Board repeatedly stated the jails were breeding place for crime rather than places of reformation."<sup>402</sup> In 1873 the state replaced the direct election of wardens with a three-man board of directors that oversaw the prison and appointed the warden. This shift ended direct political involvement and built a larger bureaucratic system.<sup>403</sup>

Early wardens of the State Prison asserted that it was a penitentiary, rather than a prison, aiming to reform the criminal rather than just provide punishment.<sup>404</sup> They saw corporal punishment as ineffective and preferred depriving privileges and using solitary confinement as more effective.<sup>405</sup> Edward McGarry (warden from 1856-7) pushed for more severe sanctions,

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<sup>398</sup> Hasse-Schnell, 2

<sup>399</sup> Langsam, 108-9

<sup>400</sup> Langsam, 110

<sup>401</sup> Bennett, 1

<sup>402</sup> Bennett, 4

<sup>403</sup> Langsam, 95

<sup>404</sup> Langsam, 131

<sup>405</sup> Langsam, 132



greater corporal punishment and minimizing education.<sup>406</sup> The subsequent warden, Edward MacGraw, sought prison reform and attempted to expand a system of clear rules and rewards for positive behavior.<sup>407</sup> Reform efforts in Wisconsin prisons in the 1850s and 1860s focused heavily on the temperance effort, seen as a crucial aspect of moral reformation.<sup>408</sup> Miriam Langsam claims that by 1870: “Waupun received national recognition as one of the outstanding, if not the finest, reforming prisons in the United States.”<sup>409</sup> This claim should be nuanced, however.

A crucial aspect of the developing prison system at the State Prison was the dominance of convict labor. In 1876 the Wisconsin legislature passed a law authorizing the warden of the State Prison to lease out the labor of prisoners, in an effort to make the prison self-sufficient.<sup>410</sup> Populist opposition to the prison contract system grew in the 1880s with the rise of stronger labor unions in the state, and in particular with the Knights of Labor’s prominence after 1883. During this period popular opposition grew both to the leasing of prison labor and to the entire production of prison made goods.<sup>411</sup> Convict labor developed despite counter-acting the goals of using the prison for reform, the articulation of idealistic theories, and efforts by reform-focused wardens at the State prison.<sup>412</sup> As Miriam Langsam describes it: “The problem of convict labor, more than any other aspect of prison life, showed the failure of theory and prison philosophy when they conflicted with budgetary considerations....Profit rather than reform became the main goal at the Wisconsin State Prison.”<sup>413</sup> This aspect is a key point in the history of prisons in

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<sup>406</sup> Langsam, 136

<sup>407</sup> Langsam, 138

<sup>408</sup> Langsam, 153

<sup>409</sup> Langsam, 164

<sup>410</sup> Berthrong, 266

<sup>411</sup> Berthrong, 267-8

<sup>412</sup> Langsam, 165

<sup>413</sup> Langsam, 165

Wisconsin. It shows a period of different motivations underlying the administration of the Wisconsin State Prison. This analysis further shows the way that idealistic, altruistic-minded perspectives could exist yet were subservient to the structural needs of prisons. The fact that there were idealistic aims and justifications helped to gloss over and maintain the prison system better than overt callousness would have.

In 1898 the state created the Wisconsin State Reformatory. When the State of Wisconsin built this Reform School, the first in the state, it was the twenty-second such institution in the United States.<sup>414</sup> The new facility was constructed by a convict work crew from the Wisconsin State Prison.<sup>415</sup> This model of saving labor costs for construction shows the coercive pragmatism that appears across the history of the Wisconsin prison system in different ways. Located 80 miles from the Wisconsin State Prison, it was a less isolated facility. It was only ten miles from the town of Green Bay, which at the time had a population of approximately 30,000.<sup>416</sup> The purpose of the facility was to provide confinement for people beyond the juvenile age but too young to be sentenced with older men. According to the 1897 statute, its aim was: “to correct and remove those criminal and evil tendencies and influences which render the persons confined there a menace to society.”<sup>417</sup> At this point Wisconsin prison authorities presented themselves as effective not just in large-scale protection of society, but on the level of individual character. The

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<sup>414</sup> Nissen, 4

<sup>415</sup> Anonymous. “Department History.” *DOC Department History* doc.wi.gov/Pages/AboutDOC/DepartmentHistory.aspx. (accessed November 20, 2017).

<sup>416</sup> Anonymous. “Population of Green Bay”. *Population US. 2014*. <http://population.us/wi/green-bay/> (accessed July 10, 2018).

<sup>417</sup> Kramer, B. P. *Green Bay Correctional Institution: Historical Miscellany, 1934-1970*. Madison, State Department of Public Welfare, 1944. Print. pp. 4.

original law provided for confinement of people from 17 to 30 years old for commission of felony.<sup>418</sup>

## 1900-1950

In this section I explore the development of increased infrastructure across the Wisconsin department of corrections in the early twentieth century, as well as significant internal debates on what the purpose of this developing system should be. A crucial shift was the movement from religious aims of moral improvement to more bureaucratic justifications. However, the Wisconsin prison system was still a small fraction of what it would become at the close of this century. In this section I also explore some of the human costs that accompanied the prison system even before mass incarceration. In exploring the significant internal debates and restructuring in this period, I expand my argument on how Wisconsin corrections grew pragmatically with how it imposed confinement. I explore how it increasingly became possible for the prison regime to be many things at once.

Across the twentieth century a variety of sources show expansions of scale and deteriorating mental conditions in the prison. In the 1904 Census, Wisconsin recorded 1,336 prisoners, 61.5 out of every 100,000 people, ranking 40<sup>th</sup> out of U.S. states.<sup>419</sup> At this time 96.8% of prisoners in Wisconsin were white.<sup>420</sup> In 1921 Taycheedah Correctional Institution opened as a maximum security prison for women.<sup>421</sup> I explore more details of this prison in chapter six. Prison was still only a portion of the total institutional capacity. In 1937, there were 1,950

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<sup>418</sup> Kramer, 4

<sup>419</sup> Anonymous. "Prisoners and Juvenile Delinquents in Institutions 1904". *United States Census Bureau*. <https://www.census.gov/library/publications/1904/dec/prisoners-1904.html> (accessed November 9, 2017). pp. 13

<sup>420</sup> *Ibid*, 39

<sup>421</sup> Nissen, 5

employees of state institutions, with 567 in corrections, 189 were at the Waupun facility and 91 at Green Bay. In 1938 the reported capacity at Green Bay was 652. At this time the prison held 503 inmates. By 1942 the number of Green Bay prisoners fell to 410, due in part to the opportunities for employment provided by the war.<sup>422</sup> In 1942 a prison report concluded the hospital showed infrastructure problems and that the facility needed more vocational training.<sup>423</sup> The prison regime did what was needed moment to moment rather than following consistent plans.

Secretary of State Prison orders in the 1930s and 40s show some revealing individual experiences. In 1939, Moreton Gasper, sentenced to Wisconsin State Reformatory in 1939 for forgery, subsequently became depressed and morose, and attempted to strangle himself. He was transferred to Central State Hospital for observation and mental examination.<sup>424</sup> Other inmates claimed there were similar policies at WSR through 1940.<sup>425</sup> The prisoner Joseph Finniere was concerned that he would be killed. The prison responded by treating Finniere's concern as a mental disorder and transferred him to the hospital.<sup>426</sup> From this record, indications of mental distress seemed higher in the Wisconsin State Reformatory during this period, the State Prison had more workplace injuries. Examples included the 1940 suicide attempt by Raymond Lavine in 1940 following his hallucinations.<sup>427</sup> This record also claims that Archie Isham was "suffering

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<sup>422</sup> Kramer, 6

<sup>423</sup> Anonymous. *Historical Miscellany, 1934-1970*. Green Bay Correctional Institution. 1970. Print. pp. 4.

<sup>424</sup> Anonymous. *Historical Miscellany, 1934-1970*. Green Bay Correctional Institution. 1970. Print. pp. 6.

<sup>425</sup> Anonymous. *Prison Orders: 1936-1944*. Wisconsin Secretary of State. Elections and Records. State Historical Society Archives Division. Series No. 2/3/5/1-5. Vol. 3. Madison, WI. (accessed March 2, 2018).

<sup>426</sup> *Prison Orders*, 354

<sup>427</sup> *Prison Orders*, 369

from a mental disturbance.”<sup>428</sup> Across the late 1930s and early 1940s, the Secretary of State Prison orders moved from describing mental disturbances and suicidal patterns in specific detail towards more generally using vague language, “suffering from a mental disturbance.”<sup>429</sup> Prison authorities eventually used this situation to push for drastic expansion of the number of facilities. They claimed that having more options for the movement of suicidal prisoners would avoid a concentration of such behaviors.

A 1944 review of the policies of Green Bay Correctional by the State Department of Public Welfare saw a strong religious component in the Wisconsin prison system. “Inherent in the life of every individual is a desire to worship God. When this natural desire is smothered or undeveloped, a very important balance wheel, or restraining influence, is removed from that individual’s life.”<sup>430</sup> In response, this review defined the value of corrections through incentivizing behavior by removing privileges, and use of solitary confinement as a last resort.<sup>431</sup> This moment shows how the rhetoric of the prison in this time had not yet become focused on secular, bureaucratic categories. Instead it focused on the correctional process as rooted more in religious character. Over the long-term across the twentieth century, the bureaucratic rationale proved to be more flexible in meeting the ultimate needs of the prison system.

## **1950-1980**

In this section I examine the forces that generated massive expansion in the Wisconsin prison system, and the cumulative impact of these changes. I draw heavily on Elizabeth Hinton’s

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<sup>428</sup> *Prison Orders*, 377

<sup>429</sup> *Prison Orders*, 417

<sup>430</sup> Kramer, 9

<sup>431</sup> Kramer, 10

work to establish a backdrop on federal changes that facilitated state restructuring and expansion, and then look at what that looked like across three decades of Wisconsin corrections. I analyze the major shifts in policy across this period, and more crucially the emerging institutions housed the bulk of the incarcerated population within Wisconsin. I also explore the diverse experiences created by these new prisons, from patterns of sexual assault to concern over regional property values. While the prison system continued to conceive itself as a tightly unified system of rehabilitation and confinement, there is increasing evidence in this period that the Wisconsin prison system was more inherently flexible, even to the point of internal contradiction.

States that constructed new prisons tended to put them on the outskirts of town.<sup>432</sup>

Wisconsin has generally followed this pattern of distance, with a few notable prisons built several hours drive from the most populated cities. The costs of transportation to remote facilities has not been a significant barrier for the prison system, while it has proved more of a barrier for contact with families and other outside forces. In 1951 Wisconsin was just beginning to construct reception centers for orienting and assessing prisoners, and was already starting plans to create a separation center, “apparently to cushion the readjustment from institutions to the free community.”<sup>433</sup> In 1960 there were three adult correctional institutions in Wisconsin, and at this point the prison system entered into its first period of rapid expansion.<sup>434</sup> Over the next twenty years the state of Wisconsin built more correctional institutions than in the previous hundred years.

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<sup>432</sup> Eason, 106

<sup>433</sup> Kendall, 109-110

<sup>434</sup> Nissen, 4

The expansion of the prison system has not been a neat or coherent. Kettle Moraine developed into a largely typical prison,<sup>435</sup> including overcrowded population and high level of agitation. The expansion of the prison system has involved both adaptation of existing facilities and construction of new prisons. A later administrator of Green Bay Correctional said that between 1897 to 1961 19,000 people were received at the facility.<sup>436</sup> The influx required, and received, a further growth in total scale for the prison system. In 1962 Fox Lake Correctional Institution opened, a medium security facility.<sup>437</sup> It was only 15 miles from Waupun. Its opening was significant both in the expansion of the overall prison system and the beginning of a pattern of concentrating multiple correctional institutions in relative proximity to each other, and at a distance from highly populated cities. The opening of this new facility had a double logistical impact, making it harder for families to visit prisoners, and making it easier to transfer prisoners between different prisons. The emergence of Fox Lake and the eventual reclassification of Kettle Moraine also allowed transfer of prisoners between different medium-security prisons, in what became a foundational tool to maintain control over what would become increasingly overcrowded facilities. Fox Lake Correctional was the first medium security institution in the U.S to operate with a no-pass system and freedom of movement, allowing inmates to travel throughout the institution without a pass when they signed in and out of designated areas.<sup>438</sup> Employees of the DOC and its advocates portray its regime as more calculated than it was. In

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<sup>435</sup> The State renamed it Kettle Moraine Correctional Institution in 1974.

<sup>436</sup> Skaff, Michael. *Wisconsin State Reformatory, Green Bay: Annual Report*. Madison, Department of Corrections, 1961. Print. pp. 6.

<sup>437</sup> Nissen, 11

<sup>438</sup> Tibbs, Donald. *Inmate Discipline in Wisconsin: How Law "Works" Behind Prison Walls*. Madison, University of Wisconsin Press, 2007. Print. pp. 50.

practice the prison system proceeded adaptatively rather than with much strategic long-term planning.

A significant shift in the structure of the Wisconsin DOC occurred in 1963, an administrative change from a warden and deputy warden system to having a warden over three departments, each headed by an associate warden. This new regime shows a key development of the process at work across the twentieth century. It increased the number of bureaucratic roles under the Wisconsin prison system and expanded the flexibility that different administrators had. Under this process the prison authority intended that treatment and security would have equal importance.<sup>439</sup> The legislature passed a work release program in 1965, further providing at the least potential for different levels of incarceration, and increasing opportunities for improved conditions.<sup>440</sup> This shift provided an extension of the rationale of developing tiers, maximum, medium and minimum security prisons. The change also increased the ways that confinement could bleed into and impact on outside life.

Elizabeth Hinton in *From the War on Poverty To the War on Crime* documents shifts in legitimacy and funding that pushed federal support for mass incarceration. Hinton's analysis provides a critical backdrop to understand the new conditions possible across legislative changes and prison re-organizations in the late 20th century. This process began earlier than often assumed, with the Great Society-era Safe Streets Act of 1968, which invested \$400 million to modernize law enforcement.<sup>441</sup> The act also created the Law Enforcement Assistance

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<sup>439</sup> McNeill, Michael. *Highlights of Wisconsin's Correctional History: A timeline of historical events, 1848-1999*. Waupun, Waupun Correctional Institution, 2000. Print. pp. 13.

<sup>440</sup> Skaff, 13.

<sup>441</sup> Hinton, Elizabeth. *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America*. Cambridge, Harvard University Press, 2016. Print. pp. 4.



Administration, which saw significant growth in funding and scope in the coming decades.<sup>442</sup>

Between the start of this agency and the beginning of the Reagan War on Drugs, the prison system grew by 251,107 people. There had been a total of 184,901 Americans incarcerated in the century between 1865 and 1965.<sup>443</sup>

In this account, Hinton offers a corrective to Michelle Alexander's *The New Jim Crow*, arguing that Alexander's emphasis on the drug war is not enough. Hinton argues that "fully accounting for this remarkable transformation in late twentieth-century domestic policy requires beginning much earlier."<sup>444</sup> A key part of the shift was the Nixon administration's use of discretionary programs to fund increases in local police networks.<sup>445</sup> The bulk of the \$2.4 billion spent by the federal government on law enforcement over Nixon's administration took this form.<sup>446</sup> Simultaneously, Nixon and his attorney general John Mitchell supported the construction of hundreds of new federal and state prisons. The modernization of the prison and increase in its capacity occurred during the early 1970s, when the nation's incarcerated population shifted from majority white to majority black and Latino, setting the conditions for the dynamics of American incarceration characteristic up to the present.<sup>447</sup> Hinton describes:

The forces of inequality in low-income urban neighborhoods took on new forms as the carceral state grew dramatically during and after Nixon's presidency. Although ascendant numbers of black Americans were imprisoned at disparate rates following the Civil War, until the 1970s they constituted roughly a third of the nation's prison population. Only after federal policymakers started investing in crime control measures, and only after the Nixon administration began to plan and incentivize prison construction, did black Americans encompass roughly half of the nation's incarcerated citizens.<sup>448</sup>

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<sup>442</sup> Hinton, 2

<sup>443</sup> Hinton, 5

<sup>444</sup> Hinton, 10

<sup>445</sup> Hinton, 137

<sup>446</sup> Hinton, 13

<sup>447</sup> Hinton, 138

<sup>448</sup> Hinton, 178

Carter's administration subsequently advanced some of these concerns over the perceived breakdown of social order. It viewed crime as a cause of urban decay rather than an effect, and pushed for new legislation to deal with violent crime.<sup>449</sup> "Carter's punitive urban policy firmly institutionalized the carceral state in segregated urban neighborhoods."<sup>450</sup> Reagan built on the preceding administrations, including the militarization of local police forces, the criminalization of social programs and mass incarceration. Yet Reagan's regime expanded these shifts, increased the scope of police raids and created new collaboration between domestic law enforcement and defense agencies. One component of this new regime was the federal government shutting down the LEAA in 1982, working with local law enforcement directly, and expanding the criminalization of welfare recipients. These measures also benefited from bipartisan consensus on the danger of "black youth gangs" during the 1980s that fueled higher rates of arrests, convictions and incarceration.<sup>451</sup> One effect of this shift was that with the erosion of social services, impoverished neighborhoods had no other recourse except calling the police when dealing with disruption and consequences of drug addiction.<sup>452</sup>

In the early 1970s the prison system in Wisconsin grew significantly. There were tensions in this expansion, but overall, it's notable for how effectively it expanded the total extent of the prison system. The changes in the late twentieth century expanded the number of prisons and the weight of collective DOC bureaucracy. This period saw the emergence of more and more authorities at the same time the prison population expanded. The main cost was the erosion of possibilities for rehabilitation for prisoners caused by increasing overcrowding. This shift caused

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<sup>449</sup> Hinton, 278-9

<sup>450</sup> Hinton, 281

<sup>451</sup> Hinton, 309

<sup>452</sup> Hinton, 9

a steady reduction of possibilities for voicing challenges to worse collective conditions and expanded disciplinary capacity in the enlarged correctional system.

In 1973 the Wisconsin prison system incarcerated 2,046 people, 45 out of every 100,000 people. Thirty years later, in 2004 it was 22,966, or 417 out of every 100,000 people.<sup>453</sup> Three-strikes laws were significantly more limited in scope than California, yet Wisconsin's pattern of imprisonment has increased at a faster rate than in California.<sup>454</sup> Wisconsin's pattern of incarceration was even more racialized than the norm, with the highest rate of incarceration for black men, and extremely high levels of segregation in the most heavily policed areas, especially the northside of Milwaukee.<sup>455</sup> While the prison regime presented itself as rational and efficient, it applied its system in socially destructive ways.

The state employees' union launched a fifteen-day strike in 1977, during this time period the National Guard ran the prisons.<sup>456</sup> Out of such tensions the Wisconsin legislature committed to infrastructure expansion that gave prison authorities greater options for dealing with discontent by prisoners as well as staff. One part of this expansion was Dodge Correctional Institution, which opened in 1978. It was a maximum security prison that operated as the main intake facility, where prisoners were sent initially before being assigned to another facility for the remainder of their sentence.<sup>457</sup> More than any other facet this development shows the significance of the expansion in the Wisconsin correctional system, which now required a prison just to be the entry point for prisoners to go to other institutions. It was built two miles from

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<sup>453</sup> O'Hear, 3

<sup>454</sup> O'Hear, 8

<sup>455</sup> O'Hear, 203

<sup>456</sup> McNeil, 16

<sup>457</sup> Nissen, 8

Waupun Correctional, significantly expanding the concentration of prisons in Dodge county.

While the original site of Waupun Correctional was contested, future prisons did not attract the same sort of controversy.

In 1977 the State of Wisconsin finished a masterplan, the Flad report, which provided five alternate methods to deal with overcrowded facilities.<sup>458</sup> The Governor and legislature adopted some aspects of the Flad Report recommendations, modified others and rejected others.<sup>459</sup> As part of this plan, in 1977 Kettle Moraine CI was expanded by 100 beds to new capacity of 375, Oakhill Correctional Camp was expanded from 100 to 321 beds, and established as Oakhill Correctional Institution.<sup>460</sup> Additionally, as part of the Flad report recommendations in 1977 the state converted Taycheedah Correctional Institution to a coeducational institution, with 300 new beds for males. In 1978 the DOC transferred 50 men to Taycheedah. Later in 1978 the legislature reversed its position, prohibited Taycheedah from being coeducational, and canceled funding for the additional 300 beds.<sup>461</sup>

A 1978 study by the Wisconsin DOC on the impact of prison proximity on property values for Waupun and Green Bay found that prison proximity increased property value. The closer to Green Bay Correctional a residence was, the higher was its assessed value<sup>462</sup> while for Waupun Correctional the prison did not make a no significant impact on local property values.<sup>463</sup> A later environmental study pointed out that this study investigated institutions that had been in

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<sup>458</sup> State of Wisconsin: Department of Administration: Division of State Facilities Management. *Final Environmental Impact Statement: Racine Correctional Institution*. Madison, Wisconsin. 1988. Print. pp. 169

<sup>459</sup> *Final Environmental Impact Statement*, 170

<sup>460</sup> *Final Environmental Impact Statement*, 171

<sup>461</sup> *Final Environmental Impact Statement*, 173

<sup>462</sup> Stanley, 43

<sup>463</sup> Stanley, 79

operation since 1851 and 1898, where homes were built long after the prisons had been made.<sup>464</sup>

A 1983 study found that property values of homes in the vicinity of a new correctional institution declined during construction and for a short time after the facility opened.<sup>465</sup>

As much as the 1970s were a time of discontinuity and expansion of the Wisconsin prison system, it was also a period of studies, assessments and systematic re-examination. These formed attempts by the prison network to better understand itself. Some of this evaluation went beyond surveys, to create systematic patterns of the Wisconsin prison system. In 1978 the Wisconsin Department of Corrections employed Professor Walter Dickey to develop administrative rules for the prison system, which created more consistent requirements across the prison system.<sup>466</sup> This policy became administrative code section 303. This code aimed to “relate to all aspects of adult institutional life.”<sup>467</sup> Although it was allegedly a rational framework, the regulations covered all aspects of daily life and made it virtually impossible for prisoners to avoid some infraction of the rules because of contradictory requirements and uneven enforcement.<sup>468</sup> These regulations covered inmate movement, custody status, work privileges and inmate possessions.<sup>469</sup>

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<sup>464</sup> State of Wisconsin: Department of Administration: Division of State Facilities Management. *Final Environmental Impact Statement: Racine Correctional Institution*. Madison, Wisconsin. 1988. Print. pp. 78

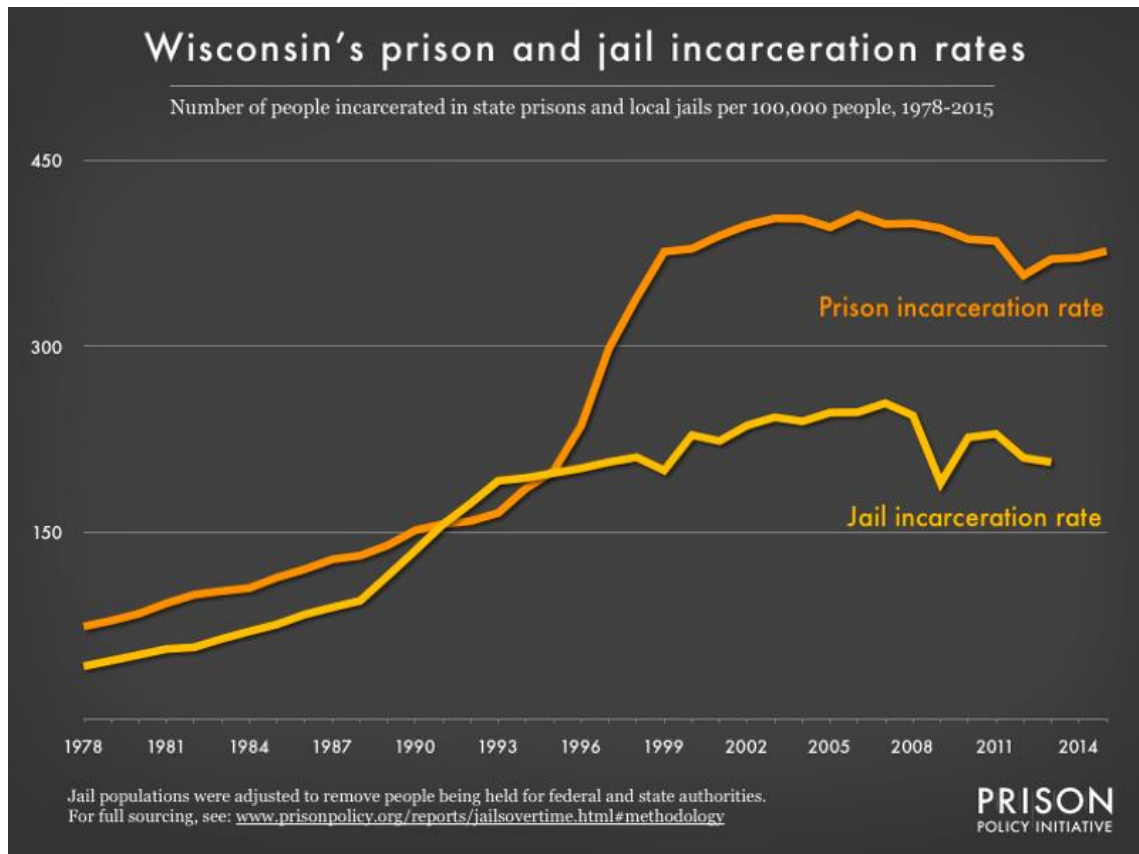
<sup>465</sup> *Final Environmental Impact Statement*, 79

<sup>466</sup> Tibbs, Donald. *Inmate Discipline in Wisconsin: How Law “Works” Behind Prison Walls*. Madison, University of Wisconsin Press, 2007. Print. pp. 1

<sup>467</sup> Tibbs, 58

<sup>468</sup> Tibbs, 3

<sup>469</sup> Tibbs, 62



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## 1980-2000

In this section my dissertation explores the continued expansion of the Wisconsin prison system in the late twentieth century. I also evaluate the impact of the huge growth in levels of DOC employment. More centrally I evaluate the changes to prisoners in Wisconsin in this period and the trajectories of the new prisons built. Because the prison system functioned on a much larger scale from the late twentieth century onwards, my dissertation proceeds with each section now covering a single decade. The closer focus can provide greater insight into the way the prison system maintained itself against the stresses involved with such a substantial increase.

<sup>470</sup> Wagner, Peter. *Prison Policy Initiative*. <https://www.prisonpolicy.org/profiles/WI.html> Accessed 4 February 2019.

Connected to this study is the impact of the increase in populations across the system. I look at specific structural changes like the Prison Litigation Reform Act, the development of a super maximum prison, and the creation of a category of old law prisoners. Overall this period represented one in which the tensions involved with incarceration on a mass scale became more visible across the Wisconsin DOC, and in which the prison structure sought to fight these in an increasingly authoritarian way. It was also an authoritarian system crucially defined by its flexibility, as the DOC applied different conditions from prison to prison and within each prison, using the contradictions to maintain overall control.

The 1982 Legislative Council Special Committee on Community Correctional Programs recommended several pieces of legislation to allow courts to expunge convictions for first offenses that weren't serious crimes, increasing circumstances in which minimum security inmates could be granted furlough and authorizing counties to establish unlocked facilities for use of persons sentenced under the Huber law.<sup>471</sup> It also suggested providing additional funds for programs related to employment and job counseling for probationers and parolees.<sup>472</sup> Instead, as a reaction to economic and political shifts, funding for job training decreased by 13.6% in the next budget.<sup>473</sup> This committee also recommended expanding pool of candidates for early release to ease overcrowding. Secretary Percy of the DHSS responded denying this conclusion, saying such a shift would invite litigation.<sup>474</sup> A 1982 evaluation estimated that 60 to 70% of all adult male inmates in Wisconsin functioned at less than 7th grade educational level, and that 90% lack

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<sup>471</sup> Wisconsin Legislative Council Staff. *Wisconsin Prison Programs and Inmate Classification. Research Bulletin 82-1*. Madison, 1982. Print. pp. 7.

<sup>472</sup> *Wisconsin Prison Programs and Inmate Classification. Research Bulletin*, 9.

<sup>473</sup> *Wisconsin Prison Programs and Inmate Classification. Research Bulletin*, 9-10.

<sup>474</sup> *Wisconsin Prison Programs and Inmate Classification. Research Bulletin*, 12.

basic employable skills. Of the inmates at Waupun evaluated in 1981, 23% were functionally illiterate, scoring below the 6th grade level.<sup>475</sup>

In discussion of intake system at work in the early 1980s, Mark Cody in his 1985 thesis presented guards as considerate and diligent. He also claimed that the guards were vigilant in taking preventive efforts to protect prisoners from sexual assault by other prisoners.<sup>476</sup> He describes thorough assessment and treatment by dental assistants to deal with pain and infections, and postpone extensive work that may be needed until the prisoner is moved to another institution.<sup>477</sup> Cody claimed: “Even in prison inmates need someone to look down on...The inmate social structure in the prison setting allows for burgeoning tough guys to prove their manhood on lower ranking inmates.”<sup>478</sup> This statement is a rare assessment that acknowledges impact of prisoner social structures and attitudes. It included negative views towards informants and people convicted of child abuse.

One of the resources used by the Wisconsin DOC was their ability to be able to move prisoners between different prison, to disrupt gang rivalries, and position people in “appropriate settings”.<sup>479</sup> As Cody put it: “A large number of institutions offer the opportunity of specialization.”<sup>480</sup> This shift is a crucial component in understanding the overall functioning of power across the Wisconsin DOC. There were different policies and regulations at different institutions. The prison posted the rules and guards held prisoners responsible for reading these

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<sup>475</sup> *Wisconsin Prison Programs and Inmate Classification. Research Bulletin*, 18-19.

<sup>476</sup> Cody, 13

<sup>477</sup> Cody, 16

<sup>478</sup> Cody, 27

<sup>479</sup> Cody, 61

<sup>480</sup> Cody, 62



rules on their time.<sup>481</sup> This overview identifies one of the core issues inside the prison, the major potential for arbitrary and inconsistent enforcement of carceral standards.

Right-wing partisans can accept that prisons destructive to prisoners without being scandalized. Yet there is still a concern in the irregularity embedded within the system. For all of Cody's emphasis on rational policies and coherent, well-built staffing systems, there are indications of gaps and problems in this account. The most crucial is that the DOC found it necessary to write such policies. These policies provide systematic overview of how staff interact with prisoners during their journey through Wisconsin prisons, that did not otherwise exist. The need to provide such a roadmap indicates that prison practices were otherwise chaotic and did not consistently follow disciplinary norms. Turnover was most visible when it occurred at higher levels of administration, but increasingly became a problem at all ranks of the DOC.

A major increase in capacity for the Wisconsin DOC happened in 1986. At this point Columbia Correctional Institution opened as a new maximum security prison.<sup>482</sup> The state built it 42 miles from Waupun, further west than any prison at the time. Prison authorities initially planned to house 450 inmates in single cell, and to accommodate disabled inmates. However CCI rapidly exceeded capacity, and began housing multiple people in cells.<sup>483</sup> The prison system claimed a basic efficiency in its operation, as a way of coping with the kinds of challenges from mass incarceration. Such adaptation carried a more ruthless logic than the prison authorities acknowledged.

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<sup>481</sup> Cody, 36

<sup>482</sup> Nissen, 4

<sup>483</sup> Novak, Susan. *Columbia Correctional Institution Annual Report*. Department of Corrections, 2018. <https://doc.wi.gov/Documents/OffenderInformation/AdultInstitutions/CCIAnnualReport.pdf> (accessed February 5, 2018). pp. 6.

By 1986, there were widespread reports of overcrowding in the Wisconsin prison system in the local press. Waupun held 987 inmates in a prison built for 840, Dodge Correctional had 491 and a capacity of 309, and Green Bay Correctional had 837 with a capacity of 584. The new facilities in Portage and Oshkosh had been intended to help with the overcrowding.<sup>484</sup> Yet these facilities were themselves rapidly filled past capacity. Prisons across the DOC had more people than state legislatures had originally designed the prisons for.

In 1987 the Legislature approved a prison siting bill, 1987 Wisconsin Act 5, which went into effect on February 25, 1987. This legislation located a new prison in Sturtevant and expanded new Oshkosh Correctional Institution by 100 beds. This bill also gave Waupun Correctional a new 125 bed minimum security facility. It also authorized a new study by the Department of Health and Social Services to establish evaluation criteria for future facilities.<sup>485</sup> The town of Waupun issued a local referendum on the proposed prison expansion, the result being 2,355 Yes votes and 987 No votes. A March 1986 survey by Representative Goetsch showed that 83% of respondents in his district supported a new prison in the City of Waupun.<sup>486</sup> Analysis by the DOC in 1987 suggested that the local prison job market was already saturated, and the proposed prison would have negative impact on Waupun.<sup>487</sup> The strong local support is useful in showing community engagement with and support for prison infrastructure in the area.

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<sup>484</sup> Hannemann, Joseph. "Disciplinary Problems Break Out in Prison". *Chicago Tribune* 12 September 1986. pp. 3

<sup>485</sup> Anonymous. "Prison Site Evaluations." Wisconsin Legislature, Howard Needles Tammen & Bergendoff. *Prison Site Evaluations*. 1987. Print. pp. 1.

<sup>486</sup> "Prison Site Evaluations," 24

<sup>487</sup> "Prison Site Evaluations", 24

The prison that eventually became the largest in the State of Wisconsin also opened in 1986, Oshkosh Correctional Institution opened, as a medium security facility, 8 miles from the town of Oshkosh.<sup>488</sup> It was originally planned to hold 300 people, and was subsequently expanded, after the state razed the Winnebago State Prison farm and relocated it to Waupun.<sup>489</sup> Oshkosh Correctional Institution became the largest prison in Wisconsin, with 2050 prisoners.<sup>490</sup> The growth in this prison speaks forcefully to the overall expansion of Wisconsin corrections. As of 1987, there were 5,498 incarcerated males in Wisconsin prisons, with only 4,675 beds.<sup>491</sup> Prison expansion had not ended overpopulation, either in the old facilities or in the newer ones. It instead created more options for the DOC to manage pressure creatively, rather than deal with the fundamental tensions inherent to this system.

In 1990 there were 10 adult correctional institutions in Wisconsin. As part of the ongoing expansion, the state opened Racine Correctional Institution in 1991 as a medium security prison.<sup>492</sup> The facility was built 93 miles from Waupun Correctional, 27 miles from Milwaukee, and 7 miles from the city of Racine. Its position went against the common trends for placement of prisons in Wisconsin. An environmental impact statement published by Wisconsin DOC in 1988 concluded that the proposed site would be environmentally effective. The statement said that the prison would make minimal disruption to the surrounding town, and would produce both

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<sup>488</sup> Nissen, 4

<sup>489</sup> Smith, Judy. *Oshkosh Correctional Institution Annual Report*. Madison, Department of Corrections, 2018.

<https://doc.wi.gov/Documents/OffenderInformation/AdultInstitutions/OSCIAnnualReport.pdf> (accessed February 3, 2019). pp. 5.

<sup>490</sup> Smith, 19

<sup>491</sup> State of Wisconsin: Department of Administration: Division of State Facilities Management. *Final Environmental Impact Statement: Racine Correctional Institution*. Madison, Wisconsin. 1988. Print. pp. 93

<sup>492</sup> Nissen, 4

short and long-term employment.<sup>493</sup> It was anticipated to not displace local businesses but would use 80 acres of land to develop its farming operation.<sup>494</sup> The prison was planned to cost \$40.9 million to construct, \$29.5 million of these funds for construction, and \$11.4 million to pay for architects, engineering services, project supervision and movable contingencies.<sup>495</sup> This report is useful in showing dominant DOC concerns in the late 1980s.<sup>496</sup> The study considered alternatives to building more prisons.<sup>497</sup> This examination included the possibility that the Legislature reduce criminal charges, but it concluded this change was not politically possible.<sup>498</sup>

Starting in 1991 the state of Wisconsin launched a new boom in prison construction.<sup>499</sup> In this period, the state joined the primary prison rationalization of efficient management with the assumption that it's infrastructure would reinvigorate the region's workforce. One major force promoting increased prisoner populations was Wisconsin's truth in sentencing laws. Greater length of sentencing increased the elderly population and exacerbated the costs of prison health.<sup>500</sup> The expansion in number of prisons did not alleviate overcrowding long term. The steady climb in prison population ultimately produced more facilities that were overcrowded and introduced a host of secondary issues and hardships. More prisons in the Wisconsin DOC provided more options for transferring people engaged in resistance activities. That has enabled a level of structural abuse that would be untenable if prisoner resistance was able to coalesce. The

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<sup>493</sup>State of Wisconsin: Department of Administration: Division of State Facilities Management. *Final Environmental Impact Statement: Racine Correctional Institution*. Madison, Wisconsin. 1988. Print. pp. iii

<sup>494</sup> *Final Environmental Impact Statement*, 64

<sup>495</sup> *Final Environmental Impact Statement*., 77

<sup>496</sup> *Final Environmental Impact Statement*., 60

<sup>497</sup> *Final Environmental Impact Statement*., 102

<sup>498</sup> *Final Environmental Impact Statement*., 102

<sup>499</sup> O'Hear, 109-110

<sup>500</sup> Anonymous. Personal Interview. 4 April 2019.

expansion also created other daily bureaucratic hardships. One individual incarcerated in different facilities in the late 1990s noted that while the basic conditions of incarceration were similar across different prisons, the prisons varied in their administrative procedure, stating “each institution took pride in producing its own policies.”<sup>501</sup> Because of this dynamic, it was easy for people familiar with one institution to unintentionally violate the procedures of another prison.<sup>502</sup> This regime provided a crucial aspect of the dynamic within the DOC, where prisoners faced a cascading set of regulations that made it harder and harder for them to avoid breaking rules. As well, the DOC violated its own rules with less sanction. In 1996 family members of prisoners at Green Bay Correctional reported toilets overflowing in prisoners’ cells and fecal matter mixed into the drinking water.<sup>503</sup> As these contrasting cases show, the expansion in prisoners didn’t just increase the number of prisons but created an additional level of complications and stresses. This aspect is not recorded in DOC bureaucratic records and shows the need to draw on sources that explore people’s lived experiences. The core of the expanded prison system involved greater latitude and flexibility for prison staff and authorities, but reduced possibilities for prisoners.

Between 1993 and 1994 Wisconsin constructed three new correctional facilities, at Portage, Oshkosh and Racine, and added 1,487 beds, costing a total of \$121.1 million.<sup>504</sup> This expansion cost \$9.2 million for movable equipment, going over this budget item by 92 percent.<sup>505</sup> A Wisconsin legislative audit suggested ways to reduce the budget by cheaper equipment, less spending on nondurable items, and better planning.<sup>506</sup> The increased concern

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<sup>501</sup> Anonymous. Personal Interview 3. 12 April 2019.

<sup>502</sup> Anonymous. Personal Interview 3. 12 April 2019.

<sup>503</sup> Habeck, 80

<sup>504</sup> Wisconsin Legislative Audit Bureau. “Department of Corrections: Movable Equipment Costs in Correctional Facilities”. Madison, Wisconsin State Legislature, 1993. Print. pp. 3

<sup>505</sup> “Department of Corrections: Movable Equipment Costs in Correctional Facilities”, 3

<sup>506</sup> “Department of Corrections: Movable Equipment Costs in Correctional Facilities”, 4

over the cost of this construction showed one of the factors that slowed the prison expansion in the early twenty first century. In assessing ways to reduce costs, the audit described “improvements” that would reduce the quality of conditions for incarcerated people, including cheaper tables, chairs and televisions.<sup>507</sup> The audit shows the lived consequences of the economic logic. Such logic did not deter construction of new facilities, but impacted the conditions that resulted. The audit also, in the name of efficiency, wanted greater standardization for prison design.<sup>508</sup> This desire for standardization also showed an interest in further prison construction.

The 1996 Prison Litigation Reform Act put in new restrictions on prisoners. This included making it harder to sue the prison, requiring administrative procedures to be exhausted and increased the ease by which lawsuits could be dismissed as frivolous.<sup>509</sup> That Wisconsin sought to deal with high volume of prisoner lawsuits not by improving conditions but by making it harder to file them encapsulates the underlying priorities of Corrections in the state in and beyond the 1990s. It can be seen in system wide changes and most directly in the growing number of prisons in the state.

The December 1996 report of the Wisconsin Policy Research Institute surveyed the cost of Wisconsin corrections. This report concluded that private sector management of new Wisconsin prisons could save 11 to 14% annually, \$10 to \$12.4 million.<sup>510</sup> The Wisconsin DOC in fiscal year 1993-4 entered contracts for 22 halfway houses, involving up to 251 parolees and

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<sup>507</sup> “Department of Corrections: Movable Equipment Costs in Correctional Facilities”, 22

<sup>508</sup> “Department of Corrections: Movable Equipment Costs in Correctional Facilities”, 25

<sup>509</sup> Anonymous. Personal Interview. 4 April 2019.

<sup>510</sup> Anonymous. *Wisconsin Policy Research Institute Report*. Wisconsin Department of Corrections. Volume 9, Number 10. December 1996. Print. pp. 1.

probationers, at a total cost of \$4.5 million, or \$49.49 per offender per day. The use of private firms to manage halfway houses has historically attracted little controversy. Partly this is because the Wisconsin State Employees Union (AFSCME Council 24, AFL-CIO) has not opposed this practice, while they opposed any private management of state prisons.<sup>511</sup> The report cites Wisconsin DOC Secretary Michael Sullivan as stating: “competition could be good for the whole system and could help control growth in costs.”<sup>512</sup> Such statements show new possibilities that existed under the expanded Wisconsin prison system.

In 1997 Prairie du Chien Correctional Institution (PDCI) opened, a medium security facility.<sup>513</sup> The builders intended it to be a Jesuit High School, but the State of Wisconsin purchased the site in 1995.<sup>514</sup> The origin of PDCI shows that the physical design of prisons aren't as intentional as they're often assumed to be. This aspect also suggests that some of the adaptive features of prisons outlined in chapter 3 continued even under more bureaucratic systems. The DOC originally designated the site for non-assaultive male juvenile offenders. However due to decrease in juvenile offender population they converted the facility to house adult prisoners in 2003.<sup>515</sup> The cost of prison continued to grow.

In 1997, a Wisconsin Legislative audit reported a daily cost per inmate to the state of \$53.51. These wages were slightly higher than the national average.<sup>516</sup> The acceptance of the

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<sup>511</sup> *Wisconsin Policy Research Institute Report*, 4-5

<sup>512</sup> *Wisconsin Policy Research Institute Report*, 29

<sup>513</sup> Nissen, 4

<sup>514</sup> Boughton, Gary. *Prairie Du Chien Annual Report*. Department of Corrections.

<https://doc.wi.gov/Pages/OffenderInformation/AdultInstitutions/PrairieduChienCorrectionalInstitution.aspx> (accessed May 20, 2018). pp. 3.

<sup>515</sup> Boughton, 5

<sup>516</sup> Wisconsin Legislative Audit Bureau. “Corrections Costs.” Madison, Wisconsin Legislature, 1997. Print. pp. 1.

substantial total cost of incarceration was deeply embedded in political assumptions and was not significantly challenged. The costs varied widely by institution, with average daily costs of \$61.71 at maximum security institutions in Wisconsin.<sup>517</sup> There were attempts to offset the costs of the prison system by means other than reducing the number of prisoners. As of October 1997, the Department had 1,158 prisoners to be housed in facilities outside the Wisconsin DOC.<sup>518</sup> In the late 1990s Wisconsin inmates were sent to Tennessee prisons due to overcrowding.<sup>519</sup> Wisconsin maintained a ratio of 4.5 prisoners for every correctional officer, slightly below the midwestern average.<sup>520</sup>

The scale of the expanded prison system was clearly beyond the capacity of the DOC to provide effective health care. The Wisconsin prison population increased 56.4 percent between 1995 and 2000 up to 14,926 prisoners. During this period costs for health care increased 120.1 percent, from \$16.9 million to \$37.2 million. The increase was both in the number of prisoners needing health care and the average cost per inmate by 40.8 percent, or \$723, since FY 1994-95, averaging \$2,495 in FY 1999-2000.<sup>521</sup> At this time the Wisconsin DOC employed 233 full time medical workers and spent \$37.2 million for health care. One third of the prison population suffered from chronic illness. A legislative audit found that improvements were needed for the management of chronic illness and mental health services.<sup>522</sup> Across the year health services unit staff responded to 8,137 medical emergencies, or approximately 22.2 per day. Of these, 746

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<sup>517</sup> “Corrections Costs.”, 7

<sup>518</sup> “Corrections Costs.”, 31

<sup>519</sup> “Corrections Costs.”, 186

<sup>520</sup> “Corrections Costs.”, 2

<sup>521</sup> Wisconsin Legislative Audit Bureau. “An Evaluation: Prison Health Care”. Madison, Wisconsin Legislature, 2001. Print. pp. 6

<sup>522</sup> “An Evaluation: Prison Health Care”., 5



required transportation to an emergency room at a local hospital.<sup>523</sup> These statistics leave unexamined how many people may have benefited from emergency medical transportation who were not provided with it. National standards for inmates in solitary confinement require daily visits. In Wisconsin these were less consistently frequent, and could happen only a few times a week.<sup>524</sup>

Rather than putting more funding into health care, the state increased funding and infrastructure in ways designed to more systematically make prisoners compliant and non-resistant. In 2000 solitary confinement standards changed to allow holding people for up to 360 days in isolation. The expansion in solitary confinement wings allowed more punitive measures.<sup>525</sup> The super maximum prison involved a new level of restriction in particularly intense form. Inmates spend 23 hours each day in windowless cells, without communication allowed with other prisoners or visitors.<sup>526</sup> Former prisoners witnessed people placed in isolation for a variety of reasons, including medical concerns, psychiatric issues, fights, loitering in hallways and disrespecting staff. One person who was incarcerated at Boscobel stated: “I’ve never experienced a greater evil, the people who ran it and the environment. I saw some brutal things, people being murdered, beaten, letting off tac bombs in people’s rooms, gassing the whole hallway.....They would kidnap us, when people heard they were going to supermax, people hung themselves. They tricked us, tell us they got a visit, he went on “visit”, they packed his box up, put them in emergency PRC [Program Review Committee] and sent people to supermax.”<sup>527</sup> Among the restrictions in the supermax intake wing was closing the door shutters,

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<sup>523</sup> “An Evaluation: Prison Health Care”, 8

<sup>524</sup> “An Evaluation: Prison Health Care”, 9

<sup>525</sup> Anonymous. Personal Interview. 4 April 2019.

<sup>526</sup> O’Hear, 128

<sup>527</sup> Anonymous. Personal Interview. 2 April 2019.

preventing people from seeing even into the nearest cells. While there were different statuses for different behaviors, the system was manipulated to keep people in negative status for years. After the prison was first constructed it denied outside recreation to prisoners and placed cameras placed in every room, few televisions, and continual lockdown conditions. High levels of heat and continual bright lights in cells exacerbated prison hardships and made it harder to sleep.<sup>528</sup>

In 1999 Wisconsin legislation created a large category of “Old law prisoners”, over three thousand people who were convicted of crimes committed before 1999, under the expectation of serving 25% of time with educational opportunities, who were made to serve full sentences.<sup>529</sup> The situation became increasingly arbitrary, as an aging category of prisoners unlikely to re-offend faced drastically extended time of incarceration. The Old Law policies are relevant as a significant negative impact because of bureaucratic classification and top-down changes in the prison. It also shows the ways that individual conduct matters less for rehabilitation than the collective situations setup by correctional authorities and state government.

Several prisoners launched a lawsuit against the Supermax Correctional Institution in 2001. This case was one of the few to receive national attention.<sup>530</sup> The lawsuit focused on the prison’s treatment of mentally ill inmates.<sup>531</sup> The plaintiffs in the case documented the superficial, rapid processing of prisoners and resulting mistreatment of mentally ill prisoners.<sup>532</sup> 8 of 20 inmates surveyed showed severe and adverse psychiatric reactions to conditions in the supermax prison. This adverse reaction reflected overall problems in the facility.<sup>533</sup> One change

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<sup>528</sup> Anonymous. Personal Interview 1. 2 April 2019.

<sup>529</sup> Forum for Understanding Prisons. “Updates”. *Bridge of Voices*, (March 2015). Print. pp. 5

<sup>530</sup> Collins, 9

<sup>531</sup> Collins, 10

<sup>532</sup> Collins, 22

<sup>533</sup> Collins, 21

from the lawsuit was to rename the prison the Wisconsin Secure Program Facility.<sup>534</sup> It was a substantial shift in the developing logic of the prison, and a setback to the expansion of control within the DOC. However the impact of the lawsuit however did not address all the fresh abuses within the new prison.

## **2000-2019**

In this section I evaluate the way that the Wisconsin prison system has continued to innovate into the 21<sup>st</sup> century. I look at the most recently constructed prison facilities. I examine major changes in the prison disciplinary code, shifts in solitary confinement, new policies on sexual contact with guards, and the handling of inmate complaints. I also look at the smaller changes in regulation that impacted on daily life in the increasingly overcrowded facilities. This was an era where the Wisconsin DOC continued to spend to maintain the basic infrastructure of an increasingly strained system. This strain exacerbated the inherent flexibility that the DOC used to divert discontent into an ever-more funded and more adaptable prison system. From the Department's perspective, the development of Boscobel supermax created a crucial innovation in attempting to build up the potential resources of the state prison system. This expansion involved financial expenses through construction of new facilities and human costs to prisoners.

I also look at the way the changes outlined earlier in the chapter have culminated in the present systems, with aging populations, over-crowded facilities, increasing racialization of the prisons and continued disciplinary tightening. A revealing source is former Secretary of the DOC Ed Wall's recent memoir. Even more important are the continued statements on the costs of the prison system by incarcerated and formerly incarcerated people, in newsletters, interviews and

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<sup>534</sup> Collins, 9

media statements. These sources, and the sheer scale of the Wisconsin DOC, better illustrate the coercive pragmatism at the core of how the Wisconsin prison system developed a set of prison regimes over incarcerated populations.

In 2000 the Wisconsin DOC maintained 15 adult correctional institutions and 3 juvenile facilities in Wisconsin.<sup>535</sup> The prison system kept 18,940 people in institutions and 64,634 people under parole or probation.<sup>536</sup> This was a significant increase from the 5,7000 prisoners in the state held in 1987.<sup>537</sup> The DOC imposed a number of restrictions that were deeply felt by prisoners in Wisconsin, including banning cigarettes (1999), prohibition of sexually explicit magazines (2000) and forcing shoe purchases from select vendors(2003).<sup>538</sup> These changes impacted on daily life for prisoners. They took away different pleasures and sustenance for prisoners in a visible supremacy of bureaucratic systems over individual concern. Looked at historically, we can see this restructuring along with the formation of Boscobel and tightening of segregation in other facilities as the DOC worked to increase the scope of penalties. The result is to break communal connections, and further debase the populations by warehousing them in increasing numbers. The expanded scale of prisons made problems more acute. Insofar as this trend slowed, it was because of litigation and prisoner resistance, rather than compassionate reform from the DOC.

The Wisconsin Seventh Circuit Court of Appeals ruled in 2000 that prisoners must exhaust administrative remedies before filing suit. This requirement applied no matter what relief

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<sup>535</sup> Nissen, 4

<sup>536</sup> McNeill, 24

<sup>537</sup> Tibbs, Donald. *Inmate Discipline in Wisconsin: How Law “Works” Behind Prison Walls*. Madison, University of Wisconsin Press, 2007. Print. pp. 5

<sup>538</sup> Anonymous. Personal Interview 2. 4 April 2019.

was sought, and despite problems in the prison grievance system.<sup>539</sup> In a period marked by increasing numbers of prisoners and increasingly restrictive conditions, this acted to further curtail the official possibilities of generating discontent. The state changed parole status in 2000 , adding delaying mandatory release for prisoners when they held them in solitary confinement.<sup>540</sup>

In 2001 the Wisconsin DOC opened Milwaukee Secure Detention Facility a medium security prison located in downtown Milwaukee.<sup>541</sup> Between it's opening, and 2019 eighteen prisoners have died at this facility. There have also been persistent concerns over heating conditions and medical care. More recently community groups in Wisconsin have sought to close the facility. The institution history notes that while it is a DOC institution, yet in some ways<sup>542</sup> it functions more like a jail operation.<sup>543</sup> The pattern emerged from underlying policies, not just individual variance with the prisoner or specifically negligent guards. The innovations in MSDF's design, format, and most centrally its location in downtown Milwaukee, suggest the significance of the facility.

It is crucial to see the underlying rationality of prisoner resistance. On January 21, 2002, a boiler broke down at Green Bay Correctional, denying prisoners a shower for the evening.<sup>544</sup> The next day, fifty prisoners dumped their dirty laundry on the sergeant's desk, a fight soon

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<sup>539</sup> Anonymous. "Seventh Circuit Prisoners Must Exhaust Futile Grievance Remedies." *Prison Legal News*. <https://www.prisonlegalnews.org/news/2000/apr/15/seventh-circuit-prisoners-must-exhaust-futile-grievance-remedies/> (accessed February 10, 2018). pp. 22

<sup>540</sup> Anonymous. Personal Interview 2. 4 April 2019.

<sup>541</sup> Nissen, 4

<sup>542</sup> Including a 24-hour admission process, and having an intake process and classification process that both closely resembling county jail system.

<sup>543</sup> Johnson, Steven. "Overview". Madison, Department of Corrections. 2017.

<https://doc.wi.gov/Pages/OffenderInformation/AdultInstitutions/MilwaukeeSecureDetentionFacility.aspx> (accessed April 5, 2018).

<sup>544</sup> *Cygan v. Wisconsin Department of Corrections*, United States Court of Appeals, Seventh Circuit. No. 04-1297. November 10, 2004. Print. pp. 12.

broke out between guards and prisoners, and eight officers were hospitalized.<sup>545</sup> Prisoners contested prison conditions, and showed the ability to rapidly undermine seemingly stable prison norms. Rather than viewing it as erratic violence, it is better to view it as a coherent, hard to sustain, challenge. These moments create a new way to interpret the functions of how prisons operate, and how they could operate.

One revealing view into conditions at Green Bay Correctional Institution was the 2005 documentary “You Don’t Want to Live in My House”. This video shows different attitudes within different levels of prison hierarchy. Administrators emphasized the requirement for total control and extreme consistency. They sought to make prison life seem more rational than it was. The video’s portrayal of the hardship and oppression of prison was used for propaganda purposes, to emphasize their narrative of the consequences of criminal behavior. Evidence appears to show more chaotic patterns. A prisoner featured in the documentary said: “There are a lot of rules. You can get in trouble for almost anything.”<sup>546</sup> Amidst the regulations, the high scope of control presents opportunities for arbitrary and erratic administration. “They could pull me out of my cell, strip me naked, search every cavity, without any policy or reason for it. Basically I’m someone else’s property in here.”<sup>547</sup> Such statements, although framed by a documentary that emphasizes the value of prison punishment, provide a stark indication of the lived experience of prison control. Juxtaposing this reality with how prison administrators frame this system is also useful to get at dynamics beyond what the DOC presents.

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<sup>545</sup> Cygan, 18

<sup>546</sup> (2005) *You Don’t Want to Live in My House*. [Video file] Retrieved from: [www.uwmgb.edu/newist](http://www.uwmgb.edu/newist)

<sup>547</sup> *You Don’t Want to Live in My House*.

Wisconsin outlawed sexual relations between guards and prisoners only in 2003.<sup>548</sup> Prior to that point, sexual contact with inmates was permitted for guards, but was a violation for inmates themselves. Media attention of several scandals prompted change in 2003. That was when guards at Taycheedah Correctional had sex with prisoners, and subsequently sent the prisoners to solitary confinement for 360 days.<sup>549</sup> It took over a year for DOC to make policy changes based on the law, announcing zero tolerance policy.<sup>550</sup> Even at that point, formerly incarcerated people remained skeptical “They’re just trying to get the people who complained off their back.”<sup>551</sup> Amnesty International staff also questioned whether the Wisconsin DOC had fully defined sexual misconduct, and criticized continuing practices of segregating prisoners who alleged sexual assault by staff.<sup>552</sup> At the point it changed its laws, Wisconsin was one of only four states in the country that did not explicitly prohibit sexual relations between guards and prisoners.<sup>553</sup>

Internal pressures sometimes surfaced in this period, showing that prison regimes were not as tightly coordinated as they presented themselves. In 2006, correctional officers affiliated with AFSCME picketed outside Kettle Moraine, citing problems with overcrowding, understaffing and escalating gang activity.<sup>554</sup> In 2010 at Kettle Moraine a correctional officer made public accusations against the warden, alleging nepotism and homophobic bullying of

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<sup>548</sup> Rigby, Michael. “Wisconsin Enacts Law, Prison Reforms Regarding Sex Assaults.” *Prison Legal News*. <https://www.prisonlegalnews.org/news/issue/16/4/pp>. (accessed July 8, 2018).

<sup>549</sup> Rigby, 10

<sup>550</sup> Rigby, 9

<sup>551</sup> Rigby, 10

<sup>552</sup> Rigby, 11

<sup>553</sup> Anonymous. “Prisoner Punished Because Guard Impregnated Her”. *We News*. WE 25 January 2003.

<sup>554</sup> Anonymous. “Officers Protest Prison Conditions”. *Associated Press*.

<http://www.corrections.com/articles/12564> Accessed 10/15/17. (accessed April 4, 2019).

guards.<sup>555</sup> What is unique is not the pattern of behavior done by the warden, but that in Kettle Moraine someone was willing to speak against him.<sup>556</sup> The whistleblower was subsequently transferred to another facility, and Dittman faced no repercussions.<sup>557</sup> These incidents suggest a more assertive platform for correctional officers when their interests diverged from supervisors. However although there were clearly limits to the total impact.

Prisoners at Green Bay Correctional took action in 2007 against racist conditions in the prison. In response the prison initiated a lockdown and transferred petition organizers to administrative confinement in the Wisconsin Secure Program Facility.<sup>558</sup> Both aspects served similar ends, with lockdowns creating the equivalent of solitary confinement for everyone in the prison. Their response reveals the impact of expanded correctional structures and the flexibility of repression available to the system. When prisoner agitation rose to the point of action, the DOC expended considerable resources to try to silence the agitation, rather than meeting their demands.<sup>559</sup>

To properly grasp the stakes of this system it is useful to observe local variations and the lived experiences of the prison system. Michael O’Hear claims: “Even at the height of the War on Drugs, Wisconsin preserved more discretion in drug sentencing than many other jurisdictions ...Drug imprisonment has contributed much less to mass incarceration in Wisconsin than it has

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<sup>555</sup> Barton, Gina. “After investigation into warden, state turned on whistleblower instead.” *Journal Sentinel*. <http://archive.jsonline.com/watchdog/99701794.html> (accessed January 10, 2018).

<sup>556</sup> Unlike other facilities where Michael Dittman was warden (including Red Granite and Columbia).

<sup>557</sup> Barton, 2

<sup>558</sup> Anonymous. “Summations”. *Bridge of Voices*. (October 2016). Print. pp. 10.

<sup>559</sup> Anonymous. Personal Interview 3. 12 April 2019.



nationally.”<sup>560</sup> By the end of 1985, the proportion of drug prisoners remained lower than 5 percent.<sup>561</sup> It is crucial to understand dynamics of prison expansion beyond the framework of drug-related arrests. This complexity is one of the reasons why regional study at state prisons systems is beneficial. One prisoner judged that compared with other states, Wisconsin prisons have greater physical safety but are worse psychologically, with prisoners’ collective structures having less influence.<sup>562</sup> This is an important aspect to situate the 21<sup>st</sup> century Wisconsin prison system in contrast with other states and its own history.

In 2003 the Department of Corrections opened Sturtevant Transitional Facility, another minimum security prison.<sup>563</sup> Inherent to the structure of the facility is the requirement for strict self-control and discipline. As the inmate handbook describes, violation of any rule in the 38 page document could lead to reclassification to a higher security prison.<sup>564</sup> The DOC has developed classification among its prisoners and its prisons, but in the 21<sup>st</sup> century its expanded scale provided a much more extensive classification apparatus. The expanded possibilities of placement and transfer played out in different ways for minimum and maximum facilities, but the characteristics apply to both security classifications. The prison has drawn relatively little media attention since opening, most of the stories that have appeared have involved the rare

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<sup>560</sup> O’Hear, 163

<sup>561</sup> O’Hear, 167

<sup>562</sup> Anonymous. Personal Interview 2. 4 April 2019.

<sup>563</sup> Nissen, 4

<sup>564</sup> Kemper, Paul. *Sturtevant Transitional Authority Annual Report*. Madison, Department of Corrections, 2018.

<https://doc.wi.gov/Documents/OffenderInformation/AdultInstitutions/STFInmateHandbook.pdf>. (accessed March 7, 2018).

cases of prisoners walking away from work-release and the ensuing manhunt.<sup>565</sup> <sup>566</sup> There were 61 staff for 145 prisoners, showing a high ratio of staff to prisoners despite the reduced security level for the prison.<sup>567</sup> This contrast is suggestive of the extent to which DOC bureaucracy has become self-perpetuating. There are fairly mundane mechanisms at work here. People employed by the DOC have a vested stake in keeping this role around. There was also a benefit to people higher up the prison system in keeping and growing the human systems they control. This bureaucracy could in principle be attacked and reduced. However, it has not faced the kind of questioning that other government programs have, even from fiscal conservatives, and is not likely to as long as the concerns of maintain security remain largely unchallenged. The fact that prisons are so opaque and self-contained helps to present them in this way, that there are many voices and secondary structures that emphasize the value of the billions spent to keep things in order.

One year later, in 2004, the DOC opened another minimum security prison, the Chippewa Valley Correctional Treatment Facility. They built it 195 miles from Waupun Correctional, and twenty two miles from Stanley Correctional. In the context of the early 2000s it worked to provide multiple security classifications in northern Wisconsin. The rapid pace of construction and the focus on more minimum security prisons provided additional options.<sup>568</sup>

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<sup>565</sup> Delong, Katie. “Manhunt underway for minimum-security inmate who walked away from a work release site”. *Fox 6*. “<http://fox6now.com/2018/02/19/manhunt-underway-for-minimum-security-inmate-who-walked-away-from-a-work-release-site/>” (accessed March 1, 2019).

<sup>566</sup> Lockwood, Denise. “Inmate Walks Away From Sturtevant Transitional Facility” *Racine County Eye* <https://www.racinecountyeeye.com/inmate-walks-away-from-sturtevant-transitional-facility/> (accessed March 10, 2019).

<sup>567</sup> Kemper, 8

<sup>568</sup> Nissen, 4

From 2005 to the present there have been 21 adult correctional institutions in Wisconsin.<sup>569</sup> Although further construction was proposed at different points, no further prisons were built in Wisconsin. Also in 2005 the prison institutions adopted a universal menu, decreasing the quality of food that had been available in some institutions.<sup>570</sup> Each institution continued to make its own procedures for how to regulate canteen orders.<sup>571</sup> The common standards were to restrict prisoners to a maximum purchase of \$37.50 per week or \$75 biweekly.<sup>572</sup> The increased standardization worsened overall standards.

The Wisconsin legislature passed the “Inmate Sex Change Prevention Act” in 2005 that barred the prison system from providing hormone therapy to transgender prisoners. In response, the Wisconsin ACLU and Lambda Legal sued, earning a preliminary ruling in 2007 that allowed prisoners already on hormone therapy to continue treatment. In a 2010 ruling, *Sundstorm v. Frank* a federal trial court struck down the statute, allowing prison doctors to determine whether to provide hormone therapy.<sup>573</sup> These changes show the fluidity of challenges through litigation, and how these varying judgements can affect prisoners on the most intimate bodily level. This incident shows the dangers to prisoners of prison flexibility, based on how prisons have not consistently used this potential in beneficial ways.

The major and accumulating cost of bureaucratic control appears vividly with mental health. Legislative audits into the Wisconsin prison system have shown consistent issues with the mental health care provided. Between 2006 and 2008 internal records showed an increase in

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<sup>569</sup> Nissen, 4

<sup>570</sup> Anonymous. Personal Interview 2. 4 April 2019.

<sup>571</sup> Mueller, Janice. “Letter Report Canteen Operations in Adult Correctional Institutions.” State of Wisconsin: Legislative Audit Bureau. Madison, Wisconsin. 2007. Print. pp. 7

<sup>572</sup> Mueller, 7

<sup>573</sup> Esseks, 5

inmates with mental illness of 14.3%, from 6,084 to 6,957, in a time period when total inmate population increased 3.9%.<sup>574</sup> While the Wisconsin DOC reports that its practices are based on the standards of the National Commission on Correctional Health Care, a legislative audit found that “the DOC does not, however, establish policies that fully meet those standards when staffing, budgetary, or other limitations would prevent compliance.”<sup>575</sup> Such limitations are an increasingly pressing reality within the Wisconsin prison system.

Wisconsin it continues to hold prisoners in solitary confinement longer than the national average. Solitary confinement does not provide an effective mechanism for dealing with inherent problems in the prison system.<sup>576</sup> One person who experienced solitary confinement in 2000 at Columbia Correctional described a draining and assaultive environment, with large numbers of mentally ill prisoners warehoused in solitary, uncleaned feces on the walls and an insect infestation. Glenn Turner asserts in “Voices from Solitary”, “I’ve seen prisoners who were unable to endure such long terms of confinement in solitary attempt to commit suicide, smear their fecal matter over their bodies, cells, and even eat their body waste.”<sup>577</sup> Such patterns of deprivation suggest the core priorities of the prison system are rooted in control rather than corrections.

Along with too little human contact within solitary confinement, the Wisconsin DOC has increasingly imposed a different kind of strain from too much human contact in increasingly over-crowded general population. Severe overcrowding became an increasing issue in the 2000s,

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<sup>574</sup> Jauch, Robert. “An Evaluation of Inmate Mental Health Care Department of Corrections”. Wisconsin Legislative Audit. March 2009. Madison, Wisconsin Legislature. Print. pp 8.

<sup>575</sup> Jauch, 13.

<sup>576</sup> Anonymous. Personal Interview 5. 9 May 2019.

<sup>577</sup> Turner, 45

with all cells doubling up, and some with 3 or 4 people to a cell. There were long waiting lists for jobs, education and programming. Overcrowding is an ongoing and accumulating issue.<sup>578</sup> Issues with the basic structure of the Wisconsin prison system appear forcefully in this issue. With the continued expansions in population and the way that policies are implemented. Not only is the DOC not rehabilitating prisoners effectively, it is failing to meet their basic physical needs.

The population of Wisconsin prisoners grew substantially across the late twentieth and early twenty first centuries, more than tripling between 1990 and 2014.<sup>579</sup> The cost of maintaining a prisoner in Wisconsin continued to rise, to a new height of \$35,000 to \$103,000 a year, depending on age and related health care needs.<sup>580</sup> During this time, the Wisconsin legislature shifted the budget for the DOC, cutting resources available for the physical and mental health of prisoners.<sup>581</sup> Wisconsin shares many of the same problems as other states, but is worse than many in areas of mental health, segregation and education. The harshness of the Wisconsin DOC can be asserted partly to racial disparity, as one commentator has asserted, “there are racial aspects to almost everything in this state, the prison system’s population has huge racial disparities, higher in Wisconsin than almost any other state.”<sup>582</sup> This pattern of racial disparity is exacerbated by the location of prisons in predominantly white areas.<sup>583</sup> The overall patterns of disparate rates of incarceration by race are stark, as the following graphic shows.

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<sup>578</sup> Schuldt, Gretchen. “Our Crowded Wisconsin Prisons: A Primer, part 2” *Wisconsin Justice Initiative*. <https://www.wjiinc.org/blog/our-crowded-wisconsin-prisons-a-primer-part-2> (accessed December 5, 2018).

<sup>579</sup> Nissen, 3

<sup>580</sup> Anonymous. “Updates”. *Bridge of Voices*, (March 2015). Print. pp. 5.

<sup>581</sup> Anonymous. Personal Interview 2. 4 April 2019.

<sup>582</sup> Anonymous. Personal Interview 5. 9 May 2019.

<sup>583</sup> Anonymous. Personal Interview 5. 9 May 2019.



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In 2013 Fox Lake Correctional Institution received a federal notice of violation due to high amounts of lead and copper levels in the drinking water.<sup>585</sup> It took two years to meet Wisconsin DNR standards. There are continued inmate complaints of problems in the water quality up to the present, and the 2017 budget hearing approved \$3 million for improvements in filter process for the prison wells.<sup>586</sup> Recently, this prison has seen several correctional officers charged with sexual assault against prisoners.<sup>587</sup> During the publicity around Lukas, the Wisconsin Center for Investigative Journalism sued the DOC for withholding relevant records.<sup>588</sup>

<sup>584</sup> Wagner, Peter. *Prison Policy Initiative*. <https://www.prisonpolicy.org/profiles/WI.html> Accessed 15 February 2019.

<sup>585</sup> Schuldt, Gretchen. "Our crowded Wisconsin prisons: a primer, part 1." *Urban Milwaukee*. <https://urbanmilwaukee.com/2017/11/24/a-primer-on-overcrowded-prisons-part-ii/> (accessed December 5, 2017).

<sup>586</sup> Schuldt, 2

<sup>587</sup> Pyke, Robert. "Former Prison Employee Charged With Sexual Assault". *Daily Citizen*. [http://www.wiscnews.com/bdc/news/local/article\\_19071305-835f-5057-bf55-cd97984b4b3d.html](http://www.wiscnews.com/bdc/news/local/article_19071305-835f-5057-bf55-cd97984b4b3d.html) (accessed January 10, 2019).

<sup>588</sup> Leuders, Bill. "Fox Lake prison guard fired for harassing inmates." *The Capital Times*. [http://host.madison.com/ct/news/local/crime\\_and\\_courts/fox-lake-prison-guard-fired-for-](http://host.madison.com/ct/news/local/crime_and_courts/fox-lake-prison-guard-fired-for-)

That the problems don't merely involve a few guards is shown both by the similar patterns of abuse performed by different guards, and by more ingrained structural issues. In 2016 the media reported that the water at both Fox Lake and Waupun was contaminated, tap water being yellow brown and containing sediment.<sup>589</sup> For a comparatively new facility to share the same problems with drinking water as the oldest prison in Wisconsin is striking. In a very clear sense, the construction of new prisons has not automatically meant better condition. Yet prison construction has continued to happen and became viewed as an ongoing necessity across the late twentieth century. Examination of Fox Lake in the past and recent past also shows that many of the significant problems identified in close study of Waupun cannot be assumed to be limited to maximum security prisons.

There are issues in all prisons in the Wisconsin DOC, not merely maximum security facilities. Kettle Moraine Correctional Institution, a medium security facility, by the DOC's own assessment is in violation of building codes, and has ventilation systems that are severely out of date.<sup>590</sup> Oakhill, a minimum security facility, has inadequate boiler infrastructure.<sup>591</sup> Yet the highest cost to prisoners in Wisconsin comes from people in maximum security conditions. While the threat of security reclassification and move to more grueling conditions creates a

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[harassing-inmates/article\\_f3033a8a-e3a2-11e4-9300-4bc890f9cceb.html](https://www.wjiiinc.org/blog/harassing-inmates/article_f3033a8a-e3a2-11e4-9300-4bc890f9cceb.html) (accessed November 18, 2018).

<sup>589</sup> Hall, Dee. "Water tainted with lead, copper at two Wisconsin state prisons" *The Capital Times*. [http://host.madison.com/ct/news/local/environment/water-tainted-with-lead-copper-at-two-wisconsin-state-prisons/article\\_5d05d6d8-fdc7-11e5-b181-a73a6523dfc0.html](http://host.madison.com/ct/news/local/environment/water-tainted-with-lead-copper-at-two-wisconsin-state-prisons/article_5d05d6d8-fdc7-11e5-b181-a73a6523dfc0.html) (accessed November 25, 2018).

<sup>590</sup> Schuldt, Gretchen. "Our Crowded Wisconsin Prisons: a primer, part 3". *Wisconsin Justice Initiative*, <https://www.wjiiinc.org/blog/our-crowded-wisconsin-prisons-a-primer-part-3> (accessed February 8, 2019).

<sup>591</sup> Schuldt, Gretchen. "Our Crowded Wisconsin Prisons: a primer, part 4". *Wisconsin Justice Initiative*. <https://www.wjiiinc.org/blog/our-crowded-wisconsin-prisons-a-primer-part-4> (accessed February 2, 2019).

powerful deterrent over the greater number of prisoners in medium and minimum security institutions.

The DOC's rules for inmate discipline were most recently revised 2014.<sup>592</sup> These 2014 changes speeded up imposition of discipline for minor offenses, while reflecting growing concern about Wisconsin's heavy use of solitary confinement. As Cathy Jess, division of the Wisconsin DOC's division of adult institutions wrote in a memo on September 24, 2014: "Long-term segregation placements have been shown to be ineffective in terms of discipline and do not serve our corrective or rehabilitative goals."<sup>593</sup> Even prison leaders recognized this contradiction intrinsic to the Wisconsin prison system. It does not make sense as a rehabilitative process, but it is explainable as a large bureaucratic system that defines prisoners in ways that creates harm during incarceration, and with lasting effects after.

By 2016 there were approximately 104,000 people under the Wisconsin criminal justice system including 23,000 people in state prisons.<sup>594</sup> By this point the DOC had become the largest state agency in Wisconsin with an annual budget of \$1.3 billion for 37 facilities.<sup>595</sup> There were over 10,000 DOC employees responsible for the custody of 22,000 inmates and 68,000 adult offenders on probation or parole.<sup>596</sup> Alongside this increase, recent budget changes reduced funding for re-entry programs for formerly incarcerated people in Wisconsin. This shift included their cutting money to Project Return, a charity that focuses on rehabilitation and re-entry for ex-

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<sup>592</sup> Leuders, Bill. "Wisconsin prison system revamps disciplinary rules." *Wisconsin Watch*. 10 October 2017. pp. 4.

<sup>593</sup> Leuders, 3.

<sup>594</sup> Sawyer, Wendy. "Mass Incarceration: The Whole Pie 2019". *Prison Policy Initiative*. <https://www.prisonpolicy.org/reports/pie2019.html> (accessed March 19, 2019). pp. 14.

<sup>595</sup> Reisinger, Laura. *Profile and Perceived Needs of Wisconsin Correctional Educators*. MA Thesis, UW-Stout. 2016. Print. pp. 19-20.

<sup>596</sup> Reisinger, 19-20.



prisoners. This change reduced the capacity for people to continue outside prisons. The priorities of state corrections became starker.

In his 2018 book *Unethical*, former Secretary of the Wisconsin Department of Corrections Ed Wall provides his perspective on the Wisconsin DOC and his criticism of Scott Walker's management. It is a useful source, at once deeply embedded in the mentality of a DOC insider, but also publicly critical of major components of the DOC. Wall's main accusations were specifically against Scott Walker and the state Republican party, particularly over the lack of transparency that he argues created poor public service.<sup>597</sup> Wall also saw a larger problem of the governor's relationship with DOC heads, which contributed to average tenure in this position being only 24 months. At that point people either quit or were replaced.<sup>598</sup>

Wall expressed wider concerns over problems with how the Wisconsin DOC functioned. Many of these issues were concerned with correctional officers' stress. Across his book Wall describes nearly 40 staff suicides in the Wisconsin DOC. In contrast, Wall's book doesn't explore suicide or self-harm by prisoners.<sup>599</sup> Wall does identify inherent limitations within the way the Wisconsin prison system functions. Most explicitly he states: "Unfortunately, over the year the DOC had become a self-licking ice cream cone. Whether it is the probation system that perpetuates a continuous cycle of reincarceration on technical violations or staff shortages that create incredible overtime expenses, the entire system feeds on itself."<sup>600</sup> Yet Wall's frank recognition of the corruption and restrictions in the DOC also went alongside his insider look into how the prison system functions. As part of that, Wall argued for an increase in overall

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<sup>597</sup> Wall, 13

<sup>598</sup> Wall, 156

<sup>599</sup> Wall, 103

<sup>600</sup> Wall, 118-9

budget, including a need for new construction and more efficient facilities that would address the problems of high prison populations and old facilities.<sup>601</sup> In accordance with this view, Wall situates prison as an area of continual menace, with all the criminals being dangerous, and some focused on nothing except planning violence against correctional officers.<sup>602</sup>

Starting in 2016, the department of corrections increased fees leveled at prisoners under the justification of victim surcharge. They officially increased from 25% of all deposits into inmates' accounts to 50%.<sup>603</sup> On April 11, 2016, the Wisconsin legislature enacted ALS ACT 355, it became effective July 1, 2016, and required all restitution owed by a prisoner be paid in full, increasing the deduction from inmate wages. They hiked prices for commissary each year for five years. During the same period there was no increase in prisoner wages.<sup>604</sup> This measure contributes to dysfunction of the prison system, locking people up, taking away their capacity to care for themselves, and then charging people for their presence.<sup>605</sup> Beyond the ostensible aims of victim restitution, the DOC carries out this measure as another aspect of a bureaucratic, money-sucking engine that increasingly seeks to assess prisoners to maintain the huge costs of mass incarceration. Such an increase plays out the consequences of an expanding prison system. It occurred where even conservative politicians recognize that, with the rising costs of prison, the options are to either reduce incarceration or defray costs by charging prisoners.<sup>606</sup> Due to litigation by prisoners, on January 18, 2018, Dane County judge Shelly Gaylord issued an injunction prohibiting the DOC from seizing more than 25% of prisoners' funds.<sup>607</sup> The DOC

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<sup>601</sup> Wall, 123

<sup>602</sup> Wall, 104

<sup>603</sup> Anonymous. "Land of the Free". *Bridge of Voices*. (April 2017). Print. pp. 1.

<sup>604</sup> Anonymous. "Reactions". *The Incarcerated Worker*. Issue 6. (2016) Print. pp.7-8.

<sup>605</sup> Anonymous. Personal Interview 4. 3 May 2019.

<sup>606</sup> Anonymous. Personal Interview 5. 9 May 2019.

<sup>607</sup> Tarr, Joe. "Breaking the Law?" *Madison Isthmus*. March 1, 2018. pp. 2.

continued money seizures, and in response Judge Juan Colas ruled on February 1, 2019 that the DOC was violating the law by failing to follow the injunction. The issue continues to be contested in the courts, with the DOC as of present receiving no meaningful consequences for defying the injunction.<sup>608</sup>

In early 2017 Governor Scott Walker sought to reduce the state's parole system for 3,000 inmates from eight employees to one, reducing capacity for parole.<sup>609</sup> The changes Walker and his administration made to the parole system generated far less opposition than changes he made to education and public-sector unionism. Assessing this helps to see who is regarded as part of the community of Wisconsin, and who is excluded. The invisibility of prisons and prisoners is a bipartisan stance. Activists in Madison and Milwaukee routinely challenge and renounce many of Walker's policies but the extension of tortuous conditions for disproportionately poor and people of color rarely receive the same focus. Rural conservatives demonize the government and government jobs. There's increasing tendency to demonize public sector workers in rural areas, seeing them as part of the problematic machine of Madison, yet the same people do not criticize prison employees or the prison system.<sup>610</sup> Rural conservatives view prisoner employees as acceptable, because they serve the goal of guarding against the presumed threat from criminals. Across Wisconsin prisons are foundational to social order, yet they are not part of political controversies.

## **Resistance**

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<sup>608</sup> Tarr, 1

<sup>609</sup> "Land of the Free," 3

<sup>610</sup> Cramer, Kathy. *The Politics of Resentment: Rural Consciousness in Wisconsin and the Rise of Scott Walker*. University of Chicago Press, Chicago, IL, 2016. Print.

Analyzing the resistance that Wisconsin prisoners have built is crucial to understanding the function of the Wisconsin DOC. Across this chapter I've tracked the patterns of increasing bureaucratic scale and heightened disciplinary sanctions. This section shows ways that incarcerated people have successfully and unsuccessfully challenged these norms. This analysis builds off the overview provided in chapter 4 of the dissertation. In contrast with other states, Wisconsin inmates do not as frequently do strikes or riots, and more frequently do hunger strikes and litigation. While extended solitary confinement became a tool to isolate and intimidate noncompliant prisoners, some prisoners were able to continue building prisoner organizing. This continued in some cases despite added physical abuse and antagonism that tried to provoke responses that would justify the abuse.<sup>611</sup>

This abuse existed in different forms in periods of intense expansion and turbulence. Prisoners rioted at the Wisconsin State Reformatory in 1947<sup>612</sup> and again in 1971. This latter uprising involved over 200 prisoners, acting in response to attacks by guards. In the riot they injured 6 guards and made extensive damage to a dormitory.<sup>613</sup> Also in 1971 prisoners at the Wisconsin Home for Women rioted. They inflicted significant property damage and injured three guards.<sup>614</sup> Guards suppressed both of these disturbances were suppressed, and neither gained the specific changes they thought. Yet they showed within prisoner populations, and the potential that such groups had to disrupt standard routines.

There are signs of a struggle over efforts to maintain stability within the Wisconsin prison system. Donald Tibbs in *From Black Power to Prison Power* claims that Wisconsin was one of

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<sup>611</sup> Anonymous. Personal Interview 3. 12 April 2019.

<sup>612</sup> Fox, 9

<sup>613</sup> Fox, 16

<sup>614</sup> McNeill, 17

the areas that saw the growth of prison unions from 1973-1975, although he does not provide details of this group. If such structures existed they didn't leave much lasting impact.<sup>615</sup> The transitory nature of prisoner forms of organizing is inherent to their terrain, as chapter four of this dissertation has explored in greater detail. Prison authorities have prioritized repression of prisoner collectives and erasing records of them. Mark Cody's 1985 field-work thesis for Master of Public Administration at UW-Oshkosh was intended to provide a training manual for new employees of the Wisconsin DOC, believing that up to this point no training manual existed that examined prison systematically.<sup>616</sup> In comparison with Minnesota DOC, "The Wisconsin system has another advantage in terms of stability. A large institution, if it "explodes" (rebellion of inmates) can be harder to control and contain than a small institution. Inmates find strength in numbers, especially if gang membership and organization are factors."<sup>617</sup> At the time the prison populations of Minnesota and Wisconsin were comparable in both size and the number of people per prison. At present the number of prisoners per facility remains comparable, though Wisconsin has more prisons and more overall people incarcerated.<sup>618</sup> This evaluation is significant because it shows the distinctive aspects in how Wisconsin's prison infrastructure developed.

Prisoners at Waupun filed a lawsuit against Waupun Correctional Institution in 1979 against overcrowding, including double and triple ceiling at the prison. The prison authorities packed multiple beds into cells originally designed for single occupancy. A court order in December 1983 mandated that triple ceiling was not constitutionally approved except as a very

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<sup>615</sup> Tibbs, 156

<sup>616</sup> Cody, 1

<sup>617</sup> Cody, 63

<sup>618</sup> Anonymous. "Minnesota Department of Corrections: Adult Prison Population." St. Paul, Minnesota Department of Corrections, 2018. Print. pp. 3.

temporary procedure after a disturbance, and that coerced double ceiling of emotionally disturbed inmates was also unconstitutional.<sup>619</sup> In the January 31, 1983 riot at Waupun 143 inmates rose up, taking 15 hostages, and producing significant damage to buildings. Following the disturbance, all participants were confined in the Adjustment Center.<sup>620</sup> This riot ensured years of investigation, reprisals and disciplinary restructuring in the institution, the consequences of which are explored in greater length in chapter six.

Collective refusal has also taken less confrontational forms. October 17, 1991, 71 prisoners at GBCI refused to leave the dining hall, demanding changes in the prison dress code and cable tv. Staff stormed the dining hall and used tear gas. Shortly after inmates in another cell hall started a disturbance, which was quickly suppressed. A spokesperson from the DOC said: “The prison will remain locked down until we are convinced that the warden runs the institution.”<sup>621</sup> This incident is revealing of several factors at work in contestation of prison norms. On the one hand, there is the adaptation of prisoner responses to disruptive non-violent forms, perhaps provoked by the long legacy of forceful reprisals, and that in the Wisconsin DOC unlike other prison systems, negotiations with rioters were limited. On the other hand, the response in rhetoric and reprisal from the prison authorities shows the limitations in how willing authorities were to recognize any internal challenge. Yet this desire for total control over the prison population has never been fully achieved, and new restrictions tend to be met forcefully. In 2003, when DOC policy forced inmates to order shoes from select vendors, Green Bay prisoners spontaneously opposed this policy, throwing their shoes over the side of the prison and

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<sup>619</sup> State of Wisconsin: Department of Administration: Division of State Facilities Management. *Final Environmental Impact Statement: Racine Correctional Institution*. Madison, Wisconsin. 1988. Print. pp. 118-19

<sup>620</sup> *Final Environmental Impact Statement*, 119-20

<sup>621</sup> McNeill, 22

setting some on fire.<sup>622</sup> For multiple generations of incarcerated people and across different facilities, non-violent disruptive protest continues to be an appealing tool.

Litigation has also been a frequent tool that Wisconsin prisoners have used, with some limited success. In 2001 inmates at Boscobel, Wisconsin won a class action against the extreme isolation of solitary confinement at the super maximum prison.<sup>623</sup> Subsequently in a March 2002 settlement the state agreed not to house seriously mentally ill prisoners in solitary, to provide greater time out of the cell, more phone calls to family, and introduction of some educational programs.<sup>624</sup> In Summer of 2015 the DOC settled in another case, between prisoner plaintiff in *McGhee v. Suliene*, paying \$20,000. The lawsuit concerned a doctor at Columbia Correctional Institution being negligent toward a prisoner's ongoing shoulder pain.<sup>625</sup> In June 2016 Al-Haradullah (legal name Rufus West #225213) at Green Bay Correctional settled a case brought against the prison, for canceling Islamic services. The settlement affirmed the right of all prisoners across Wisconsin to religious services of their choice.<sup>626</sup>

## **Conclusion**

The Wisconsin Department of Corrections is a major bureaucratic institution, and as it accumulates more facilities and more funding it has become increasingly significant in the economy of the state. Unlike most state agencies it is relatively opaque to the wider public, and legislative oversight largely trusts it to regulate and evaluate itself. The Wisconsin prison system has changed at key points in scale, funding and procedure. The pattern of these changes is

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<sup>622</sup> Anonymous. Personal Interview 3. 12 April 2019.

<sup>623</sup> Abramsky, 133

<sup>624</sup> Abramsky, 134

<sup>625</sup> Anonymous. "Land of the Free". *Bridge of Voices*. (April 2017). Print. pp. 2 .

<sup>626</sup> Anonymous. "Founders Notes". *Bridge of Voices*. (December 2016). Print. pp. 9.

revealing of the underlying dynamic of the Wisconsin carceral system. Changes that have expanded the material and psychological resources available to inmates have come about only through public scandal, litigation or agitational organizing, not through policy change by the DOC or state legislature. It also provides new opportunities to isolate and remove prisoners from prison contexts. The creation of more prisons was significant in creating more prison bureaucracy that will fight to maintain itself. People do this for reasons of their own career stability. Self-interest gives many individuals a reason to emphasize the danger of criminals and the need for massive funding for confining them. This bureaucratic system is not invincible and is theoretically vulnerable to efforts to defund it. The DOC is resistant to such efforts in a way that most state agencies aren't, however, because it has so much legitimacy in the eyes of the public and the legislature. It would require a significantly greater sustained awareness of the human costs of the current system to make such changes. It would also require a shift in people outside the DOC being willing to give less credence to what prison authorities say, and more attention to what prisoners say. So far, the Wisconsin DOC has not faced this kind of sustained scrutiny.



## Chapter VI: The History of Waupun Correctional Institution

“What the videotape shows is that a cell extraction and a strip search are violent, grotesque, and demeaning events. One wonders what a late-21st-century observer of this videotape might think of our civilization.”

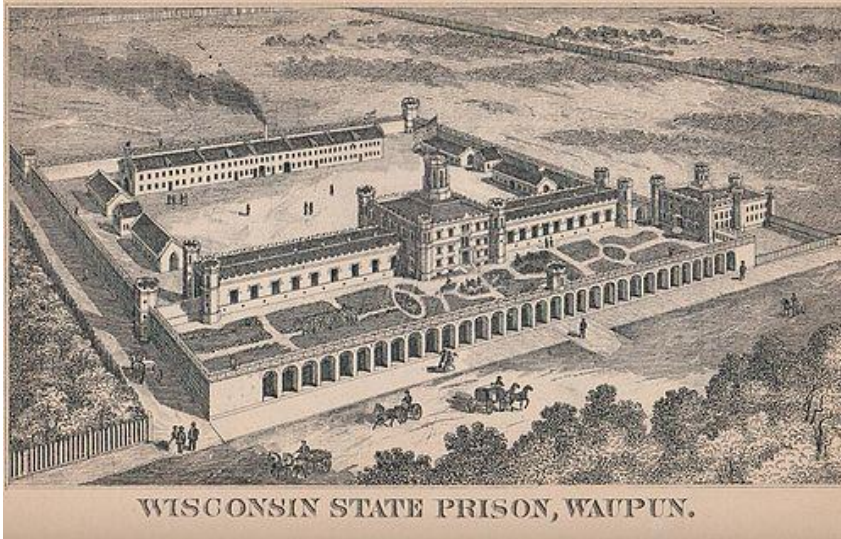
Judge of Seventh Circuit Court of Appeals, on reviewing video of 1992 cell extraction at Waupun Correctional Institution. The same judge denied a prisoner lawsuit that contested their due process had been violated.<sup>627</sup>

### Overview

In this chapter I argue that the history of Waupun Correctional Institution shows that the progressive standpoint of history is flawed, and that it is more accurate to view the prison as consistently neglecting the well-being of its prisoners. I further argue that the core dynamic of the facility has become worse due to overcrowding of the prison. I also show how internal resistance by prisoners has helped to reveal the basic priorities of the institution. While there were many changes in policy and official restructuring, the continuity across the twentieth century shows a more important underlying truth. In different period and in different garbs, Waupun Correctional became more and more focused on the warehousing of its prisoners. To develop these arguments, in this chapter I chronologically explore the trajectory of discipline and prison labor, and the links between these facets. I then examine the timeline of prisoner resistance at Waupun Correctional, and unpack what this defiance reveals.

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<sup>627</sup> Donnelly Smith v. Captain William Ball No. 93-2526. United States Court of Appeals, Seventh Circuit. Submitted Oct. 26, 1994. Print. pp. 4.



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### **Discipline and Labor at Waupun: 1900-1950**

Understanding the disciplinary system of WCI is crucial to understanding the development of the prison across the twentieth and twenty first centuries. The actual threats to prison security were not as important as the way that disciplinary standards justified the whole prison apparatus. In looking at the changes in this regime, WCI tightened its severity and focused on demonizing prisoners. It systematically increased repression rather than address the underlying problems that provoked opposition by prisoners. As this regime expanded it built in structural of disciplinary review and inmate complaint that ostensibly provide more objective treatment for prisoners. However, these improvements remained significantly lacking.

The first decades of Waupun Correctional coincide with the early history of the prison system in Wisconsin and I analyzed this in chapter 5. The dominant patterns in work in the early twentieth century was the prison administrative apparatus correcting for inefficiencies. Such changes included limiting the autonomy of wardens and shifting away from the contract labor

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<sup>628</sup> Heg, James. *The Blue Book of the state of Wisconsin: Twenty-Third Volume*. Madison, Wisconsin: Democrat Printing Co., State Printers, 1885. pp. 124.

system. All these facets are relevant to understand the dynamics with disciplined prisoner labor at Waupun Correctional from 1898 on when it was merely one among several prisons. It is also relevant to review the patterns that emerges from chapter three on the early 20th century U.S. prison system. The crucial overall shift was the expansion of the infrastructure and bureaucracy of the prison system. The prison developed more systematic regulations and increased mental health resources. However, mental health professionals remained rare. The new categorization and professionalization helped to create new justifications to prison control. Such justifications contrasted to the stated goals of rehabilitation given the violent nature of that control and the emphasis on extracting productive labor from prisoners.

In the early twentieth century sociologists and social workers at the University of Wisconsin influenced Waupun Correctional Institution. This was part of a broader trend in professionalization happening in U.S. prison systems.<sup>629</sup> The state clothing shop moved from Waupun to Green Bay in 1900 and employed 60 men there.<sup>630</sup> This is one indication of the developing scale of the prison system. Yet while this new pattern might seem to fit the progressive assumptions of Wisconsin history, it is important to recognize that the prison's development also coincided with developing control that showed little regard to prisoners as people. Starting in 1913 the prison used incarcerated labor for the construction of roads. This assignment included the seasonal employment of 40 to 100 prisoners at multiple road camps.<sup>631</sup> Also in 1913 the prison used prisoners to work for construction of the new women's prison. This self-sufficiency emerged in part from the construction of reservoir and profits from shoe

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<sup>629</sup> Langsam, vi

<sup>630</sup> Odegard, Bennett. *A History of the State Board of Control of Wisconsin and the State Institutions 1849-1939*. Madison, State Board of Control, 1939. Print. pp. 59

<sup>631</sup> Odegard, 61-2

manufacturing binder twine industry.<sup>632</sup> In 1916 the prison became self-sustaining and regarded as more stable in its economics than at any previous point in its history.<sup>633</sup> A 1915 assessment of the prison found no provision made for the care of contagious diseases, it took until 1930 for provisions for ten day quarantine to be setup, and for newly arriving prisoners to be vaccinated against smallpox on arrival.<sup>634</sup> Poor medical infrastructure contrasts with claims of well-developed rehabilitative systems. The way that the prison acted to expand in scale but not to ensure basic health shows a deep disconnect in treatment for prisoners despite the new emphasis on professionalization. The problem was not that the prison lacked direction or effective administration, it was that the way that administration was applied showed priorities of efficient control, rather than the rehabilitative goals that supposedly defined the facility.

In the 1920s the authorities at Waupun made a push for even higher levels of prison labor. In 1923 warden Oscar Lee declared that all able-bodied inmates were employed in regular labor of some kind.<sup>635</sup> This declaration was apparently either over-stated or short-lived, because by 1928 the prison administration was upset over the demoralizing effect of idleness on the institution.<sup>636</sup> Decision-makers continued to push for fuller achievement of this goal. In addition to rehabilitative claims, prison authorities used a security justification in making this push. The more that the prison became institutionalized the more it centered the needs of the institution rather than the reform of the individual.

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<sup>632</sup> McNeil, Michael. *Females Sentenced to the Wisconsin State Prison to Serve Life Sentences, 1867-1933*. Madison, Wisconsin Department of Corrections, 1999. Print. pp. 6.

<sup>633</sup> Hasse-Schnell, Marcy. *Waupun Correctional Institution*. Madison, Wisconsin Department of Corrections, 1989. Print. pp. 8.

<sup>634</sup> Brown, Giles. *History of the Wisconsin State Prison*. State University of Iowa. Manuscript Thesis, 1936. Print. pp. 27.

<sup>635</sup> Hasse-Schnell, 12

<sup>636</sup> Hasse-Schnell, 13

A crucial recognition of the disciplinary norms in the early twentieth century for the State prison appears in the 1926 rules for the Wisconsin State Prison show this priority as well: “All necessary means shall be used, under the direction of the Warden, to maintain order in the prison, enforce obedience, suppress insurrections and effectually prevent escapes, even at the hazard of life.”<sup>637</sup> That the prison provides this sanction for carceral violence to maintain order is a basic fact of prison. Not every regime has justified itself so clearly, however, and the progress of this chapter is in part an examination of changes in legitimacy for Waupun’s disciplinary process in the 20th and 21st centuries, the way prison authorities presented their value to state government and to the public.

In a 1930 statement the state prison’s warden asserted that productive labor was crucial for the prison because “many of the recent prison outbreaks in other states can be traced directly to idleness.”<sup>638</sup> This statements shows the broader regional connection of Wisconsin prison system, and the way that administrators saw and reacted to breakdowns in other areas. It also shows the limitations of the progressive nature of Wisconsin when corrections are brought into the history. Greater understanding did not entail greater humanity by the correctional bureaucracy.

Review of State Board of Control reports in the 1920s and 1930s provides insight into the physical conditions and administrative expectations of the Wisconsin State Prison. In its 1928 report the State Board of Control accused the state of being haphazard in policy, using a “plan as

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<sup>637</sup> Lee, Oscar. *Wisconsin State Prison: Rules for the Government of Prisoners*. Madison, State Board of Control, 1926. Print. pp. 4.

<sup>638</sup> Odegard, 53

you go” system.<sup>639</sup> The report acknowledged recent agitation about the use of convict labor in the State Prison and State Reformatory. In its report the Board asserted it was essential for rehabilitation that prisoners work.<sup>640</sup> Later the Wisconsin prison system emphasized the importance of programming, while not providing enough of it. Both rehabilitative standards carried inherent contradictions. The State Board Report also discussed a recent bill proposed in the legislature that would set aside 10% of difference between wages for prisoners and maintenance of the men.<sup>641</sup> The State Board of Control in their report said it was unfortunate that this bill didn’t become a law, viewing it as useful to aid the character of prisoners.<sup>642</sup> The irregular nature of administration in this period undercuts the assumptions of smooth development and progressive improvement. While the prison developed in scope and increased the number of bureaucratic roles, this transition was not organic. It was also not always smooth. The turnover in this role is the most visible aspect of this challenge. Yet the prison did show a consistent focus on the need for getting prisoners to work.<sup>643</sup>

Later reports show the impact of this shift. In its 1930s reports the State Board of Control explored the significance of disciplinary changes, and the value of the recent abolishment of the silent system in the prisons.<sup>644</sup> By the 1934 report, the State Board listed three forestry camps at the State Prison and the rationale they used for the value of this is worth unpacking. In this report

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<sup>639</sup> Hannan, John. *Nineteenth Biennial Report of the State Board of Control of Wisconsin for the Two-Year Period Ending June 30, 1928*. Madison, Wisconsin Legislature, 1928. Print. pp. 8

<sup>640</sup> Hannan, 64

<sup>641</sup> Hannan, 67

<sup>642</sup> Hannan, 68

<sup>643</sup> Cape, Thomas. *The Comparative Effectiveness of the Short and Long Time Prison Terms As Shown By A Study of the Records At the Wisconsin State Prison*. University of Wisconsin, Madison, 1925. Print. pp. 12.

<sup>644</sup> Hannan, John. *Twentieth Biennial Report of the State Board of Control of Wisconsin for the Two-Year Period Ending June 30, 1930*. Madison, Wisconsin Legislature, 1930. Print. pp. 416.

the Board claimed that these camps didn't bring monetary value to the institution. Yet the State Board argued that such efforts were productive in recreating the great forests of northern Wisconsin and would eventually bring a revenue from the lumber made available. As well, they stated this practice was invaluable to the inmates by providing fresh air and wholesome labor. The emphasis on benefit to prisoners was inseparable from the requirement of them working for the prison and for outside agencies. Concerning discipline, the State Board wrote: "Severe punishments for infraction of the rules have been abandoned. Men are no longer handcuffed to the cell doors. Corporal punishment is a thing of the past...The so-called silent system has been so modified that a visitor to the prison today would see no difference between the conditions in our shops and conditions in any well-regulated shop on the outside."<sup>645</sup> Viewed in isolation, it might appear that the shift from corporal punishment was part of a progressive pattern of increasing rights and good conditions for prisoners. In fact, viewing the full quote and seeing the consistent pattern emphasizing prison labor makes it clear that discipline was the emphasis. However, prison authorities saw laboring prisoners as more productive than isolated ones.

One consequence of this regime within the prison was considerable physical cost to the labor imposed, an examination of these conditions inside Waupun in the 1930s shows the significant scale and stakes involved. In 1936 Frank Hurita, a prisoner working in twine plant had his left hand crushed in an accident.<sup>646</sup> He was taken to Wisconsin general hospital because of medical emergency.<sup>647</sup> Cases like this show the lack of real concern central to the operation of

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<sup>645</sup> Hannan, 379

<sup>646</sup> Anonymous. *Prison Orders: 1936-1944*. Wisconsin Secretary of State: Elections and Records. State Historical Society Archives Division. Series No. 2/3/5/1-5. Vol. 3. Madison, WI. (accessed March 2, 2018). pp. 10.

<sup>647</sup> *Ibid*, 10

the prison. Assumptions that the prison would steadily develop more humane treatment fall flat.

This portrayal of what prisoners needed also dictated a certain view of the prison as an institution. In 1939 penological researchers claimed an extraordinary level of quality for Wisconsin's correctional standards, particularly highlighting its accomplishments in the field of education and labor.<sup>648</sup> This progressive assumption builds on common understandings of Wisconsin's development. Such assumption should open to question. Given the problems visible prior to and after this point, this strongly stated claim of effective process speaks more to the view of how the prison authorities liked to be seen than to how they functioned.

One significant structure change occurred on July 1, 1946, when the prison higher-ups established a 3-member disciplinary committee at Waupun.<sup>649</sup> They also continued to expand the bureaucratic code, which increased the overall capacity of the prison. This change also allowed the prison to justify itself in different way. The growth in bureaucratic mechanism also functioned to the institution's advantage as the prison created an administrative structure apparently above the day to day pressures of the facility. This change was more in appearance than in substance. This disciplinary committee continued to be tightly linked to main authorities. It was not impartial or removed. Yet it now had greater claim for objective assessment. This development provided moral as well as bureaucratic credibility. Approaching the changes in the prison in this way allows greater insight into the way that apparent improvements were less substantive than often assumed.

### **Discipline and Labor at Waupun: 1950-1980**

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<sup>648</sup> Odegard, 249

<sup>649</sup> McNeil, 10



By the mid twentieth century prison authorities put greater official focus on rehabilitation. One aspect of this change involved prisons being re-named “correctional institutions” starting in 1954. Beginning in the late 1950s, the prison routine increasingly focused on use of programming and personal growth. This decade also featured an increase in prisoner resistance, with 40 uprisings over an 18-month period across the U.S. In Wisconsin, the state began to develop more prisons, in more and more remote locations.

In the mid twentieth century, the prison reports for Waupun provide clear indication into the foundation of the prison. In 1947, the prison had rated capacity of 844, and total population of 1,017. It is striking that the total capacity went down over this period, but the population increased by over 25%, embedding the overcrowding in the facility that persisted and became progressively worse across the next century. In 1948 there were 205 staff positions, 197 of which were filled.<sup>650</sup> Although slight, the staff vacancies also show a problem that became extended and more pronounced into the 21st century. As well, 106 of these staff positions were involved in supervision and discipline.<sup>651</sup> These reports also show that authorities were aware of major gaps in programming.

A survey of the prison in this time found that there needed to be more psychological evaluation of inmates, and expansion of medical resources. Prison authorities recognized that classification of prisoners was important to prepare people for re-entry. Most teachers for education in the facility were prisoners. Consequently, education was extremely irregular. Inmate teachers being continually released or transferred. This is a stark recognition of the priorities of

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<sup>650</sup> *Wisconsin State Prison Report No. 30, 4*

<sup>651</sup> *Wisconsin State Prison Report No. 30, 5*

funding, and how little organized support for rehabilitation existed.

The prison authorities also offered official commentary at the time that medical services also needed to be strengthened, to provide for physical examination when people were going to be released. The steady increase in the population size across the 1950s, broadly paralleling equivalent growth across the U.S, was smaller in magnitude and less jarring than the explosion in mass incarceration in the late 20<sup>th</sup> century. However, it still reshaped the prison in significant ways.<sup>652</sup>

One of the biggest infrastructure changes in the recent history of WCI was the 1957 construction of a new security unit. This emerged in a general context across the U.S. prison system of expanding classification, increasing rehabilitative focus, and recognizing the limits of solitary confinement.<sup>653</sup> The building was the first of its kind in Wisconsin and was intended to isolate malcontents from the general population.<sup>654</sup> This development shows several significant assumptions within the WCI authorities and the state legislature. One of these was that there were problem prisoners, people regarded as significantly more disruptive than the main population. Another component involved the potential for these people to impact and inflame discontent in the wider population. The final assumption was that the potential risk should be met by building a facility to isolate prisoners further. This is even more revealing because decision-makers were not ignorant of underlying problems within the prison.

By 1958-9 WCI's leadership viewed the prison as dangerously overcrowded, with 45%

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<sup>652</sup> *Wisconsin State Prison Report No. 30*, 7

<sup>653</sup> Rotman, Edgardo. "The Failure of Reform: United States, 1865-1965." from ed. Morris, Norval. *The Oxford History of the Prison: The Practice of Punishment in Western Society*. Oxford, Oxford University Press, 1997. Print. pp. 190.

<sup>654</sup> McNeil, 12

of the 1,539 housed on cots in cell halls and in open dormitories.<sup>655</sup> In a report to legislative visiting committee in 1958, officials at Waupun reported there were 1,166 prisoners at the institution, 379 in the camps, for a rated bed capacity of 816 and 384 respectively.<sup>656</sup>

The report noted that prison programs were somewhat controversial. Workers at the prison saw programs as necessary for rehabilitation, but also viewed them as “excessive recreation” or “country clubs.”<sup>657</sup> The report noticed some deficiencies in medical facilities, without enough medical staff, only one full time physician, and relying on 19 prisoners assisting in hospital work, with they providing good service but disrupting continuity through release and transfer of camp placement.<sup>658</sup> It is a clear indication of the priorities within the prison that showed discipline was so tied up with maintenance of the prison system. People criticized the prison for being insufficiently severe, not for being too harsh. This was a pre-existing standard across society, and fuller unpacking of the wider social assumptions involved with desiring prisoner suffering would be valuable (although beyond the scope of this dissertation). What is crucial here is that this survey showed Wisconsin prison authorities reinforcing this retributive desire, despite having a much closer level of contact with prisoners.

Despite this expansion, statements in the mid twentieth century by incarcerated people describe also significant lack of infrastructure and resources for incarcerated people. As Sherman Van Drisse’s study *Library Reading Needs* shows: “There are prison law libraries, even in the state of Wisconsin, that claim to be law libraries but are so in title only.”<sup>659</sup> At Waupun,

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<sup>655</sup> Hasse-Schnell, 18

<sup>656</sup> Anonymous. *Wisconsin State Prison Report to Legislative Visiting Committee*. Madison, Wisconsin Legislature, 1958. Print. pp. 1.

<sup>657</sup> *Wisconsin State Prison Report to Legislative Visiting Committee*, 7

<sup>658</sup> *Wisconsin State Prison Report to Legislative Visiting Committee*, 22

<sup>659</sup> Van Drisse, Sherman. *Library Reading Needs and Interests of Residents at Wisconsin State*

institution staff members were rarely provided with any substantive training in their role of assisting inmates, and staff ignored many legal problems.<sup>660</sup> In 1972, the prison instituted a new assessment and evaluation program.<sup>661</sup> This code built up the apparent fairness of the prison through allowing appeals against abuses by correctional officers. Expanding bureaucracy did not do as much to make new administrative roles prepared to critically engage with the prison, which would be the minimum required to provide redress against abuses.

### **Discipline and Labor at Waupun: 1980-2000**

In approaching the 1980s in Waupun Correctional, it is useful to review the overview of changes in this period across U.S. corrections. It is significant that this period saw both the increase in the scale of the U.S. prison system and an increase in its severity. The latter aspect is under-studied in scholarship, but it is important to identify the ways that prisons became harsher as a strategy to cope with increasing number of prisoners. The 1980s began the development of super maximum security facilities and what James Servick described in *Constructing Correctional Facilities* as “a period of innovation in correctional construction.”<sup>662</sup> In studying resistance within prisons from this period, continuing riots and hunger strikes showed a variety of tactics that prisoners used to try to delegitimize and physically contest the changing prison geographies.

Studies of Waupun in the 1980s show the strength of the disciplinary regime of this

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*Prison*. University of Wisconsin-Oshkosh. Master of Arts Thesis. 1977. Print. pp. 33.

<sup>660</sup> Van Drisse, 35.

<sup>661</sup> McCaughtry, Gary. *Waupun Correctional Institution Annual Report Fiscal Year 2003-4*. Madison, Department of Corrections, 2004. Print. pp. 27

<sup>662</sup> Sevick, James. *Constructing Correctional Facilities: Is There a Role for the Private Sector*. Washington D. C., the Brookings Institution, 1987. Print. pp 29.

prison. By the same token prisoners had limited redress against the excesses of the prison. In a 1983 study, investigators found that 90% of inmate complaints at Waupun were dismissed by the prison's inmate complaint investigation, compared to a 70% average across Wisconsin DOC. Consequently, 58% of the appeal of complaints to Department of Justice were from Waupun prisoners.<sup>663</sup> Structurally this emerged from the prominence of Waupun Correctional, and the length of time it had to embed in callous attitudes. The expansion of prison administration and bureaucratic capacity did not advance the condition of prisoners inside Waupun, instead they provided more scope for confining and dismissing opposition. Prisoners alleged that guards used force to coerce total obedience. These tactics included beating inmates with clubs, denying medical attention and using chemical agents without cause.<sup>664</sup>

In 1984 the Wisconsin Department of Health and Social Services did a study of Waupun Segregation unit, providing a rare and valuable glimpse into prison disciplinary infrastructure. The study found many problems. These included overcrowding at Waupun, deficiencies in the segregation physical plant, a inability to effectively isolate disruptive individuals and lack of resources for impaired prisoners.<sup>665</sup> The study also found that the north cell hall and adjustment center provided little effective programming. It also concluded that the open bar cell fronts allowed inmates too much opportunity to interact inappropriately with one another.<sup>666</sup> The tactical situation providing possibility for danger from prisoner hostility are significant, but more important are the deeper causes of privation and abuse that build this hostility. This study

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<sup>663</sup> Anonymous. *Report of the Investigation into the Disturbance on January 21, 1983, at the Waupun Correctional Institution*. Madison, Wisconsin Department of Health and Social Services, 1983. Print. pp. 12

<sup>664</sup> *Report of the Investigation into the Disturbance on January 21, 1983*, 15

<sup>665</sup>: Anonymous. *Waupun Segregation Unit Study*. Madison, Wisconsin Department of Health and Social Services: Division of Policy and Budget Bureau of Evaluation, 1984. Print. pp. 1-2

<sup>666</sup> *Waupun Segregation Unit Study*, 5

asserted that conditions in segregation were at their worst prior to the January 1983 disturbance at Waupun, and that afterwards the prison relied on segregation to punish inmates who participated. Since the disturbance there were some positive changes, including decreasing the prison population from 1,100 to 920, and a new superintendent reviewed and improved WCI segregation policies.<sup>667</sup> Yet the gains from this resistance were limited, and the system exerted a considerable human cost.

By design, Waupun held particularly disruptive individuals from across the maximum-security institutions. Waupun's segregation area held individuals judged particularly disruptive within this facility.<sup>668</sup> In 1985 Waupun's correctional officers placed 130 prisoners in segregation. Most of these prisoners had been involved in the 1983 riot.<sup>669</sup> This setup enabled a quick, almost routine, processing of individuals from a variety of offenses into isolation, regardless of the psychological damage this produced. Almost 50% of disciplinary incidents occurring at WCI over a representative period occurred in the segregation unit. Half of the individual acts of noncompliance and rebellion occurred by people already under extraordinary punishment.<sup>670</sup> Prison authorities have generally claimed such patterns were the result of dangerous people showing why they need to be confined in isolation. A more critical approach can appreciate such acts as a reaction to the severity of segregation.

A Wisconsin legislative committee's audit concluded "WCI, which houses the most violent, difficult to manage inmates in the Wisconsin prison system, has the most deficient

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<sup>667</sup> *Waupun Segregation Unit Study*, 2

<sup>668</sup> *Waupun Segregation Unit Study*, 3

<sup>669</sup> Van Sistine, Jerome. *Report of the 1984-5 Joint Legislative and State Supported Programs Study and Advisory Program*. Madison, Wisconsin Legislature: Joint Legislative State Supported Programs Study and Advisory Committee, 1988. Print. pp. 10.

<sup>670</sup> Van Sistine, 607

segregation physical plant.”<sup>671</sup> Many inmates, including those with mental health issues, remained in WCI segregation for over 9 months.<sup>672</sup> The study also found a problem in how the segregation program at WCI relied almost exclusively on disciplinary punishment as an incentive for good behavior.<sup>673</sup> The prison’s disciplinary components pushed even past what was supposed to be the core of the DOC, its correctional focus. These conditions have consequences. The emphasis on securing order and safeguarding security over the prison pushed WCI correctional officers to themselves be able to act against the physical security and even lives of incarcerated people with minimal consequences. By its own standards the regime was functioning effectively.

As WCI entered the era of mass incarceration the prison imposed a variety of new restrictions. In 1981 the media reported on overcrowding at Waupun.<sup>674</sup> Interviews by DOC staff and prisoners found a decrease in paroles, doubling up of cells, reduction of activities for prisoners.<sup>675</sup> As the population of the prison increased, the portion of prisoners that were black increased, for reasons attributable to wider patterns in Wisconsin policing and sentencing, but with consequences lived most intensely in Waupun and other max and medium security prisons. Amidst the wider racial disparities and disproportionate incarceration of black men, the system of inadequate support and excessive discipline increased historic inequities. Having overwhelmingly white staff did not help in the day to day functioning of this carceral apparatus. In a survey across the state, both staff and prisoners had indicated that medical care was

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<sup>671</sup> Van Sistine, 6

<sup>672</sup> Van Sistine, 16

<sup>673</sup> Van Sistine, 8

<sup>674</sup> Cartwright, Biff. “Prison Conditions Deteriorating.” *Oshkosh Advance-Titan*, 5 March 1981. pp. 8.

<sup>675</sup> Cartwright, 8

inadequate and needed additional resources.<sup>676</sup>

Near the close of the century there were a series of structural changes that adapted to the overcrowding, at various financial and human cost. In 1988 double-bunking began at WCI, fitting two people into cells originally designed for single-occupancy. This sharply reduced privacy and additional interpersonal stress.<sup>677</sup> In 1990 the DOC opened the John C. Burke Correctional Center. They had designed this as a minimum security facility adjacent to the WCI facility. Once in operation this facility took on prisoners from Waupun for six to 12 months before being released. The facility initially held 80 people, and cost \$5.6 million to construct.<sup>678</sup> Inmates were assigned work for a variety of sources, including inside John Burke, for Badger State Industries, at two prison farms, in the State Garage, at Waupun Central Warehouse and inside Waupun Correctional Institution.<sup>679</sup> The new system was different because it provided a diminishing of security level and provided the possibility for changes in prisoners' behavior to lead to different status and different conditions. Nevertheless, the partial moderation was limited in impact, as it remained subject to the wider patterns within WCI and the whole DOC. The most important thing was not that it was an expansion with lower security classification but that it was an expansion. As an increase in capacity, it provided more money into the prison system that helped to hose more people and expand the reach of prison.

The death of a prisoner at Waupun in 1990, Donald Woods, provoked public awareness and scandal. Guards held Donald and asphyxiated him by kneeling on his chest and restraining a

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<sup>676</sup> *Report of the Investigation into the Disturbance on January 21, 1983*, 9

<sup>677</sup> Hasse-Schnell, 22

<sup>678</sup> Jensen, Todd. "Inmates moving into state's newest prison at Waupun." *Fond du Lac Reporter*. 3 August 1990. pp. 2.

<sup>679</sup> Jensen, 1



belt to his neck. Beth Dittman, the medical worker on site noted him as non-responsive but did not summon a doctor or instruct guards to release him. Later, DOC higher-ups transferred Dittman to Dodge and promoted her to head of Health Services there.<sup>680</sup> This death, the cover up and the opposition of Wisconsin DOC to establishing an inmate death review board led to one legislator to nickname the DOC “The CIA of state government.” The media reports generated some attention to the death.<sup>681</sup> The death was not rare, but the attention paid to it was. Moreover, there is a clear continuity that built up to this death. In Taycheedah, at a slightly later date, a similar pattern of controversial deaths emerged. However it attributed more to medical neglect than overt force. The impact of this challenge was limited by the lack of sustained attention paid to the incident by media, or expression of support for Woods in letters to the editor. While families of incarcerated people and prison reform groups have managed some exposure of the human costs of the DOC, outside of isolated activist groups both outcry and awareness were limited.

In somewhat separate ways, as explored in the next chapter, both WCI and TCI built up a system of demonization that extended correctional abuses inside increasingly overcrowded facilities. Both reflected a shared understanding by correctional officers and medical personnel on the low value of prisoners’ lives, despite the official standard on rehabilitation. This intentional stance emerged in force at a slightly later date in Taycheedah because of different initial assumptions and greater internal shift. In both prisons the late twentieth century featured the culmination of increasing severity by prison authorities. This severity was not new. What

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<sup>680</sup> Lomax, Adrian. ” The Prison Torture Scandal at Home”. *Socialist Worker*, 17 June 2005. pp. 8.

<sup>681</sup> Anonymous. “The "Correcting Corrections" Project Distributes Prison Video Documentaries,” *Prison Legal News* 15 September 1994. pp. 1.

mass incarceration did was carry these abuses to new extents, while also exposing the underlying priorities of the prison more clearly.

On May 28, 1992, authorities initiated a lockdown of Waupun Correctional, which included cell-to-cell strip searches and rectal examinations. One prisoner filed a civil rights lawsuit against his treatment. Circuit judges of the United States Court of Appeals, Seventh Circuit, denied this lawsuit, although in reviewing the video evidence of the event they wrote: “What the videotape shows is that a cell extraction and a strip search are violent, grotesque, and demeaning events. One wonders what a late-21st-century observer of this videotape might think of our civilization.”<sup>682</sup> This is a very significant recognition of the brutality at the core of the prison, how deeply ingrained and developed standards of correctional violence had become.

The DOC made several significant adaptations to WCI during the 1990s. Through this change the prison imposed greater constraints on prisoners and greater flexibility for the disciplinary apparatus. The continued explosion in number of prisoners and surge in prison construction provided increased opportunities for dispersing networks of prisoners. Waupun limited the ability for people at any specific prison to build traction against abusive policies. Transfers also served as a tool to place prisoners in ways that increased the friction between different groups within the more and more overcrowded prison. In response to the high level of dissatisfaction by the prison population, the Department of Corrections took several measures to limit the impact of complaints. As the WCI annual report acknowledges: “In 1998, a major change was implemented restricting the number of complaints an inmate could file during a

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<sup>682</sup> *Donnelly Smith v. Captain William Ball* No. 93-2526. United States Court of Appeals, Seventh Circuit. Submitted Oct. 26, 1994. Print. pp. 4.

given time frame.”<sup>683</sup> The prison also implemented the Problem Solving Guide starting in 1999, which required inmates to exhaust administrative remedies before filing complaints, and “encourage[d] inmates to informally resolve their issues with staff.”<sup>684</sup> The idealization of bureaucratic procedure plays a significant role in daily operations of the prison. This shift reduced even the appearance of real accountability for DOC staff when inmates faced abuses. Subsequent statements from people inside WCI articulate the magnitude of this problem: “The service or complaint system is not taken seriously. I’ve filed over 100 complaints and only had one affirmed, the rest are dismissed or rejected.”<sup>685</sup> Details like this provide a crucial context on how this system was repeatedly misused. These aspects are especially crucial given the attitude that WCI correctional officers show towards prisoners. The basic mistrust made repression easier. Looking at the disconnect between the nominal objectivity of these complaint procedures and how they function in practice provides insight into the core of the bureaucratic system at WCI.

### **Discipline and Labor in Waupun: 2000-2019**

In 2002, the DOC 310 Complaint process changed again, denying the appeal of complaints which had been rejected.<sup>686</sup> Fiscal year 2003-4 had 2,271 complaints, with most complaints centering on discipline.<sup>687</sup> This helps to show the scale of dissatisfaction, and the

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<sup>683</sup> Pollard, William. *Waupun Correctional Institution Annual Report Fiscal Year 2014-15*. Madison, Wisconsin Department of Corrections, 2015. Print. pp. 17

<sup>684</sup> Pollard, 17

<sup>685</sup> Anonymous. “They Leave People Naked and Let Staff Walk On By.” *Wisconsin Prison Voices*. <https://wisconsinprisonvoices.org/abuse/waupun-they-leave-people-naked-and-let-staff-walk-by-like-this-is-some-kind-of-zoo-1-29-18/> (accessed October 16, 2018).

<sup>686</sup> Pollard, 18

<sup>687</sup> McCaughtry, Gary. *Waupun Correctional Institution Annual Report Fiscal Year 2003-4*. Madison, Wisconsin Department of Corrections, 2004. Print. pp. 28.

ways that disciplinary actions by correctional officers were central to the experience of people on the inside. One notable restriction was opportunities for recreation. Different prisoners got different privileges based on their participation in work, education and drug counseling programs.<sup>688</sup> Yet there are similar patterns across the maximum-security prisons in Wisconsin.

Prisoners inside WCI have alleged that disciplinary protocols included unofficial but widely practiced norms of “Break a Prisoner Resources”, including smearing prisoners, forging documents and psychological warfare.<sup>689</sup> Another practice is deliberate use of blind spots in prison cameras to beat prisoners.<sup>690</sup> These practices were widespread across the history of WCI, but intensified in 2013, as prisoners became more vocal in opposition to the abuses of long term solitary confinement.<sup>691</sup> Many prisoners at Waupun have commented critically on restrictions. A focus of frustrations is the seizure of 60% of prison wages and money from family. As Leo Cowan said, in *Voices Behind Wisconsin Prison Gates* issue 3, the DOC’s own regulations were misused to increase the amount of money taken while another anonymous inmate specifically described his situation “I used to owe \$980 in debt, now all of a sudden I owe \$2,052.54! They are on bull and they’re getting away with it.”<sup>692</sup>

In the 21<sup>st</sup> century period breaches in security were rare but served a justifying purpose for the expanding disciplinary rigor of the institution. In October 2002 a prisoner from Waupun escaped on a Coca Cola truck. This was reported as the first escape from Waupun in 22 years

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<sup>688</sup> Anonymous. “Land of the Free”. *Bridge of Voices*. (April 2017). Print. pp. 7.

<sup>689</sup> Wisconsin Prison Voices, WCI, “Officers Still Use Blind Spots.” (posted February 5, 2018).

<sup>690</sup> Anonymous. “Officers Still Use Blind Spots”. *Wisconsin Prison Voices*.

<https://wisconsinprisonvoices.org/inst/max/waupun/waupun-officers-still-use-blind-spots-out-of-sight-of-the-cameras-to-beat-prisoners-2-5-18/> (accessed November 15, 2018).

<sup>691</sup> “Officers Still Use Blind Spots”.

<sup>692</sup> Anonymous. *Voices From Behind Wisconsin Prison Gates*. Issue 3, May 2017. Print. pp. 4-5

and the first from a maximum security institution in twelve years in Wisconsin.<sup>693</sup> A prisoner attempted to escape in 2010, DOC staff and the Dodge County Sheriff's Department thwarted this attempt.<sup>694</sup> While moments of security breaks like this should be noted, it is also significant that such moments are rare. The emphasis on continually building security did not occur because of continual breaches. It rather happened because of the persistent need for the institution to legitimize itself and above all to expand its funding. For the DOC as for most state bureaucracies, seeking funding is a basic priority. What was distinctive about the DOC is the level of funding, and how it presented itself as vital for the preservation of society. These factors encouraged a push towards greater and greater vigilance and security, more staff, more training and more resources.

The Waupun prison authorities acknowledge sometimes that the underlying causes of discontent remain unaddressed. By August 2010, according to the warden's statement at Waupun there were 400 inmates without a job or programming assignment.<sup>695</sup> There were concerns over the structural impact of this diminished employment opportunity. As Bryan Lowry, president of federal Prison System Employees Association, stated: "Anytime you have inmates in unassigned status where they're not engaged in programming or work, it can become a security issue. Every inmate that we can get out of the cell and keep active is a positive from a moral standpoint."<sup>696</sup> Yet the prison continued to emphasize preparing for unrest, rather than concessions that would reduce dissatisfaction. Lowry's statement shows the way that concerns of morality were

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<sup>693</sup> Anonymous. "Man, Escapes From Wisconsin Prison." *Milwaukee Journal Sentinel*. 8 October 2002. pp. 1.

<sup>694</sup> Anonymous. "Alleged Prison Escape Halted". *Fond Du Lac Reporter*. 12 September 2000. pp. 1

<sup>695</sup> Kottke, Colleen. "Locked Out". *Fond Du Lac Reporter*. 8 August 2010. pp. 1.

<sup>696</sup> Kottke, 1

secondary to security concerns. This makes more explicit what has long been part of the Wisconsin DOC's rubric. While it isn't a new standpoint, the way that this became more overt is significant.

Amidst this internal evaluation, the prison's public presentation emphasized a cohesive, rational and efficient order. Formally this role was taken on by the Director of Communications for the Wisconsin-DOC that managed press releases and interviews. However, it is also an aspect of the activity of wardens across the DOC, with community events and an emphasis on public presentation assuming increasing importance in the early twenty first century. This played an important ideological role in smoothing over the more turbulent reality.

The prison system's language of efficiency emerges as well in how it deals with dissent. Public reports by Waupun Correctional Institution show a consistently high pattern of complaints by inmates, from 4,050 in 2006 to 5,253 in 2016 or approximately five complaints per inmate per year. By 2014-15 the DOC dismissed over half of the inmate complaints lodged without considering them.<sup>697</sup> Waupun's system lauds itself on its good teamwork and collaboration among staff.<sup>698</sup> It is a culmination of past disciplinary changes. This carries implications for managing and minimizing prisoner complaints. Notably, 85 of the complaints made in 2014-2015 fiscal year were themselves classified as complaints about the Inmate Complaint Review System itself.<sup>699</sup> Despite bureaucratic efforts to limit impact, incarcerated people made significant effort to change and delegitimize their conditions.

Other testimonials identify the horrific individual impact of these bureaucratic processes.

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<sup>697</sup> Pollard, 18

<sup>698</sup> Thurmer, 3

<sup>699</sup> Pollard 18

One of the participants in the 2016 Waupun Hunger Strike, wrote "I witness mentally ill prisoners down the range decamping every day. One such elderly prisoner has been in AC (long term segregation ) shipped here and there for over 20 years, since about 1998."<sup>700</sup> He also used these stories to identify the need for structural pressure to produce meaningful change, pointing to the abuses of long term solitary confinement that he had direct experience of: "They will only make small window show changes to get the attention and focus off them and not to appear the only state out of the fad. Only if there is pressure and monitoring by society will they follow through."<sup>701</sup> The issue of the prison as a self-sustaining entity is crucial. As Leroy Jones wrote in *Voices* Issue 3, "DOC is an entity with the authority to create its own rules & regulations without an independent overseer to ensure institutions & their staff follow the same rules they've created."<sup>702</sup> Timothy Flanagan identified a recurrent pattern in prisoner narratives to describe themselves as a product of the system, producing violent attitudes.<sup>703</sup> Such abuses are possible because of the way the prison was administered. This regime built disconnect, indifference and hostility towards inmate lives.

WCI continues on a significant scale, and with increasingly strained human infrastructure to maintain that scale. As of June 30, 2015 WCI had an operating capacity of 1,240 inmates.<sup>704</sup> As of 2015, Waupun Correctional Institution identified a long term problem from staff vacancies.<sup>705</sup> This was a recurrent issues in the Wisconsin DOC and across the United States prison system, that is driven by underlying tensions in corrections, and that exacerbates stresses

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<sup>700</sup> Green, Norman. *Voices Behind Wisconsin Prison Gates*. Issue 1. May 2016. Print. pp. 4.

<sup>701</sup> Green, 4

<sup>702</sup> Anonymous. *Voices From Behind Wisconsin Prison Gates*. Issue 3. May 2017. pp. 5.

<sup>703</sup> Flanagan, Timothy. *Long-Term Imprisonment: Policy, Science, and Correctional Practice*. Thousand Oaks, Sage Publications, 1995. Print. pp. 157.

<sup>704</sup> Pollard, 5

<sup>705</sup> Pollard, 3

on prisoners and staff. WCI faces challenges retaining medical, dental and psychiatric staff.<sup>706</sup> In this Waupun is like other prisons in Wisconsin and reflects patterns across U.S. incarceration.<sup>707</sup>



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The age of Waupun Correctional creates some distinctive structural issues. It used old coal-fired boilers for decades, and only shifted to natural gas in 2015.<sup>709</sup> There remain issues with the drinking water. Although the location of Waupun Correctional was initially established because of its “healthy climate and clean water” more recently both Waupun and Fox Lake have come under scrutiny for excessive lead and copper in the drinking water. Officials at Waupun insist that water treatment is effective in preventing contamination.<sup>710</sup> Despite this claim and a

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<sup>706</sup> Pollard, 13

<sup>707</sup> As outlined in chapter 3 of this dissertation.

<sup>708</sup> Anonymous. *Daily Dodge*. “Three Injured in Waupun Correctional Incident.” 4 May 2019.

<sup>709</sup> Pollard, 3

<sup>710</sup> Hall, Dee. “Water tainted with lead, copper at two Wisconsin state prisons.” *The Wisconsin Center For Investigative Journalism*. 10 April 2016. pp. 2.



2010 project to improve water supply, the DNR drinking water quality database shows that water samples from Waupun Correctional have continued to exceed the federal standard for lead 10 times, and the standards for copper 4 times.<sup>711</sup> Brian Cunningham, a guard interviewed by the Wisconsin Center for Investigative Journalism, said he distrusted the water due to the age of the prison, and brings his own bottled water.<sup>712</sup> The structure of the facility as well as human neglect had a negative impact on prisoners.

Waupun's administrative policies towards education shows clearly that priorities are for management of human resources, not for rehabilitation. Despite rhetoric about the importance of educational programming, Waupun's education department through the Marshland school is limited to nine teachers for 1,240 prisoners.<sup>713</sup> Efficiency appears not through the prison prioritizing resources for these programs, but rather the logic of austerity. For programming services, the prison relied on 190 volunteers, some of whom limit their participation to a few hours each year.<sup>714</sup> The overcrowded and bureaucratically constrained nature of Waupun appears in many of the testimonials from inside the prison.

Mental health is another aspect of the WCI's abuse. One prisoner wrote "Prisoners with serious mental illness are sometimes confined in the Restrictive Housing Unit for months or years without adequate mental health treatment, with predictably devastating results."<sup>715</sup> Mistreatment of mentally ill prisoners shows starkly how the system does not fulfill its stated goals of improving people's conduct. Instead, the true purpose is individual confinement and

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<sup>711</sup> Hall, 1

<sup>712</sup> Hall, 2

<sup>713</sup> Thurmer, 8

<sup>714</sup> Thurmer, 8

<sup>715</sup> Anonymous. *Voices From Behind Wisconsin Prison Gates*, Issue 3. May 2017. Print. pp. 5.

social control. The abuses of mentally ill prisoners are widely documented, as Ron Powers has compared it to practices from the Middle Ages.<sup>716</sup> These specific details and the overall patterns that are visible in the facility show that assumptions of progress as applied to this prison are dubious.

One of the crucial components of Waupun Correctional Institution's development was the way it presented threats to its security and justified disciplinary procedures in response. The justifications for discipline are crucial in framing policies for the institution. Through defining threats, WCI has defined the conditions for disciplinary sanctions. This includes pressure, threats and confinement. This has allowed correctional officers and prison administrators to set the standard, even when disconnected from visible security dangers. Through investigating the changes in how discipline at WCI is imposed and justified, my research shows that it is not simply about danger. The more crucial aspect is reinforcing legitimacy for the prison, showing to the public<sup>717</sup> a need for further measures.

### **Resistance At Waupun Correctional Institution: Overview**

The prison system makes sense on its own terms. It is an operating logic of a system that does not try to build rehabilitation. Understanding that gives insight into oppositional movements at Waupun and across the Wisconsin prison system. Resistance efforts are logical response to systematic indifference and abuse by the prison regime. However, it is also logical for prison authorities to break these moments and fight to avoid giving concessions, so these acts of resistance were often unsuccessful in achieving their goals.

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<sup>716</sup> Powers, 146

<sup>717</sup> And even more crucially to the legislature that ensures funding.

This section of the chapter builds from my analysis in chapter four on the tendency of resistance movements across U.S. prisons. Here I present greater insight into how these revealing disturbances manifested on a local level. My work also uses these moments of resistance to uncover crucial aspects of incarceration. There is a long pattern of collective prisoner resistance inside WCI. This has varied significantly in tactics, mode of organization and outcome. It took different forms in different points, including both overt and subtle ways of building collective responses. This builds on similar patterns seen in prisons across the United States.

To understand prisoner resistance, it is necessary to also examine why it doesn't happen more frequently. The essence of prisons is to keep people overcrowded yet separated. One separation is length of sentence. People are kept together, exploited together; yet facing different years of release. This encourages separate self-interest instead of connection. Conversations between people can build shared identity. It's not subtle; there are many prisoners who are treated like animals by the prison system. Yet possible futures of release encourage people to be pushed apart.

Another separation is from gangs in prison. Animosity between gangs helps keep people separated and reinforces prison authority. As John Hagedorn has argued in *A World of Gangs*<sup>718</sup> the emergence of gangs is a response to the retreat of the state in providing support, and especially in the demoralization that results. Gang structures continue into prisons under much greater levels of violence and atomization. These structures provide a way to have collective support in hostile environments and a feeling of power, but they are limited in how far they can go in challenging prison structures, and the connected identity fuels further division. This is a

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<sup>718</sup> Hagedorn, John. *A World of Gangs: Armed Young Men and Gangsta Culture*. Minneapolis, University of Minnesota Press, 2008. Print.

relevant factor in Wisconsin prisons, because of caution by correctional officers they are less influential than in other states, especially compared with the U.S. South.<sup>719</sup>

Another separation is from rape culture in prison, which encourages fragmentation and predatory internal dynamics, and makes collective mobilization against prison structures more difficult. These dynamics were explored extensively in Eric Stanley's *Captive Genders*<sup>720</sup> which fleshes out the dynamics of identities within prison regimes, and how prison institutions promote violence between incarcerated people. This is an aspect that should be part of a fuller examination of the dynamic within the Wisconsin prison system, although within this dissertation I was not able to adequately explore this aspect. Yet it is still important to recognize that these divisions do exist, and that these divisions were also overcome. There have been successful challenges, points where prisoners rolled back negative changes, secured improvements, and challenged the dehumanizing system of the prison.

### **Resistance At Waupun Correctional Institution: 1940-1960**

The 1940s featured both overt rebellion and building of prisoner community at Waupun Correctional Institution. On July 29, 1941 prisoners at Waupun Correctional Institution launched a major hunger and sit-down strike. This action involved 900 people, who acted primarily because of poor food quality. On July 30, prisoners returned to work after the warden promised to look into the matter.<sup>721</sup> Although brief, the forced attention and negotiated ending shows the impact of the action. The number of people involved, variety of tactics and scale of prisoner

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<sup>719</sup> Anonymous. Personal Interview 2. 4 April 2019.

<sup>720</sup> Stanley, Eric. *Captive Genders: Trans Embodiment and the Prison Industrial Complex*. Oakland, AK Press, 2011. Print.

<sup>721</sup> McNeil, 10

involvement proved decisive.

In 1943 there were prisoner publications in both the Wisconsin State Prison (The Candle) and the Industrial Home for Women in Taycheedah, (Adamstown Herald).<sup>722</sup> The Candle credited editorials under the name of Leslie Homer.<sup>723</sup> The publication also included book lists and reviews under the title “Prose for Cons.”<sup>724</sup> The Candle also used inside of the back cover to statistics on the prison, including listing the total population, number of people on parole, number of people in the hospital and deaths.<sup>725</sup> This provided a crucial mechanism for prisoners to build their own value and articulate their value and goals. John C. Burke, warden of Wisconsin State Prison, described the prisoner-written newsletter: “The magazine serves a very useful purpose. It keeps up the morale of our men and also has effect on the state as a whole. It goes to all daily newspapers, which copy many articles. It also goes to every member of the legislature.”<sup>726</sup> The approval of prison authorities established an upper limit on how challenging this mechanism could be. Nevertheless, it still provided a crucial collective connection.

Not all overt resistance was enough to make gains, and unsuccessful rebellions are revealing. On January 15, 1944, 700 prisoners at Waupun Correctional Institution disarmed 15 guards and launched a sit-down strike in the prison dining room. The strikes opposed insufficient heating, which fell to 30 degrees. Warden Murphy met with a committee of three prisoners to discuss the issue. After this meeting, the warden ordered heat and light cut off, repressing the protest. The lockdown afterwards continued for days.<sup>727</sup> The different response than 1941 shows

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<sup>722</sup> Henrich, 58

<sup>723</sup> Henrich, 58

<sup>724</sup> Henrich, 93

<sup>725</sup> Henrich, 98

<sup>726</sup> Henrich, 133

<sup>727</sup> McNeil, 10

a different strategy, perhaps triggered by administrative experience in handling prisoner mobilizations. WCI had sanction for enormous pressure. When authorities could anticipate prisoner resistance they could guard against it. A continual process across the twentieth century was for prisons to be fortified and funded against disruption, and to learn from attempted revolts in their facilities and other sites. In this case, the extended retaliation shows the priority of WCI authorities on crushing demands. It also reveals the extent to which the warden and his subordinates were willing to go to end the disturbance.

Another rebellion in the late 1940s shows the development of WCI repression capabilities. On November 25, 1947, prisoners seized control of the prison laundry and held it for 15 hours before surrendering. In response the warden imposes a three-day lockdown. The main complaints behind the uprising revolved around the menu.<sup>728</sup> Specific material components mattered, as well as the determination of people to contest these norms. The lack of negotiation shows a further development of repression, that prison authorities proceeded directly to the use of force.

Waupun Correctional Institution expanded in the 1940s and 1950. During this period the prison population steadily grew. As well, the prison authorities established a disciplinary committee and increasingly focused on appearing objective. Near the end of this period, in 1957, the prison built a new security unit. Using this new facility Waupun's guards focused on isolating problem prisoners. The continuation of prisoner revolt reveals the vitality of prisoner expression despite delegitimizing by the prison. However, across this period there were few gains from riots, and softer forms of collective expression were limited in their ultimate impact.

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<sup>728</sup> McNeil, 11

Moreover, the most lasting change that happened to Waupun was not improving conditions but an intensification of the security measures and an increase in the tools for further repression.

### **Resistance At Waupun Correctional Institution: 1960-1980**

In 1961 prisoners rioted at Waupun Correctional Institution. Subsequently authorities punished one prisoner as the ringleader.<sup>729</sup> This tactic became as a crucial component for repression that the DOC increasingly used to chill prisoner resistance through targeting certain individuals disproportionately. Clayton said he was inspired by hearing of prison riots in other states.<sup>730</sup> This testimony shows the importance of examining the local context as well as the impact of other movements happening across the United States.

On July 15, 1966 prisoners rioted again at Waupun. In the representation of the disturbance after the fact, prison authorities claimed that it emerged from racial conflict between prisoners rather than frustration with prison conditions. This claim appears to be an attempt to sever this unrest from the wider pattern of agitation against prison norms happening across the United States in this period, as outlined in chapter four. In this 1966 riot one prisoner died while four guards and nineteen prisoners were injured.<sup>731</sup> The more destructive character of this rebellion is striking, although this fact also makes it harder to get neutral evaluation from media sources at the time. It is also worth noting that despite the lethality this riot was smaller in scale of participation and impact than other WCI rebellions in the 1960s.

On September 7, 1969, 250 prisoners staged a disturbance on the recreation field on Waupun. This uprising lasted 4 hours. In scale and length, it was a highpoint of prisoner

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<sup>729</sup> Clayton Cook, age 18

<sup>730</sup> McNeil, 12

<sup>731</sup> McNeil, 13

rebellion in this decade. Prisoners protested low wages and an increase in cigarette tax. As in the 1947 revolt, specific material concerns motivated major disruption. Prisoners saw these immediate issues as easier to change than more substantive ones. Prisoners made threats to burn down the laundry, and guards fired several shots, but inflicted no injuries.

Another uprising occurred on October 1, 1969 when 70 prisoners rioted. The security captain met with prisoners. After negotiation the prisoners agreed to return to their cells.<sup>732</sup> The return of WCI authorities to negotiation rather than raw force suggests either moderation in internal standards or the growth in resistance by incarcerated people forcing changes.

Outside support continued to have an impact. On October 2, 1971, the Wisconsin Prisoners Solidarity Committee protested outside Waupun State Prison. The protesters demonstrated to support prisoners and demands for reform, in response to Attica and the murder of George Jackson. Such visible support is significant since it counters the dehumanization and discrediting of incarcerated people. The support provided a degree of pushback against dominant systems. October 3, 1971, people chanted and made noise outside Waupun prison, prisoners on the inside began yelling in response, 5 were moved to segregation.<sup>733</sup> Outside support mattered, but it didn't suffice to offset the power disparity within prisons.

On July 21, 1976, 75 prisoners at Waupun Correctional seized the prison metal industries building and held 16 guards hostage.<sup>734</sup> They released the hostages later that day, under promise of amnesty and after an opportunity to hold a press conference. In this press conference, Clayton Cook, Anthony Miller, Dave Reynolds and John Lavender, talked about "complaints about the

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<sup>732</sup> McNeil, 14

<sup>733</sup> McNeil, 15

<sup>734</sup> Jensen, Todd. "Prison hostages freed unharmed." *Fond Du Lac Reporter*. 22 July 1976. pp. 1.



wages paid inmates working in the prison industries, about racism on the part of guards, about beatings of inmates by guards and about the state's parole system.” It is notable how consistently the issue of wages was advanced by prisoners in their demands. As well, it is striking how thoroughly outside commentators dismissed or ignored these demands. Cook had been previously involved in a 1961 Green Bay prison uprising. This link suggests a connection between different prison insurgencies. Contesting the pay rate of 50 cents a day, at the press conference Cook said “We want higher wages for doing slave labor. We think any industry should pay the minimum wage. License plates are a big profit industry.”<sup>735</sup> This statement clearly articulated prisoner demands. It also shows the broader inequities that fueled prison work.

During the 1976 standoff, 150 guards from Kettle Moraine and Fox Lake Correctional were called in to Waupun.<sup>736</sup> Even some of the people held hostage by the prisoners appreciated their demand for higher pay, and they stated afterward the rioters had treated them well. Marion Robinson, a guard taken hostage, said: “Someone ought to listen to them. Some of the rules set down are kind of petty.”<sup>737</sup> Commentators attributed the Waupun uprising to overcrowding, with 1,177 inmates in a facility designed for 786.<sup>738</sup> In the aftermath, the Governor and administrator of Department of Corrections disagreed on how the incident should be handled. Amidst this squabbling prisoners continued their unrest at the facility, with inmates openly violating rules. In an editorial, the Fond Du Lac Reporter condemned Governor Lucey's prison policy and suggested that this incident showed the need for “a gradual phase out of old buildings that are

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<sup>735</sup> Jensen, 1

<sup>736</sup> Jensen, 2

<sup>737</sup> Anonymous. “Waupun inmates win some sympathy after protest.” *Oshkosh Daily Northwestern*. 23 July 1976. pp. 1.

<sup>738</sup> Jensen, 2

beyond humane renovation” such as Waupun.<sup>739</sup> This incident is revealing of the fact that prisoner resistance is not always demonized. There is capacity to shift ground and perspective, to get support even for militant confrontation. Prisoners have also used confrontations to force greater public awareness.

On July 21, 1977 prisoners rose up at Waupun taking 14 guards hostage. After the fact, the press and DOC cited the prisoners Anthony Miller, John LaTender and Clayton Cook as the leaders of the uprising. Prisoners negotiated a press conference before the end of the conflict, as well as immunity for participants.<sup>740</sup> This followed a similar dynamic to previous uprisings, particularly with the attempt to separate leaders out from the prison opposition. It is distinctive in the achieving of general immunity, rare for WCI. This approach by prison authorities shows how fluid prison responses could be, and that repression wasn't inevitable.

From 1960 to 1980, this chapter has earlier shown a growth in bureaucracy at the level of Waupun and the wider state prison system. It also witnesses some adaptation to the frustrations of prisoners, most notably with the development in 1972 of the inmate complaint process. This period was also one of intensified rebellions by prisoners. The most common tactic prisoners used in this period was riots. The frequency and scale of these riots were able to achieve gains more frequently than in earlier periods. This presents the possibility that some of the wider-scale changes to the prison emerged as concessions from this pressure and the possibility of more pressure. Nevertheless, these rebellions were not enough to shift the balance of power within the institution. None of the gains ended in a lasting organizing presence. The consequences of this

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<sup>739</sup> Gores, Stan. “State prison system develops serious problems under Lucey.” *Fond Du Lac Reporter*. 27 July 1976. pp. 2.

<sup>740</sup> McNeil, 21

were severe.

### **Resistance At Waupun Correctional Institution: 1980-2000**

On January 31, 1983 prisoners launched a one-day prisoner uprising in Waupun.<sup>741</sup> There are conflicting claims on the cause of this riot. Some claims centered on issues of overcrowding and lack of programming at the prison. Others identified long-standing tension between guards and prisoners.<sup>742</sup> Other sources state that the crucial factor was the death of Martinez Frometa on January 29, 1983. The prison officially labeled the death a suicide, but some prisoners believed that guards had murdered him.<sup>743</sup> Another possible factor was the expanded strip searches in 1982, and a series of lockdowns in early 1983.<sup>744</sup> Prisoners called for a meeting on January 31, 1983, at 10 AM to discuss concerns over the death of Martinez Frometa. At 9:05 AM prisoners took over the school building and dormitory hall.<sup>745</sup> They held 15 staff hostage for 10 hours.<sup>746</sup> The prisoners inflicted minimal physical damage, yet prison authorities subsequently claimed that the riot caused hundreds of thousands of dollars in damage to the facility.<sup>747</sup> The Waupun Review Committee concluded that not all prisoners were involved in the uprising. This Committee also asserted that prisoners clashed with each other and showed divisions during the riot.<sup>748</sup>

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<sup>741</sup>Ferguson, Joseph. "State of Wisconsin Timeline". *Ereference Desk*. <http://www.ereferencedesk.com/resources/state-history-timeline/wisconsin.html> (accessed February 20, 2019). pp. 23.

<sup>742</sup> McNeil, 19

<sup>743</sup> *Report of the Investigation into the Disturbance on January 21, 1983*, 18

<sup>744</sup> *Report of the Investigation into the Disturbance on January 21, 1983*, 16-17.

<sup>745</sup> *Report of the Investigation into the Disturbance on January 21, 1983*, 27

<sup>746</sup> McNeil, 19

<sup>747</sup> *Report of the Investigation into the Disturbance on January 21, 1983*, 6

<sup>748</sup> *Report of the Investigation into the Disturbance on January 21, 1983*, 28.

The resolution of the riot included support for correctional and police services during the conflict. The Wisconsin legislature in 1985 voted for \$2,726.91 from the general fund to provide to the city of Waupun in support of “extraordinary police and fire services” provided during the riot.<sup>749</sup> A review<sup>750</sup> into the concluded that prisoners had planned carefully for the takeover, including by masking themselves and coordinating to seize two buildings almost simultaneously. The report claimed that the staff conduct in dealing with the disturbance was professional and without fault, with only minor deviations from the disturbance plan.<sup>751</sup> The committee also found some structural issues within the policy of the prison, including “polarization of attitudes among staff and inmates”, overcrowding, mentally ill prisoners and the need for periodic review of the correctional system by people outside the prison.<sup>752</sup> In evaluating this uprising, it is important to see the collective nature of this action. Small-scale resistance and individual acts of defiance were ongoing, the higher stakes and more complex acts of this kind are especially revealing of what people found intolerable. The collective nature of these actions also makes pinpointing causes harder, as different prisoners may have had different motivations. As well, what prisoners in a riot did not do is as important as what they did. The capacity of insurgent prisoners to choose not to harm hostages shows that this wasn’t simply an impulsive or emotional response. Instead such riots constituted a calculated challenge with the threat of violence rather than an immediate attack and should be viewed as a political action.

The voices of incarcerated people from Waupun show awareness of structural forces that determine the infrastructure of their lives. They saw and condemned the system that defined

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<sup>749</sup> Wisconsin State Senate Bill 62 (1985), act 123. Date of enactment: March 12, 1986

<sup>750</sup> By the Waupun Review Committee, commissioned by the Wisconsin Department of Health and Social Services.

<sup>751</sup> *Report of the Investigation into the Disturbance on January 21, 1983*, 1

<sup>752</sup> *Report of the Investigation into the Disturbance on January 21, 1983*, 2

them. Many of the people incarcerated inside Waupun attempted to navigate their situations to their best individual survival and advantage.<sup>753</sup> Yet some incarcerated workers acted in a principle of collective connection, at enormous risk. In *Voices* Issue 3, one prisoner at Waupun talked about the Wisconsin justice system as “just a single cell, a single bolt of a bigger, more complex institution.”<sup>754</sup> This source saw the way to oppose this system as empowering the youth to fight against these norms instead of being complacent.<sup>755</sup>

Some litigation against WCI in the late 1990s slowly made some gains and acted to reveal dominant norms within the prison. Prisoners filed a lawsuit in 1998 over the suicide of Matthew Sanville at Waupun Correctional, with his mother contending that Matthew had lost one-third of his body weight in segregation, leading to his death. U.S. District Judge Randal dismissed the claims, and the 7th Circuit Court of Appeals held that the mental health professionals and Waupun’s wardens were immune from legal challenge, but ruled that guards could have suit brought against them.<sup>756</sup> In 2002 the family won the lawsuit and were awarded \$1.65 in compensatory damages.<sup>757</sup> Another inmate, Gidarisingh testified in support of the Sanville lawsuit. Subsequently guards retaliated against him, by putting him segregation, physically attacking him, denying him meals and searching his cell. Gidarisingh filed a lawsuit over this behavior, which took place over five years, and involved staff at both Waupun and Columbia Correctional Institutions.<sup>758</sup>

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<sup>753</sup> A variety of tactics emerged from this, including embracing the rhetoric of rehabilitation, religious connection and focus on positive approached to parole hearing.

<sup>754</sup> Anonymous. *Voices From Behind Wisconsin Prison Gates*, Issue 3. May 2017. pp. 1

<sup>755</sup> Anonymous. *Voices From Behind Wisconsin Prison Gates*, Issue 3. May 2017. pp. 1

<sup>756</sup> Anonymous. “Lawsuit Revived.” *Daily Citizen*. 26 September 2001.

<sup>757</sup> Heinz, Katie. “Late Eau Claire man's family wins lawsuit.” *The Chippewa Herald*. 19 Oct 2002.

<sup>758</sup> Maurice Pennington v. Patricia Golonka. United States Court of Appeals, Seventh Circuit.

Between 1980 and 2000, this chapter has earlier shown the huge expansion of the prison system, and the impact of this on Waupun. The DOC systematically dismissed complaints, as a further step in the late 1990s to limit the process of these complaints. Simultaneously prison authorities inside Waupun greatly expanded the use of solitary confinement. An increasing number of prisoners died inside Waupun. Some of these deaths attracted temporary attention from outside the institution. In this period, the 1983 riot was a major challenge, the last of its intensity and scale. The expanded prison system in the 1980s and 1990s proved able to effectively repress gatherings of this type. By the close of the decade more prisoner energy occurred in litigation. The Wisconsin state proved willing to move the goalposts in the end of the 20<sup>th</sup> century, further weakening the potential for resistance.

### **Resistance At Waupun Correctional Institution: 2000-2019**

In October 2002 there were plans for a gang riot at Waupun Correctional. Prison authorities thwarted this attack and transferred prisoners to different facilities.<sup>759</sup> People involved with even low levels of opposition collective behavior faced a variety of retaliation. This included solitary confinement and denial of work in the prison.<sup>760</sup>

Between 2011 to 2014 prisoners at Waupun Correctional filed 15 lawsuits against abusive physical and psychological conditions.<sup>761</sup> Individual perseverance against carceral norms is also important. In 2015 guards continually stole a prisoner's medication. The prisoner pressed

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Nos. 09-3646 & 11-2361. Submitted November 30, 2011. pp. 2.

<sup>759</sup> Ellis Edward Murchinson v. Gary R. McCaughtery, United States District Court for the Western District of Wisconsin. No. 03-C-0058-C. Issued March 5, 2003. pp. 2.

<sup>760</sup> Anonymous. Personal Interview 3. 12 April 2019.

<sup>761</sup> Mikkelson, Marti. "Group Calls For Federal Probe of Alleged Abuse at Wisconsin's Waupun Prison." *WUWM 89.1*. 30 July 2014.

the issue, refusing to give up, and managed to force them to investigate and identify guards' misappropriation.<sup>762</sup> Among the limitations in pushing policy change is what one journalist has called "The low threshold of people concerned."<sup>763</sup> Very few people in Wisconsin cared about even the most drastic reports of physical abuse by guards.<sup>764</sup>

From 2000 to 2010, hunger strikes at Waupun were generally solo actions, individuals pressing specific demands for improvement. The goal was to force attention and require high amounts of internal paperwork that put pressure on Waupun's bureaucracy. Individually it was dangerous since guards would sometimes try to overlook or downplay the action. After 2013, prisoners and outside supporters made increased efforts to better coordinate and connected hunger strikers and outside support. An important part of this transition was increased advocacy by formerly incarcerated people. As one person involved in this process stated: "It's become more collective, more organized."<sup>765</sup>

Prisoners inside Waupun Correctional launched a mass hunger strike starting June 10, 2016. They demanded an end to long-term solitary confinement.<sup>766</sup> Prisoner resistance directly shows the true stakes of the institution. Prisons insist they need to keep people in long term solitary to keep others in the institution and defend moral norms. Yet when prisoners undertake a group hunger strikes with collective demands to improve conditions for everyone, the response of the state is to cut deals to allow individuals into general population for breaking ranks and to punish hold outs with tortuous force feedings. When prisoners contested the system, prison

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<sup>762</sup> Anonymous. Personal Interview 3. 12 April 2019.

<sup>763</sup> Anonymous. Personal Interview 5. 9 May 2019.

<sup>764</sup> Anonymous. Personal Interview 5. 9 May 2019.

<sup>765</sup> Anonymous. Personal Interview 2. 4 April 2019.

<sup>766</sup> Anonymous. "Timeline: Recent Events." *The Incarcerated Worker*. Issue 5: Fall 2016. Print. pp. 4

authorities did not act in a way that protected people's safety or advanced their rehabilitation. They acted to preserve the power structure at Waupun. Safeguarding the prison became an end for the prison itself.

The core demand of the hunger strike was for legislative cap on the use of long-term solitary confinement. They wanted a one year maximum on segregation. They also asked for expanded mental health treatment for people in solitary confinement.<sup>767</sup> One of the organizers, Laron McKinley Bey, had been in solitary for 25 years, and he described it: "In solitary people are confined to bathroom-sized cells for 23 hours a day, four days a week and 24 hours a day on three days a week, depriving them of all meaningful human contact."<sup>768</sup> McKinley also alleged physical and psychological abuse of people in solitary by the guard Joseph Beahm, including inflicting freezing showers.<sup>769</sup> The hunger strike began when people in administrative confinement in the same corridor at Waupun began talking with each other in March of 2016.<sup>770</sup> Across a two week period, two core organizers persuaded dozens of others to participate in the hunger strike, seeing it as the only tool for organized resistance they had. The argument that prisoners found most persuasive was that administrative confinement was at the core of maintaining control across the prison system, and that reducing the severity of long term isolation would strengthen organizing and conditions across the DOC.<sup>771</sup> Family members of the prisoners helped to spread the word and circulated declarations of dissent. However, guards intercepted these documents at the mail-room and took the planned hunger strike more

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<sup>767</sup> Ibid, 4

<sup>768</sup> Richmond, Todd. "Inmates plan hunger strike to protest solitary confinement". *Antigo Journal*. 7 June 2016. pp. 3.

<sup>769</sup> Richmond, 3

<sup>770</sup> De Leon, Cesar. "Dying to Live: Campaign Post-Mortem". *Wisconsin Prison Voices*. 10 March 2017. pp. 5

<sup>771</sup> De Leon, 4



seriously.<sup>772</sup>

Internal records from this time period reveal the logistics and operating mentality inside the prison. Security Director Randall Hepp in a May 31, 2016 DOC email analyzed the rhetoric of the Wisconsin hunger strikers and stated that the language of outside support looked like an article he'd read about a hunger strike in California Department of Corrections. Pamela Wallace on June 8, 2016, sent email to others in DOC, commenting on the planned hunger strike. Her evaluation took a patronizing and paternalistic assumption, advising "Be mindful of our young population and their ability to be easily influenced by others" and she ordered regular staff check ins to monitor who might be refusing meals.<sup>773</sup> Once the hunger strike began, the courts rapidly implemented orders for imposing force feeding on the hunger strikers. By June 13 the DOC had setup a detailed system of evaluation and response. In this system prison administrators claimed a distinction between petition hunger strikers and non-petition hunger strikers, in an apparent attempt to divide the prisoners and to treat people who hadn't signed the previous petition as not connected together.<sup>774</sup> On August 10, 2016, Marc Clements sent an email to all DOC wardens, informing people of day of action in solitary with Dying to Live hunger strike, Clements said that this was focused on Waupun "but this type of information can have an impact on every institution."<sup>775</sup> They also made preparations to meet protesters, and refused donations of clean water they offered.<sup>776</sup> After Cesar De Leon had experienced months of hunger strike, Sandra Hautamaki, deputy warden at Columbia, sent an email on August 10, 2016 commenting on

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<sup>772</sup> De Leon, 5

<sup>773</sup> Anonymous. "Open Records Request: DOC Emails." *Wisconsin Prison Voices*. <https://wisconsinprisonvoices.org/open-records/open-records-0-index-of-records/> (accessed October 15, 2018). pp. 9.

<sup>774</sup> "Open Records Request: DOC Emails.", 7.

<sup>775</sup> "Open Records Request: DOC Emails.", 10

<sup>776</sup> "Open Records Request: DOC Emails.", 8

Cesar's appearance, saying he had gained a lot of weight.<sup>777</sup> This provides a brief glimpse into discourse of callous disregard by DOC officials. Group hunger strikes undercut the common justification used by guards in hunger strikers, the claim that it happens because of mental illness or a desire for self-harm.<sup>778</sup> The Wisconsin prison system, compared to many other states, has less legal support available for prisoners and less of an experience of pushback.

WCI's authorities acted harshly against the leadership of the hunger strike. Guards separated participants and implemented force-feeding to break resistance of prisoners. Prison security began force feeding much more rapidly than with hunger strikes in California.<sup>779</sup> The fact that feeding was not done with tubes rather than intravenously suggests that the motivation was pain and humiliation rather than medical need.<sup>780</sup>

Hunger strike participants experienced significant abuse. Tommie Carter, a participant in the hunger strike wrote a December 18, 2016 letter published in *Prison Action News* where he described being forcibly fed, beaten and tasered. He claimed there were still seven people engaged in the hunger strike through December 2016 despite the high amount of pressure they faced. He also claimed guards fabricated meal monitor logs to assert that people had halted the strike.<sup>781</sup> In a post-mortem of the Dying to Live hunger strike, Cesar De Leon at Waupun Correctional wrote:

We demonstrated our ability to organize and our will to fight the oppressive prison conditions of

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<sup>777</sup> "Open Records Request: DOC Emails.", 13

<sup>778</sup> Anonymous. Personal Interview 4. 3 May 2019.

<sup>779</sup> Anonymous. Personal Interview 2. 4 April 2019.

<sup>780</sup> Forum for Understanding Prisons. "Three Cases". *Bridge of Voices*. (July 2016). Print. pp. 4.

<sup>781</sup> Anonymous. "Milwaukee, WI: Hunger strike news and updates." *Prison Action News*. Volume 10, issue 1.

[http://boston.indymedia.org/usermedia/application/2/224613\\_Pan\\_10.1\\_Internet\\_Version\\_Final.pdf](http://boston.indymedia.org/usermedia/application/2/224613_Pan_10.1_Internet_Version_Final.pdf) February 2017. pp. 19-20

confinement. This campaign also brought a lot of activist groups together under a single cause which gives us hope that we all want the same things and working together is a way we can obtain it. Unfortunately, we lacked a legal support team that could help the hunger strikers defend their constitutional rights to hunger strike and to defend us against the harassment and physical abuse from the prison officials who desperately tried to stop the movement from gaining support. Had we had legal support I believe more inmates would also have joined the strike which could have kept the media's interest.<sup>782</sup>

This statement suggests a fluidity in what informs personal motivations. It was hard to sustain both inside resistance and outside attention. Given the nature of the isolation of prisoners, some outside supporters believe that effective resistance from inside needs to involve families on the outside to keep regular contact. Some people also thought that protest needs to be linked to the threat of litigation.<sup>783</sup>

Earlier in this chapter I have explored how Waupun between 2000 and the present saw a calculated pushing down of rising discontent in the institution. As the prison dealt with more and more issues, including problems from the aging facility, mental illness and over-crowding, they presented a face to the outside that was increasingly calculated. This public presentation emphasized a rational coherent order, which nevertheless exaggerated the impact of the rare security breach in this period to justify the need for the substantive costs of maintaining the Wisconsin DOC. This was also a period where disruptive riots were quickly shut down and litigation had a mixed result. In this context prisoners built up momentum from individual to group hunger strikes. Waupun Correctional Institutional has shown a large capacity to outlast and repress this tactic as well. Even modest challenges within the Wisconsin DOC have and continue to be harshly contested.

## **Conclusion**

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<sup>782</sup> De Leon, 1

<sup>783</sup> Anonymous. Personal Interview 2. 4 April 2019.

As John Pratt has noted in *Punishment & Civilization* there are very different versions of “telling the truth” about prison life. The official penal discourse emphasizes civilized control and opportunities for improvement, while prisoners talk about a continual deprivation and degradation, and how they would even “introduce new privations and torments.”<sup>784</sup> This contrast can be seen within Waupun Correctional. There is a sharp divide between people in different levels of power in the institution. People lacking power in the system who experience forced work, purchasing and residence have a sharp criticism of these norms. In this chapter I argue that the history of Waupun Correctional Institution shows that the assumption of progress within Wisconsin history is flawed. WCI’s core priority is increasing control of prisoners. As the prison got more and more overcrowded, this aspect has become clearer. An examination of prisoner resistance inside WCI also reveals this aspect. The persistent pattern of ostensible change followed by increasing restrictions fleshes out the importance of power fluctuations. It is particularly useful to explore the extensive justifications for prison labor in the early twentieth century and how segregation capacity has built up over decades. Alongside the changes of mass incarceration in the late twentieth century, the prison authorities at Waupun built up the severity of carceral standards at Waupun. Mass incarceration acted to expand these abuses to a much greater degree. The expansion of the prison shows more explicitly the ultimate priorities of prison authorities. Another key and related component is the increased disciplinary flexibility provided to the institution in the 1990s. The scale and flexibility have imposed a rising cost on prisoners.

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<sup>784</sup> Pratt, 121

## Chapter VII: Taycheedah Correctional Institution



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### Introduction

In this chapter I argue that the history of Taycheedah Correctional is like that of the male prison system in Wisconsin, yet with added physical stressors and greater contradictions in how it legitimizes itself. I track the shift in how prison authorities treated women in the late twentieth century. I also explore the related shift in how authorities defined female prisoners. I argue that the crucial shift was that prior to 1975 prison authorities saw female prisoners as more fluid and malleable in their identity. In consequence, the DOC viewed female prisoners as a different kind of threat than male prisoners. As Taycheedah Correctional Institution became more crowded it needed a different justification. Prison authorities changed their representations to emphasize the physical danger from incarcerated women. This new rationalization accompanied an increasingly authoritarian approach that carried significant cost to female prisoners.

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<sup>785</sup> Anonymous. "WI DOC-TCI". <https://www.inmateaid.com/prisons/wi-doc-taycheedah-correctional-institution-tci> Accessed 10 November 2019.

In this chapter I will first present major characteristics of female incarceration in the United States. This includes exploring continuities with male incarceration, points of difference, and ways that the system altered over time. In focusing on Wisconsin, I explore first the origins and major dynamics of female incarceration in the state. I first give an overview of the changes across the late twentieth century and then describe the main changes and administrative structures from 2000 to the present. I then analyze patterns of neglect, deaths and the politics involved with several scandals at Taycheedah in the 21st century, exploring why women at TCI died and how people talked about their deaths. I next explore the connected scandals around sexual assault at Taycheedah during this same time. I then assess what efforts TCI authorities have made to positively depict their prison, considering these recurrent problems. I conclude by looking at the common characteristics and implications of women's incarceration at TC. Across this chapter I will explore the continuities and contradictions in how Wisconsin's main women's prison defined its legitimacy.

### **Overview of Female Incarceration in the U.S**

The history of Taycheedah parallels the rise of women's incarceration in the U.S.<sup>786</sup> Therefore it is crucial to provide an overview of this historical context. I will identify some major distinguishing characteristics of the history of women's incarceration in the United States, distinct and separate from male incarceration. Part of that involves a different set of principles used to legitimize women's prisons. Another crucial difference is the added stresses present with female incarceration. This exists alongside the more heavily traumatic background of female prisoners. My dissertation also outlines the structures that changed in the explosion of the female

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<sup>786</sup> Williams, Kristian. *American Methods: Torture and the Logic of Domination*. Boston, South End Press, 2006. Print. pp. 100.

prison system in the late twentieth century It is important to identify the choices and agency made by women incarcerated in the United States. Looking at these cumulative stresses and changes also shows how women's prisons have become even more contradictory than male prisons.

The history of women's imprisonment has distinctive characteristics. Women in prison were separated from men for over a hundred years. Researchers have neglected the gender-specific needs of female prisoners.<sup>787</sup> Penological literature generally under-explores links between women and state punishment. In asserting the gender-neutral character of punishment theorists of the prison overlooked conditions that impacted on women in specific ways.<sup>788</sup>

Authorities in women's prisons have used different justifications than those in male institutions. Early female incarceration in the United States, up through the mid-19th century, was less for violent crimes compared with men, but more frequently for vagrancy, prostitution, lewd behavior and other "crimes of moral turpitude."<sup>789</sup> This standard formed a different side of the gender binary, speaking to the ways that men and women were defined. The most persistent difference is that prison authorities saw women's identities are more fluid and easily malleable than masculine identities. This different standard meant they saw a different kind of danger coming from women. Hence they identified a different role for carceral norms. As administrators defined female criminals as malleable, and also portrayed them as more seductive in their

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<sup>787</sup> Stanko, Stephen. *Living In Prison: A History of the Correctional System With an Insider's View*. Greenwood Press, Westport, Greenwood Press, 2004. Print. pp. 89.

<sup>788</sup> Carlen, Pat and Worrall, Anne. *Analyzing Women's Imprisonment*. Portland, Willan Publishing, 2004. Print. pp. 3.

<sup>789</sup> Rafter, Nicole. "Prisons for Women, 1790-1980." *Crime and Justice*. <https://www.jstor.org/stable/1147471> (accessed July 10, 2018).

criminality. At the same time this fluidity presented greater opportunities for them to be reconditioned. The malleable identities also meant that authorities and prison commentators defined female criminals as highly susceptible to influence, by not just prison administrators, but also by other prisoners. This portrayal motivated certain ways that authorities setup and rationalized women's prisons. This ideology broke down in the 1970s under the stress of mass incarceration. Subsequently the prison shifted to regarding female criminals as persistently dangerous women. In consequence prison authorities depicted female criminals as requiring entailed authoritarian warehousing.

The early history of women's incarceration reflected different assumptions that prison authorities made of female prisoners. An analysis of confinement in 1845 showed that prison guards viewed women prisoners as more difficult to control than male prisoners, describing them as impulsive, unreasonable and excitable.<sup>790</sup> Between 1870 and 1935 only six independent custodial prisons for women existed in the U.S. These facilities used corporal punishment commonly, and put women with mental health issues in solitary.<sup>791</sup> The history of women's incarceration is one of frequent and recurring patterns of violence, including direct brutality, reformatory control and biological oppression.<sup>792</sup> The view of female prisoners as more redeemable than male prisoners has not entailed consistently more gentle conditions. For a long time, the prison lacked a stark logistical separation. During the early 19th century the limited numbers of female prisoners caused women to be incarcerated in the same facilities as men. Sometimes this setup lead to added burdens, as in New York's Auburn Prison where male prisoners had individual cells at night and communal activities during the day while women at

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<sup>790</sup> Stanko, 100

<sup>791</sup> Williams, 65

<sup>792</sup> Williams, 93



Auburn were kept in a small room above the kitchen, receiving food once a day. A chaplain at this prison described the gender contrast as: “To be a male convict in this prison would be quite tolerable; but to be a female convict, for any protracted period, would be worse than death.”<sup>793</sup>

That female incarceration was not as extensive or as normalized during this period did not spare incarcerated women from additional burdens. In line with the above discussion of how female identity was constructed, the fact that authorities defined female criminality as malleable in certain times justified increased pressures to remake wayward women. Even at this early point the justifications for female incarceration involved extensive claims on identity. This claim became harder and harder to sustain without rising human cost as the prison system expanded.

The late twentieth century saw a significant growth in imprisonment for women. While more men than women were incarcerated, incarceration for women grew at a faster rate than men for every year since 1985.<sup>794</sup> The expansion of mass incarceration during time of neoliberal budget cuts ensures that money will be taken from social programs necessary for women. In addition, it is women in most families who bear additional burdens of support for children, the elderly and disabled adults left behind when their family members are locked up.<sup>795</sup> The war on drugs has had a significant impact on female incarceration, with mandatory sentences ringing many more women into the carceral system. Female incarceration can be measured by both scale and quality of life. Assessing things only in a statistical way risks replicating the premises of the systems that arrest, sentence and confine women. It is also important to assess the way that the prison growth was represented beyond the statistics, how the discourse differed from the

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<sup>793</sup> Rafter, 15

<sup>794</sup> Stanko, 91

<sup>795</sup> Stanko, 103

infrastructure. The way the prison authorities defined women as unformed impacted on the kinds of material constraints and resources they provided.

## Literature Review

Comparing scholarly literature on women's incarceration helps to show the status of the field. Sandy Cook<sup>796</sup> provides useful context for the greater scrutiny that incarcerated women face and the underlying norms that encouraged this. Jane Atwood<sup>797</sup> provides similar analysis in an analysis that connects wider systems to personal experiences. These two elements provide a tension across much of the scholarship, with the effort to explore both personal experiences and the larger context they provide. Wendy Sawyer<sup>798</sup> provides similar dynamic, that more centrally explores the ways that talking about mass incarceration without appreciation to distinctive dynamics of female incarceration becomes limiting. Barbara Owen provides increased context to what the specific needs of female incarceration was. One gap across most of this scholarship was a tendency to show female prisoners as shaped by wider forces without the agency to push back and challenge these norms. Juanita Diaz-Cotto<sup>799</sup> and Victoria Law<sup>800</sup> provide a crucial supplement to this tendency by focusing on the ways that female prisoners have engaged in activism. They differ in focus, with Diaz-Cotto emphasizing less visible forms of resistance,

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<sup>796</sup> Cook, Sandy. *Harsh Punishment: International Experiences of Women's Imprisonment*. York, Northwestern University Press, 1999. Print. pp. 235.

<sup>797</sup> Atwood, Jane. *Too Much Time: Women in Prison*. London, Phaidon Press Limited, 2000. Print.

<sup>798</sup> Sawyer, Wendy. "The Gender Divide: Tracking Women's State Prison Growth" *Prison Policy Initiative*. [https://www.prisonpolicy.org/reports/women\\_overtime.html](https://www.prisonpolicy.org/reports/women_overtime.html) (accessed August 15, 2018).

<sup>799</sup> Diaz-Cotto, Juanita. *Gender, Ethnicity, and the State: Latina and Latino Prison Politics*. Albany, State University of New York Press, 1996. Print.

<sup>800</sup> Law, Victoria. *Resistance Behind Bars: The Struggles of Incarcerated Women*. Oakland, PM Press, 2009. Print.

while Law looks at overt forms that are under-explored. In each approach and the tension between them there is useful addition to overviews of female incarceration.

This overview of female imprisonment provides some crucial context that will better inform my analysis of incarceration in Wisconsin. Since major characteristics of scale, demographics and added bureaucratic burdens are similar within Wisconsin and national trends, exploring the overview is useful to avoid redundancy. Since female imprisonment began in other areas earlier than Wisconsin, it is useful to setup the local context. Sketching out dominant themes in the early history and in female prisons under mass incarcerations prepares the analysis that will took in greater detail at a single state, and then a single facility. This closer study also provides scope to better appreciate the shift between prison authorities depicting female criminals as malleable or fluid, and the portrayal over the last 40 years that emphasizes women as rigid in character, requiring harsher control. This shift reflects significant deterioration in conditions for female prisons, developing the local history helps to better see the impact of these changes.

Across the recent past and present, the prison system imposed additional burden to female prisoners. Jane Atwood in *Too Much Time* describes her experience as a woman seeking to visit other women incarcerated in the United States. Bureaucratic protocol and visiting procedures brought an assaultive focus on her body. Under the justification of maintaining security, prisons attacked her. “Depending on the facility I was constantly searched: when I entered, when I left at the end of the day, in front of guards or inmates, after I’d used the toilet. In a holding cell, alone with an officer, the bottoms of my bare feet were inspected, my breasts

and buttocks were patted, hands slid up and down the insides of my thighs.”<sup>801</sup> This experience embodies the core paradox of incarceration, the way that state punishment for offenses produces additional violence as part of confinement. The form of regulations and carceral violence take on gendered forms that build additional levels of power towards women. Much analysis of women’s imprisonment has identified the impact of disproportionate levels of suffering from poverty by incarcerated women.<sup>802</sup> Past life experience and specific physical needs causes the prison system to impose higher levels of pain on women than men.<sup>803</sup> This contrasts with the stated goals of prisons but does not emerge accidentally. The basic tension between what this system assumed as the danger of women and the potential for redeeming them manifest in a wide range of intimate, violent, carceral experiences.

Jane Atwood has defined the strategy of women’s prisons in and beyond the United States as focusing on humiliation rather than rehabilitation, building continual physical violence and assaults against dignity.<sup>804</sup> Her project was a documentary survey of women’s experience in U.S. prisons, based on their long-term interpretations of their conditions and in direct comparison to expectations imposed on male prisoners. Her work involved a detailed focus on piercing the opacity of prisons, including with photographs, interviews with women prisoners and interviews with their guards. The result is a significant body of evidence and some effective analysis gleaned even from the limits of documentation that Atwood encountered. It is particularly valuable in showing the high level of self-reflection and generating narratives. Atwood’s

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<sup>801</sup> Atwood, Jane. *Too Much Time: Women in Prison*. London, Phaidon Press Limited, 2000. Print. pp. 12

<sup>802</sup> Carlen, Pat. *Women and Punishment: The struggle for justice*. Portland, Willan Publishing, 2004. Print. pp. 5

<sup>803</sup> Carlen, 9

<sup>804</sup> Atwood, 12

approach is useful support for my main thesis on the separateness of female incarceration, although it lacks enough historical context to show how these patterns have shifted. Beyond the inflicting of pain, it is important to see the ideological patterns that accompanied these attacks. It is also important to note that the current single-minded punitive focus is a comparatively recent development.

Another additional burden imposed from women's' prisons connected to additional background of trauma prior to incarceration. A majority<sup>805</sup> of female prisoners described experiencing abuse prior to the age of eighteen.<sup>806</sup> Compared with men, incarcerated women are more likely to be addicted to drugs, to suffer from mental illness, to be effected by chronic illness, and to have been unemployed before their arrest.<sup>807</sup> These different backgrounds create additional stresses even with equivalent carceral treatment, but as this chapter will explore the treatment is itself not equivalent. There are additional pressures added to incarcerated women. What prison authorities read as either women being malleable or being irredeemable can be more effectively seen as the response to significant trauma.

It is important to appreciate the agency of female prisoners. Much of the discourse on female incarceration is more critical of systemic patterns than with male incarceration. This discussion happens in a way that emphasizes prisoners as shaped and abused by outside forces, without choice in how they respond. When studies of prison portray female prisoners, they overwhelmingly depicted them as passive and pathetic victims. This portrayal neglects women's agency. It also and ignores the fact that, as Juanita Diaz Cotto argued in *Gender, Ethnicity and*

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<sup>805</sup> 70 percent

<sup>806</sup> Braithwaite, 6-7

<sup>807</sup> Greifinger, Robert. *Public Health Behind Bars: From Prisons to Communities*. New York, Springer Publishing, 2007. Print. pp. 320

*the State*, there have "always been groups of women who have organized within prison walls to try to change conditions".<sup>808</sup> People were not just contained under mass incarceration, they pushed back against these conditions. Diaz-Cotto argues that female prisoner activism tends to be overlooked because "what constitutes prison 'activism' has been framed by the actions of male prisoners".<sup>809</sup>

It is also useful to see other modes of internal opposition inside women's prisons beyond the more sensational actions. Activism in women's prisons tends to be organized around pseudo-family alliances whose political potential has "generally been denied or ignored by social scientists" and other scholars as well as prison administrators; however, these alliances are often created to address female inmate concerns and, thus, contribute to "prisoner politicization and reform-oriented" initiatives.<sup>810</sup> It is also important to also note that the claims of lesser militancy by women in prisons are overstated. Rebellions in women's prisons have occurred, but they often do not attract media coverage or scholarship. Victoria Law effectively identifies this dynamic in her overview "Nor Meekly Serve Her Time". In this text she develops many forgotten moments of female prisoner rebellion. In part this emerged because of the standing assumption that female criminals are fickle and easily shaped, that they redefine themselves based on environment rather than trying to challenge these environments. Recovering this rebellious history is thus important for calling this core assumption into question. Forgotten moments of defiance include New York State's new prison for women in 1835, where the women responded to conditions by attacking and chasing away prison staff. It also includes a sit-down strike in North Carolina in 1975, that was crushed only after the state brought in over a hundred guards from other prisons to regain

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<sup>808</sup> Diaz-Cotto, xiv

<sup>809</sup> Diaz-Cotto, 271

<sup>810</sup> Diaz-Cotto, 302

control of the facility. Another key moment occurred in 2009 in an Arizona facility. After the death of a prisoner left in an unshaded cage for four hours, other prisoners simultaneously set fire to their mattresses as a collective protest against these conditions.<sup>811</sup>

More recent justifications for female confinement treats them as hostile elements to be contained. This framework acknowledges female prisoner defiance, although it treats it as irrational and reactive. It is therefore important in evaluating women's prisons from 1975 onwards to appreciate the calculation involved in these efforts. In a variety of forms, a lot has happened inside women's prisons, and a lot continues to happen. Appreciating this is important both to see the impact of these moments, as well as how such defiance informs understanding of the wider history of women's incarceration.

### **Wisconsin Female Incarceration 1900-1950**

The early twentieth century featured the establishment and growth of carceral structures for women in Wisconsin. Women's imprisonment developed out of what was initially a component of Waupun Correctional. Building separate facilities allowed the prison system to impose different moral standards. Amongst this growth there were administrative contradictions and several breakdowns, particularly visible in the turnover of top positions. Further expansion in the early 1930s carried women's imprisonment into a new era and created further space for the state to work out its imposition of gendered punishment.

The early history of women's incarceration in Wisconsin overlapped with the history of Waupun Correctional. In 1913 the legislature authorized Wisconsin Industrial Home for Women

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<sup>811</sup> Law, Victoria. "Nor Meekly Serve Her Time: Riots and Resistance in Women's Prisons" *New Politics* Winter 2010  
Vol: XII-4. pp., 3

(WIHW) as a discrete facility. Inmates from Waupun built the facility and finished it in 1918. The state didn't open the new location until 1921 due to a lack of funds.<sup>812</sup> During the 1920s the Wisconsin legislature showed a willingness to fund incarceration at greater levels.<sup>813</sup> The delay in funding can be seen as an adaptation to new infrastructure. This was also enabled by a period of expanding revenue, and increased fees from corporations beginning in fiscal year 1919-20.<sup>814</sup>

In addition to construction with prison labor, the Immel Construction Company also worked on this project.<sup>815</sup> The prison was originally designed to hold 67 inmates, and the limited scale shows how different carceral infrastructure was compared with subsequent developments.<sup>816</sup> The prison was intended to present a “clean and cheerful appearance.”<sup>817</sup> The first women sentenced here were committed for “crimes against morality”. The state sent serious offenders to the state prison at Waupun.<sup>818</sup> This division based on sentencing and the emphasis on positive appearance reflected a distinctive character to the facility. At this stage prison authorities defined its female prisoners as capable of improvement. This makes a significant contrast with the planning that went into Waupun Correctional and other male prisons. The difference shows a sharp divide in intentions at this time period.

Much of the media coverage of the new facility was highly laudatory. Yet some significant issues emerged. When WIHW opened *The Daily Reporter* claimed that the prison was “a model of efficiency and cleanliness” and that “The dormitory feature rivals the quarters in the

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<sup>812</sup> Williams, 112

<sup>813</sup> *Wisconsin Statutes: Volume One*. Madison, Democrat Print, 1993. Print. pp. 536.

<sup>814</sup> *The Wisconsin Blue Book, 1921*. Madison, Wisconsin Legislature, 1921. Print. pp. 353.

<sup>815</sup> *The Daily Commonwealth*. “Industrial Home Nears Completion.” September 20, 1920, pp. 1.

<sup>816</sup> Williams, 112

<sup>817</sup> Deppisch, Jodine. *Taycheedah Correctional Institution*. Madison, Department of Corrections, 2001. Print. pp. 2.

<sup>818</sup> Deppisch, 1



finest girls school of East or West.”<sup>819</sup> The facility put an emphasis in teaching girls to be proficient in ironing and laundry work.<sup>820</sup> Ebe Dederer took over as superintendent on September 8, 1924. She had previously worked as physician in Brooklyn and oversaw hospital work during World War One in France. On January 15, 1925 superintendent Dederer resigned along with four of her staff. Media reports suggested that people left because Dederer and her staff were not able to develop the institution along the lines that they had planned.<sup>821</sup> In July 1925 representatives of the Industrial Home for Women announced that because of frequent escape of inmates, an alarm system would be implemented.<sup>822</sup> In December 1925 the facility put in a nine foot high steel fence, at a cost of \$12,000, to prevent escapes.<sup>823</sup> Some inmates continued to escape despite these restrictions. In August 1927 one prisoner crawled out a third story window, dropped down to a second story edge and then jumped two floors to the ground.<sup>824</sup> In 1928, the State Board of Control report commented that women confined in the prison at Waupun were given inadequate space, and viewed construction of a prison at Taycheedah as helping to expand employment, education and vocational options for female prisoners.<sup>825</sup> Along with security considerations, there did appear to be at this stage a genuine desire to create infrastructure for rehabilitation. This followed the assumption at the time that female prisoners could be molded into greater moral character.

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<sup>819</sup> Anonymous. “Training and Clean-Living Work Wonders”. *The Daily Reporter*. 4 November 1922. pp. 2.

<sup>820</sup> “Training and Clean-Living Work Wonders”, 4

<sup>821</sup> “Training and Clean-Living Work Wonders”, 1

<sup>822</sup> Anonymous. “Announcement.” *Waunakee Tribune*. 30 July 1925. pp. 1.

<sup>823</sup> Grant, Richard. “Board Orders \$12,000 Fence to Guard Home.” *The Daily Reporter*. 14 December 1925. pp. 3.

<sup>824</sup> Anonymous. “Girl Escapes By Jumping 2 Stories.” *Sheboygan Press*. 10 August 1927. pp. 12.

<sup>825</sup> Hannan, John. *Nineteenth Biennial Report of the State Board of Control of Wisconsin for the Two-Year Period Ending June 30, 1928*. Madison, Wisconsin Legislature, 1928. Print. pp. 16.

There were several administrative peculiarities and contradictions in the Industrial Home for Women. Initially infants up to 6 months of age were included in the facility's population count. Between 1922 and 1924, 35 babies were born. The original purpose of the facility was defined as "To give the woman a nobler, better view of life."<sup>826</sup> It is significant that women's viewpoint and not just their behavior was contested. This factor shows a different rhetoric of incarceration for women than the DOC used for men of the time. The greater rehabilitative rationale and inclusion of pregnancy, birth and infants accounts for some of the greater economic costs of female incarceration. This rationale has shifted to a large extent over time, although elements of this tendency remain. The timeline of creating separate facilities for women and applying moral criteria for incarcerating increasingly numbers of women was similar across the Midwest. In Kansas the industrial farm opened as a separate women's prison in 1917,<sup>827</sup> in Illinois the State Reformatory for Women at Dwight opened in 1930.<sup>828</sup>

In 1925 according to evaluation by a visiting psychiatrist to the Industrial Home for Women, most of the inmates were diagnosed as psychopathic, having arrested or deferred mental development.<sup>829</sup> Viewing female criminal behavior as not just deviant but as a developmental impairment suggested a specific set of remedies, particularly with an emphasis on coercive education as necessary to treat female prisoners. This pattern of education emerged out of a wider societal assumption on anomalous behavior, as the 1920s the mental hygiene movement

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<sup>826</sup> Williams, 113-14

<sup>827</sup> Janoy, Claudia. "The Faces Of Long-Gone Women Tell A New Story Of The Kansas State Prison." KCUR 89.3. 6 January 2017. pp. 1

<sup>828</sup> Anonymous. "Illinois Department of Corrections Timeline." <https://www2.illinois.gov/idoc/aboutus/Pages/History.aspx> 2019. Accessed 4 March 2019.

<sup>829</sup> Williams, 114

achieved significant legitimacy in analyzing social conditions.<sup>830</sup> This tendency took on a number of challenges, as with the American Federation for Sex Hygiene seeking in 1913 to promote “proper understanding and utilization of sex as an influence in the development of the human race, and for combating venereal disease, commercialized vice and other harmful influences which have developed about the sex functions.”<sup>831</sup> Study and corrective policy were closely linked in this portrayal. Both aspects emerged from the perception that psychopathy and other mental disorders were widespread. However, there were intrinsically higher stakes involved with these standards as applied to incarceration. The DOC utilized a greater infrastructure and much wider coercive sanction. The other reason that these standards on mental health is important is because in these engineered carceral situations, prison authorities could develop narratives that justified these wider representations. The way that experts defined criminals took several forms. The first superintendent, Jennie Dower, had previously been a public school teacher in Florida and assistant to the superintendent of the Milwaukee Industrial School.<sup>832</sup> While a variety of factors were involved in this selection, Dower’s appointment shows an attempt at continuity between goals of the institution and the personnel chosen to oversee it.

A crucial source for this time period is Rachel Williams’ dissertation *The Art, Art-Making, and Related Experience of Incarcerated Women Who Define Themselves as Artists At Taycheedah Correctional Institution*. Williams’ work is useful in surveying attitudes and norms in the late twentieth century, and my chapter will return to this subsequently in this vein. I draw on it here as a window into the early history of the institution, because Williams’ feminist

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<sup>830</sup> Smith, Ryan. “Meeting on The Same Errand”—Origins of Mental Hygiene.” *The Magazine of the John Hopkins Bloomberg School of Public Health*. Fall 2003. Print. pp. 4.

<sup>831</sup> *American Journal of Public Health*, Volume II. November 1913. Number 11. Print. pp. 1155.

<sup>832</sup> Anonymous. “Milwaukee Woman Is To Head Reformatory.” *The Daily Commonwealth*. 8 October 1921. pp. 1.

criminology was able to work with the TCI warden's office and gain access into many internal records that show the different intentions in establishing and expanding the prison. Williams' provides an extensive outline of the prison bureaucracy and its various changes, before moving in the second half of her work to interviews with incarcerated art-makers and evaluating the impact of their statements. The later part of her work has effective insights into what select TCI prisoners thought of the prison. However the earlier material is valuable in a different way in showing what the prison authorities thought of their goal and work. Because of the nature of this source, it needs to be evaluated critically. The price of this kind of access was providing sources that legitimized what the prison was trying to do. As well, Williams was not a historian, so there is productive potential in drawing on this narrative and evaluating changes that they show over time. Above all, the records Williams summarized are used in looking at the period where TCI administrators centered assumptions that female prisoners could be molded and improved. This examination helps to show how that expectation changed in the late twentieth century.

The growth of the female prison population led eventually to expansion of prison infrastructure. In 1927 the Wisconsin legislature passed a bill to create a new prison for women due to overcrowding. The governor vetoed this bill, and the state instead remodeled WIHW to expand its space. During this time female incarceration increased at a faster rate than the population of Wisconsin. This emerged from the increase in of offenses defined as worthy of imprisonment.<sup>833</sup> In 1930 funding passed to build the Wisconsin Prison for Women. Construction of Jane Addams Hall began on the site of WIHW, and by 1933 all women from Waupun had been transferred there.<sup>834</sup> The state built this prison with different types of architecture, reflecting

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<sup>833</sup> Williams, 115

<sup>834</sup> Deppisch, 4

different philosophies. As Rachel Williams asserted in her dissertation: “There is no continuity, and each building is built for a specific purpose.”<sup>835</sup> The costs of construction came to \$89,699, not counting plumbing, heating and lighting.<sup>836</sup> “The two facilities were managed by the same administration and used the same facilities, but the populations remained separate. The home was geared toward correction and the “removal of evil tendencies.”<sup>837</sup> This is a more aggressive version of the justification used early in this prison. The change suggests that as the prison expanded in population the rhetoric became starker. Nevertheless, it continues the assumption that women could be reformed, albeit more aggressively, and freed from evil. This prepared the prison for subsequent expansions, which included growth in programming, but also increased racialization of the women’s prison system and further development of disciplinary aspects.

In the 1940s the Wisconsin Industrial Home for Women expanded in programming, infrastructure and prison population. The population remained small, 134 inmates in the 1940s. The facility increased the number of staff positions in this decade, from 46 in 1940 to 70 by 1950. This included new staff positions such as teachers, a dentist and a permanent psychiatrist. Some of the changes were positive such as prisoners not being required to wear uniforms during this period. Some changes were burdensome to prisoners, such as separating inmates by age. One of the key administrative shifts occurred in 1945 when the Wisconsin Prison for Women combined with the Wisconsin Industrial Home for Women were combine. The state renamed the merged facility the Wisconsin Home for Women. The naming shift also built on a slight shift in the intentions and justifications of the prison. Under the new system the prison expanded medical

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<sup>835</sup> Williams, 74

<sup>836</sup> Anonymous. “Construction at Taycheedah.” *Manitowoc Herald News*. 18 December 1931. pp. 1.

<sup>837</sup> Williams, 115

and educational programming resources. The prison also emphasized greater professionalization among staff.<sup>838</sup>

Statements made by prison authorities in the 1940s showed various changes in a positive light, but also some indications of internal stress. One of the clearest indications of tensions occurs in the 1944 resignation of Elizabeth Prescott, the superintendent of the Wisconsin Prison for Women and the Industrial Home for Women at Taycheedah. In her resignation statement, Prescott said she was no longer was able to “stand the strenuous duties required.”<sup>839</sup> This moment opens a context of tension and dysfunction that is normally covered up by official prison statements. It can be hard to assess how much is individual motivations and how much are structural. Yet resignations on this level impact themselves show structural issues. One consequence of an authoritarian system is that burnout and replacement of top people is more impactful. Prescott’s statement indicates that things were not as smooth as the official justification of the prison stated. Expansion of claims was easier than a meaningful expansion of capacity. The theme of staff frustration runs across the history of the Wisconsin DOC. Prisoner frustrations are not as easily documented but are far more extensive. As much as the prison depended on claims of the fluidity of female criminals, there were also signs that the human infrastructure of corrections was not as consistent as this rubric assumed. When the prison goals and personnel themselves were fluid, it put the basic justifications of prison into question.

### **Wisconsin Female Incarceration: 1950-1980**

In the middle of the twentieth century women’s incarceration in Wisconsin increased in scale. It also became more central to the functioning of the state. This period involved expansion

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<sup>838</sup> Williams, 116

<sup>839</sup> Anonymous. “Taycheedah’s Head Resigns.” *Madison State Journal*. 25 July 1944. pp. 1.

and re-organization of women's prison structures, as well as some attempted changes that were abortive. This culminated in the renaming of the Wisconsin Home for Women into Taycheedah Correctional, and the prison assuming the definitive administrative form that carried through the end of the century and the massive expansion in population.

In the 1950s the Wisconsin Home for Women expanded further, in numbers and in programming. This increase in prison capacity was a smaller growth than in the previous decade, with a recorded 154 inmates in 1954. The state also made new construction to expand housing and staffing space in 1952. There are some indications that prisoners had more options in this period than they had earlier. Correspondence courses formed through the extension service of the University of Wisconsin and helped prisoners earn high school credit. The facility also included not just domestic training but also programming on dry cleaning, business education, photography and medical assistant training. Not all programs continued from the earlier period, as the farm program ended, and male inmates from Waupun were sent to take over this operation, showing the continued connections between the two facilities.<sup>840</sup> Staff frequently referred to the prisoners as "our girls", and emphasized moral and religious training. An administrative bulletin from this period stated: "No girl to be allowed to stay away from chapel services except as excused by the doctor, nurse, or superintendent."<sup>841</sup> This statement shows the costs associated with prison, even when accompanied by the presence of functioning educational programs. Wisconsin prisons were not uniquely patriarchal, and this pattern reflected wider norms across corrections and wider society. The prison applied these ideas in ways distinctive to prison. It had more force to reinforce these roles. The prison's presentation of women as young

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<sup>840</sup> Williams, 116-117

<sup>841</sup> Mortell, 34

and needing guidance was very different than how the prison authorities talked about women by the end of the twentieth century as needing restraint. As well, the promise of rehabilitation provided in the perception of female criminals as more fluid in their character than male prisoners relied upon the assumption that there would be stern guidance and redirection.

The 1960s showed strong continuity despite changes and attempted changes in the Wisconsin Home for Women. By the end of the decade the prison had reached 191 inmates. This exceeded capacity and required new construction. Throughout the 1960s the population of the prison became younger, and minorities became more prevalent in the prison population.<sup>842</sup> The leading offense among new inmates were money offenses. The priority continued to be, as the 1961 annual report said, to develop “a home atmosphere, religious affiliation, and constructive recreational activities.”<sup>843</sup> In addition to overt religious instruction, the educational programming in the facility continued to act to emphasize paternalistic assumptions. The prison sought rehabilitation of women into standards of conventional white views of womanhood. Through home economics classes prisoners learned good fashion. Through food classes they learned the importance of feminine preparation and planning of foods to support her family.<sup>844</sup> There were some modest considerations of changes in vocational programming as the annual report for 1969 year stated: “women's status in the home is affected by current trends in society.”<sup>845</sup> Yet the prison continued to emphasize the centrality of women’s roles as wives and mothers. Although the increasing racialization of the prison would impact on the greater harshness and warehousing of the facility, the full impact of this did not occur immediately.

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<sup>842</sup> Williams, 118

<sup>843</sup> Mortell, 36

<sup>844</sup> Mortell, 37

<sup>845</sup> Mortell, 37



Until the development of mass incarceration, female prisoners continued to be regarded as malleable, and as able to be moved into identities of good mothers and good citizens.<sup>846</sup>

The prison reform movements of the late 1960s, described in chapter six, had an impact on the conditions inside TCI as well. By the 1960s Wisconsin prisons were impacted by the development of women's movement and human rights campaigns, which caused an increasing attention on the outside to prisoner conditions, with a national demand for more resources and rehabilitation programs designed with women's needs in mind.<sup>847</sup> They acted to briefly raise outside awareness of conditions inside Wisconsin prisons, and to contest central dynamics by rendering routines less invisible. While the total impact was limited there were some positive shifts. As the rest of this chapter will explore, that became much harder once the framework for women's incarceration shifted in the late twentieth century.

The early 1970s saw the impact of significant administrative and capacity changes. One crucial shift was diminishing psychiatric treatment and transferring inmates with mental health issues to the Winnebago Mental Health Institute.<sup>848</sup> Educational programs expanded and developed different categories, including a homemaking program, an academic program and vocational training program. Yet the DOC undermined these expanded options by major budget cuts in the early 1970s. Lack of recreational options and lack of space for them increased tensions at the prison.<sup>849</sup> In 1975 the DOC reorganized and renamed the prison Taycheedah Correctional Institution.<sup>850</sup> After 1974 annual reports for the prison stopped for years, weakening

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<sup>846</sup> Mortell, 38

<sup>847</sup> Mortell, 39

<sup>848</sup> Williams, 117

<sup>849</sup> Mortell, 119

<sup>850</sup> Deppisch, 1

the historical record.<sup>851</sup> More important than the changes in programs was the overall scale of the prison. As with male incarceration this was in the process of rampant expansion. This fueled the ideological shifts that changed core justifications for what female incarceration was trying to do, accordingly the prison authorities redefined who female prisoners were.

Taycheedah Correctional expanded significantly in the 1970s, but some of this growth became contested. It is useful to unpack the debates concerning this. On October 27, 1977, approximately 300 residents of Fond Du Lac and Taycheedah gathered at a Taycheedah town hall. They opposed the planned \$9.6 million expansion project for TCI. Some residents strongly opposed this growth because they believed it would damage the community's image and undermine the social structure of the surrounding areas. People opposed to this expansion subsequently named themselves CATE (Citizens Against Taycheedah Expansion). The group employed an attorney to fight the expansion. They defined their purpose as: "We in Fond du Lac oppose any attempt to move the problems of the men's prison of Waupun to Fond du Lac."<sup>852</sup> The committee included Fond du Lac industrialist E. C. Kiekhaefer.<sup>853</sup> It matters that the community pushing against expansion to the prison was not based in concern for conditions of prisoners. Instead, they wanted to defend property values. Such community intervention into the dynamics of prison expansion helped to escalate the lack of concern with prisoner conditions, that enabled doubling down on harsh conditions inside TCI. Such moments helped ensure that the pattern of prison expansion would take a more abusive form. It also presented female

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<sup>851</sup> Williams, 119

<sup>852</sup> Mentzer, Michael. "TCI expansion plan draws strong protest." FDL County. 28 October 1977. pp. 1.

<sup>853</sup> Anonymous. "Industrialist says TCI expansion would be 'blight on community'". *The Daily Reporter*. 5 November 1977. pp. 1.

prisoners in a starker way, more like male prisoners. Rather than being potentially redeemable criminals, prison authorities identified them as a flat danger.

The change over to Taycheedah had been originally designed as part of a move to house 54 male inmates but this was short-lived. At the height of this program approximately one third of the prisoners at TCI were men.<sup>854</sup> This change was temporary, and the DOC soon restored Taycheedah as a female-only prison. There were a number of behavioral problems and an increase in escape attempts in 1976, contributing to the end of this effort. The DOC removed the last of the male inmates by February 1978. At the same time, the state provided \$4.4 million in funding to TCI for additional expansion, including a gate house, a medical services unit and a segregation unit.<sup>855</sup> It is relevant that the authorities made a significant change in the basic nature of the prison. By this point the prison higher-ups began to define women criminals in a fundamentally similar way to male criminals. It was not a singular historical break. The full development of this new assumption took decades. Yet starting 1975 a significant transition began in how prison authorities legitimized themselves.

There has not been much consistency across the history of TCI. Even its core standards have changed, as the prison has at different points been a single-sex facility and joined, as well as changing between an institution for the shelter of unwed mothers and a maximum security prison.<sup>856</sup> The various justifications for the prison have not reflected the different forms that the building has taken. Each standard that the prison regime has used to define prisoners presents as

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<sup>854</sup> 54 out of 158.

<sup>855</sup> Williams, 121

<sup>856</sup> Williams, 44

fixed and timeless. The operation of prison and its normalization have relied on erasure of discontinuity in the prison's history.

### **Taycheedah Correctional Institution: 1980-2000**

The 1980s witnessed several changes in Taycheedah's population and an increasing of pressure to address the facility's issues.. In the early 1980s the prison administrators pushed for program development. This included forming STEP, designed for inmates with short sentences. The prison also expanded its education for childrearing.<sup>857</sup> In November 1980, the Wisconsin State Journal interviewed TCI's warden Nona Switala. The laudatory news coverage presented Switziz's efforts to improve conditions. It showed her working to protecting society from the women and rehabilitating them. Switala wanted a new modern building with expanded clinical and social services, more space for recreational activities, and a segregation unit for "troublemakers" who were at the time housed with medium security prisoners in Addams hall. At this time, Taycheedah's annual budget was \$3 million. Approximately 75% went for staff salaries. The remainder funded building maintenance and inmate programs. It cost \$1,995 a month per prisoner at Taycheedah, over twice the cost of male prisoners at Waupun.<sup>858</sup> The different in cost can be seen because of different medical needs, the greater travel costs in bringing women across the state to TCI, the greater ratio of addiction and trauma by female prisoners, and the cost to physically redesigning the prison. The system carried significant total cost. The increase in services and recreation became less significant than the way the warden justified discipline. Rehabilitation continued as an ideal (as it did for male prisoners) but with

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<sup>857</sup> Williams, 121

<sup>858</sup> Schubert, Sunny. "Warden lists Taycheedah goals." *Wisconsin State Journal*. 23 November 1980. pp. 3.

more care given to containment. The changed security concerns emerged from the increase in scale for incarcerated women. Yet this shift also involved new standards.

One pressure against TCI involved action and litigation by guards, showing how rank and file correctional officers were affected by the changing prison system. One lawsuit involved policies by the guards. In 1982 several male guards at TCI were demoted to ensure the privacy of female inmates at the prison. It was part of a bona fide occupational qualification program that provided female-only personnel in the dormitories. In 1983 three guards affected by this sued the State Department of Health and Social Services. In 1986 a U.S. District Court decision reinstated the three male corrections officers to their former ranks. The court ruled that replacements of the men by female guards was discriminatory.<sup>859</sup> The case was settled in 1987. The guards were able to maintain the security of sergeant positions while allowing the state to implement plans in the future that could move the men from the housing units.<sup>860</sup> This shows some of the basic tensions between the perceived interests of guards and of prisoners. Gaining higher rank and pay was put against ensuring the privacy of female prisoners from male guards. As with the community response to expansion, this shows a calculated pushback focused on a group with interests defined in opposition to prisoners. Inherent to the nature of prison is that prisoners have less voice and power than others, especially correctional officers. Thus, further increases in power are particularly significant. Combined with the increasing pressure from overcrowding within TCI, such pushes by guards explain the increasingly harsh disciplinary attitudes in the prison.

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<sup>859</sup> Mentzer, Michael. "Federal judge reinstates rank for 3 guards at TCI." *The Daily Reporter*. 18 May 1986. pp. 1.

<sup>860</sup> Keane, Kevin. "TCI guards settle discrimination suit." *The Daily Reporter*. 26 January 1990. pp. 1.

Reports of TCI in 1984, 1985 and 1986 provide useful sources of information on conditions at TCI during the 1980s. As of 1984, 56.6% of the inmates at Taycheedah had no prior felonies, and 63% had no prior experience in a penal institution.<sup>861</sup> A large portion of TCI's population was from Milwaukee county.<sup>862</sup> In addition, 55% of population had drug abuse problems<sup>863</sup> and almost as many (44.4%) had unstable employment history.<sup>864</sup> In 1980, the Wisconsin Women's Network (founded 1979) formed the Task Force on Women in the Criminal Justice System, a statewide volunteer coalition that focused on female prisoners in the state. They aimed to expand understanding of female offenders' needs and support programs that would meet those needs. The Task Force published a report in 1985, and the Advisory Council in 1986. Both reports highlighted problems of less educational, vocational and work programs available to prisoners at TCI than at male prisons. The vocational programs were limited to typically gendered and low-paying jobs of clerk-typist, food service assistant and cosmetology.<sup>865</sup> The Task Force's report asserted that the cosmetology program at TCI was "not geared toward the realities of the job market." It relied on "traditional view of womanhood, which emphasizes femininity and adornment of the body."<sup>866</sup> An additional issue was that male inmates received higher rates of pay, and were more likely to get work release.<sup>867</sup> The rural location of TCI was one factor in isolating women from work-release programs, community-

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<sup>861</sup> Troia, Nina. *An Evaluation of the Cosmetology Training Program at Taycheedah Correctional Institution*. Madison, Division of Policy and Budget: Wisconsin Department of Health and Social Services. 1984. Print. pp. 2.

<sup>862</sup> 35.9%

<sup>863</sup> Troia, 5

<sup>864</sup> Troia, 6

<sup>865</sup> Mortell, Nancy. *The Equality-Versus-Difference Dilemma: The Case of Women's Prison Reform in Wisconsin*. Master's Thesis. Ohio State University. 1998. Print. pp. 36.

<sup>866</sup> Mortell, 38

<sup>867</sup> Mortell, 38

based support groups and their families.<sup>868</sup> Infrastructure as well as policy made an impact on the choices available in this prison. While there were still efforts to shift women's characters towards traditional roles, in contrast with earlier in the century the prison regime also showed greater institutional acceptance that the main function of the prison should be containing women.

A major component of this was racial inequity within Wisconsin women's incarceration. It was estimated that racial minorities at the time formed 6.4% of Wisconsin's population, yet 47% of TCI's population were minority women. The Advisory Council's report stated "a larger proportion of minority women [were] assigned full time to menial jobs which [did] not provide them with job training experience and, unfortunately, appear to be the stereotypical occupations of black women."<sup>869</sup> While in some aspects prisons function as self-contained worlds, they also clearly build from and reinforce societal assumptions. Despite this study, problems continued.

In 1986 prisoners at Taycheedah filed a class action lawsuit against the prison. The plaintiffs claimed that the prison had violated the equal protection clause of the Fourteenth Amendment. The lawsuit described significant overcrowding at TCI, with 211 prisoners in a facility with a rated capacity of 126. The suit argued that this overcrowding: "created a stressful and unsafe environment for all inmates, caused needless physical and mental degeneration among inmates, threatened their physical and mental well-being and prevented meaningful rehabilitation and self-improvement."<sup>870</sup> This emphasized interconnected issues related to the deterioration in prison conditions. As identified in chapter four of this dissertation, prison litigation uses established processes to challenge norms, but such lawsuits are hard to win. The

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<sup>868</sup> Mortell, 40

<sup>869</sup> Mortell, 44-5

<sup>870</sup> Mortell, 8

suit alleged that the prison violated the 14th amendment's equal protection clause because of significant disparities between TCI and male prisons.<sup>871</sup> In media coverage of the suit, Nona Switala, superintendent of TCI, said: "A good number of the rooms are crowded and not as comfortable as when they had fewer people in them. To the credit of the women they've handled the situation very well."<sup>872</sup> The praise given to the prisoners serves as a form of validation, but also as a way of emphasizing that conditions were not so serious, and discrediting the need for the suit. As was typical at TCI and other prisons, administrators' claims served strategic purposes to safeguard stability. This happened even when it entailed meant inconsistent judgements on what prisoners were like.

The 1986 TCI lawsuit made some gains, although the victory was limited. The main achievement was winning a court order for equal services and expanded medical resources. The consent decree compliance consultants reported in January 1990 that the DOC had not complied with all aspects of the requirements for health care services.<sup>873</sup> Another consequence of the settlement consent decree was to create the TCI Inmate Advisory Council, to represent the voice of the inmate population. Yet this council had very limited impact. One of the original plaintiffs for the suit stated "IAC is worthless, created only to be able to say that TCI is in compliance. We are NOT included in any meaningful decision-making."<sup>874</sup> As a result of the lawsuit Wisconsin subsequently revised their procedures to make it more difficult for inmates to initiate litigation.<sup>875</sup> This challenge to prison norms reveals crucial dynamics within the prison in the

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<sup>871</sup> Mortell, 49

<sup>872</sup> Guenther, Thomas. "Women's prison overcrowded?" *The Daily Reporter*. 23 March 1986. pp. 1.

<sup>873</sup> Mortell, 55-6

<sup>874</sup> Mortell, 57-8

<sup>875</sup> Mortell, 55-6



mid-1980s. It is also a striking contrast between how much effort and limited gain was made by prisoner litigation compared with that of correctional officers.

Another key shift occurred in August 1986. Representatives of local 126 of Wisconsin State Employee Union<sup>876</sup> claimed that the prison was unsafe and insecure. They said they publicized their concerns because the warden had ignored them. Union leadership also charged that lesbian activity at TCI was rampant and that it was administered like a country club.<sup>877</sup> Union agitation on this issue included distributing fliers door-to-door in the TCI area that publicized the risk of prisoner escapes. Specifically, union representatives called for repair of the perimeter fence and more weapons in the armory.<sup>878</sup> In June 1987, some guards at TCI started wearing camouflage clothing to work in protest of the state's refusal to buy work uniforms for guards. AFSCME Local 126's president stated that it was a security concern, making it hard to tell the difference between TCI staff members and female inmates.<sup>879</sup> Again, there is evidence of guards being proactive in trying to shape prison conditions. They did this through demonizing prisoners and reinforcing paranoia. It is possible to draw a direct link between the attitudes shown by guards in this period and subsequent abuse of prisoners.

The close of the twentieth century saw further expansion at TCI as well as an extension of its punitive aspects. There are a variety of ways to assess conditions in this period, including the perspective of the prison budget, administrative policy and lived experience. Looking at these shifts in comparison helps to better show the norms of the expanded women's prison in the

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<sup>876</sup> The union for prison guards at TCI.

<sup>877</sup> Mentzer, Michael. "TCI unsafe; guards claim." *The Daily Report*. 13 August 1986. pp. 1.

<sup>878</sup> Mentzer, 2

<sup>879</sup> Guenther, Thomas. "TCI guards protest lack of uniforms." *The Daily Reporter*. 16 June 1987. pp. 1.

1990s. The crucial change wasn't merely the expansion, but how that expansion made a shift in justifications for the prison. Under the impact of overcrowding it became harder and harder to defend the purpose of prison as sheltering female criminals. Accordingly, the defined mission shifted to stark control. This new system now portrayed women as needing this harsh restraint. This shift was a rationalization of new levels of deprivation in TCI. This new attitude fueled an expanded pattern of abuse in the late 20th and early 21st centuries.

The 1990s was a period of significant expansion at TCI. Overcrowding became a larger problem and policies became more stringent. The population at TCI rose to 700, and excess population were sent out of state to a prison in West Virginia.<sup>880</sup> Truth in sentencing also expanded increasingly skewed racialization patterns in the Wisconsin prison system, that enhancing expanded patterns of inequality that had been building since 1960.<sup>881</sup> The population of white people incarcerated in the state increased at a much smaller rate in this period than black.<sup>882</sup>

The growth in the prisoner population motivated innovation in security infrastructure. On June 19, 1991, the Wisconsin legislature approved \$1.5 million for a new security fence for Taycheedah. In this fiscal year the legislature gave a total of \$266 million for prison construction across the state, with a total of \$2.4 million towards Taycheedah.<sup>883</sup> In 1995, Taycheedah opened a new housing unit, costing \$5.7 million. This unit nearly doubled the population of the

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<sup>880</sup> Williams, 122

<sup>881</sup> Prosser, Mary. "Wisconsin's Mass & Disparate Incarceration". *Wisconsin Lawyer*: Volume 91, Number 4, April 2018. pp. 22.

<sup>882</sup> Prosser, 17

<sup>883</sup> Breister, Peggy. "New fence to enclose smaller TCI prison yard." *The Daily Reporter*. 21 June 21, 1991. pp. 1.

institution.<sup>884</sup> TCI completed an additional barracks on July 13, 1997, which cost \$1.1 million and housed an additional 150 inmates.<sup>885</sup> The population of female prisoners continued to rise. Between January 1996 and July 1998, it increased from 508 to 952.<sup>886</sup> At this time, the cost of incarcerating prisoners at TCI continued to be the highest of any facility in the Wisconsin DOC. It cost an estimated \$37,817 per person per year, compared with \$26,638 in male maximum security prisons.<sup>887</sup> On November 10, 1999, the legislature approved an additional \$17.3 million for further construction at TCI, adding another 250 cells to the facility.<sup>888</sup> To cope with overcrowding, the Wisconsin DOC also transferred 127 prisoners from TCI to state prisons in Oklahoma in December 1999.<sup>889</sup> It is revealing to contrast the modest challenge offered by the TCI class action lawsuit with the aggressive rate of change at the facility subsequently.

This expansion was accompanied by major administrative discontinuity at TCI. On October 2, 1992 TCI's warden Nona Switala resigned abruptly, giving no advanced warning of her decision. Public criticism of Switala focused on several recent high-profile escapes from TCI. She resigned several hours after she was interviewed on the television show "America's Most Wanted". DOC officials denied any connection between the interview and the resignation.<sup>890</sup> Compared with earlier abrupt administrative change, the situation was slightly

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<sup>884</sup> Deppisch, 5

<sup>885</sup> Reinsch, Lee. "New \$1.1 million barracks at TCI nears completion." *The Daily Reporter*, 15 July 1997. Page 1.

<sup>886</sup> Anonymous. "State wants to send 120 female prison inmates to West Virginia." *The Daily Reporter*. 29 July 1998. pp. 1.

<sup>887</sup> Anonymous. "Prison costs per inmate highest at Taycheedah." *The Daily Reporter*. 27 August 1998. pp. 1.

<sup>888</sup> Anonymous. "\$17.3 million in building projects approved for Taycheedah Correctional." *The Daily Reporter*. 12 November 1999. pp. 1.

<sup>889</sup> Anonymous. "127 Female Inmate Sent to Iklahoma." *Wisconsin State Journal*. 31 December 1999. pp.1.

<sup>890</sup> Ritger, Laurie. "TCI warden quits, gives no reason." *The Daily Reporter*. 4 October 1992. pp. 1.

more transparent. Media contact provided some level of public perception and influence on the behavior of high-ranking officials. Yet it is striking, and in line with other incidents of this period, that the public rebuke came over inadequate security, not over prisoner conditions. This attitude helped to shape the increasing harshness within the facility.

The new warden of Taycheedah Correctional Institution, Kristine Krenke, emphasized that security was the top priority for the institution.<sup>891</sup> Krenke had been program director at Taycheedah from October 1980 to April 1989, when she was involuntarily transferred to Kettle Moraine CI. An April 18, 1989 letter to Krenke from the director of Bureau of Adult Institutions regarding the involuntary transfer said: “The perception exists that the environment at TCI is unhealthy and that your managerial style, which is overly rigid, has contributed to that atmosphere. This rigidity creates the impression that the needs of staff and inmates are affected negatively by the extreme control imposed by your management style.” The 1989 letter was later published by the *Milwaukee Journal Sentinel* in 2000, after the controversy on the death of the prisoner Michelle Greer at Taycheedah.<sup>892</sup> This provides some clear signs of institutional problems. It is also important that by the early 1990s someone removed from the position of program director for excessive control was being trusted with higher rank. It suggests at the least an acceptance of this type of rigid atmosphere, and possibly that such qualities were attractive to higher-ups in the DOC, given the perception that Switala was weaker on security concerns. Another establishing difference may have been that Krenke unlike Switala did not reveal problems in the institution publicly.

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<sup>891</sup> Leon, Tony. “Security new TCI warden’s top priority.” *The Daily Reporter*. 22 December 1992. pp. 1.

<sup>892</sup> Zahn, Mary. “Taycheedah warden blasted in ‘89 letter.” *Milwaukee Journal Sentinel*. 19 March 2000. pp 1.

The structural changes for TCI in the mid-1990s were extremely punitive. Nancy Mortell in her study of this period in *The Equality-Versus-Difference Dilemma* described the core of the change as a transition from maternalism to authoritarianism. The separate conditions appearing in and after the 1986 lawsuit at TCI continued in some respects, while the women's prison was also subject to changes affecting the whole system. The housing arrangement changed from cottage layout to a housing unit similar to the male prisons, with cement and steel bars.<sup>893</sup> The prison began the practice of separating pregnant women from their children immediately and returning the mothers to the institution 24 hours after giving birth. In the 1990s, federal legislation reduced the availability of educational funds and eliminated Pell Grants for prisoners. By the late 1990s, the only vocational courses available at TCI were computer classes and clerical training.<sup>894</sup> Changes in available resources and the expanded disciplinary scope effectively fit the new harshness of the facility. This shift carried significant consequences for the incarcerated population.

### **Taycheedah Correctional Institution: 2000-2019**

The history of TCI in the 21st century is a culmination of previous trends. Through a look at individual experience, this dissertation can better explore collective structures that were challenged (and yet endured) by the scandal of the 2000s. It is crucial to use individual experience to break past the patterns of silence that are endemic to women's and men's prisons in Wisconsin.

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<sup>893</sup> Mortell, 57-8

<sup>894</sup> Mortell, 59

Rachel Williams' 2000 study on female incarceration and art-making involved interviews with 31 women at TCI.<sup>895</sup> The study built off feminist criminology, and sought to study art as a way to affirm humanity and understand culture in prison.<sup>896</sup> Williams hoped that prison administrators would see the value in making art in prison as a way to reduce recidivism.<sup>897</sup> This study is invaluable in assessing specific details and showing the history of the institution. It's also useful in assessing the distinctive characteristics of prison: obedience to authority, strict control and denial of normal human things like touching.<sup>898</sup> There are limitations to the study, based on restricted access to the female prisoners<sup>899</sup> and how it takes the DOC mission statement at face value.<sup>900</sup> Nevertheless, the individual stories that emerge through Williams' study are quite valuable. Prisoners have highlighted problems with rehabilitation due to being treated in a dehumanized way. In a common dynamic, when prisoners verbalized their frustrations to staff, the guards responded to it as a threat and put people in segregation.<sup>901</sup> Staff pressure also includes experiences of the security director threatening extended solitary confinement to prisoners for having a lesbian relationship in prison.<sup>902</sup> Other issues included racial prejudice towards interracial relationships in the prison, invasive physical searches and restrictions on hot water.<sup>903</sup> Despite the high level of security, prisoners still smuggled drugs into the prison.<sup>904</sup> Some prisoners felt that much of the relationship violations were based on barter, with prisoners

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<sup>895</sup> Williams, xx

<sup>896</sup> Williams, 9

<sup>897</sup> Williams, 17

<sup>898</sup> Williams, 28

<sup>899</sup> Williams, 35

<sup>900</sup> Williams, 40

<sup>901</sup> Williams, 141-2

<sup>902</sup> Williams, 176

<sup>903</sup> Williams, 148

<sup>904</sup> Williams, 146

exchanging sex for canteen items.<sup>905</sup> In addition to exploring the prisoners' description of conditions, Williams explores the capacity of prisoners to reclaim activities such as quilting and needlepoints as a mode of collective activity.<sup>906</sup> Williams concludes:

Prison is an end-game strategy for deterring crime. Crime rates fall, yet the number of people who are incarcerated continues to rise. There must be a genuine search for other alternatives. There must be an embrace of communities involved that recognize the needs of women who commit crimes as a reaction to poverty and circumstance. Instead of isolating these women away from their children and the community at large, where they become invisible humans identified only by their mistakes and a number, there must be an effort to create alternatives to prison.<sup>907</sup>

From the details of individual experience at Taycheedah, Williams draws much broader conclusions. Prison is supported by many institutions and connected across broader society. That provides reasons and resources for critically re-evaluating how we collectively build these institutions. This conclusion also fits with her larger project of taking prisoners' lives seriously. The individual approach of building to larger conclusions that call the existence of prisons into question is important and deserves to be more widely emulated in scholarship.

### **Recent deaths at TCI**

Prisons have as their stated goal corrections rather than punishment. The legitimacy is staked upon the public's safety from criminals, and that criminals will be given space to be disciplined and to learn to change their behavior. This justification is undermined by many factors in how prisons actually function. During the last 18 years, the male prison system in Wisconsin expanded the number of medium and minimum facilities and prison population. The DOC also tightened segregation. Prisoner lawsuits became harder and new medium security prisons opened. Overcrowding became more of a grievance as the prison expanded. Many of

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<sup>905</sup> Williams, 272

<sup>906</sup> Williams, 328

<sup>907</sup> Williams, 352-3

these characteristics occurred with women's prisons during this period, although on a smaller total scale. The different scandals over the deaths of prisoners at Taycheedah over the last 20 years are therefore worth assessing in their own light, and in how they lift the mask on wider conditions within TCI. It is also useful to draw connections between different cases of prisoner death to see how they create a wider context.

Taycheedah was rocked by a series of neglect scandals in the early 2000s. On January 15, 2000, two prisoners at TCI attempted to kill themselves, slashing their own throats with a razor, creating 3 and 6 inch lacerations. Guards took them to St. Agnes Hospital and put under suicide watch.<sup>908</sup> Outside attention was minimal compared with subsequent scandals at TI. Yet it is important to show the wider context of abuse that TCI's overcrowding and authoritarian policies produced. On February 2, 2000 Michelle Greer, a 29-year-old prisoner at TCI, died in her cell from an asthma attack. She asked for medical assistance but did not receive it.<sup>909</sup> This death provided an opportunity for assessment and improvement of the problems in the facility, but forces within the prison hierarchy reacted very differently. This reaction shows the significant harshening of attitudes that had occurred since 1970 and laid the groundwork for further deaths.

Staff unions for the prisons mobilized in support of the nurses. Three of the nurses on duty during Greer's death were subsequently suspended.<sup>910</sup> On March 22, 2000, the prison nurses' union claimed that healthcare was in a state of crisis, including physicians' orders being

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<sup>908</sup> Delong, Katie. "2 Taycheedah inmates attempt suicide by cutting their throats." *The Reporter*. 18 January 2000. pp. 1.

<sup>909</sup> Lomax, Adrian. "The Prison Torture Scandal at Home". *Socialist Worker*, 17 June 2005. pp. 8

<sup>910</sup> Lomax, 7



delayed over a week and a lack of adequate medical supplies.<sup>911</sup> Health care workers from Dodge Correctional, Kettle Moraine and Columbia joined Taycheedah employees, who rallied outside Taycheedah on April 13, 2000, in support of the three suspended nurses. Representatives of Distinct 1199 United Professionals for Quality Health Care said they sought to draw attention to major problems in the prison system.<sup>912</sup> An officer interviewed by local media said that delays in medical services for ill prisoners was common.<sup>913</sup> An audit during fiscal year 1999-2000 found a ratio of 1,288 inmates per physician and 132 mentally ill inmates per psychological staff, with 72.1% of Taycheedah's population estimated as being chronically ill and making 82.1 requests per 100 inmates per week.<sup>914</sup> Broader pressure exerted support for the nurses. These attitudes were themselves part of the collective patterns that ensured abusive practices, even beyond the limitations caused by limited medical resources.

On February 2001, the Fond du Lac County District attorney refused a request for inquest into the death of Michelle Greer, claiming a lack of evidence of abuse in her death.<sup>915</sup> In April of 2001 the new warden Jodine Deppisch sought in press appearances to promote a revamped image of Taycheedah, with strong educational content and rehabilitative programs.<sup>916</sup> Deppisch affirmed the need for most equitable staffing, better public relations and more focus on women's health issues. She defended the prison against the Greer death scandal, saying the media had

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<sup>911</sup> The Reporter. "Health care in crisis at TCI." March 23, 2000. Page 1.

<sup>912</sup> Roznik, Sharon. "TCI protest." The Reporter. 14 April 2000. pp. 1.

<sup>913</sup> Anonymous. "TCI policy forces inmates to wait for help." The Reporter. 28 February 2000. pp. 1.

<sup>914</sup> Wisconsin Legislative Audit Bureau. "Audit, FY 1999-200." Madison, Wisconsin Legislature, 2000. Print. pp. 36.

<sup>915</sup> Roznik, Sharon. "DA declines request for inquest in death of TCI inmate." *The Reporter*, 2 February 2001. pp. 1.

<sup>916</sup> Roznik, Sharon. "New warden at TCI." *The Reporter*. 16 April 2001. pp. 1.

exaggerated the issue.<sup>917</sup> Deppisch's planned improvements included a school to teach services skills and starting an inmate vegetable garden.<sup>918</sup> These constituted mild cosmetic changes. The consequences from the scandal were limited. The state and the family agreed to a \$950,000 death claim. The original claim filed by Greer's father had asked for \$2 million.<sup>919</sup> The warden of Taycheedah, Kristine Krenke, was subsequently moved from this position to assistant administrator for Division of Juvenile Correction in Wisconsin DOC, in what was potentially a consequence of criticism over her operations, although the DOC described it as a promotion planned prior to Michelle Greer's death.<sup>920</sup>

While Michelle Greer's death produced the largest scandal, she was not the only person to die at TCI in the 21st century. In February 2002 Vanessa Wilson died of a heart attack at the age of 47.<sup>921</sup> This event produced limited outside attention but shows the continuation of medical problems and critical shortages. In July 2002 one prisoner at TCI sold antidepressant medication to another prisoner, who subsequently used the drugs to try to commit suicide.<sup>922</sup> In August 2004 a prisoner at Taycheedah, Antonia Keso, died at the age of 31 from what was considered a "probable seizure" and "natural causes."<sup>923</sup> In November 2004 another prisoner, Maxine Anderson, aged 42, was found dead in her cell, in what the Fond du Lac County medical

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<sup>917</sup> Roznik, 2

<sup>918</sup> Roznik, 3

<sup>919</sup> Keppert, Jenny. "Settlement is reached in death of TCI inmate." *The Reporter*. 30 May 2002. pp. 1.

<sup>920</sup> Anonymous. "TCI chief reassigned to juvenile division." *The Reporter*. 29 November 2000. pp. 1.

<sup>921</sup> Hunter, Gary. "Taycheedah inmate dies in her cell." *The Reporter*. 12 February 2002. pp.1

<sup>922</sup> Anonymous. "Inmate sentenced for selling prescription drugs." *The Reporter*. Fond Du Lac. 19 January 2003. pp. 1.

<sup>923</sup> Ritger, Laurie. "Antonia Kesco was sick days before death; no signs of foul play found." *The Reporter*. 18 August 2004. pp. 1.

examiner concluded was natural causes.<sup>924</sup> The same medical and administrative authorities routinely avoided controversial findings with the death of women at TCI.

In some cases, due to family advocacy, the public presented greater pressure, and more details emerged. On June 17, 2005, Angela Enoch, an 18 year old prisoner at Taycheedah died after hanging herself.<sup>925</sup> The police report said that because of Enoch's violent history officers waited until there were five officers before entering her cell after seeing her tying strings around her neck.<sup>926</sup> The public information director of Wisconsin DOC, John Dipko, said that corrections officers acted quickly and professionally.<sup>927</sup> Enoch's cellmate and family alleged that she experienced mistreatment at TCI, including sexual contact from a guard, being tied to her bed naked and being forced to walk naked in front of guards. They also claimed that Enoch had kept a journal documenting abuse which was taken by guards during a cell-inspection.<sup>928</sup> In every case where a prisoner's death attracted significant outside attention, investigation showed deeper patterns at work beyond individual problems.

Any overview of the prison in this period risks becoming a chronicle of horrors. Yet it is important to give assessment and narrative of these lives and these deaths, to prevent them from becoming mere statistics, or normalized as inevitable. While these deaths emerged from individual neglect, they were also a consequence of decades of disciplinarian discourse. It

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<sup>924</sup> Fleischer, Aubrey. "Inmate's death appears natural." *The Reporter*. 16 November 2004. pp. 1.

<sup>925</sup> Murphy, Ryan. "TCI inmate, 18, dies after hanging herself." *The Reporter*. 21 June 2005. pp. 1.

<sup>926</sup> Murphy, Ryan. "TCI inmate used pillow seams to kill herself." *The Reporter*. 23 June 2005. pp. 1.

<sup>927</sup> Murphy, Ryan. "Angela Enoch had long history of crime during her short life." *The Reporter*. 24 August 2005. pp. 1.

<sup>928</sup> Murphy, 2

became less of a concern to prison authorities when female prisons suffered critical medical shortages and death.

The 2005 Civil Rights Division's investigation of Taycheedah concluded that mental health needs were inadequately addressed.<sup>929</sup> In particular, it found that the staffing levels were "grossly inadequate" with only two part-time psychiatrists working at the facility, each of whom had a caseload of more than 400 patients at a time.<sup>930</sup> Despite TCI's annual report for 2005 describing a wide array of programming, in actuality little programming existed.<sup>931</sup>

The problems with medical neglect in the prison proved deep, structural and abiding. Inadequate numbers of nurses lead to many nursing functions including medication monitoring being done by guards.<sup>932</sup> The inadequate mental health resources are particularly harmful given the background of many of these prisoners. As of 2006, 80% of female prisoners entered prison with substance abuse issues, 40% with a history of physical abuse, and 50% on prescription medication for psychological disorders.<sup>933</sup> There were significant structural barriers behind individual deaths, but these did not generate sustained outside attention. Given the negative publicity and occasional lawsuit settlements required by the deaths at TCI, may have been more efficient to have addressed this preemptively. In part the persistence of these problems can be seen as a consequence of the low status of prisoners, the disinclination to listen to their input and the increasingly punitive sanctions. However, another factor was structural. The cost of adequate

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<sup>929</sup> Anonymous. "Investigation of the Taycheedah Correctional Institution." U.S. Department of Justice Civil Rights Division 1 May 2006. pp. 2

<sup>930</sup> "Investigation of the Taycheedah Correctional Institution.", 3

<sup>931</sup> "Investigation of the Taycheedah Correctional Institution.", 10

<sup>932</sup> "Investigation of the Taycheedah Correctional Institution.", 6

<sup>933</sup> Harris, Wendy. "State adjusts to growing number of female prisoners." *The Reporter*. 15 January 2006. pp. 2.

medical staffing would be significantly greater than the total lawsuit settlements, and accommodation for high level of overcrowding and collective mental stress would have required substantially greater changes to the basic nature of the prison. TCI administrators existed and continue to exist in a context where good process entailed navigating the impact of deficiencies, not in fixing them.

The positive action that did occur emerged from litigation, rather than reforms within the DOC. In 2007 prisoners at TCI filed a lawsuit over inadequate medical care and mental health facilities.<sup>934</sup> Launched by the relative of Angela Enoch, the lawsuit alleged the TCI staff were lax in administering Enoch's medication, and that it took staff eight minutes to get to her cell. The suit also claimed that the prison evidenced gender-based disparities, not having the mental health resources available to male prisoners.<sup>935</sup> Subsequently the Governor moved to add 33 healthcare positions to state corrections.<sup>936</sup> On October 14, 2009, a prisoner at TCI, Venus Rodriguez, went into cardiac arrest and died.<sup>937</sup> The ACLU brought a lawsuit against Taycheedah Correctional Institution in 2009, accusing them of dangerously dysfunctional manner of administering medication to prisoners.<sup>938</sup> They asserted that the growth in population had strained the resources of the DOC's central pharmacy, increasing the prescriptions dispensed by 43%, from 526,361 in 2004 to 752,674.<sup>939</sup> The expansion did not transform the system to allow the limited staff to cope

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<sup>934</sup> Murphy, Kevin. "Funding Approved for TCI infirmary." *The Reporter*:8 August 2014. pp.1

<sup>935</sup> Anonymous. "Suit Filed on Death of Inmate". Associated Press. 27 April 2007. pp.2.

<sup>936</sup> Pasque, Lisa. "Taycheedah Changes." *The Daily Reporter*. 26 March 2007. pp. 1.

<sup>937</sup> Plummer, Russel. "Spokesman: TCI staff did everything possible to save inmate." *The Reporter*. 10 February 2010. pp. 1

<sup>938</sup> *Citizens United v. Federal Election Commission*. 558 U.S. \_\_\_\_ (2010). No. 08-205. Supreme Court of the United States. (January 21st, 2010) *Hein Online: U.S. Supreme Court Library*. n.d. Web. 16 Jan. 2012.

<sup>939</sup> *Kristine Flynn et al, v. JIM DOYLE, et al*. United States District Court for the Eastern District of Wisconsin. Case No. 06-C-537-RTR. 2009. pp. 4.

effectively.<sup>940</sup> The most significant problems were delays in the transmission of medication orders and medication being given by correctional officers who lacked education in health care. The results of this system of manual transcription is for patients to routinely receive the wrong medications.<sup>941</sup> As in other cases, these resistance lawsuits by prisoners and outside agencies were effective in helping document the level of prison dysfunction, and in creating some type of check on these routines. They are still limited in intensity and duration. They seek remedy over aspects of abusive practices. They do not address the deeper structural issues that drives these moments.

The scandals over deaths at Taycheedah in the early 21st century are revealing in several ways. They help to show how the prison and the wider DOC handled outside scrutiny in each incident. Looking at these moments in sequence also helps to show wider patterns and continuity. This overview also helps to explore the impact of litigation and questions of changing legitimization. Through this assessment, my analysis also explores the assumptions that keep TCI and the deaths obscure or visible at different points. Similar patterns apply to other types of abuse.

### **Recent Sexual abuse scandals at TCI**

Correctional officers sexually harassing and assaulting prisoners happens routinely, but when it becomes public it works to delegitimize prison norms. Physical coercion and intimidation are basic to the functioning of the prison system. Within certain limits the public accepted this force as legitimate behavior. Sexual coercion and assault do not have any justifying

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<sup>940</sup> Kristine Flynn et all, v. JIM DOYL, 8

<sup>941</sup> Kristine Flynn et all, v. JIM DOYLE, 6

purpose. Where such behavior appears, it provides a rare opportunity to allow outside agencies to attend to and question basic patterns within the prison.

There were a series of scandals on sexual abuse at Taycheedah. An investigation by the *Milwaukee Journal Sentinel* in February 2003 into Taycheedah found that an inmate who tried to report sexual misconduct by a guard was labeled a liar and punished with a year in solitary confinement. This investigation also found the guard involved was later fired for impregnating a prisoner. Another guard had recently quit to avoid an investigation into sexual misconduct with inmates, one of whom was punished by 120 days in solitary confinement.<sup>942</sup> At the time of this scandal, Wisconsin had no law specifically banning sexual contact between guards and inmates, one of four states in the U.S where that was the case.<sup>943</sup> A week later a third guard was investigated, as the examination expanded. The inmate that brought allegations of sexual misconduct had also been placed in solitary confinement, the fourth woman who faced that treatment from these incidents.<sup>944</sup> On February 15, 2003 state senators introduced legislation to make sexual contact between prison guards and prisoners a felony, which passed later that year.<sup>945</sup> In 2004 the Wisconsin DOC adopted an official zero tolerance policy for sexual contact between prison staff and inmates.<sup>946</sup> It is a damning indictment of the norms of Wisconsin that it took so long for the state to even criminalize this practice. It is also suggestive of the shift that had occurred over several decades in how prison authorities regarded female prisoners. The

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<sup>942</sup> Garza, Jesse. "Taycheedah guard quits rather than face probe." *The Reporter*. 3 February 2003. pp. 1.

<sup>943</sup> Garza 2

<sup>944</sup> Anonymous. "Taycheedah prison sex investigation is widening". *The Reporter*. 13 February 2003. pp.1

<sup>945</sup> Sheehan, Tom. "Proposal would make guard-inmate sex a felony." *The Reporter*. 16 February 2003. pp. 1.

<sup>946</sup> Breister, Peggy. "Corrections officer gets probation." *The Reporter*. 13 April 2006. pp. 3.

increasing emphasis on the dangerous character of the female prisoner created conditions where abuse could flourish.

Despite the new official zero-tolerance policy abuses continued. On September 28, 2005 the TCI warden launched an investigation of three maintenance accused of sexual contact with inmates. These allegations emerged from incidents that occurred between November 2004 and August 2005.<sup>947</sup> The three men subsequently faced trial on felony charges of second-degree sexual assault, facing up to \$100,000 in fines and up to four years in prison per charge. All three eventually admitted to sexual misconduct with inmates. One of the employees, Andrew Metzen, entered a plea of no contest, facing a total of 3 and ½ years in prison and \$10,000 in fines.<sup>948</sup> He was eventually sentenced to six months in jail and two years on probation, far less than the initial charges. <sup>949</sup> Less than two weeks later, a corrections officer at the prison, John Patterson, was suspended after admitting to police that he had sexual contact with two inmates. The guard was 50 years old, and the prisoners were 22 and 23 years old.<sup>950</sup> TCI's warden at the time, Ana Boatwright, subsequently stated that sexual manipulation by prisoners was intolerable. Her statement said: "Sexual manipulation of corrections employees on the part of inmates is a long-standing tactic and an intolerable one. We understand offenders can be very manipulative, and they will approach staff in ways they feel they can be compromised, in ways they can get special

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<sup>947</sup> Anonymous. "TCI employees accused of sexual misconduct." *The Reporter*. 30 September 2005. pp. 1.

<sup>948</sup> Schmidkofer, C. M. "Former TCI employee pleads no contest to felony charges." *The Reporter*. February 8, 2006. pp. 1.

<sup>949</sup> Anonymous. "TCI maintenance worker gets jail time for inmate incident." *The Reporter*. 26 May 2006. pp.1.

<sup>950</sup> Murphy, Ryan. "TCI officer accused of sex contact with inmate." *The Reporter*. 11 October 2005. pp. 1.



treatment.”<sup>951</sup> This victim blaming shows a potent illustration of how the prison reinforces destructive norms. After the authoritarian shift, female prisoners were seen as a monolithic dangerous force. After the guard accepted a plea agreement, the state were amended the charge from felony second-degree sexual assault to misdemeanor fourth-degree sexual assault and probation for three years.<sup>952</sup> It is important to look not just at the legislative changes that emerged from scandals of abuse, but also the limitations in this change, and the way that they continued to occur.

Correctional officers continued a cycle of sexual violence, although there were some legal convictions that resulted from these scandals. On February 24, 2007, a former employee at TCI was convicted of sexual contact with inmates, the charges of five counts of second-degree sexual assault were amended to misconduct, sentencing him to 45 days in jail, two years of probation and a fine of \$337.<sup>953</sup> The Fond Du Lac police department began an investigation of a TCI guard, Jimmie Brown, for having sexual relations across 2007 and 2008 with five inmates. He was charged with 18 counts of second-degree sexual assault by correctional staff in 2009 and convicted on all 18 counts in February 2011.<sup>954</sup> Investigation into Brown lead to evidence against another TCI officer, Corey Stuckle, who was arrested on December 22, 2009, with four counts of second-degree sexual assault by a correctional staff member.<sup>955</sup> Nothing is more revealing of the institutional nature of the abuse at TCI than when a serious investigation of one correctional

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<sup>951</sup> Roznik, Sharon. “Warden says sexual manipulation intolerable.” *The Reporter*. 19 October 2005. pp. 1.

<sup>952</sup> Breister, Peggy. “Corrections officer gets probation.” *The Reporter*. 13 April 2006. pp. 1.

<sup>953</sup> Pederson, Terri. “Area man sentenced to 45 days in jail for assault.” *The Reporter*. 26 February 2007. pp. 1

<sup>954</sup> Anonymous. “Former TCI officer guilty of sex assaults.” *The Reporter*. 25 February 2011. pp. 1.

<sup>955</sup> Plummer, Russel. “Former Taycheedah staff member facing trail.” *The Reporter*. 10 January 2010. pp. 1.

officer leads to others being arrested as well. On May 14, 2010 correctional officer Corey Stucke pleaded no contest to two counts of abusing a resident of a penal facility, part of a plea deal that reduced the charges from second-degree sexual assault. Part of the plea included an agreement by the prosecutor's office to not prosecute further sexual contact allegations from inmates, believing that word of the sentence could prompt new allegations from other prisoners.<sup>956</sup> In sentencing, the judge read a portion of the presentence investigation report in which Strucks referred to the inmates as "the scum of society."<sup>957</sup> This provides further evidence that these attitudes did not come out of nowhere, and show continuity stretching back decades to how correctional officers were allowed to talk to and about prisoners. He was subsequently sentenced for two years in jail with work release privileges.<sup>958</sup> The recurrence of small punishments shows this was not just one case, but a consistent way that the judicial system responded to these abuses. The very limited punishments provided for most guard convictions contrasts starkly with the harsh reprisals given for disciplinary infractions by prisoners, even on minor matters.

In 2013 there were 24 publicized allegations of sexual assault at Taycheedah, four of which were substantiated by DOC investigation. Across the Wisconsin DOC at this time there were 314 allegations, 38 that were substantiated.<sup>959</sup> The high rate of dismissal undermines trust in the DOC's official zero-tolerance policy towards sexual assault by its staff. The concern over assaults provoked a community Memorandum of Understanding backed by a coalition of law

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<sup>956</sup> Treleven, Edward. "Corrections officer enters plea in inmate abuse case." *The Reporter*. 17 May 2010. pp. 1

<sup>957</sup> Plummer, Russel. "Former Taycheedah officer gets 2 years jail." *The Reporter*. 15 July 2010. pp. 2.

<sup>958</sup> Plummer, 1

<sup>959</sup> Beck, Nate. "Leaders collaborate to combat inmate sex abuse." *The Reporter*. 8 August 2014. pp. 1

enforcement and community groups on August 6, 2014.<sup>960</sup> This was intended to develop a Sexual Assault Response Team at Taycheedah, to enlist health care workers to treat sexual assault survivors and make it harder to ignore these assaults.<sup>961</sup> Yet these situations continued to occur. On August 16, 2017, Joseph Kelm, a former correctional officer appeared in court on charges of sexually assaulting a prisoner at Taycheedah over 50 times. He faced four counts of second-degree sexual assault.<sup>962</sup> It appears that the basic dynamic of correctional officer power over prisons did not substantively change.

Since prisons are not set up to effectively govern themselves on such abuses, outside attention is crucial for accountability. This abuse also happened in male prisons, although with even less outside attention. As with the repeated deaths, it can seem counter-effective that TCI did not proactively respond to underlying conditions of repeated sexual assault, given how badly such scandals can undercut the core legitimacy of the prison. As with medical issues, the structures of the prison dictated against any substantive shift. The assaults flowed from the extraordinary power correctional officers wielded over prisoners, which was supposedly necessary for the functioning of the prison and increasingly emphasized. As this chapter has shown, correctional officers could collectively be a force that pushed to defend and expand their own prerogatives. Finally, the prison was impacted by the limitations of these mediated scandals. While they had an impact and attracted public attention, it was not extensive or sustained enough to compel shifts in the core logic of TCI's regime.

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<sup>960</sup> Beck, 2

<sup>961</sup> Beck, 1

<sup>962</sup> Roznik, Sharon. "Taycheedah prison employee accused of inmate sex assault." *USA Today Network*. 16 August 2017. pp. 1

The review of sexual abuse risks becoming a fragmented portrayal of trauma after trauma. It is crucial to review this to establish the extent of the coercion happening inside TCI. It also shows viscerally the suspect motivations of correctional officers across decades who argued for greater security needs and greater distrust of female prisoners. The way TCI came to view female prisoners as a consistent, monolithic threat rather than malleable, redeemable criminals allowed for such abuse, and meant that when it occurred many cases were never punished.

### **Taycheedah's Public Relations**

Prison authorities have the capacity to shape public perceptions of how their prison functions. They are particularly active during periods of scandal where the institution faces criticism for what appears unjustifiable behavior. It is useful to analyze not just scandals that have occurred in TCI in the 21st century, but also the institutional response. Neglect and abuse scandals directly show the problems with the low-ranking correctional officers' individual behavior. They also show a broader structural problem that operates to tolerate attitudes. Looking at how TCI has functioned over the past 15 years in response to these scandals shows a wider institutional problem. The prison pursued rebranding rather than substantive internal shifts.

Among the various scandals TCI has attempted to generate positive publicity about the prison. On October 16, 2002 the prison did a "presentation on victims" including content by sponsored by Taycheedah's warden Jodine Deppisch, Chaplain Marilyn Morris and former prisoner Debra Westbury. This was part of a trend for restorative justice and more victim-centered judicial practices.<sup>963</sup> Similarly, in April 2004 guards at Taycheedah setup Restorative

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<sup>963</sup> Alexander, Ellen. "TCI inmates to learn how crime impacts victims." *The Reporter*. 8 October 2002. pp. 1

Justice Day, talking about the stories and experiences of prisoners, focusing on positive personal development.<sup>964</sup> These were minor, surface-level events that did not address substantive issues. It formed an attempt to shift attention away from problematic structures. They built from and reinforce individual prisoner culpability, without applying the same standards to correctional.

Administrative changes developed as part of the continued adaptation of the prison. In December 2004 Ana Boatwright became warden of TCI, after previously being deputy warden of Oakhill CI. The previous warden, Jodine Deppisch, left after four years to become Fox Lake CI. Boatwright was the first Latino employee to serve as the warden of a state prison.<sup>965</sup> On August 21, 2005 Wisconsin's female prison system was reorganized, providing a unified management structure for Taycheedah and the three other facilities for female inmates. DOC Secretary Matt Frank announced that the change would help the DOC focus on problems unique to female prisoners, including children and higher rates of mental health issues. At this time there were 1,250 women incarcerated in the Wisconsin state system, compared with approximately 20,400 men.<sup>966</sup> On September 20, 2005, a pilot program for Taycheedah began, employing female prisoners with the stated goal of teaching prisoners a living-wage skill. The program was intended to increase collaboration between departments with the goal of reducing costs and shoring up the state's future labor force.<sup>967</sup> Dr. Esther Hefferman, a Madison sociology professor, said she hoped the new structure would prevent women from getting lost by the system. Howes was concerned the centralization might stifle creative programming at different

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<sup>964</sup> Fleischer, Aubrey. "TCI's Restorative Justice Day helps women help themselves." *The Reporter*. 4 April 2004. pp. 1

<sup>965</sup> Fleischer, Aubrey. "TCI welcomes new warden." *The Reporter*. 5 December 2004. pp. 1-2

<sup>966</sup> Marley, Patrick. "Fine-tuning for prisons". *Milwaukee Journal Sentinel*. 9 September 2005. pp. 1.

<sup>967</sup> Brandl, Patty. "TCI program allows inmates to acquire living-wage skills." *The Reporter*. 22 September 2005. pp. 1.

institutions.<sup>968</sup> The issues with both the previous administrative system and the new one show the inherent dangers of applying a system to so many people without being centered on their desires.

A 2006 documentary on TCI provides insight into contradictory aspects of the prison. *Game Over: Women in Prison* is a documentary produced by Northeastern Wisconsin In-School Telecommunications. It aired on Wisconsin Public Television on December 1, 2006. It was inspired by a similar documentary on Green Bay Correctional, *You Don't Want to Live in My House* (2005).<sup>969</sup> The intent of the production was to emphasize the harsh aspects of prison. Both prisoners and correctional officers cite the dehumanizing impact of strip searches and rigid control of prisoners' time. Sergeant Bristol, handling prison intake, said: "Your right of who to live with is taken away. At times you may not like who you have to live with."<sup>970</sup> Some prisoners talked about the lack of privacy and pay as low as eight cents an hour. Others focused on the abuses of solitary confinement at TCI: "Seg is four walls, a toilet, and you in a room all day with nothing. You get nothing. You get three showers a week, with a tiny cup with a little bit of soap."<sup>971</sup> The prison allows limited contact at visits. If people hug too long, they risk being sent into solitary confinement.<sup>972</sup> The deep brutality in the system can serve to show the need for alternatives to prison structures. However, this is not the only interpretation that can be taken from this portrayal and was not the intended lesson. Interviews emphasized the central message of wanting to caution young people against going to prison.<sup>973</sup> This contrast shows the

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<sup>968</sup> Marley, 2

<sup>969</sup> Schaezner, Amie. "Documentary filmed at TCI." *The Reporter*. 7 December 2006. pp. 1.

<sup>970</sup> *Game Over: Women in Prison*. [Video Fall] Millennium, Wisconsin Public Television. 2006.

<sup>971</sup> *Game Over: Women in Prison*.

<sup>972</sup> *Game Over: Women in Prison*.

<sup>973</sup> Kallio, Sandra. "Documentary Is Chilling Reality Show Filmmakers." Madison.com. 12/1/06.

importance of political narratives and whether the issue is localized at the level of one individual or not. Politics can draw out how people explain implications of brutal experiences.

There is potential for conditions inside TCI to deteriorate further. On April 27, 2010, the Wisconsin State Building Commission approved \$1.2 million for a new building at Taycheedah, providing space for expanded mental health services. The building did not include plans for air conditioning.<sup>974</sup> In 2014 the State Building Commission approved funding to design a \$4.5 million infirmary for TCI. This was designed to assist the aging prison population.<sup>975</sup>

## **Conclusion**

In this chapter I have argued that women's incarceration in Wisconsin shows similar patterns to male incarceration but with increased complications for legitimacy. These complications produce both added physical cost and some increased openings for contesting the prison norms. Looking at the wider history of female incarceration in the United States, I found that it was understudied, but the existing literature how abusive women's prisons are. Such scholarship also shows how much internal instability exists below the surface. A crucial aspect from this overview is the importance of continuing to examine of women's agency even from within incarceration. During the time of the Wisconsin Industrial Home for Women, the prison steadily expanded and used consistent moralistic justifications. Late in the twentieth century the facility was renamed Taycheedah, expanded massively in population in ways that racially

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<sup>974</sup> Murphy, Kevin. "State OKs \$1.2 million for new TCI building." *The Reporter*, 29 April 2010. pp. 1.

<sup>975</sup> by 2015 prisoners over 10% of the prisoners at Taycheedah were 51 or older were over 10% of the prison population, and their numbers were expected to increase further by the DOC. [Murphy, Kevin. "Funding Approved for TCI infirmary." *The Reporter*. 8 August 2014. pp. 1-2]

skewed and the prison. This shift also justifications more heavily on the perceived physical threat of incarcerated women. This new justification, offered by both prison administrators and correctional officers, enabled a pattern of deep abuse and neglect which was exposed in some significant ways in scandals at TCI in the early 21st century. Despite a certain amount of outside attention, and a series of lawsuits, the institution demonstrates continuity rather than significant change. Across this chapter I have tracked the shift from a prison system that portrayed female criminals as malleable in character to one that saw them as monolithic threats to be managed.



## Chapter VIII: Conclusion

On March 11, 2019 the Milwaukee was selected to host the 2020 Democratic National Convention. Several news outlets analyzed this choice in the context of Trump's narrow win in Wisconsin in the 2016 election and hopes by the Democratic Party to reverse this trend. Some coverage also focused on recent progressive shifts in Wisconsin, including the ousting of Republican Scott Walker, re-election of Democratic Senator Tammy Baldwin, and election of the state's first black lieutenant governor, Mandela Barnes. Some media pieces also referenced statements by the convention bid committee that this selection would be a sign that the U.S. was ready to reinvent in the Midwest, and to recognize the recent development in Milwaukee including expansion of the metro area, the strength of brewing companies and the new downtown streetcar line in Milwaukee. The decision was portrayed as a sign from the Democratic National Convention to show that all regions of the U.S mattered and that no voter should be taken for granted. Some of the coverage also focused on the history of Milwaukee in connection with labor unions and workers' rights.<sup>976</sup>

Some of the news coverage mentioned problematic aspects of Milwaukee, including its status as the most segregated metropolitan area in the country and the city's 27% poverty rate.<sup>977</sup> Yet the deep problems in the city remained under-explored in mainstream and progressive media, and the particular force of mass-incarceration and racial disparity were not part of this story.

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<sup>976</sup> Marans, Daniel. "2020 Democratic Convention To Be Held In Milwaukee." *Huffington Post*, March 11, 2019.

<sup>977</sup> Marans, Daniel. "2020 Democratic Convention To Be Held In Milwaukee." *Huffington Post*, March 11, 2019.

After the decision to host the Convention, representatives of the city of Milwaukee started a major push to expand the hotel space available for the expected 50,000 visitors in July 2020. This included converting office complexes into hotel centers.<sup>978</sup> Liz Gilbert, president of the Milwaukee host committee, referred to the coming Convention as “a once in a lifetime and branding, marketing opportunity” and working to create a business culture that will attract businesses to the city for the long-term.<sup>979</sup> In a video posted July 15, 2019, the Milwaukee 2020 committee touted the accomplishments of the city and the state of Wisconsin, and the way that the convention would allow greater recognition of the accomplishments of both. The video heavily featured beer and cheese and made repeated references to the “vibrant and diverse community”, the “hard working people”, who “get real things done.” Some commentators spoke of the history of the state with manufacturing, while others celebrated the recent “renaissance in downtown Milwaukee” and the current patterns of “growth and development”. They portrayed the convention as a chance to show off the “best kept secret in the Midwest” and celebrate all the triumphs of Milwaukee.<sup>980</sup>

Because of the selection as the 2020 DNC host site, Milwaukee and Wisconsin are under a national spotlight in a way that the city hasn’t been before. However, there is a lot about the state that is not being talked about as prominently. It is more vital than ever that scholars, activists and members of the public talk about the growth in Wisconsin prison infrastructure, and

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<sup>978</sup> Mikkelson, Marti. “Democratic National Convention Means More Hotels Are Popping Up In Milwaukee.” *WUWM* 89.7, May 29, 2019.

<sup>979</sup> Hauer, Sarah. “5 things Milwaukeeans can expect to see in the year before the 2020 Democratic National Convention.” *Journal Sentinel*, July 12, 2019.

<sup>980</sup> Anonymous. “DNC-MKE 2020: One Year From Now.” DNC Hosting Committee. [https://www.youtube.com/watch?time\\_continue=244&v=PbLPPJkuQKc](https://www.youtube.com/watch?time_continue=244&v=PbLPPJkuQKc) (accessed July 15, 2019).

what the conditions of those in confinement are like. There would be value in making these facts part of the Wisconsin story regardless, but the heightened scrutiny could expand this spotlight, and make more glaring the things that are not represented.

There are many things that the members of the 2020 DNC Convention will likely not see in their time in Wisconsin. There are also consequences for those omissions. It would be valuable if they could see the absence of so many people from Milwaukee, disproportionately black and brown people, that are currently locked up. It would be especially valuable if they saw the conditions inside the Wisconsin prison system. Even a DOC-guided tour would expose the scale of confinement and the brutal, overcrowded conditions. Honest conversations with currently incarcerated people out of the earshot of guards would be even more revealing. If they happened, such conversations could reveal the ways that the stability of the prison is maintained through torture and the threat of torture. Understanding the lives of Wisconsin prisoners would lead to an awareness of state governance as being much more brutal. If these conversations happened, they would force Convention delegates to see the ways that solitary confinement, limited medical care and violence bind the lives of inmates. Without this discernment, Convention delegates are likely to see only the glitter of the state, and to act in ways that replicate the façade. Given the way that the host committee has functioned, the history of the Democratic Party in Milwaukee and the history of the Democratic Party on the national level, such painful conversations are unlikely. There is still the possibility for social movements to force these revelations, and scholarship can help aide in this process.

In doing this work, drawing on the scholarship of Staughton Lynd and Kristian Williams is particularly productive. Lynd has in *Lucasville* traced the trajectory of deindustrialization and the growth of prison infrastructure in Ohio. Such a study can productively be put alongside

Wisconsin, as a region that has seen similar overall patterns. Lynd shows the dynamic forces in play with prison construction, prison maintenance and prisoner resistance, and his template is useful to adapt to analysis of Wisconsin prison conditions. I made a start of this in this dissertation, but there is still considerably more that could be done. Lynd's framework provides a very different way to see the economic shifts and changes in Wisconsin into and beyond the 2020 DNC. Kristian Williams offers an even more intense methodology, looking into the systems of control and torture in *American Method*. Williams strips back common social protocols to look at the system of raw control in the prison regime. Applying this to the Wisconsin prison system puts a priority on seeing statements by incarcerated people, and in using these to uncover the grisly norms beneath the façade of Wisconsin niceness.

In my dissertation I have argued that the Wisconsin prison system does not exist for and does not effectively provide rehabilitation or public safety. Rather, I analyze the Wisconsin DOC as following a logic of maintaining and expanding its bureaucracy and doing this effectively despite significant stresses. The prison regime has expanded to an immense scale because of the desire of people in this roles to continue their careers, and the way that accepting the security justifications they provide has enabled building more and more prison infrastructure. Under mass incarceration prison authorities have increased the severity of prison discipline. This operates as a system of flexible authoritarian control, despite continuing resistance against this by prisoners. Chapter one reviewed the literature on prison history and conditions in the United States. Chapter three built a foundation for this history by examining the origins and development of the prison, in and beyond the United States. I explored the different experiments and variations that the prison has taken, and the way that U.S. mass incarceration in the late twentieth century redefined the scope of these regimes. This change followed a period when the very existence of

prisons had become increasingly controversial among the wider population. I also evaluated shifts in the twenty first century, particularly the development of private prisons, the continued expansion of state prisons, and recent tentative efforts to roll back some of these changes. In chapter four I turned to prisoner resistance and looked at what it has accomplished concretely. I also approach such resistance as an attempt by people under the prison regime to reclaim respect. I challenged scholarship on the prison that ignores prisoner resistance or treats it as rare and argue for it as a crucial component of understanding mass incarceration and the history of the prison more broadly. I examined different tactics of resistance taken up by incarcerated people, finding these to be calculated, intention and fluid. The things that prisoners have done, including litigation, riots, hunger strikes and work stoppages, have influenced the development of the prison, and need to be taken seriously. As well, assessing how different tactics have played out and appreciating both the continuity and variance in how prisoners have chosen to challenge prison authorities is important to appreciate their agency even under confinement.

Starting in chapter five I turned to a study of the Wisconsin Department of Corrections, focusing it on a bureaucratic institution that has sought to maintain itself and to expand. I argued that it did not develop simply at the decision of the Wisconsin state legislature or the public, and instead it sought to influence those perceptions, increase the flexibility of how it could impose discipline, and increase its funding. There were changes that reduced the scope of correctional officers' authority and increased resources for prisoners, but they were infrequent and when, they have happened, they've been driven by lawsuits, resistance by prisoners or public scandal. The DOC pushed for more prisons, more bureaucracy, to restrict prisoners' rights and to increase their options for flexible retaliation. In chapter six I looked in more detail at a single prison, Waupun Correctional Institution, to explore the power dynamic within this facility. I identified

the same pattern of bureaucratic growth and extended pragmatic authoritarianism that existed across the Wisconsin DOC. The consistent pattern within Waupun was to increase the strength of discipline, and this aspect has become clearer and clearer under mass incarceration. Looking at prisoner resistance also showed an internal force that has consistently identified and challenged this pattern of control, although with mixed results. In chapter seven, I evaluated the history of Taycheedah Correctional Institution, the female maximum-security prison in Wisconsin. In this I argued that women's incarceration in Wisconsin show broad similarities to men's incarceration, but in more complex and varied manner. Early in the twentieth century the prison used a pattern of moralistic justifications, viewing female prisoners as easily malleable and hence as capable of being shaped towards self-improvement. Later, the prison system grew and incarcerated more people of color, both relatively and in total numbers. It changed its discourse more to focus on the danger that female prisoners posed. This shift in representation by prison authorities as well as correctional officers set the stage for the intensification of abuse and neglect. This change led to several major scandals across the 21<sup>st</sup> century. Yet such public outcries produced only limited structural changes.

There is a crucial need for further work in developing the history of incarceration in Wisconsin. It is important to study the Wisconsin prison system in order to better connect this opaque institution to histories of Wisconsin. It would be useful to develop even more regional specificity, to better examine how Waupun Correctional, Taycheedah Correctional and other prisons have formed and expanded. It would also be useful to better see how the surrounding communities to these prisons have interacted with and viewed these prisons. Comparative studies between the Wisconsin DOC and the DOC of other states, particularly other Midwestern states could assess how significant the bureaucratic momentum within Wisconsin is. Only through

more comparisons will historians be able to better establish what is distinctive in the history of the Wisconsin prison system, and what is part of broader national regional and national patterns.

This analysis productively adds to the current histories of the state. As well, for people living in Wisconsin, there is even more value in understanding the origins of this carceral system, the ways it has changed, and the ways that it has rebranded without making substantial changes. Given the rising expense of corrections and the impact on an increasing number of staff and prisoners, it is something that should be of ongoing concern. There are tensions inherent to the Wisconsin prison system, and its vast expansion over the last forty years has exacerbated these tensions. This creates a need for increased scholarship and opportunities for those inside and outside prison walls who believe that these prison conditions can be changed. There is an immense cost to the current prison regime, and better understanding this cost can aid in changing it.

There are many changes that are possible for the Wisconsin prison system. There is a need for substantive overhaul, but even more modest reforms would carry enormous human benefit. Different state prison systems show possible paths forward, if there were the political will in the state to make these changes. As I have covered earlier in this work, California since 2009 has reduced the number of prisoners by cutting revocations through legislative reform.<sup>981</sup> New York has made significance decreases in the size of the prison population by decreasing drug arrests and building alternatives to incarceration.<sup>982</sup> As part of this change, over the past decade the state has closed 24 prisons, and moved to deal with addiction medically rather than

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<sup>981</sup> Edelman, 167

<sup>982</sup> Edelman, 168

through incarceration.<sup>983</sup> Connecticut's prison population fell 25% in the 21<sup>st</sup> century after it reclassified drug possession as a misdemeanor rather than a felony.<sup>984</sup> Other positive changes have happened, and the state of Wisconsin could emulate them.

Another crucial opportunity is to allow more collective expression by prisoners. This aspect is a consistent current in prisoner mobilizations. One of the things they want the most is stable structures to allow for prisoners to collectively voice concerns. As I have previously outlined in my dissertation, prisoner demands during riots commonly included establishment of councils elected by prisoners.<sup>985</sup> During the Attica riot, prisoners created a complex system of formal organization to allow expression of concerns.<sup>986</sup> The 1970s saw a major movement of prisoners pushing for unions, wanting to bargain collectively with the prison.<sup>987</sup> In the 1940s there were prisoner publications at both Waupun and Taycheedah, providing a mechanism for collective expression by incarcerated people.<sup>988</sup> In 1990 after a lawsuit female prisoners created the TCI Inmate Advisory Council, to represent the voice of the inmate population, although prisoners criticized that it was excluded from meaningful decision-making.<sup>989</sup> There would likely be significant more such collectives across the Wisconsin prison system if the DOC did not effectively repress them by putting participants in solitary confinement, by dispersing people across different prisons, and by labeling such mobilizations as gang activity. One venue for positive change would be for increased mass mobilizations to shift the political rubric so that the

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<sup>983</sup> Bridge of Voices. "May Report." pp. 2. Forum For Understanding Prisons. Web. 3 May 2012.

<sup>984</sup> Edelman, 167

<sup>985</sup> Berkman, Ronald. *Opening the Gates: The Rise of the Prisoners' Movement*. Lexington, Lexington Books, 1979. Print. 35-6.

<sup>986</sup> Useem, 34

<sup>987</sup> Fink, 971

<sup>988</sup> Henrich, 58

<sup>989</sup> Mortell, 57-8



DOC could not systematically impose repression. If people achieve such changes, it would allow for prisoner groups to present their consideration of problems and the changes that are necessary.

Ultimately prison should be abolished. It functions as an ineffective model to address violence in society. Instead, prison regimes impose vastly greater levels of violence, and build a tolerance by prison staff and wider populations for cruelty. At present there are many barriers between the current world and a future free of prisons. The prison system as it exists presents many abuses and injustices that can and should be effectively contested. The analysis presented across this dissertation can be a part of this work, but it is a small part. More important is the steady ongoing work of communication with incarcerated people, data entry, outreach and concrete pressure. The process of fighting against the many destructive elements of the present prison system is useful to do for its own sake, to be able to reduce at least somewhat the collective sadism of contemporary U.S. incarceration. That effort can also help to build up social movements to fight for bigger structural issues including an end to prison altogether. It can do that by revealing the extent of abuses, and in showing how much inertia there is in the prison bureaucracy against fixing even the most blatant problems. This type of work can be most transformative, personally and structurally, by expanding communication with currently incarcerated people. Prisons flourish by keeping their population invisible to and cut off from the outside world. The more that this barrier to overcome, the more that prison voices are heard, the more potential there is to weaken the systemic cruelty of the prison regime in and beyond Wisconsin.

## **Timeline**

This section provides provide a brief chronological summary of major developments in the Wisconsin prison system.

1851: The Wisconsin State Prison opened, the first prison in Wisconsin

1855: Contracted labor begins at the Wisconsin State Prison

1864: Outbreak of smallpox at the Wisconsin State Prison

1867: An additional 240 cells constructed at the Wisconsin State Prison

1871: First State Board of Control instituted across Wisconsin prison system

1873: Direct election of wardens halted at the Wisconsin State Prison

1876: Warden of the Wisconsin state prison authorized to lease out prison labor

1898: Wisconsin State Reformatory created

1904: Census records 1,336 state prisoners in Wisconsin

1939: Wisconsin Division of Corrections created

1962: The Wisconsin School for Boys and Fox Lake Correctional Institution opened

1963: Administrative re-organization of the Wisconsin prison system

1965: Work-release program began in Wisconsin

1967: Wisconsin Reorganization Act transferred the Division of Corrections to the Department of Health and Social Services.

1973: The Wisconsin prison system incarcerated 2,046 people

1974 The Wisconsin School for Boys renamed Kettle Moraine Correctional Institution

1976: Oakhill Correctional Institution opened

1977: Flad Report evaluates options to deal with over-crowded prison facilities. Expansion of Kettle Moraine and Oakhill Correctional Institutions

1978 Dodge Correctional Institution opened, the main intake facility

1979: Wisconsin State Prison renamed Waupun Correctional Institution; Wisconsin State Reformatory renamed Green Way Correctional Institution

1979: Lawsuit filed against Waupun Correctional Institution, leads to 1983 court order that bars triple ceiling at the prison

1983: Riot at Waupun Correctional, 15 hostages taken, significant damage to facility

1986: Columbia Correctional Institution and Oshkosh Correctional Institution open

1990: Wisconsin Corrections became its own department, separate from the Department of Health and Social Services

1991: Racine Correctional Institution opened

1994: Significant expansions at Columbia, Oshkosh and Racine correctional institutions, at a cost of \$121 million that added 1,487 beds

1996 family members of prisoners at Green Bay Correctional reported toilets overflowing in prisoners' cells

1996 Prison Litigation Reform Act

1996 Jackson Correctional Institution opened, medium security, with estimated capacity of 70

1997 Prairie du Chien Correctional Institution opened

1997, a Wisconsin Legislative audit reported a daily cost per inmate to the state of \$53.51

1997, the Department had 1,158 prisoners to be housed in facilities outside the Wisconsin DOC, including 943 people in Wisconsin and Texas county jails and 215 at federal prison in Minnesota

1997: Expansion of Columbia Correctional Institution

1998: Solitary confinement units in Waupun and Green Bay Correctional were redesigned and expanded

1999: Boscobel Supermax Prison opened

1999: Wisconsin legislature established old law prisoners

2000: Wisconsin Supreme Court rules that prisoners must exhaust administrative remedies before filing suit

2001: Lawsuit Jones' El v. Berge against Boscobel, court order reduces severity of conditions and renames it the Wisconsin Secure Program Facility

2001: Redgranite Correctional Institution opened

2003: Wisconsin legislature outlaws sexual relations between prisoners and correctional officers

2003: Stanley Correctional Institution and Sturtevant Transitional Facility opened

2004: Chippewa Valley Correctional Treatment Facility and New Lisbon Correctional Institution opened.

2005: Documentary airs on conditions inside Green Bay Correctional Institution, "You Don't Want to Live In My House"

2005: The Wisconsin legislature passed the Inmate Sex Change Prevention Act

2011: Governor Scott Walker introduces Act 10, an attack on public sector unions and massive cuts to higher education. Prison guard unions were among those involved in the concern over the changes, and protests against this change.

2013: Fox Lake Correctional Institution received a federal notice of violation due to high amounts of lead and copper levels in the drinking water

2016: The Wisconsin legislature passed ALS ACT 355, allowing assessment of 25% or more from prisoner wages and money received from their families

2018: Former DOC Secretary Ed Wall publishes his account *Unethical*

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