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ON MAY 12, 2009, CRAIG COAKLEY sat patiently along the firstbase line as he watched his favorite team, the New York Mets, play the visiting Oakland Athletics in the Mets’ new stadium. The tens of thousands of fans also enjoying the game were completely unaware of what Coakley had in store for them. In the fifth inning a foul ball shot into the crowd, distracting everyone and giving Coakley a chance to execute his plan. Seizing the opportunity, he ripped off his clothes, jumped the wall, ran onto the field, and slid into second base wearing only a Mets rally monkey around his groin. He then ran into center field, where he was met by security guards, who escorted him off the field. Coakley spent that night in jail. Later, during his sentencing, Coakley was ordered to perform 20 days of community service and pay a $3,000 fine. The New York Mets penalized Coakley too—they banned him for life! He can never again purchase tickets or attend a Mets game. If he does, he’ll be removed from the park. “I can’t even go to spring training. I had no idea of the legal ramifications,” said Coakley.1 Banning someone from a place as form of punishment is not a new idea. In fact, it is very similar to the practice of banishment that was practiced in Europe for centuries. In England, transporting offenders to another region, such as Australia, proved quite effective at dealing with overflowing prisons and houses of correction. Banishment was also more humane than other forms of punishment. Public spectacles were popular, especially during medieval times. Crowds taunted the condemned as the executioner or sheriff conducted whippings, burnings, pilloryings, and hangings on orders of the king or court. Punishment-as-spectacle was used to control crime and to exhibit the sovereign’s power. But in the 1800s a major change took place in Europe and the United States. Efforts were made to devise a rational, reformative model of criminal sanctions focused on the mind and soul, not the body. With the development of the penitentiary in the 1830s as a place where offenders could reflect on their misdeeds, repent, and prepare for life as crime-free citizens, torture as a public spectacle disappeared. By the 1900s, punishments were carried out within prisons or in the community under the supervision of correctional staff who saw themselves not as instruments of suffering but as social workers, managers, and technicians of reform. Like other social institutions, corrections reflects the vision and concerns of the larger community. For example, in their post–Revolutionary War idealism, Americans strongly
believed that crime could be eliminated from this rich new nation if offenders were isolated from bad influences and encouraged to repent. Similarly, in the early 1900s, inspired by a new faith in the behavioral sciences, penology veered sharply toward a psychological approach to offender rehabilitation. As crime rose in the late 1960s, public opinion demanded another shift in correctional policy, toward greater emphasis on crime control. In this chapter we examine the broad European antecedents to U.S. correctional thought and practice. Chapter 3 will continue this historical overview through an examination of corrections in the United States from colonial times to the present. Later in the book, the history of such specific correctional practices as prison industry, probation, and parole is discussed in greater detail. Let us begin here by examining the correctional practices of earlier times.

From the Middle Ages to the American Revolution The earliest-known comprehensive statements of prohibited behavior include the Sumerian Law of Mesopotamia (3100 b.c.e.) and the Code of Hammurabi, developed by the king of Babylon in 1750 b.c.e. These written codes were divided into sections to cover different types of offenses and contained descriptions of the punishments to be imposed on offenders. Another important ancestor of Western law is the Draconian Code, which was introduced in Greece in the seventh century b.c.e. This code was the first to erase the distinction between citizens and slaves before the law, and described legal procedures and the forms of punishment: “stoning to death; throwing the offender from a cliff; binding him to a stake so that he suffered a slow death and public abuse while dying; or the formal dedication of the offender to the gods.”2 Lesser punishments included forbidding the burial of offenders and destroying their houses. In Rome the law of the Twelve Tables (450 b.c.e.) and a code compiled by Emperor Justinian in 534 c.e. helped lay the groundwork for European law. As in Greece and other ancient societies such as Egypt and Israel, Roman lawbreakers were made into slaves, exiled, killed, imprisoned, and physically brutalized.3 In most of Europe, forms of legal sanctions that are familiar today did not appear until the 1200s. Before that time, Europeans viewed responses to crime as a private affair, with vengeance a duty to be carried out by the person wronged or by a family member. Wrongs were avenged in accordance with the lex talionis, or law of retaliation. This principle was the foundation of Anglo-Saxon law until the Norman conquest of England in 1066. During the Middle Ages, the secular law in Europe was organized according to the feudal system.4 In the absence of a strong central government, crimes among neighbors took on the character of war, and the public peace was endangered as feudal lords sought to avenge one another’s transgressions. In response, by the year 1200 a system of wergild, or payment of money as compensation for a wrong, had developed in England as a way of reducing the frequency of violent blood feuds. During this period the custom of treating offenses as personal matters to be settled by individuals gradually gave way to the view that the peace of society required the public to participate in determining guilt or innocence and in exacting a penalty. Criminal law thus focused on maintaining public order among people of equal status and wealth. Given the parties involved, the main criminal punishments were penance and the payment of fines or restitution. Lower-class offenders without money received physical punishment at the hands of their masters. During this same period, the church, as the dominant social institution, maintained its own system of ecclesiastical punishments, which made a great impact on society as a whole. Especially during the Inquisition of the 1300s and 1400s, the church zealously punished those who violated its laws. At the same time, it gave refuge from secular prosecution to people who could claim benefit of clergy. In time, benefit of clergy was extended to all literate people.
From the end of Middle Ages through the 1500s, the authority of government grew, and the criminal law system became more fully developed. With the rise of trade, the breakdown of the feudal order, and the emergence of a middle class, other forms of sanction were applied. In addition to fines, five punishments were most common in Europe before the 1800s: galley slavery, imprisonment, transportation, corporal punishment, and death. As we discuss later, each of these punishments had a specific purpose, and the development of each was linked to ongoing social conditions. Realize that at the time, with neither a police force nor other centralized instruments of order, deterrence was the dominant purpose of the criminal sanction. Thus, before the 1800s, people believed that one of the best ways to maintain order was to intimidate the entire population by publicly punishing offenders.

Galley Slavery Galley slavery was the practice of forcing men to row ships. Now popularly identified with ancient Rome or Greece, galley slavery was not formally abolished throughout Europe until the mid-1700s.5 However, by the 1500s the practice had begun to wane with the advent of heavy sailing ships. At first used exclusively for slaves or men captured in battle, galley slavery came to be the lot of some convicts, often as a reprieve from the gallows. According to a 1602 proclamation by Queen Elizabeth I, the galleys were considered more merciful than ordinary civil punishments, even though the oarsmen might remain in chains for life.

Imprisonment Until the late Middle Ages, prisons were used primarily for the detention of people awaiting trial. In ancient times, offenders were incarcerated in cages, rock quarries, or even chambers underneath the Roman Forum while they awaited punishment. Short imprisonment as punishment was used in Italy, France, Germany, and England for petty crime, often for those unable to pay their fines or debts.7 Some inmates in the medieval prison were “not cast out of urban life”; rather, they were able to roam the city as licensed beggars—debtors seeking settlement of the claims against them—who could plead with their families for sustenance. But for most offenders prior to the 1800s, incarceration provided punishments far greater than mere detention.8 Conditions in these jails were appalling. Men, women, and children, healthy and sick, were locked up together. The strong preyed on the weak, there was no sanitation, and disease was epidemic. Furthermore, authorities made no provision for the inmates’ upkeep. Often, the warden viewed his job as a business proposition, selling food and accommodations to his charges. The poor thus had to rely for survival on alms brought to them by charitable people and religious groups. Attempts to reform prisons began in the 1500s. With the disintegration of feudalism, political power became more centralized, and economies began to shift from agriculture to manufacturing. As links to feudal landlords dissolved, the rural poor wandered about the countryside or drifted to the cities. The emphasis of the Protestant Reformation on the importance of hard work and on the sinfulness of sloth stirred European reformers to urge that some means be found to provide work for the idle poor. Out of these concerns the house of correction, or “workhouse,” was born.
In 1553, London’s Bishop Nicholas Ridley persuaded Edward VI to donate Bridewell Palace as the first house of correction. By 1609, each English county was required by law to provide “Bridewells,” or houses of correction. These facilities did not serve merely as a place of detention, as did the jail; they instead combined the main elements of a workhouse, poorhouse, and penal institution. Whereas jails were thought to promote idleness among the inmates, the house of correction was expected to instill “a habit of industry more conducive to an honest livelihood.”9 The inmates—primarily prostitutes, beggars, minor criminals, and the idle poor such as orphans and the sick—were to be disciplined and set to work. The products made in the house of correction were to be sold on the market so that the facility would be self-sufficient and not need government subsidy. The term Bridewell House came to be used for all versions of the English house of correction. Institutions similar to the English house of correction appeared in Holland, France, Germany, and Italy. Visiting these places in 1775, the English penal reformer John Howard was impressed by their cleanliness, discipline, and emphasis on rehabilitation through Bible study and regularity of habits. A motto carved over the doorway to one institution succinctly defined the authority of the law with regard to the inmates: “My hand is severe but my intention benevolent.” This motto continued to influence the later development of the penitentiary. Of the European institutions, the Milan House of Correction, built in 1755, and Ghent’s Maison de Force, built in 1772, attracted particular attention. The latter did so because of its design. It was an octagonal building surrounding a central yard. Eight long pavilions radiated from
the center, allowing the separation of inmates by the seriousness of the crime, by sex, or by status as a member of the noncriminal poor. The prisoners worked in common areas during the day and were segregated at night. Conditions in England’s Bridewells deteriorated as the facilities increasingly housed criminals rather than poor people. By the 1700s, the labor power provided by the inmates was no longer economically profitable, and the reformative aim of the institution vanished. The Prison Act of 1865 formally joined the jail and the house of correction. The resulting institution became known as a prison—a place of punishment for those serving terms of up to two years.10 As we will see, elements of the houses of correction were later incorporated into the penitentiary and the industrial prison of the nineteenth century.

Transportation From ancient times, people who have disobeyed the rules of a community have been cast out, or banished (see “For Critical Thinking”). With the breakdown of feudalism and the worsening of economic conditions in the 1600s, transportation as punishment increased as prisons and houses of correction in Europe filled to overflowing. The New World represented a convenient place for England to send offenders.11 For Russians transported to Siberia, transportation often meant the same as death. By the early 1600s, the transportation of English convicts to North America became economically important for the colonial companies for whom the convicts labored. It also helped relieve the overcrowded prisons of England. By the close of the seventeenth century, English courts had sent about 2,300 convicts to the American colonies. The typical length of sentence for a transported convict was seven years. The offender population in England continued to grow. Rather than building more jails to deal with the problem, Parliament decided to increase the number of convicts sent to colonies with the passage of the Transportation Act of 1718. From 1718 to 1776, an estimated 52,200 English convicts were shipped to the American colonies, nearly 80 percent of whom worked in either Virginia or Maryland. Although convicts provided much-needed labor, especially on tobacco farms, Virginia attempted to pass laws on several occasions to prevent England from transporting convicts. Such attempts were always overturned by English authorities. Benjamin Franklin publicly expressed his frustration with the practice of transportation. In 1751 he famously wrote that if the colonies were not allowed to legislate against the importation of English convicts, then perhaps America should reciprocate by sending shipments of rattlesnakes to England. Not all colonial leaders felt as strongly as Franklin. Indeed, in 1774 George Washington purchased convicts to work on his plantation at Mount Vernon.12 With the onset of the American Revolution, transportation from England to the colonies was halted. By this time, questions had also been raised about the appropriateness of the practice. Some critics argued that it was unjust to send convicts to live in a country where their lives would be easier than at home. But perhaps more importantly, by the beginning of the 1700s American planters had discovered that African slaves were better workers and economically more profitable than English convicts. The importation of black slaves increased dramatically, the prisons of England again became overcrowded, and large numbers of convicts were assigned to live in hulks (abandoned ships) along the banks of the Thames.
British transportation began again in 1787, to different locales. Over the next 80 years, 160,000 prisoners were transported from Great Britain and Ireland to New South Wales, Tasmania, and other parts of Australia. As the historian Robert Hughes explains, Every convict faced the same social prospects. He or she served the Crown or, on the Crown’s behalf, some private person, for a given span of years. Then came a pardon or a ticket-of-leave, either of which permitted him to sell his labor freely and choose his place of work.13 However, in 1837 a committee of Parliament reported that, far from reforming criminals, transportation created thoroughly depraved societies. Critics argued that the Crown was forcing Englishmen to be “slaves until they were judged fit to become peasants.”14 The committee recommended a penitentiary system in which offenders were confined and set to hard labor. This recommendation was only partially adopted; not until 1868 did all transportation from England cease.

Corporal Punishment and Death Although corporal punishment and death have been used throughout history, the sixteenth through eighteenth centuries in Great Britain and Europe were particularly brutal. For example, the German criminal code of 1532 specified that An ordinary murderer or burglar merits hanging in chains or beheading with the sword. A woman who murders her infant is buried alive and impaled, a traitor is drawn and quartered. Other grave offenders may be burned to death, or drowned, or set out to die in agony upon the wheel with their limbs smashed.16 Because punishment was considered a powerful general deterrent, authorities carried out sanctions in the market square for all to see. Whipping, mutilation, and branding were used extensively, and death was the common penalty for a host of felonies. For example, some 72,000 people were hanged during the reign of Henry VIII (1509–1547), and in the Elizabethan period (1558– 1603), vagabonds were strung up in rows of 300–400 at a time.17 (The modern equivalent would be 15,000–23,000 Americans strung up at once.) Capital punishment could either be a “merciful” instant death (beheading or hanging) or a prolonged death (burning alive or breaking on the wheel). As Pieter Spierenburg notes, prolonged death was practically unknown in England, “although a famous pamphlet of 1701 argued that hanging did not effectively deter potential lawbreakers.”18 Those criminals who were not executed faced various mutilations—removing a hand or finger, slitting the nostrils, severing an ear, or branding—so that the offenders could be publicly identified. Such mutilation usually made it impossible for the marked individual to find honest employment. In sum, almost every imaginable torture was used in the name of retribution, deterrence, the sovereignty of the authorities, and the public good. The reasons for the rise in the severity of punishments during this period are unclear but are thought to reflect the expansion of criminal law, the enhanced power of secular authorities, an increase in crime (especially during the eighteenth century), and changes in the economic system. For example, the number of crimes for which the English authorized the death penalty swelled from 50 in 1688 to 160 in 1765 and reached 225 by 1800. Some new statutes made capital crimes of offenses that had previously been treated more leniently, and other laws criminalized certain activities for the first time. But the criminal law, popularly known as the Bloody Code, was less rigid than it seemed; it allowed judicial discretion, and lesser punishments were often given.19 London, as well as other cities, doubled in population from 1600 to 1700, although the overall population of England and Wales rose by only 25 percent. Because of the population increases and the accompanying widespread poverty, the incidence of crime in cities ballooned. The rise in the number of prosecutions and convictions may also have represented a response by government and the elite to the threat posed to public order by the suddenly outsized working-class population. As Georg Rusche and Otto Kirchheimer argue, the rise of capitalism led to economic, rather than penal, considerations as the basis for punishment.

On the Eve of Reform As noted previously, by the middle of the 1700s England was inflicting capital and corporal punishment extensively, transporting large numbers of convicts overseas, and facing the problem of overcrowded jails and houses of correction; however, crime continued its upward curve. England, the most advanced and powerful country in the world, was ready for correctional reform. At this stage, economic and social factors, particularly concerning labor, began to reshape the nature of penal sanctions. Other important influences stemmed from altered political relationships and changes in the power of the church and the organization of secular authority. Around the same time, the revolutionaries in the American colonies, with their liberal ideas about the relationship between citizen and government and their belief in human perfectibility, were setting the stage for a shift in penal policies. In view of all these considerations, we can arbitrarily designate 1770 as the eve of a crucial period of correctional reform on both sides of the Atlantic.

The Enlightenment and Correctional Reform During the 1700s, Western scholars and social activists, particularly in England and France, engaged in a sweeping reconception of the nature of society. In this remarkable period, known as the Enlightenment, or the Age of Reason, new ideas based on rationalism, the importance of the individual, and the limitations of government replaced traditional assumptions. Revolutions occurred in America and France, science made great advances, and the industrial revolution came into full swing. Until the 1700s, European society had generally been static and closed; individuals had their place in a hierarchy of fixed social relationships. The Enlightenment represented a liberal
reaction against this feudal and monarchical tradition. The Reformation had already ended the religious monopoly held by the Catholic Church, and the writings of such Protestant thinkers as Martin Luther and John Calvin encouraged a new emphasis on individualism and the social contract between government and the governed. The triumph of William of Orange in the Glorious Revolution of 1688 brought increased power to the English Parliament, and the institutions of representative government were strengthened. The 1690 publication of John Locke’s two treatises on government further developed the ideas of a liberal society, as did the writings of the French thinkers Montesquieu and Voltaire. Finally, advances in scientific thinking led to a questioning attitude that emphasized observation, experimentation, and technological development. Sir Isaac Newton argued that the world could be known and reduced to a set of rules. The scientific revolution had a direct impact on social and political thought because it encouraged people to question established institutions, use the power of reason to remake society, and believe that progress would ultimately bring about a just community. What impact did these political and social thinkers of the Enlightenment have on corrections? As we have emphasized, ideas about crime and justice are part of larger philosophical and scientific movements. Because of the ideas that gained currency in the 1700s, people in America and Europe began to rethink such matters as the procedures used to determine guilt, the limits on a government’s power to punish, the nature of criminal behavior, and the best ways to correct offenders. Specifically, they began to reconsider how criminal law should be administered and to redefine the goals and practices of corrections. During this period the classical school of criminology emerged, with its insistence on a rational link between the gravity of the crime and the severity of the punishment. Proponents of the social contract and utilitarian philosophies emphasized limitations on the power of government and proposed the need to erect a system of graduated criminal penalties to deter crime. Further, political liberals and religious groups encouraged reform of the prison system. All these factors produced a major shift in penal thought and practice. Penal codes were rewritten to emphasize adaptation of punishment to the offender. Correctional practices moved away from inflicting pain on the body of the offender toward methods that would set the individual on a path of honesty and right living. Finally, the penitentiary developed as an institution in which criminals could be isolated from the temptations of society, reflect on their offenses, and thus be reformed. Of the many individuals who actively promoted the reform of corrections, three stand out: Cesare Beccaria (1738–1794), the founder of what is now called the classical school of criminological thought; Jeremy Bentham (1748–1832), a leader of reform in England and the developer of a utilitarian approach to crime and punishment; and John Howard (1726–1790), the sheriff of Bedfordshire, England, who helped spur changes that resulted in the development of the penitentiary.

Cesare Beccaria and the Classical School The rationalist philosophy of the Enlightenment, with its emphasis on individual rights, was applied to the practices of criminal justice by the Italian scholar Cesare Beccaria in his 1764 book On Crimes and Punishments. He argued that the true aim and only justification for punishment is utility: the safety it affords society by preventing crime.21 This was the first attempt to explain crime in secular terms instead of religious terms. The book also pointed to injustices in the administration of criminal law. In particular, Beccaria focused on the lack of a rational link between the gravity of given crimes and the severity of punishment. From this movement came classical criminology, with main principles as follows:

1. The basis of all social action must be the utilitarian concept of the greatest good for the greatest number of people.

2. Crime must be considered an injury to society, and the only rational measure of crime is the extent of the injury.

3. The prevention of crime is more important than punishment for crimes. To prevent crime, laws must be improved and codified so that citizens can understand and support them.

4. Secret accusations and torture must be abolished. Further, the accused have a right to speedy trials and to humane treatment before trial, as well as every right to bring forward evidence on their behalf.

5. The purpose of punishment is crime deterrence, not social revenge. Certainty and swiftness in punishment, rather than severity, best secure this goal.

6. Imprisonment should be more widely employed, and better physical quarters should be provided, with prisoners classified by age, sex, and degree of criminality.

Beccaria summarized the thinking of those who wanted to rationalize the law: “In order for punishment not to be, in every instance, an act of violence of one or many against a private citizen, it must be essentially public, prompt, necessary, the least possible in the given circumstances, proportionate to the crime, dictated by laws.”22 Beccaria’s ideas took hold especially in France; many of them were incorporated in the French Code of 1791, which ranked crimes on a scale and affixed a penalty to each. In the United States, James Wilson, the leading legal scholar of the post–Revolutionary period, credited Beccaria with having influenced his thinking, notably with regard to the deterrent function of punishment. Through Wilson, Beccaria’s principles had an important effect on the reform of the penal laws of Pennsylvania, which laid the foundation for the penitentiary movement.

Jeremy Bentham and the “Hedonic Calculus” Jeremy Bentham, one of the most provocative thinkers and reformers of English criminal law, is best known for his utilitarian theories, often called his “hedonic calculus.” Bentham claimed that one could categorize all human actions and, either through pleasurable (hedonic) incentives or through punishment, direct individuals to desirable activities. Supporting this idea was his concept of utilitarianism, the doctrine that the aim of all action should be “the greatest happiness of the greatest number.” As Bentham noted, an act possesses utility “if it tends to produce benefit, advantage, pleasure, good or happiness... or to prevent the happening of mischief, pain, evil or unhappiness to the party whose interest is considered.”24 Thus, according to Bentham, rational people behave in ways that achieve the most pleasure while bringing the least pain; they are constantly calculating the pluses and minuses of potential actions. In Bentham’s view, criminals were somewhat childlike or unbalanced, lacking the selfdiscipline to control their passions by reason. Behavior was not preordained, but rather was an exercise of free will. Thus, crime was not sinful, but the result of improper calculation. Accordingly, the criminal law should be organized so that the offender would derive more pain than pleasure from a wrongful act. Potential offenders, recognizing that legal sanctions were organized according to this scheme, would be deterred from committing antisocial acts. Bentham sought to reform the criminal laws of England so that they emphasized deterrence and prevention. The goal was not to avenge an illegal act, but to prevent the commission of such an act in the first place. Because excessive punishment was unjustified, the punishment would be no more severe than necessary to deter crime: not “an act of wrath or vengeance,” but one of calculation tempered by considerations of the social good and the offender’s needs.25 Bentham developed plans for a penitentiary based on his utilitarian principles. The design of his “panopticon,” or “inspection house,” called for a circular building with a glass roof and cells on each story around the circumference. This arrangement would permit a prison inspector in the center of the building to keep out of sight of the prisoners yet view their actions through a system of blinds. Panopticons were never constructed in England; they were proposed in both France and Ireland, but never adopted. Two panopticon-type prisons were actually constructed in the United States. Western State Penitentiary, modeled to some extent on B the style was the prison in Crest Hill, Illinois, where four circular cellhouses were built from 1916 to 1924. Described by an architect as “the most awful receptacle of gloom ever devised and put together with good stone and brick and mortar, the panopticon was quickly abandoned.

John Howard and the Birth of the Penitentiary Probably no individual did more for penal reform in England than John Howard—county squire, social activist, and high sheriff of Bedfordshire. Like many members of the new merchant class, Howard had a social conscience and was concerned about conditions among the poor. On being appointed sheriff in 1773, he exercised the traditional but usually neglected responsibility of visiting the local prisons and institutions. He was shocked by what he saw, especially when he learned that the jailers received no regular salary but made their living from the prisoners and that many people who had been discharged by the grand jury or acquitted at their trials were still detained because they could not pay their discharge fees.27 Howard expanded his inspections to the prisons, hulks, and houses of correction outside his jurisdiction in England, and then to those in other parts of Europe. In England the prisons were overcrowded, discipline was lacking, and sanitation was unheard of—thousands died yearly from disease. Even members of the free community feared “prison fever,” for the disease often infected courthouse personnel and others in contact with offenders. At the time, seven years of imprisonment was viewed as a de facto penalty of death. Howard thought that England should copy some of the prisons he had visited in Belgium, Holland, Germany, and Italy. In particular, he was favorably impressed by the separate confinement of inmates at night after their common daytime tasks. Of the Maison de Force, in Ghent, he wrote, “The convicts were properly lodged—fed—clothed—instructed—worked. The utmost regularity, order, cleanliness prevailed; there was no drunkenness; no riot; no excessive misery; no irons, no starvation.”28 Howard’s descriptions of conditions in English penal institutions in his book The State of Prisons in England and Wales horrified the public. Of particular concern was the
lack of discipline. After his report to the House of Commons, Howard, along with Sir William Blackstone and William Eden, drafted the Penitentiary Act of 1779, a curious amalgam of traditional and progressive ideas that greatly affected penology. The Penitentiary Act originally called for creating houses of hard labor where people who would otherwise have faced transportation would instead be imprisoned for up to two years. The act was based on four principles set down by Howard: (1) a secure and sanitary structure, (2) systematic inspection, (3) abolition of fees, and (4) a reformatory regimen. Prisoners were to be confined in solitary cells at night but were to labor silently in common rooms during the day. The labor was to be “of the hardest and most servile kind, in which Drudgery is chiefly required and where the Work is little liable to be spoiled by Ignorance, Neglect or Obstinancy”—such work as sawing stone, polishing marble, beating hemp, and chopping rags.29 The legislation further detailed such items as the prisoners’ diet, uniforms, and conditions of hygiene. Howard also helped bring about penal reform in Ireland. While touring Irish prisons in 1786–1787, Howard visited the old Kilmainham Gaol, located in Dublin. He reportedly encountered intoxicated inmates and an open window facing the city street from which prisoners could obtain whiskey. Following Howard’s recommendation, the County of Dublin’s Grand Jury built a new prison on elevated ground to improve ventilation and help prevent fever.30 Perhaps influenced by his Quaker friends, Howard came to believe that the new penal institution should be a place not merely of industry but also of contrition and penance. The twofold purpose of the penitentiary was to punish and to reform offenders through solitary confinement between intervals of work, the inculcation of good habits, and religious instruction so that inmates could reflect on their moral duties. The Penitentiary Act and follow-up legislation passed in 1782 and 1791 attracted political support from a variety of sources. Legalists sought to deter crime, philanthropists wanted to help humanity, conservatives thought products made by convict labor would save money, and pragmatic politicians wanted to solve the disquieting prison situation. Philanthropists and other social reformers believed that solitary confinement was the best way to end the evil of inmate association and to allow reflection. Bentham agreed because he believed the penitentiary would help deter crime by being onerous to but not destructive of the offender.

What Really Motivated Correctional Reform? Was it just the humanistic concerns of the Quakers and individuals such as Bentham and Howard that prompted this era of criminal law reform, or were other forces at work as well? Apparently, reform sprang as much from the emergence of the middle class as from humanism. The new industrialists may have been concerned about the existing criminal law because, paradoxically, its harshness helped some offenders escape punishment: Jurors would not convict people accused of petty property offenses for which death was prescribed. In petitions to Parliament, groups of businessmen complained that their property was not protected if offenders could expect to escape punishment.31 They wanted swift and certain sanctions, and their demands coincided with the moral indignation of Bentham, Howard, and other reformers. Traditional scholarship on corrections has emphasized the humanitarian motives of reformers seeking a system of benevolent justice. However, other scholars have focused on the underlying economic or social factors that account for shifts in correctional policies. They do not accept the standard version that such people as Beccaria, Bentham, and Howard were motivated by concern for their fellow humans when they advocated a particular perspective on the problem of criminality. For example, the revisionists suggest that until 1700 the size of the incarcerated population in England was linked to the economic demand for workers. The penitentiary may thus represent not the product of the humanitarian instincts unleashed by the Enlightenment, but a way to discipline the working class to serve a new industrial society. Changes took place in England’s prisons, and new institutions were constructed along lines suggested by Howard and Bentham, but not until 1842, with the opening of Pentonville in North London, did the penitentiary plan come to fruition. Meanwhile, the concept of the penitentiary had traveled across the Atlantic to the new American republic.