

## INTRODUCTION TO PUNISHMENT

### Topic Objective:

At the end of this topic student would be able to:

- Understand about concept of punishment in psychology
- Learn about scope of application of Punishment
- Understand about history and rationale of Punishment
- Develop learning about possible reasons for punishment

### Definition/Overview:

**Punishment:** Punishment is the practice of imposing something unpleasant or aversive on a person or animal, usually in response to disobedient or morally wrong behavior. In common usage, the word punishment might be described as an authorized imposition of deprivations of freedom or privacy or other goods to which the person otherwise has a right, or the imposition of special burdens because the person has been found guilty of some criminal violation, typically (though not invariably) involving harm to the innocent. The most common applications are in legal and similarly 'regulated' contexts, being the infliction of some kind of pain or loss upon a person for a misdeed, i.e. for transgressing a law or command (including prohibitions) given by some authority (such as an educator, employer or supervisor, public or private official).

### Key Points:

#### 1. Concept of Punishment in psychology

Introduced by B.F. Skinner, punishment has a more restrictive and technical definition. Along with reinforcement it belongs under the Operant Conditioning category. Operant Conditioning refers learning with either punishment or reinforcement. It is also referred to as response-

stimulus conditioning. In psychology, punishment is the reduction of a behavior via a stimulus which is applied (positive punishment) or removed (negative punishment). Making an offending student lose recess or play privileges are examples of negative punishment, while extra chores or spanking are examples of positive punishment. The definition requires that punishment is only determined after the fact by the reduction in behavior; if the offending behavior of the subject does not decrease then it is not considered punishment. There is some conflation of punishment and aversives, though an aversive that does not increase behavior is not considered punishment.

## **2. Scope of application of Punishment**

Punishments are applied for various purposes, most generally, to encourage and enforce proper behavior as defined by society or family. Criminals are punished judicially, by fines, corporal punishment or custodial sentences such as prison; detainees risk further punishments for breaches of internal rules. Children, pupils and other trainees may be punished by their educators or instructors (mainly parents, guardians, or teachers, tutors and coaches). Slaves, domestic and other servants used to be punishable by their masters. Employees can still be subject to a contractual form of fine or demotion. Most hierarchical organizations, such as military and police forces, or even churches, still apply quite rigid internal discipline, even with a judicial system of their own (court martial, canonical courts). Punishment may also be applied on moral, especially religious, grounds, as in penance (which is voluntary) or imposed in a theocracy with a religious police (as in a strict Islamic state like Iran or under the Taliban) or (though not a true theocracy) by Inquisition.

## **3. History and rationale of Punishment**

The progress of civilization has resulted in a change alike in the theory and in the method of punishment. In primitive society punishment was left to the individuals wronged or their families, and was vindictive or retributive: in quantity and quality it would bear no special relation to the character or gravity of the offense. Gradually there would arise the idea of proportionate punishment, of which the characteristic type is an eye for an eye. The second stage was punishment by individuals under the control of the state, or community; in the third stage, with the growth of law, the state took over the primitive function and provided itself with the machinery of justice for the maintenance of public order. Henceforward crimes are against the

state, and the exaction of punishment by the wronged individual is illegal. Even at this stage the vindictive or retributive character of punishment remains, but gradually, and especially after the humanist movement under thinkers like Beccaria and Jeremy Bentham, new theories begin to emerge.

Two chief trains of thought have combined in the condemnation of primitive theory and practice. On the one hand the retributive principle itself has been very largely superseded by the protective and the reformative; on the other punishments involving bodily pain have become objectionable to the general sense of society. Consequently corporal and even capital punishment occupy a far less prominent position, and tend everywhere to disappear. It began to be recognized also that stereotyped punishments, such as belong to penal codes, fail to take due account of the particular condition of an offence and the character and circumstances of the offender. A fixed fine, for example, operates very unequally on rich and poor.

Modern theories date from the 18th century, when the humanitarian movement began to teach the dignity of the individual and to emphasize his rationality and responsibility. The result was the reduction of punishment both in quantity and in severity, the improvement of the prison system, and the first attempts to study the psychology of crime and to distinguish between classes of criminals with a view to their improvement. These latter problems are the province of criminal anthropology and criminal sociology, sciences so called because they view crime as the outcome of anthropological viz. social conditions. The law breaker is himself a product of social evolution and cannot be regarded as solely responsible for his disposition to transgress. Habitual crime is thus to be treated as a disease. Punishment can, therefore, be justified only insofar as it either protects society by removing temporarily or permanently one who has injured it, or acting as a deterrent, or aims at the moral regeneration of the criminal. Thus the retributive theory of punishment with its criterion of justice as an end in itself gives place to a theory which regards punishment solely as a means to an end, utilitarian or moral, according as the common advantage or the good of the criminal is sought.

Michel Foucault describes in detail the evolution of punishment from hanging, drawing and quartering of medieval times to the modern systems of fines and prisons. He sees a trend in

criminal punishment from vengeance by the King to a more practical, utilitarian concern for deterrence and rehabilitation. A particularly harsh punishment is sometimes said to be draconian, after Draco, the lawgiver of the classical polis of Athens. But as the adjective Spartan still testifies, its wholly militarized rival Sparta was the harshest a state of law can be on its own citizens, e.g. crypteia (including flogging for being caught when stealing as ordered). In operant conditioning, punishment is the presentation of a stimulus contingent on a response which results in a decrease in response strength (as evidenced by a decrease in the frequency of response). The effectiveness of punishment in suppressing the response depends on many factors, including the intensity of the stimulus and the consistency with which the stimulus is presented when the response occurs. In parenting, additional factors that increase the effectiveness of punishment include a verbal explanation of the reason for the punishment and a good relationship between the parent and the child.

#### **4. Possible reasons for punishment**

There are many possible reasons that might be given to justify or explain why someone ought to be punished; here follows a broad outline of typical, possibly contradictory justifications.

##### **4.1 Rehabilitation**

Some punishment includes work to reform and rehabilitate the wrongdoer so that they will not commit the offense again. This is distinguished from deterrence, in that the goal here is to change the offender's attitude to what they have done, and make them come to see that their behavior was wrong.

##### **4.2 Incapacitation**

Incapacitation is a justification of punishment that refers to when the offenders ability to commit further offenses is removed. This is a forward-looking justification of punishment that views the future reductions in re-offending as sufficient justification for the punishment. This can occur in one of two ways; the offenders ability to commit crime can be physically removed, or the offender can be geographically removed. The offenders ability to commit crime can be physically removed in several ways. This can include cutting the hands off a thief, as well as other crude punishments. The castration of

offenders is another punishment that can be justified by incapacitation, furthered by recent media coverage in Britain of the proposed chemical castration of sexual offenders. Incapacitation, in this sense, can include any number of punishments including taking away the driving license off a dangerous driver but can also include capital punishment. Despite this, incapacitation is predominately thought of as incarceration. Imprisonment has the effect of confining prisoners, physically preventing them from committing crimes against those outside, i.e. protecting the community. Before the widespread use of imprisonment, banishment was used as a form of incapacitation. Nowadays courts have a flexible array of sentence options available to them that can restrict offenders movements, and subsequently their ability to commit crime. Football hooligans can, for example, be required to attend centers during football matches. Selective incapacitation is a modified form of incapacitation that rationalizes the practice of giving only dangerous and persistent offenders long, and in some case indefinite, prison sentences. The approach adopts a utilitarian viewpoint that regards the protection, and subsequent happiness, of the majority as justification of giving excessive and indefinite prison sentences. There is, however, strong moral opposition to this concept.

#### **4.3 Deterrence / Prevention**

To act as a measure of prevention to those who are contemplating criminal activity.

#### **4.4 Restoration**

For minor offences, punishment may take the form of the offender righting the wrong; for example, a vandal might be made to clean up the mess he has made. In more serious cases, punishment in the form of fines and compensation payments may also be considered a sort of restoration. Some libertarians argue that full restoration or restitution on an individualistic basis is all that is ever just, and that this is compatible with both retributivism and a utilitarian degree of deterrence.

#### **4.5 Retribution**

Retribution is the practice of getting even with a wrongdoer the suffering of the wrongdoer is seen as good in itself, even if it has no other benefits. One reason for

modern centrally-organized societies to include this judicial element is to diminish the perceived need for street justice, blood feud and vigilantism. However, some argue that this is a zero sum game that such acts of street justice and blood revenge are not removed from society, but responsibility for carrying them out is merely transferred to the state. Retribution sets an important standard on punishment the transgressor must get what he deserves, but no more. Therefore, a thief put to death is not retribution; a murderer put to death is. Adam Smith, who is credited as the father of Capitalism, wrote extensively about punishment. In his view, an important reason for punishment is not only deterrence, but also satisfying the resentment of the victim. Moreover, in the case of the death penalty, the retribution goes to the dead victim, not his family. (So, to extend Smith's views, a murderer can be spared the death penalty only by the victim's express wish, made when he was alive.) One great difficulty of this approach is that of judging exactly what it is that the transgressor deserves. For instance, it may be retribution to put a thief to death if he steals a family's only means of livelihood; conversely, mitigating circumstances may lead to the conclusion that the execution of a murderer is not retribution.

A specific way to elaborate this concept in the very punishment is the mirror punishment (the more literal applications of an eye for an eye), a penal form of 'poetic justice' which reflects the nature or means of the crime in the means of (mainly corporal) punishment. From German Criminal Law, Punishment can be explained by positive prevention theory to use criminal justice system to teach people what are the social norms for what is correct and acts as reinforcement. It teaches people to obey the law and eliminates the free-rider principle of people not obeying the law getting away with it.

**Topic : The Penitentiary And The 1800s**

**Topic Objective:**

At the end of this topic student would be able to:

- Develop learning about American Prison System
- Understand the History of Penitentiary
- Learn about the Design and facilities of Penitentiary
- Learn about the Types of Jails
- Understand the Rehabilitation Process
- Develop learning regarding Prisons by country
- Learn about the Value of Correspondence in Jails

### **Definition/Overview:**

**Prison/ Penitentiary:** A prison, penitentiary, or correctional facility is a place in which individuals are physically confined or interned and usually deprived of a range of personal freedoms. Prisons are conventionally institutions, which form part of the criminal justice system of a country, such that imprisonment or incarceration is a legal penalty that may be imposed by the state for the commission of a crime. In popular parlance of many countries, the term jail (gaol) is considered synonymous with prison.

### **Key Points:**

#### **1. Prison System**

A criminal suspect who has been charged with or is likely to be charged with a criminal offense may be held on remand in prison if he or she is denied, refused or unable to meet conditions of bail, or is unable to post bail. This may also occur where the court determines that the suspect is at risk of absconding before the trial, or is otherwise a risk to society. A criminal defendant may also be held in prison while awaiting trial or a trial verdict. If found guilty, a defendant will be convicted and may receive a custodial sentence requiring imprisonment. Prisons may also be used as a tool of political repression to detain political prisoners, prisoners of conscience, and

enemies of the state, particularly by authoritarian regimes. In times of war or conflict, prisoners of war may also be detained in prisons. A prison system is the organizational arrangement of the provision and operation of prisons, and depending on their nature, may invoke a corrections system. Although people have been imprisoned throughout history, they have also regularly been able to perform prison escapes.

## 2. History of Penitentiary

For most of history, imprisoning has not been a punishment in itself, but rather a way to confine criminals until corporal or capital punishment was administered. There were prisons used for detention in Jerusalem in Old Testament times. Dungeons were used to hold prisoners; those who were not killed or left to die there often became galley slaves or faced penal transportations. In other cases debtors were often thrown into debtor's prisons, until they paid their jailers enough money in exchange for a limited degree of freedom. Only in the 19th century, beginning in Britain, did prisons as we know them today become commonplace. The modern prison system was born in London, as a result of the views of Jeremy Bentham. The notion of prisoners being incarcerated as part of their punishment, and not simply as a holding state till trial or hanging, was at the time revolutionary.

The first modern prisons of the early 19th Century were sometimes known by the term penitentiary (a term still used by some prisons in the USA today): as the name suggests, the goal of these facilities was that of penance by the prisoners, through a regimen of strict disciplines, silent reflections, and maybe forced and deliberately pointless labor on treadwheels and the like. This Auburn system of prisoner management was often reinforced by elaborate prison architectures, such as the separate system and the panopticon. It was not until the late 19th Century that rehabilitation through education and skilled labor became the standard goal of prisons.

### 3. Design and facilities of Penitentiary

Male and female prisoners are typically kept in separate locations or separate prisons altogether. Prison accommodation, especially modern prisons in the developed world, are often divided into wings. A building holding more than one wing is known as a hall.

Amongst the facilities that prisons may have are:

- A main entrance, which may be known as the 'gate lodge' or 'sally port' (stemming from old castle nomenclature)
- A chapel, mosque or other religious facility, which will often house chaplaincy offices and facilities for counseling of individuals or groups
- An 'education facility', often including a library, providing adult education or continuing education opportunities
- A gym or an exercise yard, a fenced, usually open-air-area which prisoners may use for recreational and exercise purposes
- A healthcare facility or hospital
- A segregation unit (also called a 'block' or 'isolation cell'), used to separate unruly, dangerous, or vulnerable prisoners from the general population, also sometimes used as punishment (see solitary confinement)
- A section of vulnerable prisoners (VPs), or protective Custody (PC) units, used to accommodate prisoners classified as vulnerable, such as sex offenders, former police officers, informants, and those that have gotten into debt or trouble with other prisoners
- A section of safe cells, used to keep prisoners under constant visual observation, for example when considered at risk of suicide
- A visiting area, where prisoners may be allowed restricted contact with relatives, friends, lawyers, or other people
- A death row in some prisons, a section for criminals awaiting execution
- A staff accommodation area, where staff and guards live in the prison, typical of historical prisons
- A service/facilities area housing support facilities like kitchens
- Industrial or agricultural plants operated with convict labor

- A recreational area containing a TV and pool table

Prisons are normally surrounded by fencing, walls, earthworks, geographical features, or other barriers to prevent escape. Multiple barriers, concertina wire, electrified fencing, secured and defensible main gates, armed guard towers, lighting, motion sensors, dogs, and roving patrols may all also be present depending on the level of security. Remotely controlled doors, CCTV monitoring, alarms, cages, restraints, nonlethal and lethal weapons, riot-control gear and physical segregation of units and prisoners may all also be present within a prison to monitor and control the movement and activity of prisoners within the facility.

Modern prison designs have sought to increasingly restrict and control the movement of prisoners throughout the facility while permitting a maximal degree of direct monitoring by a smaller corrections staff. As compared to traditional large landing-cellblock designs which were inherited from the 19th century and which permitted only intermittent observation of prisoners, many newer prisons are designed in a decentralized podular layout. Smaller, separate and self-contained housing units known as pods or modules are designed to hold between sixteen and fifty prisoners each, and are arranged around exercise yards or support facilities in a decentralized campus pattern. A small number of corrections officers, sometimes a single officer, is assigned to supervise each pod. The pods contain tiers of cells arranged around a central control station or desk from which a single officer can monitor all of the cells and the entire pod, control cell doors, and communicate with the rest of the prison. Pods may be designed for high-security indirect-supervision, in which officers in segregated and sealed control booths monitor smaller numbers of prisoners confined to their cells.

An alternative is direct-supervision, in which officers work within the pod and directly interact with and supervise prisoners, who may spend the day outside their cells in a central dayroom on the floor of the pod. Movement in or out of the pod to and from exercise yards, work assignments or medical appointments can be restricted to individual pods at designated times,

and is generally centrally controlled. Goods and services, such as meals, laundry, commissary, educational materials, religious services and medical care can increasingly be brought to individual pods or cells as well. Conversely, despite these design innovations, overcrowding at many prisons, particularly in the U.S., has resulted in a contrary trend, as many prisons are forced to house large numbers of prisoners, often hundreds at a time, in gymnasiums or other large buildings that have been converted into massive open dormitories. Lower-security prisons are often designed with less restrictive features, confining prisoners at night in smaller locked dormitories or even cottage or cabin-like housing while permitting them freer movement around the grounds to work or activities during the day.

#### **4. Types of Jails**

##### **4.1 Juvenile**

Prisons for juveniles (people under 18) are known as young offenders institutes and hold minors who have been convicted, many countries have their own age of criminal responsibility in which children are deemed legally responsible for their actions for a crime.

##### **4.2 Military**

Prisons form part of military systems, and are used variously to house prisoners of war, unlawful combatants, those whose freedom is deemed a national security risk by military or civilian authorities, and members of the military found guilty of a serious crime.

##### **4.3 Political**

Certain countries maintain or have in the past had a system of political prisons; arguably the gulags associated with Stalinism are best known. The definition of what is and is not a political crime and a political prison is, of course, highly controversial.

##### **4.4 Psychiatric**

Some psychiatric facilities have characteristics of prisons, especially when confining patients who have committed a crime and are considered dangerous. In addition, many

prisons have psychiatric units dedicated to housing offenders diagnosed with a wide variety of mental disorders.

## 5. Rehabilitation Process

Meta-analysis of previous studies shows that prison sentences do not reduce future offenses, when compared to non-residential sanctions. This meta-analysis of one hundred separate studies found that post-release offenses were around 7% higher after imprisonment compared with non-residential sanctions, at statistically significant levels. Another meta-analysis of 101 separate tests of the impact of prison on crime found a 3% increase in offending after imprisonment. Longer periods of time in prison make outcomes worse, not better; offending increases by around 3% as prison sentences increase in length.

Effective rehabilitation programs reduce the likelihood of re-offense and recidivism. Effective programs are characterised by three things: first, they provide more hours for people with known offense risk factors (the Risk Principle); secondly, they address problems and needs that have a proven causal link to offending (the Needs Principle); and thirdly, they use cognitive-behavioural approaches (the Responsivity Principle). Providing rehabilitation to people at lower risk of reoffending results in a 3% reduction in reoffending, while providing rehabilitation to people with a high risk of reoffending is three times as effective, resulting in a 10% reduction in subsequent offending. Risk factors for reoffending are: age at first offense, number of prior offenses, level of family and personal problems in childhood and other historical factors, along with level of current needs related to offending. Those individuals who had many personal and family problems in childhood (particularly 19 or more), started offending before puberty, and have committed multiple priors are more likely to reoffend in future, according to longitudinal studies internationally.

As of 2006, it is estimated that at least 9.25 million people are currently imprisoned worldwide. It is believed that this number is likely to be much higher, in view of general under-reporting and a lack of data from various countries, especially authoritarian regimes. In absolute terms, the

United States currently has the largest inmate population in the world, with more than 2 million or more than one in a hundred adults in prison and jails. Although the United States represents less than 5% of the world's population, over 25% of the people incarcerated around the world are housed in the American prison system. Pulitzer Prize winning author Joseph T. Hallinan wrote in his book *Going Up the River: Travels in a Prison Nation*, so common is the prison experience that the federal government predicts one in eleven men will be incarcerated in his lifetime, one in four if he is black. In 2002, both Russia and China also had prison populations in excess of 1 million. By October 2006, the Russian prison population declined to 869,814 which translated into 611 prisoners per 100,000 population.

As a percentage of total population, the United States also has the largest imprisoned population, with 739 people per 100,000 serving time, awaiting trial or otherwise detained. In March 2007, the United Kingdom had 80,000 inmates (up from 73,000 in 2003 and 44,000 in 1985) in its facilities, one of the highest rates among the western members of the European Union (EU) (a record formerly held by Portugal). The highest imprisonment rates among the larger EU members include that of Poland, which in August 2007 had about 90,000 inmates, i.e. 234 prisoners per 100,000 inhabitants, while the highest rates are in the Baltic states Estonia, Latvia and Lithuania with estimated rates of 240, 292 and 333 respectively in 2006. The high proportion of prisoners in some developed countries is from various causes, but the attitude towards drug-taking plays a considerable part. In undeveloped countries, rates of incarceration are often lower, though this is not a rule. In general, such societies have less goods to steal and a more community based social system, with less judicial law-enforcement. Also their economies may not support the high cost of incarceration.

### **Topic : Twentieth-Century Corrections Systems**

#### **Topic Objective:**

At the end of this topic student would be able to:

- Understand about the Correctional theory
- Develop learning regarding Juvenile corrections
- Understand about the Juvenile Justice and Delinquency Prevention Act
- Learn about the Corrections under Federalism
- Develop learning regarding Duration of incarceration
- Learn about the American Correctional Association

**Definition/Overview:**

**Corrections:** Corrections in general refers to society's handling of persons after their conviction of a criminal offense. The components of the criminal justice system that serve to punish criminal offenders involves the deprivation of life, liberty or property after due process of law. Sentences imposed upon offenders range from probation to serving time in prison, with intermediate sanctions, including sentences to a halfway house or community corrections program, home confinement, and electronic monitoring. Financial penalties may include fines, forfeiture, and restitution.

**Key Points:****1. Correctional theory**

In some countries, as well as in Western countries in the past, this also included judicially-ordered corporal punishment. The basic use of sanctions, which can be either positive (rewarding) or negative (punishment) is the basis of all criminal theory, along with the main goals of social control, and deterrence of deviant behavior.

Many facilities operating in the United States adhere to particular correctional theories. Although often heavily modified, these theories determine the nature of the facilities' design and security operations. The two primary theories used today are the more traditional Remote Supervision

and the more contemporary Direct Supervision Models. The Remote Supervision Model(RSM) consists of an officer(s) observing the inmate population from a remote position, e.g., a tower or secure desk area. The Direct Supervision Model(DSM) positions the Corrections Officer within the inmate population, creating a more pronounced presence.

## **2. Juvenile corrections**

Classical criminology stresses that causes of crime lie within the individual offender, rather than in their external environment. For classicists, offenders are motivated by rational self-interest, and the importance of free will and personal responsibility is emphasized. Rational choice theory is the clearest example of this approach. It states that people weigh the pros and cons of committing a crime, and offend when the former outweigh the latter. A central deficiency of rational choice theory is that while it may explain when and where people commit crime, it can't explain very well why people choose to commit crimes in the first place. Neither can it explain differences between individuals and groups in their propensity to commit crimes. James Q. Wilson said the conscience and self-control of a potential young offender must be taken into account, and that these attributes are formed by parental and societal conditioning. Rational choice does not explain why crime should be committed disproportionately by young people, males, city dwellers, and the poor. It also ignores the influence a young choice theory does not take into account the proven correlations between certain social circumstances and individuals personalities, and the propensity to commit crime.

Delinquency Prevention is the broad term for all efforts aimed at preventing youth from becoming involved in criminal, or other antisocial, activity. Increasingly, governments are recognizing the importance of allocating resources for the prevention of delinquency. Because it is often difficult for states to provide the fiscal resources necessary for good prevention, organizations, communities, and governments are working more in collaboration with each other to prevent juvenile delinquency. With the development of delinquency in youth being influenced by numerous factors, prevention efforts are comprehensive in scope. Prevention services include activities such as substance abuse education and treatment, family counseling, youth mentoring, parenting education, educational support, and youth sheltering. Prisons in the United States are

operated under strict authority of both the federal and state governments as incarceration is a concurrent power under the Constitution of the United States. Imprisonment is one of the main forms of punishment for the commission of felony offenses in the United States. Less serious offenders, including those convicted of misdemeanor offenses, may be sentenced to a short term in a local jail or with alternative forms of sanctions such as community corrections (halfway house), probation, and/or restitution. In the United States, prisons are operated at various levels of security, ranging from minimum-security prisons that mainly house non-violent offenders to Supermax facilities that house well-known criminals and terrorists such as Terry Nichols, Theodore Kaczynski, Eric Rudolph, Zacarias Moussaoui, and Richard Reid. The United States has the highest documented incarceration rate, and total documented prison population in the world. As of year-end 2006, a record 7.2 million people were behind bars, on probation or on parole. Of the total, 2.2 million were incarcerated. More than 1 in 100 American adults were incarcerated at the start of 2008. The China ranks second with 1.5 million, though China has over four times the population of the US.

### **3. Juvenile Justice and Delinquency Prevention Act**

The Juvenile Justice and Delinquency Prevention Act of 1974 is a United States federal law providing funds to states that follow a series of guidelines regarding the rights of juvenile offenders. The purpose of the legislation is to reduce labeling, as advocated by labeling theory. The four key requirements of the act are:

- the deinstitutionalization of status offenders and non-offenders (i.e. juveniles generally should not be held in adult jail)
- sight and sound separation between juvenile and adult offenders (i.e. if juveniles are put in an adult jail for an adult felony or if space isn't immediately available at a juvenile facility, they must be separated from adult inmates)
- a sharp limitation on the ability of the juvenile justice system to detain juveniles in adult facilities (i.e. juveniles should not be locked up for age-specific crimes, such as running away or possessing alcohol)
- protection of minority groups from being overrepresented in high-security facilities (i.e. states should not lock up minority youth at a higher rate than other kids)

The third requirement was added in 1980 in response to finding juveniles incarcerated in adult facilities resulted in a high suicide rate, physical, mental, and sexual assault, inadequate care and programming, negative labeling, and exposure to serious offenders and mental patients. The last was not a full requirement of the JJDP Act until the legislation was amended in 1994. The compliance of states towards the requirements of the JJDP Act is monitored by the Office of Juvenile Justice and Delinquency Prevention. As of 2006, the vast majority of participating states complies with the first three requirements and is making strides towards the fourth. . With the exceptions of South Dakota and Wyoming, all states participate in the program.

#### **4. Corrections under Federalism**

The federal government, states, counties, and many individual cities have facilities to confine people. Generally, prison refers to facilities for holding convicted felons (offenders who commit crimes where the sentence is more than one year). Individuals awaiting trial, being held pending citations for non-custodial offenses, and those convicted of misdemeanors (crimes which carry a sentence of less than one year), are generally held in county jails. In most states, cities operate small jail facilities, sometimes simply referred to as lock-ups, used only for very short-term incarceration can be held for up to 72 business hours or up to five days until the prisoner comes before a judge for the first time or receives a citation or summons before being released or transferred to a larger jail. Some states operate unified systems, where the state operates all the jails and prisons.

The federal government also operates various detention centers in major urban areas or near federal courthouses to hold defendants appearing in federal court. Many of the smaller county and city jails do not classify prisoners (that is, there is no separation by offense type and other factors). While some of these small facilities operate as close security facilities, to prevent prisoner-on-prisoner violence and increase overall security, others may put many prisoners into the same cells without regard to the criminal histories of the prisoners. Other local jails are large

and have many different security levels. For example, one of the largest jails in the United States is in Cook County (located in Chicago). This facility has eleven different divisions (including one medical unit and two units for women prisoners), each classified at a different security level, ranging from dormitory style open housing to super-secure lock-down. In California, to prevent violence, prisoners are segregated by race, ethnicity, and sexual orientation while held in county jails and in the California Department of Corrections and Rehabilitation's reception centers, where newly committed prisoners are assessed prior to being transferred to their mainline (long-term) institutions.

## **5. Duration of incarceration**

A judge sentences a person convicted of a crime. The length of the prison term depends upon multiple factors including the severity and type of the crime, state and/or federal sentencing guidelines, the convicted's criminal record, and the personal discretion of the judge. These factors may be different in each state and in the federal system as well. The vast majority of criminal convictions arise from plea bargains, in which an agreement is made between prosecutors and defense counsel for the defendant to plead guilty to a lesser charge for a lesser sentence than they would receive if found guilty at trial. Some prisoners are given life sentences. In some states, a life sentence means life, without the possibility of parole. In other states, people with life sentences are eligible for parole. In some cases the death penalty may be applied. Many legislatures continued to reduce discretion in both the sentencing process and the determination of when the conditions of a sentence have been satisfied. Determinate sentencing, use of mandatory minimums, and guidelines-based sentencing continue to remove the human element from sentencing, such as the prerogative of the judge to consider the mitigating or extenuating circumstances of a crime to determine the appropriate length of the incarceration. As the consequence of three strikes laws, the increase in the duration of incarceration in the last decade was most pronounced in the case of life prison sentences, which increased by 83% between 1992 and 2003 .

## 6. American Correctional Association

The American Correctional Association (ACA), formerly known as the American Prison Association, is the oldest and largest international correctional association in the world. Approximately 80 percent of all state departments of corrections and youth services are active participants. Also included are programs and facilities operated by the Federal Bureau of Prisons and the private sector.

### Topic : Ideologies And Sentencing

#### Topic Objective:

At the end of this topic student would be able to:

- Learn about the Types of Sentencing
- Develop learning about the history of Sentencing
- Understand about the Ideologies of Sentencing
- Develop learning about the process of Sentence

#### Definition/Overview:

**Sentence:** In law, a sentence forms the final act of a judge-ruled process, and also the symbolic principal act connected to his function. The sentence generally involves a decree of imprisonment, a fine and/or other punishments against a defendant convicted of a crime.

**Key Points:****1. Types of Sentencing**

Those imprisoned for multiple crimes, will serve either a consecutive sentence (in which the period of imprisonment equals the sum of all the sentences) or a concurrent sentence (in which the period of imprisonment equals the length of the longest sentence). If a sentence gets reduced to a less harsh punishment, then the sentence is said to have been mitigated. Rarely (depending on circumstances) murder charges are mitigated and reduced to manslaughter charges. However, in certain legal systems, a defendant may be punished beyond the terms of the sentence, e.g. social stigma, loss of governmental benefits, or collectively, the collateral consequences of criminal charges.

**2. History of Sentencing**

The first use of this word with this meaning was in Roman law, where it indicated the opinion of a jurist on a given question, expressed in written or in oral responsa. It was also the opinion of senators (that was translated into the senatus consultus). It finally was also the decision of the judging organ (both in civil and in penal trials), as well as the decision of the Arbiters. In modern Latin systems the sentence is mainly the final act of any procedure in which a judge, or more generally an organ is called to express his evaluation, therefore it can be issued practically in any field of law requiring a function of evaluation of something by an organ.

**3. Ideologies of Sentencing**

The sentence meted out depends on the philosophical principle used by the court. The most common philosophies of sentencing are:

- Retribution
- Deterrence
- Denunciation
- Incapacitation
- Rehabilitation

### 3.1 Retribution

Retributive justice is a theory of justice that considers that proportionate punishment is a morally acceptable response to crime, with an eye to the satisfaction and psychological benefits it can bestow to the aggrieved party, its intimates and society. In ethics and law, Let the punishment fit the crime is the principle that the severity of penalty for a misdeed or wrongdoing should be reasonable and proportional to the severity of the infraction. The concept is common to most cultures throughout the world. Its presence in the ancient Jewish culture is shown by its inclusion in the law of Moses, specifically in Deuteronomy 19:17-21, and exodus 21:23-21:27, which includes the punishments of life for life, eye for eye, tooth for tooth, hand for hand, foot for foot. Many other documents reflect this value in the world's cultures. However, the judgment of whether a punishment is appropriately severe can vary greatly between cultures and individuals.

Proportionality requires that the level of punishment be scaled relative to the severity of the offending behavior. However, this does not mean that the punishment has to be equivalent to the crime. A retributive system must punish severe crime more harshly than minor crime, but retributivists differ about how harsh or soft the system should be overall. Traditionally, philosophers of punishment have contrasted retributivism with utilitarianism. For utilitarian, punishment is forward-looking, justified by a purported ability to achieve future social benefits, such as crime reduction. For retributionists, punishment is backward-looking, and strictly for punishing crimes according to their severity. Depending on the retributivist, the crime's level of severity might be determined by the amount of harm, unfair advantage or moral imbalance the crime caused.

### 3.2 Deterrence

Deterrence is often contrasted with retributivism, which holds that punishment is a necessary consequence of a crime and should be calculated based on the gravity of the wrong done. Deterrence can be divided into three separate categories. Specific deterrence focuses on the individual in question. The aim of these punishments is to discourage the

criminal from future criminal acts by instilling an understanding of the consequences. General or indirect deterrence focuses on general prevention of crime by making examples of specific deviants. The individual actor is not the focus of the attempt at behavioral change, but rather receives punishment in public view in order to deter other individuals from deviance in the future. The argument that deterrence, rather than retribution, is the main justification for punishment is a hallmark of the rational choice theory and can be traced to Cesare Beccaria whose well-known treatise *On Crimes and Punishments* condemned torture and the death penalty and Jeremy Bentham who made two distinct attempts during his life to critique the death penalty..

### **3.3 Denunciation**

Denunciation in the context of sentencing philosophy refers to the disapproval of an act by society that is expressed by the imposition of a sentence. This can be considered as one of the purposes of sentencing, as well as being a possible justification for the imposition of a sentence. Denunciation arguments can be used to justify more serious sentences than are required by the principles of retribution and deterrence. Denunciation arguments can also be used to justify the existence of laws which are never in practice enforced; they stand as statements of a society's values rather than working parts of a criminal justice system.

### **3.4 Incapacitation**

Incapacitation in the context of sentencing philosophy refers to the effect of a sentence in terms of positively preventing (rather than merely deterring) future offending. Imprisonment incapacitates the prisoner by removing them from the society against which they are deemed to have offended. Cutting off a hand of a thief is also an example; this acts to prevent further thefts in a drastic manner, in addition to its having a deterrent effect on others. Like deterrence, incapacitation can be specific to an individual and/or specific to a particular crime, or can be general in either respect.

### 3.5 Rehabilitation

Rehabilitation means; To restore to useful life, as through therapy and education or To restore to good condition, operation, or capacity. The assumption of rehabilitation is that people are not natively criminal and that it is possible to restore a criminal to a useful life, to a life in which they contribute to themselves and to society. Rather than punishing the harm out of a criminal, rehabilitation would seek, by means of education or therapy, to bring a criminal into a more normal state of mind, or into an attitude which would be helpful to society, rather than be harmful to society. This theory of punishment is based on the notion that punishment is to be inflicted on an offender so as to reform him/her, or rehabilitate them so as to make their re-integration into society easier. Punishments that are in accordance with this theory are community service, probation orders, and any form of punishment which entails any form of guidance and aftercare towards the offender. This theory is founded on the belief that one cannot inflict a severe punishment of imprisonment and expect the offender to be reformed and to be able to re-integrate into society upon his release. Although the importance of inflicting punishment on those persons who breach the law, so as to maintain social order, is retained, the importance of rehabilitation is also given priority. Humanitarians have, over the years, supported rehabilitation as an alternative, even for capital punishment.

### 4. Process of Sentence

Usually the sentence comes after a process in which the deciding organ is put in condition to evaluate whether the analysed conduct complies or not with the legal systems, and eventually which aspects of the conduct might regard which laws. Depending on respective systems, the phases that precede the sentence may vary relevantly and the sentence can be resisted (by both parties) up to a given degree of appeal. The sentence issued by the Appeal court of highest admitted degree immediately becomes the definitive sentence, as well as the sentence issued in minor degrees that is not resisted by the condemned or by the accusator (or is not resisted within a given time). The sentence usually has to be rendered of public domain (publicatio) and in most systems it has to be accompanied by the reasons for its content (a sort of story of the juridical reflections and evaluations that the judging organ used to produce it). A sentence (even a

definitive one) can be annulled in some given cases, that many systems usually pre-determine. The most frequent case is related to irregularities found ex-post in the procedure, the most blatant is perhaps in penal cases, when a relevant (often discharging) proof is discovered after the definitive sentence.

In most systems the definitive sentence is unique, in the precise sense that no one can be judged more than once for the same action (apart, obviously, from appeal resistance). Sentences are in many systems a source of law, as an authoritative interpretation of the law in front of concrete cases, thus quite as an extension of the ordinary formal documental system. The sentence is generally issued by the judge in the name of (or on the behalf of) the superior authority of the State.

- ▀ In Section 2 of this course you will cover these topics:
- ▀ Jails
- ▀ State And Federal Prisons
- ▀ Management And Custody

### **Topic : Jails**

#### **Topic Objective:**

At the end of this topic student would be able to:

- Learn about the jails of United States of America
- Develop learning regarding the Jail Management
- Develop learning regarding the Gaol as an Early Modern English Concept

- Learn about the Detention of suspects

**Definition/Overview:**

**Jail:** Jail, or gaol or remand prison, is a correctional institution used to detain persons who are in the lawful custody of the state. This includes either accused persons awaiting trial or for those who have been convicted of a crime and are serving a sentence of less than one year. Jails are generally small penitentiaries run by individual counties and cities, though some jails in larger communities may be as large and hold as many inmates as regular prisons. Jail is also a synonym for prison in most countries (excluding the United States), especially when the facility is of a similar size as a correctional facility. As with prisons, some jails have different wings for certain types of offenders, and have work programs for inmates who demonstrate good behavior.

**Key Points:****1. Jails of United States of America**

Jails in the United States are different from prisons. Jails are typically operated by city or county governments, and house prisoners who are being detained before trial or serving sentences less than one year.. Approximately half of the U.S. jail population consists of pretrial detainees who have not been convicted or sentenced. Prisoners serving terms longer than one year are typically housed in correctional facilities operated by state governments. Unlike most state prisons, a jail usually houses both men and women in separate portions of the same facility. Some jails lease space to house inmates from the federal government, state prisons or from other counties for profit. In 2005, a report by the Bureau of Justice Statistics found that 62 percent of people in jails have not been convicted, meaning many of them are awaiting trial. As of 2005, local jails held or supervised 819,434 individuals. Nine percent of these individuals were in programs such as

community service, work release, weekend reporting, electronic monitoring, and other alternative programs.

In the United States, as compared to regular 'mainline' state and federal prisons, in which prisoners have already been investigated and classified by corrections personnel before being assigned to a level of security, in which many of the prisoners are committed for longer periods of time, and in which the population is on average older, jails usually house prisoners who are on average younger and have varying or unknown histories and propensities for violence or disciplinary problems. As a result, many jails operate their booking and receiving units at a relatively high level of correctional security, and also witness a disproportionately large amount of violence and disciplinary problems as compared to mainline facilities.

## **2. Jail Management**

There are three main management styles common in most jails. The first and oldest style is Intermittent Surveillance. Intermittent Surveillance involves rows of cells along security corridors. These corridors are patrolled by staff providing periodic observation. Most problems occur between these intermittent patrols. The second supervisory style is Remote Surveillance. Remote Surveillance involves cells and their corresponding dayrooms divided into pods which are under constant supervision by jail staff from a central control room. Staff in the central control room commonly observe three to four pods at one time. The third and most recently conceived supervisory style is Direct Supervision. Direct Supervision involves a dayroom with numerous cells under constant and direct supervision by staff who are stationed inside the housing unit. Staff are constantly interacting with inmates and controlling inmate behavior. The success of Direct Supervision relies on the staff's ability to control this behavior and for facility management to create detention environments that facilitate the staff's effectiveness. This style is also the most cost effective of the three.

### 3. Gaol as an Early Modern English Concept

Gaol is an early Modern English spelling for jail with the same pronunciation and meaning. Although jail is now more common, gaol is still the favoured spelling in parts of the Commonwealth of Nations, for example in Australia. However, due to American influence in Australia, the spelling jail is now more common in popular contexts such as the media, the spelling gaol being mainly retained in historical use and in the legal profession. Canada, also a part of the Commonwealth, has made a similar transition in usage. Gaol also remains in use as the standard spelling of jail in Ireland, but note that it typically applies to defunct English-run gaols from the English occupation of Ireland. The word has strong historical connotations of unjust imprisonment in Ireland, and if an Irish person says someone is in gaol (or in jail) rather than in prison, they may be hinting that they consider the imprisonment unjust, a distinction that may be unnoticed by non-Hiberno-English speakers. In turn, Irish English-speakers may also invalidly assume that English speakers from other nations are making that distinction. Prison and Detention Centre are typically used for extant Irish-run incarceration facilities. The English-built but still in-use Mountjoy Gaol was renamed to Mountjoy Prison.

The Oxford English Dictionary states that gaol comes from the Norman French spelling gaiole down to the 17th century as gaile. It remains in written form in the archaic spelling gaol mainly through statutory and official tradition. The only remaining spoken pronunciation is jail, from the Old Parisian French word jaole. In modern French, the word gele is still used in literary contexts to refer to jail. From the 16th until the 18th centuries the word goal(e) was used widely, possibly as an erroneous spelling of gaol, or possibly an unusual phonetic spelling.

Tim Moore in his book on Monopoly Do Not Pass Go suggests that, in Britain, the change from gaol to jail was precipitated by the popularity and spread of Monopoly in the 1930s and '40s. The non-London specific squares and cards had been copied wholesale from the original Atlantic City version where the spelling jail was commonplace. It is also for this reason that the policeman on the Go to Jail square features a clearly American uniform in contrast to the traditional style British police helmet.

#### 4. Detention of suspects

Detention of suspects is the process of keeping a person who has been arrested in a police-cell, prison or other detention centre before trial or sentencing. Pre-charge detention refers to the period of time that an individual can be held and questioned by police, prior to being charged with an offence. Not all countries have such a concept, and in those that do, the period for which a person may be detained without trial varies from jurisdiction to jurisdiction.

#### Topic : State And Federal Prisons

#### Topic Objective:

At the end of this topic student would be able to:

- Understand about Federal Prisons of USA
- Learn about Federal Bureau of Prisons
- Develop concepts regarding Classification of Federal Prisons of USA
- Learn about State Prisons before the Bureau of Prisons
- Understand about Establishment of Bureau of Prisons
- Learn about Authority of Bureau of Prisons

#### Definition/Overview:

**Federal Prisons of USA:** The Federal Bureau of Prisons (often referred to operationally as the BOP) is a federal law enforcement agency subdivision of the United States Department of Justice and is responsible for the administration of the federal prison system.

**Key Points:****1. Federal Prisons of USA**

The federal government, states, counties, and many individual cities have facilities to confine people. Generally, prison refers to facilities for holding convicted felons (offenders who commit crimes where the sentence is more than one year). Individuals awaiting trial, being held pending citations for non-custodial offenses, and those convicted of misdemeanors (crimes which carry a sentence of less than one year), are generally held in county jails. In most states, cities operate small jail facilities, sometimes simply referred to as lock-ups, used only for very short-term incarceration can be held for up to 72 business hours or up to five days until the prisoner comes before a judge for the first time or receives a citation or summons before being released or transferred to a larger jail. Some states operate unified systems, where the state operates all the jails and prisons. The federal government also operates various detention centers in major urban areas or near federal courthouses to hold defendants appearing in federal court.

Many of the smaller county and city jails do not classify prisoners (that is, there is no separation by offense type and other factors). While some of these small facilities operate as close security facilities, to prevent prisoner-on-prisoner violence and increase overall security, others may put many prisoners into the same cells without regard to the criminal histories of the prisoners. Other local jails are large and have many different security levels. For example, one of the largest jails in the United States is Cook County Jail in Cook County (located in Chicago). This facility has eleven different divisions (including one medical unit and two units for women prisoners), each classified at a different security level, ranging from dormitory style open housing to super-secure lock-down. In California, to prevent violence, prisoners are segregated by race, ethnicity, and sexual orientation while held in county jails and in the California Department of Corrections and Rehabilitation's reception centers, where newly committed prisoners are assessed prior to being transferred to their mainline (long-term) institutions.

## 2. Federal Bureau of Prisons

The Federal Bureau of Prisons (often referred to operationally as the BOP) is a Federal law enforcement agency subdivision of the United States Department of Justice, and is responsible for the administration of the federal prison system. The Bureau was established in 1930 to provide more progressive and humane care for Federal inmates, to professionalize the prison service, and to ensure consistent and centralized administration of the 11 Federal prisons in operation at the time.

According to its official web site, the Bureau consists of more than 114 institutions, 6 regional offices, a Central Office in Washington D.C. (headquarters), 2 staff training centers, and 28 community corrections offices, and is responsible for the custody and care of approximately 185,000 Federal offenders. Approximately 85 percent of these inmates are confined in Bureau-operated correctional facilities or detention centers. The remainder is confined through agreements with state and local governments or through contracts with privately-operated community corrections centers, detention centers, prisons, and juvenile facilities. The Bureau is also responsible for carrying out all judicially mandated federal executions (other than those carried out under military law) in the United States, and maintains the federal lethal injection chamber in Terre Haute, Indiana.

## 3. Classification of Federal Prisons of USA

- Federal Correctional Complex (FCC) are institutions with different missions and security levels located in proximity to one another.
- Federal Correctional Institutions (FCI) are Low and Medium Security facilities.
- Federal Detention Centers (FDC) are inmate reception and transfer centers.

- Federal Medical Centers (FMC) handle inmates requiring medical or psychiatric care.
- Federal Prison Camps (FPC) are for minimum security inmates.
- Federal Transfer Center
- Metropolitan Correctional Center (MCC)
- Metropolitan Detention Center (MDC)
- U.S. Penitentiaries (USP) are for inmates classified for High (Maximum) Security.

#### **4. State Prisons before the Bureau of Prisons**

The Federal Prison System existed for more than 30 years before the establishment of the Bureau of Prisons. Although its wardens functioned almost autonomously, a Department of Justice official in Washington was nominally in charge of Federal prisons, starting with the passage of the Three Prisons Act in 1891, which authorized the Federal Government's first three penitentiaries.

Until 1907, prison matters were handled by the Justice Department's General Agent. The General Agent was responsible for Justice Department accounts, oversight of internal operations, and certain criminal investigations, as well as prison operations. In 1907, the General Agent's office was abolished, and its functions were distributed among three new offices: the Division of Accounts (which evolved into the Justice Management Division); the Office of the Chief Examiner (which evolved into the Federal Bureau of Investigation); and the Office of the Superintendent of Prisons and Prisoners, later called the Superintendent of Prisons (which evolved into the Bureau of Prisons).

#### **5. Establishment of Bureau of Prisons**

Pursuant to Pub. L. No. 71-218, 46 Stat. 325 (1930), the Bureau of Prisons was established within the Department of Justice and charged with the management and regulation of all Federal penal and correctional institutions. This responsibility covered the administration of the 11 Federal prisons in operation at the time. As time has passed and laws have changed, the Bureau's responsibilities have grown, as has the prison population. At the end of 1930, the agency operated 14 facilities for just over 13,000 inmates. By 1940, the Bureau had grown to 24 facilities with 24,360 inmates. Except for a few fluctuations, the number of inmates did not change significantly between 1940 and 1980, when the population was 24,252. However, the

number of facilities almost doubled (from 24 to 44) as the Bureau gradually moved from operating large facilities confining inmates of many security levels to operating smaller facilities that each confined inmates with similar security needs.

As a result of Federal law enforcement efforts and new legislation that dramatically altered sentencing in the Federal criminal justice system, the 1980s brought a significant increase in the number of Federal inmates. The Sentencing Reform Act of 1984 established determinate sentencing, abolished parole, and reduced good time; additionally, several mandatory minimum sentencing provisions were enacted in 1986, 1988, and 1990. From 1980 to 1989, the inmate population more than doubled, from just over 24,000 to almost 58,000. During the 1990s, the population more than doubled again, reaching approximately 136,000 at the end of 1999 as efforts to combat illegal drugs and illegal immigration contributed to significantly increased conviction rates. Staffing levels also have risen dramatically in recent years. In 1980, the Bureau had approximately 10,000 employees. That number almost doubled in 10 years to just over 19,000 in 1990. As of June 2003, there were about 34,000 employees in the Bureau.

## **6. Authority of Bureau of Prisons**

Bureau of Prisons Officers and employees are authorized arrest powers under Title 18, section 3050 of the United States Code and may:

- make arrests on or off of Bureau of Prisons property without warrant for violations of the following provisions regardless of where the violation may occur: sections 111 (assaulting officers), 751 (escape), and 752 (assisting escape) of title 18, United States Code, and section 1826 (c) (escape) of title 28, United States Code;
- make arrests on Bureau of Prisons premises or reservation land of a penal, detention, or correctional facility without warrant for violations occurring thereon of the following provisions: sections 661 (theft), 1361 (degradation of property), 1363 (destruction of property), 1791 (contraband), 1792 (mutiny and riot), and 1793 (trespass) of title 18, United States Code; and
- arrest without warrant for any other offense described in title 18 or 21 of the United States Code, if committed on the premises or reservation of a penal or correctional facility of the Bureau of Prisons if necessary to safeguard security, good order, or government property; if such officer or employee has reasonable grounds to believe that the arrested person is guilty of such offense, and

if there is likelihood of such persons escaping before an arrest warrant can be obtained. If the arrested person is a fugitive from custody, such prisoner shall be returned to custody. Officers and employees of the said Bureau of Prisons may carry firearms under such rules and regulations as the Attorney General may prescribe.

### **opic : Management And Custody**

#### **Topic Objective:**

At the end of this topic student would be able to:

- Learn about Protective Custody in Prison Context
- Develop learning regarding Procedure of Arresting
- Understand about Other usages of Protective Custody
- Develop learning about Powers of Arrest in United Kingdom
- Learn about Warnings on arrest
- Understand about Non-criminal arrests

#### **Definition/Overview:**

**Protective custody:** Protective custody is a type of imprisonment (or care) to protect a prisoner (or other person) from harm, either from outside sources or other prisoners. For serious crimes, the police typically take suspects to a police station or a jail where they will be incarcerated pending a judicial bail determination or an arraignment. In other instances, the police may issue a notice to appear specifying where a suspect is to appear for their arraignment.

**Key Points:****1. Protective Custody in Prison Context**

In a prison context, protective custody is used mainly in the following cases:

- Those who are at high risk of being harmed or killed by other prisoners either for their crime or their group (ethnic or otherwise), such as pedophiles, child murderers / child abusers, former police officers, gang members in a prison containing rival gang members, or prisoners who are gay or transgender.
- Those criminals who are themselves witnesses to a crime, and might be harmed by other prisoners to either prevent them from speaking out, or for revenge.

Protective custody might simply involve putting the person in a secure prison (if the threat is from the outside), but usually protective custody involves some degree of solitary confinement. In the case of a person being threatened due to his association with a certain group, moving that person to another section of the prison may be sufficient.

**2. Procedure of Arresting**

An arrest is the act of depriving a person of his or her liberty usually in relation to the investigation and prevention of crime. The term is Anglo-Norman in origin and is related to the French word *arrt*, meaning stop.

**2.1 United States**

For serious crimes, the police typically handcuff the suspect (even if he/she is not being violent) and bring him/her to a police station or a jail where he/she will be incarcerated pending a judicial bail determination or an arraignment. In other instances, the police may issue a notice to appear, specifying where and when a suspect is to appear for his/her arraignment.

## **2.2 England**

In English law, whether a person has been arrested does not depend on the legal authority of the person enforcing the arrest, rather it depends upon whether he has been deprived of his liberty to go where he pleases. Whether an arrest is lawful depends on whether the police officer or civilian exercising the arrest is acting within the scope of her or his powers.

Upon arrest a person must ordinarily be taken to a police station as soon as is practicable, but may be released on bail.

## **3. Other usages of Protective Custody**

Protective custody does not necessarily imply a prisoner or a prison setting. In some usages, it might simply involve placing a person in a secure setting, with no implication of imprisonment, such as when a child is placed in temporary foster care. In some cases, non-criminals (or defendants in pending trials) have also been placed in protective custody in a prison setting, for example to protect them from being lynched. In Nazi Germany, the German equivalent term, 'Schutzhaft', was used as a euphemism for the extra- or para-legal rounding-up of political opponents and especially Jews, sometimes officially defended as being necessary to protect them from the 'righteous' wrath of the German population. The victims were then sent to concentration camps, where most were later exterminated.

## **4. Powers of Arrest in United Kingdom**

Any person (civilians) has the following powers to effect arrest without warrant:

- ▀ In Section 3 of this course you will cover these topics:
- ▀ Corrections Policies And Issues
- ▀ Male And Female Prisoners
- ▀ Prison Life

### **Topic : Corrections Policies And Issues**

#### **Topic Objective:**

At the end of this topic student would be able to:

- Learn about Correctional theory
- Understand about American Correctional Association (ACA)
- Develop learning regarding Accreditation Process in Correction

#### **Definition/Overview:**

**Corrections** in general refer to society's handling of persons after their conviction of a criminal offense. The components of the criminal justice system that serve to punish criminal offenders involves the deprivation of life, liberty or property after due process of law Sentences imposed upon offenders range from probation to serving time in prison, with intermediate sanctions, including sentences to a halfway house or community corrections program, home confinement, and electronic monitoring. Financial penalties may include fines, forfeiture, and restitution.

**Key Points:****1. Correctional theory**

The basic use of sanctions, which can be either positive (rewarding) or negative (punishment) is the basis of all criminal theory, along with the main goals of social control, and deterrence of deviant behavior. Many facilities operating in the United States adhere to particular correctional theories. Although often heavily modified, these theories determine the nature of the facilities' design and security operations. The two primary theories used today are the more traditional Remote Supervision and the more contemporary Direct Supervision Models. The Remote Supervision Model(RSM) consists of an officer(s) observing the inmate population from a remote position, e.g., a tower or secure desk area. The Direct Supervision Model(DSM) positions the Corrections Officer within the inmate population, creating a more pronounced presence.

**2. American Correctional Association (ACA)**

The American Correctional Association (ACA), formerly known as the American Prison Association, is the oldest and largest international correctional association in the world. Approximately 80 percent of all state departments of corrections and youth services are active participants. Also included are programs and facilities operated by the Federal Bureau of Prisons and the private sector. The American Correctional Association (ACA) and the Commission on Accreditation for Corrections (CAC) are private, nonprofit organizations that administer the only national accreditation program for all components of adult and juvenile corrections. Their purpose is to promote improvement in the management of correctional agencies through the administration of a voluntary accreditation program and the ongoing development and revision of relevant, useful standards.

**3. Accreditation Process in Correction**

Accreditation, a process that began in 1978, involves approximately 80% of all state departments of corrections and youth services as active participants. Also included are programs and facilities operated by the Federal Bureau of Prisons, the U.S. Parole Commission, and the District of Columbia. For these agencies, the accreditation program offers the opportunity to evaluate their operations against national standards, remedy deficiencies, and upgrade the quality of correctional programs and services. The recognized benefits from such a process include

improved management, a defense against lawsuits through documentation and the demonstration of a good faith effort to improve conditions of confinement, increased accountability and enhanced public credibility for administrative and line staff, a safer and more human environment for personnel and offenders, and the establishment of measurable criteria for upgrading programs, personnel and the physical plant on a continuing basis.

The timelines, requirements and outcomes of the accreditation process are the same for a state or federal prison, training school, local detention facility, private halfway house or group home, probation and parole field service agency, or paroling authority. All programs and facilities sign a contract, pay an accreditation fee, conduct a self-evaluation and have a standards compliance audit by trained American Correctional Association auditors before an accreditation decision is made by the Commission on Accreditation for Corrections. Once accredited, all programs and facilities submit annual certification statements to the ACA. Also, at the ACA expense and discretion, a monitoring visit may be conducted during the initial three-year accreditation period to ensure continued compliance with the appropriate standards.

### **Topic : Male And Female Prisoners**

#### **Topic Objective:**

At the end of this topic student would be able to:

- Develop concepts regarding Prisons as a Tool of Political Repression
- Learn about Aging in Prisons of USA
- Understand about facilities for Male and Female Prisoners in USA

**Definition/Overview:**

**Male and Female Criminal Suspect:** A criminal suspect who has been charged with or is likely to be charged with a criminal offense may be held on remand in prison if he or she is denied, refused or unable to meet conditions of bail, or is unable to post bail. This may also occur where the court determines that the suspect is at risk of absconding before the trial, or is otherwise a risk to society. A criminal defendant may also be held in prison while awaiting trial or a trial verdict. If found guilty, a defendant will be convicted and may receive a custodial sentence requiring imprisonment.

**Key Points:****1. Prisons as a Tool of Political Repression**

Prisons may also be used as a tool of political repression to detain political prisoners, prisoners of conscience, and enemies of the state, particularly by authoritarian regimes. In times of war or conflict, prisoners of war may also be detained in prisons. A prison system is the organizational arrangement of the provision and operation of prisons, and depending on their nature, may invoke a corrections system. Although people have been imprisoned throughout history, they have also regularly been able to perform prison escapes.

**2. Aging in Prisons of USA**

The percentage of prisoners in federal and state prisons 55 and older increased by 33% from 2000 to 2005 while the prison population grew by only 8%. The Southern Legislative Conference found that in 16 southern states the elderly prisoner population increased on average by 145% between 1997 and 2007. The growth in the elderly population brought along higher health care costs, most notably seen in the 10% average increase in state prison budgets from 2005 to 2006. The SLC expects the percentage of elderly prisoners relative to the overall prison population to continue to rise. Ronald Aday, a professor of aging studies at Middle Tennessee

State University and author of *Aging Prisoners: Crisis in American Corrections*, concurs. One out of six prisoners in California is serving a life sentence. Aday predicts that by 2020 16% percent of those serving life sentences will be elderly.

Under U.S. law convicted felons lose their eligibility to apply for Medicare and Medicaid. Housing one prisoner costs a state between \$18,000 and \$31,000 annually, \$33 per day for the average prisoner and \$100 per day for an elderly prisoner. Most DOCs report spending more than 10 percent of the annual budget on elderly care. State governments pay all of their inmates' housing costs which significantly increase as prisoners age.

### 3. Facilities for Male and Female Prisoners in USA

Male and female prisoners are typically kept in separate locations or separate prisons altogether. Prison accommodation, especially modern prisons in the developed world, is often divided into wings. A building holding more than one wing is known as a hall. Amongst the facilities that prisons may have are:

- A main entrance, which may be known as the 'gatelodge' or 'sally port' (stemming from old castle nomenclature)
- A chapel, mosque or other religious facility, which will often house chaplaincy offices and facilities for counseling of individuals or groups
- An 'education facility', often including a library, providing adult education or continuing education opportunities
- A gym or an exercise yard, a fenced, usually open-air-area which prisoners may use for recreational and exercise purposes
- A healthcare facility or hospital
- A segregation unit (also called a 'block' or 'isolation cell'), used to separate unruly, dangerous, or vulnerable prisoners from the general population, also sometimes used as punishment (see solitary confinement)

- A section of vulnerable prisoners (VPs), or protective Custody (PC) units, used to accommodate prisoners classified as vulnerable, such as sex offenders, former police officers, informants, and those that have gotten into debt or trouble with other prisoners
- A section of safe cells, used to keep prisoners under constant visual observation, for example when considered at risk of suicide
- A visiting area, where prisoners may be allowed restricted contact with relatives, friends, lawyers, or other people
- A death row in some prisons, a section for criminals awaiting execution
- A staff accommodation area, where staff and guards live in the prison, typical of historical prisons
- A service/facilities area housing support facilities like kitchens
- Industrial or agricultural plants operated with convict labor
- A recreational area containing a TV and pool table

Prisons are normally surrounded by fencing, walls, earthworks, geographical features, or other barriers to prevent escape. Multiple barriers, concertina wire, electrified fencing, secured and defensible main gates, armed guard towers, lighting, motion sensors, dogs, and roving patrols may all also be present depending on the level of security. Remotely controlled doors, CCTV monitoring, alarms, cages, restraints, nonlethal and lethal weapons, riot-control gear and physical segregation of units and prisoners may all also be present within a prison to monitor and control the movement and activity of prisoners within the facility.

Modern prison designs have sought to increasingly restrict and control the movement of prisoners throughout the facility while permitting a maximal degree of direct monitoring by a smaller corrections staff. As compared to traditional large landing-cellblock designs which were inherited from the 19th century and which permitted only intermittent observation of prisoners, many newer prisons are designed in a decentralized podular layout. Smaller, separate and self-contained housing units known as pods or modules are designed to hold between sixteen and fifty prisoners each, and are arranged around exercise yards or support facilities in a decentralized campus pattern. A small number of corrections officers, sometimes a single officer, is assigned to supervise each pod. The pods contain tiers of cells arranged around a central

control station or desk from which a single officer can monitor all of the cells and the entire pod, control cell doors, and communicate with the rest of the prison. Pods may be designed for high-security indirect-supervision, in which officers in segregated and sealed control booths monitor smaller numbers of prisoners confined to their cells. An alternative is direct-supervision, in which officers work within the pod and directly interact with and supervise prisoners, who may spend the day outside their cells in a central dayroom on the floor of the pod. Movement in or out of the pod to and from exercise yards, work assignments or medical appointments can be restricted to individual pods at designated times, and is generally centrally controlled. Goods and services, such as meals, laundry, commissary, educational materials, religious services and medical care can increasingly be brought to individual pods or cells as well.

### **Topic : Prison Life**

#### **Topic Objective:**

At the end of this topic student would be able to:

- Learn about Prison Life in USA
- Understand about the History of Prisons in the United States
- Learn regarding Reforms in the Modern Prisons of USA
- Develop learning about Life Imprisonment without Parole
- Learn about Rehabilitation Process in Prisons
- Understand about the design and facilities in Prisons of USA

#### **Definition/Overview:**

**Prisons in the United States:** Prisons in the United States are operated under strict authority of both the federal and state governments as incarceration is a concurrent power under the

Constitution of the United States. Imprisonment is one of the main forms of punishment for the commission of felony offenses in the United States. Less serious offenders, including those convicted of misdemeanor offenses, may be sentenced to a short term in a local jail or with alternative forms of sanctions such as community corrections (halfway house), house arrest, probation, and/or restitution. In the United States, prisons are operated at various levels of security, ranging from minimum-security prisons that mainly house non-violent offenders to Supermax facilities that house well-known criminals and terrorists such as Terry Nichols, Theodore Kaczynski, Eric Rudolph, Zacarias Moussaoui, and Richard Reid.

### **Key Points:**

#### **1. Prison Life in USA**

In the history of life imprisonment or life incarceration, where all or most of a persons remaining life is spent imprisoned, its purpose has chiefly been as an alternative to the death penalty or exile.

In early history when the death penalty was not uncommon, life imprisonment was a boon granted to nobility or used for political gain. The motivations for imprisonment were usually punitive, or coercive, with the alternative of the death penalty never far from the offenders mind. As a result, life imprisonment seems to have been fairly rare. Due to the gradual improvements in the judicial codes, detention was used for custodial and, as appeared later, reformatory purposes. Even though the laws have provided for life imprisonments since early times, there are few recorded examples of it occurring, probably due to the high costs of imprisonment making death a more practical solution. In modern times, with the death penalty becoming less socially acceptable, life imprisonment has become the accepted method of dealing with severe criminality.

## 2. History of Prisons in the United States

Prisons in the United States go back to Colonial Pennsylvania in their origins. The first assembly of Penn's colony in 1682 had enacted a system of laws punishing most crimes with hard labor in a House of Correction, giving the death penalty only for first-degree murder. The Walnut Street Jail dates from 1773. New York followed Pennsylvania's liberalizing lead, revamping its old methods of punishment in 1796. Previously, in New Amsterdam, if jail sentences were imposed, they usually supplemented other punishments or lasted but a short time. But 1796 saw the founding of Newgate Penitentiary in what is now Greenwich village, receiving felons under the new penal code. A convict's life was one of hard labor. The prison shops made Newgate a relatively prosperous industrial unit. But, as was to be the fate of other American Penitentiaries, political instead of professional control of the staff, combined with low staff salaries, unsystematic funding, and above all, overcrowding, impacted negatively on discipline and morale. Conditions degenerated towards slavery. In order to keep from tripling the population over designed capacity, pardoning power was frequently used. This took the threat out of long sentences. Labor may have been hard, but sentences were not long. Women's sentences ranged up to fourteen years. To be a female convict, said Chaplain B.C. Smith, for any protracted period, would be worse than death.

## 3. Reform in the Modern Prisons of USA

Reacting to the squalor in the penitentiaries, another wave of reform swept the country in the 1860. Reformation replaced penitence as the key word in American penology. Prisoners were to be held only until the institution had done its job, until the prisoner had been reformed. The concepts of parole and indeterminate sentencing were regarded as forward looking in the 1870's. However, crime was not eradicated. Reformatories had the same problems of political appointment and underfunding. A third problem turned out to be indeterminate sentencing. Prisoners quickly found that if they could learn to beat the system they stood a better chance of winning parole. Beating the system was not difficult: say the kind of words wardens and parole boards wanted to hear, act like the kind of person they wanted to see, hide anger and resentment behind a facade of genuine reform -- this, inmates discovered, was the surest path to early

freedom. No wonder so many of them were soon back in custody. Another problem with indeterminate sentencing was that prison authorities also learned to twist it to their advantage. The authorities did not hesitate to deny parole, even to those who deserved it, if they thought doing so would serve their own purposes. But the biggest cause of the reformatory's failure to live up to expectations was a matter of attitude. Despite the enthusiasm reformers felt for indeterminate sentencing and for prison education and job-training programs, despite Brockway's stirring call for an end to vengeance in criminal justice, the people inside each prison -- inmates and guards alike -- never stopped seeing prison as a place of retribution.

#### **4. Life Imprisonment without Parole**

Such penalties have been imposed before. One early American case was *Ex Parte Wells*. Wells was convicted of murder in 1851, and sentenced to be hanged. On the day of his execution, President Fillmore gave him a conditional pardon, and commuted his sentence to imprisonment for life in the penitentiary at Washington. Wells appealed the conditionality of his pardon. The sentence was upheld, with no discussion by the majority of the purpose of the substituted punishment. Courts are now using this sentence for crimes other than murder. Particularly in vogue is LWOP for drug kingpins and habitual criminals. It has been applied in every state except Alaska and New Mexico, as well as in the federal courts. A 2005 survey by The New York Times found that about 132,000 of the nation's prisoners, or almost 1 in 10, are serving life sentences. In 1993, the Times survey found, about 20 percent of all lifers had no chance of parole. By 2004, the number rose to 28 percent. As a result the United States is now housing a large and permanent population of prisoners who will die of old age behind bars. At the Louisiana State Penitentiary in Angola, for instance, more than 3,000 of the 5,100 prisoners are serving life without parole, and most of the rest are serving sentences so long that they cannot be completed in a typical lifetime. About 150 inmates have died there in the last five years.

## 5. Rehabilitation Process in Prisons

Recently institutions favoring rehabilitation and treatment have become popular. In 1955, a model total treatment facility for the criminally disturbed opened in Jessup, Maryland. Prisoners were to be released only after psychiatrists had certified that they had been reformed. Twenty years later, a Maryland Court ruled that conditions there violated the Eighth Amendment's prohibition against cruel and unusual punishment. And of course such modern treatment of rehabilitation would be pointless for the LWOP prisoner. What would be the purpose of his rehabilitation if he was slated to die in prison? It was estimated that it cost \$17,324 to keep an inmate in prison in 1984. In 1986 the annual cost per inmate on Rikers Island was reported to be about \$43,000, the same as California in 2006, the same cost of a year tuition room and board at Harvard University. By a conservative estimate, it costs \$3 billion a year to house America's lifers. And as prisoners age, their medical care can become very expensive.

Much of the history of imprisonment seems accidental. George Bernard Shaw, writing a treatise on Imprisonment as a preface to the report of Lord Olivier on English and American prison conditions, said this about penal imprisonment: Nobody invented this. Nobody intended it. Nobody defended it except the people who made money by it. Nobody except the prisoners knew about it. It was by mere accident of being picked for sheriff that John Howard learned what the inside of the gaol was like. As a result of Howard's agitation prisons are now State Prisons: the State accepts full responsibility for the prisoner from the moment of his arrest. So far, so good. But in the meantime imprisonment, instead of being a means of detention, has become not only a punishment, but, for the reasons given at the outset of this essay, the punishment. And official shallowness . . . has made it an infernal punishment. . . .

## 6. Design and facilities in Prisons of USA

Male and female prisoners are typically kept in separate locations or separate prisons altogether. Prison accommodation, especially modern prisons in the developed world, is often divided into wings. A building holding more than one wing is known as a hall. Prisons are normally

surrounded by fencing, walls, earthworks, geographical features, or other barriers to prevent escape. Multiple barriers, concertina wire, electrified fencing, secured and defensible main gates, armed guard towers, lighting, motion sensors, dogs, and roving patrols may all also be present depending on the level of security. Remotely controlled doors, CCTV monitoring, alarms, cages, restraints, nonlethal and lethal weapons, riot-control gear and physical segregation of units and prisoners may all also be present within a prison to monitor and control the movement and activity of prisoners within the facility.

Modern prison designs, particularly those of high-security prisons, have sought to increasingly restrict and control the movement of prisoners throughout the facility while minimizing the corrections staffing needed to monitor and control the population. As compared to the traditional landing-cellblock-hall designs, many newer prisons are designed in a decentralized podular layout with individual self-contained housing units, known as pods or modules, arranged around centralized outdoor yards in a campus. The pods contain tiers of cells laid out in an open pattern arranged around a central control station from which a single corrections officer can monitor all of the cells and the entire pod. Control of cell doors, communications and CCTV monitoring is conducted from the control station as well. Movement out of the pod to the exercise yard or work assignments can be restricted to individual pods at designated times, or else prisoners may be kept almost always within their pod or even their individual cells depending upon the level of security. Goods and services, such as meals, laundry, commissary, educational materials, religious services and medical care can increasingly be brought to individual pods or cells as well.

Conversely, despite these design innovations, overcrowding at many prisons, particularly in the U.S., has resulted in a contrary trend, as many prisons are forced to house large numbers of prisoners, often hundreds at a time, in gymnasiums or other large buildings that have been converted into massive open dormitories. Lower-security prisons are often designed with less restrictive features, confining prisoners at night in smaller locked dormitories or even cottage or

cabin-like housing while permitting them freer movement around the grounds to work or activities during the day.

- In Section 4 of this course you will cover these topics:
- Special Needs Prisoners
- Prisoners Rights
- Rehabilitation

### **Topic : Special Needs Prisoners**

#### **Topic Objective:**

At the end of this topic student would be able to:

- Learn about the Prison Reform Trust
- Understand regarding Juvenile Prisoners
- Develop learning about the Trans-Institutionalization and the Aftermath
- Learn about the Rights of Disabled Prisoners
- Develop learning regarding Limitations on the Rights of Disabled Prisoners

#### **Definition/Overview:**

**Prisoners with Special Needs:** Due to the rising prison population and the significant increase in elderly people in custody there are now believed to be a record number of disabled prisoners, although the Prison Service does not currently collect data on disability. Disabled prisoners say that they are rarely given equal access to prison activities and some complain of poor treatment

and discrimination. Lack of information on what facilities do exist in different prisons means they are not able to make informed choices.

### **Key Points:**

#### **1. The Prison Reform Trust**

The Prison Reform Trusts advice and information service has received a significant number of letters from disabled prisoners and their families highlighting their experiences. These have ranged from a wheelchair bound prisoner being confined to his cell for 24 hours a day and being left sitting in his urine because of no facilities for him to bathe and a deaf prisoner missing out on exercise and education due to not hearing shouted instructions. In addition to concerns raised, the Prison Reform Trust has also been contacted by those who have received help, including the mother of a blind prisoner commending a local prison on the tremendous efforts it had made to respond to the needs of her blind son.

Although exempt from many pieces of legislation, the Prison Service has issued guidelines on the management of disabled prisoners and many prisons have developed strategies, led by a disability liaison officer, to encourage equal participation for disabled prisoners. In some countries the mental institution may be used for the incarceration of political prisoners, as a form of punishment. In the United States, more so in the past than now (although it still happens) a 72 hour hold would be placed on a person by police when that person had committed no crime, but the police still wanted to take action against that person.

#### **2. Juvenile Prisoners**

A juvenile court or young offender court is a court of law having special authority to try and pass judgments for crimes committed by children or adolescents who have not attained the age of majority. In most modern legal systems, crimes committed by children and minors are treated differently and differentially regarding the same crimes committed by adults. Severe, like murder

or gang-related, offenses in 44 states of the USA are treated the same as crimes committed by adults: Beginning around 35 years ago, increases in violent juvenile crime spurred many states to modify laws so that young people could be tried as adults for serious crimes. By 2004, 44 states and the District of Columbia permitted judges to transfer juveniles to adult-criminal courts. No national data exist on the number of juvenile offenders prosecuted as adults. The main difference between a juvenile court and an adult court in England is that the juvenile court has a much wider jurisdiction in terms of the offenses it can try. It can deal with a juvenile for any offense except homicide, although it is not bound to deal with a young person for a serious offense such as robbery or rape; on such a charge he can be committed to the Crown Court for trial in the same manner as an adult.

In all but three states, anyone charged with committing a criminal act before his or her eighteenth birthday is initially processed as a juvenile defendant. In New York, Connecticut and North Carolina, however, the minimum age at which all accused persons are charged as adults is 16, in other states such as Washington the minimum age depends on the seriousness of the crime. The U.S. Supreme Court held in 1967, that children accused in a juvenile delinquency proceeding have the rights to due process, counsel, and against self-incrimination. Writing for the majority, Associate Justice Abe Fortas wrote, Under our Constitution, the condition of being a boy does not justify a kangaroo court.

### **3. Trans-Institutionalization and the Aftermath**

In 1963, United States president John F. Kennedy introduced legislation delegating the National Institute of Mental Health to administer Community Mental Health Centers for those being discharged from state psychiatric hospitals. Later, though, the Community Mental Health Center's focus was diverted to provide psychotherapy sessions for those suffering from acute and/or mild mental disorders. Ultimately there were no arrangements made for actively ill patients who were being discharged from hospitals. Some of those suffering from mental disorders drifted into homelessness or ended up in prisons and jails. Studies found that 33% of

the homeless population and 14% of inmates in prisons and jails were already diagnosed with a mental illness.

In 1972, psychologist David Rosenhan published the Rosenhan experiment, a study analyzing the validity of psychiatric diagnoses. The study arranged for eight individuals with no history of psychopathology to attempt admission into psychiatric hospitals. The individuals included a graduate student, psychologists, an artist, a housewife, and two physicians, including one psychiatrist. All eight individuals were admitted with a diagnosis of schizophrenia or bipolar disorder. Psychiatrists then attempted to treat the individuals using psychiatric medication. All eight were discharged within 7 to 52 days. Rosenhan's study concluded that individuals with no presence of mental disorders could not be distinguished from those suffering from mental disorders. While critics such as Robert Spitzer placed doubt on the validity and credibility of the study, they also conceded that the consistency of psychiatric diagnoses needed improvement.

Psychiatry, like many medical specialties, has a continuing, significant demand for research investigating its related diseases, classifications, origins, and treatments. Psychiatry falls into biology's fundamental belief that disease and health are different elements of an individual's adaptation to an environment. But psychiatry also recognizes that the environment of the human species is complex and includes physical, cultural, and relational elements. In addition to external factors, the human brain must recognize or organize an individual's hopes, fears, desires, fantasies and feelings. Psychiatry's difficult task is the attempt to envelop the understanding of these factors so that they can be studied both clinically and physiologically.

#### **4. Rights of Disabled Prisoners**

The Supreme Court recently held in *Goodman v. Georgia* that Title II of the ADA validly abrogates state sovereign immunity as least insofar as it creates a private cause of action for damages for conduct that actually violates the Fourteenth Amendment. In the prison context, this means that a disabled prisoner who is incarcerated in state prison may sue the state for monetary

damages under the ADA based on conduct that independently violates the Due Process Clause of the Fourteenth Amendment (incorporating the Eighth Amendment's prohibition on cruel and unusual punishment). Thus, although the ADA arguably prohibits a broader swath of state conduct than what is barred by the Eighth Amendment, it remains an unsettled question whether disabled prisoners can seek damages for conduct that violates the ADA but not the Constitution.

Disabled prisoners have sued to get equal access to facilities, programs and services. For example, inmates and arrestees have sued to be able to use prison showers and toilets and to be protected from injury or the risk of injury. Deaf and hearing-impaired prisoners have won cases to get sign language interpreters for disciplinary hearings, classification decisions, HIV-AIDS counseling, and educational and vocational programs. Disabled prisoners have challenged inadequate medical care and prison officials' failure to provide them with medical supplies or devices such as wheelchairs or canes. These cases may combine ADA claims with arguments that prison officials have violated the Eighth Amendment of the U.S. Constitution by being deliberately indifferent to prisoners' serious medical needs.

## **5. Limitations on the Rights of Disabled Prisoners**

Prison officials are not required to provide accommodations that impose undue financial and administrative burdens or require a fundamental alteration in the nature of the program. Prison officials are also allowed to discriminate if the disabled inmates' participation would pose significant health and safety risks or a direct threat to others. Finally, some courts have said that prison officials can discriminate against disabled prisoners as long as the discriminatory policies serve legitimate penological interests.

### **Topic : Prisoners Rights**

#### **Topic Objective:**

At the end of this topic student would be able to:

- Learn about Alleged violations
- Understand about Conjugal visitation
- Learn about Education for inmates
- Understand about Preservation of the Rights of Prisoners
- Learn about Prison abolition movement
- Understand about Prison rape
- Learn about Politics of Prisoners Rights

### **Definition/Overview:**

**Prisoners Rights:** The movement for prisoners' rights is based on the principle that prisoners, even though they are deprived of liberty, are still entitled to basic human rights. Advocates for prisoners' rights argue that they are often deprived of very basic human rights, with the cooperation of the prison authorities.

### **Key Points:**

#### **1. Alleged violations**

Alleged violations often include:

- Prison authorities turning a blind eye to assault or rape of prisoners, failing to take sufficient steps to protect prisoners from assault or rape, or even allegedly arranging for prisoners to be assaulted or raped by other inmates as a form of punishment
- Providing insufficient treatment for serious medical conditions
- Refusing freedom of expression, to read materials, and communicate (particularly in cases of foreign languages in prisons)
- Punishing prisoners who raise complaints about bad conditions

- Taking away prisoners' rights to sue prison officials or governments for maltreatment, or to receive compensation for injuries caused by the negligence of prison authorities.
- Depriving inmates of freedom of religion.
- Blockading inmates rights to legal materials and access to the courts.
- Not properly feeding and clothing the prisoner.

Some in the prisoners' rights movement also advocate:

- Conjugal visitation
- Education for inmates
- Increasing the wages for workers who are employed within prisons

## **2. Conjugal visitation**

A conjugal visit is a scheduled extended visit during which an inmate of a prison is permitted to spend several hours or days in private, usually with a legal spouse. While the parties may engage in sexual intercourse, the generally recognized basis for permitting such a visit in modern times is to preserve family bonds and increase the chances of success for a prisoner's eventual return to life outside prison. Additionally, the incentive of conjugal visits means that inmates are strongly motivated to comply with the various day-to-day rules and regulations of the prison. As a result, inmates consciously avoid any infringement which might disqualify them from having a conjugal visit.

## **3. Education for inmates**

Prison education, also known as Correctional Education, involves vocational training or academic education supplied to prisoners as part of their rehabilitation and preparation for life outside prison. Prison education is sometimes carried out within the prison system, and sometimes provided by outside bodies, such as educational establishments. Similarly, funding can come from governments or private charities.

#### **4. Preservation of the Rights of Prisoners**

Preservation of the Rights of Prisoners (PROP) was a prisoner's rights organization set up in the mid 1970s in the United Kingdom, which organized more than one hundred prison demonstrations, strikes and protests. PROP was launched on 11th May 1972 in a public house named the Prince Arthur opposite Pentonville Prison, formed to preserve, protect and to extend the rights of prisoners and ex-prisoners and to assist in their rehabilitation and re-integration into society, so as to bring about a reduction in crime. PROP's foundation meeting was held in Hull and was attended by 60 people. Speakers included Norwegian sociologist Thomas Mathiesen, Jack Ashwell local branch secretary of the TGWU and Ros Kane from Radical Alternatives to Prison.

#### **5. Prison abolition movement**

The prison abolition movement seeks to abolish prison and the prison system which advocates of the movement claim are inhumane. Prison abolitionists present a broad critique of the modern Western criminal justice system, alleged to be both racist and classist as well as ineffectual at reforming criminals, decreasing crime, or reconciling the victims of crime. Anarchist groups such as Anarchist Black Cross have played a significant part in the prison abolition movement and this trend continues today. Anarchists wish to eliminate all forms of state control, of which imprisonment is seen as one of the more obvious examples. Anarchists also oppose prisons because they house non-violent offenders (e.g., thieves and swindlers instead of just murderers and rapists), incarcerate mainly poor people or people of color, and do not generally rehabilitate criminals, in many cases making them worse. As a result, the prison abolition movement often is associated with anarchism and anti-authoritarianism.

#### **6. Prison rape**

Prison rape commonly refers to the rape of inmates in prison by other inmates or prison staff. According to Human Rights Watch, at least 140,000 inmates are raped each year, and there is a significant variation in the rates of prison rape by race. Stop Prisoner Rape, Inc. statistics indicate that there are more men raped in U.S. prisons than non-incarcerated women similarly assaulted.

They estimate that young men are five times more likely to be attacked; and that the prison rape victims are ten times more likely to contract a deadly disease.

According to the study conducted by the United States Department of Justice for the year 2006, there were 2,205 allegations of inmate-on-inmate nonconsensual sexual acts reported, total, in the U.S. prison system. 262 of the allegations were substantiated. Prison rape has become a staple of comedy or drama in films and television. Films such as Office Space, Half Baked, and Let's Go to Prison have used it for comedic purposes, while prison drama Oz contained multiple scenes of rape.

## **7. Politics of Prisoners Rights**

Many human rights groups, such as the Human Rights Watch and Stop Prisoner Rape, have cited documented incidents showing that prison staff tolerate rape as a means of controlling the prison population in general. The topic of prison rape is relatively common in American humor. Jokes such as don't drop the soap seem to suggest that prison rape is an acceptable consequence of being sent to prison. This phenomenon is exemplified by the 2006 U.S. feature film Let's Go to Prison or the board game Don't Drop the Soap being marketed by John Sebelius, the son of Kansas Governor Kathleen Sebelius. Songs have also been composed about the topic, e.g. the song Prison Bitch. By contrast, prison rape is not a stock topic of jokes in most other Western cultures. U.S. Federal law, under the Prison Rape Elimination Act of 2003, calls for the compilation of national prison rape statistics, annual hearings by a review panel, and the provision of grants to the states to address prison rape. A first, highly-controversial and disputed study, funded under the PREA by Mark Fleisher, concludes prison rape is rare: Prison rape worldview doesn't interpret sexual pressure as coercion, he wrote. Rather, sexual pressure ushers, guides or shepherds the process of sexual awakening.

### **Topic : Rehabilitation**

#### **Topic Objective:**

At the end of this topic student would be able to:

- Learn about the Theory of Punishment
- Understand regarding effective rehabilitation programs
- Develop learning regarding the Residential approaches about Rehabilitation
- Learn about Psychology of Rehabilitation

**Definition/Overview:**

**Rehabilitation:** Rehabilitation means; to restore to useful life, as through therapy and education or to restore to good condition, operation, or capacity. The assumption of rehabilitation is that people are not natively criminal and that it is possible to restore a criminal to a useful life, to a life in which they contribute to themselves and to society. Rather than punishing the harm out of a criminal, rehabilitation would seek, by means of education or therapy, to bring a criminal into a more normal state of mind, or into an attitude which would be helpful to society, rather than be harmful to society.

**Key Points:****1. The Theory of Punishment**

This theory of punishment is based on the notion that punishment is to be inflicted on an offender so as to reform him/her, or rehabilitate them so as to make their re-integration into society easier. Punishments that are in accordance with this theory are community service, probation orders, and any form of punishment which entails any form of guidance and aftercare towards the offender. This theory is founded on the belief that one cannot inflict a severe punishment of imprisonment and expect the offender to be reformed and to be able to re-integrate into society upon his release. Although the importance of inflicting punishment on those persons who breach the law, so as to maintain social order, is retained, the importance of

rehabilitation is also given priority. Humanitarians have, over the years, supported rehabilitation as an alternative, even for capital punishment.

Rehabilitation theories present however the following deficiencies:

- First, there is no sound scientific research to determine how different individuals react to the same rehabilitating methods.
- Second, rehabilitation may depend more decisively on the individual psychological background, hence on his particular motives to commit crimes, than on the rehabilitating methods or philosophy.
- Third, a rehabilitation program may prove to be too costly and complex to be successfully implemented in most countries.
- Finally, rehabilitation must refer to the sociological findings on the socialization and re-socialization processes, as change in life-long socially acquired patterns of behavior and values entails a much more complex and sometime traumatic change on the individual's structure of character.

Meta-analysis of previous studies shows that prison sentences do not reduce future offenses, when compared to non-residential sanctions. This meta-analysis of one hundred separate studies found that post-release offenses were around 7% higher after imprisonment compared with non-residential sanctions, at statistically significant levels. Another meta-analysis of 101 separate tests of the impact of prison on crime found a 3% increase in offending after imprisonment. Longer periods of time in prison make outcomes worse, not better; offending increases by around 3% as prison sentences increase in length.

## **2. Effective rehabilitation programs**

Effective rehabilitation programs reduce the likelihood of re-offense and recidivism. Effective programs are characterized by three things: first, they provide more hours for people with known offense risk factors (the Risk Principle); secondly, they address problems and needs that have a

proven causal link to offending (the Needs Principle); and thirdly, they use cognitive-behavioral approaches (the Responsivity Principle). Providing rehabilitation to people at lower risk of reoffending results in a 3% reduction in reoffending, while providing rehabilitation to people with a high risk of reoffending is three times as effective, resulting in a 10% reduction in subsequent offending. Risk factors for reoffending are: age at first offense, number of prior offenses, level of family and personal problems in childhood and other historical factors, along with level of current needs related to offending. Those individuals who had many personal and family problems in childhood (particularly 19 or more), started offending before puberty, and have committed multiple priors are more likely to reoffend in future, according to longitudinal studies internationally.

### **3. Residential approaches about Rehabilitation**

Residential approaches whether in prison or some other live-in option tend to be less effective than non-residential approaches. These researchers found that effective programs delivered in the community were followed by a 35% reduction in reoffending, whereas effective programs delivered in residential settings (such as prisons and halfway houses) were followed by a 17% reduction in reoffending. One very likely reason for this is that for teens and adults, mixing with antisocial peers increases the risk of offending. In prison or residences inmates spend a great deal of time with other people immersed in criminal pursuits and beliefs, whereas in community-based programs there is more opportunity to mix with people involved in constructive, law-abiding activities. Antisocial peers in prisons and residences can form a very powerful pressure group, subtly and not so subtly influencing the behavior of other inmates.

### **4. Psychology of Rehabilitation**

The assumption of rehabilitation is that people are not natively criminal and that it is possible to restore a criminal to a useful life, to a life in which they contribute to themselves and to society. Rather than punishing the harm out of a criminal, rehabilitation would seek, by means of education or therapy, to bring a criminal into a more normal state of mind, or into an attitude

which would be helpful to society, rather than be harmful to society. This theory of punishment is based on the notion that punishment is to be inflicted on an offender so as to reform him/her, or rehabilitate them so as to make their re-integration into society easier. Punishments that are in accordance with this theory are community service, probation orders, and any form of punishment which entails any form of guidance and aftercare towards the offender. This theory is founded on the belief that one cannot inflict a severe punishment of imprisonment and expect the offender to be reformed and to be able to re-integrate into society upon his release. Although the importance of inflicting punishment on those persons who breach the law, so as to maintain social order, is retained, the importance of rehabilitation is also given priority. Humanitarians have, over the years, supported rehabilitation as an alternative, even for capital punishment.

- ▀ In Section 5 of this course you will cover these topics:
- ▀ Parole And Release From Prison
- ▀ Probation And Community Corrections
- ▀ Contrasting Philosophies: American And International Corrections Today

### **Topic : Parole And Release From Prison**

#### **Topic Objective:**

At the end of this topic student would be able to:

- Understand about the Criminal justice & Parole
- Develop learning about the Early history of parole
- Learn about the Possibilities of Parole in USA
- Understand about the Prisoners of War and Parole

**Definition/Overview:**

**Parole:** Parole may have different meanings depending on the field and judiciary system. All of the meanings originated from the French parole, meaning (spoken) word. Following its use in late-medieval Anglo-French chivalric practice, the term became associated with the release of prisoners based on prisoners giving their word of honor to abide by certain restrictions.

**Key Points:****1. Criminal justice & Parole**

In criminal justice systems, parole is the supervised release of a prisoner before the completion of his/her sentence. This differs from amnesty or commutation of sentence in that parolees are still considered to be serving their sentences, and may be returned to prison if they violate the conditions of their parole. Conditions of parole often include things such as obeying the law, refraining from drug and alcohol use, avoiding contact with the parolee's victims, obtaining employment, and maintaining required contacts with a parole officer.

**2. Early history of parole**

Alexander Maconochie, a Scottish geographer and captain in the British Royal Navy, introduced the modern idea of parole when, in 1840, he was appointed superintendent of the English penal colonies in Norfolk Island, Australia. He developed a plan to prepare them for eventual return to society that involved three grades. The first two consisted of promotions earned through good behavior, labor, and study. The third grade in the system involved conditional liberty outside of prison while obeying rules. A violation would return them to prison and starting all over again through the ranks of the three grade process.

In China, prisoners are often granted medical parole, which releases them on the grounds that they must receive medical treatment which cannot be provided for in prison. Often, the medical

condition is not serious, and medical parole is used as an excuse to release a prisoner, particularly a political dissident, without the government having to admit that the sentence was unjust.

The Chinese legal code has no explicit provision for exile, but often a dissident is released on the grounds that they need to be treated for a medical condition in another country, and with the understanding that they will be reincarcerated if they return to China. Dissidents who have been released on medical parole include Ngawang Chopel, Ngawang Sangdrol, Phuntsog Nyidron, Takna Jigme Zangpo, Wang Dan, Wei Jingsheng, Gao Zhan and Fang Lizhi. Exiling a dissident in most cases destroys them politically, as they are no longer seen as a martyr within China. Penologist Zebulon Brockway first introduced parole when he became superintendent of Elmira Reformatory in New York state. In order to manage prison populations and rehabilitate those incarcerated he instituted a two part strategy that consisted of indeterminate sentences and parole releases

### **3. Possibilities of Parole in USA**

In the United States, courts may specify in a sentence how much time must be served before a prisoner is eligible for parole. This is often done by specifying an indeterminate sentence of, say, 15 to 25 years, or 15 years to life. The latter type is known as an indeterminate life sentence; in contrast, a sentence of life without the possibility of parole is known as a determinate life sentence.

In most states, the decision of whether an inmate is paroled is vested in a paroling authority such as a parole board. Mere good conduct while incarcerated in and of itself does not necessarily guarantee that an inmate will be paroled. Other factors may enter into the decision to grant or deny parole, most commonly the establishment of a permanent residence and immediate, gainful employment or some other clearly visible means of self-support upon release (such as Social Security if the prisoner is old enough to qualify). Many states now permit sentences of life imprisonment without the possibility of parole (such as for murder and espionage), and any prisoner not sentenced to either this or the death penalty will eventually have the right to petition for release (one state Alaska maintains neither the death penalty nor life imprisonment without parole as sentencing options). At the same time, most other nations, such as European nations and Mexico, have abolished life without the possibility of parole because it is considered cruel.

Before being granted the privilege of parole, the inmate must first agree to abide by the conditions of parole set by the paroling authority. These conditions usually require the parolee to meet regularly with his or her parole officer or community corrections agent, who assesses the behavior and adjustment of the parolee and determines whether the parolee is violating any of his or her terms of release (typically these include being at home during certain hours, maintaining steady employment, not absconding, refraining from illicit drug use and sometimes, abstaining from alcohol). In some cases, a parolee may be discharged from parole before the time called for in the original sentence if it is determined that the parole restrictions are no longer necessary for the protection of society (this most frequently occurs when elderly parolees are involved).

Service members who commit crimes while in the US military may be subject to Court Martial proceedings under the Uniform Code of Military Justice (UCMJ). If found guilty, they may be sent to Federal or Military Prisons and upon release may be supervised by U.S./Federal Probation Officers. Parole is a controversial political topic in the United States. According to the U.S. Department of Justice, at least sixteen states have abolished parole entirely, and four more have abolished parole for certain violent offenders. During elections, politicians whose administrations parole any large number of prisoners (or, perhaps, one notorious criminal) are typically attacked by their opponents as being soft on crime. The US Department of Justice (DOJ) stated in 2005 that about 45% of parolees completed their sentences successfully, while 38% were returned to prison, and 11% absconded. These statistics, the DOJ says, are relatively unchanged since 1995; even so, some states (including New York) have abolished parole altogether for violent felons, and the federal government abolished it in 1984 for all offenders convicted of a federal crime, whether violent or not. Despite the decline in jurisdictions with a functioning parole system, the average annual growth of parolees was an increase of about 1.5% per year between 1995 and 2002.

The accused perpetrators of the infamous July 2007 Cheshire, Connecticut home invasion were convicted burglars paroled from Connecticut prisons. The New York Daily News has called on parole to be abolished in the wake of this massacre. On September 21, 2007 Governor M. Jodi

Rell announced a moratorium on the parole of violent offenders in the wake of the Cheshire massacre

A variant of parole is known as time off for good behavior, or, colloquially, good time. Unlike the traditional form of parole which may be granted or denied at the discretion of a parole board time off for good behavior is automatic absent a certain number (or gravity) of infractions committed by a convict while incarcerated (in most jurisdictions the released inmate is placed under the supervision of a parole officer for a certain amount of time after being so released). In some cases good time can reduce the maximum sentence by as much as one-third. It is usually not made available to inmates serving life sentences, as there is no release date that can be moved up.

#### **4. Prisoners of War and Parole**

Parole is the agreement of persons who have been taken prisoner by an enemy that they will not again take up arms against those who captured them, either for a limited time or during the continuance of the war. The U.S. Department of Defense defines parole more broadly. Parole agreements are promises given the captor by a POW to fulfill stated conditions, such as not to bear arms or not to escape, in consideration of special privileges, such as release from captivity or lessened restraint. The practice of paroling enemy troops began thousands of years ago, at least as early as the time of Carthage. Hugo Grotius, an early international lawyer, favorably discussed prisoner of war parole. During the American Civil War, both the Dix-Hill Cartel and the Lieber Code set out rules regarding prisoner of war parole. Francis Lieber's thoughts on parole later reappeared in the Declaration of Brussels of 1874, the Hague Convention, and the Geneva Convention Relative to the Treatment of Prisoners of War. In the United States, current policy prohibits U.S. soldiers who are prisoners of war from accepting parole. The Code of Conduct for the U.S. Armed Forces states: I will accept neither parole nor special favors from the enemy. This position is reiterated by the Department of Defense. The United States does not authorize any Military Service member to sign or enter into any such parole agreement.

**Topic : Probation And Community Corrections****Topic Objective:**

At the end of this topic student would be able to:

- Develop learning regarding General Conditions of Probation
- Understand about the history of probation: origins and evolution
- Learn the types of supervision (Probation)
- Develop learning about the violation of Probation
- Learn about the community Based Corrections
- Learn about the Probation and Parole Unit

**Definition/Overview:**

**Probation:** Probation is the suspension of a jail sentence - the criminal who is on probation has been convicted of a crime, but instead of serving jail time, has been found by the Court to be amenable to probation and will be returned to the community for a period in which they will have to abide to certain conditions set forth by the Court under the supervision of a probation officer.

**Community Based Corrections:** Community Based Corrections is a division of ACT Corrective Services and consists of the Probation and Parole Unit, Rehabilitation Programs Unit and the Sentence Administration Board.

**Key Points:****1. General Conditions of Probation**

General conditions of Probation may include maintaining employment, abiding to a curfew, living where directed, abstaining from unlawful behavior, following the probation officer's orders, not absconding, and refraining from contact with other individuals, who may include victims of the original crime (such as a former partner in a domestic violence case), potential victims of similar crimes (such as minors when the crime involves child sexual abuse), potential witnesses, or those who have partnered with the offender in the earlier crime. Usually the offender is supervised by a probation officer, to monitor their performance during the probation period. The probation officer helps the offender to adapt to living in the community; to guide and help them to behave in a lawful and responsible way.

**2. History of probation: origins and evolution**

The concept of probation, from the Latin word probatio - meaning testing period - has historical roots in the practice of judicial reprieve. In English Common Law the Courts could temporarily suspend the execution of a sentence to allow the defendant to appeal to the Crown for a pardon. Probation first developed in the United States when John Augustus, a Boston boot maker, persuaded a judge in the Boston Police Court in 1841 to give him custody of a convicted offender, a drunkard, for a brief period and then helped the man to appear rehabilitated by the time of sentencing. Even before John Augustus, the practice of suspended sentence was used as early as 1830, in Boston, Massachusetts and became widespread in U.S. Courts, although there was no statutory authorization for such a practice. At first, judges, most notably Peter Oxenbridge Thatcher of Boston, used release on recognizance or bail and simply failed to take any further legal action. In 1878 the mayor of Boston hired a former police officer, one Captain Savage, to become what many recognize as the first official probation officer. By the mid-19th century, however, many Federal Courts were using a judicial reprieve to suspend sentence, and this posed a legal question. In 1916, the United States Supreme Court held that a Federal Judge

(Killets) was without power to suspend a sentence indefinitely, which is known as the Killets Decision. This famous court decision led to the passing of the National Probation Act of 1925, thereby, allowing courts to suspend the imposition of a sentence and place an offender on probation.

Massachusetts developed the first state wide probation system in 1880, and by 1920, 21 other states had followed suit. With the passage of the National Probation Act on March 5, 1925, signed by President Calvin Coolidge, the U.S./Federal Probation Service was established to serve the U.S. Courts. On the state level, pursuant to the Crime Control and Consent Act passed by Congress in 1936, a group of states entered into agreement by which they would supervise probationers and parolees for each other. Known as the Interstate Compact For the Supervision of Parolees and Probationers, the agreement was originally signed by 25 states in 1937. In 1951, all the states in the United States of America had a working probation system and ratified the Interstate Compact Agreement. In 1959, the newly adopted states, Alaska and Hawaii, in addition the Commonwealth of Puerto Rico, U.S. Virgin Islands and the territories of Guam and American Samoa ratified the act as well. Probation began as a humanitarian effort to allow first-time and minor offenders a second chance. Early probationers were expected not only to obey the law but also to behave in a morally acceptable fashion. Officers sought to provide moral leadership to help shape probationers' attitudes and behavior with respect to family, religion, employment, and free time. They aimed to ensure that this was enforced as well, and early probationers were given the opportunity to prove themselves and possibly even reduce their sentence.

During the 1920s through the 1950s, the major developments in the field of psychology led probation officers to shift their emphasis from moral leadership to therapeutic counseling. This shift brought three important changes. First, the officer no longer primarily acted as a community supervisor charged with enforcing a particular morality. Second, the officer became more of a clinical social worker whose goal was to help the offender solve psychological and social problems. Third, the offender was expected to become actively involved in the treatment. The

pursuit of rehabilitation as the primary goal of probation gave the officer extensive discretion in defining and treating the offender's problems. Officers used their judgment to evaluate each offender and develop a treatment approach to the personal problems that presumably had led to crime.

Many states offered to dismiss or expunge the conviction if the probationer fulfilled the terms of the probation. During the 1960s, major social changes swept across the United States. These changes also affected the field of community corrections. Rather than counseling offenders, probation officers provided them with concrete social services such as assistance with employment, housing, finances, and education. This emphasis on reintegrating offenders and remedying the social problems they faced was consistent with federal efforts to wage a War on Poverty. Instead of being a counselor or therapist, the probation officer served as an advocate, dealing with private and public institutions on the offender's behalf. In the late 1970s the orientation of probation changed again as the goals of rehabilitation and reintegration gave way to risk management. This approach, still dominant today, seeks to minimize the probability that an offender will commit a new offense. Risk management reflects two basic goals. First, in accord with the deserved-punishment ideal, the punishment should fit the offense, and correctional intervention should neither raise nor lower the level of punishment. Second, according to the community protection criterion, the amount and type of supervision are determined according to the risk that the probationer will return to a life out of compliance with the law.

### **3. Types of supervision (Probation)**

#### **3.1 Intensive probation, home detention, GPS monitoring**

These are the highest levels of probation supervision to closely monitor the offender released into a community. Violent criminals, gang members, habitual offenders, and sex offenders are typically supervised at this level. Offenders under such supervision are deemed to have waived the constitutional rights under the fourth amendment regarding search and seizure, and are subject to unannounced home visits, surveillance, and the use

of electronic monitoring or satellite tracking. GPS monitoring and home detention are common in juvenile cases, even when the underlying crime is minor.

### **3.2 High supervision:**

Offenders under high supervision are subject to monthly home and office visits and random drug test.

### **3.3 Standard supervision:**

Offenders under standard supervision are subject to similar supervision as those under high supervision, that contacts in the office and field may be quarterly instead of monthly.

### **3.4 Unsupervised probation:**

Unsupervised probation does not involve direct supervision under a specifically appointed probation officer. Terms of probation may be expected to be completed within a specific duration of time. For example, if given 1 year of unsupervised probation, a probationer might be required to have his/her terms (i.e. community service, court costs, etc) completed within the first 6 months. For the remaining 6 months, he/she must maintain good and lawful behavior, may not enter bars/taverns/liquor stores, submit their right to having a firearm, and give up their 4th Amendment rights to search and seizure. Probationers may be asked to meet with their officers toward the end of the term of unsupervised probation; however, if they complete their terms early, may not require meeting with their officer at all. If terms are not completed, their officer may file a petition to revoke probation.

### **3.5 Informal supervision:**

Informal supervision is a type of unsupervised probation that is unconnected to a suspended jail sentence, i.e., the individual is placed on informal supervision without having been found to have committed a crime. Probation terms such as search clauses or drug testing may be instituted. At the end of the informal supervision period, the case is dismissed. Usually the offender is supervised by a probation officer, to monitor their performance during the probation period. The probation officer helps the offender to

adapt to living in the community; to guide and help them to behave in a lawful and responsible way. Conversely, the probation officer also monitors the offender to ensure a lack of future criminal behavior. The probation officer may have to revoke the offender's probation or have to arrest the offender.

#### **4. Violation of Probation**

A probation officer may at his discretion issue a probationer a warning, or order him to appear before a court for a probation violation hearing. At the hearing, the probation officer will typically request additional punishment, usually involving incarceration. A prisoner released on parole may have parole revoked, and be recalled to prison. There is no "hard and fast" rule for what type of violation will result in a hearing. One violation that is almost always considered serious is failure to appear for scheduled meetings with the probation officer. Being found in possession of illegal drugs, or being arrested for any crime, is likely to result in a hearing. How seriously the violation is regarded may depend upon the facts of the original offense for example, if a person has been convicted of a gang-related offense, "association with known criminals" may be viewed as a more serious violation than if the person were on probation for driving a car with a suspended license.

#### **5. Community Based Corrections**

Community-based correction programs began in the 1970s, 1980s, and 1990s. The programs offer an alternative to incarceration within the prison system. Many criminologists believed a significant number of offenders did not need incarceration in high security prison cells. Some inmates, who might otherwise have been ready to turn away from a life of crime, instead became like the hardened criminals they associated with in prison. In response, states, counties, and cities established local correctional facilities and programs that became known as community-based corrections. These facilities, located in neighborhoods, allowed offenders normal family relationships and friendships as well as rehabilitation services such as counseling, instruction in basic living skills, how to apply for jobs, and work training and placement.

At the beginning of the twenty-first century, the fastest growing group in prison and jail population was women. According to the U.S. Department of Justice's Bureau of Justice Statistics, there were 91,612 women in state and federal prisons at the end of 2000, or 6.6 percent of the nation's total prison population. Ten times that many or about 900,000 were on probation or parole. Back in 1970 there were just 5,600 incarcerated women, 12,300 in 1980, and in 1990 approximately 40,000. From 1990 until the end of 2000 the number of imprisoned women grew by 125 percent. Eighty-five percent of women prisoners committed nonviolent crimes, mostly drug offenses and theft. The astounding increase in the number of incarcerated women in the 1990s was largely due to drug arrests. In the early 1980s federal and state governments initiated a "War on Drugs," in reaction to a huge increase in drug related offenses throughout the United States.

#### **6. Probation and Parole Unit**

The Probation & Parole Unit provides advice to Courts and releasing authorities on the background and attitudes of offenders on Community Based Orders (e.g. bail supervision, probation, and parole) and to refer offenders to appropriate community based or residential services to assist with addressing a variety of issues (e.g drug and alcohol abuse, grief and loss issues, self esteem and relationship issues). The Unit aims to reduce offending by the use of empirically sound risk assessment tools and a brokerage case management model, which targets criminogenic needs.

#### **Topic : Contrasting Philosophies: American And International Corrections Today**

##### **Topic Objective:**

At the end of this topic student would be able to:

- Learn about the Correctional Theory
- Understand about the American Correctional Association
- Develop learning about the Community Based Corrections
- Learn about the Correctional System

- Develop learning about the Correctional Officer
- Learn about the Correctional Service of Canada
- Understand about the New York State Department of Correctional Services
- Learn about the Attica Correctional Facility
- Develop learning about the Correctional Emergency Response Team

### **Definition/Overview:**

**Corrections:** Corrections in general refers to society's handling of persons after their conviction of a criminal offense. The components of the criminal justice system that serve to punish criminal offenders involves the deprivation of life, liberty or property after due process of law. Sentences imposed upon offenders range from probation to serving time in prison, with intermediate sanctions, including sentences to a halfway house or community corrections program, home confinement, and electronic monitoring. Financial penalties may include fines, forfeiture, and restitution.

### **Key Points:**

#### **1. Correctional Theory**

The basic use of sanctions, which can be either positive (rewarding) or negative (punishment) is the basis of all criminal theory, along with the main goals of social control, and deterrence of deviant behavior. Many facilities operating in the United States adhere to particular correctional theories. Although often heavily modified, these theories determine the nature of the facilities' design and security operations. The two primary theories used today are the more traditional Remote Supervision and the more contemporary Direct Supervision Models. The Remote Supervision Model(RSM) consists of an officer(s) observing the inmate population from a remote position, e.g., a tower or secure desk area. The Direct Supervision Model(DSM) positions the Corrections Officer within the inmate population, creating a more pronounced presence.

## **2. American Correctional Association**

The American Correctional Association (ACA), formerly known as the American Prison Association, is the oldest and largest international correctional association in the world. Approximately 80 percent of all state departments of corrections and youth services are active participants. Also included are programs and facilities operated by the Federal Bureau of Prisons and the private sector.

## **3. Community Based Corrections**

Community Based Corrections is a division of ACT Corrective Services and consists of the Probation and Parole Unit, Rehabilitation Programs Unit and the Sentence Administration Board. The Probation & Parole Unit provides advice to Courts and releasing authorities on the background and attitudes of offenders on Community Based Orders (e.g. bail supervision, probation, and parole) and to refer offenders to appropriate community based or residential services to assist with addressing a variety of issues (e.g drug and alcohol abuse, grief and loss issues, self esteem and relationship issues). The Unit aims to reduce offending by the use of empirically sound risk assessment tools and a brokerage case management model, which targets criminogenic needs.

## **4. Correctional System**

A criminal suspect who has been charged with or is likely to be charged with a criminal offense may be held on remand in prison if he or she is denied, refused or unable to meet conditions of bail, or is unable to post bail. This may also occur where the court determines that the suspect is at risk of absconding before the trial, or is otherwise a risk to society. A criminal defendant may also be held in prison while awaiting trial or a trial verdict. If found guilty, a defendant will be convicted and may receive a custodial sentence requiring imprisonment. Prisons may also be used as a tool of political repression to detain political prisoners, prisoners of conscience, and enemies of the state, particularly by authoritarian regimes. In times of war or conflict, prisoners of war may also be detained in prisons. A prison system is the organizational arrangement of the

provision and operation of prisons, and depending on their nature, may invoke a corrections system. Although people have been imprisoned throughout history, they have also regularly been able to perform prison escapes.

## **5. Correctional Officer**

A corrections officer, correctional officer, detention officer, jail guard, prison guard, prison warden, or prison officer is a person charged with the responsibility of the supervision, safety and security of prisoners in a prison, jail, or similar form of secure custody. Historically, terms such as jailer (also spelled jailor or gaoler), and turnkey have also been used.

These officers are responsible for the care, custody, and control of individuals who have been arrested and are awaiting trial while on remand or who have been convicted of a crime and sentenced to serve time in a prison or jail. They are also responsible for the safety and security of the facility itself. Most prison officers are employed by the government of the country in which they operate, though some are employed by private companies.

## **6. Correctional Service of Canada**

The Correctional Service of Canada (French: Service correctionnel du Canada), or CSC, is a Canadian government agency responsible for the incarceration and rehabilitation of convicted criminal offenders. The Correctional Service of Canada came into being on December 21st, 1978, when Queen Elizabeth II, signed authorization for the newly commissioned agency and presented it with its Coat of Arms. The Commissioner of the Correctional Service of Canada is recommended for appointment by the Prime Minister and approved by an Order-in-Council. This appointed position reports directly to the Minister of Public Safety Canada and thereby accountable to the public via the Parliament.

## **7. New York State Department of Correctional Services**

The New York State Department of Correctional Services or NYSDOCS is the agency of New York State responsible for the care, confinement, and rehabilitation of approximately 63,000 inmates at 71 correctional facilities funded by the State of New York. The department employs approximately 31,300 workers, including approximately 23,000 uniformed correction officers. Currently, this is the 4th largest state prison system in the United States. The New York State prison system had its beginnings in 1797 with a single prison called Newgate located in New York City. A second state prison opened 20 years later in Auburn in 1817, and in 1825 a group of Auburn prisoners made the voyage across the Erie Canal and down the Hudson River to begin building Sing Sing.

## **8. Attica Correctional Facility**

Attica Correctional Facility is a penitentiary in Attica, New York. It held many of the most dangerous criminals of the time when it was constructed in the 1930s. A tear gas system is installed in the mess hall and industry areas and has been used to quell conflicts in these areas. The prison now holds many inmates who are serving various types of sentences (short-term to life sentences), and who are usually sent to the facility because of disciplinary problems in other facilities.

## **9. Correctional Emergency Response Team**

A Correctional Emergency Response Team (CERT), Special Emergency Response Team for Correction (SERT) or Special Operation Response Team (SORT) is a team of highly trained corrections officers in the United States tasked with responding to incidents, riots, cell extractions, mass searches or disturbances in prisons, possibly involving uncooperative or violent inmates. CERT team members are required to be contactable and available to respond at all times. CERT is founded upon a team concept and is made up of highly motivated and experienced Correction Officers.

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