

THE PRISON-INDUSTRIAL COMPLEX

Correctional officials see danger in prison overcrowding. Others see opportunity. The nearly two million Americans behind bars—the majority of them nonviolent offenders—mean jobs for depressed regions and windfalls for profiteers

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In the hills east of Sacramento, California, Folsom State Prison stands beside a man-made lake, surrounded by granite walls built by inmate laborers. The gun towers have peaked roofs and Gothic stonework that give the prison the appearance of a medieval fortress, ominous and forbidding. For more than a century Folsom and San Quentin were the end of the line in California's penal system; they were the state's only maximum-security penitentiaries. During the early 1980s, as California's inmate population began to climb, Folsom became dangerously overcrowded. Fights between inmates ended in stabbings six or seven times a week. The poor sight lines within the old cellblocks put correctional officers at enormous risk. From 1984 to 1994 California built eight new maximum-security (Level 4) facilities. The bullet holes in the ceilings of Folsom's cellblocks, left by warning shots, are the last traces of the prison's violent years. Today Folsom is a medium-security (Level 2) facility, filled with the kind of inmates that correctional officers consider "soft." No one has been stabbed to death at Folsom in almost four years. Among its roughly 3,800 inmates are some 500 murderers, 250 child molesters, and an assortment of rapists, armed robbers, drug dealers, burglars, and petty thieves. The cells in Housing Unit 1 are stacked five stories high, like boxes in a vast warehouse; glimpses of hands and arms and faces, of flickering TV screens, are visible between the steel bars. Folsom now houses almost twice as many inmates as it was designed to hold. The machine shop at the prison, run by inmates, manufactures steel frames for double bunks—and triple bunks—in addition to license plates.

Less than a quarter mile from the old prison is the California State Prison at Sacramento, known as "New Folsom," which houses about 3,000 Level 4 inmates. They are the real hard cases: violent predators, gang members, prisoners unable to "program" well at other facilities, unable to obey the rules. New Folsom does not have granite walls. It has a "death-wire electrified fence," set between two ordinary chain-link fences, that administers a lethal dose of 5,100 volts at the slightest touch. The architecture of New Folsom is stark and futuristic. The buildings have smooth gray concrete façades, unadorned except for narrow slits for cell windows. Approximately a third of the inmates are serving life sentences; more than a thousand have committed at least one murder, nearly 500 have committed armed robbery, and nearly 200 have committed assault with a deadly weapon.

Inmates were placed in New Folsom while it was still under construction. The prison was badly overcrowded even before it was finished, in 1987. It has at times housed more than 300 inmates in its gymnasiums. New Folsom—like old Folsom, and like the rest of the California prison system—now operates at roughly double its intended capacity. Over the past twenty years the State of California has built twenty-one new prisons, added thousands of cells to existing facilities, and increased its inmate population eightfold. Nonviolent offenders have been responsible for most of that increase. The number of drug offenders imprisoned in the state today is more than twice the number of inmates who were imprisoned for all crimes in 1978. California now has the biggest prison system in the Western industrialized world, a system 40 percent bigger than the Federal Bureau of Prisons. The state holds more inmates in its jails and prisons than do France, Great Britain, Germany, Japan, Singapore, and the Netherlands combined. The California Department of Corrections predicts that at the current rate of expansion, barring a court order that forces a release of prisoners, it will run out of room eighteen months from now. Simply to remain at double capacity the state will need to open at least one new prison a year, every year, for the foreseeable future.

Today the United States has approximately 1.8 million people behind bars: about 100,000 in federal custody, 1.1 million in state custody, and 600,000 in local jails. Prisons hold inmates convicted of federal or state crimes; jails hold people awaiting trial or serving short sentences. The United States now imprisons more people than any other country in the world—perhaps half a million more than Communist China. The American inmate population has grown so large that it is difficult to comprehend: imagine the combined populations of Atlanta, St. Louis, Pittsburgh, Des Moines, and Miami behind bars. "We have embarked on a great social experiment," says Marc Mauer, the author of the upcoming book *The Race to Incarcerate*. "No other society in human history has ever imprisoned so many of its own citizens for the purpose of crime control." The prison boom in the United States is a recent phenomenon. Throughout the first three quarters of this century the nation's incarceration rate remained relatively stable, at about 110 prison inmates for every 100,000 people. In the mid-1970s the rate began to climb, doubling in the 1980s and then again in the 1990s. The rate is now 445 per 100,000; among adult men it is about 1,100 per 100,000. During the past two decades roughly a thousand new prisons and jails have been built in the United States. Nevertheless, America's prisons are

more overcrowded now than when the building spree began, and the inmate population continues to increase by 50,000 to 80,000 people a year.

The economist and legal scholar Michael K. Block, who believes that American sentencing policies are still not harsh enough, offers a straightforward explanation for why the United States has lately incarcerated so many people: "There are too many prisoners because there are too many criminals committing too many crimes." Indeed, the nation's prisons now hold about 150,000 armed robbers, 125,000 murderers, and 100,000 sex offenders—enough violent criminals to populate a medium-sized city such as Cincinnati. Few would dispute the need to remove these people from society. The level of violent crime in the United States, despite recent declines, still dwarfs that in Western Europe. But the proportion of offenders being sent to prison each year for violent crimes has actually fallen during the prison boom. In 1980 about half the people entering state prison were violent offenders; in 1995 less than a third had been convicted of a violent crime. The enormous increase in America's inmate population can be explained in large part by the sentences given to people who have committed nonviolent offenses. Crimes that in other countries would usually lead to community service, fines, or drug treatment—or would not be considered crimes at all—in the United States now lead to a prison term, by far the most expensive form of punishment. "No matter what the question has been in American criminal justice over the last generation," says Franklin E. Zimring, the director of the Earl Warren Legal Institute, "prison has been the answer."

In January 17, 1961, President Dwight D. Eisenhower used his farewell address to issue a warning, as the United States continued its cold war with the Soviet Union. "In the councils of government," Eisenhower said, "we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex." Eisenhower had grown concerned about this new threat to democracy during the 1960 campaign, when fears of a "missile gap" with the Soviet Union were whipped up by politicians, the press, and defense contractors hoping for increased military spending. Eisenhower knew that no missile gap existed and that fear of one might lead to a costly, unnecessary response. "The potential for the disastrous rise of misplaced power exists and will persist," Eisenhower warned. "We should take nothing for granted."

Three decades after the war on crime began, the United States has developed a prison-industrial complex—a set of bureaucratic, political, and economic interests that encourage increased spending on imprisonment, regardless of the actual need. The prison-industrial complex is not a conspiracy, guiding the nation's criminal-justice policy behind closed doors. It is a confluence of special interests that has given prison construction in the United States a seemingly unstoppable momentum. It is composed of politicians, both liberal and conservative, who have used the fear of crime to gain votes; impoverished rural areas where prisons have become a cornerstone of economic development; private companies that regard the roughly \$35 billion spent each year on corrections not as a burden on American taxpayers but as a lucrative market; and government officials whose fiefdoms have expanded along with the inmate population. Since 1991 the rate of violent crime in the United States has fallen by about 20 percent, while the number of people in prison or jail has risen by 50 percent. The prison boom has

its own inexorable logic. Steven R. Donziger, a young attorney who headed the National Criminal Justice Commission in 1996, explains the thinking: "If crime is going up, then we need to build more prisons; and if crime is going down, it's because we built more prisons—and building even more prisons will therefore drive crime down even lower."

The raw material of the prison-industrial complex is its inmates: the poor, the homeless, and the mentally ill; drug dealers, drug addicts, alcoholics, and a wide assortment of violent sociopaths. About 70 percent of the prison inmates in the United States are illiterate. Perhaps 200,000 of the country's inmates suffer from a serious mental illness. A generation ago such people were handled primarily by the mental-health, not the criminal-justice, system. Sixty to 80 percent of the American inmate population has a history of substance abuse. Meanwhile, the number of drug-treatment slots in American prisons has declined by more than half since 1993. Drug treatment is now available to just one in ten of the inmates who need it. Among those arrested for violent crimes, the proportion who are African-American men has changed little over the past twenty years. Among those arrested for drug crimes, the proportion who are African-American men has tripled. Although the prevalence of illegal drug use among white men is approximately the same as that among black men, black men are five times as likely to be arrested for a drug offense. As a result, about half the inmates in the United States are African-American. One out of every fourteen black men is now in prison or jail. One out of every four black men is likely to be imprisoned at some point during his lifetime. The number of women sentenced to a year or more of prison has grown twelvefold since 1970. Of the 80,000 women now imprisoned, about 70 percent are nonviolent offenders. About 75 percent have children.

The prison-industrial complex is not only a set of interest groups and institutions. It is also a state of mind. The lure of big money is corrupting the nation's criminal-justice system, replacing notions of public service with a drive for higher profits. The eagerness of elected officials to pass "tough-on-crime" legislation—combined with their unwillingness to disclose the true costs of these laws—has encouraged all sorts of financial improprieties. The inner workings of the prison-industrial complex can be observed in the state of New York, where the prison boom started, transforming the economy of an entire region; in Texas and Tennessee, where private prison companies have thrived; and in California, where the correctional trends of the past two decades have converged and reached extremes. In the realm of psychology a complex is an overreaction to some perceived threat. Eisenhower no doubt had that meaning in mind when, during his farewell address, he urged the nation to resist "a recurring temptation to feel that some spectacular and costly action could become the miraculous solution to all current difficulties."

LIBERAL LEGACY

The origins of the prison-industrial complex can be dated to January of 1973. Senator Barry Goldwater had used the fear of crime to attract white middle-class voters a decade earlier, and Richard Nixon had revived the theme during the 1968 presidential campaign, but little that was concrete emerged from their demands for law and order. On the contrary, Congress voted decisively in 1970 to eliminate almost all federal mandatory-

minimum sentences for drug offenders. Leading members of both political parties applauded the move. Mainstream opinion considered drug addiction to be largely a public-health problem, not an issue for the criminal courts. The Federal Bureau of Prisons was preparing to close large penitentiaries in Georgia, Kansas, and Washington. From 1963 to 1972 the number of inmates in California had declined by more than a fourth, despite the state's growing population. The number of inmates in New York had fallen to its lowest level since at least 1950. Prisons were widely viewed as a barbaric and ineffective means of controlling deviant behavior. Then, on January 3, 1973, Nelson Rockefeller, the governor of New York, gave a State of the State address demanding that every illegal-drug dealer be punished with a mandatory prison sentence of life without parole.

Rockefeller was a liberal Republican who for a dozen years had governed New York with policies more closely resembling those of Franklin Delano Roosevelt than those of Ronald Reagan. He had been booed at the 1964 Republican Convention by conservative delegates; he still harbored grand political ambitions; and President Nixon would be ineligible for a third term in 1976. Rockefeller demonstrated his newfound commitment to law and order in 1971, when he crushed the Attica prison uprising. By proposing the harshest drug laws in the United States, he took the lead on an issue that would soon dominate the nation's political agenda. In his State of the State address Rockefeller argued not only that all drug dealers should be imprisoned for life but also that plea-bargaining should be forbidden in such cases and that even juvenile offenders should receive life sentences.

The Rockefeller drug laws, enacted a few months later by the state legislature, were somewhat less draconian: the penalty for possessing four ounces of an illegal drug, or for selling two ounces, was a mandatory prison term of fifteen years to life. The legislation also included a provision that established a mandatory prison sentence for many second felony convictions, regardless of the crime or its circumstances. Rockefeller proudly declared that his state had enacted "the toughest anti-drug program in the country." Other states eventually followed New York's example, enacting strict mandatory-minimum sentences for drug offenses. A liberal Democrat, Speaker of the House Tip O'Neill, led the campaign to revive federal mandatory minimums, which were incorporated in the 1986 Anti-Drug Abuse Act. Nelson Rockefeller had set in motion a profound shift in American sentencing policy, but he never had to deal with the consequences. Nineteen months after the passage of his drug laws Rockefeller became Vice President of the United States.

When Mario Cuomo was first elected governor of New York, in 1982, he confronted some difficult choices. The state government was in a precarious fiscal condition, the inmate population had more than doubled since the passage of the Rockefeller drug laws, and the prison system had grown dangerously overcrowded. A week after Cuomo took office, inmates rioted at Sing Sing, an aging prison in Ossining. Cuomo was an old-fashioned liberal who opposed mandatory-minimum drug sentences. But the national mood seemed to be calling for harsher drug laws, not sympathy for drug addicts.

President Reagan had just launched the War on Drugs; it was an inauspicious moment to buck the tide.

Unable to repeal the Rockefeller drug laws, Cuomo decided to build more prisons. The rhetoric of the drug war, however, was proving more popular than the financial reality. In 1981 New York's voters had defeated a \$500 million bond issue for new prison construction. Cuomo searched for an alternate source of financing, and decided to use the state's Urban Development Corporation to build prisons. The corporation was a public agency that had been created in 1968 to build housing for the poor. Despite strong opposition from upstate Republicans, among others, it had been legislated into existence on the day of Martin Luther King Jr.'s funeral, to honor his legacy. The corporation was an attractive means of financing prison construction for one simple reason: it had the authority to issue state bonds without gaining approval from the voters.

Over the next twelve years Mario Cuomo added more prison beds in New York than all the previous governors in the state's history combined. Their total cost, including interest, would eventually reach about \$7 billion. Cuomo's use of the Urban Development Corporation drew criticism from both liberals and conservatives. Robert Gangi, the head of the Correctional Association of New York, argued that Cuomo was building altogether the wrong sort of housing for the poor. The state comptroller, Edward V. Regan, a Republican, said that Cuomo was defying the wishes of the electorate, which had voted not to spend money on prisons, and that his financing scheme was costly and improper. Bonds issued by the Urban Development Corporation carried a higher rate of interest than the state's general-issue bonds.

Legally the state's new prisons were owned by the Urban Development Corporation and leased to the Department of Corrections. In 1991, as New York struggled to emerge from a recession, Governor Cuomo "sold" Attica prison to the corporation for \$200 million and used the money to fill gaps in the state budget. In order to buy the prison, the corporation had to issue more bonds. The entire transaction could eventually cost New York State about \$700 million.

The New York prison boom was a source of embarrassment for Mario Cuomo. At times he publicly called it "stupid," an immoral waste of scarce state monies, an obligation forced on him by the dictates of the law. But it was also a source of political capital. Cuomo strongly opposed the death penalty, and building new prisons shielded him from Republican charges of being soft on crime. In his 1987 State of the State address, having just been re-elected by a landslide, Cuomo boasted of having put nearly 10,000 "dangerous felons" behind bars. The inmate population of New York's prisons had indeed grown by roughly that number during his first term in office. But the proportion of offenders being incarcerated for violent crimes had fallen from 63 percent to 52 percent during those four years. In 1987 New York State sent almost a thousand fewer violent offenders to prison than it had in 1983. Despite having the "toughest anti-drug program" and one of the fastest-growing inmate populations in the nation, New York was hit hard by the crack epidemic of the 1980s and the violent crime that accompanied it. From 1983 to 1990 the state's inmate population almost doubled—and yet during that same period

the violent-crime rate rose 24 percent. Between the passage of the Rockefeller drug laws and the time Cuomo left office, in January of 1995, New York's inmate population increased almost fivefold. And the state's prison system was more overcrowded than it had been when the prison boom began.

By using an unorthodox means of financing prison construction, Mario Cuomo turned the Urban Development Corporation into a rural development corporation that invested billions of dollars in upstate New York. Although roughly 80 percent of the state's inmates came from New York City and its suburbs, high real-estate prices and opposition from community groups made it difficult to build correctional facilities there. Cuomo needed somewhere to put his new prisons; he formed a close working relationship with the state senator Ronald B. Stafford, a conservative Republican whose rural, Adirondack district included six counties extending from Lake George to the Canadian border. "Any time there's an extra prison," a Cuomo appointee told *Newsday* in 1990, "Ron Stafford will take it."

Stafford had represented this district, known as the North Country, for more than two decades. Orphaned as a child, he had been adopted by a family in the upstate town of Dannemora. The main street of the town was dominated by the massive stone wall around Clinton, a notorious maximum-security prison. His adoptive father was a correctional officer at Clinton, and Stafford spent much of his childhood within the prison's walls. He developed great respect for correctional officers, and viewed their profession as an honorable one; he believed that prisons could give his district a real economic boost. Towns in the North Country soon competed with one another to attract new prisons. The Republican Party controlled the state senate, and prison construction became part of the political give and take with the Cuomo administration. Of the twenty-nine correctional facilities authorized during the Cuomo years, twenty-eight were built in upstate districts represented by Republican senators.

When most people think of New York, they picture Manhattan. In fact, two thirds of the state's counties are classified as rural. Perhaps no other region in the United States has so wide a gulf between its urban and rural populations. People in the North Country—which includes the Adirondack State Park, one of the nation's largest wilderness areas—tend to be politically conservative, taciturn, fond of the outdoors, and white. New York City and the North Country have very little in common. One thing they do share, however, is a high rate of poverty.

Twenty-five years ago the North Country had two prisons; now it has eighteen correctional facilities, and a nineteenth is under construction. They run the gamut from maximum-security prisons to drug-treatment centers and boot camps. One of the first new facilities to open was Ray Brook, a federal prison that occupies the former Olympic Village at Lake Placid. Other prisons have opened in abandoned factories and sanatoriums. For the most part North Country prisons are tucked away, hidden by trees, nearly invisible amid the vastness and beauty of the Adirondacks. But they have brought profound change. Roughly one out of every twenty people in the North Country is a prisoner. The town of Dannemora now has more inmates than inhabitants.

The traditional anchors of the North Country economy—mining, logging, dairy farms, and manufacturing—have been in decline for years. Tourism flourishes in most towns during the summer months. According to Ram Chugh, the director of the [Rural Services Institute at the State University of New York at Potsdam](#), the North Country's per capita income has long been about 40 percent lower than the state's average per capita income. The prison boom has provided a huge infusion of state money to an economically depressed region—one of the largest direct investments the state has ever made there. In addition to the more than \$1.5 billion spent to build correctional facilities, the prisons now bring the North Country about \$425 million in annual payroll and operating expenditures. That represents an annual subsidy to the region of more than \$1,000 per person. The economic impact of the prisons extends beyond the wages they pay and the local services they buy. Prisons are labor-intensive institutions, offering year-round employment. They are recession-proof, usually expanding in size during hard times. And they are nonpolluting—an important consideration in rural areas where other forms of development are often blocked by environmentalists. Prisons have brought a stable, steady income to a region long accustomed to a highly seasonal, uncertain economy.

Anne Mackinnon, who grew up in the North Country and wrote about its recent emergence as New York's "Siberia" for *Adirondack Life* magazine, says the prison boom has had an enormous effect on the local culture. Just about everyone now seems to have at least one relative who works in corrections. Prison jobs have slowed the exodus from small towns, by allowing young people to remain in the area. The average salary of a correctional officer in New York State is about \$36,000—more than 50 percent higher than the typical salary in the North Country. The job brings health benefits and a pension. Working as a correctional officer is one of the few ways that men and women without college degrees can enjoy a solid middle-class life there. Although prison jobs are stressful and dangerous, they are viewed as a means of preserving local communities. So many North Country residents have become correctional officers over the past decade that those just starting out must work for years in prisons downstate, patiently waiting for a job opening at one of the facilities in the Adirondacks

While many families in the north await the return of sons and daughters slowly earning seniority downstate, families in New York City must endure the absence of loved ones who seem to have been not just imprisoned for their crimes but exiled as well. Every Friday night about 800 people, mostly women and children, almost all of them African-American or Latino, gather at Columbus Circle, in Manhattan, and board buses for the north. The buses leave through the night and arrive in time for visiting hours on Saturday. Operation Prison Gap, which runs the service, was founded by an ex-convict named Ray Simmons who had been imprisoned upstate and knew how hard it was for the families of inmates to arrange visits. When the company started, in 1973, it carried passengers in a single van. Now it charts thirty-five buses and vans on a typical weekend and a larger number on special occasions, such as Father's Day and Thanksgiving. Ray Simmons's brother Tyrone, who heads the company, says that despite the rising inmate population, ridership has fallen a bit over the past few years. The inconvenience and expense of the long bus trips take their toll. One customer, however, has for fifteen years faithfully visited her son in Comstock every weekend. In 1996 she stopped appearing at Columbus

Circle; her son had been released. Six months later he was convicted of another violent crime and sent back to the same prison. The woman, now in her seventies, still boards the 2:00 A.M. bus for Comstock every weekend. Simmons gives her a discount, charging her \$15—the same price she paid on her first trip, in 1983.

The Bare Hill Correctional Facility sits near the town of Malone, fifteen miles south of the Canadian border. The Franklin Correctional Facility is a quarter of a mile down the road, and the future site of a new maximum-security prison is next door. Bare Hill is one of the "cookie cutter" medium-security prisons that were built during the Cuomo administration. The state has built fourteen other prisons exactly like it—a form of penal mass production that saves a good deal of money. Most of the inmates at Bare Hill are housed in dormitories, not cells. The dormitories were designed to hold about fifty inmates, each with his own small cubicle and bunk. In 1990, two years after the prison opened, double-bunking was introduced as a "temporary" measure to ease the overcrowding in county jails, which were holding an overflow of state inmates. Eight years later every dormitory at Bare Hill houses sixty inmates, a third of them double-bunked. About 90 percent of the inmates come from New York City or one of its suburbs, eight hours away; about 80 percent are African-American or Latino. The low walls of the cubicles, which allow little privacy, are covered with family photographs, pinups, religious postcards. Twenty-four hours a day a correctional officer sits alone at a desk on a platform that overlooks the dorm.

The superintendent of Bare Hill, Peter J. Lacy, is genial and gray-haired, tall and dignified in his striped tie, flannels, and blue blazer. His office feels light and cheery. Lacy began his career, in 1955, as a correctional officer at Dannemora; he wore a uniform for twenty-five years, and in the 1980s headed a special unit that handled prison emergencies and riots. He later served as an assistant commissioner of the New York Department of Corrections. One of his sons is now a lieutenant at a downstate prison. As Superintendent Lacy walks through the prison grounds, he seems like a captain surveying his ship, rightly proud of its upkeep, familiar with every detail. The lawns are neatly trimmed, the buildings are well maintained, and the red-brick dorms would not seem out of place on a college campus, except for the bars in the windows. There is nothing oppressive about the physical appearance of Bare Hill, about the ball fields with pine trees in the background, about the brightly colored murals and rustic stencils on the walls, about the classrooms where instructors teach inmates how to read, how to write, how to draw a blueprint, how to lay bricks, how to obtain a Social Security card, how to deal with their anger. For many inmates Bare Hill is the neatest, cleanest, most well-ordered place they will ever live. As Lacy passes a group of inmates leaving their dorms for class, the inmates nod their heads in acknowledgment, and a few of them say, "Hello, sir." And every so often a young inmate gives Lacy a look filled with a hatred so pure and so palpable that it would burn Bare Hill to the ground, if only it could.

The black-and-white photograph shows an inmate leaning out of a prison cell, scowling at the camera, his face partially hidden in the shadows. "HOW HE GOT IN IS YOUR BUSINESS," the ad copy begins. "HOW HE GETS OUT IS OURS." The photo is on the cover of a glossy brochure promoting AT&T's prison telephone service, which is called

The Authority. BellSouth has a similar service, called MAX, advertised with a photo of a heavy steel chain dangling from a telephone receiver in place of a cord. The ad promises "long distance service that lets inmates go only so far." Although the phone companies rely on clever copy in their ads, providing telephone service to prisons and jails has become a serious, highly profitable business. The nearly two million inmates in the United States are ideal customers: phone calls are one of their few links to the outside world; most of their calls must be made collect; and they are in no position to switch long-distance carriers. A pay phone at a prison can generate as much as \$15,000 a year—about five times the revenue of a typical pay phone on the street. It is estimated that inmate calls generate a billion dollars or more in revenues each year. The business has become so lucrative that MCI installed its inmate phone service, Maximum Security, throughout the California prison system at no charge. As part of the deal it also offered the California Department of Corrections a 32 percent share of all the revenues from inmates' phone calls. MCI Maximum Security adds a \$3.00 surcharge to every call. When free enterprise intersects with a captive market, abuses are bound to occur. MCI Maximum Security and North American Intelcom have both been caught overcharging for calls made by inmates; in one state MCI was adding an additional minute to every call.

Since 1980 spending on corrections at the local, state, and federal levels has increased about fivefold. What was once a niche business for a handful of companies has become a multibillion-dollar industry with its own trade shows and conventions, its own Web sites, mail-order catalogues, and direct-marketing campaigns. The prison-industrial complex now includes some of the nation's largest architecture and construction firms, Wall Street investment banks that handle prison bond issues and invest in private prisons, plumbing-supply companies, food-service companies, health-care companies, companies that sell everything from bullet-resistant security cameras to padded cells available in a "vast color selection." A directory called the [Corrections Yellow Pages](#) lists more than a thousand vendors. Among the items now being advertised for sale: a "violent prisoner chair," a sadomasochist's fantasy of belts and shackles attached to a metal frame, with special accessories for juveniles; B.O.S.S., a "body-orifice security scanner," essentially a metal detector that an inmate must sit on; and a diverse line of razor wire, with trade names such as Maze, Supermaze, Detainer Hook Barb, and Silent Swordsman Barbed Tape.

As the prison industry has grown, it has assumed many of the attributes long associated with the defense industry. The line between the public interest and private interests has blurred. In much the same way that retired admirals and generals have long found employment with defense contractors, correctional officials are now leaving the public sector for jobs with firms that supply the prison industry. These career opportunities did not exist a generation ago. Fundamental choices about public safety, employee training, and the denial of personal freedoms are increasingly being made with an eye to the bottom line.

One clear sign that corrections has become a big business as well as a form of government service is the emergence of a trade newspaper devoted to the latest trends in

the prison and jail marketplace. *Correctional Building News* has become the *Variety* of the prison world, widely read by correctional officials, investors, and companies with something to sell. Eli Gage, its publisher, founded the paper in 1994, after searching for a high-growth industry not yet served by its own trade journal. Gage is neither a cheerleader for the industry nor an outspoken critic. He believes that despite recent declines in violent crime, national spending on corrections will continue to grow at an annual rate of five to 10 percent. The number of young people in the prime demographic for committing crimes, ages fifteen to twenty-four, is about to increase; and the demand for new juvenile-detention centers is already rising. *Correctional Building News* runs ads by the leading companies that build prisons (Turner Construction, CRSS, Brown & Root) and the leading firms that design them (DMJM, the DLR Group, and KMD Architects). It features a product of the month, a facility of the month, and a section titled "People in the News." An advertisement in a recent issue promoted electrified fences with the line "Don't Touch!"

Private prison companies are the most obvious, the most controversial, and the fastest-growing segment of the prison-industrial complex. The idea of private prisons was greeted with enthusiasm during the Reagan and Bush Administrations; it fit perfectly with a belief in small government and the privatization of public services. The Clinton Administration, however, has done far more than its Republican predecessors to legitimize private prisons. It has encouraged the Justice Department to place illegal aliens and minimum-security inmates in private correctional facilities, as part of a drive to reduce the federal work force. The rationale for private prisons is that government monopolies such as old-fashioned departments of corrections are inherently wasteful and inefficient, and the private sector, through competition for contracts, can provide much better service at a much lower cost. The privatization of prisons is often described as a "win-win" outcome. A private-prison company generally operates a facility for a government agency, or builds and operates its own facility. The nation's private prisons accepted their first inmates in the mid-1980s. Today at least twenty-seven states make use of private prisons, and approximately 90,000 inmates are being held in prisons run for profit.

The living conditions in many of the nation's private prisons are unquestionably superior to conditions in many state-run facilities. At least forty-five state prison systems are now operating at or above their intended capacity. In twenty-two states prisons are operating under court-ordered population caps. In fifteen states prison conditions are being monitored by the courts. Life in the aging, overcrowded prisons operated by many state agencies is dangerous and degrading. Most of the 34,000 state inmates currently being held in the nation's jails for lack of available prison cells live in conditions that are even worse. Private prisons tend to be brand-new, rarely overcrowded, and less likely to house violent offenders. Moreover, some private prisons offer programs, such as drug treatment and vocational training, that a number of state systems have cut back. And yet something inherent in the idea of private prisons seems to invite abuse.

The economics of the private-prison industry are in many respects similar to those of the lodging industry. An inmate at a private prison is like a guest at a hotel—a guest whose

bill is being paid and whose check-out date is set by someone else. A hotel has a strong economic incentive to book every available room and encourage every guest to stay as long as possible. A private prison has exactly the same incentive. The labor costs constitute the bulk of operating costs for both kinds of accommodation. The higher the occupancy rate, the higher the profit margin. Although it might seem unlikely that a private prison would ever try to keep an inmate longer than was necessary for justice to be served, New York State's experience with the "fee system" during the nineteenth century suggests that the temptation to do so is hard to resist. Under the fee system local sheriffs charged inmates for their stay in jail. A 1902 report by the Correctional Association of New York harshly criticized this system, warning that judges might be inclined to "sentence a man to jail where he may be a source of revenue to a friendly sheriff." Whenever the fee system was abolished in a New York county, the inmate population dropped—by as much as half. Last year a Prudential Securities report on private prisons described some of the potential risks for the industry: a falling crime rate, shorter prison sentences, a move toward alternative sentences, and changes in the nation's drug laws. Nonetheless, the report concluded that "the industry appears to have excellent prospects."

Private-prison companies can often build prisons faster and at lower cost than state agencies, owing to fewer bureaucratic delays and less red tape. And new prisons tend to be much less expensive to operate than the old prisons still used in many states. But most of the savings that private-prison companies offer are derived from the use of nonunion workers. Labor represents 60 to 80 percent of the operating costs at a prison. Although private-prison companies are now moving into northern states and even signing agreements with some labor unions, the overwhelming majority of private-prison cells are in southern and southwestern states hostile to unions. Correctional officers in these private prisons usually earn lower wages than officers employed by state governments, while receiving fewer benefits and no pension. Some private-prison companies offer their uniformed staff stock options as a retirement plan; the long-term value of the stock is uncertain. The sort of cost-cutting imposed on correctional officers does not extend to managers and administrators. They usually earn much more than their counterparts in the public sector—a fact that greatly increases the potential for conflicts of interest and official corruption.

Last year a videotape of beatings at a private correctional facility in Texas provoked a great deal of controversy. The tape showed correctional officers at the Brazoria County Detention Center kicking inmates who were lying on the floor, shooting inmates with a stun gun, and ordering a police dog to attack them. The inmates had been convicted of crimes in Missouri, but were occupying rented cells in rural Texas. One of the correctional officers in the video had previously lost his job at a Texas state prison and served time on federal charges for beating an inmate. The Brazoria County videotape received nationwide publicity and prompted Missouri to cancel its contract with Capital Correctional Resources, the private company operating the facility. But the beatings were unusual only because they were captured on tape. Incidents far more violent and surreal have become almost commonplace in the private prisons of Texas.

The private-prison system in Texas arose in response to the violence and disarray of the state system. In 1980 conditions in Texas state prisons were so bad that the federal judge William Wayne Justice ruled that they amounted to "cruel and unusual punishment." He appointed a special overseer for the prison system and ordered the state to provide at least forty square feet of living space for each inmate. By the mid-1980s, however, conditions had grown even worse: Texas prisons were more overcrowded; gang wars between inmates resulted in dozens of murders; and local jails were so crammed with the overflow of state inmates that a number of counties later sued the state for relief. In 1986 Judge Justice threatened the state with a fine of \$800,000 a day unless it came up with a plan to ease the overcrowding in its prisons. While the Texas legislature scrambled to add new prison beds to the system, entrepreneurs sensed that profits could be made from housing state inmates in private facilities. Developers cut deals with sheriffs in impoverished rural counties, providing the capital to build brand-new jails, offering to run them, and promising to share the profits. Privately run correctional facilities sprang up throughout rural Texas, much the way oil rigs were once raised by wildcatters. The founders of one large private-prison developer, N-Group Securities, had previously sold condominiums and run a Houston disco. One critic quoted by the Houston *Chronicle* called the speculative new enterprises "Joe's Bar and Grill and Prisons."

The private-prison building spree in Texas—backed by investors such as Allstate, Merrill Lynch, Shearson Lehman, and American Express—soon faced an unanticipated problem. The State of Texas, under the auspices of a liberal Democratic governor, Ann Richards, began to carry out an ambitious prison-construction plan of its own in 1991, employing inmate labor and adding almost 100,000 new beds in just a few years. In effect the state flooded the market. Private firms turned to "bed brokers" for help, hoping to recruit prisoners from out of state. By the mid-1990s thousands of inmates from across the United States were being transported from overcrowded prison systems to "rent-a-cell" facilities in small Texas towns. The distances involved in this huge migration at times made it reminiscent of the eighteenth-century transport schemes that shipped British convicts and debtors to Australia. In 1996 the Newton County Correctional Center, in Newton, Texas, operated by a company called the Bobby Ross Group, became the State of Hawaii's third largest prison.

The private-prison industry usually charges its customers a daily rate for each inmate; the success or failure of a private prison is determined by the number of "man-days" it can generate. In a typical rent-a-cell arrangement a state with a surplus of inmates will contact a well-established bed broker, such as Dominion Management, of Edmond, Oklahoma. The broker will search for a facility with empty beds at the right price. The cost per man-day can range from \$25 to \$60, depending on the kind of facility and its level of occupancy. The more crowded a private prison becomes, the less it charges for each additional inmate. Facilities with individual cells are more expensive than those with dormitories. Bed brokers earn a commission of \$2.50 to \$5.50 per man-day, depending on how tight the market for prison cells is at the time. The county—which does not operate the prison but simply gives it legal status—sometimes gets a fee of as much as \$1.50 a night for each prisoner. When every bed is filled, the private-prison company, the bed broker, and the county can do quite well.

The interstate commerce in prisoners, like many new industries, developed without much government regulation. In 1996 the State of Texas encountered a number of unexpected legal problems. Its private prisons were housing roughly 5,000 inmates from fourteen states. In August of that year two Oregon sex offenders escaped from a Houston facility operated by the Corrections Corporation of America. The facility normally held illegal aliens, under contract to the Immigration and Naturalization Service. Faced with empty beds, CCA had imported 240 sex offenders from Oregon. Texas officials had no idea that violent offenders from another state were being housed in this minimum-security facility. The escaped prisoners were eventually recaptured—but they could not be prosecuted for escaping, because running away from a private prison was not a violation of any Texas state law. The following month a riot erupted at the Frio Detention Center, a private facility operated by the Dove Development Corporation, which housed about 300 inmates from Utah and Missouri. The Texas Department of Criminal Justice had to send thirty of its officers in riot gear to regain control of the prison. A month later two Utah prisoners, one of them a convicted murderer, escaped from the same facility. A manhunt by state authorities failed to recapture them. Six other Utah inmates had previously escaped from facilities run by Dove Development; three were murderers. Last year the Texas legislature passed a bill that made it illegal for an offender from any state to escape from a private prison and that held the owners of such facilities responsible for any public expense stemming from riots or escapes. Few other states have even attempted to pass legislation dealing with these issues.

The private companies that now transport thousands of inmates across the United States every day face even less government oversight than private-prison companies. Indeed, federal regulations concerning the interstate shipment of cattle are much stricter than those concerning the interstate shipment of prisoners. Sheriff's deputies and U.S. marshals have traditionally been used to pick up inmates in one state and deliver them to another. During the late 1980s private companies began to offer the same service for about half the cost. The firms saved money by employing nonunion guards and making multiple pickups and deliveries on each trip. Prisoners today may spend as long as a month on the road, visiting dozens of states, sitting for days in the backs of old station wagons and vans, locked up alongside defendants awaiting trial and offenders on their way to prison. Driving one of these transport vehicles is a dangerous job, one that combines the stresses encountered by correctional officers with those of long-distance truckers. Moreover, prisoners tend to view their days in transit as an excellent time to attempt an escape. The turnover rate among the transport guards and drivers is high; the pay is relatively low; and training for the job rarely lasts more than a week. As a result, violent criminals are frequently shipped from state to state in the custody of people who are ill equipped to deal with them. Local authorities often don't learn that inmates are passing through their towns until something goes wrong.

In August of 1996 Rick Carter and Sue Smith, the husband-and-wife operators of R and S Prisoner Transport, were taking five murderers and a rapist from Iowa to New Mexico. At a public rest stop in the Texas Panhandle one of the convicts assaulted Carter on the way to the men's room. The others overpowered his wife and seized the van. Carter and Smith, who had set off unarmed, were taken hostage. A passing motorist dialed 911, and

the six inmates were recaptured by Texas police officers after a chase. On July 30 of last year Dennis Patrick Glick—a convicted rapist, sentenced to two life terms, who was being transported from Utah to Arkansas—commandeered a van owned by the Federal Extradition Agency, a private company. One of the guards had fallen asleep, and Glick borrowed his gun. Glick took the guard and seven other inmates hostage in Ordway, Colorado; abandoned the van; took a local rancher hostage; stole two more vehicles and a horse; eluded sixty law-enforcement officers through the night; and was captured the next morning on horseback. In December of last year Homer D. Land, a prisoner being transported from Kansas to Florida, escaped from a van operated by TransCor America. The van had stopped at a Burger King in Owatonna, Minnesota. While one guard went inside and bought eleven hamburgers, the other guard (who had been a TransCor America employee for less than a month) opened the van's back doors for ventilation, enabling Land and two other inmates to get away. Land took a married couple hostage and spent the night at their house in Owatonna before being recaptured in Chicago. The same TransCor America van had been commandeered four days earlier by Whatley Roylene, a prisoner traveling from New Mexico to Massachusetts and facing charges of murder and armed robbery. At a gas station in Sterling, Colorado, Roylene grabbed a shotgun from a sleeping guard. Officers from the Colorado state police and the local sheriff's department surrounded the van; the standoff ended, according to a local official, when other prisoners persuaded Roylene to hand over the gun.

The Bobby Ross Group, based in Austin, Texas, has proved to be one of the more troubled private-prison companies. The company's founder, Bobby Ross, was a sheriff in Texas and a successful bed broker before starting his own business, in 1993. He eventually set up operations at seven Texas facilities and one Georgia facility, signing contracts to accept inmates from states including Colorado, Hawaii, Montana, Missouri, Oklahoma, and Virginia. It did not take long for problems to begin. In January of 1996 nearly 500 Colorado inmates, many of them sex offenders, were transferred to a Bobby Ross facility in Karnes County, Texas; two later escaped, and a full day passed before state authorities were notified. At the Bobby Ross prison in Dickens County, Texas, fights broke out between inmates from Montana and Hawaii that spring. A few months later a protest about the poor quality of food and medical care turned into a riot, and the warden ordered guards to shoot live rounds. The warden was replaced.

Montana canceled its contract with the Bobby Ross Group in September of last year. Three Montana inmates had escaped, and one had been killed by an inmate from Hawaii. Montana investigators found that many of the inmates at the Dickens County prison were going hungry and waiting days to see a doctor. "We really dislike losing a customer," an attorney representing Bobby Ross said to a reporter. In October an inspector for the [Texas Commission on Jail Standards](#) gave the Dickens County prison the highest possible ratings. A month later the same inspector acknowledged that in addition to his official duties he worked as a "consultant" for the Bobby Ross Group, which paid him \$42,000 a year. In December eleven inmates from Hawaii escaped from their dormitory at the Newton County facility operated by Bobby Ross, released nearly 300 other inmates, and set fire to one of the buildings. In February of this year inmates rioted again at Newton and set fire to the prison commissary. In brighter days, before the riots and fires, Bobby

Ross had explained the usefulness of employing William Sessions, the former director of the Federal Bureau of Investigation, as a "special adviser" to the company. "He goes with us on sales calls to potential clients," Ross told a reporter for the Colorado paper *Westword*. "That kind of thing."

The U.S. Corrections Corporation, for years the nation's third largest private-prison company, has encountered legal difficulties even more serious than those of the Bobby Ross Group. In 1993 an investigation by the Louisville *Courier-Journal* discovered that the company was using unpaid prison labor in Kentucky. Inmates were being forced to perform a variety of jobs, including construction work on nine small buildings at the Lee County prison; construction work on one church and renovation work on three others attended by company employees; renovation work on a company employee's game-room business; painting and maintenance at a country club; and painting at a private school attended by a prison warden's daughter. The *Courier-Journal* concluded that "U.S. Corrections has repeatedly profited financially from its misuse of inmate labor." Although the state Department of Corrections confirmed these findings, it took no action against the company. A year later J. Clifford Todd, the chairman of U.S. Corrections, pleaded guilty to a federal charge of mail fraud, admitting that he had paid a total of roughly \$200,000 to a county correctional official in Kentucky. In return for monthly payments, which for four years were laundered through a California company, the official sent inmates to U.S. Corrections. Todd cooperated fully with an FBI investigation, but later became embittered when a federal judge denied his request for a term of house arrest. The head of the nation's third largest private-prison company was sentenced to fifteen months in a federal prison.

The nation's second largest private-prison company, Wackenhut Corrections, has operated with a far greater degree of professionalism and discretion. Its parent company, the Wackenhut Corporation, has for many years worked closely with the federal government, performing various sensitive tasks such as guarding nuclear-weapons facilities and overseas embassies. Indeed, the company has long been accused of operating as a front for the Central Intelligence Agency—an accusation that its founder, George Wackenhut, has vehemently denied. In the early 1950s Wackenhut quit the FBI, at the age of thirty-four, and formed a private-security company with three other former FBI agents. He went on to assemble the nation's largest private collection of files on alleged "subversives," with dossiers on at least three million Americans. During the 1970s the Wackenhut Corporation diversified into strike-breaking and anti-terrorism. The company, headquartered in Palm Beach Gardens, Florida, has branch offices in forty-two states and in more than fifty foreign countries. Its annual revenues exceed \$1 billion. George Wackenhut remains the chairman of the company, but the day-to-day operations are handled by his son, Richard. Over the years Wackenhut's board of directors has read like a Who's Who of national security, including a former head of the FBI, a former head of the Defense Intelligence Agency, a former CIA director, a former CIA deputy director, a former head of the Secret Service, a former head of the Marine Corps, and a former Attorney General. After the company decided to enter the private-prison industry, it hired Norman Carlson, who had headed the Federal Bureau of Prisons.

Last year Wackenhut Corrections became the first private company ever hired by the Federal Bureau of Prisons to manage a large facility. The federal government's long-standing relationship with Wackenhut has developed an odd equilibrium: one wields the power while the other reaps the financial rewards. Kathleen Hawk Sawyer, the current director of the Federal Bureau of Prisons, is responsible for the supervision of about 115,000 inmates, including drug lords, international terrorists, and organized-crime leaders. Her salary last year was \$125,900. George C. Zoley, the chief executive officer of Wackenhut Corrections, is responsible for the supervision of about 25,000 state and federal inmates, mostly illegal aliens, low-level drug offenders, petty thieves, and parole violators. His salary last year was \$366,000—plus a bonus of \$122,500, plus a stock-option grant of 20,000 shares. At least half a dozen other executives at Wackenhut Corrections were paid more last year than the head of the Federal Bureau of Prisons.

The Corrections Corporation of America is the nation's largest private-prison company; it recently participated in a buyout of the U.S. Corrections Corporation, thereby obtaining several thousand additional inmates. CCA was founded in 1983 by Thomas W. Beasley and Doctor R. Crants, Nashville businessmen with little previous experience in corrections. Beasley, a former chairman of the Tennessee Republican Party, later told *Inc.* magazine his strategy for promoting the concept of private prisons: "You just sell it like you were selling cars, or real estate, or hamburgers." Beasley and Crants recruited a former director of the Virginia Department of Corrections to help run the company. In 1984 CCA accepted its first Texas inmates, before it had a completed facility in that state. The inmates were housed in rented motel rooms; a number of them pushed the air-conditioning units out of the wall and escaped. A year later Beasley approached his good friend Lamar Alexander, the governor of Tennessee, with an extraordinary proposal: CCA would buy the state's entire prison system for \$250 million. Alexander supported the idea, saying, "We don't need to be afraid in America of people who want to make a profit." His wife, Honey, and the speaker of the Tennessee House, Ned McWherter, were among CCA's early investors; between them the two had owned 1.5 percent of CCA's stock; they sold their shares to avoid any perceived conflict of interest. Nevertheless, the CCA plan was blocked by the Democratic majority in the legislature.

CCA expanded nationwide over the next decade, winning contracts to house more than 40,000 inmates and assembling the sixth largest prison system in the United States; but it never lost the desire to take over all the prisons in Tennessee. In order to achieve that goal, CCA executives established personal and financial links with figures in both political parties. During the spring of last year CCA's allies in the Tennessee legislature began once again to push for privatization. Crants said that letting CCA run the prisons would save the state up to \$100 million a year; he did not specify how these dramatic savings would be achieved. George Zoley, the head of Wackenhut Corrections, argued that handing over the Tennessee prison system to a single company would simply turn a state monopoly into a private one. Wackenhut employed the law firm of the former U.S. senator Howard Baker to lobby on its behalf, seeking a piece of the action.

By February of this year a compromise of sorts had emerged in Tennessee. New legislation proposed shifting as much as 70 percent of the state's inmate population to the

private sector; CCA and Wackenhut would both get a chance to bid for prison contracts. The new privatization bill seemed a sure thing. It was never put before the legislature for a vote, however. On April 20 CCA announced plans for a corporate restructuring so complex in its details that many Wall Street analysts began to wonder about the company's financial health. The price of CCA stock—which in recent years had been one of the nation's top performers—began to plummet, declining in value by 25 percent over the next several days. At the annual CCA shareholders meeting, last May, Crants compared Wall Street investors to "wildebeests" stampeding out of fear, and blamed the stock's plunge on a single broker who had sold 640,000 shares.

Crants neglected to tell CCA shareholders a crucial bit of information: he himself had sold 200,000 shares of CCA stock just weeks before the announcement that sent its value tumbling. By selling his stock on March 2, Crants had avoided a loss of more than \$2.5 million. When asked recently to explain his CCA financial dealings, Crants declined to comment. The timing and the size of that stock transaction are likely to be of interest to the attorneys who have filed more than half a dozen lawsuits on behalf of CCA shareholders.

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A group of Latino gang members had launched an attack on a group of African-American gang members, catching them by surprise and stabbing them with homemade weapons. The fighting soon spread to the other inmates in the exercise yard, who divided along racial lines. As many as 200 inmates were involved in the riot. Correctional officers instructed everyone in the yard to get down; they fired warning shots, rubber bullets, and then live rounds. When Hubbard arrived at the yard, about a hundred inmates had dropped to the ground and another hundred were still fighting. The captain in charge of the unit stood among a group of inmates, telling them, "Sit down, get down, we'll take care of this." Hubbard and the other officers circulated in the yard, calling prisoners by name, telling them to get down. It took thirty minutes to quell the riot. Twelve correctional officers were injured while trying to separate combatants. Six inmates were stabbed, and five were shot. Victor Hugo Flores, an inmate serving an eighteen-year sentence for voluntary manslaughter and attempted murder, was killed by gunfire.

Hubbard finds working in the California penal system to be stressful but highly rewarding. She tries to defuse tensions by talking and listening to the inmates on the

yards. She and her officers routinely place themselves at great risk. Last year 2,583 staff members were assaulted by inmates in California. Thousands of the inmates are HIV-positive; thousands more carry hepatitis C. Officers have lately become the target of a new form of assault by inmates, known as gassing. Being "gassed" means being struck by a cup or bag containing feces and urine. The California prison system, especially its Level 4 facilities, is full of warring gangs—members of the Crips, the Bloods, the Fresno Bulldogs, the Aryan Brotherhood, the Nazi Lowriders, the Mexican Mafia, and the Black Guerrilla Family, to name a few. In addition to the organized violence, there are random acts of violence. On June 15 of last year a correctional officer was attacked by an inmate in the infirmary at New Folsom. The officer, Linda Lowery, was savagely beaten and kicked, receiving severe head wounds. Her attacker was serving a four-year sentence for assaulting an officer.

California's correctional officers are not always the victims when violence occurs behind bars; in recent months they have been linked to several widely publicized acts of brutality. At Pelican Bay State Prison at least one officer conspired with inmates to arrange assaults on convicted child molesters. At Corcoran State Prison officers allegedly staged "gladiator days," in which rival gang members were encouraged to fight, staff members placed bets on the outcome, and matches often ended with inmates being shot. As the FBI investigates alleged abuses at Corcoran and allegations of an official cover-up, correctional officers are feeling misrepresented and unfairly maligned by the media—only adding to the tension in California's prisons.

The level of violence in the California penal system is actually lower today than it was a decade ago. But the rate of assaults among inmates has gradually climbed since its low point, in 1991. Studies have linked double-bunking and prison overcrowding with higher rates of stress-induced mental disorders, higher rates of aggression, and higher rates of violence. In the state's Level 4 prisons almost every cell is now double-bunked. The fact that more bloodshed has not occurred is a testament to the high-tech design of the new prisons and the skills of their officers. Nevertheless, Cal Terhune, the director of the California Department of Corrections, worries about how much more stress the system can bear, and about how long it can go without another riot. "We're sitting on a very volatile situation," Terhune says. "Every time the phone rings here, I wonder ..."

Thirty years ago California was renowned for the liberalism of its criminal-justice system. In 1968 an inmate bill of rights was signed into law by Ronald Reagan, then the governor of California. More than any other state, California was dedicated to the rehabilitative ideal, to the belief that a prison could take a criminal and "cure" him, set him on the right path. California's prisons were notable for their many educational and vocational programs and their group-therapy sessions. In those days every state in the country had a system of indeterminate prison sentences. The legislature set the maximum sentence for a crime, and judges and parole boards tried to make the punishment fit the individual. California's system was the most indeterminate: the sentence for a given offense might be anything from probation to life. The broad range of potential sentences gave enormous power to the parole board, known as the Adult Authority; a prisoner's

release depended on its evaluation of how well his "treatment" was proceeding. One person might serve ten months and another person ten years for the same crime.

Although indeterminate sentencing had many flaws, one of its virtues was that it gave the state a means of controlling the size of the prison population. If prisons grew too full, the parole board could release inmates who no longer seemed to pose a threat to public safety. Governor Reagan used the Adult Authority to reduce the size of California's inmate population, giving thousands of prisoners an early release and closing one of the state's prisons. By the mid-1970s, however, the Adult Authority had come under attack from an unusual coalition of liberals, prisoners, and conservative advocates of law and order. Liberals thought that the Adult Authority discriminated against minorities, making them serve longer sentences. Prisoners thought that it was unfair; after all, they were still in prison. Conservatives thought that it was too soft, allowing too many criminals back on the street too soon. And no one put much faith in the rehabilitative effects of prison. In 1971 seventeen inmates and seven staff members were killed in California prisons. The following year thirty-five inmates and one staff member were killed.

California was one of the first states in the nation to get rid of indeterminate sentencing. The state's new law required inmates to serve the sentence handed down by the judge, with an allowance for "good time," which might reduce a prison term by half. The law also amended the section of the state's penal code that declared the ultimate goals of imprisonment: the word "rehabilitation" was replaced by the word "punishment." In 1976 the bill was endorsed and signed into law by a liberal Democrat, Governor Jerry Brown.

As liberalism gave way to demands for law and order, California judges began to send a larger proportion of convicted felons to prison and to give longer sentences. The inmate population started to grow. Sentencing decisions made at the county level, by local prosecutors and judges, soon had a major impact on the state budget, which covered the costs of incarceration. Tax cuts mandated by Proposition 13 meant that county governments were strapped for funds and could not maintain local jails properly or pay for community-based programs that administered alternative sentences. Offenders who might once have been sent to a local jail or a halfway house were now sent to a state prison. California's criminal-justice system slowly but surely spun out of control. The state legislature passed hundreds of bills that required tough new sentences, but did not adequately provide for their funding. Judges sent people to prison without giving any thought to where the state would house them. And the Department of Corrections was left to handle the flood of new inmates, unable to choose how many it would accept or how many it would let go.

In 1977 the inmate population of California was 19,600. Today it is 159,000. After spending \$5.2 billion on prison construction over the past fifteen years, California now has not only the largest but also the most overcrowded prison system in the United States. The state Department of Corrections estimates that it will need to spend an additional \$6.1 billion on prisons over the next decade just to maintain the current level of overcrowding. And the state's jails are even more overcrowded than its prisons. In 1996 more than 325,000 inmates were released early from California jails in order to make

room for offenders arrested for more-serious crimes. According to a report this year by the state's Little Hoover Commission, in many counties offenders who are convicted of a crime and given sentences of less than ninety days will not even be sent to jail. The state's backlog of arrest warrants now stands at about 2.6 million — the number of arrests that have not been made, the report says, largely because there's no room in the jails. According to one official estimate, counties will need to spend \$2.4 billion over the next ten years to build more jails — again, simply to maintain the current level of overcrowding.

The extraordinary demand for new prison and jail cells in California has diverted funds from other segments of the criminal-justice system, creating a vicious circle. The failure to spend enough on relatively inexpensive sanctions, such as drug treatment and probation, has forced the state to increase spending on prisons. Only a fifth of the felony convictions in California now lead to a prison sentence. The remaining four fifths are usually punished with a jail sentence, a term of probation, or both. But the jails have no room, and the huge caseloads maintained by most probation officers often render probation meaningless. An ideal caseload is about twenty-five to fifty offenders; some probation officers in California today have a caseload of 3,000 offenders. More than half the state's offenders on probation will most likely serve their entire term without ever meeting or even speaking with a probation officer. Indeed, the only obligation many offenders on probation must now fulfill is mailing a postcard that gives their home address.

California parole officers, too, are overwhelmed by their caseloads. The state's inmate population is not only enormous but constantly changing. Last year California sent about 140,000 people to prison — and released about 132,000. On average, inmates spend two and a half years behind bars, and then serve a term of one to three years on parole. During the 1970s each parole agent handled about forty-five parolees; today each agent handles about twice that number. The money that the state has saved by not hiring enough new parole agents is insignificant compared with the expense of sending parole violators back to prison.

About half the California prisoners released on parole are illiterate. About 85 percent are substance abusers. Under the terms of their parole, they are subjected to periodic drug tests. But they are rarely offered any opportunity to get drug treatment. Of the approximately 130,000 substance abusers in California's prisons, only 3,000 are receiving treatment behind bars. Only 8,000 are enrolled in any kind of pre-release program to help them cope with life on the outside. Violent offenders, who need such programs most of all, are usually ineligible for them. Roughly 124,000 inmates are simply released from prison each year in California, given nothing more than \$200 and a bus ticket back to the county where they were convicted. At least 1,200 inmates every year go from a secure housing unit at a Level 4 prison — an isolation unit, designed to hold the most violent and dangerous inmates in the system — right onto the street. One day these predatory inmates are locked in their cells for twenty-three hours at a time and fed all their meals through a slot in the door, and the next day they're out of prison, riding a bus home.

Almost two thirds of the people sent to prison in California last year were parole violators. Of the roughly 80,000 parole violators returned to prison, about 60,000 had committed a technical violation, such as failing a drug test; about 15,000 had committed a property or a drug crime; and about 3,000 had committed a violent crime, frequently a robbery to buy drugs. The gigantic prison system that California has built at such great expense has essentially become a revolving door for poor, highly dysfunctional, and often illiterate drug abusers. They go in, they get out, they get sent back, and every year there are more. The typical offender being sent to prison in California today has five prior felony convictions.

The California legislature has not authorized a new bond issue for prison construction since 1992, deadlocked over the cost. Meanwhile, the state's "Three Strikes, You're Out" law has been steadily filling prison cells with long-term inmates. Don Novey, the head of the California Correctional Peace Officers Association (CCPOA), helped to gain passage of the law. He now worries that if California's prison system becomes much more overcrowded, a federal judge may order a large-scale release of inmates. Novey has proposed keeping some nonviolent offenders out of prison, allowing judges to give them suspended sentences and a term of probation instead. He has also advocated a way to save money while expanding the penal system: build "mega-prisons." California already builds and operates the biggest prisons in the United States. A number of California prisons now hold more than 6,000 inmates — about sixtimes the nationwide average. The mega-prisons proposed by the CCPOA would house up to 20,000 inmates. A few new mega-prisons, Novey says, could satisfy California's demand for new cells into the next century.

Correctional officials see prison overcrowding as grounds for worry about potential riots, bloodshed, and court orders; others see opportunity. "It has become clear over the past several months," Doctor R. Crants said earlier this year, "that California is one of the most promising markets CCA has, with a burgeoning need for secure, cost-effective prison beds at all levels of government." In order to get a foothold in that market, CCA announced it would build three prisons in California entirely on spec — that is, without any contract to fill them. "If you build it in the right place," a CCA executive told *The Wall Street Journal*, "the prisoners will come." Crants boasted to the *Tennessean* that California's private-prison industry will be dominated by "CCA alone." Executives at Wackenhut Corrections think otherwise. Wackenhut already houses almost 2,000 of California's minimum-security inmates at facilities in the state. The legislature has recently adopted plans to house an additional 2,000 minimum-security inmates in private prisons. Wackenhut and CCA have opened offices in Sacramento and hired expensive lobbyists. The CCPOA vows to fight hard against the private-prison companies and their anti-union tactics. "They can build whatever prisons they want," Don Novey says. "But the hell if they're going to run them." One of the new CCA prisons is rising in the Mojave Desert outside California City, at a cost of about \$100 million. The company is gambling that cheap, empty prison beds will prove irresistible to California lawmakers. The new CCA facility promises to be a boon to California City once the inmates start arriving. The town has been hit hard by layoffs at Edwards Air Force Base, which is nearby. Mayor Larry Adams, asked why he wanted a prison, said, "We're a desperate city."

Alexis de Tocqueville's *Democracy in America* is one of the most famous books ever written about the politics and culture of the United States. The original purpose of Tocqueville's 1831 journey to this country is less well known. He came to tour its prisons on behalf of the French government. The United States at the time was renowned in Europe for having created a whole new social institution: the penitentiary. In New York and Pennsylvania prisons were being designed not to punish inmates but to reform them. Solitary confinement, silence, and hard work were imposed in order to encourage spiritual and moral change. At some penitentiaries officials placed hoods over the heads of newcomers to isolate them from other inmates. After visiting American prisons Tocqueville and his traveling companion, Gustave de Beaumont, wrote that social reformers in the United States had been swept up in "the monomania of the penitentiary system," convinced that prisons were "a remedy for all the evils of society."

The historian David J. Rothman, author of *The Discovery of the Asylum* (1971), has noted one of the ironies of America's early-nineteenth-century fondness for prisons. The idea of the penitentiary took hold at the height of Jacksonian democracy, when freedom and the spirit of the common man were being widely celebrated. "At the very moment that Americans began to pride themselves on the openness of their society, when the boundless frontier became the symbol of opportunity and equality," Rothman observes, "notions of total isolation, unquestioned obedience, and severe discipline became the hallmarks of the captive society." More than a century and a half later political rhetoric about small government and the virtues of the free market is being accompanied by an eagerness to deny others their freedom. The hoods now placed on inmates in the isolation units at maximum-security prisons are not intended to rehabilitate. They are designed to protect correctional officers from being bitten or spat upon.

The standard justification for today's prisons is that they prevent crime. The rate of violent crime in the United States has indeed been declining since 1991. The political scientist James Q. Wilson, among many others, believes that the recent rise in the nation's incarceration rate has been directly responsible for the decrease in violent crime. Although the validity of the theory seems obvious (murderers and rapists who are behind bars can no longer kill and rape ordinary citizens), it is difficult to prove. Michael Tonry, a professor of law and public policy at the University of Minnesota, is an expert on international sentencing policies and an advocate of alternative punishments for nonviolent offenders. He acknowledges that the imprisonment of almost two million Americans has prevented some crimes from being committed. "You could choose another two million Americans at random and lock them up," Tonry says, "and that would reduce the number of crimes too." But demographics and larger cultural trends may be responsible for most of the decline in violent crime. Over the past decade Canada's incarceration rate has risen only slightly. Nevertheless, the rate of violent crime in Canada has been falling since 1991. Last year the homicide rate fell by nine percent. The Canadian murder rate has now reached its lowest level since 1969.

Christopher Stone, the head of New York's Vera Institute of Justice, believes that prisons can be "factories for crime." The average inmate in the United States spends only two years in prison. What happens during that time behind bars may affect how he or she will

behave upon release. The lesson being taught in most American prisons—where violence, extortion, and rape have long been routine—is that the strong will always rule the weak. Inmates who display the slightest hint of vulnerability quickly become prey. During the 1950s and 1960s prison gangs were formed in California and Illinois as a means of self-protection. Those gangs have now spread nationwide. The Mexican Mafia and the Aryan Brotherhood have gained power in Texas prisons. The Gangsta Killer Bloods and the Sex Money Murder Bloods have emerged in New York prisons. America's prisons now serve as networking and recruiting centers for gang members. The differences between street gangs and prison gangs have become less distinct. The leaders of prison gangs increasingly direct illegal activity both inside and outside. A 1996 investigation by the Chicago Tribune found that gangs had gained extraordinary control over the state prisons in Illinois: formal classes at the Stateville prison law library had taught the history and rules of the Maniac Latin Disciples; a leader of the Gangster Disciples had at various times kept cellular phones, a color television, a stereo, a Nintendo Game Boy, a portable washing machine, and up to a hundred pounds of marijuana in his cell. Many of the customs, slang, and tattoos long associated with prison gangs have become fashionable among young people. In cities throughout America, the culture of the prisons is rapidly becoming the culture of the streets.

The spirit of every age is manifest in its public works, in the great construction projects that leave an enduring mark on the landscape. During the early years of this century the Panama Canal became President Theodore Roosevelt's legacy, a physical expression of his imperial yearnings. The New Deal faith in government activism left behind huge dams and bridges, post offices decorated with murals, power lines that finally brought electricity to rural America. The interstate highway system fulfilled dreams of the Eisenhower era, spreading suburbia far and wide; urban housing projects for the poor were later built in the hopes of creating a Great Society.

"The era of big government is over," President Bill Clinton declared in 1996—an assertion that has proved false in at least one respect. A recent issue of "Construction Report," a monthly newsletter published by *Correctional Building News*, provides details of the nation's latest public works: a 3,100-bed jail in Harris County, Texas; a 500-bed medium-security prison in Redgranite, Wisconsin; a 130-bed minimum-security facility in Oakland County, Michigan; two 200-bed housing pods at the Fort Dodge Correctional Facility, in Iowa; a 350-bed juvenile correctional facility in Pendleton, Indiana; and dozens more. The newsletter includes the telephone numbers of project managers, so that prison-supply companies can call and make bids. All across the country new cellblocks rise. And every one of them, every brand-new prison, becomes another lasting monument, concrete and ringed with deadly razor wire, to the fear and greed and political cowardice that now pervade American society.