

# **GACC CRIMINAL JUSTICE**

## **INSTRUCTOR: (RET.) Lt. JACK GRENNES**

### **Chapter 11**

#### **Prison Life, Inmate Rights, Release, and Recidivism**

##### **Chapter Objectives**

1. Distinguish between the deprivation and importation models of inmate society.
2. Explain how today's inmate society differs from those of the past.
3. Identify some of the special features of life in women's prisons.
4. Describe the profile of correctional officers and explain some of the issues that they face
5. Identify prisoners' rights and relate how they were achieved.
6. List the two most common ways that inmates are released from prison and compare those two ways in frequency of use.
7. Summarize what recidivism research reveals about the success of the prison in achieving deterrence and rehabilitation.

##### **Lecture Outline**

- I. Living in Prison
  - A. Inmate Society
    1. Total institutions: An institutional setting in which people sharing some characteristics are cut off from the wider society and expected to live according to institutional rules and procedures.
    2. Convict code: A constellation of values, norms, and roles that regulate the way inmates interact with one another and with prison staff.
    3. Deprivation model: A theory that the inmate society arises as a response to the prison environment and the painful conditions of confinement.
    4. Importation model: A theory that the inmate society is shaped by the attributes inmates bring with them when they enter prison.
    5. Prisonization: The process by which an inmate becomes socialized into the customs and principles of the inmate society. This was an idea originally developed by Donald Clemmer.
    6. Violence and victimization

## 7. Inmate coping and adjustment

### B. Life in Women's Prisons

Life in a women's prison is similar to life in men's prisons in some respects, but there are also important differences.

#### 1. Pseudofamilies:

A distinguishing feature of the inmate society in many women's prisons is the presence of make-believe families, known as Pseudofamilies. Studies have shown that female inmates adopt family roles, such as mother, daughter, sister, husband, and father to form kinship networks.

#### 2. Homosexuality:

In women's prisons, the overwhelming majority of homosexual activity is consensual and is rooted in affection and attachment instead of dominance motives.

## II. Correctional Officers

Gordon Hawkins once wrote, "It is in fact remarkable how little serious attention has been paid to prison officers in the quite extensive literature on prisons and imprisonment." While the research on correctional officers is better today, there is still much we do not know about correctional officers.

#### 1. Officers face a number of conflicts in their work.

- a. Both boredom and stimulus overload
- b. Role ambiguity and role strain resulting from conflict between custody and treatment objectives
- c. Limitation of the power of guards

#### 2. How do officers respond to their roles and their work conditions?

- a. Some become alienated and cynical and withdraw from their work.
- b. Some officers become overly authoritarian and confrontational in a quest to control inmates by confrontation
- c. Some officers adopt a human-services orientation toward their work.

## III. Inmate Rights and Prison Reform

Until the middle of the 20th century the Court followed a "hand-off philosophy" toward prison matters. A hand-off philosophy meant the courts are reluctant to hear prisoners' claims regarding their rights while incarcerated. That changed with the Warren Court during the 60's

### A. Access to the Courts and Legal Services

1. In its 1941 landmark ruling in *Ex parte Hull*, the Supreme Court granted inmates the right of unrestricted access to the federal courts.
2. Habeas Corpus: A court order requiring that a confined person be brought to court so that his or her claims can be heard. This was allowed to challenge the existence of confinement.

3. *Cooper v Pate* established that an inmate could use Section 1983 of the Federal Civil Rights Act of 1871 to challenge the conditions of confinement.
4. *Johnson v. Avery* (1969), the Court held that inmates skilled in legal matters, so called jailhouse lawyers, must be permitted to assist other inmates in preparing cases unless the government provides a reasonable alternative.

#### B. Procedural Due Process in Prison

1. *Wolff v McDonnell*: The Court held that although inmates facing a loss of good time for a rule infraction are not entitled to the same due process protections as in a criminal trial, such inmates are entitled to (1) a disciplinary hearing by an impartial body, (2) 24 hours written notice of the charges, (3) a written statement of the evidence relied on and the reasons for the disciplinary action, and (4) an opportunity to call witnesses and present documentary evidence, provided that this does not jeopardize institutional security. The Court ruled that inmates are not entitled to confront and cross-examine people who testify against them or to have legal counsel.

#### C. First Amendment Rights

1. The First Amendment to the Constitution guarantees freedom of speech, press, assembly, petition, and religion. The Court has rendered numerous decisions affecting prisoners' rights to freedom of speech and expression and freedom of religion.

**Lecture Tip:** The students are always interested in discussing how much religion should be allowed in the prison system. Some students think a convict should have no rights in prison at all. Challenge their views on this subject and remind them that the prison was started by religious men to teach proper moral values to the prisoners.

2. In *Procunier v. Martinez* (1974), the Court ruled that censorship is legal only if it furthers one or more of the following substantial government interests: security, order, and rehabilitation. Moreover, the degree of censorship can be no greater than that required to preserve the government interest in question.
3. The first substantive right won by inmates was freedom of religion, which was awarded to Black Muslims in *Cooper v. Pate*.

#### D. Eighth Amendment Rights

1. **Medical Care:** In 1976, the Court decided *Estelle v.*

Gamble. The Court ruled that inmates, under the 8th Amendment, have a right to adequate medical care, but that inmates claiming 8th Amendment violations on medical grounds must demonstrate that prison officials have shown deliberate indifference to serious medical problems.

2. Staff Brutality: Whipping and related forms of corporal punishment have been prohibited under the 8th Amendment.
3. Total Prison Conditions: Totality-of-conditions casers involve claims that some combination of prison practices and conditions (overcrowding, brutality, etc.) makes the prison, as a whole, unconstitutional. In the famous case of *Holt v. Sarver* (1971) the entire Arkansas prison system was declared unconstitutional.

**Lecture Tip:** The students should be required to view the movie *Brubaker*, starring Robert Redford. This movie is loosely based on the *Holt v. Sarver* case.

E. Fourteenth Amendment Rights

- F. The Limits of Litigation: It is unfortunate that prisoners have had to win their basic rights through the court system. It is a very expensive and piecemeal way to achieve change. It would have been much better if enlighten administrators and legislators would have paved the way for prison reform. It appears that enlighten administrators are difficult to find and enlightened legislators simply do not exist.

### **Critical Thinking p. 404**

1. In comparison to male prisoners, why do you think that there is less violence, interpersonal conflict, and interracial tension in women's prisons?

Answer: There are many possible reasons. One is that female prisoners have a lower rate of violent offenders; another is the customs and traditions of women's prisons, which place emphasis on pseudofamilies that cut across racial lines.

2. Should very young children of incarcerated women be allowed to temporarily live with their mothers in prison? Why or why not?

Answer: This is a debatable topic, although many students will agree that infants and toddlers should be allowed to be with their mothers.