American Corrections 12th edition Clear Solutions Manual

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CHAPTER 2
The Early History of Correctional Thought and Practice

LEARNING OBJECTIVES

After reading this chapter, students should be able to:

1. Describe the major forms of punishment from the Middle Ages to the American Revolution.
2. Discuss the Enlightenment and how it affected corrections.
3. Identify the contribution of Cesare Beccaria and the classical school.
4. Explain the contribution of Jeremy Bentham and the utilitarians.
5. Discuss the work of John Howard and its influence on correctional reform.

LESSON PLAN

Correlated to PowerPoints

2-11

I. **From the Middle Ages to the American Revolution**

Learning Objective 1: Describe the major forms of punishment from the Middle Ages to the American Revolution.

1. The Code of Hammurabi, the Sumerian Law of Mesopotamia, and other ancient codes form some of the first comprehensive statements of prohibited behavior.
2. These documents covered different types of offenses and descriptions of punishment imposed on accused individuals.
3. Other countries began imposing sanctions on their people following suit of these laws.
4. *Lex talionis* was the law of retaliation and underlay the laws of Anglo-Saxon society until the time of the Norman conquest in 1066 in England.
5. *Secular law* developed in England and Europe in the absence of an organized government. Crime among neighbors took the character of war and public peace was endangered.
6. In the year 1200, England developed a system of *wergild*, or payment of money as compensation for a wrong as a way of reducing the frequency of violent blood feuds.
7. The main emphasis of criminal law was on maintaining public order among people of equal status and wealth; the main criminal punishments were penance and the payment of fines or restitution, while lower-class accused individuals received physical punishment at the hands of their masters.

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8. The church, the dominant social institution of the time, maintained ecclesiastical punishments; benefit of clergy was eventually granted to all literate persons.

A. Galley Slavery
   1. The practice of forcing men to power ships by rowing; it was not formally abolished in Europe until the mid-1700s.

B. Imprisonment
   1. Until the Middle Ages, jails were used primarily for the detention of people awaiting trial.
   2. House of correction concept was born during this time.
   3. Bridewell House—Houses of Correction, Milan House of Correction, Maison de Force.

C. Transportation
   1. From ancient times, people who have disobeyed the rules of a community have been cast out or banished.
   2. English incarcerated individuals could choose transportation instead of gallows or whipping posts; by 1606 with the settlement of Virginia, the transportation of convicts to North America became economically important for the colonial companies for whom they labored for the remainder of their terms. It also helped to relieve the overcrowded prisons of England.
   3. Transportation was so successful that, in 1717, a statute was passed allowing convicted individuals to be given over to private contractors, who then shipped them to the colonies and sold their services; this made transportation the standard sanction for non-capital offenses.
   4. The Transportation Act of 1718 made transportation the standard penalty for noncapital offenses.
   5. From 1787 for the next 80 years, 160,000 incarcerated individuals were transported from Great Britain and Ireland to New South Wales and other parts of Australia.

D. Corporal Punishment and Death
   1. Although corporal punishment and death have been used throughout history, the sixteenth through eighteenth centuries in England and Europe were particularly brutal.
   2. The reasons for the rise in the severity of punishments are thought to reflect the expansion of criminal law. The number of crimes for which the English authorized the death penalty swelled from 50 in 1688 to 160 in 1765 and reached 225 by 1800.

Media Tool
Visit http://www.oldbaileyonline.org/static/Punishment.jsp
- Punishments at the Old Bailey: Information about England's methods of execution from the late 1600s
- Discuss as a class. How did these methods of execution aid correctional goals at that time?

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Class Discussion/Activity
Discuss varying methods of punishment here in the United States. Split the class into two groups, and debate the death penalty regardless of students' personal opinions. Allow for an open discussion in class.

What If Scenario
What if all states were using corporal forms of punishment? What would our society be like in terms of criminal activity based on this *lex talionis* concept?

II. **On the Eve of Reform**

A. By the middle of the eighteenth century, economic and social factors (particularly with regard to labor), altered political relationships, changes in the power of the church, and the organization of secular authority combined with revolution in the American colonies, liberal ideas about the relationship between citizen and government, and a belief in human perfectibility set the stage for a shift in penal policies.

B. Because each of these forces was in place by 1770, it is arbitrarily designated as the eve of a crucial period of correctional reform on both sides of the Atlantic.

12-14

III. **The Enlightenment and Correctional Reform**

Learning Objective 2: Discuss the Enlightenment and how it affected corrections.

1. During the eighteenth century, the Enlightenment or the Age of Reason challenged and replaced traditional assumptions with new ideas based on rationalism, the importance of the individual, and the limitation of government.
2. Advances in scientific thinking led to a questioning attitude that emphasized observation, experimentation, and technological development.
3. The Enlightenment represented a liberal reaction against feudal and monarchial tradition.
4. In the eighteenth century, people in England and America and on the European continent began to rethink such matters as the procedures to be used to determine guilt, the limits on a government's power to punish, the nature of criminal behavior, and the best ways to correct accused individuals.
5. They began to reconsider how criminal law should be administered and how to redefine the goals and practices of corrections.

See Assignment 1

15-20

A. Cesare Beccaria and the Classical School

Learning Objective 3: Identify the contribution of Cesare Beccaria and the classical school.

1. Cesare Beccaria and the classical school put forth the idea that the true aim and only justification for punishment is utility: the safety it affords society by

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preventing crime. This perspective was particularly concerned with establishing a rational link between the gravity of a crime and the severity of punishment.

2. Principles of classical criminology:
   a. Greatest good for greatest number of people.
   b. Crime is an injury to society
   c. Prevention of crime is more important than punishment for crime.
   d. Secret accusations and torture must be abolished.
   e. Punishment is crime deterrence.
   f. Imprisonment should be more widely employed.

Media Tool
Visit http://www.iep.utm.edu/beccaria/
- Cesare Beccaria: Visit this site and discuss more about the thinking of Beccaria.
- Discuss as a class. How can Cesare Beccaria's thinking be seen in today's corrections?

What If Scenario
What if we began using the concepts and processes of Beccaria's classical school of thought? How would our society change?

21-22

B. Jeremy Bentham and the "Hedonic Calculus"

Learning Objective 4: Explain the contribution of Jeremy Bentham and the utilitarians.

1. Bentham was one of the most provocative thinkers and reformers of English criminal law and best known for his utilitarian theories, often referred to as his hedonic calculus.
2. According to Bentham, rational persons behave in ways that achieve the most pleasure while bringing the least pain; they are constantly calculating the pluses and minuses of potential actions.
3. Bentham developed plans for a penitentiary based on his utilitarian principles called the Panoptican, or "inspection house."

Media Tool
Visit http://www.historyguide.org/intellect/bentham.html
- Jeremy Bentham
- Discuss as a class. How did Bentham contribute to society? Split the class into groups and debate his ways of thinking.

Class Discussion/Activity
Group students into clusters of three or four. Assign each cluster a crime. Have the students create a "hedonistic calculus" whereby they list the pleasures and pains that the crime could bring. Remind students to include non-tangible consequences. Discuss this in class.

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See Assignment 2

23-25

C. **John Howard and the Birth of the Penitentiary**

Learning Objective 5: Discuss the work of John Howard and its influence on correctional reform.

1. Probably no individual did more for penal reform in England than John Howard—county squire, social activist, and sheriff of Bedfordshire.
2. Along with Sir William Blackstone and William Eden, Howard drafted the Penitentiary Act of 1779, which called for the creation of houses of hard labor where people convicted of crimes that would otherwise have earned them a sentence of transportation would be imprisoned for up to two years.
3. The twofold purpose of the penitentiary was to punish and to reform convicted individuals through solitary confinement between intervals of work, the inculcation of good habits, and religious instruction so that incarcerated individuals could reflect on their moral duties.

Class Discussion/Activity

Divide the class into three groups. Each group will research Jeremy Bentham, Cesare Beccaria, or John Howard. Each group will then defend the works, research, and studies of this particular person. The group will present their findings to the rest of the class and a debate will begin based on this information.

See Assignment 3

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IV. **What Really Motivated Correctional Reform?**

A. Reform was brought about as much by the emergence of the middle class as by the humanistic concerns of the Quakers and individuals like Bentham and Howard.
B. New industrialists may have been concerned about the existing criminal law because its harshness was helping some accused individuals escape punishment.
C. Politicians wanted swift and certain sanctions, and their demands agreed with the moral indignation of Bentham, Howard, and their fellow reformers.
D. Revisionists suggest that, until 1700, the size of the incarcerated population in England was linked to the economic demand for workers; thus the penitentiary may represent a way to discipline the working class to serve a new industrial society.

What If Scenario

What if you committed a robbery back in the Middle Ages? How would you be treated? Compare this to committing a robbery today.

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Class Discussion/Activity
Divide your class into discussion groups of four to five students. Ask them to identify the critical political, social, economic, and global forces that are serving to define correctional philosophy in the twenty-first century in the United States. How do these compare with those forces prior to the Enlightenment? After the Enlightenment? Should these forces influence policy in the manner in which they do? Why or why not?

LECTURE NOTES

This chapter maps out the early history of correctional thought and practice. It is important for students to understand that the system we have today developed in relationship to a variety of ideological, social, and political ideas. In the grand scheme of things, our system is relatively new. Ideas and practices revolving around crime and punishment have been a part of human life for ages.

The chapter first reviews the major forms of punishment from the Middle Ages to the American Revolution. It may be useful to create a timeline with students to illustrate the evolution or progression of both penal ideas and practices. This section of the chapter also reviews the history of imprisonment. Be sure to highlight that early prisons were not used as punishment and specify that their conditions were dramatically different from today's institutions. Students may enjoy exploring the variety of corporal punishments that were prevalent during the sixteenth, seventeenth, and eighteenth centuries. It is worthwhile to point out that brutal corporal punishment and execution were pervasive and often public.

When teaching about the evolution of penal ideas and practices, it is important to remind students of the sociopolitical backdrop. You can use England as an example, noting that economic and social forces such as labor began to reshape the nature of penal sanctions. So too is the case in the American colonies, where liberal ideas about the relationship between citizens and governments helped set the stage for a shift in penal policies.

This chapter introduces the Enlightenment. It is vital that students understand what this movement was about and just how powerful an agent of change it was. It may be useful to contrast the ideas of the Dark Ages with those of the Enlightenment. The Enlightenment gave us liberalism, rationality, science, equality, and individualism. Students should be made aware of the impact these ideas have on the correctional landscape. In particular, this era ushered in deterrence, reformation of the convicted individual, and limits on the power of government. Several individuals are credited with great influence during this era—Cesare Beccaria, who gave rise to the classical school that stressed free will and rationality; Jeremy Bentham, a utilitarian

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philosopher who described the hedonistic calculus framework through which people decided how to act; and John Howard, a sheriff and determined reformer who demanded dramatic changes that paved the way for the penitentiary.

KEY TERMS

Lex talionis
Law of retaliation; the principle that punishment should correspond in degree and kind to the offense ("an eye for an eye and a tooth for a tooth").

Secular law
The law of the civil society, as distinguished from church law.

Wergild
"Man money""—money paid to relatives of a murdered person or to the victim of a crime to compensate them and to prevent a blood feud.

Benefit of clergy
The right to be tried in an ecclesiastical court, where punishments were less severe than those meted out by civil courts, given the religious focus on penance and salvation.

Galley slavery
Forced rowing of large ships or galleys.

House of correction
Detention facility that combined the major elements of a workhouse, poorhouse, and penal industry by both disciplining individuals who were housed in the facility and setting them to work.

Transportation
The practice of transplanting incarcerated people from the community to another region or land, often a penal colony.

Hulks
Abandoned ships the English converted to hold convicts during a period of prison crowding between 1776 and 1790.

Corporal punishment
Punishment inflicted on the incarcerated person's body with whips or other devices that cause pain.

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The Enlightenment, or the Age of Reason
A cultural movement in England and France during the 1700s, when concepts of liberalism, rationality, equality, and individualism dominated social and political thinking.

Classical criminology
A school of criminology that views behavior as stemming from free will, that demands responsibility and accountability of all perpetrators, and that stresses the need for punishments severe enough to deter others.

Utilitarianism
The doctrine that the aim of all action should be the greatest possible balance of pleasure over pain, hence the belief that a punishment inflicted on a person must achieve enough good to outweigh the pain inflicted.

ASSIGNMENTS

1. Have students summarize the social, political, and scientific ideas advocated during the Enlightenment/Age of Reason and the effect they had on correctional thinking. Ask students to identify where else they see Enlightenment ideology operating. [LO 2]

2. To aid understanding of Bentham's hedonic calculus, ask students if they are willing to influence their first exam grade by successfully completing a task (e.g., shooting crumpled paper into a trash can, making a paper airplane that will fly the length of the classroom). Specifically, tell students that if they successfully complete the task they will receive an A on their first exam. Students may ask what will happen if they do not successfully complete the task. Respond by saying that nothing will happen if they are unsuccessful. Again ask if they are willing to participate in this wager. Next, before any student attempts the task, inform them that the wager is too one-sided, and that you will need to change the rules. Tell the students that if they are unsuccessful, they will receive an F on the first exam (obviously, this is not a proposition to be taken seriously). If the students change their mind, ask why. Is this the logic that Bentham used to deter crime? Is hedonic calculus of any use in today's penal philosophy? If the concept is sound, then why do criminals regularly commit crimes like bank robbery where there is an increased likelihood of apprehension and often small financial gains when successful? [LO 4]

3. Have students conduct research on various states' departments of corrections to read their official policy, mission, and goal statements. Compare and contrast these with the ideas of early correctional reformers. [LO 5]

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ANSWERS TO END-OF-CHAPTER DISCUSSION QUESTIONS

Although the answers provided below will vary from student to student, the responses should include at a minimum a discussion of the following key points.

1. In what ways have changes in social, economic, and political environment of society been reflected in correctional policies?
   - Budgets always allow for change or lack of change to facilities.
   - Social climate of society drives change for incarceration and need for change.
   - Political views deter or advocate for changes to corrections.

2. How do you suppose that the developments discussed in this chapter eventually brought about the separation of children from others in the prison system?
   - Over time, people saw children no longer as property and began to advocate for their protection, thus leading to changes in how they are housed and treated.

3. How have the interests of administrators and the organizations they manage distorted the ideals of penal reformers?
   - They all play into the changing attitudes of corrections socially, economically, and politically.

4. Some people believe the history of corrections shows a continuous movement toward more humane treatment of incarcerated people as society in general has progressed. Do you agree? Why or why not?
   - Opinion-based and answers will vary.

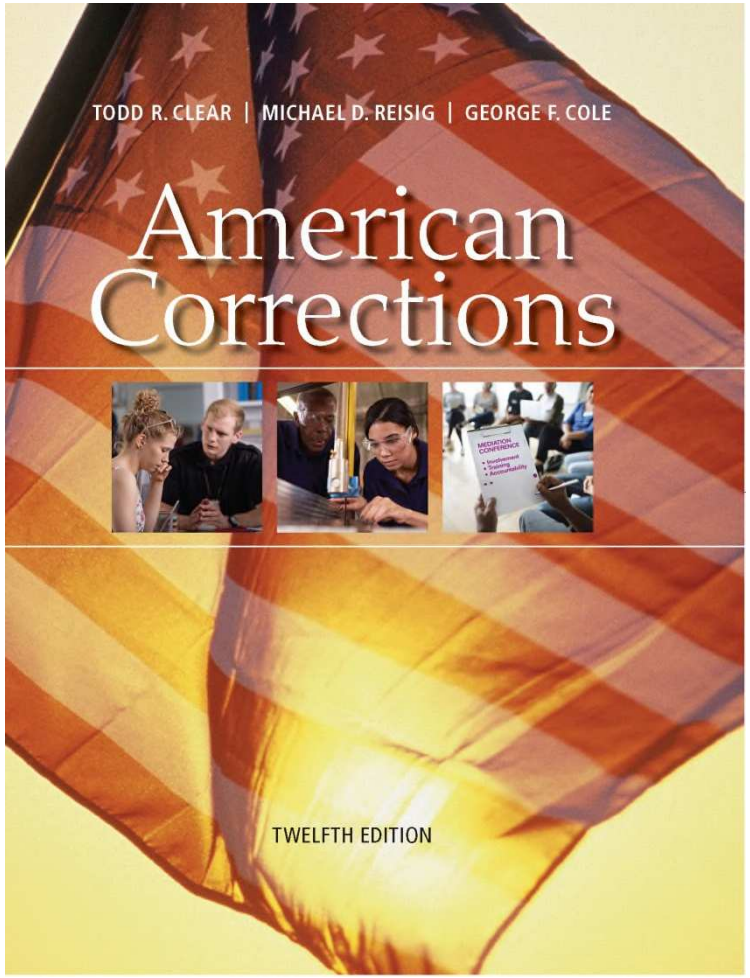
5. How many specific underlying social factors have influenced the development of correctional philosophies?
   - Opinion-based and answers will vary—have students list social factors.

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AMERICAN CORRECTIONS

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Chapter 2

The Early History of Correctional Thought and Practice

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Learning Objectives

1. Describe the major forms of punishment from the Middle Ages to the American Revolution.
2. Discuss the Enlightenment and how it affected corrections.
3. Identify the contribution of Cesare Beccaria and the classical school.
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5. Discuss the work of John Howard and its influence on correctional reform.

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From the Middle Ages to the American Revolution (1 of 8)

- Earliest known comprehensive statements of prohibited behavior:
  - Sumerian Law of Mesopotamia (3100 B.C.E.)
  - Code of Hummurabi (1750 B.C.E.)
    - *These codes were divided into sections to cover different types of offenses and contained descriptions of the punishments to be imposed on accused individuals.*
    - *The Draconian Code comes from ancient Greece and was the first code to erase the distinction between citizens and slaves before the law.*

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From the Middle Ages to the American Revolution (2 of 8)

- Rome:
  - Law of Twelve Tables (450 B.C.E.)
  - Code of Justinian (534 C.E.)
  - Laid the groundwork of European law.
  - As with other ancient societies, Roman law breakers were made into slaves, killed, exiled, or imprisoned, and physically brutalized.

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From the Middle Ages to the American Revolution (3 of 8)

- Early Laws in Europe
  - lex talionis
    - Law of retaliation; the principle that punishment should correspond in degree and kind to the offense
  - Secular law
    - The law of the civil society as distinguished from church law and organized according to feudal system
  - Wergild
    - Payment of money as compensation for a wrong done and to prevent a violent blood feud

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Discussion Question (1 of 4)

- Do you believe that punishments should fit the crime, and that the principle of lex talionis should apply to all types of crime?

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From the Middle Ages to the American Revolution (4 of 8)

- Main criminal punishments were penance and payment of fines and restitution
  - Lower-class accused individuals without money received physical punishment at the hands of masters
- Church was the dominant social institution
- Benefit of clergy
  - Gave refuge from secular prosecution to people who could claim benefit of clergy

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From the Middle Ages to the American Revolution (5 of 8)

- Five punishments common in Europe before the 1800s besides fines:
  1. Galley Slavery
     - *Forcing men to row ships*
  2. Imprisonment
     - *Accused individuals were incarcerated in cages, rock quarries, or even chambers*
  3. Transportation
     - *People who disobeyed the law were often cast out or banished*
  4. Corporal Punishment and Death
     - *Used extensively in Europe for many years (the Germanic Code of 1532)*

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From the Middle Ages to the American Revolution (6 of 8)

- Galley Slavery
  - Forced rowing of large ships or galleys
- Imprisonment
  - House of Correction
    - Detention facility that combined the major elements of a workhouse, poorhouse, and penal industry by both disciplining incarcerated individuals and making them work; also referred to as “Bridewells.”
    - Short terms of imprisonment were used for a variety of crimes in countries ranging from Holland, France, Germany, Italy, and England.
    - Conditions in jails were appalling as men, women, and children were locked up together, regardless of crime.

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From the Middle Ages to the American Revolution (7 of 8)

- Transportation
  - The practice of transplanting (or banishing/casting out) accused individuals from the community to another region or land, often a penal colony.
  - Hulks
    - Abandoned ships along the banks of the Thames where a large number of accused individuals lived.



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From the Middle Ages to the American Revolution (8 of 8)

- Corporal Punishment and Death
  - Corporal Punishment
    - Punishment inflicted on the accused individual's body with whips or other devices that cause pain
      - Mutilation
        - *Removing hand or finger*
        - *Slitting the nostrils*
        - *Severing an ear*
      - Branding
        - *Accused individuals were publicly branded so that they could be identified*
      - Hanging
        - *72,000 people were hanged during Henry VIII's reign*

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On the Eve of Reform

- By the middle 1700s, capital and corporal punishment, transportation, and other punishments handed down extensively.
- Economic and social factors beginning to reshape the nature of penal sanctions.
- A revolution brewing in the American Colonies.
- 1770 is the eve of a crucial period of correctional reform on both sides of the Atlantic.

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The Enlightenment and Correctional Reform (1 of 11)

- The Enlightenment or the Age of Reason
  - The 1700s in England and France, when concepts of liberalism, rationality, equality, and individualism dominated social and political thinking.
    - Martin Luther
    - John Calvin
    - John Locke
    - Montesquieu
    - Voltaire

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The Enlightenment and Correctional Reform (2 of 11)

- Advances in scientific thinking led to:
  - Observation
  - Experimentation
  - Technological development
    - Sir Isaac Newton
- Scientific revolution led to:
  - Reconsidering how criminal law should be administered
  - Redefining the goals and practices of corrections

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Discussion Question (2 of 4)

- Pretend that you just became a prison warden. Make a list of three goals of corrections and discuss.

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The Enlightenment and Correctional Reform (3 of 11)

- Cesare Beccaria (1738–1794)
  - Italian scholar who applied the rationalist philosophy of the Enlightenment to the criminal justice system
  - True aim and only justification for punishment is utility
  - First attempt to explain crime in secular, or worldly, terms instead of religious terms
  - Came up with six principles of classical criminology

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Discussion Question (3 of 4)

- Pretend that you just became a prison warden. Make a list of three goals of corrections and discuss.

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The Enlightenment and Correctional Reform (4 of 11)

- Main principles of classical criminology:
  - The prevention of crime is more important than punishment for crimes. To prevent crime, laws must be improved and codified so that citizens can understand and support them.
  - Secret accusations and torture must be abolished. Accused have a right to speedy trials and to humane treatment before trial and right to bring forward evidence on their behalf.

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The Enlightenment and Correctional Reform (5 of 11)

- Main principles of classical criminology:
  - The purpose of punishment is crime deterrence, not social revenge. Certainty and swiftness in punishment, rather than severity, best secure this goal.
  - Imprisonment should be more widely employed, and better physical quarters should be provided, with incarcerated individuals classified by age, sex, and degree of criminality.

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Discussion Question (4 of 4)

- What do you believe is the most important classical school element of deterrence (swiftness, certainty, or severity) for preventing crime? Why?

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The Enlightenment and Correctional Reform (6 of 11)

- Beccaria's views
  - Punishment must be essentially public, prompt, necessary, the least possible in given circumstances, proportionate to the crime, and dictated by laws.

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The Enlightenment and Correctional Reform (7 of 11)

- Jeremy Bentham (1748–1832)
  - English advocate of utilitarianism (greatest good for greatest number) in prison management and discipline.
  - Came up with the idea of hedonistic calculus.
  - Created a penitentiary based on utilitarian principles, called a panopticon or inspection house.



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The Enlightenment and Correctional Reform (8 of 11)

- Bentham's views
  - Accused individuals were childlike or unbalanced, lacking the self-discipline to control their passions by reason.
  - Behavior was not preordained, rather an exercise of free will.
  - Crime not sinful but the result of improper calculation.
  - Criminal law should be organized so that the accused individual would derive more pain than pleasure from a wrongful act.

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The Enlightenment and Correctional Reform (9 of 11)

- John Howard (1726–1790)
  - English prison reformer whose book *The State of Prisons in England and Wales* contributed greatly to the passage of the Penitentiary Act of 1779 by the House of Commons
  - County squire
  - Social activist
  - Sheriff of Bedfordshire

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The Enlightenment and Correctional Reform (10 of 11)

- John Howard
  - Shocked by conditions in English correctional facilities
  - Rallied legislative interest in reform
  - Major proponent of the penitentiary
  - English Parliament passed Penitentiary Act of 1779 based on Howard's principles

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The Enlightenment and Correctional Reform (11 of 11)

- The Penitentiary Act of 1779
  - A secure and sanitary structure
  - Systematic inspections
  - Abolition of fees
  - Reformatory regimen

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What Really Motivated Correctional Reform?

- Emergence of middle class
- Emergence of humanism
- The extreme harshness of punishment often led to jurors' failure to convict criminals
- Want for swift and certain sanctions
- Want to discipline the working class

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