

INTRODUCTION

From the Reformatory Project to the Warehousing Solution

IT IS NO LONGER NEWS that over the past three decades, the use of incarceration in many Western nations has exploded, most dramatically in the United States. This phenomenon, at least in the United States, would have been hard to predict even five years before it began during the late 1970s, given that a budding movement away from the prison as a central penal response to criminal offending seemed to be under way at that time and the use of incarceration in the United States had, for decades, been quite stable. From 1929 to 1967, the U.S. state and federal prison incarceration rate hovered around 100 prisoners per 100,000 population (Bureau of Justice Statistics, 1998), so there was little to forecast the explosion in prison population to come. Indeed, beginning in the mid-1960s through the early 1970s, the imprisonment rate in this country began a slow but consistent decline, which seemed to signify a new horizon in penology that moved corrections away from isolated total institutions and back into less restrictive community settings. This downward trend fit with what was happening in a number of state institutions and was predicted by many as the logical outcome of the turmoil that was brewing around punishment ideals and practices (Scull, 1977).

The consequences of this turmoil within corrections took several forms. The most significant alternative to the prison that appeared to be emerging was what is known as “community corrections” or community-based control (Cohen, 1979). The ideology underlying this movement spoke of the involvement of family, schools, peers, neighborhoods, the police, and an array of community professionals in keeping criminal offenders in line within communities rather than isolated in segregated penal institutions. Although the

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new community-based forms of intervention did not threaten to completely replace the prison, there were clear signs that incarceration rates would remain static, if not continue to decline, as the prison became a cardinal point—a last resort—on the continuum of social control rather than a primary option for penal intervention (Cohen, 1979; Scull, 1977, 1983).

The decarceration trend, though, was short-lived. By the late 1970s, the U.S. prison population began a rather sharp ascent, and this acceleration, it turned out, has continued (although it has slowed since the late 1990s) into the twenty-first century. Consequently, a mere 25 years after what looked like the demise, or at least the diminution of incarceration, the national imprisonment rate had nearly quintupled to 410 prisoners per 100,000 population (Bureau of Justice Statistics, 1998). By the end of 2006, more than 1.5 million people were in state and federal prisons in the United States—about 1.1 million more than were incarcerated just 25 years earlier (Sabol, Couture, and Harrison, 2007; Gilliard and Beck, 1995).¹

Although the incarceration explosion was a conundrum in itself, it was not the only indication of paradigmatic penal change. Almost concurrent with the start of the imprisonment boom was a notable break with the underlying rationale for the penal institution itself. As a number of observers have pointed out, during the 1970s, faith in the rehabilitative ideal that had prevailed in penology for the past century began to erode among criminal justice practitioners, academics, and policymakers (Allen, 1981; Garland, 2001; Martinson, 1974). The often cited (and often mis-cited) article by Robert Martinson titled “What Works?” (1974) exemplified the growing skepticism about the legitimacy of rehabilitation; the answer for many to the “what works?” question, and for very different reasons, tended to be “nothing” when it came to reforming offenders. Ultimately, the prison as a sociolegal institution was roundly criticized from all sides as, at best, ineffectual and misguided in its pursuits and, in more biting attacks from the left, as a racist, class-biased tool of the elite used to subjugate members of marginalized groups. Thus, there was a deep irony at the heart of this penological phenomenon: the expansion of a practice that had almost simultaneously lost much of its meaning and purpose.

This fracture in the accepted “account” (Simon, 1993) of the prison’s purpose appears to have contributed to a second, equally important transformation in state punishment: the broad (re)adoption of deliberately harsh penal techniques and institutional conditions by jurisdictions in many parts

of the United States. Many contemporary prisons have become, by design, little more than human warehouses filled with a segment of the population for which there is no investment in reformation or rehabilitation (Robertson, 1997). Within these new “no-frills” prisons, policies and procedures are implemented that aim to punish more deeply than the sentence of imprisonment itself. In recent decades, we have seen the imposition of “hard labor” requirements behind bars, the return of chain gangs, vastly expanded use of solitary confinement within “super” maximum-security (supermax) facilities, new restrictions on intrainstitutional rights and privileges, the removal of recreational equipment and facilities, and the elimination of inmate programs, among other developments. Thus, as Craig Haney (1998: 27) has observed, the late twentieth-century “punishment wave” has been characterized by a generalized “devolving standards of decency” within the U.S. penal system.

Concurrent with the population explosion and qualitative changes to institutional life inside prisons, the racial and ethnic composition of the U.S. prison population also changed significantly. The relative percentage of minorities in prison, especially of African Americans, grew steadily from 1960 to the present, with the sharpest increase beginning around 1980 (Beck and Mumola, 1999; Tonry, 1995). This demographic shift is largely a product of changes in sentencing strategies, particularly those aimed at drug offenders. The number of nonwhites in prison for nonviolent drug offenses far outstrips the number of whites so imprisoned, and as a number of state legislatures, as well as the U.S. Congress, began passing legislation that ratcheted up sentence lengths for drug-related offenses during the 1970s and 1980s, the racial disparities among state and federal prison populations grew accordingly (Blumstein and Beck, 1999; Provine, 2007).

This book directly confronts these late modern transformations of state punishment by closely examining the mechanics of change in one state—Arizona—over the second half of the twentieth century. I explore how a state-level polity was able to move from maintaining a modest and stable level of dependence on imprisonment over its history to making the costly investment in massive prison expansion over just several decades, and I illustrate how this state became a national trend-setting leader in delivering harsh punishment. The book, though, is not simply a narrative history of penal developments in a single jurisdiction. Rather, it situates the story of one state within a sociolegal and cultural theoretical framework that explicates how punishment functions during a moment of paradigm transformation. In doing so, it aims to

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elucidate the interconnections between late modern penal change and broader geopolitical and cultural changes that have occurred in post-World War II America, especially the rise of the “New Right” in the Sunbelt Southwest.

WHY ARIZONA?

Arizona is an exemplary case for understanding these paradoxical but nonetheless dramatic changes in penal ideals, policies, and practices for several reasons. First, the timing of the bureaucratization of the state’s penal system reveals how changing understandings of criminality and penal intervention at a broader level were translated into policy and practice. Indeed, the establishment of Arizona’s Department of Corrections in 1968 perfectly coincided with the beginning of the end for the rehabilitative penal philosophy that had shaped many punishment practices in the United States for most of the twentieth century. Rehabilitation was not institutionally rooted in the state, so its introduction with the modernizing of the system through bureaucratization guaranteed its fragile status. As will be detailed in the coming chapters, Arizona had historically embraced a punitive approach to lawbreakers, so the correctionalist philosophy was imported and introduced to the state with the new department’s first several directors. However, within two decades of its inception, this department had abandoned its flirtation with rehabilitation and had come to exemplify the model of the harsh, postrehabilitative mass incarcerative warehouse-style prison system that had come to prevail in jurisdictions across the nation.

Second, the prison system’s sheer growth over the last quarter of the twentieth century represents a hallmark example of the broader trends described above. Arizona’s rate of imprisonment ballooned from a low of 75 per 100,000 citizens in 1971 to 515 per 100,000 by the turn of the twenty-first century, and the prison population multiplied from 878 inmates in 1950 to almost 26,510 by 2000 (U.S. Department of Commerce, 1958; Beck and Harrison, 2001; see Figure 1 and the appendix). After the state’s incarceration rate had hovered for decades near the national average (generally just above it), by 1975, increases in that rate began to significantly outstrip the growth in the national imprisonment rate. In every year from 1984 through the present, Arizona has been among the top 10 of the 50 states in terms of rate of incarceration.

Third, the qualitative changes in punishment that have occurred in the late twentieth century are also clearly evident in Arizona, and indeed the state

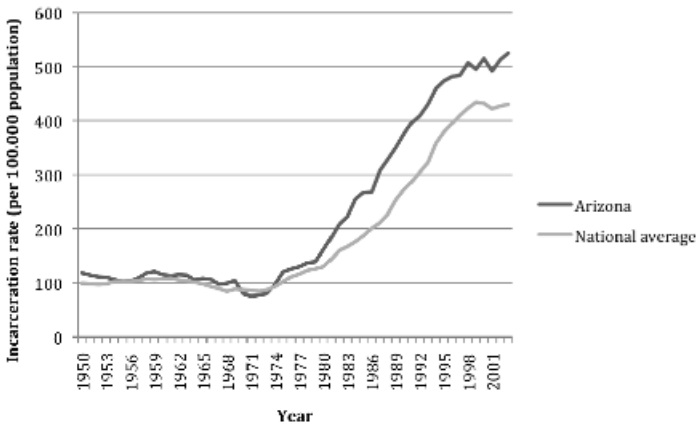


Figure 1. Incarceration rates: Arizona and the national average, 1955–2003. The national rate is the average of U.S. state prison rates, excluding federal prisons and local jails. From U.S. Census Bureau, *Statistical Abstract of the United States, 1950–94*; Bureau of Justice Statistics, *Prisoners in 1994*, and following years to 2003.

was both an innovator and a leader in implementing many of the “get-tough” practices that characterize contemporary punishment. For instance, Arizona was home to the first state-level newly constructed (as opposed to retrofitted) supermax facility in the country (it opened in 1987), and as of 1999, it had the second highest percentage of bed space devoted to such units in the nation (King, 1999). It was also one of the first states to reintroduce chain gangs to the prison and to institute a range of fees charged to inmates for various living expenses, among other such trends. From 1984 to 2003, the leadership of the Arizona Department of Corrections consistently boasted about the department’s “success” in providing economical, no-frills accommodations for its incarcerated population and spent proportionately little of its budget on programming resources for inmates.

Finally, Arizona provides an interesting example of the racialization of punishment. Unlike the pattern in many states that embraced and then retreated from rehabilitation (Flanagan, Clark, Aziz, and Szelest, 1990; Haney, 2006), Arizona has had a high and consistent rate of minority overrepresentation behind bars, relative to the state’s general population. So although the national trend indicates that the share of minorities in prison began to rise rapidly as rehabilitation began its descent as a reigning logic, this case study suggests the possibility that there were places without a long-standing commitment to re-

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Table 1 Overall incarceration rate vs. African American incarceration rate in Arizona, 1960–2000

Year	% African American general population	African American incarceration rate (per 100,000 population)	Overall incarceration rate (per 100,000 population)	Ratio of African American to overall rate
1960	3	783	115	6.81
1970	3	689	81	8.51
1980	3	911	161	5.66
1990	3	2,107	389	5.42
2000	3	2,493	515	4.84

SOURCE: U.S. Department of Commerce, 1962, 1972, 1982, 2003; Arizona Department of Corrections annual reports (1980, 1990, 2000); Arizona State Prison biannual report (1960); Arizona State Prison annual report (1970).

habilitation that had earlier patterns of minority overrepresentation strikingly similar to the contemporary national trends (see the appendix). Nationwide, the relative share of whites in the prison population has slowly decreased since the late 1950s, but in Arizona, a state with an African American general population share of just 3 percent, African Americans have been consistently, and strikingly, overrepresented in the prison population (see Table 1).

SUNBELT JUSTICE AND THE SPECIFICITIES OF PLACE

Beyond its penal significance as a state, Arizona also illuminates an important yet understudied regional phenomenon: Sunbelt justice. As William Frey (2002) has argued, region has become an increasingly significant analytic distinction—supplanting the categories of urban, suburban, and rural—for understanding U.S. cultural demography. He suggests that there has been a “fading of these local cultural boundaries in favor of increasingly sharp regional ones,” especially in the area that he calls the New Sunbelt (Frey, 2002: 349), or the high-growth states of the 1990s that include those states running from Virginia to Georgia on the southeast coast and Arizona, Nevada, and Colorado in the West. Ever since the concept was popularized in the late 1960s, there has been considerable academic debate over whether the states and subregions of the South and Southwest that are said to make up the Sunbelt form a unified regional entity (e.g., Browning and Gesler, 1979; Abbott, 1990). However, as an analytical framework, the Sunbelt has been very useful for understanding and explaining a shared developmental trajectory in many southern rim

states since World War II (Schulman, 1993) and has been particularly valuable in describing high-growth metropolitan areas in those locales (Abbott, 1987; Bernard and Rice, 1983; Findlay, 1992; Perry and Watkins, 1977).² And while the notion of the Sunbelt seemed to be falling out of favor among scholars by the mid-1980s (Goldfield and Rabinowitz, 1990), it has experienced a resurgence among demographers (Frey, 2002) and especially historians (Lassiter, 2006; McGirr, 2001; Rothman, 2002).

A distinct set of cultural norms and practices is associated with the evolution of the paradigmatic Sunbelt states during the second half of the twentieth century, resulting from the timing, pattern, and extent of their population growth as well as migration patterns from other jurisdictions. Their development is closely tied to the emergence of new post-World War II economies, such as military base and weapons industries, air transportation, electronics and computer technology, and expanded service industries (Abbott, 2003). These rapidly growing areas have been characterized by the proliferation of large, master-planned suburban-style communities; even major Sunbelt cities like Phoenix and Houston are distinctively low density, lacking large and concentrated core centers, and are functionally similar to the surrounding suburban communities. The metropolitan population in such cities sprawls for miles, and single-family homes in relatively homogeneous housing developments dominate the housing stock in many such urban areas (Nicolaidis, 2003).

The growth of the coastal South and the Southwest as population centers meant that places like Arizona in the West and Florida in the South, which were geographically isolated and/or politically uninfluential during the first half of the twentieth century, began to have an effect on national political culture by the 1960s. Population shifts from the Northeast and Midwest to the Sunbelt resulted in a proportional reallocation of congressional seats and electoral college votes to the southern and western growth states, thus increasing the region's influence in Congress and in presidential elections (Trubowitz, 1992). Indeed, by 2030, demographer William Frey (2005) estimates that the Sunbelt will have a 146 electoral college vote advantage over the "Snowbelt"; in 1970 those regions held about an equal share of such votes.

This would not be significant if there were no notable differences in political ideals, cultures, and practices as a function of region, yet it is well documented that in a number of important ways the Sunbelt has developed in opposition to the Northeast rather than in coordination with it (McGirr, 2001). Indeed, several scholars have recently argued—and empirically demonstrated—that

the New Right political movement in the United States developed directly out of the suburban Sunbelt areas of the South (Lassiter, 2006) and West (McGirr, 2001), beginning in the 1960s and reaching its peak with the election of Ronald Reagan as president in 1980 (see also Davis, 1986; Salt, 1989). In the earliest days of the movement, which started with the presidential campaign of Arizona Republican Barry Goldwater in 1964, the majority of Americans saw as extreme and even dangerous the politics and values associated with this movement—a sometimes contradictory blend of antitaxation sentiments and a desire for limited government; an allegiance to an unregulated free market economy; attention to “morals” issues concerning family, sexuality, and religion; a retreat from civil rights; and a commitment to law and order and a strong national defense (McGirr, 2001). But by the 1980s, such political values had become hegemonic, especially in the national political arena, and had substantially displaced a social welfarist, liberal political agenda (see, for example, Gaffaney, 1999; Simon, 2007).

Nonetheless, even though the political values of the New Right in many ways were part of the coherence of this geographically dispersed region, notable variations existed within the Sunbelt that were at least partially shaped by more deeply rooted and historically long-standing local political cultures. Thus, places like Arizona and New Mexico tended to have more in common with their western counterparts, in terms of their self-definitions and trajectories of development, while southeastern states shared major historical experiences and cultural traditions that shaped their more contemporary development.

For example, although a significant component of the New Right organizing focus has been around morals issues, such as abortion, obscenity, and countercultural lifestyles, states like Arizona and Nevada, with conservative-libertarian political roots, tend to be liberal, relative to the nation as a whole and especially to the Sunbelt South, on such matters (Norrander and Wilcox, 2005; Rivera and Norrander, 2002). Western states, especially in the Sunbelt West, are also more likely to have adopted and to regularly utilize political structures and processes that limit governmental power through a variety of means, especially direct democracy measures, such as ballot initiatives, referenda, and recall power (Haskell, 2001; Smith, 1998).

The postwar geopolitical transformations in the Sunbelt have clearly contributed to some of the changes in state and federal criminal justice policy and practices as well. Although Sunbelt states collectively had a slightly higher

incarceration rate than the national average for state institutions in 1950 (109 per 100,000 versus 99 per 100,000), by 2000, that region's combined average incarceration rate exceeded the national average by nearly 100 (528 per 100,000 versus 432 per 100,000) (Beck and Harrison, 2001; U.S. Department of Commerce, 1954).³ Five high-growth Sunbelt states—Arizona, Georgia, Nevada, South Carolina, and Texas—were among the top 10 states for incarceration rates by 2000, and most of the others exceeded the national average. Nearly half of all the nation's state-level prisoners were held in institutions of 11 high-growth Sunbelt states in 2000; in 1950, that share was just 27 percent. Given that these states were undergoing significant general population growth relative to the nation as a whole, the fact that they not only absorbed the increased population of inmates relative to that growth, but also on average dramatically increased their *rates* of incarceration significantly above the national average indicates a huge fiscal and ideological commitment to a prison-based strategy in response to crime in the Sunbelt.⁴ Additionally, the bulk of the postrehabilitative innovations that increase the severity of institutional conditions have originated in the Sunbelt states and spread to other regions from there (see Chapter 7).

Thus, this close examination of Arizona as an exemplary case of penal transformations in the Sunbelt Southwest aims to illuminate the interplay of regionally specific historical trajectories as shaped by distinct cultural norms and traditions with how such states responded to the “crisis in corrections” (Harris, 1973) that emerged during the late twentieth century.

THE SIGNIFICANCE OF LOCALE IN EXPLAINING PENAL CHANGE

By asserting the claim that local and regional factors are central to understanding late modern penal developments in the United States, this book complicates the widely accepted narrative about the nature of American penality. The standard account of early and mid-twentieth-century U.S. punishment history articulates a developmental process during which the criminal was conceived of as a flawed but fixable individual, and the state's responsibility was to provide the expertise and resources needed to remediate those flaws. Thus, in this account, the penal enterprise defined itself in terms of its role in reforming delinquents, and penal institutions ideally facilitated that process, just as schools were designed to educate youth and asylums were designed to treat and cure the mentally ill. Although the specific measures used to achieve such rehabilitation changed shape over the years, the underlying

goals and purposes of penal intervention were broadly accepted and unquestioned. Penal experts tended not to ask whether criminal offenders could be reformed, but rather what were the most successful interventions for achieving rehabilitation. Within prisons, programs that ranged from vocational training and education to intense psychiatric and neuromedical treatments were put to use in order to reach the reformative goals.

This understanding of American punishment, then, assumes that the rehabilitative paradigm was widespread and relatively deeply rooted across states and that its “fall” was more or less equally disruptive in those locales. Indeed, much of the penal change literature implicitly supposes that the demise of rehabilitation left a void for the new forms of penalty to fill. These new penal forms are typically characterized as just that—new—and few accounts empirically interrogate the precise mechanics through which they were created and put into action, particularly within states, which is where the bulk of criminal justice business occurs. More generally, the majority of contemporary scholarship on the penal transformations of the late twentieth century has treated the phenomenon as a relatively monolithic national-level, or international-level, process, with less direct consideration of the variations in the quality of practices and growth that have occurred subnationally.⁵

Nonetheless, much important theoretical and empirical scholarship has set the stage for explorations such as this one, in that it has provided insights into the macro-level processes that appear to have reshaped the criminal justice field across a wide domain. One of the more influential theoretical pieces of scholarship of this sort, which has sparked much subsequent research about qualitative changes in penalty, is the articulation of a “new penology” by Malcolm Feeley and Jonathan Simon (1992). According to Feeley and Simon, the new penological ethos has shifted the penal focus away from aiming to “fix” individual offenders and now prioritizes efficient management of the criminal class and cost-effective containment/incapacitation measures through the use of actuarial kinds of predictive tools (on this, see also Bottoms, 1983; Cohen, 1985; O’Malley, 1992; Reichman, 1986; Simon, 1993; Simon and Feeley, 1995). In this model, reforming individual criminals is not the primary task for the penal system; rather, cost-efficient control of those deemed to pose a risk of reoffending has become a central goal of the system.

Although this line of theorizing fits well with some elements of penal change, and does seem to account for many of the shifts in operational em-

phasis from rehabilitation to security maintenance and risk management within many criminal justice institutions, it does not adequately explain why states have invested so heavily in incarceration when that penal policy is quite costly and not particularly efficient. It is even more at odds with the fact that a significant portion of the prison growth has resulted from incarcerating nonviolent drug offenders, who would not seem to pose enough risk as to require the very high level of containment that the prison represents; who would be more inexpensively kept in community settings; and who are generally replaced within the illicit drug market as soon as they are locked up, thereby making incarceration of this population completely inefficient as a means of stemming drug dealing and use. In that the new penology perspective is a more global analytical framework that aims to sketch out broad trends over time, it also does not address the variations in penal practices at the state level.

A number of outstanding treatments of the politics of crime at the national level also have done much to further our understanding of how law-and-order rhetoric ultimately shapes policy. Most notably, Katherine Beckett's (1997) empirical work on the rise of law-and-order politics supports the theory that racialized political rhetoric, rather than crime per se, was largely responsible for at least setting off the tough-on-crime and corollary punishment binge that began during the 1970s. She convincingly illustrates the racial subtext of the tough-on-crime political movement at the federal level by documenting how civil rights issues, and those advocating for broader civil rights, were rhetorically linked to crime as a growing problem, such that demands for equality and justice became reasons, for politicians like Richard Nixon, to call for increased crime control. In the same work, Beckett also illustrates how crime as political capital, particularly during the administrations of Reagan and George H. W. Bush, in concert with media attention to state-shaped crime issues, contributed to the expansion of imprisonment as a primary criminal justice policy, especially at the federal level. Although Beckett's work does not speak to regional and local processes, it has served as a model for empirical examination of the mechanisms by which political rhetoric gets translated into criminal justice policy (see also Melossi, 1993, on this issue).

In an innovative theoretical explication, Jonathan Simon (2007) has described the contemporary thrust of "governing through crime" by the political exploitation of repressive crime control as a primary weapon against widespread social insecurities amid a crisis in governance. He argues that crime,