

**WELFARE BEHIND THE WALL:  
THE BUREAUCRATIC ORIGINS AND DEVELOPMENT OF CORRECTIONAL  
EDUCATION IN THE UNITED STATES 1915-2012**

By

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## ABSTRACT OF THE DISSERTATION

Welfare Behind the Wall: The Bureaucratic Origins and Development of Correctional  
Education in the United States 1915-2012

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This dissertation draws on approximately 8,000 pages of archival data to excavate the origins and development of prison education in the United States. I locate prison education at the crossroads of welfare and carceral state development, not as an exceptional policymaking sphere. This dissertation develops a geological metaphor of the marbled penal welfare state to capture and assess bureaucratic-centric penal state building. I find that prison education is the result of decades-long bureaucratic innovation carried out at the institutional level of prisons from 1915 to the 1960s, coordinated through a national reform network. I then analyze how correctional education fared in the punitive era in Texas. I find that programs persisted in spite of hostile policymakers in other domains, but suffered double exposure from both punitive actors and broader welfare retrenchment. I conclude with an analysis of how the marbled penal welfare analogy, and the case of Texas in particular, shed light on the modern criminal justice reform debate.

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## Abbreviations

**ABE:** Adult Basic Education

**ACA:** American Correctional Association

**BOP:** Bureau of Prisons

**CEA:** Correctional Education Association

**CHANGES:** Changing Habits and Achieving New Goals to Empower Success

**CPCJ:** Criminal Justice Policy Council (Texas State Agency)

**DCP:** Diversified Career Preparations

**GED:** General Education Development

**HSE:** High School Equivalency

**SOE:** Supervisor of Education

**TEA:** Texas Education Agency

**TDC:** Texas Department of Corrections

**TDCID:** Texas Department of Corrections-Institutional Division

**TDCJ:** Texas Department of Criminal Justice

**WSD:** Windham School District

## Select Chronology of Prison Reform

**1917-1921:** Thomas Mott Osborne serves as warden of US Naval Prison. Austin McCormick serves as deputy. Prisoner self-governance program implemented.

**1925-1926:** Paul Garrett and McCormick conduct national survey of prisons for the National Society of Penal Information.

**1929:** Garrett and McCormick's survey findings published in *Handbook of American Prisons and Reformatories*.

**1929:** Sanford Bates named Superintendent of Prisons. McCormick joins as Assistant Superintendent.

**1930:** McCormick publishes *Education of Adult Prisoners*.

**1930:** Congress authorizes reorganization of federal prisons into Bureau of Federal Prisons. Bates and fellow reformers implement social welfare programs including medical care. McCormick implements educational programs based on *Education*.

**1934:** McCormick becomes Commissioner of Corrections in New York City under Mayor Fiorello LaGuardia. McCormick recruits his protégé Richard McGee to become Warden of Riker's Island Penitentiary.

**1937:** McCormick founds the Correctional Education Association as a sub-section within the American Prison Association.

**1938:** Sanford Bates leaves BOP to become Director of New Jersey's prison system.

**1939:** McCormick named President of the American Prison Association.

**1940:** McCormick named Executive Director of Osborne Association (formerly National Society of Penal Information); conducts national tour of prisons.

**1944:** Richard McGee becomes first Director of California Department of Corrections.

**1944:** MacCormick chairs Postwar Planning Committee at the 1944 American Prison Congress along with Richard McGee. Committee drafts prison reform template.

**1944-1947:** MacCormick appointed Special Assistant to the Under Secretary of War, United States War Department.

**1947:** O.B. Ellis named head of Texas Prison System, implements MacCormick's reform template.

**1949:** Texas State Legislature reorganizes Prison System into the Texas Department of Correction.

**1969:** George Beto, Director of the Texas Department of Corrections, creates the Windham School District with the approval of Texas Senate Bill 35.

## Key Actors

**Bates, Sanford:** First Director of the U.S. Bureau of Prisons 1930-1937; later Director of New Jersey's Department of Institutions and Agencies 1945-1954. Previously Commissioner of Massachusetts Department of Corrections 1919-1929 and member of Massachusetts legislature 1912-1917).

**Bennett, James Van Benschoten:** First Assistant Director of the U.S. Bureau of Prisons 1930-1937. Later the Director of the U.S. Bureau of Prisons 1937-1964.

**Beto, George:** Lutheran minister and member of the Texas Prison Board 1953-1961; Director of the Texas Department of Corrections 1961-1972.

**Bixby, F. Lovell:** Second Assistant Director of the U.S. Bureau of Prisons in the Office of Welfare and Education 1937-1940. Later, Superintendent of U.S. Industrial Reformatory Chillicothe, OH 1940-1943. Also member of the California Authority 1943-1944 (where he oversaw parole reform). Assistant Director and later Acting Director of New Jersey's Department of Institutions and Agencies.

**Ellis, Oscar Byron (O. B.):** general manager of the Texas prison system 1948-1961; oversaw the reorganization of Texas prisons to the Texas Department of Corrections, of which he was named its first Director.

**Fabelo, Tony:** Former Director of the Criminal Justice Policy Center, a now-defunct Texas agency.

**Frank, Benjamin:** Prison education program auditor under F. Lovell Bixby at the Bureau of Prisons.

**MacCormick, Austin Harbutt:** Penal reformer and prison surveyor with National Society for Penal Information 1925-1929. First Assistant Director of the U.S. Bureau of

Prisons in the Office of Welfare and Education 1930-1934; Commissioner of New York City Department of Jails 1934-1941; President of the American Prison Association 1939; Executive Director of the Osborne Association 1940-1979.

**Madden, Jerry:** Member of the Texas State Legislature 1993-2013; later a national leader in Right on Crime movement.

**McGee, Richard:** Assistant Supervisor of Education at U.S. Penitentiary Leavenworth; Supervisor of Education at USP Lewisburg; Warden of Sing Sing Prison under MacCormick; Director of Corrections in Oregon and California.

**Murray, Lane:** First Superintendent of the Windham School District 1970-1992.

**Osborne, Thomas Mott:** Philanthropist-tuned-prison reformer. Founded the National Society for Penal Information (later the Osborne Association).

**Sanford, Joseph:** Superintendent of U.S. Industrial Reformatory Chillicothe, OH 1934-1940 in the Bureau of Prisons.

**Shank, Allen:** First Supervisor of Education at U.S. Industrial Reformatory Chillicothe.

**Sharp, John:** Texas Comptroller of Public Accounts 1991-1999.

**Waters, Mittie:** Texas prison reform activist and member of the Texas Council of United Methodist Women ca. 1944-1948.

# Chapter 1 The Curious Case of America's Hidden Welfare Bureaucracy

“Prisons are intended to rehabilitate criminal offenders, as well as punish and incapacitate them.”

*-2003 Literacy Behind Bars Survey*

## Introduction

“I guess I had to go to prison to go to school,” Cornell<sup>1</sup> said. He shrugged and leaned back in his chair falling in line with ten other inmates. A row of khakis blurred together against the tile floor of an unfurnished meeting hall in a maximum-security prison at the far southern tip of New Jersey. The others in the group nodded their heads in solidarity. Evidently, Cornell was expressing a collective experience. Ten minutes earlier, I had opened this meeting by introducing them to T, the re-entry coordinator for our college program. Cornell and T had just discovered they were both from Newark and about the same age and from nearby neighborhoods. But where my colleague had found his way into a magnet school, Cornell said he was “wild” in his adolescence and landed in an underfunded “last stop before prison” high school by the time he was sixteen. “That place was crazy,” Cornell said. Classes were unglorified crowd control, ineffective crowd control at that. He rarely showed up. The following year, at age 17, Cornell told us, he was in prison. Ten years later, he was sitting with us after he had earned his G.E.D. and was halfway towards his Associates Degree with a 3.7 grade point average. But still

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<sup>1</sup> Not his real name.

incarcerated. My colleague T smoothed his tie, “I’m saying, the ball bounced the other way, I’d be sitting where you are now.”

During the last several decades in the United States, for young men of color from poor families in particular, incarceration is a numbers game where the odds are against you, and you start playing the moment you are born whether you want to or not. While perhaps the outcomes are not fixed as T suggested, it is a chance draw at best for these young people whether they will be socialized in public school or prison. Yet, to be incarcerated, for Cornell, included a peculiar public school socialization as well, where conventional boundaries between the welfare and carceral state blur. Jonathan Simon (2007) states that “schools have long been considered the most important gateway to citizenship in the modern state” (p. 209). Paradoxically, a significant number of poor Americans, disproportionately Black, Latino, and male, enter this gateway of citizenship behind prison walls.

The figures are well known. Since the early 1970s, incarceration rates in the United States increased more than five-fold, outpacing and outsizing all other nations. At the turn of the twenty-first century, one in every thirty-two adults in the US is under some form of state supervision from prison, jail, parole, probation, and community supervision (Gottschalk 2006). By the late 2000s incarceration rates in local jails, and state and federal prisons crested (Guerino et al. 2011). By 2011, 2.2 million adults were incarcerated “and another 4.8 million [were] under some form of correctional jurisdiction on any given day” (Lerman and Weaver 2014, 8). One of the richest democracies in the world, the United States had the highest incarceration rate of any other nation, with 716 per 100,000 behind bars in 2013.



Over the past several years in the wake of the crime decline (Zimring 2006) and a shrinking incarceration rate, policymakers have paid increasing attention to reducing the prison population and boosting prisoner rehabilitation. This new orthodoxy in prison policy emphasizes carceral alternatives, rehabilitative programming, education programming in particular, as key to increasing reentry success for the formerly incarcerated (Davis et al. 2013). Among these efforts are increased funding for college programs and alternatives to incarceration such as drug treatment programs, often enjoying bipartisan support, even in traditionally conservative states like Georgia and Texas (Teles and Dagan 2016).

Yet the recent uptick in bipartisan support for national and state criminal justice reform that prioritizes and sometimes funds higher education initiatives, like the college program I worked for, obscures the much longer, more fraught bureaucratic development of prison welfare that helps prisoners get to college in the first place. While college opportunities for prisoners certainly represent an important penal policymaking domain, the educational needs of the average prisoner are actually at a much lower level. Overall, prisoners are not college-ready and are more likely to be functionally illiterate than the average American (Kirsch et al. 2002).<sup>2</sup>

Prison systems themselves, not outside contractors or schools, fill this large, fundamental gap in adult basic, secondary, and vocational education, but have until now remained a hidden component of twentieth century welfare state building. In the 1920s, there were few educational programs in American prisons, often taught by a prison chaplain. But by 1978, 38 states offered robust correctional education programs in prison,

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<sup>2</sup> Functional illiteracy described as “Level 1” literacy proficiency in Haigler et al 1994.

96% of which offered Adult Basic Education and Secondary Education, and 89% offered vocational training programs (Ryan 1987, 8), explained in Table 1-1.

**Table 1-1 Four Types of Correctional Education**

<b>Adult Basic Education (ABE)<sup>3</sup></b>	<b>Basic language and computational literacy.</b>
<b>Secondary Education</b>	Degree program culminating in General Education Development (GED) or High School Equivalency (HSE) diploma
<b>Vocational Education</b>	Trade-related programming delivered through on-the-job and integrated classroom study. Industry-specific certification
<b>Post-Secondary Education<sup>4</sup></b>	College courses toward a 2- or 4-year degree.

What is more, these programs persisted in the law and order era, even as funding for college diminished when Congress banned prisoners from receiving Pell Grant funds. According to a National Center for Education Statistics survey of 11,000 adults in state and federal prisons in 1992, 63% of the incarcerated population was enrolled in academic or vocational programming (Haigler et al. 1994, 51). In a follow up survey in 2003, 53% of respondents had either completed or were enrolled in academic or vocational programming. In other words, educational participation had only decreased 10% from 1992 to 2003, even though the federal and state prison population had grown 47% (Greenberg et al. 2007). In the face of unparalleled expansion of the carceral state, state and federal criminal justice institutions continued to provide essential social welfare benefits traditionally associated with public schools.

<sup>3</sup> Adapted from Ryan 1987.

<sup>4</sup> Postsecondary education is not included in the present study, because it is rarely if ever delivered by prisons or state-funded.

This dissertation charts how these programs were formed in the first half of the twentieth century, and how they persisted during the punitive era, making them one of the most durable forms of social welfare in the late modern US. In this dissertation, I excavate the institutional and political history of educational programming that was widely available for prisoners throughout the law and order era. For people like Cornell who come to prison without a high school degree, educational programming is a non-negligible state provision of benefits accessed in an institution charged with both rehabilitation and incapacitation. Contrary to much welfare and carceral state building literature, I begin with the startling puzzle that public state and federal prisons in the United States have been major service providers of social welfare programming in the form of academic and vocational education in the twentieth and early twenty-first centuries. Following from this central puzzle, I inquire:

- What are the political origins of prison welfare programming?
- What are the mechanisms through which welfare programs were implemented, contested, and expanded or contracted over time?
- To what extent have welfare programs expanded or contracted in the punitive law and order state building trends dominant in the law and order era (1970s-2000s)?

In answering these questions, this dissertation bridges the gap between carceral state scholarship and American Political Development accounts of modern American state building that have traditionally ignored criminal justice bureaucracies (but see Francis 2014, Gottschalk 2006; 2015, Murakawa 2014, and Weaver 2007 for important exceptions).

I address the above questions by uncovering the birth, evolution, and intra-institutional struggle of modern state and federal prison welfare bureaucracies from the Progressive Era through the punitive turn through the lens of bureaucratic state building. I build on claims that criminal justice bureaucrats are uniquely situated in American policymaking for their ability to overcome deep fragmentation in the policy making-implementing process with far greater influence and organizational capacity than citizens' groups or nonprofits to articulate policy alternatives (Miller 2004). But where Miller focuses on punitive criminal justice bureaucratic constituencies in the late twentieth century to reproduce a narrow agenda of punitive policy, I narrow institutional perspective of criminal justice bureaucrats *in prisons* in order to explore how the heterogeneity of their policy and program interests over time. Punitive bureaucratic constituencies may "have a virtual stranglehold" on crime policy alternatives to punishment, thus flattening the "plurality of interests involved" (Miller 2004, p. 582) in shaping criminal justice policy in later decades of the 20th century. Yet, I explore how a robust coalition of citizen-groups, nonprofits, and bureaucrats created a distinct and durable penal-welfarist bureaucratic constituency in the American state that persisted in a hostile political climate.

This dissertation makes three core contributions to the study of prisons and the American State. The first is about the nature and role of criminal justice bureaucrats, specifically prison bureaucrats, in American state building. I correct the dominant framework in carceral scholarship that focuses overwhelmingly on legislative and judicial interventions in criminal justice institutions. The dominant approach, I argue, overlooks

penal welfare bureaucrats (but see Reiter and Chesnut 2018 for an important exception) in particular how they resist hostile legislative/executive intervention.

My second contribution charts new territory in American political development by showing how these bureaucratic innovators gradually built up social welfare capacity in American prisons in the first half of the twentieth century. I trace the persistence of penal welfare to the fact that bureaucrats created the very welfare institutions they occupy through a decades-long effort to build up gradually social welfare programming within prisons. I develop the concept of the marbled penal welfare state throughout this dissertation to capture the heterogeneous nature of prisons and penal development. Although legislatures and court actions were perhaps more visible in funding or ordering rehabilitative expansion in the postwar era, my research shows that penal welfare innovation, planning, and network building among institutional activists and penal professionals extends back to the Progressive Era. Prison bureaucrats do not only navigate and implement policies autonomously (Reiter and Chesnut 2018). I find they also created the very welfare sites that enabled social welfare programs to persist in later decades.

The third contribution of this dissertation is an analysis of prison education in the punitive era that combines the dual perspectives of social welfare and carceral state development. By situating prison education program development at the intersection of carceral and welfare state building, this dissertation both widens the lens and time horizon of American state development to suggest that criminal justice is not an exceptional policymaking sphere in the United States. Scholars frequently frame carceral state development as an abnormal policymaking domain where otherwise fiscal

conservatives fortified punitive state capacity while they aggressively stripped down other forms of capacity, namely social welfare. Examining correctional education throughout the punitive era into the 21st century uncovers how leaders in the Right on Crime movement explicitly frame decarceration in the same state capacity stripping language as they had deployed against (prison) education a decade ago. The implications of my findings are startling. I find, ironically, that contemporary Right on Crime alternatives to incarceration may pose an even greater threat to prison welfare than law and order policymakers effected in the 1990s.

Together these contributions elevate mid-and-executive level bureaucrats to the same importance as legislatures and courts in the state building process. Tracing the history of bureaucratic state development unveils the fluidity between interest groups and state actors who author, shape, and advocate for preferred policies outside of more formal policymaking venues, and helps explain the persistence of the marbled prison state. Scholars who ignore bureaucratic entrepreneurship risk portraying state building as a more isolated, formal process than it is, and also risk ignoring crucial state building (and stripping) patterns until they are already quite far along. My contributions advance an integrated “bottom-up” perspective of the American state that compliments the predominantly top-down models of political development. Penal welfare in the US highlights how two seemingly distinct modes of citizenship coexist in the lives of program recipients. To partition one from another, or either from the totality of the American state, precludes scholars from fully appreciating and assessing the impact of policymakers’ reforms in social welfare and criminal justice institutions.

## Literature Review

### The Carceral State and the Punitive Paradigm

A common assumption in much of the explanatory framework in the carceral state literature is an inverse relationship between punishment and welfare institution building. In spite of the evident durability and impact of correctional education on the incarcerated population throughout the law and order era, and in spite of broader social welfare retrenchment, most prison scholars all but ignore the presence and persistence of correctional education and other rehabilitative programming (but see my discussion of Phelps 2011 below). As a general historical narrative in American state development in the last half-century, a major trade-off to the explanatory parsimony of this framework is a nuanced account of the heterogeneity of criminal justice policies, many of which are social welfare-oriented. In the following section, I discuss some of the major themes in carceral state studies and American state building more generally, and conclude by mapping how this project bridges and complicates both bodies of scholarship.

### Conventional Wisdom of the Punitive Paradigm

Prison rehabilitation, the story goes, was dismantled long ago, and any programs that survived the law and order era are meager, anemic, mere “lip-service” to democratic ideals and rehabilitative norms at best (Garland 2001). To the extent that rehabilitation programming in the punitive era has been discussed at all, it is usually dismissed as ineffective or long-abandoned by state criminal justice institutions. In the “new penology” of the law-and-order era, prisons were converted from rehabilitative institutions—however imperfect—into waste management warehouses (Feeley and Simon 1992). In the new penology “actuarial language” determined to calculate risk in

the law and order era replaced older moral and clinical frameworks for managing offenders. Effectively then, prisoners were no longer human beings to be reformed, but risks to be contained.

While there is disagreement about causal mechanisms behind mass incarceration, most scholars also share a basic assumption that the rise of punitive state building was inversely proportional to welfare retrenchment. This basic, if implied, causal narrative is reflected in the new Jim Crow thesis, among the most popular cultural paradigms for explaining mass incarceration. The New Jim Crow thesis argues that prison America was engineered by policymakers in reaction to the civil rights movement and subsequent policy victories like the Voting Rights Act and other Great Society Legislation (Alexander 2010). Alexander highlights how punishment in Black American communities began to explode just after the abolition of Jim Crow in the South in spite of facially race-neutral criminal justice policies. But much of the carceral state building literature has focused on identifying the policymaking mechanisms that have enabled welfare retrenchment and punitive growth, which calls into question the New Jim Crow thesis. For while mass imprisonment certainly is a racialized phenomenon (Lerman and Weaver 2013), race as a causal explanation minimizes the impact of punishment on other groups as “collateral damage.” Rather it is the fragmented nature of policymaking in the United States, argue some scholars, which contributed to harsher criminal justice practices while simultaneously foreclosing more robust welfare policy solutions to social problems like poverty and violent crime (Lynch 2012; Miller 2008; Miller 2016).

In searching for driving mechanisms of carceral growth, punishment scholars point to the independent prosecutor system, state police power, and bureaucratic



entrenchment in criminal justice systems (Gottschalk 2015). Criminal justice bureaucrats (Miller 2004) are also means through which punishment expanded in the twentieth century. Because these mechanisms were developed as responses to social problems like poverty, drug abuse, and especially crime (Miller 2008), they served to exacerbate pre-existing race and class disparities by punishing already marginal groups. The racially neutral language of criminal law itself may also perpetrate and even exacerbate social inequality in the carceral state (Murakawa and Beckett 2010) in the context of widening wealth and cultural disparities of a withering welfare state. Here again, racially neutral laws or policies have a disparate impact on poor and minority communities because they fail to ameliorate pre-existing disparity while imposing stiff penalties that further undercut individuals' economic and political capabilities (Chin 2002).

The structure of American governance is also particularly important domain for explaining the exceptional growth of US punishment (Miller 2008; 2016). In the era of law and order politics, elite and entrenched support for criminal justice institutions at the state and federal governments muted more robust state building demands from citizens and cities closest to crime, poverty, and drug abuse of which law enforcement was only a small part (Miller 2008). For as much as American institutions were responsible for transforming crime policy in the 1970s onward, so too did crime transform the American state as a political issue. These urban grassroots policy demands often demanded increased welfare provision *and* punitive measures, especially in African American communities (Fortner 2015; Forman 2017). Only claims that coincided with elite (punitive) policy agendas made it to state and national policy debates (Miller 2008). Electoral competition over the crime issue between Republicans and Democrats in

national and state politics engendered a “bidding war” that translated to empowering (e.g. funding) state and local penal actors (Campbell and Schoenfeld 2013; Murakawa 2014).

### American Political Development and Criminal Justice Institutions

Amy Lerman and Vesla Weaver (2016) have critiqued scholars of the American state including Pierson and Skocpol (2007) for ignoring stunning expansions in state capacity to punish and have encouraged carceral state scholars to draw from the American Political Development toolkit. Indeed, Suzanne Mettler writes that since the 1970s, “government makes less of a difference than in the past in the lives of many nonelderly citizens, particularly those who are nonaffluent” (Mettler in Pierson and Skocpol 2007, p. 193). Such a statement is only true from a synoptic viewpoint that treats government involvement in the lives of citizens as limited number of welfare programs. The punitive era amounts to an unprecedented intervention in the lives of nonaffluent Americans, particularly racial minorities. Given the deeply fragmented nature of American criminal justice institutions, the chief tool that American Political Development offers carceral scholars are concepts through which to explore institutional policymaking and conflict over time.

Crucial to the study of agonistic penal development are implementation agents, or bureaucrats, who “apply the tools, rules, and rationales developed at earlier (or higher) points in the policy chain, but [who] also create new tools, rules, assumptions, and rationales...” (Schneider and Ingram 1997, 89). While operational or street level bureaucrats play a significant role in policy implementation (Lipsky 1980; 2010) mid-level bureaucrats are particularly important in shaping modern political institutions via bureaucratic innovation (Carpenter 2001). Bureaucratic innovation is a form of

policymaking authored by administrative agents who are sufficiently independent from external sources of political pressure to innovate and implement programs even when other groups might actively oppose them (Carpenter 2001, 15).

Mid-level (or mezzo-level) administrators such as bureau chiefs, division chiefs, and program monitors are more likely to engage in program learning and policy innovation than executive level or operations (street-level) bureaucrats because they know both political elites and grassroots constituents (Carpenter 2001, 22). From this central position in the bureaucratic hierarchy, mid-level bureaucrats play a central role in forming broader policymaking networks through which they carry out institutional and policy preferences. Recent institutional scholarship highlights the role of criminal justice bureaucrats, especially mid-level bureaucrats, who hold a high degree of autonomy in criminal justice policy implementation and initialization (Reiter and Chesnut 2018). Ashley Rubin (2018) highlights that multiple institutional actors often make competing claims for institutional authority in carceral contexts.

The further “down” into prison bureaucracies one travels, the more apparent policy heterogeneity becomes. Thus, bureaucratic accounts of penal development demonstrate a deeply contested construction of the carceral experience. Ann Chih Lin (2000) documents how institutional culture and programming vary widely from one prison to another due to the hyper-fragmentation of prison management. Amy Lerman (2013) shows how the prison environment socializes corrections officers and prisoners in ways that make life beyond the wall more conflict-ridden and less trusting. The result is that the expansion of punitive institutional culture in prisons conditions a prison culture replete with conflict, violence, and fear. What is more, the concentrated effects of

violence and domination in prisons in turn condition home communities where prisoners return.

### Limits of the Conventional Wisdom: the Marbled Carceral State

In this section, I show how my work builds on and complicates the extant scholarship in both punishment studies and American Political Development by identifying a disjuncture between penal discourse and criminal justice practices.

An emerging body of scholarship offers a revised account of the heterogeneous nature of penal discourse to counter the dominant frame. Philip Goodman, Joshua Page and Michelle Phelps (2015; 2016) elaborate the plate tectonics metaphor to advance the concept of “agonal pluralism” to explain how penal regimes develop over time. They counter the traditional framework for carceral state development that equates the dominant penal regime—whether rehabilitative at midcentury or punitive in later decades—with a total embrace of that penal regime by all criminal justice constituencies. Rather, “agonistic perspective posits that penal development is fueled by ongoing, low-level struggle among actors with varying amounts and types of resources” (Goodman et al. 2015, 315). Out of these brief, but intense, conflicts, one or another regime constituency becomes the dominant political lens through which penal policy is understood and implemented, but never the *only* policy lens through which criminal justice policies are understood even in the punitive era. They illustrate this agonal state development through the analogy of plate tectonics, where two divergent plates are in constant friction and periodic violent conflict.

The plate tectonics metaphor helps us to understand the disjuncture between rehabilitative practice and punitive rhetoric that prison welfare bureaucrats identified in

the 1990s. Prison welfare professionals understood the changing terrain of educational programming more as a discursive problem than substantive policy shift. T.A. Ryan, a leading prison education practitioner whose career spanned the 1970s to the 2000s characterized how prison educators coped with punitive discourse *and* protected welfare programs in prisons:

Despite the change of emphasis for corrections in the 1980s and the decrease in support for education of inmates, correctional systems nationwide continued to offer basic, vocational, social, and postsecondary education...New phrases were introduced to replace those of the previous decade but the concepts were essentially the same.

The "in" terms for education in prisons in the 1980s were life skills, cognitive learning, and holistic education. In fact, these were merely new terms for the same programs that had been developed and implemented widely in the 1970s. (Ryan 1995, 61)

Scholars of the American state have largely overlooked how carceral and welfare policy, as forms of state building, have occurred simultaneously as in the case of prison education programming. While I find the waste-management thesis to lend key insights into general shifts in how prison policy was measured and framed by political actors in the law and order era, the tradeoff leads scholars to underestimate the extent to which “old penology” rehabilitative programs persisted and even thrived at the institutional level under hostile conditions. While some (Soss et al. 2011; Gilens 1999) have explored the interpenetration of welfare provision and punishment, these accounts tend to emphasize how punitive logic penetrate social welfare institutions, but not the other way around.

Of course, there are compelling reasons to frame carceral state development as an inverse relationship between increased punishment and retrenched welfare provision. Wacquant (2008) summarizes this relationship in his causal formulation between “the downsizing of the social-welfare sector of the state and the concurrent upsizing of its

penal arm” exemplifies this trend in the literature (p. 43). Nevertheless, this thesis trades specificity for narrative coherence in tracing the changes in hegemonic political discourse in postwar America that ends up ignoring criminal justice bureaucracies as serious sites of state building analysis. In the vast majority of carceral state development, prisons are often portrayed as reflecting a one-to-one correspondence with political rhetoric and policy aimed at them. To put it differently: the assumption is that if punitive constituencies (i.e. prosecutors, legislatures) intend to use incarceration as a tool for punishment, then incarceration must actually deliver the retributive, punitive experience desired by these actors and none of the rehabilitative experiences championed in the *ancien regime*.

This tendency to conflate legislative-prosecutorial intent with penal program forecloses the possibility that American institutions may be shaped by a variety of policies intended for different populations than they actually serve both by legislative and bureaucratic policymakers, groups that often have divergent incentives and goals (Wilson 1989). For while the punishment-welfare inverse model adequately and persuasively captures the shift in penal policymaking *discourse* it fails to account for 1.) the origins of social welfare in prisons 2.) entrenched and durable social welfare constituencies within criminal justice institutions and 3.) the relative political insulation and autonomy these criminal justice constituencies enjoy.

Both American Political Development and carceral state scholars who are concerned with generating or testing explanations of policy changes in the American state over time, share a critical flaw in their treatment of institutions: “With rare exceptions, analyses of American state building... study bureaucracy only through legislation that

creates agencies, the presidents who govern them, or the court decisions that check or enable their decision making” (Carpenter 2001). Crime and punishment studies in the twenty-first century have tended to focus on the political processes, social outcomes and consequences resulting from the expansion of criminal justice institutions. Much of the carceral literature traces how political processes are refracted through institutions. This account is incomplete without accounting for how bureaucratic actors in carceral institutions themselves generate, defend, and implement policies.

I am not the first to point out the gap between rhetoric and practice in prison rehabilitative programming during the punitive era. Michelle Phelps (2011) found that nationally representative data on state prisons showed that for the first two decades of the punitive era, there were no funding or program changes to prison rehabilitation; not until the 1990s did programming shift away from academic education programming toward reentry (life skills) programming. Phelps’ (2011) scholarship a crucial starting point for assessing the disjuncture between discourse and institutional reality. Likewise, the plate tectonics metaphor that images rehabilitative and punitive discourse in long-term, low-level conflict helps to show how criminal justice discourse is heterogeneous in any given policy venue. The plate tectonics analogy compellingly describes how actors within institutions frame their programs, preferences, and debates, but it fails to capture adequately the marbled and fragmented nature of penal institutional development over time at the level of prison bureaucracies, as opposed to legislative or political contests. That is, prisons are not simply containers in which bureaucrats talk about policies; they are contexts in which bureaucrats produce and reproduce policies in broader contexts of political pressure or support.

In order to provide an analytical framework through which to understand criminal justice heterogeneity, I expand the geological analogy of “plate tectonics” put forth by Goodman et al. (2015; 2016). I suggest that prison bureaucracies are like geological formations predominantly punitive, yet punctuated by smaller, less durable formations of social welfare programming. Penal institutions are marbled formations of two major types of programs: punitive and welfarist. Marbled penal formations persist because of the bureaucratic constituencies within them who reproduce and protect their programs.

Both punitive and welfarist formations in criminal justice institutions are subject to sedimentation and erosion, but not equally so. Depending on the political and institutional dominance of a penal regime discourse, an institutional constituency can be understood as *weathering erosion* or built by *sedimentation*. Similar to Hacker’s (2004) discussion of policy layering, welfare programs and institutions are sedimented, incremental, intrusive formations in a larger institutional context. I suggest that welfare bureaucracies within prisons are akin to erosion prone sandstone, while punitive constituencies in prisons are much more resistant to erosion.

## Data and Methods

As many scholars have noted, the study of prisons qua institutions in the United States is uniquely challenging because of how federalism enables the various states and the federal government to govern and structure its institutions with a high degree of autonomy. Without minimizing the variation among these distinct prison systems—federal, state, county, and local—there is good reason to explore American prisons as a system. Just as scholars have noted similar patterns of increasing punitiveness throughout



the states (Campbell and Schoenfeld 2013), so too has the development and expansion of welfare provision unfolded in non-random ways.

To address my research questions, I use an historical institutional method to explore how welfare and punitive policy feedbacks unfold over time within the same institutional context, state and federal prison. Historical institutionalism offers tools and concepts that help to excavate previously unrecognized dimensions of the American state that fly below the radar when political process and rhetoric are emphasized. It supports the development of more fine-grained, institutionally anchored account of how welfare and carceral state building regimes have developed competing professional reputations over time. Specific attention to bureaucratic entrepreneurship highlights the divergent responses to the national crisis of crime and incarceration over time that helped define one of the most central political institutions in the modern American state (Gottschalk 2015). Examining prison welfare development from an historical institutional perspective takes account of non-zero sum aspects of state building because it invites consideration of the tension between policy and implementation, law and interest, context and actor.

I treat carceral reform networks as mechanisms through which educational programs in US prisons were implemented and were made to persist through the law and order era. In so doing, this dissertation approaches prison welfare state building and persistence through the lens of mechanism and process-based (Tilly 2001) institutional innovation, learning, and professional entrenchment of prison welfare bureaucrats beginning in the Progressive Era. Tilly identifies four key implications for mechanism-based research in political change, each of which help bring the method and analysis of this project into focus.

(a) downgrading and upgrading contentious episodes as objects of study, (b) reorientation of explanations from episodes to processes, (c) comparative examination of mechanisms and processes as such, and (d) integration of cognitive, relational, and environmental mechanisms. (Tilly 2001, 38)

This project conforms to (a) the downgrading and upgrading of contentious episodes in two ways. First, this project downgrades the field's emphasis on legislative and judicial import in shaping prison programming at mid-century; and upgrades the importance of long-term innovation and networking by prison bureaucrats. This project conforms to point (b) because its methodological approach complicates mass imprisonment and welfare retrenchment in terms of competing ideologies rooted in distinct policymaking moment. That is, the typical dichotomy in carceral studies views rehabilitation as a product of postwar welfare expansion and law and order expansion rooted in the late-modern episode of welfare divestment. But by emphasizing bureaucratic constituencies and policymaking, this project conforms to point (c) by highlighting how competing regime-processes (punitive or rehabilitative) may be at work simultaneously in contradictory ways, in spite of broader trends in political ideology or policymaking preference. Finally, a mechanism and process-based account of prison welfare state building conforms to point (d) as it broadens our conception of American state building to include crucial variables of bureaucrats, grassroots activists, as well as national political discourse.

## Case Selection

The selection of the major data sources, archival documents, follows from the search for bureaucratic state building mechanisms. In searching for key institutional actors and critical pathways of welfare innovation in prisons, I found that consensus in the correctional education field has identified Austin H. MacCormick as the "father" of

correctional education, and identified his papers and career as a central data sources in explaining prison welfare state building. Rather than to take MacCormick as an isolated actor, this project traces his activism, innovation, and eventual political consultancy within the broader institutional-political context of the prison reform social network, including his colleagues at the Bureau of Prisons and his consultancy work in reforming the Texas state prison system in the first half of the twentieth century. Ultimately, I find that the institutional location of welfare reform (bureaucracies) carried out through a reform-cum-professional network helps explain why penal welfare persisted in a hostile legislative context.

The first three chapters cover three distinct moments within the single case of the rehabilitative reform movement in which MacCormick was a key actor. First, I explore how Progressive activists including MacCormick at the National Society for Penal Information developed a pragmatic reform discourse and model rehabilitative programs. I show how during this period MacCormick identified prison bureaucrats as the most likely agents to effect penal reform. I then trace how MacCormick joined the federal prison system as a mid-level bureaucrat to implement his model programming at the Bureau of Prisons. I show how penal welfare reformers at the Bureau achieved their first major success at Chillicothe Reformatory and used their institutional platform to develop a national network of pragmatic rehabilitative reformers. I then trace how MacCormick and other national leaders of a much-expanded reform network in the postwar era capitalized on broader state building conditions to replicate social welfare reform throughout the United States; in particular, I trace MacCormick's role in effecting prison reform in postwar Texas.

After I excavate MacCormick's successful innovation in postwar Texas, I examine how correctional education in that state—now called the Windham School District—fared in the punitive era. I examine prison education in Texas because a.) Texas constituted one of MacCormick's largest reform achievements and b.) it was the first example of a prison system adopting a public school system to serve prisoners among seven who did so by the end of the 1970s and c.) because correctional education in that state is semi-autonomous with its own budget and staff. As I discuss in Chapter 5, Windham has a dual reporting system between the state department of education and the state prison board, which highlights the interrelated nature of prison welfare and helps scholars see how punitive and welfare policies coexist at the institutional level. These factors and semi-autonomy are an opportunity to explore the institutional heterogeneity between prison welfare bureaucrats and penal actors hostile to prison welfare in ways that would be difficult to assess in a prison system where prison teachers and other employees were undifferentiated in annual reports and budget allocations from the general criminal justice allocations.

### Data and Data Collection

For this project I visited three large archival collections, where I collected, and analyzed over 8,602 pages of data (see Table 1-2). These archival sources were: The National Archives and Records Administration in College Park, Maryland; the Austin H. MacCormick papers at the Newton Gresham Library at Sam Houston State University in Huntsville, Texas; and the Windham School District headquarters in Huntsville, Texas.

I spent three days at the National Archives in College Park in September 2017. I collected 2,744 digital images of educational correspondence files from the Bureau of

Prisons with a smartphone. Correspondence were in folders filed under “Education” in the target period of 1929 to 1937 (the tenure of the Bureau’s first Director) organized by prison facility, as detailed in the table below. In November 2017, I spent seven days in Huntsville, Texas. Four days of that trip were spent collecting 2,461 files of the Austin H. MacCormick Papers at the Newton Gresham Library at Sam Houston State University. I collected all original files from the MacCormick Papers (I did not collect duplicate folders or digitally available files in Box 3). I omitted folders from boxes that contained publication drafts or reports available elsewhere. (I did not collect any materials from Box 9 for this reason, as noted in Table 1-2.)<sup>5</sup> Two days of the November 2017 Texas trip were spent collecting 3,397 files at Windham School District’s headquarters in Huntsville, Texas. I collected all original files presented by the District, which included Annual Reports from 1983-2012 and curated materials labelled “Landmark Files.” I collected digital images with a smartphone, except for one hardcopy report given to me by Windham personnel.

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<sup>5</sup> Full box and folder contents can be found online at the Newton Gresham Special Collections website: <<https://archon.shsu.edu/?p=collections/findingaid&id=6&q=>>

**Table 1-2 Archival Data Sources**

<i><b>Austin H. MacCormick Papers Newton Gresham Library, Sam Houston State University Huntsville, TX</b></i>		
Files	Dates Inclusive	Pages
Box 1 (Folders 1,2,4,6,8,10)	1920-1972	443
Box 2 (Folders 1, 3)	1960-1969	256
Box 4 (Folders 4-19; 21-23)	1933-1970	371
Box 5 (Folders 1-5, 7, 9, 12)	1937-1960	552
Box 6 (Folders 7; 10-17)	1944-1999	523
Box 7 (Folders 1; 5-8)	1948-1960	313
Box 8 (Folder 1)	1955	3
<i><b>Bureau of Prisons, National Archives and Records Administration, College Park, MD</b></i>		
Files	Dates Inclusive	Pages
USP Atlanta		
RG 129; Box 99-100; Folders 1-4 (Filed under "Education")	1920-1937	848
USP Alderson		
RG 129 Box 668 Folder 1 (Filed under "Education")	1930-1937	29
USP Chillicothe		
RG 129 Box 613 Folders 1-4 (Filed under "Education")	1930-1937	751
USP McNeil Island		
RG 129 Box 294; Folders 1-3 (Filed under "Education")	1930-1937	814
USP Leavenworth		
RG 129 Box 214 Folder 2; Box 215 Folder 1 (Filed under "Education")	1930-1937	248
Memorabilia and Pictures	1930-1964	54
RG 129; Boxes 240; 242 (Filed under "Education")		
<i><b>Windham School District Archives, Windham School District Headquarters, Huntsville, TX</b></i>		
Files	Dates Inclusive	Pages
N/A (Uncategorized Binders)	1969-2012	3,397
<b>Total:</b>		<b>8,602</b>

In addition to the large archives I visited listed in Table 1-2, I also collected a small number of papers (fewer than 50) from the Sanford Bates Papers also at the Newton Gresham Library. I collected a selection (approximately 113) of the Herbert Hoover Papers focusing on the creation of the Alderson Reformatory for Women. I employed a research assistant to remotely scan and send the files located at Hoover Presidential Library in West Branch, Iowa.

Through email correspondence, I obtained archived newspapers from: The Portland Room at the Portland Public Library in Portland, Maine and the George J. Mitchell Department of Special Collections & Archives at Bowdoin College Library. I also reviewed digitally archived Proceedings of the Annual Congress the American Prison Association, and the Journal of Correctional Education. I obtained additional information from and spoke informally with numerous personnel in person and via email about prison programming from the following organizations: The Arctic Studies Center at the Smithsonian Institution, the Delaware State Department of Education, the Ohio Central School System in the Ohio Department of Rehabilitation and Correction, and the Windham School District in the Texas Department of Criminal Justice.

Once all the data were collected, I reviewed and analyzed all the materials from November 2017 to August 2018. I made annotated notes in a word processor and stored scanned archival materials and notes in a cloud file storage system.

## Chapter Overview

The first three chapters present a single case—the rehabilitative prison reform movement—of which I trace three key episodes on the path institutional formation: discursive strategy formation in the 1920s at the Society for Penal Welfare, bureaucratic innovation at the Bureau of Prisons in the 1930s, and national expansion in the 1940s-50s facilitated through MacCormick’s leadership at the Osborne Association.

Chapter Two provides an introduction into the Progressive Era prison reform movement and its central figure, Austin H. MacCormick at the National Society for Penal Information. I recount prison conditions of the period and early strategy building among movement leaders to persuade states to adopt rehabilitative programming. I trace how

MacCormick and his colleagues develop a pragmatic strategy that leads them to identify prison bureaucrats as most likely targets for reform. This pragmatic strategy culminates in their joining prison bureaucracies for themselves.

Chapter Three follows MacCormick and his reformist colleagues in the federal prison system from 1929-1937. I review correspondence from Assistant Director MacCormick's Health and Education Office to chart how reformers overcame a deeply entrenched and often hostile warden system. This early period of institutional innovation also anchored the expansion of prison welfare professionals and helped to legitimize reformers' claims to other states.

Chapter Four traces the culmination of the Progressive Era reform movement in the postwar years, when national reform leaders marshalled an extensive professional and elite network in a context of postwar prison spending. In particular, I show how MacCormick, now the head of a nonprofit, served as a criminal justice policymaking hub who successfully collaborated with grassroots groups to effect reform in least likely states like Texas. I conclude this chapter with a discussion of the emergence of the marbled penal welfare state.

Chapters Five and Six of this project assess the durability of the prison welfare institutions and constituencies put in place by the prison reform movement through the law and order era. To do this, I analyze the case of Windham School District in the Texas prison system, founded in 1969, as the first public school system entirely within a prison system.

Chapter Five analyzes archival data to chart the development of the semi-autonomous Windham School District from 1985 to 2012 to chart the durability of the



marbled penal welfare state in the punitive era. I find that Windham's semi-autonomy within the Texas prison system both enhanced its durability under hostile political regimes and prison growth *and* attracted unwanted attention from policymakers who wished to gut education spending at Windham and in the state more generally.

Chapter Six returns to the concept of penal welfare as an exemplary marbled state formation. From this perspective, I answer the research questions put forth in this dissertation and discuss the implications of the Right on Crime movement in the context of the marbled penal welfare state.

A final introductory note: Readers will note the conspicuous absence of discussion of race in Progressive and postwar carceral state building discourse for two reasons: reformist pragmatism and the relatively deracialized public perception of crime and incarceration before the law and order era. Thus, the majority of this project covers the bureaucratic development of prisons when it was politically possible to discuss crime and punishment in deracialized language. In later chapters, I explore how the battle to defend prison welfare in the 1980s-2000s occurs in the double-context of racialized crime discourse *and* racialized welfare divestment.

## Chapter 2 Science and the New Morality of Prison Reform in Progressive America

“Morality will come in some cases, moreover, only through the process of making a moral life possible and desirable.”

-Austin H. MacCormick  
(1931)

### Introduction

This chapter introduces Austin H. MacCormick, one of the most influential prison reformers in the twentieth century, and places him in the context of the Progressive prison reform movement at a formative moment in American political development. I chart MacCormick’s evolution from moral crusader to pragmatic strategist—a crucial period of learning that informed the rest of MacCormick’s career at the center of the national penal reform movement over the following decades.

Firstly, I illustrate the ideological and moral motivation informing MacCormick’s reform context. Second, I trace MacCormick and his colleagues through a series of early learning episodes when prison reformers learned the value of political pragmatism in order to access prisons and to persuade officials to adopt their policy recommendations. Thirdly, I show how reformers honed a political strategy to promote prison education by tethering education to the ascendant discourse of “scientific” and modernization prevalent in the period, which would later become the dominant national discourse in penal policymaking. Finally, I argue that the adoption of this scientific pragmatism was itself a condition that led MacCormick to enter the federal prison system in order to implement

his program and authenticate his broader claims that prisoner rehabilitation was a viable alternative to punishment.

I draw on approximately 443 pages (Box 1) of archival correspondence from the Austin H. MacCormick Papers, along with period newspapers, and publications from the National Society of Penal Information, a Progressive social organization for which MacCormick wrote. His two major publications were the *Handbook of American Prisons* in 1929, the first modern comprehensive study of prison conditions in the United States; and the *Education of Adult Prisoners* in 1931, which outlined his model program of prison education reform.

MacCormick would come to be at the forefront of prison reform in later decades, both as a bureaucratic innovator and as the head of a non-profit policymaking hub for reformists at mid-century. It was during this early period, however, that he worked closely with his mentor Thomas Mott Osborne and other Progressive reformers to study prison conditions nationally and develop a platform for prison reform in a way that departed from earlier generations' strict religious outreach that left prisons as political institutions intact *and* public attitudes about prisoners unchallenged. MacCormick and the Society, however, reflected a strain of the Progressive prison reform movement that sought to change both, not on the grounds of sentiment but through a two-pronged strategy: investigative study-publication and policy-proscription.

As participants in a Progressive social movement, prison reformers like MacCormick were limited in their avenues for activism by existing political structures and agents, as well as public opinion. In what follows, I detail how MacCormick and the Penal Society for Information turn to empirical study and publication of prison conditions

and later develop a discourse of scientific expertise to help gain public and political acceptance for their ideas and reform programs. Historian Eldon J. Eisenach has argued that such managerial progressivism was a:

Success-subversion of the Progressive vision...that was completed between World War I and the Great Depression. Its legitimacy derived not from the Constitution or political democracy and electoral victory, but from market success and the authority of expertise and professionalism (Eisenach 1994, 261).

This chapter reveals a crucial episode in institutional political development in the United States because it places prison reform in context of the broader emergence of “managerial progressivism” in the United States. These managerial progressives exerted tremendous impact on welfare state building in the postwar era through their claims of scientific expertise. This group emerged from and repurposed claims by earlier Progressive political movements that largely relied on moralistic claims for reform. Tracing the pragmatic origins of bureaucratic reform sheds light on what later came to limit prison reform, a reliance on cultural attitudes towards “expertise” and a tethering the legitimacy of education programs to empirical proof, as opposed to democratic claims of justice.

## 1919-1925: A Desire to Crusade to Political Pragmatism

In this section, I discuss MacCormick’s ideological and moral motivation for embarking on a career as prison reformer in the context of the Progressive Era prison reform movement. I trace the contours of the Progressive prison reform movement and show how MacCormick was uniquely situated to become a leader in the penal field because of his outlook and his elite connections. In this privileged position, MacCormick learned the crucial lesson of political pragmatism during a prison scandal that required him to work with unsavory political allies, and his regret when he exposed his

adversaries. After this, MacCormick departed from traditional moralistic claims making in his reform efforts and searched for another reform strategy.

The roots of the modern prison reform movement were in the 1870s, in the form of a religiously inspired social movement (Brockway 1912). By 1915, however, a new generation of penologists and reformers had witnessed the slow and lackluster successes of sporadic reform efforts that centered on formal Christian ministry rather than structural change of prisons themselves. Young, professional would-be reformers would come to argue in the 1910s and 1920s that education, comprehensive health care, improved conditions, and above all, an insulated professional prison administration, would better reform prisoners than spiritual guidance alone. Rather than redeeming prisoner's souls, these "managerial progressives" sought to rehabilitate prisoners as citizens through empirically verifiable programs that taught skills necessary for active citizenship.

The seventh of eight children, Austin Harbutt MacCormick was born on April 20, 1893 in Georgetown, Ontario to an English mother and Scottish Congregationalist Reverend. The family relocated to Maine when Austin was a child, and he along with his brothers attended Bowdoin College. In his own words, MacCormick explains how he came to "prison work" that would shape his life and in turn result in one of the longest lasting social welfare interventions in modern US prisons. In 1956, he told an audience at Bowdoin that,

I came to prison work because, as many of you know, when I was an undergraduate here at Bowdoin I read everything that Thomas M. Osborne wrote, read everything in the papers and magazines. There were full of everything he was doing at Sing Sing, everything they published; I think it aroused my humanitarian impulses. I had a desire to crusade,—I suppose being small and so on, —and I was captivated by this great man and what he was doing.<sup>6</sup>

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<sup>6</sup> Box 6 Folder 7 p. 84; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

Although many Progressives with a “desire to crusade” may have held similar attitudes, Austin H. McCormick was uniquely positioned as a beloved protégé of a well-networked New York millionaire-cum-reformer. Over the following years, McCormick not only “crusaded” but also developed and deployed pragmatic prison reform strategies that would lend authority to the new methods and engage, rather than alienate, prison officials upon whom reformers depended to enact their favored policies.

Soon after he delivered his graduation address on “prison work,” McCormick imitated Osborne’s tactic for penal study by enrolling as a prisoner at Thomaston Prison in Maine. He recalled, “This one week stretched into eternity and made an indelible impression on me.”<sup>7</sup> McCormick attributed this first-hand encounter with bedbugs, inadequate clothing and food, dirty conditions, corrupt guards, and an inept warden who “thought he was running a good prison because he didn’t know anything about prisons and he didn’t know what was going on.”<sup>8</sup> McCormick found that educational opportunities were few, and often useless:

I learned to make brooms which has never been of any great benefit to me; I learned to talk without moving my mouth...I learned nothing else.

The only way in which that experience stood me in good stead is that during critical times in prisons when I had to go in among prisoners who were in a state of riot or who’d even started it, —it wasn’t a matter of courage versus fear, —it was a familiar feeling.

Somehow the stamp of the convict had got on me so that I identified myself with those men and went among them many times when it was really quite dangerous to do it but with no consciousness of danger because somehow I felt a part of the prison company.<sup>9</sup>

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<sup>7</sup> Box 6 Folder 7 p. 89; Austin H. McCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>8</sup> Papers Box 6 Folder 7 p. 87-88; Austin H. McCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>9</sup> Box 6 Folder 7 p. 90-91; Austin H. McCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

It was MacCormick's experience *as a prisoner* that informed his position as a reformer and "expert" over the next five decades. In his own estimation, MacCormick's career was motivated by a profound identification with prisoners.

After completing graduate work at Columbia University's Teachers College, MacCormick worked directly under Thomas Mott Osborne at the US Naval Prison, who was serving as the Warden. Osborne, a philanthropist turned reformer, would have a formative impact on MacCormick's life and career. Osborne was a champion of prisoner self-governance and later founded the National Society for Penal Information. Under Osborne's leadership, MacCormick conducted an investigative tour of the naval prisons in 1920, transforming the rather prosaic assignment of prison supply officer into an opportunity to write investigative summaries of penal institutions closed to the outside world.<sup>10</sup>

MacCormick's survey was as a prisoner; he used his experiences as an inmate to articulate the needs for humane and profitable employment. He recalled, "In this experience I really [might have] enjoyed myself in some ways if I hadn't been so icy cold and didn't have to work so hard and hadn't been starving all the time."<sup>11</sup> MacCormick used his second prison stint to illustrate how prisons socialize people to enjoy crime as a means to make life bearable inside. MacCormick recalled to a friendly audience that such conditions, even for such a short time, had a negative effect:

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<sup>10</sup> Box 1 Folder 1 p. 3; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>11</sup> Box 6 Folder 7 p. 92; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

It was a tough experience by somehow I had begun to harden... bucking the system had begun to be fun and that caused me to understand another phase of prison life that in spite of yourself you can begin to look on these other people as being against you and anything that you can do to break the rules is legitimate and it's a way of breaking the monotony.<sup>12</sup>

While these early prison studies were the only of MacCormick's career in which he conducted institutional analyses from the vantage point of the prisoner, they nonetheless shaped how he conceptualized prison target populations throughout his career as would-be beneficiaries rather than as an object of punishment. So much is to be inferred from his sharing this belief in the above quote in 1956, over 40 years after his first experience as a prisoner. Such an attitude reflected a significant departure from the "old school" of penal thought, which centered on "striking terror into the heart of the potential wrongdoer," even if it meant impairing his chances of success after prison (Garrett and MacCormick 1929, 104).

### Lessons in Value of Political Pragmatism for Institutional Reform

In the following section, I examine two early episodes in MacCormick's career as a prison surveyor. These episodes show how MacCormick learned to navigate the often-messy political terrain surrounding state prisons in two ways. First, MacCormick learned the value of political pragmatism in working with ideological foes to achieve a common goal. Second, MacCormick identified prison administrators as policy targets for reform that enabled him to sidestep larger parochial political conflicts.

After World War I, Thomas Mott Osborne founded the National Society for Penal Information. Already a leading figure in prison reform, Osborne was invited out by a reformist Governor Ellery Sweet of Colorado in 1925 to survey its prison system

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<sup>12</sup> Box 6 Folder 7 p. 93; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.



dominated by the Ku Klux Klan, a constituency that opposed Sweet. Osborne invited McCormick along, who would learn through this trip just how costly political alienation could be, and embraced political pragmatism in order to gain access to prisons *and* persuade prison personnel.<sup>13</sup> Before his trip to Colorado with Osborne, McCormick had already developed a regional reputation as a penal surveyor throughout New England. He had been invited by the Vermont Prison Board to tour the state's prisons.<sup>14</sup> This trip was different however—Governor Sweet had called on Osborne and McCormick to help mediate a political battle between himself and a hostile political constituency: the Colorado State Prison Warden directly and the Ku Klux Klan by proxy. Governor Sweet confided his suspicion that the Colorado Prison Warden, Tom Tynan, was complicit in gross prisoner abuse and hoped that Osborne and McCormick would find sufficient evidence to indict, and remove, Tynan from the post. McCormick recalled,

There was a great deal of brutality in the institution, the prisoners were flogged, they were hung over a wooden horse, and their ankles were strapped on one side and the wrists were strapped on the other and a very brutal guard who was an expert with a last flogged them while the warden and the doctor stood by.<sup>15</sup>

Because Colorado's Penitentiary was dominated by the Ku Klux Klan, retrieving eyewitness testimony against prison leadership was difficult, since rank-and-file guards were, like leadership, Klan members.<sup>16</sup> Although Governor Sweet was against Tynan and

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<sup>13</sup> Box 1 Folder 4 p. 16; Austin H. McCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>14</sup> Box 1 Folder 1 p. 23; Austin H. McCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>15</sup> Box 6 folder 7 p. 85; Austin H. McCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>16</sup> McCormick stated: "We couldn't get anywhere until we discovered that the guard force was almost completely dominated by the Klan." Box 6 Folder 7 p. 85; Austin H. McCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

the Klan in general, it was an open question as to whether he had the political influence to push Tynan's scandal to trial.

Osborne and MacCormick met with the local Klan leader in a wooden hotel in Canyon City, Colorado, and struck a deal. The leader would sanction prison guard testimony in court and would even condone public acknowledgement of their membership in the "invisible empire" on the witness stand so that they could relate the conditions and practices of prison.<sup>17</sup> The trial resulted in Warden Tynan's forced retirement two years later. MacCormick later recalled of this episode, "I can't tell you all that except to say that for the first time in my life and the last time, I was on the side of the Ku Klux Klan."<sup>18</sup> He had witnessed first-hand the necessity of political pragmatism in effecting the reform outcomes that Progressives like Osborne, Governor Sweet, and himself, wished to enact.

No sooner had MacCormick returned from Colorado, then he again found himself in the middle of a public scandal involving a governor, the Klan, and prison leadership, this time in his home state. This episode, however, taught MacCormick the value of political pragmatism in the breach.

Maine Governor Ralph Owen Brewster, a Republican who had received long-term campaign support from the Klan<sup>19</sup>, had released false reports of state prison in order "to see a certain Portland Klansman occupy a high administrative position," namely, as

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<sup>17</sup> Box 6 Folder 7 p. 86; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>18</sup> Box 6 Folder 7 p. 85; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>19</sup> O'Brien, Andy. 2016. When the fire of the Ku Klux Klan burned hot in Maine. *The Free Press*, March 17, 2016. <<https://freepressonline.com/Content/Features/Andy-O-Brien-Historical-Articles/Article/When-the-Fire-of-the-Ku-Klux-Klan-Burned-Hot-in-Maine/52/796/44315>>

warden of the state prison.<sup>20</sup> Brewster had hoped to oust the existing prison warden to install a political ally as a reward. In the process of ousting the incumbent warden, the Governor had failed to consult the prison board, of which MacCormick was a member.<sup>21</sup> MacCormick and other reformers were even more interested in insulating prison management from the tides of patronage and scandal. This required an ethic, respect for, and deference to civil servants as the agents of unbiased, efficient government. Political scandals weakened this sense of autonomy and legitimacy.

In a private letter to Brewster, MacCormick severed all connection with him after the incident, charging, “You should have given the [prison] Commission opportunity to investigate the charges before you gave them in full to the public.” Such political scheming meant, “The position of every member of our institutional boards... is made untenable. We risk our reputation by remaining on these boards...if public minded citizens of integrity are to serve on our boards they should not be treated in such a way.”<sup>22</sup> MacCormick was coming to see that institutional insulation of prisons was the precondition to reform. Brewster had violated this principle by fabricating a political scandal to oust the incumbent and had weakened the legitimacy of the prison board.

MacCormick, still angry, publicly accused Brewster of political corruption and complicity with the KKK in a “vigorous address before [the] Maine State Conference of Social Workers.”<sup>23</sup> Although MacCormick was later candid about his distaste for working

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<sup>20</sup> Portland Express Herald, October 30, 1925. “Did not write out affidavits in prison scandal, Say 2 who signed charges; Austin MacCormick flays Brewster” p. 1.

<sup>21</sup> Box 1 Folder 4 p. 57; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>22</sup> Box 1 Folder 4 p. 57; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>23</sup> Portland Express Herald, October 30, 1925. “Did not write out affidavits in prison scandal, Say 2 who signed charges; Austin MacCormick flays Brewster” p. 1.

with the Colorado KKK in 1956, he evidently learned the costliness of discussing it in 1925. In his papers, MacCormick wrote of his address against Brewster that, “I have only one regret about my speech in Portland: that I mentioned the Klan. That was unnecessary and possibly unfair.”<sup>24</sup> This lesson of learning what must go unsaid, and finding alternate ways of framing the need and legitimacy of rehabilitative reforms would be all the more important in the decades to come, when MacCormick would directly shape postwar penal systems, particularly in the South where conditions were worst and whose leadership was often politically distasteful to elite Progressive Era reformers.

## 1926-1930: The Prison Survey and Science as Reform Strategies

### The Prison Survey and Appeals to Scientific Reform

In the following section, I show how MacCormick explicitly turned his attention toward prison administrators as the target audience to implement rehabilitative reforms. Reviewing penal institutions also helped him and political allies to create a catalogue of policy defects that ought to be remedied by bureaucrats. MacCormick and other activists also devised a strategy to persuade these bureaucrats to embrace reform by linking it with broader polemical claims about national progress and democratic citizen building.

In the aftermath of the Colorado prison scandal, Osborne imagined himself the future warden of Colorado’s Penitentiary. However, after Governor Sweet expressed worries that such a move would look like very the cronyism he fought against, Osborne suggested that MacCormick take the job. However, MacCormick turned it down. Effective bureaucratic reform required an extensive network of allies, which he did not

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<sup>24</sup> Box 1 Folder 4 p. 58; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

have in Colorado. He wrote: “I would be badly handicapped, as you would be, in a state where we could not have a lot of people whom we know and trust. Out there [Colorado] we would have to go it blind.”<sup>25</sup> Reform from within was a viable policy venue for reformers, MacCormick contended, only where innovators had not only elite political backing but also extensive professional and local networks of support.

Sweet’s failure to gain reelection in 1925 reinforced to reformers at the Society that their existing political networks were fragile. They would need to rely on more than friendly politicians; they needed an effective strategy to garner political support and devise publicly accepted claims to institutional and policy-making authority. After Governor Sweet lost his bid for reelection, Osborne consoled him. “It is the old story, Governor,” he wrote, “When a man sets out to fight crooked politics he is faced by two facts; the utter unscrupulousness of his opponents, and second, the ignorance and indifference of right-minded people.”<sup>26</sup> Political pragmatism was one thing, but MacCormick came to see that pragmatism needed to be paired with a successful institutional strategy to implement reforms to overcome the apathy and often-outright hostility of politicians and the public.

Given these two challenges of public apathy and political hostility, one of the most appealing venues for penal policy-making that emerged during this period was reform from within the prison system, itself. While there were earlier examples of

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<sup>25</sup> Papers Box 1 Folder 4 p. 25; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>26</sup> Box 1 Folder 4 p. 25; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

Progressive prison administrators, including Osborne at Sing Sing and the Naval Prison, these were isolates with limited success.

The case of Colorado also highlighted the extent to which prisons were veritable black boxes of the American state, not only to an interested public and would-be reformers, but also to elite actors within and above criminal justice institutions, like Governor Sweet. As Rubin and Phelps (2017) highlight, criminal justice actors and institutional nodes are highly fragmented. This was especially so during the Progressive Era, as MacCormick would discover in his national tours of prisons, reformatories, and penal farms from 1926-1929. MacCormick would conduct a series of prison surveys that would argue for the scientific (i.e. apolitical) legitimacy of prison reform over and against the corrupt “old timers.” The first step to devising legitimate claims to institutional authority was to expose the systematically arbitrary and fragmented nature of prison administration, organization, and programming throughout prisons in the United States.

#### The Handbook of American Prisons: Institutional Knowledge in Reform Efforts

After Osborne’s death in 1926, the National Society for Penal Information commissioned MacCormick and his colleague Paul W. Garrett to conduct an exhaustive tour of penal institutions for adult men and women in 1926-1929. The survey’s results, published as the *Handbook of American Prisons* chronicled the often-dismal conditions and hyper-fragmented power structure characteristic of most prisons, and their utter failure to reform criminals and produce productive, literate, peaceable citizens needed for a rapidly transforming polity. MacCormick led the Society’s survey tour of American prisons, a mode of consciousness building widely used throughout the Progressive Era

that married social science with a moral-political impulse to rouse Christians to respond to social ills.

What reviewers exposed was a wild patchwork of institutions, often devoid of any deeper purpose than to contain and punish—a purpose which would not do in a modernizing society. The Penal Society’s *Handbook* opens in an eerily familiar refrain to modern readers: “The recent tendency in the United States to depend primarily on more stringent sentences, with an all but exclusive reliance on the old, out-worn theory of repression, has tended to obscure [the crime prevention] function of prison” (Garrett and MacCormick 1929, xix). Throughout the *Handbook*, MacCormick and Garrett—along with the Society’s board that offered extensive notes and comments—reviewed each prison with an eye resuscitate the genuine purpose of prisons, to reform not to punish. Such changes would require massive personnel training programs, innovative administration, and dramatic overhauls in prison programming.

The base line for reform required systematic knowledge of prisons on the ground. The authors of the *Handbook* aimed to present a comprehensive catalogue of prisons as a location of lived experience. They catalogued every aspect of contemporary prisons, from the physical layout to aesthetic impact of the buildings, to staff culture and pay. They also listed punishment and redress policies, inmate classification, and inmate organizations. Parole board structure, presence of medical facilities and practices, even kitchen layout and prisoner diets were catalogued to create a comprehensive index of prison conditions and practices.

The *Handbook* found that the most serious handicap to reform was the commonplace practice of distributing prison posts—and prison responsibilities—as

political rewards. Political cronyism was the antithesis of scientific prison administration, and it had monstrous effects, according to Garrett and MacCormick. In Illinois, for example, even though guards and other personnel were officially selected through the Civil Service as a means to combat the machine system, the old practice of patronage continued. One Illinois official told the investigators, “that when men reported from the state office at Springfield with properly certified papers he had to put them on as guards. Some of these men he said he would not have considered reputable enough to permit them to go through the institution as visitors” (Garrett and MacCormick 1929, 258).

The *Handbook* revealed that in the South, particularly in Georgia and South Carolina counties exerted undue influence in the state penal system such that prison road camp wardens were actually paid by the county, and thus selected on their perceived ability to complete roadwork (Garrett and MacCormick 1929). Corruption and cronyism penetrated still further into the machinery of prison life in the use and abuse of the trustee system, where inmates were used as guards to varying degrees in Mississippi, Arkansas, Texas, and Florida. The latter system relied on the almost exclusive use of inmate-guards, (Garrett and MacCormick 1929, xxiv) while in Alabama, white trustees “along with guards and bloodhounds” were sent to “trail negro prisoners who have escaped.” (Garrett and MacCormick 1929, 179). In these systems, a formalized chain of authority and weak bureau leadership hindered organizational reform.

With the removal of contract labor following the Hawes-Cooper Act (1929), authors argued that prisons reverted to houses of idleness, with steadily growing populations. Even where industries did exist, they were usually in trades that offered little to no vocational value to prisoners. Some states relied on inmates to build their own



prisons—a practice that, in the eyes of Society, at least taught the basics of carpentry. Other less promising “industrial” pursuits included broom-making, jute milling, rock breaking and quarry work, roadwork and farming. The latter two were the almost exclusive forms of labor in used in the South.

Aside from empirical reports on race and nativity data where the prisons provided it, the discussion of race in the discourse of the reports was exceptional. MacCormick’s pragmatic discussion of race in the *Handbook* highlights white mistreatment in an effort to rally support for broader penal reforms. In detailing the conditions at Florida road camps, MacCormick wrote that men were forced to live in large cage wagons; in Georgia, it was much the same. In these systems, authors said there was no pretense at medical care, religious support, or education. MacCormick highlighted that the prison population in the South had previously been majority-Black but that the white population was growing quickly enough to retake the lead. Speaking of the conditions in the road camps and general practices in Georgia, he wrote, “This type of housing was never satisfactory. Changes in public opinion, the rise in standards of sanitation and the change in population together make urgent the discontinuance of this type of housing.” (Garrett and MacCormick 1929, 243). By strategically discussing race, MacCormick and colleagues hoped to auger public support for prison reform.

Southern penal systems were not exceptional in their “ancient” and overcrowded plants. The prison at Menard, Illinois, had to house a population of 2000 in a space designed for 800. The population in Jessup, Maryland was 100% over capacity (Garrett and MacCormick 1929, 430). Wardens handled the overcrowding crisis (made worse by lack of legislative appropriation) in different ways. Many states relied on hastily built

dormitories but wooden barracks had recently led to the deaths-by-fire of prisoners in Ohio and Texas unable to escape. Other states, like Michigan and Iowa dealt with overcrowding “courageously by putting cots in the corridor rather than concealing it by doubling men in the cells” (Garrett and MacCormick 1929, 326). Overcrowding was a problem even where idleness was not. New Jersey’s prison at Trenton had some of most overcrowded conditions in the country, tempering the value of its being one of the few prisons providing psychological health care, and an educational program “superior to that of most Eastern prisons” (Garrett and MacCormick 1929, 621). There were institutions tolerable to modern standards in pieces and parts, but no coherent system of reform yet existed in the country.

In Idaho, authors reported, “with real improvement in the physical plant has come retrogression in disciplinary methods” (Garrett and MacCormick 1929, 253). This general flavor of pragmatic critique highlights the authors’ rare breaches of it when certain wardens or practices were especially dismissive of humane reform. Speaking of conditions and administration of Idaho’s penitentiary,

The present administration is frankly and outspokenly ‘hardboiled’ in its methods of punishment. While one must respect frankness and disinclination to hide questionable methods, the fact remains that the punishment meted out here is a denial of practically all that has been learned about the handling of criminals in the last 50 years. The punishment cells are little better than medieval dungeons... There is no evidence available that Idaho has a particularly difficult penal problem, unless it is one created by the very methods used to solve it (Garrett and MacCormick 1929, 254).

It was essential, according to MacCormick, that wardens learn to distinguish between true discipline and mere punishment. To discipline was to form character: education and inmate self-government were preferable means to these. While to punish was only to spur

conformity—and dependence—which were in the end roadblocks to the duties of citizenship (Garrett and McCormick 1929, 46).

Such conditions, authors argued, would surely lead to more unrest. McCormick wrote that New York’s policy of “holding men in prison who were eligible for parole aggravated an already serious condition of overcrowding and in time caused the general population to accept the counsel of despair which enabled a . . . riot” (Garrett and McCormick 1929, 634). Perhaps his greatest fear was that “there is real danger that these riots will be made an excuse for a reactionary policy.” Rather than more punishment, the “obvious significance” of the riots was rehabilitative prison reform (Garrett and McCormick 1929, 634).

To address the ills they had uncovered in their national tour, investigators at the National Society added a prescriptive section to their *Handbook* to assist rehabilitative-oriented penal administrators. In a section entitled “The Prison of the Future,” McCormick and Garrett outlined a system of prison organization and programming largely absent in the US. It articulated a vision of institutional transformation based on a philosophy of moral humanism, a sort of transmutation of earlier reformist calls to save the souls of men. This time, however, men souls might be saved by making a spiritual and moral life possible through rational and predictable treatment in prison geared toward inmate release, not retribution.

Garrett and McCormick urged administrators not to conform to the old warden model, but advocated professional training and educated leadership who could act as “an administrative head of capacity and experience, selected with as great care as the head of

a college or university” (Garrett and MacCormick 1929, xlvi). Prison programs were to be designed around the inmates’ needs: the greatest need of which was resocialization for life as an ordinary citizen. This would require, they argued, a comprehensive organization of healthcare, education, industry, and religious training. Education was to form the heart of the new prison: “every phase of the program of the institution will be related to the educational purpose” (Garrett and MacCormick 1929, xlvi). Like education, “the power of religious appeal will depend not only on those presenting it, but on the fundamental principles common to all faiths being embodied in the spirit and administration of the institution” (Garrett and MacCormick 1929, xlvii). To this end, “discipline will be the development of character...it will not be arbitrary in spirit of method;” only when this “prison of the future” was realized, would “a great step have been taken in solving the problem of crime” (Garrett and MacCormick 1929, xlvii).

Reformers also promoted the idea of “scientific assessments” used by prison administration and staff to replace opaque decision-making processes that helped facilitate political favoritism (Garrett and MacCormick 1929, 25). These changes, along with those phases of institutional life in prison, were, authors argued, gaining elite support—not least of which was evidenced by the Society’s advisory committee, which included Franklin Delano Roosevelt and Jane Addams, along with elite reformers in 18 other states. *Handbook* authors argued that growing elite consensus was informed by a new American self-consciousness on an international scale to build and foster state structures on a par with the “developed world” (Garrett and MacCormick 1929, 26). While elite support was important, authors urged that it was not enough to transform punishment practices in the United States. What was needed, ideally, was a coalition of

public mobilization, political support, and bureaucratic autonomy in administering reforms. Increasingly, though, reformers concentrated their efforts and strategy on prison bureaucrats to carry out their desired policy goals, whether or not the public and elected officials supported them (Garrett and MacCormick 1929, 47). Most important to the scientific evolution of prisons was the “administrative spirit” and consequently, that of the guards. A creative, “forward-looking” warden could ameliorate the worst conditions, while a punitive warden might undercut all other sanguine developments.

### Education of the Adult Prisoner: Rehabilitation as Discipline

Most essential in the scientific prescription of prison reform was the discipline that education provided. And it was, Garrett and MacCormick found, sorely lacking in American prisons. In 1929, roughly 100,000 adults were incarcerated in prisons and reformatories around the United States. Similar to today, the prison population was on the whole undereducated and vocationally unskilled relative to the rest of the population. In *Education*, MacCormick suggested that only a very small minority of prisoners were not in need of remedial education: “those who can convince the [prison] school authorities that they have completed the eighth grade” (MacCormick and National Society of Penal Information 1931, 13). MacCormick estimated that “from 10 to 25 percent of all the prisoners in our prisons and reformatories for adults are virtually illiterate and... from 55 to 75 per cent have gone no farther than the sixth grade in the public schools” (MacCormick and National Society of Penal Information 1931, 19). Prisoners in 1930 were typically young and male “are undereducated from the academic standpoint and vocationally unskilled. In mentality they do not differ greatly from the Army draft group” (MacCormick and National Society of Penal Information 1931, 15). MacCormick saw

prisoners as an unexceptional part of the population, lacking the tools and training for productive membership in society, but not unfit for that membership.

But it was not simply lack of previous education that rendered the 1930 prisoner worthy of holistic educational intervention for MacCormick and social progressives like him: “As a matter of fact, the student body of any penal institution *is* the entire inmate body: feeble-minded, mentally superior, unskilled laborers, skilled artisans, illiterates, college graduates, hillbillies, bankers, trouble-makers, and trusties. We may not be able to reach them all, but we should try” (MacCormick and National Society of Penal Information 1931, 14). It was the individual’s mere presence in prison that implied the need for educational intervention and rehabilitation.

**Table 2-1 Program Phases in Education of Adult Prisoners**

<b>Area of Education</b>	<b>Specific Components</b>
Fundamental Academic Education	Selective introduction to English, science, math, history
English and Arithmetic	Basic literacy; vocabulary; writing and composition; spelling and grammar; public speaking; basic math; house-hold and small business accounting
History, Government, Civics	History and government; current events; mechanics of citizenship; civic ideals; geography; American history and government
Vocational Education	Growing trades; training in industries (e.g. automobile, maintenance, agricultural); vocational guidance; aptitude and intelligence testing; theoretical learning; applied learning; advanced specialty courses; introductory survey courses
Library	Fully funded library with appropriation for staff and regular purchases; aid to socialization and cultural education especially; advertise education
Health Education	Indirect education; bodily health; grooming; sex education; safety education
Cultural Education	Music; art; drama; introductory courses
Social Education	Community organization (inmate elected government)

Table 2-1 shows MacCormick's model for a prison educational program, which included a diverse and individualized program designed to equip the adult prisoner with the intellectual and vocational skills for life in the marketplace, habits of "personal hygiene," and loftiest of all, to cultivate an appreciation of arts and culture, to develop wholesome habits of leisure. As an exponent of the Adult Education movement more generally, MacCormick endorsed a competency-based learning model, emphasizing skills rather than memorized information.

One of the most important proposals for correctional education was the appropriation for a permanent education department with its own staff, infrastructure, and quality curriculum. In the late 1920s, where there were educational programs in prison, they were sporadic, informal, and poorly funded. Teachers were rarely state-certified professionals. Often the role of the teacher was filled by the prison chaplain, a guard, or another inmate. Even more common, however, was prisoner enrollment in correspondence learning courses.

MacCormick and other adult education activists championed a fundamental program academic education aimed to "equip prisoners with the intellectual tools which they need in the ordinary business of living" (MacCormick and National Society of Penal Information 1931, 52). Specifically, fundamental education had five learning goals: "the ability to read simple English," "the ability to write simple English," the "ability to speak simple English correctly," the "ability to perform the mathematical processes needed in ordinary life," and the "knowledge of the fundamentals of the history, government, geography and civic ideals of the United States" (MacCormick and National Society of Penal Information 1931, 54). *Education* offered a more comprehensive view of

citizenship that could be learned through rehabilitative education in prison. “If they were asked what the aim of education for prisoners is most laymen would say, ‘To make them better citizens,’ ... this indeed is the aim often given.” But, he argued, all depended not on whether rehabilitation was about citizenship (at least, among allies) but what kind of capacities and roles the citizen was meant to have. If “we meant turning offenders against the law into men who earn their living honestly... we have set a defensible aim but one that is too low” (MacCormick and National Society of Penal Information 1931, 6).

Instead, MacCormick envisioned education as training for independent thought in addition to economic independence. He argued that:

If by better citizen we mean one to whom new ways of living, new competence not only in making a living but also in living itself in the complex social relationships of modern life, new understanding, new satisfactions, new richness, new outlooks, new horizons, new standards, new concepts have been opened up by education, we have set an aim worthy of pursuance (MacCormick and National Society of Penal Information 1931, 6).

His was anything but a sinister program for building passive citizens, or cogs in a wheel of industrial society. It was an argument for education as a “path of education as a path of reform” made into a “broad path, winding and rambling, with many detours and many alluring bypaths” for self-knowledge and spiritual growth. Here was a vision of education reminiscent with Walter Rauschenbusch's refrain: “Approximate equality is the only enduring foundation of political democracy. The sense of equality is the only basis for Christian morality. Healthy human relations seem to run only on horizontal lines. Consequently, true love always seeks to create a level” (1912, 264). MacCormick himself also included moral and spiritual dimensions in his reckoning of a complete social education as expressions of a rich human experience rather than as adherence to religious dogma.



Short of the total transformation of prisons into rehabilitation institutions, MacCormick's *Education of Adult Prisoners* largely focused on formulating "a workable program, indicating what might be done with adequate financial support and competent personnel" given the freedom to experiment (MacCormick and National Society of Penal Information 1931, 6). To this end, policy suggestions were made on a sliding scale. *Education* outlined a "Reasonably Complete Staff" with an Academic Director, Vocational Director, 10 vocational teachers, 5-10 academic teachers, 4 part-time teachers in special subjects, and a librarian, along with salary recommendations. If a complete staff were not feasible "a modest beginning can be made by the appointment of an educational director, an assistant who is a specialist in vocational training, a full-time supervising teacher or two, and a few part-time teachers who can train inmate teachers, supervise their work, and do some teaching" (MacCormick and National Society of Penal Information 1931, 261). The additive model was not the ideal but was a kind of golden mean, a most likely variation of the rehabilitative reform program if MacCormick and members of the National Society could persuade penal bureaucrats to implement their recommendations.

## Strategies and Resistance to Scientific Expertise

In this section, I provide an analysis of scientific claims making championed by MacCormick and Garrett in their *Handbook*, and show how these claims propelled pragmatic reformers into prison bureaucracies in the hope of proving that reform was a viable alternative to punitive prison administration.

Learning from his experience in Colorado, and later his national tours of penal institutions from 1926-1929, MacCormick and his associates at the National Society

promoted a comprehensive program of prisoner rehabilitation (and institutional reorganization) using a carefully crafted discourse of scientific treatment and citizen-building, which, they argued, was best administered by prison bureaucrats. The scientific discourse of prison management would come to dominate prison penology and institution building in coming decades, particularly in the immediate postwar era. Reviewing this early phase in discourse-generation in context is crucial, because it shows how reformers used science as a strategy to effect otherwise morally inspired interventions. That is, the language and program of scientific management was used as a tool to overcome what activists saw as the twin culprits of politicization: the ignorant and therefore punitive public and the corrupt politician.

Underwriting the critique of the nation's penal institutions was their adoption of a teleology of progress, a watermark of Progressive political discourse and of "modernity" more broadly. Authors wrote that the prison of the future was "slowly being evolved from our present penal system" (Garrett and MacCormick 1929, xlvii). Rather than a radical swing away from current practices and outlooks on punishment, MacCormick and Garrett, like many reformers, asserted that even the most heinous of institutions was already on the road to reform by virtue of their situation in modern society, surrounded by a democratic culture. Change, or evolution, may be gradual or impeded by hostile individuals, but it could not be avoided. In this sense, conducting a national survey of this kind was to assert the authority of this Progressive vision over an otherwise closed, intractable cluster of punishment houses.

For all its emphasis on the "true" or "forgotten" purpose of a political institution, the thrust of the Society's critique—and its claim to legitimacy—relied on an entirely

new set of claims to restore prisons to their rightful function. The *Handbook* suggested it was institutional administrators who were the rightful instruments through which reforms would be enacted. This meant that the impact of their reviews and recommendations hinged on gaining administrative acceptance of the reviews and by maintaining collegial relationships with them, especially in problem cases. It was, then, above all a project of persuasion to adopt a reformist policy.

The most general and therefore, most fundamental, claim to the scientific validity of the “new methods” of rehabilitative orientation portrayed in the *Handbook* had less to do with empirical supremacy of the new methods (for very few institutions had actually put such programs into place) than with “all that has been learned about the handling of criminals in the last 50 years” (Garrett and MacCormick 1929, 253). Repeated reference to the “new methods” versus the “old school” or “worn” old methods of penal administration occur throughout the *Handbook*. In the context of Progressive Era politics and society, to situate oneself in alignment with the modern, the empirically known—that is, the scientific—was less a descriptive statement than a polemical one. MacCormick’s claim to rehabilitative reform’s scientific, and therefore modern, status is rather subtle, since MacCormick does not specifically catalogue the lessons or the learners of the last 50 years. Reference to accumulated knowledge of a half-century is necessarily oblique because, in fact, he referred to the existence of reform efforts, to a social movement, a moral-political outlook, and not an outcome. The *Handbook* and *Education* espoused a pragmatic faith in search of institutional converts.

While there would be several more editions of the *Handbook* in following decades that would influence several states, including California, to adopt reform, the legitimacy

of the reviews in 1929 were far from settled. Persuasion from the outside also had its limits: the authors went to great lengths to avoid overt criticism of any institutional figure or board member. The most obvious tactic that MacCormick and the Society took was to position themselves as experts in the science of prison management, as stewards of modernity and advocates of “scientific” treatment and friendly advisers to penal bureaucrats. One of MacCormick’s research partners, Frank Rector, wrote him that, “It is a little hard to know just how much to say in these summaries so as not to say too much on the one hand and not to weaken the value of the detailed... report on the other.”<sup>27</sup> MacCormick evidently felt the same. Working to boost the credibility of the Society as a national reviewing agency, and of prison reform as a scientific, rational program, meant that certain forms of critique likely to sow division among the delicate reform coalition. He wrote, “I find very often that I want to speak out...and I often hold back because any views I express as an individual may reflect on the Society.”<sup>28</sup> Even where conditions and practices were generally poor, the authors frequently commended institutional coping with or at least reduced blame for those conditions, instead demanding greater legislative funding and political insulation.

MacCormick’s scientific language is little more than a remodeled appeal to tradition—a reformist tradition, but a tradition nonetheless. The basis for “what has been learned about the handling of criminals in the last 50 years” is actually what has been believed about the handling of criminals by Progressive reformers, enacted to varying degrees in isolated contexts. Viewed in this light, there is not so very great a distance in

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<sup>27</sup> Austin H. MacCormick Papers Box 1 Folder 4 p. 65.

<sup>28</sup> Box 1 folder 4 p. 79; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

the origin of claims between the old school and the new. Both were founded on *civic belief* determining the relationship between prisoner and the state; both held that there was a fundamental relationship between these groups, but they were otherwise opposed.

Progressives at the Society had explicitly turned away from moralistic arguments for reform that had failed so thoroughly in the preceding generation. That is, MacCormick, Garrett, and the Society leadership at large did not justify claims for institutional change on moral humanistic grounds about what prisoners might deserve. Such would be little more, in political terms, than an inversion of the “old school” philosophy used by wardens who relied on arbitrary rule to control their institution and maintain authority from political oversight. It would have replaced on arbitrary principle with another. Instead, MacCormick and Garrett rested their policy prescriptions on what society needed from its citizens in general, and what prisons ought to do in order to meet those needs, in particular. In order to reach these desired citizenship goals, arbitrariness needed to be replaced with “scientific” methods of management, education, and treatment. To reformers at the Society, and MacCormick in particular, “scientific” meant above all, the non-arbitrary from the point of view of the prisoner. Prisons, he argued, ought to have rulebooks and standards codes publicly available to prisoners; self-rule ought to be encouraged, even championed, by the administration. If “frontline custody staff in prisons are always ‘capable of undermining Treatment practices in the name of security,’ then the principle of scientific prison management emerged as a counter to the institutional claims of brute, opaque domination (Goodman et al. 2015 in Reiter and Chesnut 2018, 53).

Reformers had reason to be circumspect in their claims of legitimacy: after all their claims of modern methods and progress, they had no empirical proof that rehabilitation programs were viable alternatives to the old method, as hostile wardens made clear to them. Not all those who were reviewed endorsed the outlook or findings of the Society; nor was there uniform acceptance of this “scientific” authority thrust upon traditional prison leadership. The Warden of the Idaho State Penitentiary was one such who chafed at the *Handbook*’s findings and presumptions of superiority:

The punishment ward is far from being a medieval dungeon... Of course we did not build it to rival, in comfort and sumptuous furnishings, America’s leading hostelrys. It is built with the thought in mind of punishing and keeping safely confined as hard a bunch of cutthroats and scoundrels as ever infested the Western part of the United States...

Of course, I recognize the well-known fact that novices and amateurs are always prone to offer advice. It is a good deal on the same line and equally as ludicrous as the maiden lady of uncertain years delivering the speech at the women’s club on motherhood... permit me to say in passing, that our citizens do not require advice and counsel of residents of New York, untrained executives and amateur uplifters, who have no interest in our state... nor pay one cent of taxes in any form toward the upkeep of its government.

It is said that comparisons are odious and if your criticisms of other penal institutions are as unreliable and misleading as those of our institution, [I] will say, that your handbook will prove of very little value (reprinted in Garrett and MacCormick 1929, 256).

In order to attract more “converts” to the new methods, activists like MacCormick learned they would have to be the ones to implement novel rehabilitative reforms.

## Conclusion

The knowledge gleaned from the *Handbook*, as well as the corrective program laid out in *Education* was to be more than just a polemical treatise—it would come to serve as a blueprint for bureaucratic reform. Inroads at persuasion and network building had been made throughout the national surveys, but the rehabilitative reform movement lacked strong success in practice. Even the most sympathetic state boards, wardens, or

schoolteachers found in the national tour had been thwarted by some institutional barrier or lack of legislative funding. In short, rehabilitative programming was so far an isolated appendage of this or that individual: what was needed was institutional reorganization spearheaded by an informed, savvy innovator.

This chapter showed that in the 1920s, MacCormick had transformed from a moral crusader to a pragmatic bureaucrat, a decision that would have lasting impact on welfare programming in prisons in the United States. MacCormick and his colleagues at the Society could claim scientific legitimacy, but until they could prove it, rehabilitative reform was subject to the kind of mockery they suffered from the Idaho prison warden. Embracing political pragmatism, and having identified prison bureaucrats and the logical target of reform policies, the next logical step, in the absence of institutional allies, was to join a prison bureaucracy for themselves.

Bureaucratic reform or “technocratic” progressivism, in the words of Eisenach, was a platform of last resort. The language of scientific reform and the strategy of political pragmatism blossomed as strategies for governmental reform. Opportunity emerged when MacCormick, now recognized as a leading penal “expert” was recruited to join the middle ranks of the federal prison system by Massachusetts Republican Sanford Bates. Bates, a proponent of prison reform, invited MacCormick to join him as Assistant Superintendent of Prisons in the reformist Hoover Administration, where he would have opportunity to implement welfare programming.

## Chapter 3 “A Wise and Interested Government:” the Birth of Correctional Education at the Bureau of Prisons 1929-1937

### Introduction

In the last chapter, I showed how Progressive reformers conducted extensive field research in prisons and advocated for a program of what they called “scientific” prison reforms, among which education was a central feature. In this chapter, I draw on 2,744 archival documents from the Bureau of Prisons (BOP) to retrace the reformist Bureau’s opportunity and first attempts at reform and chart how mid-level innovators at the BOP engaged in institutional learning.<sup>29</sup>

From 1929-1937, the Federal Bureau of Prisons administration in Washington D.C. was a self-conscious laboratory of Progressive reform, where the most active members of the American Prison Association, namely MacCormick and his colleagues during the first years of the Bureau’s existence, attempted to implement educational rehabilitation programs in prison systems largely unaltered by the BOP’s reform. During the BOP’s first seven years, innovators like MacCormick and Bixby engaged in pragmatic institutional learning to implement educational programs that would, they hoped, help to legitimize the scientific claims of rehabilitative penology. Through these early “small, experimental programs” (Carpenter 2001, 6) at the BOP, MacCormick and his fellow bureaucratic innovators worked to authenticate the realistic feasibility pro-rehabilitative program and to solidify a burgeoning professional association organized

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<sup>29</sup> See Table 1-2 in Chapter 1.



around a central concept, correctional education. The professional network and institutional knowledge learned during this period would profoundly shape postwar prison reform efforts across the country, as these same reformers would be the primary authors and advocates for postwar rehabilitative prison reform.

Retracing the early chapter in the Bureau of Prisons should be seen in the broader state building context of “managerial progressivism” (Eisenach 1994) in which Progressive political and social movement actors migrated into government bureaucracies to effect social change. Like Carpenter (2001), I find that mezzo-level bureaucrats are at the nexus of bureaucratic policymaking and experimentation. Ashley Rubin (2018) has explored how primitive-professional wardens in the nineteenth century claimed expertise in attempt to defend their administrative authority by asserting their situational knowledge of the prison and its population. Building on Carpenter and Rubin, I contend that BOP innovators from 1929-1937 perfected a political strategy to promote their reform by means of empirical “proof” that rehabilitation was a viable alternative to dominant punitive practices. In addition to framing reforms as “scientific” (as discussed in the previous chapter), reformers entered the federal prison system with the goal to authenticate their claims that rehabilitation was a viable alternative to the dominant punitive paradigm. The marriage of rehabilitative discourse and practice, I contend, empowered bureaucratic prison reformers with a powerful reform discourse that would affect penal development for decades.

Now that Progressives like MacCormick had formally entered the institutions they wished the change, the first task was to implement rehabilitative programs like the one mapped out in *Education of Adult Prisoners*. The opportunity to implement these

programs was crucial both as a means to legitimate reform, but more pragmatically, for generating a template for successful welfare reform that would slowly marble the federal prison system.

In particular, I focus on mid-level bureaucratic reformers at the BOP, namely Austin H. McCormick and his successor F. Lovell Bixby, who designed and implemented educational programming in federal facilities in spite of persistent barriers to reform within the existing institutional structure. First, I chart the initial opportunity for reform following a wave of prison riots. Second, I detail how McCormick and other mid-level bureaucrats encountered three persistent barriers that threatened to undermine rehabilitative efforts: lack of professional correctional educators, lack of budgetary discretion, and hostile entrenched constituencies. Third, I show how McCormick overcame these barriers by assuming the role of warden at one prison, which paved the way for program expansion nationally. Fourth, I show how bureaucratic innovators parlayed this small-scale success into broader claims that prison rehabilitation was both a legitimate and feasible goal of penal administration. I conclude with a discussion of the trade-offs of pragmatic bureaucratic innovation in the context of its later impact on postwar prison reform.

### Opportunity and Innovation at the Bureau of Prisons

In 1929, the same year McCormick published his *Handbook of American Prisons* discussed in the previous chapter, newly appointed Superintendent of Prisons Sanford Bates invited McCormick to join the Hoover Administration as an Assistant Superintendent. The position would enable McCormick to implement the very programs he advocated for with only partial success as an outside agitator. However, even within

the federal bureaucracy, it was unclear to what extent reformers could implement their reform agenda. When MacCormick first arrived in Washington, the office of the Superintendent of Prisons, still under the direct control of the Attorney General, was weak and powerless against the wardens and Department of Justice personnel. Only a few months passed, however, before long-festered problems throughout American prisons came to head that gave reformers a crucial first opportunity to push for budget increases and discretion to implement their programs.

In the summer of 1929, widespread prison riots shocked and inspired fear in the country, providing the first major opportunity for reformers to advocate for improvements including in some federal prisons, over longstanding issues of prison overcrowding, unsanitary conditions, and idleness. The wave of riots began during a heat wave when two New York prisons exploded at Clinton Prison and Auburn State, killing five prisoners and three guards (New York Times 1971). Two weeks later, on August 1, 1929, another riot occurred at the United States Federal Penitentiary at Leavenworth, Kansas during a heatwave. The response at Leavenworth appears to have been especially brutal. “The riot at Leavenworth, Kansas was reportedly the fifth in its history [since 1891] ...The warden ordered the guards to shoot at once, one prisoner being killed and several wounded when it was quelled by machine-gun fire” (Adams 1994, 63). Between 900 and 3,758 of the prisoners took part in the riot that resulted in the death of one man and the injury of three others.

Recall in the previous chapter MacCormick’s concern that poor conditions in American prisons would result in a riot that could spark a punitive reaction. Progressive bureaucrats were quick to mobilize after the 1929 riots both because the riots were a

genuine opportunity and to preempt punitive political responses. MacCormick later identified the riots and subsequent reorganization of the Superintendent's office into the Bureau of Prisons as a major turning point in the reform movement:

[the Progressive Era] was the era in which I think was the first break in the avowed reliance on brutality, regimentation, harsh treatment, to hold prisoners under control and indeed their hope was to accomplish their reform by deterrence. And then in 1929, 1930—what I consider the new era of penology in this country began, and the thing that tipped it off was the reorganization of the federal prison system under Sanford Bates who had been commissioner of correction in Massachusetts.<sup>30</sup>

The newly named Superintendent Sanford Bates had opportunity to urge reform five days after the riot broke out at the federal prison in Leavenworth, Kansas. President Hoover held a meeting with Bates, and agreed that the federal prison system was chronically overcrowded, underfunded, and inadequately governed. The President stated in public address “Atlanta is 120 percent over capacity... Leavenworth 87 percent, all of which is the cause of infinite demoralization and the direct cause of outbreaks and trouble” (Herbert Hoover “Statement on Plans for Federal Prison Reform” 1929). MacCormick recalled,

We came in the summer of 1929. We were greeted immediately by one of the worst riots I had ever seen, had anything to do within my whole life at Leavenworth. They just waited for us for just about a month to see what we were going to do... it scared the living daylights out of congress. We had the backing of the president...and we were able by talking about the riot and using it as a thing to scare them [congress], to get appropriations such as nobody had ever got before...<sup>31</sup>

At Bates' urging, President Hoover insisted on a \$5-million-dollar budget increase, a new prison, and comprehensive reform. This comprehensive reform included the formation of

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<sup>30</sup> Box 6 Folder 7 p. 84; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>31</sup> Box 6 Folder 7 p. 98; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

the Bureau of Prisons in 1930, to replace Superintendent of Prisons and made the administration independent of the Justice Department. The new Bureau was also charged with sweeping new responsibilities to provide rehabilitation and welfare programming for federal prisoners, which the inaugural BOP administration were only too happy to implement. The existing prison institutional structure, which invested a high degree of autonomy in prison wardens, not the Washington Bureau, would prove deeply fragmented and often hostile to this “new department inside of an old organization.”<sup>32</sup>

## Bureaucratic Learning at the BOP

The first part of this section draws on education correspondence to reconstruct how MacCormick and his colleagues confronted three persistent barriers to reform: lack of trained correctional education personnel; institutional design constraints; and entrenched interests in the prisons. The second part of this section illustrates how MacCormick overcame these barriers by tailoring his reform strategy and made two crucial breakthroughs in program implementation and personnel in select prison sites, success which would later unlock reform at all federal prisons.

Carpenter argues that mezzo-bureaucrats are especially well positioned to carry out institutional innovation. Innovation includes both *learning* and *doing* because “innovation requires authority to make spot changes in a program” and “the ability to act on what has been learned” (Carpenter 2001, 22). The first five years following Bates’

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<sup>32</sup> Warden Aderhold to Austin H MacCormick, Assistant Director, Bureau of Prisons, Washington D.C., Nov. 11 1930; Box 99, Folder 1, p. 31; United States Penitentiary Atlanta; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

successful maneuver to implement reforms was a period of intense institutional learning and experimentation for mid-level bureaucrats like MacCormick.

MacCormick's main preoccupation during his time in the federal prison system was to prove that rehabilitative reform was possible: this required both program success and institutional cooperation. The *Handbook* had shown that the federal prison population was also deeply in need of remedial programs he wished to introduce. Federal prisoners were also unskilled and had very low educational attainment, and the prisons were radically ill equipped to meet these social problems. At USP Atlanta in 1932, 13.9% of prison population was illiterate; 70.35% had only a grade school education; 12.65% education in secondary schools; 1.77% college or university; 0.29% graduated college; 0.86% received commercial training; 0.42% claimed professional training before incarceration.<sup>33</sup> In order to be more than facile rhetoric, reformers like MacCormick needed to overcome institutional fragmentation that separated the functions of learning (observation), doing (implementation), and innovating (planning) (Carpenter 2001, 22).

MacCormick's correspondence with his ground-level employees to illustrate the major barriers and then the breakthrough at Chillicothe. The success of educational programs in the early days of the BOP's program innovation varied according to institutional design and the entrenchment of its acting leadership at the time of reform. This chapter reviews four prisons: Atlanta, Georgia; Leavenworth, Kansas (including the Leavenworth Annex for narcotics offenders); McNeil Island, Washington; and The United States Industrial Reformatory at Chillicothe, Ohio (see table 3-1). The least

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<sup>33</sup> Box 99, Folder 3, p. 79ff; United States Penitentiary Atlanta; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

success and the most resistance came from the oldest prisons to house male offenders.

The institutional structure of the three oldest federal penitentiaries at Atlanta,

Leavenworth, and McNeil Island each presented an array of problems for MacCormick

and the entire reformist Bureau at Washington.

**Table 3-1 Experimental Education Sites in the Early BOP**

<b>Name</b>	<b>Location</b>	<b>Year Opened</b>	<b>Institution Type</b>	<b>Population Type</b>
United States Penitentiary, Atlanta	Atlanta, GA	1902	Penitentiary	Adult Men
United States Industrial Reformatory, Chillicothe	Chillicothe, OH	1926	Reformatory	First Offender Youth (Male)
United States Penitentiary, Leavenworth	Leavenworth, KS	1903	Penitentiary	Adult Men, Drug Offenders
United States Penitentiary, McNeil Island	McNeil Island, WA	1875	Penitentiary	Adult Men, Territorial Prisoners

Prisons designed after the three oldest penitentiaries were more easily reformed by the Bureau, in part because they were newer and housed lower-security prisoners who did not conform to the stereotype of “criminal” and whose institutional routine reflected that distinction. Chillicothe, newly opened in 1926, would go on to become a national model for rehabilitative program. Chillicothe was a “reformatory” or lower security institution that housed a carefully selected population of young (approximately 18-30 year old) male first-time offenders and had prioritized work training and rehabilitation over confinement.

## Barriers to Reform

### Barrier to Reform: Inadequate Prison Teaching Personnel

Because of the unforeseen political opportunity provided by the 1929 riots, MacCormick had the autonomy he needed to hire Supervisors of Education (SOE), personnel who would be in charge of implementing education programs on the ground. Wishing to implement the new welfare and education programs from Washington DC, MacCormick was interested in giving the SOEs partnership in designing the program. He hoped to rely on SOEs to design and implement school programs, create budgets, and advocate for personnel requests mostly because he lacked the institutional knowledge needed to generate them himself. MacCormick initially placed an extraordinary amount of trust in his Supervisors of Education and would give them a lot of leeway in developing educational programs that worked for their own unique institutional climate. Supervising from a distance, MacCormick appears to have had little alternative.

But oftentimes teaching personnel constituted a significant barrier to early bureaucratic innovation at the BOP. Chief among MacCormick's challenges with personnel was a plain lack of qualified prison savvy teachers in his broader professional network and in the country more generally. MacCormick had written in 1928 of "the virtual absence of educational work in McNeil and Atlanta" as well as the "perfunctory backing" of education at Leavenworth (Garrett and MacCormick 1929). Even with a new congressional mandate, finding competent SOEs for the other prisons proved to be more difficult than MacCormick had imagined in 1929.

Finding adequate personnel was challenging because very few adult educators had professional experience in prisons, and because very few prisons had educational programs, the implementation of reform programs depended on the interpersonal skills of



educators. McCormick hoped that educational personnel would bridge the gap between reformist policy and on-the-ground implementation, relying on education bureaucrats to keep him informed of prison policies, encouraging his Atlanta recruit and others to “write him freely and often.”<sup>34</sup> McCormick admitted that he was hard-pressed to find “a man big enough for the job” in Leavenworth.<sup>35</sup> He wrote to the warden,

I have been keeping my eyes open for a Supervisor of Education for your institution and have been making inquiries everywhere without success. It is not easy to find a man who is a competent educator and who has at the same time had some experience which enables him to understand the peculiar problem of the prison.<sup>36</sup>

But what McCormick did not share with the wardens was that his own lack of the particular institutional knowledge at each of the prisons made it necessary for the Supervisor of Education to act as a program designer a teacher, and an intelligence gatherer, but most importantly, a liaison between the Bureau and the institution.

Inadequate personnel frequently exacerbated the already tense relationship between McCormick and prison staff—SOEs were often excluded from routine prison functions like inmate classification, which functionally barred prisoners from getting assigned to education programs *and* kept McCormick in the dark about ground-level prison management. Education personnel at both Atlanta and Leavenworth prisons were not privy to the classification process in their respective institutions in 1930-31. By extension, this meant that McCormick was also in the dark as to the progress of his innovative programs. In November 1930—nine months after educational supervisors

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<sup>34</sup> Box 99, Folder 1, p. 82; United States Penitentiary Atlanta; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>35</sup> Box 214, Folder 2, p. 191; United States Penitentiary Leavenworth; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>36</sup> Box 214, Folder 2, p. 189; United States Penitentiary Leavenworth; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

were hired to implement educational programs—MacCormick learned that not a single new prisoner had been classified for school in Atlanta.<sup>37</sup>

In prisons like McNeil, Atlanta, and Leavenworth, all with deeply entrenched institutional power structures and punitive policies, MacCormick needed not only teachers but also street-level bureaucratic innovators to refine and troubleshoot the reform template he had mapped out as a penal investigative journalist.<sup>38</sup> In a newly emerging field, this barrier proved difficult to overcome. While the Wardens were sometimes receptive to educational programming, as was the case on McNeil Island, inept and unprofessional educational personnel could (and did) easily undermine program progress. MacCormick struggled to locate and hire a qualified education supervisor in the new field of “correctional education.” He settled on a University of Washington graduate student who ruffled guards and inflated correspondence course enrollment, and whom both the Warden and the Bureau personnel suspected of treating the position as a sinecure.<sup>39</sup>

Inadequate personnel also translated to lackluster program outcomes due to lack of well-defined curriculum. In the face of overwhelming institutional and financial challenges, the whole question of curriculum and enrollment often fell to second-order concern. The SOEs did not get much guidance from Washington in developing or

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<sup>37</sup> Box 99 Folder 1, p. 46; United States Penitentiary McNeil Island; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>38</sup> Box 294 Folder 2.1, p. 202; United States Penitentiary McNeil Island; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>39</sup> Box 214, Folder 2, p. 126; United States Penitentiary Leavenworth; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

securing their course materials. As with other matters, MacCormick was largely hands-off in the hope and need that the SOEs would furnish programs themselves in light of institutional constraints and was frustrated when four years into the new experiment; some supervisors had done little to anything in the way of program innovation.

MacCormick reiterated to on-site personnel that *they* were to be the source of successful reform. Writing to personnel in Leavenworth, he said, “By the time I reach the institution, I hope you will have in mind what general regulations should be promulgated by the wardens or by the Bureau to clear as many possible of the difficulties out of your path.”<sup>40</sup> Even though MacCormick had developed a general comprehensive educational platform, the details of course-design and materials were left to the boots on the ground. Although teaching personnel were themselves highly educated, these prison education bureaucrats were not experienced in designing a curriculum or implementing it. Some of these street-level bureaucrats were committed and worked tirelessly to develop night courses and later vocational materials, but had no experience in creating programs from scratch in a hostile institution.<sup>41</sup>

In spite of the general mediocrity of the first generation of prison teachers at the BOP, MacCormick did manage to recruit some rising stars. MacCormick was responsible for hiring Richard McGee, later Director of California’s Department of Correction, as an assistant Supervisor of Education. The most obvious difference between McGee and his

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<sup>40</sup> Box 214, Folder 2, p. 126; United States Penitentiary Leavenworth; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>41</sup> Atlanta instituted night classes as MacCormick requested in the fall of 1933; the assistant supervisor of education developed a textile mathematics course to compliment the cotton millwork. Box 99, Folder 3, p. 14; United States Penitentiary Atlanta; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

counterparts was his background as a trained teacher and administrator. He had worked as an elementary and high school teacher, and later headed Industrial Education at a vocational teachers' college in North Dakota and was a PhD candidate at the University of Minnesota.<sup>42</sup> By contrast, the Leavenworth educational supervisor was a university professor and Atlanta's was a former chaplain. By the time McGee joined the BOP educational staff at Leavenworth, he already had in both teaching and program design in an area where MacCormick felt the BOP had been too slow in developing.

MacCormick also had success in recruiting Allen Shank at Chillicothe. Shank, also versed in vocational and academic education had a high degree of autonomy over assistants, and a clear line of command to a Superintendent (the warden) whose job it was to ensure educational programming.<sup>43</sup>

#### Barrier to Reform: Institutional Design

In addition to a dearth of qualified teaching personnel, the Bureau's reliance on prison wardens for educational and welfare funding was a major hindrance to program innovation and implementation.<sup>44</sup> The BOP had no educational budget of its own that fiscal year. The prison had likewise failed to appropriate a significant educational budget. Other welfare and rehabilitation programs like medical services and prison industry were explicitly authorized and received their own budgets, but the Educational and Welfare Office never received this level of visibility or support (see Table A-3-1 in the Appendix

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<sup>42</sup> John P. Conrad, Richard A. McGee, 47 Fed. Probation 52 (1983).

<sup>43</sup> Box 613 Folder 2, p. 37; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>44</sup> Box 99, Folder 1, p. 42; p. 62; United States Penitentiary Atlanta; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

for full budgetary data). MacCormick was beholden to the various wardens to ensure school programs were funded, that inmates were assigned to educational details in classification, and that institutional policies were not at odds with other programs. The power to reform during this early period was essentially dependent on the power to persuade.

Eight months after Hoover had announced his plan for prison reform, Congress created the Bureau of Prisons on May 14, 1930.<sup>45</sup> The Act stated, “The officers and employees of the existing office of the Superintendent of Prisons...are hereby transferred to the Bureau of Prisons.” Included in this Act was an explicit statement that the Bureau “shall have charge of the management and regulation of all Federal penal and correctional institutions.”<sup>46</sup> But it was unclear how this new Bureau was to enforce its authority over a warden-centered system who wielded extraordinary “situational knowledge” of the various institutions. Up to this point, the prison wardens had near-perfect autonomy. The Act gave the Attorney General power to hire additional personnel in order to carry out the elaborated duties of the BOP, which now included providing health services, employment, and to provide for prisoners’ “proper treatment, care, rehabilitation, and reformation.”<sup>47</sup>

Yet this formal vesting of authority contrasted with the reality of wardens’ autonomy to run and program prisons according to their prerogatives. The chief mechanism for this preserved autonomy was the funding structure of prisons. Even after the reorganization, Congress continued to follow the old pattern of funding prisons

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<sup>45</sup> Pub. L. 71-218, 46, Stat. 325 (1930)

<sup>46</sup> Pub. L. 71-218, 46, Stat. 325 (1930)

<sup>47</sup> Pub. L. 71-218, 46, Stat. 325 (1930)

piecemeal: setting a general budget for each prison, from which salaries were capped. All of the general funds appropriated to each prison were spent at the warden's discretion. Razor-thin budgets ensured that educational programs in all the federal prisons would still rely on inmate teachers, even with the addition of civilian teaching staff. Inmate teachers staffed remote locations of the prison such as the mill or farms, or the satellite road prison camps. MacCormick's skeleton crew of prison teaching staff argued that for stable, quality educational programming, civilian personnel were needed.<sup>48</sup> All of this would require greater expenditure on education—something that MacCormick and the Washington Bureau could only achieve by convincing wardens to spend discretionary funds for rehabilitative projects that presented a direct challenge to their institutional claims for authority.

The Bureau was all the more reliant on wardens when funding increased, since the vast majority of dollars were allocated to prisons, not the Bureau (see Table A-3-1 in Appendix). In 1931 and 1932, Congress began to fund additional BOP programs such as parole, as reformists had long urged. However, the Bureau had little room to implement these programs. In 1931, for example, the Bureau's budget was just 4% of the general appropriations made for Atlanta, McNeil, Leavenworth, and Chillicothe.

Although rehabilitation personnel like MacCormick's Supervisors of Education were hired to implement programming through the Bureau, not the prison wardens, they and the Bureau leadership relied on the Warden for meeting virtually every expense out of the maintenance allocations. Congress had tasked the Bureau leadership with providing "proper treatment, care, rehabilitation, and reform" but obliged the new regime

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<sup>48</sup> Box 99, Folder 3, p. 7; United States Penitentiary Atlanta; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

to humble itself to the very actors who had opened machine gun fire on prisoners protesting poor conditions (Adams 1994). However, apart from modest funding for industries (prisoner work projects), there was no specific requirement made by Congress that increased funds be used for educational and welfare purposes broadly construed. Congress may have sanctified the rehabilitative ideal with the BOP reorganization, but the managerial takeover of the federal prison system was bound to be incomplete without a concomitant reorganization in spending power. Mezzo-level innovators like MacCormick were in a position to author reform policy by fiat. Whether they could implement them in fact was an open question.

This lack of independence sometimes muddled the chain of command and perceptions about educational programs in the various prisons. Although SOE's technically reported to Assistant Director MacCormick, the education program at Atlanta suffered from an indirect and fragmented chain of command. For as much as the Bureau had hired and paid for the educational supervisors, the program they hoped to introduce depended on the goodwill and the cooperation of the wardens. Wardens controlled most of the spending budget, which meant that both the SOEs and members of the Bureau relied on the Wardens to supply materials like chairs, desks, classroom space, typewriters, and writing implements. In November of 1930, the Atlanta school still did not have desks or equipment requested in the spring. The Atlanta SOE confided in MacCormick that he doubted whether the Chief Clerk had put in the orders for the school equipment.<sup>49</sup> MacCormick and his supervisor of education at Atlanta had both hoped that

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<sup>49</sup> Box 99, Folder 1, p. 46; United States Penitentiary Atlanta; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

the Warden would be liberal with the general institution's funds until Congress made specific appropriations for the welfare work, which they failed to do during this period. Education at Atlanta, McNeil, and Leavenworth were destined to remain chronically cash-starved.

#### Barrier to Reform: Entrenched Constituencies

The cases of Leavenworth, Atlanta, and McNeil Island illustrate how preexisting prison power structure and institutional fragmentation created significant barriers to reform efforts carried out by the new bureaucracy. At Leavenworth, the prison warden was more engaged in a turf war with the War Department's military prison down the road than implementing the Washington Bureau's reform policies. The Washington bureaucracy only had few carrots and no sticks to enforce program implementation. Frustrated after a year of fruitless efforts, the BOP Director intervened on MacCormick's behalf to help incentivize school enrollment for prisoners in exchange for funding to hire more guards.<sup>50</sup>

MacCormick was circumspect about addressing recalcitrant wardens or custody staff directly. Instead, he preferred to wait for opportunities to shift policy and the chain of authority. After nearly a year of frustrated progress, MacCormick wrote to Warden Aderhold in Atlanta to address the concerns that the educational supervisor had been reporting confidentially since his arrival.<sup>51</sup> MacCormick wrote Warden Aderhold in the hopes "that there are going to be no delays in the future which are not absolutely

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<sup>50</sup> Box 214, Folder 2, p. 134 United States Penitentiary Leavenworth; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>51</sup> Box 99 Folder 1, p. 33; United States Penitentiary Atlanta; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.



unavoidable and that we shall be able to start our winter's work with the assurance that everyone will get behind the progress."<sup>52</sup>

Prison wardens like Aderhold kept reformers at bay by affirming sympathy for the program and deflecting its failures to forces beyond his control. The warden's response to MacCormick contained a mixture of defense, apology, and sidelong allegiance to the Bureau's new programs. Warden Aderhold reiterated his "sympathy with this school program," evidenced by setting aside space for new school quarters "at a time when our population was at its peak." The warden expressed surprise to MacCormick's reproach.<sup>53</sup> If administrative staff at Atlanta were undermining the program, the Warden asserted he was not to blame. MacCormick's letter had also questioned the Warden's excessively low budget for educational expenditures. At bottom, the Warden asserted, the causes of the Bureau's slow progress was woven into the nature of institutional change: "it is rather a difficult proposition to organize new departments inside of an old organization."<sup>54</sup> The very structure of prisons helped to shield entrenched prison bureaucrats from policy reforms. The institutional structure of prison made them difficult for reform, not individual staff members.

Rank-and-file custody was especially well positioned to block new policy, even after MacCormick travelled to the remote Washington Island to troubleshoot implementation barriers. After MacCormick's departure, the McNeil education supervisor wrote,

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<sup>52</sup> Box 99 Folder 1, p. 33; United States Penitentiary Atlanta; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>53</sup> Box 99 Folder 1, p. 31; United States Penitentiary Atlanta; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>54</sup> Box 99 Folder 1, p. 31; United States Penitentiary Atlanta; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

When you assured me before you left us that I might expect better cooperation from the Captain of the Guards, I had hopes that that might be true. Any doubts however that I had in my mind at that time seem to be justified. Whether it is by intent or just out of ignorance and stupidity, I cannot quite decide. I think perhaps it is a measure of both...<sup>55</sup>

Of course, guards resisted education programming in no small part because of the SOE's ineffective and quarrelsome attitude towards staff. The relationship between custody and education personnel in Atlanta was also strained in October of 1932; the supervisor of education asked MacCormick repeatedly for a transfer to the new prison where the institutional set up would be friendlier to rehabilitation.<sup>56</sup> Rather than accommodate his mediocre educational staff, MacCormick switched gears in early 1933 and critically assessed program successes and failures at the BOP. This assessment led him to adjust his implementation strategy to take on a more active role in the reform process.

### Assessing and Overcoming Barriers

Experimental periods in bureaucratic innovation rely almost entirely on the ability of a few individuals to maximize their program's reach, build relationships, and plan for expansion. The absence of these factors in skilled personnel have the ability to crush a new program or policy before it gets off the ground. MacCormick read his SOEs' letters closely, not only for the administration's preferred prisoner movement schedule and classification practices, but even more so for strategy and policy suggestions. He was aware that the Bureau's policies would not execute themselves, and that they were in many cases counter to the interests and patterns in place on the ground.

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<sup>55</sup> Box 294 Folder 2.1, p. 214; United States Penitentiary McNeil Island; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>56</sup> Box 99 Folder 3, p. 64; United States Penitentiary Atlanta; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

In 1933, MacCormick took the same attitude towards McNeil education personnel as Atlanta and Leavenworth. While he never gave up on them or ignored them completely, MacCormick shifted his attention substantially towards Chillicothe's more promising educational program and administrative structure.<sup>57</sup> If MacCormick believed his SOEs in Atlanta and Leavenworth might be a weakness, he did not say so in either word or deed. MacCormick was reading for evidence of his programs' success and was keen to conceal any of their weaknesses from the rest of the Bureau.

MacCormick began to suspect that the school programs in Atlanta and McNeil Island were turnkey rather than genuinely educational. Writing to the education supervisor at Leavenworth in September of 1931, he said "If [correspondence courses] isn't a solution but merely something that looks pretty on paper, I want to get started on another line of attack pretty soon."<sup>58</sup> Similarly, MacCormick had long been concerned about Leavenworth's low school enrollment, and the general propensity among Leavenworth prisoners to use their school assignment to escape unpleasant work details.<sup>59</sup> He was also growing accustomed to personnel's long, defensive letters and had learned to cushion all criticism with the preface that any hard question was "only for my information."<sup>60</sup>

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<sup>57</sup> Box 294 Folder 2.1, p. 218; United States Penitentiary McNeil Island; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>58</sup> Box 214 Folder 2, p. 61; United States Penitentiary Leavenworth; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>59</sup> Box 214 Folder 2, p. 69; United States Penitentiary Leavenworth; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>60</sup> Box 214 Folder 2, p. 77; United States Penitentiary Leavenworth; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

In this light, perhaps McCormick's puzzling silence regarding his less-than-impressive street-level recruits is partially explained by the fact that he was a pragmatic reformer, engaged in a medium-term project to legitimize his reform platform empirically. As a pragmatist, he never lost sight of the fact that he was implementing programs to legitimate a larger penal discourse, not to perfect the educational system in the Bureau of Prisons. Inexpert SOEs, low-quality education, disruptive prison staff: any of these issues would have been enough to cause lasting political damage to reformers' claims of professional and scientific expertise to reform prisoners.

The chief lesson learned from the experimental sites at McNeil, Leavenworth, and Atlanta were that the main obstacles to rehabilitative reform—budgetary discretion, educational personnel, and authority over entrenched institutional groups like prison guards—were best addressed by the prison warden, not Washington bureaucrats. By 1933, McCormick had clearly reassigned his priorities to focus on holistic program development at Chillicothe, a much newer prison for younger first offenders. In the summer of 1933, McCormick left his Washington office to assume the role of Superintendent of Chillicothe, where he hoped to accelerate reform.

### Breakthrough: the Emergence of the Chillicothe Model

After three years of being blocked by wardens, McCormick had learned where the power to implement reform truly lay: the warden. McCormick jumped at the opportunity to serve as Acting Superintendent in August 1933. By then, McCormick was under increasing pressure to launch a vocational program and prove the value of academic education for prisoners. He wrote to one supervisor in Atlanta: "Do not stop writing now that I am up here. I am just as much in the saddle as ever and a little closer to

the realities of the problems.”<sup>61</sup> Mostly, however, Chillicothe was free from many of the barriers that hindered reform in Atlanta, McNeil Island, and Leavenworth.

In 1932, the educational offerings at Chillicothe were modest but of a higher quality than the other prisons. The institution required that all prisoners who tested below a fourth grade level on the Stanford Achievement Test enroll in school until they surpassed that level. Unlike the other prisons that were confined to brief meeting windows, the Educational Department at Chillicothe offered a day school for 3.5 hours daily along with a night school for 4 hours weekly. Chillicothe also had a day trade school, which would become a template for vocational education that ran for 7.5 hours a day, and a recreational program that organized sports and leisure activities.<sup>62</sup>

In 1933, Education at Chillicothe was given a budget increase totaling \$4,000 (\$76,858 in 2018 dollars), over which educational staff exercised discretion. Chillicothe’s education budget would continue to grow, reaching \$21,000 in 1936-1937 (\$377,188 in 2018 dollars) in sharp contrast to other Bureau education programs.<sup>63</sup> Shank used his budget to hire an athletic director and civilian teaching staff to lead evening school courses that resembled a community college’s catalogue. Beyond the elementary to eighth grade curriculum, Education at Chillicothe offered classes like Beginning Electricity, Abnormal Psychology, Drafting and Plan Reading, Music Orchestra, French, and Creative Writing in addition to those already offered. Not surprisingly, demand grew.

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<sup>61</sup> Box 9 Folder 3, p. 31; United States Penitentiary Atlanta; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>62</sup> Box 613 Folder 2, p. 1; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>63</sup> Box 613 Folder 2, p. 40; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

By the fall of 1934, over 60% of the prisoner population was enrolled in some form of education, and the waitlist was growing.<sup>64</sup>

Under MacCormick, school enrollment at Chillicothe increased rapidly.<sup>65</sup> MacCormick raised raising the minimum compulsory education level to the eighth grade level. After compulsory day schooling to grade four, students would attend night school until they reached the higher level. All the while students are encouraged to complete these courses so they could move onto the more interesting coursework of the night school. MacCormick gives the SOE full discretion to implement. The tone of his program changes take on renewed urgency. MacCormick reiterates that the new compulsory minimum should not be taken as a new ceiling. “None of the compulsory requirements shall bar an inmate from carrying on as much additional educational work on a voluntary basis as his desire and ability and the educational facilities permit.”<sup>66</sup>

That year, for example, the Educational Department rolled out its night school and a number of new courses taught by part-time personnel including Drafting, Bookkeeping, Salesmanship & Public Speaking, Mathematics, Spanish I, Spanish II, Bible Study, The Modern Novel, and Commercial Law. A vocational teacher-training course began under the Ohio State Department of Vocational Trainings in September 1933, and a new Athletic Director was hired to develop physical education and hygiene curriculum.

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<sup>64</sup> Box 613 Folder 1, p. 80ff.; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>65</sup> Box 613 Folder 1, p. 125; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>66</sup> Box 613 Folder 1, p. 111; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

MacCormick instituted mandatory 2-hour classroom components to vocational programs attempting to transform work assignments into meaningful job training and dismissed trade instructors who would not follow the new policies.<sup>67</sup>

There were four major contributors to Chillicothe's success: funding, personnel, built-in planning, and, most importantly, Chillicothe had an institutional structure that enabled coordination between custody and rehabilitation staff. The success of the program hinged on the fact that the institutional structure of the prison, along with its administration embraced rehabilitation not just as a collection of programs, but as a managerial philosophy.

A reviewer from New York State's commission for prison reform said of the reformatory, "The most outstanding one gets at Chillicothe is that of good feeling, alertness, and normality between the inmates and between inmates and personnel."<sup>68</sup> The reviewer suggested a number of reasons for the high morale and program success at Chillicothe. First was the population: most of the prisoners were from the South, particularly "poor white and mountain sections" and therefore, the reviewer concluded "[the prisoners] evidently appreciate the things the institution is doing for them."<sup>69</sup> Along with this, Chillicothe usually only accepted first time offenders and those who are unsuited to the program were shipped out. The second reason was high quality staff. The third was the central place that education plays in the overall scheme of the institution.

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<sup>67</sup> Box 613 Folder 1, p. 126; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>68</sup> Box 613 Folder 2, p. 36; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>69</sup> Box 613 Folder 2, p. 36; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

And in fact, the educational program at Chillicothe was the most robust in all BOP facilities.

Collaboration between prison administrators and education staff was also crucial in the success of Chillicothe's innovation. In 1934, MacCormick left the BOP and served as the Commissioner of New York City Jails under Fiorella LaGuardia. MacCormick had installed his replacement, Joseph Sanford, who took up the reform mantle and aggressively advocated for the educational department. Together, Shank and Sanford leveraged the educational program's strengths to attract top teaching talent in a Depression economy.

The Educational Department at Chillicothe embraced a comprehensive and creative vision of education that drew on collaborative partnerships within the institution and with relief agencies. In the mid-1930s, there were a number of relief projects that paid teachers and artists to work at Chillicothe. Superintendent Sanford and Shank partnered with the Works Progress Administration and the Art Relief Project.<sup>70</sup> Three part-time WPA teachers were employed from 1935-37; and recreational staff were hired through the National Youth Administration were paid to help lead the prisoners in developing leisure pursuits in the prisoners' library, in teaching a craft or skill, playing sports, to "Generally assist and build up the morale of the inmates."<sup>71</sup> An informal relief arrangement between Chillicothe and Antioch College offered students room, board, and

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<sup>70</sup> Box 294 Folder 2.1, p. 97; United States Penitentiary McNeil Island; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>71</sup> Box 613 Folder 3, p. 205; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.



laundry in exchange for their service as “student assistants” to the educational program.<sup>72</sup> In declaring his support for a master artist’s mural design, Superintendent Sanford articulated his commitment to a holistic vision of rehabilitative education:

I am very anxious that the work be inspirational in character. We are attempting to change the thinking of our men and I believe that satisfactory living conditions, human treatment, inspired personnel and educational and vocational advantages, will contribute materially to a changed viewpoint and incentive. Decoration of the living quarters and other buildings of the institution also I believe will contribute to this effort. It is for this reason I am anxious that whatever paintings or murals are incorporated in the decorative scheme have some definite inspirational value along the lines we are teaching.<sup>73</sup>

Education at Chillicothe touched every aspect of institution life, including custodial arrangements, which included a self-governing dormitory. Sanford’s embrace of education included deemphasizing the role of security (i.e. guards’ control over inmate movement).

Educational innovation at Chillicothe continued to thrive as both a practical laboratory and a discursive incubator that helped solidify its place as a national model for rehabilitation programming. Chillicothe educational bureaucrats drafted much of the promotional material for prison education used by the Bureau leadership and national professional groups like the American Prison Association. The Chillicothe records show that education and administration actively strategized for future program growth and opened their curriculum to external review and self-critique, even when programs were running smoothly. At Sanford’s and Shank’s direction, the Education Department built in periods of program design and reflection, often setting aside up to a third of the Assistant SOE’s work week to author lesson plans, conduct internal reviews, and write in-depth

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<sup>72</sup> Box 613 Folder 3, p. 223; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>73</sup> Box 613 Folder 3, p. 215; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

reports. The products, ostensibly for the student body or Washington, often doubled as the sort of promotional material Washington craved to bolster public support for rehabilitation. In one 1934 bulletin co-authored by Shank, Sanford, and Director Bates—all three levels of bureaucratic actors collaborated to promulgate the importance of rehabilitative education to prisoners. Superintendent Sanford wrote:

The schools of this institution offer every man an opportunity to prepare himself for greater usefulness to society. Serve your time honorably and well but make time serve you. A wise and interested Government has made it possible for you to improve your education and training while here. Take full advantage of this opportunity by enrolling in the School.<sup>74</sup>

Chillicothe was assuming a national profile in prison education reform. In 1937, Chillicothe staff wrote, “The philosophy underlying the entire program of rehabilitation in this institution may be tersely stated as a conscious effort to study the individual as objectively and as scientifically as possible and then to provide a work-study program suited to his individual needs.”<sup>75</sup> F. Lovell Bixby, MacCormick’s successor in Washington DC, could leverage their position between the ground floor who already had functional programs and the national reform leaders in the reform network to build support for the rehabilitative program. Chief among these elites was MacCormick, who was still at the center of the national reform movement at the American Prison Association and the Osborne Association.<sup>76</sup>

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<sup>74</sup> Box 613 Folder 2, p. 183; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>75</sup> Box 613 Folder 3, p. 25; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>76</sup> Bixby praised Chillicothe staff for composing the best “brief description of the philosophies and policies of the Reformatory” and recommended the reports be sent to MacCormick as spokes material. Box 613 Folder 3, p. 218; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

The need for planning and program strategy was necessary both at the institution level and for the burgeoning profession as a whole. In 1937, Chillicothe personnel submitted to McCormick—who was now launching the trade journal *Correctional Education*—that

Perhaps...the most highly encouraging feature of the educational program, if not the most significant, is the encouragement and freedom which the members of our Department of Education are given by the Official of the Bureau of Prisons; and our Superintendent, Mr. Joseph W. Sanford, to try out new methods, techniques, and courses of instruction with the view of giving to the inmate population the very best and most practical educational program possible.<sup>77</sup>

Successful program building in this early chapter of the BOP required a tremendous amount from the mezzo-level innovators but truly thrived only when interest and skill aligned at all levels of institutional management. More than anything, rehabilitation reform required a level of coordinated creativity. This perfect storm for rehabilitation at the BOP was a rare occurrence so far. Reform without this cooperation and openness was minimal, as was the case in Atlanta, where the warden turned down teachers at no cost to him even though the SOE had little support and requested more civilian teachers.<sup>78</sup> The BOP later recommended many of the policies in place at Chillicothe when it was asked to help plan Indiana's prison system.<sup>79</sup> Kentucky, New York, and Minnesota all sent representatives to tour and take notes on the institutional set-up to replicate in their own prison systems.<sup>80</sup>

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<sup>77</sup> Box 613 Folder 3, p. 32; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>78</sup> Box 99 Folder 4, p. 58; United States Penitentiary Atlanta; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>79</sup> Box 613 Folder 4, p. 3; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>80</sup> Box 613 Folder 4, p. 3-14; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

Chillicothe constituted the first successful welfare intervention in the federal prison system, and indeed the country. With other states touring its educational facilities and replicating its professional organization, reform-minded bureaucrats were gradually building up the sediment of a social welfare institution within the existing prison structure.

## From Innovation to Expansion

Following MacCormick's departure for New York City in 1934, Sanford Bates had replaced MacCormick with psychiatrist F. Lovell Bixby to become the second Assistant Director of Welfare and Education at the BOP. Bixby, like MacCormick, was an active member of the managerial wing of the prison reform movement. Unlike MacCormick, however, Bixby was not an educational expert and was evidently in search of an assistant who could evaluate the programs the SOEs had developed.

Bixby's tenure differed from MacCormick's in one other crucial aspect: the institutionalization and professionalization of reform. Now the BOP emphasized program expansion over experimentation; the goal would be to bring all federal prison education programs up to the standard set by Chillicothe. He was unapologetic about the need for transparent communication among the Bureau, the education department, and the warden in a strategy to realign the Bureau with the wardens, even at the expense of the Supervisors. After a period of observation from afar, it was clear that Bixby was unimpressed with the development of education at Atlanta and Leavenworth. Bixby would push SOEs to adopt reforms from stronger programs like Chillicothe.

Bixby hired Benjamin Frank, the education expert he had been searching for to review and overhaul, if needed, the Bureau's various educational programs. Bixby had

long been skeptical of the material achievements in education, but he withheld judgement until Frank's own muckraking tour was complete. Together, Bixby and Frank were determined to eradicate correspondence school curricula and ineffective personnel with the program developed at Chillicothe.

Whereas MacCormick's overarching goal had been to meet with reform success at any one federal prison to validate future claims that rehabilitation in prison was possible, his successors were now charged with improving the existing experimental sites. Chillicothe had come to embody the promise of prison reform, largely due to its preexisting institutional structure geared toward reform for first time offenders. With a successful experimental template, now bureaucratic reformers hoped to mimic Chillicothe's educational program at the older prisons of McNeil, Atlanta, and Leavenworth.

Frank's visit to McNeil along with this implementation of a standardized reporting form also revealed a chronic pattern of enrollment inflation. Frank wrote to the McNeil SOE that his most recent report did "not seem to be altogether clear." Total enrollment for the month had been listed as 648 but class attendance was only 182. Yet even those students did not receive proper instruction from the Supervisor, but were only peer tutored by other prisoners. Frank guffawed at the claim that a movie screening for 409 prisoners in one sitting constituted "visual education."<sup>81</sup> Enrollment records from McNeil had been soaring with over 60% of prisoners enrolled at the school since 1932. Frank at the BOP proposed a copy of Chillicothe's program: illiterate education for those

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<sup>81</sup> Box 294 Folder 2.1, p. 26; United States Penitentiary McNeil Island; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

who test under the fourth grade; academic education above 4th grade with emphasis on social curricula; special courses such as languages, commercial studies; correspondence and cell study courses; and vocational education.<sup>82</sup>

In Atlanta, Frank found the educational supervisor to be equally inept. He reported, “During my visit to Atlanta I paid special attention to the educational work and found it in a very bad way. Superficially there is considerably activity in the Educational Department but actually no organization and very little direction.”<sup>83</sup> He concluded, “The entire educational set-up at Atlanta should be scrapped” and replaced with a detailed educational program based on the Chillicothe model. The burgeoning field required professional who were trained public school teachers, politically savvy, and interpersonally gifted bureaucrats who could toggle between roles as teachers and prison bureaucrats.

Bixby and Frank no doubt sought to realign themselves with the wardens through their education purge. Frank and Bixby’s review of the educational work presented a useful opportunity to expand and entrench educational programming by pinning the shortcomings of those programs to on-the-ground personnel rather than systemic problems such as the wardens, guards, or funding structure. The Bureau essentially parlayed consensus over a flawed education personnel into a far more comprehensive educational program than what most wardens were willing to accept when the program began in 1930. Mezzo-level reformers had cemented their programs sometimes with and

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<sup>82</sup> Box 294 Folder 2.1, p. 20; United States Penitentiary McNeil Island; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>83</sup> Box 99 Folder 4, p. 35; United States Penitentiary Atlanta; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

sometimes by repudiating the street-level bureaucrats. These bureaucrats, even where qualitatively ineffective as teachers, had in fact carved out considerable institutional terrain through sheer persistence and institutional presence from 1930-1937.

### The BOP Claims Reform Victory

Two precious victories had been won during the first seven years of prison education. Firstly, a group of activists had translated their demands into institutional power, however tenuous, and had used that platform to articulate a discursive regime that would guide reformers in the next two and a half decades. Secondly, the first seven years of institutionalized prison rehabilitation programming had solidified a national network of professional of correctional educators. Their new organization The Correctional Education Association, founded by MacCormick in 1937, would help to overcome personnel barriers by recruiting a professional class of adult educators who worked in prisons.

The managerial strain of prison reform was ascendant in October 1937, when Frank, Bixby, MacCormick, Bates, and thousands of other prison progressives convened at the 67th Annual Congress of the American Prison Association (APA) in Philadelphia, Pennsylvania. After seven years, it seemed that educational programs had finally gained an institutional footing in the disparate federal system that finally came to heel under Bureau leadership, at least on the surface. With a few exemplary developments in educational programming at Chillicothe, and at least the semblance of cooperation at McNeil, Leavenworth, and Atlanta, the Bureau could now focus attention on bringing all prison education (and educators) up to par. Perhaps the signal achievement of the first seven years of prison reform was no so much the reality of prison reform in 1937 but the

development of a coherent conceptual and programmatic hybrid between prison welfare and public schooling: correctional education.

In an address to a friendly audience of reformers in Philadelphia, Benjamin Frank expressed the tempered optimism of innovators and educators at the BOP. Correctional education as an organizational concept offered a tailored set of norms related to but distinct from the public school and the prison. It included, therefore, both a pedagogical program and a pragmatic implementation strategy. Where the *Handbook* had outlined policy prescriptions, innovation at the BOP now offered a practical template for designing and implementing rehabilitative program. In Frank's rendering, correctional education "objectives and activities... are concerned with the removal of illiteracy, the development of occupational and industrial skills, the satisfaction of certain cultural and practical interests on the part of the prisoner, each activity so organized as to meet the individual's needs," (Frank 1937, 195). Yet, the uneasy inroads of correctional education relied on prison workers' and prison administrators' acceptance that "effective techniques for teaching adult illiterates used in the community are no different from those that should be used in the institution... the only real difference is the situation," (Frank 1937, 195). Correctional education, then, was a concept that championed practical cooperation and advanced an implicit hope among a burgeoning professional group that such cooperation would produce results that would persuade competing prison constituencies to accept the basic tenets of democratic service provision.

Frank claimed during his panel presentation "No other activity in the prison field has received more attention or has had more widespread acceptance in recent years than education," (Frank 1937, 192). Frank linked the failure of the first wave of prison



educators with the flawed methods and philosophy of public education before the Progressive Era. But it had also suffered from “the fact that the functions of our institutions had not been generally accepted either by the public or by the prison administrators themselves” (Frank 1937, 192). Frank suggested that the BOP overcame the historic division between reform-professionals and institutional leadership by “merging” these two bodies through the classification committee. While this drew attention away from larger fractures between Washington Bureau and the Wardens and custody, Frank was pointing to the mechanism through which rehabilitative programs fought to entrench themselves.

Just as important as newfound access to prisons’ classification committee was the professionalization of custody personnel. Education was also a reeducation of the guard, now called an “officer” to reflect his new status. It was vitally important that custody personnel become educated of the real purpose of prisons as rehabilitation centers, education (Frank 1937). Assigning prisoners to rehabilitation programs was not enough—true institutional transformation relied on breeding custody that would not oppose the spectrum of educational programs.

Even with a growing national reputation for reform success, professional reformers like MacCormick continued to worry about public opinions of punishment and rehabilitation. MacCormick had attempted at the 1935 meeting to rebrand the “rehabilitation” as “straightening out” and labored to link its signature programs like medical care and education with common sense fiscal responsibility and smart institutional administration (MacCormick 1935). In 1937, in spite of unprecedented political support and program development in the BOP and New York among elites and

some politicians, MacCormick still cautioned that “what is in danger of extinction is a noble ideal, one that has had validity for thousands of years: the ideal that a man, no matter how low he may seem to have fallen, *can be* regenerated and reclaimed” (MacCormick 1937, 17). MacCormick may have embraced the language of scientific progress, but these bureaucratic reformers remained deeply anxious over popular attitudes towards offenders as much as they were wary of elected officials’ responses to crime and punishment.

## Conclusion

By the mid-twentieth century, MacCormick felt that the Bureau’s early reforms:

[O]pened what I consider the new era of criminology of penology in America because it showed the states for the first time that all these things, all the things the theologians had been saying, all the things that reformers had been preaching about including strict but humane discipline were possible, that they could be made to work, that they were being made to work and there was no reason why they couldn’t follow suit in more and more states began to do it.<sup>84</sup>

Pragmatic Progressive reformers in the early BOP had joined a hostile institution,

implemented rehabilitation programs and articulated a new penal discourse of

rehabilitation that was no longer consigned to the realm of personal faith. Rehabilitation was a viable program.

The correspondence from the founding generation of correctional educators, both on the ground and at the mezzo-level, reveals a professional group caught betwixt and between the structural transformations of America’s two major public bureaucracies: prisons and schools. As members of progressive social movements—adult education and prison reform—this group’s journey into the prison bureaucracy had major tradeoffs.

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<sup>84</sup> Box 6 Folder 7 p. 84; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

While reformers like MacCormick were finally able to implement and later standardize (under Frank and Bixby) the tenets of a progressive educational program for adults, their ability to agitate for improved educational conditions, an increased share of institutional decision-making power, and the retreat away from managing prisons through restrictive custodial force, were all subordinated to the daily grind of maintaining good relations with custody and the warden. Progressive prison reformers gained direct access to platforms of reform by embedding themselves in a pre-existing prison system. One cost of direct-engagement was that welfare professionals and programs were now inextricably part of the carceral regime, a self-conscious minority, who relied on cooperation from actors who could be indifferent or hostile to democratizing reforms like adult education. Progressive idealism was tempered by the strategic demands of bureaucratic survival.

The tepid substantive achievements during the BOP's first seven years was compounded by unresolved institutional conflict enabled by fractured sources of authority. Given the entrenched institutional power of wardens, and custody staff more generally, to determine what programs ran (or, which of them would *not* run in the case of obstructionist personnel) the tension between these prison constituencies was unlikely to resolve itself. Bixby said,

The recent history of penology is characterized by the appearance of psychiatrists, psychologists, social workers, and other specialists from fields dealing with the understanding and control of human conduct. Too often, however, we find that these specialists have been superimposed upon the existing prison organization without actually being assimilated in it. It is not uncommon to find the professional staff sitting lightly upon the institutional organization, like the foam upon a glass of beer adding considerably to its appearance but quickly blown aside whenever there is serious work to be done (Illing 1957-1958, 390).

A core goal for bureaucratic innovators is the consolidation of power over subordinates (Carpenter 2001, 19). One way to understand the Bureau's utter failure to gain a foothold over wardens is to recognize that the Bureau of Prisons was at bottom a marbled—or, in

Bixby's mind, superimposed—bureaucratic power structure. This fragmented institutional structure was not just a problem for federal prisons, but for all public prison systems that attempted to integrate rehabilitative programs like education into a pre-existing structure built on the premise of confinement and control. Genuine rehabilitation would require, as Frank argued, an entirely new institutional framework.

In spite of these challenges, educational reform made important substantive inroads in these prisons during the Bureau's first seven years. Compared to absolute dearth of educational programming, and the evident hostility or apathy to prisoner services in the 1920s, by 1937 correctional education had gained acceptance by the wardens and staff. The Supervisors were now recognized members on institutional inmate classification committees. Even lackluster educational supervisors had played an important ground-clearing role in maintaining educational programs' visibility through sheer doggedness and discouragement. Where program-building efforts were more successful, namely at Chillicothe, a definite and narrowly tailored program had been designed that could be implemented by the second wave of educational supervisors who shared Frank's, McGee's, and Shank's technocratic bent.

Taken together, there was no corner in which the Bureau reformers could reliably count on for support, let alone policy development and implementation. From the standpoint of policy innovation and the generation of a politically salient discursive regime, the Bureau's innovations are a clear illustration of bureaucratic autonomy adapted to the hyper-fragmented institutional structure of prisons. Policy innovators in the early BOP learned that they would need to overcome the potentially paralyzing fragmentation of prisons through professional mobilization and institutional knowledge.

By reexamining the correspondence of key players in the Bureau's reform this chapter in US bureaucratic history reveals how actors used the BOP as a policy laboratory and professional incubator that had much further-reaching consequences than the reform of one decentralized bureau within the Department of Justice. These actors used the BOP to hone the professional network, the political message, and reform tactics of rehabilitation that they would deploy in prison systems throughout the country over the next four decades. The discursive regime and the actors who deployed it used professional and movement networks in ways that overcame remarkable political obstacles and institutional fragmentation that characterized nearly every prison system in the Union. Yet, the very institutional structure of prisons thwarted the total transformation of punishment, even in the most politically friendly of climates. By examining the correspondence among Bureau staff in Washington with educational "field agents" at the various penitentiaries, what becomes clear is both an early episode of an ascendant reform movement and the foreshadowing of the movement's sharp limitations in a predominantly hostile context. In joining the institution they had hoped to change, Progressive prison reforms had hitched themselves to an organ many of the movement's leaders deeply opposed. Fundamentally, the new hybrid of correctional education was a gamble. Progressive-inspired reformers had become allies of institutional agents whose tactics they sometimes found objectionable on moral and political grounds in order to reach a population otherwise unreachable.

This period would have a tremendous impact on the future of postwar prison reform in three ways. Firstly, it was during this period that innovators engaged in institutional *learning* about the nature of prison authority and bureaucratic strategy that

these actors would draw on to navigate other carceral contexts, especially hostile wardens. Secondly, the newly created Bureau of Prisons itself provided a much-needed platform for network cultivation and expansion of prison welfare bureaucrats and promotion of reform discourse. Thirdly, and following from the second, federal innovation connected Progressive prison reformers with other political and bureaucratic elites—such as New York City’s New Deal administration and the US War Department—who looked to replicate the successes in the BOP’s education and welfare programs. This period solidified MacCormick’s and his colleagues’ reputation as successful innovators among federal (and later state) bureaucrats and policymakers in state building efforts about to expand rapidly in the New Deal and beyond, putting them at the center of a powerful reform network at a moment when the American state’s welfare capacity was expanding fastest.

Over the next several years, however, MacCormick and his BOP colleagues would take the lessons they learned to other prison systems, both as administrators and, more importantly, as consultants in the postwar era. This latter role, with the support of a successful experimental program and political momentum behind rehabilitation, enabled reformers to reach some of the least likely states for reform, particularly in the South. It is to this period that I turn next.

## Chapter 4 “They Cannot Do It Alone:” Grassroots Activism in Postwar Prison Bureaucratic State Building

### Introduction

This chapter draws on 2,015 pages of the Austin H. MacCormick Papers and period reports from the Annual Congress of American Prisons to identify and discuss the third phase in the mid-century rehabilitative prison reform from the 1940s to the early 1970s. Recent penal scholars, including Goodman et al. (2016) along with Perkins (2010) and Thompson (2017) all refer to MacCormick’s consultancy work during the postwar period as a penal policymaking expert. Goodman et al. and Perkinson each refer to MacCormick’s postwar consultancy efforts in California and Texas, respectively. Thompson highlights his role in chairing the investigation of the Attica prison uprising in the 1970s. Yet all of these studies, particularly the first two, analyze penal policy and institutional reform through the lens of individual state governments. While there are obvious reasons for such a frame of analysis, the downside is that it downplays the extent to which such reform efforts were occurring in different states through roughly the same channels. That is, these accounts risk individualizing mid-century reform where in fact they were the product of an organized reform network. This provides historical and institutional context to his consultancy and service by locating MacCormick’s consultancy in the broader network of penal policymaking in which it belonged. Doing this allows scholars to appreciate how expertise and consultancy were not isolated events of an individual, but the culmination of a decades-long political strategy to implement welfare reforms in American prisons.

In what follows, first I identify key conditions that enabled widespread prison reform during this period that enabled widespread prison reform that followed the conclusion of World War II. Second, I recount how the rehabilitative prison reform network had developed into a highly impactful, if informal, policymaking hub that helped generate the template for postwar prison reform in the 1940s. In particular, I identify the Osborne Association as an independent nonprofit that served as a crucial policymaking venue in which MacCormick, as its Executive Director, could promote prison reform as an apolitical “expert” rather than an activist. Third, I focus on the South, Texas in particular, to chart the collaboration between national elite reformers and grassroots prison activists to implement welfare reform in least likely cases. Finally, I place Texas’s welfare reforms in the context of national correctional education expansion that continued into the 1970s, on the eve of the law and order era, and chart the emergence of the modern marbled penal welfare state.

## Key Conditions for Postwar Prison Reform

The postwar reform boom was a confluence of four major conditions:

- An extensive network of pro-rehabilitative prison professionals in the American Prison Association, the Osborne Association, California State, and the Federal Bureau of Prisons.
- Local grassroots constituencies
- National postwar spending on state infrastructure
- Impact of World War II on American democratic discourse

The prison rehabilitation network, though expanded and more deeply entrenched, had been in place since the 1930s—what changed were broader political and welfare state spending in the postwar years that created an opportunity for these model programs to be implemented across the country. As I show below, not all states were eager to implement



reformist policies, and often reform was the result of national elites' collaboration with local grassroots activists who could exert political pressure on state representatives to install reform-minded prison leadership. Chief among the tools at the disposal of grassroots actors, including newspapers, were new tools in democratic discourse, such as the popular belief that World War II had been a fight against fascism and in defense of democracy. These terms were often deployed to frame domestic prison conditions as an enemy of democracy at home.

## Robust Reform Network and Elite Policymaking Hub

### *Elite Network Expansion*

In the postwar era, many of MacCormick's colleagues at the Bureau of Prisons were still in leadership positions, and MacCormick himself was a special consultant to the War Department during World War II. The reformist cadre at the Federal Bureau of Prisons in the 1930s had both expanded and entrenched welfare programming into the war years. Sanford Bates, once Director of the BOP, went on to lead the Department of Institutions and Agencies in New Jersey; Austin H. MacCormick served as Commissioner of Correction in New York City Jails under the LaGuardia government until 1940. In 1942, MacCormick served as Special Assistant to the Under Secretary of War.<sup>85</sup> MacCormick's protégé, Richard McGee, went on to lead the prison systems in Oregon and California. Just as important to welfare retrenchment was the growth in rank-and-file membership in professional organizations like the American Prison Association

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<sup>85</sup> Box 1 Folder 1; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

and the Correctional Education Association, founded by MacCormick in 1937. These professional associations along with two successful cases for reform, the BOP and California, were prominent components of reformist policymaking in prisons.

By the end of World War II, the rehabilitative reform network had grown even denser, with key players now in leadership positions in their respective agencies, as opposed to the mezzo-level roles they had occupied in earlier periods of program innovation. During these years, MacCormick still retained his Directorship at the Osborne Association and carried out his review and recommendation process for state correctional reform. The pathways to parallel reform in the postwar US was often a function of individuals like MacCormick who leveraged their networks and multiple appointments to bring disparate administrative executives together for planning purposes. In the mid-1940s, for example, MacCormick orchestrated a meeting between the Federal Bureau of Prisons (headed by reformist James V. Bennett) and the Texas Board of Prisons; MacCormick also contacted leading architectural firms in New York on behalf of the State of Texas.<sup>86</sup>

The professional organization, the American Prison Association, also played a key role in bringing together elite policymakers in the postwar era. The Postwar Planning Committee published its purpose in the APA's trade journal:

The American Prison Association's Committee on Postwar Planning... conceives its responsibility as extending beyond the immediate post-war period and the new construction in the correctional field that may be contemplated as a part of the general desire of governments to provide employment..." (MacCormick 1944, 80)

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<sup>86</sup> Box 6 Folder 10; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

At the 1944 Annual Congress of the American Prison Association, reformists reflected how war had rapidly achieved institutional transformation that had previously been unimaginable. At the annual meeting, MacCormick, chair of the Planning Committee, urged that the APA would “fall far short of its opportunity if we are satisfied with merely trying to see that correctional systems and institutions get their fair share of postwar construction dollars,” (MacCormick 1944, 80). Instead, he argued, holistic reforms ought to be just as essential as upgrades to the physical plant. These holistic reforms were included in the Model Plan for a State Correctional System, drafted by the Postwar Planning Committee.

The purpose of the Postwar Planning Committee was to reimagine not only the building but also the inner workings of US prisons:

We must be and are concerned not only with the five postwar years or so during which there will be special funds to spend in many states, but also with the whole new future that may come into view when the smoke and ashes of war have settled.” (MacCormick 1944, 80)

The effect of this three-decade long network building was that rehabilitative reformers now had the organizational capacity to plan at a moment when broader political and social opportunity emerged in the form of postwar state building and readjustment spending. World War II more than any other factor had radically altered the political conditions and potentials in the country. Thus, however important MacCormick, the Osborne Association, or even national networks of prison reformers may be, their influence on the American bureaucratic state was only possible in conjunction with other historical and political streams in American political development.

### The Osborne Association: The Role of an Independent Organization

While bureaucratic reform carried out by entrenched professionals would remain an essential tenet of nationwide strategy to transform prisons in the postwar era, MacCormick increasingly advocated for an independent organization to serve as a consciousness-raising and policymaking platform. “In order to be able to speak out frankly and uncompromisingly, it is not enough,” he wrote, “for a society to have knowledge and courage; it must also have independence” (MacCormick 1951, 125). Among this network of reform, no organization was more impactful to postwar rehabilitative reform throughout the United States than the Osborne Association of the 1940s and 1950s. The Osborne Association, as discussed in chapter one, had played a crucial role mobilizing activists and political proponents of prison reform in the Progressive Era. In the postwar years, the Association had transformed from the loosely organized “Society for Penal Information” into a national clearinghouse for policymaking, institutional review, and prisoner re-entry services. The mission of the Association in the 1950s had evolved into the “prevention and control of crime and delinquency” through two main program divisions, Field Services and the Bureau of Vocational Placement. According to a 1960 public relations release,

The Association is recognized as having done more than any other private organization in raising the standards of adult correctional institutions throughout the country, and especially in bringing about improvement in personnel and development of programs of education and vocational training, diversified work, medical services, and other rehabilitative activities...Called in by governors, legislative committees, or correctional administrators, the Association has brought about substantial reform in the Southern states.<sup>87</sup>

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<sup>87</sup> Box 5 Folder 5 p. 59; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

The Osborne Association was effective because it was able to mobilize and to a large extent, direct, a diverse reform coalition. McCormick, had served as the Executive Director for the Osborne Association since 1940, and would continue to do so until his death in 1979. McCormick had begun as a survey researcher in the 1920s and still occasionally conducted surveys and reviews in the 1950s, although his work now centered on leading national reform consortiums in the American Prison Association, the Correctional Education Association, and acting as a consultant throughout the country. While the staff and Board of Directors had grown since the 1920s, the organization largely served as a platform to further McCormick's vision for penal reform. In fact, the *Saturday Evening Post* described Austin H. McCormick as the premier "Trouble Shooter of the Big House" as a man who was "as practical as a French shopkeeper but wants it understood he is primarily a reformer and humanitarian, and only secondarily an efficiency engineer."<sup>88</sup>

Although McCormick was happy to report in 1951 that "we have long since become accustomed to the idea of private agencies, organizations and societies that are independent of public support and control playing a leading role in reforms of all types," such organizations hardly worked alone. McCormick's leadership at the Osborne Association was not a turn away from the diffuse professional network of teachers, penologists, and administrators who had regularly shared their ideas, experience, and strategy with one another (McCormick 1950).

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<sup>88</sup> Box 5 Folder 5 p. 2; Austin H. McCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

The chief strength of an independent organization, McCormick argued, was its ability to act as “a persistent gad-fly, a disagreeable but necessary” force through prison surveys and making recommendations for reform (McCormick 1951, 124). Through review and advocacy work at the Association, McCormick toured the nation’s various prison systems, especially in the South, and made comprehensive reform surveys for dozens of states in the postwar era. These reform surveys differed from the earlier *Handbook* insofar as McCormick and his allies were now invited by officials at the state level rather than entering prisons the result of independent consciousness-raising efforts of the Osborne Association.

The independent organization enabled McCormick to review and articulate reforms in compliance with the model program developed by professionals at the APA that responded to the local political climate and prison culture. Just as drawing on networks of national correctional professionals was crucial for the success in drafting post-war prison policy, McCormick stressed the role of local grassroots organizations in mobilizing local public support—and therefore, political pressure—for reforms articulated by the Association. “In several states the Association has been called in at the invitation of the governor, under pressure from civic groups, and has brought unbelievably bad conditions to public attention” (McCormick 1951, 126). In no region was McCormick and the Association busier than in the South where entrenched penal actors were deeply hostile to reform efforts. McCormick wrote,

Its [the Osborne Association] reports have always included more than an exposure of bad conditions and practices; they have made detailed recommendations on all phases of the programme and general recommendations for administrative reorganization. The usual reaction has been one of violent opposition on the part of institution officials, an attempt to deny the validity of the findings, insistence by the newspapers and civic groups that conditions be

rectified and, finally, the initiation of substantial reforms. This has been the pattern in four southern states where surveys have been made during the last five years. (MacCormick 1951, 126)

MacCormick's work during this period as director of the Osborne Association served as a hub for professional, civic, elite, and grassroots organizations to effect diffuse but profound impact on the nation's criminal justice system. MacCormick, as an individual, played a central role at the heart of a third-part policymaking engine. As an individual, he was invaluable to building and maintaining relationships. As an agent organization's independent platform that facilitated collaboration among disparate groups and was validated by nationally recognized board whose reputation ensured state policymakers that the Association "cannot be criticised as impractical and visionary" (MacCormick 1951, 125).

While the institutional policymaking venue had shifted from the ranks of the Bureau of Prisons to an independent nonprofit, MacCormick makes plain that the motivation behind these shifting strategies largely remained the same. In working as a national-profile consultant, MacCormick effectively continued the project begun in the 1920s of recasting rehabilitative programming in prisons as an apolitical issue grounded in empirically-driven outcomes that were, above all, practical and "scientific." Nevertheless, there were limits to this pragmatic perspective, especially when he was working with criminal justice actors who accepted his consultancy services but did not embrace his reform policies, as the examples below make clear.

## Grassroots Collaboration in the South and Texas

### The South: National Pressure, Local Resistance to Reform in the Postwar Era

In the postwar era, political leaders in southern states acknowledged prison conditions were out of joint with changing national standards and democratic discourse. Nevertheless, elite review was not enough to effect change; this section highlights the role of local papers in mobilizing local constituencies to force political leaders to embrace MacCormick's suggested reforms.

The Osborne Association in general and MacCormick in particular had advocated for prison reform in the South since the 1920s. The postwar era was a critical juncture during which substantial, but not totalizing, reform took place throughout the South. Speaking at Bowdoin in 1956, MacCormick said, "There's a great variety of prisons in the United States... the great mass of the prisons in the country... are mediocre, where they have poor personnel, inadequate personnel in numbers and quality, where they have a poverty stricken program, a great deal of idleness and so on."<sup>89</sup> Before the prison reform movement gained traction in the postwar era, MacCormick argued, even worse than the "great mass" of American prisons were the southern systems. "The deep [S]outh was a place where if you were looking for the worst one, you would always find it."<sup>90</sup>

In Florida, prisoners were housed in iron cages alongside highway building projects; Texas inmates were locked inside wooden dormitories at night and had been trapped in the event of fire. In Georgia, county officials hired boss foremen on their ability to oversee roadwork projects, not for their custodial acumen. Some states used

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<sup>89</sup> Box 6 Folder 7 p. 110-111; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>90</sup> Box 6 Folder 7 p. 111; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.



bloodhounds to sniff out escapees; in other cases, white inmates were set loose to capture Black inmates (Garrett and MacCormick 1929). One Louisiana warden commented at the Southern Prison Association meeting that his “greatest concern was with escapes.” MacCormick noted to himself on the transcript, “not *men*.”<sup>91</sup> In Mississippi, MacCormick remarked that prisoners “work in the broiling sun very hard and go back to these dormitories, they’re like the slaves, the holds of slave ships, there’s no question about it.”<sup>92</sup>

In Alabama in the late 1940s, MacCormick was called by a joint legislative committee to survey the Alabama prison system in the midst of a scandal over its flogging policy.<sup>93</sup> The scandal had begun in 1948 when local newspapers exposed “unofficial floggings” at the state penitentiary. One newspaper editor wrote, “Does the code of Alabama mean anything, or is it just a joke?”<sup>94</sup> The editorial went on to demand that the state abandon the “unofficial” floggings and called for greater transparency in the administration of criminal justice in the state. To effect these changes, goodwill efforts from within the prison system were not enough. Instead, regular citizens had to mobilize: “hundreds of groups—women’s societies, civic clubs, veterans’ organizations, chambers of commerce, labor unions, and others—can and should speak out against the use of corporal punishment in the state prisons of Alabama.”<sup>95</sup>

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<sup>91</sup> Box 5 Folder 1; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>92</sup> Box 6 folder 7 p. 111; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>93</sup> “Trouble Shooter of the Big House” *Saturday Evening Post*, May 12, 1951; Box 5 Folder 5; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>94</sup> Box 5 Folder 1; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>95</sup> Balfour, J. Gilbert, *Marion Standard Times*, undated ca. 1947. Box 5 folder 1; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

Press coverage highlighted the impact that guard violence had on the white in addition to Black prison populations. Newspaper coverage noted that both Black and white inmates were subject to whippings into September that year for petty infractions. When the floggings were found to be “official,” the state legislature called a special hearing over whether to outlaw the practice in early October. According to another local editorial, the Alabama Senate Judiciary Committee’s “whole approach to the problem was calculated to strengthen the case of the man under fire.”<sup>96</sup> Guards and administrators were allowed to testify, as well as to remain present when inmates testified. “Despite this procedure convicts spoke out overwhelmingly against the flogging system.”<sup>97</sup>

The reaction to McCormick’s report was public outrage and media coverage of the flogging hearings resulted in the state legislature voting to abolish the flogging policy. The director of the prison system, however, still complained that he would not be able to enforce the rule. This in turn, brought renewed calls to reorganize and restaff the prison system even further.<sup>98</sup> The prison policies went unchanged until a new Governor was elected who implemented McCormick’s policy recommendation to abolish flogging.<sup>99</sup>

McCormick’s survey of postwar North Carolina prisons in 1948 conformed to a similar pattern. He was invited to review the state prison system by the State Prison Advisory Council, and found “brutal treatment [of prisoners] and inefficient administration [that] stirred a public demand for reform, but little progress was made

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<sup>96</sup> “Our Prison Problem” undated ca. 1947; Box 5 Folder 1; Austin H. McCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>97</sup> “Our Prison Problem” undated ca. 1947; Box 5 Folder 1; Austin H. McCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>98</sup> Letter to the Editor, “Can Mr. Boswell Do It?” Box 5 Folder 1; Austin H. McCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>99</sup> Box 1 Folder 1 p. 10; Austin H. McCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

until ten years later...”<sup>100</sup> The case of Texas’s pathway to reform offers an in-depth case-study of how national elite reformers collaborated, and sometimes clashed, with state-level actors and grassroots activists to effect reform in the postwar era.

Throughout the 1930s, the prison population in Texas had been racially imbalanced, financially insolvent, and violent. MacCormick’s initial survey published in the *Handbook of American Prisons* suggested in 1929: “the disciplinary methods recently in vogue have sometimes been brutal, harsh, and destructive.” He commented that “the whole penal system of the state appears to need a thorough reorganization...with the reorganization should come the development of a more constructive program based on a changed attitude towards the prisoners themselves” (Garrett and MacCormick 1929, 922). MacCormick frequently used the example of Texas prison barrack fires as a bugaboo against locking inmates into “tanks” at night (Garrett and MacCormick 1929, 922). Very little changed in the 1930s and 1940s. Yet in 1950, MacCormick declared in “Progress in American Prisons” that “Texas, under the leadership of O. B. Ellis, its Director of Corrections, has accomplished since 1947 one of the most spectacular reforms and reorganizations that have ever taken place in a prison system in an equal period.”<sup>101</sup> How did this change come about?

Texas’s early reform in the immediate postwar period, as in Alabama, was the product of a constellation of causes and conditions, where non-governmental actors and local activists were primarily responsible for authoring and rallying public support for

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<sup>100</sup> Box 1 Folder 1 p. 10; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>101</sup> “Progress in Prisons,” unpublished draft; Box 5 folder 4; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

penal policy with a structure similar to dozens of states. This fact highlights the strikingly similar institutional structure of education and health care reforms throughout US prison systems in ways that might go undetected in legislative or judicial accounts of penal state building. Archival research of Texas' postwar prison reform illustrates how actors within the Texas grassroots and elite prison reform movements—each with roots in the Progressive Era—collaborated to effect an unlikely victory for rehabilitative prison reform during a critical juncture in US political discourse following World War II.

Faith-based efforts at reform had been underway during the War in the form of muckraking Christian journalism. A 1942 edition of *The Vanguard*, a pro-prison reform publication first chronicled how the Texas prison code was flagrantly ignored. The Democratic Women's Club of Dallas County found during its tour of a girls' reformatory reported open use of corporal punishment on children.<sup>102</sup> Another article written by local parole board member C.V. Compton charged the prison board either with ignorance of or disregard for laws on the books that detailed adequate food, clothing, and shelter for Texas inmates.<sup>103</sup> Compton and the Democratic Women's Club were just two of a growing number of grassroots organizations who were alarmed at prison conditions, yet they blamed current conditions on the public's apathy towards injustice at home.

Civic and faith group leaders in the South were instrumental in attracting high-profile elite reformers from the Osborne Association to the state by building a wide constituency of grassroots support for prison reform. State and local activists tapped into widespread sentiments about World War II to mobilize against the injustice of prisons at

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<sup>102</sup> Box 6 folder 11; Austin H. McCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>103</sup> Box 6 folder 11; Austin H. McCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

home. Following a reply by the Chairman of Texas Ministerial Advisory Prison Council, the Chairman of the Texas Society for the Friendless explicitly tied domestic prison conditions with fascism abroad. He wrote, “The world shivers with horror as to how Hitler mistreats the Jews in Europe while we complacently ignore our Texas penal system just as bad.”<sup>104</sup> These rhetorical efforts attracted local citizens to chapter meetings and eventually lobbied for national attention. MacCormick, then director of the Osborne Association, came to Texas at the invitation of the Texas Council of Methodist Women (United Methodist Women) in 1944 to conduct a study and make recommendations to the Texas Prison System.<sup>105</sup>

United Methodist Women members had long volunteered in prisons and had access to prison officials, especially the Texas Prison System’s General Manager D.W. Stakes, who claimed to welcome MacCormick’s review. Indeed the organization engineered MacCormick’s invitation to review the prison system. In 1944, MacCormick’s tour of Texas prisons exposed the harsh plantation-style management, intense violence, and corruption, Texas officials—namely General Manager Major D. W. Stakes—suppressed the report for nearly two years. Even members of the Prison Board, who MacCormick thought were well-meaning but inept, were unable to obtain a copy. Stakes maintained correspondence with MacCormick, vowing compliance and cooperation, reported, “Everything here goes well except for that we’re having too many

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<sup>104</sup> Box 6 folder 11; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>105</sup> Pamphlet by the Texas State Council of Methodist Women; Box 1 folder 1 p. 31; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

self-mutilations for our comfort at present.”<sup>106</sup> In spite of warnings from a Texas ally that Major Stakes was a disingenuous reform partner<sup>107</sup> MacCormick wrote repeatedly to grassroots religious activists that he preferred to work with the Texas prison officials and politicians rather than launch a newspaper exposé.

In fact, MacCormick’s efforts in 1945 were exhaustive. He arranged for the Board and Stakes to tour a “good” prison at Annandale, New Jersey along with a meeting between Texas officials and reform leaders in Federal Bureau of Prisons to help plan new facilities Texas. MacCormick even went so far as to contact and hire a New York architectural firm on behalf of the state.<sup>108</sup> Nonetheless, MacCormick reported that he had, by the end of 1945 “almost reached the point of washing my hands of the whole Texas problem.” He confided to a Dallas-based ally that,

I do not feel it would be very wise or proper for me to express anything but the most tentative opinions with respect to Major Stakes. I feel about him as I do about the board as a whole; that they would better show proof pretty soon that they mean business, and are capable of carrying out progressive policies. I ought probably to say very bluntly that this applies also to the whole state government.<sup>109</sup>

MacCormick’s frustration also extended to the white Texas Ministerial Prison Advisory Council, who pushed for a publicity campaign against Stakes and the Texas Prison System, often combining fragments of MacCormick’s unpublished report with unverified prisoner narratives. MacCormick also responded to the white Ministerial Prison Advisory

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<sup>106</sup> Pamphlet by the Texas State Council of Methodist Women; Box 1 folder 1 p. 31; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>107</sup> Box 6 Folder 10; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>108</sup> Box 6 Folder 10; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>109</sup> Box 6 Folder 10 p. 36; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

Council's request for his report curtly, "I know it is hard for you people to understand why reforms cannot be established as soon as it becomes apparent they are needed."<sup>110</sup>

While grassroots support for prison reform was essential, MacCormick feared such sanctimonious efforts would undermine his inroads with the Board and the State Legislature, which had drafted a bill to reorganize the Prison System.

Many activists and would-be reformers were eager for the report to capitalize on MacCormick's "splendid impression on our Governor, the Legislature, the Prison Board, and all interested in prison improvement" and to pressure for reform.<sup>111</sup> To C.V. Compton, the pamphlet-writer and local parole board member, it was essential that MacCormick share his report so Compton might "keep the citizenry interested and informed. I will of course want to quote more freely from your discourse than I did previously..."<sup>112</sup> Compton had also sent copies of his most recent "booklets" and requested that the Osborne Association distribute at least one hundred copies of the formal report for general public consumption. But MacCormick was far from pleased that local activists were tweaking and sometimes reworking his statements to fit their own vision for social change. He waited over two months to reply to Compton,

I know you are devoted enough to your crusade to be willing to take some straight talk and I may as well give it to you. You have a dangerous tendency to throw together a great deal of material taken out of its context and merge it with other material from other sources...Even though you may question the good faith of the Governor, the Prison Board, and the General Manager of the Prison System... I think everyone should give them a little more time and should wait to see what they do under the legislation that was passed...<sup>113</sup>

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<sup>110</sup> Box 6 Folder 10 p. 36; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>111</sup> Box 6 Folder 10; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>112</sup> Box 6 Folder 10; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>113</sup> Box 6 Folder 10; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

MacCormick concluded that, “I have a right to ask that carefully written material not be worked over in this manner and published with the implication that it has my blessing.”<sup>114</sup> The core of the issue was that Compton had “worked over” MacCormick’s report to highlight self-mutilations of the prisoners in a style that conformed more to evangelized descriptions of a morally corrupt government more than the carefully-crafted pragmatic strategy of “middle-down” prison reform. Although MacCormick acknowledged violence, he was wary of alienating potential allies in the state government he relied on for funding, legislation, and personnel decisions. Compton angrily replied that MacCormick’s faith in the Texas government was unjustified: “You met few, if any, who has [*sic*] shown any disposition to improve our prisons. If you did, will you tell me what they have done, and also their names and methods?”<sup>115</sup>

Privately, MacCormick, too, acknowledged that the Board and prison administration were slow, inept, perhaps purposely so. MacCormick hoped to overcome these blocks by installing prison preacher and grassroots reformer Mittie Waters on the Texas Prison Board. Waters was a San Antonio resident and member of the Texas Council for United Methodist Women who had begun volunteering in a local prison after her son left to fight in World War II. Waters, like MacCormick, felt that prison reform depended on access to prisons and prisoners, and thus required partnership with prison leadership. She wrote, “I am trying to always maintain a meekness & kindness that will forever prevent him [the Warden] from trapping me.”<sup>116</sup> Like MacCormick, Waters was a

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<sup>114</sup> Box 6 Folder 10; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>115</sup> Box 6 Folder 10; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>116</sup> Box 6 Folder 10; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.



central node in a reform network who knew the pragmatic value of maintaining a relationship with even the most violent and corrupt prison officials for the sake of future reform and access to prisoners.

Yet in spite of the increased attention given to prison conditions by national reformers and faith leaders, public apathy to the plight of prisoners continued to hamper reformist efforts that began in 1944 with MacCormick's survey that found "abominable conditions and practices" rampant throughout the system.<sup>117</sup> However, the postwar moment represented a critical juncture in public discourse that brought the tension between fascism and democracy into everyday parlance. Mittie Waters wrote that her own son's experience as a prisoner of war for 20 months in Germany had a profound impact on his understanding of society back home. When he first returned to Texas, Waters expressed fears that her son David would be bored and embarrassed by her work for the Methodist Women's prison ministry. Instead, she wrote to MacCormick that David "knows from lived experience what they suffer. He can now look at the situation as an outsider apart of that 'society,' that group which can not expect to reap what it neglected to sow."<sup>118</sup>

Waters came to describe Texas prison reform as a righteous war. She wrote, "We're having a war, in miniature, here! Our D-day has come, and just how far off ultimate victory is, no one can predict. It'll come, tho."<sup>119</sup> Ultimately, D-Day for the Texas Prison System came at the hands of the local press the exposé tactics that he

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<sup>117</sup> Box 1 Folder 1; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>118</sup> Box 6 Folder 10 p. 7; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>119</sup> Box 6 folder 10 p. 14; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

initially resisted. Newspapers echoed Waters' rhetoric with stories like "Texas Prison Gestapo."<sup>120</sup> The Editor of the *Alamo Heights News* noted, "Penal authorities now generally regard the Texas Prison System as one of the most vicious, commercialized institutions in existence outside of lands dominated by the Nazis or Japs."<sup>121</sup> The newspaper granted anonymity for prisoners who spoke out after E. B. "Bobby" Cook was killed by guard in retaliation for speaking to federal investigator James V. Bennett.<sup>122</sup>

One prisoner wrote:

I've read about the German Gestapo that our boys are now fighting, but there is a rotten gestapo right here in Texas, in the Texas prison system... Look now, if you can do something about this, go ahead. But if you can't get backing, don't try, for you will just get hurt... Above everything, never use my name... [because] [t]hey will eliminate me just as they did Bob if they knew anything about this letter.<sup>123</sup>

MacCormick grew frustrated with the Board's unresponsiveness and the General Manager's evasions and mounting evidence of abuse and violence in the Texas press. Compton wrote to MacCormick following a meeting with 47 thousand members belonging to United Methodist Women that local groups were being kept out of the prison farms in an effort to stem the tide of negative press.<sup>124</sup> Compton urged MacCormick to make public his findings, arguing that national pressure from elites would be more successful than friendly reform. Compton, still refraining from publishing

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<sup>120</sup> Box 6 folder 10 p. 87; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>121</sup> Box 6 folder 10 p. 87; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>122</sup> Box 6 folder 10 p. 87; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>123</sup> "Gestapo in Texas" *Alamo Heights News*. Thursday March 3, 1945. Box 6 Folder 11; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>124</sup> CV Compton to Austin H. MacCormick. Letter dated February 1946. Box 6 folder 11; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

inflammatory material believed that only “you [MacCormick] hold the key to this labyrinth.”<sup>125</sup>

MacCormick’s strategic choice to work with prison officials had sharply constrained the kinds of demands and public statements he could make in order to pressure recalcitrant officials. And though it had worked elsewhere, in Texas, such an approach had achieved little more in 1946 than to shroud a system of corruption with the window-dressing of rehabilitative efforts in the form of a prison plans at Huntsville. When local activists continued to pressure MacCormick to publicly break with the Prison Board and Manager in March 1946 he agreed to do if reforms did not follow.<sup>126</sup> But MacCormick believed there was cause for hope: Stakes and the Board had recently hired a new director of rehabilitation, a position MacCormick had designed on the model of his own tenure as the Assistant Director of the Bureau of Prisons in the 1930s. Nine months later, however, Stakes complained to MacCormick that the Prison Board had made a “flop” of the new rehabilitation program.<sup>127</sup> In late 1946 MacCormick wrote to Stakes angrily that he and the Board had yet to show serious signs of cooperation: “I have no doubt a great many other disciplinary abuses are still in existence on the farms and I think you must face your conscience squarely and decide whether you have done everything that you possibly can to eliminate them.”<sup>128</sup> He recommended that Stakes resign if changes did not occur under the incoming Governor Jester.

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<sup>125</sup> Ibid.

<sup>126</sup> Box 6 folder 11; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>127</sup> Box 6 folder 11; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>128</sup> Papers Box 6 folder 11; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

New leadership in the state house tipped the scales toward reform in 1947 when the Methodist Women began a letter-writing campaign to the governor demanding immediate action. Meanwhile, MacCormick's uneasy alliance with Stakes dragged on until the fall of 1947 he finally issued a public statement against Stakes in October, prompting an expose in the *Houston Post*.<sup>129</sup> MacCormick's public statement resulted in the Board's demand that Stakes take immediate action to implement reforms and end the violence on the farms. Under pressure from elite reformers and grassroots activists, Stakes resigned. The Board appointed pro-reform O.B. Ellis to replace him, who quickly implemented MacCormick's reform program from 1948-1949.<sup>130</sup>

Governor Jester's newly appointed director was responsive to the "bushels and bushels" of letters he received from Methodist Women activists on the subject of reform.<sup>131</sup> Following Ellis's appointment, grassroots activists in Texas flooded MacCormick with favorable reports of the new prison Manager. Waters wrote in March 1948 that "Ellis surpasses expectations"<sup>132</sup> and he was instrumental in securing \$4 million dollars of funding from the Texas State Legislature. Yet civic and faith groups in the South attributed Ellis' success to two reciprocal conditions: a strong grassroots movement that mobilized vast networks of faith-based women's groups and MacCormick's national profile and programmatic expertise that lent prestige and exposure to local reform movements.

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<sup>129</sup> Box 6 Folder 12; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>130</sup> Box 6 Folder 12; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>131</sup> Box 6 Folder 12; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>132</sup> Box 6 Folder 12; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

Grassroots activism in Texas did not stop with formal institutional change.

Leaders of the Methodist Women argued that elites were crucial in their proper role, but could not effect progressive change without robust support from voters. Even with the promise of a friendly prison administrator in the form of O.B. Ellis in 1948, the Texas Council of Methodist Women urged their rank-and-file members to continue to rouse public interest and pressure elected officials to embrace the "Ellis Program for Needed Improvements," which was in fact, a program drafted by MacCormick himself. The letter written by the Committee on Prison Work praised the new prison board and the "excellent" general manager newly installed. But urged members that "THEY CANNOT DO IT ALONE." especially important was to "expect, no, demand" the support of state legislators assigned to the Legal Committee of the Prison Board in 1949 upon which the program's funding relied.<sup>133</sup>

MacCormick later recounted that,

I blew the lid off Texas...I tried my best for two of three years working with the prison board to improve conditions and I could see that they didn't mean business. They were still going to fight fire with fire, they were going to meet brutality with brutality, and they were not going to get anywhere so I blew the lid off the state, the church women, 60,000 Methodist women, got behind the reform movement and if you want to see a galloping herd you want to see 60,000 Methodist women. The newspapers took it up, the legislature got frightened, they gave them so much money they didn't know what to do with it, they gave them \$4,000,000 just like that for new personnel for new buildings for new anything that they wanted to spend it on. They [the prison board] went over to Tennessee and by luck brought back a remarkable fellow who took hold and with this money they began to work out a complete change in the Texas prison system.<sup>134</sup>

The Executive Secretary of the Missouri Welfare League agreed that it was MacCormick who "aligned" a disparate but growing group of Texans "to work for better

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<sup>133</sup> Box 5 Folder 9; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>134</sup> Box 6 Folder 7 p. 115; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

conditions.”<sup>135</sup> Yet these Texans were not wholly disparate—extensive networks of faith-based women’s groups were responsible both for MacCormick’s official invitation to survey the Texas Prison System in 1944 *and* for exerting political pressure on elected leaders, public exposure of prison conditions in the press, and for pressuring MacCormick himself to abandon his strategy of courting Texas elites. After their success in Texas, Waters wrote that women’s groups in other states looked to replicate their strategy: “Alabama Baptists are taking the lead there about as strong there as Meth[odists] have here.”<sup>136</sup> Yet even more importantly, national experts and local activists were empowered by an emergent post-war discourse that enabled prison reformers to marshal wartime democratic rhetoric to address injustices at home.

## Conclusion: Sedimentation and Expansion of the Penal Welfare State

This section briefly reviews the reform movement’s major accomplishments in the first half of the twentieth century, and then sketches how the gradual reforms were replicated in other states and were entrenched in the 1960s and 1970s.

From the 1920s to the 1950s, bureaucratic policy entrepreneurs gradually built up penal welfare programming within the existing institutional structure of the prison systems they targeted. In the Progressive Era, would-be prison reformers attempted to mobilize support for prison rehabilitative programming with surveys and policy recommendation. While this period was crucial for solidifying among reformers a shared

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<sup>135</sup> Box 6 Folder 12; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>136</sup> Box 6 Folder 13; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

discourse and strategy targeting penal institutions (rather than public opinion or elected officials), these actors learned that policy implementation required them to join the institutions they wished to change. The Bureau of Prisons from 1929-1930 onwards achieved the first major success in implementing rehabilitative programs, particularly education, first at Chillicothe Reformatory in Ohio and later at other federal prisons. Reformers argued this period “had a significant effect on state prisons, for it for it not only set them an inspiring example but demonstrated how practical programmes of rehabilitation could be set up and operated effectively” (MacCormick 1951, 123).

In the present chapter, I showed how these key actors seized the opportunity of broader post-war state building projects to dramatically expand prison welfare programming in states like Texas and the South generally, which had been impervious to earlier efforts at reform. The primary vehicle of these reforms were penal bureaucrats who implemented, however selectively, MacCormick’s model rehabilitation plans.

Penal welfare state formation gained momentum over time as the national reform network expanded, particularly because of a new class of managerial innovators like MacCormick, Bates, and McGee who frequently changed their policymaking venues. Reform leaders moved between criminal justice venues throughout the interwar and World War II era, all while cultivating a network of prison welfare professionals in the federal government and national professional groups like the American Prison Association and the Correctional Education Association. In the postwar era, movement leaders, especially MacCormick, capitalized on their robust reform network and independent institutional platforms like the Osborne association and the APA to serve as penal policymaking consultants who framed their recommendations as professional

expertise, not political prescription. This strategy was, as the case of Texas shows, successful even in states with hostile or apathetic institutional leadership where sufficient grassroots support existed for penal reform.

In the late 1960s and 1970s, correctional education programs expanded just as the tide in legislative discourse was turning retributive. By 1979, 38 states offered correctional education programs, eight of which delivered programs through a semi-autonomous school district within the prison system: Arkansas, Connecticut, Illinois, Maine, Ohio, South Carolina, Tennessee, and Texas (Ryan 1987). Some states funded their programs through state appropriations, while others were the product of Great Society legislation including the Manpower and Development Training Act (1962) and the Adult Education Act (1964). These policies enabled state to expand programs that were already in place in state prison systems, but failed to transform the more durable aspects of retributive punishment that characterized American prisons. What emerged, then, was a marbled penal state that blended these two opposing philosophies.

Texas typifies the marbled nature of penal welfare entrenchment at mid-century, where programs like correctional education were expanded alongside older institutional pathologies like violence-based authority system that MacCormick and his allies were unable to supplant in prison reorganization efforts. In the 1950s and 1960s, Texas prisons would expand welfare programming even more under O.B. Ellis, and later George Beto, Directors of the Texas Department of Corrections. These new bureaucratic leaders were powerful prison administrators at the top of an institutional system that relied on personal charisma and brutal authority, most notably through the use of the building-tender



system.<sup>137</sup> However, they also embraced MacCormick's model plan for rehabilitative programming. George Beto, a Lutheran minister and college president with a PhD in school administration became Director of the Texas Department of Corrections in 1962 (DiIulio 1991, 26). During his tenure as Director, Beto expanded the modest education program initiated by Ellis. In 1969, thanks to Beto's political shrewdness and networking, the Texas State Legislature passed Bill 35 that created the first public school system within a prison in the United States.

Unlike his BOP colleague F. Lovell Bixby who was wary of the durability of welfare reform in a hostile institutional context,<sup>138</sup> MacCormick believed that humane rehabilitation had permanently triumphed over punitive prison administration methods via bureaucratic entrenchment. He wrote that progress at the BOP, California, and Texas all conformed to phases in "steep" and then "gently increasing" progress that the rest of the country would follow in time (MacCormick 1951, 123). MacCormick argued that the key progressive change in prison administration was an independent institution to ensure that experts could "speak out frankly and uncompromisedly" (MacCormick 1951, 125). What he failed to acknowledge, however, was that "progress" was not an automated process, but a political one.

Throughout the 1950s and 1960s, MacCormick continued to review state prison systems with special emphasis in the South, but met with less success than in earlier years, largely because of shifts in the attitudes of state elites. After retiring from his

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<sup>137</sup> Building-tenders were inmate-guardians who controlled the general prison population through violence and threats of violence.

<sup>138</sup> Recall Bixby's statement quoted in Chapter 3: "It is not uncommon to find the professional staff sitting lightly upon the institutional organization, like the foam upon a glass of beer adding considerably to its appearance but quickly blown aside whenever there is serious work to be done," (Illing 1957-1958, 390).

position as a Professor of Criminology at the University of California, MacCormick was invited by Mississippi Governor to retrain the prison administration, but the project broke down after the Governor lost reelection. In Louisiana, MacCormick surveyed the prison but “little constructive action, principally because of politics and the unwillingness of the Legislature.”<sup>139</sup> MacCormick drafted a model reform program for the state of Arkansas, but his reforms were implemented only after the landmark lawsuit *Holt v. Sarver II* (1970) found the entire state prison system in violation of the Eighth Amendment. Prison welfare would persist, and even grow in the law and order era, but it would do so by means of the newly entrenched welfare bureaucratic constituencies and the courts, not by elite persuasion.<sup>140</sup>

Steven Teles (2007) has shown that conservative activists have pitted themselves against an entrenched liberal state, particularly bureaucracies since the 1970s. In this chapter, I have shown that prison welfare was also the product of a long-term social movement in a host of different policymaking venues: Progressive social activism, institutional innovation in federal prison bureaucracy, and national policymaking and replication through a collaborative professional-grassroots reform network. These phases, taken together, illustrate how the welfare programs were gradually introduced into penal institutions to create a hybrid rehabilitative-punitive state formation that has persisted throughout the law and order era.

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<sup>139</sup> Box 1 Folder 1 p. 39; Austin H. MacCormick Papers; Special Collections and University Archives; Sam Houston State University, Huntsville, TX.

<sup>140</sup> MacCormick’s papers become increasingly curated in the 1960s and 1970s, with less correspondence and more newspaper clippings and biographical sketches.

The postwar period was a critical juncture in which key conditions spurred pathways for welfare-oriented reform in carceral systems across the country, well into the 1970s when penal policymaking attitudes among legislatures were becoming more punitive. Along with Phelps (2011), I find that the punitive shift in legislative discourse did not exhibit an impact on prison administration until the 1990s (Phelps 2011, 33). In the next chapter, I continue with my historical analysis of the Texas prison welfare state to chart how correctional education fared during the punitive turn when active grassroots *and* national support for such programs dwindled, leaving prison welfare bureaucracies to fend for themselves.

## Chapter 5 “Fighting Crime through Education:” Penal Welfare and Bureaucratic Autonomy in Windham Schools

### Introduction

In the previous chapters, I charted how network of bureaucratic and social movement actors designed and implemented prison welfare during the first half of the twentieth century. In this chapter, I return to Texas, the first in the United States to implement a semi-autonomous school district in its prison system in 1969. An outgrowth of postwar prison reform, formalized educational programming in the Windham School District were introduced just as national and state discourse on crime, welfare, and punishment shifted towards law and order punitiveness. In this context, I draw 3,397 pages of Windham annual reports, landmark archival files, and state legislation to assess how bureaucratic prison welfare fared during this period. The files date from 1969-2012, with the majority of them covering dates between 1985-2012 (see Table A-5-1 for a complete list of Windham files).

Texas’s role in the study of America’s criminal justice landscape is near mythic. Robert Perkinson’s *Texas Tough* (2010) gives one of the most recent in-depth accounts of the state’s criminal justice system. Unlike Perkinson, I argue that Windham not as the result of a benevolent prison administrator, but as the result of a generations-long social movement for prison reform that began in the Progressive era. Perkinson’s account largely ignores the existence of prison school, and the particular challenges that *it* faced nestled under the wing of an ambivalent big brother. In the preceding chapter, I traced the mid-century reform movement in Texas, which was led by national reform penologists

like Austin H. MacCormick in combination with local religious groups like United Methodist Women who could exert pressure on Texas officials to enact reforms and install sympathetic administrators. The result was a layered and often intensely agonal institutional landscape, where harsh punitive practices and rehabilitative programming co-existed in a marbled institutional formation.

In this chapter, I frame Windham's development, expansion, and survival, as an exemplary case of marbled state formation, bridging Great Society-inspired legislation to the modern criminal justice reform movement. Windham's dual reporting requirements to both a criminal justice institution and the state department of education left it doubly exposed to pressures for compliance, budget cuts, and program development. The agonal quality of Windham's development is particularly apt during the 1990s and 2000s, when Windham officials successfully defended prison education programs from a series of hostile actors looking to cut Windham's budget by adopting an evolving strategy for program-defense. Though Windham survived nearly 25 years of legislative and executive attempts to dismantle it, it did so at the cost of fundamentally shifting its philosophy away from prisoner-rehabilitation towards recidivism-centric model of education as crime control. This shift occurred alongside a radical downward shift in average public education spending more broadly that drove down program quality.

This chapter challenges the commonplace assumption that correctional education programming either collapsed in the punitive era or was insignificant because its focus on basic literacy and so-called high school equivalency (the GED). While it is true that Congress disenfranchised prisoners from Pell Grant dollars in 1994, the reality is that the vast majority of people incarcerated in Texas were in need of remedial, basic, secondary,

and vocational training. In 1989, 48% of the prison population in Texas was functionally illiterate, with educational attainment below a fifth grade level. The average attainment for the prison population enrolled in school throughout the 1990s and 2000s was sixth grade functionality serving relatively short term sentences, between two and five years, and had been unemployed without an employable skill.<sup>141</sup> Thus, the impact of Pell revocation in 1994 can be seen, at the time, as a relatively low impact but high profile action against prisoners when in fact during that same period, state and federal governments provided increasing funding to correctional educational programs. In Texas and elsewhere, Adult Basic Education, high school equivalency, and vocational educational services and funding grew in the 1980s and 1990s (see Tables A-8 and A-9 in the Appendix).

Phelps (2011) has used national data to show that program support for prison education did not shift until the 1990s, two decades into the punitive era. After which she finds that reentry and life skills programs take up a greater share of rehabilitative programs than traditional education. This chapter traces the evolution of prison education from the institutional perspective of Windham. I locate Windham at the crossroads of welfare and penal state development in Texas from the 1980s to the 2000s and find that Windham persisted in spite of legislative and executive attacks during the period. I find that the turn towards life skills and reentry programming by Windham was a defensive strategy to cope with warped capacity due to education budget cuts and new recidivist measures for the District's success.

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<sup>141</sup> Windham Annual Performance Review 1989-1990; Windham School District Headquarters, Huntsville, TX.

Yet, the growth and development of the Windham School District (WSD) during the prison boom is hardly (just) a story about unlikely social welfare service provision in prisons. In this chapter, I also examine the changing nature of prisons and prison schools during these decades. I argue that the impact of correctional education and the burden placed on WSD outsized its capacity in a context of broader divestment in public education and social welfare programming in poor communities of color (from which the majority of WSD students were drawn). And although dollars continued to flow to the WSD, Texas' correctional school system was the object of long term scrutiny and politicization, which resulted in the reformulation of WSD's institutional philosophy, from providing a fundamental civic entitlement to "fighting crime through education" or, reducing recidivism. By the mid-1990s, WSD was so overwhelmed by the booming prison population that educational participation was determined by one's likelihood of recidivism, age (under 35), and release date (within five years).<sup>142</sup> At a time when unprecedented numbers of Texans were completing public education programming behind bars not in their home communities, bureaucrats increasingly legitimized their programs not by their role in remedying structural educational injustice, but by their ability to reduce crime and cost of confinement.

In what follows, I explore Windham's evolution during the law and order era and its aftermath. First, I retrace the founding of the program, and second, I show its counter-intuitive expansion in the 1980s and early 1990s. Third, I recount a series of political attacks the District faced in the 1990s by both Democrats and Republicans—in response to which Windham performance was increasingly measured by its ability to reduce

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<sup>142</sup> Windham Annual Performance Report 1995-1996; Windham School District Headquarters, Huntsville, TX.

recidivism. Fourth, I analyze how recidivist-oriented performance measures and broader withering of social welfare spending at the turn of the century contributed to a stagnation and qualitative shift in Windham’s educational service delivery. Finally, in the context of deepening social welfare divestment in the 2000s, I examine the legislative activism of Jerry Madden to dismantle Windham School District, who has since become a leader in the national Right on Crime movement. I conclude with an assessment of the tradeoffs in Windham’s struggle for persistence.

## Correctional Education: Great Society Entrenchment

As I discussed in the previous chapter, Texas State Senate Bill 35 created Windham School District in 1969. Then-Texas Department of Corrections Director George Beto had played an essential role in shepherding the bill, which funding correctional education through the state educational budget, and therefore required state reporting to the Education Authority. The Windham School District has been governed by the rules in Chapter 19 of the Texas Education Code in addition to the larger institutional schedule, rules, and policies set by the Texas prison system. The cost of the prison school system was to be “borne entirely by the State and shall be paid from the Foundational School Program Fund.”<sup>143</sup> The Foundation School Program (FSP) is “the primary funding mechanism for public schools in Texas” (Legislative Budget Board Staff 2016, 1).

Lane Murray, the District’s Superintendent from 1969-1993, carved out initial bureaucratic (semi) autonomy from the Texas Department of Corrections (TDC) and the

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<sup>143</sup> S.B. 35 CH. 17, Sess. of 1969 (Tex. 1969). [https://lrl.texas.gov/scanned/sessionLaws/61-0/SB\\_35\\_CH\\_17.pdf](https://lrl.texas.gov/scanned/sessionLaws/61-0/SB_35_CH_17.pdf)



Texas Education Agency (TEA) by appealing to the mandate for educational programming in Bill 35. In the decade that followed the formation of the Windham School District, Murray solidified that autonomy in large part through her championing of the “the school district concept” in public prisons. Murray oversaw both the operational development of adult basic education programs and parlayed those developments into a discursive regime of rehabilitation.

Initially, the Texas Education Agency was resistant to Windham’s formation. The TEA was wary of schools in Texas prisons because previous iterations had uncertified staff and a spotty record of accomplishment of program implementation that was usually relegated to the bottom rung of priorities for prison administrators. Murray relied on the legislative mandate for prison education to extract revenue from the TEA. Lane Murray told the TEA “here is the law and this is what we’re going to do and you’re going to help us do it because money is coming through you.” She discovered that the TEA did not want to give money until teachers were certified.<sup>144</sup> Murray eventually gained the support of the TEA, as well as a measure of bureaucratic independence, through vigorous compliance with the Agency’s accreditation requirements. Such requirements demanded that prison staff honor educational assignments, and that schooling periods dramatically increase, and that teacher standards rise to the level of public school regulation.<sup>145</sup> She also used the language in SB 35 to support her in intra-prison conflicts over program implementation and scheduling. She recalled that the TDC had been hostile to new mandates for a six-hour school day that conflicted with the prison system’s work and

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<sup>144</sup> Video-interview with Lane Murray 1998, retrieved as part of Windham’s Landmark Files.

<sup>145</sup> Video-recorded interview with Murray 1998, retrieved as part of Windham’s Landmark Files.

meal schedule. “I’m sorry but that’s the way it’s written,” she told TDC officials, “and that’s what we have to do.”<sup>146</sup>

By the early 1970s, Murray was confident that the school district within a prison system concept was ascendant. In many ways, it was. Connecticut, Illinois, Ohio, New Jersey, and Arkansas had all implemented a state-funded program or were in the planning stages (Murray 1975). The small-scale programs funded solely through federal funds were transformed with the new state funding model in Windham’s first five years. Classrooms either were moved to new construction or were rehabilitated in “open concept” floor plans that could accommodate a flexible and growing roster of courses. Staff increased from eight non-certified teachers in 1969 to 89 state certified academic teachers, 20 special education teachers, and 63 vocational education teachers in 1974 (Murray 1975, 359). In the District’s first year, 1,328 full time students were reported to the TEA, which increased to 2,228 by 1974 (see Table A-5-5 in the Appendix for complete data).

The scope of the early WSD educational program was squarely within adult basic education, i.e. reading, writing, and basic math and secondarily, vocational education. Murray described the prison student population, “Here are people 60, 50 years old who don’t know how to write their name and they have been so beaten down with so much failure... our first challenge was to prop them up and feel good about themselves that they would risk anything.”<sup>147</sup> Academic programming aimed at providing education up to sixth grade with opportunities for prisoners to take the GED exam. In the early years of the program, attendance was compulsory for prisoners with less than a fifth grade

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<sup>146</sup> Video-recorded interview with Murray 1998, retrieved as part of Windham’s Landmark Files.

<sup>147</sup> Video-recorded interview with Lane Murray 1998.

achievement level. Between 1969 and 1983, the year the Texas Department of Corrections was rocked by *Ruiz v. Estelle* (1980)<sup>148</sup> a landmark 8th Amendment case that found Texas Prison conditions to be cruel and unusual, 22,980 prisoners received their GED through the district.<sup>149</sup> (See Table A-5-3 in the Appendix for complete student demographic and educational attainment information.)

One of the landmark prison conditions cases in the twentieth century, *Ruiz* was “the largest, longest, and most acrimonious” cases (Feeley and Rubin 2000, 80). The class action lawsuit charged that prison conditions in Texas were overcrowded, with limited access to healthcare and social services. The final judgement of *Ruiz* resulted in a massive restructuring of the Texas prison system including the creation of the Texas Department of Criminal Justice (Feeley and Rubin 2000, 95). *Ruiz* affected Windham insofar as the court required that “every prisoner who is medically capable of participating in the work or educational or vocational program shall be given a full-time 5-day per week work or school assignment.”<sup>150</sup> Thus, the *Ruiz* final judgement affirmed Windham’s programming as a permanent part of the Texas prison system, but it did not create education or vocational programs.

Feeley and Rubin (2000) in their discussion of *Ruiz* assert that educational and other rehabilitative programming were the result of judicial action (Feeley and Rubin 2000, 95). They write: “In the...twelve years that the Texas prisons had been placed under comprehensive judicial supervision, massive changes had occurred. [The old regime] ... professional guards, medical personnel, educational programs, and a federally

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<sup>148</sup> *Ruiz v. Estelle* 1980, F. Supp. 1265 (S.D. Tex. 1980).

<sup>149</sup> GED Tally; 1970-2017; Windham School District Headquarters, Huntsville, TX.

<sup>150</sup> Windham Landmark Files Folder2 p. 222; Windham School District Headquarters, Huntsville, TX.

trained superintendent had appeared” (Feeley and Rubin 2000, 95). In fact, however, there already existed an accredited public school district since 1969. While the mandate in *Ruiz* certainly helped to ease the criminal justice system’s hostility or indifference to delivering educational programming, studying Texas prisons from a bureaucratic standpoint counters the assumption that because courts are making policy that they are doing so on an institutional landscape *tabula rasa*.

One of the most striking features of the Windham reports from the *Ruiz* period is the widespread instability in the Texas prisons, and Windham’s efforts to insulate itself from the broader chaos. In spite of the gains made to routinize prison school in the 1970s, nothing would prepare the District to navigate program delivery in the midst of *Ruiz*. By the mid-1980s, TDC leadership was in flux, and protracted *Ruiz* compliance issues complicated the chain of command. The District’s first annual report in 1985 detailed how court-ordered caps on the population translated to a bleeding out of WSD’s target population. In 1984, over 500 inmates were admitted daily; nearly 500 inmates were released daily. By 1987, the report detailed high student body turnover resulting from the more than 600 releases (and admittances) each week.

One annual report summarized the young district’s woes: “The Windham School System year of 1984-1985 can best be described as a period of significant change.”<sup>151</sup> The report detailed a string of both educational and corrections policy changes: House Bill 72,<sup>152</sup> a new State Commissioner of Education, a new State Board of Education, the

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<sup>151</sup> Windham School District Annual Performance Report 1984-1985 p. 2; Windham School District Headquarters, Huntsville, TX.

<sup>152</sup> This comprehensive education reform bill tied teacher salary to student performance on standardized tests. H.B. 72 CH. 28, Sess. of 1984 (Tex. 1984).  
[https://lrl.texas.gov/LASDOCS/68CS2/HB72/HB72\\_68CS2.pdf#page=2401](https://lrl.texas.gov/LASDOCS/68CS2/HB72/HB72_68CS2.pdf#page=2401)

appointment of a new Texas Department of Criminal Justice Director, and the concomitant administrative shake-up. Moreover, “Pervasive changes in operations resulted from Ruiz court settlements, prison violence, Board and legislative scrutiny,” and a new inmate classification system, along with low school attendance, and “unfounded charges of padding attendance accounting” all conspired to present “the faculty and administration of the Windham School System with unparalleled challenges in 1984-1985.”<sup>153</sup>

## Contested Welfare Expansion in Texas Prisons 1985-2000

In the midst of such bureaucratic chaos, institutional violence, low attendance, and a churning prison population that marked the mid-1980s, the near-two-decade expansion that would follow seems surprising given the pervasive challenges to delivering school services in the 1980s, and the well-known political challenges to prisoner rehabilitation in the 1990s. Yet over the next seventeen years, Windham would continue to grow. Windham’s Annual Performance Reviews over the next twelve years charts steady growth in prison educational spending and programming in the 1980s, followed by a boom in the 1990s. In years where punitive rhetoric and policy making at the state and national level were fiercest, Windham’s reports chart how educational programming increased in tandem with the larger prison expansion in Texas.

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<sup>153</sup> Windham School District Annual Performance Report 1984-1985 p. 2; Windham School District Headquarters, Huntsville, TX.

**Table 5-1 WSD Funding and General Program Statistics, 5-Year Snapshot**

	<b>Prison Population<sup>154</sup></b>	<b>Students Served<sup>155</sup></b>	<b>Faculty/Staff Total</b>	<b>No. units</b>	<b>Total Revenue Constant Dollars (2017)</b>	<b>State Contribution Constant Dollars (2017)</b>	<b>Windham Expenditures Constant Dollars</b>
<b>1985- 1986</b>	37,500	39,233	497	25	\$41,458,955	38,733,992	\$34,188,117
<b>1990- 1991</b>	101,391	39,555	826	33	\$55,605,405	52,980,780	\$60,115,590
<b>1995- 1996</b>	120,546	57,325	not reported	82	not reported	not reported	\$85,349,285
<b>2000- 2001</b>	162,070	64,848	1,581	89	\$117,271,672	95,105,048	\$101,977,108
<b>2005- 2006</b>	172,116	75,936	1,369	88	\$88,390,358	69,667,478	\$85,281,175
<b>2010- 2011</b>	172,224	74,486	1,155	93	\$91,117,070	73,361,115	\$81,565,241
<b>2011- 2012</b>	166,372	63,125	987	74	\$73,199,868	52,267,407	\$64,424,404

Table 5-1 includes a snapshot view of funding and general program data at five-year intervals from 1985 to 2012. I have included the 2011-2012 fiscal year to illustrate the largest one-year program shift in Windham’s history, as I discuss below. (See also Table A-5-5 in the Appendix.)

Between 1985 and 2002, Windham’s expenditures increased over 281%. As prison plants bloomed across the vast Texas landscape, Windham classrooms, staff, and enrollment grew within them as well. In 1993, the year Lane Murray retired, Windham offered academic, vocational, and life skills programming had mushroomed from 25 to 43 units. In the 1994-1995 school year, Windham was in 55 units and served 50,345 Texas prisoners. The following year, Windham operated schools in 82 correctional facilities, including seven of the state’s jails. Fiscal and physical expansion continued through the new millennium reaching a high point between 1998-2002, during which time Windham operated 91 schools and pulled in an average of \$117 million dollars in annual revenue.

<sup>154</sup> Yearend population, i.e. a sample.

<sup>155</sup> Cumulative total of full time students; roughly five Windham students equal one full time student.

The ink was hardly dry on the *Ruiz* final judgement when conservative policymakers began to take notice of the booming prison school district as a target for cuts. In Texas, the growing prison population had indirectly contributed to the District's meteoric expansion also attracted scrutiny from the legislature and the Texas Comptroller of Public Accounts John Sharp. In 1990, Texas faced a fiscal crisis precipitated by an oil glut in the late 1980s along with a booming population in need of social services. Sharp came to office with Democratic Governor Ann Richards, and wasted no time in instituting his "review" system that cut deep into social welfare programs and state agencies. Almost as soon as he took office, Sharp earned a reputation as a "fixer-in-chief" and "master carver" of government agencies and public schools through his innovation, the Texas Performance Review. Sharp later advised Bill Clinton in developing a national version<sup>156</sup> and drafted the heart of Texas's welfare reform act the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996,"<sup>157</sup> which was also a model for national legislation. One of Sharp's campaign promises had been to run the state government like a business, and he wasted no time in singling out Windham's for his review in 1992.

Comptroller Sharp seemed most interested in attacking the philosophical (and funding) premise of the WSD. In the executive summary the Comptroller wrote,

Texas is facing a major prison crisis. The state's prison population has grown from 35,000 in 1982 to over 50,000 in 1992...Texas must reduce its rate of crime and its rate of growth in prison populations. Within this context, we examined the effectiveness of the state's current corrections education programs. Our findings are significant and, in our opinion, demand a fundamental restructuring of the program to meet the needs of a rapidly changing system.<sup>158</sup>

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<sup>156</sup> "Master Carver, at Work at A&M" *The Texas Tribune*. Ross Ramsey. March 10, 2012. (Accessed May 4 2018)

<sup>157</sup> H.B. 1863, Sess. of 1995 (Tex. 1995).  
[https://lrl.texas.gov/LASDOCS/74R/HB1863/HB1863\\_74R.pdf#page=2138](https://lrl.texas.gov/LASDOCS/74R/HB1863/HB1863_74R.pdf#page=2138)

<sup>158</sup> Texas Comptroller of Public Accounts, *Schools Behind Bars: Windham School System and Other Prison Education Programs*, John Sharp. Texas Performance Review, Austin, TX: 1992. viii-ix

Sharp's report blamed Windham for TDCJ's mushrooming prison population, and asserted that Windham's programs do not lower recidivism because Windham did not frame its programs as crime reduction mechanisms. Sharp argued that a major contributor to the Texas prison boom was because the TDCJ "is basically a revolving door with a majority of the released inmates..." and that "Dramatic reductions in crime, prison populations, and state criminal justice costs could be achieved by simply reducing recidivism."<sup>159</sup> The Comptroller argued, "Studies in other states have shown that inmates involved in education have recidivism rates that are nearly half of the rate of those not involved in education."<sup>160</sup> By conflating TDCJ recidivism with Windham's effectiveness, Sharp had hoped to draw negative public and political attention to Windham.

Sharp asserted, "Thus it is clear that corrections education...offers a major solution to Texas' growing crime... Yet, we found no such goal."<sup>161</sup> To be clear, the Comptroller did not measure Windham programs by the impact it had on participants' recidivism, but attacked the District for not having specifically formulated its institutional rationale around the singular goal of "recidivism." Moreover, the Texas Comptroller's audit held Windham accountable for the overall growth in Texas's prison population, though he failed to mention that only 20% of inmates receive educational services because of Windham's budget that was growing, but still lagged behind prison population expansion.

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<sup>159</sup> Texas Comptroller of Public Accounts, *Schools Behind Bars: Windham School System and Other Prison Education Programs*, John Sharp. Texas Performance Review, Austin, TX: 1992. ix

<sup>160</sup> Texas Comptroller of Public Accounts, *Schools Behind Bars: Windham School System and Other Prison Education Programs*, John Sharp. Texas Performance Review, Austin, TX: 1992. ix

<sup>161</sup> Texas Comptroller of Public Accounts, *Schools Behind Bars: Windham School System and Other Prison Education Programs*, John Sharp. Texas Performance Review, Austin, TX: 1992. ix



Yet, instead of suggesting that the State of Texas increase correctional education funding so that Windham could serve a larger share of the prison population, the audit asserted that:

These are not normal times and normal programs are proving to be inadequate. TDCJ and Windham must be measured by their ability to reduce the Texas prison ‘revolving door’... In spite of the quality education programs currently provided by Windham, if those programs cannot reduce the number of returning inmates, then those dollars need to be spent on other programs which can reduce the number...<sup>162</sup>

In the end, it was clear that the Comptroller’s policy suggestions all pointed to one thing: less autonomy for Windham and greater legislative control over prison education in Texas.

All of the Comptroller’s suggestions required legislative oversight and diminished (if not evaporated) Windham’s semi-autonomous standing in the TDCJ. The Comptroller “strongly” recommended that: The Texas Legislature require, as a condition of continued corrections education funding, that Windham (and the TDCJ) submit, beginning in 1994, a report that shows the impact of Windham’s (and TDCJ’s) programs on recidivism and jobs placement. Moreover, “if by 1995, the data do not show... a significant reduction [in recidivism], the Legislature and TDCJ should direct a major restructuring of the state’s corrections education program.”

The Comptroller also recommended that Windham “be integrated into the total TDCJ inmate treatment program,” specifically leading to a restructuring of how Windham was financed. Rather than receive automatic appropriations through the Foundation School Program via the Texas Education Agency like all other public

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<sup>162</sup> Texas Comptroller of Public Accounts, *Schools Behind Bars: Windham School System and Other Prison Education Programs*, John Sharp. Texas Performance Review, Austin, TX: 1992. xiii

schools, Sharp suggested that Windham be funded as a specific line item under TDCJ's appropriations.

Sharp also aimed to untether program delivery from student need and offer schooling only to prisoners on their projected likelihood of recidivating. He recommended that the TDCJ repeal its mandatory educational policy for inmates with less than a sixth grade literacy achievement. Instead, Sharp recommended, "Windham carefully target its educational programs toward those inmates who are most likely to utilize their educational experience to obtain gainful employment in the free-world and not return to prison upon release."<sup>163</sup>

If the goal of Sharp's review was to eliminate social programming offered in the Texas prison system, he failed. If his goal was to usher in a new era of public, academic, and legislative scrutiny of the Windham School District, he succeeded. The Texas prison system had long been politicized, but the early 1990s ushered in a new level of scrutiny for the education system. Sharp's review was scholarly compared to a string of newspaper editorials and interviews he wrote to foment public opposition to Windham. Sharp timed the release of his review and the media coverage to fall over the winter holidays when most TDCJ and Windham officials were on vacation.<sup>164</sup> The conflation of Windham's effectiveness with the entire Texas prison system's recidivism rate might be read generously in the context of the performance review. Press coverage makes clear that the conflation was calculated to severely damage Windham.

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<sup>163</sup> Texas Comptroller of Public Accounts, *Schools Behind Bars: Windham School System and Other Prison Education Programs*, John Sharp. Texas Performance Review, Austin, TX: 1992. xiv

<sup>164</sup> Windham School District Landmark File 1 p. 275; Windham School District Headquarters, Huntsville, TX.

Sharp's media bender began with a press release from his own office that began, "If we can't do any better than this, maybe we should scrap what we're doing and start all over again."<sup>165</sup> The following day, Sharp appeared in six major newspapers across the state on the same day. *The Austin American-Statesman* proclaimed, "Audit: Prison Schools Flunking," in which Sharp urged a "total overhaul of the system."<sup>166</sup> Other headlines included: "Prison school overhaul urged," "Sharp blasts schooling for prisoners as failure," and "Comptroller says prison education failing."<sup>167</sup> The newspapers took the bait, citing the District's \$37 million dollar budget and echoing Sharp's claim that "Education funding in Texas prisons should be based on whether schooling reduces recidivism, rather than on how many prisoners attend class."<sup>168</sup> The newspaper coverage omitted that Windham had resources to serve only 20% of Texas prisoners because Sharp omitted that from his press release.

The Comptroller's press release was more transparent than the diplomacy of the Review itself. Sharp's primary recommendation was to wrest away Windham's autonomy by eliminating its place in the Texas Education Code. He continued, "Many Texans are unaware that in addition to funding the public school district where they live and 1,063 others across the state, they're also picking up the tab on an entire school district behind prison walls... Windham is the system virtually no one knows about."<sup>169</sup>

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<sup>165</sup> Press Release from John Sharp, State Comptroller. 30 December 1992; Windham School District Landmark File 1 p. 279; Windham School District Headquarters, Huntsville, TX.

<sup>166</sup> "Audit: Prison Schools Flunking," *Austin American-Statesman*. 31 December 1992; Windham School District Landmark File 1 p. 275; Windham School District Headquarters, Huntsville, TX.

<sup>167</sup> Windham School District Landmark File 1 p. 275; Windham School District Headquarters, Huntsville, TX.

<sup>168</sup> "Prison education gets mixed grade from state audit," *Houston Chronicle*. 31 December 1992; Windham School District Landmark File 1 p. 276; Windham School District Headquarters, Huntsville, TX.

<sup>169</sup> Windham School District Landmark File 1 p. 281; Windham School District Headquarters, Huntsville, TX.

Because no one knew about Windham, it made the ideal target for Sharp to propose deep spending cuts, since harming a constituency of prisoners was at worst politically costless and at best, furthered the quest of Texas Democrats to appear just as tough on crime as their Republican counterparts.

That Sharp was mounting an attack on a public school district that had no independent constituency to defend itself apart from prison education bureaucrats; and was comprised of a student body increasingly vilified by punitive legislatures, was not a coincidence. Sharp's targeting of Windham, "the school system nobody knows" made it especially easy to give partial account of its large budget without any scruple to communicate to the public the institutional complexity, even incoherence, in which the District had operated since *Ruiz*.

Sharp's attacks spurred a Sam Houston State University study that portrayed a very different picture from the bloated unaccountability in Sharp's review. A 1994 Criminal Justice Center study revealed just how little control correctional educators in Texas had over the larger institutional context of prison life. Even though Windham maintained a hard-won semi-autonomy with budget independence and program expansion, which national reformers like MacCormick previously urged as essential for prisoner rehabilitation, none of these things was enough to overcome the obstacles that sprang from the TDCJ itself.

The Report found that:

The rapid downturn in time served [in Texas prisons] a backlog of inmates in county jails waiting for transfer and inadequate classroom space limit inmate exposure to Windham School System programs... Findings indicate that the window of opportunity for inmates in educational and vocational programs has virtually closed.<sup>170</sup>

In spite of Windham's absolute growth, the Texas prison system still could not expand fast enough to house prisoners long enough for high-need students to receive or complete their programs. The report found that correctional education was most beneficial for lowering recidivism when school exposure was over 300 hours per individual, particularly among students with the lowest incoming achievement level.<sup>171</sup> The report suggested that Windham target its limited resources at this group. It also recommended that Windham develop shorter courses to meet the needs of a high-turnover population, and coordinate with TDCJ so prisoners could complete their programming.<sup>172</sup> That is, the report placed the onus on Windham to effect policy coordination with TDCJ.

The response to crime, poverty, and Texas's carceral boom in the 1990s seemed not so much a function of straight talking number crunching to Windham teachers, but rather, a selective expression of a moral ideology to reconfigure the relationship between poor and disempowered citizens and the state. In many ways, the bureaucratic complexity of correctional education services did not matter to a public that did not understand it or to state politicians who sought to cut them. Sharp had taken aim at a District of which

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<sup>170</sup> Flanagan, Timothy J., et al. "Prison Education Research Project," *Criminal Justice Center*, September 1994. vi; Windham School District Landmark File 2; Windham School District Headquarters, Huntsville, TX.

<sup>171</sup> Flanagan, Timothy J., et al. "Prison Education Research Project," *Criminal Justice Center*, September 1994. vii; Windham School District Landmark File 2; Windham School District Headquarters, Huntsville, TX.

<sup>172</sup> Flanagan, Timothy J., et al. "Prison Education Research Project," *Criminal Justice Center*, September 1994. viii; Windham School District Landmark File 2; Windham School District Headquarters, Huntsville, TX.

very little was known at a time when public attitudes towards prisoners was hardening (Enns 2014).

The impact of the coverage left Windham employees less than confident in the future of correctional education in Texas. One 1993 letter to Governor Ann Richards from “Your State Employees” reveals just how tenuous the survival of prison education seemed to actors on the ground level after the Sharp audit. Someone purporting to speak for Windham teachers was willing to suggest a 20% pay reduction if it meant saving the District.

We feel that Mr. Sharp does not have an accurate picture of the responsibilities of the Windham School System. We have inmates arriving that have never been in school and have absolutely no job skills...Most of the inmate population cannot read or do mathematics on a sixth grade level. We also have a growing special needs population...We would welcome some changes [made in the audit] if we knew that the money saved would go to the public school systems in Texas... The average [Windham] daily salary is 100 dollars...Instead of cutting out educationally valuable programs, would a four day school week be feasible? By cutting out four days a month the state of Texas could save 400,000 dollars a month and 4,800,000 dollars a year...As dedicated employees we truly want to keep the programs that have taken years to establish in the prison system.<sup>173</sup>

Phil Toups, a 13-year Windham counselor and alternative school employee, was less conciliatory. The author retorted that WSD and counseling programs were already underfunded to meet the needs of an exploding high-needs prison population released on parole due to lack of bed-space. Most prisoners, even though they lacked high school education and wanted to enroll in school were placed on long wait lists and stayed there until they were released.”<sup>174</sup>

When an inmate makes parole [before receiving programming] and has no positive attitude, lacks academic and vocational training, has no work ethic and has an unstable family to rely upon, how can a politician like Mr. John Sharp blame the prison and a prison school system for an inmate returning to prison? Mr. Sharp is looking for a scapegoat and more importantly an

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<sup>173</sup> Windham School District Landmark File 2 p. 250; Windham School District Headquarters, Huntsville, TX.

<sup>174</sup> Windham School District Landmark File 2 p. 253; Windham School District Headquarters, Huntsville, TX.

educational budget of 37 million dollars which he wants to “save” and take credit for doing so.<sup>175</sup>

For social welfare professionals like Toups, it was obvious that “The most rehabilitative tools in the TDCID complex are the substance abuse counselors...and the Windham School System ...”<sup>176</sup> What Texas needed, he argued, were more educational alternatives to prison:

Outside of the prison walls another factor in diminishing the prison population is the development of Alternative Schools in the districts who recognize the need for an academic setting suitable to assist “at risk” students... the parallels between young offenders and at risk youth are startlingly similar.<sup>177</sup>

More funding and institutional coordination between criminal justice and educational offerings inside and on the street, as both Toups and the Criminal Justice Center suggested, would require increased appropriations to the very Foundation School Program that Sharp was trying to shrink.

In an ascendant political climate of “personal responsibility” and get-tough cuts for government agencies and programs, it was inconceivable that criminals and at-risk youth deserved *more* social benefits. Within the framework of punishment and personal responsibility, the major response Texas legislators mustered to crime and poverty was more punishment, confinement, and a downward spiral of service-reduction. The moral logic of “personal responsibility” left social welfare agencies including public school

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<sup>175</sup> Windham School District Landmark File 2 p. 253; Windham School District Headquarters, Huntsville, TX.

<sup>176</sup> Windham School District Landmark File 2 p. 254; Windham School District Headquarters, Huntsville, TX.

<sup>177</sup> Windham School District Landmark File 2 p. 254; Windham School District Headquarters, Huntsville, TX.

districts like Windham “fighting for jobs [Sharp] says they won’t lose.”<sup>178</sup> Ironically, however, the State of Texas effectively funded an enormous jobs-creation project for prison staff through its annual appropriations to the TDCJ.

## Fighting Crime through Education: the Recidivist Defense of Education

In 1995, the 74th legislature outlined a new series of goals for the Windham School District that placed reducing recidivism and managing a booming inmate population. Windham’s new goals were: 1.) Reduce recidivism, 2.) Reduce the cost of confinement or imprisonment, 3.) Increase the success of former inmates in obtaining and maintaining employment, and 4.) Provide an incentive to inmates to behave in positive ways during confinement or imprisonment.<sup>179</sup> What is more, following Sharp’s attack on the District, the District feared the 74th legislature would adopt Sharp’s recommendation to fund correctional education through line-item appropriation to TDCJ, eliminating its status as an independent school district.

Without direct, education-only funding from the state education agency, Windham had no mechanism through which to maintain institutional independence. Meeting dual requirements for TEA and the TDCJ was one thing; depending on the state legislature and prison system for a budget was another. Windham’s autonomy hinged on its status as an independent school district in the eyes of the TEA. Without it, Windham would lose accreditation and its teachers would not have to meet state minimum

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<sup>178</sup> Windham School District Landmark File 2 p. 254; Windham School District Headquarters, Huntsville, TX.

<sup>179</sup> Leg. Acts 1995 CH 260 SEC 1, Sess. of 1995 (Tex. 1995), <https://statutes.capitol.texas.gov/Docs/ED/htm/ED.19.htm>.



certification requirements. Windham would not be entitled to formula-based Foundation School Program Grants; and it would be entirely dependent on the good faith and goodwill of both the state legislature and the Texas prisons system.

Threats to Windham's autonomy were nothing new. Landmark files contain Superintendent Lane Murray's rebuttal to a 1986 Sunset Commission proposal that Windham be reorganized to avoid "administrative duplication" with other rehabilitative programs in the Texas prison system. Murray's rebuttal in 1986 sheltered Windham from the Sunset Commission's merger by highlighting how removing Windham's autonomy would conflict with Texas Education Code.<sup>180</sup> A 1990 Landmark document entitled "Advantages of Texas Education Agency Funding" offered twelve bullet points using similar logic. Topping the list: "Funds dedicated by law for specific educational purposes which cannot be transferred to meet other needs of the prison."<sup>181</sup>

However, Windham officials knew that legalistic arguments about TEA compliance would not hold up to the state legislature and a Comptroller frankly open to removing its independent district status. This time, in 1995, Windham officials developed a varied rationale that defended Windham's autonomous status using a variety of arguments, including Windham's national reputation as a leader in correctional education. The new defense appealed to a mixture of precedent, quality control, and fiscal conservatism. "[Windham School District] is a model program" and should remain in the Texas Education Code for a host of reasons, from a direct revenue stream to participation

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<sup>180</sup> "As far as administrative duplication is concerned, as long as Windham is required to meet the requirements of the Texas Education Agency there is no duplication of efforts with TDC..." Windham School District Landmark File 1 p. 69; Windham School District Headquarters, Huntsville, TX.

<sup>181</sup> Windham School District Landmark File 1 p. 78; Windham School District Headquarters, Huntsville, TX.

in the state textbook program. The weightiest reason, however, was that moving Windham staff out of the Texas Teacher Retirement System could “cost the State an extra \$4 million dollars a year in Social Security matching funds and \$14 million dollars in back payments.”<sup>182</sup> New defenses for Windham had to incorporate claims that prison education was both fiscally minded *and* effective at reducing recidivism. It was an open question how much the District could stretch its programs and its budget while remaining effective.

The structure of Windham’s annual reports also changed significantly following Sharps’ review, reflecting a district under threat. Although Windham was unmistakably growing, the District failed to include summary statistical data in the report as a whole from 1993-1999 (as seen in Tables A-5-5 and A-5-6 in the Appendix), including total expenditures, staff size, and revenue. If a reader wanted to know just how many teachers, students, and dollars flowed through the District, they would have to flip through over one hundred pages of “unit profiles” that described each prison’s educational offerings and add the sums up manually. There was no restatement of Windham’s philosophy or staff development. In this way, the annual reports during the 90s were displayed only in their context of the larger criminal justice system of which they played a minor role.

Nevertheless, the core strategy the District adopted was to include supportive evidence that education lowers recidivism. Even before the state legislature restructured Windham’s goals in 1995, the District’s reports began to include evidence that their programs lowered recidivism. The 1991-1992 report cited a study that stated, “The single

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<sup>182</sup> Windham School District Landmark File 2 p. 94; Windham School District Headquarters, Huntsville, TX.

factor that appeared to override the factors of youth and minority status was that of education level. In fact, there was a twelve percent reduction in recidivism rate for those inmates with an educational level of 12th grade or higher.”<sup>183</sup> The trouble, however, was that the study had not examined Windham’s impact on recidivism.

The culmination of Sharp’s 1992 review and the ensuing legislative scrutiny came in the form of a Texas House Select Committee on the Windham School District in the 76th legislature (2000) which finally sought to measure the effectiveness of Windham’s programs and the appropriateness of Windham’s mission. Tony Fabelo, Director of the Criminal Justice Policy Council (CPCJ) was the Committee’s central witness. Fabelo and his team had been charged with conducting a three-part study conducted by the Criminal Justice Policy Council—a Texas state agency—on the impact of Windham’s educational programs on recidivism rates.

Fabelo testified that Windham only had funding to serve 18% of inmates, or 24,000 at one time. In 1998, the District served approximately 50,000 students annual due to turnover. During this time, Windham also expanded into the state jail system.<sup>184</sup> At its high mark, Windham offered programs in over 90 correctional facilities. In jails, however, educational offerings were more difficult to offer since there was lack of interest and lack of space.<sup>185</sup> Fabelo still concluded that Windham’s programs were effective: “the greater the increase in the offenders’ educational achievement score, the

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<sup>183</sup> Windham School District Annual Performance Review 1991-1992 p. 27; Windham School District Headquarters, Huntsville, TX.

<sup>184</sup> Windham School District Annual Performance Review 1999-2000 p. 7; Windham School District Headquarters, Huntsville, TX.

<sup>185</sup> Windham School District Landmark File 2 p. 59; Windham School District Headquarters, Huntsville, TX.

greater the reduction in recidivism.”<sup>186</sup> Vocational certification was “advantageous to future employment” it was even stronger to pair a GED with vocational certification.<sup>187</sup>

This is a level of education, however, that the WSD was unprepared and underfunded to deliver to the total need population.

WSD does a good job in moving ‘borderline’ inmates from one functioning level [of literacy] to the next and does so by spending more time on the most difficult to educate population. To improve a grade and a half of non-readers and illiterate inmates required almost double the education time than those inmates in the GED/college path group (Fabelo 2002, 107).

The 1998 study group participants with the highest educational level still had unemployment rate higher than the Texas average. Inmates with highest education (GED/college path) made \$2,442 more than inmates with less than a fourth grade functionality. Fabelo concluded that those with the highest education rates make the most money, and those who make the most money regardless of education level recidivate less (Fabelo 2002). The issue was not, according to the CPCJ findings, that Windham was ineffectual in curbing recidivism through education. The issue that Windham was not given adequate resources to raise students much beyond one level above their current educational level. A true remedy would require increased funding.

The House Select Committee’s report largely echoed Fabelo’s findings. It was highly favorable to Windham, concluding, “The goals of the Windham School District are clear and appropriate to its mission.”<sup>188</sup> The Committee recommended that the Texas legislature: increase funding for the WSD “so it may expand and improve programs such

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<sup>186</sup> From Special Report to the 77th Legislature; Windham School District Landmark File 2 p. 57; Windham School District Headquarters, Huntsville, TX.

<sup>187</sup> Windham School District Landmark File 1 p. 60; Windham School District Headquarters, Huntsville, TX.

<sup>188</sup> Windham School District Landmark File 2 p. 69; Windham School District Headquarters, Huntsville, TX.

as the reading, GED, and cognitive intervention.” This would encourage participants to gain both a GED and vocational training “to further reduce recidivism rates, consider prioritization of raising reading levels and acquisition of GEDs, high school diplomas and vocational certificates relative to study results for wage gains and lower instructional hours.”<sup>189</sup>

On the eve of the new millennium amid the first signs of the crime decline in the US (Zimring 2006), it seemed that the District had finally weathered the storm. Windham’s 2000 Annual Performance Review reflects the District’s confidence. In a marked departure from the 1998-1999 report that contained not a single program description, the 2000 report boasts a lengthy list of student, teacher, and volunteer achievements; Windham even began reporting figures from its higher education division (see Table A-5-4 in the Appendix for program participation data).<sup>190</sup>

The essential components of the Windham School District had survived the most hostile and serious objections from within the state’s executive branch and legislature. At the height of the punitive turn, WSD not only weathered attacks on its basic mandate to deliver educational services to incarcerated adults in Texas, but also more than doubled its size since the *Ruiz* decision that enshrined rehabilitative education in the prison system. Although it survived, the terms upon which Windham operated as a school

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<sup>189</sup> Windham School District Landmark File 2 p. 69; Windham School District Headquarters, Huntsville, TX.

<sup>190</sup> Windham contracted with Texas junior and four-year colleges and bore the cost of administering the programs. Students were always responsible for paying their own tuition, and of course, they were ineligible for federal Pell grants. Windham School District Annual Performance Review 1999-2000 p. 6; Windham School District Headquarters, Huntsville, TX.

district had been warped because of Sharp's report and the ensuing legislative scrutiny. In the first two decades of Windham's existence, the school district's philosophy essentially reflected the promise of the Great Society to close the gap of racial and economic injustice through expanded social welfare programming, most especially through public education. The original intent and mission of Windham framed adult correctional education as the first step in society taking responsibility to provide services for those who had greatest need and had suffered the injustice of ignorance. Correctional education, as an exponent of *public education* was an entitlement that any needy prisoner had a right to access. The essential question for Windham officials was expanding to meet these needs.

At the end of the 1990s, the mandate for adult correctional education had been reformulated by the legislature, with help from the Comptroller's office, as just one more arm in the state's battle to control crime. With this shift, the state no longer acknowledged a responsibility to remedy the educational deficiencies among the prisoner population. Instead, by framing prison education as a public safety strategy, education was only an incidental benefit for the criminal himself—its real value was in constraining dangerous behavior, or more cynically, keeping prison costs down, rather than empowering a disadvantaged social group. Indeed, by 2003, Windham's official motto had become "fighting crime through education."<sup>191</sup>

Texas was by no means the only state to undergo this transformation. Linking traditional rehabilitative programs like literacy and vocational education along with newer programs like cognitive intervention, proved to be a national strategy among

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<sup>191</sup> Windham Annual Performance Review 2003-2004; Windham School District Headquarters, Huntsville, TX.

correctional education proponents. In 2004, researchers at the University of California argued for “Correctional Education as a Crime Control Program” (Bazos and Hausman 2004). In 2007, the RAND Corporation conducted a meta-analysis of correctional education like Fabelo’s in a wave of literature that all championed the claim that education participation was positively correlated to lowered recidivism rates (Davis et al 2013). If state and federal legislatures were serious in their calls for reducing, or at least slowing, the size of the bloated criminal justice system, then, correctional educators felt themselves secure. However, at the turn of the new century, educational provision for prisoners hardly formed political consensus.

Curiously, although Fabelo and the CPCJ found that every dollar on correctional education resulted in two dollars of savings in confinement costs, appropriations for correctional education in Texas were not increased to serve a greater share of the high-needs prison population.<sup>192</sup> In fact, while Windham’s growth had been considerable during this period, its expansion failed to match the pace of TDCJ as a whole. After the 74th legislature, the WSD continued to grow with the TDCJ but the prison population’s expansion outstripped the school district’s capacity to serve even the least educated inmates (Fabelo 2002; See Appendix 5-5 for appropriations and Windham’s spending during this period in constant dollars, along with the number of students served annually). Even after the 2000 House Select Committee’s report on Windham Schools, Fabelo complained that:

Texas policy makers support prison education...however, no attempts were made by policy makers to increase prison education resources to provide for more time in prison to educate inmates. Instead, following the findings of the studies, Texas policy makers directed the administrators of the WSD to ‘identify younger offenders with the lowest educational levels as

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<sup>192</sup> Windham School District Annual Performance Review 2001-2002 p. 1; Windham School District Headquarters, Huntsville, TX.

a high priority population when allocating educational resources' (Texas Legislature, 2001: III 22) (Fabelo 2002, 110).

Because of the 74th and later 77th legislatures, students were now prioritized for educational programming explicitly according to their perceived likelihood to recidivate, not on the basis of need.<sup>193</sup> Inmates were given priority for schooling that were under 35 years of age with five years or less to release are given priority for schooling.<sup>194</sup> Yet, paradoxically, students were often released before they finished their programming.

At the height of Windham's funding, the average WSD student only spent 604 hours in school during the last two or three years of their sentence. Moreover, the District, even in its fiscal heyday of the late 1990s and early 2000s, could only serve about 20% of the total population. Fabelo wrote, "It is clear within the amount of time available to educate inmates during their incarceration; the WSD cannot be expected to educate most nonreaders to a high school level. Therefore the critical policy question is to identify the best strategy to maximize any potential of prison education on recidivism and employment" (Fabelo 2002, 107). Windham's educational programs and staff *were* effective at closing the gap between illiteracy and college-readiness given sufficient time, but the costs and time constraints under which the District operated sharply limited the services that any one prisoner could access.

### Pedagogical Impacts: Toward a Greater Self-Responsibility

Facing ever-greater pressure to demonstrate Windham's legitimacy to educate greater numbers of prisoners without increased funding, the quality and substance of educational programming had begun to shift substantially since the 1990s. The Windham

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<sup>193</sup> Windham could only serve a fraction of prisoners without a high school diploma.

<sup>194</sup> Windham School District Annual Performance Review 2001-2002 p. 3; Windham School District Headquarters, Huntsville, TX.



School District, like so many other public districts in the United States during this period, was made to do more with less, and bore an ever-increasing responsibility to close the gap between students' disadvantage and rising entry points for economic stability.

The introduction of cognitive intervention programming and its rapidly increased share in the WSD budget represented a significant departure from traditional educational training. In 2000, the District claimed, "cognitive intervention teaches students to meet their needs without trespassing on the rights of others."<sup>195</sup> Life skills and cognitive intervention courses were much shorter than traditional programming, and focused more on teaching prisoners how to cope with stress, employment, parenting, and housing on an individual level through psychological tools. These programs were of shorter duration and rather than ameliorating imparting the skills and tools of literacy to overcome adversity, the new programs largely taught means of coping with the stress of poverty.

Changing Habits and Achieving New Goals to Empower Success (CHANGES), a pre-release "life skills" course, exemplifies this shift. The pre-release program ran for 60 days within two years of release. The program had seven factors: "personal growth," "healthy relationships," "living responsibly," "drug education," "living well," "putting together a new start" (anger management), and "going home" (finding a job). To say nothing of the value of these concepts, in the context of tightening budgets, programs like CHANGES came to account for a much greater portion of Windham's offerings in the 2000s. In 2000, only 9.2% of all Windham students had taken a cognitive intervention class. In 2009, 36.6% of all Windham Students had taken CHANGES; another 21.4% had taken other cognitive intervention courses. The same year, only 13.97% of students had

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<sup>195</sup> Windham School District Annual Performance Review 1999-2000 p 4; Windham School District Headquarters, Huntsville, TX.

participated in the traditional vocational courses that actually taught job skills in a definite trade (see Table A-5-3 in the Appendix for full enrollment data).

More “students” could be served through the shortened CHANGES program and Windham could still claim education was more effective than no programming at all. The House Select Committee was marked in its approval of cognitive intervention as a cost effective education tool, explaining that:

[T]here are two main tiers of cognitive intervention [offered through WSD]. First is cognitive restructuring in which the offender examines and changes his or her thoughts, attitudes and believes. Emphasis is placed on changing the content of thinking by looking at the ‘what’ of thinking...The second tier is cognitive skills training...this is the heart of cognitive intervention. Cognitive skills training is the process of developing social and thinking skills through learning skill steps...focus[ing] on anger management, problem solving, stress management and goal setting.<sup>196</sup>

The House Select Committee’s Report touted the 30% reduction in recidivism for cognitive intervention participants.<sup>197</sup> Cognitive intervention emphasized teaching individuals how to navigate family and job pressures (precipitants of stress and anger), and cope with these pressures (precipitants of violence) as personal psychological problems, rather than ameliorating the structural conditions of poverty, no and low employment, residential segregation, and inter-generational community trauma. The WSD, indeed most contemporary school districts, would be unable to mount any direct response to such pervasive structures of inequality. Rather than imparting the tools to discover the world independently through transformative means of creative thought, language, and culture, the new education imparted tools of emotional self-containment.

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<sup>196</sup> Windham School District Landmark File 2 p. 66; Windham School District Headquarters, Huntsville, TX.

<sup>197</sup> Windham School District Landmark File 2 p. 67; Windham School District Headquarters, Huntsville, TX.

Not only did an ever-increasing share of the student population partake in cognitive intervention programs, but also academic and vocational programs were modularized and shortened in an effort to stretch Windham's budget. Academic education had also become more atomized and the programs more specialized. For example, there is a split between "literacy" and "reading" along with a host of other programs like pre-release programs, special education, short courses on vocational and jobs training, and apprenticeship related training.<sup>198</sup> Vocational programs were particularly impacted by efforts to serve more students, more quickly, and for less. By the end of the 2000s, traditional education programs were a decided minority of student participants (see Table A-5-3 in the Appendix).

Windham's Landmark files contain correspondence between Superintendent Mike Morrow and the state Barber's Association, in which the Superintendent explain why the barbering school at Clemens unit was to be shut to make room for more cost effective programming. Morrow explains to staff that closing the barbering shop at Clemens paid for the implementation of Diversified Career Preparations (DCP), or short courses. The short courses "are probably the most cost effective and efficient training programs we have." Cost-effectiveness to the District justified program design, not effectiveness in training students.

DCP programs reduce educational cost to Windham to duplicate and maintain shops that already exist within the Texas Correctional Industries.... As with DCP, the short courses and apprenticeship programs are quality training programs which include hands-on experiences to interested students that are appropriately placed in related TDCJ jobs.<sup>199</sup>

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<sup>198</sup> Windham School District Annual Performance Review 1999-2000 p. 5; Windham School District Headquarters, Huntsville, TX.

<sup>199</sup> Windham School District Landmark File 1 p. 49; Windham School District Headquarters, Huntsville, TX.

In the context of this quotation, job placement referred to fulfilling the prison system's need for inmate labor, not in connection with placing prisoners in gainful employment upon release.

## Budget Contraction and Capacity Downshifts 2003-2012

The armistice that began with the House Special Committee's endorsement of Windham ended almost as soon as it began when Rick Perry moved into the Governor's Mansion. In a line-item veto, Perry eliminated the independent criminal justice auditor's office, which had been so instrumental in defending Windham's legitimacy from attacks that Texas's prison education was ineffective at curbing recidivism. More seriously, however, were the waves of budget cuts that slammed all of Texas's public institutions—but none of them as hard as public schools.

In the following decade, cuts to both correctional education and general public education would go far deeper than at any other point in modern history. In fiscal year 2003, the State of Texas was facing an historic budget deficit to meet entitlement and social welfare spending. Windham was not an especial target of the 2003 budget cuts, but it was impacted disproportionately along with other districts with a small or non-existent tax-base. The composition of the 78th legislature had changed to include a large number of ultra-conservatives who were unwilling to balance the state budget through raising Texas's historically low tax rates, especially for businesses. One think tank wrote,

Many of the incoming lawmakers looked to the previous biennium, a period that witnessed dramatic growth in enrollment and state spending on such programs as Medicaid and the State Children's Health Insurance Program (SCHIP), and expressed the belief that Texas had gone too far with its social services and needed to restore programs to a more appropriate, conservative level of generosity. (Hill 2004, 2)

Rick Perry's 2003 Budget Letter to the 78th Texas Legislature was comprised of zeros. Instead of an actual budget, Perry's letter ushered in a new era of welfare divestment, and a regressive public social welfare policy era that the Texas State Legislature embraced that resulted in a downward spiral in educational quality and services throughout the state. The 2003 General Appropriations Act left Windham with a 19% budget cut state that translated to \$13.5 million dollars that year, and failed to match that amount again for the rest of the decade in spite of an increasing prison population with high educational deficits.

The impact on Windham was catastrophic. The annual reports from this period reveal that teacher morale was at an all-time low. Windham's new superintendent Ron Bradford wrote in the 2004 annual report that he, "stepped into correctional education just after WSD experienced a \$28 million [biennial] reduction in appropriations from the Foundation School Fund. Despite the daunting task of encouraging and leading a district with reduced staff, programs, morale and resources, Bradford is meeting the challenge head-on."<sup>200</sup> The following year, another interim superintendent had replaced Bradford.<sup>201</sup> The District implemented a new teacher of the year award in an attempt to boost teachers' spirits in the face of a \$150 monthly pay cut for teachers, and \$170 per month cuts for principals.

Administrative positions were cut by over a third; 97 academic teaching positions were eliminated; and 72 vocational staff were eliminated and vocational programs were reduced over 75%. In consequence, enrollment had declined by a fifth, further bloating

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<sup>200</sup> Windham School District Annual Performance Review 2003-2004 p. 2; Windham School District Headquarters, Huntsville, TX.

<sup>201</sup> Windham School District Annual Performance Review 2004-2005; Windham School District Headquarters, Huntsville, TX.

long wait lists for educational programs as the prison population continued to grow. The District failed to be competitive for job vacancies because pay was lower than surrounding districts, hampering enrollment efforts even further. The 2003 budget was so tight that Windham was unable to furnish essential course materials to students at the end of the year.<sup>202</sup> The budget and staff cuts also resulted in WSD's failure to meet legislative mandates for contact hour minimums for state funding, creating a downward spiral in the District's revenues the following year.

In the face of these funding gaps, Windham spent much more cautiously, never fully spending what was allocated to it; and increasingly the District looked to other sources to fill the revenues gap. Yet these sources, which included grants from the federal government and state-run finance plans for incarcerated post-secondary students, remained a tiny portion of Windham's overall operation. With stretched budgets and teachers, for several years in the mid-2000s, annual reports show that Windham failed to meet the minimum number of contact hours for maximum funding, exacerbating the downward spiral, which made it look like WSD's underperformance was a cause of decreased support rather than a consequence of it.

TDCJ expenditures, not including Windham, accounted for a quarter of the State's 2003 budget deficit (Perkinson 2010, 344). While the prisons system did suffer cuts, they were much less deep than Windham's. The first things the TDCJ cut were prisoner programs and "extras." Perkinson writes of the crisis,

To cope with the fiscal crisis [Rick Perry] undertook \$230 million in cuts to TDCJ, even as the prison population continued to grow. The state's independent criminal justice auditor, Tony Fabelo, warned that the prison system might not be able to fulfill its mission under such

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<sup>202</sup> Texas Education Agency Report to the 80th Legislature; Windham Legislative Report Files p. 100-101; Windham School District Headquarters, Huntsville, TX.

budgetary strain. But Governor Perry plowed ahead...then, at the end of the legislative session, he eliminated Fabelo's office, so no one would be around to count. "They wanted me to cook the books,' the veteran civil servant recalls bitterly, 'and when I said no, the bastards fired me'" (Perkinson 2010, 344).

Perkinson, however, mistakenly attributes educational cuts to TDCJ reductions, when in fact Windham suffered its funding cut as a consequence of being a publicly funded school district, rather than because it was an arm of the prison system. He writes, "The prison system's independent school district, one of Beto's crown jewels, began eliminating electives from its curriculum and focusing exclusively on basic math and literacy. Once inmates received their GED, they hit the end of the road" (Perkinson 2010, 345). In reality, Windham had since the late 1980s capped its offerings at the GED level.<sup>203</sup> It was true that the District's drive to spread programs further with tighter budgets was hastened by the 2003 reduction, but it was because of broad cuts to social welfare spending, not criminal justice, since Windham funding came through public education appropriations.

After Rick Perry axed Fabelo and the Criminal Justice Policy Council, the state passed legislation making its own Legislative Budget Board the oversight mechanism for Windham's performance. Rider 79 in Article III of the 2005 General Appropriations Act required "the Texas Education Agency (TEA) to evaluate the structure, management and operation of the Windham School District (WSD) and the impact of its programs."<sup>204</sup> Both the TEA and the state legislature were responsible for submitting yet another audit to the 80th Legislature.

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<sup>203</sup> Windham phased out its high school diploma program in the early 1990s; later revived by S.B. 1024 CH 44 SEC 1, Sess. of 2015 (Tex. 2015), <https://statutes.capitol.texas.gov/Docs/ED/htm/ED.19.htm>.

<sup>204</sup> Cover letter to the Texas Education Agency Report to the 80th Legislature; Windham Legislative Report Files p. 94; Windham School District Headquarters, Huntsville, TX.

Again, third party reviewers were favorable to the District's performance in spite of the major program and budget cuts. The report, contracted by the Texas Education Agency, defended Windham in the context of a massive criminal justice bureaucracy: "WSD is operating in a very challenging physical environment...an environment over which WSD has very little control."<sup>205</sup> The report also detailed the longstanding student body challenges that made adult correctional education more expensive: less than a high school degree, usually less than a sixth grade achievement level, a history of academic failure, special needs, with difficulty maintaining relationships.<sup>206</sup> None of this was news to the TEA or Windham, but was targeted at the legislators who were perhaps intent on cutting correctional education.

The report further WSD's educational programming according to "best practices" established by the Correctional Education Association (CEA), not standards set by the state legislature, and found that Windham performed near perfect given the budget reductions. The report concluded to the 80th legislature "WSD may require additional funding to implement the review team's recommendations."<sup>207</sup> But the state House of Representatives and the state Senate had each commissioned their own comprehensive overview of the Texas Department of Criminal Justice—and more spending was the last thing legislatures wanted. Perkinson writes that in spite of budget deficits, "with the right wing of the Texas Republican Party ascendant...politicians stuck to their guns" and cut services rather than the prison population (Perkinson 2010, 344). However, by the 80th

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<sup>205</sup> Texas Education Agency Report to the 80th Legislature; Windham Legislative Report Files p. 99; Windham School District Headquarters, Huntsville, TX.

<sup>206</sup> Texas Education Agency Report to the 80th Legislature; Windham Legislative Report Files p. 100; Windham School District Headquarters, Huntsville, TX.

<sup>207</sup> Texas Education Agency Report to the 80th Legislature; Windham Legislative Report Files p. 102; Windham School District Headquarters, Huntsville, TX.



legislature, it seemed that ultraconservatives were preparing to make even deeper, more fundamental cuts to both carceral and penal welfare infrastructure.

Previous attempts to dismantle Windham and reshape prisons in Texas paled in comparison to the activism that came out of the right on crime movement in the state's 79th and 80th legislatures. State legislators complained that Rick Perry's 2003 line-item veto eliminating the Criminal Justice Policy Council had created an information vacuum.<sup>208</sup> While legislators lamented the dearth of information on program effectiveness in reducing recidivism, now that the Council was gone, conservative "Right on Crime" legislators now had an opening to review criminal justice institutions like Windham, for themselves.

One of Windham's most dangerous foes at the heart of the state's right on crime movement was House Representative Jerry Madden (R-Plano). Madden had served in the house since 1992, and served as chairperson of the House Committee on Corrections in 2005-2009 and again in 2011-2012. Madden billed himself as a Right on Crime criminal justice reformer, and who would go on to become a national leader in the conservative criminal justice reform movement (Teles and Dagan 2016).

Two thousand-seven was a watershed year for the Texas right on crime movement. After it was projected that the state would need to add 17,000 more prison beds to keep pace with the expanding incarceration rates, which would cost \$530 million. "That pushed the ultraconservative House speaker, Tom Craddick, to a breaking point. Jerry Madden...said in an interview that Craddick took him aside. 'Don't build new

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<sup>208</sup> House Committee on Corrections, *Interim Report to the 80th Texas Legislature*, Jerry Madden, Austin, TX: 2006. P. 107.

prisons,’ Craddick told him, ‘They cost too much’ (Rosenberg 2017). Madden would later champion expanded drug treatment over prison sentences. In their account of the rise of the conservative criminal justice movement in Texas, Teles and Dagan (2016) portray Madden as a conservative who stumbled into reform. “Nothing in Madden’s record indicated that he was the kind of legislator likely to embrace criminal justice reform” (Teles and Dagan 2016, 86). He did, however, oppose “forcing wealthy school districts to share revenues with poorer ones” (Teles and Dagan 2016, 86). In 2007, Madden joined forces with Democratic State Senator John Whitmire to spearhead legislation that lowered incarceration and “figured out how to use the word ‘rehabilitation’ without choking” (Teles and Dagan 2016, 91). Teles and Dagan describe Madden as having risked, and nearly ruined, his conservative reputation over early efforts to lower the prison population in the 80th legislature. They write,

[2007] was Madden and Whitmire’s year. The legislature approved ideas that would seem like long shots in Texas, such as a plan to fund nurse home visits and a measure allowing police to issue tickets rather than make arrests in some misdemeanor cases. Even probation reform turned out to be much less contentious this time around (Teles and Dagan 2016, 90).

Madden’s criminal justice reforms, which ten years earlier would have appeared “liberal” are all the more puzzling in light of the fact that during the same year, Madden launched yet another campaign to dismantle Windham Schools. Whatever the new reform movement was, it did not aim to protect public education autonomy or argue for a diversion of TDCJ funds to more Windham programming.

During the 2006-2007 interim, Madden and the Committee on Corrections was charged with an eight-part review of the TDCJ, including a review of the organization and operation of the Windham School District. The committee delegated this task to the

Subcommittee on Education, of which Madden made himself chair.<sup>209</sup> By 2006, Windham was comparable to the sixth largest school district in the state with an average enrollment of over 78,000 students with a hefty annual budget of approximately \$58 million, most of which came from state appropriations not local sources.<sup>210</sup> After a cursory overview of Windham's organization structure, the committee report suggests that Windham's appropriations funding is improperly located under Article III, which governs educational appropriations through the Texas Education Agency. The report states,

The appropriation for the Windham School District has been in the Texas Education Agency's (TEA) bill pattern for as long as anyone at the LBB [Legislative Budget Board] is capable of researching back to. *Since TEA does not actually administer the Windham program*, there are questions as to how much of a priority the program is in their budgetary requests and the extent to which they fully integrate the needs of the Windham School District into their own budget requests (emphasis added).<sup>211</sup>

At first blush, it might appear like Madden and the Committee are trying to simplify the funding mechanism for education. Since educational appropriations for Windham do not comprise a large share of the state's education agency, why bother lumping in correctional education appropriations along with all the other state district? Madden's common-sense suggestion is supported by the fact that the TEA "does not actually administer the Windham program," making Windham's status under the Texas Education Code even more puzzling. In a public hearing, Madden claimed that funding Windham

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<sup>209</sup> House Committee on Corrections, *Interim Report to the 80th Texas Legislature*, Jerry Madden, Austin, TX: 2006. p. 7.

<sup>210</sup> House Committee on Corrections, *Interim Report to the 80th Texas Legislature*, Jerry Madden, Austin, TX: 2006. p. 65-66.

<sup>211</sup> House Committee on Corrections, *Interim Report to the 80th Texas Legislature*, Jerry Madden, Austin, TX: 2006. p. 67.

through a line-item appropriation to the prison system would simply be a “rerouting” of funds that cut through bureaucratic red tape.

Yet this would-be “commonsense” rerouting argument omitted the fact that no public school district in Texas was “administered” by the TEA. Being designated in the Texas Education Code—and regulated by the TEA—did determine a district’s qualification for state and federal funds according to non-random formulas; it also required that teachers hold proper certification; and ensured that appropriations cannot be determined or cut by either the state legislature or the TDCJ administration.<sup>212</sup>

Perhaps, in the context of large-scale education cuts in 2003, Madden could have argued that appropriating Windham through the TDCJ would insulate it from further cuts. However, the TDCJ’s record suggested otherwise. After the 2003 Texas budget crisis, Perkinson reports that when the TDCJ’s own budget had been cut by \$230 million dollars, prisoner “extras” including rehabilitation programs and food provisions, were the first things to go. Treatment programs administered through the TDCJ were unceremoniously cut becoming “too short, many counselors believe[d], to have a genuinely transformative effect...TDCJ also axed the inmate food budget, first eliminating desert and then setting a ceiling on total caloric intake.” (Perkinson 2010, 345). Thus, even while Windham suffered massive cuts through educational budget cuts, it was still entitled to revenue based on funding formulas regulating the Texas Foundation School Program just like other needy districts. Under the TDCJ, historically, cuts for prisoner services could be unpredictable, arbitrary, and wholesale. If Windham was

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<sup>212</sup> *Relating to the state funding of the Windham School District: Public hearing on HB 281*. Leg. of 2007 (Tex. 2007), [http://tlchouse.granicus.com/MediaPlayer.php?view\\_id=24&clip\\_id=2215](http://tlchouse.granicus.com/MediaPlayer.php?view_id=24&clip_id=2215).

funded under TDCJ legislation, the entire District's autonomy and insulation from the larger needs of the TDCJ might well have disappeared. Whatever Madden's motivation, removing Windham's status as an accredited public school district hardly made its future more secure.

Windham was familiar enough with veiled attempts at takeover, and the bill did not get very far. In a March 2007 hearing on HB 281, which proposed to fund Windham directly through appropriations given to the TDCJ, Madden repeated his report's rationale almost verbatim. The bill never made it out of committee after the District pulled out the same defense as in 1995: that correctional education service delivery was too entrenched to move without significant cost.<sup>213</sup> It is unclear why Madden and the Committee were shied off by such a meagre reason as \$4 million dollars in social security payments, if it was indeed Madden's plan to eliminate—or severely weaken—the District (and therefore “save” a large portion of the District's \$60 million dollar annual appropriation).

A few hypotheses present themselves. First is that the Right on Crime movement may have depended on bipartisan support. Openly attacking Windham may have been too costly politically to his bi-partisan alliance with the Democrats in the State Senate active in criminal justice reform. Few people understood what moving Windham to TDCJ meant. If the scheme had worked, Windham's autonomy would have been weakened, but Madden and the Committee could have claimed greater efficiency in prison school without liability if TDCJ later defunded it. An open political battle against correctional education programming, however, may have been too costly to a conservative criminal justice movement. If a hallmark of right on crime reform is to reduce overall spending

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<sup>213</sup> Cf. Windham School District Landmark File 2 p. 94; Windham School District Headquarters, Huntsville, TX.

with real or perceived rehabilitative alternatives, it would hardly do to engage openly in a battle to dismantle Texas's prison school district.

In the end, the most palpable threat to Windham was not the maneuverings of this or that state representative. It came from another round of predictable but severe cuts to public education funding in the 2012-2013 biennium, just before the mainstream tide turned in favor of correctional education in President Obama's second term. This time, as in 2003, the adversaries were Rick Perry and the State legislature facing massive budget deficits. In addition, like 2003, Windham was targeted for cuts not because it offered services to prisoners, but because it was a public school.

That year, the Legislature cut \$5.4 billion dollars from public school funding<sup>214</sup> (Collier 2015) to help close at \$27-billion-dollar budget shortfall. In the 2011-2012 academic year, Windham personnel was reduced by a fifth. Windham's budget was cut by \$33.1 million dollars from the 2010-2011 biennium.<sup>215</sup> *Texas Monthly* reported that from 2002 to 2012 state aid to education declined 25%, but that Rick Perry and republican legislators tried to obfuscate the depth of cuts that were unpopular in rural and suburban districts by citing overall enrollment growth. In fact, the 2012-2013 biennium was the "first time since World War II [that] the state failed to fund enrollment growth in Texas schools."<sup>216</sup> Table 5-2 reproduces data from the Legislative Budget Board<sup>217</sup> depicting Foundation Program Funding, which accounts for approximately 75% of the

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<sup>214</sup> Collier, Kiah. 2015. 2011 Budget Cuts Still Hampering Schools. *Texas Tribune*. Accessed 1 Feb 2018.

<sup>215</sup> Dewhurst, David. Texas Fiscal Size-Up 2010-2011 Biennium. p. 227.

<sup>216</sup> Blakeslee, Nate, Pamela Colloff, Erica Grieder, Mimi Swartz, and Brian D. Sweaney. 2014. The Rick Perry report card. *Texas Monthly Magazine Online*.

<sup>217</sup> Table reproduced from the website of Texas State Representative Gene Wu using Legislative Budget Board data, [http://genefortexas.com/docs/LBB\\_PublicEd.pdf](http://genefortexas.com/docs/LBB_PublicEd.pdf).

state's total education appropriation. The impact on the Windham School District was immediate.

**Table 5-2. Texas Per Pupil Spending 2002-2013**

**Annual Public Education Spending in Texas**

Year	Local	State	Federal	Total	Inflation		Inflation-adjusted Dollars per Student			
					Adjustment	Enrollment	Local	State	Federal	Total
2002	\$ 14,430,000,000	\$ 10,902,000,000	\$ 2,563,987,170	\$ 27,895,987,170	86.0918	4,160,968	\$ 4,028	\$ 3,043	\$ 716	\$ 7,222
2003	\$ 15,777,400,000	\$ 10,966,682,061	\$ 2,865,498,973	\$ 29,609,581,034	89.6645	4,255,821	\$ 4,135	\$ 2,874	\$ 751	\$ 7,197
2004	\$ 16,631,408,429	\$ 10,643,102,598	\$ 3,577,345,199	\$ 30,851,856,226	92.7460	4,328,028	\$ 4,143	\$ 2,651	\$ 891	\$ 7,128
2005	\$ 17,548,665,974	\$ 11,078,787,850	\$ 3,880,282,903	\$ 32,507,736,727	98.4595	4,400,644	\$ 4,050	\$ 2,557	\$ 896	\$ 6,958
2006	\$ 19,912,817,454	\$ 11,967,858,028	\$ 4,366,455,977	\$ 36,247,131,459	104.1948	4,521,043	\$ 4,227	\$ 2,541	\$ 927	\$ 7,136
2007	\$ 20,230,621,372	\$ 14,217,800,269	\$ 3,989,865,493	\$ 38,438,287,134	109.4990	4,594,942	\$ 4,021	\$ 2,826	\$ 793	\$ 7,085
2008	\$ 18,204,936,022	\$ 18,237,126,884	\$ 4,185,629,430	\$ 40,627,692,336	116.5593	4,671,493	\$ 3,343	\$ 3,349	\$ 769	\$ 6,920
2009	\$ 19,722,871,293	\$ 20,050,263,647	\$ 6,226,420,110	\$ 45,999,555,050	117.1943	4,749,571	\$ 3,543	\$ 3,602	\$ 1,119	\$ 7,665
2010	\$ 20,285,450,102	\$ 16,600,846,905	\$ 7,010,307,155	\$ 43,896,604,162	118.9760	4,847,844	\$ 3,517	\$ 2,878	\$ 1,215	\$ 7,059
2011	\$ 20,076,464,547	\$ 18,044,877,292	\$ 6,267,760,522	\$ 44,389,102,361	122.2583	4,933,617	\$ 3,328	\$ 2,992	\$ 1,039	\$ 6,825
2012	\$ 19,707,781,915	\$ 18,913,095,213	\$ 5,607,001,215	\$ 44,227,878,343	123.2744	4,998,579	\$ 3,198	\$ 3,069	\$ 910	\$ 6,657
2013	\$ 19,775,977,873	\$ 16,163,398,404	\$ 4,913,618,555	\$ 40,852,994,832	124.2905	5,082,554	\$ 3,131	\$ 2,559	\$ 778	\$ 5,998

The budget hole forced Windham to size down to three administrative units covering the entire state. A Windham reduction plan pulled out of 19 units where the majority of prisoners were 40 and over, citing that offenders over 50 have very low recidivism rates and therefore would not benefit as much as younger prisoners.<sup>218</sup>

## Conclusion: Blaming the Victim

At the crossroads of educational divestment and carceral investment, the case of Windham demonstrates the integral nature of prisons and education in American political development. After Madden retired from politics, the 83rd and 84th legislature seemed to have embraced correctional education. In 2013, a pro-education Superintendent, Clint Carpenter, who championed GED and vocational programming, joined the District. Carpenter's philosophy reflected in the in-depth coverage of student testimonials and profiles, along with increased focus on teaching and academic staff in annual reports.

<sup>218</sup> Windham School District Landmark File 2 p. 2; Windham School District Headquarters, Huntsville, TX.

Carpenter's tenure reflects the political shift towards rehabilitation through education at the state legislature: in 2013, the state legislature reinstated its high school diploma program for the first time in over thirty years.<sup>219</sup>

Texas's turn back towards education mirrored larger trends that occurred nationally during President Obama's second term. Obama's Second Chance Pell program had given new life to higher education programming in prison through which a limited number of community colleges and universities were able to collect Pell Grants from incarcerated students (Wexler 2016). In many ways, recent progressive efforts in criminal justice reform has lent correctional educators of all stripes (not merely high education programs) the political security they had lost for nearly two decades. Carpenter (2001) argues that a cornerstone of bureaucratic autonomy rests in widespread consensus that an institution is capable of solving a social problem. Finally, it seemed that correctional education had been recognized as a legitimate response to crime and punishment. Prison educators had suffered much to get there.

The content of and justification for adult correctional education transformed dramatically in ways that map onto larger downward trends in quality and increased commodification of American public education. In the context of a mushrooming prison population, decades of public education divestment, a fragile economy, and a hostile governor, WSD's budget stagnated, and then shrunk in the 2000s not (just) because of overt hostilities to prison programming, but due to broad-based cuts to public education, which amplified the needs of those coming into prison in the first place. This accelerated a path-dependent process of lowered educational quality that had begun in the 1990s of

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<sup>219</sup> Windham School District Annual Performance Review 2013-2014 p. 20; Windham School District Headquarters, Huntsville, TX.



diverting resources from higher quality, time- and labor-intensive educational programming like literacy, high school equivalency, and traditional vocational training, into short term ‘saleable’ certificate courses. Higher quality programs, including a traditional high school diploma program, had been phased out or reduced for easier “high school equivalency” credentials like the GED in the early 1990s. By the 2000s, adult literacy and GED courses were reduced to accommodate larger numbers of short-term programs that theoretically increased job prospects for prisoners. The result was that the overall tally for educational “clients” appeared to hold steady at its high watermark from the 1990s, but by the mid-2000s, a growing share of WSD participants were only enrolled in programs for sixty days or less. Throughout this period, vocational training and journeymen programs were increasingly shrunk to fund and accommodate vocational “short courses” and cognitive intervention programs. Yet, like public schools more generally, conservative policymakers placed greater pressure on Windham to “prove” its value in reducing recidivism.

Thus, the transformation in Windham’s curricula under ever-increasing pressure to serve more students, better, for less, mirrors the larger transformation of public education divestment in the 2000s. District programs were called by traditional names, the GED replaced the high school diploma program, and vocational apprenticeships and journeymen training programs at Windham never died out completely, but gave up much quarter to “short courses” driven by certification and job placement, even if those jobs were low-paid (Fabelo 2002). Over time, even GED enrollments declined markedly to make way for larger enrollments in quick-certificate programs like 30- or 60-day cognitive intervention programming. It is crucial to note that Windham embraced shorter

courses and tighter enrollment eligibility metrics out of necessity: throughout the 1990s and 2000s auditors frequently urged policymakers to increase funding that never appeared. Like public education generally, correctional educational programming had become legitimated by employment metrics rather than any intrinsic civic value. The case of Windham highlights that correctional education is a regular, not exceptional, case of how welfare institutions have persisted in the late modern US at the cost of substantive quality decline.

In the context of historic budget cuts to public education in states like Texas, the need for basic remedial education is greater than ever. Like so many poor Americans, disproportionately Black and Latino men, come from neighborhoods where school quality, economic viability of school, or bodily insecurity, or some combination of those factors, means that Windham may be better thought of as first-access rather than rehabilitative programming.<sup>220</sup>

In the last quarter of the 20th century well into the first fifth of this one, Windham School District has played an increasingly outsized role in providing basic educational opportunities to Texas's worst off. In the context of long term, systematic divestment from public schools, one could have argued in 1980 that Texas's public prisons constituted the barest mechanism for social inclusion. However, during the next two decades as the Texas prison population outstripped Windham's ability to serve students without a high school diploma, even prison failed to confer the basic pre-requisites of democratic citizenship. Social welfare programming *did* persist in the carceral boom, but

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<sup>220</sup> Windham reports consistently report that one third of its students have less than a fifth-to-sixth grade educational attainment level. See Appendix for full demographic and student achievement information. See appendix for full student demographic information.

its programs morphed from an educational access point of last resort to a privilege conferred on a decided minority of prisoners.

Over the last 30 years, the institutional development of Windham schools serves as a prime illustration of how educational and carceral institutions are held responsible (in different ways) for solving structural problems like crime, unemployment, and drug abuse by legislatures that systematically defund social welfare programs and then blame them for it. Scholars and policymakers must consider carceral state development in the context of public education policy, particularly when criminal justice reformers of today have a record of slashing state spending on public education.

A new consensus seems to be emerging in American politics: for the last forty years, we have asked prisons to do too much. This reform movement, a rare policy domain of bipartisanship, actually signifies the ideological indeterminacy of prison reform. Jerry Madden has since become the darling of the right on crime movement. For as much as the right on crime reform movement may push for a smaller criminal justice system, such reform is fundamentally about cutting budgets, not building citizens. For Right-on-Crime movement leaders, “[Prison reform] is a fiscal issue. It’s not a social issue. It’s a fiscal issue, just like Medicare or education” (Teles and Dagan 2016, 103). A key component of right on crime Texas style has been to cut criminal justice budgets without commensurate reinvestment in regular public schools or alternative adult education programs, however great need for them may be.

## Chapter 6 Conclusion

### Introduction

In Chapter 1 of this dissertation, I juxtaposed supposed two seemingly incompatible views about the nature of penal programming and policy-making in the late twentieth century. Feeley and Simon (1992) argued that the punitive turn pronounced the death of the "old" penology that emphasized prisoner rehabilitation. The new penology was marked by a waste management philosophy that transmuted prisoners into actuarial statistics to assess their risk level as threats to society. On the other hand, T.A. Ryan, writing only three years later from the perspective of correctional education development, asserted that while the dominant discourse about prisoner education and rehabilitation had changed dramatically, the content of prison education programming—to say nothing of the motives among correctional educators—largely remained intact. Recall her statement from Chapter 1:

Despite the change of emphasis for corrections in the 1980s and the decrease in support for education of inmates, correctional systems nationwide continued to offer basic, vocational, social, and postsecondary education...New phrases were introduced to replace those of the previous decade but the concepts were essentially the same.

The "in" terms for education in prisons in the 1980s were life skills, cognitive learning, and holistic education. In fact, these were merely new terms for the same programs that had been developed and implemented widely in the 1970s. (Ryan 1995, 61)

It seems that both perspectives were true without either of them being entirely correct. I find that while Feeley and Simon (1992) accurately diagnose the emergent discourse in penal policy-making as actuarial and based on risk calculation, their emphasis on legislative and administrative intent undervalues the role of prison bureaucracies in policy implementation as well as the autonomy bureaucratic constituencies' exercise in protecting their programs of choice. Nevertheless, examining

the contested evolution of correctional education in Texas—where law and order political discourse was among the most punitive—does not support the claim that mid-century education programming persisted in "new robes."

I am not the first to identify this gap. In her national study of rehabilitative programming in the punitive era, Michelle Phelps' (2011) contends that punitive political attitudes failed to produce a direct impact on rehabilitative programming in prisons. She concludes that,

[T]here is no simple or determinant relationship between guiding penal ideologies and daily experiences (Scheingold 1984)... [C]hanges in rhetoric are filtered through many layers of political and bureaucratic processes before they meet the 'subjects' of such practices... (Phelps 2011, 62)

Phelps, with Goodman and Page, conceptualizes the disjuncture between rehabilitative and punitive policymaking with the image of plate tectonics to describe how "penal development is fueled by ongoing, low-level struggle among actors with varying amounts and types of resources" (Goodman et al. 2015, 315). That is, "like plate tectonics, friction among those with a stake in punishment periodically escalates to seismic events and long-term shifts in penal orientation" (Goodman et al. 2015, 315). Phelps (2011) and Goodman et al. (2015; 2016) have served as crucial starting points for my analysis of penal welfare development insofar as their plate tectonics metaphor adequately reflects discursive contestation.

As I have argued, plate tectonics fails to capture the disjuncture between rhetoric-policy and institutional practice. Adequate theorization of penal state development, especially in between welfare and punitive practices, depends on the spatial dimension of the geological metaphor. Goodman et al. (2015; 2016) do recognize the multiplicity of actors in the penal policymaking field, but the plate tectonics metaphor does not fully

account for the actual products, or formations, of agonal struggle in relationship to tectonic shifts. That is, legislative, judicial, executive, and bureaucratic penal policymaking all exert forces *on something*: penal institutions. These institutions, in turn, exert their own impact in policymaking and condition future discursive struggles in all venues.

I join Phelps' (2011) insight of institutional-policy disjuncture and Goodman et al.'s (2015; 2016) argument for a heterogeneous approach to penal state development. I do this through the marbled penal state analogy, which captures agonal state building at the institutional level, particularly in the origins, development, and persistence of prison education in the United States. I contend that the analogy of penal institutions as marbled geological formations provides a compelling framework to understand the processes of welfare sedimentation and withering as distinct, but not independent from, agonal penal politics in other political venues. In this dissertation, I have shown how multi-faceted network of penal reformers worked for decades in a variety of policy venues to build up gradually robust social welfare programs that were later expanded and entrenched. This later entrenchment occurred in states like Texas thanks to penal administrators who embraced the rehabilitative innovations of penal reformers. Nevertheless, the sedimentation and expansion of penal welfare occurred alongside the persistence of punitive practices thanks to bureaucratic innovation and persistence.

The result was a marbled carceral state, where durable, entrenched social welfare constituencies (here, educators) existed alongside punitive constituencies. Although these two groups exist side-by-side, early- and mid-century reformers failed to transform the basic institutional structure of most prisons from a control-oriented space. Physical versus

chemical change in the natural sciences helps to clarify the nature of penal welfare development and persistence. Physical mixing blends two distinct elements but leaves the internal structure in place whereas chemical mixing creates a wholly new structure.

In the marbled penal welfare state, bureaucratic innovators successfully introduced welfare programs at midcentury but fell short of the full transformation of penal institutions for which innovators like MacCormick advocated. This distinction helps to clarify what carceral institutions actually looked like at midcentury once we drop below the surface rhetoric of penal policymaking and deeper into criminal justice institutions, themselves. I found that the inertia behind penal welfare reform lasted well into the 1960s and 1970s, even as political attitudes toward rehabilitation and incarceration were changing. My findings conform to Phelps's (2011) speculation that while "the 1950s and 1960s was a time of great penal innovation in some states, practical knowledge about effective programming and the scale of implementation may have been quite limited" and that expansion was the product of this bureaucratic innovation (Phelps 2011, 38-39).

In what follows, I return to the research questions listed in chapter 1 of this dissertation regarding: the origins of prison welfare in the United States, the mechanisms through which it was created, and how such programs persisted in the law and order era. I then discuss how these findings inform American political development and carceral state scholarship more broadly. Finally, I conclude with an application of the marbled penal state analogy to consider the democratic implications of the Right on Crime movement.

## Research Questions Reconsidered

What are the political origins of prison welfare programming?

The most significant finding among the search for penal welfare's origins is rehabilitative programming originated *in prison institutions*. Through pragmatic institutional learning and innovation, Progressive Era activist-reformers identified penal bureaucracies as the most likely venue to implement welfare policies because of their potential insulation from legislative interference and public scrutiny.

In Chapter 2 I traced the political origins of prison welfare state building in the United States begin with the Progressive Era prison reform movement. I showed how pragmatists in the prison reform social movement broke with traditional religious or moralistic claims making, and instead embraced a new scientific discourse for prison reform. These reformers identified bureaucracies as a venue through which to navigate complex, sometimes parochial, and often-messy political contexts in the 1920s. While prison administrators in general emerged as a leading constituency to implement welfare reforms in prisons, I follow leading reformers at the National Society for Penal Information through their pragmatic turning point to enter penal bureaucracies for themselves to hasten rehabilitative reform.

In Chapter 3, I followed this group of reformers in their early program innovation at the federal prison system. Their initial success in the federal prison system was mixed, largely due to structural barriers inherent in a decentralized warden system. In spite of these challenges, rehabilitative reformers had vastly expanded their political network by the end of the 1930s and had successfully entrenched prison education at the United States Industrial Reformatory at Chillicothe. Program experimentation in the BOP also



provided crucial institutional learning opportunities for mid-level bureaucrats, which proved invaluable for navigating carceral institutions in later decades. Experimental bureaucratic innovation at the BOP was the first major social welfare intervention in US prisons that would serve as a template for later program replication in other policy venues.

The fact that penal welfare originated in prison bureaucracies and not legislatures or courts highlights the need for further analysis of the role that institutional innovation has in American state building. It also provides some insight into the marbled nature of penal institutions. Put differently, these chapters provide an up-close portrait of how and why rehabilitative policies survived but failed to overtake punitive institutional practices, even when the penal administration endorsed a robust welfare platform. On the one hand, bureaucratic innovation provided the only viable pathway to implement their desired policies in a secluded, low-visibility policy venue. On the other hand, reformist prison bureaucrats at the BOP were thrust into a pre-existing institutional structure that was both fragmented and entrenched.

Bureaucratic innovation may provide an alternative policymaking route when public opinion and political discourse oppose a preferred outcome, but future research will need to address the extent to which more totalizing institutional transformation requires collaboration among bureaucrats and policymakers in the judiciary, executive, and legislature. In order to answer these questions, scholars of the American state must make use of medium and fine-grained accounts of institutional innovation and conflict from the perspective of bureaucracies.

What are the mechanisms through which penal welfare programs were implemented, contested, and expanded or contracted over time?

The chief mechanism of rehabilitative prison reform was the extensive network of bureaucratic reformers themselves. This reform network was made up of a body of bureaucratic actors, political activists, and penal consultants who occupied different positions during different phases of penal welfare development. I find that over time, rehabilitative reform networks evolved from a small cadre in the federal government into a budding professional constituency of penal welfare bureaucrats. This reform network constituted a crucial infrastructure for penal welfare expansion in the postwar era, particularly as network leaders like MacCormick assumed leadership of interest group organizations that created a policymaking hub for political elites, grassroots activists, and professional groups.

Bureaucratic reformers like MacCormick linked otherwise isolated rehabilitative successes together through professional association meetings at the American Prisons Association and the nonprofit Osborne Association. During the hospitable conditions of postwar state building, key actors used these national platforms to draft model prison reform programs that replicated and improved on earlier innovation. MacCormick's position at the Osborne Association gave leading reformers an autonomous institutional platform for penal "experts" to advocate for penal welfare expansion in other states and draw on extensive reform networks.

Sometimes, however, elite consultation was not enough to effect reform. The case study of penal reform in postwar Texas shows how MacCormick deployed a two-pronged strategy similar to his earlier program innovation at the Bureau of Prisons. Formally, MacCormick and the Osborne Association consulted with political leadership in Texas

prisons, while privately he relied on ground-level actors who could provide him with detailed information on daily operations of the prison system. Unlike the earlier period, however, MacCormick's ground-floor allies were members of a broader faith-based grassroots constituency who could effectively exert political force on elected officials. These grassroots claims in post-war explicitly linked the duties of a democratic government with the recent war against fascism. The outcome of this period was the installation of a pro-reform director of Prisons whose successors solidified educational programming in the 1960s and 1970s. Nevertheless, without a developed network of bureaucratic elites who provided a reform template and cultivated an extensive professional pool, grassroots demands would not have yielded significant change.

In spite of the centrality of bureaucratic reform networks, I am careful to point out that national penal reform was conditioned by broader political and economic conditions, namely readjustment spending and postwar democratic discourse. While states like Texas implemented an independent public school district within the prison system, federal funding and increased professional identity of correctional educators in the late 1960s prompted rapid expansion and entrenchment of prison education. Funding mechanisms included The Manpower Development and Training Act (1962), The Adult Education Act (1964), and grant programs through the US Department of Education (Ryan 1995, 61). These funding mechanisms were important conditions for expansion but are distinct from the much older policy template and implementation strategy developed by penal reformers. For as important as these program expansions were to the development of

correctional education, I show that they are the political consequences of a decades-long social movement to implement rehabilitation.<sup>221</sup>

I find that the bureaucratic origins of penal welfare institutions are a crucial means through which these bureaucracies persisted throughout intensely hostile political periods. The case of Texas illustrates this point on two fronts. First, O.B. Ellis was the driver behind reforming the Texas Prison System in 1949, largely following MacCormick's model program. Second, Ellis' successor, George Beto, was the force behind establishing Windham School District in 1969. In both cases, the state legislature was important in passing legislation that formally established these entities, but the entrepreneurship and program autonomy rested at the bureaucratic level. Program autonomy was contingent on meeting certain legislative requirements but was not subject to legislative or executive discretion. As I address in Chapter 5, even when the Texas legislature made increasing encroachments on Windham's capacity and autonomy, it was able to persist because of the insulation and autonomy championed by mid-century reformers.

To what extent have welfare programs expanded or contracted in the punitive law and order state building trends dominant in the law and order era (1970s-2000s)?

In Chapter 5, I illustrated how various political actors in the Texas state government attempted to weaken or outright dismantle the Windham School District

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<sup>221</sup> Future study will pick up this thread of prison welfare development to assess how correctional education entrenchment played out in different states with different institutional schemes from Texas to deliver educational programming. The professional consciousness-building efforts and policy advocacy in the Correctional Education Association during this period, particularly found in the Association's trade journal the *Journal of Correctional Education* will provide crucial data in follow-up research.

even as the state prison system was growing. In the early 1990s, fiscally conservative Democrats attempted to delegitimize prison education, and therefore Windham's institutional autonomy and funding, by claiming that it was ineffective at lowering recidivism. The case analysis of the Windham School District from 1984 to 2012 through the lens of marbled state formation allows us to resolve the seeming paradox between punitive policymaking and rehabilitative reality that I identified at the top of this chapter.

In her 2011 national study of rehabilitative programming, Phelps identifies how social welfare programming in US prisons survived two decades of punitive politics.

Phelps notes that traditional education programming declines in the 1990s and 2000s in favor of reentry programming. She states that,

The decline in participation rates for academic programs looks like a direct consequence of the declining investments in educational staff...However, it is not clear what caused this devaluation of prison academic programs and whether it was a conscious policy decision to switch to reentry programs or a result of other economic and practical factors. (Phelps 2011, 60)

My analysis of Windham's archives helps answer this "why" question. I show how Windham officials, like correctional educators across the country, defensively embraced the recidivism framework to protect bare program survival and autonomy. In the case of Windham, which depended on the state for the vast majority of its funding, the district had little choice but to comply with the new measures of success. In Texas, as across the country, proponents of correctional education rallied to verify empirically the effectiveness of education programming in lowering recidivism, and therefore crime, by proxy. Nevertheless, the successful defense of correctional education through the new framework of recidivism-reduction fundamentally altered the basis on which this crucial social benefit and preparation for civic engagement was configured even as institutional autonomy persisted.

Rather than delivering basic adult education to prisoners based on need as a core responsibility of the state, the case of Texas shows how recidivism "awarded" the benefit of education based on an individual's risk reduction. This is seen most clearly in the new program eligibility of Texas prisoners based on age, risk-assessment, and time until release. This new framework also meant that the major provider of social welfare benefits in the Texas prison system would not have to grow in tandem with the prison population at large, that is, with actual need.

Penal welfare programming persisted but was gradually warped by sustained political pressure from both political parties in the guise of law and order *and* welfare retrenchment politics. This pressure came first through the lens of law and order policymaking with the Democratic Comptroller's scathing review of Windham, and was followed by the Texas state legislature's imposition of a new recidivism-based funding assessment. Yet, as I conclude in Chapter 5, the most severe impact on correctional education was as a consequence of broader cuts to public education spending in the 2000s.

To return to the marbled penal welfare analogy, the shift towards reentry and life skills programming reflects a warping of penal schools under the dual pressures of reduced education spending and the intervention of risk-reduction performance measures tied to Windham's funding. Windham, faced with increasing pressure to deliver education programming with fewer funds to more prisoners responded by watering down of traditional literacy and vocational courses in exchange for various short courses like life skills, which emphasized personal responsibility and anger management. Therefore, while Windham survived and even preserved many of its programs the scope of these

programs and the District's capacity to deliver them diminished because of the recidivism performance measure and sweeping cuts made to all education programs in the state.

These findings align with Comfort's (2012) claim that in the diminished welfare state of the late-modern US, incarceration plays an increased role in providing basic social services that more privileged citizens access via other institutional contexts, namely traditional schools and universities.

## Implications for Carceral and American Political Development Scholarship

The historical development of penal welfare highlights the gradual nature of penal welfare's expansion, persistence, and warping. The time horizon of bureaucratic state formation (or erosion) is much longer than any one dominant penal discourse. In the case of welfare sedimentation and entrenchment, the impacts of mid-century innovation begun in the Progressive Era were not fully felt until the 1970s. Similarly, this dissertation showed how opponents of penal welfare adopted a procedural strategy to erode prison education capacity, and have framed decarceration as a fiscal issue rather than a social justice issue. In the following section, I discuss the possible implications of the Right on Crime policy alternatives to mass incarceration and conclude with some thoughts on the lessons and limits of bureaucratic state building for effecting democratic criminal justice reform.

### Eroding the (Penal) Welfare State

By viewing criminal justice and social welfare institutions under the same umbrella of state capacity, rather than mutually exclusive entities, it becomes clear that conservative policy-makers are, by their own admission, motivated by cutting state

capacity in any sphere politically expedient. In the context of prison education, perversely, it suggests even greater levels of state abandonment of marginal citizens. Moreover, if the primary goal of conservative prison reform is cost savings, then policy alternatives that exclude or dismantle existing rehabilitative programs deserve scrutiny from policymakers who see decarceration as a social justice issue requiring welfare state-capacity reinvestment.

Ironically, Right on Crime activists may present a greater threat to welfare programming than law and order policymakers. Under the guise of criminal justice reform agenda ostensibly shared with liberals and progressives, this dissertation has shown that for ultra-conservatives, decarceration includes a dismantling of social welfare institutions. The strategy for withering the state in the twenty-first century is a gradual erosion of state capacity through procedural means while upholding “rehabilitation” in principle. The case of Windham School District provides a unique opportunity to assess the policy implications of the Right on Crime platform for penal welfare institutions, particularly since a national figure in conservative criminal justice reform also tried to dismantle the largest prisoner rehabilitation program in his home state. Although early Right on Crime efforts to wither Windham’s program autonomy in the 2000s were unsuccessful, Jerry Madden’s national leadership role in Right on Crime policy casts new light on his insistence that decarceration is a “fiscal issue” (Teles and Dagan 2016) may well impact states across the US. Moreover, Madden’s historical position on Windham (and public education more broadly, as discussed by Teles and Dagan) suggests that the fiscal framing of criminal justice reform is not a strategic means to cosign conservatives into social justice reform. Rather, it suggests a strategy put forth by conservatives to strip



state capacity in a new venue (prisons) while enjoying the cooperation—even celebration—of liberal policymakers and voters. Policymakers and voters must understand the paradoxical and persistent role that criminal justice institutions have come to play in filling gaps in social welfare service provision. In the context of larger criminal reform debates, penal welfare institutions serve as an important litmus test for assessing the viability and limits of a policymaking coalitions that include Right on Crime conservatives.

#### Lessons and Limits of Penal Bureaucratic State Building

In the contemporary political context, students of the American state have much to learn from the Progressive heritage of the prison education movement in addition to its more recent iteration as an entrenched but hidden welfare bureaucracy. First, penal policymakers interested in reform ought to take note of the crucial role that grassroots social movements played in effecting postwar reforms at the state level. For while national elites may have policymaking expertise and dense networks, grassroots activists are uniquely situated to engage in democratic claims-making that link prison reform with broader claims for social welfare reinvestment, most notably, public school funding. Second, prison education bureaucracies are a powerful template for future reform that bridges the incarceration experience with life in community. In addition to more robust educational spending in prisons, community colleges similarly meet a variety of adult education needs from GED credentialing, vocational programming, and associate's degrees (Tyler and Lofstrom 2009). Future partnership between these two types of public education institutions may well provide a pathway towards decarceration and social justice.

Historians like Eisenach have described Progressive activists who turned to administrative institutions to achieve the policy and political goals they were incapable of securing in grassroots social movements as “managerial progressives.” His critique of managerial progressivism asserts that certain policy preferences *were* realized, but with significant tradeoffs. For Eisenach, one crucial tradeoff is public mobilization (Eisenach 1994 260ff). In the context of prison reform, which did not have a broad base of public support, an especially important tradeoff in pragmatic bureaucratic reform was the subversion of ethical-democratic claims for prison welfare to claims of its efficacy in limiting risk, specifically through lowering recidivism. The result of this tradeoff achieved institutional reform faster but fundamentally placed the onus of proof on welfare programs to show that they “worked.”

MacCormick and other elite penal reformers at mid-century claimed, sometimes implicitly and sometimes explicitly, that a liberal education program was essential to the democratic rehabilitation of an individual. While framing prison welfare programming like education in terms of “scientific” interventions in an outdated penal system, this very framework later would be used to weaken correctional education autonomy when democratic norms and assumptions shifted in the following decades. It is impossible to hold Progressive era activists to account for the permutations of empirically based claims for measuring prison programming, but highlighting the consequences of this subversion provides important perspective for students of the contemporary American state when social welfare provision is untethered from democratic claims.

## Concluding Thoughts

The foregoing dissertation sheds new light on the 21st century criminal justice reform debate by relocating prisons at the intersection of social welfare and carceral state building in the United States. In order to appreciate fully how prisons are the product of both punitive and rehabilitate state building efforts, I study carceral state building from the perspective of bureaucratic entrepreneurs and constituencies to reveal the marbled nature of criminal justice institutions. This perspective allows scholars to drop below the level of political discourse or judicial fiat to see how competing policies and preferences play out at the institutional level, through which citizenship is defined, shaped, and experienced.

In the United States, there is perhaps no better reflection of how the state—broadly conceived—forms, prepares, or fails citizens than through its institutions of public education. Schools are the mechanism through which Americans are equipped with the essential tools for autonomous thinking, navigating the marketplace, and active democratic participation. They also reflect several core aspects of American government: they are subject to layers of political fragmentation (horizontal and vertical), characterized by a high degree of inequality, and are marked by a contradictory relationship between highly politicized national discourse and low-visibility and -public comprehension of the street-level bureaucrats responsible for service delivery. Both the curriculum content and the institutional structure conditioning educational service delivery offer crucial insights into the various kinds of citizen building at play in the United States. Beginning in the late 20th century, criminal justice institutions have been increasingly important sites of learning American citizenship, although the lessons they

“teach” are often implicit and encourage civic avoidance rather than engagement (Lerman and Weaver 2014). Schools for adults in the context of prisons, therefore, present a conflicting variety of bureaucratic constituencies, institutional goals, and lessons about citizenship.

This project’s emphasis on the persistence of prison social welfare should not be taken as an apology for the carceral state; for in fact the persistence of correctional education does not mean that these programs have not been adversely affected by the “new penology” or the general amplification of collateral consequences of incarceration. Several scholars highlight how prisons reproduce community violence (Lerman 2013), as well as racialized and classed citizenship in the United States insofar as incarcerated citizens are removed from their home community. As a group, the formerly incarcerated are spatially and racially concentrated upon release, are subject to intense policing authority, and are stripped of many civil rights, in many cases for life (Clear 2007; Chin 2002).

The persistence of social service provision in the form of education and jobs training staffed by teachers and social work personnel in prisons, complicates the prevalent narrative of prisons as monolithic political institutions and highlights novel pathways for social justice oriented criminal justice reform. Prison welfare must be seen as an example of an ambivalent pathway to socialization and citizenship for poor minority families in the broader context of a diminished welfare state in late modern America (Comfort 2012). Only in this context does it make sense to view incarceration as a limited social “benefit.” For scholars and policymakers who view decarceration in the context of social justice claims, not simply a fiscal issue, policy alternatives to

incarceration must include specific pathways to access social welfare programs that many Americans only find behind bars.

# Appendix

## Bureau of Prisons Statistical Data

Bureau of Prisons Budget 1930-1938

**Table 0-3-1 Budget for Adult Prisons and Reformatories (Actual Dollars)**

	<i>Leavenworth</i>	<i>Atlanta</i>	<i>McNeil</i>	<i>Chillicothe</i>	<i>Bureau Office</i>
<b>1930</b>					
General Budget	\$357,693 (\$293,623)	\$148,000 (\$92,133)	\$86,198	N/A (\$30,177)	\$52,640
Employee Wages	\$203,003	\$17,700	\$23,600	N/A	
Capital Improvements	\$85,456	\$25,615	\$237,000	\$0	
<b>1931</b>					
General Budget	\$1,623,357	\$1,037,437	\$431,268	\$568,690	\$152,338
Employee Wages	\$636,212	\$372,380	\$173,308	\$196,390	
Capital Improvements	\$22,300	\$79,000	\$139,000	\$450,000	
<b>1932</b>					
General Budget	\$1,942,440	\$1,198,212	\$516,060	\$790,448	\$234,078
Employee Wages	\$690,180	\$407,652	\$200,020	\$291,588	
Capital Improvements	\$0	\$100,000	\$214,135	\$1,000,000	
<b>1933</b>					
General Budget	\$1,645,000	\$1,045,000	\$428,500	\$634,000	\$215,000
Employee Wages	\$657,608	\$390,000	\$200,000	\$260,000	
Capital Improvements	\$8,000	\$8,500	\$32,000	\$521,000	
<b>1934</b>					
General Budget	\$1,468,000	\$920,000	\$406,400	\$543,000	\$204,000
Employee Wages	\$623,500	\$376,350	\$200,000	\$260,358	
Capital Improvements	\$5,400	\$0	\$36,000	\$40,000	
<b>1935</b>					
General Budget	\$1,146,000	\$626,000	\$338,000	\$453,000	\$197,300
Employee Wages	\$547,740	\$310,980	\$173,190	\$247,850	
Capital Improvements	\$0	\$0	\$60,800	\$0	
<b>1936</b>					
General Budget	\$1,240,670	\$767,660	\$444,000	\$531,000	\$238,000
Employee Wages	\$607,840	\$353,660	\$226,100	\$293,500	
Capital Improvements	\$29,600	\$0	\$18,110	\$0	
<b>1937</b>					
General Budget	\$1,566,530	\$894,140	\$504,180	\$718,460	\$267,900
Employee Wages	\$672,700	\$381,140	\$246,880	\$321,760	
Capital Improvements	\$0	\$0	\$300,000	\$0	
<b>1938</b>					
General Budget	\$1,554,910	\$932,610	\$513,980	\$761,360	\$236,700
Employee Wages	\$726,580	\$403,360	\$258,480	\$352,560	
Capital Improvements	\$0	\$0	\$137,000	\$0	

**Bureau of Prisons Enrollment Data**

The following section contains enrollment data compiled from the archival records for Chillicothe, Leavenworth, and McNeil Island for the dates specified in the table. Data was not available for Atlanta.

United States Industrial Reformatory at Chillicothe, OH<sup>222</sup>**Table 0-3-2 Chillicothe Education Statistics 1931-1937**

	1931- 1932 <sup>223</sup>	1932- 1933 <sup>224</sup>	1933-1934 <sup>225</sup>	1934-1935 <sup>226</sup>	1935-1936 <sup>227</sup>	1936-1937 <sup>228</sup>
	Monthly Average <sup>229</sup>	Monthly Average	Monthly Average	Monthly Average	Monthly Average	Monthly Average
<b>BASIC LITERACY (GRADES 1-5)</b>	N/A	13	172	79	163	140
<b>EVENING SCHOOL ENROLLMENT<sup>230</sup></b>	N/A	N/A	206	211	251	300
<b>VOCATIONAL ENROLLMENT</b>	N/A	223	182	229	399	410
<b>CELL STUDY</b>	N/A	N/A	N/A	N/A	28	8
<b>TOTAL ENROLLMENT</b>	78	236	560	519	841	858
<b>TOTAL PRISON POPULATION</b>	N/A	N/A	894	998	1461	1529
<b>PERCENT OF POPULATION ENROLLED</b>	N/A	N/A	63%	52%	58%	56%

<sup>222</sup> Explanatory note: The data are compiled from archival sources. They are idiosyncratic and should be taken as a rough measure. I have tallied the monthly averages rather than yearly totals because the reports do not indicate duplicate enrollment from month to month (meaning that one student might be tallied 12 times throughout the year).

<sup>223</sup> Compiled from: Box 613 Folder 3 p. 227; Box 613 Folder 1 p. 215-222; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>224</sup> Compiled from: Box 613 Folder 1 p. 132-208; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>225</sup> Compiled from: Box 613 Folder 1 p. 34-130; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>226</sup> Compiled from: Box 613 Folder 1 p. 6-18; Box 613 Folder 2 p. 146-192; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>227</sup> Compiled from: Box 613 Folder 2 p. 114-142; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>228</sup> Compiled from: Box 613 Folder 2 p. 52-104; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>229</sup> All averages are rounded to the nearest whole number.

<sup>230</sup> Evening courses included grades five to eight; aviation, bookkeeping, drafting, typing, and shorthand. The school's trade school offerings included cabinetmaking, sheet metal, electric, paint, auto mechanics, plumbing and steam fitting, brick masonry. Other training programs included laundry, foundry, hospital nursing, cooking and baking, and a self-expression and discussion club. Recreational programming included indoor games, wrestling, baseball, and basketball leagues, orchestra, and craft making for sale. Box 613 Folder 2 p. 129; United States Industrial Reformatory Chillicothe; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.





## United States Penitentiary at McNeil Island, Washington

**Table 0-3-3 McNeil Island Education Statistics 1931-1936**

	1931-1932 <sup>231</sup>	1932-1933 <sup>232</sup>	1933-1934 <sup>233</sup>	1934-1935 <sup>234</sup>	1935-1936 <sup>235</sup>
	Monthly Average	Monthly Average	Monthly Average	Monthly Average	Monthly Average
<b>Total Students Enrolled</b>	446	636	598	585	686
<b>Total Population</b>	958	932	877	816	963
<b>Percent Enrolled</b>	47%	68%	68%	72%	71%

<sup>231</sup> Compiled from Box 294 Folder 1 p. 139-284; United States Penitentiary McNeil Island; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>232</sup> Compiled from Box 294 Folder 1 p. 139-252; United States Penitentiary McNeil Island; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>233</sup> Compiled from Box 294 Folder 1 p 2; United States Penitentiary McNeil Island; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>234</sup> Compiled from Box 294 Folder 2 p. 106-221; United States Penitentiary McNeil Island; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

<sup>235</sup> Compiled from Box 294 Folder 2 p. 3-92; Box 294 Folder 3 p. 7; United States Penitentiary McNeil Island; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

## United States Penitentiary at Leavenworth, Kansas

**Table 0-3-4 Leavenworth Education Statistics 1931-1932<sup>236</sup>**

	Jan	Feb	Mar	Apr	May	Total	Average
<b>Day Academic Enrollment</b>	65	560	637	627	561	2450	490
<b>Correspondence Enrollment</b>	140	171	242	526	620	1699	340
<b>Total School Enrollment</b>	205	731	879	1153	1181	4149	830

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<sup>236</sup> Compiled from: Box 215 Folder 1 p. 8-42; United States Penitentiary Leavenworth; Prisoner Welfare-Education; General Records of the Bureau of Prisons 1930-1937, Record Group 129; National Archives Building, College Park, MD.

## Windham School District Data

**Table 0-5-1 WSD Archival Sources**

<b>Name</b>	<b>Date Range</b>	<b>Location</b>	<b>Pages Collected</b>
<b>Windham Annual Performance Review (APR)</b>	1984-1985	Windham Offices, Huntsville, TX	100
<b>Windham APR</b>	1985-1986	Windham Offices	84
<b>Windham APR</b>	1986-1987	Windham Offices	97
<b>Windham APR</b>	1987-1988	Windham Offices	88
<b>Windham APR</b>	1988-1989	Windham Offices	90
<b>Windham APR</b>	1989-1990	Windham Offices	130
<b>Windham APR</b>	1990-1991	Windham Offices	131
<b>Windham APR</b>	1991-1992	Windham Offices	145
<b>Windham APR</b>	1992-1993	Windham Offices	140
<b>Windham APR</b>	1993-1994	Windham Offices	111
<b>Windham APR</b>	1994-1995	Windham Offices	127
<b>Windham APR</b>	1995-1996	Windham Offices	183
<b>Windham APR</b>	1996-1997	Windham Offices	190
<b>Windham APR</b>	1997-1998	Windham Offices	197
<b>Windham APR</b>	1998-1999	Windham Offices	197
<b>Windham APR</b>	1999-2000	Windham Offices	12
<b>Windham APR</b>	2000-2001	Windham Offices	12
<b>Windham APR</b>	2001-2002	Windham Offices	13
<b>Windham APR</b>	2002-2003	Windham Offices	18
<b>Windham APR</b>	2003-2004	Windham Offices	21
<b>Windham APR</b>	2004-2005	Windham Offices	18
<b>Windham APR</b>	2005-2006	Windham Offices	18
<b>Windham APR</b>	2006-2007	Windham Offices	25
<b>Windham APR</b>	2007-2008	Digitally Available	32
<b>Windham APR</b>	2008-2009	Digitally Available	27
<b>Windham APR</b>	2009-2010	Digitally Available	25
<b>Windham APR</b>	2010-2011	Digitally Available	27
<b>Windham APR</b>	2011-2012	Digitally Available	26
<b>Windham Landmark Files 1</b>	1977-2012	Windham Offices	194
<b>Windham Landmark Files 2</b>	1969-2011	Windham Offices	312
<b>Windham Landmark Files 3</b>	1975-1994	Windham Offices	76
<b>Windham Legislative Files</b>	2007	Windham Offices	231
<b>Performance Review of Windham Schools: Office of the State Comptroller</b>	1992	Windham Offices	~300
<b>TOTAL</b>			3,397

**Table 0-5-2 Major Actions Impacting WSD 1985-2012**

<b>Year</b>	<b>Actor</b>	<b>Action/Recommendation</b>	<b>Result</b>
<b>1986</b>	Sunset Commission	R: merge Windham with TDCJ	None
<b>1992</b>	Texas Comptroller	R: legislature should review programs for effect on recidivism; should base funding on recidivism not average daily attendance.	74 <sup>th</sup> Texas legislature amends Texas Education Code pertaining to Windham; Special Committee on Windham Schools; independent audits
<b>1995</b>	74 <sup>th</sup> Texas Legislature	A: Amendment to Texas Education Code Chapter 19, WSD program goals	Goals of correctional education reformed: to reduce recidivism, reduce cost of confinement, aid in employment search, provide incentive for good conduct in prison.
<b>1995</b>	74 <sup>th</sup> Texas Legislature	A: Amendment to Texas Education Code Chapter 19, funding formula	Funds awarded based on contact hours for the best 180 of 210 school days (not average daily attendance)
<b>2000</b>	76 <sup>th</sup> Texas Legislature, Special House Committee on Windham School District	A: Windham Schools found to be effective and appropriate to mission R: Increase funding	Windham remains an independent school district; no funding increase.
<b>2003</b>	78 <sup>th</sup> Texas Legislature	A: \$1.1 billion reduction in K-12 general revenue appropriations. <sup>237</sup>	Windham's budget cut 19%
<b>2006</b>	79 <sup>th</sup> Texas Legislature	A: Amendment to Texas Education Code, biennial evaluation.	Windham to submit annual report to the Legislature, the Board of TDCJ, and the Governor.
<b>2007</b>	80 <sup>th</sup> Legislature, House Committee on Corrections	A: HB 281, to fund Windham through TDCJ line item appropriation	None
<b>2011</b>	83 <sup>rd</sup> Texas Legislature	A: \$5.4 billion reduction in K-12 appropriations	Windham staff reduced by 20%; programming shut in 19 units

<sup>237</sup> Hill, Ian. State Responses to Budget Crises, Urban Institute. 2004.

<<https://www.urban.org/sites/default/files/publication/57931/410955-State-Responses-to-Budget-Crises-in-Texas.PDF>>

**Table 0-5-3 WSD Demographic Data 1985-2012<sup>238</sup>**

	<b>Prison Population<sup>239</sup></b>	<b>WSD students enrolled</b>	<b>Percent Male</b>	<b>Percent Black</b>	<b>Percent White</b>	<b>Percent Latino</b>	<b>Average incoming education</b>
<b>1985-1986</b>	37,500	39,233	95	41	37	22	6.0
<b>1986-1987</b>	38,000	27,762	95	41	37	22	6.0
<b>1987-1988</b>	38,125	30,428	95	42	36	22	6.0
<b>1988-1989</b>	41,011	30,207	95	43	35	22	9.0
<b>1989-1990</b>	45,557	36,930	92	46	32	22	n/a
<b>1990-1991</b>	101,391	39,555	94	46	31	23	6.7
<b>1991-1992</b>	95,896	38,448	93	48	28	24	6.8
<b>1992-1993</b>	115,634	40,472	94	50 (27)	18 (28)	31 (24)	7.0
<b>1993-1994</b>	91,326	44,284	92	48 (47)	22 (28)	30 (25)	7.1
<b>1994-1995</b>	91,326	50,345	90	47 (47)	23 (28)	29 (25)	6.3 (7.3)
<b>1995-1996</b>	120,546	57,325	89	44 (46)	26 (28)	30 (26)	6.6 (7.4)
<b>1996-1997</b>	125,478	58,441	N/A	43 (45)	26 (28)	31 (26)	6.6 (7.4)
<b>1997-1998</b>	131,493	58,348	N/A	42 (43)	26 (31)	31 (26)	5.5 (6.9)
<b>1998-1999</b>	113,300	56,096	NA	44 (44)	23 (30)	33 (26)	5.6 (7.7)
<b>1999-2000</b>	157,997	60,892	94	45 (43)	22 (31)	32 (26)	5.5 (7.7)
<b>2000-2001</b>	162,070	64,848	94	44 (42)	23 (32)	33 (26)	5.5 (7.9)
<b>2001-2002</b>	162,033	83,337	89 (94)	43 (41)	21 (31)	36 (28)	5.8 (8.0)
<b>2002-2003</b>	166,911	83,785	91 (94)	41 (40)	21 (31)	38 (28)	5.9 (8.0)
<b>2003-2004</b>	168,105	76,294	87 (94)	40 (41)	21 (29)	38 (30)	6.1 (8.1)
<b>2004-2005</b>	169,003	75,667	88 (92)	40 (38)	24 (32)	36 (29)	6.2 (8.0)
<b>2005-2006</b>	172,116	75,936	86 (92)	40 (38)	23 (32)	36 (30)	6.2 (8.0)
<b>2006-2007</b>	171,790	78,124	87 (92)	40 (37)	22 (32)	38 (30)	6.2 (8.7)
<b>2007-2008</b>	172,506	82,500	86 (92)	39 (37)	21 (31)	39 (31)	6.2 (8.8)
<b>2008-2009</b>	171,249	79,000	87 (92)	40 (37)	20 (31)	39 (32)	6.2 (7.9)
<b>2009-2010</b>	173,649	77,562	87 (92)	39 (36)	20 (31)	40 (32)	6.3 (8.1)
<b>2010-2011</b>	172,224	74,486	86 (92)	40 (36)	20 (31)	40 (33)	6.4 (8.1)
<b>2011-2012</b>	166,372	63,125	86 (92)	41 (36)	20 (31)	39 (33)	6.5 (8.1)

<sup>238</sup> Table A-5-3 shows basic demographic data for Windham students (and for Texas prisons overall in some years where parenthesis shown). The data were compiled from annual reports with some idiosyncrasies. For example, the overall prison population is a yearend report, not cumulative; while educational participants are cumulative for the year. For that reason, this chart does not represent average daily percentages of Texas prisoners enrolled in school, making it impossible to show the exact percent of Texas prisoners enrolled in Windham programs in any given year.

<sup>239</sup> Some Windham performance reviews did not include this data. Where not included, I have cited BJS year end populations. All other figures are from Windham Annual Performance Reviews.

**Table 0-5-4 WSD Enrollment by Program Type**

	<b>WSD Student Total</b>	<b>Percent (%) Academic</b>	<b>Percent (%) Vocational</b>	<b>Percent (%) Other</b>	<b>Total GEDs Awarded</b>	<b>Total Staff</b>
<b>1985-1986</b>	39,233	72.76%	14.99%	12.23%	2498	497
<b>1986-1987</b>	27,762	74.25%	22.26%	32.31%	2385	511
<b>1987-1988</b>	30,428	87.36%	21.1%	31.53%	2531	569
<b>1988-1989</b>	30,207	88.95%	23.65%	49.78%	2927	634
<b>1989-1990</b>	36,930	86.73%	24.77%	38.20%	2144	770
<b>1990-1991</b>	39,555	82.77%	33.57%	41.17%	3114	826
<b>1991-1992</b>	38,448	85.79%	34.6%	40.84%	4340	871
<b>1992-1993</b>	40,472	85.19%	35.19%	N/A	3506	1022
<b>1993-1994</b>	44,284	84.82%	31.51%	44.70%	4314	N/A
<b>1994-1995</b>	50,345	83.50%	28.58%	42.34%	5619	N/A
<b>1995-1996</b>	57,325	82.28%	24.82%	36.12%	8296	N/A
<b>1996-1997</b>	58,441	79.35%	24.38%	38.76%	5027	N/A
<b>1997-1998</b>	58,348	76.78%	22.93%	38.82%	3212	N/A
<b>1998-1999</b>	56,096	75.33%	25.51%	51.67%	4278	N/A
<b>1999-2000</b>	60,892	67.02%	23.54%	36.65%	5084	1546
<b>2000-2001</b>	64,848	90.68%	21.52%	N/A	4167	1581
<b>2001-2002</b>	83,337	92.19%	19.32%	N/A	5347	1856.5
<b>2002-2003</b>	83,785	92.62%	18.26%	N/A	4723	1411
<b>2003-2004</b>	76,294	56.32%	15.71%	52.93%	4397	1249
<b>2004-2005</b>	75,667	53.27%	15.44%	56.51%	4522	1378
<b>2005-2006</b>	75,936	49.34%	15.21%	60.97%	4585	1369
<b>2006-2007</b>	78,124	48.96%	14.28%	62.01%	5039	1267
<b>2007-2008</b>	82,500	48.11%	14.77%	62.39%	5039	1384
<b>2008-2009</b>	79,000	47.84%	14.29%	62.95%	4893	1393
<b>2009-2010</b>	77,562	48.03%	13.97%	62.03%	5287	1287
<b>2010-2011</b>	74,486	47.72%	15.04%	61.04%	5169	1155
<b>2011-2012</b>	63,125	49.66%	15.96%	56.63%	4624	987

**Table 0-5-5 WSD Funding and General Program Statistics 1985-2012**

	Prison Population <sup>240</sup>	Students Served <sup>241</sup>	Faculty/Staff Total	Windham Expenditures Constant Dollars	Total Revenue Constant Dollars (2017)	State Contribution Constant Dollars (2017)	Windham Expenditures Constant Dollars
1985-1986	37,500	39,233	497	25	\$41,458,955	\$38,733,992	\$34,188,117
1986-1987	38,000	27,762	511	25	\$42,656,657	\$39,582,591	\$37,049,115
1987-1988	38,125	30,428	569	27	\$43,467,874	\$40,444,944	\$39,408,941
1988-1989	41,011	30,207	634	28	\$46,482,775	\$42,428,729	\$45,703,678
1989-1990	45,557	36,930	770	29	\$43,170,128	\$39,217,749	\$51,540,302
1990-1991	101,391	39,555	826	33	\$55,605,405	\$52,980,770	\$60,115,590
1991-1992	95,896	38,448	871	43	\$56,464,566	\$54,374,428	\$57,641,285
1992-1993	115,634	40,472	1,022	43	\$66,056,869	\$62,961,123	\$64,360,800
1993-1994	91,326	44,284	not reported	46	not reported	not reported	\$61,139,585
1994-1995	91,326	50,345	not reported	55	not reported	not reported	\$67,553,710
1995-1996	120,546	57,325	not reported	82	not reported	not reported	\$85,349,285
1996-1997	125,478	58,441	not reported	86	not reported	not reported	\$90,017,301
1997-1998	131,493	58,348	not reported	91	not reported	not reported	\$80,487,446
1998-1999	113,300	56,096	not reported	90	not reported	not reported	\$87,859,221
1999-2000	157,997	60,892	1,546	89	\$119,055,094	\$96,927,161	\$104,800,948
2000-2001	162,070	64,848	1,581	89	\$117,271,672	\$95,105,048	\$101,977,108
2001-2002	162,033	83,337	1,856.5	88	\$117,786,945	\$109,038,924	\$118,927,373
2002-2003	166,911	83,785	1,411	88	\$115,161,639	\$97,191,982	\$115,606,514
2003-2004	168,105	76,294	1,249	88	\$92,219,329	\$76,165,919	\$91,024,232
2004-2005	169,003	75,667	1,378	88	\$98,212,926	\$73,661,431	\$87,120,379
2005-2006	172,116	75,936	1,369	88	\$88,390,358	\$69,667,478	\$85,281,175
2006-2007	171,790	78,124	1,267	88	\$98,983,514	\$72,161,159	\$91,009,962
2007-2008	172,506	82,500	1,384	90	\$93,786,024	\$69,599,556	\$89,003,445
2008-2009	171,249	79,000	1,393	90	\$92,112,273	\$69,798,666	\$89,426,322
2009-2010	173,649	77,562	1,287	90	\$91,336,834	\$75,488,588	\$86,584,987
2010-2011	172,224	74,486	1,155	93	\$91,117,070	\$73,361,115	\$81,565,241
2011-2012	166,372	63,125	987	74	\$73,199,868	\$52,267,407	\$64,424,404

<sup>240</sup> Yearend population, i.e. a sample.<sup>241</sup> Cumulative total of full time students; roughly five Windham students equal one full time student.



**Table 0-5-6 Funding and General Program Statistics 1985-2012**

	<b>Prison Population<sup>242</sup></b>	<b>Students Served<sup>243</sup></b>	<b>Faculty/Staff Total</b>	<b>No. units</b>	<b>Total Revenue Actual Dollars</b>	<b>State Contribution Actual Dollars</b>	<b>Windham Expenditures Actual Dollars</b>
1985-1986	37,500	39,233	497	25	\$18,281,640	\$17,080,047	\$15,075,509
1986-1987	38,000	27,762	511	25	\$19,486,928	\$18,082,596	\$16,925,223
1987-1988	38,125	30,428	569	27	\$20,671,676	\$19,234,085	\$18,741,401
1988-1989	41,011	30,207	634	28	\$23,166,510	\$21,146,018	\$22,778,217
1989-1990	45,557	36,930	770	29	\$22,677,362	\$20,601,168	\$27,074,232
1990-1991	101,391	39,555	826	33	\$30,436,444	\$28,999,811	\$32,905,161
1991-1992	95,896	38,448	871	43	\$31,833,920	\$30,655,530	\$32,497,338
1992-1993	115,634	40,472	1,022	43	\$38,359,182	\$36,561,484	\$37,374,276
1993-1994	91,326	44,284	not reported	46	not reported	not reported	\$36,426,815
1994-1995	91,326	50,345	not reported	55	not reported	not reported	\$41,254,544
1995-1996	120,546	57,325	not reported	82	not reported	not reported	\$53,685,833
1996-1997	125,478	58,441	not reported	86	not reported	not reported	\$57,584,652
1997-1998	131,493	58,348	not reported	91	not reported	not reported	\$52,312,155
1998-1999	113,300	56,096	not reported	90	not reported	not reported	\$58,645,171
1999-2000	157,997	60,892	1,546	89	\$82,170,027	\$66,897,662	\$72,332,031
2000-2001	162,070	64,848	1,581	89	\$82,234,162	\$66,690,308	\$71,509,188
2001-2002	162,033	83,337	1,856.5	88	\$84,577,778	\$78,296,197	\$85,396,670
2002-2003	166,911	83,785	1,411	88	\$84,263,818	\$71,115,413	\$84,589,333
2003-2004	168,105	76,294	1,249	88	\$69,703,659	\$57,569,745	\$68,800,349
2004-2005	169,003	75,667	1,378	88	\$76,757,851	\$57,569,745	\$68,088,523
2005-2006	172,116	75,936	1,369	88	\$70,808,096	\$55,809,497	\$68,317,379
2006-2007	171,790	78,124	1,267	88	\$81,514,338	\$59,425,745	\$74,948,004
2007-2008	172,506	82,500	1,384	90	\$80,169,027	\$59,494,245	\$76,080,841
2008-2009	171,249	79,000	1,393	90	\$78,423,339	\$59,425,788	\$76,136,551
2009-2010	173,649	77,562	1,287	90	\$19,486,928	\$18,082,596	\$15,075,509
2010-2011	172,224	74,486	1,155	93	\$20,671,676	\$19,234,085	\$16,925,223
2011-2012	166,372	63,125	987	74	\$23,166,510	\$21,146,018	\$18,741,401

<sup>242</sup> Yearend population, i.e. a sample.<sup>243</sup> Cumulative total of full time students; roughly five Windham students equal one full time student.

**Table 0-5-7 WSD Short vs Traditional Course at Clemens<sup>244</sup>**

<b>Program Title:</b>	<b>No. Teachers</b>	<b>Total Instructional Hours</b>	<b>Cost per Instructional Hour</b>	<b>Annual Cost</b>	<b>No. Students served</b>	<b>Contact Hours Generated</b>
<b>Barbering</b>	1	1260	\$47	\$59,000	44	27720
<b>Short Courses</b>	15	1400	\$18	\$25,200	330	30,800
<b>Apprentice-ship</b>	8	1152	\$18	\$20736	96	20736
<b>New totals:</b>	23	2552	n/a	\$45936	426	51536
<b>Program</b>	22 more	1292 more	\$29 less per	\$13464 instructor	382 more	23,816 more
<b>Difference</b>	courses	instructional hours	instructional hour	cost savings	students served	contact hours

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<sup>244</sup> Windham School District Landmark File 1 p. 50; Windham School District Headquarters, Huntsville, TX.

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