

PUNISHMENT and INCARCERATION

Unit 4

PUNISHMENT

Historical Perspective

Retaliation

- Earliest remedy to redress wrong's done to one's person or property was to retaliate against the wrongdoer.
- Retaliation was encouraged in early tribal societies.



Blood Feuds

- Personal retaliation was later augmented by blood feuds – in which the victims family or tribe took revenge on the offender's family or tribe.

Vendetta's

- Blood feuds often escalated and resulted in endless battles or vendetta's between the injured factions



...e are bullets and the hope that when your
no longer standing, because if I am, you'll all
lead before you've reloaded.

We are told to remember the date, not the reason. Because a man can fail, his soul be altered by guilt. But our
hundred years later in these cars will change the world. I've witnessed friends bleed the paper of innocence. I've seen
people with the same of these acts, who debauching them. But you cannot touch an idea, cannot hold it in your hand,
else does not bleed. I cannot feel pain, and I cannot see. And I cannot see the best of times, it is a man, it is
who made me remember the fifth of November. I cannot feel never forget.

* Good evening, London. Allow me first to apologise for this interruption. I do, like many of
comforts of every day routine- the security, the familiar, the tranquility, repetition. I enjoy them.
But in the spirit of commemoration, thereby those important events of the past usually associated
or the end of some awful bloody struggle, a celebration of a nice holiday, I thought we could mark
a day that is sadly no longer remembered, by taking some time out of our daily lives to sit down

There are of course those who do not want us to speak. I suspect even now, orders are being issued
and men with guns will soon be on their way. Why? Because while the truncheon may be used in
words will always retain their power. Words offer the means to meaning, and for those who will lie
of truth. And the truth is, there is something terribly wrong with this country, isn't there? Cruelty,
ance, and oppression. And where once you had the freedom to object, think, and speak as you see
censors and systems of surveillance coercing your conformity and soliciting your submission. Ho
Who's to blame? Well certainly there are those more responsible than others, and they will be he
again truth be told, if you're looking for the guilty, you need only look into a mirror. I know why yo
were afraid. Who wouldn't be? War, terror, disease. There were a myriad of problems which consp
reason and rob you of your common sense. Fear got the best of you, and in your panic you turned t
obedient consent. Last night I sought to end that silence.

Last night I destroyed the Old Bailey, to remind this country of what it has forgotten. More than
ago a great citizen wished to embed the fifth of November forever in our memory. His hope was to re
fairness, justice, and freedom are more than words, they are perspectives. So if you've seen nothing,
government remain unknown to you then I would suggest you allow the fifth of November to pass un
see what I see, if you feel as I feel, and I suggest you allow the fifth of November to pass un
tonight outside the Old Bailey, I ask you to stand beside me. I ask you to stand beside me
forget. I give them a fifth of November that shall never be forgotten.

Remember, remember the 5th of November.

Strength through unity
Unity through faith

- **Fines:** Many societies developed a system of fines to control blood feuds – making them less costly and damaging.
 - It became customary for the victim to accept money or property in place of blood
- **Lex Salica or Wergeld:** A fine paid for homicide – the fine varied according to the person's rank and position in the social group.
 - Would become the basis of personal injury lawsuits – **Civil Law.**

Exile

- The first punishment imposed on societies wrongdoers was exile.
- Imposing a **sentence** of exile was the beginning of criminal law as we know it.

Outlaws

- Wrongdoers who refused to abide by their sentences (normally payment of fines) were declared to be outside the law of the tribe – an outlaw - Usually exiled.

Early Legal Codes

- As societies developed language and writing skills they began to record their laws
- An eye for an eye – basis for early codes.
 - Sumerian Code (1860 BCE)
 - Hammurabic Code (1750 BCE)

Crime and Sin

- If the crime offended a divinity than payment to the victim or state was not enough.
- Additional punishments were added to appease the Gods or God.
- With the growing influence of organized religion the line between state law and church law became increasingly blurred.

The Ordeal

- Middle Ages – The “ordeal” was the church’s substitute for a secular trial.
 - Trial by ordeal subjected the accused to dangerous and painful tests
 - Those who were truly “innocent” would emerge unscathed
 - The guilty would suffer agonies and die
 - The brutality of most trials ensured a very high percentage of convictions

*The Burning of W. Seaman T. Carman & T. Hidson
at Norwich.*



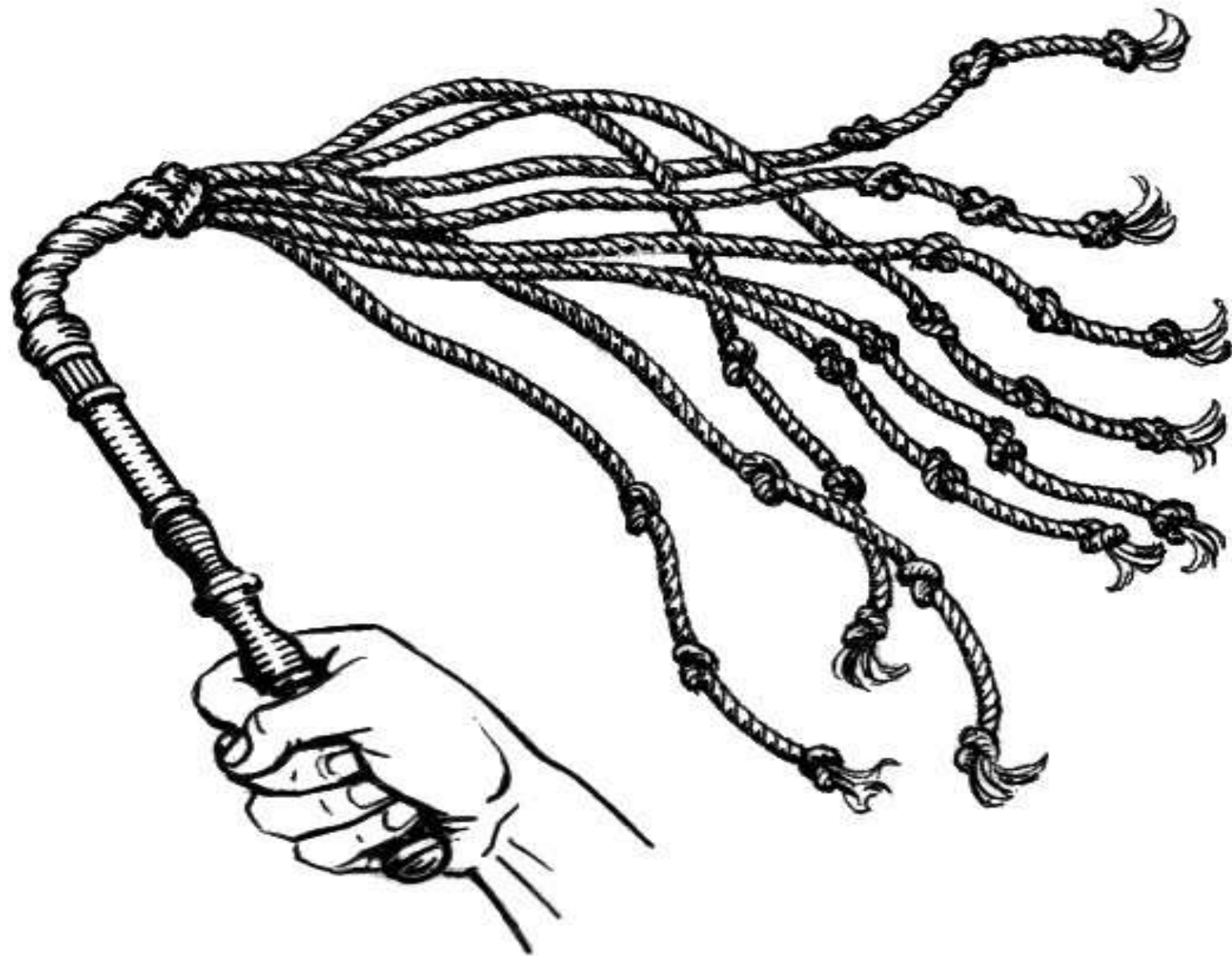
Corporal Punishment

- For centuries the most common form of state punishment was death
- Other common punishments included: torture, mutilation, branding, public humiliation, fines, forfeits of property and banishment





The Pillory



Early Prisons

- Prison was not intended as a punishment in and of itself.
- Prison was simply a means of holding the accused until a real punishment could be decided and carried out.

Bridewell Workhouse

- Created for the employment and housing of London's "riffraff" in 1557
- First time imprisonment and hard labor replace corporal punishment
- Housed misdemeanants or petty criminals – "rogues, beggars, idlers and whores"
- Deplorable conditions – old, young, male, female, sick, healthy – all mixed together.
- Not provided food unless you could pay for it.

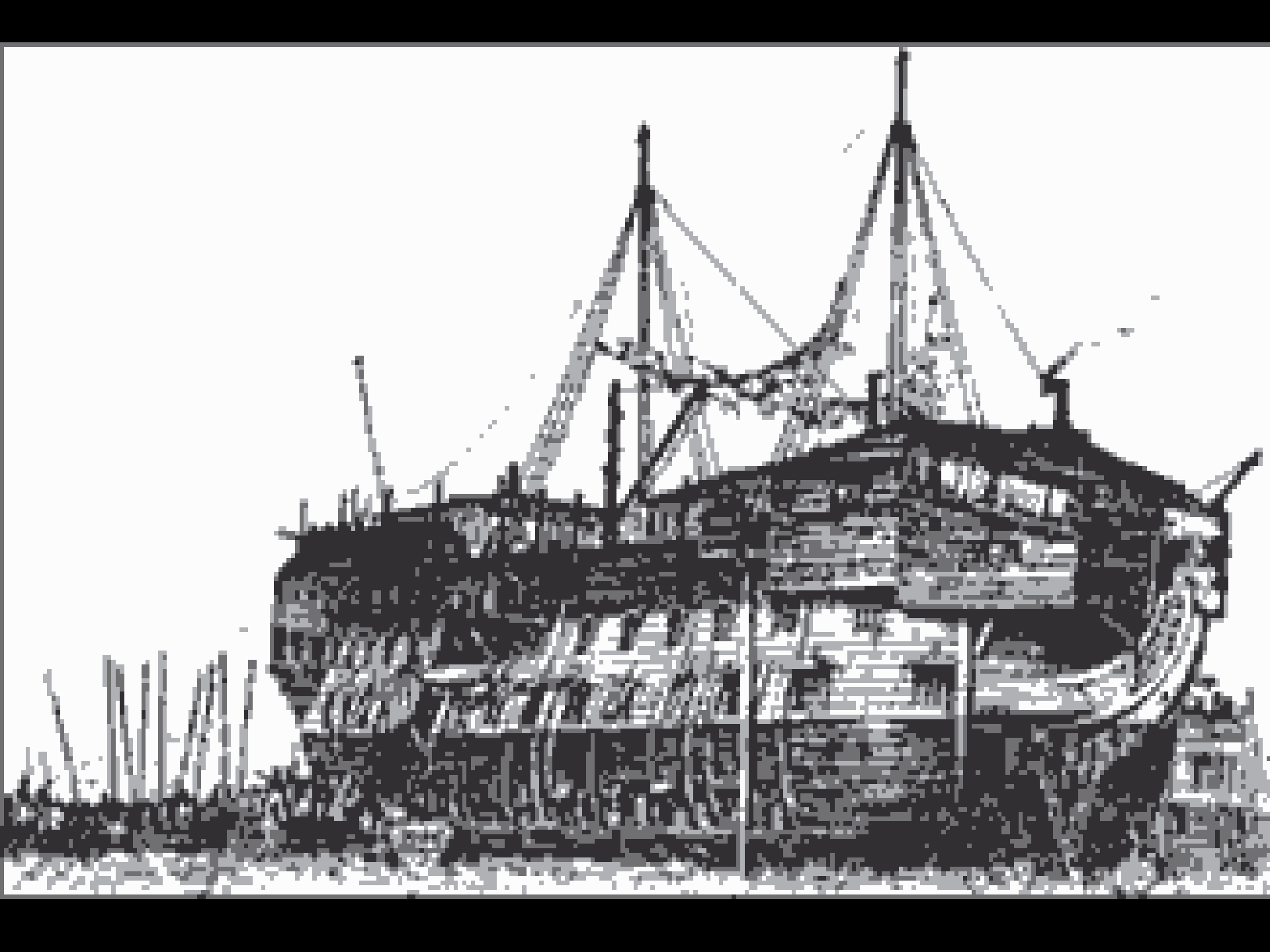
Transportation

- Throughout Europe the number of imprisonable crimes increased faster than available prison/workhouse space.
- Solution = Deportation
- Send those concentrated in high-crime slums to the American Colonies
- Independence ruins the party, but still need to get rid of misdemeanants
- Solution ?



Hulks

- 1776 – 1875: Deportation options more and more limited
- Hulks = Abandoned or unusable transport ships anchored in rivers and harbors and used to confine criminals
- “Fetid and rotting human garbage dumps”



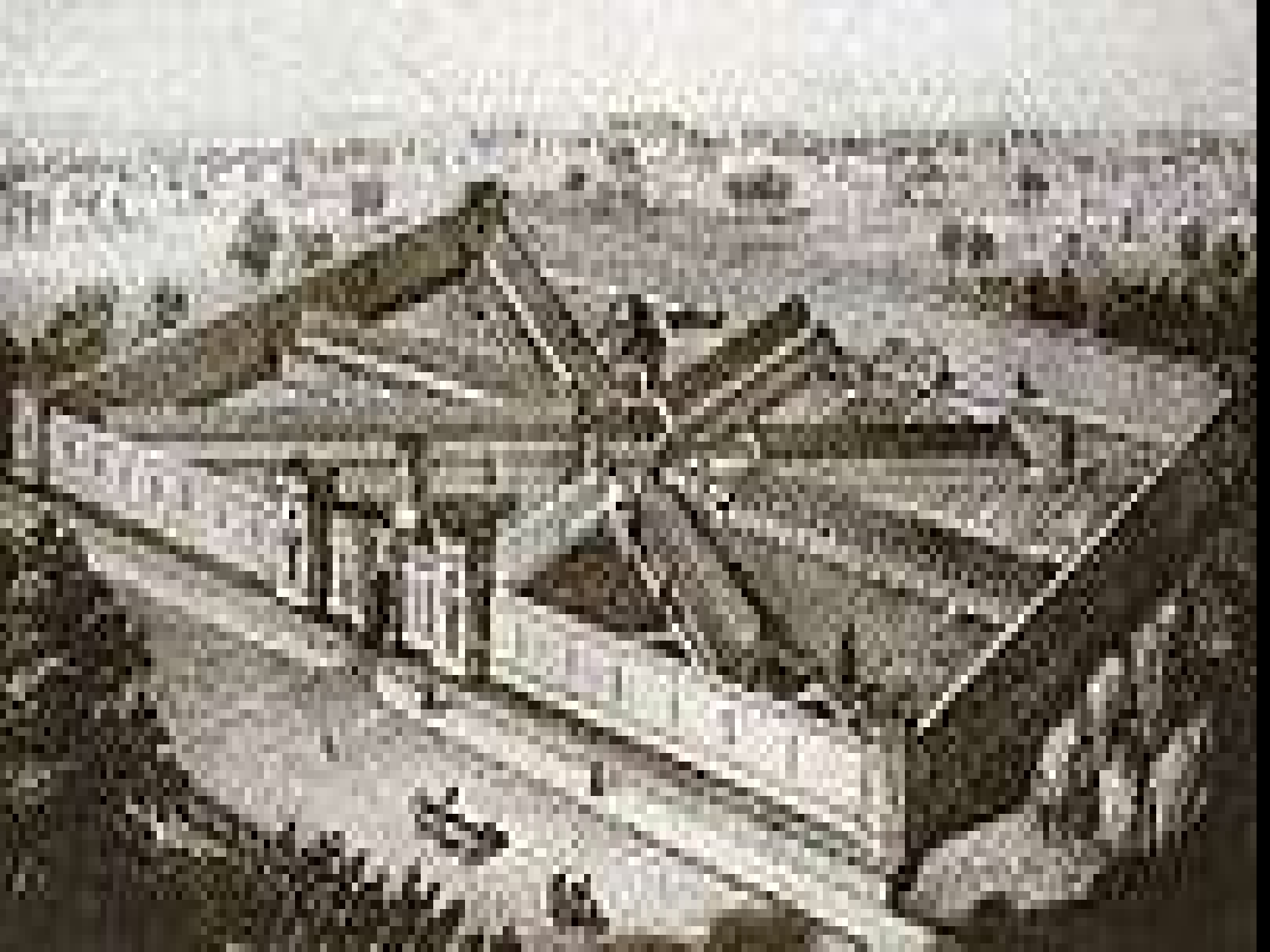
Cellular Prisons

- Start as humanitarian alternative.
- Belgium – Maison de Force (stronghouse)
 - First system of classification
 - Separated by age, gender, and crime (misdemeanants / felons)
- First use of individual cells

- BEFORE 1790 THERE WERE NO LONG TERM PENITENTIARIES IN THE WORLD
- IN 1790 THE FIRST PENITENTAIRY IS OPENED IN PENNSYLVANIA AND THE MODERN PRISON SYSTEM IS BORN

The Pennsylvania System

- Originally called for solitary confinement without work
- Architecture = cellular isolation in wings
- Offenders would reflect on their crimes all day and repent (Penitentiary)
- Effects of extreme isolation led to modifications
 - Worked 8-10 hours a day
 - Work was done in cell / in isolation
 - Received instruction in morals and religion
- Emphasis was still on solitary confinement, silence and labor.





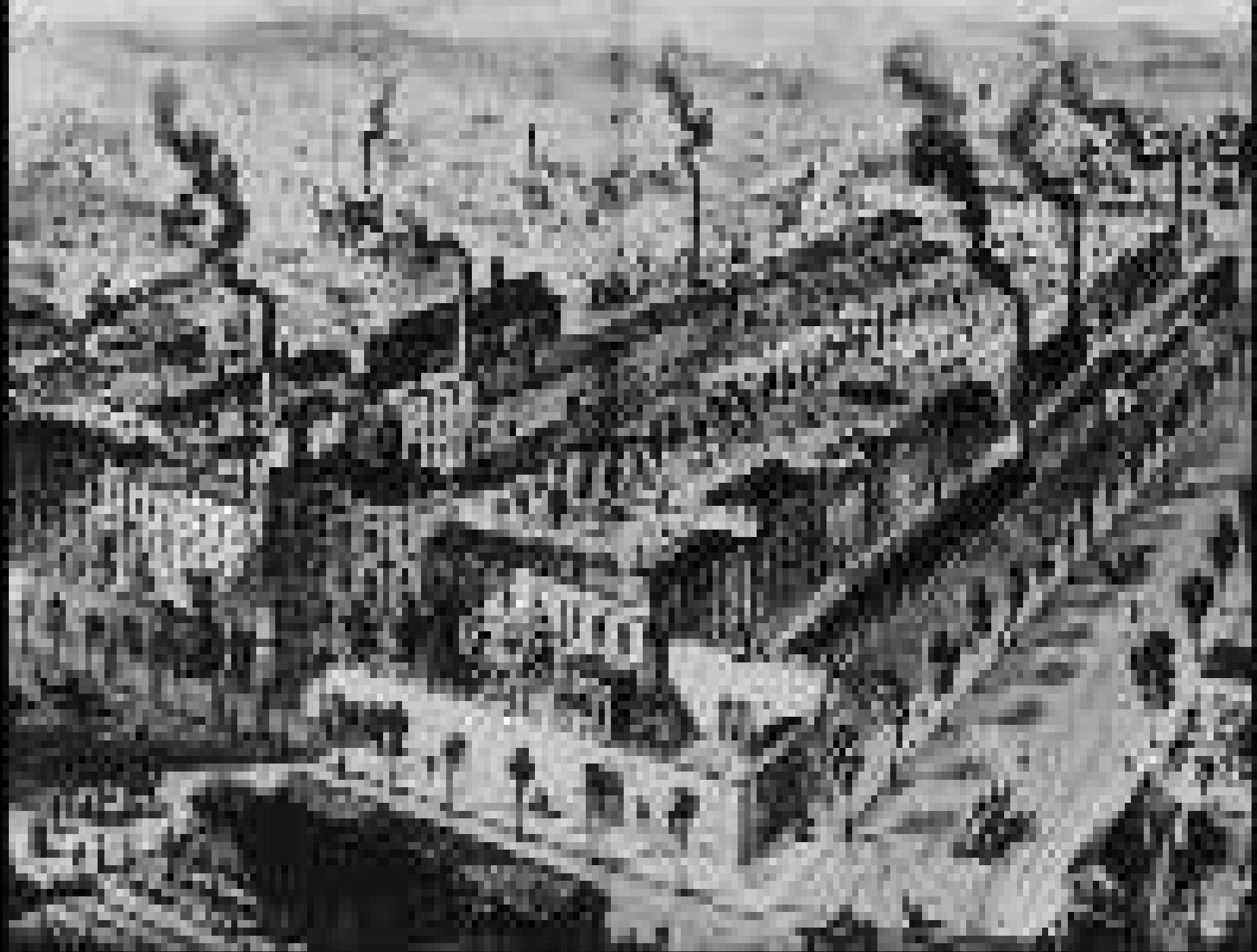






The Auburn System

- Cells are much smaller and intended only for sleeping
- Work during day in groups
- **Silence** is enforced at all times
 - Forbidding speaking takes away prisoners sense of self making them compliant
- **Solitary confinement** is now used as punishment







- **Correctional Ideologies:** A body of ideas and practices that pertain to the processing and treatment of offenders.

- **Punishment Ideology:** Offenders should “pay” for their criminal behavior
 - Retribution: The government exacts a social “revenge.” Individual chose to break law and deserves punishment.
 - Deterrence: punishment that is swift and visible to others will reduce likelihood the individual and others will commit crime.
 - Incapacitation: Some can not be rehabilitated so must be isolated and removed from society.

- **Treatment Ideology:**

- Approaches the offender as one who is suffering from a pathology that can be treated.
- Offender must recognize danger of criminal behavior and make efforts to rid themselves of that behavior.
- Goal is to prepare them for reintegration into society.

CONTROL

Rules, Regulations and Policy

Prison Rules and Regulations have one goal

CONTROL

- Control is Achieved through
 - Depersonalization
 - Routinization
 - Denial of privacy
- Institutional Control is gained by eliminating all prisoner control over their environment.

- Control is necessary to:

- Protect prison staff

- Protect inmates

- To rehabilitate inmates

- Instills discipline and values

Prison Rules

- Assigned number
- Must refer to staff formal titles – Sir/Ma'am
- Silence enforced at certain times
- Chained or single file marching - Must walk on line
- Shaved heads
- Uniforms
- Limits to personal possessions – both what and how many items one may possess.
- Work on chain gangs or other manual labor tasks under strict supervision

- Loss of privacy
 - Intake: Mass Showers and strip searches
 - Toilets open to view
 - Showers open or under supervision
 - Cells are generally open
 - Surveillance

Do what said do,
How said do it,
When said do it.

- Eat when told to eat, what your told to eat (quality questionable).
- Walk when told to walk
- Sleep when told to sleep
- Shower when told to shower
- Use telephone when told to use telephone

Convict Codes

- Show no weakness
- Resist control efforts of institution
- Loyalty
- Respect
- Violence may be means to survive

“Convict” Classification System

- **Inmate:** A prisoner who clearly aligns with the institution and its rules.
 - Engage in conversation with the staff.
 - Cannot take care of own problems so they turn to staff.
 - Tend to be rats or snitches
- **Convict:** A prisoner who breaks rules if in his interest and lives with the consequences
 - Follows rules only to avoid aggravation and frustration
 - Does not engage staff in small talk
 - Maintains clear separation between those with the keys and those without

Prisonization

- Process by which the inmate learns, through socialization, the rules and regulations of the prison institution.
 - Learns both the formal institutional rules and the informal values and customs of the prison (the code).
 - Survival often results in becoming inoculated to conventional values
 - Values encouraged on the outside can lead to harm
 - Values discouraged on the outside are necessary for survival
 - Can be seen as a criminalization process where a criminal novice becomes a predatory criminal

Long Term Effects of Prisonization

- Prisonization is seen as a “normal” reaction to a set of pathological conditions
- Inmates develop habits of thinking and acting that can be dysfunctional in periods of post prison adjustment (temporary)
- Consensus – Prisons do not make people go “crazy.”
- There are no permanently diagnosed psychiatric disorders related to prisonization



Halden Prison

- Running / Hiking Trail
- Rock Climbing Wall
- Soccer Field
- Vocational Education Programs
- School Program
- Recording Studio
- Cooking Classes
- Private bathrooms



- Flat Screen Televisions
- Tall vertical windows without bars
- Two Bedroom house for conjugal visits
- Over half the guards are women – believe that it reduces aggression
- Prison has a music teacher
- Prisoners are referred to as pupils



- Guiding Principles of Norwegian Prison System
 - Focus on Human Rights and Respect
 - Repressive prisons do not work
 - Treating prisoners humanely boosts their chances of reintegrating into society



- 10 years to Build
- Cost 252 million
- Capacity = 252 Inmates







Does it Work?

- Recidivism rates in Norway
 - 20% of Norway's prisoners end up back in prison
- Recidivism rates in United States and United Kingdom
 - 50-60% of all prisoners return

- Norway - Total in Prison = 3300
– 69 per 100,000
- United States – Total in Prison = 2.3 Million
– 753 per 100,000



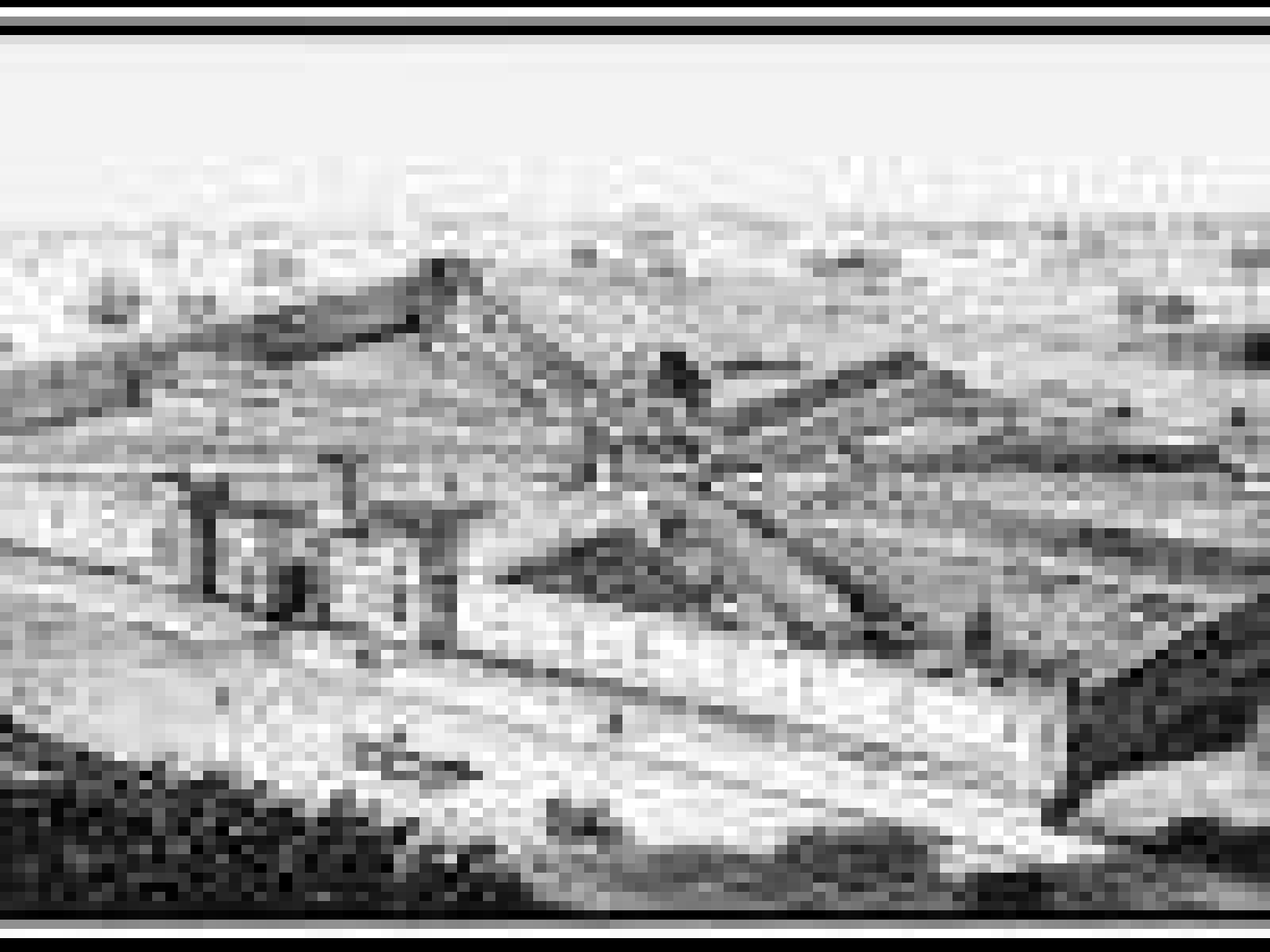
AP / Matt York

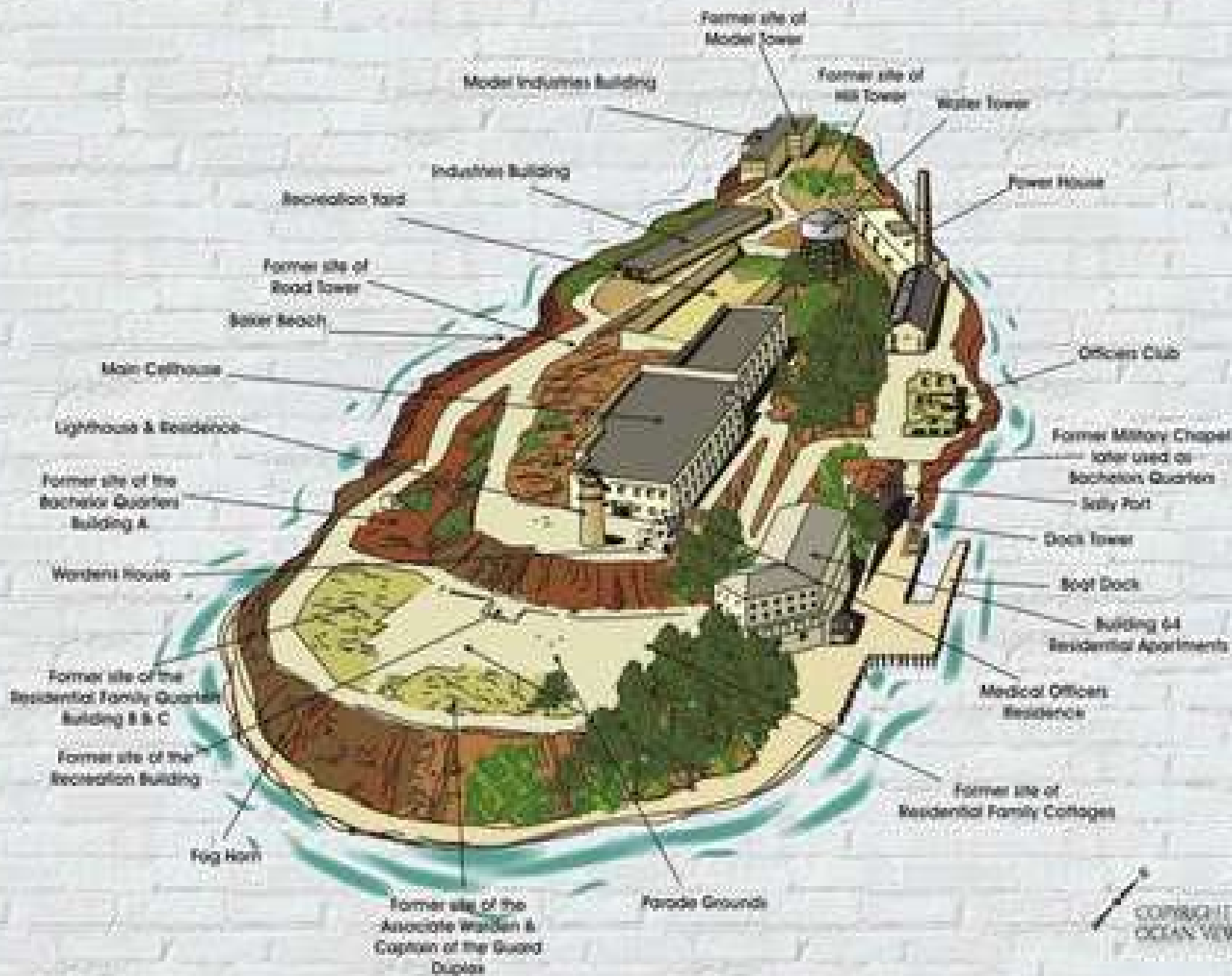


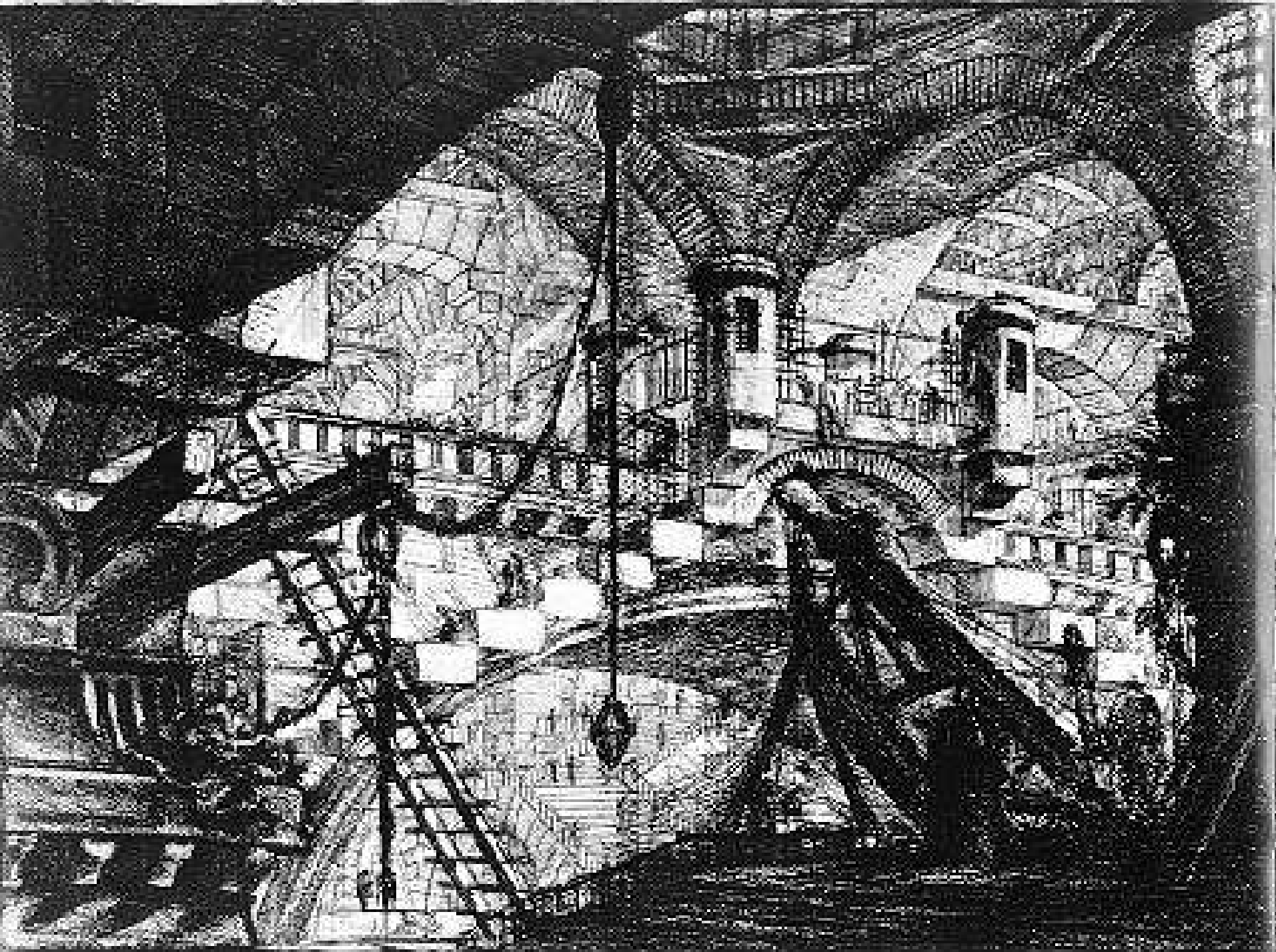


Sheriff Joe v. Norway

Punishment v. Rehabilitation













Behind Bars
The Hidden Architecture
of England's Prisons









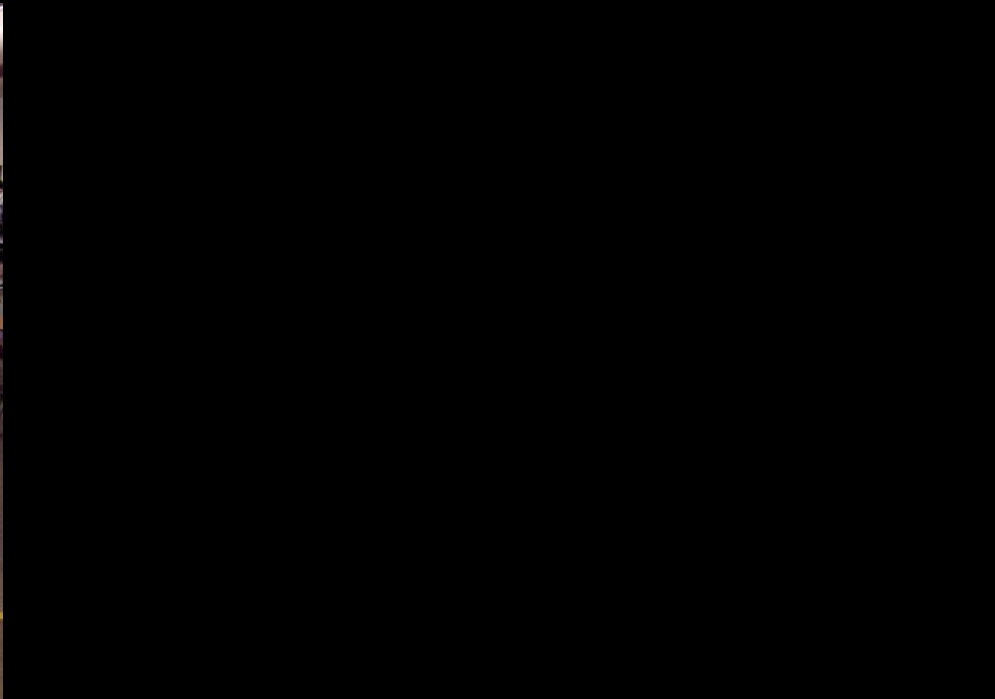
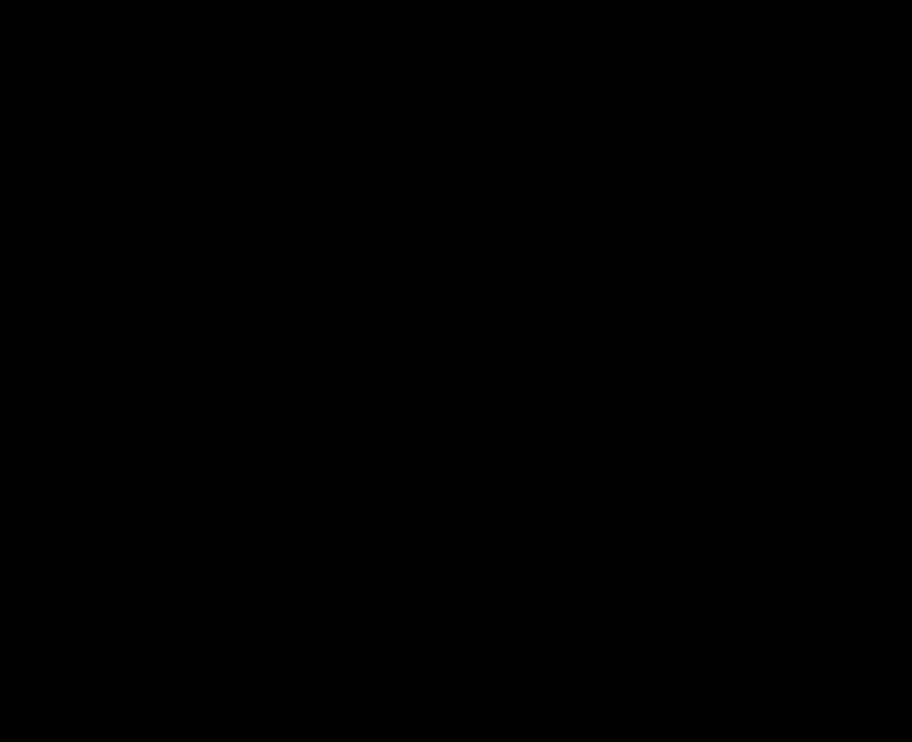


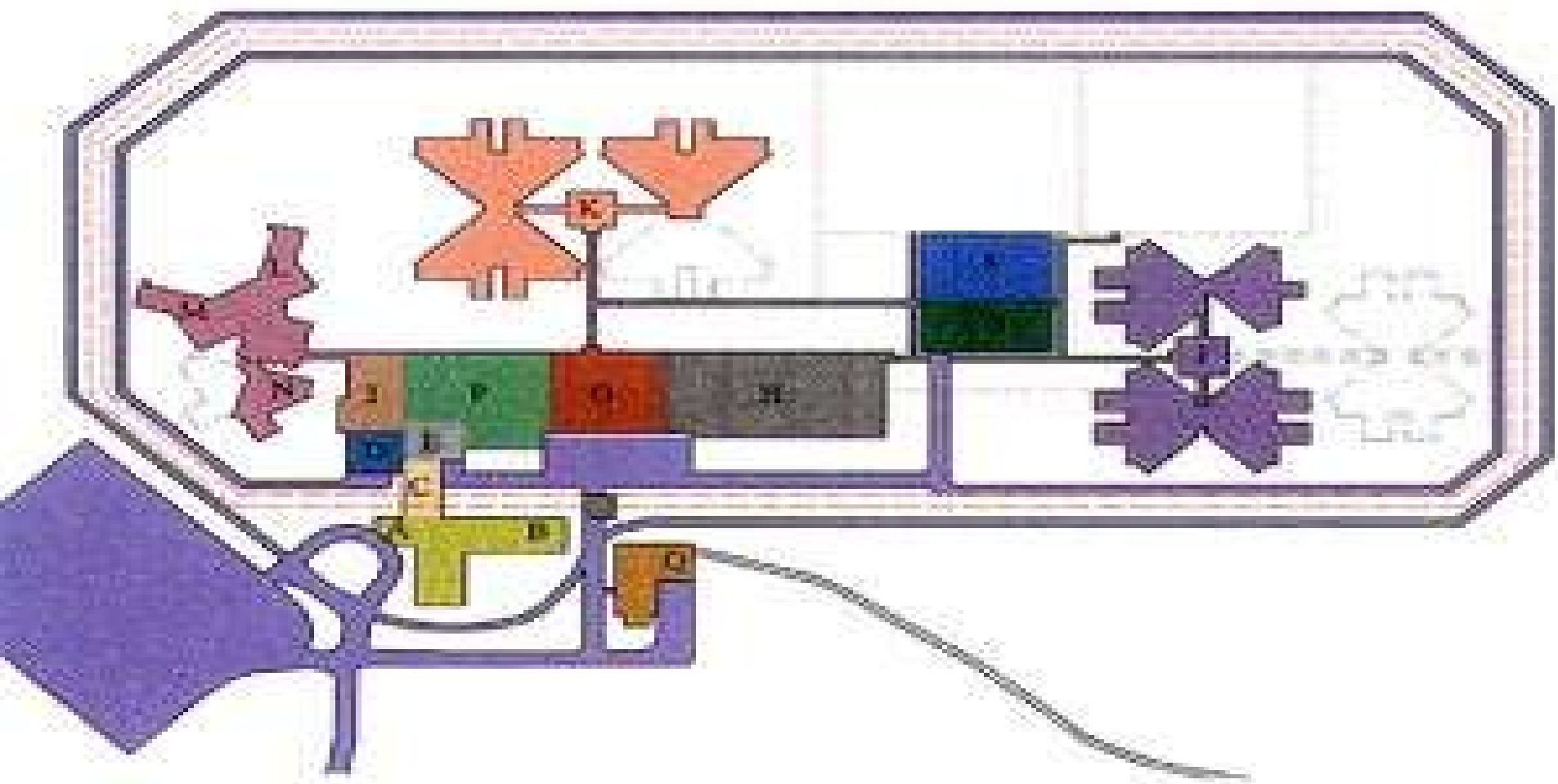




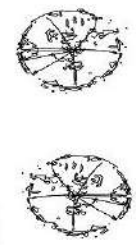
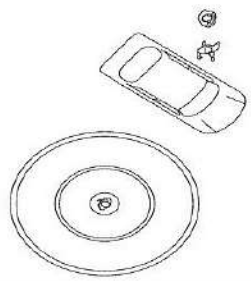
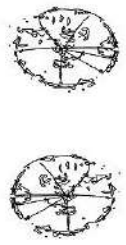
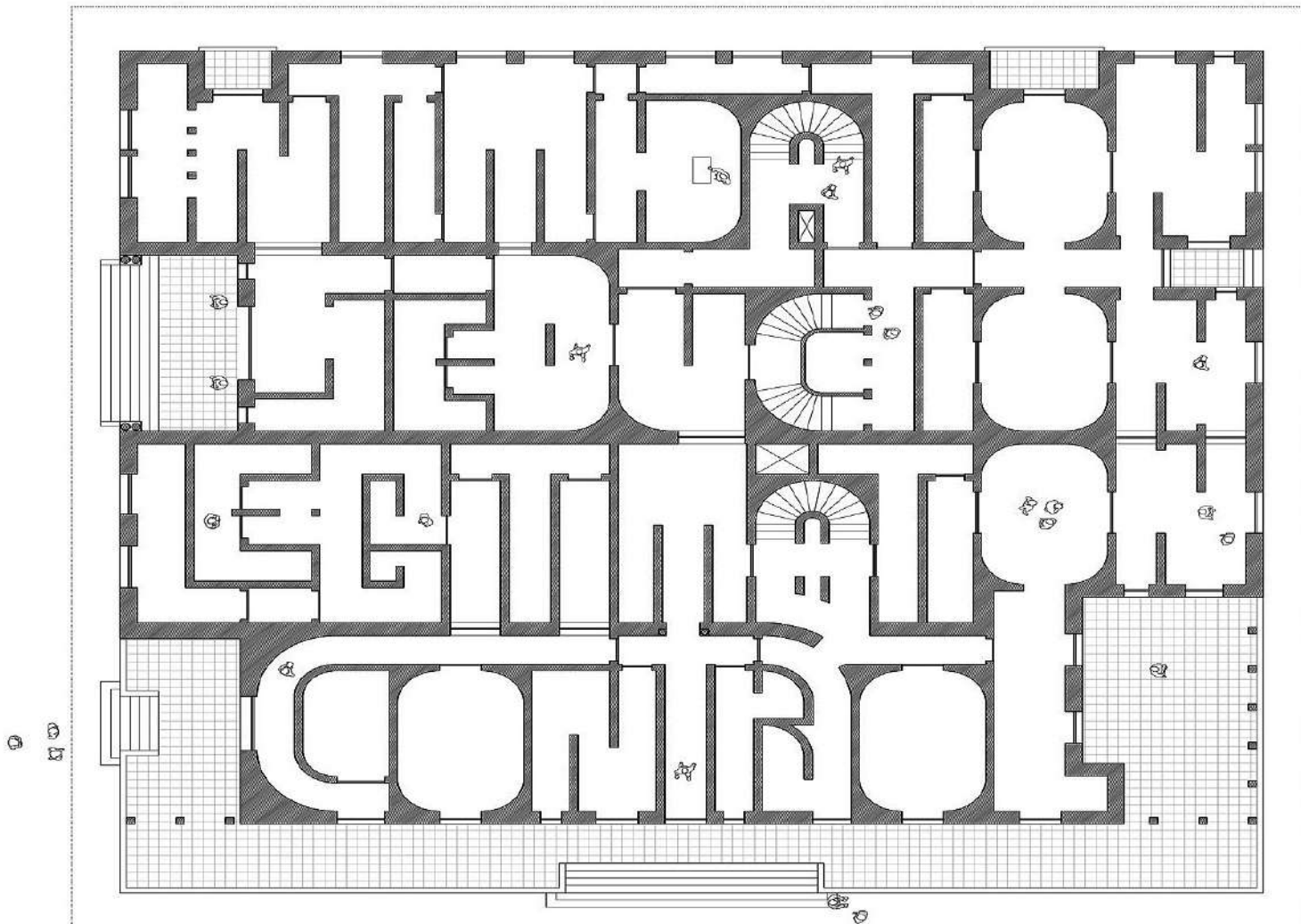












PLAN OF POWER
1:100

- Societal expectation of punishment
- Treatment v. punishment
- Long term effects
 - Is treatment effective
 - Is punishment
 - Prisons are schools for criminals
 - Prison creates a pathological condition in which the normal response is pathological
- Need for control v. adverse effects of control
- Control for contraband, violence, gangs, sexual assault, etc.
- Breaking

- List and explain 3 guiding principles and goals.
- Create a physical environment and explain how it will work towards achieving your goals.
- Create a daily regiment (what will prisoners day consist of) and explain how the regimen will achieve your goals.
- Must be “constitutional” – 8th amendment forbids torture etc.

Jail v. Prison

What is the Difference?



- Jail: Generally a county or city run facility.

- Prison: State or Federal run facility.

- Jail: Houses pretrial defendants unable to make bail, misdemeanor offenders, relatively short-term felony offenders and short and long term felony offenders awaiting transfer to a state prison
- Prison: Long term felony offenders

- Jail: Length of sentences tend to be 1 year or less

- Prison: Length of sentences tend to be longer than 1 year

- Jail: Tends to be small. Over 2/3 have an average daily population of fewer than 100 inmates.
- Prison: Over half have an average daily population larger than 400 inmates.

- Jail: Take and release inmates. Nearly 85% of those admitted to jail will be released within 4-5 days.
- Prison: Take and hold inmates.

- Jail: Highest official is typically the sheriff – an elected official. Background tends to be law enforcement not corrections.
 - Route to winning election usually has get tough on crime emphasis.
- Prison: Officials tend to be career corrections professionals.

- Jail: Funding from County commissions – which have limited ways to raise revenue.
- Prison: Funding from State and Federal legislatures – more ways to raise revenue and large resource base.

- Because inmates move through jail so quickly it creates a more chaotic setting:
 - Fewer resources (\$) – staff, facilities, training, programs etc.
 - Overseen by law enforcement not corrections professionals.
 - Classification tends to be more haphazard (mixing of high risk / low risk prisoners).
 - Routine is less structured. More time is idle.
 - Jail inmates tend to enter in crisis.
 - More likely to be vulnerable
 - Mental illness
 - Inexperienced with incarceration
 - Drunk or high
 - Suicidal

- End result – Jails tend to be more dangerous places.
 - Inmates who spend time in both facilities report that their time is much harder and dangerous in jail.

Prison Security Levels

Maximum Security

- Designed and built to minimize escape, disturbance, and violence while maximizing control over the prison population.
- Walls/fencing (30-50 feet high), razor wire, towers with armed guards.

Medium Security:

- Designed, built and operated to prevent escape, disturbance and violence.
- Fewer restrictions on movement and activities than max.
- Somewhat less regimented.
- Cells often more “room” like – dorms.
- Fewer prisoners

Minimum Security

- Allows maximum inmate movement, freedom and self-determination.
- Methods of control are less obtrusive.

State Prisons in Oregon

Maximum

- Oregon State Penitentiary

Medium

- Coffee Creek Correctional Facility
- Deer Ridge Correctional Institution
- Snake River Correctional Facility
- Two Rivers Correctional Facility
- Eastern Oregon Correctional Facility
- Oregon State Correctional Institution (closed)

Minimum

- Powder River Correctional Facility
- Shutter Creek Correctional Institution
- South Fork Forest Camp
- Warner Creek Correctional Facility
- Mill Creek Correctional Facility
- Santiam Correctional Institution
- Columbia River Correctional Institution

Future Sites

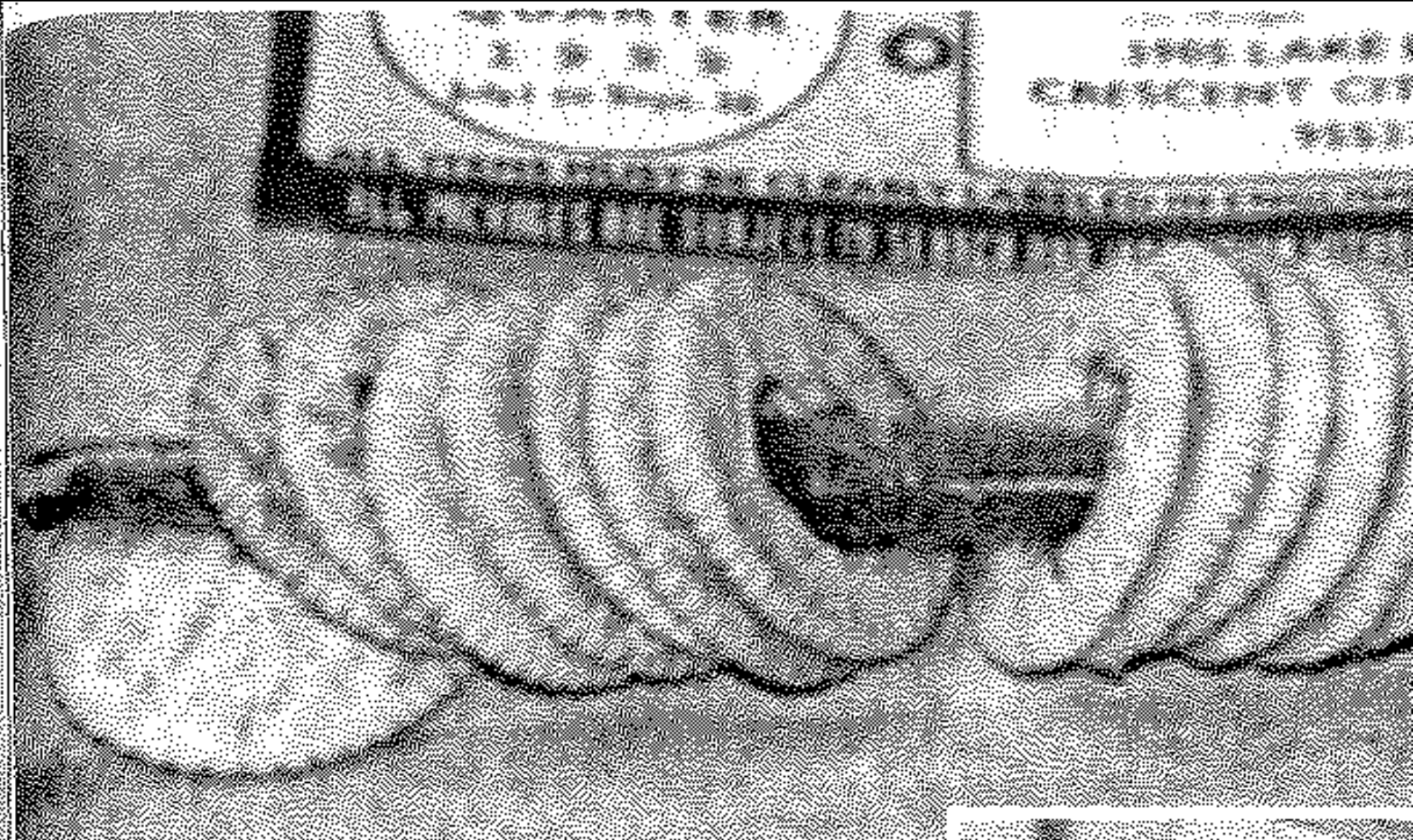
- Junction City
- White City

- **Federal Prisons in Oregon**

Sheridan: Medium Security



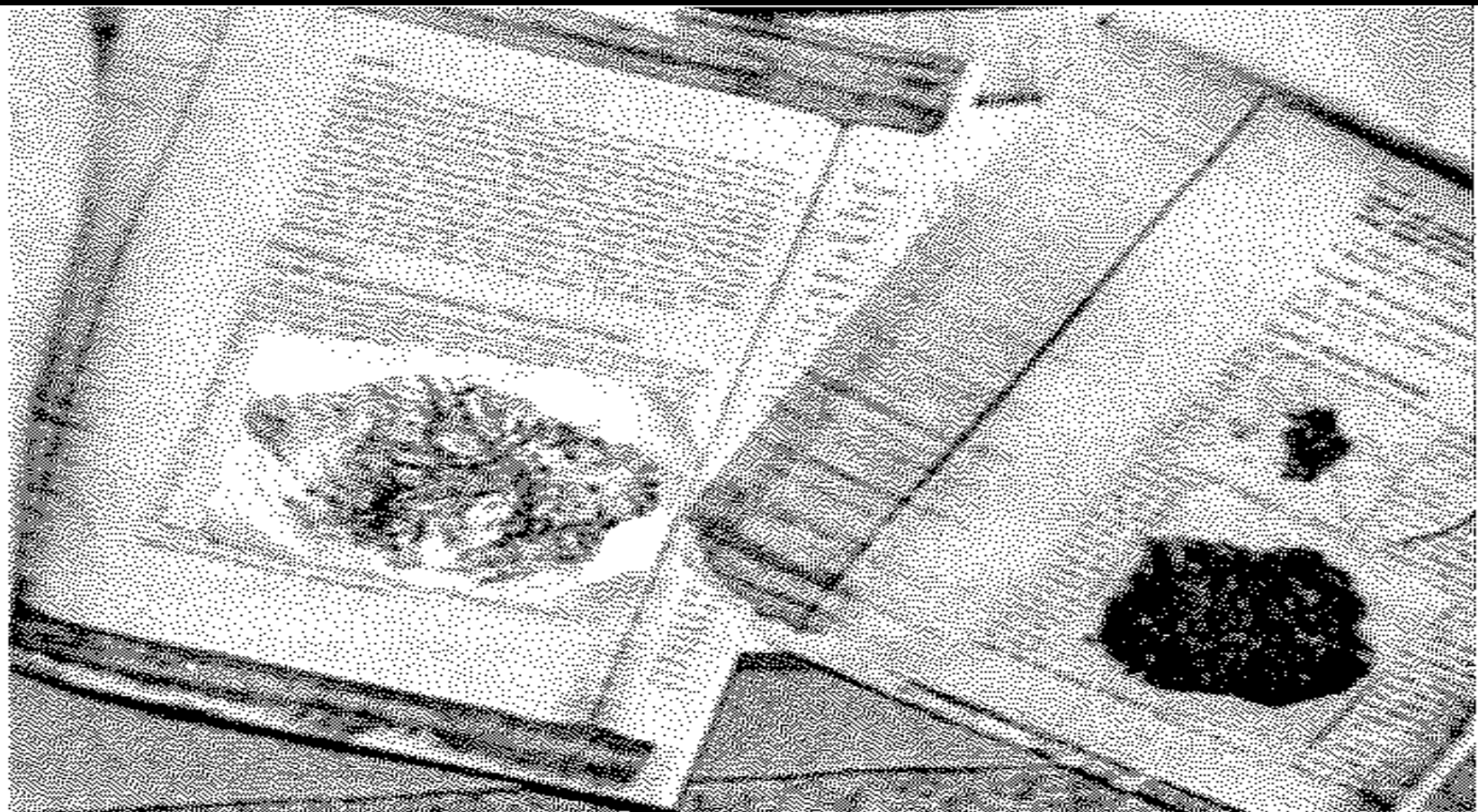
MARIJUANA INSIDE RITZ CRACKERS.



PHARMACEUTICAL DRUGS IN THE SHAPE OF PILLS
PRESSED INSIDE CHIPS AHOY COOKIES.



Tar Heroin sealed between pages of a legal document.







A can with a hidden core used in an attempt to bring contraband into Spring Hill Corrections Facility.

- "HEROIN CAME SEALED INSIDE CEREAL BOXES AND PACKS OF CARAMEL CORN.
- COCAINE WAS STASHED INSIDE OREO COOKIES AND BARS OF SOAP.
- CHILDREN'S DRAWINGS AND GREETING CARDS WERE SOAKED IN METHAMPHETAMINE.
- TAR HEROIN WAS SEALED INSIDE TWO POSTCARDS STUCK TOGETHER TO LOOK LIKE ONE."

New Threat on the “Cell” Block

- Cell Phones
 - Inmates could organize simultaneous riots in multiple correctional facilities
 - Hatch an escape plot via text messages or the internet
 - Control criminal organizations from within prison

- Cell phones potentially more lucrative than drugs.
- Inmates rent the phone to other prisoners for up to \$20 for 5 minutes.
- A perk of this business for the inmates is that it's not a felony, so if they get busted (again), there will likely be no additional jail time.



DATE

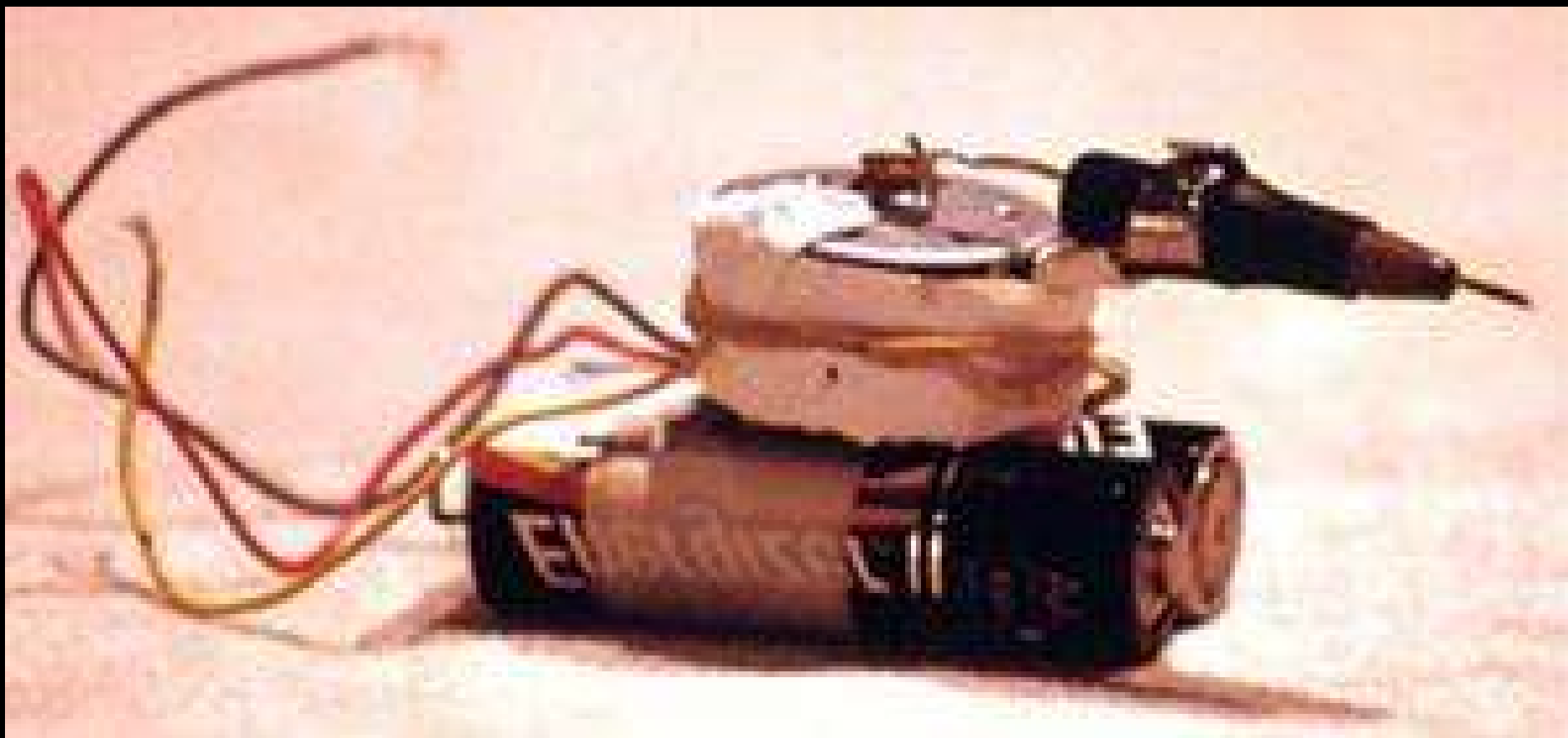
PAID TO CONTAINER



NO. OF BINS

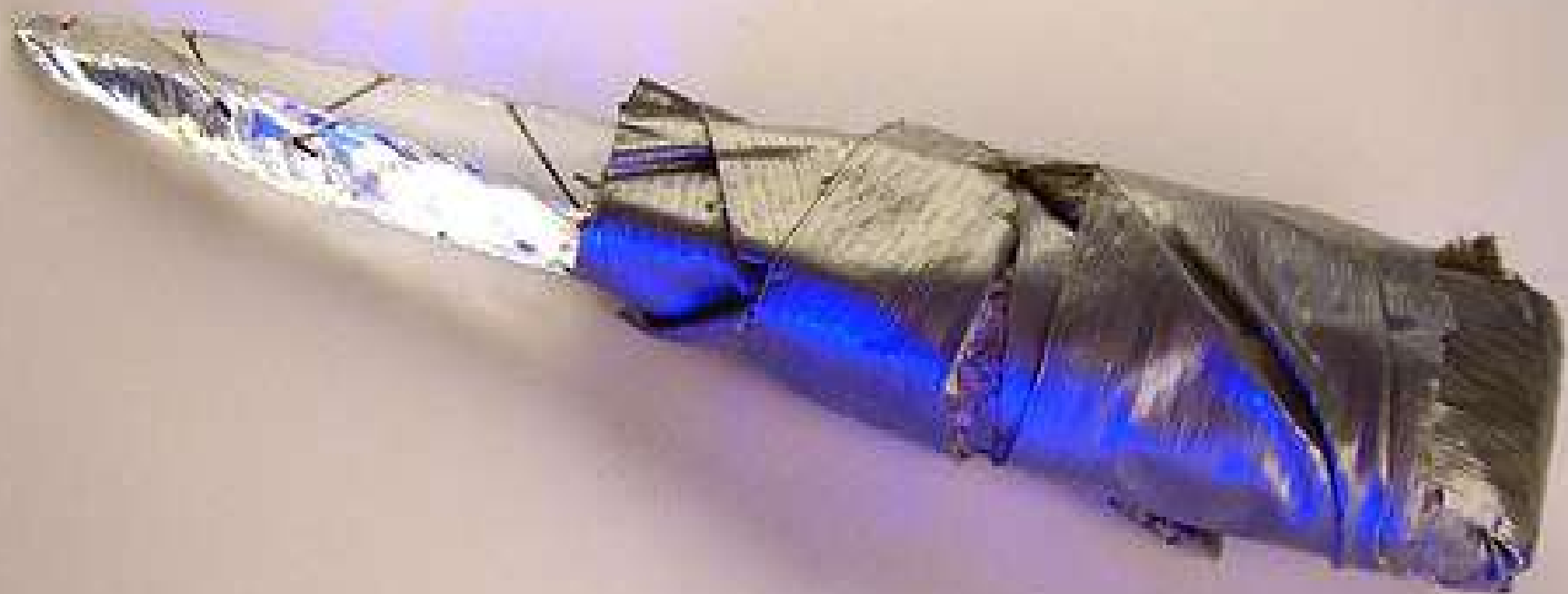
CUT ALONG BOTTOM DOTTED LINE





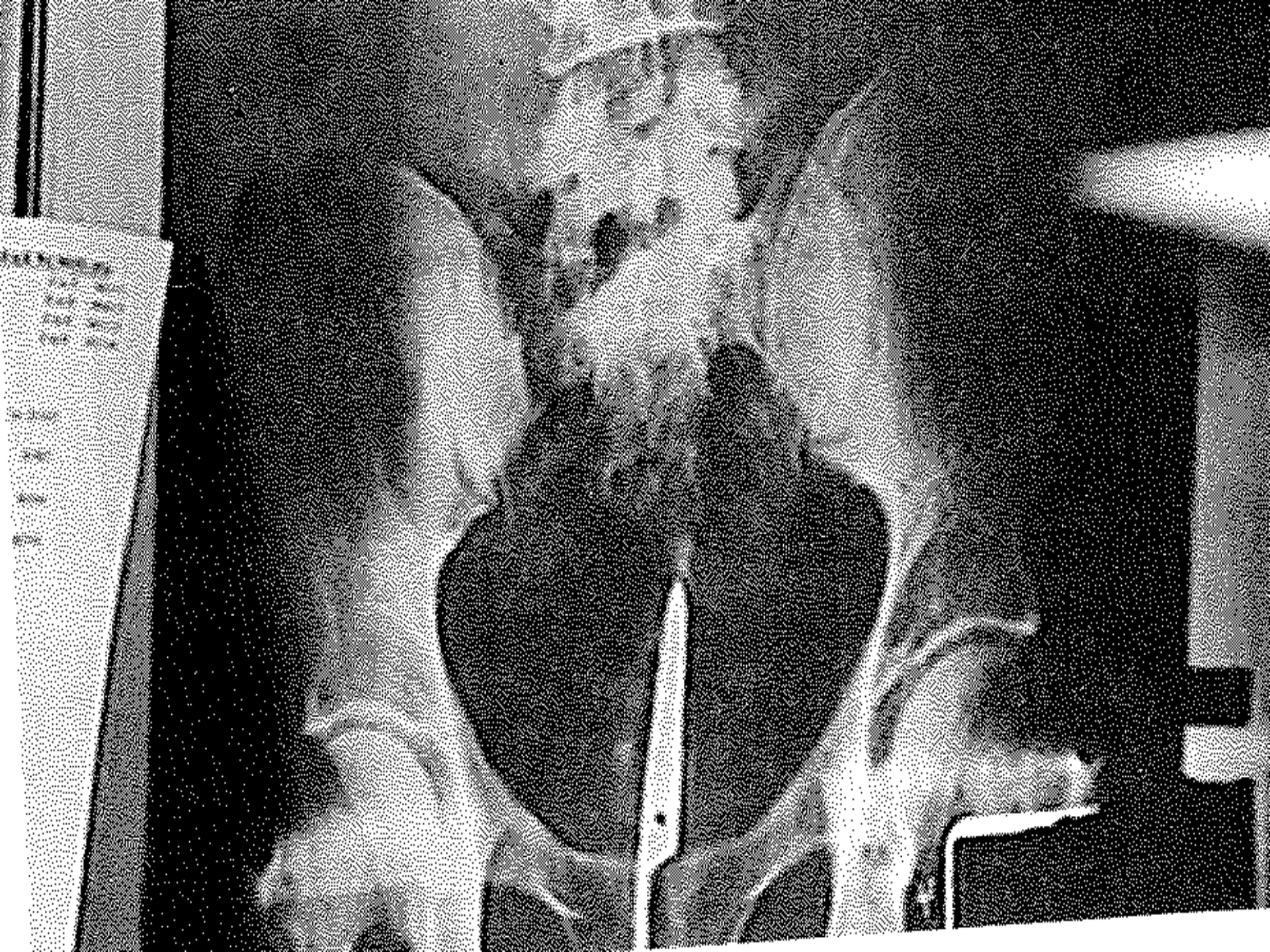












How does all this stuff get smuggled into a secure facility?

- Guards blame visitors
- Inmates say most comes in through guards

SuperMax





- **Super Maximum Prison (SuperMax):**
 - Provides for management and control of inmates designated as violent or seriously disruptive.
 - Only separation, restricted movement and limited direct access to staff and inmates can control their behavior.



- Restrictions and conditions common to Supermax:
 - Single-cell confinement for up to 23 hours per day.
 - Substantially higher staff-to-prisoner ratios than most other prisons.
 - Offer few, if any, programs to prisoners.
 - Restrain prisoners with handcuffs during any out-of-cell movement.
 - Permit few, and only non-contact, visits.
 - Typically are more technologically advanced than other prisons.

- Twenty years ago there was one supermax facility in the United States (Marion, Illinois).
- Today there are 57 supermax facilities that house over 20,000 inmates.
- Over 40 states now have a supermax prison.



- **Special Housing Unit (SHU):** Prison within a prison. Basically Supermax units within a maximum security facility. Separates most dangerous inmates and puts them in solitary units.
 - Federal system refers to supermax prisons as SHU's.

- 80,000 inmates currently in solitary confinement – combination of Supermax and/or SHU.



- Security Threat Groups (STGs) :

- Prison gangs.



- Official Definition: two or more inmates, acting together, who pose a threat to security or safety of staff/inmates and are disruptive to the orderly management of the facility.
- Plan, organize and commit unlawful acts such as contract murders, homosexual prostitution, drug trafficking and gambling.

Eighth Amendment

- Excessive bail shall not be required, nor excessive fines imposed, nor **cruel and unusual** punishments inflicted.

QUESTIONS PRESENTED

1. Does imposition of a life-without-parole sentence on a 14-year-old child convicted of homicide violate the Eighth and Fourteenth Amendments' prohibition against cruel and unusual punishments?
2. Does such a sentence violate the Eighth and Fourteenth Amendments when it is imposed upon this 14-year-old petitioner, who did not personally kill the homicide victim, did not personally engage in any act of physical violence toward the victim, and was not shown even to have anticipated, let alone intended, that anyone be killed?
3. Does such a sentence violate the Eighth and Fourteenth Amendments when it is imposed upon a 14-year-old child as a result of a mandatory sentencing scheme that categorically precludes consideration of the offender's young age or any other mitigating circumstances?

- Jackson v Hobbs & Miller v. Alabama (2012):
- Court is considering whether life without parole for juveniles who commit murder is unconstitutional.

Supreme Court Decisions

- **Wilkerson v. Utah (1878)**: Court upholds execution by firing squad but prohibits drawing and quartering, burning alive and disemboweling – none were common.

- **Weems v. United States (1910)**: For the first time, the court overturns a sentence it considers unconstitutional – hard labor and being shackled throughout one's incarceration.

- **Furman v. Georgia (1972):** The court imposes a moratorium on the death penalty, saying it was being applied in an arbitrary and inconsistent manner. Four years later, the ban was lifted.

- **Atkins v. Virginia (2002)**: The court bars the execution of the mentally handicapped.

- **Roper v. Simmons (2005)**: The death penalty is ruled unconstitutional for those who were under age 18 at the time the crime was committed.

- **Baze v. Rees (2008)**: The court rules that execution by lethal injection does not violate the eighth amendment.

- **Kennedy v. Louisiana (2008)**: The court restricts the death penalty to crimes in which the victim is killed, or cases of treason.

- **Graham v. Florida (2010)**: The court rules that life without parole for juveniles in cases that do not involve killings is unconstitutional.

Life Without Parole

- States With The Most Juvenile Offenders Serving Life Without Parole

Pennsylvania	444
Michigan	346
Louisiana	335
Florida	266
California	250
Missouri	116
Illinois	103
Arkansas	73

Special Management Meal

- 6 slices **whole wheat bread**, finely chopped
- 4 ounces **imitation cheddar cheese**, finely grated
- 4 ounces **raw carrots**, finely grated
- 12 ounces **spinach**, canned, drained
- 2 cups dried **Great Northern Beans**, soaked, cooked and drained
- 4 tablespoons **vegetable oil**
- 6 ounces **potato flakes**, dehydrated
- 6 ounces **tomato paste**
- 8 ounces **powdered skim milk**
- 4 ounces **raisins**