

TRANSCENDING STEREOTYPES: A STUDY OF CIVIL WAR MILITARY PRISONS  
IN THE CONTEXT OF NINETEENTH-CENTURY PENITENTIARIES AND PENAL  
DEVELOPMENT AT THE OHIO, VIRGINIA, AND D.C. PENITENTIARIES AND  
AT CAMP CHASE, CASTLE THUNDER, AND OLD CAPITOL MILITARY PRISONS

By

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To: Mom and Dad

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*Ad Majorem Dei Gloriam.*

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Scholarship on Civil War military prisons has focused on the immense suffering endured by the inmates, especially at infamous prisons such as Andersonville and Elmira. With the failed prisoner exchange creating a huge problem of overcrowding, existing scholarship has most frequently viewed the maltreatment of prisoners by the North and the South as intentional.

This vision has been myopic, since there has been no extensive research into or examination of how Civil War military prisons, their operation, and inmates' experiences fit within the broader context of nineteenth-century imprisonment. Placing Civil War military prisons in the broader narrative of nineteenth-century prison development reveals that conditions in typical military prisons, which scholars assume to have been horrendous, were, in fact, similar to conditions that existed in penitentiaries before and during the Civil War, to wit, overcrowding, supply shortages, physical punishment, and inmates' psychological and physical distress. The initial design of the disciplinary and administrative practices of military prisons reflected established administrative and punitive trends that were conceived in penitentiaries in the late eighteenth and early nineteenth centuries. The experiences of military prison inmates also

resonated with those of penitentiary inmates. To make this case, this study focuses on three penitentiaries and three military prisons located in three cities that provide an example of federal power, northern dynamics, and both southern state and Confederate power. This study analyzes the Ohio Penitentiary and Camp Chase Prison in Columbus, Ohio; it focuses on the Virginia Penitentiary and Castle Thunder Prison in Richmond, Virginia; and, in Washington, D.C., it considers the D.C. Penitentiary and Old Capitol Prison.

In addition to filling a gap in Civil War prison historiography, this study also reveals two broader points about nineteenth-century institutional development and about the involvement of the national governments (both Union and Confederate) in imprisonment. First, the establishment and operation of military prisons fit the pattern of institutional development in the United States that began in the antebellum period with the construction of penitentiaries. Second, as both the Union and Confederate governments suspended habeas corpus, incarcerated individuals suspected of treason, and held enemy captives, Northerners and Southerners witnessed their respective governments consolidating power over imprisonment to a degree that was previously unheard of in the antebellum period. Yet, even as the Union and Confederate governments took responsibility for incarcerating thousands of civilians and prisoners of war, they relied on antebellum practices to manage prisoners that they sent to penitentiaries and to direct the operation of the newly-established military prisons.

## CHAPTER 1 INTRODUCTION

Nineteenth-century American prisons were drafty, overcrowded facilities in which inmates withstood meager diet, poor sanitation, loss of control over time, and the prospect of physical punishment. Reflecting on these circumstances in 1864, Ohio inmate John King weighed the option of escape. King knew that failed attempts drew painful punishments: being suspended by the thumbs to the point of insanity, undertaking hard labor with a ball and chain attached to the feet or legs, or being bucked and gagged for hours alone on a cold cell floor.<sup>1</sup> At first glance, it may seem that King was an inmate at the Ohio Penitentiary since it was common knowledge that penitentiary discipline included hard labor and physical punishments. In reality, King was an inmate during the Civil War at Camp Chase, a Union military prison. His reminiscences suggest that penitentiaries and military prisons shared more in common than one might expect in the areas of administration and inmates' experiences.

When one thinks of Civil War prisons, images of emaciated men in tattered blue or gray uniforms suffering at the hands of their vengeful captors almost immediately come to mind. As historian James Gillespie has noted, 23,436 of the 220,000 Confederates died in Northern prisons—a 12 percent mortality rate. Meanwhile, 22,576 of the 270,000 Union prisoners died in Southern pens, a mortality rate of 8.3 percent.<sup>2</sup> The death rate of Civil War prisoners is alarming, and no one can dispute the general accuracy of images of gaunt inmates at Andersonville and Elmira, but one must also realize that these do not represent complete pictures of Civil War prisons. After the war, as historian Benjamin Cloyd recently noted, Northern and Southern

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<sup>1</sup> John Henry King, *Three Hundred Days in a Yankee Prison: Reminiscences of War Life, Captivity, Imprisonment at Camp Chase, Ohio* (Atlanta: Jas. P. Daves, 1904), 83-84.

<sup>2</sup> James M. Gillispie, *Andersonvilles of the North: The Myths and Realities of Northern Treatment of Civil War Confederate Prisoners* (Denton, Texas: University of North Texas Press, 2008), 33.

sympathizers popularized such images, accusing the enemy of atrocities while emphasizing their own benevolence towards prisoners. Northerners argued that Union victory and treatment of prisoners of war pointed to their moral superiority, while Southerners attempted to vindicate their cause—and their reputation—by emphasizing their humane treatment of Union inmates.<sup>3</sup>

Each side used horrific tales of prison camps to further their respective messages and blame the opposition for unnecessary, and intentional, suffering and death. These messages resonated with later historians like William Hesseltine, William Marvel, and Charles Sanders, among others, who focused on the question of whether or not the Union and Confederacy intentionally maltreated enemy inmates and the degree to which prisoners suffered.<sup>4</sup> Thus far, however, there has been no extensive research into or examination of how Civil War military prisons, their operation, and their inmates' experiences fit within the broader general context of nineteenth-century imprisonment. When one undertakes such research, as this dissertation does, one discovers the complex nature of Civil War military prisons. The initial intentions for the disciplinary and administrative practices of military prisons reflected established administrative and punitive trends in penitentiaries that were conceived in the late eighteenth and early nineteenth centuries. The experiences of military prison inmates also resonated with those of penitentiary inmates. This study argues that military prisons and penitentiaries functioned in much the same manner as the centralized national governments—both North and South—

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<sup>3</sup> For an excellent study of Northern and Southern manipulation of the historical memory of Civil War Prisons, see Benjamin G. Cloyd, *Haunted by Atrocity: Civil War Prisons in American Memory* (Baton Rouge: Louisiana State University Press, 2010).

<sup>4</sup> William Hesseltine, *Civil War Prisons: A Study in War Psychology* (Columbus: The Ohio State University Press, 1930). Reprint with a foreword by William Blair (Columbus: The Ohio State University Press, 1998); William Marvel, *Andersonville: The Last Depot* (Chapel Hill: The University of North Carolina Press, 1994); Charles W. Sanders, Jr., *While in the Hands of the Enemy: Military Prisons of the Civil War* (Baton Rouge: Louisiana State University Press, 2005).

became significantly involved in incarceration, a task that had been primarily left to the states in the antebellum period.

Placing Civil War military prisons in the broader narrative of nineteenth-century prison development reveals that conditions in these prisons, which scholars assume to be horrendous, were, in fact, similar to those that existed in penitentiaries before and during the Civil War—to wit, overcrowding, supply shortages, physical punishment, and inmates' psychological and physical distress. It is not my intention in this study to compare the magnitude of inmates' suffering in each type of institution; Civil War scholars have already told the story of physical suffering. Rather, my primary contribution is to shift the focus from the sufferings that military prison inmates withstood as a result of deliberate Union and Confederate policy decisions, such as failed exchange negotiations, and to engage in critical analysis of how military prison officials' administrative practices not only affected inmates' experiences, but also how they compared to penitentiary administration.

This study also reveals two broader points about nineteenth-century institutional development and about the involvement of the national governments (both Union and Confederate) in imprisonment. First, the establishment and operation of military prisons fit the trend of institutional development in the United States that began in the antebellum period. Second, as both the Union and Confederate governments suspended habeas corpus, incarcerated individuals suspected of treason, and held enemy captives, Northerners and Southerners witnessed centralized power over imprisonment that was previously unheard of in the antebellum period.<sup>5</sup> Yet even as the Union and Confederate governments took responsibility for

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<sup>5</sup> Mark E. Neely, Jr., *Southern Rights: Political Prisoners and the Myth of Confederate Constitutionalism* (Charlottesville: University Press of Virginia, 1999), 9-10 and 37. Neely notes that the Confederate Congress authorized suspension of the writ of *habeas corpus* for “about one third of the war’s duration,” while President Abraham Lincoln suspended the writ in some places within two weeks of Fort Sumter’s

incarcerating thousands of civilians and prisoners of war, they relied on antebellum practices to manage prisoners whom they sent to penitentiaries and to oversee the operation of newly established military prisons.

Three significant bodies of scholarship have influenced the conception of this study: first, scholarship covering the establishment of penitentiaries in the United States; second, scholarship on state formation and the legal system in nineteenth-century America; and finally, scholarship on Civil War military prisons. This study seeks specifically to fill a need for serious scholarly analysis of Civil War military prisons. Indeed, James McPherson has noted the need for “a modern reexamination” of the military prison experience that affected over 400,000 individuals.<sup>6</sup> But it is nonetheless important to also give a general overview of the works from the first two categories that most heavily impacted my thinking, beginning with the establishment of American penitentiaries.

Beginning immediately after the Revolutionary War, Americans demonstrated a desire for a well-ordered society and soon established penitentiaries to help accomplish this goal. In the United States, the establishment of penitentiaries and other institutions of confinement began in earnest in the 1820s. During the early nineteenth century, the rise of the market economy and the process of state formation created anxiety for governing elites about how to control a potentially unruly civilian population. In numerous works, historian David Rothman notes the irony that penitentiaries developed as the central element of the United States criminal justice system in the

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fall in April 1861, and that the suspension lasted for about twice as long in the Union as it did in the Confederacy. Confederate President Jefferson Davis declared martial law in Richmond on March 1, 1862, also suspending civil jurisdiction and habeas corpus. For broader discussions of wartime Richmond and the imposition of martial law, see Arch Frederic Blakey, *General John H. Winder, C.S.A.* (Gainesville: University of Florida Press, 1990) and Frances H. Casstevens, *George W. Alexander and Castle Thunder: A Confederate Prison and Its Commandant* (Jefferson, NC: McFarland, 2004), 32-40.

<sup>6</sup> James M. McPherson and William J. Cooper, Jr., *Writing the Civil War: The Quest to Understand* (Columbia: University of South Carolina Press, 1998), 4.

Jacksonian period (1820-1850), an era that prided itself on openness. In order to justify confinement, nineteenth-century politicians stressed that crime was a part of human nature and that penitentiaries ensured the safety of the republic because of their ability to transform deviants into law-abiding citizens. According to Rothman, penitentiaries became dominant in Jacksonian America because of citizens' insecurity about social order and the fate of the new republic, which the advent of industry and class distinctions exacerbated. The penitentiary, a quasi-military institution that arguably resembled the factory, instilled a sense of stability since, by "instilling order in its inmates," it helped preserve discipline.<sup>7</sup> The penitentiary's program of solitary confinement and forced labor eased social and political elites' fears of disorder and lent the impression that inmates could be reformed. Despite good intentions, reform failed because Jacksonian era penitentiaries became overcrowded and disorderly. These factors negated guards' ability to isolate inmates and encouraged the use of physical punishment. Ultimately, lengthy sentences and overcrowding "made rehabilitation less relevant" to penitentiary administration.<sup>8</sup> Furthermore, the demographics of inmates, who were primarily lower-class, foreign-born individuals, undermined the interest of the white middle class in exacting reform.<sup>9</sup> Rothman's analysis signals that many antebellum problems, namely the desire to enact social control, the breakdown of prison discipline, and overcrowding, continued during the Civil War in both penitentiaries and military prisons.

Nonetheless, scholars who study penitentiaries tend to skip over the war years. A good example of this is Blake McKelvey's 1977 book, *American Prisons: A History of Good*

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<sup>7</sup> David J. Rothman, "Perfecting the Prison: The United States, 1789-1865," in *The Oxford History of the Prison: The Practice of Punishment in Western Society*, ed. Norval Morris and David J. Rothman (New York: Oxford University Press, 1998), 111.

<sup>8</sup> Rothman, "Perfecting the Prison," 113.

<sup>9</sup> Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic* (Boston: Little Brown, 1971), 89, 238.

*Intentions*. McKelvey's overview of the establishment of American prisons spans the late 1700s through the 1970s. McKelvey contends at the book's beginning that the penitentiary played an important role in the creation of an ordered society. His work also helps to frame my study of penitentiaries and Civil War military prisons as he signals, albeit without interrogation, the importance of the Civil War to the advent and evolution of nineteenth-century punishment and imprisonment, an avenue of inquiry that my study addresses. The author states that the Civil War "helped to coordinate in time and character the scattered strands of normal penological development," and indicates that the war somehow centralized efforts to administer penitentiaries, inspiring a wide scale reform movement in the post-war years. McKelvey does not, however, discuss penitentiary operation during the war or consider the involvement of the Union and Confederate governments in military prison operation, which marked the first large-scale involvement of the central government in the United States in imprisonment.

McKelvey also comments on the reduction in the number of incarcerated criminals during the war. He writes, "whether the army had absorbed the potential criminals, afforded a refuge for fugitives, or supplied a convenient commutation of sentence, the result was the same—a decided reduction of male commitments in all the states of the North."<sup>10</sup> This dissertation questions McKelvey's assertion by demonstrating how the wartime operation of both penitentiaries and military prisons resulted in an increase of male and female commitments in both the North and the South. This increase caused state and federal officials to battle for control over inmates in penitentiaries and to use disciplinary practices common in penitentiaries to operate military prisons. Because of this, inmates in both institutions faced similar

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<sup>10</sup> Quotations can be found in Blake McKelvey, *American Prisons: A History of Good Intentions* (Montclair, NJ: Patterson Smith, 1977), 64, 66.

circumstances, regardless of the type of crime committed—whether it be fighting for an enemy army or committing treason, theft, or murder.

While Rothman and McKelvey concentrate on the development of penitentiaries as an attempt to preserve social order, Pieter Spierenburg posits that state formation and centralization, particularly the monopolization of violence, contributed to the rise of penitentiaries as regions settled by whites “experienced the development from stateless society to pacified rural area.” This transition caused authorities in the Northeastern United States to look “for a spatial solution to the problems of marginality” as the region became settled and penitentiaries replaced vigilance committees as mechanisms for keeping order. According to Spierenburg, this process failed in many areas of the South, particularly South Carolina, as plantation aristocrats disdained laws, dueled to settle differences, and encouraged extralegal means of resolving differences.<sup>11</sup> Spierenburg’s work influenced my decision to include Washington, D.C.; Columbus, Ohio; and Richmond, Virginia as case studies. Washington serves as an obvious example of the power of the national government, Columbus reveals how the decision to establish penitentiaries in the northeast spread to the western territories, and Richmond serves as an example of penitentiary establishment crossing the Mason Dixon line.<sup>12</sup>

Richmond was not the only Southern city to house a penitentiary. Historian Edward Ayers notes that Southerners joined their northern counterparts in establishing penitentiaries. He

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<sup>11</sup> Pieter Spierenburg, “From Amsterdam to Auburn: An Explanation for the Rise of the Prison in Seventeenth-Century Holland and Nineteenth-Century America,” *Journal of Social History*, 20.3 (Spring, 1987): 453-454. Spierenburg’s analysis of South Carolina derives from and is in accordance with the following work: Michael Stephen Hindus, *Prison and Plantation: Crime, Justice, and Authority in Massachusetts and South Carolina* (Chapel Hill: University of North Carolina Press, 1908), xxvi.

<sup>12</sup> States that established penitentiaries in the antebellum period included Massachusetts, New York, Pennsylvania, Ohio, Virginia, Kentucky, Maryland, Virginia, the District of Columbia, Connecticut, New Hampshire, Georgia, Arkansas, Tennessee, Maine, and Rhode Island. For a complete survey, see McKelvey, *American Prisons*.

contends that Southerners expressed concern about imprisonment in general and about social control and state power in particular, but many states nonetheless built penitentiaries. Ayers's work debunks the notion that penitentiaries were unnecessary in the South due to the institution of slavery. He reveals that American penitentiaries appeared in two waves (1790 and 1820) and, more significantly, that Southern states, like their Northern counterparts, participated in both.<sup>13</sup> Once penitentiaries were established, however, Ayers notes that Southerners debated their existence more fiercely than Northerners and Europeans due to Southern concerns with states' rights and centralized government. From the 1790s to the 1850s, Ayers argues that there were individuals "who argued that the penitentiary was essential to "enlightened government" while others believed that the penitentiary was a threat to "American freedom and to the ideals of the American Revolution."<sup>14</sup> Ultimately, these concerns, in Ayers's estimation, added up to concerns with both the role of the state in a republic and the place of the South in the "civilized world." Accordingly, Southerners continually debated whether the penitentiary's ability to sequester prisoners and make them conform to a universal ideal constituted a threat to freedom.<sup>15</sup>

Ayers concludes that Southern society differed from the North and from Europe in a way that ultimately rendered penitentiaries an anomaly and discouraged their existence. The North and Europe, according to Ayers, were surrounded by other reforming institutions, by early manufacturing, and by a relatively strong state government. Because of these factors, the Northern and European penitentiaries did not stand out as starkly or call as much attention to the centralized power behind them as did the penitentiaries of the South. Ayers notes that the "South was American enough to build penitentiaries, but Southern enough to remain skeptical of its own

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<sup>13</sup> Edward L. Ayers. *Vengeance and Justice: Crime and Punishment in the Nineteenth-Century American South*. (New York: Oxford University Press, 1984), 34.

<sup>14</sup> Ayers, *Vengeance and Justice*, 35.

<sup>15</sup> Ayers, *Vengeance and Justice*, 42, 45-46.

handiwork.”<sup>16</sup> Ayers’s work was critical to my decision to study Richmond, Virginia, a Southern city that supported a penitentiary very early in the nineteenth century. The Confederate government during the Civil War became a powerful a symbol of centralized power that ceased questioning the use of imprisonment.

Both before and during the Civil War, individuals who faced incarceration questioned not just imprisonment itself, but the role of the state governments, and the Union and Confederate governments, in implementing penal institutions. My study builds on historian Rebecca McLennan’s work, which details the many problems that individuals found with imprisonment. McLennan’s 2008 book, *The Crisis of Imprisonment: Protest, Politics, and the Making of the American Penal State, 1776-1941*, notes that the penitentiary, from its inception, symbolized many things to Americans: state coercion, justice, security, and the state’s presumed right over life. She notes the irony of the penitentiary’s existence as an “unfree” institution in a putatively “free” society.<sup>17</sup> My focus in this study emphasizes these themes, but departs from McLennan’s main focus, which is on the “reinvention” of legal punishment as a form of involuntary servitude in the nineteenth century. Instead, my examination of penitentiaries and military prisons during the Civil War introduces the role of the central government—both federal and Confederate—in bearing responsibility for imprisonment and administering punishment in both types of institutions based on accepted antebellum practices. In this way, my study fits with the narrative of nineteenth-century state formation as illustrated by scholars such as Morton Keller, Lawrence Friedman, and William Novak.

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<sup>16</sup> For Ayers’s views on the prison in the North, South, and Europe, see Ayers, *Vengeance and Justice*, 71-72.

<sup>17</sup> Rebecca M. McLennan, *The Crisis of Imprisonment: Protest, Politics, and the Making of the American Penal State, 1776-1941* (New York: Cambridge University Press, 2008), 3.

Morton Keller's 1977 book, *Affairs of State: Public Life in Late Nineteenth-Century America*, critically examines the expansion of national power in the late nineteenth century. Furthermore, his characterization of the Civil War as a critical event that enabled the federal government to assume a more active role in public life speaks to my analysis of the federal and Confederate governments' involvement in imprisonment. Keller notes that the 1880s and 1890s were a time that witnessed conflict between old values and the pressures of massive change. In my view, however, this is true of the war, as its circumstances propelled the national governments—both federal and Confederate—to assume greater responsibility for imprisonment, ushering in massive change since this was a role typically under the authority of state governments or local citizens.<sup>18</sup> My study confirms Keller's assertion that the war created new possibilities for civil and military authority by analyzing how state, federal, and Confederate officials used penitentiaries and military prisons to punish a wide range of offenders from criminals (both civilians and soldiers), to prisoners of war, to treason suspects.<sup>19</sup> For the state governments, like those in Ohio and Virginia, this practice was old hat, but, as Lawrence Friedman suggests, this role of the national governments greatly expanded during wartime.

Two works by Lawrence Friedman molded my thinking about the relationship between the national government and the states in terms of punishment and imprisonment. My contention that the federal and Confederate governments' operation of military prisons paralleled those of penitentiaries is supported by Friedman's work, which demonstrates the disorganized nature of the criminal justice system in the early nineteenth century. In his 1993 book *Crime and Punishment in American History*, Friedman notes that in the early nineteenth century there was

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<sup>18</sup> Morton Keller, *Affairs of State: Public Life in Late Nineteenth-Century America* (Cambridge: Harvard University Press, 1977), vii-viii.

<sup>19</sup> Keller, *Affairs of State*, 17.

no concrete definition of the criminal justice system, and that the police and the penitentiary were “new social inventions” that arose “out of a painful awareness that the pathologies of a mobile society demanded new techniques of control.”<sup>20</sup>

There were few federal crimes in the antebellum period; some were ordinary crimes in a federal setting (e.g. murder on the high seas), while others included forgery, perjury in a federal court, immigration offenses, customs violations, and smuggling. It is in punishing these federal crimes that the lines between the state and federal governments became blurred. As Friedman notes, before the twentieth century, criminal justice was “overwhelmingly the business of the states, not the federal government.”<sup>21</sup> This being the case, there was only one federal penitentiary, which was in the District of Columbia, and the federal government paid state penitentiaries to hold federal offenders not sentenced to the federal penitentiary. State authorities were then permitted to use these federal inmates in their prison labor system.<sup>22</sup> Even before the war, then, federal and state inmates were mixed, and both were subject to the same treatment regardless of the sentencing authority and the nature of their crimes.

In addition to the federal and state governments overlapping in their use of state penitentiaries, Friedman’s 2005 study, *A History of American Law*, points out that no part of the criminal justice system was “particularly organized,” professionalized, or bureaucratic. For example, public defenders and district attorneys worked only part time, and no one could even be sure that “policies of criminal justice, however well formulated, would actually be carried out.”<sup>23</sup>

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<sup>20</sup> Lawrence M. Friedman, *Crime and Punishment in American History* (New York: Basic Books, 1993), 12-13.

<sup>21</sup> *Ibid.*, 261-262.

<sup>22</sup> Linda Dailey Paulson, “Leavenworth Federal Penitentiary,” in David Levinson, ed., *Encyclopedia of Crime and Punishment*, Vol. 3 (Thousand Oaks, CA: Sage Publications, Inc., 2002), 1008.

<sup>23</sup> Lawrence Friedman, *A History of American Law*, 3d ed. (New York: Simon & Schuster, 2005), 212 and 214.

These findings have important implications for my study. First, my findings reveal that penitentiary and military officials were, like other officials in the criminal justice system, without experience and professional training. Second, since the system was not bureaucratic and federal authorities had a long-standing practice of turning to states to discipline offenders, it is logical that the federal and Confederate governments would borrow penitentiary practices to operate military prisons when the national governments (North and South), for the first time during the Civil War, bore great responsibility for the punishment of inmates. Many Americans felt that, as Friedman notes, it was “important” to restrain “the national government” in criminal matters.<sup>24</sup> However, the federal and Confederate governments’ establishment and operation of military prisons reveals that they assumed an active role in punishment through incarceration, a phenomenon that, as my research will demonstrate, many Americans—even those held as prisoners of war—associated with criminality. Furthermore, the federal and Confederate governments’ involvement with imprisonment, both in penitentiaries and military prisons, fits into the trend towards increasing government power that William Novak argues existed throughout the antebellum period.

In his 1996 study *The People’s Welfare: Law and Regulation in Nineteenth-Century America*, William Novak demonstrates how, throughout the 1800s, civil liberties and private interests had to be consistent with the regulation of the public interest.<sup>25</sup> Throughout the century, state governments played an increasing role in policing public spaces and enforcing public morality for the sake of social order, and people demonstrated a “willingness” to employ “the

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<sup>24</sup> Ibid., 217.

<sup>25</sup> William J. Novak, *The People’s Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill: The University of North Carolina Press, 1996), 11, 17, 235.

full, coercive, and regulatory powers of law and government.”<sup>26</sup> The establishment of penitentiaries reinforced this notion. In my view, the Union and Confederate governments’ involvement in incarceration and their establishment of military prisons furthered this trend since the governments constructed military prisons to keep order and ensure loyalty. Ultimately, Novak asserts, and my analysis of penitentiaries and military prisons confirms, the idea that the Civil War inspired new definitions and uses of centralized power.<sup>27</sup>

Civil War scholars, however, have passed up the opportunity to analyze how the Union and Confederate governments’ involvement in imprisonment through military prisons and penitentiaries increased during wartime and instead have focused on inmates’ suffering and failed exchange policies. William Hesseltine, William Marvel, Reid Mitchell, and Charles W. Sanders, Jr., best represent this line of argument. Hesseltine’s 1930 publication, *Civil War Prisons: A Study in War Psychology*, remains the standard work in the field despite its age. Hesseltine posits that war psychosis resulted in mutual delusions that shaped both Northern and Southern prison policies and conditions. As reports of the horrendous conditions that Northerners faced in Southern prisons reached the Northern readers through newspapers, they believed that Southern commandants and guards deliberately mistreated Union prisoners. Because of this, Union officials retaliated against Southern prisoners.<sup>28</sup>

Hesseltine notes that war psychosis affected both the Union and the Confederacy. He traces its development from the first prisoners and the establishment of the prison and parole systems to the Dix-Hill exchange cartel of 1862 and its collapse in 1863, which necessitated the creation of notorious prisons, such as Andersonville, to deal with rising prison populations.

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<sup>26</sup> Ibid., 17.

<sup>27</sup> Ibid., 241.

<sup>28</sup> Hesseltine, *Civil War Prisons*, xxiv.

Hesseltine posits that the war instilled enmity in Northern minds and that this hatred exacerbated Union proponents' outrage at Northern prisoners' treatment at places like Andersonville, causing Union officials to enact a policy of retaliation against Confederate prisoners.

Keeping in line with the theme of prisoners' suffering, William Marvel examines the horrendous conditions that existed at Andersonville in his 1994 book, *Andersonville: The Last Depot*. Marvel focuses on the extent to which inmates suffered at Andersonville, but also notes that some Northern prisoners' accounts were likely exaggerated. He posits a brief argument that Andersonville itself operated as a city that consisted of roads, a marketplace with various commercial establishments, neighborhoods, ethnic ghettos, crime, and religious revivals. The main emphasis however, is on various problems at the prison, such as inadequate supplies, disease, death, escape attempts, overcrowding, and prison logistics that plagued the camp. Despite all of the problems that Andersonville's inmates withstood, Marvel remains sympathetic to Commandant Henry Wirz and concludes that Wirz became a martyr for Southern prison atrocities, or, as Reid Mitchell would likely suggest, Wirz suffered the consequences of the prison system's overall failure.

Reid Mitchell's 1997 article, "'Our Prison System, Supposing We Had Any': The Confederate and Union Prison Systems," examines the formation of Northern and Southern prison systems as a step towards the U.S. Army's preparation for modern or total war and notes the creation of the prison system, its failure, and the consequent atrocious conditions in military prisons. Mitchell focuses on familiar themes within Civil War military prison historiography such as the exchange cartel's effect on the formation and cohesiveness of the prison systems, the role of black prisoners of war in exchange negotiations, and physical conditions in the military prisons that caused disease, suffering, and death. Additionally, Mitchell addresses the fact that

scholarship on prisons is lacking due to post-war finger pointing, bad memories, and Northern and Southern allegations of barbarity. Mitchell acknowledges Hesseltine's thesis, but argues that Union and Confederate administrative incompetence and neglect were as responsible, if not more so, than a Union retaliatory policy for Confederate inmates' deaths.<sup>29</sup>

Charles W. Sanders, Jr. pushes the notion of Northern and Southern prisoners' suffering in his provocative revisionist account of Andersonville, Cahaba, Florence, and Danville prisons in the South, and Camp Douglas, Elmira, Camp Chase, and Rock Island prisons in the North. Sanders' 2005 book, *While in the Hands of the Enemy: Military Prisons of the Civil War*, vehemently rejects the idea that Northern and Southern authorities could not control prison conditions and that no systematic maltreatment of inmates occurred.<sup>30</sup> Sanders examines the Union and Confederacy's unpreparedness for dealing with the prisoner-of-war crisis, and the political motivations for, establishment of, and operation of the Northern and Southern prison systems and the aforementioned camps. Sanders acknowledges the exchange breakdown's role in creating negative prison conditions and recognizes the fact that both the North and the South suffered from supply shortages. However, he reveals, through Union and Confederate prison officials' own words, that prisoners of war suffered intentional maltreatment because of the fact that administrative figures viewed them as pawns in a political game.

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<sup>29</sup> Reid Mitchell, "'Our Prison System Supposing We Had Any': The Confederate and Union Prison Systems," in *On the Road to Total War: The American Civil War and the German Wars of Unification, 1861-1871*, ed. Stig Forster and Jorg Nagler (New York: Cambridge University Press, 1997), 581-582. In a recent book, Roger Pickenpaugh also demonstrates that Hesseltine's thesis is still relevant through his conclusion that Union officials were responsible for the suffering of Southern inmates since they abided by a policy of retaliation. Pickenpaugh's study focuses on many Northern camps such as northern camps such as Johnson's Island, Camp Chase, Camp Douglas, Elmira, Fort Delaware, and Point Lookout among many others. Roger C. Pickenpaugh, *Captives in Gray: The Civil War Prisons of the Union* (Tuscaloosa: The University of Alabama Press, 2009).

<sup>30</sup> Sanders, *While in the Hands of the Enemy*, 2.

Given this review, it is evident that existing scholarship on Civil War prisons provides an extensive overview of how the prison system's inadequacies, decisions made by officials, and the failed exchange system contributed to prisoners' suffering and caused them to endure abhorrent conditions. This dissertation, however, shifts the focus by analyzing how officials operated penitentiaries and military prisons during wartime. It reveals that military prison officials made the same types of decisions about prison administration and punishment as did penitentiary officials and contends that military prisons and penitentiaries operated in much the same way despite their different physical structures and the type of inmates imprisoned.

I intentionally shied away from examining notorious Union and Confederate prisons like Elmira, Camp Douglas, Andersonville, Libby Prison, and Belle Isle, since they represent the most famous cases of military prisons and have received attention by the scholars previously discussed. Rather, my goal was to focus on prisons that have received little attention in order to add to the scholarship on military prisons by directly comparing the operation of penitentiaries and military prisons within three cities—the federal capital, the Confederate capital, and a state capital. This focus allows me to link my analysis of military prisons to broader trends of nineteenth-century imprisonment and government centralization. The three military prisons that I selected—Old Capitol Prison, Castle Thunder, and Camp Chase—in fact paint a more accurate portrait of what common military prisons looked like according to population. According to Lonnie Speer, the maximum capacity for these three prisons were as follows: Old Capitol Prison, 2,673; Castle Thunder, 3,000; and Camp Chase, 9,423. In his study, *Portals to Hell: Military Prisons of the Civil War*, Speer records 117 total Confederate and 106 Union military prisons. Of the known population totals, Speer lists one Confederate and eight Union camps holding under 100 inmates; twenty-two Confederate and twenty-five Union camps holding from 100 to 999

inmates; six Confederate and five Union camps holding 1,000-1,999 inmates; one Confederate and three Union camps holding from 2,000-2,999 inmates; three Confederate and three Union camps holding from 3,000-3,999 prisoners; and three Confederate and one Union camp(s) holding from 4,000-4,999 inmates. The number of prison camps holding over 5,000 camps is nominal, and extremely large camps that held over 10,000 are few and far between. They include Camp Douglas (Chicago) at 12,082, Fort Delaware (Delaware) at 12,600, Point Lookout (Maryland) at 22,000, Belle Isle (Richmond) at 10,000, Salisbury (North Carolina) at 10,321 and Andersonville (Georgia) at 32,899.<sup>31</sup> Not only do Camp Chase, Old Capitol Prison, and Castle Thunder make good case studies as far as military prisons are concerned, their home cities also fill a gap in scholarly analysis on penitentiaries.

My reasons for selecting Columbus, Ohio, Washington, D.C., and Richmond, Virginia, for study are many. The first is to answer historian Michael Hindus's call for comparative studies of Northern and Southern imprisonment.<sup>32</sup> My analysis touches the three major regions of the United States that were evident in the nineteenth century. Dario Melossi and Massimo Pavarini contend that the nineteenth-century United States could be divided into three distinct parts: the industrialized North, the agricultural West, and the slave-holding South.<sup>33</sup> Washington, Columbus, and Richmond reflect these trends and provide the opportunity to examine the seat of federal power, state power in the burgeoning west, and both southern and Confederate power, ultimately revealing that military prison and penitentiary operation was very similar in all areas through the Civil War.

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<sup>31</sup> Lonnie R. Speer, *Portals to Hell: Military Prisons of the Civil War* (Mechanicsburg, PA.: Stackpole Books, 1997), 323-340.

<sup>32</sup> Hindus, *Prison and Plantation*, xxi.

<sup>33</sup> Dario Melossi and Massimo Pavarini, *The Prison and the Factory: Origins of the Penitentiary System*, trans. Glynis Cousin (Totowa, NJ: Barnes & Noble Books, 1981), 116.

These cities also break with the extant scholarly focus on imprisonment. Historian Nicole Hahn Rafter has noted that, “all too often, prison literature generalizes from the northeastern pattern.”<sup>34</sup> Many scholars writing about confinement in nineteenth-century America conform with this model, justifying their studies of penitentiaries in places like New York, Pennsylvania, and Massachusetts with the fact that these states witnessed the birth of the Auburn and Pennsylvania systems, were the vanguard of reform, and were central to the experiment of liberal discipline.<sup>35</sup> This dissertation breaks with that pattern by considering how imprisonment operated in other areas of the country and demonstrates similarities in penal administration despite regional differences.

There are many advantages to studying these three locations. First, the selection of Columbus, Richmond, and Washington presents an opportunity to examine regional dynamics: how northern, southern, and federal officials dispensed punishment, and how citizens on both sides of the Mason-Dixon Line made sense of carceral institutions. Second, each of these cities contained a penitentiary and a military prison, facilitating direct comparison of the phenomenon of imprisonment and the experience of confinement across institutional boundaries, and demonstrating that the experience of imprisonment and confinement for administrators and inmates transcended institutional type and regional boundaries. Third, as Rebecca McLennan notes, penitentiaries were “typically located some distance from towns and cities,” but this study

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<sup>34</sup> Nicole Hahn Rafter, *Partial Justice: Women, Prisons, and Social Control*, 2nd ed. (New Brunswick, NJ: Transaction Publishers, 1990), 64.

<sup>35</sup> W. David Lewis, *From Newgate to Dannemora: The Rise of the Penitentiary in New York, 1796-1848* (Ithaca: Cornell University Press, 1965), vii-viii; McLennan, *The Crisis of Imprisonment*, 12; Michael Meranze, *Laboratories of Virtue: Punishment, Revolution, and Authority in Philadelphia* (Chapel Hill: The University of North Carolina Press, 1996), 4.

focuses on prisons that were located in metropolitan areas and under close watch by both state and national authorities.<sup>36</sup>

This study focuses on three penitentiaries and three military prisons. In Columbus, this analysis focuses on the Ohio Penitentiary and Camp Chase Prison; in Richmond, the Virginia Penitentiary and Castle Thunder Prison; and, in Washington, the United States Penitentiary for the District of Columbia and Old Capitol Prison. The penitentiaries detained common criminals, but they also held prisoners of war and, as needed throughout the century, soldiers guilty of crimes. Similarly, the three military prisons held prisoners of war, treason suspects, spies, and other enemies of the state in addition to criminals, signaling immediate commonalities between the two institutional types. Although it is important to note the types of inmates that penitentiaries and military prisons held, this study will not focus on questions revolving around the causes of crime and its changing patterns over time. I remain primarily interested in administrative practice and inmates' experiences; there is no evidence that the crime that inmates committed had any impact on their treatment or their experiences behind bars. In my research, I also found scant evidence that race played a factor, especially since the majority of inmates incarcerated before and during the Civil War were white. Gender, then, is the only significant variable that my evidence allows me to address in regards to administrative decisions and inmates' experiences.

As Lawrence Friedman has noted, the penitentiary system "treated all prisoners alike."<sup>37</sup>

This study examines the common experience of confinement, which includes how prison

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<sup>36</sup> McLennan, *The Crisis of Imprisonment*, 17.

<sup>37</sup> Analysis of penitentiary prison statistics in the next chapter will clearly demonstrate that whites outnumbered blacks in penitentiaries during the Civil War. Military prison officials, however, did not keep records in the same way that penitentiary officials did, so I do not know the exact ratio of white and black inmates in military prisons and military prison officials seldom discuss black inmates. Friedman, *History of American Law*, 454.

officials and inmates handled issues like punishment, experienced life behind bars, interacted with the outside world, and reacted to each other in prison amid shifting power dynamics as inmates resisted guards' efforts at control.<sup>38</sup> It follows Larry Goldsmith's call to view the prison "from the inside out," seeking to understand what went on behind bars from the perspective of both prison officials and, perhaps more significantly, the inmates themselves, who left few records.<sup>39</sup>

Both penitentiaries and military prisons fit Erving Goffman's definition of total institutions: they were designed to protect the community from intentional dangers, be they criminals, enemy prisoners, or treason suspects.<sup>40</sup> Both institutions also, as David Garland has noted, demonstrate that punishment is historically determined; punishment in penitentiaries resulted from the turn-of-the-century notion that the state should be responsible for criminal offenders and punishment in military prisons emerged to ensure loyalty during war.<sup>41</sup> As time progressed, both penitentiaries and military prisons became central to United States society as they kept criminals off of the street, prisoners of war from bolstering enemy forces, and treasonous individuals from causing problems.<sup>42</sup>

Penitentiary administration was structured along military-hierarchical lines. Inmates, the public, and guards themselves believed in the humane treatment of inmates and that guards

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<sup>38</sup> Larry Goldsmith, "History from the Inside Out: Prison Life in Nineteenth-Century Massachusetts," *Journal of Social History*, 31, no. 1 (Autumn 1997): 111. Goldsmith notes that the prison's balance of power was uneven since guards had the upper hand, but contends that inmates were nonetheless influential.

<sup>39</sup> *Ibid.*, 110.

<sup>40</sup> Erving Goffman, *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates* (Garden City, NY: Anchor Books, 1961), 4-5.

<sup>41</sup> David Garland, *Punishment and Modern Society: A Study in Social Theory* (Chicago: University of Chicago Press, 1990), 21.

<sup>42</sup> James B. Jacobs, *Stateville: The Penitentiary in Mass Society* (Chicago: The University of Chicago Press, 1977), 6.

should conduct themselves in a gentlemanly manner.<sup>43</sup> Despite these intentions, administrators at both institutions faced challenges throughout the century, especially during wartime, in maintaining humane standards. The populations of both institutions increased during the war, but even as military prison officials accommodated rising numbers of inmates as the Civil War dragged on, they continued to make the same types of administrative decisions and to use the same type of punishments common in penitentiaries.

Both military prisons and penitentiaries served the same function in nineteenth-century American society: punitive. Although penitentiaries were intended to reform inmates, many scholars, such as Michael Ignatieff, Erving Goffman, Mary Gibson, David Garland, and L. Mara Dodge, assert that penitentiaries failed at reform and contend, as Dodge states, that the “purpose of imprisonment is punishment.”<sup>44</sup> Similarly, the pioneers of prison development envisioned self-sustaining, if not profitable, institutions based on prison labor programs. Although penitentiaries employed the factory system of labor, the institutions were hardly a focus of economic activity.<sup>45</sup> Nonetheless, since penitentiaries were established with the intention of becoming self-sufficient, officials at both penitentiaries and military prisons desired that their institutions place a minimal financial burden on the state while ensuring that society remained free of the nuisance that their charges posed.

Given these factors, the appropriateness of examining Civil War military prisons in light of the development of nineteenth-century penitentiaries is apparent. More importantly, this

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<sup>43</sup> Melossi and Pavarini, *The Prison and the Factory*, 158-159.

<sup>44</sup> L. Mara Dodge, “Whores and Thieves of the Worse Kind”: *A Study of Women, Crime, and Prisons, 1835-2000* (Dekalb: Northern Illinois University Press, 2002), 266; Michael Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850* (New York: Pantheon Books, 1978); Garland, *Punishment and Modern Society*; Goffman, *Asylums*; Mary Gibson, “Global Perspectives on the Birth of the Prison,” *The American Historical Review*, 116, no. 4 (October 2011): 1040-1063.

<sup>45</sup> Melossi and Pavarini, *The Prison and the Factory*, 143.

concentration fills an analytic gap in the historiography of Civil War prisons by shifting the focus away from suffering inmates and malicious administrators. Instead, it examines how the institutions fit within the general context of the nineteenth century and compares the broader purposes, functions, and day-to-day experiences of guards and inmates at both penitentiaries and military prisons.

In order to lay the foundation for this study, I have delved heavily into the following research with the goal of gaining the perspective of both penitentiary and military prison officials and penitentiary and military prison inmates. I wanted the types of sources that I consulted for both institutions to be parallel to provide the best possible comparison of the institutions. Therefore, for both penitentiaries and military prisons, I primarily consulted reports drafted by penitentiary and military prison officials, letters and diaries of inmates, and petitions for pardon written by inmates or their loved ones. The annual reports of the Virginia, Ohio, and D.C. Penitentiaries proved invaluable in gaining direct insight from penitentiary wardens, chaplains, matrons, and physicians. These reports also revealed much about the rules and regulations governing the penitentiaries, the types of jobs that inmates performed in prison, the infractions of which inmates were guilty, and the punishments meted out in response. While these reports undoubtedly are biased to depict the best portrait of the penitentiary possible, they also reveal the institutions' financial struggles, problems in maintaining order, and conditions that detracted from penitentiary life, such as overcrowding, poor sanitation, and inadequate supply.

In addition to reading annual reports, I also read a range of petitions—from those asking for appointment to a position as a penitentiary official to those of inmates and their family members seeking release, or at least permission to visit or otherwise contact loved ones. These

petitions revealed the qualities necessary to assume charge over a penitentiary and give insight into the contact that inmates had with the outside world.

Documents written directly by penitentiary inmates are much more difficult to come by than those authored by officials. Nonetheless, I was able to get a sense of inmates' experiences in penitentiaries through some personal letters and through their own petitions for pardon, written either to the warden or to the state governor.

In order to gain insight into the operation and inmates' experiences in Civil War military prisons, I relied heavily on the *Official Records of the War of the Rebellion*, on petitions for release from inmates and their family members, and on the letters and diaries of inmates themselves. The *Official Records* contains a great deal of correspondence between military prison superintendents and federal officials and also contains various orders from the Union and Confederate governments regarding the purpose of military prisons and guidelines for their operation.

Inmates and their family members frequently wrote to Union and Confederate officials—specifically, to military prison superintendents, state governors, or even the presidents themselves—to plead cases for release. These petitions, like those of penitentiary inmates, provide excellent insight into the conditions in prison, inmates' behavior, and reasons why pardons were sought. I tried to limit use of inmates' letters, diaries, and other personal accounts of incarceration to the war years since, as previously mentioned, Benjamin Cloyd's work demonstrates that post-war accounts were heavily biased as northerners and southerners tried to use the prison issue to prove their side's moral superiority. My analysis is not completely free of post-war accounts, however.

In presenting my findings, I have structured the chapters as follows. Chapter 2, “Commonalities among Federal, State, Civil, and Military Punishment,” is rooted in the context of evolving institutions in America and highlights the intertwined path of antebellum penitentiaries and military prisons. Setting the stage by reviewing the beginnings of penitentiaries, their practices, and administration, Chapter 2 reveals how administrative practices common in antebellum penitentiaries transitioned into military prisons. In addition, Chapter 2 lays out the basic issues and problems facing both penitentiaries and Civil War military prisons while introducing the key developments that impacted military prisons. Among these were the Auburn System, the Lieber Code, the presence of female inmates, the failed prisoner exchange cartel, and the increasing control over penitentiaries and military prisons exerted by the centralized national governments in the North and South. Underlying all of these issues, Chapter 2 underscores the change in the basic tenet of early nineteenth century incarceration—the move from reform to detention. Ultimately, Chapter 2 demonstrates that the state governments bore primary responsibility for incarceration during the antebellum period, but during the Civil War the federal government increased its involvement in imprisonment through its creation of military prisons and use of state penitentiaries to punish military offenders. Regardless, the federal government relied heavily on civil practices in its operation of military prisons and administration of punishment.

Chapter 3, “Penitentiaries and Military Prisons: Built on Common Ground,” lays out the common foundation of both penitentiaries and military prisons. It looks at the shared threads of physical locations of the institutions, social issues, economic trends, and population growth. Chapter 3 also describes the physical layouts of penitentiaries and military prisons and provides a basic analysis of the detainees’ demographics in both types of institutions. Finally, Chapter 3

examines the geographic reach of the penitentiaries and military prisons as they detained prisoners and helped maintain the new wartime political and social order.

Chapter 4, “The Purpose and Role of Penitentiaries and Military Prisons,” details the purpose and role of penitentiaries and military prisons, concentrating on the common, if not identical, characteristics of both types of institutions. It traces the antebellum foundations of penitentiaries and follows their application to military prisons. This includes the mixing of civilian and military prisoners, the goal of having self-sufficient institutions, and the role of prison labor as an economic, punitive, and/or reformatory factor. Gender roles in work for female inmates are also discussed. Chapter 4 emphasizes the assertion of the control that national governments, both North and South, assumed over military prisons and exercised in penitentiaries, but not at the total expense of state government interference.

Chapter 5, “Administration, Regulations, Infractions, and Punishment,” looks at the very visible aspects of commonality and continuity between penitentiaries and military prisons. By focusing on administration, regulations, infractions, and punishments, Chapter 5 clearly shows the link between the two types of institutions. In addition, Chapter 5 focuses on some of the most controversial forms of corporal punishment—whippings and lethal force. Finally, Chapter 5 continues the common thread of penitentiaries and military prisons holding both civil and military prisoners as well as prisoners of war, including the famous John Hunt Morgan.

Chapter 6, “Inmates’ Identity and Disobedience,” continues analysis of the administration, regulations, infractions, and punishments in penitentiaries and military prisons. However, the focus of Chapter 6 is on the words and actions of the inmates themselves, going from the abstract administration policies to the personal words and actions of officials and inmates. It also looks at the punishments meted out by officials and endured by inmates,

including lethal force. In all these cases, the similarities between penitentiaries and military prisons continue to be seen while the notion of the soldier/criminal controversy and the treatment of female prisoners are addressed.

Chapter 7, “Pleas, Pardon, and Communication: Inmates’ Interactions Inside the Walls and with the Outside World,” looks at a basic human need through the accounts of administrators, inmates, and family members—communication and interaction. Faced with imprisonment and isolation, inmates at both penitentiaries and military prisons turned to established avenues such as social standing and political connections to gain pardons. They also invoked traditional values such as good character, family need, and male duty in support of their pleas. Overriding all, however, was the need for communication and human interaction. Chapter 7 reveals both positive and negative communications as inmates became confrontational with guards and officials or settled into more docile forms of interaction such as letters and longed-for visitors.

Chapter 8 summarizes the main premise of this dissertation and recounts the evidence in its support. It also presents further supporting evidence by looking at the operation of penitentiaries and military prisons after the Civil War. The two types of institutions continued to operate in strikingly similar ways and remained interconnected. Finally, by extension, Chapter 8 comments on the role of prisons in the modern day United States and the continued overlap of the civilian and military sectors in incarceration and punishment.

To begin, then, we turn our attention to the many ways in which the federal government relied on the states to help punish criminals and how the civil and military punishments overlapped in the antebellum period.

## CHAPTER 2 COMMONALITIES AMONG FEDERAL, STATE, CIVIL AND MILITARY PUNISHMENTS

The study of evolving and developing institutions is exciting and revealing, particularly when researching the first half of the nineteenth century. From 1800 to 1860, Americans engaged in a wide array of institution building, partially in response to the new challenges that emerged from population growth and economic development, and partially as an outgrowth of international conversations about man's fundamental nature and society's capacity to shape human behavior. Americans experimented with schools, orphanages, hospitals, workhouses and insane asylums. Some were run by private organizations, but, increasingly, local and state governments took a hand in designing and building all manner of public institutions.

These developments paralleled huge changes in how Americans punished convicted criminals. Here again, external demands and evolving theories intertwined, as states and localities turned more and more to incarceration as a means of first, reforming, and, later, simply isolating the criminals. By the second quarter of the century, several states, particularly in the North, had begun constructing larger penitentiaries to house a variety of convicted criminals as a state-wide complement to the existing network of local jails.<sup>1</sup> These penitentiaries became the focus of intense scrutiny and debate as reformers experimented with various systems while penitentiary officials faced challenges posed by insufficient budgets and general overcrowding.

Meanwhile, the young federal government developed its own institutions and practices, working out of the same intellectual framework and often becoming highly integrated with the state systems. In Washington, D.C., the U. S Penitentiary served the needs of the federal district,

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<sup>1</sup> In the colonial period, local jails held prisoners waiting for trial, debtors, and individuals ordered to make any kind of restitution and failed to do so. In the nineteenth century, local and county jails continued to hold these types of offenders, but also served as places of punishment that were filthy, degraded, degrading, poorly run, and cruel. Friedman, *Crime and Punishment*, 49, 82.

much as the state penitentiaries responded to statewide demands. Outside of Washington, there were no federal penal institutions, so federal courts routinely sentenced offenders to state penitentiaries and, as noted in Chapter 1, the federal government paid state penitentiaries for this practice. The U.S. military had its own judicial apparatus, but by mid-century the military justice system, which originated from the 1775 Articles of War, was subject to civilian control through Congress and the Executive Branch.<sup>2</sup> Throughout the nineteenth century, military authorities used penitentiaries to hold prisoners of war and soldiers in violation of military or civil law. During the Civil War, soldiers found guilty of violating military and civil law were held in one of a handful of military prisons. Military prisons, however, were temporary as the Union and Confederate governments created them on an as-needed basis.

In many fundamental ways, penitentiaries and military prisons operated from a shared set of assumptions and procedures. But even before the outbreak of the Civil War, this evolving system of penal institutions faced strains, both structural and philosophical. Once the Civil War came, the challenges would multiply enormously. Suddenly, new categories of political prisoners, many criminally convicted soldiers, and tens of thousands of prisoners of war would place unheard-of demands on the nascent Union penal structure while becoming a massive challenge for the infant Confederacy.<sup>3</sup>

In 1942, historian William E.S. Flory wrote that the “disposition of prisoners of war cannot be considered apart from the social, economic, and military situation” that existed when

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<sup>2</sup> The military justice system included courts-martial, laws of military discipline, and sentencing. Jonathan Lurie, *Arming Military Justice, Vol. 1: The Origins of the United States Court of Military Appeals, 1775-1950* (Princeton: Princeton University Press, 1992), 5-8, 11, 21, and 29.

<sup>3</sup> A political prisoner was an individual detained for suspected treason, which was defined by the Constitution as “levying war” against the United States, or “adhering to their Enemies, giving them aid and comfort.” Friedman, *Crime and Punishment*, 66.

they were captured.<sup>4</sup> Perhaps Flory's assertion has been forgotten as the years passed. Civil War historians have limited their inquiry into the treatment of prisoners of war, the war-inspired problems of supply, and the cessation of prisoner exchanges, rather than analyzing how the years leading up to the conflict, the disorganized nature of the criminal justice system, and the operation of penitentiaries informed the operation of military prisons. If the war years are placed in the broader context of the nineteenth century, it becomes evident that military punishments, in addition to the guiding principles for the treatment of prisoners of war, reflected the same principles and practices that guided penitentiaries.

It is not surprising that the military employed similar punishments in both military prisons and in wartime penitentiaries since military discipline was subject to civilian oversight, since the federal government turned to state penitentiaries to punish its offenders, and since guidelines, like the Lieber Code of 1863, emphasized the same antebellum values, such as humanity, honor, and justice, that also guided the treatment of penitentiary inmates.<sup>5</sup> Before delving into the specifics of penitentiary and military prison operation, it is first necessary to understand the overall prisoner of war crisis, the development of military laws governing the treatment of military prisoners, the evolution of the prisons under study, and the three cities in which they were located. Washington, D.C., Columbus, Ohio, and Richmond, Virginia, all with their penitentiaries and military prisons provide clear examples of how such institutions were intertwined if not, in fact, interdependent.

A patriotic fervor swept the divided nation when the Civil War broke out in April 1861. Northerners and Southerners hastily prepared for a war that they believed would surely end

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<sup>4</sup> William E.S. Flory, *Prisoners of War: A Study in the Development of International Law* (Washington, DC: American Council on Public Affairs, 1942), 10.

<sup>5</sup> *General Orders No. 100: The Lieber Code* (April 24, 1863), Art. 4, *The Avalon Project*, accessed June 21, 2012, [http://avalon.law.yale.edu/19th\\_century/lieber.asp](http://avalon.law.yale.edu/19th_century/lieber.asp).

within a few months. Union and Confederate politicians failed to foresee four years of bloody conflict. Despite this assumption of a brief conflict, however, U.S. Quartermaster General Montgomery C. Meigs stated that the North expected to “take care of large numbers of prisoners of war.” On July 12, 1861, Meigs suggested to Secretary of War Simon Cameron that prisoners should be temporarily housed in the “common jail of Washington.” He also urged the secretary to appoint “an accomplished gentleman” as commissary general of prisoners to “avoid great embarrassment when inmates begin to come in.”<sup>6</sup> There was no way Meigs could have known the staggering number of prisoners the war would bring. During the years 1861-1865, Union and Confederate officials held a combined 409,608 Americans as prisoners of war.<sup>7</sup> The U.S. and Confederate governments quickly made preparations for the captives, first by relying on existing civilian institutions and then by attempting to centralize authority over military prisons.

At the beginning of the war, both the Confederacy and the Union lacked an organized system for dealing with prisoners of war. The Union and Confederate governments initially addressed the crisis by establishing a parole system through which officials released enemy captives within a period of days, pending the prisoner’s pledge not to take up arms against them.<sup>8</sup> As the number of Confederate prisoners grew, Union military officials took further steps to organize the prison system. In October 1861, Quartermaster General Meigs appointed Lieutenant Colonel William Hoffman of the Eighth U.S. Infantry as Commissary General of Prisoners. Hoffman’s duties included keeping an account of prisoners, managing exchanges whenever they were in effect, and providing for the wellbeing of Southern prisoners in Northern camps.<sup>9</sup>

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<sup>6</sup> M.C. Meigs to Simon Cameron, July 12, 1861, O.R. Series II, Vol. 3, 8.

<sup>7</sup> Margret E. Wagner, Gary W. Gallagher, and Paul Finkelman, eds., *The Library of Congress Civil War Desk Reference* (New York: Simon & Schuster, 2002), 583.

<sup>8</sup> Hesseltine, *Civil War Prisons*, 34.

<sup>9</sup> *Ibid.*, 35.

Early in his tenure, Hoffman struggled to assert his authority. Secretary of War Simon Cameron failed to notify military departmental commanders of Hoffman's position. Therefore, commanders managed the prisoner crisis on their own until the early months of 1862, when field officers recognized Hoffman's authority.<sup>10</sup> Meanwhile, the federal government established stockades or commandeered various buildings to detain prisoners of war, a practice that continued as needed until the war's end. This practice resulted in the establishment of infamous camps such as Elmira (New York), Point Lookout (Maryland), Camp Douglas (Chicago), Johnson's Island (Ohio), Camp Chase (Ohio), and Old Capitol Prison (Washington, D.C.). Each of these prisons would be filled beyond maximum capacity during the war. The total numbers speak to the magnitude of the prisoner crisis: Elmira's maximum of 5,000 was almost doubled; Point Lookout could contain 10,000 captives, but actually held 22,000; Camp Douglas doubled its maximum capacity of 6,000; Johnson's Island, designed for 1,000, held over 3,000; Camp Chase's room for 4,000 was stretched to over 9,400; and the Old Capitol's capacity of 500 extended to over 2,700.<sup>11</sup>

The Confederacy faced similar problems in detaining prisoners of war, but took longer to centralize its oversight. The first Union prisoners of war arrived in Richmond at the end of July 1861, following the first Battle of Manassas. Southern civilians celebrated the unfortunate Union men as proof that the Confederacy could defend itself as a nation.<sup>12</sup> But as the war progressed, Richmond's citizens developed an antagonistic attitude toward the captives that centered on fear, suspicion, and competition for the overcrowded city's limited resources. Richmond's residents, whether approvingly or not, relied on John H. Winder to keep order.

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<sup>10</sup> Robert Earnest Miller, "War Within Walls: Camp Chase and the Search for Administrative Reform," *Ohio History* 96 (1987): 36.

<sup>11</sup> Speer, *Portals to Hell*, 324, 326, 327, 329.

<sup>12</sup> Sandra V. Parker, *Richmond's Civil War Prisons* (Lynchburg, VA: H.E. Howard, 1990), 2.

Confederate President Jefferson Davis appointed John H. Winder as Provost Marshal of Richmond following Winder's resignation from the United States Army.<sup>13</sup> Winder promptly imposed martial law and, consequently, earned citizens' disapproval. Citizens believed that Winder's treatment of them was strict, harsh, and highhanded, yet he was lenient towards Union prisoners of war. The captives received liberal paroles that allowed them to roam freely around Richmond during the early years of the war.<sup>14</sup> Winder's lax discipline speaks to the Confederacy's initial lack of centralized control over the prisoner-of-war crisis, but the Confederate government later addressed these issues.

The Confederacy lacked a centralized prison system for much of the war and Richmond's function in handling the prisoner-of-war crisis changed throughout the conflict due to overcrowding and the breakdown of the exchange system. Despite the disorder that paroled Union prisoners created in Richmond, Confederate authorities initially believed that the city was a desirable receiving point for federal captives. Richmond's five railroads facilitated the transfer of inmates to other locations in the South, a good thing since Winder decided in the fall of 1861 that the increasing number of Union captives posed a threat to the Confederate government and civilians. The railroads also allowed for the easy transportation of Union prisoners under the exchange system. Ultimately, Confederate authorities lacked a solution to the mounting threat that Federal prisoners posed because no centralized prison system existed.<sup>15</sup> Confederate bureaucracy, war conditions, and the absence of an adequate alternative holding site caused

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<sup>13</sup> Speer, *Portals to Hell*, 13.

<sup>14</sup> Speer, *Portals to Hell*, 13; Parker, *Richmond's Civil War Prisons*, 2.

<sup>15</sup> The Confederacy appointed a Commissary General of Prisoners for the war's last two years; however, this appointment came too late to remedy prison problems and the mutual suffering of guards and captives. For further information on Richmond authorities' handling of Union prisoners, see Parker, *Richmond's Civil War Prisons*, 2-7.

Union soldiers to crowd Richmond throughout the war, compromising the health of fellow inmates, guards, and Richmond's own residents.<sup>16</sup>

The fact that no centralized military prisons system existed does not negate the Confederate government's increased role in overseeing imprisonment. Confederate authorities operated three main military prisons in Richmond—Belle Isle, Castle Thunder, and Libby Prison. Like the Union prisons, the demands on these prisons soon exceeded their intended capacity. Belle Isle was equipped to hold 3,000 inmates but reached a population of 10,000; Castle Thunder's maximum capacity of 1,400 was stretched to over 3,000; and although Libby Prison had room for 1,000, it eventually held over 4,200.<sup>17</sup>

As the war progressed, the population of Northern and Southern camps fluctuated, depending on the operation of exchange negotiations. By the end of 1861, the Union held approximately 3,000 prisoners compared to the Confederacy's 6,000.<sup>18</sup> Both sides controlled overcrowding by paroling prisoners as quickly as possible, but the continued influx led Northern and Southern officials to the bargaining table in 1862 to negotiate a general exchange agreement. The two sides agreed to a general exchange cartel in July 1862 that reduced the prisoner population until the cartel's collapse in 1863. Under the terms of the cartel, prisoners of war were exchanged man-for-man and rank-for-rank. There was a scale of equivalents if men of lower rank were exchanged for those of higher rank.<sup>19</sup> The exchange system collapsed in May 1863 when the Confederacy refused to exchange black prisoners and because Union General Ulysses

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<sup>16</sup> Marie Tyler-McGraw, *At the Falls: Richmond, Virginia, and Its People* (Chapel Hill: The University of North Carolina Press, 1994), 140-141.

<sup>17</sup> Speer, *Portals to Hell*, 332, 334, 336.

<sup>18</sup> Speer, *Portals to Hell*, 52.

<sup>19</sup> Speer, *Portals to Hell*, 102-103; Gillispie, *Andersonvilles of the North*, 36-37, 84.

S. Grant wanted to deprive the South of manpower.<sup>20</sup> By the end of that year, Union prisons held almost 41,000 Southern prisoners, primarily at Camp Chase, Old Capitol Prison, Point Lookout, Camp Douglas, and Johnson's Island among others. Southern prisons held 21,000, mainly in the Richmond prisons, and in Charleston, Columbia, and Macon in addition to other locations.<sup>21</sup>

Prison populations remained high throughout the remainder of the war, and the death rate climbed as poor sanitation, inadequate supply, and disease plagued the camps. Another factor that contributed to the high incarceration rate was Lincoln's issuing of General Orders No. 100, also known as the Lieber Code, on April 24, 1863. This dictate, according to Scott Nelson and Carol Sheriff, effectively turned the last two years of fighting into "a war of captivity" as the federal government detained individuals who took up arms against the government and who spoke against it. The Confederacy engaged in this same practice, even though it did not formally acknowledge the Lieber Code's validity.<sup>22</sup>

The United States military laws, including the 1863 Lieber Code, have received modest attention in regard to the impact that they had on the wartime prison crisis. The Lieber Code's author was German American political science professor and scholar of nineteenth century warfare, Francis Lieber. The code served two main functions: it criminalized Confederate raids on Union supply lines while legalizing Union raids on Southern civilians, and it asserted a uniform statement that the Union's goal regarding prisoners of war was humane treatment.<sup>23</sup>

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<sup>20</sup> Speer, *Portals to Hell*, 114.

<sup>21</sup> For population totals and concentrations see Speer, *Portals to Hell*, 159.

<sup>22</sup> Scott Reynolds Nelson and Carol Sheriff, *A People at War: Civilians and Soldiers in America's Civil War, 1854-1877* (New York: Oxford University Press, 2007), 155-156.

<sup>23</sup> Nelson and Sheriff, *A People at War*, 153-154; Flory *Prisoners of War*, 57; Gillispie, *Andersonvilles of the North*, 85.

Brief examination of both the ideological and practical basis of penitentiaries and the U.S. military laws reveals not only where the ideological goal of humane treatment of inmates originated, but also points to the commonalities between the civil and military spheres regarding the proper treatment and punishment of prisoners. Judging from these close connections, it is easy to understand how antebellum penal practices that originated in penitentiaries informed military prison administration and shaped the experiences of inmates in both the North and the South.

As historian James Gillespie has noted, there was no governing body of law, like the Geneva Conventions, that dictated proper treatment of prisoners of war.<sup>24</sup> Union and Confederate contemporaries instead relied on precedents from previous conflicts, like the American Revolution and the War of 1812, and on humanitarian ideals dating back to the seventeenth and eighteenth centuries. These same ideals influenced the creation and operation of penitentiaries.<sup>25</sup> Since the development of the penitentiary system in the United States, particularly that of the Auburn system in the early nineteenth century, military and civil penal justice have influenced and paralleled each other.

As noted in the introduction, the establishment of penitentiaries resulted from the Enlightenment, when reformers emphasized the ability of institutions to change individuals. The operation of penitentiaries was consequently predicated on the humane treatment of inmates.<sup>26</sup> The end of the American Revolution caused United States citizens to enter the discussion, already apparent in Europe, about how best to discipline criminals and bring the United States to

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<sup>24</sup> Gillespie, *Andersonvilles of the North*, 72.

<sup>25</sup> Flory, *Prisoners of War*, 159-160.

<sup>26</sup> Meranze, *Laboratories of Virtue*, 4, 14.

accept the notion that the state should intervene to reform individuals.<sup>27</sup> Penitentiary proponents touted penitentiaries as reflections of democratic values and the public craved knowledge of their inner operations. While penitentiaries became highly visible, they were not the only type of carceral institution to gain public attention in the nineteenth century.

Penitentiaries were initially thought capable of reforming the minds and souls of criminals through education, labor, and religious instruction. This theory captured the attention of citizens and ignited national debate over the treatment of inmates throughout the first half of the century. Americans' philosophies about crime changed as the Revolutionary period faded and the Early National period began. While colonials dealt with social issues such as deviance, illiteracy, poverty, and insanity on an individual level, Jacksonians believed that institutions such as penitentiaries, asylums, orphanages, and schools, which reflected democratic values and promoted social stability, should solve social problems to ensure community cohesion.<sup>28</sup> Reformers and penitentiary officials heralded instances of reform in the early nineteenth century, but by 1860 this optimism faded and penitentiaries no longer served a reformatory function as a result of dwindling state funds, corruption, lack of trained prison personnel, and overcrowding. Moreover, during the late 1830s and early 1840s, a growing percentage of immigrant inmates crowded the state penitentiaries and led white middle-class citizens to lose interest in reform.<sup>29</sup> Put simply, it was much cheaper to let penitentiaries get noisy and crowded than it was to ensure that every individual had a solitary cell. By mid-century, then, the silent system was gone, regimentation was far from absolute, and the penitentiary system was seen as a failure.<sup>30</sup>

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<sup>27</sup> McLennan, *The Crisis of Imprisonment*, 19, 23; Meranze, *Laboratories of Virtue*, 4.

<sup>28</sup> Rothman, *The Discovery of the Asylum*, xiii, xviii-xix.

<sup>29</sup> William Francis Kuntz, *Criminal Sentencing in Three Nineteenth-Century Cities: A Social History of Punishment in New York, Boston, and Philadelphia, 1830-1880* (New York: Garland, 1988), 142.

<sup>30</sup> Friedman, *Crime and Punishment*, 82, 155-156, and 159.

During the Civil War, military prison officials, like their penitentiary counterparts, managed noisy, crowded, and disorganized institutions. It is reasonable to assume that military prison officials emulated many aspects of penitentiary discipline since, as previously stated, the federal government commonly turned to the state penitentiaries to discipline offenders and since military discipline impacted the formation of the Auburn system of penitentiary discipline. Under this system, designed by former military man Elam Lynds, inmates lived in solitary confinement at night and labored in congregate shops during the day making, among other things, various manufactured items, shoes, nails, clothing, and saddles. Inmates rose and slept by the bell and marched everywhere in lock step.<sup>31</sup>

Dario Melossi and Massimo Pavarini have noted that Auburn penitentiary discipline was structured “along military-hierarchical lines,” and many wardens served in the army or navy. This experience was reflected in their administrative careers at penitentiaries. As in army life, prison officials wore uniforms, assembled at specific times, changed guard, were expected to behave in a “gentlemanly manner, as if they were officers,” and maintained a detached relationship similar to the one between officers and enlisted men.<sup>32</sup> Although this type of regimentation eroded by mid-century, the system of labor, program of punishment, and desire for order that it inspired remained an elusive goal of penitentiary and military prison officials in the face of physical challenges.

Military prisons and penitentiaries also faced the same practical and physical challenges. Many problems that plagued Civil War military prisons, such as overcrowding, breakdown of discipline, poor supply, the administration of arbitrary punishment, and inexperienced guards,

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<sup>31</sup> McLennan, *The Crisis of Imprisonment*, 4, 58-59. For information on Elam Lynds, see Mark Colvin, *Penitentiaries, Reformatories, and Chain Gangs: Social Theory and the History of Punishment in Nineteenth-Century America* (New York: St. Martin's Press, 1997), 90.

<sup>32</sup> Melossi and Pavarini, *The Prison and the Factory*, 158.

first hindered the operation of penitentiaries as it became impossible to compel all inmates to behave. Penitentiary officials, due to population increase, could not mandate silence, force inmates to keep eyes downcast unless addressed by a prison official, provide constant supervision of inmates when they were out of their cells, ensure that all inmates marched in lockstep, or compel all inmates to labor silently.<sup>33</sup> Ultimately, guards used corporal punishments, instead of reformatory techniques, to ensure discipline.

These problems, which began in antebellum penitentiaries, reemerged during the Civil War in both penitentiaries and military prisons since, as the war dragged on, overcrowding increased, sanitary conditions deteriorated, and food and clothing supplies dwindled. In addition, guards also used corporal punishment to compensate for their being outnumbered. Civil War contemporaries, like their antebellum counterparts, were shocked at the lackluster reputation of nineteenth-century institutions of confinement.

Even though state officials at penitentiaries and military officials at military prisons used physical punishment, state and federal officials demonstrated concern for designated groups of inmates throughout the century and these concerns persisted during wartime. Specifically, both state and federal authorities were sensitive to the mentally ill and to females. In the first quarter of the nineteenth century, states supported the establishment of both penitentiaries and asylums in the United States. By the 1830s, as David Rothman has noted, Americans perceived insanity as a significant social problem. By 1860, twenty-eight of the thirty-three states established asylums as responsibility for the insane shifted from the family to the state.<sup>34</sup> The federal government demonstrated the same concern for insane members of the United States Army in the 1850s. During that decade, Congress approved acts authorizing the construction of a “military

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<sup>33</sup> McKelvey, *American Prisons*, 14, 56.

<sup>34</sup> Rothman, *The Discovery of the Asylum*, 110, 130.

asylum for the relief and support of invalid and disabled soldiers.” It also established the “Government Hospital for the Insane” to provide “humane care” and “enlightened curative treatment” for members of the military.<sup>35</sup> This provides yet another example of how the civil and military sectors shared common concerns regarding incarceration.

The mentally ill were not the only group of inmates that gave penitentiary and military officials cause for concern. Military and civil authorities were also particularly concerned about female captives, since they posed unique challenges. Officials had a difficult time deciding how to treat a group of inmates whom many considered, as L. Mara Dodge has noted, “more hardened and depraved than their male counterparts” and far “beyond the hope of redemption.”<sup>36</sup> Female inmates in penitentiaries were a rarity before the Civil War, and none of the nation’s first penitentiaries had separate facilities for female convicts, so they inhabited quarters near men.<sup>37</sup> Since the number of female inmates was small in the antebellum period, officials did not see this as a significant issue. As historian Edward Ayers has noted, seldom could more than one or two women be found in a Southern penitentiary during the antebellum period.<sup>38</sup> Generally speaking, as Nicole Hahn Rafter has revealed, the female prison population in the antebellum period rarely constituted more than 10 percent of the total prison population and was often much less.<sup>39</sup>

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<sup>35</sup> “An Act to Found a Military Asylum for the Relief and Support of Invalid and Disabled Soldiers of the Army of the United States: Sec.3,” 31st Cong., 2d sess., Ch. 25, 1851, Ch. 25 Approved, March 3, 1851, Vol. 9, 595, “An Act to Organize for the Insane of the Army and Navy and of the District of Columbia, in the Said District,” 33rd Cong., 2d sess., Ch. 199, 1855, in John F. Callan, *The Military Laws of the United States, Relating to the Army, Volunteers, Militia, and to Bounty Lands and Pensions, from the Foundation of the Government to the Year 1863* (Philadelphia: George W. Childs, 1863), 415-416, 437.

<sup>36</sup> Dodge, *Whores and Thieves*, 12.

<sup>37</sup> *Ibid.*, 13.

<sup>38</sup> Ayers, *Vengeance and Justice*, 62.

<sup>39</sup> Rafter, *Partial Justice*, 10.

Circumstances changed during the Civil War years. According to Edith Abbott, wartime criminal statistics are hard to come by, but she concludes that, in general, the number of female inmates in penitentiaries peaked in 1863 and 1864.<sup>40</sup> Military prisons also filled with female captives as war broadened women's visibility in the public sphere—as previously noted, wartime officials imprisoned approximately 100 women in Castle Thunder alone throughout its existence.<sup>41</sup> Regardless of the total number of female inmates, both penitentiary and military officials separated inmates on the basis of gender, as best they could, within the same building. By mid-century, many penitentiaries employed a matron to provide special care for women. Federal authorities, however, preferred that male and female inmates should inhabit completely separate facilities and they established two female prisons, one in Louisville, Kentucky, and the other, the Chestnut Street Prison, in St. Louis, Missouri.<sup>42</sup> The civil sector followed suit as autonomous women's prisons sprang up after the Civil War at the end of the nineteenth century.<sup>43</sup> These decisions, in addition to the military's use of many civil punishments, demonstrate how military and civil authorities used similar operational practices.

The military and civil sectors had much in common regarding the management of prisoners. Before looking specifically at penitentiary and military prison operation, it is

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<sup>40</sup> Edith Abbott, "The Civil War and the Crime Wave of 1865-1870," *Social Science Review*, 1, no. 2 (1927): 215.

<sup>41</sup> Estimate of the number of women confined in Castle Thunder in Parker, *Richmond's Civil War Prisons*, 25.

<sup>42</sup> Kristen L. Streater, "'She-Rebels' on the Supply Line: Gender Conventions in Civil War Kentucky," in *Occupied Women: Gender, Military Occupation, and the American Civil War*, ed. LeeAnn Whites and Alecia P. Long (Baton Rouge: Louisiana State University Press, 2009), 98; LeeAnn Whites, "'Corresponding with the Enemy': Mobilizing the Relational Field of Battle in St. Louis," in *Occupied Women: Gender, Military Occupation, and the American Civil War*, ed. LeeAnn Whites and Alecia P. Long (Baton Rouge: Louisiana State University Press, 2009), 111.

<sup>43</sup> Dodge, *Whores and Thieves*, 12. For an excellent study of women's prisons in the post-war West, see Anne M. Butler, *Gendered Justice in the American West: Women Prisoners in Men's Penitentiaries* (Urbana: University of Illinois Press, 1997).

necessary to see how the military used penitentiary punishments. Military law sanctioned many of the disciplinary practices used in penitentiaries throughout the nineteenth century, so it is not surprising that military officials used penitentiary practices to govern their prisons. In 1806, Congress determined that courts martial could sentence soldiers to hard labor for up to one month. During the Civil War, U.S. Army regulations continued use of common penitentiary punishments for soldiers sentenced by courts martial, dictating that offenders could be punished with death, confinement on a bread and water diet, solitary confinement, hard labor, and ball and chain—all punishments common in penitentiaries.

The provision sanctioning the labor of confined soldiers extended to prisoners of war. Even though the United States government determined in 1842 that prisoners of war were not considered criminal, the 1863 Lieber Code determined that these prisoners could be compelled to “work for the benefit of the captor’s government.” Congress reinforced this dictate in 1864, stating that prisoners of war may be “employed on public works,” as were penitentiary inmates.<sup>44</sup>

Overall, it is clear that there is an overriding similarity in the practices and procedures utilized in penitentiaries and military prisons. They are closely intertwined and continued to be so as the war and the nineteenth century progressed. That being said, however, local dynamics and regional influences impacted the operation and administration of both penitentiaries and military prisons. Therefore, we now turn our attention to the three focal cities of Richmond, Washington, and Columbus with the objective being to study and understand the actual impact and influences of the local dynamics on the Virginia, D.C., and Ohio penitentiaries as well as on Castle Thunder, Old Capitol Prison, and Camp Chase. Chapter 3 will provide background

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<sup>44</sup> For information contained in this and the preceding paragraph, see “An Act for Establishing Rules & Articles for the Government of the Armies of the United States,” Art. 67, 9th Cong., 1st sess. (1806), in Callan, *Military Laws of the United States*, 187; *Revised Regulations for the Army of the United States, 1861* (Philadelphia: J.G.L. Brown, Printer, 1861), 126; Flory, *Prisoners of War*, 17-18, 80-81.

information on the cities under study, highlight the establishment and purpose of the penitentiaries and military prisons under study, and ultimately provide a basis from which to compare the operation, administration, and inmates' experiences in penitentiaries and military prisons. In so doing, Chapter 3 will also reveal how the federal and Confederate governments played an increasing role in incarceration during the Civil War.

### CHAPTER 3 PENITENTIARIES AND MILITARY PRISONS: BUILT ON COMMON GROUND

As previously demonstrated, penitentiaries were established to maintain order in the new republic. They were erected at the discretion of state legislatures and staffed by men who received appointments from the state legislatures. In the federal case, the U.S. Congress authorized the construction of the D.C. Penitentiary and federally appointed officials were responsible for its administration. The location of each penitentiary in Columbus, Richmond, and D.C. was determined based on the fact that these cities represented, respectively, the state capitals of Ohio and Virginia and the capital of the United States. Similarly, during the Civil War, state and federal officials found it both important and practical to situate military prisons at the centers of state and national power. Hence, the military prisons under consideration—Camp Chase, Castle Thunder, and Old Capitol Prison—were established in the capital cities.

Military prisons became a permanent part of wartime society as officials strove for order and attempted, at first, to differentiate military prisons from penitentiaries according to the types of prisoners held in each. Northern and Southern officials detained enemy combatants and civilian offenders to prevent their aiding the enemy by taking up arms, disclosing privileged information, or perpetuating anti-Union or anti-Confederate sentiments. As prison populations rose, this classification system broke down, just as it had done in the antebellum period, and penitentiaries and military prisons both held criminals, military prisoners, and prisoners of war.<sup>1</sup> In fact, the administration, punishment, and guards' relationships with inmates were strikingly similar in both military prisons and penitentiaries.

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<sup>1</sup> Frederick Howard Wines noted that “with the classification of prisoners in prisons came also . . . the classification of prisons.” These classifications, however, were difficult to keep because of the rising number of inmates. Frederick Howard Wines, *Punishment and Reformation: An Historical Sketch of the Penitentiary System* (New York: Crowell, 1895; Memphis: General Books, 2010), 59. Citations refer to the General Books edition.

Before delving into the histories of the penitentiaries and military prisons themselves, it is first necessary to examine how these three cities evolved throughout the early nineteenth century. Their establishment and increasing population provides witness to the process of nineteenth-century state formation, as does the decision of governing officials to situate penitentiaries and military prisons in these areas. In the late 1700s and early 1800s, Richmond, Washington, and Columbus were all small and relatively unsettled communities. They became the capitals of Virginia, the United States, and Ohio, respectively, after political decisions caused the seats of government to relocate. Community establishment and each city's rise to regional prominence occurred slowly, but political leaders' decisions to erect penitentiaries happened quickly.

The need to maintain order increased as the population, economy, and political importance of Richmond, Washington, and Columbus expanded. State and federal lawmakers in these cities strove to create a well-regulated society through the exercise of police powers, control of streets and public places, and the establishment of penitentiaries to punish those who violated the state and federal legal codes.<sup>2</sup> Immigrants and free blacks looking for jobs flooded into these areas, while the rise of the market economy heightened class divisions. This caused middle and upper-class whites to look suspiciously at immigrants, African-Americans, and whites below their socio-economic rank. Incarceration as punishment was new to early nineteenth-century civilians, but many in Richmond, Washington, and Columbus viewed the penitentiary as a reflection of a well-ordered society that offered offenders the possibility of reform and promoted citizens' faith in local government.<sup>3</sup> Indeed, the Virginia, Ohio, and D.C.

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<sup>2</sup> Novak, *The People's Welfare*, 1, 9, 14, 148.

<sup>3</sup> Anna Vemer Andrzejewski, *Building Power: Architecture and Surveillance in Victorian America* (Knoxville: University of Tennessee Press, 2008), 40.

Penitentiaries detained offenders not just from their home cities, but also from their entire home state and from the entire nation.

Richmond, the oldest city under consideration, became the capital of Virginia in 1780, after the seat of government was transferred from Williamsburg. The new capital slowly became an area of ethnic, racial, and socio-economic diversity. Many wealthy, prominent citizens settled in the new capital as the tobacco industry created jobs, but the overall population increased gradually. In 1786, Richmond had approximately 1,800 residents, half of whom were slaves. By 1810, the white population numbered 9,785 and slaves totaled 3,748. The tobacco industry steadily increased throughout the first half of the nineteenth century. Industries such as ironworks, flour mills, and cotton mills provided significant employment, drawing immigrants to Virginia's capital, particularly those from Scotland, Ireland, France, Spain, Germany, and Holland, the most prominent of which were the Germans. Germans accounted for 25 percent of the white population by the 1850s, when Richmond's total population reached 27,000.<sup>4</sup> The development of industry and the rising, diverse population exacerbated social tensions, as white residents harbored suspicion towards European immigrants, free blacks, and slaves.<sup>5</sup>

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<sup>4</sup> Virginus Dabney, *Richmond: The Story of a City*, rev. ed. (Charlottesville: University Press of Virginia, 1990), 31-32, 79, 61, 133.

<sup>5</sup> Numerous scholars have noted the ambiguous relationship of Southern slaves with the law. William Link asserts that slaves were both property and capable of committing crimes against both property and people. Punishment was typically meted out by slaveholders, not the law. As Christopher Waldrep notes, slaves in many areas of the South, including Mississippi, were subject to community justice and mob rule, but ultimately noted that most state law kept crime involving slaves out of court. Slaves nonetheless resisted in ways, that Steven Hahn argues, were political. These included rebellion or labor strikes, among other day-to-day reaction. All of these acts made whites cognizant of maintaining control over the slave population. William A. Link, *Roots of Secession: Slavery and Politics in Antebellum Virginia* (Chapel Hill: University of North Carolina Press, 2003), 44; Christopher Waldrep, *Roots of Disorder: Race and Criminal Justice in the American South, 1817-1880* (Chicago: University of Illinois Press, 1998), 15, 21; Steven Hahn, *A Nation Under Our Feet: Black Political Struggles in the Rural South from Slavery to the Great Migration* (Cambridge: The Belknap Press of Harvard University Press, 2003), 3.

Social disorder became apparent in Richmond even before the city's population grew. Visitors to the city in the late 1780s and early 1790s noted excessive gambling, tavern brawls, and street fighting, which included the gouging of eyes and biting of noses and ears.<sup>6</sup> A grand jury in the 1790s wanted to contain the excessive number of vagrants, beggars, free blacks, and runaway slaves that habitually plundered residents and infested Richmond's streets.<sup>7</sup> Virginia's political leaders looked north, hoping to establish a penitentiary that would encourage reform and avoid corporal punishment.<sup>8</sup> Although governing officials and concerned citizens desired a penitentiary, fear that the penitentiary's existence would depreciate land values prevailed among the citizenry, who avoided settling in close proximity to it. Residential development consequently stalled along the James River near the penitentiary.

Local residents, nonetheless, remained interested in what went on behind prison walls.<sup>9</sup> Even though the state exercised a monopoly over penal administration, that power to create and administer penitentiaries would not have existed without the support of the wider population.<sup>10</sup> Penitentiary construction commenced in 1796, and the prison opened in 1800, housing offenders from the entire state and ushering in a new era of criminal justice, curiosity, and conviction about the penitentiary's place in society and politics.

Similar urban dynamics shaped the early years of Washington, D.C. When politicians relocated the federal capital from Philadelphia to the District of Columbia in 1800, the city was a backwater town. Nineteenth-century cities typically grew on commercial foundations, assuring

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<sup>6</sup> Dabney, *Richmond*, 34.

<sup>7</sup> *Ibid.*, 48.

<sup>8</sup> Paul W. Keve, *The History of Corrections in Virginia* (Charlottesville: University Press of Virginia, 1986), 2, 23. Philadelphia's Walnut Street Jail heavily influenced Virginians' ideas regarding the erection and function of penitentiaries.

<sup>9</sup> Dabney, *Richmond*, 48.

<sup>10</sup> Garland, *Punishment and Modern Society*, 32.

settlers of good prospects for trade and prosperity.<sup>11</sup> Washington, on the other hand, arose from a political compromise in July 1790, leaving commercial interests to develop later as settlers streamed in.<sup>12</sup> In 1800, when Congress first met at the new capital, Washington was a small, isolated community with only 501 heads of household and a number of smaller landowners. Land speculators and professionals brought the population to 14,093, which included 3,200 slaves. Opportunities for employment were scarce. Government building projects and various other government jobs attracted laborers from surrounding areas, but there were few commercial and industrial projects in the city's early years.<sup>13</sup>

Washington's population nonetheless grew rapidly, nearly tripling between 1800 and 1812 and increasing steadily thereafter. By 1850, the city claimed nearly 52,000 residents, among them about 38,000 whites, including 6,000 immigrants; 10,000 free blacks; and 4,000 slaves.<sup>14</sup> As the population rose, so too did the occurrence of property crime and the disparity between social classes. Sanitary conditions declined due to overcrowding and citizens dumping garbage into the streets. Tensions also increased between Irish immigrants and free blacks, who competed for common laborers' jobs, and poverty often drove the unemployed to resort to crime.<sup>15</sup> The city jail soon exceeded capacity in the early 1820s, and the House of Representatives launched an investigation into how best to remedy poor prison conditions. Congress authorized the construction of a federal penitentiary, which opened in 1831, easing

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<sup>11</sup> Constance McLaughlin Green, *Washington Village and Capital, 1800-1878* (Princeton: Princeton University Press, 1962), vii.

<sup>12</sup> In exchange for James Madison's pledge to garner enough southern votes to pass Treasury Secretary Alexander Hamilton's controversial Report on Public Credit, northern congressmen agreed to locate the new federal capital on land ceded by Virginia and Maryland.

<sup>13</sup> Green, *Washington*, 19, 20, 21.

<sup>14</sup> *Ibid.*, 55, 21, 208.

<sup>15</sup> *Ibid.*, 211, 182

overcrowding in the city jail, incarcerating federal offenders from D.C. itself and from across the nation, and offering the prospect of reform to criminals.<sup>16</sup>

Like Washington, Columbus was created by political decree. The city of Chillicothe served as the first capital of Ohio when the state entered the Union in 1803, but this location proved inadequate. In 1812, the General Assembly created the city of Columbus and the state legislature occupied its new quarters in central Ohio in 1816.<sup>17</sup> Since Columbus was in the middle of westward expansion, its population increased dramatically despite the transient nature of many of its inhabitants. When construction of the new state capital commenced in 1812, only a handful of settlers resided in Columbus. By mid-century, however, the city boasted 17,872 residents, of which 7 percent were black, one-third were German, and 1,000 were Irish.<sup>18</sup>

Columbus's residents worked as mechanics, blacksmiths, carpenters, shoemakers, and unskilled laborers. The white-collar workforce grew steadily, adding merchants, clerks, grocers, physicians, and lawyers.<sup>19</sup> As the city's economy expanded, class, ethnic, and racial tensions also increased. By mid-century, class divisions had become pronounced and merchants, lawyers, doctors, and large landowners controlled most of the city's wealth and political influence. Common laborers, both black and white, occupied the lowest rungs of the socio-economic ladder, competing fiercely for jobs.<sup>20</sup> White residents of all classes harbored suspicion and resentment toward the city's sizable German and free black populations. Whites pressured German immigrants to adopt American speech, laws, and customs. German settlers, on the other

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<sup>16</sup> Ibid., 91.

<sup>17</sup> Charles C. Cole, Jr., *A Fragile Capital: Identity and the Early Years of Columbus, Ohio* (Columbus: Ohio State University Press, 2001), 1, 17.

<sup>18</sup> Ibid., 83-84, 214-215.

<sup>19</sup> Ibid., 215.

<sup>20</sup> Ibid., 92.

hand, clung to their own culture, advocated the printing of local laws and official documents in German, and perpetuated their culture in “Little Germany,” an ethnic enclave on Columbus’s south side.<sup>21</sup>

Tensions were, perhaps, even higher between Columbus’s white residents and free blacks. Abolitionists constituted a small minority in the city and anti-abolitionist sentiment inspired riots throughout the 1840s as a result of prejudice and racism that existed even among those who hated slavery. Segregation became more prominent as time passed. Ohio’s Black Laws required free blacks and mulattos to carry proof of their freedom at all times and to register their children for a fee of twelve and a half cents per name. They also banned blacks from testifying in court against whites. These laws persisted throughout the first half of the nineteenth century, despite futile petitions for repeal in 1846.<sup>22</sup>

Crime in Columbus concerned political officials even before the legislature occupied the new capital in 1816. The Ohio State legislature sanctioned imprisonment for state offenses on January 27, 1815, and the city’s first penitentiary opened that same year.<sup>23</sup> As time progressed, and ethnic, racial, and class tensions increased with the growth of Columbus’s population, the penitentiary became overcrowded and its conditions deteriorated. The Ohio General Assembly investigated the penitentiary, concluding that it failed to serve “any valuable purpose” and had become “a serious evil” that required “immediate remedy.”<sup>24</sup> Consequently, the Assembly authorized the construction of a new penitentiary predicated on the Auburn system. Construction,

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<sup>21</sup> Ibid., 90, 148, 165.

<sup>22</sup> Ibid., 190, 191, 196, 189, 200.

<sup>23</sup> Harry G. Simpson, “The Prisoners of the Ohio Penitentiary, 1883,” Western Reserve Historical Society, Cleveland, Ohio, (hereafter cited as WHRS), 10.

<sup>24</sup> Ohio General Assembly, 1831-1832, “Report of the Standing Committee on the Penitentiary, Mr. Kirtland from the Standing Committee on the Penitentiary Made the Following Report,” Ohio Historical Society, Columbus, Ohio (hereafter cited as OHS), 1.

undertaken by prisoners, commenced in March of 1833, and prisoners from all over the state were transferred from the old prison in October of 1834.<sup>25</sup>

The three cities under consideration were similar in that political officials were concerned about disorder that resulted from economic changes and population growth—not just in their immediate localities, but in their states at large. Richmond and Washington both had free black and slave populations, while Columbus experienced racial tensions common during the antebellum period as a result of the abolitionist movement. They responded by creating penitentiaries to control criminals and the penitentiaries erected in Washington, Richmond, and Columbus housed both state and federal offenders. They also bore similarities in administration, operation, and purpose from their establishment.

The Virginia, D.C., and Ohio penitentiaries occupied similar locations in their respective towns and had comparable physical layouts, both being modeled on the Auburn system. Each penitentiary was located in a visually prominent space within its home city: the Virginia Penitentiary sat ominously on a hill on the bank of the James River, surrounded by two ravines; the D.C. Penitentiary occupied a point of land projecting into the Potomac River, south of the national capital; and the Ohio Penitentiary sat on the east bank of the Scioto River, three squares west of High Street, the main thoroughfare in Columbus.<sup>26</sup> The isolation of the penitentiaries was practical from a disciplinary standpoint, but presumably was also daunting to local residents and potential criminals as they gazed upon the massive structures while going about their daily routines.

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<sup>25</sup> Cole, *A Fragile Capital*, 119, 120, 121.

<sup>26</sup> William Crawford, *Report on the Penitentiaries of the United States* (1835; repr., Montclair, NJ: Patterson Smith, 1969), 102, 106; Capt. Thomas H. Hines, “Thrilling Narrative of the Escape of Gen. John H. Morgan from the Ohio Penitentiary” (1887), WHRS, 1-2.

Penitentiary architecture was designed to impress the beholder. The Virginia Penitentiary was an elegant three-story, symmetrical horseshoe containing arched windows and ceilings. The prison contained 168 sleeping cells, which was the intended maximum capacity. Each cell was twelve feet long, six and a half feet wide, and nine feet high, with arched ceilings. There were fourteen cells in the basement for the solitary confinement of inmates. Six cells on the first floor were reserved for female convicts. Perimeter security was inadequate in the prison's early years, consisting of a mere wooden wall. A brick wall was constructed in 1824 to increase security.<sup>27</sup>

The D.C. Penitentiary was equally imposing. A wall twenty feet high, containing two guard towers, surrounded the prison. The penitentiary had 160 cells in total, making that number its intended maximum capacity. Cells were arranged back-to-back in continuous fashion in a structure four stories high. Each cell measured seven feet, eleven inches long, three feet four inches wide, and seven feet, nine inches high. Large windows on the prison's outer wall measured twelve feet three inches wide, a visible reminder that freedom was just out of reach.<sup>28</sup>

The Ohio Penitentiary was surrounded by a solid stone wall that measured thirty feet high and contained sentry turrets. Prison architects intended the Ohio Penitentiary to be massive; it stood five stories high and eventually contained 700 sleeping cells arranged in two wings, each containing 350 cells. Cells measured seven feet long, three and a half feet wide, and seven feet high. The women's wing of the prison consisted of a detached building in the prison's rear, two stories high, housing twenty-four cells.<sup>29</sup>

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<sup>27</sup> Keve, *History of Corrections in Virginia*, 24, 26-27; Crawford, *Report on the Penitentiaries*, 106.

<sup>28</sup> Mary C. Thornton, *A Complete Guide to the History and Inmates of the U.S. Penitentiary District of Columbia, 1829-1862* (Bowie, MD: Heritage Books, 2003), 15; Crawford, *Report on the Penitentiaries*, 102; Dorothea L. Dix, *Remarks on Prisons and Prison Discipline in the United States*, 2d. ed. (1845: repr., Montclair, NJ: Patterson Smith, 1967), 47-48.

<sup>29</sup> Speer, *Portals to Hell*, 149; Crawford, *Report on the Penitentiaries*, 127; Hines, "Thrilling Narrative of the Escape of Gen. John H. Morgan," 1-2; Dix, *Remarks on Prisons*, 48.

Throughout the antebellum period, the Ohio and Virginia Penitentiaries held both federal and state offenders, while the D.C. Penitentiary held federal offenders from D.C. as well as other areas of the United States. In the antebellum period, the most common prisoners sentenced to the D.C. Penitentiary from areas outside of the federal capital were misbehaving members of the U.S. armed forces. For example, the U.S. Navy commonly sentenced personnel found guilty of crimes ranging from desertion to theft to treason to periods of hard labor in the D.C. Penitentiary since these were considered federal crimes. This practice persisted into the Civil War and created a stir in Washington.<sup>30</sup>

Before delving into the war years, we need to get an idea of the types of crimes that penitentiaries punished in addition to the gender, race, and age of inmates. Therefore, we will now examine the population statistics of each institution from the year 1860. In order to compile this data, I consulted the penitentiary prison registers from the 1860 annual reports of the Ohio, Virginia, and D.C. Penitentiaries and compared them to the 1860 U.S. Federal census data.<sup>31</sup> Since this study is primarily interested in gaining the perspective of penitentiary administrators, I was more interested in the data reported by the wardens themselves, though both data sets are comparable. Overall, penitentiary administrators carefully recorded inmates' race, crimes, gender, and age. The data that I analyzed confirms the already accepted scholarly assertions that penitentiaries in the antebellum period housed a significant number of immigrants and few blacks.<sup>32</sup> When looking at the registers of prisoners, it is interesting to note that officials were not

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<sup>30</sup> For information on the antebellum period and wartime Washington, see Letter from the Attorney General, "Prisoners in the Penitentiary by Sentence of Courts-Martial," H. Misc. Doc. No. 85, 37th Cong., 2nd sess., Fiche 31, Library of Virginia, Richmond, VA (hereafter cited as LVA).

<sup>31</sup> See Tables 3-1 through 3-12 and Appendix.

<sup>32</sup> Steven Mintz, *Moralists & Modernizers: America's Pre-Civil War Reformers* (Baltimore: The Johns Hopkins University Press, 1995), 81; Rothman, *The Discovery of the Asylum*, 240; Rafter, *Partial Justice*, 131-132.

interested in totaling how many inmates originally hailed from countries outside of the United States. Rather, officials from the Ohio, Virginia, and D.C. Penitentiaries classified immigrants from Germany, Ireland, Greece, France, and England as white. Similarly, in the final count, all officials classified blacks and mulattos as black. Ultimately, my research demonstrates no distinction in treatment of inmates according to race or ethnicity. Research, however, does reveal distinctions based on gender.

The data collected from the 1860 inmate registers and census also confirms that there were few women in penitentiaries before the Civil War, as noted in Chapter 2. That year, the Virginia Penitentiary had twelve women—five white and seven black; the D. C. Penitentiary had 8 women—one white and seven black; and the Ohio Penitentiary had fifteen women—thirteen white and two black. These women, in all three areas, were young, mainly between the ages of fifteen and twenty-five. As later chapters will demonstrate, penitentiary officials paid little attention to the conditions in which women lived while incarcerated and, when the opportunity presented itself, compelled female inmates to undertake domestic jobs that reinforced nineteenth-century gender roles.

When it comes to crime, the Ohio, Virginia, and D.C. Penitentiaries were mostly used to punish young men between the ages of twenty and thirty who committed property crimes. The most common crime in Virginia was grand larceny; in D.C., it was larceny; and in Ohio, it was burglary. The second and third most common crimes varied—in Ohio the second most common crime was larceny, and the third was a combination of the top two: burglary and larceny. In Washington, nothing came close to larceny. In 1860 the D.C. Penitentiary held ninety-two inmates for that crime, with the second most common offense being felony, with thirteen commitments. Finally, in Virginia, the second most prevalent crime was homicide with second-

degree murder coming in third. Virginia held more violent offenders than the northern prisons, a phenomenon already recognized by scholars.<sup>33</sup> While this is interesting to note, this study is not intended to provide inquiry into the reasons for crime, especially since the type of crime inmates committed had no bearing on how they were treated in penitentiaries, as noted in the Introduction. Rather, this study is interested in examining how the Union and Confederate governments used penitentiaries to house military prisoners alongside criminals.

During the Civil War, penitentiaries also held military offenders, such as those suspected of treason, and prisoners of war. The penitentiaries in each city shared the burden of housing additional inmates during wartime with military prisons—Camp Chase, Old Capitol Prison, and Castle Thunder.

Union and Confederate officials intended military prisons to be temporary, remaining in existence only as long as the war continued. Regardless, these military prisons, like penitentiaries, reflected the power of both the state and federal governments, as they helped Union and Confederate officials ensure the public interest and, during wartime, preserve the loyalty of citizens at the expense of individual freedom.<sup>34</sup> The establishment of military prisons not only continued the trend towards centralization that occurred during the antebellum years. It also fit with the very reason penitentiaries were created in the nineteenth century. Lawrence Friedman notes that penitentiaries were “new social inventions” that arose out of the awareness

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<sup>33</sup> Leonard Beeghley has noted how violent crime was more common in the South. Beeghley notes that homicide rates were “very high.” For example, the homicide rate in South Carolina during the antebellum period was four times that in Massachusetts. Beeghley notes that slavery had a “corrosive effect on human relationships throughout the South” since it led whites to believe that they were above the law and free to act out against not only slaves, but on other whites. Southerners commonly used violence to settle personal differences, which often resulted in death. Leonard Beeghley, *Homicide: A Sociological Explanation* (New York: Rowman & Littlefield, 2003), 52.

<sup>34</sup> The creation of military prisons supports William Novak’s assertion that the nineteenth century United States was a public society where the public interest was superior to private interest. See Novak, *The People’s Welfare*, 9.

that a mobile society demanded “new techniques of control.”<sup>35</sup> During wartime, both the Union and Confederate governments dealt with mobilizing armies, civilians trying to escape armed conflict, and family members seeking to find loved ones beyond enemy lines. Given this climate of change, the Union and Confederate governments used military prisons to remind civilians that changing political and social dynamics necessitated changes in the reasons for punishment.

Since military prisons were controlled by the national governments in the North and the South, the new institutions generated conflicts regarding state and federal intervention in prison operation, given that state governments were accustomed to running penitentiaries. During wartime, military prisons and penitentiaries punished the same types of prisoners, and the federal and Confederate governments continued the antebellum practice of confining soldiers and prisoners of war in penitentiaries. In order to understand how imprisonment functioned during wartime, it is necessary to examine why military prisons were established in Columbus, Washington, and Richmond, and how Northern and Southern authorities defined their purpose to provide a basis from which to compare them with penitentiaries.

When Union authorities established Camp Chase, they had no intention of using the site as a military prison, since they believed that the war would be short. The camp, however, became a fixture in Columbus throughout the war. Following the Confederate bombardment of Fort Sumter in April 1861, both federal and state officials threw themselves into the urgent business of raising and training an army. In the few weeks after President Lincoln called for 75,000 volunteers on April 15, 1861, thousands of Ohio volunteers converged on Columbus. The new recruits organized at Camp Jackson, four miles west of Columbus. On June 20, 1861, Columbus

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<sup>35</sup> Friedman, *Crime and Punishment*, 12-13.

officials changed the post's name to Camp Chase in honor of Salmon P. Chase, Lincoln's Secretary of the Treasury and a former Ohio governor.<sup>36</sup>

Camp Chase served four functions throughout the war: a training camp for Union recruits, a detention site for paroled Union soldiers, a mustering-out location for Northern troops, and a military prison which held political prisoners and prisoners of war.<sup>37</sup> On July 5, 1861, a few weeks after the prison's establishment, Camp Chase received its first inmates from western Virginia.<sup>38</sup> The prison held mainly political prisoners from western Virginia, Ohio, and Kentucky from August 1861 through mid-1863. At that point, Union officials, for the sake of discipline, transferred most political prisoners and Confederate officers to Johnson's Island Prison in Sandusky Bay, Ohio, and left only enlisted men at Camp Chase.<sup>39</sup>

As in the penitentiaries, military officials believed in constant surveillance and in severing inmates' connection with the outside world. Camp Chase was situated on 160 acres, surrounded by a plank wall to inhibit outside observation. The prison's interior was divided into sections by fencing, and the perimeter consisted of a double fence, a parapet on the external wall, and guardhouses at each corner, enabling guards to keep constant watch. Inmates understood not to get too close to the outer wall, lest they jeopardize their lives. Prisoners were not to cross the "dead line," a small ditch eight feet from the outer wall that surrounded the barracks.<sup>40</sup>

Authorities organized Camp Chase into three separate prisons. Prison No. 1 consisted of an acre

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<sup>36</sup> Osman Castle Hooper, *History of the City of Columbus, Ohio: From the Founding of Franklinton in 1797, through the World War Period, to the Year 1920* (Columbus, OH: Memorial Publishing, 1920), 47.

<sup>37</sup> Gilbert F. Dodds, *Camp Chase: The Story of a Civil War Post* (Columbus, OH: The Franklin County Historical Society, a Civil War Centennial Project, n.d.), 2-3.

<sup>38</sup> Dodds, *Camp Chase*, 2.

<sup>39</sup> Speer, *Portals to Hell*, 137, 47.

<sup>40</sup> R.M. Gray, *Civil War Reminiscences*, 48, Civil War Collection, Reel 2, OHS; Speer, *Portals to Hell*, 138.

and was designed to hold about two hundred prisoners. Prison No. 2 and Prison No. 3 were larger, each encompassing approximately five acres. Camp Chase's total capacity was 3,500 to 4,000 prisoners, but the prison often held from 5,000 to 6,000.<sup>41</sup>

Civilians understood the crimes that could warrant penitentiary sentences, but became only vaguely familiar with political crimes during war, despite the federal government's publication of offenses. This vagueness undoubtedly frustrated American citizens since, from the days of the Revolution, Americans wanted to guard against abuse of criminal justice and against the use of the criminal process to crush political dissent. Therefore, citizens believed that rules should be not only fair and balanced, but also open and easy to know.<sup>42</sup> Many individuals were likely confused by the federal government's publication of offenses that would lead to detention at Camp Chase. On April 30, 1862, Major General John Frémont, commander of the Mountain Department in Wheeling, Virginia, issued a circular warning civilians that any person charged with disloyalty, accused of "having served under the rebel Government whether in the military, judicial, executive, or legislative departments," and persons "taken with arms in their hands" or having been "engaged as guerillas at the time of their capture," would be held at Camp Chase to await orders from the War Department.<sup>43</sup> This circular established the military prison as a holding facility for residents from Ohio, Virginia, and Kentucky who were suspected of treason. It also signaled that federal authorities would detain numerous political prisoners on questionable evidence, increasing the national government's involvement in incarceration.

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<sup>41</sup> According to Lonnie Speer, Camp Chase's all-time high in population was 9,000 in January 1865. Speer, *Portals to Hell*, 138.

<sup>42</sup> Friedman, *History of American Law*, 215.

<sup>43</sup> *Richmond Daily Dispatch*, May 14, 1862; Headquarters Mountain Department, Wheeling, VA, April 30, 1862, accessed March 2, 2010, <http://imls.richmond.edu:80/d/ddr/>.

During the antebellum period, officials were convinced that penitentiaries helped to maintain social order. With the outbreak of war, officials not only in Columbus, but also in Washington, D.C., and in Richmond, established military prisons in hopes of preserving order in the midst of the war's political and social upheaval. Federal officials in Washington first held prisoners of war and criminals in existing prisons, but these soon exceeded capacity. Union officials consequently transformed the Old Capitol building, on the corner of First and A Streets, into a makeshift prison. The building, erected in 1800 as a tavern and boarding house, was in a state of disrepair, with creaky stairs, decaying walls, and wooden slats covering windows, all of which later contributed to poor internal conditions, much like those in penitentiaries.<sup>44</sup> Old Capitol Prison held mostly political prisoners throughout the war. It also confined Confederate prisoners of war, suspected Confederate spies, and Union deserters.<sup>45</sup> The prison held many civilians who came from almost every state in the Union and from all walks of life, including highly educated men and merchants.<sup>46</sup> The original building had a capacity of 500. In 1862, this increased to 1,500 when federal officials commandeered a row of houses near the Old Capitol, which became known as Carroll Prison, to accommodate population increases.<sup>47</sup>

While state penitentiaries punished mostly civilians from all over the state, federal military prisons could punish individuals from beyond state or district lines, redefining citizens' relationship with the federal government. During the antebellum period, state penitentiaries punished most offenders. In war, however, the War Department directed federal authorities to

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<sup>44</sup> Lucille Griffith, ed., "Fredericksburg's Political Hostages: The Old Capitol Journal of George Henry Clay Rowe," *The Virginia Magazine of History and Biography* 72, no. 4 (1964): 398; Speer, *Portals to Hell*, 41.

<sup>45</sup> Speer, *Portals to Hell*, 82.

<sup>46</sup> James J. Williamson, *Prison Life in the Old Capitol and Reminiscences of the Civil War* (West Orange, N.J., 1911), iii; John A. Marshall, *American Bastille: A History of the Illegal Arrests and Imprisonment of American Citizens During the Late Civil War* (Philadelphia: Thomas W. Hartley, 1869), 324.

<sup>47</sup> Speer, *Portals to Hell*, 41.

detain individuals suspected of treason in military prisons and, sometimes, in penitentiaries, establishing incarceration's purpose of ensuring loyalty to the United States. On August 14, 1862, Judge Advocate L.C. Turner notified Stephen D. Reed, U.S. Marshal in Oswego, New York, that "all persons arrested for disloyal practices against the United States" should be sent to the Old Capitol Prison "with charges and proofs against them to be tried before a military commission."<sup>48</sup> This notification reveals that federally-run military prisons could have widespread jurisdiction, since the Old Capitol's reach extended to distant areas like New York. Just as with Camp Chase, civilians from the immediate vicinity as well as those from far away areas feared the reach of Old Capital Prison.

Richmond's Castle Thunder Prison also had a far-reaching influence as Confederate officials recognized the function of military prisons in maintaining order; Confederate authorities sent offenders to the Richmond military prison from all over the South. In 1862, Confederate authorities commandeered Gleanor's Tobacco Factory, Whitlock's Warehouse, and Palmer's Factory to create Castle Thunder Prison. Castle Thunder housed political prisoners, Union and Confederate deserters, and criminals from all over the Confederacy, causing civilians and the press to view it with a critical eye.<sup>49</sup> After Confederate President Jefferson Davis declared martial law in Richmond on March 1, 1862, suspending civil jurisdiction and the writ of habeas corpus, the city overflowed with political prisoners.<sup>50</sup> Castle Thunder military prison became a

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<sup>48</sup> L.C. Turner, Judge Advocate, to Stephen D. Reed, August 14, 1862, in *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies: Series II, Volume 4*, 390 (hereafter cited as O.R.).

<sup>49</sup> "A General Military Depot," *Richmond Daily Enquirer*, 10 December 1862, in *Civil War Richmond*, Mike Gorman, ed. accessed October 29, 2008, [http://www.mdgorman.com/Written\\_Accounts/Enquirer/1862/richmond\\_enquirer,\\_12\\_10\\_1862.htm](http://www.mdgorman.com/Written_Accounts/Enquirer/1862/richmond_enquirer,_12_10_1862.htm).

<sup>50</sup> For information regarding Davis's declaration of martial law and suspension of habeas corpus, see Neely, *Southern Rights*, 37. For broader discussions of wartime Richmond and the imposition of martial law, see Blakey, *General John H. Winder*; Casstevens, *George W. Alexander*, 32-40.

melting pot of dissenters that housed males, females, blacks, and whites. Confederate deserters and political prisoners occupied the Gleanor building, which had an estimated capacity of 650. Whitlock's Warehouse, with a capacity of 350, confined black and female prisoners. Deserters and, later, federal prisoners of war were held in Palmer's Factory, with an estimated capacity of 400. Since Confederate officials detained any man or woman who potentially threatened the South, Castle Thunder quickly exceeded its intended capacity of 1,400.<sup>51</sup>

The United States government had no federal prison system in the antebellum period, so Northern and Southern military officials did not know how to manage large numbers of captives—a task to which individual states were accustomed. This lack of experience led to confusion and caused military prison officials to rely on well-entrenched penitentiary practices and to continue to rely heavily on state penitentiaries to help mete out punishment.

Neither Union nor Confederate officials anticipated establishing long-term military prisons to detain prisoners of war or to hold political prisoners. Just as in the early nineteenth century, wartime government officials feared disorder amidst changing social, political, and economic circumstances and therefore established military prisons as a quick fix.<sup>52</sup> Union and Confederate officials confiscated existing buildings or hastily constructed military prisons to punish men and women of all classes and races who were perceived as threats to their respective causes.

War extended the offenses for which the Union and Confederate governments incarcerated civilians, stressing the importance of loyalty and curtailing familiar civil liberties. They also broadened the scope of those arrested, forcing military prison officials to guard soldiers and civilians of all races, ethnicities, and genders, and to hold an unprecedented number

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<sup>51</sup> See Speer, *Portals to Hell*, 93, for all divisions of inmates and prison capacities.

<sup>52</sup> Colvin, *Penitentiaries, Reformatories, and Chain Gangs*, 119.

of offenders in military prisons and penitentiaries. The range of crimes that led to wartime incarceration had no notable impact on the experiences of either prison officials or their captives. Prison operation, administration, and the daily experiences of prison officials remained much the same from the antebellum period through the Civil War. Officers demonstrated Christian values like piety, industriousness, and discipline; guards endured poor living and working conditions, and prison regulations mandated that officers keep their distance from inmates while they controlled prisoners' time, actions, and correspondence.

In sum, the transition from peace to war did not usher in a new set of prison procedures and practices. Nor did the offenses for which people were imprisoned impact the punishment that they received behind bars, as this dissertation demonstrates beginning in Chapter 4 with an overview of the purposes of both penitentiaries and military prisons. Penitentiaries were initially reformatory in nature. However, they, like military prisons, became primarily punitive institutions that faced a changing society and rapidly deteriorating internal conditions such as overcrowding, disease, and disciplinary challenges. These conditions added to the parallel nature of both types of institutions as both utilized similar practices and principles in a time marked by great political unrest and social change that was compounded by the upheavals of war.

Table 3-1. Virginia Penitentiary Population (Crime), 1860

1860 Crime	Total
1st degree murder	1
2nd degree murder	75
Voluntary manslaughter	14
Homicide	90
Unlawful stabbing	7
Malicious wounding, with intent to kill	6
Malicious shooting	5
Malicious cutting & stabbing	12
Malicious wounding	1
Stabbing with intent to maim	1
Malicious beating a white man	1
Maiming	1
Unlawful wounding	2
Assault with intent to kill	4
Rape	7
Carnal knowledge of a female child	2
Attempt to rape white woman	3
Robbery	7
Poisoning stock	1
Arson	6
Arson & burglary	1
Mail robbery (U.S. Prisoners)	2
Entering custom house & larceny	1
Store breaking	1
House breaking	2
House breaking & larceny	15
Store breaking & larceny	4
Burglary	19
Burglary & Larceny	8
Entering house with intent to commit rape	1
Entering house with intent to steal	1
House burning	3
Accessory to arson	1
Burning a saw and grist mill	1
Horse stealing	18
Cow stealing	1
Mule stealing	1
Grand larceny	92
Receiving stolen goods	1
Slave stealing	3
Aiding slaves to escape	8

Table 3-1. Continued

1860 Crime	Total
Advising slaves to abscond	3
Carrying of slaves	4
Conspiring with slaves to rebel &c.	1
Attempt to pass forged check	1
Passing counterfeit bank notes	13
Passing counterfeit coin	2
Having counterfeit money in possession	2
Obtaining property by false pretense	1
Petit larceny	2
Bigamy	3
Obstructing a rail road	4
Burning stacks	2
Totals	389

Table 3-2. Virginia Penitentiary Population (Race and Gender), 1860

1860 Race/gender	Number	Total
White men	290	
White women	5	295
Black men	87	
Black women	7	94
Total population		389

Table 3-3. Virginia Penitentiary Population (Age of Males), 1860

1860 Age of males (in years)	Total
15 to 20	47
20 to 25	94
25-30	84
30-35	52
35-40	31
40-45	40
50-60	21
60-80	8
Total	377

Table 3-4. Virginia Penitentiary Population (Age of Females), 1860

1860 Age of females (in years)	Total
12	1
15 to 20	3
20-25	2
25-30	2
30-35	2
45-50	2
Total	12

Table 3-5. D.C. Penitentiary Population (Crime), 1860

Crimes 1860	Total
Assault & larceny with intent to kill	3
Larceny	92
Burglary	1
Manslaughter	8
Rape	8
Robbing U.S. Mail	9
Manslaughter & larceny	2
Assault & battery with intent to kill	9
Passing counterfeit coin	3
Murder	2
Horse-stealing	3
Burglary & arson	1
Arson	4
Mutiny	2
Felony	13
Perjury	2
False pretense	3
Bigamy	1
Misdemeanor	1
Abetting a rape	1
Forgery	1
Total	169

Table 3-6. D.C. Penitentiary Population (Race and Gender), 1860

1860 Race/Gender	Number	Total
White men	112	
White women	1	113
Black men	49	
Black women	7	56
Totals		169

Table 3-7. D.C. Penitentiary Population (Age of Males), 1860

1860 Age of males (in years)	Total
Under 15	4
15 to 20	31
20 to 25	43
25-30	35
30-35	26
35-40	5
40-45	5
50-60	8
60-80	4
Total	161

Table 3-8. D.C. Penitentiary Population (Age of Females), 1860

1860 Age of females (in years)	Total
15 to 20	3
20-25	3
25-30	0
30-35	1
35-40	1
Total	8

Table 3-9. Ohio Penitentiary Population (Race and Gender), 1860

1860 Crime	Total
Arson	18
Attempt to commit arson	3
Attempt to commit arson & horse-stealing	1
Assault with intent to kill	25
Assault with intent to rape	13
Assault with intent to rob	4
Assault with intent to wound	1
Attempting to pass counterfeit bank bills	16
Attempting to pass counterfeit coin	1
Burglary	164
Burglary & larceny	111
Burglary, larceny, & horse-stealing	1
Burglary & attempt to commit rape	1
Bigamy	7
Carnal knowledge of insane woman	1
Counterfeiting coin	5
Counterfeiting & selling coin	3
Embezzlement	2
Entering dwelling & attempt to kill	1
Entering dwelling with intent to steal	1
Forgery	36
Horse-stealing	101
Having counterfeit money with intent to sell	16
Harboring thieves	1
Having in possession implements for counterfeiting	3
Incest & rape on daughter	1
Incest with daughter	4
Illegal voting	1
Larceny	113
Larceny & horse-stealing	7
1st degree murder	7
2nd degree murder	56

Table 3-9. Continued

1860 Crime	Total
Manslaughter	46
Malicious shooting	4
Malicious stabbing	3
Mail robbery	3
Making & passing counterfeit coin	9
Malicious destruction of property	1
Poisoning	2
Perjury	10
Passing counterfeit bank bills	1
Placing obstructions on railroad	2
Rape	13
Robbery	35
Robbery & burglary	2
Robbery & larceny	2
Robbery & malicious shooting	2
Receiving stolen goods	1
Stealing bank bills	2
Shooting with intent to kill	7
Stabbing with intent to kill	6
Shooting with intent to wound	4
Stabbing with intent to wound	9
Subornation of perjury	1
Selling counterfeit money	2
Uttering & publishing counterfeit money	13
Uttering forged note	1
Uttering forged assignment for bounty land	1
Total	932

Table 3-10. Ohio Penitentiary Population (Race and Gender), 1860

1860 Race/gender	Number	Total
White men	820	
White women	13	833
Black men	97	
Black women	2	99
Total population		932

Table 3-11. Ohio Penitentiary Population (Age of Males), 1860

1860 Age of males (in years)	Total
Under 15	11
15 to 20	123
20 to 25	180
25-30	204
30-35	144
35-40	102
40-45	69
45-50	40
50-60	28
60-80	16
Total	917

Table 3-12. Ohio Penitentiary Population (Age of Males), 1860

1860 Age of females (in years)	Total
12	1
15 to 20	5
20-25	3
25-30	3
30-35	2
45-50	1
Total	15

## CHAPTER 4 THE PURPOSE AND ROLE OF PENITENTIARIES AND MILITARY PRISONS

Scholars have explained how the concept of penitentiaries developed in the late eighteenth and early nineteenth centuries, as American reformers participated in a transatlantic debate about the way best to deal with criminals and prisoners in an urbanizing world. Most prominently, David Rothman argues that American elites established penitentiaries because they believed that penitentiaries ensured the safety of the republic.<sup>1</sup> Penitentiaries were intended to produce republican citizens, and middle class reformers were initially confident in the ability of the inmates to become productive, disciplined members of society. But this optimism, and the penitentiary's reformatory objectives, failed and penitentiaries essentially became holding pens for criminals.<sup>2</sup> This failure leveled the differences between penitentiaries and military prisons, which were established for the first time on a wide scale to maintain loyalty and social order during the Civil War. While definitions of crime evolved and prison populations fluctuated according to political, economic, and social circumstances, the role and the practical operation of both penitentiaries and military prisons followed along similar lines.<sup>3</sup>

As Chapter 2 demonstrated, military and civilian punishment overlapped throughout the antebellum period as penitentiaries operated along military-hierarchical lines and officials in both sectors demonstrated similar concerns about the separation of inmates. This chapter further emphasizes these similarities, as they existed during the Civil War. It analyzes the role of the Ohio, D.C., and Virginia penitentiaries in punishing soldiers during the antebellum and Civil

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<sup>1</sup> Rothman, *The Discovery of the Asylum*.

<sup>2</sup> Thomas L. Dumm, *Democracy and Punishment* (Madison: University of Wisconsin Press, 1987), 126; Colvin, *Penitentiaries, Reformatories, and Chain Gangs*, 47; Nina Silber, *Gender and the Sectional Conflict* (Chapel Hill: University of North Carolina Press, 2008), xv; Rothman, "Perfecting the Prison," 111; Rothman, *The Discovery of the Asylum*, xix, 240.

<sup>3</sup> Colvin, *Penitentiaries, Reformatories, and Chain Gangs*, 1-2.

War years as courts martial frequently issued penitentiary punishments to reprimand soldiers. During the Civil War, military prisons also held civilian offenders guilty of common crimes. The facts that penitentiaries held soldiers—both convicted criminals and prisoners of war—and that military prisons held both military prisoners and civilian criminals caused a debate between state and federal officials over who had ultimate authority over these institutions, leaving the Union and Confederate governments an opportunity to become heavily involved in imprisonment.

The completion of the Virginia, District of Columbia, and Ohio penitentiaries in the early nineteenth century resulted from rapid state formation and government's monopolization of power, which encouraged use of the prisons as a spatial solution to remedy problems of public order.<sup>4</sup> Throughout the nineteenth century, the Ohio, D.C., and Virginia penitentiaries held federal prisoners and jailed members of the United States Army and Navy in addition to prisoners of war. This fact supports the theory that military prison officials replicated administrative practices of penitentiaries in military prisons since they readily turned to penitentiaries to help maintain order. A prime example of the interaction between military and penitentiary authorities is the fact that, both before and during the Civil War, penitentiaries punished criminals, prisoners of war, and soldiers sentenced by courts martial. Examination of the Virginia, District of Columbia, and Ohio penitentiaries reveals how the federal government used not only its own penitentiary in the federal capital to keep order, but also turned to the states for help. Even though Virginia seceded from the Union, the Confederate government followed the antebellum precedent set by the federal government.

Both state officials running penitentiaries and military prison officials appointed by the Union and Confederate governments shared the common expectation that their institutions

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<sup>4</sup> This was also noted in Chapter 1. Spierenburg, "From Amsterdam to Auburn," 453-454.

become self-sufficient. This fact also reinforces the idea that military prisons had more in common with penitentiaries than previously thought and suggests that they should be examined in the overall context of imprisonment in nineteenth-century America to understand fully their purpose and operation. The Civil War transformed the lives of thousands of Americans, but it did not fundamentally alter how Northern or Southern penitentiaries or military prisons operated.<sup>5</sup>

Nineteenth-century civilians knew that penitentiaries punished both property crimes and crimes against the person, as the analysis of inmates in Chapter 3 demonstrates. Theft was the most frequent crime leading to incarceration. Penitentiary incarceration was also commonly meted out to individuals convicted of horse stealing, manslaughter, larceny, counterfeiting, forgery, assault, fraud, receiving stolen goods, and rape.<sup>6</sup> These crimes persisted in wartime and, in both the antebellum and war years in the South, were often accompanied by infractions such as aiding slaves to escape, abducting slaves, and conspiring with slaves to incite rebellion.<sup>7</sup> Incarcerated civilians inhabited tight quarters in penitentiaries and often had to share them with military men found guilty of either the same offenses or violations of military law.

Because no system for either prisoners of war or centralized penitentiary administration existed in the antebellum period, military and other federal prisoners were sent to state penitentiaries, which, as noted in the Introduction, received federal funds for this practice.<sup>8</sup>

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<sup>5</sup> In his analysis of wartime Philadelphia, Matthew Gallman contends that, “Philadelphia’s wartime world evolved out of established peacetime practices.” I am employing that same type of argument to understand the wartime operation of penitentiaries and military prisons. J. Matthew Gallman, *Mastering Wartime: A Social History of Philadelphia During the Civil War* (New York: Cambridge University Press, 1990), 9.

<sup>6</sup> This list of common crimes from the antebellum period and length of prison sentences was compiled by examining the Annual Reports of the D.C. Penitentiary from its establishment through 1854. These records are available on microfilm from the New York Public Library (hereafter cited as NYPL).

<sup>7</sup> Doc. No. 13, *Annual Report of Directors of the Penitentiary Institution, year ending September 30, 1861*, 20-23, Virginia House Documents, LVA. For a summary of prison population, see appendix.

<sup>8</sup> Sanders, *While in the Hands of the Enemy*.

Penitentiaries were not run according to any uniform system. The federal penitentiary system did not yet exist; the D.C. Penitentiary was the only federal penitentiary in the antebellum period, and individual state governments ran penitentiaries according to either the Auburn or the Pennsylvania systems. None of these arrangements, however, constituted an overarching prison system; they were merely blueprints for prison operation. The lines between civil and military prisoners blurred as penitentiary officials incarcerated members of the military alongside criminals. The federal government's common practice of holding soldiers in penitentiaries, whether convicted as criminals or prisoners of war, often elicited outcries.

Not everyone agreed with the wisdom of incarcerating military prisoners with criminals. Citizens' first objections to this practice predated the formation of both the United States and penitentiaries. During the American Revolution, prisoners of war were often confined in civilian jails, which typically held civilians awaiting trial or defaulting on debts. This practice signaled an immediate blurring of lines between military and civil justice that would continue through the nineteenth century. Citizens of Philadelphia, however, found this act so objectionable that their protests elicited George Washington's attention. The practice nonetheless continued since the Americans had no separate system to handle prisoners of war and it set a precedent for federal officials to follow after the founding of the United States.<sup>9</sup>

After Americans achieved independence and established penitentiaries, they continued the practice of housing members of the military in civilian penitentiaries. The United States government, on the eve of the War of 1812, lacked any system for dealing with military prisoners—either those convicted of crimes or prisoners of war. American politicians and military officials never thought about this system, perhaps because of the Constitution's ban on

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<sup>9</sup> Flory, *Prisoners of War*, 55-56.

standing armies, the fact that civilians constituted the militia when needed, and the new country's isolation from war-torn Europe, which might have negated the necessity for a military force of any kind. When the United States went to war with the British for the second time in 1812, military officials turned to penitentiaries to solve the prisoner of war crisis. The Auburn system required convicts to perform labor all day, but state officials did not know what to do with the British prisoners, since they had no guiding principle to follow. They ultimately decided against compelling the prisoners of war to work, influencing later decisions during the Civil War to exempt some incarcerated soldiers from penitentiary labor. This decision caused disciplinary problems in penitentiaries both during the War of 1812 and the Civil War.

The Virginia Penitentiary demonstrated the problems that housing military prisoners and British prisoners of war posed to discipline, as it compounded overcrowding and created resentment among the inmates. In 1813, penitentiary officials complained about the additional burden presented by the prisoners of war, particularly because disease plagued the penitentiary. Virginian James Greenhow summarized prison officials' concerns by suggesting that British prisoners be removed. Greenhow noted that prisoners of war were held in August, the "most sickly period of the year," and contended that the crowding that they caused would "not only increase the number of diseases, but also their malignancy."<sup>10</sup>

Prisoners of war not only helped spread disease, they also posed disciplinary problems. Civilian prisoners and prisoners of war were housed side by side for some time prior to the Civil War and these inmates engaged in slightly different activities, a fact that created jealousies among inmates. While civilian criminals labored during the day, prisoners of war sat idle, as hard labor was excluded from their punishment. Overworked criminals likely desired time to rest,

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<sup>10</sup> James Greenhow to the Governor, August 31, 1831, *Calendar of Virginia State Papers*, 10:278, in Keve, *The History of Corrections in Virginia*, 40.

while prisoners of war tired of inactivity and coveted any opportunity for physical activity, however repetitious.<sup>11</sup> Both groups of inmates tired of the monotony of incarceration, but the Board of Inspectors was concerned that the “entire idleness” of prisoners of war, when contrasted with the “rigid discipline” exercised over convicts, excited “dissatisfaction among the convicts.” Board members noted that it was “impossible to keep them separate” since convicts labored in the part of the prison where prisoners of war were kept, hinting at how overcrowding fostered the uselessness of classifications. The work regimen caused officials to neglect prisoners of war, rendering it unsafe to keep them. Differential treatment warranted separation, in the board’s opinion, but the fact that, in reality, prisoners of war were poorly supervised necessitated their removal from the penitentiary.<sup>12</sup> This same problem manifested itself at the Ohio Penitentiary during the Civil War as federal authorities sentenced Confederate Cavalry General John Hunt Morgan and his men there as common horse thieves. The Confederate cavalymen were excluded from labor and were poorly supervised. Consequently, they managed to escape, a feat that will be discussed in Chapters 5 and 6. Despite these problems, the practice of holding members of the military in penitentiaries was too entrenched to stop. Throughout the century, prisoners of war inhabited penitentiaries during military crises, and courts martial frequently sentenced disobedient soldiers to penitentiaries throughout the nineteenth century.

The Ohio and D.C. penitentiaries commonly held members of the U.S. Army and Navy in the antebellum period and continued to do so during the Civil War. In 1840, the Moral Instructor

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<sup>11</sup> In his study of Elmira Prison, Michael Gray contends that inmates who engaged in prison labor led lives that “seemed less harsh compared to those without work.” I believe that this applies to military prisoners in penitentiaries, especially since prison officials often punished misbehaving inmates by putting them in solitary confinement. Michael Gray, *The Business of Captivity: Elmira and its Civil War Prison* (Kent, OH: The Kent State University Press, 2001), 86.

<sup>12</sup> “Proceedings of the Quarterly meeting of the Board of Visitors,” September 7, 1813, Virginia Penitentiary, Penitentiary Papers, 1796-1865 Subseries C, LVA.

of the Ohio Penitentiary noted that seventy-one of the institution's 488 convicts were in the army and that fifty-two were former sailors.<sup>13</sup> Similarly, when the Civil War began, many penitentiaries held soldiers convicted of crimes as well as prisoners of war, raising the question of whether soldiers could be classified as ordinary criminals. Scholars have not considered how the penitentiary disciplined soldiers either before or during the Civil War and Civil War scholars have not examined what happened to soldiers convicted of crimes, or to prisoners of war in penitentiaries. Since penitentiaries were custodial by mid-century, it is not surprising that military courts and government officials used them to punish prisoners of war: the goal of addressing military crimes was punishment, not reform.<sup>14</sup>

Even though the practice of sentencing military offenders to penitentiaries was established in the antebellum period, it elicited furor among civilians, government officials, and convicted soldiers, as many felt that penitentiary sentences equated military offenders with criminals. Regardless of individual beliefs on this matter, the military's decision to incarcerate soldiers in penitentiaries received judicial backing in the antebellum period, demonstrating that the military and, by extension, the federal government, depended on penitentiaries for punishment.

The D.C Penitentiary further illustrates how and why penitentiaries were used to punish members of the United States military. The U.S. Supreme Court's 1857 ruling in *Dynes vs. Hoover* justified the practice of confining soldiers in penitentiaries in the antebellum period and paved the way for the confinement of soldiers during the Civil War. Navy seaman Frank Dynes, found guilty by court martial of attempted desertion, was sentenced to six months' hard labor in

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<sup>13</sup> Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio, 1840*, 14, OHS.

<sup>14</sup> Thornton, *A Complete Guide*, 37-38.

the D.C Penitentiary. Dynes contended that the military court had no jurisdiction to try and sentence him to such punishment. The Supreme Court, however, upheld the court martial's decision, approving federal officials' use of the penitentiary to punish military offenders.<sup>15</sup> In this instance, the federal government, through its operation of the D.C. Penitentiary, set the precedent that military officials could look to penitentiaries as punitive models. Similarly, federal officials commanding military prisons during the Civil War mimicked penitentiary practices.

The *Dynes* case paved the way for the federal government to use penitentiaries—both in the federal district and in the states—to punish soldiers in the years leading up to and during the Civil War. In April of 1860, Private John Ryan, stationed at Fort Brown, Texas, was found guilty of violating the Ninth Article of War for firing a loaded rifle, with the intent to kill, at his company's corporal. In December 1860, Navy seamen John Stevens, Edward Jones, and James Nicholson were convicted of revolt on the high seas off the Florida coast. Courts martial sentenced each of the men to eighteen months' hard labor in the D.C. Penitentiary, a common sentence for civilians convicted of equally significant crimes.<sup>16</sup>

During the Civil War, Union soldiers committed crimes that were both particular to military life and common in civilian life. Like their civilian counterparts, they received penitentiary sentences. In 1861 and 1862, the D.C. Penitentiary held ninety-six prisoners by sentence of courts martial, a significant number, since the prison's total population in those years was approximately 300.<sup>17</sup> Soldiers from all areas of the Union faced incarceration for various military and criminal infractions and, like antebellum convicts, served sentences ranging from

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<sup>15</sup> *Dynes v. Hoover*, 61 U.S. 65, 15 L. Ed. 838 (1857).

<sup>16</sup> Case of John Ryan, Circuit Court, District of Columbia for the County of Washington, May 10, 1861; Case of John Stevens, Edward Jones, and Tom Johnson, U.S. District Court Southern District of Florida, December 24, 1860, RG 48, Records of the Department of the Interior, Entry 473, Box 4, National Archives and Records Administration II (hereafter referred to as NARA II).

<sup>17</sup> See Appendix.

six months to ten years. The Union Army was composed largely of civilian volunteers, and the crimes for which courts martial ordered penitentiary sentences reveal that these men were required to abide by both civil and military law and that prisoners of war were always held responsible for any penal crimes they committed before capture.<sup>18</sup> If soldiers were convicted, many courts martial required military discharge prior to the soldier entering prison. This action was the result of the strongly held notion that the “office” of soldier, if you will, was not to be stained with all of the negative connotations that are associated with being a common criminal. The “office” of soldier was viewed as being on a higher plane and too honorable and dignified to suffer such onerous negative connotations—one could not be a soldier and a common, convicted criminal at the same time.

Federal authorities’ use of the D.C. Penitentiary to punish soldiers tried by courts martial was not the only example of how the federal government used penitentiaries to maintain order. In June 1861, the Ohio General Assembly officially criminalized militant acts taken against both the state of Ohio and the United States government in order to help the federal government combat treason. State officials announced that any residents who “shall levy war against this state, or the United States of America” or “knowingly adhere to the enemies of this state, or the United States, giving them aid or comfort” would be suspected of treason and, upon conviction, be imprisoned in the Ohio Penitentiary at hard labor for life.<sup>19</sup> While treason in the antebellum period was one of the few capital crimes in existence, people generally did not worry about being

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<sup>18</sup> Francis Lieber, “The Status of Rebel Prisoners of War,” in *The Miscellaneous Writings of Francis Lieber* (Philadelphia: Lippincott, 1881), 297, Gale: The Making of Modern Law Legal Treatises, 1800-1926.

<sup>19</sup> “An Act to Punish Treason and Other Crimes,” *Crisis* (Columbus), June 27, 1861.

suspected of treason at the state or federal level.<sup>20</sup> The outbreak of war, however, heightened the suspicions of federal and state authorities, focusing their attention on individuals who did not support the government and/or the war effort.

The Ohio State Penitentiary played an increasing role in helping the federal government maintain loyalty and order during the war. In addition to the aforementioned 1861 statute, the Ohio General Assembly that same year ordered that any resident who turned over any military post or stores to the enemy or harbored knowledge of treason against Ohio or the United States would, upon conviction, face a penitentiary sentence at hard labor for “not less than ten nor more than twenty years.” Finally, the new law stated that anyone who prepared an “unauthorized military expedition” against the state or the people of the United States would be “deemed guilty of misdemeanor” and, upon conviction, face a prison sentence of “not less than one and not more than ten years.”<sup>21</sup> All of these dictates were necessary to the successful execution of the war and demonstrated that the penitentiary’s function of maintaining social order expanded during wartime, reaching beyond commonly identified criminal activity. Civil War military prisons also helped the federal government and state governments maintain loyalty and order in the states in which they were located.

Since military prisons did not exist in peacetime, penitentiary officials alone kept watch over military offenders. During the Civil War, however, military prison officials bore most of this burden and, like their penitentiary counterparts, also detained civil criminals. Military prisons held prisoners of war and civilians suspected of disloyalty, but they were not commonly

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<sup>20</sup> In his analysis of the death penalty in America, Stuart Banner demonstrates that many Northern states restricted capital punishment to treason and murder, but notes that many Southern states retained capital punishment for a wider range of crimes. Stuart Banner, *The Death Penalty: An American History* (Cambridge: Harvard University Press, 2002), 143.

<sup>21</sup> All information regarding the Ohio General Assembly from “An Act to Punish Treason and Other Crimes.”

associated with the punishment of crimes like murder, robbery, counterfeiting, drunkenness, horse stealing, rape, theft, shooting, highway robbery, and fraud—all common among penitentiary inmates. Nonetheless, many soldiers and civilians found themselves confined in military prisons for these offenses. Examination of the *Official Records*, extensive analysis of Ohio, Virginia, and Washington newspapers, and a cursory search of the Old Capitol Prison's inmate registers reveals at least one hundred and fourteen soldiers and civilians confined for these crimes in Camp Chase, Old Capitol, and Castle Thunder prisons from 1861 to 1865. A comprehensive search of prison registers proved impossible, but the available data suggests that military prisons held a significant number of criminals—from both military and civilian life—in addition to prisoners of war, spies, deserters, and individuals suspected of treason. Judging from these sources, Castle Thunder held the most criminals. The prison's commandant, George Alexander, lamented that he was responsible for their oversight, but he saw this as a necessary evil since the Castle was “the only penitentiary the Confederacy ha[d].”<sup>22</sup> Through military prisons, the Confederate and Union governments became involved in ensuring that the public good prevailed over private interests, thereby exercising a responsibility that once fell chiefly to the states.<sup>23</sup>

The federal government's increased involvement in managing imprisonment created confusion over whether state or federal officials had ultimate authority over military prisons early in their existence. This was most evident at Camp Chase, where a contest for power ensued between Commissary General William Hoffman and Ohio governor David Tod. The involvement of the governors of Virginia and Tennessee in this matter, as they attempted to

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<sup>22</sup> George Alexander's Defense, April 13, 1863, O.R. Series II, Vol. 5, 917.

<sup>23</sup> William Novak notes how state governments took responsibility for policing public spaces like streets, rivers, and ports in addition to the public morality. Novak, *The People's Welfare*, 148, 151.

ensure the well-being of residents of their states held in Ohio, demonstrates that state officials considered themselves responsible for the oversight of prisoners from their home states.

From July 1861 until February 1862, Camp Chase housed mostly political prisoners and Hoffman, as noted in Chapter 2, struggled during this period to assert his authority. The Union confined Confederate sympathizers from Ohio, Kentucky, and western Virginia at Camp Chase following their arrests based on the 1861 dictates described earlier.<sup>24</sup> The majority of these inmates, however, were from Ohio, so Ohio's Governor David Tod believed that he should retain jurisdiction over Camp Chase. Following the influx of prisoners of war from the battle of Fort Donelson in April 1862, the lines between state and federal authority became blurred by the detention of Confederate prisoners of war, who were, in fact, prisoners of the federal government. Nonetheless, Governor Tod controlled the camp, appointed its commandant, and signed correspondence as "Governor and Commander in Chief."<sup>25</sup>

Like Governor Tod, Tennessee's military governor, Andrew Johnson, wanted to intervene at Camp Chase in April 1862 after he learned that many of his "fellow-citizens of Tennessee" were held there. Johnson immediately appointed a commissioner to interpose on behalf of those prisoners, ordering that the prisoners' friends entrust the commissioner with "letters or money, or other articles of value or comfort, not inconsistent with their conditions as prisoners of war."<sup>26</sup> Johnson was a federal official, but he demonstrated a belief characteristic of many state authorities in the nineteenth century: that they were, in some fashion, responsible for the prisoners from their state.

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<sup>24</sup> Philip R. Shriver and Donald J. Breen, *Ohio's Military Prisons in the Civil War* (Columbus: Ohio State University Press for the Ohio Historical Society, 1964), 8.

<sup>25</sup> Speer, *Portals to Hell*, 79-80.

<sup>26</sup> "An Assumption of Power," *Richmond Daily Dispatch*, April 3, 1863, accessed March 11, 2010, <http://dlxs.richmond.edu/d/ddr>.

Virginia state officials expressed a similar concern regarding prisoners from the Old Dominion held at Camp Chase. Virginia’s politicians doubted the enemy’s ability to care for Southern prisoners. In January 1862, a Virginia prisoner’s testimony about horrendous conditions prompted the Virginia House of Delegates to establish a joint committee to “ascertain and report how the prisoners from this State, confined in the Federal prison at Camp Chase... are treated” and to discern the steps that state authorities should take “to render them more comfortable.” The delegates announced that the Virginia Legislature was investigating the “outrageous treatment” of prisoners at Camp Chase and declared that the state government could compel “barbarous” treatment to stop.<sup>27</sup> This resolution shows that state officials felt obliged to investigate military prisons—even those run by the enemy—since they were accustomed to penitentiary oversight.

Camp Chase shows that the federal government ultimately gained final authority over Camp Chase, a significant example of its centralizing power.<sup>28</sup> As the war progressed, both Union and Confederate officials became more comfortable with the difficult task of administering military prisons, while state officials learned to relinquish or at least share control. Despite the realignment of power, the close relationship between civil and military officials continued during wartime as military prisoners and penitentiaries continued to hold both criminals and military prisoners. Military and civil officials shared more than responsibility for

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<sup>27</sup> “Treatment of Prisoners,” *Richmond Daily Dispatch*, January 13, 1862, accessed March 11, 2010, <http://dlxs.richmond.edu/d/ddr>.

<sup>28</sup> The Confederacy also had a Commissary General of Prisoners. General John H. Winder held the post from November 21, 1861, until early 1864. After Winder resigned, the South’s prison system deteriorated. On June 6, 1864, Lieutenant Colonel Archer Anderson, who served as Assistant Adjutant General for the post of Richmond, complained about the lack of organization in the Confederacy’s prison system. He noted that Winder, during his tenure as Commissary General, “had a general supervision over all the military prisons of the country,” a function not retained by Winder’s successor, Major Carrington. Anderson noted that “nobody knows exactly how many prisoners of war we have in confinement in the different prisons” and that “no officer is charged with the management of the whole.” Archer Anderson to General Braxton Bragg, June 6, 1864, O.R. Series II, Vol. 7, 206.

the punishment of inmates. They also shared the same beliefs about the operation of penitentiaries and military prisons. Among these was the belief that their institutions should be self-sufficient, a desire that began with penitentiaries before the war and later influenced the operations of military prisons.

Throughout the century, penitentiary officials expressed consternation when penitentiaries failed to support themselves since they objected to the idea that the public or the state should pay for inmates. Military prison officials demonstrated these same concerns during the Civil War. To understand why military prison officials expected military prisons to be self-sufficient, it is necessary to understand how embedded this expectation of the function and characteristics of the penitentiaries had become in the antebellum period. Penitentiary officials across the United States believed that criminals burdened society enough through their actions and contended that criminals should pay for themselves. In 1836, the directors of the Ohio Penitentiary eagerly anticipated the day when “the virtuous portion of our community will cease to be taxed for the support and punishment of the criminal.” Similarly, the committee appointed to inspect the Virginia Penitentiary in 1824 contended that “society must be entitled . . . to remuneration” from convict labor, emphasizing that the penitentiary should be self-sufficient.<sup>29</sup>

Subsequent inspection committees rejoiced when the penitentiary profited the state, but lamented the burden of the penitentiary when prison labor failed to yield profits. In the 1840s and 1850s, Wardens John Dade and Thomas Fitnam and the inspectors of the D.C. Penitentiary complained about the prison’s inability to support itself. Oddly enough, they attributed the

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<sup>29</sup> Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio, 1836*, 2, OHS; Virginia Penitentiary, *Penitentiary Papers 1796-1865*, Subseries E; Box 4, Folder 11, *House of Delegates Penitentiary Committee Report, 1824*, LVA; Virginia General Assembly, Joint Committee on the Penitentiary, *Report of the Joint Committee on the Penitentiary, 1835*, Virginia Historical Society (hereafter cited as VHS); Virginia General Assembly, Joint Committee on the Penitentiary, *Report of the Joint Committee to Examine the Penitentiary, 1840-1841*, VHS.

shortcomings to the small number of inmates and short prison terms. The board of inspectors commented on the prison's deficit in 1841, when the prison held seventy-nine inmates, contending that prison sentences were too short for inmates to learn a trade and profit the state.<sup>30</sup> Warden Thomas Thornley echoed this sentiment the same year, complaining that since the convicts were composed of the most "reckless in society" and were "unacquainted with the use of tools" upon entering prison, officials had to spend a long time training inmates to be useful. Because inmates learned slowly and served brief sentences, Thornley argued that they were released precisely "when their labor becomes valuable." New inmates, according to Thornley, did not help the penitentiary's bottom line, since they were "inexperienced" workers whose presence lent itself "to anything but the prosperity of the institution."<sup>31</sup> Thornley's words reveal the strength of officials' belief that profits were necessary for prison operation. This conviction persisted throughout the century.

When the Civil War began, officials' focus on profits heightened as wartime dictated that penitentiaries commit more fully to contract labor.<sup>32</sup> War increased the importance of prison labor for local consumption and for the benefit of the military. Wartime penitentiary officials expected prisoners to work and generate profits, echoing the antebellum goal of self-sufficiency. But war's circumstances made this a difficult, if not impossible, goal in the North and the South and prison labor often could not overcome war's economic strains.<sup>33</sup> Faced with limited results,

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<sup>30</sup> See Appendix for population totals.

<sup>31</sup> Thornton, *A Complete Guide*, 26; "Message from the President of the United States transmitting the Annual Report of the Inspectors of the Penitentiary in the District of Columbia," H. Exec. Doc. No. 45, 33d Cong., 1st sess. (January 16, 1854), 3, NYPL.

<sup>32</sup> McLennan, *The Crisis of Imprisonment*, 83.

<sup>33</sup> McLennan, *The Crisis of Imprisonment*, 84.

prison officials often blamed short supplies or the laziness of inmates for the lack of profit, arguments reminiscent of Thornley's antebellum complaints.

War took a heavy toll on the South, as battlefield conflict devastated Southern towns and rampant inflation made it difficult for both civilians and institutions to purchase necessary provisions.<sup>34</sup> Under these circumstances, penitentiaries, like military prisons, experienced supply shortages for two reasons. First, war demanded that states send most of their available supplies to the armies. Second, penitentiaries' profits decreased during war, making supply difficult. In 1862, the Virginia Penitentiary's surgeon lamented that "the troubles of the times" created a situation where inmates went hungry and sat idle in their cells. Inmates lacked food due to the "exorbitant prices of meat, vegetables, medicines, soap, vinegar, and bedding," some of which inmates went completely without. They also could not work due to inadequate supplies, a circumstance that exacerbated poor health.<sup>35</sup> This idleness persisted throughout the war. In 1863, Virginia Penitentiary Superintendent Colin Bass again reported that convicts sat idle for one-third of their time since the "fabulous prices" of material left them without supplies. Bass noted that, as a result, the penitentiary fell "as a heavy burden upon the treasury," an unnerving fact since the Confederate war effort demanded extensive monetary and material support.<sup>36</sup>

Penitentiary officials were not solely concerned with the fact that inmates were unable to work in the penitentiary. They also worried since the war's circumstances discouraged the negotiations for hiring out convicts, a practice common in the antebellum period. When the war began, officials' focus on profits, which had solidified in the antebellum period, heightened as

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<sup>34</sup> The relative purchasing power of Confederate notes in gold went from \$1.05 on May 1, 1861 to \$1,200 on May 1, 1865. "Confederate Inflation Chart," *Civil War Richmond*, in Gorman, *Civil War Richmond*, accessed July 27, 2011, [http://www.mdgorman.com/Written\\_Accounts/confederate\\_inflation\\_chart.htm](http://www.mdgorman.com/Written_Accounts/confederate_inflation_chart.htm).

<sup>35</sup> Doc. No. 6, *Annual Report of the Board of Directors of the Penitentiary Institution, Year Ending September 30, 1862*, 25, LVA.

<sup>36</sup> Doc. No. 7, *Report of the Superintendent of the Penitentiary, 1863*, 5, LVA.

wartime officials committed prisons more fully to contract labor.<sup>37</sup> Like the Virginia Penitentiary, the Ohio Penitentiary also experienced a decrease in productive labor, but this resulted from a decline in hiring out convicts. In 1861, the warden observed that the “unsettled state of the country” made it impossible to “induce manufacturers to take contracts for convict labor,” leaving the prison short on profits.<sup>38</sup>

To make matters worse, a devastating fire prevented Ohio Penitentiary inmates from working in the penitentiary that same year. In 1861, the prison experienced four fires, which destroyed shops that produced items such as saddles, cavalry equipment, and bullets for the Union Army. This not only hurt the penitentiary’s bottom line but also caused disciplinary problems since it left idle, non-productive inmates in overcrowded cells. According to one observer, penitentiary officials had difficulty monitoring the 965 convicts, many of whom were accustomed to daytime labor.<sup>39</sup> The idle time that inmates spent together fostered communication between them, a danger that worried guards since it could lead to rebellion. Even if penitentiary officials could get inmates to work, however, they harbored reservations about inmates’ ability to be fully productive, an assumption that carried over from the antebellum period.

In the antebellum period, the middle-class looked down upon criminals, comparing them unfavorably to law-abiding citizens who devoted their lives to success in the market economy

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<sup>37</sup> McLennan, *The Crisis of Imprisonment*, 83.

<sup>38</sup> Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio, 1861*, 8-9, OHS. Missing annual reports prevented me from knowing what happened after 1861.

<sup>39</sup> “Destructive Fire,” *Crisis* (Columbus) October 24, 1861; Ohio Penitentiary, *Annual Report of the Director and Wardens of the Ohio Penitentiary to the Governor of Ohio, 1861*, 5, OHS.

and prided themselves on individual achievement, mobility, and the accumulation of wealth.<sup>40</sup> Antebellum assumptions that criminals were idle, lazy, and dissipated persisted into wartime and provided penitentiary officials with a scapegoat for the lack of self-sufficiency.<sup>41</sup> Self-sufficiency at the D.C. penitentiary was never achieved in the antebellum period, nor was it realized during the war. In the antebellum period, officials blamed the low prison population for the institution's failure to generate profit, but the penitentiary remained unprofitable in wartime despite the growing population. Warden Hiram King blamed this on "the stupid and inept Negro convicts" who had "predetermination to do as little as possible."<sup>42</sup>

Virginia Penitentiary officials also blamed the prison's financial woes on the character of the convicts. Superintendent Colin Bass noted that convict labor was not profitable since convicts "consist of worthless, diseased, depraved, and lazy characters, fished up...from the worse form of society." Additionally, authorities noted that many male convicts entered prison "old and decrepit" or "deranged," rendering work impossible. Most female prisoners were also completely incapable of working, since many were "old and infirm" and most lived in "cramped apartments" where they could not "be worked to any profit."<sup>43</sup> Officials at the Ohio, D.C., and Virginia Penitentiaries shared concerns about female inmates' ability to be profitable even as they limited the types of jobs that women could perform.

Gendered expectations followed women into prison, but these expectations shifted slightly from the antebellum period to wartime. Female criminals betrayed their social roles as

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<sup>40</sup> Michael Kimmel, *Manhood in America: A Cultural History* (New York: Oxford University Press, 2006), 17.

<sup>41</sup> Stephen Dalsheim, "The United States Penitentiary for the District of Columbia, 1826-1862," *Records of the Columbia Historical Society, Washington, D.C.*, Vol. 53/56, The 42nd Separately Bound Book (1953/1956), 135.

<sup>42</sup> Thornton, *A Complete Guide*, 37

<sup>43</sup> Doc. No. 9, *Annual Report of the Board of Directors of the Penitentiary Institution, Year Ending September 30, 1863*, 7, LVA.

defined by the cult of domesticity since they committed crimes, thereby becoming “fallen women” who could never reform.<sup>44</sup> Nonetheless, the cult of domesticity shaped the lives of female inmates at the Ohio, D.C., and Virginia Penitentiaries, where they performed domestic duties such as sewing, making clothes, ironing, binding shoes, spinning, and washing items for male inmates.<sup>45</sup> Essentially, the assignment of these duties reveals that female inmates were responsible for the upkeep of the penitentiary “home.” Women’s crimes demonstrated their failure to conform to proper gender expectations. The penitentiary work regimen reminded female inmates of gender-appropriate duties, even if only in captivity. While penitentiary officials expected women to work, their work areas were not conducive to productivity.

As scholars have noted, female inmates—both white and black—essentially remained an afterthought in male penitentiaries throughout the antebellum period since white criminals fell from grace and black women never fit notions of proper womanhood to begin with.<sup>46</sup> Officials’ neglect of female inmates was apparent in both their living and working conditions. In 1811, monthly visitors William Price and George Williamson noted that all workshops for the men were in good order, but lamented that the women’s ward “was in a very bad condition” because of un-cleanliness. The visitors attributed this shortcoming not to the women themselves, but to the prison’s keeper, since the women were not forced to pick up after themselves. Price and

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<sup>44</sup> Dodge, *Whores and Thieves*, 15.

<sup>45</sup> In her study of women’s sphere in American society, Nancy Cott reveals that common female domestic duties included, sewing shirts and other articles of clothing, ironing, washing, and spinning. See Nancy Cott, *The Bonds of Womanhood: Woman’s Sphere in New England, 1780-1835*, 2d ed. (New Haven: Yale University Press, 1997), 41.

<sup>46</sup> Dodge, *Whores and Thieves*, 13, 14, 27; Kali Gross, *Colored Amazons: Crime, Violence, and Black Women in the City of Brotherly Love, 1880-1910* (Durham: Duke University Press, 2006), 35.

Williamson believed that the keeper neglected discipline and recommended that he take action to make the women more obedient in this regard.<sup>47</sup>

Female inmates remained a low priority during the Civil War. Even though the percentage of female inmates in penitentiaries was low, the increase in the female prison population during the Civil War often proved more than officials could handle. This was especially the case in Virginia. During wartime, female inmates often sat idle, since the penitentiary's general overcrowding and lack of supplies prohibited the employment of women. In 1863, for example, Superintendent Bass complained that there were twenty-five women in prison who could not "be worked to any profit for want of room" because the women were "huddled together in rooms so small that work cannot be done but by a very limited number."<sup>48</sup> The Virginia Penitentiary held only twelve women that year—a small segment of the 318 total inmates, but war's circumstances necessitated that all inmates work to mitigate costs.

At the Ohio Penitentiary, prison officials found ways to employ female inmates in domestic labor during wartime. This employment demonstrates that assumptions about female behavior carried over from civilian life into the prison during that period, but did not generate profit. When war broke out, numerous female aid societies sprang up in the North, mobilizing women to produce clothes for the Union Army. Ohio Penitentiary inmates aided many of these successful efforts, particularly those of the Soldiers' Aid Society and the Sisters of Charity in Columbus.<sup>49</sup> Penitentiary officials mandated that female inmates also perform patriotic work and

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<sup>47</sup> "Proceedings of the Monthly Visitors Monday Morning," October 30, 1811, Virginia Penitentiary, *Penitentiary Papers, 1796-1865*, Subseries C, LVA.

<sup>48</sup> Doc. No. 7, *Report of the Superintendent of the Penitentiary, 1863*, 7, LVA.

<sup>49</sup> Historian Melinda Lawson explains the origin of Soldiers' Aid Societies as follows: American women, as early as the 1790s, had been "forming charitable societies and auxiliaries to male societies as a means of combating the poverty and vice that they saw around them. With the firing on Fort Sumter on April 12, 1861, these women's organizations... voluntarily reconfigured themselves as soldiers' aid societies" that

enlisted women to produce men's drawers, white shirts, and muslin for aid societies to donate to Union troops.<sup>50</sup> Like the antebellum work regimen, women's wartime production for the Union Army forced domestic duties upon female inmates but had little impact beyond that.

Regardless of the type of job, nineteenth century penitentiary inmates were supposed to work as part of their punishment. While it may have taken penitentiary administrators longer to apply this expectation to women, they eventually adopted it, since they knew that the penitentiary's factory model aided discipline and was supposed to promote self-sufficiency. Penitentiaries, however, were never economically successful—a trait that they shared with military prisons, despite military officials' desires that military prisoners pay for themselves.<sup>51</sup>

Prison labor was also typical of military prisons, although this fact has received no more than passing attention in scholarship on Civil War prisons.<sup>52</sup> Further inquiry reveals that military prison officers desired prison labor to help make military prisons self-sufficient. Many nineteenth-century civilians saw no difference between prisoners of war and criminals, despite their formal distinction by the Lieber Code, and even prisoners of war admitted feeling like

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gathered material support for the Union troops. See Melinda Lawson, *Patriot Fires: Forging a New American Nationalism in the Civil War North* (Lawrence: University Press of Kansas, 2002), 22. The Sisters of Charity were a Catholic religious order that was founded in 1809 by Elizabeth Seton in Emmitsburg, Maryland. During the 1840s, the order became affiliated with the French Daughters of Charity, headquartered in Greenburg, Pennsylvania. This order specialized in nursing, and its adherents both provided supplies for Union troops and nursed wounded soldiers in many areas of the North and the South. For a history of the Sisters of Charity, see Sisters of Charity of Cincinnati, "Our History," accessed June 9, 2010, <http://srcharitycinti.org/about/history.htm>. For information on the Daughters of Charity, their expertise in nursing, and their activity in the South, see Virginia Gould, "'Oh, I Pass Everywhere': Catholic Nuns in the Gulf South during the Civil War," in *Battle Scars: Gender and Sexuality in the American Civil War*, ed. Catherine Clinton and Nina Silber (New York: Oxford University Press, 2006), 41-60.

<sup>50</sup> Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio, 1861, 1862, and 1863*, OHS.

<sup>51</sup> Melossi and Pavarini, *The Prison and the Factory*, 143.

<sup>52</sup> In his study of Elmira Prison, Michael Gray contends that inmates who engaged in prison labor led lives that "seemed less harsh compared to those without work." Michael Gray, *The Business of Captivity*, 86.

criminals, as will be explored later.<sup>53</sup> Reformers like Frederick Wines likened prisoners of war to criminals, saying that war occurred in the courts and on the battlefield, contending that the “condition of a prisoner of war to that of a slave is but a step.” He therefore concluded that compulsory labor was “a natural sequel of the condition of servitude, whether military or penal.”<sup>54</sup> Military prison officials agreed with this assessment and wanted to use the captives to promote institutional self-sufficiency.

Clearly, Americans were accustomed to inmates working in penitentiaries and they applied this expectation to military prisons. Even military law sanctioned putting prisoners of war put to work. Civil War contemporaries understood that the detaining state could compel prisoners of war to labor as long as their work did not directly harm their state of origin.<sup>55</sup> Since military prison officers faced increasing financial problems as the war lengthened, they, like penitentiary officials, often used prison labor to complete improvements at prisons quickly and efficiently. Penitentiary officials often used convict labor in the antebellum period to make internal improvements and save money. In 1837, Ohio Penitentiary officials used convict labor to build a separate building for female prisoners, saving \$78,428, or seven and one half cents a day per convict, as compared to the rates of outside contractors.<sup>56</sup> This trend continued during the Civil War, as both the Ohio Penitentiary and Camp Chase used prison labor to make improvements. In 1864, the Ohio Penitentiary warden noted that the prison needed a separate

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<sup>53</sup> General Orders No. 100, April 24, 1863.

<sup>54</sup> Wines, *Punishment and Reformation*, 39.

<sup>55</sup> Flory, *Prisoners of War*, 74.

<sup>56</sup> Cole, *A Fragile Capital*, 121. Similarly, at New York’s Elmira Prison, officials employed convict carpenters for half the cost of outside contractors. Gray, *The Business of Captivity*, 56-57.

building for insane convicts, a project that was eventually completed “wholly by convict labor.”<sup>57</sup>

Camp Chase’s officials also used inmate labor for improvements. In July and December 1862, they ordered inmates to dig vaults, whitewash buildings, drain standing water, and construct roads. Inspector H.M. Lazelle’s attitude towards this work was similar to that of penitentiary officials, who believed that the prison labor program benefited inmates by teaching skills, increasing industriousness, and encouraging reform. Lazelle stated that all labor at Camp Chase designed to benefit the prisoners, make them more comfortable, or improve their condition would be performed “by prisoners so far as it is practical.” Lazelle’s posture was consistent with the antebellum notion that all prisoners, regardless of their individual crimes, could benefit from labor, despite the officials’ general belief that inmates were lazy.<sup>58</sup> Camp Chase’s officials maintained this attitude throughout the war, ordering prisoners to improve cooking ranges, mend shoes, construct new buildings, build parapets, and dig wells and sinks—tasks that benefited inmates and helped control prison costs, an objective that few military prisons achieved despite officials’ attempts to compel inmates to work.<sup>59</sup>

Both prison officials and the press rejoiced when prison labor saved the Union and Confederate governments money. In 1862, for example, the Richmond *Daily Dispatch* celebrated the departure of 3,300 Yankee prisoners from Castle Thunder, since the Confederate government

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<sup>57</sup> Ohio Penitentiary, *Annual Report of the Director and Warden of the Ohio Penitentiary to the Governor of Ohio, 1864* (Columbus: Richard Nevins State Printer, 1865), 550.

<sup>58</sup> H.M. Lazelle to William Hoffman, July 13, 1862, O.R. Series II, Vol. 4, 201; H.M. Lazelle to William Hoffman, December 31, 1862, O.R. Series II, Vol. 5, 132-145.

<sup>59</sup> F.S. Parker to W.P. Richardson, September 4, 1864, O.R. Series II, Vol. 7, 764-765; W.P. Richardson to William Hoffman, June 20, 1864, O.R. Series II, Vol. 7, 382.

would consequently save “\$4,000 per day,” the average daily cost to feed the prisoners.<sup>60</sup>

Confederate officials believed that inmates should “earn their bread” until they were released to “go at large and seek employment.”<sup>61</sup> Southern civilians echoed officials’ support of prison labor, since military prison inmates strained scant resources. It was not uncommon for military prison officials to send prisoners of war to labor on the public works. In 1862, the *Richmond Daily Dispatch* reported that prison officials sent fifty men confined at Castle Thunder for “light offenses,” under guard, to “rebuild the bridge over the Rapidan River destroyed by the Yankees.”<sup>62</sup> The paper reflected the common belief among nineteenth-century Americans that prisoners—even military prisoners—should support themselves.

Throughout 1863, after the failure of the exchange cartel, Confederate officials heavily emphasized the necessity of prison labor. In July, Major Isaac Carrington urged General Winder to put Castle Thunder inmates who were serving long sentences to work in order to “materially lessen the expense of their keeping.” Later in the year, Carrington urged Winder to employ federal deserters, most of whom were “foreigners” and “common laborers.” They worked on building fortifications and performing other manual labor for the Confederate army to lessen the cost of clothing, food, and housing. Carrington’s suggestion reveals that prison labor was important to the operation of military prisons, and officials employed it whenever possible.

As the war dragged on, this practice undoubtedly relieved many in Richmond. In February 1864, the *Daily Dispatch* praised the departure of forty-three Yankees to work in the

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<sup>60</sup> “Local Matters: Departure of Yankee Prisoners,” *Richmond Daily Dispatch*, September 15, 1862, accessed March 14, 2010, <http://dlxs.richmond.edu/d/ddr>.

<sup>61</sup> Isaac H. Carrington, Report of Com. July 31, 1863; Com. Carrington to Capt. WS Winder, AAG, September 26, 1863; BR W Jr. to Ass. Sec., September 26, 1863, Record Group 249, Entry 131, Box 1, NARA I.

<sup>62</sup> “Local Matters: Current Items,” *Richmond Daily Dispatch*, September 8, 1862, accessed March 14, 2010, <http://dlxs.richmond.edu/d/ddr>.

North Carolina coalmines, making them “useful to the Confederacy.”<sup>63</sup> Those sentences spared Confederate authorities much-needed money as the long-fought war bled the country of money and manpower. The sentences also reflected the antebellum ideal that prisoners should pay for their keep while repaying society for their transgressions.

Richmond was not the only city where the cost of prisoners aroused anxiety and elicited demands that prisoners pay for themselves. Authorities in Washington demonstrated similar concerns and used labor on the public works to relieve overcrowding at Old Capitol Prison. In March 1863, at the same time that prison exchanges broke down, General-in-Chief Henry Halleck noted that 100 prisoners were sentenced to hard labor on the public works and stated that “the number is daily increasing.” Halleck viewed this positively since, in his view, the prison was “already too much crowded,” and labor not only helped manage population, but also saved the government money.<sup>64</sup>

Prisoners at Camp Chase were also used to defray expenses—both inside and outside of Ohio—after exchanges ceased. In April 1863, Governor Francis H. Pierpont of the Restored Government of Virginia described how punishment remained consistent from the antebellum period to the Civil War and how military officials used the same punishments developed in penitentiaries.<sup>65</sup> Pierpont wrote to Hoffman, requesting that he send sixteen “Rebel officers” who were prisoners of war at Camp Chase to Wheeling so that Pierpont could “put them in a chain gang” and make them repair the national road. He included “a wicked devil named Keaton,” also a prisoner at Camp Chase, in his request since Keaton had shot “a Union man in cold blood” and

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<sup>63</sup> “Off for the Coal Mines,” *Richmond Daily Dispatch*, February 23, 1864, accessed March 14, 2010, <http://dlxs.richmond.edu/d/ddr>.

<sup>64</sup> Montgomery Meigs to Henry Halleck, March 23, 1863, O.R. Series II, Vol. 5, 385.

<sup>65</sup> The Restored Government of Virginia refers to modern-day West Virginia. K.T. Barksdale, “Francis H. Pierpont (1814–1899),” *Encyclopedia Virginia*, accessed August 2, 2011, [http://www.EncyclopediaVirginia.org/Pierpont\\_Francis\\_H\\_1814-1899](http://www.EncyclopediaVirginia.org/Pierpont_Francis_H_1814-1899).

thrown “his little child in the fire in Putnam County, Virginia.”<sup>66</sup> Pierpont’s singling out Keaton is further evidence of the nineteenth-century belief in hard labor’s punitive quality.

Courts martial also sentenced soldiers guilty of military crimes to hard labor at military prisons. Castle Thunder provides a good example. Throughout the war, courts martial sentenced men to hard labor with ball and chain for periods ranging from one month to three or six months, or to one year. Crimes that warranted hard labor included engaging in “conduct prejudicial to good order and military discipline,” desertion, being absent without leave, and “attempting to go to the Yankees.”<sup>67</sup> As they sent offenders to military prisons, courts martial paralleled the sentences handed down in civilian courts and served in penitentiaries. While labor certainly served as punishment in both penitentiaries and military prisons, some inmates at both institutions probably preferred labor to sitting idle in overcrowded cells.

Since military prisoners’ quarters were particularly cramped, it was important for those inmates to exercise, and consequently many of them wanted to perform labor. Military prison officials sometimes used labor as a reward for good behavior or bribed prisoners into pledging allegiance by offering them opportunities to work. Either way, inmates perhaps eagerly undertook labor and benefited from it physically. Camp Chase inmate William Duff recalled how many inmates, himself included, responded to the authorities’ orders to strengthen prison walls and dig drainage ditches. Duff noted that the work earned the men “full rations,” but griped that prison officials demanded that inmates “take the oath of allegiance” to continue, a request that

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<sup>66</sup> This measure was proposed in retaliation for the South holding Virginia officers in the Virginia Penitentiary. Hoffman later halted the action on April 7, 1863. F.H. Pierpont to William Hoffman, March 28, 1863, O.R. Series II, Vol. 5, 399.

<sup>67</sup> “Sentences by Court Martial,” *Richmond Daily Dispatch*, December 5, 1862, “Sentence by a Court Martial,” *Richmond Daily Dispatch*, December 31, 1864, “Sentence Remitted,” *Richmond Daily Dispatch*, January 16, 1865, “Released from Confinement,” *Richmond Daily Dispatch*, January 23, 1865, all accessed March 14, 2010, <http://dlxs.richmond.edu/d/ddr>.

many refused.<sup>68</sup> Nonetheless, the work helped inmates to break the monotony of prison life and get much-needed exercise, and it probably saved officials money, just as it did in the antebellum period and at other military prisons.<sup>69</sup>

Military prisons and penitentiaries had much in common regarding the types of inmates that they held and the fact that both emphasized prison labor to maintain order and strive for self-sufficiency. In both institutions, the prison labor program fell short; inmates sat together idly in crowded spaces for the majority of their imprisonment, despite officials' best attempts to keep them segregated and occupied.

This chapter has demonstrated how the military established a trend in the antebellum period of using penitentiaries to house soldiers convicted of crimes and prisoners of war. It has also shown that military prisons detained more than prisoners of war and treason suspects. The similarities, however, do not end there. Penitentiary and military prison officials were required to be Christian gentlemen; they tried to segregate inmates according to gender; they tried to restrict the communication of inmates and govern them with similar rules; and they inflicted similar punishments on misbehaving inmates. The idea that prisons, as reformer Dorothea Dix stated in the antebellum period, should be established on "just" and "Christian" principles persisted into the Civil War.<sup>70</sup> Inmates assumed that officers would behave like Christian gentlemen and that inmates would receive good treatment. But just as both penitentiaries and military prisons failed at self-sufficiency, they also fell short of these goals.

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<sup>68</sup> W.H. Duff, *Six Months of Prison Life at Camp Chase, Ohio*, 3d ed. (Clearwater, SC: Eastern Digital Resources, 2004), 31.

<sup>69</sup> Georgia historian Benjamin Cloyd has noted that, even at the notorious Andersonville prison in Americus, black inmates were forced to labor on the prison grounds. Cloyd, *Haunted by Atrocity*, 49.

<sup>70</sup> Dix, *Remarks on Prisons*, 68-69.

Chapter 5 will demonstrate how closely penitentiaries and military prisons mirrored each other in terms of the rules, regulations, inmate infractions, and punishments that were ingrained in their day-to-day operation and their overall administration. We will look at the rules and regulations of penitentiaries and military prisons, encounter a wide spectrum of inmate infractions, and observe how officials meted out punishments to preserve internal order and their authority.

## CHAPTER 5 ADMINISTRATION, REGULATIONS, INFRACTIONS, AND PUNISHMENTS

Both penitentiary and military prison officials, through the enforcement of prison rules, contributed to the expansion of the power of both the state and national governments.<sup>1</sup> State officials, who ran penitentiaries, and Union and Confederate military officials, who oversaw military prisons, operated their institutions on the same principles and practices. Both entrusted the well-being of inmates to men assumed to be upstanding gentlemen, compensated for inadequate guard strength, classified inmates according to gender, and debated the efficacy of corporal punishment. Examination of the rules governing punishments in penitentiaries and military prisons shows even more clearly that penitentiaries and military prisons operated on similar principles and practices.

Keeping order in military prisons was of the utmost importance, both in peacetime and during wartime. Military prison officials guarded more inmates during the Civil War but used the same rules as penitentiary officials to keep order and to punish inmates. Maintaining consistent order, however, was often difficult to achieve. Both penitentiary and military prison officials often struggled because of their inexperience in prison management, boredom with their jobs, and their constantly being outnumbered by inmates, an ever-increasing concern as both types of institutions become increasingly crowded. These factors sometimes led guards at both types of institutions to employ corporal, potentially fatal, punishments that penitentiary and military prison rules sanctioned throughout the century.

The antebellum period set the standard by which military prison officials conducted themselves. When the Civil War began, Americans retained their expectations for guards to

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<sup>1</sup> Novak, *The People's Welfare*, 241.

adhere to Christian principles and inmates to receive humane treatment.<sup>2</sup> But penitentiaries and military prisons alike were often void of humane administration. Scholars have explored the suffering and maltreatment that occurred in Northern and Southern military prisons, noting how countless prisoners of war languished in the hands of their captors, but they do not tell the whole story of wartime incarceration.<sup>3</sup> Analyzing military imprisonment alongside penitentiaries reveals that military prison officials, like their civilian counterparts before and during the war, received appointments based almost solely on personal character. They shared the same goals of humane treatment of inmates and benevolent administration, but they had little practical experience in prison operation, which contributed to the ever-deteriorating conditions in many military prisons. Penitentiary guards had to demonstrate good character in their community through their participation in political and religious activities.<sup>4</sup> Individuals seeking appointment to a position within the penitentiary—warden, deputy warden, physician, clerk, or guard—had to possess qualities of respectable manhood and have political connections.<sup>5</sup> Appointees at the Virginia, District of Columbia, and Ohio Penitentiaries commanded the respect of their peers, but had little, if any, prison experience. Having inexperienced individuals run the criminal justice system was nothing new. As Lawrence Friedman has noted, this dated back to the colonial

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<sup>2</sup> Michael Gray, in his study of Elmira Prison, notes that “prison camp officers were considered gentlemen and behaved that way.” Gray, *The Business of Captivity*, 126.

<sup>3</sup> Hesseltine, *Civil War Prisons*; Marvel, *Andersonville: The Last Depot*; Roger Pickenpaugh, *Captives in Gray*; Sanders, *While in the Hands of the Enemy*.

<sup>4</sup> Lewis, *From Newgate to Dannemora*, 119.

<sup>5</sup> Kimmel, *Manhood in America*, 14, 17. Sociologist Michael Kimmel notes that “a man was independent, self-controlled, responsible.” During the market revolution, the self-made man exhibited “success in the market, individual achievement, mobility, wealth,” but economic autonomy was accompanied by “anxiety, restlessness, [and] loneliness.”

period.<sup>6</sup> This chapter demonstrates that it was a problem that continued through the antebellum period and persisted after the creation of Civil War military prisons.

Men seeking positions as penitentiary guards, keepers or wardens in the Virginia, D.C., and Ohio penitentiaries had to be honest, industrious, moral, and temperate—requirements that were firmly established in the antebellum period and which substituted for practical experience.<sup>7</sup> After assuming their posts, penitentiary officials were expected to maintain these qualities as examples for inmates. If penitentiary officials did not demonstrate integrity, many feared that they would become “tools of the convicts,” conspiring with inmates to cause trouble.<sup>8</sup>

Others worried that the power that officials wielded over inmates could lead to abuse of authority. In 1852, William Roberts, Chaplain at the Ohio Penitentiary, exhorted prison officials to exercise just rule, to lead by example through kindness and firmness, and to avoid cultivating a “sense of injustice” in the minds of the inmates. Roberts emphasized the importance of guards developing an appropriate masculine identity. A position as guard, according to Roberts, presented the opportunity for a man to cultivate either noble or tyrannical qualities.<sup>9</sup> While some nineteenth-century civilians celebrated force, aggression, and risk, as masculine and democratic

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<sup>6</sup> Friedman, *Crime and Punishment*, 27.

<sup>7</sup> Application of Richard Armstrong for position of Penitentiary keeper, 1816, Virginia Penitentiary, *Penitentiary Papers, 1796-1865*, Subseries C, LVA; Benj. L. Bohrer and Go. A. Bohrer to Inspectors Penitentiary D.C. Washington (on behalf of Mr. H.M. Smith), July 3, 1857, and J.W. Jones, W.H. Ward, R. Clark, J.S. Miller, and Saml Bymington to Col. John B. Dade, Warden of the Penitentiary, August 25, 1845, Record Group 48, Records of the Office of the Secretary of the Interior, Records Relating to the U.S. Penitentiary for the District of Columbia, 1826-1865, Miscellaneous Records, 1829-1862, Entry 470, Box 2 and 1 (respectively), NARA II.

<sup>8</sup> *First Annual Report of the Board of Managers of the Prison Discipline Society, June 2, 1826*, 6th ed. (Boston: Perkins and Marvin, 1830), 32.

<sup>9</sup> William S. Roberts, “A Discourse Before the Officers of the Ohio Penitentiary, On the First Sabbath in February, 1852,” WHS.

virtues, prison guards were required to control these instincts and exercise self-discipline.<sup>10</sup> Roberts's discourse suggests that prison officials were expected to exercise characteristics of honorable manhood, which included self-restraint, in order to encourage discipline.<sup>11</sup> This was often a difficult task, since many assumed their posts without experience in the trying and unique environment of imprisonment.

Both penitentiary and military prison officials lacked experience in managing inmates. The histories of the Virginia Penitentiary, Castle Thunder, and Camp Chase offer examples of men who received appointments as commandants based on personal qualities, not practical experience. Martin Mims, appointed the first keeper of the Virginia Penitentiary in 1801, was described as an honest man, but the only exposure he had had to prisons was his position as the state's brick contractor during the penitentiary's construction.<sup>12</sup> Similarly, in wartime Richmond, George W. Alexander, who became commandant of Castle Thunder, also had scant prison experience. Richmond's Provost Marshal, General John Winder, appointed George Alexander commandant of Castle Thunder on October 27, 1862. The only prison experience that Alexander had was not as an officer, but as a prisoner of war.<sup>13</sup> Soon after Alexander took charge of Castle

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<sup>10</sup> Nancy Isenberg, *Sex and Citizenship in Antebellum America* (Chapel Hill: University of North Carolina Press, 1998), 105.

<sup>11</sup> Kimmel, *Manhood in America*, 14, 17.

<sup>12</sup> Keve, *History of Corrections in Virginia*, 27.

<sup>13</sup> Prior to the Civil War, Alexander served in the U.S. Navy. He resigned when war broke out and joined the Confederate Navy. In 1862, federal forces captured Alexander, indicted him for treason and piracy, and sentenced him to execution. Alexander awaited his fate as a prisoner at Fort McHenry, but outsmarted his captors, escaped, and fled to Richmond. There he became Assistant Provost Marshal and later commandant of Castle Thunder. For information on Alexander's Naval service, capture, imprisonment, and escape, see Casstevens, *George Alexander and Castle Thunder*, 7-57.

Thunder, the prison earned a reputation for brutality, proving correct the antebellum notion that power over prisoners could sometimes lead to abuse of authority.<sup>14</sup>

Many of Camp Chase's early commandants were inexperienced but did not resort to brutality. Rather, lax discipline was the result. Camp Chase's first few commandants, Colonels Granville Moody and W.B. Allison, provide good examples. Ohio governor David Tod appointed Colonel Moody in March 1862. Moody had modest experience interacting with inmates. During the antebellum period, Moody, a Methodist minister, visited inmates at the Ohio Penitentiary.<sup>15</sup> Governor Tod appointed Moody based on this experience, but Moody immediately drew criticism from federal inspectors and the public for lax discipline. In late April 1862, many federal officials hoped that Moody would resign and join his regiment on the battlefield. Although Tod retained Moody, praising his "excellent" management skills, Moody's tenure lasted only until July 1862.<sup>16</sup> Columbus citizens continually griped about Moody allowing Confederate inmates to keep their slaves in prison and granting liberal paroles to Southern officers during which they, complete with side arms, roamed the city streets.<sup>17</sup> Compassion was a good trait if used to help penitentiary inmates find God, but not if it allowed enemies free reign.

Moody's successor, Colonel W.B. Allison, also demonstrated that personal pedigree and political connections could win a man an appointment as commandant without any guarantee of competence. Allison, a lawyer and the son-in-law of Ohio's lieutenant governor, was another of

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<sup>14</sup> For information on Alexander's appointment, see Casstevens, *George W. Alexander*, 44. For Castle Thunder's brutal reputation, see Speer, *Portals to Hell*, 94.

<sup>15</sup> James B. Finley, *Memorials of Prison Life*, (1853; repr., New York: Arno Press, 1974), 21.

<sup>16</sup> "Colonel Moody," *Columbus Crisis*, April 30, 1862.

<sup>17</sup> Shriver and Breen, *Ohio's Military Prisons in the Civil War*, 12-13.

Tod's political appointees. This appointment also reflected the Governor's desire to control Camp Chase, as Tod kept close tabs on Allison.<sup>18</sup>

Allison's ties to state government did not help him in military prison administration. He was a thorn in the side of Colonel H.M. Lazelle, whom Hoffman appointed to inspect Camp Chase following repeated charges of poor discipline. In his July 13, 1862, report to Hoffman, Lazelle complained that Allison was "not in any degree a soldier," and that he lacked experience and remained ignorant of his duties. Lazelle strove to convince Tod that Allison had no jurisdiction over the prison.<sup>19</sup> In essence, Lazelle believed that Allison lacked the character and discipline required to operate a nineteenth-century prison.

Inexperienced commandants were not the only problems that hindered penitentiary and military prison operations. Disinterested and disorganized guards also posed challenges. Good order was of the utmost importance to prison officials, but it required the guards, who were subject to distractions and desirous of social interaction, to be on heightened alert for extended periods of time. This was especially difficult at night, when darkness could mask inmates' attempts at communication and guards' thoughts drifted to sleep rather than duty. Nighttime posed disciplinary concerns for all guards in both penitentiaries and military prisons.

The Virginia Penitentiary exemplifies problems that the night watch faced due to the lack of a permanent guard force. In the first forty-five years of the prison's existence, the night watch changed posts frequently, ideally to encourage alertness, but actually creating disorder. From the institution's founding until 1846, a specially organized militia unit, the Public Guard, was on night patrol. Soldiers rotated every two hours, creating opportunities for inmates' misbehavior

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<sup>18</sup> H.M. Lazelle to William Hoffman, July 13, 1862, O.R. Series II, Vol. 4, 195-208; Speer, *Portals to Hell*, 80-81.

<sup>19</sup> *Ibid.*, 195-208.

and escape attempts. Officials eventually realized how ineffective this system was and suggested that an Interior Guard assume regular night duty.<sup>20</sup> Preventing disorder ultimately depended on the guards' ability to remain vigilant and keep inmates within sight, a difficult task as prison populations rose, crowding many inmates into small cells.<sup>21</sup>

Guarding military prisons, like penitentiaries, was monotonous. Whether civilians or soldiers, guards worked long hours and were responsible for watching an immense number of captives. Most military prison guards were comprised of military units, but they, like the public guard at the Virginia Penitentiary, were also not permanent. In Camp Chase's early months, guard duty fell to a number of "three months" men. This short term of duty created administrative concerns, prompting Governor Tod to urge Colonel Hoffman to "raise a special corps for guard duty" to remedy inconsistencies, just as Virginia officials had established a permanent guard in the antebellum period.<sup>22</sup>

It took a few months, however, for military officials to establish a permanent guard at Camp Chase. In May 1862, a prison official noted that there was no guard "except a few citizens" to face a "threatened insurrection of prisoners."<sup>23</sup> Similar shortages were evident in July 1862. Captain Lazelle reported that an inadequate number of guards left one side of the prison completely unguarded and provided "no sentry except at night."<sup>24</sup> Prison officials temporarily remedied the shortage in August 1862. During that month, the guard consisted of approximately

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<sup>20</sup> Keve, *History of Corrections in Virginia*, 30-32; Discussion of creation of Interior Guard in Virginia General Assembly, Penitentiary Institution, 1846, VHS.

<sup>21</sup> Prison populations rose as follows: Ohio Penitentiary: 1832—215; 1842—461; 1852—503. Virginia Penitentiary: 1817—158; 1839—181; 1857—313. D.C. Penitentiary: 1833—42; 1843—84; 1854—114. For a complete list of penitentiary populations, see Appendix.

<sup>22</sup> David Tod to William Hoffman, July 10, 1862, O.R. Series II, Vol. 4, 164.

<sup>23</sup> Henry B. Carrington to Adjutant General Thomas, May 28, 1862, O.R. Series II, Vol. 3, 605.

<sup>24</sup> H.M. Lazelle to William Hoffman, July 13, 1862, O.R. Series II, Vol. 4, 199.

one regiment, which was charged with the oversight of 1,600 prisoners.<sup>25</sup> Hoffman's comments a month later reveal that the guard was not permanent, however. Hoffman lamented the frequent changes in the camp's command, arguing that only the appointment of a permanent commander and guard could fix irregularities.<sup>26</sup> Before this happened, officials stationed guards in multiple locations to compensate. In mid-October 1862, one inspector noted that only 101 men were available to guard anywhere from 723 to 1600 prisoners.<sup>27</sup> Prison officials maximized guards' effectiveness by using a combination of men stationed at parapets and on ground posts. Assistant Commissary General of Prisoners H.W. Freedley noted that seventeen sentinels occupied parapets so that "the whole camp might be overlooked." In addition, there were two sentinels stationed at each gate and thirteen other sentinels who formed a complete chain around the camp's exterior independent of those on the parapet above.<sup>28</sup> This arrangement provided temporary relief, but inspectors pressed for a permanent guard, which they eventually received.

The creation of the 88th Ohio Volunteer Infantry, also known as the First Battalion, Governors' Guards, finally remedied the problem of guard strength at Camp Chase. This unit assumed control on October 27, 1862, and held the post for the majority of its service.<sup>29</sup> The 88th Ohio generally had a positive effect on Camp Chase's operation, as did the public guard in

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<sup>25</sup> Gustav C.E. Weber to W.A. Hammond, August 14, 1862, O.R. Series II, Vol. 4, 389. I assume that the guard force was 1,100. The National Park Service lists the strength of one regiment as ten companies, or 1,100 officers and men. See "Gettysburg National Military Park: Army Organization During the Civil War," accessed March 14, 2010, <http://www.nps.gov/archive/gett/getttour/armorg.htm>.

<sup>26</sup> W. Hoffman to L. Thomas, September 10, 1862, O.R. Series II, Vol. 4, 504.

<sup>27</sup> Population estimates are as follows: 1,600 inmates were listed on August 14, 1862, and 723 inmates were listed on October 27, 1862. See, respectively, Gustav C.E. Weber to W.A. Hammond, August 14, 1862, O.R. Series II, Vol. 4, 389; H.W. Freedley to William Hoffman, October 27, 1862, O.R. Series II, Vol. 4, 659-660; Guard estimate from William Hoffman to H.W. Freedley, October 15, 1862, O.R. Series II, Vol. 4, 624-625.

<sup>28</sup> William Hoffman to H.W. Freedley, October 15, 1862, O.R. Series II, Vol. 4, 624-625.

<sup>29</sup> H.M. Lazelle to William Hoffman, December 31, 1862, O.R. Series II, Vol. 5, 133. For information on the 88th Ohio, see "88th Ohio Infantry compiled by Larry Stevens," accessed March 14, 2010, <http://www.ohiocivilwar.com/cw88.html>.

Virginia, although it took some time to realize their impact. In September 1864, one prison inspector noted that the regiment had “changed the camp from a detestable mud hole to a fine, healthy, and well-organized” prison,<sup>30</sup> revealing the positive effects that a permanent guard force had on prison discipline, even though the number of guards was often limited.

Even when a permanent guard force existed, prison guards often had to maximize the capabilities of only a small number of guards. Commanders improvised in various ways. Guards rotated frequently at Old Capitol Prison to ensure vigilance. In February 1865, Old Capitol Prison’s population totaled 296, but there were only nineteen guards available for duty.<sup>31</sup> The guard consisted of three reliefs, each working two two-hour shifts.<sup>32</sup> Official correspondence contains no indication of what would have constituted adequate guard strength or to what extent fluctuations in the prison population increased anxiety about security. The numbers of guards did not necessarily guarantee security, however. Even when many guards were present physically, their minds wandered, causing them to compromise order.

Guards at Castle Thunder often neglected their duties or violated instructions. In March 1863, guard Mike Jordan faced court-martial for conspiring with an inmate on an escape. The result of the trial is unknown, but the penalty for such an offense was “very severe” according to the Richmond press.<sup>33</sup> Jordan’s offense occurred during a time when Castle Thunder’s guards demonstrated general apathy towards their duties. On December 5, 1863, Lieutenant Colonel Elliott issued General Orders Number Three, which railed against guards’ poor behavior.

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<sup>30</sup> F.S. Parker to W.P. Richardson, September 4, 1864, O.R. Series II, Vol. 7, 764-765.

<sup>31</sup> “Statement of Prisoners of War on hand at the Following Camp Prisons, etc., up to the latest received dates,” O.R. Series II, Vol. 8, 174; Guard Reports 1864-1865, Reports for February 3, 1865, April 10, 1865, and April 19, 1865, Record Group 393, Pt. 4, E 2136, Nos. 311 B, 311/797 DW, NARA I.

<sup>32</sup> Guard Reports 1864-1865, Reports for February 3, 1865, April 10, 1865, and April 19, 1865, Record Group 393, Pt. 4, E 2136, Nos. 311 B, 311/797 DW, NARA I.

<sup>33</sup> “Court Martial,” *Richmond Daily Dispatch*, March 11 1863, accessed March 14, 2010, <http://dlxs.richmond.edu/d/ddr>.

Military prison guards, like their penitentiary counterparts, were considered gentlemen and expected to behave as such.<sup>34</sup> But Elliot noted that the “instances of laxity of discipline and insubordination” among guards were frequent and caused apprehension. Elliot’s orders attempted to motivate the guards, exhorting them to demonstrate good character “above reproach as both soldiers and men” since “all eyes” were upon them. Elliot consequently noted that the command could only be vindicated if it could “point triumphantly to the fact that no single member of it has been arraigned for delinquency.” He emphasized how important it was for guards to maintain good behavior so that they consistently demonstrated the power of the Confederate government.<sup>35</sup>

Both the Union and the Confederacy attempted to preserve their powers by dictating rules for guards. These regulations paralleled those of penitentiaries. Regulations governing guards’ behavior required them to sacrifice aspects of civilian life to which they were accustomed — spatial freedom, control of time, and political engagement.<sup>36</sup>

Rules at both penitentiaries and military prisons restricted guards’ communication with inmates. The Ohio Penitentiary and Camp Chase provide good examples. The Ohio Penitentiary’s rules prohibited guards from gathering for any type of conversation. Guards had to maintain a constant presence in the prison at all hours, prevent communication between convicts, and “refrain from singing, whistling . . . immoderate laughter, boisterous conversation, and

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<sup>34</sup> Gray, *The Business of Captivity*, 133, 126.

<sup>35</sup> For all of Elliot’s orders, see Lt. Col. Elliott, “General Orders No. 3,” December 15, 1863, Henry Thweatt Owen Papers, 1825-1920, Section 4, VHS.

<sup>36</sup> Numerous scholars have noted men’s increasing participation in political and civic affairs throughout the first half of the nineteenth century. Prison rules forbidding political discussions must have stifled the individuality of guards as civilians became increasingly attuned to politics. Glenn A. Altschuler and Stuart M. Blumin, *Rude Republic: Americans and Their Politics in the Nineteenth Century* (Princeton: Princeton University Press, 2000); Mary Ryan, *Civic Wars: Democracy and Public Life in the American City during the Nineteenth Century* (Los Angeles: University of California Press, 1998).

exciting discussions upon politics, religion or other subjects” to ensure harmony and good order.<sup>37</sup> These regulations quashed not only the individuality of inmates, but also that of guards, who sacrificed their personalities for the sake of preserving order.

Orders also forbade guards from speaking with each other at military prisons. Camp Chase’s commandant William Richardson prohibited guards from talking with each other while on duty, ordering them to be on constant alert. Rules also constricted guards’ communication with inmates. In 1862 Governor Tod permitted individuals “detailed for duty” in the prison to speak with inmates to facilitate their communication with others.<sup>38</sup> But Federal officials constricted these orders later in the war. On April 1, 1864, Commandant William Richardson notified guards that they were “in no case” permitted to speak to prisoners, except “when the discharge of their duty compels them” to do so.<sup>39</sup>

Similar dictates governed guards at Castle Thunder. Its rules forbade guards from conducting any communication with prisoners. The only time that the Castle’s guards could approach inmates was when an inmate desired to leave his quarters. Prison orders stipulated that no prisoner was allowed to leave his apartment without “proper guard.” Although guards did not march military prison inmates in long lines of lock step, they were responsible for ensuring that prisoners conducted themselves in an orderly fashion when they left their quarters.<sup>40</sup> Guards

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<sup>37</sup> Ohio Penitentiary, *Report of the Directors of the New Penitentiary, 1834*, 10-11, WRHS; Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio, 1855*, 47, OHS.

<sup>38</sup> David Tod, “Special Orders No. 212,” March 2, 1862, O.R. Series II, Vol., 3, 344-345.

<sup>39</sup> For all of Richardson’s directives, see R. Lamb, “Instructions to Prison Guards” by command of Colonel Richardson, April 1, 1864, O.R. Series II, Vol. 7, A01.

<sup>40</sup> All of Castle Thunder’s rules from “Rules and Regulations for the Government of Castle Thunder, 1863,” Broadside, LVA. Michael Gray notes that, at Elmira, the procedures for serving meals “resembled those in a factory” as officers took roll call, ward sergeants marched men to breakfast in two lines, and systematically filed into the dining area where they took assigned seats. Officers at other prisons probably used similar strategies. Gray, *The Business of Captivity*, 32.

assumed responsibility for inmates from the moment they entered the prison. Prison rules necessitated uniformity of behavior not only for guards but, more importantly, for inmates. This process began immediately upon an inmate's entry.

The circumstances that inmates faced upon arrival were established in antebellum penitentiaries and persisted throughout the nineteenth century, reemerging in military prisons. Upon arrival, penitentiary officials subjected inmates to a process of calculated humiliation designed to strip them of pride and self-respect, reducing many to tears.<sup>41</sup> Officials screened inmates, introduced them to prison rules, confiscated personal belongings, and served them commitment papers detailing the lengths of their sentences. Guards then marched inmates to the penitentiary hospital for a general exam. Officials noted abnormal conditions that might have posed a potential threat to the new inmates' lives or the lives of their peers. Penitentiary chaplains, or other officials, also questioned inmates about their civilian lives to determine each criminal's religious outlook, drinking habits, education, and family circumstances. All of these measures communicated to inmates that their lives were no longer their own.

Penitentiary officials—guards, wardens, and physicians—all paid close attention to new inmates during inspection in order to familiarize themselves with a convict's personality and appearance to enable identification of potential or actual troublemakers in the event of either actual or suspected wrongdoing. But it is rather ironic that officials concerned themselves with inmates' physical appearances, since regulations required all inmates to have shaved heads and faces and to wear identical striped uniforms.<sup>42</sup> Initial questioning was a contradictory process:

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<sup>41</sup> Lewis, *From Newgate to Dannemora*, 91; Cole, *A Fragile Capital*, 122.

<sup>42</sup> J.H. Matthews, *Historical Reminiscences of the Ohio Penitentiary: From its Erection in 1835 to the Present Time, a Descriptive View of the Interior and its System of Government, Modes of Punishment, Brief Sketches of the Prisoner's Life, Escapes, Noted Criminals* (Columbus, OH: Chas. M. Cott, 1884), 18-19, 22; "Message from the President of the United States transmitting the Annual Report of the

officials sought to strip inmates of individual identity while getting to know them on an individual basis. The Ohio Penitentiary provides a good example of this process. There, the moral instructor recorded inmates' circumstances with great detail. In 1840, the moral instructor, through conversations with inmates, chronicled their reading, writing, and educational skills, praising those who were "habitual readers of the Bible" and who regularly observed the Sabbath. The instructor condemned criminals' association with "lewd women" and called attention to the dangers of intemperance, noting disgustedly that many inmates were drunk for the first time when convicted of killing or of intent to kill.<sup>43</sup>

Penitentiary officials' initial questioning of inmates was, ideally, the last prolonged verbal exchange that inmates would experience while incarcerated. Rules dictated silence, but inmates circumvented this rule, especially during periods of overcrowding and while at work as the whirl of machines masked conversation.<sup>44</sup> Nonetheless, inmates were ordered to suppress their individuality since they could not talk about ordinary topics or politics. Nor could they exchange looks, laugh, quarrel, dance, whistle, sing, run, or jump. Deference and respect governed all interactions, especially those with officers. If inmates wanted to complain to officials or the board of directors, they did so individually after asking the warden's permission. Inmates depended on officials for the conduct of interpersonal relationships both in and outside of prison, a trend that was evident in both civilian penitentiaries and military prisons throughout the nineteenth century. Penitentiary and military prison officials prohibited inmates from

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Inspectors of the Penitentiary in the District of Columbia," H. Exec. Doc. No. 46, 21st Cong., 1st sess., *Rules and Regulations* (February 1, 1830), NYPL.

<sup>43</sup> Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio, 1840*, 14, OHS.

<sup>44</sup> McLennan, *The Crisis of Imprisonment*, 69.

receiving or writing letters to or from anyone outside the prison without officers' inspection and unguarded inmates were not permitted to look at or speak with visitors.<sup>45</sup>

Penitentiary and military prison officials had to establish authority from the moment that inmates entered. As in penitentiaries, inmates at Old Capitol Prison, Camp Chase, and Castle Thunder surrendered all arms, personal items, and valuables, such as watches and jewelry, to officials, who then marked and stored the inmates' items until release. Guards also took inmates' money and stored it in similar fashion unless it was a large amount; guards kept this money and could use it to support their army and the war effort. Officials then questioned inmates about their backgrounds.<sup>46</sup> When inmates arrived at military prisons, the prison clerk recorded their names, ages, residences, ranks, regiments, and companies to help officers and guards identify prisoners—the same procedure as in penitentiaries. Once penitentiary and military prison officials registered inmates' information, they tried their best to keep them separated, either through solitary confinement, by gender, or by offense.

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<sup>45</sup> Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio, 1855*, 50-51, OHS; H. Exec. Doc. No. 46, 21st Cong., 1st sess., *Duties of Convicts* (February 1, 1830), NYPL; Virginia Penitentiary, *Penitentiary Papers, 1796-1865* Subseries C, Box 3, LVA. The Virginia Penitentiary did not admit visitors, since it interfered with discipline. Letters could not pass more often than three months and only through the superintendent. The Virginia prison also had a classification system that ordered prisoners' lives and afforded varying privileges. The structure of the system resembled a grading scale used in schools. It divided inmates' sentences into thirds and encouraged prisoners to pass certain standards to advance to the next level and eventually obtain release. This classification system encouraged and rewarded good behavior by promoting convicts to the next class prior to the expiration of a third of their term of imprisonment. Officers could demote inmates a grade level for poor conduct. Prison officials also punished inmates with periods of solitary confinement, terms in the dungeon, or whippings overseen by the superintendent and administered in private. Prisoners in the lower two classes, which respectively constituted the first and second thirds of the prison sentence, could not speak with the keeper without the approval of the assistant keeper, his immediate subordinate. Prisoners of the highest class could contact the keeper, thus theoretically readying themselves for re-admittance to civilian life by having the privilege of communicating with superiors restored. See Crawford, *Report on the Penitentiaries*, 108.

<sup>46</sup> Flory, *Prisoners of War*, 97-98. There is no definition of what constitutes a "large amount" of money.

The antebellum period established the precedent that separating and classifying inmates facilitated order, but overcrowding ultimately made this impossible in both penitentiaries and military prisons. While penitentiary inmates inhabited solitary cells, these were seldom an option in military prisons because the institutions were makeshift in nature and generally had no individual cells. In any event, penitentiary inmates were seldom alone as penitentiary populations rose throughout the century. Military prison inmates also shared quarters. At Camp Chase, officers divided inmates into “conveniently sized messes” and separated “officers from the [enlisted] men as far as practicable,” suggesting that even this classification scheme broke down<sup>47</sup> Officials at Castle Thunder and Old Capitol Prison similarly tried to classify inmates. Castle Thunder guards separated inmates as follows: Confederate deserters and political prisoners occupied the Gleanor's building; blacks and female prisoners were confined in Whitlock's Warehouse; and federal deserters and, later, federal prisoners of war were detained in Palmer's Factory.<sup>48</sup> At the Old Capitol, one room on the main floor confined Virginia citizens who refused to pledge allegiance to the United States. Another held federal officers, many of whom were unaware of their offenses or who were confined by order of the Provost Marshal. The floor above contained five rooms that held inmates in solitary confinement, most commonly women, such as Confederate spy Belle Boyd. Federal officials confined prisoners of war in five Sibley tents in the prison yard.<sup>49</sup> Officials classified inmates to both punish and control them, but this punishment was ultimately mild since it enabled inmates to bond. Bonding often led to

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<sup>47</sup> Information regarding rules and regulations from David Tod, “Special Orders No. 212,”; William Hoffman, “Circular April 20, 1864”, O.R. Series II, Vol. 7, 72-75; “Rules and Regulations for the Government of Castle Thunder,” 186.

<sup>48</sup> See Speer, *Portals to Hell*, 93, for divisions of inmates at Castle Thunder.

<sup>49</sup> D.A. Mahoney, *The Prisoner of State* (New York: Carleton, 1863), 152-159.

disobedience, which officers at both penitentiaries and military prisons addressed with corporal or even lethal punishments.

The development of penitentiaries concealed punishment from civilians since public punishments had a tendency to arouse sympathy for criminals, even though they taught offenders valuable lessons in discipline.<sup>50</sup> Public whippings, humiliation, or hangings moved behind penitentiary walls after their establishment and taught inmates that defying rules carried significant consequences. Military prison officials utilized these same types of punishments, suggesting that, rather than restraining the violent power of authority, penitentiaries and military prisons channeled it in acceptable, but no less brutal, ways.<sup>51</sup> Penitentiary and military prison officials throughout the nineteenth century used solitary confinement, whipping, or the ball and chain to correct inmates' behavior. When these punishments are viewed in context, they demonstrate that military prison officials were not quite as brutal as scholars have made them out to be since corporal and lethal punishment were condoned throughout the century. Corporal punishment did, however, continuously arouse debate during the antebellum and Civil War years.

Perhaps the most controversial punishment evident in both penitentiaries and military prisons was whipping. Antebellum penitentiary administrators understood that whipping kept the balance of power in their favor. But, throughout the century, penitentiary and military officials

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<sup>50</sup> Banner, *The Death Penalty*, 148-149; Louis Masur, *Rites of Execution: Capital Punishment and the Transformation of American Culture, 1776-1865* (New York: Oxford University Press, 1989).

<sup>51</sup> Colvin and Meranze have contended that penitentiaries were deemed crucial to democracy since they restrained state power. Colvin, *Penitentiaries, Reformatories, and Chain Gangs*, 24-25; Meranze, *Laboratories of Virtue*, 14-15.

both found whipping controversial.<sup>52</sup> Penitentiary and military officials' sanctioning of whipping fluctuated throughout the antebellum period. In 1806, the military laws of the United States carefully controlled the severity of whipping by dictating that courts martial could inflict no more than fifty lashes on any offender. This act was repealed in 1812, banning whipping entirely. In 1833, however, the repeal itself was repealed in cases of desertion—again sanctioning whipping. When the Civil War began in 1861, military law abolished all forms of whipping and flogging, and this dictate applied to military prisons in the North.<sup>53</sup>

Interestingly, the use and outlawing of whipping in penitentiaries coincided with its use and abolishment in the army. In his report on penitentiaries published in 1835, reformer William Crawford noted that whipping was common at the Virginia Penitentiary, characterizing it was the “most usual course” that officials used to ensure obedience.<sup>54</sup> In the 1850s, the Ohio Penitentiary's rules and regulations also condoned whipping in “cases of a flagrant character” or of “a repetition of offenses” to help officers ensure order and obedience. Regulations, however, necessitated that officials gain approval to whip from the board of directors and prevented officials from issuing more than ten stripes at a time or for the same offense.<sup>55</sup> As in military law, penitentiary officials permitted whipping from roughly the 1830s through the 1850s, setting maximum lash limits.

D.C. Penitentiary officials also engaged in debates over whipping at the same time that military law sanctioned it. Penitentiary regulations prevented its use without Congressional

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<sup>52</sup> McLennan contends that whipping tipped the balance of power in the guards' favor, while Goldsmith acknowledges the uneven balance of power, but contends that inmates exercised influence. McLennan, *The Crisis of Imprisonment*, 71; Goldsmith, “History from the Inside Out,” 111.

<sup>53</sup> Callan, *Military Laws of the United States*, 190-191.

<sup>54</sup> Crawford, *Report on the Penitentiaries*, 107.

<sup>55</sup> Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio, 1855*, 50, OHS.

authority, revealing, just as in military law, the desire for oversight in this practice.<sup>56</sup> But in 1833 the penitentiary's warden, Isaac Clarke, argued for greater leeway to use the lash. Clarke denounced Congress's restraint on corporal punishment as too lax, maintaining that no prison system could be perfect without it. Clarke was so passionate about whipping that he contacted numerous other wardens who offered support for his position. Each person contacted emphasized the necessity of whipping in penitentiaries. Clarke begged the board of inspectors to petition Congress to employ whipping more frequently. In 1836, as the controversy continued, the inspectors stood by the stance articulated in 1830, which maintained that "mildness and certainty of punishment" were more efficient than "*severity*." The inspectors rebuffed Clarke's repeated requests to intensify whipping, deeming further legislation unnecessary.<sup>57</sup>

This refusal caused Clarke to lobby more adamantly that same year for permission to inflict corporal punishment and he used the issue of recidivism to make his case. Clarke contended that former inmates looked for recommitment, since prison rules were mild and the fare too good. Clarke argued that more frequent use of the lash would "prevent *very often* infractions of the rules, *create* a proper subordination to their officers and *reduce* the frequency of *punishments*." Advocacy of corporal punishment, according to Clarke, did not label him a cruel man. Rather, he favored this measure because of the "importance" of his station.<sup>58</sup> The inspectors again rebuffed Clarke's requests in 1839, saying that prison discipline must be "rigid" in the sense that the warden should have "a place for every man" in a cell, thereby downplaying

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<sup>56</sup> "Message from the President of the United States, Transmitting the Fourth Annual Report of the Inspectors of the Penitentiary in the District of Columbia," H. Exec. Doc. No. 49, 22nd Cong., 2d sess. (January 19, 1833), 2, NYPL.

<sup>57</sup> H. Exec. Doc. No. 49, 22nd Cong., 2d sess. (January 19, 1833), 6-7; H. Exec. Doc. No. 46, 21st Cong., 1st sess., *Rules and Regulations* (February 1, 1830), 3; "Message of the President of the United States, Transmitting the Seventh Annual Report of the Inspectors of the Penitentiary," H. Exec. Doc. No. 81, 24th Cong., 1st sess., Penitentiary District of Columbia (January 28, 1836), 2, NYPL.

<sup>58</sup> Italics in the original text. H. Exec. Doc. No. 81, 24th Cong., 1st sess. (January 28, 1836), 5, NYPL.

corporal punishment. Clarke finally, and somewhat suddenly, recanted in 1841, and the wardens who succeeded Clarke at the D.C. Penitentiary generally favored mild punishment, taking pride in the orderly state of the penitentiary.

The argument about whipping at the D.C. Penitentiary is striking, since it reveals Congress's control of the practice both in the federal penitentiary and in the army, even permitting it as punishment for deserters. As previously shown, the practice persisted in other state penitentiaries throughout the 1830s and part of the 1840s at the very same time it was permitted in the army. During this time, penitentiary and military officials shared reformer Dorothea Dix's conclusion about whipping. Dix stated that while she could never restrain her "instinctive horror and disgust of punishment by the lash," she was forced to concede that, "it may be sometimes *the only* mode...by which an insurrectionary spirit can be conquered."<sup>59</sup>

Penitentiary officials, however, began to change their minds about whipping towards midcentury, just before military laws outlawed the practice. Throughout the 1840s and 1850s, Ohio Penitentiary officers preferred surveillance to corporal punishment in order to distance the penitentiary from the whip's degrading effects. In 1844, Warden John Patterson stated that the best way to enforce "strict obedience" was to "use the *lash* as sparingly as possible." Patterson believed that inmates felt "gratitude for good treatment" and that this could encourage good conduct. When Patterson was warden, he utilized the shower bath, a stream of cold water running over the offender's head, instead of whipping. Although officers used alternate forms of corporal punishment to discourage inmates' bad behavior, Patterson believed that "vigilance" was most effective in preventing infractions.<sup>60</sup>

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<sup>59</sup> Italics in the original text. Dix, *Remarks on Prisons*, 13.

<sup>60</sup> Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio, 1844*, 5-6, OHS.

In the late 1840s and 1850s, other officials at the Ohio Penitentiary also commented on whipping's negative repercussions. In 1846, Chaplain James Finley, an anti-slavery advocate, contended that the use of the lash has "a deteriorating influence on all those who engage in it," prisoners and officials alike. Finley likely objected to whipping since he opposed slavery and knew that in the South, whipping was the primary means of social control, commonly administered to slaves by masters and overseers.<sup>61</sup>

Similarly, the board of directors in 1856 contended that corporal punishment jeopardized the character of both those who administered it and those who received it. The directors praised the substitution of corporal punishment with solitary confinement, noting how isolation "protects the convict from the outbursts of brutal passion" and ensured "wholesome discipline" in prison.<sup>62</sup> Finally, in 1858, Warden L.G. Van Slyke touted the discipline of the Ohio Penitentiary as "the pride of Ohio," since corporal punishment had not been used in almost three years. Van Slyke preferred solitary confinement for the "most refractory" prisoners. Chaplain L. Warner seconded Van Slyke's opinions about penitentiary punishment. In 1858, Warner noted that, although prison reform failed, its discipline was much improved since it emphasized control by moral means. Warner contended that if officers used force, the inmate's "animal nature and carnal passions will be developed—he will be *brutalized*," but, if humane punishment was used, the inmate's "moral nature will be developed—he will be *humanized*."<sup>63</sup> Ohio Penitentiary officers'

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<sup>61</sup> Finley, *Memorials of Prison Life*, 106-107. For Finley's antislavery opinions, see pages 44-45. Friedman, *Crime and Punishment*, 53.

<sup>62</sup> Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio, 1856*, 4, OHS.

<sup>63</sup> Italics in original text. Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio, 1856*, 4, OHS; Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio, 1858*, 11-12, 37, OHS.

total discontinuance of whipping in the late 1850s foreshadowed its ban as an acceptable military punishment in 1861.

Many military prisons officials, like Captain George Alexander, commandant of Castle Thunder, echoed the belief of the 1830s and 1840s that whipping was a necessary evil. His use of the lash, however, inspired the Confederate Congress to investigate prison conditions, demonstrating that Southern politicians shared the same interest as the federal government in monitoring whipping. In 1863, the Confederate Congress's investigation of Alexander's administration agreed that whipping was a necessary evil, just as the federal government and reformers did in the 1830s and 1840s. This investigation revealed multiple instances where prison officials inflicted anywhere from twelve to fifty lashes on inmates for offenses such as fighting, stealing, and desertion, or because courts martial ordered such punishment. It also revealed officials' belief that whipping was an effective disciplinary measure. Stephen Childrey, the prison's commissary, told the House committee that whipping "had an excellent effect" on inmates and contended that the practice should be permitted, despite the fact that the Confederate Congress abolished whipping in the army.<sup>64</sup>

But this approval was nuanced, and politicians were torn between whipping's negative repercussions and its allegedly positive effect on discipline. Confederate politicians, like northern penitentiary officials, offered a general condemnation of whipping, and a majority of committee members concluded that it served a worthwhile purpose only when employed prudently.<sup>65</sup> The first minority report on the management of Castle Thunder asserted that whipping was "inhuman and inconsistent with our system of government," but sanctioned it

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<sup>64</sup> House Investigation of the Conditions at Castle Thunder, Testimony of Stephen Childrey, O.R. Series II, Vol. 5, 886.

<sup>65</sup> Parker, *Richmond's Civil War Prisons*, 33.

since officers only used it “on persons of abandoned character” for offenses such as “stealing, fighting, and abusing more helpless fellow-prisoners.” Moreover, the committee concluded that whipping served as a form of punishment “common in military prisons” and therefore should continue.<sup>66</sup> Southern military prison officials, like antebellum penitentiary officials, condoned whipping since it taught a much-needed lesson to aberrant inmates and those disposed to violence. Prison officials condoned whipping, but they reserved such punishment only for male inmates.

The Congressional investigation reveals the Confederate government’s interest in military prison operations as these prisons became more visible to the public. The federal, Confederate, and state governments scrutinized the operation of military prisons and penitentiaries, expanding a tradition of government involvement in prison affairs that was firmly established with antebellum penitentiaries.

Despite the controversy surrounding whipping, penitentiary and military prison officials did resort to other violent means to restore order in special circumstances. In particular, the use of force and deadly force was condoned. Ohio Penitentiary officers commonly opened fire on inmates for assault and rebellion. The actions of penitentiary guards foreshadowed the guidelines for the punishment of military prisoners, in these instances, as stated in the 1863 Lieber Code. The code authorized anyone guarding prisoners of war to shoot escapees in the act and to inflict capital punishment on any inmate plotting rebellion against his captors.<sup>67</sup> Ohio Penitentiary officers’ actions foretold this law. In 1861 and 1862, one inmate was shot and killed in the act of

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<sup>66</sup> Majority Report of the Committee of Congress to Investigate the Management of Castle Thunder, submitted by W.R. Smith, O.R. Series II, Vol. 5, 919-920.

<sup>67</sup> *General Orders No. 100*, Art. 77, 1863.

attacking a foreman, while another was shot in the act for “murderous assault” on an officer.<sup>68</sup> It is likely that officers resorted to firepower since they could justify shooting by arguing that their lives were threatened and that guns ensured immediate safety against inmates “unaccustomed to obedience.”<sup>69</sup> Similar conditions existed in military prisons.

If military prison guards wounded or killed prisoners for the sake of order, their commandants usually found them innocent and allowed them to retain their posts. For example, in 1862, one of Old Capitol Prison’s guards, charged with shooting an escapee, was confined at Washington’s Central Guard house. A federal investigation of the incident, however, concluded that the guard had obeyed orders in the shooting and deserved praise, not punishment for vigilance.<sup>70</sup>

Military prison officials readily followed the Lieber Code, using force to quash threats. Officials at Camp Chase recommended arming the outnumbered guards to ensure discipline and discourage escape and revolt. Camp Chase’s population was high in November and December 1863, totaling 2,145 on November 7 and 2,448 on December 7.<sup>71</sup> Consequently, Colonel Hoffman recommended that guards “in part” be armed with revolvers. Hoffman noted that “a sentinel on post with his musket can only give one shot in case of an attack upon him,” but the revolver gave him “the strength of two or three men without such arms.”<sup>72</sup> In this case, bullets compensated for the lack of manpower and commandants stood by guards’ decisions to fire.

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<sup>68</sup> Simpson, “The Prisoners of the Ohio Penitentiary,” 32-33; Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio, 1861*, 8, OHS.

<sup>69</sup> Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio, 1861*, 3, OHS.

<sup>70</sup> John P. Sherburne to Major Doster, May 19, 1862, O.R. Series II, Vol. 3, 554.

<sup>71</sup> A.M. Clark to William Hoffman, November 7, 1863, O.R. Series II, Vol. 6, 479-480; Wm. W. Orme to Edwin Stanton, December 7, 1863, O.R. Series II, Vol. 6, 661.

<sup>72</sup> William Hoffman to Edwin Stanton, November 27, 1863, O.R. Series II, Vol. 6, 584-585.

In late 1863, Camp Chase's guards shot and killed five inmates amidst rumored escape attempts and fears that sympathizers of Peace Democrat Clement Vallandigham were plotting to release Ohio's Confederate prisoners of war.<sup>73</sup> Lieutenant Colonel A.H. Poten, the prison's assistant commandant at the time, concluded that the guards' shooting of Confederate inmate Henry Hupman was justified. Guards fired into Hupman's quarters since he was violating orders that prohibited light after hours. Poten believed that the shooting was a valuable lesson in discipline, since escape rumors were rampant and the Lieber code authorized capital punishment when escape conspiracies were afoot. He admitted dismay over the wounding of "a perhaps an innocent man, by a soldier who obeys his orders." But Poten contended that the incident was a good lesson in discipline since the rebel inmates frequently disobeyed guards. Poten concluded that Confederate prisoners took the lesson to heart and "have since changed their minds and obey."<sup>74</sup>

Commissary General Hoffman also supported guards' actions, contending that the guards' leanness of a revolt justified "more than usual severity" in the immediate execution of orders when they witnessed inmates' disobedience. The Commissary General concluded that three of the fatal cases had "sufficient justification." He did, however, note that, in two cases, where the sentinel fired into the barracks in "consequence of a light in the stove," the circumstances failed to "justify such harsh measures, though the sentinels seem only to have

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<sup>73</sup> Peace Democrats generally opposed the war and Lincoln's suspension of *habeas corpus*. Ohio authorities uncovered a plot afoot among Peace Democrats in Ohio to liberate and arm inmates at Camp Chase and Johnson's Island. For information on the Peace Democrats, see Klement, *The Copperheads in the Middle West*, (Gloucester, MA: P. Smith, 1972); Jennifer L. Weber, *Copperheads: The Rise and Fall of Lincoln's Opponents in the North* (New York: Oxford University Press, 2006). For information on the foiled Peace Democrat plot, see Angela M. Zombek, "Camp Chase Prison: A Study of Power and Resistance on the Northern Home Front, 1863," *Ohio History* 118 (August 2011): 24-48.

<sup>74</sup> A.H. Poten to W. Wallace, January 17, 1864, O.R. Series II, Vol. VI, 854.

obeyed their orders.”<sup>75</sup> Regardless, inmates learned that prison officials readily exercised permission to fire to discourage escape plots.

Military prison officials dreaded the potential for mass conspiracies, since inmates shared quarters and communicated freely. Memories of rumored escape plots were fresh in Colonel Richardson’s mind in April 1864, when he issued specific orders to Camp Chase’s guards regarding escapes. Richardson instructed guards to prevent persons from loitering “around the outside of the prisons” and cautioned them to prohibit anyone from approaching the prison “except at the gates,” especially at night. Orders dictated that any violent rush towards the prison fence would justify guards “firing upon the prisoners making the attempt.” Inmates always outnumbered guards, so officers instructed sentinels to work as a team, ensuring that “nobody trespasses on the post of the sentinel next to him while his back is turned, and that nothing improper occurs along the line.”<sup>76</sup> Sentinels had full authorization to fire if needed. The use of guns was accepted in Ohio, both in the penitentiary and at Camp Chase, during the Civil War. The record at the Virginia Penitentiary regarding shooting and corporal punishment is less clear.

Even though officials at the Virginia Penitentiary said little regarding the types of punishments administered during wartime, it is likely that they resorted to corporal punishment not only because of overcrowding, but also as a result of their assessment of inmates’ characters. In 1863, Superintendent Colin Bass, fearful of overcrowding, penned a nervous annual report since convicts were “of a class far worse . . . than has ever been in any one prison on the American continent.” Bass was vague about methods of punishment, perhaps trying to save face, saying that it was “painful and embarrassing” to administer “inflexible” yet “humane”

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<sup>75</sup> W. Hoffman to E.M. Stanton, March 17, 1864, O.R. Series II, Vol. VI, 868.

<sup>76</sup> R. Lamb, “Instructions to Prison Guards,” A01.

discipline.<sup>77</sup> Bass's vagueness leaves his definition of humane punishment open to question, but suggests that he was trying to downplay the necessity of corporal or perhaps lethal punishment to restrain unruly inmates.

Although it is not clear exactly how punishment played out at the Virginia Penitentiary, punishments in the D.C. Penitentiary were well documented in 1861 and 1862 and resembled those used before the war, including a return of the lash despite its abolishment. Inmates were commonly sentenced to confinement in the dungeon, put in chains for stretches as long as twelve days, whipped with the cat o' nine tails up to twenty-five lashes, whipped with the lash from five to twelve times, and tied up by the thumbs for a half hour or an hour.<sup>78</sup> Suspension by the thumbs was also a punishment common in the military and used in military prisons like Camp Chase. Nineteenth-century contemporaries viewed these punishments not as brutal, but as an effective means of ensuring obedience in penitentiaries and military prisons.<sup>79</sup> Viewing penitentiaries alongside military prisons reveals that military prisons were not inordinately violent, but rather continued using accepted methods of punishment established before the war.

Not only did punishment remain consistent from the antebellum period to wartime, offenses that warranted punishment also paralleled those of the antebellum period. The offenses varied from feigning illness, to attempting escape, to communicating with prisoners of the opposite sex, to accidentally cutting fellow inmates, disobeying orders, using profane language, singing, laughing, and neglecting or damaging work.<sup>80</sup> Some of these offenses were minor, but

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<sup>77</sup> Doc. No. 7, *Report of the Superintendent of the Penitentiary, 1863*, 7.

<sup>78</sup> Record Group 48, MLR A1-475, Register of Punishments, 1831-1862, NARA II.

<sup>79</sup> Gillispie, *Andersonvilles of the North*, 41-42.

<sup>80</sup> Lincoln closed the D.C. Penitentiary in September 1862. Punishments and infractions at the D.C. Penitentiary are from Record Group 48, MLR A1-475, *Register of Punishments, 1831-1862*, punishments dated from April 29, 1861 to July 6, 1862, NARA II.

punishment was swift and officers used familiar practices to control the rising prison populations, which introduced both criminals and prisoners of war into the penitentiary.<sup>81</sup> Since such punishments were deemed both legitimate and effective in the nineteenth century, it becomes more difficult to condemn military prison officials for intentional cruelty, since officers were following accepted punitive patterns.

Military prisons also reflected the expanded role of centralized government, both North and South, as they were used to ensure social order. Examination of the *Official Records* also reveals that military prison inmates committed the same offenses as penitentiary inmates. Inmates at Camp Chase, Castle Thunder, and Old Capitol Prisons insulted guards, devised escape plots, fought with or stole from each other, and demonstrated general disobedience. In return, officers put inmates on bread and water diets and forced them to wear irons or a ball and chain, kept them in close confinement, implemented bucking and gagging, confined inmates in the dungeon, shot escapees, and whipped inmates.<sup>82</sup>

Whipping, however, was not the only punishment that elicited debate during the Civil War. Many Civil War contemporaries believed that whipping was inappropriate for soldiers who defended the Union or Confederate causes, likely because of its use to punish slaves.<sup>83</sup> But many

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<sup>81</sup> The population of the D.C. Penitentiary peaked at 330 in 1862. This was greater than any year in the antebellum period. See Appendix.

<sup>82</sup> See for example, James Wadsworth to Superintendent of Old Capitol Prison, May 22, 1862, O.R. Series II, Vol. III, 571; Robert H. Tyler to Col. Robert Ould, October 8, 1862, O.R. Series II, Vol. III, 362; Treatment of Prisoners in Castle Thunder Evidence taken before the Committee of the House of Representatives of the Confederate States to Investigate the Treatment of Prisoners at Castle Thunder, April 11, 1863, O.R. Series II, Vol. 5, 871-915. Marshall, *American Bastille*, 327; James Roberts Gilmore, *Patriot Boys and Prison Pictures* (Boston: Ticknor & Fields, 1886), 247.

<sup>83</sup> Throughout the 1850s, Ohio Penitentiary officials wanted whipping abolished because of its association with slavery. For example, Warden Van Slyke preferred solitary confinement for the “most refractory” prisoners. He aimed to maintain prison discipline by inspiring the convicts with “the manly satisfaction of knowing that he has governed himself” rather than acknowledging that “he had slavishly submitted to be governed by others.” Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio, 1858*, 11-12, 37, OHS. The constant supervision and

also considered penitentiary sentences and their common punishments inappropriate for men who voluntarily defended the Constitution since penitentiaries were used to punish common criminals. Not only did penitentiary inmates find their lives governed by the performance of hard labor, they also potentially faced solitary confinement in a dungeon on a bread and water diet and confinement in leg irons or to a ball and chain.<sup>84</sup> These punishments did not fit the common image of the soldier, who had been viewed as the epitome of masculinity and honor since the American Revolution.<sup>85</sup> Nonetheless, wartime penitentiary officials continued the antebellum trend of administering penitentiary punishments to incarcerated soldiers, emphasizing those soldiers' fall from grace.<sup>86</sup> But many of the soldiers incarcerated during the Civil War were, in fact, civilians since the volunteer army was based on conscription. Like penitentiary inmates throughout the century, many soldiers incarcerated in military prisons and penitentiaries were

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physical punishment that slaves endured, according to James Horton, reminded slaves of their "inability to control [his or her] life." James Oliver Horton, "Freedom's Yoke: Gender and Conventions Among Antebellum Free Blacks," *Feminist Studies* 12.1 (Spring 1986): 53, in Jim Cullen, "'I's a Man Now': Gender and African American Men," in *Divided Houses: Gender and the Civil War*, ed. Catherine Clinton and Nina Silber (New York: Oxford University Press, 1992), 90. Distancing the prison program from slavery by banishing whipping emphasized that convicts, although detained, were still above slaves, although both groups remained outside the body politic. Isenberg, *Sex and Citizenship*, 105. Isenberg contends that "children, blacks, slaves, infidels, Indians, resident foreigners, lunatics, convicts, and paupers" had no political value.

<sup>84</sup> Record Group 48, MLR A1-475, *Register of Punishments, 1831-1862*, NARA II.

<sup>85</sup> In their assessment of masculinity in the American Revolution, Stephan Dudink and Karen Hagemann assert that American Revolutionaries fashioned themselves after "the model of the virtuous citizen-soldier who was willing to sacrifice all for his liberty and that of the republic." The republican masculinity of the militias "centered around a masculinity of independence that connected the individual citizen to the collective activities of politics and war," upholding the virtue of soldiers. See Stephan Dudink and Karen Hagemann, "Masculinity in Politics and War in the Age of Democratic Revolutions, 1750-1850," in *Masculinities in Politics and War: Gendering Modern History*, ed. Stephan Dudink, Karen Hagemann, and John Tosh (New York: Manchester University Press, 2004), 7-8. James McPherson asserts that Civil War soldiers enlisted and continued fighting due partly to ideals of masculinity. McPherson contends that "duty and honor were closely linked to concepts of masculinity in Victorian America" and that war was a stern test of manhood as soldiers desired to prove their manliness and honor under fire and soldiers were supported by civilians at home for their sacrifice. See James M. McPherson, *For Cause and Comrades: Why Men Fought in the Civil War* (New York: Oxford University Press, 1997), 25, 31.

<sup>86</sup> Record Group 48, MLR A1-475, *Register of Punishments, 1831-1862*, Box 1, Punishments 1831-1847, Orders 1851-1854, NARA II.

also lower class, since upper class Northerners and Southerners were able to avoid conscription.<sup>87</sup> These conscripts had a difficult time taking orders from superiors and were subjected to the penitentiary's program of calculated humiliation when imprisoned.

Members of the volunteer army were unaccustomed to military life and to obeying orders from superiors. The spirit of individualism and independence that characterized the mid-nineteenth century often got soldiers into trouble and earned them terms in the D.C. Penitentiary where they received objectionable punishments.<sup>88</sup> Such was the case with private William Fahey of the 25th New York Volunteers. Fahey refused an order from his captain, a "damn scoundrel," to get wood, since he "enlisted for a soldier, not for a laborer." Like Fahey, some soldiers believed themselves to be above performing menial duties. The military court sentenced Fahey to forfeiture of pay, dishonorable discharge, and three years of imprisonment in the D.C. Penitentiary, with a thirty-two pound ball and chain, where he lived among lowly criminals.<sup>89</sup>

Federal officials sent offenders to the D.C. Penitentiary and where they experienced punishments that humiliated soldiers. Courts martial records reveal that Fahey was only one of many Union soldiers who could not take orders from superiors. Other soldiers were found guilty of desertion, insubordination, mutiny, absence without leave, "conduct prejudicial to good order," "conduct unbecoming of an officer and gentleman," drunkenness or sleeping on post, and using foul language towards or striking an officer. Courts martial sometimes ensured that the stigma of imprisonment followed deserters for the rest of their lives, branding them with the

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<sup>87</sup> Cloyd, *Haunted by Atrocity*, 60.

<sup>88</sup> Michael Kimmel notes that the self-made man was defined by "success in the market, individual achievement, mobility, and wealth," characteristics that contrasted sharply with the army's strict scheduling and discipline. See, Kimmel, *Manhood in America*, 17.

<sup>89</sup> Case No. 1073, William Fahey, February 17, 1862, Record Group 48, Entry 473, Box 4, NARA II.

letter “D” upon the expiration of their sentence. Deserters usually received this branding on their hip; so, even though the mark was invisible to many, the pain of their crime remained.<sup>90</sup>

Other times, courts martial ordered punishments that were very common in penitentiaries and these disgraced disobedient soldiers. Upon entering the D.C. Penitentiary, rules stipulated that the hair of convicts “be cut close,” as previously noted.<sup>91</sup> Courts martial often ordered the heads of men convicted of mutiny or disobedience to be either fully or half shaven to equate them with convicts.<sup>92</sup> All of these examples reveal that convicted soldiers were not immune from the penitentiary’s disciplinary program, reinforcing the fact that all inmates in penitentiaries were afforded similar treatment and the idea that antebellum disciplinary practices carried over into wartime.

Military offenders were not the only soldiers to be placed in penitentiaries; both the Ohio and Virginia penitentiaries also held prisoners of war and subjected them to penitentiary punishments. While this occurrence happened throughout the war, it was especially true as prison populations increased following the cessation of prisoner exchanges and the Battle of Gettysburg.<sup>93</sup> Evidence demonstrates that, in some instances, Northern and Southern officials used penitentiary punishments for retaliatory purposes, a fact that lends credence to arguments advanced by Charles W. Sanders and William B. Hesseltine that retaliatory measures influenced the treatment of prisoners of war. More importantly, however, this suggests that penitentiaries

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<sup>90</sup> For branding example, see Case 1043, Private Walter T. Bell of Co. A 1st Battalion, 11th Infantry, and Case 1042, James Rea, December 10, 1862. For a list of general punishments see Court Martial Records, RG 48, MLR A1-475, *Register of Punishments, 1831-1862*, NARA II.

<sup>91</sup> H. Exec.Doc. No. 46, 21st Cong., 1st sess., *Rules and Regulations* (February 1, 1830), 10.

<sup>92</sup> Specifically, see the cases of Charles F. Williams and John Thomas of Taft’s 5th New York Battery, numbers 1155 and 1159 respectively, May 7, 1862. Also see Case 1057, John Harrington, February 17, 1862. The order to shave Harrington’s head was later rescinded. Records RG 48, MLR A1-475, *Register of Punishments, 1831-1862*, NARA II.

<sup>93</sup> Speer, *Portals to Hell*, 148.

should be studied alongside military prisons. For example, in February of 1863, the *Richmond Daily Dispatch* reported that over one dozen Yankee prisoners of war were sentenced to hard labor in the Virginia Penitentiary in return for Lincoln's incarceration of two Confederate officers in the D.C. Penitentiary on a "trumped" charge of robbing the mails.<sup>94</sup> This article reveals Southerners' disapproval of their soldiers being confined in Northern penitentiaries, although they thought favorably of their own government's use of prisons as punishment for enemies. Northern civilians undoubtedly felt the same favorable feelings about such penitentiary sentences—especially when it came to Confederate cavalry General John Hunt Morgan's incarceration in the Ohio Penitentiary.

In July 1863, Morgan and his men raided Ohio, costing the state nearly one million dollars. Union officials sentenced Morgan and his officers to the penitentiary as common horse thieves, not only as punishment for their Ohio raid, but also because there was no better facility in which to keep them. Ohio Governor David Tod ordered Morgan and thirty of his fellow officers to the penitentiary since it was a "secure place" where the federal government could supervise the inmates. Upon entry, Morgan and his men were searched, stripped of valuables, separated from other convicts (but governed by the same rules), and placed under a military guard.<sup>95</sup> Morgan and his men were not put to work in the penitentiary, since, as previously noted, war's circumstances significantly cut into the labor program. Nonetheless, the incarceration of the cavalymen as common horse thieves equated them directly with criminals, a decision to which Southerners vehemently objected.

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<sup>94</sup> "Local Matters: The State Line Prisoners," *Richmond Daily Dispatch*, February 7, 1863.

<sup>95</sup> State of Ohio Executive Order, July 30, 1863, in "The Order for Morgan's Imprisonment," *Richmond Daily Dispatch*, August 14, 1863, accessed March 14, 2010, <http://dlxs.richmond.edu/d/ddr/>; Speer, *Portals to Hell*, 140-150.

While Southerners were unnerved by Morgan's confinement, they were most disturbed by the fact that penitentiary officials shaved the soldiers' heads, since this was standard practice for convicts upon the entry into prison. The Richmond press learned of the head shaving and decried the "indignity," arguing that the act violated the laws of war which, as previously noted, said that prisoners of war were not guilty of criminal intent against their enemy. Richmond residents were most offended that Morgan and his men were treated "like convicts." Southerners believed such treatment unfit for soldiers, especially officers, and asserted that the shaving was a "petty exhibition of malice" on the part of Union officials.<sup>96</sup> Southerners were so outraged that even Morgan's admission in a public letter to his wife that he was "kindly treated" failed to quell their displeasure. Indignation over the treatment of Southern soldiers intensified upon the revelation in January 1864 that one of Morgan's men, Colonel R.S. Cluke, a "distinguished officer," died in a dungeon in close confinement, a punishment commonly used to rectify convicts' misbehavior.<sup>97</sup> There is no indication of Cluke's offense, but he most likely defied penitentiary rules or was perceived by officers to have done so.

Outsiders believed that the treatment that soldiers received in penitentiaries was harsh, since it was the same treatment that was rendered to common criminals. But the fact that military prisoners served penitentiary sentences both before and during the Civil War reinforces the notion that the story of nineteenth-century imprisonment was one of continuity.

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<sup>96</sup> "Outrage on Confederate Officers," *Richmond Daily Dispatch*, August 6, 1863, accessed March 14, 2010, <http://dlxs.richmond.edu/d/ddr/>; "Morgan in a Penitentiary," *Richmond Daily Dispatch*, August 7, 1863, accessed March 14, 2010, <http://dlxs.richmond.edu/d/ddr/>; "The Shaving of Heads," *Richmond Daily Dispatch*, August 17, 1863, accessed March 14, 2010, <http://dlxs.richmond.edu/d/ddr/>.

<sup>97</sup> "Morgan not Lee Treats," *Richmond Daily Dispatch*, August 18, 1863, accessed March 14, 2010, <http://dlxs.richmond.edu/d/ddr/>; "Death of Col. Cluke," *Richmond Daily Dispatch*, January 26, 1864, accessed March 14, 2010, <http://dlxs.richmond.edu/d/ddr/>.

Punishments were not the only things that penitentiaries and military prisons had in common in the nineteenth century. Penitentiary and military prison inmates also shared similar experiences. They faced poor physical conditions in prison, assumed a negative stigma upon entering prison, and tried to pass the time of imprisonment through religious activities, bonding with other inmates, and work. Chapter 6 will analyze evidence available in captives' letters, memoirs, and other writings as well as the information available in official records and accounts. We will see how conditions and disciplinary practices common in both types of institutions had varying degrees of impact on their respective captives and how these conditions and practices responded to and influenced inmate behavior.

## CHAPTER 6 INMATES' IDENTITY AND DISOBEDIENCE

We know relatively little about what went on inside of penitentiaries and military prisons from the perspective of inmates. As far as penitentiaries are concerned, histories too often focus on the rhetoric of reformers, state officials, or educated elites since their records are accessible.<sup>1</sup> Inmates in both penitentiaries and military prisons left records, but those of the former are more difficult to come by than the latter. The actual words of these inmates, moreover, are biased, since they had to tailor their commentary to conform to the requirements of officials who inspected every word written from prison. It is nonetheless possible to obtain a good idea of how inmates—male and female—lived their lives behind bars by reading their records and by reading between the lines of officials' accounts. These reveal that military prison inmates compared their experience to that of penitentiary inmates, that penitentiary and military prison inmates alike lived in crowded and unsanitary conditions, and that they both troubled officials with escape attempts and disobedience.

While it is necessary to examine the internal conditions of penitentiaries and military prisons to understand inmates' lives, it is more instructive to examine how inmates viewed themselves, how they resisted captors, and how they coped with their day-to-day existence. As Mary Gibson has noted, historians studying American penitentiaries have only recently attempted to focus on "history from below" and capture the interaction between prisoners and

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<sup>1</sup> Pieter Spierenburg, *The Prison Experience: Disciplinary Institutions and Their Inmates in Early Modern Europe* (London: Rutgers University Press, 1991), 4; Norman Bruce Johnston, *Forms of Constraint: A History of Prison Architecture* (Urbana: University of Illinois Press, 2000), 2. This study is inspired by Pieter Spierenburg's work, which seeks to remedy the fact that "little is known of what actually happened in the prisons" in Europe. It seeks to remedy this problem in scholarship on American prisons. Norman Johnston calls for scholars to produce a "realistic" view of what went on in the prison by ceasing to mistake the rhetoric of state officials and educated elites of administrative practice and instead "document actual prisons, their goals, their methods, and their successes."

guards, which included collaboration as well as violent conflict.<sup>2</sup> This chapter reconstructs this relationship and examines both the resistance of inmates and the fears of guards. Such a focus contributes to the recent trend that Gibson identified regarding penitentiaries and also represents a marked departure from scholarship on Civil War military prisons. As previously stated, Civil War era historians have focused heavily on the squalor and inhuman treatment of captives evident in military prisons, but have not engaged in analysis of prisoners' identities or resistance. Historians such as William Hesseltine, Charles Sanders, and Roger Pickenpaugh have described the horrendous conditions—hunger, disease, and deprivation—that prisoners of war in military prisons withstood daily.<sup>3</sup> These conditions seem less surprising when the Civil War's military prisons are analyzed alongside penitentiaries. This chapter briefly compares the poor conditions in penitentiaries and military prisons, noting the nagging problems that overcrowding and disease posed. More significantly, however, it focuses on how military prisoners viewed themselves and how penitentiary and military prison inmates negotiated the terms of confinement. The findings expand upon Larry Goldsmith's contention that the balance of power between inmates and guards was always uneven, but penitentiary and military prison inmates, nonetheless, exercised a certain degree of influence over their circumstances of captivity.<sup>4</sup>

The experience of confinement was trying for all inmates, not just because of poor living conditions. Incarceration robbed penitentiary and military prison inmates of their personal freedom, forced them to relinquish control over their time, and removed them from free society. Private William Duff, a Confederate prisoner of war at Camp Chase, saw parallels between inmates of penitentiaries and military prisons. "Let that prison life be what it is," Duff wrote, "it

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<sup>2</sup> Gibson, "Global Perspectives on the Birth of the Prison," 1058-1059.

<sup>3</sup> Hesseltine, *Civil War Prisons*; Sanders, *While in the Hands of the Enemy*; Pickenpaugh, *Captives in Gray*.

<sup>4</sup> Goldsmith, "History from the Inside Out," 110, 120-121.

may be of war or criminal or by quarantine or detention in some way . . . but being deprived of liberty and freedom is a terror and a horror to anyone.” Duff’s experience suggests that all prisoners, regardless of the type of prison they inhabited or the crime they may have committed, shared similar experiences. He concluded that imprisonment tortured the mind and body so that inmates were “not themselves.”<sup>5</sup> Duff’s conclusion suggests that imprisonment changed all prisoners, instigating feelings of despondence, anger, and helplessness.

Imprisonment was relatively new to Civil War contemporaries, and its social function and operating standards were defined in the context of penitentiary development. Consequently, both military prison officials and inmates judged military prisons by standards used to evaluate penitentiaries. Just as reformers during the antebellum period demanded that criminals receive humane treatment in penitentiaries, military officials, such as Union Commissary General William Hoffman, believed that military prisoners should receive treatment equal to or better than penitentiary inmates. In 1863, Camp Chase inmate T.J. Churchill complained to Hoffman of poor prison conditions and demanded that Union officials provide inmates with “kind and humane treatment.” Hoffman voiced a comparable critique of conditions in Richmond’s military prisons, arguing that it was “shocking to humanity” to confine “even the most abandoned criminals” in them.<sup>6</sup> Similarly, Confederate prisoner of war Joseph Barbieri, who spent time at both Johnson’s Island and Camp Chase, noted with disgust that the mother of a prisoner of war who was on his deathbed was denied the opportunity see her son. This, noted Barbieri, was a privilege that even “the vilest of criminals” with pending trials or condemned to execution

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<sup>5</sup> Duff, *Six Months of Prison Life*, 5.

<sup>6</sup> Gen. Churchill to Col. Hoffman, no date, and W. Hoffman to Gen. Churchill, via Col. R.C. Buchanan, Commanding Fort Delaware, April 17, 1863, “From Gen. Churchill to Col. Hoffman,” *Richmond Daily Dispatch*, May 7, 1863, accessed April 14, 2010, <http://dlxs.richmond.edu/d/ddr>. Churchill was transferred from Camp Chase to Fort Delaware and voiced his complaints to Hoffman upon his transfer.

received.<sup>7</sup> Civil War contemporaries, such as Churchill, Hoffman, and Barbieri, believed that military prisons should be evaluated according to the standards upon which penitentiaries were assessed. It is logical, therefore, to view military prison inmates' experiences alongside those of penitentiary inmates.

Both penitentiaries and military prisons faced significant crowding throughout the nineteenth century. As noted in Chapter 3, by 1860 overcrowding had pushed penitentiaries towards a disciplinary crisis and this problem persisted during wartime. Despite the fact that criminals could choose between army service or penitentiary sentences, penitentiaries and military prisons remained crowded.<sup>8</sup> This was true in the Ohio, D.C., and Virginia penitentiaries, as the Federal and Confederate governments tightened the rules on acceptable political activity and searched for deviants.<sup>9</sup> The Ohio Penitentiary's population climbed to 924 in 1862; the D.C. Penitentiary's population hit an all-time high of 330 that same year, which was the penitentiary's final year of existence; and the Virginia Penitentiary's population hovered close to 350 inmates from 1861-1863, rivaling its antebellum peak.<sup>10</sup> Due to availability of data, only the wartime population of the Ohio Penitentiary can be fully assessed as the D.C. Penitentiary closed in September 1862 and the records for the Virginia Penitentiary for 1864 and 1865 do not exist. The Ohio Penitentiary's population did decrease during the war's latter years: in 1863 the total number of inmates decreased to 740 due primarily to expiration of sentence. In 1864, the penitentiary's population went from 740 to 629, again primarily due to expiration of sentences.

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<sup>7</sup> The inmate to which Barbieri was referring was incarcerated at Johnson's Island. Joseph Barbieri, *Scraps from the Prison Table: At Camp Chase & Johnson's Island* (Doylestown, PA: W.W.H. Davis, 1868), 83.

<sup>8</sup> McLennan, *The Crisis of Imprisonment*, 83.

<sup>9</sup> While penitentiary populations rose in Columbus, Washington, and Richmond during the Civil War, as demonstrated in the appendix at the end of the dissertation, I am not sure about the total national incarceration rate. Colvin, *Penitentiaries, Reformatories, and Chain Gangs*, 9-10.

<sup>10</sup> See Appendix.

Finally, in 1865 the population totaled 655. These wartime totals, however, were higher than all but three years in the antebellum period, only 1858, 1859, and 1860 were higher.<sup>11</sup> Crowding, among other things, was a significant concern for inmates upon arrival.

Upon entering prison, all inmates adjusted to small cells that were subject to seasonal temperature changes, and they were vulnerable to diseases due to poor ventilation and cramped conditions. The physical structure of penitentiaries and the restricted living space were the first things that all prisoners noticed upon entry. The cells of the Ohio, Virginia, and D.C. penitentiaries were restrictive. Cells in the Ohio Penitentiary measured seven feet long, three and a half feet wide, and seven feet high. Those in the D.C. Penitentiary measured seven feet, eleven inches long, three feet, four inches wide, and seven feet, eight and one half inches high. Virginia Penitentiary inmates occupied slightly larger cells measuring twelve feet long, six and a half feet wide, and nine feet high.<sup>12</sup> Windows were small and contributed to claustrophobia, especially when multiple inmates shared a single cell. Poor ventilation in the Ohio, Virginia, and D.C. penitentiaries heightened inmates' misery since they had nowhere to go to escape the stagnant air.

Antebellum penitentiary and Civil War military prison inmates lived in different physical structures, but their experiences of captivity were comparable. Military prison inmates inhabited crowded rooms and were subjected to solitary confinement as punishment. The dimensions of the rooms that military prisoners inhabited were too small to accommodate the growing number of inmates. Military prison inmates, like their penitentiary counterparts, decried the

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<sup>11</sup> Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary, 1862*, 41; Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary, 1863*, Report of the Directors; Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary, 1864*, 548; Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary, 1865*, 234. For population from 1858, 1859, and 1860 see Appendix.

<sup>12</sup> Dix, *Remarks on Prisons*, 48; Crawford, *Report on the Penitentiaries*, 102, 106.

overcrowding. Anywhere from one to four inmates at the Virginia Penitentiary occupied the small cells. Castle Thunder also had tight quarters.<sup>13</sup> In 1863, one Castle Thunder inmate, a Union volunteer from North Carolina, reported that he and twenty-seven fellow Union captives lived in a “gloomy cell fifteen by twenty feet,” illustrating that military prison inmates had insignificant personal space as did penitentiary inmates.

The parallels between the circumstances facing military and penitentiary inmates were not lost on contemporaries. “I’m doomed a felon’s place to fill,” wrote an Old Capitol Prison inmate on the wall, lamenting the stigma of imprisonment.<sup>14</sup> Similarly, upon learning of the plight of his men in Castle Thunder, Captain E. C. Sanders of the First North Carolina Union Volunteers complained that they “were treated as felons of the deepest dye,” not prisoners of war.<sup>15</sup> Sanders’s complaint confirms that prisoners of war endured circumstances of captivity similar to penitentiary inmates, even though some courts martial believed that soldiers should never bear the criminal stigma.

The order in which courts martial dictated punishments clearly expressed the idea that soldier-criminals disgraced their office. The court martial that found Charles Sprague of the 6th Wisconsin guilty of fraud chastised him, saying “How much more the crime when committed by one in whom the duty of being a good soldier is added to that of the high obligation of being a good citizen.” In another case, a court martial found Private John Nugent of the same regiment guilty of fraud and sentenced him to six months’ imprisonment in the D.C. Penitentiary and subsequent dishonorable discharge. The court later stipulated that Nugent’s discharge precede his

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<sup>13</sup> Dix, *Remarks on Prisons*, 48; Crawford, *Report on the Penitentiaries*, 102, 106.

<sup>14</sup> Mahoney, *The Prisoner of State*, 281.

<sup>15</sup> E.C. Sanders to Maj. Gen. J.G. Foster, April 24, 1863, O.R. Series II, Volume 5, 518-519.

confinement in the D.C. Penitentiary, since “no man who has the honorable position of a soldier should be at the same time a felon.”<sup>16</sup>

Some soldiers like Sprague and Nugent were guilty of criminal acts, but those who were held without clear reason elicited significant ire. In 1862, eight of the ninety-six service men imprisoned at the D.C. Penitentiary were held with “no charges stated in the papers,” which caused Massachusetts Senator Henry Wilson to complain that these men were being “degraded as felons” since their punishment lacked justification.<sup>17</sup>

Regardless of the charges or status as a civilian or a soldier, all penitentiary and military prison inmates suffered from disease and poor living conditions because of prison construction and crowding. All three penitentiaries were located on land unsuitable for domestic residences or businesses. The Ohio Penitentiary sat on the Scioto and Olentangy Rivers, both home to malaria-carrying mosquitoes that caused outbreaks of the disease in the prison. Air circulation was inadequate, as small windows allowed the air to stagnate in inmates’ cells.<sup>18</sup> Ohio’s drastic changes in temperature in spring, summer, fall, and winter exacerbated inmates’ misery. The penitentiary retained heat in the summer, but was bitterly cold in the winters. In the summer of 1838, the board of directors described hot, dry weather that exacerbated disease and death. They noted that no one could ever expect hundreds of inmates crammed into small quarters to enjoy

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<sup>16</sup> Case 1059, John Nugent, January 9, 1862, Record Group 48, Entry 473, Box 4, NARA II.

<sup>17</sup> H. Exec. Doc. No. 127, 37th Cong., 2d sess., *Prisoners in the Penitentiary of the District of Columbia by Sentence of Courts-Martial: Letter from the Secretary of the Interior* (June 12, 1862), NYPL; David K. Sullivan, “Behind Prison Walls: The Operation of the District Penitentiary, 1831-1862,” *Records of the Columbia Historical Society, Washington, D.C.*, Vol. 71/72, The 48th Separately Bound Book, (1971/1972) 265.

<sup>18</sup> Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio*, 1855, 25, OHS.

the same health conditions as free citizens. This observation proved accurate, as epidemics were particular to the prison while barely impacting civilians in the surrounding area.<sup>19</sup>

Wintertime created problems for inmates in both types of institutions. Although Virginia had mild winters, compared to Ohio, Virginia inmates still complained to the surgeon about cold quarters.<sup>20</sup> In 1835, they griped about cold, damp cells and one inmate reported frozen feet.<sup>21</sup> Inmates' complaints persisted throughout the century and surgeons were often sympathetic to them since prisoners' health reflected on surgeons' competence. In 1856, inmates complained to surgeon W.A. Patterson that they "suffer very much for the cold of winter" and constantly called attention to "want of fire." As a result, Patterson urged prison officials to heat inmates' cells as they did prison workshops. Patterson wanted to ease convicts' suffering, but he acknowledged that illness was part of their punishment, since prisoners experienced it "as the consequence of their crimes." He nonetheless concluded that officials needed to try to prevent maladies since health care was costly, but noted that this prevention should only occur if "it is consistent with the proper punishment of crime."<sup>22</sup> Patterson's words suggest that officials sometimes neglected disease since it contributed to punishment and may further suggest that the precedent of intentional maltreatment of prisoners, raised by scholars of the Civil War, was also evident in the antebellum period.<sup>23</sup> Illness undoubtedly heightened inmates' misery and it spread quickly in all prisons.

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<sup>19</sup> Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio*, 1838, 5, OHS.

<sup>20</sup> Dix, *Remarks on Prisons*, 48.

<sup>21</sup> Crawford, *Report on the Penitentiaries*, 106.

<sup>22</sup> Doc. No. 13, *Annual Report of the Board of Directors of the Penitentiary Institution, Year Ending September 30, 1856*, 41, LVA.

<sup>23</sup> Charles W. Sanders, Jr.'s study provides the most detailed account of officials' intentional maltreatment of prisoners of war during the Civil War. Sanders, *While In the Hands of the Enemy*.

The Virginia Penitentiary also occupied soggy land that caused illnesses. A contaminated pond and a disease-ridden marsh created problems for inmates and officials alike. In 1847, the prison's surgeon, J.N. Brooks, complained of miasma caused by vegetable matter decaying at the pond's bottom. He advocated draining the marsh, condemning it as a troublesome source of disease.<sup>24</sup> Draining, however, did not come to fruition, leaving inmates to suffer and ultimately suggesting that the health of inmates was not a top priority. Penitentiary inmates suffered from dysentery, diarrhea, cholera, smallpox, and consumption in the antebellum period and during the Civil War, and military prisoners contracted the same maladies.<sup>25</sup> Similar illnesses plagued both the Ohio and District of Columbia penitentiaries during wartime, often causing death.<sup>26</sup> Penitentiary officials often overlooked internal conditions in both the antebellum and war years, as did military prison officials during the war.

Following his escape from Camp Chase in 1861, political prisoner A.J. Morey recalled that "men of every class and grade" huddled in small shanties and were "treated as felons." Morey described how prison officials prohibited fires to warm the "half naked and shivering prisoners"; how shoddily constructed shanties leaked, soaking inmates and their belongings; and how the prisoners worried that they would "perish from the effects of cold and damp." Morey concluded his tirade with an indictment of the prison's officers by questioning the character of the guards. "This treatment of human beings by those calling themselves Christians," he wrote,

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<sup>24</sup> Doc. No. 8, *Annual Report of the Board of Directors of the Penitentiary Institution, 1847*, 38, LVA.

<sup>25</sup> Doc. No. 13, *Annual Report of the Board of Directors of the Penitentiary Institution, Year Ending September 30, 1861*, 35; Doc. No. 6, *Annual Report of the Board of Directors of the Penitentiary Institution, Year Ending September 30, 1862*, 6; Doc. No. 9, *Annual Report of the Board of Directors of the Penitentiary Institution, Year Ending September 30, 1863*, 27; Doc. No. 12, *Annual Report of the Board of Directors of the Penitentiary Institution, Year Ending September 30, 1864*, 23, LVA.

<sup>26</sup> John B. Keasley, M.D., to Board of Inspectors October 13, 1861, Record Group 48, Records of the Office of the Secretary of the Interior, Records Relating to the U.S. Penitentiary for the District of Columbia, 1826-1865, Miscellaneous Records, 1829-1862, Entry 470, Box 3, NARA II; "The Ohio Penitentiary," *The Daily Cleveland Herald*, February 28, 1865, Col. C.

was “unparalleled.”<sup>27</sup> Morey was not alone. Many Civil War military prisoners had similar experiences in military prisons that were built on poor ground and were short on necessary supplies.<sup>28</sup>

Prisoners at both Camp Chase and Old Capitol Prison experienced poor conditions. D.A. Mahoney, a political prisoner at Old Capitol, complained that he and four prisoners shared a room eight feet wide by fourteen feet long, and that one of the prisoners lacked a bunk, forcing him to sleep on a “dirty, straw-filled bed tick.”<sup>29</sup> Later in his imprisonment, Mahoney griped that he was moved to a different room, which was designed for five men, but held six. While this seems like a minor complaint, Mahoney’s next point raises an issue that was of major concern to both penitentiary and military prison inmates. After a few days, Mahoney noted that, “the atmosphere became so foul” that they had to open the room’s door and window to “breathe pure air.”<sup>30</sup>

Poor ventilation was a common problem in both military prisons and penitentiaries, especially since the institutions were crowded. In September 1862, Mahoney noted that the addition of “several hundred” Yankee deserters crowded the building almost to suffocation and made “a breath of pure air” an “impossible luxury.”<sup>31</sup> Similar circumstances were common at Camp Chase. In July 1863, prison inspector Captain H.M. Lazelle, described buildings as

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<sup>27</sup> “Federal Treatment of Prisoners. Horrible Barbarities—Statement of a Paroled Prisoner (From the Memphis Avalanche): Memphis, Tenn., December 11, 1861,” *Richmond Daily Dispatch*, December 19, 1861, accessed March 5, 2010, <http://dlxs.richmond.edu/d/ddr/>.

<sup>28</sup> Numerous scholars address these issues. They include Marvel, *Andersonville*; Gray, *The Business of Captivity*, 24; Cole, *Fragile Capital*, 108; Hesseltine, *Civil War Prisons*; Sanders, *While in the Hands of the Enemy*; Frank L. Byrne, “Libby Prison: A Study in Emotions,” *The Journal of Southern History* 24, no. 4 (1958): 430-444.

<sup>29</sup> Mahoney, *The Prisoner of State*, 149.

<sup>30</sup> *Ibid.*, 237.

<sup>31</sup> *Ibid.*, 425.

cramped, reporting that the air in camp was “polluted” and the “stench...horrible.”<sup>32</sup> Such conditions often bred disease, compounding inmates’ misery. Officials’ neglect not only affected male inmates, but was perhaps more severe when it came to female inmates. Again, this trend began in antebellum penitentiaries and carried over into Civil War military prisons.

As Nicole Hahn Rafter has noted, historians have commonly ignored the presence of women in prisons and have overlooked the fact that prisons are gendered institutions that reflect assumptions about proper male and female behavior.<sup>33</sup> As noted in the Introduction and in Chapter 2, females inmates, particularly white women, were uncommon in penitentiaries. Their small numbers, their incorrigibility, and their perceived low character led officials to neglect them.<sup>34</sup> The female population at the Ohio Penitentiary in the antebellum period never exceeded 2 percent of the total population and the numbers of black and white women were about equal. In Virginia, the female population never exceeded 6 percent and it was more common, though not necessarily typical, that black women outnumbered white women. The racial dynamics in Washington were similar to those of Virginia. The D.C. Penitentiary’s female population hovered around 8 percent for most of the antebellum period, with the exception of 18 percent in 1850.<sup>35</sup>

Women were not considered citizens and were excluded from full equality, from voting, and from jury service. Because of these exclusions, women were believed to need patriarchal

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<sup>32</sup> H.M. Lazelle to Col. W. Hoffman, July 13, 1862, O.R. Series II, Vol. 4, 198.

<sup>33</sup> Rafter, *Partial Justice*, xii.

<sup>34</sup> Dodge, *Whores and Thieves*, 28.

<sup>35</sup> Percentages derived from available statistics. In D.C., the black female population was eleven and the white one in 1850. This was the largest difference between black and white female inmates. In Virginia, black women outnumbered white women by fourteen in 1855 and 1856. See Appendix. Kali Gross notes that the failure of Southern laws to distinguish punishment for black men and black women “especially devalued black femininity” and implied greater criminal culpability for both sexes, which was especially damaging to the reputation of black women. Gross, *Colored Amazons*, 20.

control and were considered subjects of the state who could be punished.<sup>36</sup> Women most commonly faced incarceration for larceny, poisoning, and arson and were subject to male supervision behind bars.<sup>37</sup> Although female inmates participated in prison labor, most commonly spinning, weaving, sewing, or washing clothes for male inmates, officials never believed that the penitentiary would change black or white women.

Penitentiary officials neglected female inmates, demonstrating greater leniency towards them since penitentiaries were primarily designed to hold large numbers of men.<sup>38</sup> Penitentiary officials paid little attention to both women's living and working conditions. In 1811, the Virginia Penitentiary's monthly visitors, William Price and George Williamson, noted that all workshops for the men were in good order, but lamented that the women's ward "was in a very bad condition owing to their neglect in not being more cleanly." The visitors faulted not the women themselves, but the prison's keeper. Price and Williamson believed that the keeper neglected discipline and recommended that he make the women more obedient.<sup>39</sup> Obedience often proved an elusive goal, however, making neglect a logical solution.

Penitentiary and military prison officials throughout the century seldom made provisions for female inmates. There was no matron to oversee the women's ward at the Ohio Penitentiary until the 1850s, and officials consequently noted that the ward was in a state of disorder. Before the appointment of a matron, officials commonly described women's poor behavior and evil nature. Upon her visit to the women's ward in 1844, Dorothea Dix noted that the women

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<sup>36</sup> Bynum contends that women, particularly poor white and free black women in the South, needed the state to exercise patriarchal control since they typically had no other form of male protection. Isenberg, *Sex and Citizenship*, xii, 28-29, 87; Victoria Bynum, *Unruly Women: The Politics of Social and Sexual Control in the Old South* (Chapel Hill: University of North Carolina Press, 1992), 57.

<sup>37</sup> Dodge, *Whores and Thieves*, 25.

<sup>38</sup> Rafter, *Partial Justice*, xxx.

<sup>39</sup> Proceedings of the Monthly Visitors Monday Morning, October 30, 1811, Virginia Penitentiary, Penitentiary Papers, 1796-1865, Subseries C, LVA.

frequently exercised their “evil gifts on each other” in the absence of a matron.<sup>40</sup> As L. Mara Dodge notes, many female inmates knew that their presence was disruptive and deliberately exploited this by engaging in antagonistic exchanges with prison officials.<sup>41</sup> Some did eventually change, however. This was evident at the Ohio, Virginia, and D.C. Penitentiaries. In April 1846, Chaplain James Finley more vehemently criticized women’s behavior. Male chaplains seldom ministered to the women’s department and Finley seemed annoyed that ministry in the women’s ward detracted from time spent with male convicts. Finley was also frustrated that his work with the women yielded no results. After reading part of Matthew’s gospel to the women one Sunday in April, Finley noted that they were “as obdurate as rocks,” since criminal women were “not only the wickedest, but the most hard and unmanageable of beings.”<sup>42</sup>

Unsuccessful for months, Finley repeatedly complained that the women, who were predominantly white, “were much worse, in every respect, than the men,” reflecting the belief that criminal women were beyond redemption.<sup>43</sup> During the summer, however, the warden took the women into the prison yard for recreation and Finley noted that their demeanor changed immediately. From that moment, Finley noted, they were “subdued and softened,” and his work was “much lighter, more profitable, and abundantly more acceptable.”<sup>44</sup> Ultimately, however, penitentiary officials did not want to bother with female inmates and were unprepared to handle them.

The treatment of female inmates in the Virginia Penitentiary’s early years suggests that officers’ negligence towards female inmates resulted from their being ill- prepared to deal with

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<sup>40</sup> Dix, *Remarks on Prisons*, 48.

<sup>41</sup> Dodge, *Whores and Thieves*, 30.

<sup>42</sup> Finley, *Memorials of Prison Life*, 60-61.

<sup>43</sup> *Ibid.*, 99.

<sup>44</sup> *Ibid.*, 136.

them. Southerners were generally more resistant than Northerners to the women's rights movement and to political, social, and economic expressions of female autonomy, so it makes sense that Southern penitentiaries were particularly ill-equipped to deal with women and that officials were reluctant to address their needs.<sup>45</sup> The reception of black inmates gave officials no reason to improve conditions.<sup>46</sup> Women's living quarters were significantly restricted and they had little mobility since officers created their quarters as an afterthought and wanted to prevent communication between male and female convicts.<sup>47</sup> Conditions for female inmates were also an afterthought in Washington.

In 1854, Warden Thomas Thornley of the D.C. Penitentiary suggested that male officers were excused from duty in the female department in order to serve in the male department. Thornley noted that male guards seldom saw female convicts since "*more important duties*" demanded their attention. There was no matron overseeing the female ward at this time, yet women were generally well-behaved, due to volunteer overseers rather than by their own initiative. Thornley credited the females' good behavior to the ministry of the chaplain and to many visitors, "of whom a lady of this city is pre-eminent in her endeavors to instruct them in lessons of morality and scriptural truth."<sup>48</sup> But good order in the female department quickly deteriorated, and a matron was appointed on October 1, 1855.

In her first report, Matron C.F. Marceron noted that the female department was in "disorder," that inmates refused to work unless forced, and that "ill humor" prevailed. But after encouraging industriousness and a serious work ethic, Marceron found all female inmates

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<sup>45</sup> Silber, *Gender and the Sectional Conflict*, 40-41.

<sup>46</sup> Kali Gross has noted that during the Jacksonian period, the belief in black women's immorality intensified and that slavery "marred black female virtue." Gross, *Colored Amazons*, 35.

<sup>47</sup> Keve, *History of Corrections in Virginia*, 26.

<sup>48</sup> H. Exec. Doc. No. 45, 33d Cong., 1st sess. (January 16, 1854), 4.

“respectful and obedient” and noted no “cause to recommend punishment.”<sup>49</sup> The appointment of a matron corrected the neglect of the female department, but provisions for female inmates were lacking throughout the nineteenth century, both when the population of women in prison was low in the antebellum period and when it escalated during the Civil War.<sup>50</sup>

Women did indeed misbehave in a variety of ways during the Civil War. Northern and Southern authorities detained black and white women for common crimes and political offenses, thereby increasing the number of female inmates. The Civil War disrupted social relations, leaving both Northern and Southern women alone on the home front as men went to war. While at home, women assumed many traditional masculine activities, including crime. Examination of the *Official Records* reveals that authorities detained women at Camp Chase and Old Capitol Prisons for spying, secessionist sentiments, aiding the enemy, prostitution, treason, and crossing enemy lines without proper authorization.<sup>51</sup> The *Official Records* and Richmond’s newspapers also reveal that Southern women committed crime out of financial necessity or political conviction when they sold liquor to the enemy, spied or otherwise aided the Union, passed counterfeit money, engaged in prostitution, acted as a “suspicious character” or “wanderer,” and dressed in male clothing to enlist in the Confederate Army.<sup>52</sup> In the South, women’s commission

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<sup>49</sup> *Matron’s Report, Oct. 1, 1855* in *Warden’s Report, 1855*, RG 48, Records of the Secretary of the Interior, Records Relating to the U.S. Penitentiary for the District of Columbia, 1826-1865, Miscellaneous Records, 1829-1862, Entry 470, Box 2, NARA II.

<sup>50</sup> In the antebellum period, there were never more than three white women at the Virginia Penitentiary, four white women at the D.C. Penitentiary, and three white women at the Ohio Penitentiary. Alexis de Tocqueville noted that the U.S. had one white woman in confinement for every 100 prisoners while Europe had twenty in 100. Gustave de Beaumont and Alexis de Tocqueville, *On the Penitentiary System in the United States and its Application in France*, (Carbondale: Southern Illinois University Press, 1964), 99. See Appendix.

<sup>51</sup> To gain this information, I searched Series II of the Official Records for information on Camp Chase and Old Capitol Prison.

<sup>52</sup> It is unclear from the evidence whether these women were committing prostitution and other crimes with civilians or with soldiers. Examples of quoted cases can be found in the “Going Away,” *Richmond*

of fornication, bastardy, and prostitution declined as property crimes such as larceny, forcible entry, and rioting increased from 1861 to 1866.<sup>53</sup> Women convicted of crimes were sentenced to male-dominated penitentiaries and military prisons.

Regardless of women's offenses, their presence in military prisons challenged officials just as it did in the antebellum period. Northern and Southern authorities were as unprepared to deal with women as were their antebellum counterparts. As the prisoner of war crisis escalated with the cessation of exchanges in 1863, Camp Chase's authorities found themselves unable to properly care for female inmates. On April 23, 1863, the prison's commander noted that there were "no suitable accommodations" for the women. At the time, there were only five females held at Camp Chase, a number no greater than in penitentiaries before the war, but this nonetheless perplexed officials. Just as penitentiary officials erected women's wards, federal authorities moved the women to a separate house near the quartermaster. Here a "loyal female" oversaw the women, strictly guarded them, and subjected them to all prison regulations, a decision that parallels the appointment of matrons in penitentiaries.<sup>54</sup>

As in the antebellum period, wartime officials believed that female inmates needed special supervision because of the trouble that they could cause. Just as antebellum officials served as patriarchs in the lives of criminal women, Union and Confederate authorities also looked after women in the absence of men.<sup>55</sup> This was one purpose that Camp Chase served. For example, when territory in Western Virginia became contested in May and June 1863, Union

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*Daily Dispatch*, December 12, 1862, accessed March 14, 2010, <http://dlxs.richmond.edu/d/ddr/>, and "Incident on the Cars," *Richmond Daily Dispatch*, May 23, 1863, accessed March 14, 2010, <http://dlxs.richmond.edu/d/ddr/>. I searched the entire newspaper from 1861 through 1865 to determine cause of arrest, and I searched Series II of the Official Records to obtain a summary of crimes.

<sup>53</sup> Bynum, *Unruly Women*, 112.

<sup>54</sup> Jno. Mason to William Hoffman, April 23, 1863, O.R. Series II, Vol. 5, 511.

<sup>55</sup> Bynum, *Unruly Women*, 57.

Provost Marshal B.S. Roberts ordered women and children out of their homes. The *Richmond Daily Dispatch* noted that federal authorities evicted sixty-three women and ordered those “who did not have natural protectors in the South” to Camp Chase.<sup>56</sup> Sarcasm of the Southern journalists aside, this anecdote suggests that the federal government used prisons to watch women who lacked male oversight and who could be potentially troublesome.

Federal authorities at Old Capitol Prison were also especially concerned with women’s behavior, as were officials at the Virginia and Ohio Penitentiaries. Federal authorities held notorious spies Rose O’Neal Greenhow and Belle Boyd at the Old Capitol Prison. The Union officials placed Greenhow under a “guard of six men” who kept her “in close confinement” and forbade her to communicate with anyone.<sup>57</sup> Similarly, Assistant Secretary of War C.P. Wolcott ordered officials to keep Boyd in “close custody,” expressed consternation when officials violated this order, and demanded a thorough investigation of the failing.<sup>58</sup> Boyd was one female inmate who, as previously noted, knew that her presence was disturbing, and her disobedience persisted during her imprisonment. Boyd confessed to knowing full well that prison rules “interdicted all intercourse between the prisoners.” Despite this, her “first impulse” was to commit a “flagrant breach” of orders and talk with her cousin, fellow inmate and member of Confederate cavalry General John Singleton Mosby’s regiment. A guard stopped Boyd in the act by aiming a bayonet in her direction, locked her alone in her room, and sent her cousin to solitary confinement in the guardroom. In another instance, Boyd hung a likeness of Confederate President Jefferson Davis in her room, cheering him loudly afterwards. For this, federal

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<sup>56</sup> “Women and Children Sent from their Homes,” *Richmond Daily Dispatch*, June 1, 1863, accessed March 14, 2010, <http://dlxs.richmond.edu/d/ddr>.

<sup>57</sup> Wilson Barstow to Brig. Gen. Wadsworth, April 1, 1862, O.R. Series II, Vol. 2, 577.

<sup>58</sup> C.P. Wolcott to Brig. Gen. Wadsworth, August 7, 1861, O.R. Series II, Vol. 4, 310.

authorities locked Boyd in solitary confinement, where she quickly grew faint.<sup>59</sup> Although female inmates' disobedience attracted much attention, they were not alone in acting up. Male inmates in both penitentiaries and military prisons also posed significant challenges to authority.

Prisoners in both penitentiaries and military prisons disobeyed rules in small ways or attempted escape out of sheer desperation. Michael Meranze has noted that escapes increased among penitentiary inmates after 1815. Evidence from penitentiary records confirms this trend and reveals that most convicts acted alone, although some attempted to escape en masse.<sup>60</sup> As scholars have noted, reformers and prison officials feared that the close quarters in the penitentiaries inspired escape plots and resistance.<sup>61</sup> Escape attempts continued during wartime in both penitentiaries and military prisons. Since a greater number of men shared quarters in military prisons, they more easily devised mass escape plots instead of working individually. Penitentiary and military prison records reveal not only how inmates engaged in small-scale resistance, but also that they devised elaborate plans for escape and/or revolt since officials could not restrict inmates' communication.

Inmates who were not so bold as to attempt escape resisted on a smaller scale, often facing severe punishments that sometimes equaled those imposed for mass escape attempts. As in penitentiaries, military prison officials reacted harshly to both escape attempts and minor resistance in order to compensate for surveillance's shortcomings. Although prison officials at Camp Chase, Old Capitol, and Castle Thunder prisons erected sentry boxes, patrolled halls, and employed undercover detectives among prisoners to convey the idea of constant supervision,

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<sup>59</sup> Belle Boyd, *Belle Boyd in Camp and in Prison, Vol. 1* (London: Saunders, Otley, 1865), 221 and 218-219.

<sup>60</sup> Meranze, *Laboratories of Virtue*, 222.

<sup>61</sup> Lewis, *From Newgate to Dannemora*; McLennan, *The Crisis of Imprisonment*; Goldsmith, "History from the Inside Out."

these measures did not always discourage resistance.<sup>62</sup> Similarly, penitentiary guards' surveillance and patrolling failed to stop all disobedience. Penitentiary and military prison officials consequently relied on shooting, threatening, or isolating prisoners to maintain order.<sup>63</sup> In the antebellum period, prison guards set the precedent that disobedient or dangerous inmates would receive stiff punishments.

Both penitentiary and military prison inmates with special duties required extra attention, but guards often neglected them, creating ideal circumstances for escape. The case of D.C. Penitentiary convicts Attwell and Fugitt provide a good example. Prison officials chose these men to empty straw into the prison yard. Officer William Maxwell accompanied Attwell and Fugitt on this job, but wandered away as the inmates headed towards the prison wall. After a few moments, Maxwell realized that something was amiss and called to the convicts. He received no reply and hurried to where they should have been. At that moment, Maxwell knew that the convicts had escaped. He and a nearby soldier pursued the escapees, but their trek to the house of Fugitt's brother (a likely conspirator in the escape plot) across a brickyard, over a hill, and under a riverbank was fruitless until the Deputy Warden arrived on horseback and detained the escapees.<sup>64</sup>

Military prison inmates, like penitentiary inmates, learned to use prison resources, including both employees and privileges, to devise individual escape plots. Camp Chase prisoner

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<sup>62</sup> Speer, *Portals to Hell*, 223.

<sup>63</sup> In her study of architecture and surveillance, Anna Vemer Andrzejewski contends that, "A detailed investigation of prison architecture also shows that surveillance in prisons had limits in a practical sense. The disciplinary gazes enabled through prison buildings were not as comprehensive as Foucault suggested. Prison officials came to rely on other means of discipline to maintain order in the prison landscape." Andrzejewski, *Building Power*, 10.

<sup>64</sup> W. Maxwell to Mr. Sengstack, 11 March 1861, Record Group 48, Records of the Office of the Secretary of the Interior, Records Relating to the U.S. Penitentiary for the District of Columbia, 1826-1865, Miscellaneous Records, 1829-1862, Entry 470, Box 3, NARA II.

of war William Bramlet took advantage of the day laborers that Union authorities admitted into camp to dig ditches. Knowing that prison authorities did not restrict conversations between inmates and laborers, Bramlet conversed with the workers, learned that they had Southern sympathies, and convinced them to lend him some of their clothing and tools. At the end of one workday, Bramlet walked out unnoticed with his new friends and reached the Confederacy. Similarly, Castle Thunder inmate Captain C.W. Savage attempted to exit the prison disguised as a washerwoman. His attempt, unlike Bramlet's, was not successful.<sup>65</sup>

Privileges often promoted penitentiary and military prison inmates' ability to escape. So, too, did penitentiary officials' negligence and overcrowding, a fact that foreshadows the problems that military prison officials faced during the Civil War in imposing order over many inmates. In October 1860, D.C. Penitentiary officials noted that it was filled to its "utmost capacity" at 169 inmates, as noted in Chapter 3. This emboldened four inmates to escape. The first fugitives, men by the names of Wilson and McDonald, took advantage of the carelessness of the deputy warden and the privileges afforded them. The deputy warden disregarded prison rules and permitted Wilson into the clothes room. Once inside, Wilson procured civilian clothes for himself and his co-conspirator. The two convicts later returned, apparently unescorted, to the clothes room, where they used a stowed ladder to ascend the prison's wall. Overcrowding inside of the prison caused an absence of guards in the prison yard for several hours and the convicts disappeared into the rising sun since all available men were patrolling the halls.<sup>66</sup>

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<sup>65</sup> It is unclear whether Savage was a member of the Union or Confederate Army. "Interesting Narrative of an Escaped Prisoner," *Richmond Daily Dispatch*, July 19, 1862, and "Foiled in His Purpose," *Richmond Daily Dispatch*, December 28, 1864, accessed April 24, 2010, <http://dlxs.richmond.edu/d/ddr>.

<sup>66</sup> Peter Force, R.R. Crawford, and George Parker, to J. Thompson, Secretary of the Interior, October 26, 1860, Record Group 48, Records of the Office of the Secretary of the Interior, Entry 466, Miscellaneous Letters to the Board of Inspectors and Warden, Box 1, NARA II.

Convicts Johnson and Small escaped from the D.C. Penitentiary that same month. Officials noted that the penitentiary was overpopulated. Daily inspections of inmates' cells detracted from overall surveillance, so the deputy warden neglected to conduct them. Because of this, the two cellmates successfully concealed a cache of hatchets, chisels, and knives. Escape was relatively simple, as they dug out of their cells. All four of these October escapees remained at large, creating concern for penitentiary officials and hope for inmates that escape could succeed. These cases demonstrated to inmates that overcrowding facilitated escape and that prison officials, instead of being strict disciplinarians, were subject to human frailties. Members of the Board of Inspectors denounced the escapes and called, albeit in vain, for the fugitives' speedy arrest. Arrest and punishment, according to the Board, would reinstate discipline and demonstrate the government's ability to maintain control over inmates. Ohio Penitentiary officials faced similar challenges during the Civil War.

Officials at the Ohio Penitentiary were concerned with two types of prisoners—common criminals and members of General John Hunt Morgan's Confederate Cavalry since, as noted in Chapter 3, officials often did not require prisoners of war to work which left them idle time. When Union cavalry captured Morgan and his men, federal officials wanted to confine them in a place where "escape would be impossible," so they chose the Ohio Penitentiary.<sup>67</sup> When Morgan and his men entered the penitentiary, officers treated them as common criminals and subjected them to the same process of calculated humiliation as convicts.<sup>68</sup> Officers stripped the men of their possessions, shaved their heads, forbade communication with convicts and guards, and

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<sup>67</sup> Ohio General Assembly, 1864-1865, *Report of the Committee on the Penitentiary*, OHS.

<sup>68</sup> W. David Lewis notes that the procedures to which penitentiary officials subject incoming convicts amounted to a "process of calculated humiliation" that ultimately began the process of negating inmates' individuality. Lewis, *From Newgate to Dannemora*, 91-92.

placed them each in a solitary cell.<sup>69</sup> In addition, Morgan and his fellow officers followed a regular routine: guards marched them to meals at 7:30a.m. and at 3:00p.m. At 4:45p.m., guards locked them in their cells, ordered silence, and called for lights out at 8:00p.m.<sup>70</sup> Such circumstances contrasted with life in the Confederate cavalry, where the men rode freely, earning a reputation as a dashing defenders of the Southern cause.

Imprisonment, conversely, stripped the men of their individuality and insulted their personal honor.<sup>71</sup> Because of this, Morgan and his men desired escape to reclaim their honor. Morgan's attempt illustrates the contradictions inherent in U.S. military law. In 1863, the U.S. Congress deemed escape a "natural act" and characterized it as the soldier's "patriotic duty," but this only applied to the escape of Union soldiers from Southern prisons. The Lieber Code, on the other hand, dictated that if prisoners of war conspired to affect a general escape, they could be punished "as an extreme measure with death."<sup>72</sup> In the aftermath of Morgan's escape, Southerners cheered Morgan as a patriot, while Northerners condemned him and called for punishment as outlined in the Lieber Code.

Penitentiary rules governed Morgan and his men, but state penitentiary officials were responsible for them for only a limited time, demonstrating that a conflict persisted between state and federal officials over penitentiary inmates arrested by the Union Army. In November 1863, a federal military guard was assigned to Morgan and his raiders. This assignment annoyed Warden Nathaniel Merion, who took pride in running the institution with an iron fist and feared that the military guard—men largely unfamiliar with penitentiary discipline—would create confusion.

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<sup>69</sup> Captain Samuel Burks Taylor to Sister, October 17, 1863, Samuel Taylor Burks Letter, OHS.

<sup>70</sup> Speer, *Portals to Hell*, 149.

<sup>71</sup> Lewis, *From Newgate to Dannemora*, 122-123.

<sup>72</sup> United States War Department, General Order No. 207 (3 July 1863), in Flory, *Prisoners of War*, 148. General Order 100, The Lieber Code, Art. 77.

Merion was also concerned about the number of Confederate prisoners that he received. Federal authorities originally indicated that they would send thirty cavalymen but later increased the number to seventy. Merion worried that the inmates' idleness would cause problems. The Rebels were prohibited from performing labor, which removed them from the oversight of ward masters, and many became ill due to idleness and close confinement.<sup>73</sup> Idleness also inspired the men to network and devise a massive escape plot, a feat that they accomplished due to the guards' negligence.

Federal troops who guarded Morgan and his men quickly lost interest in their post, and the prisoners took advantage of the soldiers' inattention. Merion's concerns regarding the ability of federal troops to keep order proved well founded. The military guard abandoned the guidelines that Merion required of penitentiary guards. For example, the federal forces stopped daily inspections of inmates' quarters and allowed the inmates to sweep and clean their quarters without supervision. While seemingly insignificant, this neglect allowed inmates to smuggle knives from the dining hall into their cells and, in early November, dig a tunnel.

Morgan and many of his men inhabited a range of cells on the prison's lower level and were aware that an air chamber below their quarters could facilitate an easy escape. After weeks of undetected digging, Morgan and six of his men fled on the 20th of November. Merion and the directors of the penitentiary were outraged, contending that the men would not have gotten away if they had "remained under civil authority."<sup>74</sup> The incident is significant for two reasons: first, it reveals that inmates easily recognized the weaknesses of penitentiary discipline, and, second, it demonstrates the inexperience of federal officials in enforcing penitentiary discipline. State

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<sup>73</sup> Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio, 1863*, 7, OHS.

<sup>74</sup> Hines, "Thrilling Narrative of the Escape of Gen. John H. Morgan"; Ohio General Assembly 1864-1865, *Report of the Committee on the Penitentiary, 1864*, OHS.

officials regarded themselves as superior in this area since they gained years of experience in penitentiary administration before the war when the federal government played a minimal role in incarceration.

The significance of the event reached the South and, ironically, inspired not only the remainder of Morgan's men to attempt escape from the Ohio Penitentiary, but also encouraged Union prisoners of war in Richmond to attempt a similar escape. Southern newspapers covered the incident closely, eagerly anticipating Morgan's arrival in Richmond. The press celebrated Morgan's feat as twenty-three days of "unremitting labor" that achieved the goal of freedom.<sup>75</sup> Beyond this, Morgan's escape proved, as Rebecca McLennan has argued, that escapes often had widespread effects and could inspire disobedience in other prisons.<sup>76</sup> In February 1864 the remainder of Morgan's men in the Ohio Penitentiary, who were held in solitary confinement for their collusion in the November escape, somehow armed themselves with knives and planned to overpower the guard while on their way to breakfast. Prison officials detected the plan, however, and marched the men to and from meals under double guard.<sup>77</sup> In this instance, penitentiary guards learned from experience and prevented another escape.

In early 1864 Morgan's example inspired a semi-successful escape from Richmond's Libby Prison. Morgan visited Richmond in early January following his getaway from the Ohio Penitentiary. Morgan arrived in the city on January 9 and visited Libby Prison, since he knew many Union inmates who were from his native Kentucky. Morgan bragged about his tunnel escape and unknowingly inspired the freedom-hungry Union inmates to dig a tunnel. Although

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<sup>75</sup> "Narrative of Gen Morgan's Escape," *Daily Dispatch* (Richmond), January 6, 1864, accessed March 14, 2010, <http://dlxs.richmond.edu/d/ddr/>.

<sup>76</sup> McLennan, *The Crisis of Imprisonment*, 44.

<sup>77</sup> "The *Louisville Journal* Says of the Treatment of Morgan's Men who are Still Confined in the Ohio Penitentiary," *Fayetteville Observer* (Fayetteville, North Carolina), January 11, 1864; "Daring Rebel Plot Frustrated," *Milwaukee Daily Sentinel* (Milwaukee, Wisconsin), February 26, 1864.

the Union prisoners of war achieved limited success with their plan, it nonetheless demonstrated the danger of publicizing a successful escape.<sup>78</sup>

Union authorities failed to recapture Morgan, and he remained free from punishment. Other penitentiary and military prison inmates who wanted to escape or merely taunt guards were not as lucky. Wartime penitentiary and military prison inmates, like their antebellum counterparts, had to behave or face physical punishments. Penitentiary inmates and officials devised common methods of resistance and punishment in antebellum penitentiaries, and military prison inmates and officials demonstrated similar patterns during wartime.

Penitentiary and military prison inmates who could not orchestrate mass escape attempts tried to escape individually and these attempts made guards leery of any suspicious activity near windows or doors. In 1831, D.C. Penitentiary inmate John Taylor scaled the prison walls, but guards swiftly recaptured him and locked him in the local jail in Frederick Town, Maryland, where he died of cholera. The following year, inmate John Laurence escaped the same way, but officials quickly apprehended Laurence, and he finished his sentence in the Philadelphia Penitentiary. In 1833, two white prisoners and one black prisoner fled the D.C. Penitentiary. All three were recaptured, the former two sentenced to the Baltimore Penitentiary and the latter to the Philadelphia Penitentiary.<sup>79</sup> It is unclear whether D.C. Penitentiary officials placed fugitives

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<sup>78</sup> For further information on Morgan's visit to Libby Prison, see Frances H. Casstevens, "*Out of the Mouths of Hell:*" *Civil War Prisons and Escapes* (Jefferson, NC: McFarland, 2005), 273. Colonel Thomas Rose of the 77th Pennsylvania Volunteers and Major Andrew Hamilton of the 126th Kentucky Cavalry secretly organized work parties to descend into the basement of Libby Prison and began to dig a tunnel behind stoves and fireplaces in the prison's kitchen. Federal soldiers dug their sixty-foot route to freedom in forty-seven days, primarily using knives, chisels, and spittoons. The ingenious inmates masked their work by spreading dirt from their digging over the cellar floor and covering it with straw. In the end 109 prisoners escaped, fifty-nine reached Union lines, two drowned, and forty-eight were recaptured. For information on the tunnel's excavation, see Speer, *Portals to Hell*, 231-232; for information on escape and recapture, see Blakey, *General John H. Winder*, 172-173.

<sup>79</sup> Thornton, *Complete Guide*, 56-57; H. Exec. Doc. 49, 22d Cong., 2d sess., *Journal and Reception of Convicts* (January 19, 1833).

in other penitentiaries by choice or by convenience. Perhaps they did not want successful escapees sharing ideas, or perhaps it was too expensive to transport convicts back to Washington. Whatever the case, officials detained fugitives from the D.C. Penitentiary without inflicting physical harm. This situation differed from those at the Ohio and Virginia Penitentiaries, where guards fired on fugitives.

In August 1839, an Ohio Penitentiary prisoner by the last name of Lake attempted to instigate an insurrection. Lake conspired with co-workers in the prison shop to flee during work hours but, when the time came, Lake was the only prisoner to run. The officer in charge hailed Lake multiple times, but it looked as if he was on a clear path to freedom. A guard then fired on Lake “aiming low,” intending to “cripple rather than kill him.” The fact that Lake was “rapidly descending a hill” resulted in altering his physical position and causing his death. Inmates were outraged, but penitentiary officials justified the killing, contending that the officers “were strictly in the performance of their duties as prescribed by law.”<sup>80</sup> Ohio Penitentiary guards readily fired to stop escapees when the opportunity presented itself, but those occasions were rare. Another death from an escape attempt was not recorded until 1860, when the physician noted that one of the year’s three deaths was due to “a gun-shot wound received while attempting to escape.”<sup>81</sup> It seems that the consequence of being shot to death was often enough to prevent Ohio inmates from running.

Prisoners at the Virginia Penitentiary were seldom deterred from attempting escape despite the potential consequences. The punishment for such attempts was an extension of the prison sentence, a light punishment compared to death. Escape attempts plagued prison officials

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<sup>80</sup> Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio, 1839*, 5-6, OHS.

<sup>81</sup> Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio, 1860*, OHS.

throughout the antebellum period, possibly because the prison lacked a perimeter wall in its early years. This fact encouraged inmate Jeremiah Whitson to flee on August 30, 1800, by removing the window grating from his cell and walking off. Prison officials subsequently constructed a wooden wall, and later a brick wall in 1824, to discourage escape.<sup>82</sup> The wall's presence, however, did not deter inmates. In 1841, Superintendent Charles Morgan noted that the possibility of escape was "remote" owing to the wall, but complained that it did not prevent inmates' "many attempts to cut out of the cells." Inmates throughout the century understood that tunneling was a relatively inconspicuous escape method and Virginia Penitentiary inmates knew that it was next to impossible for guards to hear them if they dug during rainstorms. Morgan noted that, in 1840, three inmates attempted escape—and one succeeded—by digging out. He felt assured that such attempts would be "continued by desperate fellows, whose skill gave them hope of success."<sup>83</sup>

Morgan's assumption proved correct. In 1851, Morgan noted that two free blacks, Wingfield Butcher and Robert Evans, were "under prosecution for breaking up their cells" with intent to escape. Each man consequently received one year's additional imprisonment. This punishment, however, did not deter Butcher who cut through his cell door in another escape attempt. Evans and Butcher were not alone in their escape attempts that year. Morgan also noted the effort of a white man, William Pogue, who broke out of his cell and tried "cutting through the front wall of the eastern wing" to no avail.<sup>84</sup> While inmates generally acted alone during the antebellum period, high prison populations encouraged coordinated escape plots during wartime.

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<sup>82</sup> Keve, *History of Corrections in Virginia*, 26.

<sup>83</sup> George Morgan, *Report of the Joint Committee to Examine the Penitentiary, 1840-1841*, January 30, 1841, VHS.

<sup>84</sup> For the number of black inmates at the Virginia Penitentiary, see Appendix. Doc. No. 14, *Annual Report of the Board of Directors of the Penitentiary Institution, 1851*, 18, LVA.

Throughout the war, the Virginia Penitentiary's population was consistently high, ranging anywhere from 318 to upwards of 360 convicts, and inmates tried to take advantage of these numbers.<sup>85</sup> This fact concerned officials, since the prison was constructed for only 250 inmates and the excess population forced three or four convicts to share cells designed for single confinement. In December 1862, officials reported that inmates who obtained "false keys" tried to escape and attempted a "mutiny of a very serious character." In the elaborate plan, inmates not only obtained keys, but also filled guards' pistols with beeswax, preventing guards from defending themselves. Officers did not discover the plot until it was in action, but they soon foiled it.<sup>86</sup>

In March 1864, inmates devised a similar "murderous assault" on one guard. However, another inmate aware of the plot alerted officials, fearing the consequences of failing to report the conspiracy.<sup>87</sup> While nothing came of the plot, it nonetheless demonstrates how the internal power dynamics of the prison could shift in favor of prisoners when the population was high. Even in times of lockdown, penitentiary inmates proved that they could turn on their keepers, throwing penitentiary order into confusion.<sup>88</sup> Since this was the case, high prison populations

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<sup>85</sup> For population totals throughout the war, see Doc. No. 6, *Annual Report of the Board of Directors of the Penitentiary Institution, Year ending September 30, 1862*, 5; Doc. No. 66, *Report of the Joint Committee on the Penitentiary, March 1862*, 3; Doc. No. 9, *Annual Report of the Board of Directors of the Penitentiary Institution, Year ending September 30, 1863*, 18; Doc. No. 12, *Annual Report of the Board of Directors of the Penitentiary Institution, Year ending September 30, 1864*, LVA.

<sup>86</sup> Doc. No. 1, *Message of the Governor of Virginia and Accompanying Documents*, x, 19.

<sup>87</sup> Doc. No. 12, *Annual Report of the Board of Directors of the Penitentiary Institution, Year ending Sept. 30, 1864*, 6, LVA.

<sup>88</sup> Rebecca McLennan makes this assertion regarding a prison break at New York's Sing Sing prison in 1913. Security was high at the prison during that year, but prisoners nonetheless used their numbers to their advantage and effected escape. During the nineteenth century, particularly during wartime, military prison and penitentiary officials worried about the prospect of inmates' revolt or escape. McLennan, *The Crisis of Imprisonment*, 1.

concerned both penitentiary and military prison officials, as guards had to watch for collusion among inmates.

During the Civil War, military prison guards dealt with prisoners of war and political prisoners who often colluded in acts of disobedience. Guards at Old Capitol, Camp Chase, and Castle Thunder Prisons shot inmates for offenses such as taunting guards, approaching windows, and burning lights after dark. At the Old Capitol, guards ordered political prisoner George Henry Clay Rowe away from prison windows after he stuck his head out a distance that defied orders. In retaliation, Rowe mustered the support of one companion to curse the sentinels and guards threatened to fire. The guards' response is understandable, since prison rules dictated close confinement for inmates who looked out of the windows. Guards worried that the prisoners could have easily broken free or inflicted harm. Guards' threatened use of firepower seems to have checked inmates' behavior, judging from how Rowe's roommates reacted every subsequent time he taunted guards. Rowe noted that his friends were in "terror of being shot" when he mocked the sentinels and they begged him to stop.<sup>89</sup>

At Camp Chase, the actions of prisoners of war William Jones, Junius Cloyd, Joseph Rutter, and Malilon Hurst actually prompted guards to shoot. Again, inmates' disobedience caused guards to fear for their safety or that an escape might occur. Guards shot and killed Jones for violating prison rules by burning lights after dark. The prison's commander, Peter Zinn, noted that guards had "difficulty in having [lights] put out in messes four and five," where Jones lodged. Guards were adamant that lights be extinguished at night to help prevent inmates' communication. The circumstances surrounding Jones's death justified guards' fears. Prisoners

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<sup>89</sup> Inmates understood that the punishment for approaching windows was close confinement. See Marshall, *American Bastille*, 325-326; Griffith, "Fredericksburg's Political Hostages," 416-417, 422.

disregarded orders to extinguish lights and broke from their messes, substantiating guards' fears that the "prisoners were trying to break out." The guards consequently opened fire.<sup>90</sup>

Guards continually feared mass disobedience throughout the war, but, like penitentiary officials, they were also constantly suspicious of the questionable behavior of even one or two inmates. In 1864 Camp Chase's guards shot and wounded Junius Cloyd for suspected foul play as he repeatedly went to a forbidden side of the prison at roll call. Guards shot and wounded Joseph Rutter and Malilon Hurst for throwing water into a forbidden side of the prison and using "abusive language toward the sentinel" when ordered to desist. Guards in these circumstances feared for their safety and dreaded escape attempts, as evidenced by Commandant William Richardson's assessment of the shooting. These events occurred not long after fears of the Copperhead conspiracy to liberate inmates, discussed in Chapter 5, had subsided. Due to these circumstances, Richardson noted that the guards' actions were appropriate, since "a very insubordinate spirit" prevailed among prisoners for "four or five weeks, manifesting itself in resistance to prison rules and possible escape."<sup>91</sup> Guards were leery of inmates' outright disobedience and cautious of minor misbehavior that could indicate larger problems.

Confederate military prison officials faced similar challenges from individual inmates. Some prisoners at Castle Thunder attempted escape by jumping out of windows or by digging. Desperation most often motivated these individuals, as many were condemned to die. Inmate David Rogers, sentenced to be shot for desertion, successfully escaped by crawling out of his cell window and scaling down the side of the building. Inmate William Brander, sentenced to hang for murdering a Confederate soldier, also escaped. He crawled through a skylight, tied a long

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<sup>90</sup> Peter Zinn to Col. William Hoffman, December 31, 1862, O.R. Series II, Vol. 5, 132-145.

<sup>91</sup> For the cases of Cloyd, Rutter and Hurst, see W. Richardson to Col. W. Hoffman, July 19, 1864, and W. Richardson to Col. W. Hoffman, July 19, 1864 (two separate letters), O.R. Series II, Vol. 7, 474-475.

strip of blankets and clothing to a chimney, lowered himself to the ground, and ran to freedom. Captain A. Webster, condemned to the gallows for violating parole, was not as lucky. Webster jumped from his third-story window, injuring himself and enabling guards to recapture him. They later placed him under double guard.<sup>92</sup> Military prison authorities had to be conscious of all levels of suspicious activity, but military prisoners sometimes made that an easy task, as they plotted elaborate escapes.

Military prisoners' escape plots were at times more extreme than those of penitentiary inmates. While penitentiary inmates often merely fled, some military prison inmates sought to overthrow the prison structure and harm its officials. Inmates who organized mass resistance received the same punishments administered in penitentiaries. In December 1862, the *Richmond Daily Dispatch* reported a plot among inmates to "assassinate the sentinels at Castle Thunder on Christmas night." Yankee David Weish, "a murderer by profession," spearheaded the plot and consequently received "stripes," was "placed in irons," and was put on a "bread and water diet." Similarly, the press noted a plot to blow up the prison in November 1862. The *Daily Dispatch* noted that inmates exploded "several pounds of powder," causing considerable alarm, shaking the building and breaking glass in the windows. The paper stated that one of the principal parties behind the plan was a Yankee "to be tried for murder," and reported that prison authorities punished him with "close confinement."<sup>93</sup> Judging from these stories, military prison guards sometimes had good reason for using firepower to maintain discipline: simple surveillance was

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<sup>92</sup> All stories found in the *Richmond Daily Dispatch*: "Escape of a Condemned Man," October 21, 1862; "Escape from Castle Thunder," February 17, 1865; Webster's account found in "Attempted Escapes," March 30, 1863, and "Execution of Captain Webster," June 1, 1863, accessed April 24, 2010, <http://dlxs.richmond.edu/d/ddr>.

<sup>93</sup> "The Ringleader," *Richmond Daily Dispatch*, December 29, 1862, and "Attempt to Blow up a Building," *Richmond Daily Dispatch*, November 3, 1862, accessed April 24, 2010, <http://dlxs.richmond.edu/d/ddr>.

insufficient to stop inmates from plotting destruction, but firepower did not seem to stop inmates' schemes either.

Northern military prison officials also faced considerable resistance and the architects of such disobedience were sometimes said to be criminals. Political prisoner D. A. Mahoney, held at the Old Capitol, noted that Confederate prisoners of war and Federal deserters organized many plots to "break prison." Mahoney described the schemers as criminals, noting that most of them were from "Ireland and Germany" and were "swells, rowdies, or burglars before they joined the army," demonstrating the middle-class's assumption that immigrants were criminally inclined.<sup>94</sup>

Camp Chase's inmates posed similar threats to guards. In May 1862, prison officials noted that prisoners attempted a revolt, causing such a commotion that three managed to escape. After the incident, officials made clear that any attempted mutiny would be fatal.<sup>95</sup> Similarly, in November 1863, Federal authorities, as noted in Chapter 5, stopped inmates from rushing a guard upon their entry into the prison, a move intended to coincide with Peace Democrats' plot to liberate prisoners.<sup>96</sup> Finally, in July 1864, Commandant Richardson stated that the men in prison number three attempted mass escape by "rushing through the gate at the time a cart was passing out," and that twenty-one inmates temporarily escaped but were "almost immediately recaptured." In response to this escape, Commissary General Hoffman ordered Richardson to

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<sup>94</sup> Mahoney, *The Prisoner of State*, 225-226. Historian David Rothman contends that penitentiaries became custodial institutions by 1860 and that middle-class Americans lost interest in the reform program since inmates were most commonly lower-class, foreign-born individuals. Rothman, *The Discovery of the Asylum*, 240, 238.

<sup>95</sup> Col. H.B. Carrington, "Attempted Revolt of Confederate Prisoners of War at Camp Chase, Ohio," June 1, 1862, OHS.

<sup>96</sup> Speer, *Portals to Hell*, 223.

arm guards with revolvers.<sup>97</sup> Judging from the persistence of these military prison inmates' escape attempts, it is not surprising that guards thought firepower necessary to maintain order.

Both penitentiary and military prison inmates faced the prospect of death if their escape attempts went awry. The threat of death did not stop military prison inmates from plotting escapes. Guards combated these threats throughout the entire war, a fact that speaks to the importance of preventing, or at least controlling, communication among prisoners. However, preventing communication among inmates in both penitentiaries and military prisons ultimately failed. While disobedience and escapes concerned guards and represented inmates' attempts to alter the power dynamics of penitentiaries and military prisons, such instances were relatively rare. Most of the time that penitentiary and military prison inmates spent behind bars was dull, and their communications with the outside world rested in the hands of officials. These will be the subjects of Chapter 7.

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<sup>97</sup> W. Richardson to Col. W. Hoffman, July 19, 1864, O.R. Series II, Vol. 7, 474-475; W. Richardson to Col. W. Hoffman, August 12, 1864, O.R. Series II, Vol. 7, 584-585.

CHAPTER 7  
PLEAS, PARDONS, AND COMMUNICATIONS: INMATES' INTERACTIONS  
INSIDE THE WALLS AND WITH THE OUTSIDE WORLD

Penitentiary and military prison inmates longed to rejoin the outside world and to maintain interpersonal connections once imprisoned. As Chapter 6 demonstrated, inmates could attempt escape, but that proved a risky endeavor. Inmates who wanted to work within the system of confinement and win an acceptable form of release pleaded for pardon based on their social or political status, their demonstration of good behavior both before and during imprisonment, and their willingness to repent, reform, and improve their moral character. If inmates could not secure release, they communicated with other inmates, visitors, or individuals passing by on the outside, often in violation of rules. Maintaining family relationships and contact with the outside world was another major preoccupation of inmates, albeit heavily regulated and restricted by penitentiary and military prison officials. Each of these methods of communication had its roots in penitentiaries but continued and became more prevalent in military prisons during the Civil War.

Analyzing the records of inmates, their family members, and penitentiary and military prison officials offers valuable insights into how prisoners at both types of institutions interacted with those around them and with those in the outside world. As the nineteenth century progressed, penitentiary and military prisoners' families and friends asserted their right to communicate with prisoners and developed expectations that prison officials treat them and their loved ones with respect.<sup>1</sup> Since security was a high priority, letter writing was a rare privilege in both penitentiaries and military prisons. Penitentiary and military prison officials carefully monitored all letters that passed in and out of prison. As a result, inmates had little real

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<sup>1</sup> McLennan, *The Crisis of Imprisonment*, 47.

knowledge of their families and friends and very few letters to and from inmates and their family members exist in archives. The available writings, however, reveal that both penitentiary and military prison inmates sought the help of prominent relatives and acquaintances to secure pardons, that they were at the mercy of officials to maintain their outside personal relationships, and that family members encouraged inmates to withstand confinement as nobly as possible. Inmates' letters to and from home were undoubtedly biased, often portraying the experience of imprisonment positively in order to assuage loved-ones' fears and appease inspectors. Nonetheless, existing correspondence, including pardon petitions, clearly reveals the agony of separation, the anxiety of not knowing when release would come, the horrors of prison life, and how inmates redefined personal relationships with those outside.

The primary objective of inmates was to obtain release. Many ventured to escape, as discussed in Chapter 6, but those who were not so daring pleaded with family members, political officials, or wardens for help in securing pardons. In the antebellum period, pleading to the state governor for pardon was the only way to get out of penitentiary sentences due to the disorganized nature of the criminal justice system. But governors had no set criteria for granting release with nothing to formally guide decisions.<sup>2</sup> Penitentiary inmates also made their cases known to wardens or other political officials and military prison inmates did the same, hoping to catch the eye of a sympathetic politician. To make their case, both male and female penitentiary and military prison inmates and their families appealed to emotion, familial ties, or social and political connections. L. Mara Dodge's study of female imprisonment notes that most women "represented their prison experience as a trying ordeal that tore them away from their loved ones,

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<sup>2</sup> Friedman, *History of American Law*, 212.

broke their hearts, and shattered their health.”<sup>3</sup> This analysis of petitions, particularly those of military prisoners, reveals that male inmates made the same arguments. The general practice of appealing to emotion, however, started in the antebellum period and was used by both penitentiary and military prison inmates and their family members.

Ohio Penitentiary Chaplain James Finley recounted letters revealing how desperate family members appealed to emotion and familial ties in pleas for release. In July 1846, the mother of one inmate, William, informed her son that she was trying to secure his pardon. The woman hoped “through Heaven and [his] friends” that William, would soon be released to his “disconsolate and brokenhearted mother.” William’s mother urged him to “lead a new life” and assured him of Jesus’s saving power, perhaps hoping that William’s embrace of these things would hasten his release. William’s mother was not alone in encouraging her son to behave. Another Ohio Penitentiary inmate, in a letter home, reflected on his decision to resort to crime, which he attributed to his sinning against “God” and his “good” parents. Unlike inmates who disobeyed prison rules, the author of this letter thanked God for his imprisonment, considering it “mild” compared with his “deserts.” Although grateful, this inmate said he was unhappy in prison despite good care and stated that the only thing that could lift his spirits was the presence for a mere hour of his tender-hearted mother.<sup>4</sup> The convict’s mea culpa reveals how male inmates tried to tug the heartstrings of those who could influence their release.

As with penitentiary inmates, military prisoners’ desperation was most evident in their pleas for family members, company commanders, or politicians to use social or political influence to secure release. Unfortunately, the outcome of the majority of these men’s petitions is

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<sup>3</sup> Dodge, *Whores and Thieves*, 36.

<sup>4</sup> Finley, *Memorials of Prison Life*, 95-97.

unknown, but their words reveal their desperation for freedom, their outrage over incarceration, and the good social connections that many inmates had.

Many inmates at Camp Chase wrote anxious pleas home, yearning for freedom. In April 1862, prisoner of war D.R. Fletcher wrote to his mother that a “frightful” smallpox epidemic plagued the camp and urged her to get his father to “do something to alleviate me from this prison,” concluding that his father “probably” could help. Similarly, prisoner of war John J. Guthrie urged his mother to “tell Pa to use all his influence to have me again returned to you.”<sup>5</sup> What Fletcher and Guthrie’s parents could have done is uncertain. They resided hundreds of miles away, in Henryville, Alabama, and Memphis, Tennessee, respectively. But the men’s confidence that relatives could help suggests either that their fathers may have had political or military connections that could help them gain freedom or that their desperation caused them to have false hope.

Other military prison inmates pleaded for help due to ill health, age (exceedingly young or old), or unjust imprisonment. All feared dying behind bars. In April 1862 Confederate prisoner of war Frank W. Keyes used his political connections and begged Honorable Judge Ortho Robards Singleton to “do all that can be done to effect an exchange” from Camp Chase at the “earliest possible moment.” Keyes justified his urgency by the fact that he was a “young member” of the army and a second lieutenant in a Mississippi regiment.<sup>6</sup> Keyes’s petition suggests that he, as a lieutenant, felt that his rank rendered him above the trials of imprisonment

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<sup>5</sup> D.R. Fletcher to Mother, April 21, 1862, and John J. Guthrie to Mother, April 20, 1862, Camp Chase, Ohio Papers, 1862-1863, Folder 3 of 12, VHS.

<sup>6</sup> Frank W. Keyes to Hon. O.R. Singleton, April 26, 1862, Camp Chase, Ohio Papers, 1862-1863, Folder 5 of 12, VHS.

and that he was afraid that he would perish by catching a disease from one of Camp Chase's 1,400 prisoners.<sup>7</sup>

While Keyes did not directly invoke his social standing in his plea, many penitentiary and military prisoners used such connections, hoping to benefit from favoritism. Penitentiary and military prison inmates frequently sought pardon based on these grounds, since they knew the system suffered much abuse throughout the nineteenth century.<sup>8</sup> In 1859, D.C. Penitentiary inmate George Hendricks wrote to his incarcerated brother, Pennel, to assure him that he would soon be pardoned. George contacted a prominent resident of their home town, who then contacted U.S. Senator David Reid and got a recommendation from a local judge, which was “sufficient to procure a pardon” for Pennel.<sup>9</sup>

Honorable members of society who petitioned on behalf of penitentiary and military prison inmates often emphasized the upstanding character of the inmates and their families. In 1859, O.L. Clarke, former clerk of courts in Marietta, Ohio, pleaded for the release of D.C. Penitentiary inmate John Williard by blaming Williard's crime of “passing spurious coin” on the bad company that he temporarily kept, which had caused him to be intoxicated. Clarke depicted this behavior as an aberration, since Williard later became a deputy sheriff and a collector for two business firms—a job in which Clarke found him reliable. On top of Williard's good character, Clarke stressed the necessity of Williard's presence at home since he had an “aged

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<sup>7</sup> See Appendix for population total.

<sup>8</sup> Beaumont and de Tocqueville, *On the Penitentiary System*, 88-89.

<sup>9</sup> George Hendricks to Pennel Hendricks, February 1859, Record Group 48, Records of the Office of the Secretary of the Interior, *Records Relating to the U.S. Penitentiary for the District of Columbia, 1826-1865*, Miscellaneous Records, 1829-1862, Entry 470, Box 3, NARA II.

mother” who lived alone.<sup>10</sup> Clarke’s political and social connections probably enhanced Williard’s prospects for release, since inmates benefitted from ties to influential citizens.<sup>11</sup>

Military prison inmates also commonly highlighted needy relatives and family reputation in petitions. Many inmates from Old Capitol, Castle Thunder, and Camp Chase, or friends acting on their behalf, petitioned for releases so that the inmates could care for their families. Inmates’ positive character traits, like church membership and service, were emphasized, as were industriousness in civilian life and wealth. For example, R. Breckenridge, a citizen of Danville, Kentucky, pleaded on behalf of two political prisoners held at Camp Chase. The men, Parker Todhunter and James Price, were friends of Breckenridge and purported to be upstanding community members. Breckenridge described Todhunter as a Baptist who “raised a very respectable family” whose members intermarried with other respectable families. Similarly, Price was “one of our old Presbyterian families,” and both were men of “good repute” who should not have been punished as “criminals,” even if their offenses were political.<sup>12</sup>

White inmates were not the only ones to have prominent political officials or men of social standing petition on their behalf. Some of Castle Thunder’s African American inmates had these connections as well, and their petitioners also emphasized inmates’ honesty, good character, and religiosity. The cases of Amos Barney and William Brown serve as examples. Confederate soldiers imprisoned Barney and Brown, along with six other free African Americans, in Castle Thunder. Many “reliable citizens” from Richmond, including the Reverend Dr. T.V. Moore, petitioned on the captives’ behalf. Moore certified that Barney was “the

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<sup>10</sup> O.L. Clarke to Warden of the Penitentiary in Washington, D.C., October 1859, Record Group 48, Records of the Office of the Secretary of the Interior, *Records Relating to the U.S. Penitentiary for the District of Columbia, 1826-1865*, Miscellaneous Records, 1829-1862, Entry 470, Box 2, NARA II.

<sup>11</sup> Dodge, *Whores and Thieves*, 57.

<sup>12</sup> Ro. S. Breckenridge to Saml. Galloway Esq., January 10, 1862, Samuel Galloway Papers, 1840-1895, OHS.

husband of a member of my church” and stated that Barney and the other captives were “free negroes and noncombatants.” Moore and his constituents pleaded for their release since they were “free colored Men and not Slaves” and were men whose families needed them.<sup>13</sup>

Other inmates at Castle Thunder also sought the help of religious figures. James Quinn, a political prisoner captured while working on one of Virginia’s railroads, petitioned the Reverend Bishop McGill, a prominent member of the community in which Quinn was detained. Quinn’s petition reveals that he was an Irish immigrant new to the South. He told the Bishop that he had many religious connections in his homeland that proved his good character. Quinn stated that there were “no charges” against him, adding that he had one brother who was a Chaplain to “his grace Rt. Rvd. Doctor Dixon arch Bishop of Armagh and Princebel of Old Ireland,” and another brother, “Right Revd. Terrance Joseph Quinn,” who officiated under the “Bishop of the Diocese of Brisbane Queensland Australia.”<sup>14</sup> Quinn hoped these familial ties to religious authority would inspire Bishop McGill to use his social influence to secure his release.

When inmates lacked religious ties, they appealed to familial obligations. For example, Old Capitol inmate Thomas Jones, a political prisoner, noted that he had “an affectionate wife at home and eight young children all dependent upon me for protection and support.” Likewise, Kate Parr begged for her father’s release from the Old Capitol since he had a wife and young children depending upon him for “support and protection.” Kate was most likely begging for the preservation of her own safety in addition to her father’s freedom, since she noted that the women in her family “have been left exposed to outrage and want with no one to care for

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<sup>13</sup> Emphasis in original. Revd. Dr. T.V. Moore to Revt & Dear Sir, November 10, 1863, and William D. McKinsly etc, at enclosure, November 5, 1863, Confederate States of America Army Department of Henrico Records (hereafter cited as CSA-Henrico), Records, 1861-1864, Section 11, VHS.

<sup>14</sup> James Quinn to His Grace Right Revt Bishop McGill, CSA-Henrico, Records, 1861-1864, Section 11, VHS.

them.”<sup>15</sup> Confinement of Southern men often left Southern women at the mercy of Union soldiers, undercutting Southern manhood. This served as a strong reminder to inmates that Southern men could not protect their homes while incarcerated.<sup>16</sup>

Arguing for the necessity of release to care for family members became so common that even George Harbin—a Catholic and a Democrat—used the tactic to advance his case. “I have several sisters depending on my labor for support,” wrote Harbin from Old Capitol Prison, hoping this would convince Secretary of State William Seward to grant him a long-awaited trial.<sup>17</sup> Similarly, the friends and relatives of many of Camp Chase’s inmates petitioned Seward for the release of their acquaintances, fearing that inmates’ families would languish in their absence. For example, Maysville, Kentucky, resident W.H. Wadsworth wrote to the Secretary of State asking for the release of six of his “constituents and townsmen” on the grounds that their families were in “great distress.” Wadsworth assured Stanton of the men’s innocence, contending that they would not threaten the government since they were “slight, unimportant people” needed by their families.<sup>18</sup>

In a variation on the plea that inmates be released in order to care for their families, R.H. Hanson argued for his younger brother Isaac’s discharge from Camp Chase on the grounds that Isaac was a wayward youth. In his petition to Samuel Galloway, judge advocate for Camp Chase, Hanson noted that Isaac, at the impressionable age of seventeen, was persuaded by “the malign

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<sup>15</sup> Thomas A. Jones to Mr. J. Dent, November 18, 1861, O.R. Series II, Vol. 2, 869-870; Kate Parr to Hon. William H. Seward, January 3, 1862, O.R. Series II, Vol. 2, 1287-1289.

<sup>16</sup> Historian Paul Anderson acknowledges that the war often required men to be away, and that the Union army could shame Southern manhood by overpowering women left behind. This act could, according to Anderson, render the same effect of undercutting Southern manhood, since it stood as a public reminder that “the men could not protect their homes anyway.” See Paul C. Anderson, *Blood Image: Turner Ashby in the Civil War and the Southern Mind* (Baton Rouge: Louisiana State University Press, 2002), 179-180.

<sup>17</sup> Geg. F. Harbin to William H. Seward, December 6, 1861, O.R. Series II, Vol. 2, 870.

<sup>18</sup> W.H. Wadsworth to William H. Seward, December 7, 1861, O.R. Series II, Vol. 2, 923.

influence and persuasions of older persons” to join the Confederate Army and was later arrested. Hanson argued for his brother’s release so that Isaac “may return to school” as his education was “sadly neglected,” and he needed to begin school soon if he was to learn anything. The Hansons were obviously not of the criminal class, judging from the fact that R.H. attempted to appeal to Galloway by noting that he “went to school several sessions at Oxford” soon after the judge graduated.”<sup>19</sup> This information, and Hanson’s petition in general, reveals the importance of establishing personal or class connections with government officials in petitions, a practice commonly employed by penitentiary inmates.

In their petitions, many of Castle Thunder’s male inmates similarly appealed to manhood, honor, and their masculine duty as family providers. Prison was an emasculating experience, stripping men of their wives, children, property, and home.<sup>20</sup> Numerous Castle Thunder inmates invoked male honor and domestic duty in appeals for release, arguing that they could best serve their cause at home. In October 1863, Confederate soldiers arrested John Raden and William Lintz in East Tennessee. The men claimed that they drew arms from the Federal government, not to antagonize Confederate troops, but to stop horse stealing, a rampant practice in the region. Southern soldiers, however, suspected treason, detained the men, and sent them to Richmond as political prisoners. In December, Sam Milligan, a neighbor of Raden and Lintz, wrote to Confederate Secretary of War James Seddon on behalf of the captives. Milligan insisted that the offenders were innocent, declaring that his neighbors were “worthy gentlemen” of “character and moral worth.” Milligan closed by assuring Seddon that his neighbors’ practice of combating

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<sup>19</sup> R.H. Hanson to Hon. Samuel Galloway, June 25, 1862, Samuel Galloway Papers, 1840-1895, OHS.

<sup>20</sup> Mark Kann, *Punishment, Prisons, and Patriarchy: Liberty and Power in the Early American Republic* (New York: New York University Press, 2005), 179.

horse stealing “would be highly beneficial” to their home, thereby leaving it to Seddon to judge the offenders’ manhood.<sup>21</sup>

Petitions of this kind were common in the Confederacy, as inmates pleaded with officials to recognize their upstanding character. Castle Thunder inmate John W. Rider presented his case to prison Commandant William Richardson on January 18, 1864. Confederate soldiers arrested Rider at his home in Virginia on charges of shirking military duty. Rider’s captors promised him release after he revealed four discharges from physicians for “physical inability to serve in the C.S. army.” But his release never came, so Rider pleaded based on his masculine duty to defend his home and family. “I have a family of helpless little children at home who are motherless and can do the country far more good at home on my farm than anywhere else,” Rider contended, stressing that his homestead needed an adult male presence to fend off potential Yankee invaders.<sup>22</sup> Rider’s petition essentially made the case that the dictates of manhood required him to stay home rather than serve in uniform and that his family would starve without him.

Supporting one’s family was of paramount importance to Southern men. This obligation placed Levi Bennett in a precarious situation. After being confined to Castle Thunder, Bennett petitioned General Winder for release, stating that he had applied for a position on a Confederate gunboat but had been rejected due to his being “very deaf.” Instead, left with no way to support

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<sup>21</sup> Sam Milligan to James A Seddon, December 6, 1863, CSA-Henrico, Records, 1861-1864, Section 1, VHS.

<sup>22</sup> John W. Rider to Captain William Richardson, January 18, 1864, CSA-Henrico, Records, 1861-1864, Section 1, VHS. Chandra Manning contends that Confederate patriotism contained an inherent tension “between the needs and interests of the Confederacy, and the needs and interests of soldiers and their families.” Manning posits that “initially the tension remained latent, but as the needs of families increasingly conflicted with the demands of the Confederacy, strains became harder to ignore.” Rider’s case provides a good example of this tension. See Chandra Manning, *What This Cruel War Was Over: Soldiers, Slavery, and the Civil War* (New York: Vintage, 2007), 217. Similarly, Paul Anderson contends that the “home stood as a profound symbol of patriarchy and protection” and that “to cow a man at his front door was to degrade him and his family in the most public way imaginable.” See Anderson, *Blood Image*, 179-180.

his dependents, Bennett became a Union Navy pilot in Virginia. Confederate soldiers imprisoned Bennett for disloyalty, but Bennett told Winder that, “circumstances compelled [him] to accept the situation” to support his wife and three small children. Bennett contended that, despite his Union service, he was a loyal Southerner and begged to be sent home to his suffering family.<sup>23</sup>

The case of John Carper is similar. While camped with the Confederate Army a short distance from his home, Private Carper left his post to nurse his wife, who was “severely” ill. Carper intended to return to his post after tending to his wife, but Confederate soldiers arrested him on his way back to his regiment and locked him in Castle Thunder. In his petition to General Winder, Carper stressed his duty to support his wife since “there was no one then to officiate or help” in his absence.<sup>24</sup> Carper’s wife obviously needed physical support, since she was in ill health, a fact that likely haunted Carper as he endured confinement.<sup>25</sup>

Penitentiary and military prison inmates appealed to their social status, to their rights as citizens to have a trial, or to familial obligations in their arguments for freedom. These petitions reveal how strongly inmates resented imprisonment’s curtailment of their freedom and demonstrate their desire to reclaim their rights. When family pedigree failed, penitentiary military prison inmates noted the injustice of the legal system in their pleas for release, but this was a difficult argument for them to make. The cases of William Boyd and the son of Ann Bohlayer provide good examples. In May 1860, Boyd, in a letter to his wife, alleged unjust imprisonment in the D.C. Penitentiary, stating that he was held “as a hostage prisoner of moral warfare.” He nevertheless believed in the “immutability of truth,” contending that when the truth

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<sup>23</sup> Levi Bennett to Brig. Gen. J.H. Winder, January 11, 1864, CSA-Henrico, Records, 1861-1864, Section 1, VHS.

<sup>24</sup> Jno. A. Carper to Genl. Winder, June 18, 1863, CSA-Henrico, Records, 1861-1864, Section 1, VHS.

<sup>25</sup> Victoria Bynum contends that “to be poor, female, and without the guardianship of a white male figure was to be without honor or worth in the antebellum South.” It is my contention that this standard applied during wartime. See Bynum, *Unruly Women*, 7-8.

prevailed he would “be freed . . . and unlocked.” Boyd’s correspondence, however, does not reveal that a petition on his behalf was in the works and the outcome of his case is unknown. Similarly, Ann Bohlayer’s son was imprisoned in the D.C. Penitentiary for a crime of which he was allegedly not guilty. Bohlayer wrote to Warden Sengstack, hoping that the “solicitude of a mother” would justify her correspondence. The distressed woman explained that her son was innocent of assault, since he acted in self-defense when confronted by another. Bohlayer assured Sengstack that her son reacted just as Sengstack would have if similarly confronted and contended that the jury was biased. The only help that Bohlayer had with her petition, however, was her trust in “the divine and all-giving Judge,” leaving the case to Sengstack’s discretion and God’s providence.<sup>26</sup> The results remain unknown.

Other penitentiary inmates who insisted that they were wrongly imprisoned had other forms of help in petitioning for release. In the early 1800s, one hundred and twenty-three men signed a petition for the release of Virginia Penitentiary inmate William Nash. Nash was a sentinel at the local barracks who shot a man while on duty. The petitioners contended that Nash “was absolutely without guilt or malice,” noting that this shooting, for which Nash was found guilty of second-degree murder, would “be a source of sorrow to him during the remainder of his life.” According to the plea, Nash was ready to reform, even though he had fired according to orders and would have been punished severely if he had not done so. The petitioners noted that Nash’s trial was unfair, since the law forbade Nash from calling witnesses who would have

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<sup>26</sup> William Boyd to Wife, March 28, 1860, and Mrs. Bohlayer to Mr. Sengstack, January 2, 1861, Record Group 48, Records of the Office of the Secretary of the Interior, Records Relating to the U.S. Penitentiary for the District of Columbia, 1826-1865, Miscellaneous Records, 1829-1862, Entry 470, Box 3, NARA II.

demonstrated that at least one superior approved his actions.<sup>27</sup> Because of this, Nash was at the mercy of Virginia's governor for his pardon.

Military prisoners' petitions reveal that many inmates believed their imprisonments were unjust and suggest significant differences in how government officials and prisoners themselves interpreted the circumstances that led to confinement. For example, Castle Thunder inmate Charles Dunham complained to Richmond's Provost Marshal, John Winder, that his papers revealed "nothing to impeach [his] loyalty or good intentions towards your government." Dunham's petition, however, shows that he attempted to go beyond Confederate lines without a passport, an offense that logically aroused the suspicions of Southern authorities. Nonetheless, Dunham repeatedly asserted that he carried no threatening information when he was arrested and swore that he was a "friend of the [Confederate] government." As such, Dunham reserved the "right to expect to be treated as a friend" as opposed to "a foe, or a criminal," suggesting his anger over being denied the right to trial.<sup>28</sup>

While wartime inmates like Dunham expressed such resentment, Castle Thunder political prisoner J.T. Kirby's petition to General Winder reveals his disgust with and lack of faith in the Confederate legal system and the suspension of *habeas corpus*. The circumstances under which Kirby was confined are unclear but the captive adamantly and repeatedly solicited a "fair and impartial" trial that never came. Kirby ultimately wanted to vindicate his name from the criminal "stigma now resting upon it," but he failed since authorities refused him a hearing. Kirby contended that a trial would prove that Confederate authorities lacked evidence to convict him in

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<sup>27</sup> Nash's petition is undated. William Nash et. al. to his Excellency the Governor and Council of State, undated, Virginia Penitentiary, *Penitentiary Papers, 1796-1865*, Subseries D, LVA.

<sup>28</sup> Chas. Dunham to John H. Winder, May 7, 1863, CSA-Henrico, Records, 1861-1864, Section 3 A-C, VHS.

civil or military court, and he demanded that he “should be tried within reasonable time or discharged,” a request that he made to prison authorities over a year before writing to Winder.<sup>29</sup>

Kirby’s petition suggests two things about civilians’ opinions of the Southern legal system and of imprisonment. First, it calls to mind the fact that Southerners generally harbored an overall suspicion of the centralized legal system and of imprisonment. Such suspicions, as scholars Edward Ayers and Michael Hindus have demonstrated, became established in the antebellum period and slowed the development of penitentiaries in the South.<sup>30</sup> Second, Kirby’s words suggest that this lack of faith in the legal system ironically constituted the very reason why Confederate authorities arrested individuals on questionable evidence. Southern officials needed to demonstrate the power of the Confederate government, especially during the war, and such arrests proved that power remained in the hands of political elites who supported the Confederacy. During the war, this power expanded as political and military officials punished members of all classes who were so much as suspected of any threats.<sup>31</sup> Thus, centralized power strengthened on both sides of the Mason-Dixon line during the Civil War, continuing an antebellum trend.

In both the antebellum and war years, state officials, in addition to Union and Confederate officials, demonstrated their power by using pardons for practical purposes—either to relieve overcrowding or to replenish dwindling army ranks. In war, one of the best ways that

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<sup>29</sup> Emphasis in original. J.T. Kirby to J.H. Winder, May 1, 1863, CSA-Henrico, Records, 1861-1864, Section 3 A-C, VHS.

<sup>30</sup> From the 1790s to the 1850s, Ayers argues that there were “Southerners who argued that the penitentiary constituted an essential part of any enlightened government [while] other Southerners warned that the penitentiary posed a real and direct threat to American freedom and to the ideals of the American Revolution.” Ayers, *Vengeance and Justice*, 35. Hindus argues that the institution of slavery, as opposed to the penitentiary, maintained order in the South and contends that this system kept Southern patriachs in power. Hindus, *Prison and Plantation*, 253.

<sup>31</sup> For more general information on the Confederate government’s centralized power and its detention of political prisoners, see Neely, *Southern Rights*.

officials could help relieve the state's financial and material woes was to pardon convicts during periods of overcrowding. In 1863, Virginia Governor John Letcher, fearing increased commitments to the penitentiary, perhaps due to the failure of the exchange system, took proactive steps to reduce the number of inmates. The governor believed that his actions might "remedy or at least mitigate the evil" of overcrowding. He contended that necessity drove him to pardon the most "meritorious" inmates to make way for "newcomers" as the population increased with no signs of abatement.<sup>32</sup> Letcher's words suggest that, in wartime, as in the antebellum period, penitentiary and military prison officials released convicts judged capable of contributing to society. This practice of pardoning individuals based on their ability to contribute to the state remained during wartime and often culminated in army service.

It is not surprising that many of the most "meritorious" inmates at the Virginia Penitentiary that received pardons were members of the Confederate Army eager to rejoin shrinking Southern ranks. Throughout the war, numerous soldiers sentenced for crimes ranging from larceny to murdering slaves, to manslaughter, to robbery were pardoned on account of their gallantry under fire, questionable circumstances surrounding their arrest, their being intoxicated or influenced by bad company when they committed their crimes, or the fact that the crimes were accidental—reasons that echo those of antebellum petitioners. All pardoned soldiers vowed to rejoin their regiments, an action that benefitted the Confederacy, as it experienced a shortage of manpower due to casualties and the rising numbers of military prisoners.<sup>33</sup>

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<sup>32</sup> Doc. No. 16, *Communication Relative to Pardons, Reprieves, etc., December 1863*, 4-5, LVA.

<sup>33</sup> The assessment of soldiers' crimes and pardons came from the reading of Doc. No. 40, *Communication Relative to Reprieves, Pardons, etc., 1861*; Doc. No. 6, *Communication Relative to Reprieves, Pardons, etc., 1862*; Doc. No. 7, *Communication Relative to Reprieves, Pardons, etc., 1863*; Doc. No. 16, *Communication Relative to Reprieves, Pardons, etc., December 1863*; Doc. No. 35, *Governor's Communication on the Subject of Pardons, Reprieves, etc., 1864*, LVA. Specific examples of pardoning soldiers based on good conduct, being under the influence of liquor at the time of crime, and the crime being accidental can be found throughout these records.

Not only were soldiers pardoned for their past and future service to the Confederate Army, numerous men and women were also pardoned because they had family members in the service, a reward for serving the state. Charles Smith, sentenced to five years imprisonment in the Virginia Penitentiary for forgery, was pardoned because he demonstrated good conduct behind bars and because his father and brother cared for “sick and wounded” Confederate soldiers. Similarly, inmate Frances Marion was pardoned not only because she had numerous dependent children, but also because “her eldest son,” not yet eighteen, had been in the army since the war began.”<sup>34</sup>

As this discussion demonstrates, many reasons that earned penitentiary inmates pardons in the antebellum period persisted during the Civil War. Penitentiary and military prison inmates continued to receive pardons if “respectable citizens” petitioned on their behalf, if they were exceedingly young or old, if they were in ill-health, if they demonstrated “good conduct” prior to their commission of the crime, if they served a majority of their sentence thereby “vindicating” the law, if they were industrious and well-behaved behind bars, if they could prove that they had dependents with no other source of protection, or if they benefited the state.<sup>35</sup> Such circumstances earned pardons for both men and women and demonstrated that crime, punishment, and the reasons for pardon remained constant in the transition from peace to war in both penitentiaries and military prisons.

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<sup>34</sup> Case of Charles Smith, Doc. No. 7, *Communication Relative to Reprieves, Pardons, etc.*, 1863, 7, and Case of Frances Marion, Doc. No. 16, *Communication Relative to Pardons, Reprieves, etc.*, December 1863, 3-4, LVA.

<sup>35</sup> The assessment of common reasons for pardon came from an examination of the following documents: Doc. No. 40, *Communication Relative to Reprieves, Pardons, etc.*, 1861; Doc. No. 6, *Communication Relative to Reprieves, Pardons, etc.*, 1862; Doc. No. 7, *Communication Relative to Reprieves, Pardons, etc.*, 1863; Doc. No. 16, *Communication Relative to Reprieves, Pardons, etc.*, December 1863; Doc. No. 35, *Governor’s Communication on the Subject of Pardons, Reprieves, etc.*, 1864, LVA.

Most penitentiary and military prison inmates were unable to secure pardons, however, and those who remained incarcerated relished any opportunity to communicate with prison officers, fellow inmates, and visitors in order to relieve isolation. Communication with guards and other inmates ranged from benign to confrontational, was designed to capture guards' attention, not to effect escape, and was common in both penitentiaries and military prisons. The Auburn system fostered unruliness so penitentiary inmates frequently broke the rule of silence as penitentiary officials considered all forms of communication breaches of discipline.<sup>36</sup> Both penitentiary and military prison officials were concerned with controlling all forms of communication—harmful or not—among inmates, between inmates and prison guards, and between inmates and visitors, since they threatened internal order.

Inmates broke the rule of silence in many ways since their daily routines were monotonous. Some inmates communicated to cause trouble, others simply to engage in conversation and relieve isolation with human interaction. From confrontations with guards to brief interactions with visitors, inmates craved contact—negative or positive—carrying over a pattern from penitentiaries to military prisons.

Penitentiary inmates rose early in the morning to the sound of a bell, labored in shops, and were confined in their cells in the evening, with breaks only for meals and observance of the Sabbath, and with limited personal time in cells to read or rest before bed.<sup>37</sup> Officials intended the repetitiveness to instill discipline, but it often bred boredom and the desire for negative attention. Convicts subtly broke the rule of silence by cursing, whistling, singing, or laughing. They disrupted labor by quarreling with others, striking other convicts, stealing items from the shops, spoiling or refusing to do their work, threatening to fight other convicts or guards, and

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<sup>36</sup> McLennan, *The Crisis of Imprisonment*, 45; Dix, *Remarks on Prisons*, 81-83.

<sup>37</sup> Crawford, *Report on the Penitentiaries*, 102-103.

being insolent. Instead of sitting quietly in chapel on Sundays, inmates often laughed and talked, taking advantage of being in close proximity in the pews.<sup>38</sup> These facts reveal the futility of controlling inmates' communication in penitentiaries, a task that was also impossible in military prisons.

Penitentiary inmates either overtly or subtly communicated with those around them, often by deliberately angering guards. On August 2, 1860, a D.C. Penitentiary inmate by the name of Frank loudly cursed the guards, behavior that earned him a one-day solo stay, in double irons, in the dungeon. D.C., Ohio, and Virginia Penitentiary inmates whose communication defied officers often found themselves in solitary confinement on a bread and water diet, sometimes without blanket or bed. Virginia officers often permitted inmates to keep a Bible and a slate in their possession, since these items helped to promote reflection and repentance, but punishment did not render inmates silent.<sup>39</sup>

Solitary confinement only temporarily negated inmates' ability to be in touch with others. There remained plenty of opportunities for penitentiary inmates to communicate, either subtly or overtly. Scholars have commented that penitentiary inmates devised communication techniques through tapping, winking, whistling, or whispering in crowded cells and while at work.<sup>40</sup> The frequency with which inmates attempted communication and the creative means by which they did so reveals not only inmates' desperation for human contact, whether positive or negative, but also the ways in which inmates violated prison rules to forge an identity. Inmates communicated

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<sup>38</sup> Box 1, Punishments 1831-1847, Orders 1851-1854, Record Group 48, MLR A1-475, *Register of Punishments, 1831-1862*, NARA II.

<sup>39</sup> Crawford, *Report on the Penitentiaries*, 102, 109; Box 1, Punishments 1831-1847, Orders 1851-1854, Record Group 48, MLR A1-475, *Register of Punishments, 1831-1862*, NARA II; Ohio Penitentiary, *Annual Report of the Director and Wardens of the Ohio Penitentiary to the Governor of Ohio*, 1856, 15, OHS.

<sup>40</sup> Norman Bruce Johnston, *Forms of Constraint*; Goldsmith, "History from the Inside Out."

by assaulting officers, engaging each other, and vying for the attention of visitors. The punishment registers of the D.C. Penitentiary reveal how officers attempted to control inmates' communication. The frequency with which penitentiary inmates confronted officers reveals their desperation. However, judging from the fact that most offenders' names appear on the punishment register only once, the punishment inflicted—usually solitary confinement or whipping followed by solitary confinement—often discouraged further disobedience.

Numerous inmates communicated by threatening officers during the antebellum period. In March 1832, inmate Washington Barker twice threatened the life of the keeper and Barker consequently spent seven days in the dungeon. That May, inmate Ryan Barker once threatened to chastise the guard, an offense that earned him twelve days in solitary confinement. Ryan Barker apparently did not learn his lesson from solitary confinement; in 1840, he spent a week in the dungeon for six times attempting to feed other prisoners in their cells. Some threats were more severe. In December 1839, inmate Addison Brown frequently assaulted an officer and consequently spent twenty days in solitary confinement.<sup>41</sup> Similarly, in 1849, Warden Sengstack noted the case of an “incurable” black inmate who “had to be severely punished almost every week.” Sengstack planned to whip the man and place him in the dungeon on a low diet for attacking the officers who were ordered to bring him to trial for a misdemeanor. When Sengstack went to administer the sentence, the inmate demonstrated a “conciliatory” disposition, perhaps motivated by fear of physical injury and the prospect of solitary confinement. Sengstack

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<sup>41</sup> Ibid.

reproved him gently for his “obstinacy” and noted that the man subsequently was one of the most “docile and respectful convicts in prison.”<sup>42</sup>

While Sengstack’s report may have been written to enhance his personal reputation, it seems that punishment did motivate some inmates to behave, although it failed to completely control their attempts at communication. Inmates Bill Woodward and John Barr threatened officers multiple times, but changed their ways following punishment. In December 1855, Woodward resisted an officer six times and was sentenced to four days in solitary confinement on bread and water. Barr, in June 1856, struck an officer three times with a hammer. For this offence, prison officials handcuffed Barr, kept him standing for four hours, and then put him in a cell on bread and water for nine days. Both Woodward and Barr, according to officials, “promised to do better” after punishment.<sup>43</sup>

D.C. Penitentiary inmates not only confronted officers, they also turned on each other. In May 1840, female inmate Lidia Green spent nine days in solitary confinement for scalding fellow inmate Mary Scott five times with hot water. Green was no stranger to solitary confinement. That February, she spent twelve days in the dungeon for bringing food to a woman in her cell three times, though it is unclear if officers punished Green for poisoning the food or merely for communicating with another inmate. In June 1860, a convict by the name of White took a small drink of water from his cup and threw the remainder on another convict. This offense seems minor, but officials sentenced White to be whipped. The punishment never came to fruition, however, as White acknowledged his transgression and “made a solemn promise to

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<sup>42</sup> “Message from the President of the United States transmitting the Annual Report of the Inspectors of the Penitentiary in the District of Columbia,” H. Exec. Doc. No. 29, 30th Cong., 2d sess., *Warden’s Report* (January 16, 1849), NYPL.

<sup>43</sup> Box 1, Punishments 1831-1847, Record Group 48, MLR A1-475, Register of Punishments, 1831-1862, NARA II.

do better.” In March 1861, a black inmate, A. Price, was punished for “occasionally” cutting a fellow prisoner, being insolent, and threatening other inmates. Officials sentenced Price to fifteen lashes and solitary confinement for an unspecified period. Similarly, convict Binnin received fifteen lashes and spent four days in the dungeon in punishment for knocking down another inmate three times by punching him while they were walking in line.<sup>44</sup>

While some D.C. Penitentiary inmates communicated to cause trouble, most disobedient inmates simply wanted to engage in conversation. Many, according to officials, did not learn from their punishment. Some, like a man named Drew, defied orders and talked to friends while at work. Officials repeatedly reprimanded Drew for running across the yard to speak to another convict. Warden Sengstack withheld further punishment, reasoning that Drew was “a very ignorant man, not capable of discretion.” Officials’ assessment of this and similar situations may have been truthful, but officials often dismissed inmates’ intelligence to justify punishments or they even underreported punishments.<sup>45</sup> Sengstack also noted the case of a white boy who, nearly every day, left his seat at the shoe shop to socialize. Sengstack reprimanded the boy, but he repeated the crime multiple times in the next hour. As a result, officers tied the boy up for two-hour periods or tied him up and whipped him, but punishment failed to deter the young convict from attempting communication.<sup>46</sup>

D.C. Penitentiary inmates also desired communication with members of the opposite sex, demonstrating creativity in their attempts. In May 1832, convicts Jane Byers and Isaac Brogdan devised a system of communication and regular meeting times at the privy. Officials caught on to the scheme after the fourth time and sentenced Byers to five days in the dungeon, but did not

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<sup>44</sup> Ibid.

<sup>45</sup> Goldsmith, “History from the Inside Out,” 120. Dodge, *Whores and Thieves*, 31.

<sup>46</sup> Box 1, Punishments 1831-1847, Record Group 48, MLR A1-475, Register of Punishments, 1831-1862, NARA II.

record Brogdan's punishment. It is possible that he was not punished, since women were normally viewed as temptresses and responsible for the shortcomings of men, logically necessitating Byers's punishment.<sup>47</sup> Byers and Brogdan were not the only inmates who wanted interaction with members of the opposite sex. Inmate Samuel Peoples twice tried to pick the lock to the women's ward and was sentenced to the dungeon for an unspecified period of time in May 1832. Inmate Jackson, a black man, talked with women through a window and was punished.<sup>48</sup>

Work often created ideal conditions for interaction among inmates, encouraging disorder instead of ensuring discipline. D.C. Penitentiary inmates silently colluded while at work, organizing mass resistance. In April 1856, forty inmates employed in the shoe shop refused to work for want of meat. The conspirators gathered in the prison yard on the sixteenth of the month, and officers eventually sentenced them to a bread and water diet for several days. The leader of the rebellion, a man by the name of Lucas, was said to possess shoe knives, as were a number of his followers. The board of inspectors reasoned that Lucas's motivation for rebellion stemmed from the fact that he "had been indulged in holding too free correspondence with his relatives" and was "furnished with books and other privileges."<sup>49</sup> This case suggests that penitentiary officials failed to completely cut off inmates from the outside world, another trait that penitentiaries shared with military prisons. Such communication often got both penitentiary and military prison inmates in trouble.

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<sup>47</sup> Regarding female criminals in the antebellum period, Nicole Hahn Rafter notes that, because "true women were considered the guardians of morality, when a woman transgressed she seemed to threaten the very foundations of society . . . this early view of the female criminal as beyond redemption was related to the archetype of the Dark Lady, a woman of uncommon strength, seductive power, and evil inclination." Rafter, *Partial Justice*, 49.

<sup>48</sup> Record Group 48, MLR A1-475, Register of Punishments, 1831-1862, NARA II.

<sup>49</sup> Thomas Thornley to Board of Inspectors, May 1, 1856, Record Group 48, Records of the Office of the Secretary of the Interior, Entry 466, Misc. Letters to the Board of Inspectors and Warden, Box 1, NARA II.

Inmates at both penitentiary and military prisons desperately wanted to communicate with the outside world, whether to beg for help or to check on family members or friends. Sometimes this was as easy as talking with new inmates. Recent commitments to penitentiaries and military prisons brought news of current events and inmates sought them out for stories. For example, Old Capitol Prison inmate John Marshal noted that when new prisoners arrived, many inmates “gather[ed] round the stranger to learn the news” in what often was an “animated scene,” especially if the new arrival was a prisoner of war who updated inmates on the battlefield.<sup>50</sup> Otherwise, inmates tried to contact visitors, especially if they were important or could help inmates secure release. For example, in April 1834, inmate Dennis Larkin tried to make his dire situation known to a Congressman who was visiting the D.C. Penitentiary. Larkin left his seat at work four times to reach the Congressman. As a result, officials sentenced him to four days in the dungeon.<sup>51</sup>

The sight of visitors always caught the attention of both penitentiary and military prison inmates, consequently heightening officials’ sensitivity to misbehavior. Penitentiary inmates were not to look at visitors, but many did so in a manner that officials deemed inappropriate. In January 1855, D.C. Penitentiary officials sentenced John Holley to one day in solitary confinement on bread and water for twice “gazing at visitors impudently.” Officials somehow overlooked the more serious offense of inmate Joseph Cunningham until A.L. Stephens, an angry father of a female visitor, brought it to the warden’s attention. Stephens complained that Cunningham had insulted his daughter and her friend during their visit to the penitentiary. Cunningham, according to Stephens, was guilty of staring at the women “out of countenance,”

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<sup>50</sup> Marshall, *American Bastille*, 353.

<sup>51</sup> Box 1, Punishments 1831-1847, Record Group 48, MLR A1-475, Register of Punishments, 1831-1862, NARA II.

winking, making “other indecent signs to Ladies,” and “following them with his eyes up stairs and along the galleries looking at their feet and under their clothes as they walk along.” Stephens fumed that Cunningham also listened to the women’s conversation while idle at his job cleaning lamps in the prison shop. Stephens told the warden that Cunningham ought to be removed from his position, replaced by some “decent” person, and taught a trade so that he would be able to earn a living upon his release.<sup>52</sup> The fate of this case is unknown, but clearly suggests the problems that could arise when young women visited the prison, since male inmates were unaccustomed to having them in their midst.

Military prisons, like penitentiaries, often allowed visitors, which led officials to comment on the effect that this had on discipline. Early in the war, military authorities prohibited all visitors to Camp Chase except for the Governor, Adjutant General, Quartermaster General, Surgeon General, the Governor’s private secretary, and persons authorized by the Governor.<sup>53</sup> Nonetheless, Ohio Governor David Tod permitted curious citizens to tour the camp. The practice irritated military inspector Captain H.M. Lazelle, who complained in a July 13, 1862, report to Commissary General William Hoffman. Lazelle despised Tod’s practice of allowing “for the benefit of all curious people . . . a regular line of omnibuses running daily from the capital to the camp, past the chain of outer sentinels to the commanding officer’s quarters.” Lazelle further lamented that anyone who paid twenty cents could visit the camp and go where they pleased

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<sup>52</sup> A.L. Stephens, charges against Joe Cunningham, July 12, 1859, Record Group 48, Records of the Office of the Secretary of the Interior, Records Relating to the U.S. Penitentiary for the District of Columbia, 1826-1865, Miscellaneous Records, 1829-1862, Entry 470, Box 3, NARA II.

<sup>53</sup> *Herald* (Cleveland, Ohio), March 4, 1864, Issue 52, Col. B.

except inside the barracks.<sup>54</sup> Because of this, Lazelle undoubtedly felt that Camp Chase was more effective as a public spectacle than as a site of military authority.

Lazelle clearly believed that the prison and civilians should be separated for the sake of discipline. He noted that civilians' presence interfered with officers' sense of duty and encouraged arbitrary exhibitions of authority over inmates as a show.<sup>55</sup> Despite Lazelle's critique, Governor Tod and Commandant Colonel C.W.B Allison opposed the idea of prohibiting visitors. Lazelle's disapproval of this decision increased and he complained that Tod and Allison's objective was only to "make Camp Chase popular."<sup>56</sup>

Visitors' access to prison was always a sensitive subject and both military prison and penitentiary officials monitored it closely. Officials at Castle Thunder permitted visitors only during certain hours, supervised the whereabouts of outsiders, and restricted visits to Wednesdays and Saturdays.<sup>57</sup> Union officials also had restrictions. Later in the war, Hoffman ordered that people could not visit federal military prisons without the Commissary General's approval, but granted short visits to "loyal" relatives of prisoners who were "seriously ill."<sup>58</sup>

Officers also strictly supervised visitors to Old Capitol Prison. If a prisoner's friend or relative was fortunate enough to gain an audience, they conducted the visit under strict guard. Union officials even required some visitors to take the oath of allegiance. At the end of fifteen

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<sup>54</sup> Capt. H.M. Lazelle to Col. William Hoffman, July 13, 1863, O.R. Series II, Vol. IV, 197. Similarly, at Elmira, many prisoners were not thrilled with "money being made at their expense" by visitors paying entry fees and gawking at them. Gray, *The Business of Captivity*, 24-25.

<sup>55</sup> Capt. H.M. Lazelle to Col. William Hoffman, July 13, 1863, O.R. Series II, Vol. IV, 197.

<sup>56</sup> *Ibid.*, 197.

<sup>57</sup> "Rules and Regulations for the Government of Castle Thunder, 1863," Broadside, LVA.; "Days of Visiting," *Richmond Daily Dispatch*, April 30, 1863, accessed March 14, 2010, <http://dlxs.richmond.edu/d/ddr>.

<sup>58</sup> William Hoffman "Circular April 20, 1864," O.R. Series II, Vol. 7, 72-75.

minutes, the keeper, who supervised the meeting, abruptly ended the conversation, finished or not, and sent the visitor away.<sup>59</sup>

Military prison officials also closely monitored written communication. Just as in penitentiaries, military prison officials wanted inmates to have little, if any, knowledge of outside events. Officials at Camp Chase ordered that, “all letters to and from prisoners” be “subject to examination.”<sup>60</sup> Furthermore, federal officials restricted the length and content of inmates’ correspondence. Inmates could write and receive letters “not to exceed one page of common letter paper each” and could only write on matters “strictly of a private nature.” Nor could inmates say anything negative about the prison, a regulation that likely existed throughout the century, either formally or informally, as inmates knew that their letters were subject to officials’ gaze.<sup>61</sup>

Confinement forced both penitentiary and military prison inmates to redefine their personal relationships with those at home, causing them to depend on prison officials to keep their outside connections alive. This reliance on third parties for maintaining relationships made inmates feel helpless, and affected inmates’ relatives. Throughout the nineteenth century, inmates’ family members asserted their rights to contact captives. As Rebecca McLennan demonstrated, family members “asserted a right of access to the prisoners, which directly countered the penitentiary’s principle of segregating convicted offenders from the community.”<sup>62</sup> This trend remained during wartime in both military prisons and in penitentiaries, as family members sought communication and sent items of comfort to inmates. Loved ones wanted direct

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<sup>59</sup> Williamson, *Prison Life in the Old Capitol*, 74; Mahoney, *The Prisoner of State*, 167-169.

<sup>60</sup> P.H. Watson to Joseph H. Geiger, March 22, 1862, O.R. Series II, Vol. 3, 400.

<sup>61</sup> William Hoffman, “Circular April 20, 1864,” O.R. Series II, Vol. 7, 72-75; Gray, *The Business of Captivity*, 109.

<sup>62</sup> McLennan, *The Crisis of Imprisonment*, 47.

communication with inmates through letters and contacted prison officials regarding their family members' fate. Like their antebellum counterparts, however, wartime penitentiary and military prison inmates had little communication with outsiders, a fact that disgruntled both inmates and their loved ones.

Antebellum and wartime prisoners knew, but did not fully appreciate, the fact that penitentiary and military prison wardens inspected written correspondence to and from prisoners.<sup>63</sup> Many wartime penitentiary and military prison inmates and their family members agonized over the effects that restrictions had on their relationships. Samuel Burks Taylor and Thomas W. Bullitt, Confederate cavalymen held at the Ohio Penitentiary, provide good examples. Taylor repeatedly reminded his concerned sister that his communication was limited to immediate family members and that he could write only one page and receive only two pages at a time. Similarly, Bullitt told his sister that general correspondence was "restricted to two letters per week." The women obviously requested the men to write more and worried about their brothers, especially since Bullitt emphasized the fact that "penitentiary walls afford very little of that spice of life: 'variety,'" and often reminisced about the "affections of . . . childhood," revealing his homesickness. Taylor's sister likewise felt helpless, as her brother refused her offers to help him. Taylor told his sister that there was nothing that she could do for him, since he still enjoyed good health despite his confinement.<sup>64</sup> It is evident from this correspondence, regardless of the fact that it is one-sided, as only the letters of Bullitt and Taylor exist, that the

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<sup>63</sup> Ohio Penitentiary, *Annual Report of the Directors and Warden of the Ohio Penitentiary to the Governor of Ohio, 1862*, 49, OHS.

<sup>64</sup> Samuel Burks Taylor to Sister, October 17, 1863, Samuel Burks Taylor Letter, October 17, 1863, OHS; Thomas W. Bullitt to Sister, New Year 1864, and Thomas W. Bullitt to Sister, September 19, 1863, Helen Bullitt Papers, 1862-1864, OHS.

sisters claimed the right to contact the men and disregarded the rules governing correspondence, since they received repeated reminders regarding letter length.

Civilians not only believed that they had the right to correspond with inmates, they also believed they had the right to contact officials or to visit both penitentiaries and military prisons. The case of Ann Bohlayer, as discussed earlier in this chapter, demonstrates a mother's desire to ensure her son's good treatment behind bars and her belief that she was entitled to contact D.C. Penitentiary officials to make such a request. Although Federal officials had convicted Bohlayer's son of assault, she claimed that he was not the assailant, but the assailed, and that he had been unjustly convicted because of a "partial" jury. Bohlayer's plea that Sengstack at least take "particular care" of her son and even work for his exoneration reveals that she, like individuals in the antebellum period, viewed penitentiary officials as paternalistic figures whose actions could improve the general well-being of inmates.<sup>65</sup> During the war as well as in the antebellum period, many women petitioned on behalf of their incarcerated loved ones, pleading for good treatment or release, and both inmates and their family members depended on prison officials to permit their outside relationships to continue, even if in a limited fashion.

Military prison officials also policed inmates' contact with the outside world. As with penitentiary rules, military prison regulations permitted short letters to and from home and dictated acceptable topics. As they sent off their letters, inmates sometimes worried that their words would not reach home due to officials' censorship or the inefficiency of the wartime mail. At the Old Capitol Prison, however, inmates D.A. Mahoney and John Marshal expressed confidence that Superintendent Wood would "invariably do his best" to have prisoners' letters

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<sup>65</sup> Ann Bohlayer to Mr. Sengstack, January 2, 1861, Record Group 48, Records of the Office of the Secretary of the Interior, Records Relating to the U.S. Penitentiary for the District of Columbia, 1826-1865, Miscellaneous Records, 1829-1862, Entry 470, Box 3, NARA II. Mark Kann notes that prison officials "who were benevolent, upright, and gentlemanly were to guide inmates through rehabilitation." See Kann, *Punishment, Prisons, and Patriarchy*, 161.

delivered to their final destination, crediting Wood for helping them pass through the hands of the Provost Marshal and the Judge Advocate, who inspected letters outside of the prison.<sup>66</sup>

Mahoney's comment reveals that military prison inmates, like those in penitentiaries, needed officials' approval to maintain relationships and that censorship necessitated only superficial correspondence.

Letters often failed to reach home, however, and correspondence from home often did not reach prisoners. These circumstances angered inmates, as they yearned to hear about loved ones. Old Capitol inmate Henry Clay Rowe wrote four times to his wife and heard nothing back. He lamented that thoughts of "her, and home, and children drive all idea of sleep away" as long hours of idleness magnified an obsession with home and family.<sup>67</sup> Castle Thunder inmate John Johnson experienced similar frustration. Johnson, a Norwegian, penned letters home in his native language, but Richmond's Provost Marshal John Winder refused to send them, believing that they contained subversive information. In July 1863, Johnson pleaded with Winder to send his letters, stating that he had "no word from my family since December last" and assuring Winder that the letters detailed only family matters.<sup>68</sup> Undoubtedly, Johnson wanted to know that his loved ones were fine and wanted to assure them of his health. This same sentiment pervaded inmates' correspondence as they tried to reassure family members during their absence.

When military prison inmates wrote home, they often stated that they had plenty to eat and that their captors treated them kindly, statements likely influenced by the fact that prison or other government officials censored letters. Many men noted that they were in fine health and spirits and exhorted their loved ones to take courage in enduring separation. One Camp Chase

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<sup>66</sup> Mahoney, *The Prisoner of State*, 325-326; Marshal, *American Bastille*, 353-354.

<sup>67</sup> Griffith, "Fredericksburg's Political Hostages," 407-408.

<sup>68</sup> John Johnson to Gen. John H. Winder, July 4, 1863, CSA-Henrico, 1861-1864, Folder 7 of 14, VHS.

inmate told his brother to “rest easy as to our treatment,” since he had “plenty to eat, plenty to wear” and was “treated very kindly by all.”<sup>69</sup> Similarly, Castle Thunder prisoner John Sullivan Healy assured his sister that he was “well” and had “very good treatment.” The only thing that would make him better, Healy wrote, was knowledge that his family was fine.<sup>70</sup>

Inmates understood that it was difficult for family members to withstand the war’s trials and their absence and thus emphasized that the experience of prison could make them better men. W. C. Carnier, an inmate at Camp Chase, urged his wife to bear all trials with patience, assuring her that he would take care of himself so as to “try to get home and take care” of her in the future. He even suggested that confinement would make him a better husband. Prison created an all-male world for inmates, which, as Richard Stott has noted, could lead men to violence and rowdy behavior.<sup>71</sup> Instead, imprisonment at Camp Chase encouraged self-control and dictated that men assume traditional female roles to survive, roles that they could carry into domestic life upon release. Carnier informed his wife that he did a good deal of “cooking and washing and various other things about house keeping,” but noted that this was somewhat of a struggle since “men are bad home keepers.” Nonetheless, Carnier was sure that prison would reform him and he would become a good cook so that he might be of use to his wife upon his return.<sup>72</sup>

Carnier’s letter offers a point of comparison between inmates’ experience at military prisons and in penitentiaries. Imprisonment at Camp Chase, perhaps ironically, feminized inmates, exposing them to women’s work, while work at penitentiaries ideally cultivated

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<sup>69</sup> Unidentified to Brother, April 20, 1862, Camp Chase, Ohio Papers, 1862-1863, Folder 1 of 12, VHS.

<sup>70</sup> John Sullivan Healy to Julia Wheeler Healy, January 6, 1865, John Healy Family Papers, WRHS.

<sup>71</sup> Stott also notes that Civil War soldiers were serene and conformed with the subdued manhood in which men, by mid-century, found fulfillment in the home. Richard Stott, *Jolly Fellows: Male Milieus in Nineteenth-Century America* (Baltimore: The Johns Hopkins University Press, 2009), 1, 3, 56, 57, and 223.

<sup>72</sup> W.C. Cariner to Hennie, April 20, 1862, Camp Chase, Ohio Papers, 1862-1863, Folder 1 of 12, VHS.

masculinity, creating more productive, traditional male workers. Military prison officials dictated that inmates cook and clean up after themselves; in the absence of females, men undertook these tasks out of necessity. For example, James J. Williamson, an inmate at the Old Capitol Prison, noted that he and his roommates each night took turns in “the household work—cooking and cleaning up.”<sup>73</sup> Any reform occurred as a byproduct, but in some ways, the military prison experience prepared men to help in the domestic sphere as opposed to the public world of work.<sup>74</sup>

If military prison inmates experienced reform during their incarceration, they were sure to share this fact with family members. Carnier was not the only inmate to express the idea that imprisonment could change men. Camp Chase inmate Carter Louthan also wrote to his sister that he had become “quite sober-sided” since he entered prison, attributing this change to the principle that “those are good who have no particular temptation to do otherwise,” which suggests that prison offered few opportunities for misbehavior. Although Louthan judged himself as growing accustomed to good behavior, he asked his sister to let him know “if I am not a better boy” upon his return to Virginia, leaving the final judgment of his reformation to his family.<sup>75</sup>

While some military prison and penitentiary inmates reformed, imprisonment drove others to madness and depression. Even though he reformed, Carter Louthan lamented to his sister that he experienced “the most painful solitude” because imprisonment cut him off from

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<sup>73</sup> Williamson, *Prison Life in the Old Capitol*, 29.

<sup>74</sup> The all-male world of the prison is akin to the predominately male world of Southern mines that historian Susan Lee Johnson describes. Johnson notes that skewed sex ratios in immigrant camps caused men to take on “tasks that their womenfolk would have performed back home.” For more information, see Chapter 2, “Domestic Life in the Diggings,” in Susan Lee Johnson, *Roaring Camp: The Social World of the California Gold Rush* (New York: W.W. Norton, 2000), 100.

<sup>75</sup> Carter M. Louthan to Sister Ella, February 14, 1864, Louthan Family Papers, call MSS1 L9361A, unprocessed collection, VHS; Dix, *Remarks on Prisons*, 66.

“the pleasures of that sympathy which your friendship yields.”<sup>76</sup> Louthan was not alone in captivity, since he shared a mess with many other men. But his words suggest that solitary confinement itself was not necessary to make inmates feel isolated. Such emotions were common for both penitentiary and military prison inmates. In some cases, as Amy Murrell Taylor has noted, family members urged political conversion through the taking of a loyalty oath to earn release from prison and consequent isolation.<sup>77</sup> In other instances, concerned family members did all that they could to encourage inmates to keep up their spirits. Many family members urged them to turn to God and to maintain a positive outlook for the sake of good health. Writing to her father in Camp Chase, one Kentucky woman acknowledged that war and imprisonment constituted “a time to try men’s souls.” She assured her father that his family fervently prayed for his release. “Trust in God, be faithful and true and He will never forsake you,” the woman wrote, urging her father to “be cheerful and hopeful” to preserve his health and to trust that God would judge his captors in the afterlife.<sup>78</sup>

Ironically, however, contact with family members often caused consternation, especially when they visited. Some military prison inmates received personal visitors, a privilege that was seldom extended to penitentiary inmates, but these visits often resulted in mental torture. Old Capitol Prison officers limited visits to fifteen minutes, hardly enough time for inmates to get reacquainted with their callers, let alone have any meaningful conversation. Prison officials mandated that officers supervise all visits, again revealing inmates’ dependence on officials for continuing their relationships. When the wife and child of one of the Old Capitol’s inmates

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<sup>76</sup> Carter M. Louthan to Ella Brown, March 12, 1864, Louthan Family Papers, call MSS1 L9361A, unprocessed collection, VHS.

<sup>77</sup> Amy Murrell Taylor, *The Divided Family in Civil War America* (Chapel Hill: The University of North Carolina Press, 2005), 160.

<sup>78</sup> Jane to Dearest Father, May 30, 1862, Camp Chase, Ohio Papers, 1862-1863, Folder 1 of 12, VHS.

received permission from Washington's provost marshal to visit, the provost marshal dictated that the meeting occur in the presence of a guard, be limited to fifteen minutes, and remain open only to "persons named in this pass." The pass guaranteed one interview only and expired on the sundown of the day of the visit, creating a harsh condition for the pass holder.<sup>79</sup>

Some passes even dictated the content of visitors' discussions, just as officials dictated the content of letters. Catherine Best, who tried to see Old Capitol inmate William Carlisle, encountered obstacles along the way. The provost marshal stipulated that the two could converse "ON FAMILY MATTERS ONLY" under a guard's sight and only for a maximum of fifteen minutes.<sup>80</sup> Officials used this restriction to negate the possibility that visits might threaten security, either that of the prison or the Union cause. Nonetheless, such time and content constraints unnerved inmates' loved ones. As they navigated Washington's congested streets to reach the prison, they worried that their time would expire before they could use their passes. They also worried that seeing their loved ones behind bars would be an experience too difficult to withstand.

Sometimes inmates themselves found visits from their loved ones too much to bear. Old Capitol inmate George Henry Clay Rowe's wife visited him twice during his imprisonment. After she left the second time, Rowe watched through prison windows as she meandered through the city streets and he became completely "exasperated" by his situation. His wife, he realized,

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<sup>79</sup> Pass No. 380, Headquarters Military District of Washington, Provost Marshal's Office, June 17, 1864, Record Group 393, Pt. 4, Entry 2131: Passes, NARA I.

<sup>80</sup> Emphasis in original. Henry B. Todd Capt. & Provost Marshal Col. M. Murphy, Adjutant to W. Wood, Supt. Old Capitol Prison Headquarters Provost Marshal's Office, Washington, D.C., March 2, 1863, Record Group 393, Pt. 4, Entry 2131: Passes, NARA I.

was in a “strange city with no one . . . to take charge of her,” and, soon after she vanished from sight, Rowe became “maddened” and yelled after her, violently shaking the prison bars.<sup>81</sup>

Visitation, then, could be both a blessing and a curse for inmates. Although prisoners wanted to see their loved ones, it was often too emotionally draining to see them while in such a degraded state. Many inmates, like Castle Thunder prisoner Junius H. Browne, acknowledged that imprisonment rendered men unrecognizable. In a letter home, Brown declared that if his “best friend” were to see him in prison that “he would not know me.” “Indeed,” Browne concluded, “I do not know myself. I look like a felonious mendicant; and in France would be sent to the galleys on suspicion that I was an escaped convict.”<sup>82</sup> Although Browne was likely exaggerating, imprisonment embarrassed him, and he wished to be spared the humiliation of seeing friends.

Inmates’ friends and family members often shared these sentiments, and some chose not to visit with prisoners at all. Analysis of passes granted to visitors at the Old Capitol Prison reveals that many individuals entered the prison only to bring inmates items, most commonly clothing, all of which were subject to Superintendent Wood’s inspection.<sup>83</sup> Helping inmates in this way solved the problem of painful visits, as it offered prisoners support while maintaining distance. Both Union and Confederate civilians could send packages to their family members until February 1864, when Union authorities discovered that Confederate officials had sent

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<sup>81</sup> Griffith, “Fredericksburg’s Political Hostages,” 417.

<sup>82</sup> Browne’s letter was published in the *Cincinnati Times* and reprinted in the *Richmond Daily Dispatch*. See “Our Condition Bettered by Gettysburg,” *Richmond Daily Dispatch*, November 13, 1863, accessed April 21, 2010, <http://dlxs.richmond.edu/d/ddr>.

<sup>83</sup> See, for example, pass authorized by Henry B. Todd, December 24, 1863, granting visitation privileges to Frank R. Smith; H.B. Todd to Mr. Wood, December 16, 1863; H.B. Todd to Mr. Wood, September 14, 1863; and Henry B. Todd to Mr. Wood, August 24, 1863, all from Record Group 393, Pt. 4, Entry 2131: Passes, NARA I.

packages intended for Union inmates in Richmond to General Robert E. Lee's army instead.<sup>84</sup>

Once the practice of sending packages ceased, inmates still had over one long year to bear before the war ended and military prisons closed.

Once penitentiary and military prison inmates entered their respective institutions, their lives changed drastically. All inmates wanted to shorten their stays behind bars, but this was a difficult task for those who lacked political or social connections. Inmates who remained in penitentiaries and military prisons were at the mercy of officials to maintain family and other outside relationships, and this fact compounded inmates' suffering. Nonetheless, civilians remained interested in the well-being of their loved ones. Visitors continued to observe the institutions; public interest in penitentiaries and military prisons remained and, in fact, increased following the Civil War's end. As the Conclusion, Chapter 8, will demonstrate, the American public remained fascinated with the memory of military prisons and the reality of penitentiaries, as the histories and evolution of both of these types of institutions remained inextricably intertwined.

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<sup>84</sup> Organizations like the U.S. Sanitary Commission and the U.S. Christian Commission could also send packages. Flory, *Prisoners of War*, 100-101.

## CHAPTER 8 CONCLUSION

This dissertation has demonstrated that many of the practices, regulations and punishments evident in penitentiaries were employed in Civil War military prisons. Penitentiaries and military prisons were based, theoretically, on the principle of humane treatment. Officials believed that they remained true to this ideal despite overcrowding, harsh punishments such as use of lethal force and whipping, and having inmates inhabit cramped, filthy cells or endure solitary confinement. Such practices were common in antebellum penitentiaries, a fact that explains their continuance in both wartime penitentiaries and military prisons during the Civil War. It also invites reconsideration of Civil War era scholars' assertions that military prisons were uncharacteristically harsh. Camp Chase, Castle Thunder, and Old Capitol Prison were, in fact, more representative of the number of inmates commonly held in military prisons as noted in the Introduction, so it is instructive to examine them to understand how military prisons actually operated, even when they had high populations.

Economic, political, ideological, and cultural trends influenced the nineteenth-century vision of punishment, as Mark Colvin has noted, since they inspired the establishment of both penitentiaries and military prisons.<sup>1</sup> But the administration, operation, punishment, and experience of inmates in both types of institutions was comparable throughout the century and during the Civil War, revealing that external forces had little impact on what went on behind bars. Throughout the century, prison administrators lacked experience. They were politically appointed from the very first days of penitentiaries in the early 1800s, and this continued through the 1870s. Officials were only required to possess "high qualities of the head and heart" to secure

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<sup>1</sup> Colvin, *Penitentiaries, Reformatories, and Chain Gangs*, 2.

their jobs.<sup>2</sup> Although different structurally, penitentiaries and military prisons had much in common, including the types of inmates that they held—common civilian criminals and military offenders.

This study has also shown that inmates' crimes mattered little in shaping their experiences behind bars even as war's circumstances complicated the penal environment. The penitentiary reformatory program was absent throughout the century, minimizing, if not virtually eliminating, the differences in purpose between the two types of institutions and fostering the similarity of inmates' experiences in penitentiaries and military prisons. Nineteenth-century penitentiaries and military prison inmates freely communicated with each other, challenged the authority of guards, and used whatever outside influences they had to try to secure release.

Viewing the prisons as a financial burden to the state, officers at both institutions also required many inmates to work. This, however, had the unintended consequence of creating a situation that often facilitated communication and sometimes fostered escape plots. Even though labor was supposed to be part of the penitentiary program, overcrowding left many inmates sitting idle, just as they did in military prisons.

All penitentiary and military prison inmates feared disease, suffering, and consequently dying behind bars. Both penitentiaries and military prisons occupied unfavorable ground, had poor ventilation, and bred disease, leading to miserable internal conditions. Other internal conditions were also the same as officials dealt with overcrowding, debated the use of corporal punishment, and shot inmates who assaulted them. Military prisons, in fact, ultimately reveal the continuation of trends apparent in penitentiaries in the previous years.

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<sup>2</sup> E.C. *Transactions of the Third National Prison Reform Congress, Report of the International Penitentiary Congress of London, Held July 3-13, 1872, To Which is Appended the Second Annual Report of the National Prison Association of the United States, Containing the Transactions of the National Prison Reform Congress, held at Baltimore, Maryland, January 21-24, 1873.* Washington: Government Printing Office, 1873, 93.

Regardless of the types of inmates held in penitentiaries and military prisons, the two institutions served the same basic function. Penitentiaries became custodial rather than reformatory in the first half of the nineteenth century, preventing criminals from harassing other civilians and from threatening the social order. Civil War military prisons were also custodial. They held enemy prisoners of war, political prisoners, or common criminals, and prevented individuals from threatening the Union or Confederate causes. Ultimately, this study has reconsidered Civil War military prisons, shifting analysis from the question of inmates' suffering and intentional maltreatment. Instead, it has investigated the internal dynamics of military prisons—administration, punishment, and inmates' experience—in the context of penitentiaries. This study revealed not only that military prisons were not as horrendous as scholars envisioned them to be. It also sheds light on the increasing role that the national governments played in imprisonment during wartime, a role that fits with the nineteenth-century trend towards centralized power. To bring closure to this story, we will now examine the final days of military prisons, their purpose in the reunited nation, and the place of penitentiaries in post-war society.

Unlike the Virginia and Ohio penitentiaries Camp Chase, Castle Thunder, and Old Capitol Prison closed after the Civil War.<sup>3</sup> But these institutions, along with other military prisons and the war itself, left a legacy. War's end, as Blake McKelvey has noted, "helped to coordinate in time and character the scattered strands of normal penological development" as "the compelling urgency of growing populations, the inspiration of native and foreign achievements, the zeal of new agencies for social control, and popular confidence in high ideals" coalesced to generate an effective reform movement.<sup>4</sup>

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<sup>3</sup> President Lincoln closed the D.C. Penitentiary in September 1862.

<sup>4</sup> Blake McKelvey, *American Prisons*, 64.

Public attention focused on penitentiaries and military prisons during the war because so many individuals—black and white, male and female—faced incarceration. Penitentiaries kept the public’s attention after the war since many Union and Confederate veterans faced imprisonment, and society did not want those who sacrificed during the war to suffer behind bars.<sup>5</sup> These veterans, and other penitentiary inmates, however, continued to face the same circumstances as did their antebellum and wartime counterparts. The purpose of penitentiaries and military prisons continued to overlap during and after the period in which federal authorities began closing military prisons.

The Civil War left the nation in chaos. Federal officials temporarily used military prisons to help ensure order in both the North and the South before again relying solely on penitentiaries. And in the North, during the final months of the war, President Lincoln designated as military prisons many penitentiaries—including the Ohio Penitentiary—that held prisoners under sentence of courts martial.<sup>6</sup> This is consistent with the federal government’s increasing centralized power as it maintained responsibility for imprisonment throughout the country as the United States entered Reconstruction. Concurrent use and federal control of both penitentiaries and military prisons occurred in Columbus, and this practice was also vitally important to Richmond’s security after the war because of the disorder that accompanied the Confederate capital’s fall and the presence of Federal soldiers who had the power to arrest people.<sup>7</sup> In their final days, military prisons held some of the war’s most egregious offenders and detained

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<sup>5</sup> Abbott, “Crime Wave of 1865-1870,” 233-234.

<sup>6</sup> Lincoln designated the Albany Penitentiary (New York), the state prison at Clinton, New York, the Ohio Penitentiary, the Penitentiary at Jefferson City, Missouri, and “other prisons as the Secretary of War may designate” as military prisons. Abraham Lincoln, “Order Concerning Prisoners” February 15, 1865, accessed September 21, 2012, <http://quod.lib.umich.edu/cgi/t/text/text-idx?c=lincoln;rgn=div1;view=text;idno=lincoln8;node=lincoln8%3A627>.

<sup>7</sup> Dabney, *Richmond: The Story of a City*, 200.

criminals, both civilians and soldiers, even as federal officials discharged prisoners of war and enforced federal power. These functions proved no different than those exercised during war.

After the Civil War's end, federal officials released prisoners of war and closed military prisons, but not all in military prisoners received immediate discharges. Federal officials vacated Camp Chase by July 1865, but had greater difficulty shutting down Old Capitol Prison and Castle Thunder, since they held many criminals and penitentiary space was either limited, as in Richmond, or non-existent, as in Washington. In November 1865, Secretary of War Edwin Stanton directed that Old Capitol Prison "be immediately broken up" and ordered that "some other suitable place" be selected as a place of confinement for Union deserters.<sup>8</sup> After the war, federal officials ensured that these prisoners served their full sentences in penitentiaries. For example, in August 1865, federal officials transferred two New York soldiers from the Old Capitol to New York's Sing Sing Penitentiary and Concord State prison to complete their sentences.<sup>9</sup>

In addition to deserters and common criminals, federal officials used military prisons to punish high profile supporters of the Confederacy. High-ranking Confederate officials, such as Virginia Governor John Letcher and Andersonville Prison commandant Henry Wirz, served sentences in the Old Capitol Prison.<sup>10</sup> Federal authorities also used Castle Thunder Prison for the "confinement of evil-doers of all kinds and grades," according to the Richmond *Daily Dispatch*. Crime was so prevalent in Richmond that federal officials delayed Castle Thunder's closing for some time. Although federal officials ordered the prison to be vacated on December 12, 1865,

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<sup>8</sup> E.D. Townsend to Maj. Gen. C.C. Augur, November 29, 1865, O.R. Series II, Vol. 8, 819.

<sup>9</sup> "Under Sentence," *North American and United States Gazette* (Philadelphia, PA), August 25, 1865.

<sup>10</sup> "Ex Governor John Letcher," *Daily National Intelligencer* (Washington, DC), July 12, 1865; *Vermont Watchman and State Journal* (Montpelier, VT), November 17, 1865.

the continued influx of inmates rendered immediate closing impossible.<sup>11</sup> The city's devastation encouraged crime, a problem that was not brought under control until January 1866, when government officials finally closed the facility and transferred the remaining inmates to Libby Prison.<sup>12</sup>

Both during and after the Civil War, military prisons and penitentiaries confined individuals for committing property crimes and crimes against persons. The fact that both institutions punished both types of crimes, regardless of whether offenders were convicted in civil or military courts, demonstrates that parallels existed between civilian and military prisons and, more broadly, that penitentiaries and military prisons punished all crimes regardless of their primary classification. Between December 12 and 30, 1865, when federal troops controlled Richmond, the *Daily Dispatch* reported commitments to the Castle for many crimes, ranging from stealing, drunk and disorderly conduct, being in the city without proper passes, selling liquor to soldiers, fighting in the street and shooting to assault and battery. The paper reported a total of seventy-seven commitments, including twenty-five U.S. soldiers and forty-four African Americans. Federal officials incarcerated U.S. soldiers primarily for drunk and disorderly conduct or for being in the city without a proper pass, both crimes that undermined military discipline.<sup>13</sup>

Military prisons and penitentiaries confined inmates guilty of the same crimes throughout the Civil War and Reconstruction periods. In both Ohio and Virginia, inmates served time for familiar crimes, including attempted homicide, stealing, grand larceny, assault and battery, attempted rape, horse stealing, pocket picking, larceny, forgery, burglary, murder, incest, and

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<sup>11</sup> "Castle Thunder," *Richmond Daily Dispatch*, December 12, 1865 accessed April 24, 2010.

<sup>12</sup> "Multiple News Items," *The Scioto Gazette* (Chillicothe, OH), January 9, 1866.

<sup>13</sup> General search conducted between the dates cited in the text. <http://dlxs.richmond.edu/d/ddr/> [accessed May 21, 2010].

stabbing. In Virginia, there were some racially specific crimes, such as enticing blacks to steal and poisoning, crimes common among slaves in the antebellum South.<sup>14</sup> In the first few years after the Civil War, inmates were also incarcerated for military crimes common during wartime, such as absence without leave, sleeping on post, desertion, insubordination, spying, and aiding the Rebels. Some prisoners, like Ohio Penitentiary inmate Dr. Payne, a surgeon in the Confederate army who served as a spy, were convicted during the war and finished their sentences in the postwar period.<sup>15</sup> Because penitentiary populations remained high, inmates were mixed together, the only definite segregation being between male and female convicts.<sup>16</sup>

The case of the Ohio Penitentiary suggests that the federal government continued to use penitentiaries to punish soldiers from all areas of the Union, just as they had used the D.C. and Ohio Penitentiaries during the war. In October 1865, eighteen military prisoners sentenced by court martial arrived at the Ohio Penitentiary from Little Rock, Arkansas. They were found guilty of larceny, drunkenness, sleeping on post, desertion, embezzlement, selling side arms, and serving as rebel guerrillas.<sup>17</sup> These convictions and consequent penitentiary sentences reminded

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<sup>14</sup> Survey of crimes compiled from Virginia Penitentiary, *Prison Register and Indexes, 1865-1980*, Prison Register No. 1, LVA, and from a general newspaper search: "Local Matters: Sentence of the Prisoners," *The Richmond Daily Dispatch*, December 21, 1865; "Multiple News Items," *Daily Rocky Mountain News* (Denver, CO), June 19, 1875; *St. Louis Globe-Democrat*, October 10, 1875, Issue 144, Col. C, 11; "Latest News Items," *Daily Evening Bulletin* (San Francisco, CA), July 13, 1876; "Horrible Affair at Canton, Ohio," *Crisis* (Columbus, Ohio), October 16, 1867; "Multiple News Items," *St. Louis Globe-Democrat*, January 4, 1876; "Military Prisoners Ledged in the Ohio Penitentiary," October 19, 1865, "From Columbus Senate Proceedings—Penitentiary," January 19, 1866, "Neighborhood News Special Reports," February 8, 1866, "Local News," May 16, 1866, "Rebel Spy Released from the Ohio Penitentiary," July 21, 1866, "Multiple News Items," October 11, 1866, "Local News," July 9, 1867, "News of the Day," December 24, 1868, all from *The Daily Cleveland Herald*.

<sup>15</sup> Military crimes compiled from Virginia Penitentiary, *Prison Register and Indexes, 1865-1980*, Prison Register No. 1, LVA; "Rebel Spy Released from Ohio Penitentiary," *The Daily Cleveland Herald*, July 21, 1866; "News of the Day," *Cleveland Herald*, May 19, 1866; "Military Prisoners Ledged in the Ohio Penitentiary," *Cleveland Herald*, October 19, 1865.

<sup>16</sup> Butler, *Gendered Justice in the American West*, 8.

<sup>17</sup> "Military Prisoners Ledged in the Ohio Penitentiary," *The Daily Cleveland Herald*, October 19, 1865.

soldiers that, although the war was over, they still needed to abide by both military and civil law while completing their service, just as they were expected to do during wartime. Similarly, in May 1866, twenty-six regular army soldiers, likely serving in the South, were sentenced to the Ohio Penitentiary for desertion and insubordination.<sup>18</sup> Although penitentiaries were commonly viewed as institutions that held state offenders, their use in the postwar period demonstrates how the federal government continued to use them to house military prisoners, just as it had done before and during the Civil War. Ohio Penitentiary officials continued to demonstrate this fact through 1870s. As the 1870 annual report reveals, penitentiary officials dispensed with classifying inmates by race in their recapitulation of total inmates. Instead, they classified inmates by gender and noted whether they were sentenced to the penitentiary by state courts, U.S. civil courts, or U.S. military courts.<sup>19</sup>

As time passed, deserters and other soldiers confined during the Civil War were released from penitentiaries, but veterans' presence in prisons increased as they struggled to readjust to civilian life. In the antebellum period, Alexis de Tocqueville noted that the disbanding of armies increased the number of criminal offenses among veterans after the War of 1812, since soldiers were temporarily deprived of employment. This trend manifested itself again after the Civil War as the incarceration rate of Civil War veterans spiked.<sup>20</sup> Many Union and Confederate veterans filled northern and southern penitentiaries after the war as they resorted to crime, presumably attempting to overcome their financial hardships. As penitentiary and military officials had done in previous years, post-war penitentiary administrators paid special attention to this group of inmates, since they were prone to cause trouble. Rebecca McLennan has noted that veterans

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<sup>18</sup> "News of the Day," *Cleveland Herald*, May 19, 1866.

<sup>19</sup> See Appendix.

<sup>20</sup> Beaumont and de Tocqueville, *On the Penitentiary System in the United States*, 60-62; Kimmel, *Manhood in America*, 95; Kuntz, *Criminal Sentencing in Three Nineteenth-Century Cities*, 299.

carried their wartime skills into prison. Clinging to their identity as citizen soldiers who had sacrificed a part of their lives in defense of their country, they consequently posed challenges for prison officials. Veterans frequently hamstrung administrators' efforts to run the prison industrial system smoothly by slowing production or otherwise misbehaving.<sup>21</sup>

Nonetheless, penitentiary administrators treated incarcerated veterans the same as criminals, just as previous penitentiary and military prison officials had done. At the Ohio and Virginia Penitentiaries, administrators assessed soldiers' service records as they did criminals' education and family backgrounds. They noted whether or not veterans received honorable or dishonorable discharges from the army, assuming that members of the latter group were more likely to cause trouble. For example, in 1869, Ohio Penitentiary officials recorded 198 Union Army and five Confederate Army veterans, of whom 191 had been honorably discharged and seven deserted.<sup>22</sup> In the Virginia Penitentiary that same year, officials noted forty-four white Union veterans and fifteen to twenty former Confederate service men.<sup>23</sup> Veterans' imprisonment conferred a stigma that undoubtedly shocked both penitentiary officials and the general public as it did during the Civil War. Criminal behavior contradicted the image that soldiers were expected to uphold, as was demonstrated in the discussion of the D.C. Penitentiary in Chapter 4.<sup>24</sup>

While many Civil War veterans committed crimes, others received appointments to official penitentiary positions as political favors, not because of practical experience. This

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<sup>21</sup> McLennan, *The Crisis of Imprisonment*, 140.

<sup>22</sup> "Prison Statistics," *Milwaukee Daily Sentinel*, March 2, 1869.

<sup>23</sup> "By Telegraph from Washington," *Georgia Weekly Telegraph and Georgia Journal & Messenger* (Macon, GA), December 14, 1869.

<sup>24</sup> James McPherson asserts that Civil War soldiers enlisted and continued fighting due partly to ideals of masculinity. McPherson contends that "duty and honor were closely linked to concepts of masculinity in Victorian America," and that war was a stern test of manhood, as soldiers desired to prove their manliness and honor under fire and soldiers were supported by civilians at home for their sacrifice. See McPherson, *For Cause and Comrades*, 25, 31.

continued the well-established trend of inexperience in penitentiary operation that began in the antebellum period and continued during the war in both penitentiaries and military prisons. In the post-war period, many Civil War veterans, particularly southerners, experienced financial strain. For this reason, Virginia state officials appointed veterans like Henry R. Jones, former adjutant in the Confederate quartermaster's department, to penitentiary positions since they were "reduced to poverty" and had sizable families to support.<sup>25</sup> Jones was appointed in 1870, when the federal garrison left Richmond, signaling a shift in political control. In order to provide Confederate veterans with financial support and ensure that penitentiary management was acceptable to Southerners, Virginia's governors continued the practice of appointing distinguished Confederate military veterans as superintendents. This move was both practical and political, since the national government had denied Confederate veterans pensions.<sup>26</sup>

Military commanders and even prisoners of war sometimes received appointments as prison commandants, since state officials and the public felt confident in their abilities to manage inmates based on their wartime experience or believed that their incarceration prepared them for prison management. Regardless, post-war appointees to supervisory positions in prisons lacked direct experience in prison management, as had their predecessors in penitentiaries and military prisons. For example, General C.C. Wolcott, whom the Northern press touted as "one of the most brilliant officers in Sherman's Army," served as warden of the Ohio Penitentiary for over three

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<sup>25</sup> "Multiple News Items," *Scioto Gazette* (Chillicothe, OH), May 15, 1866; To His Excellency Gov. G.C. Walker, Governor of Virginia, February 19, 1870, and Petition on behalf of Henry R. Jones, March 21, 1870, *Penitentiary Papers, 1867-1897*, Subseries VI, Folder 1: Applications and Recommendations 1870, 1872, 1874, LVA.

<sup>26</sup> Keve, *The History of Corrections in Virginia*, 70. Although the Federal garrison left Richmond, Radical Republicans and President Ulysses S. Grant exerted heavy influence on the South in the early 1870s, particularly through the Enforcement Acts. For disfranchisement of former Confederates during Congressional Reconstruction and the Enforcement Acts, see Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863-1877* (New York: Perennial Classics, 1988), 253-261, 454-459, and Michael Fitzgerald, *Splendid Failure: Postwar Reconstruction in the American South* (Chicago: Ivan R. Dee, 2007), 72, 89.

years.<sup>27</sup> Similarly, when Richmond was still under martial law in 1868, General John Schofield, district commander of Richmond during Reconstruction, appointed former prisoner of war Burnham Wardwell as warden at the Virginia Penitentiary, possibly as a reward for his wartime loyalty.<sup>28</sup> Wardwell ran an ice business in Richmond both before and during the Civil War and remained a devout Unionist throughout. Confederate authorities arrested and imprisoned Wardwell in Castle Thunder for much of the war.

Wardwell's experience as a prisoner made him sensitive to prisons' internal conditions, and he wanted to make positive changes at the penitentiary. Like his predecessors, however, Wardwell's intentions yielded few, if any, concrete results. His imprisonment seemed to make him uncomfortable with penitentiary punishments like the dungeon, the whipping post, and the practice of gagging. However, Wardwell's solution to these problems—reviving the contract lease program that had gained prominence before the war—proved to be equally, if not more detrimental, to convicts, as casualty rates among leased workers were high. Convicts were often overworked to the point of exhaustion and were subject to disease.<sup>29</sup> Subsequent surgeon's reports reveal the brutality of the convict lease system. In 1871, surgeon M.M. Walker noted that contractors were not required to submit monthly reports of railroad laborers to penitentiary officials, but he did report that thirty-one convicts died accidentally while working on the Covington and Ohio Railroad. That same year, thirty-eight inmates died in the penitentiary, but all were documented in annual reports as having died of disease or natural causes, suggesting

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<sup>27</sup> "The News Telegraphic Summary," *Milwaukee Daily Sentinel*, March 10, 1869.

<sup>28</sup> Information about Wardwell and his appointment from Scott Reynolds Nelson, *Steel Drivin' Man: John Henry, The Untold Story of an American Legend* (New York: Oxford University Press, 2006), 59, 65, 66.

<sup>29</sup> Nelson, *Steel Drivin' Man*, 68; Alex Lichtenstein, *Twice the Work of Free Labor: The Political Economy of Convict Labor in the New South* (London: Verso, 1996), 51.

that penitentiary conditions, while far from ideal, were not necessarily ruthless.<sup>30</sup> Even though penitentiary officials sent convicts to labor, frequently resulting in death while working on the Covington and Ohio Railroad, state officials and some former Confederate soldiers praised Wardwell for his efforts at reform and his ability to bring about sectional healing, revealing how individual personalities significantly affected prison operation and perceptions.

During Reconstruction, sectional healing, corporate malfeasance, and government corruption eventually trumped other controversial issues, most particularly African-American rights. Prison management was no exception.<sup>31</sup> It is significant that the press highlighted Wardwell's conciliatory nature and admirable management of the Virginia Penitentiary in the late 1860s, the very time that Congress was conducting its investigation of Southern military prisons.<sup>32</sup> Publicizing Wardwell was seemingly an attempt to calm sectional tensions and emphasize the importance of the Union over sectional divisions. In July 1868, members of the Virginia State Guard visited Wardwell at the penitentiary and thanked him for "raising upon the dome of this institution that starry flag we love so much, and against which many of us fought during the dark days of the rebellion." According to the State Guard, not only did Wardwell represent the long-awaited reestablishment of federal authority in the former Confederate capital, he was also an "honor" to the prison. The men pledged their devotion to Wardwell, praised him for arranging soldiers' quarters "so comfortably and nicely," and noted that never before was

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<sup>30</sup> *Report of the Board of Directors of the Virginia Penitentiary, with Accompanying Documents, for the Year Ending Sept. 30, 1871* (Richmond: B.F. Walker, Supt. Public Printing, 1871), 25-26, 28-29. [These reports cited hereafter as *Report of the Board of Directors of the Virginia Penitentiary*, followed by the report date.]

<sup>31</sup> Fitzgerald, *Splendid Failure*, 118.

<sup>32</sup> In 1869 the U.S. House of Representatives released Report No. 45, which challenged the idea that the Northern refusal to continue prisoner exchanges in 1863 directly caused suffering and death in Northern and Southern prisons. Sanders, *While in the Hands of the Enemy*, 310.

there a warden who “did as much for the comfort and welfare of the prisoners” as Wardwell.<sup>33</sup>

This commentary represented Northerners’ desire to emphasize the supremacy of the Union and the humanity of its institutions.

This situation involving Wardwell was exceptional and probably exaggerated, given the fact that the meeting took place around the Fourth of July, a time to emphasize national unity. Positive feelings surrounded the penitentiary on the surface, but, contrary to Wardwell’s glowing review and other efforts to emphasize reform, its internal dynamics were dismal throughout Reconstruction. In reality, little changed at the Virginia Penitentiary and other penitentiaries after the war.

Many antebellum penitentiary regulations survived into the postwar years, and rising prison populations continued to pose their own disciplinary problems for penitentiary officials. Since prison populations were high and inmates largely intemperate, ignorant, or assumed by prison officials to be such, prison officials attempted to manage inmates with specific rules and daily labor. When inmates entered the Ohio Penitentiary, officials forbade them to “read anything which will inform them of what is going on outside prison walls,” a regulation familiar from earlier years. Such dictates, albeit difficult to enforce, were upheld throughout the nineteenth century, designed to cut off criminals from the outside world and separate them from the familiar comforts of family and society. Penitentiary officials still “scrutinized carefully” all correspondence to and from prisoners and banned all newspapers or books that conveyed the “progress of events in the world.”<sup>34</sup> Such rules could not erase inmates’ memories or prevent incoming convicts from sharing information with those already imprisoned, and post-war

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<sup>33</sup> “A Singular and Gratifying Scene.—Rebel Soldiers Paying a Tribute to a Union Man from Maine,” *Bangor Daily Whig & Courier* (Bangor, ME), July 2, 1868.

<sup>34</sup> “Latest News Items,” *Daily Evening Bulletin* (San Francisco, CA), September 24, 1875.

penitentiary inmates continued to communicate as had their antebellum and wartime penitentiary and military prison counterparts. The internal dynamics of prisons, whether penitentiaries or military prisons, were indeed strikingly similar.

Late nineteenth-century contemporaries recognized that there were few differences apparent among institutions of confinement. By the 1870s, the International Penitentiary Congress of London thought it appropriate to consider all types of prisons, from state penitentiaries to local jails, in one report since the differences between them were few and far between. If military prisons had existed in this decade they, too, would have been included in this report. The conclusions that the Congress made in 1873 aptly summarize the administrative state of military prisons and penitentiaries from 1800 to the post-war years. Regarding discipline, the Congress concluded that, “little is sought beyond the security of the prisoner and the convenience of the prison-keeper.” In the area of reform, the Congress stated that many prisoners of “all classes” left the prison “no better than they entered it,” an assessment that suggests that prisons perpetuated a criminal class and that prisoners had a difficult time readjusting to society, often finding themselves re-incarcerated, as was the case with many Civil War veterans.<sup>35</sup>

Many nineteenth century contemporaries—before, during, and after the Civil War—were uncomfortable with soldiers being held in civilian penitentiaries. In light of today’s circumstances, we have to question the extent to which these concerns have changed and how there continues to be overlap in the civilian and military systems of punishment. As this dissertation has observed, federal officials supported the detention of prisoners of war, including prominent military prisoners like Confederate Cavalry General John Hunt Morgan, in

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<sup>35</sup> Ibid., 45, 88.

penitentiaries like the Ohio Penitentiary. The federal government redefined Morgan's raid as a civilian crime in order to justify his punishment, an action that Southerners protested.

The current war on terrorism reveals that we are not done dealing with such issues. Just two short years ago, the U.S. government debated whether to try 9/11 mastermind Khalid Sheikh Mohammed by military tribunal or in a civilian federal court. This debate elicited opposition from the Heritage Foundation, a conservative Washington-based think tank, whose members denounced the idea of using the civilian court, which would try Mohammed "in the same courtroom as a common criminal" near the site of the World Trade Center where 2,796 people perished.<sup>36</sup> Ultimately, government officials decided to use a military tribunal, but this case is reminiscent of the overlap between civilian and military punishment and, more specifically, the connection between nineteenth century penitentiaries and military prisons.

Overall, despite changes in economic structure and war, few things changed in penitentiary administration, punishment, and inmates' experiences from 1800 to 1865. In a way, this phenomenon of imprisonment also foreshadows the role of prisons in the United States and, perhaps, in most western democracies. While the system did evolve to a degree, it also has retained the proven practices from preceding eras. Even certain elements of punishment remain, such as solitary confinement and the ultimate corporal punishment, execution by the state. Military prisons and secret American "shadow" prisons in foreign countries use "enhanced interrogation techniques," such as waterboarding, to force inmates to cooperate—a continuation of corporal punishments. Prisons also continue to protect society, to an extent, by marginalizing

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<sup>36</sup> Seth McLaughlin, "Jury Out on Whether to Try Terrorists in Civilian Court or Military Tribunals" *The Washington Diplomat* (March 2010), accessed August 14, 2010, [http://washdiplomat.com/index.php?option=com\\_content&view=article&id=6050:-jury-out-on-whether-to-try-terrorists-in-civilian-court-or-military-tribunals&catid=204:march-2010&Itemid=240](http://washdiplomat.com/index.php?option=com_content&view=article&id=6050:-jury-out-on-whether-to-try-terrorists-in-civilian-court-or-military-tribunals&catid=204:march-2010&Itemid=240); David Glovin and David Lerman, "Khalid Sheikh Mohammed's 9/11 Trial Tests Military Courts," *Bloomberg* (May 4, 2012), accessed August 14, 2012, <http://www.bloomberg.com/news/2012-05-04/khalid-sheikh-mohammed-s-9-11-trial-tests-military-courts.html>.

certain demographic or economically disadvantaged groups and identifying them as potential criminal elements to be watched and detained.

This dissertation has looked beyond the traditional study of military prisons in the Civil War years and incorporates them into the narrative of imprisonment in nineteenth-century America. Their operation after the war lends strong support to this dissertation's findings that both types of institutions were intrinsically intertwined and one cannot be viewed without the other. Not only has it shown that imprisonment during these years continued to build on prior norms and reflected the societal, economic, moral, and governmental issues of the day, it has also opened the window on a new focus with regard to the continuing evolution of prisons in America up to this very day. Likewise, it suggests that the overlap of the civil and military sectors in regards to punishment is still possible, that the federal government plays a significant role in punishment, and that definition of crimes, penal institutions, and criminals themselves, rather than becoming firmly established, continues to remain fluid.

## APPENDIX

The tables contained in the appendix reflect all available population data that I collected from annual reports or newspaper sources. Since I referenced a wide range of population statistics in the text, I thought it best to include all available data regarding total penitentiary and military prison population, as well as the race and gender of inmates where known. Blank spaces denote unavailable data. The data collected from the Ohio and Virginia Penitentiaries appears first since it is specifically referenced in the Conclusion. The sources include:

Annual Report of the Board of Directors of the Penitentiary Institution (Virginia), 1817-1870.

Message from the President of the United States Transmitting the Annual Report of the Inspectors of the Penitentiary of the District of Columbia, 1834-1854.

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*The Daily Patriot*, (Concord, NH)

*The Hinds County Gazette*, (Raymond, MS)

*The Ripley Bee*, (Ripley, OH)

*The Scioto Gazette*, (Chillicothe, OH)

*Vermont Chronicle* (Bellows Falls, VT)

*Weekly Georgia Telegraph*, (Macon, GA)

Table A-1. Virginia Penitentiary Population (Crimes), 1870

1870 Crimes	Total
1st degree murder	10
2nd degree murder	51
Voluntary manslaughter	12
Murder of infant	3
Homicide	76
Malicious & unlawful stabbing & cutting	18
Malicious shooting	19
Malicious wounding	4
Malicious assault & larceny	15
Assault with intent to kill	13
Rape	17
Attempt at rape	8
Robbery	43
Arson, house-breaking, & malicious assault	28
Burglary	60
Burglary & larceny	15
House-breaking	140
House-breaking & larceny	60
Horse-stealing	103
Mule-stealing	5
Ox stealing	1
Receiving stolen goods	1
Forgery	10
Grand larceny	150
Petit larceny	150
Bigamy	2
Obstructing railroad	3
Felony	15
Obtaining property under false pretences	2
Perjury	1
Beastiality	2
Poisoning	2
Total	828

Table A-2. Virginia Penitentiary Population (Race and Gender), 1870

1870 Race and Gender	Total
White men in prison	99
White men on railroad	53
White women in prison	4
Black men in prison	229
Black men on railroad	380
Black women in prison	63
Total	828

Table A-3. Ohio Penitentiary Population (Sentencing Courts), 1870

Sentencing court	Gender	Total
State courts	Males	936
State courts	Females	37
U.S. civil courts	Males	15
U.S. military courts	Males	12
Grand total		1,000

Table A-4. Virginia Penitentiary Antebellum Population

Year	Black Men	Black Women	White Men	White Women	Property Crimes	Crimes against the Person	Total (minus pardons)
1800-1838*	412	50	1,539	27	1,372	441	2,028
1817 (Jan. 1)†							158
1818							171
1819							168
1820							191
1821							211
1831 (from 1833-1834 report)							168
1833-34‡					73	4	114
1838 (Oct. 1; from 1839 report)	48	9	120	2			179
1839 (Sept. 30; from 1839 report)	58	8	112	3	138	43	181
1840-41							179
1846 (from 1 Nov. 1847 report)	78	4	140	3			225
1847 (from 1 Nov. 1847 report)	76	4	129	2	140	50	211
1848	81	2	116	1	122	66	200
1849	75	4	119	1	115	72	199
1850	58	4	126	1	133	56	189
1851	64	3	139	1	144	70	207
1855	74	15	220	1			310
1856	78	14	222	0	185	129	314
1857	84	9	218	2	191	122	313
1860 (1861 Directors report)	87	7	290	5			389

\* Report of 1837-1838 records these totals from the Penitentiary's opening in 1800 through December 31, 1838.

† Data for 1817 through 1821 is taken from the 1837-1878 report.

‡ This report does not distinguish race, and the number of inmates listed is incomplete.

Table A-5. Ohio Penitentiary Antebellum Population

Year	Black Men	Black Women	White Men	White Women	Total (minus pardons)
1832*					215
1834†					187
1835	22		253	1	276
1836	32	0	280	2	314
1837					392
1838					443
1839				0	485
1840					488
1841					480
1842					461
1843					460
1844	42	3	415	3	464
1845					482
1846					498
1847					445
1848					425
1849					336
1850					424
1851					469
1852					503
1853					531
1854					587
1855‡			601	5	606
1856		3	592	3	598
1857					608
1858			683	10	693
1859			838	15	853
1860	97	2	820	13	932

\* Ohio Penitentiary, *Report of the Keeper of the Ohio Penitentiary*, December 6, 1832, OHS.

† Figures for the years 1834, 1837, 1838, 1843, 1845-1854, and 1857 denote from 1857 report. Blank cells denote unavailable data.

‡ Figures for the years 1855-1859 do not specify race.

Table A-6. Washington, D.C. Penitentiary Antebellum Population

Year*	Black Men	Black Women	White Men	White Women	Total
1833	9	2	25	0	42
1834	14	5	43	0	74
1835	17	7	48	0	87
1836	14	1	33	0	64
1837	25	6	42	0	93
1838	30	8	39	2	103
1839	33	10	43	3	109
1840	30	8	51	2	107
1841	20	3	40	2	79
1842	18	4	42	2	82
1843	20	5	39	0	84
1845	23	3	41	2	88
1846	25	3	37	2	89
1847	27	3	35	1	87
1848	24	2	26	0	73
1849	20	4	22	0	58
1850	21	11	20	1	65
1853	24	7	53	4	106
1854	21	6	58	2	114
1860	49	7	112	1	169

\* Years listed are years that reports were published; they contain population from the previous year. Example: report year 1835 contains population from 1834.

Table A-8. Ohio Penitentiary Civil War Population

Year	Black Men	Black Women	White Men	White Women	Total
1861	109	3	799	13	924
1862	107	4	643	14	768
1863*			709	31	768
1864			608	21	629
1865			625	30	655

\* Population figures for the years 1863-1865 do not specify race.

Table A-9. Virginia Penitentiary Civil War Population

Year	Black Men	Black Women	White Men	White Women	Total
1861	81	6	289	3	379
1862					345
1863	27	9	250	3	318
1864					
1865					

Table A-7. Washington, D.C. Penitentiary Civil War Population

Year	Black Men	Black Women	White Men	White Women	Total
1861	51	6	98	3	158
1862					332

Table A-10. Camp Chase Civil War Population

Date	Civil Prisoners	Prisoners of War	Political Prisoners	Deserters	Total
Dec. 11, 1861					300
Apr. 6, 1862					1,400
July 24, 1862		1,300			1,300
July 28, 1862					1,600
Aug. 14, 1862					1,600
Sept. 3, 1862			600		
Oct. 27, 1862		12	711		723
Dec. 31, 1862*		In total	In total		133
March 18, 1863		1,008		30	
Apr. 7, 1863†	41	468			
Oct. 27, 1863					2,100
Nov. 7, 1863‡	131	2,072			2,145
Dec. 7, 1863		2,448			
Dec. 23, 1863					2,700
Jan. 9, 1865		7,700			
Feb. 3, 1865	262	8,933			9,073

\* Total figure for prisoners of war and political prisoners.

† Civil prisoners total includes 3 females.

‡ Civil prisoners total includes 2 females.

Table A-11. Old Capitol Prison Civil War Population

Date	Civil Prisoners	Prisoners of War	Political Prisoners	Deserters	Total
June 1, 1863					185
Dec. 29, 1863					928
Feb. 3, 1865	120	176			296

Table A-12. Castle Thunder Prison Civil War Population

Date	Civil Prisoners	Prisoners of War	Political Prisoners	Deserters	Total
Nov. 5, 1862					290
Nov. 15, 1862					390
Dec. 29, 1862*					750
June 6, 1864†	109			160	711

\* Total population figure includes 7 white women.

† Civil prisoners figure denotes blacks and women; deserters denote Yankees.

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