

PRISON INDUSTRIAL COMPLEX (PIC)

PRISON INDUSTRIAL COMPLEX (PIC) IS A TERM WE USE TO DESCRIBE THE OVERLAPPING INTERESTS OF GOVERNMENT AND INDUSTRY THAT USE SURVEILLANCE, POLICING, AND IMPRISONMENT AS SOLUTIONS TO ECONOMIC, SOCIAL, AND POLITICAL PROBLEMS.

Through its reach and impact, the PIC helps and maintains the authority of people who get their power through racial, economic and similar privileges. There are many ways this power is collected and maintained through the PIC, including creating mass media images that keep alive stereotypes of people of color, poor people, queer people, immigrants, youth, etc. as criminal, delinquent or deviant. This power is also maintained by earning huge profits for private companies that deal with prisons and police forces; helping earn political gains for "tough on crime" politicians; increasing the influence of prison guard and police unions; and eliminating social and political dissent by people of color, poor people, immigrants, and others who make demands of self-determination and reorganization of power in the US.

All these things are parts of the PIC.

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RETRENCHMENT
MASS INCARCERATION
AND THE REMAKING
OF THE PRISON
MOVEMENT,
1980-1998

BY DAN BERGER
AND TOUSSAINT
LOSTIER
(2018)

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RETRENCHMENT

Mass Incarceration and the Remaking of the Prison Movement, 1980–1998

The 1980s and 1990s were a largely bleak period for the prison movement. Central to this downturn was the splintering of the elements that had made the movement a potent force in U.S. society. The movement declined but did not disappear. In spite of the emergence of a more politically conservative climate, this period saw a number of rebellions, as well as smaller strikes and protests. More experienced organizers drew on a variety of tactics to organize and mobilize their fellow prisoners, including a greater focus on health care concerns. Yet, they did so with less success. In some instances, they did not receive the sort of outside support enjoyed in years past. In other instances, they found themselves further isolated from the general prisoner population.

Altogether, prison militants found it more difficult to sustain the broad coalition that had been a key part of earlier phases of the movement. This change had to do with longstanding divisions amongst prisoners, as well as between prisoners and outside supporters. Most significantly, it reflected a punitive shift in correctional policy that exacerbated the movement’s own limitations. Between 1980 and 1998, states around the country embarked on an unprecedented prison construction spree. Many of these new prisons were designed to limit prisoner contact and ability to organize, including a dramatic expansion in the use of solitary confinement. Prison managerialism abandoned the pretense of rehabilitation in favor of a new model: incapacitation, simply warehousing people in cages. This philosophy took hold as prosecutors gained vast new powers in charging criminal suspects. Along with changes to sentencing guidelines and a decline in parole opportunities, this prosecutorial discretion led to more people serving more time in more prisons.

Exacerbating divisions amongst those in the prison movement had been a longstanding response of state officials, but amidst this moment of increased repression, this response would have more serious consequences. At the New Mexico

State Penitentiary in Santa Fe, officials pushed back against a decades-long series of work strikes and rebellions by turning to a regimen of repression to undermine prisoner leadership and break up their nascent organization. This approach was in direct contrast to the more conciliatory approach prevalent in other states and led to the further deterioration of conditions there. “By the mid-seventies the New Mexico penitentiary was a physical as well as a psychological horror,” contends writer Roger Morris, with the prison’s conditions considered as among the harshest and most punitive in the nation. Unlike most other states, New Mexico held the vast majority of all felony prisoners in one institution, concentrating a wide range of individuals in one facility.¹

After targeting key leaders, administrators increasingly used long-term segregation as a response to even the most mundane rule infraction. Unable to protest these conditions collectively, a handful of prisoners meticulously documented the institution’s inhumane conditions in a class action suit, *Duran v. Apodaca* (1979), charging officials with severe constitutional violations. Prior to *Duran*, officials had also targeted those who filed similar federal civil suits, placing them alongside strike leaders in indefinite solitary confinement. Unable to deter this group of plaintiffs, prison administrators effectively stalled the court-ordered negotiations, refusing to make concessions, even after ACLU lawyers joined the suit.

In addition to this delay, administrators also began pressuring prisoners to inform on each other. These tactics frayed prisoner unity, as they were designed to do. “[Informants] were considered to be weak inmates who could not withstand the pressure put on them by other inmates and staff,” explains sociologist Mark Colvin. “They were considered to be traitors in a situation that was increasingly defined by both inmates and COs [Correctional Officers] as a ‘war.’”² Not only did this process provide administrators with a steady source of information, although of dubious reliability, it also served as a mechanism for extortion. A clique of guards had long demanded protection money from newly arrived prisoners and their families. Those who were unable or unwilling to come up with a payment would be targeted for beatings. Others could be publicly labeled as informants—“snitch jacketed”—and transferred to the protective custody unit. Corrupt guards and administrators used this practice to enrich themselves, intimidate their captives, and further disrupt prisoner unity. As frustration with the prison’s spartan conditions festered, its captives increasingly turned on each other, seeking out reprisals against those thought to be tools of the administration. By the end of the decade, the prison was in deep crisis: nearly one-third of the total population was either in punitive segregation or protective custody.

On February 2, 1980, this situation boiled over. Prisoners violently seized control of the maximum-security facility and took 12 guards hostage. As in similar incidents over the last decade, some people compiled a list of long-standing demands for improved living conditions, media access to the prison, and the warden’s resignation. Yet this was no ordinary rebellion. Many prisoners intentionally sought out the informants held in protective custody. Without any general

- 48 Ibid., 139.
- 49 Fliter. *Prisoners’ Rights*, 182–183.
- 50 Pelot-Hobbs, Lydia. “Organized Inside and Out: The Angola Special Civics Project and the Crisis of Mass Incarceration,” *Souls* 15: 3 (2013): 199–217.
- 51 Berger. *Captive Nation*, 263–264.
- 52 Shilts, Randy. *And the Band Played On: Politics, People, and the AIDS Epidemic*, New York: St. Martin’s, 1987; Cohen, Cathy J. *The Boundaries of Blackness: AIDS and the Breakdown of Black Politics*. Chicago: University of Chicago Press, 1999.
- 53 Kunzel, Regina. *Criminal Intimacy: Prison and the Uneven History of Modern American Sexuality*. Chicago: University of Chicago Press, 2008, 232.
- 54 Gilbert, David. *No Surrender: Writings from an Anti-Imperialist Political Prisoner*. Montreal: Abraham Guillen Press, 2004, 121–159; Berger, Dan and David Gilbert. “Grief and Organizing in the Face of Repression: The Fight Against AIDS in Prison,” in Cindy Milstein, ed., *Rebellious Mourning* (forthcoming). Oakland: AK Press, 2017.
- 55 Díaz-Cotto. *Gender, Ethnicity, and the State*, 352–353, 361–363.
- 56 Ibid., 361–370.
- 57 Ibid., 370–372; The ACE Program of the Bedford Hills Correctional Facility, *Breaking the Walls of Silence: AIDS and Women in a New York State Maximum-Security Prison*. New York: Overlook Press, 1998.
- 58 Quoted in Law, *Resistance Behind Bars*, 23. See also Rosenberg, Susan. *An American Radical: Political Prisoner in my own Country*. New York: Citadel, 2011, 153–163.
- 59 Kaplan, Esther. “Organizing Inside,” *Poz*, November, 1998; Schuster, Heather W. “Sentenced to Life: AIDS, Activism, and Prison,” *Journal of Medical Humanities* 19: 2–3 (1998): 235–254. For more on the protests against medical neglect inside California prisons, see Law, Victoria. “‘Out of Flames and Fear’: How People with HIV Forced California to Reform HIV care in Prisons,” *The Body*, May 24, 2017, www.thebody.com/content/79948/out-of-flames-and-fear-how-people-with-hiv-forced-.html.
- 60 Law, *Resistance Behind Bars*, 39–40.
- 61 Kaplan. “Organizing Inside.” Shabazz, Rashad. “Mapping Black Bodies for Disease: Prisons, Migration, and the Politics of HIV/AIDS,” in Jenna M. Loyd, Matt Mitchelson, and Andrew Burridge, eds., *Beyond Walls and Cages: Prisons, Borders, and Global Crisis* (287–300). Athens: University of Georgia Press, 2012.
- 62 Quoted in Lynd, Staughton. *Lucasville: The Untold Story of a Prison Uprising*. Philadelphia: Temple University Press, 2004, 1.
- 63 Reiter, 138.
- 64 Lynd, *Lucasville*, 1.
- 65 Dunne, Bill. “Crack in the Federal Scheme: The October Rebellion of 1995,” *Prison Legal News*, October 2000, 16.
- 66 Abu-Jamal, Mumia. *Live from Death Row*. New York: Harper Perennial, 1996.
- 67 Whitehorn, Laura. “Art Against Death” and Herman Bell et al., “An Appeal from U.S. Political Prisoners/POWs: Mobilize to Save Mumia Abu-Jamal,” in Meyer, *Let Freedom Ring*, 418–421, 429–430 respectively.
- 68 See the Section “Pulling Out the Stops for Mumia Abu-Jamal” in Meyer, *Let Freedom Ring*, 401–462, especially Ross, Suzanne, “A Brief History/Herstory of the Movement to Free Mumia,” 403–412. For his health care campaign, see Linn, Washington, Jr. “The Public Execution of Mumia Abu-Jamal?” *Counterpunch*, April 28, 2015, www.counter-punch.org/2015/04/28/the-public-execution-of-mumia-abu-jamal/.
- 69 Gonzalez-Cruz, Michael. “Puerto Rican Revolutionary Nationalism (1956–2005): Immigration, Armed Struggle, Political Prisoners and Prisoners of War.” Ph.D. diss., SUNY Binghamton, 2005; Reyes, Yanira. “Law, Media, and Political Dissent: The Case of the FALN.” Ph.D. diss., Purdue University, 2002; Susler, Jan. “Puerto Rican Political Prisoners in U.S. Prisons” in Ramon Bosque-Perez and Jose Javier Colon Morera, eds., *Puerto Rico Under Colonial Rule: Political Persecution and the Quest for Human Rights*

- 8 Parenti, Christian. *Lockdown America: Police and Prisons in the Age of Crisis*. New York, Verso, 1999, 45.
- 9 *Ibid.*, 167.
- 10 Lynch, Mona. *Sunbelt Justice: Arizona and the Transformation of American Punishment*. Stanford: Stanford University Press, 2010, 116.
- 11 Perkinson. *Texas Tough*, 327.
- 12 Irwin. *The Warehouse Prison*, 124.
- 13 *Ibid.*, 124–125.
- 14 Kurshan, Nancy. *Out of Control: A Fifteen Year Battle Against Control Unit Prisons*. San Francisco: The Freedom Archive, 2013, 5–6.
- 15 *Ibid.*, 18.
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- 17 Mark K., O'Melveny. "Lexington Prison High Security Unit: U.S. Political Prison," in Elihu Rosenblatt, ed., *Criminal Injustice: Confronting the Prison Crisis* (322–324). Boston: South End Press, 1999.
- 18 Kurshan. *Out of Control*, 32–34.
- 19 O'Melveny, "Lexington Prison High Security Unit," 329.
- 20 *Ibid.*
- 21 Kurshan. *Out of Control*, 49.
- 22 *Ibid.*, 74–75.
- 23 *Ibid.*, 126–127.
- 24 Irwin. *The Warehouse Prison*, 124–126, 132.
- 25 Kurshan. *Out of Control*, 156.
- 26 *Ibid.*, 214–218.
- 27 *Ibid.*, 52.
- 28 Lynch. *Sunbelt Justice*, 135.
- 29 *Ibid.*, 108.
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- 31 Reiter, Keramet. *23/7: Pelican Bay Prison and the Rise of Long-Term Solitary Confinement*. New Haven: Yale University Press, 2016, 53.
- 32 *Ibid.*, 71.
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- 34 *Ibid.*, 100.
- 35 Irwin. *The Warehouse Prison*, 58.
- 36 *Ibid.*, 58.
- 37 Shakur, Sanyinka. *Monster: The Autobiography of an L.A. Gang Member*. New York: Grove Press, 1993, 285.
- 38 See Kendall, John. "Gangs: A Threat on Streets and in Jail," *Los Angeles Times*, June, 1985, http://articles.latimes.com/1985-06-09/local/me-9880_1_gang-members/2.
- 39 Fliter. *Prisoners' Rights*, 127.
- 40 *Ibid.*
- 41 *Ibid.*, 135.
- 42 *Ibid.*, 155.
- 43 *Ibid.*, 159.
- 44 *Ibid.*, 174.
- 45 Over the next 20 years, this court mandated oversight would play an important role in shaping how federal courts would address the provision of health care behind bars, eventually shaping the 2006 landmark court injunction to reduce overcrowding in California's prison system, later affirmed by the Supreme Court in *Brown v. Plata* (2011). For more, see Simon, Jonathan. *Mass Incarceration on Trial: A Remarkable Court Decision and the Future of Prisons in America*. New York: The New Press, 2014.
- 46 Reiter. *23/7*, 138.
- 47 *Ibid.*, 142.

organization, they grouped themselves into various racial gangs, playing upon the very divisions prison administrators had helped to foster. Over the course of 36 hours, rioters used homemade knives, stolen blowtorches, and other implements to kill dozens of their fellow prisoners. In particular, they targeted those held in protective custody. Several others died after overdosing on drugs taken from the ransacked infirmary. After National Guardsmen and state police retook the institution, an official tally of 33 dead amounted to only an educated guess: a number of bodies had been mutilated and burned beyond recognition. Fires and flooding also destroyed key parts of the prison. A *Time* magazine article described it as the nation's "most savage prison riot . . . nothing like it had ever happened before."³ Yet this frenzy of savage violence was in many ways a reflection of the manner in which the prison had been managed.

It was only in this riot's bloody aftermath that officials finally agreed to settle *Duran* by signing a landmark consent order, with new regulations covering everything from a maximum population and required living space to disciplinary programs and medical care. When court-mandated reports uncovered rampant violations of the order in the summer of 1981, state officials launched a full-scale legal challenge to the same federal court oversight to which they had just agreed. And within two weeks of the violent riot, the state legislature appropriated \$2 million for a more tightly controlled maximum-security prison, in addition to money to repair the damage to the Santa Fe penitentiary, as well as investigate and prosecute those who committed crimes during the deadly disturbance.⁴ This would be the first step in what New Mexico officials later described as a \$96 million building program to ensure a "massive overhaul of its prison system."⁵ Coming in direct response to the 1980 riot, this construction effort sought to modernize the state's prison conditions as well as its administrative processes. It also led to a doubling of the number of both prisons and prisoners in New Mexico by the mid-1990s, a microcosm of the prison boom already underway nationwide.⁶

Beginning in the late 1970s, the prison boom occurred just as the prison movement itself had begun to recede. In state after state, a clear pattern emerged: tougher sentencing laws led to overcrowded facilities, prompting calls for more prison beds. Across the country, states took up the imperative to plan and build new penitentiaries on a scale never before seen at home or abroad. In New York, for instance, officials, unable to win voter approval of a new government borrowing to cover these costs, turned to the state's Urban Development Corporation, an agency tasked with building public housing, to provide the financing that would ensure prison construction without voter approval. Beginning in 1982, the Empire State added prison beds at a rapid pace, such that in 13 years, the number of those in state custody had increased almost fivefold.⁷

A similar pattern developed in California, with successive gubernatorial administrations floating state bonds to cover the construction of over a dozen expensive and increasingly specialized prison facilities. Across the country, officials

soon found new facilities filled to capacity not long after they opened. Crucial features of this prison buildup, like the increased reliance on prolonged solitary confinement, reflected an effort to repress a key layer of prisoner leadership. However, much of this prison buildup was about what author Christian Parenti describes as “managing and containing the new surplus populations created by neoliberal economic policies,” even when the ranks of those made jobless through automation and factory closure were not themselves in rebellion.⁸ State legislatures floated new government bonds and squeezed funding from other public resources to cover the ever-growing cost of corrections. Calls for even tougher sentencing laws began to influence state and, then, federal guidelines, funding, and correctional policies. In time, the same pattern would repeat itself over and over, with the nation’s prison population spiraling upwards until it reached historically unprecedented heights. In 1980, the United States incarcerated roughly 500,000 people in prisons and jails. By 1998, that number had jumped to 1.8 million people, the overwhelming majority of them held in state custody.⁹

The rise of mass incarceration and the decline of the prison movement shaped each other. From the outset, the shift to a new model of prison management was premised upon the suppression of the prison movement. State officials did not simply build more prisons, but they commissioned increasingly secure, riot-proof, facilities. These facilities were designed to hold captive a population that exceeded its official capacity, while also limiting the means by which prisoners might move about, congregate together, and gain control of the institution. Although this prison buildup touched each corner of the country, it had its greatest impact in the broader stretch of the southern and western U.S., or sunbelt, where officials ultimately turned to prison construction as a way to meet the mandates for reform pressed by federal courts, assuage concerns of growing racial disorder, and realize the political benefits of what historian Mona Lynch identifies as a turn toward “symbolically punitive” punishment.¹⁰ Indeed, these pressures galvanized southern states, most of them known for their commitment to frugality and small government, to designate ever-larger budget allocations to prison construction and management. By 1995, this region was locking up 44 percent of all state prisoners across the nation, even though it accounted for a much smaller proportion of the nation’s population. From Florida and Georgia to New Mexico and California, the Sunbelt would take its place at the forefront of this prison boom.¹¹

In addition to adding prison beds, officials also increasingly relied on finding ways to control the individual bodies of prisoners themselves. State and federal prison systems turned to control units and supermaximum-security facilities as a means of both discouraging unrest and isolating key leaders, a development that would become a key site of movement organizing. At the same time, they also sought to coopt the purchase prisoner litigants had gained in federal courts. Prison systems often complied with court orders to the extent that they provided officials with a mandate to modernize their correctional system. The momentum of this “control model” came first from the state level, but by the late 1990s, it was being

the prison system, CR’s mission statement pledged that the organization would only pursue strategies that did not extend the “life or scope” of the prison industrial complex.⁷⁵ As a result, CR joined coalitions aiming to stop prison or jail expansion, oppose solitary confinement, and end “gang injunctions” that brought young people of color into greater contact with the criminal justice system. In offering abolition as the necessary response to prisons, Critical Resistance consciously drew on the history of the abolition of slavery—an unimaginable idea in its day, until it came to pass—and some of the ideas that were first popularized by the 1970s prison movement. CR extended other aspects of the 1970s-era prison movement as well. CR also collaborated with a new generation of anticarceral feminists, such as INCITE! Women of Color Against Violence, to oppose police and prisons as extensions of, rather than solutions to, male violence.⁷⁶

Outside of these particular organizations, the late 1990s saw tens of thousands of activists link the prison industrial complex to other social and economic problems. More than 50,000 people shut down meetings of the World Trade Organization in Seattle on November 30, 1999, and that fed into a larger spirit of anticorporate activism and dissatisfaction with the two major political parties. With its purposefully broad mission, the nascent movement expressed an incipient consciousness of America’s prison problem—especially given the intensity with which police greeted these demonstrators. In Seattle, police tear gassed thousands of nonviolent activists. At a protest of the World Bank and International Monetary Fund meetings five months later, police preemptively arrested hundreds of demonstrators. All of this came to a head that summer in protests against the Republican National Convention in Philadelphia. Protestors pointed to the fact that the Republican presidential nominee, George W. Bush, had signed 138 death warrants and overseen 152 executions as governor of Texas—the most in that state’s history. The demonstrations marked the first time that global justice activists targeted the “prison industrial complex” explicitly in their street demonstrations and subsequent protests against the jailing of activists.⁷⁷

Notes

- 1 Morris, Roger. *The Devil’s Butcher Shop: The New Mexico Prison Uprising*. New York: Franklin Watts, 1983, 111.
- 2 Colvin, Mark. *The Penitentiary in Crisis: From Accommodation to Riot in New Mexico*. Albany, NY: State University of New York Press, 1992, 154.
- 3 “Nation: What happened to our men?” *Time*, February, 1980.
- 4 Morris. *The Devil’s Butcher Shop*, 192; “New Mexico Governor Approves Emergency Measure for Prisons,” *New York Times*, February 24, 1980, 28.
- 5 Carroll, James. “Nevada Revives Plan for Top-Security, 5 State Prison,” *Boston Globe*, April 1983, 1.
- 6 Colvin, 213.
- 7 Schlosser, Eric. “The Prison Industrial Complex,” *The Atlantic*, December 1998, www.theatlantic.com/magazine/archive/1998/12/the-prison-industrial-complex/304669/.

Muntaqim—a Black Panther serving a life sentence in New York state for the 1971 killing of two police officers by the Black Liberation Army—put out a call for a national march on the White House the following year to demand the freedom of American political prisoners. Inspired by the biblical story of Joshua bringing down the walls of Jericho with shouts and trumpets, Muntaqim dubbed the effort “Jericho ’98.” The lead organizer for the march was Safiya Bukhari, herself a former political prisoner from the Black Panther Party and Black Liberation Army. The coalition that formed to organize the march also included Puerto Rican groups that had been campaigning for the freedom of Puerto Rican independence activists imprisoned since the 1980s. An estimated 5,000 people demanded freedom for political prisoners in a march to the White House on March 27, 1998. After the success of the march, the planning committee launched the Jericho Amnesty Movement as a standing organization to raise awareness of U.S. political prisoners.⁷²

That September, the prison movement held a major conference at the University of California Berkeley called “Critical Resistance.” The conference was designed as a one-time event, with organizers expecting a few hundred people to attend. When 3,500 people showed up, however, it signaled the gathering storm of opposition to mass incarceration. After the success of the conference, Critical Resistance (CR) moved to become a standing organization with chapters in several cities. Two members of the organizing collective could trace their involvement back to their own incarceration in the 1970s: Angela Davis and Bo Brown. Davis had been among the few public intellectuals to consistently draw attention to the problem of prisons since her own arrest and trial made international news in the early 1970s. Indeed, she had opposed the expansion of the criminal justice system in both her activism and her writing.⁷³ Brown spent seven years in prison for her involvement with the Seattle-based underground group the George Jackson Brigade and continued to work supporting people in prison upon her release in 1987. The two of them joined an intergenerational, multiracial collective of scholars and activists in planning the conference.⁷⁴

In a series of additional conferences around the country over the next decade, CR helped popularize a systemic analysis of the role the criminal justice system—including policing and surveillance alongside prisons—played in shaping the political, economic, and social life in the United States. Building on an article by noted analyst Mike Davis, CR dubbed the phalanx of punitive institutions a “prison-industrial complex.” The phrase caught on, especially in the hip hop and underground music scene. However, people used the term differently. Unlike the “military industrial complex” metaphor it clearly builds upon, however, CR did not use the “prison industrial complex” to suggest that prisons were a primary driver of the American economy. Rather, the moniker identified the interconnected institutions that have made punishment so central to American society.

In response, CR called for the *abolition* of the prison industrial complex. As a challenge to the various reform efforts that have bolstered the legitimacy of

echoed by Congress, with federal legislation imposing harsh sentencing reforms, funding new prison construction, and stripping prisoners of hard-won legal rights. In spite of this repression, prisoners still found opportunities to organize, effectively remaking the prison movement to meet these changing conditions.

Fight for Control

This turn towards repressing the prison movement by isolating prisoners and limiting their access to the outside world did not take place without a fight against the most high-profile example of this form of repression. In the early 1980s, Marion Federal Penitentiary, still considered to be the most secure facility within the U.S. federal prison system, was once again ground zero of movement activity. As in the past, it held the most disciplined and committed prison organizers, many of them veteran members of the Black Liberation Army, the Republic of New Afrika, Puerto Rican independence activists, or *independistas*, Chicano and Native American organizers, and white antiracists, along with some of the most violent nonpolitical prisoners, including key leaders of the Aryan Brotherhood. From February 1980 to June 1983, there were nearly 60 prisoner-on-prisoner assaults, with a total of eight prisoners killed. However, most disconcerting to Marion authorities were the brazen attacks on prison guards, with nearly 30 attacks on staff. Unable to stem the tide of assaults, federal officials proposed shutting down the entire facility. When the attacks on staff culminated in the stabbing death of two guards, one of them while helping to escort Thomas Silverstein, a notorious Aryan Brotherhood leader, back to his cell after a shower, officials quickly put these plans into action.¹²

The guard killings occurred on October 22, 1983, and the ensuing lockdown would continue for the next 23 years. While similar moments of turmoil had prompted prison lockdowns for a given period of time, the Marion lockdown was designed to be prolonged and open-ended. In the first months, officials introduced new custodial procedures that ranged from designating a guard squad to conduct forced cell extractions to shackling prisoners when escorting them from their cells to routine digital rectal exams. Through these new procedures, prison officials effectively turned all of Marion into a control unit prison, marked by intense sensory deprivation and long-term solitary confinement.¹³ In contrast to the more targeted punishment of the early 1970s, all the prisoners, roughly 350 in total, were now locked down in their cells for seven days a week. Permitted to leave their cells for just an hour a day to shower or exercise, they were barred from working or attending educational programs. Outside contact was restricted to only a single ten-minute phone call every three months. For those with family members able to afford the trip to southern Illinois, prisoners were allowed a single two-hour visit per week; these were no-contact visits conducted through a telephone and a plexiglass window. Save guard interactions, they were denied contact with other human beings. During the first two years of the lockdown,

these interactions were punctuated by cell shakedowns by squads of riot gear clad guards who beat roughly 100 handcuffed prisoners and subjected some of them to forced rectal probes. Despite their class action lawsuits and petitions to Congress, which oversaw the Federal Bureau of Prisons (BOP), there would be no outside intervention to stop the lockdown.¹⁴

In their fight against solitary confinement a decade earlier, Marion prisoners had been able to draw on support from both liberal and radical organizations. Now, they found themselves further isolated, as federal government targeted and imprisoned left-wing revolutionaries. The 1980 arrest of a dozen members of the Fuerzas Armadas de Liberación Nacional (Armed Force of National Liberation, or FALN), an underground paramilitary organization of Puerto Rican *independistas*, in the Chicago suburb of Evanston, led to the surveillance and subsequent arrest of other FALN leaders over the next three years. A separate group of independence activists, Los Macheteros, were arrested in 1985 following a series of attacks against U.S. military bases in Puerto Rico and an \$8 million bank robbery in Connecticut. Denouncing U.S. control over the island as a colonial occupation, both groups of *independistas* denounced the legitimacy of the court proceedings and cast themselves as Prisoners of War (POW). Other American radicals arrested in the 1970s and 1980s also declared themselves political prisoners or prisoners of war. These included members of the Black Liberation Army tried for helping Assata Shakur escape from prison as well as members of other underground groups of the time. After their convictions, or as punishment for their organizing inside, federal officials transferred a number of these political prisoners to Marion.

With few liberal organizations expressing concern about the conditions in Marion, prisoners' outside support consisted of a group of now veteran movement activists as well as a team of lawyers from the PLO. By 1988, an ad hoc group calling itself the Committee to End the Marion Lockdown (CEML) convened a conference directly concerned with the conditions there, as well as the larger place of prisons in U.S. society. Held in Chicago, it brought together over 300 people. Drawing on the lessons of the Attica and Pontiac Brothers defense campaigns, CEML's conference featured talks from several activists who had been held at Marion, including Rafael Cancel Miranda, Raúl Salinas, and Imari Obadele. Although these activists had only formed CEML to convene the conference, this group would go on to play a lead role in what would become a 15-year struggle to stop the Marion lockdown. A group of largely white volunteers, CEML focused on grassroots education and organizing that followed the leadership of people of color. With more than a decade of experience in the prison movement, they sought to work in partnership with this leadership, while devoting the bulk of its activists to reaching other white people and mobilizing them to oppose racism and political repression.¹⁵

In 1986, for instance, CEML followed the direction of a call put forward by the National Committee to Free Puerto Rican Prisoners of War and the National Committee to Defend New Afrikan Freedom Fighters for a protest at the gates of

challenges to Abu-Jamal's sentence that, by 2012, succeeded in getting him removed from death row and placed in general population. He remains in prison, however, and the campaign to free him has emphasized the routine medical neglect after Abu-Jamal nearly went into diabetic coma in 2015.⁶⁸

The other most prominent defense campaign for U.S. political prisoners involved the Puerto Rican independence activists imprisoned since the 1980s. Although they were suspected of participating in bombing attacks against U.S. companies and government offices, the most common charge against them was "seditious conspiracy," a repressive law first passed during the First World War era that makes it illegal to plot against the U.S. government. They had all received disproportionately long sentences for conspiracy charges, and none were convicted of any act of violence. Puerto Rican activists began petitioning for their release in the early 1990s and had earned support from across the political spectrum in Puerto Rico, including people who advocated Puerto Rican statehood over independence. In 1999, President Bill Clinton commuted the sentences of 16 of these Puerto Rican activists. Clinton's move freed 11 of them immediately, with the other five being released over the next several years. Upon their return to Puerto Rico, they were greeted as national heroes. Clinton's offer was not extended to two members of this grouping, Carlos Alberto Torres and Maria Haydee Beltran Torres, leading a third, Oscar López Rivera, to refuse the offer in solidarity. Beltran Torres was paroled in 2009, Torres in 2010. President Obama commuted López's sentence in his final week in office in 2016.⁶⁹

The release of the Puerto Rican political prisoners accelerated clemency offers for other prisoners in the federal system toward the end of Clinton's time in office. On his last day in office, Clinton also freed Linda Evans and Susan Rosenberg, white women who had participated in a different underground group opposed to U.S. militarism overseas and police killings at home. The two women got out shortly after one of their codefendants, Laura Whitehorn, had been released after completing her sentence. All three of them had spent more than 14 years in prison, during which time they organized against the HIV/AIDS epidemic in prison, wrote articles documenting prison conditions, and created artwork used to raise awareness about political prisoners.⁷⁰ Their lengthy sentences revealed that left-wing radicals received disproportionate sentences relative even to right-wing insurgents: Whitehorn, for instance, was first held for five years in preventive detention awaiting trial and Rosenberg received a sentence of 58 years for having a cache of explosives. Meanwhile, Klan leader Don Black served two years for stockpiling weapons and explosives in a plan to invade the island of Dominica, and abortion clinic bomber Michael Donald Bray served 46 months for bombing ten abortion clinics. (The disparate punishment did not end with their release: police elites led a successful campaign to oust Rosenberg from her teaching position at CUNY several years after her release.)⁷¹

In addition to the success of these defense campaigns, the late 1990s also saw several initiatives to popularize critiques of American prisons. In 1997, Jalil

little-known instances of spontaneous revolt, movement efforts focused on those political militants from the 1970s and 1980s who still remained held behind bars. In particular, activists mobilized to spare journalist and former Black Panther Mumia Abu-Jamal the death penalty and win freedom for him and for more than a dozen Puerto Rican independence activists incarcerated since the 1980s. Many of these activists also campaigned for other political prisoners too, including Leonard Peltier, the Anishinabe-Lakota former member of the American Indian Movement serving a double life sentence for the deaths of two FBI agents on Pine Ridge reservation in 1975. There is ample documentation of alarming irregularities in Peltier's arrest and trial, and several international human rights organizations supported his release, including Amnesty International. But Abu-Jamal and the Puerto Rican independence activists garnered the most attention and biggest success.

Abu-Jamal joined the Philadelphia chapter of the Black Panther Party as a teenager and later went on to a distinguished career as a journalist, including as head of the Philadelphia chapter of the Association of Black Journalists. He was sentenced to death for the December 1981 killing of police officer Daniel Faulkner. Abu-Jamal has always maintained his innocence; he claims that he was denied a fair trial and framed because of his journalistic critiques of racism by the Philadelphia police department, especially its treatment of the radical MOVE organization. Nine members of MOVE had been incarcerated since a police assault on their compound in 1978 left one officer dead. (The organization moved to a new house later but remained in conflict with the city. In 1985, Philadelphia police dropped a bomb on its West Philadelphia house, killing six adults and five children and destroying a city block of other houses.) Abu-Jamal remained a prolific writer and commentator from prison. His writing inspired a new wave of protests against mass incarceration. It also catalyzed fierce opposition. Fearing another George Jackson, police officials moved to curtail media access for Abu-Jamal or other politically outspoken prisoners. NPR offered to have Abu-Jamal read his columns on air, yet balked under trenchant criticism from police agencies. Supporters recorded him reading his columns and distributed them to radio stations around the world.⁶⁶

Thousands of people around the world protested when the Pennsylvania governor signed Abu-Jamal's death warrant in 1995. European opposition to the death penalty found especially strong support for Abu-Jamal in France and Germany. The massive outcry joined legal appeals in prompting a stay of execution that summer. Abu-Jamal's life hung in the balance so much that other political prisoners urged activists to prioritize his case.⁶⁷ Outside of prison, supporters continued to pressure for his release. In January 1999, popular musicians Rage Against the Machine, the Beastie Boys, and Bad Religion headlined a concert calling for Abu-Jamal's release. On July 3, 1999, 95 activists blocked the Liberty Bell in a nonviolent civil disobedience for Abu-Jamal. The following year, 185 people were arrested outside the U.S. Supreme Court as it heard a case challenging the death penalty. These actions happened alongside a series of legal

Marion. The call came in response to the planned opening of the first control unit at the women's federal prison in Lexington, Kentucky. To link the use of control unit conditions in both Marion and Lexington, organizers planned a 30-hour demonstration through two states. In the months after the 1978 Pontiac rebellion, supporters had driven several hours from Chicago to the women's prison in Dwight, Illinois, before caravanning on to Pontiac. Arriving first in Lexington, more than 300 people rallied within 100 yards of the federal women's prison. Later that afternoon, they joined with local residents in picketing outside Marion's prison gates. Speakers highlighted the role of the Marion Control Unit in stripping prisoners of their basic human rights, while also serving as a key feature in the U.S. government's broader counterinsurgency against the era's radical social movements. Throughout the United States and in Puerto Rico, solidarity demonstrations drew further media attention and pressed the issue. For more than a decade, CEML's core of veteran activists annually organized similar demonstrations to the grounds of Marion, consistently calling for an end to the use of sensory deprivation and prolonged solitary confinement during the very moment in which one of the most severe forms of confinement was increasingly becoming the norm.¹⁶

The BOP's plans to open a women's control unit suggested that one of the most severe forms of confinement was increasingly becoming the norm. Drawing on the example of Marion, organizers worried that a women's control unit would be used to hold those prisoners deemed to be the most defiant, often seasoned radical organizers tried and convicted for crimes related to their political activity. The opening of Lexington's High Security Unit (HSU) in October 1986 confirmed these fears. Located in the basement of the federal prison, the 16-unit HSU was effectively a prison within a prison, subjecting those held there with total surveillance, austere conditions, routine guard searches, near total isolation, and constant sexual harassment. The first two transfers there were Alejandrina Torres, a Puerto Rican *independista* tried for her links to the FALN and Susan Rosenberg, a white anti-imperialist convicted of possessing explosives, whom authorities suspected of also having ties to those involved in the Brinks robbery. In January 1987, federal officials also transferred Silvia Baraldini, an Italian national and anti-imperialist, convicted for her involvement in Assata Shakur's liberation. Over the next year, the BOP also placed three other women convicted of nonpolitical crimes in the control unit, but its purpose as a means of political repression remained clear. As these women began to experience lethargy, blurry vision, memory loss, and other side effects of prolonged isolation, officials reiterated that the only way they could be sent back to a less restrictive facility would be obtain a lower security designation by effectively renouncing their prior revolutionary commitments.¹⁷

Rather than giving into the demands of their jailers, these women refused to be broken. Outside supporters, including friends and family, joined this resistance. A group of female lawyers based in Kentucky provided invaluable assistance,

helping them to file a class action suit challenging the constitutionality of the control unit. Building on the initial march to Lexington, the Puerto Rican independence and feminist movements played key roles in drawing wider attention to the unit's inhumane conditions. "Committees were formed around the country to fight against the Lexington control unit," notes Nancy Kurshan, a former CEML organizer. "Much of the energy came from women's groups and others who had not previously been involved in prison work." By March 1987, a number of these groups organized a 250-person march to the prison itself on International Women's Day. These outside supporters also produced *Through the Wire*, a documentary movie depicting the conditions at Lexington and featuring interviews with the women themselves, later broadcast on PBS.¹⁸ In the face of mounting pressure, officials agreed to outside tours of the facility by experts with the National Prison Project of the ACLU, Amnesty International, and other organizations. Rather than echoing the official account of the control unit, they roundly condemned its conditions as a violation of human rights, going as far as to depict it as secret experiment in political persecution.¹⁹

In October 1987, prison officials announced that the Lexington control unit would be closing. This closure, they indicated, was not to address criticism regarding the humane treatment of prisoners, but solely for the purpose of transferring the women to a larger prison in Marianna, Florida. With that facility still under construction, the Lexington control unit would remain in operation, prompting renewed calls for its closure. Making minimal headway with prison officials, the growing movement to shut down the Lexington control unit shifted its attention to the class action suit as it slowly proceeded to trial. In July 1988, a federal judge ruled against BOP officials, finding that they had unlawfully designated Rosenberg, Torres, and Baraldini as meriting control unit confinement solely based upon their political associations and private beliefs. A review of their prison records demonstrated that their placement in such restrictive conditions had not been because of their in-prison behavior. As such, the ruling directly challenged the repressive nature of the control unit, undercutting justifications for its use that rested solely upon the need to thwart political opposition. Yet, the judge's decision was strikingly limited. It rejected the suit's Fifth and Eighth Amendment claims, determining that their long-term isolation and sensory deprivation did not rise to the level of cruel and unusual punishment. In less than two years, a campaign organized against the Lexington control unit had won its closure as well as these prisoners' transfer back to a maximum-security prison, but in a way that further entrenched the legal reasoning that institutional security concerns outweighed constitutional treatment and basic dignity.²⁰

Similar legal reasoning had shaped the 1987 dismissal of a class action lawsuit brought by Marion prisoners. As they had already been in the prison when it was placed on lockdown, the suit had only been framed around the conditions of their confinement. Finding their treatment to be constitutional, the judge went even further in challenging the credibility of their claims of inhumane treatment. For those

organized groups amongst the prisoners—the Sunni Muslim, Aryan Brotherhood, and Black Gangster Disciples—began meeting regularly, formulating a list of demands, coordinating their control of the facility, and developing a negotiating strategy. Over the course of the next week and a half, they would engage in back and forth talks with state officials over the details of a 21-point agreement. It would become the "the longest prison siege in U.S. history where lives were lost."⁶² The repeated delays by state negotiators would forestall a peaceful resolution of the rebellion until its eleventh day and partly contribute to the deaths of one hostage and nine prisoners. Following their release of the remaining hostages and peaceful surrender, key prisoner negotiators, later known as the Lucasville Five, would be targeted for reprisals, not just as authorities retook the facility, but also as defendants in capital murder cases brought against them. Five years later, authorities designed and constructed the Ohio State Penitentiary in Youngstown, the state's first supermax facility, as a direct response to the rebellion.⁶³

Writing years later, the historian, lawyer, and longtime civil rights activist Staughton Lynd, noted that the rebellion coincided with the FBI's siege of the Branch Davidians compound near Waco, Texas. Although Lynd and his wife were living in the state, he notes that, "we were barely aware of the Lucasville disturbance."⁶⁴ Yet, they were not alone. Throughout the 1980s and 1990s, prison rebellions garnered little of the public attention that they once attracted. While they might be reported on in the nightly news and in local newspapers, these spontaneous rebellions failed to capture the political imagination of those beyond the walls. Much like the spontaneous wave of prisoner revolts that occurred during the 1950s, those that broke out at the Oklahoma State Penitentiary in 1985, the West Virginia State Penitentiary in 1986, and the U.S. Penitentiary in Atlanta in 1987, and elsewhere captured little of the outside movement attention.

This disconnect between spontaneous revolt and outside support was demonstrated most acutely when a series of spontaneous uprisings broke out in the federal prison system between October 19 and 26, 1995. Unprecedented in the history of the U.S. Bureau of Prisons, the widespread rebellion took different forms of protest, but centered around Congress' refusal to reduce the gross sentencing disparity for crack versus powder cocaine offense, as recommended by a U.S. Sentencing Commission study. Beginning at the Federal Correctional Institution in Talladega, Alabama, the first round of rebellions consisted of hundreds of prisoners assembling in the yard or refusing to work and making a set of demands. In several instances, they attempted to take over a section of the facility, breaking windows and setting fires, until forced back in their cells by guards. A second round of protests broke out after officials ordered a national lockdown of all federal prisons in the afternoon of October 20. In total, the rebellions cost the BOP \$39.7 million, but largely failed to sustain themselves or connect with those outside each institution's walls.⁶⁵

Beginning in the 1990s, the prison movement on the outside placed renewed attention on the defense campaign tradition. Rather than focusing on these

about treatment options and advocated for compassionate release for women diagnosed with less than a year to live. She was the lead plaintiff in a class-action lawsuit, *Shumate v. Wilson*, against the California prison system. In a 1997 settlement, the state agreed to overhaul its prison medical system: "untrained prison employees would be barred from making judgments about prisoners' medical care, prisons would ensure medicines without undue lapses or delays, and medical staff would offer preventive care, including pelvic and breast exams, pap smears and mammograms." Shumate helped found the California Coalition for Women Prisoners (CCWP) in 1995, which continues to advocate for the rights of incarcerated women and transgender people, as well as the freedom for women who, like Shumate, are incarcerated for killing their abusive partners in self-defense. While CCWP continues, Shumate died in prison after the governor refused the parole board's recommendation that she be granted clemency.⁶⁰

By the late 1990s, many of the peer counseling programs had become recognized, sponsored organizations within the prison. They forced prison officials to provide the proper drugs and other medical care to HIV-positive people. Yet, the situation remained dire. By 1998, an estimated 25,000 people in prison were HIV-positive, and the rate of AIDS was six times higher in prison than in the rest of society. One-fifth of Bedford Hills alone was HIV-positive. Institutionalization also meant disempowering the activists who initiated the challenges. All 30 participants in an HIV class at Auburn in 1987 were transferred out of prison, and for the next several years, Gilbert was transferred from prison to prison to break up his organizing.⁶¹

While many AIDS service organizations did not even work with incarcerated people, those who did struggled to get jails and prisons to allow condoms or other mechanisms that would reduce the threat of transmission. Nevertheless, these efforts prevented an even greater outbreak of the epidemic from hitting American prisons. This made a tangible, if less direct, impact on the number of AIDS cases overall. Most prisoners go back to their home communities at some point. Just as illness or disease travels from the streets to the prison, so too can it travel from prison back onto the streets. The fight against AIDS in prison was therefore a fight against the broader marginalization of the working-class Black and Latino/a communities where divestment of state resources made the disease even more deadly.

Seeds of New Struggles

On Easter Sunday 1993, hundreds of prisoners held at Southern Ohio Correctional Facility in Lucasville rebelled, taking eight guards hostage. Located in a small town, the maximum-security prison mostly held Black prisoners from the cities of Cincinnati and Cleveland. A dispute between SOCF's warden and over a hundred Muslim prisoners over their refusal to be injected with a tuberculosis test started the rebellion, but it touched on a host of long simmering grievances. Following the chaos and violence of the initial hours, representatives of the three

organizing against what had initially been cast as a temporary security measure, the growing reliance on prolonged isolation was becoming clear. "The realization that the lockdown was permanent was becoming unavoidable," recalls Kurshan. "Prison officials were no longer referring to a 'temporary lockdown,' but rather a general way of structuring life at Marion."²¹ Nonetheless, those fighting against the lockdown continued to push forward against it. Over the next several years, groups such as CEML, the National Committee to Free Puerto Rican Prisoners of War and Political Prisoners, and Freedom Now, regularly held press conferences, published opinion articles, organized public events, and held annual demonstrations outside of Marion, tactics intended to not only raise awareness about the conditions in Marion, but also to draw others into the prison movement. In 1988, these groups also collaborated on the publication of *Can't Jail the Spirit: Political Prisoners in the U.S.*, a collection of prisoners' photos, biographies, and mailing addresses that sought to garner them greater public attention. In contrast to the tendency for movements to campaign around their own political prisoners, this book suggested the need for a broad, mass defense campaign that sought to uphold the principles of the prison movement as well as undercut U.S. government's criticism of other country's imprisoned dissidents while refusing to acknowledge its own. This book would go through nearly half a dozen editions, complementing ongoing efforts to connect political prisoners as a whole to a broader base of support.²²

The publication of *Can't Jail the Spirit* was not the only innovative contribution made by the struggle against the Marion lockdown. In their public presentations, CEML organizers consistently linked the blatant instance of political repression evident in Marion and the criminal justice system as a racist mechanism of social control for the most rebellious sections of society. Grounded in statistical data, the group's presentations called attention to the disproportionate incarceration of Black men. As early as 1987, CEML organizers were able to show that the imprisonment rate of Black people in the U.S. was the highest in the world, helping to bring to attention the stark reality of what would later be called disproportionate minority confinement. The group's organizers routinely sought to link the plight of those behind bars to other social justice issues, such as the problems of AIDS and environmental pollution in prison. On the latter issue, CEML made its most significant breakthrough, developing a campaign to force the BOP to investigate and remedy prisoners' concerns regarding toxic chemicals in the facility's sole water source. Subsequent demonstrations pointed to the Marion lockdown as being tantamount to torture, but also, dangerous exposure to unsafe levels of trihalomethanes and other cancer-causing chemicals in the facility's tap water. This campaign developed through the active collaboration between prisoners and outside supporters, by now a hallmark of CEML's principled commitment to grassroots organizing that followed the direction of those directly impacted. After several years of denying the problem existed, Marion's warden publicly acknowledged the toxicity of the water in late 1990, pledging to identify an alternative water source.²³

The opening created by this hard-won victory would be short-lived, as BOP officials announced plans to build a new prison to replace Marion as the most secure institution in the federal prison system. The toxic water exposed severe lapses in management and prisoner welfare, but BOP officials homed in on a deeper truth: Marion had not been designed to hold hundreds of prisoners in their cells for prolonged periods of time. The institution's open cell fronts and cinder-block walls still offered prisoners a small degree of freedom that ran against the growing demand for near total control. Moreover, the lockdown had disrupted the delivery of food and medical services to prisoners. In July 1990, the BOP broke ground on a \$150 million prison complex in remote Florence, Colorado. In addition to minimum, medium, and maximum-security units, the facility would also include a 550-bed "administrative maximum" (ADX), or super-maximum security, a control unit prison built from the ground up. The plan for this new facility was one example of a proliferation of control units, what CEML termed the "Marionization" of prison systems across the country. Florence would be the federal prison system's first control unit prison. To provide guards with optimal security, each cell was made of poured concrete and had a solid door with a shatterproof glass window. Located waist high, a specially designed slot allowed guards to deliver food or handcuff prisoners without having to open the second of two doors. Behind each set of double-doors, was a sparse, eighty-square-foot cell, with a steel slab and mattress for a bed, a steel stool, and a desk, as well as a steel sink-and-toilet combination and a small black-and-white TV. A surveillance camera mounted in the ceiling would monitor any activity. In contrast to Marion's traditional multitiered cellblock, the ADX prisoners were housed in small, secure pods, each with their own infirmary, law library, and so on. The goal of restricting prisoners to their cells for as long as possible was reflected in the very design of Florence ADX.²⁴

Although CEML's small core of seasoned organizers traveled to different local communities to help build grassroots opposition to the spread of control unit prisons, they faced an uphill struggle.

It was like sticking a finger in a dike, only to see it spring another leak. But that didn't stop us. We felt like we were fighting an ideological battle, trying to influence people to see things differently and then act on this new vision.²⁵

This mindset that approached prisons as the necessary solution to pressing social problems and that expressed little concern for the treatment of prisoners would become further entrenched through the rest of the decade.²⁵ Just months after the opening of Florence ADX in 1994, CEML organizers joined activists from at least a dozen other states in founding the National Campaign to Abolish Control Units at a conference convened by the American Friends Service Committee. With few resources, the campaign relied on local groups to carry out their own plans, asking

Against Injustice and Violence, which sought to empower survivors of domestic violence (including those who were incarcerated for killing their abuser). It also extended the initial efforts to establish ACE. Officials supported the group's educational goals but opposed peer counseling, which they saw as organizing inmates. Some guards also spread rumors about participants in the program or refused to transport women to the counseling area. But ACE prevailed. It established a "buddy system," whereby women took care of prisoners with AIDS-related illness. The Bedford Hills superintendent was more supportive of their efforts than the wardens of Auburn or other men's prisons, and she ultimately supported their counseling efforts—especially once prisoner lawsuits challenged the quality of medical care. The prison's close proximity to New York City enabled the women to work in partnership with several scholars, doctors, and activists there. This support from the superintendent and outside scholars and doctors garnered ACE a \$250,000 grant from the AIDS Institute. In 1998, ACE members wrote and published a book about their efforts, *Breaking the Wall of Silence*.⁵⁷

While New York generated the biggest AIDS programs, prisoners in other states pushed their own efforts. Radical leftists Linda Evans, Susan Rosenberg, and Laura Whitehorn were incarcerated for conspiring to bomb police stations, the U.S. Capitol, and other government buildings in protest of war and racism in the early 1980s. Each one started AIDS education and counseling programs: Evans at the federal prison in California, Rosenberg at the Washington D.C. jail while awaiting trial, and Whitehorn at a series of federal prisons she was incarcerated in over a 14-year period. These efforts not only improved the quality of health care but empowered women as self-advocates. "In every prison I've been in, when we start doing the AIDS work effectively, it's meant that everything improves," Whitehorn said. "There's an overall direction that picks people up and lands them in the center of their own humanity. It's not something you can necessarily articulate. But it exists in the looks and the touches and the being together that we can give each other."⁵⁸

The poor level of care in prison radicalized many people, especially people who were themselves ill. HIV-positive prisoners in Alabama, California, and New Hampshire went on strike to protest inadequate medical care and the lack of services for people with AIDS. Members of the grassroots direct-action organization, AIDS Coalition to Unleash Power, staged demonstrations at the gates of prisons in California and fought to provide condoms to city jails in places such as Philadelphia. In the federal prison system, Jimmy Magner began *PWA RAG*, a popular newsletter distributed nationally to people with AIDS (PWA).⁵⁹

The fight against AIDS also spread to a broader movement for health care in prison. Many of the prisoners involved in peer counseling efforts expanded their efforts to include other communicable diseases such as Hepatitis C, first discovered in 1989. Prisoners used peer counseling to empower one another and litigation to force authorities into providing proper medical care. In California, an incarcerated woman named Charisse Shumate taught other women with sickle-cell anemia

WUO member arrested at the scene of the Brink's robbery, were at Bedford Hills. Each of them studied what they could about the virus as they laid the groundwork for peer counseling efforts. Peer education for prevention was especially powerful in prison. Many prisoners distrusted authorities, and they needed the space to frankly discuss issues (such as sexual activity or drug use) that might have gotten them in trouble if admitted to guards.

At Auburn, where Balagoon had been incarcerated, Gilbert worked with Mujahid Farid and Angel "Papo" Nieves to set up the Prisoner Education Project on AIDS (PEPA). Farid was a jailhouse lawyer and active in the prison's Muslim community; Nieves had been organizing programs for Latino prisoners. The three of them served as co-chairs, working to overcome the traditional racial (as well as religious and social) divisions in the prison. PEPA began in 1987; that year, two-thirds of the deaths in NY prisons were from AIDS-related illnesses (150 people, out of a prison population of 40,000 people). PEPA was the first comprehensive peer education program around AIDS in prison, and its model spread to other facilities. Its efforts challenged the stigma attached to the disease held by prisoners as well as guards and other officials.⁵⁴

At Bedford Hills, Boudin and Clark likewise joined forces with other prisoners to launch the AIDS Counseling and Education (ACE) program in 1988. ACE had a larger profile than PEPA, in part because the women's prison was slower to adopt some of the reforms that the men's prisons did after Attica. Thus, the AIDS crisis hit Bedford Hills in a moment of flux, whereas the men's prisons were already entrenched and therefore able to withstand such pressure. The class action lawsuit women filed in 1975 to protest abusive conditions, *Powell v. Ward*, was finally resolved in 1981. The resolution established a fund of \$125,000 for improving the prison. Placed in charge of the funds, prisoners "expand[ed] the library collection" with an eye toward both African American history and Spanish-language materials, "hire an educational consultant, and buy computers for business classes." The lawsuit also forced the Department of Corrections (DOC) to replace several of the top officials at the prison, a key demand of the prisoners and their lawyers. The DOC hired liberal administrators and launched a series of reforms, including expanded family visiting, with the goal of reducing prisoner lawsuits.⁵⁵

Not all the changes were positive, however. The women's prison population increased by 25 percent in the early 1980s, causing severe overcrowding and adding further strain on an already inadequate medical system. The state opened a new women's prison and shifted Bedford Hills from a medium security facility to a maximum security one after Boudin and Clark's arrival there. Boudin and Clark were first held in isolation and officials tightened security in the prison as a whole once they held the two radicals. Black, Latina, and white prisoner leaders circulated a petition calling for them to be released into general population, which also eased the intensive monitoring of other prisoners' mobility.⁵⁶

Even with the expanded programming, the prison resisted efforts they saw as overtly political. This included, in the early 1980s, organizations such as Women

only that they place these plans in a national context. In early 1996, for instance, campaign participants held regional hearings and demonstrations that continued to place control units within the broader context of an escalating problem of racially disproportionate imprisonment. At the same time, this limited capacity made it difficult for the campaign to coordinate these local struggles to advance beyond their particular context. Organizers struggled to turn this loose network into a robust national force.

Although CEML had experimented with hiring a part-time, paid staff member, they were ultimately unable to overcome their own internal limitations, much less the problem posed by the ever-greater commitment of state and federal resources to the form of control unit confinement. Faced with the difficulties of sustaining their volunteer organizing over more than a decade convinced those in CEML to withdraw from the national campaign in 1998. Shortly thereafter, members decided to close down their own organization. During its 15-year existence, CEML won some small victories and innovated a number of approaches to prison movement work. Yet, it faced the daunting task of opposing the use of long-term solitary confinement, just as this practice was becoming a key feature of the U.S. government's repressive capacity. Indeed, officials maintained the Marion lockdown until 2006, when they downgraded the facility to a medium-security prison, but not before the CEML's prediction of the "proliferation of the Marion model" throughout state and federal prison systems had already come to pass.²⁶

Retreating to the Hands-Off Doctrine

The increasing reliance of federal officials on ever more repressive techniques to manage and contain prisoners was emblematic of a broader shift taking place within the nation's prisons and jails. Rather than locking down older prisons for prolonged periods of time, state officials based new construction on the ideal of the "supermax," a highly secure prison that sought to hold those deemed the most difficult-to-manage prisoners.²⁷ These facilities, whether as a part of bigger complex, or as a standalone prison, extended the reliance on solitary confinement and prolonged incapacitation that had surfaced amidst the Marion lockdown. In 1986, Arizona became the first state in the nation to open such a prison. Three years later, California became the second state to do so, with officials explicitly drawing on Arizona's example in designing Pelican Bay State Prison. Located in the far northwest corner of the state, Pelican Bay would quickly become one of the country's most notorious supermax prisons. Consequently, the 'Marionization' of the U.S. prisons owes more to do with Sunbelt innovation, than top-down federal planning. Free from the intense scrutiny of groups such as CEML, prison administrators across this region and beyond took it upon themselves to pursue the expansion of long-term solitary confinement.

From the outset, these facilities were built in direct response to the varied pressures the prison movement had brought to bear. Both Arizona and California, for instance, designed their respective facilities with a sober respect for the prisoners' rights enumerated by federal courts regarding conditions of confinement. Rather than seeking to directly undermine them, state officials internalized them, but only at the barest minimum. Arizona would take the lead in this regard, opening the Security Management Unit (SMU I), a 768-bed addition to the State Prison at Florence. While a significant institutional innovation, as the first newly built supermax in the nation, it grew out of the failures of Cell Block 6 (CB-6), a high-security unit opened at the same prison eight years earlier. Originally, CB-6 was supposed to remedy Arizona's problems of determined prisoners organizing, overcrowded maximum-security facilities, and court-ordered population reduction. Rather than serving a purely disciplinary purpose of short-term administrative segregation, officials quickly moved to use it for long-term, high security housing. According to Lynch, this embrace of solitary confinement "as a management tool to maintain order and efficiency in the system rather than as an individualized intervention" distinguished CB-6 from attempts to use isolation to quell disturbances and instill discipline.²⁸ Prolonged confinement to small cells with minimal human contact would hereon be a means of securing institutional order, as opposed to fostering improved behavior. Although it would take more than a decade for what Lynch terms "postrehabilitative" prison managerialism to become the norm, it would ultimately become a key characteristic of mass incarceration.²⁹

This turn toward prolonged isolation would not be without its opponents. Although they did not attract the sort of outside protest that fought against the Marion lockdown, prisoners held in the 200-bed unit launched a series of violent, though largely uncoordinated, disturbances not long after being transferred there. More significantly, they also initiated *Black v. Ricketts* (1984), a successful class action lawsuit that prompted some changes to the harshest practices. Rather than discrediting the use of long-term solitary confinement as a tool of prison management, officials responded by refining this approach, opening SMU I as a state-of-the-art successor. Instead of having a row of cells face a common corridor, the new supermax unit clustered two tiers of three windowless cells in a small group or pod. Video cameras and clear sight lines allowed a sole guard booth to effectively monitor the activity of prisoners within several pods. A skylight at the center of each pod served as the main source of lighting, with additional fluorescent lighting located outside of each cell. A perforated metal cell front included a slot through which food could be passed as well as the means by which prisoners could be securely cuffed and uncuffed while still locked inside. Both the shower and exercise yard could be accessed without interacting with any other prisoners. Amenities not specifically enumerated by the courts, particularly in terms of human contact, were kept at a minimum. "Very quickly, the SMU took its place on the correctional landscape," notes Lynch. "Penal administrators from states

diagnosis, and some prisoners destroyed the cells of people who were HIV-positive. In Louisiana, prisoners with HIV or AIDS were forced to wear electroshock "stun belts" while being transported to and from medical facilities. In addition to the threat of "excruciating pain," the belt also announced the HIV status of prisoners to the rest of the prison. In short, there were few efforts to care for the sick or educate others to prevent further infection. Prisoners who were HIV-positive, as well as gay prisoners generally, were subject to ostracism and violence.⁵³

Among the first people to challenge such negligence inside were political prisoners and jailhouse lawyers. They took their cues from the AIDS movement concentrated in gay and lesbian communities: they emphasized peer education to prevent further transmission, took care of one another's health, and demanded adequate medical care for people living with HIV or AIDS. Doing so meant confronting the intransigence of prison officials, who too often seemed willing to let largely Black and Latino populations of presumed drug users or gay and lesbian prisoners die. It also meant confronting homophobia among other prisoners, as bias often prevented people from engaging in practices that would reduce the risk of transmission.

Perhaps the most ambitious programs emerged in New York state, where several political prisoners launched programs that saved countless lives. In many ways, the AIDS movement in NY prisons combined the peer education work that the predominantly gay and lesbian AIDS movement was doing with legacies inherited from the Black Panther Party of "serving the people" and confronting government negligence or abuse. By 1988, when AIDS was the leading cause of death among New York prisoners, political prisoners had launched dynamic peer education programs to counter the spread of the disease and demanded greater medical care.

On December 13, 1986, Kuwasi Balagoon died from AIDS-related illness. Balagoon was a member of the BPP and BLA. He had been a defendant in the Panther 21 case (1969–1971) and was one of those who went underground afterward. Balagoon was a particularly daring figure within the BLA. He was arrested twice in the 1970s and escaped twice, both times returning underground to help other incarcerated radicals escape. His final arrest came after a BLA attempt to rob a Brinks truck of \$1.6 million on October 20, 1981, went wrong. A shootout with officers resulted in the deaths of one of Brink's guards and two police officers. Four people were arrested at the scene; several others, including Balagoon, were arrested in the months that followed. He ultimately stood trial with Judy Clark and David Gilbert, two former members of the white antiracist Weather Underground Organization (WUO), who were acting as get-away drivers in the robbery. The three barely participated in their trial and were sentenced to life in prison.

After Balagoon's death, his codefendants each became AIDS activists. Gilbert was then confined at Auburn prison; Clark and Kathy Boudin, another former

rally outside of the prison's gates. Besides calling attention to these prisoners' actions, some of their outside supporters also observed Black August, linking them with politically conscious prisoners in a somber celebration of resistance. Over the next several years, it would be observed in other prisons in California and beyond, with new adherents using it as an opportunity to mark the recent moments of prison radicalism as a central part of the long arc of the Black freedom struggle.

The BGF's involvement in the development of Black August also renewed interest in it among prison activist. Jackson envisioned the BGF as a clandestine network of Black militants, a training ground for urban combatants schooled in Marxist theory and committed to revolutionary nationalism. Yet, its emphasis on retaliatory violence against guards and its engagement in the black-market prison economy also reflected a strong tendency toward predatory behavior. As more explicitly socialist organizations such as the Black Panther Party receded, the BGF heterodox mix of violent criminality and communitarian ethos filled a void. It explicitly carried the mantle of Black liberation within California's racially segregated camps, at a moment when prison gangs, from the Aryan Brotherhood to the Mexican Mafia, began to dominant the political landscape. Although it had a more explicitly political orientation than its counterparts, the BGF also reflected the do-or-die mentality of other unsanctioned organizations. Its lead role in preserving the historical memory of the prison movement through Black August reflects where things stood during these lean years.

Perhaps the most important form of prisoner activism in the 1980s and early 1990s was the fight against HIV and AIDS. Prisoners had long voiced concerns about inadequate medical care, but the AIDS epidemic exacerbated these problems in a particularly dire manner. The AIDS epidemic hit prisons hard, beginning in the mid-1980s. Around the country, the U.S. government was slow to respond to the outbreak of HIV in the early part of the decade. Ronald Reagan stymied efforts to research cures or even support public health education efforts around the disease. By the end of his presidency, an estimated 5,000 people had died of AIDS-related illnesses and nearly 180,000 people had either HIV or AIDS. As the disease was known to affect gay men and intravenous drug users, homophobia and the drug war added further stigma to the official neglect to support research or otherwise work aggressively to stop the spread of HIV and AIDS. As the war on drugs and mass incarceration ravaged Black working class urban communities, so too did the AIDS epidemic.⁵²

These issues of neglect and discrimination were further magnified inside American prisons. In prison, drugs and sex were prohibited but present—yet condoms were unavailable and clean needles hard to come by. Further, medical care was already limited. The lack of research and prevailing stigma attached to AIDS was exponentially magnified in prison. As people in jails and prisons showed signs of HIV infection, they were often quarantined from the rest of the population and left to die. Others were subject to physical abuse. Guards often placed HIV-positive prisoners in solitary confinement simply as a result of their

all over the country wanted to see the new unit."³⁰ California officials toured the SMU I in 1986 while it was still under construction in Florence, Arizona, and they would be the first in the country to draw explicitly on its highly restrictive model.

Even though the prison facility they visited was still empty, California officials quickly identified design innovations that would address long-standing security concerns. In particular, the pod structure maximized guard surveillance while minimizing the interaction between prisoners. The SMU model leveraged architectural design to further isolate those held behind bars, crafting a facility that maximized the control their captors could exercise over their bodies. While far from total, the SMU model was at the time the most restrictive in the country. Aside from a few modifications, such as increasing the number of cells in a pod from six to eight and adding a second concrete ledge to each cell for the purpose of double-bunking, the SMU would serve as the basis for 1,056 isolation cells in the Secure Housing Unit (SHU) of Pelican Bay State Prison. The SHU would be a bigger and better SMU. According to legal scholar Keramet Reiter, correctional officials turned to Arizona's SMU not only because of its cutting-edge design, but also in an effort to overcome the physical and legal challenges that the prison movement previously posed. Even though more than a decade had passed since George Jackson's 1971 takeover of the San Quentin Adjustment Center, this example had demonstrated that prisoners could gain control over what were then understood to be some of the system's most secure facilities. Over the years that followed, California officials sought to both isolate those associated with the bloody revolt and create a new facility that could more securely control those prisoners deemed the most difficult to control. Reiter explains it as follows:

At San Quentin (and also at Folsom, Soledad, and Tehachapi) in the 1970s, guards kept any prisoner who had been active in the Black Guerilla Family, or who was believed to be associated with George Jackson in his cell around the clock . . . By the mid-1980s, prison officials in California were making plans to turn permanent lockdown into a physical feature of the system — by building one of the first supermax prisons.³¹

Even as the prison movement waned here and other states across the country, officials still sought to ensure that they would not again lose control, particularly in the places deemed to be the most secure.

By drawing on the institutional innovations made by their Arizona counterparts, California officials also sought to avoid the legal hurdles that had been raised by a series of prisoner-initiated class action lawsuits. At the center of this legal challenge were three lawsuits contesting the lack of adequate due process in the assignment to isolation as well as the poor conditions of these solitary cells. The first of these suits was filed in 1971 from the Adjustment Center by Soledad Brothers George Jackson and John Clutchette, while members of the San Quentin

Six filed the second two years later to challenge their indefinite solitary confinement after the August 1971 revolt. In 1976, a broader class action suit brought by hundreds of prisoners in four of the state's maximum-security isolation units would join these suits. Consolidated as the *Toussaint* cases, these class action suits raised shocking claims regarding the unconstitutionality of isolation assignment hearings as well as the conditions of long-term lockup. And although officials attempted to cast the plaintiffs as the state's most violent and predatory prisoners, these claims gained a favorable hearing. For nearly a decade, a federal court mandated key procedural and institutional reforms, while placing increasing pressure on prison officials to reduce the population of those in indeterminate isolation as its numbers continued to grow. Facing the pressure of costly and controversial reforms, including population reductions, improvements to hearing procedures, and expensive building repairs, officials turned to the construction of a "new high-security prison to replace the long-term lockdown unit at San Quentin" as new prison construction would not be subject to oversight stemming from the *Toussaint* cases.³²

Just as the prison movement had brought about greater public scrutiny of what took place behind bars, the construction of Pelican Bay took place at a moment in which officials were becoming increasingly successful at avoiding outside intervention, particularly from the elected officials and federal courts. Indeed, as Reiter argues, Pelican Bay would be "designed, built, and operated with hardly any legislative, judicial, or executive oversight."³³ By the mid-1980s, state officials had minimized the State Legislature's involvement in prison construction by developing unique methods of funding prison construction, first through voter-approved general obligation bonds and then, by the time Pelican Bay was being planned, through privately funded lease-revenue bonds. By avoiding the routine budgeting process, these funding mechanisms allowed a Joint Legislative Committee on Prison Construction and Operation (JLPCO) to craft the process of prison building accountable only to a core group of prison bureaucrats, executive officials, and legislative assistants. Consequently, the bill that would preauthorize Pelican Bay's construction in rural Del Norte county said little beyond the fact that half of the new maximum-security prison's cells would be used for "special cases." Designed to minimize the input of elected officials, who could pose questions but not determine how the new facility would be built, the JLPCO's process left the prison officials and their supporters in the State Assembly with wide discretion on the condition of confinement. Offering few specific details about the new facility, the bill authorizing Pelican Bay's construction passed both houses without a dissenting vote.³⁴ Opening its doors in 1989, Pelican Bay's SHU would boast the most severe form of isolation in any prison in the nation, displacing Florence's SMU as the new archetype for highly restrictive incarceration. One of the first prisoners to be transferred there, and would remain, was Hugo Pinell, a San Quentin Six defendant who had been held in isolation since the 1971 Adjustment Center revolt.

momentum. They used the same measures that had sustained the prison movement in other periods. Some turned to prison newspapers. Others organized study groups. A handful sought to build or retain cadre organizations. Still others focused on assisting prisoners with basic literacy, spiritual fulfillment, and health care. In Louisiana, for instance, the Angola Special Civics Project used its newsletter, *The Angolite*, as part of broader peer education efforts to involve prisoners in policy discussions and survival strategies throughout the 1980s.⁵⁰ For a handful of longtime organizers, this activism was the basic stuff of survival, premised on developing prisoner self-reliance at a moment marred by declining public attention. Few of these efforts broke out beyond the growing sense of isolation.

One did combine political education with spiritual practice. Launched by the BGF in 1979, Black August was a vehicle by which San Quentin militants could honor the martyrs of the California prison movement, all killed in the month of August. This included prominent figures such as George and Jonathan Jackson, as well as the less well-known William Christmas and James McClain, who were killed alongside Jonathan. More directly, it came one year after the death of Jeffery Khatri Gauden, a BGF comrade of Jackson's who guards had left to die from a head injury suffered during a game of touch football on the yard of San Quentin's Adjustment Center. Although not well known on the outside, he was well respected among other prisoners, particularly those of a younger generation whose political development he had helped to nurture.

Prior to his sudden death, Gauden had helped devise a new way to honor their fallen comrades in a way that blended radical politics and spiritual sustenance. These discussions ultimately developed into a month-long period of principled reflection and self-discipline, where participants, much like during the Muslim holy month of Ramadan, fasted between dawn and dusk. Blending religious asceticism with nationalist militancy, they also engaged in rigorous exercise and political study, and eschewed drugs, alcohol, and other immoral behavior. And in a practice reminiscent of the silent observation of Jackson's killing prior to the Attica rebellion, prisoners marked their participation by wearing black armbands and boycotting amenities such as radio and television. Black August turned the tables of normative prison practices, whereby officials discipline prisoners through the denial of privileges. Its ascetic practices withdrew the power of the prison to discipline them. Organized as a period of commemoration, Black August was not just a protest but also a practice of renewal.⁵¹

From the outset, Black August drew considerable attention. Having previously abandoned its surveillance of Jackson's BGF, the protest drew the FBI's attention. Memos from its San Francisco office echoed correctional department warnings of an armed assault by BGF militants. For their part, prison officials placed key facilities on lockdown. Rather than storming the prison walls, outside prison activists rallied nonviolently. On August 25, 1979, a group of prison activists organized a protest in support of those observing the month-long commemoration. For the past two years, the August 21st Coalition had used the date of Jackson's death to

force by guards, the inadequate provision of health care, and the housing of prisoners with preexisting mental health illnesses in the SHU.⁴⁵

Strikingly, the order highlighted various examples of the SHU's unconstitutional operation, but did not find the unit itself to be unconstitutional. "Although Henderson was critical of the supermax control units," Reiter writes, "*Madrid* provided a road map for rendering them constitutional, much as the 1970s litigation about California's Adjustment Centers and lockdown units provided a road map for Pelican Bay."⁴⁶ While this opinion applied prior prisoner rights' case law, it also drew on a legal framework that set limits on solitary confinement, but never required the complete elimination of its practice. The *Madrid* ruling extended this practice, while also deferring to the administrators' claims regarding the dangerousness of individual prisoners.⁴⁷ In 1995, there were at least 20 supermax prisons in the country; over the next decade that number nearly tripled. With the core function of, and rationale for, the SHU deemed constitutional, the *Madrid* case would ultimately help to shore up the legality of long-term solitary confinement, affording control units less scrutiny at the very moment in which their model of long-term solitary confinement was proliferating.

Laws curtailing of the right of prisoners to sue in court would soon complement the increased discretion federal courts were affording to prison administrators. A year after the *Madrid* decision, the federal government would draw on the Supreme Court's example by enacting two key laws that would further constrain the ability of prisoners to access the courts. Designed to decrease the volume of prisoner-initiated civil suits, the 1996 Prison Litigation Reform Act (PLRA) made it harder for them to get relief from the courts. The PLRA enacted a strict exhaustion requirement, stipulating that plaintiffs had to first attempt to remedy their complaint through administrative measures. It also limited to three the number of frivolous cases a prisoner could file, required them to take on court costs, and narrowed the scope of injunctive relief that federal courts could impose.⁴⁸ For its part, the Anti-Terrorism and Effective Death Penalty Act of 1996 limited the right of state prisoners to bring *habeas corpus* petitions to federal courts by imposing more stringent standards. Prisoners, particularly those on death row, now had to contend with stricter filing deadlines, clear limits on successive petitions, and rules requiring federal courts to further defer to decisions made in state criminal courts.⁴⁹ Although these laws did not mark a full return to the hands-off doctrine, they complemented prior court rulings and administrative innovations to offer a comprehensive effort to roll back the gains of the prison movement by hindering court oversight over prison operations.

The Struggle Continues

With these new prisons designed to curtail collective action, dissident prisoners pursued a number of tactics focused on maintaining the prison movement's

The design and authorization of Pelican Bay's construction exemplifies the process by which this period's prison boom undercut public oversight as officials added more new prisons during the decades of the 1980s and 1990s than the total built during all the decades prior. In addition to increasing the number of prison beds available, this prison boom also changed the way in which many prisoners would be held. Just as the "Big House" prisons of the 1940s and 1950s served as the physical context for prison managerialism, so too did these new facilities concretize a turn toward further isolation and incapacitation. In contrast to the progressive reform agenda that shaped this earlier round of prison development, a punitive or 'postrehabilitative' philosophy would be reflected not only in facilities such as Florence's SMU and Pelican Bay's SHU, but also less restrictive settings. For sociologist John Irwin, one of the prevailing models of new prison construction has been the "warehouse prison," a large, secure facility, with the overriding objective of housing and controlling, as opposed to reforming the behavior of those they held.

As a result, these new prisons were often designed with little space for recreational activities, academic learning, or vocational training. Instead, "security, efficiency, and economy dominated the planning and construction of most new prisons," Irwin argues.³⁵ In contrast to the "Big House" prison's large-scale cellblocks that housed hundreds of prisoners on multiple tiers, these new facilities placed an emphasis on smaller housing units, primarily so that guards could observe and control all movement in and out of cells from a secure location. In place of the open cell bars and regular guard patrols, these new facilities relied on solid metal cell fronts, electronic doors, and video surveillance. Unpainted buildings of prefabricated, steel-reinforced concrete slabs and double fences topped with razor wire replaced the imposing gates and grand concrete walls of an earlier period. To benefit from the sale of former farmland, many of these new prisons would be built in remote parts of the state, often hours from the larger towns and cities whose residents would now find themselves behind bars. While Pelican Bay would come to serve as the most extreme example of this new philosophy of incarceration, many of its characteristics would soon be reflected in less restrictive institutions.³⁶

This emphasis on security and control would even be reflected in jails, where individuals who had not yet been convicted of a crime were still understood to retain their basic rights. This trend was best exemplified by the introduction of separate holding cellblocks, or modules, at Los Angeles County Jail for those suspected of having a gang affiliation. During the mid-1980s, the 4800 or "Crip module" would become the most well-known, as much for its violent and spartan conditions as for its practice of separating several hundred alleged Crip members from the general population. This separation was symbolized by having them wear grey jumpsuits, as opposed to the blue ones worn by most other detainees. "Instead of 4800 being a module to contain us and keep the general population safe," recalls author Sanyinka Shakur, "it became an intelligence gathering satellite for law enforcement – probably the true purpose for which it was originally designed."³⁷ According to Shakur, sheriff deputies used the module to survey the

activities of rival Crip sets, routinely changing tier and cell assignments in a manner that further aggravated tension between them. At the same time, efforts to resolve these tensions and unify the contending Crip sets intermittently turned the module into a site of protest.³⁸

This turn toward postrehabilitative prison managerialism would also be facilitated by a shift in how the federal courts—notably the U.S. Supreme Court—intervened in prison issues. Through the 1970s and 1980s, district and appeals courts continued to follow the lead of the Warren Court, compelling individual institutions, and even entire prison systems, to recognize prisoners' procedural and substantive rights. Yet, under the leadership of first, Chief Justice Burger, and then his successor, William Rehnquist, the Supreme Court's conservatives increasingly tacked away from an enforcement of prisoners' rights and toward greater deference to prison authorities. This shift was already evident in 1976, as court rulings in *Baxter v. Palmigiano*, *Meachum v. Fano*, and *Montanye v. Haynes* undercut attempts to impose on prison officials additional procedural requirements in disciplinary hearings. In each decision, the court framed their approach as a "mutual accommodation" of both institutional needs and constitutional norms.³⁹

By the early 1980s, the court's prisoners' rights decisions reflected greater deference to prison administrators than was often granted to them by lower courts. In *Rhodes v. Chapman* (1981), for instance, the majority overturned district and appeals court decisions that found that the double-celling of prisoners at the overcrowded Southern Ohio Correctional Facility (SOCF) in Lucasville, Ohio, to be cruel and unusual punishment. "The Constitution does not mandate comfortable prisons," offered the court. If the conditions behind bars are "restrictive or even harsh, they are part of the penalty that criminal offenders pay for their offenses against society."⁴⁰ Similarly, in *Whitley v. Albers* (1986), the court threw out Gerald Albers civil rights suit stemming from his being shot while attempting to play a peacemaking role during the course of a riot and hostage taking at the Oregon State Penitentiary. In his suit, Albers had alleged that guards had violated his Eighth Amendment rights in shooting him, grounds for a suit that had been dismissed by the district court, but upheld on appeal. Rather than allowing Albers suit to go forward, the court held that as authorities acted in a "good faith effort to maintain or restore discipline" as opposed to "maliciously and sadistically for the very purpose of causing harm," then they should benefit from deference from the courts.⁴¹ While the Burger court acknowledged that prisoners had certain rights and did not go as far as to revive the hands-off doctrine of the early twentieth century, it demonstrated an increasing unwillingness to interfere with the decision making of prison administrators.

Following the confirmation of the new Chief Justice, William Rehnquist, in 1986, this trend of increased deference only continued. Through the late 1980s and early 1990s, the court reflected a more restrained approach to addressing issues ranging from religious freedoms and due process protections to prison conditions and *habeas corpus* petitions. In doing so, the Rehnquist court narrowed

a number of Warren and even Burger court precedents that had been dealt favorably with the rights of prisoners. Particularly striking was the court's decision in *Turner v. Safley* (1987), a case arising from prisoner-initiated suits against Missouri Department of Corrections regulations prohibiting inmate-to-inmate correspondence and restricting a prisoner's right to marry. While the lower courts had drawn on a prior ruling, *Procunier v. Martinez* (1974), to find the rules unconstitutional abridgement of fundamental rights, the Supreme Court reversed them and suggested that the courts should have applied a "legitimate penological interest" test.⁴² This approach called for greater judicial restraint and was grounded in an interpretation of several cases, including *Martinez*, *Pell v. Procunier* (1974), and *Jones v. North Carolina* (1977), in which the courts upheld restrictions on prisoners' fundamental rights. The court upheld the correspondence rule, but struck down the marriage restriction, while also signaling to other federal judges: "lower federal courts were to be sensitive to separation of powers concerns and should defer to the judgment of prison administrators as much as possible."⁴³ Reflecting the Rehnquist court's deference to judicial restraint on matters of prisoners' rights, this standard would help to have a significant impact on subsequent court decisions.

Over the next several years, justices used decisions in *Wilson v. Seiter* (1991), a case dealing with Eighth and Fourteenth Amendment claims over the conditions of confinement and *Rufo v. Inmates of Suffolk County Jail* (1992), a case involving the modification of court-monitored consent decrees, to "encourage lower courts to yield to the authority of state and local officials in prison and jail administration."⁴⁴ The court would send similar signals with *Farmer v. Brennan* (1994), a unanimous decision that set a high standard for prisoner suits claiming Eighth Amendment violations as well as with *Sandin v. Conner* (1995), a ruling that narrowed due process protections in disciplinary hearings. Taken together, these decisions signaled a significant retreat from prior standards of judicial intervention.

This retreat would have stark consequences for how the courts would approach some of the most egregious examples of prisoner rights violations. In the early 1990s, the U.S. District Court for Northern California would begin investigating allegations of rampant guard abuse and prisoner neglect at Pelican Bay. These allegations would serve as the basis for *Madrid v. Gomez*, a class action suit addressing the conditions of confinement. Within one year of its opening, the prison was severely overcrowded with 364 prisoners double-bunked in SHU cells. By 1993, hundreds more were double-bunked, leading to 683 officially recorded fights between cellmates. However, these fights were only one category of violence, as the guards routinely sought to demonstrate their dominance, not only by beating, shooting, and scalding prisoners, but also by denying them adequate medical and mental health care. After months of testimony, Judge Thelton Henderson, one of the most liberal justices in the country, issued a ruling that found key aspects of Pelican Bay's conditions unconstitutional and mandated court oversight until reforms had been carried out. The 1995 order addressed the pattern of excessive