

REIMAGINING LOUISIANA'S PENOLOGICAL HISTORY  
AS THE PRECURSOR TO NATIONAL INCARCERATION

by

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A THESIS

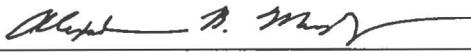
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Louisiana's incarceration rates are substantially higher than any others in the country.

The state's high rates are symptomatic of a pattern ingrained within the state's penological history, which Louisiana State University's Mark Carleton exposed in his book *Politics and Punishment: The History of the Louisiana State Penal System*. In 1969 Carleton told the story of Louisiana's prisons in order to prove that Louisiana's story contained something that made it distinct, different. Carleton warned his readers about the dangers of having a penal system that is so heavily rooted in the economic system of the state. My thesis identifies the framework that Carleton created in the 1960s and goes further to show that Carleton's framework also applies to incarceration in Louisiana during the 1980s, 1990s, and through today. Reading Carleton in the context of today's mass incarceration shows that Carleton's book contained a premonition and a pattern that can be generalized to represent today's national incarceration situation.

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My education at the Honors College strengthened my confidence in studying the conditions of our policies and working towards a more just world.

**I dedicate this thesis to my family who expect more from me than I myself dare to.**

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## **Chapter 1: Louisiana, Prison Capital of the World**

### **Discovering Louisiana**

The Louisiana prison system operates fundamentally differently from the systems of other US states. In addition to private prisons owned by large corporations, Louisiana has small local prisons that are funded through and run by local sheriff's offices. In 2009, Cindy Chang published an investigative series in the *Times-Picayune* titled "How Louisiana Became the World's Prison Capital." In the early 1990s, state corrections departments across the country faced a federal mandate that required states to address the overcrowding of their prisons (Chang 2012). While criminal justice reformists hoped for a decrease in prison populations, many institutions favored the alternative option: building more prisons. While many more prisons were built as a result of the overcrowding mandate, expenditures on new prisons put significant strain on state budgets.

When the cost of prison expansion is on the state, economic concerns put a certain cap on prison growth. The last decade has seen a push for prison downsizing as taxpayers repeat the now familiar mantra that "a dollar toward prisons is a dollar less for education and infrastructure." In Louisiana, however, the corrections department found an alternative that allowed it to expand prisons without costing the state more. The Louisiana Department of Corrections instituted monetary incentives that encouraged parish sheriffs to build prisons throughout rural Louisiana. Thus, new prisons were built that addressed overcrowding as per the mandate without any additional cost to the state. These new prisons were operated on the cost of the sheriff's

departments, which in return received about twenty-five dollars per inmate from the state (Chang, 2012). As the sheriff's departments receive funding per inmate, there is a direct incentive to imprison more individuals and the money is fed directly into law enforcement. The result is, unsurprisingly, a positive feedback loop, which explains the drastic increase of Louisiana's incarceration rate since the mid-1990s.

I started this research interested in why Louisiana's penal system is so different from that of other states. I already knew that it had responded differently to the prison overcrowding mandates of the 1990s than any other state, but I wondered where the roots of this response lay. Why did Louisiana respond so differently and wind up with such a distinctly punitive system? As I undertook the research on the matter, I stumbled across Mark T. Carleton's book *Politics and Punishment: The History of the Louisiana State Penal System*. Carleton's book presented a picture of the Louisiana penal system from its creation to the time in which he was writing in the mid 1960s. Carleton wrote that the history of Louisiana's penal system was distinctive. Carleton asserted that while other states' penal systems changed or were at least responsive to reform, Louisiana's penal system changes were always motivated by something else, whether by economic interest or as a result of political rivalries. He found that, unlike surrounding states, Louisiana lacked a robust public discourse demanding reform and a political-institutional force to back any reformist voices.

At the end of his book, Carleton reframed the historical story he had just told as a warning. He pointed to the lack of reform in the prison system as a historical problem. He warned that although the system had seen changes in the direction of reform in the mid-1950s, those changes did not constitute a change to the underlying pattern. He

indicated that those changes were already slipping away by the mid-1960s. He wrote that the prisons were viewed by the public and the state's political machine as they had always been—as an economic problem, rather than as a system based on principles of rehabilitation and prison reform. Carleton warned that Louisiana was locked in a circular pattern that other states had escaped from decades ago.

Carleton's book thus ends with a premonition. If the void of reform voices were not filled quickly, the difference that for so long was nearly silent and unnoticeable, the difference that he wrote an entire book to expose, would become intractable. No one could have known what the 1970s and 1980s had in store for the nation. Carleton could not have foreseen the national wave of mass incarceration. However, Louisiana continued along the path that he had set out. In the 1980s, as every state, county, parish, city responded to the national changes in the incarceration system, Louisiana continued to act in accordance with the pattern that Carleton uncovered in his book. As Carleton stated about the past century, reform rhetoric in Louisiana was not backed up by action. The pattern continued. With the parish prisons in the 1990s, the pattern was cemented. By rooting its prison system in law-enforcement systems themselves, Louisiana continued to distinguish itself from other for-profit systems. While the newly emerging national norm was to have private prison corporations run prisons, Louisiana's system was run by sheriff-departments. Ironically, however, the differences that Carleton had highlighted in the early and mid-century, and that were most apparent at the time when his book was published, were diminishing in the 1990s. From the point of view of Louisiana history, the rise of for-profit prisons across the nation was in some ways a back-to-the-future moment. In some respects, the Louisiana parish system had been

adopted everywhere.

Carleton's book answered the question I had at the outset of this research. The driving point behind his work is to say that yes, in 1969 something was different about Louisiana and that if gone uncorrected, that difference would yield dangerous and incontrovertible results. The surprise was that this exceptional history would provide a kind of preview of a later national experience. What was the Louisiana prison experience, and how does it provide a window onto a contemporary national dynamic?

### **Discovering the System**

The United States, with an incarceration rate of 716 incarcerated individuals per 100,000 population, is sometimes called the "prison capital of the world." The countries with the second and third highest incarceration rates lag far behind, with of 510 incarcerations per 100,000 people in Cuba and 475 in the Russian Federation. Within the United States, Louisiana has the highest incarceration rate as it incarcerates 1,341 people per 100,000 population (Wagner, Sakala, & Begley, 2013). Nearly double the national rate, Louisiana also looms above Mississippi and Oklahoma, which hold the second and third place spots. Thus, looking at incarceration at a state scale suggests that perhaps Louisiana should take the title of "global prison capital."

Localizing the scope further still, more than half of Louisiana's prison population was housed in local prisons in 2011. All states involve local sheriff's departments in the state corrections system through jails, but these have a distinctly different function than prisons. In most states, county jails serve as detainment spaces for individuals who are awaiting trial and who are not released on bail. In some states,

jails are used to house inmates serving state sentences of a year or less, while anyone with a longer sentence serves their time in state facilities. In Louisiana however, anyone with a sentence of ten years or less serves their time in a sheriff-run facility. Since they are actively used for state prisoners, these facilities function not as jails, but as prisons.

The abominable condition of the local prisons in Louisiana is foreseeable and results directly from the economic interests that drive them. The managing sheriff departments rely on prisons for the funding of local law enforcement. It is thus in their interests to keep the costs of their prisons as low as possible and beds as full as possible. The state gives the sheriff's departments \$25 per inmate per day. Sheriff's departments are directly incentivized to spend as little as possible of that money on inmates themselves because any leftover can be spent on salaries of police officers, equipment, etc. Local prisons thus have none of the programs that state prisons have—no opportunities for further education, mental health support groups, or even mental health support staff. Also unlike state prisons, it is in the interest of the local prisons to have as many inmates as possible. While each inmate of state-run prisons costs the state and thus tax-payers a great deal, sheriff-run prisons receive funding per head.

In the last decade, Louisiana did not experience the same impetus as many states to reduce harsh sentencing guidelines, to invest in programs that reduce recidivism, and to promote alternatives to incarceration. Rather than having incentives to reduce the number of beds in the corrections system, Louisiana local private prisons face pressure to fill all beds. In order to maximize the capacity of prisons, the incentive structure has fostered the creation of a wide web of “inmate trading.” If a sheriff's department in one county has empty beds, it contacts the sheriff's office of another parish and arranges for

its inmates to be sent over (Chang, 2012). While this process is certainly widespread, the investigative team at the *Times-Picayune* experienced difficulty determining the quantitative significance of this practice as it is not recorded or included in the official public records on state or local scales (Chang, 2012).

Most state corrections systems consist of state prisons funded through state taxes, local jails funded through local taxes, and private prisons operated by corporations rather than through public administration. Private prisons became widely used in the 1970s and have been the focus of studies across disciplines, particularly over the last two decades. The consensus is that, compared to publicly owned and operated systems, private prisons tend to create less desirable living conditions for inmates, are less effective, and, according to recent studies may not even be more economical (Mason, 2012). The same studies have also found that as prisons have become interwoven into local economies, a prison-industrial complex has been born that makes it incredibly difficult to propose their removal from the system (Enns, 2016).

The practice of managing prisons locally is particular to Louisiana. The only significant research done on this system has been conducted by the research team at the *Times Picayune*. The lack of scholarly research on the subject means that the scope, extent, and implications of inmate trading within this system is little understood.

The prison-industrial complex ensures that prisons become entrenched into state economies as they provide necessary employment—particularly as jobs in a prison do not require many skills, higher-education, or training. Louisiana’s parish-prison model adds a political layer to the model. Considering that the position of sheriff is elected and that these prisons are overwhelmingly located in rural areas where prisons are a key part

of the economy, a politically viable candidate for sheriff in these areas must back the status quo. When the livelihood of a large proportion of a sheriff's constituents are wrapped up in local prisons, abolition of harsh sentencing guidelines such as mandatory minimums and other criminal justice reform is in direct conflict with the political interest of rural sheriff departments.

### **Mark Carleton's Contribution**

Mark Thomas Carleton was born in Baton Rouge, Louisiana in 1935. Although he left Baton Rouge for his higher education, he returned directly thereafter and served on the faculty of Louisiana State University from 1965 until his death in 1995. Immediately after receiving his bachelor's degree from Yale University in 1957, Carleton served on the United States Marine Corps from 1957-1960. He earned a master's degree in 1964, and a doctorate in 1970—both from Stanford University (Brown, 1996).

In 1971, as a tenured professor of history at Louisiana State University, Carleton published a book titled *Politics and Punishment: The History of the Louisiana State Penal System*. The stated aim of the book was to provide the “first extensive history of Louisiana's penal system from a scholarly point of view” (Carleton, 1971 xi). All previous studies had been sociological and of superficial historical depth. Carleton delved into primary documents to provide a review of penal policy since the creation of Louisiana's penal system in 1835. His study was organized into seven “eras” of penal policy, with each chapter representing an era. The eras were delineated by differing approaches to the penal policy of the state. Though a historical study, Carleton's work was also a kind of political reportage, and the coverage of prisons produced by the

*Times-Picayune* and other journalistic institutions in the following decades would both borrow from Carleton and in many ways mirror his approach.

Carleton argued that the history of prisons in Louisiana was exceptional. At the same time, he showed that their functioning and malfunctioning were predictable given the political and economic factors at work. On the one hand, Carleton's book told a story. On the other, it laid out a kind of political formula that would necessarily remain in place so long as the structural organization of the Louisiana prison system, and in particular its reliance on a decentralized system of profit, remained in place. At the time Carleton published his book, that formula, like Louisiana's prison system as a whole was exceptional—and the implications of his analysis, while powerful, were local to Louisiana. Years later, many of insights have much wider implications.

## **Chapter Two: Mark Carleton's *Politics and Punishment: The History of the Louisiana State Penal System***

### **Punishment for Profit: 1835-1880**

From its start, the Louisiana prison system was highly localized. Its story begins with the so-called "lease system." This is the penological policy that Carleton argues marks the beginning of the Louisianan profit-based conception of prisons. When the penal system began in 1835, it was with the intent of reformation for the convicted. By 1944, however, the system proved too expensive to maintain. Following the example set by Kentucky, the state signed a lease lending the work of inmates to a private company. From 1844 until 1901, with only the Civil War as a brief interruption from the status quo, Louisiana's convicts were privately controlled. The ante- and post-bellum lease systems, however, were hardly comparable. The purpose of leasing in antebellum Louisiana was, in the eyes of the state, simply to have the expensive responsibility of the convicts taken off its hands. The state did not yet see leasing as a mechanism to actively turn a profit. In the decades leading up to the Civil War, however, it became clear that lessees were gaining significant earnings from the leases.

As the profit inherent in the lease system became clear to politicians, critique of the practice became common. This critique tended to fall into one of two camps. One anti-lease argument was that the policy was antithetical to the true purpose of the penal system: reformation. If lessees were turning a profit, they would never invest in rehabilitative programs. The second critique did not take issue with the profit side of leasing, but rather asserted that that the state should share in the profits. The two

critiques speak to two diverging views of the penal system: one of rehabilitation and one of profit. These conflicting conceptions of the penal system were not reconciled by the time the Civil War began in 1861.

The influx of former slaves into the prison population directly following the Civil War overtaxed the inadequate facilities that existed at the time. To bring the facilities up to snuff, the state would have needed to heavily invest in creating long-term facilities as well as temporary place holders. The necessary funds, however, did not exist. In addition to the financial crisis, the state was faced with a radical change in the racial composition of the prison population. Simultaneously, former slave owners desperately needed a labor force to substitute slave labor. The thoughts of both private stakeholders and the state turned to the antebellum lease system. Post-bellum discussions of the possibility of the lease system in state government heavily focused on the lease system as a solution to the financial disaster. In a departure from pre-bellum leasing, the state turning a profit was a key purpose of creating the lease system.

Although largely stifled, the humanitarian concern was voiced again. One of the only voices articulating that concern was that of Governor Henry Warmouth who vetoed a lease of the penitentiary to a private company in 1868. At the time he wrote, “The health, comfort, food, religious training and discipline of the prisoners should be under the charge of disinterested officers of the Government... Where the lessees have absolute power over the prisoners the tendency is to work them too much and feed them too little and give no attention to their comforts and instruction” (Carleton, 1971). In 1869, however, with mounting financial pressure and no other viable options, Warmouth signed a bill leasing the penitentiary to former Civil War soldier and

prominent businessman Major Samuel Lawrence James.

On paper, the leasing of convicts was meant to profit the state. Carleton argues that in this lease period, a notion was born that remains in the collective imagination today—the prison system should “pay for its own keep” (Carleton, 1971). In reality, the longtime lessee, Major James, rarely paid the state. In this era, the penal system was not understood to be one of reform or rehabilitation at all.

### **“This Species of Slave Labor”: 1880-1890**

Slavery was abolished in Louisiana at the end of the Civil War, but according to Carleton, during and after Reconstruction, the prison lease system became a new species of slave labor. In his words, Major James “was the largest slaveholder in post-bellum Louisiana”. In contrast to slaves who symbolized some type of financial investment, the convicts cost the Major nothing at all. There was thus absolutely no monetary incentive for him to invest in their physical health. The convicts represented an essentially renewable work force. Thus, Governor Warmouth’s warning came true and convict labors were beaten, lashed, and tortured. In describing the horrific living and working conditions of convicts working under Major James, the editor of *The Daily Picayune* states that these conditions were common knowledge.

Carleton claims that racist sentiment explains the lack of significant moral outcry. By 1880, the large majority of prison populations were African-American. The collective Louisianan imagination had painted African Americans as petty thieves who could not be rehabilitated and needed punishment. The racist conception of African-Americans as inherently criminal allowed for the state’s economic interests in

maintaining the lease to remain largely unhampered by moral concerns.

In this period, abolition of the lease system was actively pursued, but these reform efforts were grounded in economic interests, not on a humanitarian reimagining of the penal system as rehabilitative. Four separate bills to end leasing were proposed and defeated during this period. The main counter-argument to the relatively new practice was an economic one—convict labor was in direct competition with free labor. This argument came mostly from black legislators who saw countless constituents unemployed while the convicts worked. Two other bills sought to abolish the lease, but the imagination of convicts as laborers remained ingrained. These bills proposed no sweeping change; they aimed to keep state control of the penitentiary.

The state remained firmly behind the lessee throughout this period. By 1890, Major James had already been withholding his owed payments to the state for a decade. Even though the lease system thus proved not to be the profitable machine for the state that had originally justified its existence, the state did not waver in its support. As the newly elected Democratic governor of this period, John McEnery, continued to steadily support the lease, the true concern of the state became clear: to avoid responsibility for the penal system.

### **Profits and Politics: 1890-1901 (pages 59-84)**

In 1890, the staunch Bourbon Democrat and white supremacist Murphy Foster was elected as governor. Although Foster had been an outspoken critic of both the lottery and the lease systems for decades, he renewed Major James' lease when it expired in 1890 due to a lack of good alternatives. In the 1870s, Foster had been one of

the few politicians to join Warmouth in expressing outrage at the treatment of convicts and had denounced the practice of using convicts as laborers. By the time he reached office, however, his opposition to the lease system was solely one of economics despite the fact that the death toll of James's convicts reached an all-time high during this time period.

In 1894, Foster's administration issued a joint resolution declaring that the penitentiary system would return to the responsibility of the state and would be taken out of private hands once the Major's lease expired in 1901. Far from the humanitarian reform that Foster's earlier position may have suggested, this "reform" contained no substantive change. Once the state gained control of the convicts, they would continue to be used as labor—it would simply become a state-operated rather than a privately-operated business enterprise. Foster's resolution represented nothing more than a tactical political move. Major James's political influence angered and worried Foster. The penitentiary served as nothing more than a pawn in an intense political rivalry.

With an act denouncing convict leasing as illegal in 1898, Louisiana was the fourth Southern state to abolish the lease system. Because of its comparatively early abolition of leasing, Louisiana might appear to have been exceptionally rehabilitative in the context of the Southern states. The abolition of leasing in Louisiana, however, did not have the reform implication that it did in its neighboring states. In Louisiana, political infighting had brought about the abolition of leasing rather than a desire to reform the system as a whole.

In the majority of Southern states, the end of convict leasing was marked by accompanying penal reform, and penal institutions began turning away from profit and

toward rehabilitation. Part of this turn around in other states had to do with the lobbying of Populists for penal reform. Not only was the abolition of the lease a political rather than reformative move; there was also little to no advocacy for penal reform going on in Louisiana. While Populists played key roles in the abolition of leases in surrounding states, the intense political war with the Bourbon Democrats usurped the attention of the Louisianan Populists. The lease system and all penal reform were left out of the platforms and campaigns of the time.

### **“Judicious” State Administration: 1901-1920**

Throughout the first two decades of the twentieth century, Carleton argues, a monolithic and virtually unopposed Democratic party ruled the state. The previous Foster administration had succeeded in reshaping Louisianan politics into an institution solely for wealthy whites. Poor white and nearly all black voters had been stricken from the books. In these early years of state administration over the penal system, precedents were set that continued to define the penology in Louisiana for decades. With the state in charge, reformers became increasingly vocal and demanded that a board be created to review the operations of the penitentiary. Another tradition that began during this time was the appointment of political hacks to positions within the penitentiary. Penologists never had a place within the system. Positions in the penal system were doled out as rewards for political favors. The state thus ensured that its interests were always represented.

In 1900, the Prison Reform Association of Louisiana delivered a list of recommendations to the General Assembly assuming that with the prison in state hands,

intentional reform would soon follow. Not only would they be disappointed, but the most urgent of their recommendations would be repeated by various authorities to the deaf and disinterested ears of the state for decades to come. These recommendations were to separate juvenile offenders and older offenders and to build a reformatory.

While the cruelest practices of the James-ian system were abolished during this period, meaningful rehabilitation continued to be ignored. The primary difference in the work camps of James and those of the state were simply the type of labor; under James, the convicts had primarily worked on levees while the state used them mainly for agricultural work.

Carleton identifies the main forces curtailing reform as “race-cost consciousness.” With 80% of convicts being black by 1900, the racist construction of blackness as depravity justified the decision to depart from the national Progressive trend and continue to ignore rehabilitation.

Reluctant to assign the newly formed Board of Control of the State Penitentiary even the most modest budget, the state continued its obsession with saving and making money. With its minimal start-up cost, the Board of Control bought Angola, the plantation on which Major James had lived and died, in addition to several further farms and a few levee camps.

### **Years of Erosion: 1920-1940**

While the penal system was under control of the lessee, the state policy was to have minimal interaction. Once the state took responsibility for the system, it continued a policy of minimal involvement, both monetarily and in terms of reform. Up until this

point, the state's stance toward the penal system simply followed the status quo: use convicts for labor and profit without reverting back to the lashings and inhumane treatment of Major James. With the election of Huey Long, however, Louisianan politics received a shock to its system and the penal system took a sharp downward turn.

Between 1920 and 1926, three governors cycled through the gubernatorial office—John Parker, Henry Fuqua and Oramel Simpson. They more or less upheld the status quo which, Carleton asserts, is due to their generationally shared experience of Louisianan politics. Carleton calls them members of the paternalistic “Old South.” They grew up familiar with the lease system and with the scandal that later became associated with its treatment of convicts. They were grandfathered into a politics of the penitentiary which was rooted in silence and feigned ignorance. Wary of the politically inflammatory nature of the institution, the members of the old Democratic Party tolerated flogging when needed in the penitentiary but wanted it avoided when possible.

Beginning in 1922, the sale of produce that had previously made up the income of the penal system plummeted to unprecedented lows. In each of the following years, the Penitentiary Fund was overdrawn and the penal system had to dip into the General Fund in order to operate. Throughout the early 1920s, the financial situation of the penitentiary worsened until it reached a low point in 1927, the year of Huey Long's inauguration.

In 1927, Huey Long's election marked the ushering out of the careful, pacifying behavior of the neo-Bourbon Democrats. Long took Louisianan politics by storm and brought the state into the twentieth century—investing in infrastructure, building

schools, bridges, highways, and hospitals. Insofar as the penal system was concerned, Long's primary objective was to make it a self-sufficient system. In the name of realizing this goal, Longite prison officials returned to the brutalizing of convicts including the use of corporeal punishment the likes of which had been unseen in Louisiana since the abolition of the lease system. Regardless of how hard the Longite officials drove the inmates, the prison system never became self-sufficient.

Appalled at the lack of transparency in the operation of the penal system, the Louisiana State Senate passed a mandate in 1930 requiring the General Manager to publish biennial reports. Anti-Longite investigators in the 1950s, however, uncovered evidence that at least fifty percent of floggings and other forms of brutalization had gone underreported.

Carleton barely acknowledges the assassination of Huey Long in 1932 or the four governors that subsequently held the gubernatorial seat from 1932-1940. This omission is presumably because these governors followed in the "Longite" tradition. Huey Long had changed the state stance toward the penal system. It became less important who the governors were individually because, in regard to their treatment of the penal system, they may as well have been Long himself.

### **"America's Worst Prison": 1940-1956**

The trends that Carleton identified as having begun in the Long era continued throughout the 1940s and into the 1950s. Prison operators continued to view the main purpose of the prisoner to raise money for the institution. If possible, brutality toward

prisoners actually increased under the watch of Earl Long, brother of Huey, who became governor in 1948. Carleton points to the anachronistic qualities that defined the penal institution of 1950. Recent years had seen Louisiana become a more modern state with a multi-varied economy. Any “industry” in the prisons hinged on agricultural practices—canning, food-processing, and the like.

Even the public, which had formerly been indifferent to reform and content to leave the penal system unscrutinized, began to call for change. Prison authorities knew exactly what changes needed to take place in order to bring the system to an acceptable standard. At least four review boards had passed through the facilities and composed extensive documents outlining how to institute the necessary changes. The availability of this information makes the continued deplorable condition of Angola even more bewildering. The most urgent recommendations of these reports coincided with one another. They vehemently attacked Angola’s practice of selecting certain convicts to act as guards, which led to damaging hierarchies and promoted violence among prisoners. The Survey Report by the US Department of Justice, Bureau of Prisons, and Federal Prisons found most basic necessities, such as housing facilities, to be severely inadequate. The same report states that other necessities such as sanitation facilities and medical centers were practically non-existent. Carleton identifies this as one of the rare, and worrisomely temporary, periods with a meaningful public discourse of reformist political policy.

In 1951, a scandal occurred that rocked the entire set of norms that Carleton deems as having dominated the penal system since the abolition of the lease in 1901. In an interview with a newspaper, a released prisoner related the recent ‘heel-slashings’ at

Angola. Using razor blades, thirty-one convicts had sliced their heel tendons “in order to avoid hard work in the fields and further punishment by the guards and other prison personnel.” As this story was proven as fact, reporters flooded Angola and the Louisianan public exploded in shock and anger.

Governor Long’s response proved his outdated vision of the penal system and failure to take the contemporary context into account. Paraphrasing statements made by his brother twenty years earlier, his response to the crisis was to emphasize his goal to make Angola economically self-sufficient. Carleton scoffs at Long for his misjudgment of the situation. In dismissing Long as having anachronistic views, Carleton fails to adequately frame why Long may have reacted the way he did. Long had no reason to be shocked or horrified by the reports of heel-slashing. Horrific conditions had become the norm in the Louisianan context long ago. Especially given the recent reports, Long was amply aware of the conditions. While in the clutches of the Great Depression, economic justifications satisfied media, public, and experts alike. However, in the post-war economy, the concerns of the public were different. Not only was Louisiana’s economy unprecedentedly stable, but the public was particularly sensitive to reports of inhumane torture; the details of Hitler’s camps had only recently been released to the public.

Penal reform was demanded whole-heartedly by the public. The gubernatorial campaigns in 1951 reflected this new priority and the public’s view was evident as Robert Kennon, the candidate whose campaign had focused most heavily on penal reform, was elected. The appointment of professional penologist, Reed Cozart, to the position of superintendent later that year marked the first time that anyone other than a businessman or politician held a post within the penal system. Kennon allotted an

unprecedentedly generous amount to Angola's budget. Although Cozart designed extensive plans detailing how to elevate Angola to the level of "model-prison," progress was painfully slow and further hampered by personal disagreements between the prison superintendent and warden. By the end of Kennon's term, the public remained unsatisfied with the penal system and continued to demand reform.

Carleton makes it clear that, while encouraging, the change in public awareness and political responsiveness was strictly reactive. He identifies this as the moment when hope existed for the Louisianan penal system. Had this momentum of an action-based public discourse continued, the concluding tone of his book would have been very different. However, Carleton indicates that Louisiana exploited this momentary moment of change to present positive appearing statistics to the nation while in actuality moving backwards very quickly.

### **An Unpredictable Future 1956-1968**

In 1956, Earl Long was re-elected and served another term. While Long held the governorship, the Louisiana penal system saw the most extensive reform and a greater move toward rehabilitation than it had in its entire existence. For the first half of his term, Long operated by the mantra of leaving Angola alone. This strategy worked brilliantly. The full staff of trained penologists and experts that Cozart had brought on board simply continued working on the plans that Cozart had drawn up and Long provided whatever funding they needed. By the end of Long's term, the team at Angola had created and instituted a system of classifying the convicts. With the state of the art system in place, a division of convicts according to the seriousness of their offenses was

finally made possible; this had been one of the key recommendations made by reviewers since the 1920s. When modernization of the parole system did not prove to be enough to reduce recidivism, Long created a committee called the “Forgotten Man’s Committee” to conduct research into best practices. A first-time offender facility had been built with plans to build a facility in New Orleans, and more. In the course of four short years, America’s “worst prison” came very near to being the model prison imagined by Cozart. Long himself had become convinced by the importance and effectiveness of penal reform.

Participants in this turn-around were almost dizzy with success. Had the precedent set by Long been followed by the subsequent administration and the recommendations of The Forgotten Man’s Committee followed, then this celebration would have been warranted. However, from the first weeks of the administration of Jimmie Davis, governor from 1960-1964, it became clear that penal reform was nowhere on his list of priorities. The Davis administration focused virtually all of its attention on a futile battle to halt the desegregation of schools and to keep African Americans from getting the vote. The government slashed Angola’s funding nearly to the level it had been before the heel-slashing episode. As a result, nearly all of the staff brought on board by Cozart were laid off and the staff returned to the under-educated and underpaid population that it was before. Even the convict-guard system made a comeback.

Carleton highlights these developments as radically backward looking. Carleton suggests that the “dizzying success” of the late 1950s did not signify any great forward progress itself. The progress, the hope, occurred at the beginning of the 1950s when the

public became invested in the system and successfully demanded change. By the mid-1950s, as the misleadingly positive changes were being implemented, the public discourse had faded away. Unlike in other states, no political party threw its support behind the public's call for reform. If the public discourse had garnered a political backing, it might have been possible to transform the fast-burning flame of reform into a sustainable slow-burn. Instead, the reform of the mid-1950s was simply an implementation of the public demands that stemmed only from horror in the face of the widely publicized level of prison conditions. There was no underlying change to an approach to the penal system.

At this point, Carleton unmistakably states his view of Louisiana's penal system. He writes that Louisiana never changed its fundamental attitude toward prisons. Any changes that occurred in conditions themselves did not reflect the creation of an actual public discourse. The economic and pragmatic view of the system that politicians had maintained throughout the century persisted. And Carleton warns that if not seriously challenged, the pattern would only continue. The world and politics, Carleton believed, was becoming ever more unpredictable, and with one major change, Louisiana's system would be stuck in a pattern that would leave it behind far in the past.

## **Chapter 3: Stuck in Carleton's Paradigm: Applying Carleton to the 1980s**

By warning of the unpredictable future, Carleton in some ways foresaw the creation of mass incarceration. The unpredictable did indeed come to pass in the form of mass incarceration. The national rhetorical wars on crime and drugs of the 1970s changed the federal government's relationship with penal policies. "Tough-on-crime" became the rallying cry for politicians at all levels of government (Beckett and Sasson, 1999). National rhetoric filtered down to the state level throughout the decade. Prisons became one of the most heavily discussed issues in gubernatorial, mayoral, and judicial races. Around the country, sentencing guidelines and judicial discretion were curtailed in the 1970s as determinant sentencing became the norm (Western, 2006). Incarceration rates shot up even more drastically, however, in the 1980s. While judicial practice had already changed in the 1970s, state politics were now pivoting to match the changing national rhetoric.

With Carleton's framework established, the next step of my research was to determine whether it could be applied to the decades that followed his publication in 1971. The parish prison policy of the 1990s clearly fit with Carleton's thesis that Louisiana; the system that has been created in the state since then embodies Carleton's framework perfectly. There were, however, two intervening decades to which Carleton's framework hadn't been applied. The rapid and intense change in national rhetoric in the 1970s makes the decade pivotal to the investigation of mass incarceration, but at the state scale, policy had not yet pivoted to match the national

rhetoric. The 1980s was the dynamic period for states. I was drawn to understand both what changed in Louisianan policy during this time and how the Louisianan discourse on prisons was impacted. Once I understood the change in policy and discourse, it would be possible to determine the extent to which the decade fit into Carleton's framework.

In order to examine how the national trend came to be replicated and entrenched uniquely in Louisiana, I studied newspaper articles from the *Times-Picayune*, attempting to mirror Carleton's study of public discourse. The *Times-Picayune* was a very important source in Carleton's work and was therefore an appropriate choice for my study. Throughout its history, the newspaper merged with its competitors, absorbing their departments and readership, making it a very important source in Louisiana since the Civil War. Until 1980, however, the newspaper was still mainly a two-town paper. In 1980, the *Times-Picayune* "emerged as the single metropolitan newspaper in New Orleans" following a merger in 1980 (*Times-Picayune*, 2011). Between 1980 and 1990, community editions of the *Picayune* were created in parishes across Louisiana and the circulation of the newspaper more than tripled (*World Heritage Encyclopedia*, n.d.). Thus, the paper's relevance to public discourse in Louisiana is even more pronounced during the decade that I studied, than it was for Carleton.

I used the *Times-Picayune*'s historical archives for my study. I first read all articles that I could find pertaining to incarceration that were published in the 1980s. For this first step, I used the following search terms: "tough on crime," "prison overcrowding," "prison reform," "prison conditions," and "incarceration alternatives." Once I had garnered a general understanding of the relevant events of the decade and of

the important actors, I used more specific search terms: “Paul C. Phelps,” “Overcrowding Policy Taskforce,” “Foti” in conjunction with “prisons” or “jails,” “Roemer” in conjunction with “prisons.” I kept an annotated bibliography of every article that I read, with a summary for each article, organized by date and search term. As I read, I was able to mark which articles were particularly important to the timeline, fascinating, or telling. After compiling and reading the articles, I focused on the articles of particular interest and more thoroughly analyzed them. I then chose the most important, watershed articles to discuss here.

From my study, I concluded that Louisiana responded to mass incarceration, as Carleton predicted, perpetuating the exact pattern under which it had been operating for decades. This fact was not lost on local reporters. In the decades that followed Carleton's book, as reporters from the *Times-Picayune* and other newspapers discovered, the problems that Carleton had diagnosed in the Louisiana system intensified. At the same time, during this period, the national context changed. While the newspaper reported on the events, it also played an intentional role in what became an ideological battle between proponents of prison construction and proponents of incarceration alternatives. Both approaches were presented as solutions to overcrowding. The first was framed as part of a tough-on-crime agenda. The second emerged from the agenda of criminal justice reform. Both reflected developing national debates and a new national dynamic of privatization. At the same time, as the *Times-Picayune* reported, both continued to reflect the entrenched historical pattern that Carleton had found in the long history of the Louisiana prison system.

Throughout the 1980s, prison policy in Louisiana remained stubbornly prison-expansionist despite the election of a governor who had ostensibly favored reformist policies. The decade saw the terms of two governors and a severe budgetary crisis within the government. Through all of this, the state never once chose reform policies, continuing in the tradition of the Louisianan penal system that Carleton elucidates in his book. At the end of the decade, prison construction was still the go-to solution for overcrowding, and despite its continuing vitality as part of the public argument about prisons, in Louisiana, the penal reform movement did not find internal administrative support.

“Prison Problems Are Ganging Up On State,” a 1986 article by Jack Wardlaw in the *Times Picayune*, tells the story of how prisons in Louisiana changed in the 1970s. In 1971, a watershed lawsuit changed Louisianan prison policy forever. The lawsuit, *which* targeted racial segregation and mail censorship in Angola, resulted in a judicial crackdown on neglect in Louisiana’s prisons. As a result of the lawsuit, a record level of real guards were mandated to be hired in order to keep prisoners from harming one another, and prisoners were no longer allowed to be used as guards in order to keep costs low. This lawsuit began what would become a long string of policy changes meant to prevent overcrowding. These new mandates, *which all* resulted in increasing costs of prison maintenance for the state, also coincided with the rise of tough-on-crime policies in Louisiana (Wardlaw, 1986). The article shows that the state’s prison policy changed in exactly the direction that federal rhetoric pushed. Sentences became longer, and parole and probation were eliminated—the same trends that were being seen around the country.

During the gubernatorial term of Edwin Edwards 1984-1988, penal reform efforts in Louisiana were overwhelmed by the tough-on-crime wave. Throughout his campaign, Edwards espoused the virtues of penal reform. Only two months after his March 1984 inauguration, the *Times-Picayune* ran a front-page story featuring Edwards' progressive attitude towards state prison policy called "State Looks at Throwing Away Lock-And-Key Prison Policies." Jason DeParle's extensive two-page spread reported Edwards' praise of incarceration alternatives in the face of unsustainable growth of prison populations since 1978. According to the article, Edwards emphasized that these concerns arose out of budgetary concerns and impending financial crises rather than "do-goodness." At the very beginning of Edwards's gubernatorial term, the *Times-Picayune* perceived Edwards as deeply interested in penal reform. Edwards appointed C. Paul Phelps as Secretary of Corrections, an expert in penal policy. Within the first three months of Edwards's term, he and Phelps had created the so-called Lost Man Committee and the Governor's Citizen Council on Corrections (DeParle, 1984).

Phelps, for his part, emphasized the same themes that Edwards sounded in his campaign: the rising cost of ever-expanding prisons was on a path to bankrupt the state. At the same time, while he lauded halfway houses and probation and parole as the only sensible ways forward, he also recognized that these policies had, in the last ten years, come to be seen as "soft-on-crime" (DeParle, 1984).

An Associated Press article in early 1984, "Crowded Jails Could Be Bankrupting the State, Official Says," reports on C. Paul Phelps's pro-reform statements at a Louisiana State House Meeting. The article further shows Phelps as the sole voice

decrying federal tough-on-crime rhetoric as a tool for political advancement among Edwards's cabinet. The Associated Press showed that Phelps excoriated the state of Louisiana saying that the lawmakers had not been spending millions on prison system because they believed that it would bring down crime rates, but solely because they were succumbing to political pressure (Associated Press, May 1984). This article helps to identify Phelps's stance early in the Edwards administration.

As the 1980s continued, Louisiana followed national trends in prison construction. Meanwhile, the *Times-Picayune* consistently criticized the expansion of the Louisiana prison system and argued for reformist policies. At first, the newspaper's criticism of the state's approach was muted. By 1985, however, it had taken an openly oppositional position. In articles such as "State Looks at Throwing Away Lock-And-Key Prison Policy" piece in 1984 as mentioned in the previous paragraph, the *Times-Picayune* put the problem of prison expansion in the spotlight. The paper used this article to give a thorough account of the recently climbing prison population rates. Writer DePaule tied over-crowding to the "tough-on-crime" rhetoric of the 1970s and the resulting harsher sentencing policy.

Going against the values he espoused during his campaign, by September of 1984 Governor Edwards and members of his administration had made moves to distance themselves from Phelps's reformist ideas. Edwards formed a Governor's Task Force on Corrections, which immediately established itself as the opponent of the progressive Governor's Citizen Council. Unlike the Citizen's Council, which consisted of policy experts and scholars, the Governor's Task Force was populated by powerful senators and political operatives, all of whom were vehement prison constructionists.

From this point on, the Edwards administration staunchly aligned itself with anti-reformist policy and rejected Phelps's recommendations (West Bank Bureau, 1984).

The stance of state government was becoming ever clearer and the reporting of the *Times Picayune* on policy-level incarceration trends, rather than simply reporting on events, became ever more critical. Before 1984, the articles published were mostly short and small. Discussion of incarceration was usually couched within discussions of election campaigns and speeches (Perales, 1984), (Associated Press, April 1984), (Associated Press, Dec. 11, 1984). Starting with an extensive spread entitled "Reagan's Crime Fight Is Talk Not Action" in August 1984, articles about penal policy itself began to be featured in the paper. This heavily featured article reports on a speech given at the National Association of Defense Attorneys criticizing the Reagan administration for not living up to its tough-on-crime rhetoric. The criticism hinged on Reagan's "irresponsible" budget priorities that cut funding for drug and alcohol programs and increased spending on defense (Associated Press, August 1984). From this point on, the paper featured policy articles ever more heavily until, in early 1985, it openly stated its reformist stance in a watershed op-ed article "The High Cost of Prisons" by the president and editor of the *Times-Picayune*.

"The High Cost of Prisons" by Ashton Phelps, president and publisher of the *Times-Picayune*, was published in the Our Opinions page. It followed the ideological line suggested in the piece published less than a week earlier and confirmed the newspaper's agreement with C. Paul Phelps's reform-oriented stance on criminal justice policy. The newspaper openly agrees with Phelps, the chief of Louisiana's Department of Corrections, in his liberal attitude toward the system. In the op-ed, the publishers

honed in on Corrections Secretary Phelps's call for alternative corrections strategies such as parole and probation. The newspaper executives echoed Phelps's fear that the continuation of prison growth would result in cuts to education and health (Phelps, A., February 1985). As policies continued along a conservative trajectory, the stakes became so high that the editors themselves began advocating for penal reform.

Supporters of penal reform were becoming nervous. Their unease was not at all misplaced. In 1985, the Louisiana State Legislature embarked upon its most ambitious prison-building project to date and lawmakers repeatedly showed their opposition to prison alternatives. Although Edwards's administration officially continued to recommend prison alternatives, especially for the release of prisoners on parole, legislators repeatedly struck down the proposals. And Edwards remained powerless against the protests of the state senators. The state's confidence in its ability to fund its ever-increasing prison population was rooted in Louisiana's oil wealth. Because of this over-confidence, the state government was launched into a deep fiscal crisis when oil prices dropped and drastically slashed the state's revenue. Suddenly the cost of maintaining its expanded prisons was no longer feasible (Phelps, A., December 1985).

In order to stay afloat, the state drastically cut legislated funds for prison upkeep. The cost of maintaining the state's expanded prisons became suddenly unfeasible. This caused a short-term crisis; Phelps could not afford to hire the necessary number of guards, and ceased to accept inmates, thus creating a massive overflow in local jails that were waiting to send their inmates to prisons (Wardlaw, 1986). As Phelps had been predicting for years, the unsustainable build-up of prisons resulted in a severe crisis of conditions. Even as Phelps went pleading to the Baton Rouge judge, Frank

Polozola, to reduce the number of court orders and length of sentences, the judge refused.

Worsening conditions in the prisons were not enough to motivate legislators to take a different approach, however, and the tough-on-crime approach persisted. The October 12, 1986 article, “Prison Problems Are Ganging Up on State,” linked the crisis of 1986 conditions with the national tough-on-crime rhetoric of the 1970s. It relentlessly pointed out the illogical and economically destructive cycle that results from punitive policies. Directly below it, the paper published a companion article espousing the benefits of an alternative-to-imprisonment policy entitled “House arrest helps ease overcrowded prisons.” But the newspaper's advocacy had little immediate impact in state policy. The ideas the *Times-Picayune* promoted were never taken up. The newspaper continued its fight against state prison policy.

In 1987, articles on the prison system in the *Times-Picayune* were still more critical, often bringing to light criticisms of the system by prison officials themselves. One typical example of the articles from that year was “Judge: Halt Prison Overcrowding.” It reported on a relatively inconsequential conference at which an important judge voiced his disgust with the continued impotent rhetoric around de-crowding prisons. However, the judge stopped short of suggesting alternatives that in Louisiana had been labeled “soft-on-crime” (Belanger, 1987). In these articles, the newspaper found hints of a trend toward reform. The *Times-Picayune* reported small incarceration-related stories and always used the occasion to rehash the founding-story of Louisianan mass-incarceration, particularly focusing on the trend of federal rhetoric influencing state policy. Just before the end of his term Edwards put the construction of

three new prisons in motion.

In 1988 Buddy Roemer's election as governor dispelled any lingering hope for reform. Starting on his first few days in office, he made it clear that he saw the prison system as a key economic cog in the state. While he wanted to reduce the economic toll on the state, he also saw prisons as a highly effective employer. Rather than building new prisons, he wanted to expand existing facilities.

On March 5, 1988, days after his election, the *Times-Picayune* published "Roemer Offers Foti Job." The article reported that Roemer was appointing people with prison-expansionist track records to his administration. These appointments exposed Roemer's preference for a pro-incarceration policy. Roemer officially offered the former job of C. Paul Phelps, state secretary of Public Safety and Corrections, to New Orleans sheriff Charles Foti. Although Foti would reject the job in favor of retaining his position as sheriff, the offer revealed Roemer's priorities. In contrast to the background of previous secretary, Phelps, who had a more extensive background in corrections policy, Roemer's first-choice Foti had a more extensive background in law-enforcement. In the prior four years, Foti consistently was in the headlines as a strong proponent of prison construction (Wardlaw, 1988). Roemer's goals for prisons were summed up in the *Times-Picayune* in the April 16, 1988, headline: "Roemer: Expand prison." Here Governor Roemer set the tone for his views on prison definitively. Despite the hope for reform that the *Times-Picayune* had fostered throughout its reporting on Edwards's campaign, Roemer continued the trend of the last two decades in Louisiana penal policy (Associated Press, 1988).

What started as a federal shift in rhetoric filtered down to the state level in

Louisiana as it did in so many other states. By the election of Edwin Edwards as governor, sentencing policy had already become harsher than ever before. Despite appointing penal policy experts that specialized in alternatives to incarceration, the Edwards administration became infamous for its prison construction. Reformist attitudes could not compete against the vehemence of the lawmakers' tough-on-crime convictions. The governor himself turned away from incarceration alternatives. Against all fiscal reasoning, prison construction continued throughout the economic crises of the mid-1980s. From the outset, the new governor Roemer's appointees showed that his penal policy would follow the national move toward mass incarceration. Despite two elections, a massive budget crisis leading to crises in the prison system, vehement advocacy for prison reform by the state's most prominent newspaper, and numerous citizen research committee recommendations, at the end of the decade Louisiana prison policy had not budged.

Examining incarceration in the 1980s in Louisiana as presented in the *Times-Picayune* helps us to understand Carleton's framework in a more contemporary context. The lack of progress or reformist change in the 1980s is perfectly in line with the trends that Carleton describes in his investigation of the Louisianan prison system in 1968. The political back and forth around penal policy and the system's insistence to ignore reformist advocacy fits into the paradigm that he set forth in his book. There are undeniably many possible arguments to make about what fundamentally makes Louisiana's penal system unique. The story of the penal system is necessarily intertwined with various issues, pressures, and histories acting on the state and goes beyond the choices of individual political actors. Be that as it may, the pattern that

Carleton exposed in 1969 continued throughout the 1980s. This pattern clearly emerged as I studied the coverage of the *Times-Picayune*.

As early as 1969, Carleton warned of the inescapable nature of Louisiana's cycle. However, the warning did not have the needed effect. What was an elusive, invisible and almost ideological difference while Carleton was writing became concrete in 1992. In 1971, Carleton wrote an entire book to expose that Louisiana's prison system was distinctive. While its distinctiveness was veiled and difficult to define in 1971, it became obvious in 1994 with the policy that created the parish prison system. Louisiana has had the world's highest incarceration rate for more than twenty years. I have now shown that Carleton's framework is applicable to the prison expansionist incarceration policy of the 1980s in Louisiana. When these facts are read in conjunction with Carleton's book, the reason for this difference is no longer mysterious; rather it should be seen as part of a cycle that has, until now, not ceased its repetition for over one hundred and fifty years.

## **Chapter 4: Conclusion**

The problem of mass incarceration can understandingly seem intimidatingly insurmountable. I personally have frequently been disheartened by the policies that reformists attempt to institute and by the approaches taken by lobbyist organizations. I tend to feel that proposed “solutions” are superficial; they do not address complexity of mass incarceration and its underpinnings. Proposed solutions tend to focus on obvious issues that are symptomatic of a larger and more fundamental ill. Before meaningful change can be proposed, the fundamental, underlying causes must be investigated and dissected.

It always fascinated me that the state’s incarceration rates had such extreme disparities from the rates in other states. Similar to my conviction about the condition of the nation, I believed there had to be an underlying factor explaining those disparities—and the idea of investigating what that might be so appealed to me because, at the state scale, the question was tangible and approachable. Finding Carleton’s framework fulfilled all of the hopes that I had secretly harbored. Carleton presented the Louisianan story as a framework—a pattern that may have been obscured for a long time, but that explained the state’s relationship with its penal system.

While Carleton’s framework may be only one piece of a more complex whole, it provides something that previously did not exist: it transformed an anomaly into an analyzable system. Carleton uses the historical progression of Louisiana’s state prison policy to show that since its beginnings, the system has been one motivated by profit. Carleton argues that up until 1969, the incarceration system in Louisiana was viewed as a mechanism by which the state either makes or loses money. Other dimensions of

incarceration, for example as a mechanism for rehabilitation, were ignored, abandoned, or simply not present in public discourse. In my thesis, I argue that Carleton did not simply identify a pattern that unified Louisiana penological history from 1835-1969, but he created a framework. His framework does not only extend back to Louisiana's past, but forward to its future; the events of the 1980s fit into it and it explains creation of the anomalous parish prison system.

The idea of frameworks brings me hope. That Carleton's framework proved to foreshadow the mass privatization that has overwhelmed the nation in the decades after the publication of his book is an added bonus. Examining Louisiana as a forerunner of a national movement provides one lens that, however limited, remains valuable as one point of entry into understanding and breaking down the monolith of mass incarceration. When one sees Louisiana's incarceration system through a Carletonian perspective, as a system rooted in viewing the incarceration system as a mechanism for state profit, then one can see the United States' national incarceration over the last three decades as becoming increasingly Louisianan. Private prisons have been a contentious topic in American incarceration discourse over the last ten years, and the discourse has risen to the forefront of American conversation again in the last year. By exposing Carleton's framework, my work shows that the attitudes behind private prison systems have been present, in at least a part of our country, for more than a century. As America's incarceration system has become more Louisianan, perhaps we need to examine Louisiana's system with increased scrutiny, because to understand Louisiana is to understand ourselves.

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