

The Bureau of Justice Statistics revealed in its 2013 report that as of December 31, 2009, the United States (U.S.) state and federal prisons held an estimated 1,615,500 prisoners – the highest prison population ever in the U.S.<sup>1</sup> Prison populations have increased a staggering 700 per cent since 1970, with in one in thirty-three American adults currently entangled in the criminal justice system – either in prison, on probation, on parole, or involved in some other form of correctional control.<sup>2</sup> The current mass-incarceration system has thus become a defining issue for millions of Americans.

Current historical discourse has described the initial introduction and, more recently, the implementation of a full-scale system of mass incarceration as both a reactionary process and as a system of racial control. Faced with an increasingly complex society, historians such as David Rothman, Lee Bernstein, and Heather Ann Thompson note that communities have become not only unable, but unwilling to care for the “deviants” in their midst and so look to incarceration to keep what is “out of sight, out of mind.”<sup>3</sup> The statistics in Milwaukee, and Wisconsin as a whole, would appear to support these findings. By 2010, one out of every eight adult black men in the state were serving time behind bars, with more than half of African American men in their thirties having served time in prison in Milwaukee County to date.<sup>4</sup> Yet, Wisconsin and Milwaukee’s history of incarceration practices from the post-war period through the mid-1980s is characterised not by reactionary or racist policies, but by a concentration on reform, rehabilitation, and an attempt to lower recidivism rates

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<sup>1</sup> E. Ann Carson, “Prisoners in 2013,” U.S. Department of Justice: Bureau of Justice Statistics, last modified September 30, 2014, accessed November 3, 2014, <http://www.bjs.gov/content/pub/pdf/p13.pdf>.

<sup>2</sup> “The Prison Crisis,” American Civil Liberties Union, accessed November 3, 2014, <https://www.aclu.org/safe-communities-fair-sentences/prison-crisis>.

<sup>3</sup> David J. Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic* (Boston: Little, Brown and Company, 1971); Lee Bernstein, *America is the Prison: Arts and Politics in Prison in the 1970s* (Chapel Hill: The University of North Carolina Press, 2010); Heather Ann Thompson, “Why Mass Incarceration Matters: Rethinking Crisis, Decline, and Transformation in Postwar American History,” *The Journal of American History* 97, no. 3 (2010): 703-34; John M. Hagedorn, *People and Folks: Gangs, Crime and the Underclass in a Rustbelt City* (Chicago: Lake View Press, 1988), 149-70.

<sup>4</sup> “Project Milwaukee: Black Men in Prison,” WUWM, accessed November 3, 2014, <http://wuwm.com/topic/project-milwaukee-black-men-prison>.

through genuine interaction and communication with its communities. Far from fitting this national narrative, Wisconsin and Milwaukee's key characters in prison policy – Warden John C. Burke, Lloyd Barbee, and Governor Tony Earl – offer local perspectives that serve to deliver nuance to this national approach to the phenomenon of mass incarceration.

While the development of twentieth century mass-incarceration has received much attention from civil rights advocates, journalists, legal scholars, social scientists, and the media at large, mass-incarceration has received less attention from historians. As a relatively recent phenomenon, this rarity in historical literature is unsurprising, yet it is essential that historians become active participants in the debate in order that a full examination of the issue – one placed within its historical context – take place. Thus, the historical literature that does exist is a vital resource necessary in telling a more complete story of American penal policy.

David Rothman's discussion of the "American experiment with institutionalization" goes beyond penal institutions to describe the introduction and development of asylums for the "insane" and almshouses for the poor, yet discusses these institutions in tandem, placing the development of all three in the context of a post-colonial, increasingly socially complex time period.<sup>5</sup> Colonists, Rothman posits, had the luxury of dealing with its "deviants" within the community setting; as an isolated population, colonial communities were able to care for their poor and their mentally ill, whilst simultaneously being able to either swiftly deal with their own criminal element with fines or the stocks or expel outsiders back to the communities that they came from.<sup>6</sup> Social deviancy, for colonists, was a family and community concern, one to be dealt with within the boundaries of that particular community.<sup>7</sup>

Yet, as society became more complex and communities became more dispersed and less cohesive, Rothman argues, the need for corrective institutions (along with almshouses and

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<sup>5</sup> Rothman, *Asylum*, 110, 155, 237.

<sup>6</sup> *Ibid.*, 49-50.

<sup>7</sup> *Ibid.*, 76-8.

asylums) became evident. These prisons, while not immediately resembling the modern-day maximum-security state penitentiary, were none the less a reactionary phenomenon borne of society's practical inability to care for those within their community any longer. The deviant element had simply grown too large and unmanageable.<sup>8</sup>

Framing the debate within its more current context, historians Lee Bernstein and Heather Ann Thompson examine the dramatic rise of the carceral state from the 1960s onwards, seeing it as a conscious social and political development that was particularly repressive for the nation's communities of color.<sup>9</sup> For both, mass-incarceration was a product of the waning of post-war liberalism and paralleled the rise of the "New Right" that historian Dan T. Carter and others have well documented.<sup>10</sup> For Bernstein, mass incarceration developed as a response to post-war racial antagonisms, the demographics of the prison population a direct reflection of U.S. society's endemic racism and inequality.<sup>11</sup> Like other commentators on the subject, Bernstein and Thompson go further than positioning minority incarceration as a by-product of the new "get tough on crime" policies of the 1970s, and see more than a passing resemblance between the "history of slavery and the Jim Crow era and the culture of American prisons in the 1970s."<sup>12</sup>

Thompson further expands this narrative by focusing on the unequal impact mass incarceration has had on African Americans in the twenty-first century. Detailing the disproportionate arrest rates of African American men and women in the twenty-first century, Thompson notes that "poor blacks" had become "increasingly blamed for any crime problem America had," finding in the post-civil rights 1960s "the criminalization of urban spaces of

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<sup>8</sup> Ibid., 71, 79.

<sup>9</sup> Bernstein, *America is the Prison*; Thompson, "Why Mass Incarceration Matters," 703-34.

<sup>10</sup> Bernstein, *America is the Prison*, 26-8; Thompson, "Why Mass Incarceration Matters," 705-6; Dan T. Carter, *From George Wallace to Newt Gingrich: Race in the Conservative Counterrevolution, 1963-94* (Baton Rouge: Louisiana State University Press, 1996), xiv.

<sup>11</sup> Bernstein, *America is the Prison*, 22-8.

<sup>12</sup> Bernstein, *America is the Prison*, 4, 7; Thompson, "Why Mass Incarceration Matters," 706-7.

color” not unlike the post-Civil War South.<sup>13</sup> As a result, African American communities, families, labor opportunities (and uses) and voting rights have been profoundly affected; mass incarceration and its disproportionate targeting of black communities an underlying cause of the “urban crisis,” rather than a primary effect.<sup>14</sup> For both Bernstein and Thompson, the American penal system has become ever more repressive and reactionary, “abandoning” the rehabilitative characteristics of Rothman’s nineteenth century for “more purely punitive criminal justice.”<sup>15</sup> This more purely punitive character of the American incarceration system, for Bernstein and Thompson, was one both consciously directed at, and most harmful to, African American communities.

Both Rothman’s examination of the introduction of the penal system in the late eighteenth and early nineteenth centuries and Bernstein and Thompson’s examination of the build-up in that penal system in the late twentieth and early twenty-first centuries offer invaluable insight into the way the U.S. treats its criminals. For all three authors, the developments that they describe come in the wake of drastic changes in the composition and functioning of society. In short, the increasing complexity of society has served to increase the U.S.’s desire to confine and incarcerate more and more of its population. Through Rothman’s post-colonial changes in communities and personal and public interactions, to the sweeping changes of the post-World War II period in which African Americans sought to assert their social, political, and economic rights, the American penal system has responded by itself becoming ever more assertive. This trend reveals much about the nature of incarceration and calls into question whether its true purpose is rehabilitative or solely punitive.

It is forgivable, then, given the statistics, to presume that Wisconsin and Milwaukee followed these reactionary and racist trends. Yet, while these three historians provide vital

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<sup>13</sup> Thompson, “Why Mass Incarceration Matters,” 706-7.

<sup>14</sup> Thompson, “Why Mass Incarceration Matters,” 705, 706-7, 716, 732-3.

<sup>15</sup> Bernstein, *America is the Prison*, 20-1; Thompson, “Why Mass Incarceration Matters,” 709-10.

insight into the original introduction of the penitentiary, the build-up of the system in the 1970s, and the impact on different communities – particularly communities of color – in the twenty-first century, they deal exclusively with national trends.<sup>16</sup> These national narratives do not necessarily mirror different local experiences – experiences which must be taken into account in order to formulate a full and complete answer to the question of the origins and purposes of mass incarceration. Wisconsin and Milwaukee, for example, demonstrated neither a reactionary or racist approach to prison management or build-up, at least as far as the mid-1980s. Rather, the management and policy planning for existing prisons in the post-World War II period, and the build-up of new prisons from the early 1980s onwards were directed from an overwhelmingly progressive and rehabilitative perspective. Implemented and managed with the aim of successful reintroduction into existing communities, prisons in Wisconsin and Milwaukee were not introduced as a reactionary measure with a function of racial control.

Milwaukee, and Wisconsin as a whole, has historically demonstrated a largely progressive ideology when it comes to prison and incarceration policy. John C. Burke, warden of the Wisconsin State Prison from 1938 to 1969 was viewed both locally and nationally as a markedly progressive warden, his reformist policies looked to as an important source of knowledge and experience for other states looking to improve conditions for their inmates.<sup>17</sup> In 1966, the University of Wisconsin-Milwaukee's in-house radio station, WUWM, ran a four-part special on Warden Burke as part of its *Grass Roots* series, looking to find answers to whether the incarceration system was merely punitive or whether it was in fact rehabilitative.<sup>18</sup> Warden Burke advocated for “more medium and minimum security

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<sup>16</sup> This will likely change with Heather Ann Thompson's forthcoming release of *Blood in the Water: The Attica Uprising of 1971 and Its Legacy* (Pantheon Books, forthcoming).

<sup>17</sup> John Empty, *Grass Roots: Prison Wrap Up*, June 1966, Audio Reel, Box 10, Audio 188, WUWM Records: 1950-1991, Milwaukee Mss EX, University of Wisconsin-Milwaukee Libraries, Archives Department.

<sup>18</sup> John C. Burke, *ibid*.

prisons,” and noted that “men can be trusted a lot more than we used to think they could.”<sup>19</sup> Too modest in parts of the program to speak for himself, this kind of reformist rhetoric gained Burke an almost celebrity appeal within national incarceration circles and as a key source in the national prison reform movement. Noted for his “excellent caliber [as] Warden ... epitomiz[ing] how prisons can run smoothly and humanely,” Burke highlights his unique approach when he refers to inmates as “clients,” noting that his language is “window-dressing” intended to underscore the dignity of the individual.<sup>20</sup> Credited with stabilizing prisons within the state, and maintaining peace and safety standards, Burke was looked to as a national source of knowledge for uncovering causes of riots and possible remedies for prisoner unrest throughout the country.<sup>21</sup> In 1953, at the behest of Governor of Pennsylvania John S. Fine, Burke became part of a task-force charged with finding and remedying the causes of the recent riots at Pennsylvania state prisons.<sup>22</sup>

In the 1960s and 1970s, and even as late as 1977, Milwaukee yet again appears to stand at the forefront of nationwide prison reform movements, attempting to better conditions for those incarcerated, both pre and post-release. At a time at which Heather Ann Thompson and Lee Bernstein tell us that the prison system was burgeoning nationwide, becoming harsher in both its conditions and its mechanics, Milwaukee appeared to be continuing with its reformist tendencies, following in the tracks of Warden Burke, and bucking national trends.<sup>23</sup> State Assemblyman Lloyd A. Barbee, a vital part of Milwaukee’s civil rights movement in the 1960s and beyond, was also a key part of Milwaukee’s rehabilitative policies.<sup>24</sup> From 1967 – 1977, Barbee continually fought to promote reformist policies,

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<sup>19</sup> John C. Burke, *ibid.*

<sup>20</sup> Presenter and John C. Burke, *ibid.*

<sup>21</sup> Presenter, *ibid.*

<sup>22</sup> John C. Burke, *ibid.*

<sup>23</sup> Bernstein, *America is the Prison*, 4, 7; Thompson, “Why Mass Incarceration Matters,” 706-7.

<sup>24</sup> Joseph Ranney and Maxine Aldridge White, “Lloyd Barbee: Fighting Segregation Root and Branch,” *Wisconsin Lawyer* 77, no. 4 (2004): 740-6.

having proposed and supported bills to legally support indigent inmates looking to assert their rights, improve conditions within prisons, grant furlough rights, approve conjugal visits, and even in 1972, introduced a bill calling for the entire abolition of the state's prison system.<sup>25</sup>

This type of radicalism, much like Warden Burke before him, again caught the attention of those involved in the incarceration system looking to continue to improve prison conditions nationally. Barbee's papers note communications and appeals for help from State Representative Dorothy Taylor in New Orleans, and others in Ohio and Pennsylvania.<sup>26</sup>

Far from reactionary, Burke, Barbee, and their actions as two of the most influential characters in prison and civil rights policy demonstrate Wisconsin and Milwaukee's reformist tendencies in the immediate and longer-term post-World War II period. The very existence of *Grass Roots*' special on Warden Burke and prison policies highlights an engagement in Milwaukee with improving conditions for prisoners – both those incarcerated and post-release – underscored by the program's central theme, "Is prison merely punitive or is it rehabilitative?"<sup>27</sup> Warden Burke and Lloyd Barbee, as both local and national figures, occupied essential spaces in the serious and ongoing debates about prison policy and prison reform in the post-war period. Nationally, Burke and Barbee's involvement in formulating and strengthening reformist prison policies in Pennsylvania, New Orleans, and Ohio, highlights Wisconsin's influence and leadership in the movement for penal reform.

Yet, as Wisconsin and Milwaukee developed, the need for more institutions became apparent in the 1980s. Looking to house an additional 650 inmates, Governor Tony Earl and his administration attempted in 1983 to build a further eleven prisons in Wisconsin, two of

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<sup>25</sup> Representative Dennis Conta to Representative Lloyd Barbee, Dec 5, 1974, Box 46, Folder 31, Lloyd Barbee Papers, Milwaukee Mss 16, University of Wisconsin-Milwaukee Libraries, Archives Department; Lloyd A. Barbee to Geraldine Hines, April 14, 1972, Box 57, Folder 12, Lloyd Barbee Papers.

<sup>26</sup> Lloyd A. Barbee to Representative Dorothy Taylor, Jan 12, 1972, Box 57, Folder 13, Lloyd Barbee Papers; Fran Womack to Senator Curtis Graves, Re: Prison Reform Hearing, February 18 and 19, 1972," Jan 13, 1972, *ibid*.

<sup>27</sup> Presenter, WUWM Records: 1950-1991.

which were proposed to be constructed not in the normal rural settings prisons were generally found in, but directly in the heart of Milwaukee.<sup>28</sup> The proposed Trostel Tannery and Menomonee Valley sites (medium and maximum-security sites respectively), were intended to house the expected rise in inmates by 1987.<sup>29</sup> However, despite the public discourse in Milwaukee at the time, emanating from such key players as Milwaukee Mayor Henry W. Maier, these proposals once again bucked the reactionary and racially-fuelled trends described by Thompson and Bernstein.

In 1984, Milwaukee residents may have pre-empted Thompson and Bernstein's theories when they proclaimed that the siting of two new prisons within the city limits of Milwaukee was both "racist" and "cynical."<sup>30</sup> Earl repeatedly noted in his correspondence both with his peers within government and with the general public that siting new prisons in Milwaukee instead made geographical sense: "40% of all men in state prisons," Earl explained, "are from Milwaukee, and 58% of them are from south-eastern Wisconsin."<sup>31</sup> For Milwaukee residents, however, this implied that the Governor and his new prison proposals had predicted and resigned themselves to the fact that – given Milwaukee's demographic make-up – future prison populations would be overwhelmingly black, and in fact almost guaranteed it.<sup>32</sup> As one resident remarked, "It accepts without question the status-quo for poor Blacks in Milwaukee – that they will never rise above the poverty level – or worse, that

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<sup>28</sup> "Fact Sheet: Proposed Correctional Institution Milwaukee Area," n.d., 1987/090, Box 2, Folder 4, Governor Earl's General Policy Files: 1980-1987, Wisconsin Historical Society, Archives Department; Paul Bargren, "Mayor, State Clash on Prison Population Figures," *The Milwaukee Journal*, Sep. 12, 1984, Box 150, Folder 25, Records of the Henry W. Maier Administration, 1960-1988, Milw. Sr 44, University of Wisconsin-Milwaukee Libraries, Archives Department.

<sup>29</sup> Personal notes, Lynn Haanen, n.d., 1987/08, Box 2, Folder 4, Governor Earl's General Policy Files: 1980-1987.

<sup>30</sup> Freddie Lee Peterson, Court Reports, Oct 8, 1984, Box 150, Folder 23, Records of the Henry W. Maier Administration, 1960-1988, Milw. Sr 44, University of Wisconsin-Milwaukee Libraries, Archives Department.

<sup>31</sup> Anthony S. Earl to Senator Barbara K. Lorman, April 1, 1985, 1987/08, Box 2, Folder 4, Governor Earl's General Policy Files: 1980-1987.

<sup>32</sup> Freddie Lee Peterson, Court Reports, Oct 8, 1984, Box 150, Folder 23, Records of the Henry W. Maier Administration, 1960-1988.



they are incapable of rising, and that therefore, they will always furnish 80 to 90 per cent of the prison population.”<sup>33</sup>

Yet, while race was a key factor in the new prison siting proposals, this was far from “cynical” or sinister in nature. Earl’s eleven site proposal came on the back of extensive research into prison development that focused on such key aspects as financial viability; environmental impact studies; potential impacts on surrounding neighbourhood areas, including information on safety, security and impact on housing prices; impacts on local economy and job creation; opportunities for rehabilitation and reintegration into society; and availability of local social services.<sup>34</sup> As a result, the report listed the Trostel Tannery and Menominee Valley sites as ideal locations for new prison complexes due to their financial and environmental viability, but above all, for their social and rehabilitative possibilities.<sup>35</sup>

Placing the new prisons in Milwaukee, for Earl, was a vital rehabilitative measure. Earl noted that, while the majority of state inmates come from Milwaukee and south-eastern Wisconsin, and while 90% of inmates will eventually be released back into their home community, a prison based in the city would make family visitation more likely, “increase[ing] the probability that inmates will reintegrate successfully into society after release.”<sup>36</sup> Further, prisons in Milwaukee would allow for the availability of familiar and “common” local services; services where inmates would have previously built relationships, rather than beginning the process anew.<sup>37</sup> In addition, prisons based within Milwaukee would aid in the furthering of affirmative action hiring policies, not only contributing to employment levels for minorities, but providing for a more racially balanced workforce,

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<sup>33</sup> Ibid.

<sup>34</sup> “Fact Sheet: Proposed Correctional Institution Milwaukee Area,” n.d., 1987/090, Box 2, Folder 4, Governor Earl’s General Policy Files: 1980-1987.

<sup>35</sup> Ibid.

<sup>36</sup> Anthony S. Earl to Senator Barbara K. Lorman, April 1, 1985, 1987/08, Box 2, Folder 4, Governor Earl’s General Policy Files: 1980-1987; Anthony S. Earl to Leon C. Peebles, Feb 12, 1985, Ibid.

<sup>37</sup> Anthony S. Earl to Robert T Morgan, Feb 26, 1985, Ibid.

further aiding the prisoner in their rehabilitative process.<sup>38</sup> The legitimacy of Earl's approach was underscored in spring of 1983 when Self Help of Wisconsin, a community group founded in 1967 to "help those still imprisoned to help themselves toward 'rehabilitation,'" praised Earl for his "determination" in working toward rehabilitation.<sup>39</sup> Along with this letter to Earl, the group included literature asking for more volunteers from the community, noting, "It is a known fact that 75% of the residents in our correctional institutions are from the Milwaukee area, and it is important that we have solid, mature adults as volunteers or sponsors from the Milwaukee community to work with these men."<sup>40</sup> It was not only Earl who believed in community involvement in rehabilitation, it appeared.

Earl, rather than use prisons as a form of racial control, was overwhelmingly interested in their rehabilitative function and possibilities. He was not simply interested in an "out of sight, out of mind" approach, but was making a genuine attempt to reform and rehabilitate prisoners so that they did not re-enter the system.<sup>41</sup> Earl did not want his prison populations to boom, rather he wanted to lower recidivism and allow inmates the opportunity to retain at least some ties to their communities whilst incarcerated. Earl himself put it most succinctly, noting;

If we are content to [*sic*] merely locking up for the length of their sentences without giving thought to trying to ensure that they will not commit crimes again, society has benefitted from their incarceration for only a short time. If, on the other hand, we view an inmate's sentence as a time to try to facilitate rehabilitation, society has benefitted in the long-term ...<sup>42</sup>

Further, the fact remained that Milwaukee was only a small part of the eleven site proposal; as Earl's constituent relations assistant Lynn Haanen's files record in an almost

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<sup>38</sup> Anthony S. Earl to Senator Barbara K. Lorman, April 1, 1985, Ibid.

<sup>39</sup> Self Help of Wisconsin, "Self Help Volunteers Doing Something Special," n.d., 1987/090, Box 2, Folder 3, Governor Earl's General Policy Files: 1980-1987; Bill Traynor to Governor Earl, April 19, 1983, Ibid.

<sup>40</sup> Self Help of Wisconsin, "Self Help of Wisconsin, INC.," n.d., 1987/090, Box 2, Folder 3, Ibid.

<sup>41</sup> Hagedorn, *People and Folks*, 149-70.

<sup>42</sup> Anthony S. Earl to Robert T. Morgan, Feb 26, 1985, 1987/08, Box 2, Folder 4, Governor Earl's General Policy Files: 1980-1987.

exasperated manner following the reluctant end of support for the Trostel Tannery site: “by fall, WI will have 10 correctional institutions, none in Milw. – half the prison pop. is from Milw. We want 1 out of total of 11 to be in Milw.”<sup>43</sup> If Milwaukee’s prison proposals were reactionary and racist, it left doubt as to how the remaining nine proposals could be characterised.

Earl’s rehabilitative motivations were further underscored by his staunch opposition to private interests becoming involved in prison processes. As Milwaukee’s characterisation of the build-up of prisons as “cynical” would presume, many felt that the system was self-perpetuating; simply put, more prisons would result in more prisoners.<sup>44</sup> One legal scholar wryly agrees, having titled a recent paper: “If You Build it, They Will Come: The Threat of Overclassification in Wisconsin’s Supermax Prison.”<sup>45</sup> If, then, as Bernstein and Thompson would argue, prisons functioned within this time period as a system of racial control, it would follow that Earl and the state would seek to continue the prison build-up. Yet, even in the face of economic benefits for the state, this is not the case. At a time when newspaper articles could legitimately bear titles such as ‘Prisons for Profit’, Earl forcefully voiced his opposition to private interference in prisons and their proposed expansion of the local and national system, noting in one letter that he had “substantial concern about private sector prisons on any large scale,” and that he would be “reluctant to reduce the state’s role in determining inmate control systems and institutional programming ... the state must carefully monitor the performance of providers to ensure service quality.”<sup>46</sup> Here, Earl not only makes apparent that he is willing to buck national trends in selling off the prison service in return for

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<sup>43</sup> Personal notes, Lynn Haanen, n.d., Ibid.

<sup>44</sup> Freddie Lee Peterson, Court Reports, Oct 8, 1984, Box 150, Folder 23, Records of the Henry W. Maier Administration, 1960-1988.

<sup>45</sup> Jerry R. DeMaio, “If You Build it, They Will Come: The Threat of Overclassification in Wisconsin’s Supermax Prison,” *Wisconsin Law Review*, 2001: 207.

<sup>46</sup> Michael A. Kroll, “Prisons for Profit,” n.p., Sep. 20, 1984, Box 150, Folder 24, Records of the Henry W. Maier Administration, 1960-1988; Anthony S. Earl to Leon C. Peebles, February 12, 1985, 1987/08, box 2, folder 4, Governor Earl’s General Policy Files: 1980-1987.

profit, unwilling to have it expanded, but that he also is unwilling to relinquish control of the rehabilitative functions of the Wisconsin and Milwaukee prison system.

Earl worked closely with communities of color in developing and adapting his prison policies throughout the 1980s. Working closely with Lauri Wynn, the Governor's Minority Advisor, Earl built up relationships with various minority community groups, including the Wisconsin Association of Blacks in Criminal Justice-Milwaukee. The Association designed to, "examine and act upon the needs of Blacks and other minorities ... as related to the Administration of Equal Justice in the state of Wisconsin," gave wholehearted support to the siting of a prison in Milwaukee, as well as "support of any measure that would expedite the location of a prison in Milwaukee."<sup>47</sup> The reasons the Association gave out in support were clear:

We further agree ... that the building of a maximum and medium prison within Milwaukee County will (1) improve program availability for the inmate population and enhance their preparation for return to the community; (2) provide access to a significant number of Black and other minority offenders and their families as well as to make re-intergration [*sic*] into the community more accessible for offenders once freed ... and (4) recruitment of minority staff.<sup>48</sup>

Earl was not working in isolation for the two prison site proposals, but in fact had community – significantly, minority community – support behind him. This fact was further demonstrated by the selection of the Trostel Tannery and Menomonee Valley siting advisory committees. Of the six approached to sit on the committee, three were minority residents, chosen for their involvement and credibility with the surrounding community and community at large.<sup>49</sup>

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<sup>47</sup> Wisconsin Association of Blacks in Criminal Justice, "Press Release," n.d., 1987/029, Box 1, Folder 24, Governor Earl's General Policy Files: 1980-1987; J. Allen Stokes to Senator Russell D. Feingold, June 23, 1983, Ibid.

<sup>48</sup> Wisconsin Association of Blacks in Criminal Justice, "Press Release," n.d., Ibid.

<sup>49</sup> Allan K. to LR, "Re: Trostel & Meno. Valley Advisory Cmtes," July 12, 1983, 1987/090, Box 2, Folder 4, Governor Earl's General Policy Files: 1980-1987.

It is also worth highlighting the timing of these debates and the voices of other actors in the state. Along with the prison siting debate, Barbee's outlook on prison and prison reform in the late 1970s illustrates further differences between Wisconsin's penal history and the national narrative brought forward in both historical, legal, social science, and even popular literature. While for some the carceral state began its build-up in earnest in the immediate post-war period, for most, this began in rhetoric in the early 1960s under President Lyndon B. Johnson, and in full force reality under President Richard Nixon in the late 1960s and early 1970s.<sup>50</sup> Yet Wisconsin's plans for the development of new prisons only begins in the early 1980s in a pre-emptive move for a predicted need in the late 1980s. Local Milwaukee historian John M. Hagedorn, in his examination of the development, function, and characteristics of gangs in Milwaukee beginning in the early 1980s, notes a similar lag in the city and state's recognition of gangs and gang culture, noting that the period was one of denial, where community leaders accused other community organisers of merely "invent[ing]" the problem to secure local funds.<sup>51</sup> While this, in and of itself, does not refute the national narrative that the historiography and works from others have put forward, placed within the state and city's reformist context, it adds further weight to the argument that Wisconsin does not quite fit the mold of national mass-incarceration narratives.

This is not to say that Milwaukee or Wisconsin was not involved in racially motivated policing or sentencing practices, or even that Governor Earl's motivations were entirely altruistic or unproblematic – he was, after all, looking to balance the politics of a state. As the 'Minority Issues Relating to Incarceration in Wisconsin' report of June 1981 suggests, by 1979, Wisconsin was very much mirroring national trends in arrest and incarceration

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<sup>50</sup> Bernstein, *America is the Prison*, 20-1; Thompson, "Why Mass Incarceration Matters," 706-7.

<sup>51</sup> Hagedorn, *People and Folks*, 153-5.

disparities between races.<sup>52</sup> In that year, the report notes, 47, 785 arrests took place in Wisconsin, minorities comprising twenty-one per cent of these.<sup>53</sup> Of the year's 4,324 violent crimes, minorities comprised 1,773, or forty-one per cent.<sup>54</sup> Yet, policing and sentencing motivations and the motivations behind prison build-ups and siting are not one and the same thing. Earl was able to assert rehabilitative tendencies even in the face of the unfair and discriminatory practices that, in part, resulted in the increase in prisoners that necessitated new prisons.

By focusing on national narratives and events, the historiography has missed important – and often surprising – parts of the mass incarceration story from the local level. By examining Wisconsin and Milwaukee's experiences with the prison system and the punitive versus rehabilitative debate, local nuances demonstrate a keen desire for prison reform rather than punishment. Far from being reactionary, Wisconsin and Milwaukee's post-World War II prison context was one involved in serious local and national debate about the future of penal institutions and how better to care for and rehabilitate the nation's inmates.

Even as the need arose for the development of further prison systems, Wisconsin and Milwaukee did not stray from their progressive history, but rather carefully considered the siting of new prison complexes from the perspective of how best to offer rehabilitation. By proposing two new sites in Milwaukee, Earl hoped that continuing ties with existing family and community members would only serve to reduce recidivism and help inmates readjust to life outside of prison. Decried as "racist" and "cynical" by members of Milwaukee's community, Earl's prison proposals were anything but. Rather, he had hoped to aid

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<sup>52</sup> Austin McClendon and Barbara Franks, "Minority Issues Relating to Incarceration in Wisconsin," Report, June 1981, 1987/029, Box 1, Folder 24, Governor Earl's General Policy Files: 1980-1987.

<sup>53</sup> *Ibid.*

<sup>54</sup> *Ibid.*

rehabilitation, encourage affirmative action employment practices and the hiring of minority employees, and overall reduce the number of inmates in Wisconsin's prison system. Rather than bow to fiscal pressure by allowing the introduction of private interests into the prison building and development business – thereby hoping to halt its growth – Earl instead involved local communities, and often communities of colour, in his proposals and plans for the future.

This is not to say that the issue of minority over-representation in Wisconsin and Milwaukee's prisons both in the 1970s and today are not real, alarming, and in need of immediate examination and strategies for remedy, but rather that mass incarceration must not be viewed only as a monolithic national system. By failing to fit neatly into the greater narrative of national incarceration practices, Wisconsin and Milwaukee illustrate the critical importance of local nuance in the study of penal policy. By ignoring the local, the narrative misses important questions. How did Wisconsin and Milwaukee retain its grip on a reformist ideology for so long despite national trends? How, given this lengthy reformist history, did Milwaukee become the most segregated city in the nation? Furthermore, with Wisconsin's similar history of rehabilitation-oriented penal policy, how has it become the state that locks up more of its African American male population than any other?<sup>55</sup> Answers to these and other similarly unique questions aimed at local mass incarceration practices are the best way to provide a truly accurate understanding of national penal policy. With time, exploration of these local differences could aid in finding solutions for a national problem.

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<sup>55</sup> Stephanie Lecci and Michelle Maternowski, "New Ranking: Milwaukee Still Country's Most Segregated Metro Area," WUWM, last modified November 27, 2013, accessed November 1, 2014, <http://wuwm.com/post/new-ranking-milwaukee-still-countrys-most-segregated-metro-area>; "Project Milwaukee: Black Men in Prison," WUWM, accessed November 3, 2014, <http://wuwm.com/topic/project-milwaukee-black-men-prison>.

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